



## NATIONAL CONFERENCE of STATE LEGISLATURES

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**Title: Reentry and Lack of Coverage**

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### **Introduction**

The last 30 years have seen a meteoric rise in the number of Americans serving time in prison. The most recent figures put 2.2 million Americans behind bars, with the figure growing every year. At least 95 percent of state prisoners will be released at some point in their lives.<sup>1</sup> Of these, roughly two-thirds will be arrested again.

Problems with substance abuse and addiction stand in the way of successful integration into society for many ex-offenders. Making this problem worse is the dearth of treatment options both inside of prison and outside after release. Couple this with the other difficulties of reintegrating such as finding jobs and housing, and inmates are set up to fail.

### **Substance Abuse and Criminal Justice**

The criminal justice system often is the largest and the fastest growing element of a state's budget. Currently, more than 2 million people are behind bars in this country; the number has increased by an average of 3.4 percent per year during the past 10 years. Roughly 20 percent of these inmates are incarcerated on a drug-related offense, such as selling or possession.<sup>2</sup> This fact does not tell the full story of addiction's true effect on the criminal justice system, however.

For the vast majority of inmates – as well as for former inmates and parolees – substance abuse and addiction play a significant role in their lives and in the crimes they committed. In addition to buying and selling illegal substances, many offenders have committed crimes while under the influence, stolen money or goods to buy drugs, driven drunk or under the influence, or have acted violently because of their addiction. Overall, drugs and alcohol are implicated in the crimes of 81 percent of state prison inmates.<sup>3</sup>

Alcohol is the substance most closely linked with criminal behavior. The No. 1 crime in America most directly linked to substance abuse is drunk driving. In 2004, 1.4 million people were arrested for driving under the influence. That same year, nearly 17,000 people were killed in alcohol-related accidents.<sup>4</sup> Alcohol also leads to a number of other crimes. Among state prison inmates convicted of a violent crime, 21 percent reported that they were under the influence of alcohol at the time of their crime, with no other substances involved. This trend continues while they are behind bars; 26 percent of inmates convicted of a violent offense have committed another violent crime in prison

while under the influence of alcohol alone.<sup>5</sup> Of all adults arrested, 14 percent have had an alcohol addiction at some point in their lives, and 10 percent were addicted at the time of their arrest.<sup>6</sup>

Illegal drugs also play a significant role in initiating criminal behavior. Roughly half (49 percent) of state inmates convicted of a violent offense committed the crime while under the influence of one or more drugs. The problem is even more pronounced for property crime, used by a number of those with drug problems to generate money to purchase drugs. Two-thirds of adults arrested for property crime test positive for at least one drug. Many demonstrate dependence on at least one substance, most commonly alcohol, cocaine, crack or heroin. In fact, 17 percent of all inmates claim to have committed their crime for the sole purpose of obtaining money to buy drugs.<sup>7</sup>

Addiction appears at both ends of the criminal justice spectrum and is a leading cause of parole and probation violations. Overall, two-thirds of people released from prison are arrested again within three years.<sup>8</sup> Recidivism is a much larger problem among those with substance abuse problems. For example, of first-time offenders, 4 percent are regular heroin users. Of those convicted of a fifth offense, 27 percent are regular users. For regular cocaine users, the numbers are 16 percent for the first offense and 40 percent for the fifth. The ratio for crack users is 3:1 of those with five versus one offense. This represents 81 percent of five-time offenders with a history of regular drug use,<sup>9</sup> compared to 41 percent of first offenders.<sup>10</sup>

As the prison population has increased during the past 25 years, so has spending on the criminal justice system. In 2001, state spending on corrections totaled \$38 billion. In 1986, the total was just \$15 billion, adjusted for inflation.<sup>11</sup> This represents the fastest growing parts of most state budgets, vastly eclipsing Medicaid. Approximately 80 percent of that money (\$30.4 billion) was spent specifically on the aforementioned inmates who committed a crime while under the influence, to raise money to support their habit, or any drug- or alcohol-related offense.<sup>12</sup>

### **Reentry and the Need for Treatment**

Addiction appears at both ends of the criminal justice spectrum and is a leading cause of parole and probation violations. Every year, state prisons release approximately 600,000 inmates back into society.<sup>13</sup> Roughly two-thirds of them arrested again within three years.<sup>14</sup> Recidivism is a much larger problem among those with substance abuse problems. For example, of first-time offenders, 4 percent are regular heroin users. Of those convicted of a fifth offense, 27 percent are regular users. For regular cocaine users, the numbers are 16 percent for the first offense and 40 percent for the fifth. The ratio for crack users is 3:1 of those with five versus one offense. This represents 81 percent of five-time offenders with a history of regular drug use,<sup>15</sup> compared to 41 percent of first offenders.<sup>16</sup>

Treatment for prisoners has helped reduce these numbers. Inmates who have taken part in a residential treatment program while locked up have recidivism rates 9 to 18 percent lower than inmates who receive no treatment, as well as drug relapse rates 15 to 35

percent lower.<sup>17</sup> These numbers improve even more when treatment is continued on the outside. For example, one study from Texas found that prisoners who went through an in-prison program and a community-based after care program had significantly lower rates of re-incarceration. This group had a re-incarceration rate of 25 percent, compared to 42 percent of those who never underwent treatment and 64 percent of those who took part in an aftercare program but dropped out before completion.<sup>18</sup> Other studies have shown that offenders who complete community-based aftercare programs have re-arrest rates 50 percent lower than those who do not.<sup>19</sup>

### **Elements of Successful Reentry Programs**

Scientific research has shown that successful treatment programs have the following: they help offenders change their behavior with a therapeutic emphasis; they are longer in duration – at least 90 days – and provide multiple levels of treatment; and use the stick of the criminal justice system to ensure compliance with treatment when needed.<sup>20</sup> Programs labeled as unsuccessful emphasize control and punishment as their primary goals and minimize the role of treatment.<sup>21</sup>

### **Barriers to Treatment**

While treatment for prisoners and the released has been proven effective, inmates with substance abuse issues still face a number of barriers that limit their access to treatment.

#### *Lack of Treatment*

The most common barrier between an inmate with a substance abuse problem and effective treatment is the lack of such treatment inside of prison. The demand for effective treatment far exceeds the supply of such programs, with some estimates placing the ratio at 5:1.<sup>22</sup> A study from the Substance Abuse and Mental Health Services Administration found that only 40 percent of correctional facilities nationwide (encompassing state, federal and local) provided on-site substance abuse treatment.<sup>23</sup> Within these numbers, 61 percent of state prisons report having such facilities.<sup>24</sup> On top of that, fewer state prisoners are participating in treatment: 10 percent of state inmates in 1997 versus 25 percent of inmates in 1991.<sup>25</sup> A study from the state of Texas found that while 63 percent of inmates are substance users or chemically dependent, only 5 percent were admitted to substance abuse programs in Fiscal Year 2002.<sup>26</sup> State officials have estimated that between 70 and 85 percent of inmates need drug treatment, while Federal studies have indicated that 52 percent of inmates meet the criteria for drug abuse or drug dependency disorders.<sup>27</sup> Based on these estimates, anywhere from 150,000 to 680,000 inmates nationally need substance abuse treatment but do not receive it in prison.<sup>28</sup>

For those that do receive treatment on the inside, they still face the barrier of a lack of follow-up on the outside. For example, of the five zip codes in Houston that receive the highest numbers of released inmates, only one has any significant post release services.<sup>29</sup> Additionally, many of these zip codes are home to high crime and drug neighborhoods, which make it easier for a released prisoner to fall back into old habits. And when treatment options do exist, many do not provide treatment for long enough periods. Research shows that at least 90 days of treatment is required for long-term results. However, most programs do not last this long, setting drug-dependent individuals up for

failure.<sup>30</sup> Additionally, individuals with severe addiction problems require intense inpatient services, removed from the nouns that can trigger relapse. However, about 85 percent of treatment services in the country are outpatient centers that lack the comprehensive strategy of inpatient services.<sup>31</sup>

### *Denial of Public Benefits*

Another key problem facing returning offenders is a lack of access to employment and public benefits. Some of this stems from federal and state laws that deny benefits as well as the difficulty of obtaining employment for someone with a criminal record.

In 1996, Congress passed the Personal Responsibility and Work Opportunity Reconciliation Act, a reform of the welfare system which included bans on certain types of assistance to anyone convicted of a drug-related felony. The law includes a lifetime ban on benefits from Temporary Assistance to Needy Families and prohibits states from providing these benefits as well as SSI and public housing to anyone in violation of their parole or probation. States do have the ability to opt out of the ban. Twelve have done so, while 17 adopted the ban without any modifications, and 21 have modified the ban to include provisions of reinstatement.

Blocking access to public housing can interfere with an ex-offenders access to treatment, as locating stable dwellings constitutes a major problem for ex-offenders. Landlords are often uncomfortable renting a place to returning prisoners, and the lack of access to public housing makes finding a stable home even more difficult. As a result, a significant number are homeless. At least 10 percent of this population is homeless nationwide, while 30 to 50 percent of those returning to major cities are homeless.<sup>32</sup> When combined with a denial of public assistance, ex-cons have limited options for supporting themselves and for establishing a stable life.

### *Finding Employment*

Stable employment is one the top indicators that an ex-offender will not re-offend. Securing employment is also quite difficult for ex-offenders. Many offenders were already unemployed upon incarceration and had limited education, with 70 percent not finishing high school and half being functionally illiterate.<sup>33</sup> A study from California found that 70 percent of parolees were unemployed, while only 21 percent had full time jobs.<sup>34</sup> Anyone with a felony conviction faces barriers to working for many state or other public sector offices, and many states have laws that allow an employer to fire an individual with a criminal record regardless of any other factors, not to mention the concern that many employers have with hiring an ex-offender in the first place. Similar rules apply to state occupational licensing agencies, many of whom have wide leeway in denying licenses based on criminal history. This lack of housing and financial resources creates a vicious cycle of instability, complicating an offender's reentry and denying him or her the ability to stick with a long-term treatment regime.

### **Conclusion**

Research shows that treatment both inside and outside of prison reduces recidivism and helps ex-inmates re-integrate into society. The problem stands with getting the right

prisoners to the right services. The growing inmate population has strained the budgets of most states, and treatment programs are often relegated to a lower funding priority compared to basics such as beds and correctional officers. However, effective evidence-based treatment programs can do wonders for stopping the flow of people returning to prison, negating the need for more beds and officers.

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<sup>1</sup> US Department of Justice, Bureau of Justice Statistics,  
<http://www.ojp.usdoj.gov/bjs/reentry/reentry.htm>, accessed March 6, 2007

2. US Department of Justice, Bureau of Justice Statistics,  
<http://www.ojp.usdoj.gov/bjs/prisons.htm>, accessed Oct 20, 2006

3. National Center on Addiction and Substance Abuse at Columbia University. *Behind Bars: Substance Abuse and America's Prison Population* (New York: CASA, 1998), 2.

4. National Center for Injury Prevention and Control, "Fact Sheet: Impaired driving," <http://www.cdc.gov/ncipc/factsheets/driving.htm>, 2006, accessed Oct. 20, 2006

5. NCASA, 8-9.

6. *Ibid.*, 30.

7. *Ibid.*, 35-38.

8. Patrick A. Langan and David J. Levin, *Recidivism of Prisoners Released in 1994*, (NCJ 193427) (Washington, D.C.: US Department of Justice, Bureau of Justice Statistics, 2002).

9. Regular drug use is defined as weekly use over at least a one-month period.

10. NCASA, 73-74.

11. Department of Justice, State Prison Expenditures,  
<http://www.ojp.usdoj.gov/bjs/pub/pdf/spe01.pdf>, accessed Oct. 20, 2006

12. *Behind Bars*, 154.

13. National Governors Association Center for Best Practices, "Backgrounder: The Challenges and Impacts of Prisoner Reentry."

14. Patrick A. Langan and David J. Levin, *Recidivism of Prisoners Released in 1994*, (NCJ 193427) (Washington, D.C.: US Department of Justice, Bureau of Justice Statistics, 2002).

15. Regular drug use is defined as weekly use over at least a one-month period.

16. NCASA, 73-74.

<sup>17</sup> Reentry Policy Council, "Substance Abuse treatment and Reentry," p. 3

<sup>18</sup> *Ibid.*,

<sup>19</sup> Urban Institute, *Drug Treatment in the Criminal Justice System*, 4-6

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<sup>20</sup> Taxman, Faye, "Unraveling 'What Works' for Offenders in Substance Abuse Treatment Services," National Drug Court Institute Review, Vol. II, 2, p. 94.

<sup>21</sup> Ibid, 99

<sup>22</sup> Urban Institute, 6-6

<sup>23</sup> Drug Treatment in the Criminal Justice System, 3-9

<sup>24</sup> Ibid, 3-11

<sup>25</sup> Ibid, exec-1

<sup>26</sup> Urban Institute, A Portrait of Prisoner Reentry in Texas, 29-30

<sup>27</sup> Ibid, exec-3

<sup>28</sup> Ibid, Exec-4

<sup>29</sup> Urban Institute, A Portrait of Prisoner Reentry in Texas, 78

<sup>30</sup> Reentry Policy Council, "Substance Abuse treatment and Reentry," p. 15

<sup>31</sup> Ibid, 15-16

<sup>32</sup> National Governors Association Center for Best Practices, "Backgrounder: The Challenges and Impacts of Prisoner Reentry, 4

<sup>33</sup> National Governors Association Center for Best Practices, "Backgrounder: The Challenges and Impacts of Prisoner Reentry." 3

<sup>34</sup> Ibid,