

**Statement of Richard A. Lewis
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Before the Committee on the Judiciary
Subcommittee on Crime, Terrorism, and Homeland Security
Congress of the United States
House of Representatives**

June 9, 2010

Introduction

Good Morning Mr. Chairman and the Members of the Committee. On behalf of ICF International, thank you for the opportunity to appear before you today to discuss *Reducing Collateral Consequences of Criminal Convictions: Overcoming Barriers to Reentry for the Formerly Incarcerated*. For more than 20 years, I have managed programs and conducted research in criminal justice. Currently, I serve as a fellow for ICF International. ICF, a global professional services firm, partners with government and commercial clients to deliver consulting services and technology solutions in energy and climate change; environment and infrastructure; health, human services, and social programs; and homeland security and defense markets. Prior to joining ICF, I served as the director of research for Prison Fellowship, as a senior researcher for the National Council on Crime and Delinquency, and as a social science analyst for the U.S. Department of Justice, National Institute of Justice. The following statement briefly discusses the prisoner reentry problem, overcoming barriers to successful reintegration, and recommendations to reduce collateral consequences of criminal convictions.

The Prisoner Reentry Problem

As the new millennium advances, American corrections and many communities are in crisis. Perhaps the most pervasive problem challenging modern corrections is the ominous nexus of overburdened prison systems and record numbers of ex-prisoners returning to communities each year. Today, the correctional population includes more than 1.6 million prisoners held in federal and state corrections facilities at the end of 2008—one in every 198 U.S. residents.¹ Recent research results from the National Reentry Resource Center show that at least 95 percent of state prisoners will be released back to their communities at some point.² Other results show that more than 735,000 individuals were released from state and federal prisons in 2008, an increase of 20 percent from 2000.³ Still other results show that approximately 9 million individuals are released from jail each year.⁴ In addition, research results show that more than 5 million individuals were on probation or parole at the end of 2008.⁵ Moreover, an estimated two-thirds of released state prisoners are re-arrested and more than half returned to prison within three years of their release.⁶ In 2008, parole violators accounted for 34.2 percent of all prison admissions, 36.2 percent of state admissions, and 8.2 percent of federal admissions.⁷ Finally, a quarter of adults exiting parole in 2008 returned to prison as a result of violating their terms of supervision, and 9 percent of adults exiting parole returned to prison as a result of a new conviction.⁸

America's incarceration binge—partly attributed to unprecedented crime rates during the 1980s—is the driving force behind the prisoner reentry, rearrest, and reincarceration conundrum and collateral consequences of criminal convictions. More than two decades of “get tough” sentencing reforms including mandatory minimums, truth-in-sentencing, and the abolition of parole have resulted in over 1.6 million prisoners at yearend 2008.⁹ The correctional population also includes nearly 5.1 million adults under community supervision at yearend 2008—the equivalent of about 1 in every 45 adults in the United States.¹⁰ Today, the total Federal and State adult correctional population, including those incarcerated and those supervised in the community is an estimated 6.7 million.

While the U.S. prison population, imprisonment rate, and new court commitments has declined in recent years, research findings reveal a trend toward more than 800,000 parolees returning from prison to home annually.¹¹ Other research findings indicate an increased number of offenders released to the community without supervision.¹² Still other findings suggest that record numbers of prisoners are returning home having spent longer terms behind bars with inadequate assistance in their reintegration.^{13 14 15}

Overcoming Barriers to Successful Reintegration

While formidable, the prisoner reentry problem provides an opportunity to think more broadly about balancing the need to increase public safety and reduce barriers to successful reintegration. Research results show that most returning prisoners have difficulties reconnecting with families, housing, and jobs.¹⁶ Other results show that many ex-prisoners remain plagued by substance abuse, health, and mental health problems.¹⁷ Still other research findings show that the aforementioned cycle of imprisonment among large numbers of individuals, mostly minority men, is increasingly concentrated in poor, urban communities that already encounter enormous social and economic disadvantages.^{18 19} Moreover, criminal conviction carries profound social and economic consequences that oftentimes impede the ability of the formerly incarcerated to overcome multiple barriers to successful reintegration. In general, collateral consequences of criminal conviction include laws and policies to restrict persons with a felony conviction from access to public housing, employment, eligibility for student loans for higher education, receipt of welfare benefits, and voting. Specifically, these unintended consequences increasingly contribute to the prisoner reentry conundrum via weakened ties among children and families, limited access to affordable housing and homelessness, lack of education and high rates of unemployment, substance abuse, and physical health or mental illness challenges.²⁰

Children and Families

Over the past two decades, the number of children and families impacted by parental incarceration has increased exponentially. An estimated 809,800 prisoners of the 1,518,535 held in the nation's prisons at midyear 2007 were parents of children under age 18.²¹ Parents held in the nation's prisons (52 percent of state inmates and 63 percent of federal inmates) reported having an estimated 1,706,600 minor children, accounting for 2.3 percent of the U.S. resident population under age 18—and many more children have experienced a father or mother in jail. Since 1991, the number of children with a mother in prison has more than doubled, up 131 percent and the number of children with a father in prison has grown by 77 percent.²² Twenty-two percent of the children of state inmates and 16 percent of the children of federal inmates were age 4 or younger. For both state (53 percent) and federal (50 percent) inmates, about half their children were age 9 or younger.²³

The plight of children impacted by parental incarceration is oftentimes viewed as collateral damage—harm that is unintended or incidental to the intended outcome. Research results show that when a parent is incarcerated, the lives of their children are disrupted by separation from parents, severance from siblings, and displacement to different caregivers. Other results show that children with a parent behind bars are more likely to endure poverty, parental substance abuse, and poor academic performance. Still other results show that these children are more likely to suffer aggression, anxiety, and depression. Moreover, the children of prisoners are at greater risk for alcohol and drug abuse, a variety of problem behaviors including delinquency and crime, and subsequent incarceration at some point in their lives.²⁴ These stark factors represent enormous, and more often than not, insurmountable barriers for the children and families of ex-prisoners to overcome. Furthermore, the economic and social costs of parental incarceration continue to escalate in an economic climate of increasing demand for services and declining resources. Thus, criminal justice policymakers must support promising prisoner reentry programs and refrain from practices likely to weaken ties among children and families—and to produce collateral civilian damage that is excessive relative to the public safety advantages.

Housing and Homelessness

While access to affordable housing has long been a barrier to prisoner reentry, jurisdictions across the country are increasingly enacting laws and policies to restrict persons with a felony conviction (particularly convictions for drug offenses) from access to public housing. An unintended consequence of these practices is an exacerbated housing and homelessness crisis among formerly incarcerated persons. Recent research shows that more than 10 percent of those entering prisons and jails are homeless in the months prior to their incarceration. Other results show that for those with mental illness, the rates of homelessness are significantly higher (about 20 percent). Still other results show that released prisoners with a history of shelter use were almost five times more likely to have a post-release shelter stay.²⁵ Finally, results of a Vera Institute of Justice study show that people released from prison and jail to parole that entered homeless shelters in New York City were seven times more likely to abscond during the first month after release than those who had some form of housing.²⁶ Thus, housing policymakers must support promising prisoner reentry programs and refrain from practices likely to limit access to public housing and increase homelessness—and to produce collateral damage that is excessive relative to the affordable housing advantages.

Education and Employment

Among the most pervasive problems facing formerly incarcerated individuals is the ominous nexus of a lack of education, limited job skills, low levels of viable work experience, and high rates of unemployment. Research results show that two in five prison and jail inmates lack a high school diploma or its equivalent.²⁷ Other results show that employment rates and earnings histories of people in prisons and jails are often low before incarceration as a result of limited education experiences, low skill levels, and the prevalence of physical and mental health problems. Still other results show that incarceration exacerbates barriers to self-sufficiency and less than half of released prisoners secure a job upon their return to the community.²⁸

²⁹Jurisdictions across the country, however, are increasingly enacting laws and policies to restrict persons with a felony conviction from access to higher education and gainful employment. Policymakers must support promising prisoner reentry programs and refrain from practices likely to limit eligibility for student loans, participation in employment and training programs, and

receipt of income supports including welfare benefits—and to produce collateral civilian damage that is excessive relative to the self-sufficiency advantages.

Substance Abuse

The formerly incarcerated face multiple barriers to successful reentry and self-sufficiency. Substance abuse, however, is perhaps the most prevalent obstacle for ex-prisoners to overcome. Research results show that three quarters of those returning from prison to home have a history of substance abuse.³⁰ Over 70 percent of prisoners with serious mental illnesses also have a substance use disorder. In 2004, 53 percent of state and 45 percent of federal prisoners met Diagnostic and Statistical Manual for Mental Disorders (DSM) criteria for drug abuse or dependence. Nearly a third of state and a quarter of federal prisoners committed their offense under the influence of drugs. Among state prisoners who were dependent on or abusing drugs, 53 percent had at least three prior sentences to probation or incarceration, compared to 32 percent of other inmates. At the time of their arrest, drug dependent or abusing state prisoners (48 percent) were also more likely than other inmates (37 percent) to have been on probation or parole supervision.³¹ Other results show that in 2002, 68 percent of jail inmates met DSM criteria for drug abuse or dependence. Half of all convicted jail inmates were under the influence of drugs or alcohol at the time of offense. Jail inmates who met substance dependence/abuse criteria were twice as likely as other inmates to have three or more prior probation or incarceration sentences.³² Still other results show that only 7 percent to 17 percent of prisoners who meet DSM criteria for alcohol/drug dependence or abuse receive treatment in jail or prison.³³ While substance abuse continues to be the most persistent problem facing the formerly incarcerated, laws and policies to prohibit persons with a felony drug conviction are increasingly common. Thus, substance abuse policymakers must support promising prisoner reentry programs and refrain from practices likely to limit access to housing, employment, education, and income supports—and to produce collateral damage that is excessive relative to the substance abuse prevention advantages.

Physical Health and Mental Illness

Relative the general population, the prevalence of health problems and mental illnesses is far greater among people in prisons and jails.³⁴ For example, in 1997 individuals released from prison or jail accounted for nearly one-quarter of all people living with HIV or AIDS, almost one-third of those diagnosed with hepatitis C, and more than one-third of those diagnosed with tuberculosis.³⁵ At yearend 2008, 1.5% (20,231) of male inmates and 1.9% (1,913) of female inmates held in state or federal prisons were HIV positive or had confirmed AIDS. Confirmed AIDS cases accounted for nearly a quarter (23%) of all HIV/AIDS cases in state and federal prison. In 2007, the most recent year for which general population data are available, the overall rate of estimated confirmed AIDS among the state and federal prison population was 2.5 times the rate in the general population.³⁶ Similarly, the incidence of serious mental illnesses is two to four times higher among prisoners than it is in the general population.³⁷ In a study of more than 20,000 adults entering five local jails, researchers documented serious mental illnesses in 14.5 percent of the men and 31 percent of the women, which taken together, comprises 16.9 percent of those studied — rates in excess of three to six times those found in the general population.³⁸ While the formerly incarcerated disproportionately suffer health problems and mental illness, policymakers must support promising prisoner reentry programs and refrain from practices likely to limit access to health/mental health care—and to produce collateral damage that is excessive relative to the public health advantages.

Recommendations to Reduce Collateral Consequences of Criminal Convictions

Consistent with the findings of The Sentencing Project, there appears to be a growing body of evidence in support of the claim that a person with a felony conviction potentially faces a lifetime of consequences including of barriers to housing, education, employment, income support, health care, and voting. These collateral consequences exert severe and longstanding punitive effects beyond the terms of the sentence. In general, a variety of complex state and federal laws impose a continuing burden on convicted persons long after the court-imposed sentence has been fully discharged. Specifically, jurisdictions across the country are increasingly enacting laws and policies to restrict persons with a felony conviction (particularly convictions for drug offenses) from access to public housing, employment and receipt of welfare benefits, and eligibility for student loans for higher education. The collateral disabilities and penalties that accompany a criminal conviction place substantial barriers to a formerly incarcerated individual's social and economic advancement—and their restoration of rights and privileges.³⁹ Moreover, the collateral consequences of criminal convictions impede the ability of ex-prisoners to overcome multiple barriers to successful reentry. The following recommendations are intended to reduce the post-incarceration effects of collateral sanctions on individuals, families, and communities.

1. Pass the National Criminal Justice Commission Act of 2010 (H.R. 5143) — This legislation will create a blue-ribbon bi-partisan commission charged with undertaking an 18-month comprehensive review of the nation's criminal justice system. The commission will study all areas of the criminal justice system, including federal, state, local, and tribal governments' criminal justice costs, practices, and policies. After conducting the review, the commission will make recommendations for changes in, or continuation of oversight, policies, practices and laws designed to prevent, deter, and reduce crime and violence, improve cost-effectiveness, and ensure the interests of justice. The bill has been endorsed by approximately 100 organizations, including: The Sentencing Project; Drug Policy Alliance; The Brennan Center for Justice; Open Society Policy Center; United Methodist Church; ACLU, Families Against Mandatory Minimums, and the NAACP.
2. Continue to support the Second Chance Act (P.L. 110-199) — Designed to improve outcomes for people returning to communities from prisons and jails, this first-of-its-kind legislation authorizes federal grants to government agencies and nonprofit organizations to provide employment assistance, substance abuse treatment, housing, family programming, mentoring, victims support, and other services that can help reduce recidivism. Today, Second Chance Act funding continues to invest in innovative prisoner reentry initiatives including adult/juvenile mentoring, adult/juvenile reentry demonstration projects, family-based prisoner substance abuse treatment programs, improving educational methods, reentry courts, targeting offenders with co-occurring substance abuse and mental health disorders, technology careers training, and the National Reentry Resource Center.
3. Continue to advance the field through knowledge transfer, information dissemination, and the promotion of evidence-based best practices to overcome barriers to successful reentry and reintegration for the formerly incarcerated.

4. Continue dialogue to ensure that criminal offenders have access to reliable relief mechanisms to avoid or mitigate the collateral penalties and disabilities associated with a conviction.
5. Provide reasonable relief from the collateral consequences of a criminal conviction including reducing laws and that restrict persons with a felony conviction (particularly convictions for drug offenses) from employment, receipt of welfare benefits, access to public housing, and eligibility for student loans for higher education.

Conclusion

Mr. Chairman, this concludes my formal statement. I am pleased to answer any questions you or other Members of the Subcommittee may have.

Endnotes

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