



## A Roof Over Their Heads: Housing Public Policies for Returning Inmates

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### ABSTRACT

*Returning from prison can be a daunting experience and a difficult adjustment for anyone. Prisoner reentry programs are needed for public policies advocating for a new approach to an old problem: How do recently released inmates successfully reenter society once they have served their societal debt? There are tremendous obstacles to reentering society, yet housing is among the most pressing reentry problems to solve. In our research, we discuss and consider the public policy issue most pertinent to successful reentry, affordable, and available housing as a necessity for returning inmates. Housing is key to solving even a tiny part of a much bigger problem in criminal justice public policy circles: the public management of crime in America.*

**Keywords: prisoner, reentry, housing, public policy, public administration**

### INTRODUCTION

Prisoner reentry is a necessity for successful reintegration back to society once an ex-inmate returns to society (Seim & Harding, 2020). Reentry programs can provide a solid structure and a foundation for individuals to participate in anger management, drug and alcohol counseling, G.E.D. programs, and work furlough as well as other employment opportunities (Nayer, 2015). Most importantly, these programs provide a viable method to continue to take steps to successful reentry.

However, the degree of success of these programs depends on whether they provide arguably one of the most significant public policies affecting reintegration: accessible and affordable housing for returning ex-prisoners. Housing is possibly the most significant investment in prisoner reentry that can pay significant social dividends by devising proper policies. Based on our review of the issues surrounding reentry, housing as a serious societal investment does not appear to be a priority for politicians and public administrators. For prisoner reentry programs to be truly effective at preventing recidivism, housing as a public policy issue needs to be considered a worthwhile investment (Nayer, 2015).

#### The Public Policy Issues of Housing

Former inmates face considerable challenges after they leave prison. Housing is an issue dealt with on an individual basis, and the returning prisoner often has limited options

(Travis, 2005). Usually, ex-inmate's bunk with friends or family members once they return to the community. In 1999, the Vera Institute in New York tracked 49 ex-inmates who left New York state prisons. Its research showed that 40 of the ex-prisoners lived with family, spouses, or partners after their release (Nelson, Dees & Allen, 1999).

The Urban Institute also conducted research that provided comparable evidence to support the argument that most returning prisoners reside with family members. Its research studied the living arrangements of 153 ex-inmates. Findings showed that about 32% resided with their mother or stepmother, 10% lived with an uncle or aunt, and 27% lived with other blood relatives, and 31% resided with a spouse or partner (Visher, La Vigne & Travis, 2004).

States and the federal government have stringent rules to restrict ex-inmates from associating with any individuals who have a criminal record (Rhine, Smith & Jackson, 1991). It is understandable why governments have policies that restrict contact between former inmates. Limiting the freedom of association can thwart relationships that are detrimental to society and can promote beneficial outcomes. It gives ex-inmates a reason to avoid dealing with other felons and may prevent future nefarious behavior when former inmates associate. However, these policies can become a significant problem for returning ex-inmates because social bonds and networks can be invaluable to reentering society.



For example, suppose close friends, associates, or family members were involved or continued to be involved with criminal activity. In that case, the returning inmate struggling with employment, housing, and other reentry policy issues could be tempted to get involved again in crime and thus negating the purpose of getting a second chance at redemption. Problems exacerbate when the returning family member is living in public housing, and that dwelling is actively contributing to the neighborhood crime wave. It is possible that the returning inmate or family members may lose access to public housing and become evicted, especially if drugs are concerned.

In some cases, even if a returning inmate reaches out to a friend or family member for temporary shelter, they may not wish for this ex-inmate to stay with them for many reasons (Ripley, 2002). Reasons could include social stigma, fear, or concerns about potential future drug and/or criminal activity on the premises.

Other options for returning inmates are homeless shelters, halfway houses, churches, or non-profits' sponsored shelters (Metraux & Culhane, 2004). If all other options are not available, former inmates will likely end up sleeping on the streets, exacerbating the nation's homeless problem (Mumola, 2002).

Private residences represent 97% of the market for all apartments and houses in the USA, but for most returning inmates, this is an incredibly difficult market to access (Bradley et al., 2001). It is cruelly ironic that as an increasing number of ex-inmates return to society, there is less housing available to meet their needs. In 1987, the total number of available rental properties affordable for returning inmates had dropped from 85 units to 75 units in 1999. This figure is likely to be even lower, considering the Great Recession of 2008 and the current COVID-19 crisis. These two events are having a long-term adverse effect on poor and low-income families. Poor and low-income families have had a disproportionate impact on the criminal justice system as has been well-documented (Sard & Waller, 2002). After all, the poor get jail, and the rich get bail is not merely an aphorism, it is literal truth among public policy advocates.

The barriers to gain access to housing after reentry are numerous, but possibly the most difficult to surmount is merely having money to pay for rent. Landlords' discrimination to recently released prisoners and possibly community opposition, especially in light of returning sex offenders restrictions placed on where they may reside, are also a significant barrier to overcome. (Travis, 2005). Additionally, most states do not provide much monetary support upon leaving the prison, often termed "gate money" (Travis, 2005). For example, depending on the state, the estimates for "gate money" range from \$25 to \$2000. Sometimes a bus ticket is also provided. Travis (2005) found

that one-third of states provide no financial support when releasing inmates.

On almost any rental property application, landlords will often ask questions to understand the applicant's current employment status, previous housing situation, credit, background check, and other pertinent information. Some landlords may ask for prior rental references to determine whether they will allow the tenant to reside on their property. Ex-inmates face an uphill battle as they are likely to have little or no money for rent. References are hard, if not impossible, to find and disclosing their previous housing situation can drastically reduce their chances of finding a place to rent. Today, landlords can find the most critical information about a potential renter by Googling. If a person is deceitful in his application, this is usually a good reason to decline his rental application. Most landlords remain leery of renting to former inmates. Their apprehension is no doubt due to the societal stigma and distrust of former inmates. (Travis, 2005). Helfgott (1997) found that 43% of landlords surveyed admitted that they would not be comfortable accepting an applicant with a criminal conviction. With such hesitation and suspicion, returning prisoners have a very serious problem on their hands with housing (Smith & Simon, 2020).

### **Returning Sex Offenders: An Unsolvable Problem?**

There is also the problem of community opposition to returning sex offenders and other returning inmates, the classic NIMBY argument (Travis, 2005). Certain states and localities have created ordinances to prevent returning inmates from returning to their area. Additionally, some cities and towns have regulations requiring returning felons to inform the police when they move into a residential area (Travis, 2005). State legislatures continue to pass laws requiring sex offenders to inform the local police when they moved into a neighborhood. These laws increase the housing problems faced by newly released felons (Center for Sex Offender Management, 2007). The Sex Offender Registration and Notification Act (SORNA) is the federal law that authorizes states to maintain sex offender registration databases that they make available free of charge to the public on their respective websites. Dozens of websites provide background checks for a relatively low fee. There are websites and phone apps that track the whereabouts of sexual offenders.

Notification and registration laws can make it extremely difficult, if not impossible, for returning inmates, especially registered sex offenders, to find decent housing within their budget and satisfy the community's concerns on safety (Leib, 1996). Some communities even have restrictions placed on how many feet a registered sex offender can live near a school, for example, 1,000 feet or less is not acceptable in most localities (Travis, 2005). Such restrictions thereby prevent returning inmates from being able to reenter society fully. Zevitz and Farkas (2000) found that 83% of returning inmates were unable to reside in specific neighborhoods due to various



laws in Wisconsin, thus exacerbating the problem of finding affordable and socially acceptable housing.

Breed (1999) reported on a convicted rapist that returned to Danville, Kentucky, trying to reenter society quietly. However, the local newspaper exposed him and warned the community about his “high risk” and “sex offender” status. Due to this exposure, the ex-prisoner was terminated from his job and became homeless, and ultimately, he found himself living in his car. In Wisconsin, a convicted sex offender is suing to challenge an ordinance in the city of Muskego that prohibits where sex offenders can reside. The city is preventing his move from Waukesha to Muskego (Riccioli, 2020). The lawsuit, filed in federal district court, argues that the ordinance violates the Fourteenth Amendment’s due process clause (Riccioli, 2020). Roberts (2003) found that residents in one neighborhood stopped a returning sex offender from residing in the area by collectively buying the potential house, thereby preventing his entry into their neighborhood.

Based on this research, news reports, and anecdotal evidence, community opposition to returning inmates, especially sex offenders, appears to hold a powerful veto on reentry for many returning ex-inmates. Unfortunately, a particular neighborhood’s opposition becomes a problem for all of society because the question remains—*Where would society allow these former inmates to reside once they have supposedly paid their debt to society?*

### **Public Housing: A Possible Solution?**

Public housing as an affordable and cost-effective solution to this complex problem for returning inmates is likely the best solution.

Travis (2005) found that most inmates were living in public housing before their incarceration. Steurer, Smith, and Tracy (2001) reported that in Maryland, Minnesota, and Ohio, close to 10% of inmates admitted to having lived in public housing. Public housing and Section 8 are two different ways for the government to provide low cost or affordable housing for the poor. Public housing usually refers to “the projects” where a government authority (state or local) owns the property and is, therefore the landlord. On the other hand, Section 8 is a federally funded rental housing program (HUD) for low-income families. The government and the family in question rent from private landlords.

Researchers have struggled for years to accumulate and establish the veracity of the information related to the numbers of ex-inmates returning to public housing after incarceration. Often the ex-inmate returning to society may not return to public housing for a variety of reasons. The family may have left public housing, the returning prisoner may not be enthusiastically welcome back, and the returning ex-inmate would prefer or decided not to return to public housing (Seim & Harding, 2020).

In 2002, it was estimated that about 1.2 million families resided in public housing residences (Travis, 2005).

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Public Housing Authorities (PHAs) manage these properties and can be extremely aggressive in rooting out offenders who violate housing policies, including sanction, banning, and eviction.

Long waiting periods for public housing and Section 8 is a strong disincentive for most ex-inmates to shun public housing. PHAs officials have wide latitude and discretion to deny an ex-offender public housing. Routinely they require applicants to provide prior criminal history, thereby denying public housing due to federal regulations (Travis, 2005).

Federal regulations are disparately skewed against those convicted of drug convictions, which affect American men of African and Latin descent more than other ethnic groups. PHAs policies encourage housing administrators to consider whether the applicant completed alcohol and drug abuse rehabilitation programs and other positive markers for reentering society when making final decisions on who gets public housing (Seim & Harding, 2020).

In the 1980s, Congress passed legislation signed by President Reagan mandating criminal background checks for all applicants to federal public housing (Travis, 2005). In 1988, the Anti-Drug Abuse Act mandated that PHAs had the authority to process evictions on tenants who became involved in any drug-related criminal activity, including members of the family or any guests at their residence. This Congressional Act provided PHAs with tremendous power and authority to find reasons to remove troublesome tenants or those whom the officers could consider as potential troublemakers. For example, PHAs could remove tenants if they suspected that an individual was a drug abuser or involved in criminal activity near public housing (Travis, 2005). PHAs could also remove tenants if they believed that their use of alcohol or illegal drugs created an unsafe housing environment.

In 1996, the Act was re-written and provided even more authority and broad latitude to the PHAs. The Act now included provisions that PHAs could evict tenants based on any type of criminal or illegal endeavors, on or off the property.

PHAs officers had the discretion to remove tenants by petitioning a judge and using a preponderance of evidence to evict even without an arrest or conviction (Shafer, 2002). The criminal activity did not need to be a relatively recent one. By this standard, an entire family could become homeless just based on suspicion of illegal activity by one of the family members.

President Clinton was no friend of returning inmates nor a supporter of public housing as he issued a one-strike policy through Executive Order by the Department of Housing and Urban Development (HUD, 1996).

Through this Executive Order, PHAs became less lenient in enforcing and more liberal in interpreting discretionary policies. Even financial incentives were provided for the PHAs to become tougher on public housing residents and applicants.



The results of these policies were not surprising as it became increasingly difficult to enter public housing. In a 1997 HUD survey, 75% of PHAs administrators surveyed claimed to have used the new “one-strike” policy effectively to reduce public housing access drastically. Before the start of the new policy, 9,835 applicants for public housing were rejected in the six months prior (HUD, 1997). However, six months after the new policy went into effect, the rejections had almost doubled to 19,405 because of prior criminal activity or suspected criminal activity (HUD, 1997).

The new policy also exponentially pushed up evictions due to suspected criminal activity, a loose term that HUD officers were encouraged to apply liberally. Six months before the enforcement of the new policy began, 2,698 individuals were removed because of criminal activity (HUD, 1997). After the new policy went into effect, there was a 40% increase in evictions (HUD, 1997). In the survey, a vocal minority of PHA administrators objected to the new policy due to forced evictions of older and law-abiding tenants whose children or grandchildren had engaged in criminal activity or drug usage. This policy’s desired effect was to house fewer numbers of families with male or female relatives who may have engaged or been engaging in criminal activity. This new approach was irrevocably successful in creating family disruptions, homelessness, and likely increased arrests and possibly jail and prison. This latest action plan was not conducive to serving the housing needs of former inmates and their families facing more significant obstacles finding housing in the private sector.

Although federal lawsuits challenged HUD’s policies, the verdict was not favorable to the evicted tenants. For public housing advocates, the Supreme Court case of *Department of Housing and Urban Development v. Rucker et al.* in 2002, tried to answer the central question of the Oakland Housing Authority lawsuit: “Was it the statutory intent of Congressional law for PHA’s to be able to evict a tenant who has someone living with them and without the tenant’s knowledge, this individual engages in criminal activity?” (Travis, 2005).

Unfortunately, the verdict in *Rucker* was not favorable to tenant’s rights, and in an 8-0 decision (with Justice Breyer abstaining), the Supreme Court agreed with congressional intent and ruled that PHAs had statutory authority for the new policies. PHAs could remove tenants from the property even if the tenants had no knowledge or should have known some family members were engaging in crime or drug-related activities (Travis, 2005). For criminal justice advocates asking for leniency and increased support for returning ex-offenders, the Court’s ruling was a terrible decision.

After the Supreme Court ruling in *Rucker*, PHAs administrators’ discretionary judgment was placed on steroids and became even more aggressive and draconian than it was before this decision. For example, the Minneapolis Public Housing Authority became unusually strict about the “one-

strike” policy as it increased evictions and the terminations of leases (Travis, 2005).

However, the Housing Authority of Santa Barbara became more liberal and created joint task forces to solve disagreements between tenants and landlords (Shafer, 2002). In Santa Barbara, the PHAs administrators began to use more street-level bureaucratic decision-making rather than relying on a draconian mandate. Therefore, despite *Rucker*, the Santa Barbara PHAs created a more tolerant and liberal housing environment for its public housing residents.

In 2001, the Joint Center for Housing Studies at Harvard University released a report that showed that the shortage of public housing options had become particularly problematic, especially after the 1996 Act and even before the *Rucker* decision. In 1999, the waiting lists for public housing for families had become much longer. Estimates that claimed that less than one million families were on the waiting lists were considered underestimations. In just two years (1996-1998), waiting lists increased from 22 months to 33 months (HUD, 1999). In New York City, eight years was the average wait time while in Oakland, California it was six years (HUD, 1999). Washington D.C., and Cleveland, Ohio, had waiting times of around five years (HUD, 1999).

### **Halfway Houses: A Viable Option for Public Housing?**

Halfway houses and other types of transitional housing can be another possibility to bridge the gap between the time a felon leaves leaving prison and before that individual finds permanent housing. In complete fairness, though, public housing, like other public assistance programs for low-income citizens, was never intended to be permanent housing. This program was designed to be a temporary aid to persons or families facing financial difficulties to get their economic problems in order. That is, a stepping stone to get them on their feet again to start paying for their own housing needs, be it renting or, ultimately, homeownership. Again, the paucity of halfway houses and transitional housing is troublesome for those looking to reenter society without facing too many obstacles that could make this transition almost impossible. The scarcity of housing is only one criterion of the many difficulties facing ex-prisoners. Even when an ex-inmate gets an opportunity to reside at a halfway house, the clock starts ticking to find a job. In the meantime, the former felon must maintain parole while juggling the psychological and social obstacles of reconnecting with family and friends. Supportive housing programs such as those run by the Fortune Society of New York operates about 59 beds and services to be able to re-integrate ex-inmates back to society (Solomon et al., 2004). Culhane, Metraux, and Hadley (2002) found that supportive services for transitional housing could shave off 7.9 fewer days in prison and 3.8 fewer days in jail for program participants who made a serious commitment. Moreover, those fewer days in prison and jail meant a taxpayer savings of approximately



\$2.5 million in incarceration costs annually (Culhane, Metraux and Hadley, 2002).

## Conclusion

Positive change when reentering society is not easy, and for most returning inmates, approximately 73% do end up being re-incarcerated. (Travis, 2005).

However, ideas such as supportive transitional housing, more discretionary judgment, authority for evicting tenants, and other less punitive sanctions from PHA's and a less stringent focus on excluding prior criminal activity through the liberal use of background checks could make it easier to reenter society.

Ultimately, our government, both at the state and federal levels, will need to re-examine and closely monitor our public housing policies to develop more humane and compassionate service to returning inmates. Without such public policies being regularly evaluated and re-evaluated, we may soon have more homeless individuals and families cluttering America's sidewalks than in prior years, both due to public policies that are outdated, draconian, and potentially racist. Our government exists for us, by us and must serve us equally and without bias, not the other way around. When our inmates have served their time, our society must act with compassion and provide public policies serving the greater good, not just good for some but all. The debt to society once paid, must be forgiven and forgotten.

## References

- Center for Sex Offender Management. (2007). "Community Notification and Education." <https://cepp.com/wp-content/uploads/2020/01/16-Reentry-.pdf>
- Helfgott, Jacqueline. (1997). "Ex-Offender Needs Versus Community Opportunity in Seattle, Washington." *Federal Protection*, 61(2), 12-24.
- Leib, Roxanne. (1996). "Community Notification Laws: A Step toward More Effective Solutions." *Journal of Interpersonal Violence*, 11(2), 298-300.
- Metraux, Stephen, & Culhane, Dennis P. (2004). "Homeless Shelter Use and Reincarceration Following Prison Release: Assessing the Risk." *Criminology and Public Policy*, 3 (2), 201-222.
- Mumola, Christopher J. (2004). *Incarcerated Parents and Their Children*. Administration for Children and Families Welfare Research and Evaluation Conference, U.S. Department of Health and Human Services, Washington D.C., May 28.
- Nayer, G., Gallo, R., Amos, C., and Colas, J. (2015). "Prison Reentry Programs: The Key to Stop the Revolving Door." *Journal of Criminal Justice and Law Review*, 4 (1-2), 1-12.
- Nelson, Martha, Dees, Perry & Allen, Charlotte. (1999). *The First Month Out: Post-Incarceration Experiences in New York City*. New York: Vera Institute of Justice. <https://www.vera.org/publications/the-first-month-out-post-incarceration-experiences-in-new-york-city>
- Rhine, Edward E., Smith, William R, & Jackson, Ronald W. (1991). *Paroling Authorities: Recent History and Current Practice*. Laurel, MD: American Correctional Association.
- Riccioli, Jim. (2020). Convicted sex offender sues Muskego for rejecting his move into the city. *Milwaukee Journal Sentinel*. <https://www.jsonline.com/story/communities/waukesha/news/muskego/2020/07/28/convicted-sex-offender-sues-muskego-rejecting-his-move-into-city/5504382002/>
- Ripley, Amanda. (2002, January). *This Year the Nation's Prisons Will Release More Than 630,000 People-A New Record. Amanda Ripley Follows One Man's Struggle to Stay Outside the Gates*. <http://content.time.com/time/magazine/article/0,9171,1001640,00.html>
- Roberts, Victoria. (2003, June 10). Interview by Cathy Duchamp. *All Things Considered*. National Public Radio. <https://www.npr.org/templates/story/story.php?storyId=1294511>
- Sard, Barbara & Waller, Margy. (2002). "Housing Strategies to Strengthen Welfare Policy and Support Working Families." Center on Urban and Metropolitan Policy and the Center on Budget and Policy Priorities research brief. Washington, DC: The Brookings Institution. <https://www.brookings.edu/wp-content/uploads/2016/06/sardwallerhousingwelfare.pdf>  
<http://dx.doi.org/10.33642/ijsspp.v2n8p1>



Shafer, Dee NaQuin. (2002). "To Evict or Not to Evict." *Journal of Housing and Urban Development*. 59 (4), 12-16.

Smith, Sandra S., & Simon, Jonathan. (2020). Exclusion and Extraction: Criminal Justice Contact and the Reallocation of Labor. *RSF: The Russell Sage Foundation Journal of the Social Sciences*, 6(1), 1-27.

Seim, Josh & Harding, David. J. (2020). Parolefare: Post-prison Supervision and Low-Wage Work. *RSF: The Russell Sage Foundation Journal of the Social Sciences*, 6(1), 173-195.

Solomon, Amy L., Waul Michelle, Ness Van Asheley, Travis, Jeremy. (2004). *Outside the Walls: A National Snapshot of Community-Based Prisoner Reentry Programs*. The Urban Institute.  
<https://www.urban.org/research/publication/outside-walls>

Steurer, Stephen J., Smith, Linda & Tracy Alice. (2001). "Three State Recidivism Study." Lanham, MD. Correctional Education Association.

Travis, Jeremy. (2005). *But They All Come Back: Facing the Challenges of Prisoner Reentry*. Urban Institute Press.

Travis, Jeremy & Visher, Christy. (2003). "Transitions from Prison to Community: Understanding Individual Pathways." *Annual Review of Sociology*. 29. 89-113.

United States Department of Housing and Urban Development. (1996). "One Strike and You're Out' Screening and Eviction Policies for Public Housing Authorities." Notice PIH 96-16 (HA). Washington, DC: U.S. Department of Housing and Urban Development, Office of Public and Indian Housing.  
<http://www.hud.gov/offices/pih/publications/notices/96/pih96-16.pdf>

United States Department of Housing and Urban Development. (1997). *Meeting the Challenge: Public Housing Authorities Respond to the "One Strike and You're Out" Initiative*.  
<https://www.ncjrs.gov/pdffiles1/Photocopy/183952NCJRS.pdf>

United States Department of Housing and Urban Development. (1999). *Waiting in Vain: An Update on America's Rental Housing Crisis*. [https://www.huduser.gov/portal/publications/affhsg/waiting\\_in\\_vain.html](https://www.huduser.gov/portal/publications/affhsg/waiting_in_vain.html)

Visher, Christy, La Vigne, Nancy & Travis, Jeremy. (2004). *Returning Home: Understanding the Challenges of Prisoner Reentry: Maryland Pilot Study: Findings from Baltimore*.  
<https://www.urban.org/sites/default/files/publication/42841/410974-Returning-Home-Understanding-the-Challenges-of-Prisoner-Reentry.PDF>

Zevitz, Richard G., & Farkas, Mary Ann. (2000). *Sex Offender Community Notification: Assessing the Impact in Wisconsin*. Washington, DC. U.S. Department of Justice, National Institute of Justice.  
<https://nij.ojp.gov/library/publications/sex-offender-community-notification-assessing-impact-wisconsin-research-brief>

Zoukis, Christopher. (2018). *Sex Offender Registries: Common Sense or Nonsense?* *Criminal Legal News*.  
<https://www.criminallegalnews.org/news/2018/may/15/ex-offender-registries-common-sense-or-nonsense/>