

# CRS Report for Congress

## Offender Reentry: Correctional Statistics, Reintegration into the Community, and Recidivism

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## Summary

The prison population in the United States has been growing steadily for more over 30 years. The Bureau of Justice Statistics reports that each year more than 650,000 offenders are released into the community and almost 5 million ex-offenders are under some form of community-based supervision. Offender reentry can include all the activities and programming conducted to prepare ex-convicts to return safely to the community and to live as law-abiding citizens. Some ex-offenders, however, eventually end up back in prison. The most recent national-level recidivism study is 10 years old; this study showed that two-thirds of ex-offenders released in 1994 came back into contact with the criminal justice system within three years of their release. Compared with the average American, ex-offenders are less educated, less likely to be gainfully employed, and more likely to have a history of mental illness or substance abuse — all of which have been shown to be risk factors.

Three phases are associated with offender reentry programs: programs that take place during incarceration, which aim to prepare offenders for their eventual release; programs that take place during offenders' release period, which seek to connect ex-offenders with the various services they may require; and long-term programs that take place as ex-offenders permanently reintegrate into their communities, which attempt to provide offenders with support and supervision. There is a wide array of offender reentry program designs, and these programs can differ significantly in range, scope, and methodology. Researchers in the offender reentry field have suggested that the best programs begin during incarceration and extend throughout the release and reintegration process. Despite the relative lack of research in the field of offender reentry, an emerging "what works" literature has shown that programs focusing on work training and placement, drug and mental health treatment, and housing assistance have proven to be effective.

The federal government's involvement in offender reentry programs typically occurs through grant funding, which is available through a wide array of federal programs at the Departments of Justice, Labor, Education, and Health and Human Services. However, only a handful of grant programs in the federal government are designed explicitly for offender reentry purposes.

The 110<sup>th</sup> Congress is considering a number of bills that include some form of offender reentry program within their purview. The Second Chance Act (P.L. 110-199) was enacted on April 9, 2008. The Act expands the current offender reentry grant program at the Department of Justice and creates a wide array of targeted grant-funded pilot programs. Bills pertaining to offender reentry include S. 1060, S. 2237, S. 456, S. 1907, H.R. 623, H.R. 3187, H.R. 3547, H.R. 3467, and H.R. 3409. Potential issues facing Congress include the adequacy of the federal government's existing grant programs, the lack of current national-level statistics on recidivism, whether other outcome measures should be considered, whether more funding should be allocated toward program evaluations, and whether enough coordination is taking place among the various federal agencies that manage programs used to fund offender reentry. This report will be updated as circumstances dictate.

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# Offender Reentry: Correctional Statistics, Reintegration into the Community, and Recidivism

## Background

Over 95% of the prison population today will be released at some point in the future, and each year in the United States almost 650,000 offenders are released from prison.<sup>1</sup> The Department of Justice's (DOJ) Bureau of Justice Statistics (BJS) has estimated that two-thirds of all released prisoners will commit new offenses (recidivate) within three years of their release.<sup>2</sup> Many studies have indicated that reentry initiatives that combine work training and placement with counseling and housing assistance can reduce recidivism rates.<sup>3</sup> According to the BJS, the average per prisoner cost of incarceration in state prison in 2001 was \$62 per day, or \$22,650 per year; costs for those incarcerated in federal prison was similar. Overall, the states spent \$38 billion on their correctional systems in 2001, the most recent year for which data are available.<sup>4</sup>

Offender reentry includes all the activities and programming conducted to prepare ex-convicts to return safely to the community and to live as law-abiding citizens. Reentry programs are typically divided into three phases: programs that prepare offenders to reenter society while they are in prison, programs that connect ex-offenders with services immediately after they are released from prison, and programs that provide long-term support and supervision for ex-offenders as they settle into communities permanently. Offender reentry programs vary widely in range, scope, and methodology. The best-designed programs, according to the research in the field, are those that span all three phases.<sup>5</sup>

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<sup>1</sup> U.S. Department of Justice, Office of Justice Programs, "Learn About Reentry," available at [<http://www.reentry.gov/learn.html>]. Hereafter cited as "Learn About Reentry."

<sup>2</sup> U.S. Department of Justice, Bureau of Justice Statistics, "Reentry Trends in the United States: Recidivism," available at [<http://www.ojp.usdoj.gov/bjs/reentry/recidivism.htm>]. Hereafter cited as "Reentry Trends."

<sup>3</sup> Wilkinson, Reginald A., Director of the Ohio Department of Rehabilitation and Correction, "Offender Reentry: A Storm Overdue," Paper Prepared for Third National Forum on Restorative Justice, March 2002, available at [<http://www.drc.state.oh.us/web/Articles/article98.htm>]. Hereafter cited as "A Storm Overdue."

<sup>4</sup> U.S. Department of Justice, Bureau of Justice Statistics, "State Prison Expenditures 2001," NCJ202949, June 2004, available at [<http://www.ojp.usdoj.gov/bjs/pub/pdf/spe01.pdf>].

<sup>5</sup> Learn About Reentry.

A Government Accountability Office (GAO) report also suggests that post-release planning should begin as early as possible, ideally as soon as an inmate is admitted into prison or even immediately after sentencing. Such planning could include helping the offender to develop the skills and knowledge base necessary to find a well-paying job and have access to education, such as General Equivalency Degree classes for those who have not completed high school, and either vocational training or college classes for those that have completed high school but have not settled on a career.<sup>6</sup>

As offenders approach their release date, the research suggests that reentry planning focus on connecting offenders with the community and workplace resources they will need to get established. Again, employment and access to education has been cited by many studies as two of the most important aspects contributing to the successful reintegration of ex-offenders into society.<sup>7</sup> Lastly, it is important for the reentry process to extend deep into the offenders' reintegration into society. Indeed, for many offenders, the first few weeks of adjustment after release are actually less difficult than the longer period of community reintegration.<sup>8</sup> In many cases, this period of time can span the entire three to five years that offenders are sometimes supervised in the community.<sup>9</sup>

## Correctional System Statistics

To understand the issue of offender reentry, one must first understand the ways in which ex-offenders are released into the community. It is also worthwhile to analyze the population of individuals serving sentences in correctional facilities, because the number of offenders re-entering the community is necessarily related to the number of offenders serving prison sentences. This section analyzes national data on the nation's correctional system.

### Population in Correctional Facilities

The correctional system includes two main forms of detention: jails and prisons. Jails, also known as local lockups, are facilities generally used to temporarily detain individuals who have been arrested or charged with a crime but not usually convicted.<sup>10</sup> The jail population is thus extremely fluid, with individuals usually

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<sup>6</sup> U.S. Government Accountability Office, "Prisoner Release: Trends and Information on Reintegration Programs," GAO-01-483, June 2001, pp. 19-25. Hereafter referred to as "GAO Prisoner Release Report."

<sup>7</sup> A Storm Overdue.

<sup>8</sup> Taxman, Faye et al., "Targeting for Reentry: Matching Needs and Services to Maximize Public Safety," National Criminal Justice Reference Service, March 25, 2002.

<sup>9</sup> GAO Prisoner Release Report, p. 5.

<sup>10</sup> While this is generally the case, jails on occasion can also include individuals sentenced to prison terms lasting less than one year (misdemeanors) and convicted felons in  
(continued...)

staying for a matter of weeks, and includes individuals who may never be convicted of a crime. Prisons, on the other hand, typically house individuals who have been convicted of a crime and sentenced to a term of one year or longer. For this reason, the prison population is less fluid than the jail population.<sup>11</sup>

Over 95% of offenders currently serving prison sentences will return to the community at some point.<sup>12</sup> The population serving time in correctional facilities has been steadily increasing for decades, reaching a peak of almost 2.2 million in 2005. Of the 2.2 million prison population, 93% were between the ages of 20 and 54.<sup>13</sup> From 1995 to 2005, the population of prisoners aged 20 to 54 increased by 35% — or three and a half times the average growth in the general population aged 20-54 during this period of 10%.<sup>14</sup> From 1995 to 2005, the number of people imprisoned in the United States increased by roughly 3% each year, compared with the overall population growth of roughly 1% each year. According to the United Kingdom's Home Office, it appears that the United States incarcerates more of its citizens than any other nation in the world, at 701 per 100,000 of its population in 2002. More than 60% of countries in the British survey, including most European countries, imprisoned less than 150 per 100,000.<sup>15</sup> **Figure 1** shows the annual population in state and federal correctional facilities in 1995 and 2000-2005.

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<sup>10</sup> (...continued)  
jurisdictions where the prisons are overpopulated.

<sup>11</sup> From a CRS interview with the Bureau of Justice Statistics, May 17, 2007.

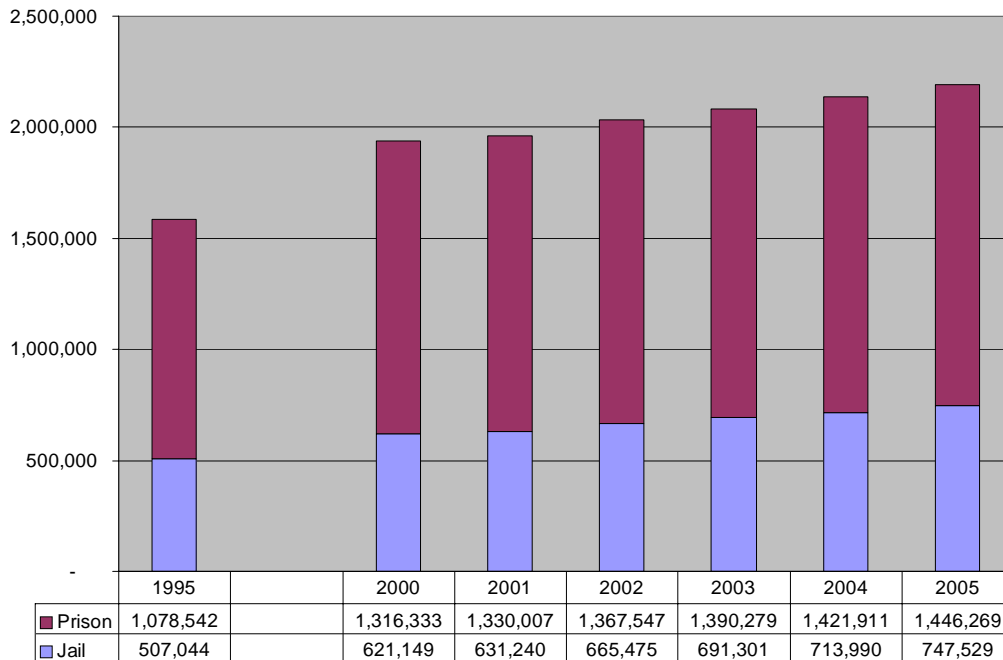
<sup>12</sup> Reentry Trends.

<sup>13</sup> CRS analysis of Bureau of Justice Statistics data.

<sup>14</sup> CRS analysis of Bureau of Justice Statistics and Census Data.

<sup>15</sup> United Kingdom Home Office, Research, Development, and Statistics Directorate, "World Prison Population List," available at [<http://www.csdp.org/research/r234.pdf>].

**Figure 1. Annual Population in Federal and State Correctional Facilities**



**Source:** CRS analysis of Bureau of Justice Statistics data.

Given the fact that 95% of all inmates will eventually return to the community, the prison population has a direct impact on offender reentry. As the prison population grows, increasing numbers of ex-offenders are being released from correctional facilities. Most of these ex-offenders are required to undergo some form of community supervision as part of their release. The following section explores the mechanisms and statistics surrounding the release of prisoners into the community.

## Ex-offenders Under Community Supervision

Ex-offenders can be released into the community through a variety of different mechanisms. Some offenders never serve prison sentences and instead serve their sentence on probation in their communities under supervision. Others serve most of their sentences in correctional facilities but are then released on parole to finish their sentences in their communities under supervision. Lastly, some offenders serve out their entire sentences in correctional facilities and are released unconditionally into the community.

**Probation.** Individuals who are found guilty of committing a crime that is deemed not serious enough for imprisonment can be sentenced to serve their sentences under community supervision (probation). Offenders on probation typically must adhere to certain conditions and check in regularly with their probation officers. Violation of these conditions or failure to appear before their probation



officers can lead to further criminal sanctions, including incarceration. In some instances, offenders can be sentenced to a mixed term of prison and probation.

**Parole.**<sup>16</sup> Individuals who have served most of their sentences in a correctional facility are sometimes eligible to complete their sentences in the community under conditional supervision. The conditions associated with parole can vary from case to case, but typically include drug testing and regular contact with a parole officer. Violations of these conditions can result in the parolee returning to prison to serve out the remaining portion of his or her sentence. There are two different kinds of parole: discretionary and mandatory.

**Discretionary Parole.** States that use parole boards to determine whether a prisoner should be released into the community have discretionary parole. The parole boards have the authority to conditionally release a prisoner into the community based on a statutory or an administrative determination that the prisoner is eligible.

**Mandatory Parole.** States that have statutory language determining when offenders should be released into the community have mandatory parole. Jurisdictions that use determinate sentencing<sup>17</sup> often include provisions specifying when inmates should be conditionally released from prison after serving a specified portion of their original sentences.

**Figure 2** shows the number offenders being supervised in the community, either through probation or through parole. It is important to note that parolees account for, on average, 16% of the overall population under community supervision. The growing state prison population has resulted in a concomitant growth in the overall population of offenders under community supervision. Interestingly, however, the growth rate of individuals under community supervision has been lagging behind the growth rate of individuals in correctional facilities. This is likely due to the fact that a growing number of offenders are being released directly into the community without any form of supervision. **Figure 2** shows that the average population of individuals under community supervision has increased by 32% from 1995 to 2005; this contrasts with the overall prison population, shown in **Figure 1**, which grew by 38% during this period. From 2000 to 2003, the overall population under supervision increased at a relatively steady rate of 2.5% per year, which corresponded with the annual growth in prison population over the same three-year period. However, for reasons that are not altogether clear, in 2004 and 2005, the growth in the population under community supervision slowed to 0.6% a year; this contrasts with the 3% average growth in the prison population over this period (see **Figure 1**). This recent disparity in the annual growth rate of the parole and prison populations suggests that

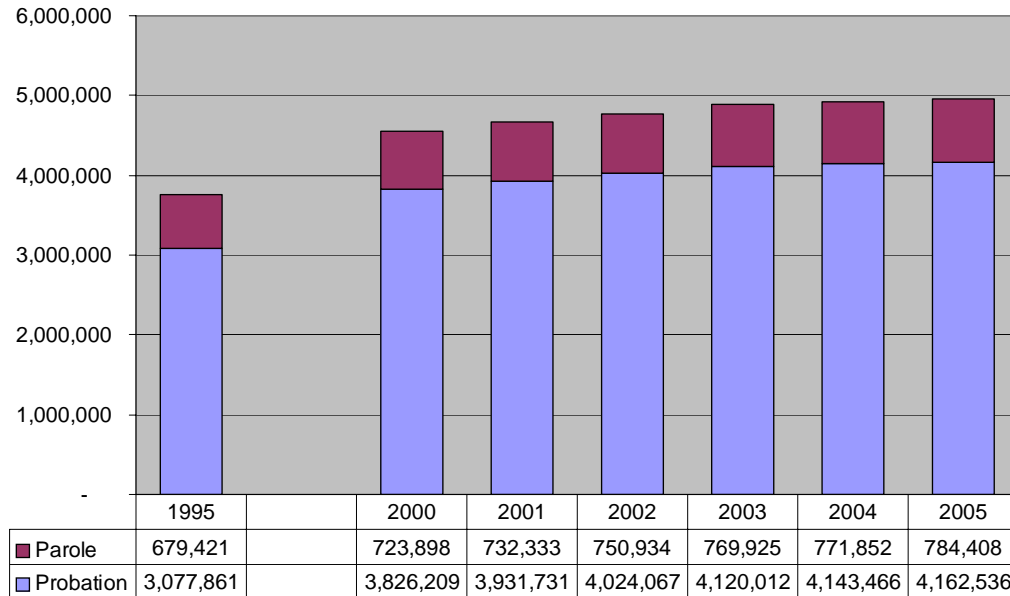
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<sup>16</sup> While some states have a parole system in place, Congress abolished parole at the federal level effective in 1986. However, there is a small percentage of federal offenders who were sentenced prior to 1986 who are still eligible for parole.

<sup>17</sup> A determinate sentence is a fixed sentence, while an indeterminate sentence is typically expressed as a range (i.e., 5 to 10 years). For additional information on sentencing guidelines, please refer to CRS Report RL32766, *Federal Sentencing Guidelines: Background, Legal Analysis, and Policy Options*, by Lisa Seghetti and Alison Smith.

the disconnect between the growth in the overall prison population and the growth in the overall population under community supervision may continue to widen in the short term.

**Figure 2. Population Under Federal and State Community Supervision**

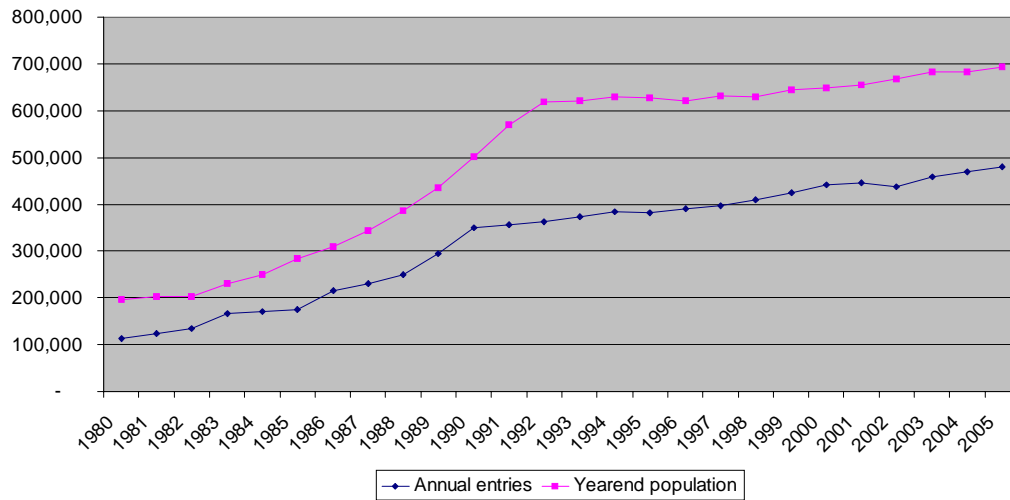


**Source:** CRS analysis of Bureau of Justice Statistics data.

**Figure 3** breaks out the annual *state* parole entries and the year-end<sup>18</sup> state parole population each year from 1980 through 2005.<sup>19</sup> The data show that the growth rate in the states’ parole populations has declined over the last 14 years for which data are available. From 1980 through 1992, the year-end parole population more than tripled to 618,689. From 1992 through 2005, however, the population of ex-offenders on parole has increased by only 12% to 693,197 — an average increase of about 0.9% each year. In addition, from 2000 to 2005, the number of entries into the parole population has slightly exceeded the number of exits from parole each year, although both entries and exits to parole have been increasing by about 1.7% annually. This could suggest that offenders are remaining on parole for longer periods of time, or that the parole population is growing relative to the number of people being released from prison.

<sup>18</sup> Year-end populations are calculated on December 31 of each year.

<sup>19</sup> The figure does not include federal parole entries and exits.

**Figure 3. Annual State Parole Entries and Year-End Population**

**Source:** CRS analysis of Bureau of Justice Statistics data.

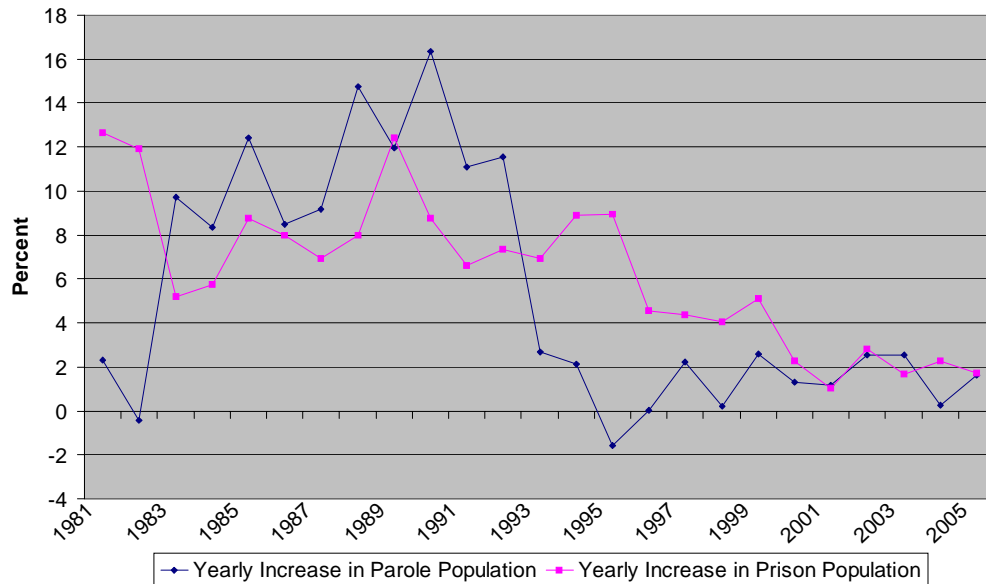
The relationship between the prison and parole populations is an important one for a number of reasons. Offenders serving their sentences in prison have committed more serious crimes than offenders who serve their sentences in jail or on probation; as previously noted, the prison population typically includes individuals sentenced to more than a year of time. Parolees, meanwhile, often return to the community after a prolonged period of incarceration and usually face a period of adjustment.

**Figure 4** shows the relationship between annual changes in the *state* prison population and the parole population. **Figure 4** shows a differentiation between the period from 1981 to 1992, when the annual increase in the state parole population generally outstripped the annual increase in the prison population, and the period from 1993 to 2005, when the obverse has largely been true. This is interesting for a number of reasons. The population of offenders on parole is, by definition, a subset of the population of offenders in prison: to get parole, one has to pass through the prison system. The fact that the population in prison has been increasing at a faster rate than the population in parole over the past 13 years suggests that fewer prisoners are being released before the end of their sentences; this corresponds with the sentencing reform efforts implemented by many states in the 1980s and early 1990s and the growing use of truth-in-sentencing laws by states. Truth-in-sentencing laws require that offenders serve a substantial portion of their sentences (usually three quarters), thereby reducing discrepancies between the sentence imposed and the actual time served in prison.<sup>20</sup> The discrepancy between the annual growth of the parole and prison populations in the 1990s is also a result of the fact that prison sentences have been becoming longer, because of the enactment by most states of mandatory minimum sentencing laws. Taken together, these factors could suggest that the parole population may begin to grow faster than the prison population in

<sup>20</sup> U.S. Department of Justice, Bureau of Justice Statistics, *Truth in Sentencing in State Prisons*, NCJ170032, January 1999.

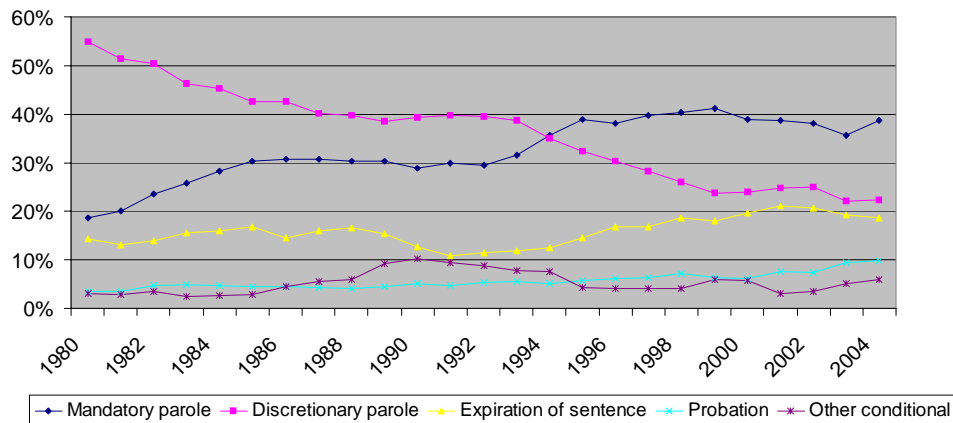
coming years as the longer sentences that have been issued over the past two decades come closer to being completed.

**Figure 4. Annual Increases in State Parole and Prison Populations**



**Source:** CRS analysis of Bureau of Justice Statistics data.

The data analyzed thus far have examined the relationship between the prison population and the population under community supervision, revealing that the population of offenders under some form of community supervision accounts for roughly 70% of the overall population of offenders. Only 30% of offenders are in jail or prison, leaving about 5 million offenders annually in the community under probation or parole. As seen here, the number of offenders under community supervision has been increasing steadily for decades but has not grown quite as fast as the incarcerated population. Many of these individuals will end up recidivating and entering the penal system again, either during their periods of supervision or once their sentences have been completed.

**Figure 5. Types of Releases from State Prisons**

**Source:** CRS adaptation of Bureau of Justice Statistics figure.

**Note:** Other conditional releases include provisional releases, supervised work furloughs, releases to home arrest or boot camp programs, conditional pardons, conditional medical releases, or unspecified releases.

**Figure 5** below shows the types of releases from state prisons from 1980 to 2005. It shows the kinds of reentries that have been occurring historically and reveals that the vast majority of prisoners are released into some form of community supervision. The figure also reflects the structural change in state systems from the use of discretionary parole (e.g., parole boards) toward mandatory parole (e.g., statutorily mandated parole) over the past 25 years. The number of individuals being released into probation has been increasing over the past 25 years, from about 4% in 1980 to 10% in 2005, but nevertheless remains relatively small. In addition, **Figure 5** shows that the number of individuals being released directly into the community as their sentences expire has been increasing, from roughly 11% in 1991 to an average of 20% over the past five years. This means that roughly 20% of all offenders are being released into the community without any form of supervision or structured reentry and could account for the lower growth rate in the population of ex-offenders being supervised in the community compared with the growth rate of the prison population.

The figures presented above paint a picture of a correctional system that has been expanding in terms of population for over two decades. In turn, the number of individuals being released from prison into the community has been expanding as well. **Figure 5** demonstrates some of the structural changes that have occurred in the reentry process over the past two and a half decades, namely the increasing use of mandatory parole and the decreasing use of discretionary parole as a result of the sentencing reforms that have occurred at the state level. **Figure 5** also shows that the percentage of prisoners being released into the community with no form of direct supervision has been increasing until recently, averaging 20% of all releases over the past five years. Despite a slight downturn over the past three years, this trend has clear implications for offender reentry, given that ex-offenders released without any form of supervision may have difficulty connecting to the services and programs that exist in their communities and may be more prone to recidivating.

## Recidivism

Recidivism is often defined as the rearrest, reconviction, or reincarceration of an ex-offender within a given time frame. As a result of this broad definition of recidivism, most studies include technical violations of an offender's parole or probation (such as failing a drug test or not showing up for a meeting, for example) within their general recidivism statistics. Rearrest statistics also include individuals who are found innocent of the charges. For these reasons, some studies have focused on reincarceration with a new prison sentence as a more accurate recidivism statistic, arguing that technical violations are really an extension of an offender's original prison term and not a newly committed crime. Essentially, there are two competing philosophies about what recidivism should mean.<sup>21</sup> On the one hand are those who argue that any new contact with the criminal justice system, no matter how minor, should be considered recidivism on the part of an ex-offender.<sup>22</sup> On the other hand are those who argue that recidivism should be more narrowly defined as the commission of a new crime, resulting in a new sentence, by an ex-offender.<sup>23</sup> What one includes in the definition of recidivism has a substantial impact on the rate of recidivism reported.

Regardless of what definition is used, recidivism is a difficult subject to study. Tracking recidivism involves following the cases of individuals for a number of years and relying on state or national level data sets that contain inherent inaccuracies. For example, if an offender is released in California but commits a new crime in Maine, the researchers must be able to match those two records together to make a definitive statement about recidivism. This match is typically done by consulting the FBI's master database of convictions; however, as we will see later, this database contains omissions that may affect the results of recidivism studies. A number of studies have been conducted on this issue, and most states have calculated their own recidivism rates. However, there is a dearth of current national-level statistics on recidivism by ex-offenders. The two main national level studies that have been conducted over the last 15 years are outlined below.

**Bureau of Justice Statistics 1994 Recidivism Study.** The most comprehensive national-level recidivism study to date was conducted by the Bureau of Justice Statistics (BJS) and dates back to 1994.<sup>24</sup> The BJS study examined the

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<sup>21</sup> For an expanded discussion of the varying definitions of recidivism, refer to Allen Beck, *Recidivism: A Fruit Salad Concept in the Criminal Justice World*, Justice Concepts, available at [<http://www.justiceconcepts.com/recidivism.pdf>].

<sup>22</sup> See Colorado Department of Corrections, *Recidivism and Cumulative Return Rates: Calendar Year Releases from 1999 through 2005*, available at [<http://www.doc.state.co.us/Statistics/pdfs/Recidivism/2007RecidBulletin.pdf>].

<sup>23</sup> See Florida Department of Corrections, *Recidivism Report: Inmates Released from Florida Prisons*, May 2001, available at [<http://www.dc.state.fl.us/pub/recidivism/2001/full.pdf>].

<sup>24</sup> Patrick A. Langan and David J. Levin, United States Department of Justice, Bureau of Justice Statistics, *Recidivism of Prisoners Released in 1994*, Report NCJ193427, June 2002.

rearrest, reconviction, and reincarceration of prisoners from 15 states three years after their release in 1994.<sup>25</sup> The study tracked 272,111 prisoners, or almost two-thirds of all the prisoners released from state prisons in 1994.

**Figure 6** below summarizes the main findings of the BJS recidivism study. After three years, the study found that over two-thirds (67.5%) of the prisoners released had been rearrested for a new offense. Almost half (46.9%) of the prisoners had been reconvicted of a new crime. Just over half (51.8%) of the prisoners released were back in prison either because they had been resentenced to prison for a new crime they had committed (25.4%) or because they had violated some technical provision of their release (26.4%).<sup>26</sup> The BJS study therefore showed that more than half of ex-offenders who return to prison do so because of technical violations of their parole or probation rather than the commission of a new crime. It is important to note that the BJS study did not include information on what percentage of ex-offenders were serving time in local jails; however, as previously noted, local jails feature a fluid population of inmates who usually reside there for a brief period of time and may not be convicted of the crime they are being held for.

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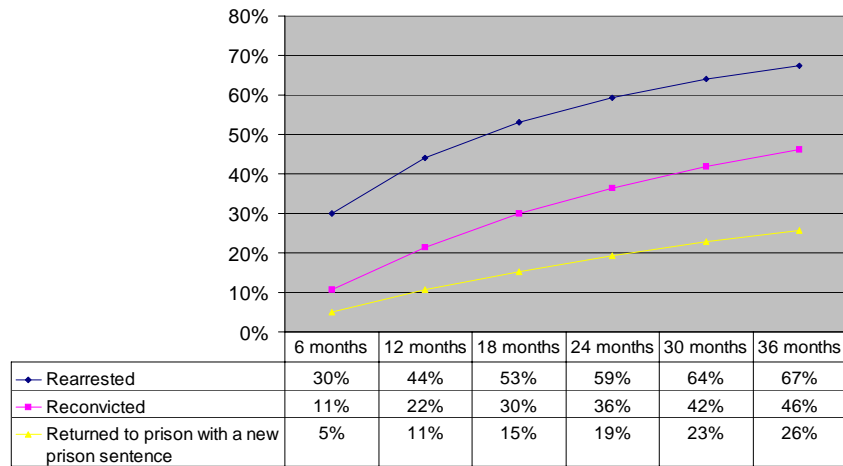
<sup>24</sup> (...continued)

Hereafter referred to as “1994 Recidivism Study.”

<sup>25</sup> The states included in the study were Arizona, California, Delaware, Florida, Illinois, Maryland, Michigan, Minnesota, New Jersey, New York, North Carolina, Ohio, Oregon, Texas, and Virginia.

<sup>26</sup> 1994 Recidivism Study, p. 7.

**Figure 6. Bureau of Justice Statistics Recidivism Study**



**Source:** CRS analysis of Bureau of Justice Statistics data.

**Notes:** Because of missing data, prisoners released in Ohio were excluded from the calculation of “Percent reconvicted.” The category “New prison sentence” includes sentences to state and federal penitentiaries but does not include sentences to local jails. Because of missing data, prisoners released in Ohio and Virginia were excluded from the calculation of “Percent returned to prison with a new prison sentence.”

**United States Sentencing Commission Study.** The United States Sentencing Commission (USSC) studied the recidivism rates of a random sample of 6,062 offenders who were sentenced under federal sentencing guidelines in FY1992. The recidivism information was derived from the “RAP” sheet criminal history repository maintained by the FBI’s Criminal Justice Information Services Division, which has certain limitations (discussed below). The USSC study examined the relationship between the offenders’ sentences and recidivism rates. The USSC developed the Criminal History Category (CHC) based on a review of prediction measures that were popularized in a National Academy of Sciences study in the 1980s.<sup>27</sup> Generally, an offender’s prior criminal record will determine which CHC they are placed in. There are six CHC levels; an offender’s placement within these levels is determined by a points system based on their prior contacts with the criminal justice system. Points are awarded for prior convictions, for violations of technical provisions of their judicial supervision (e.g., bail or parole), and for violent crimes. Juvenile and special court martial convictions are also counted. The higher the category, the more severe the offender’s criminal history is.<sup>28</sup>

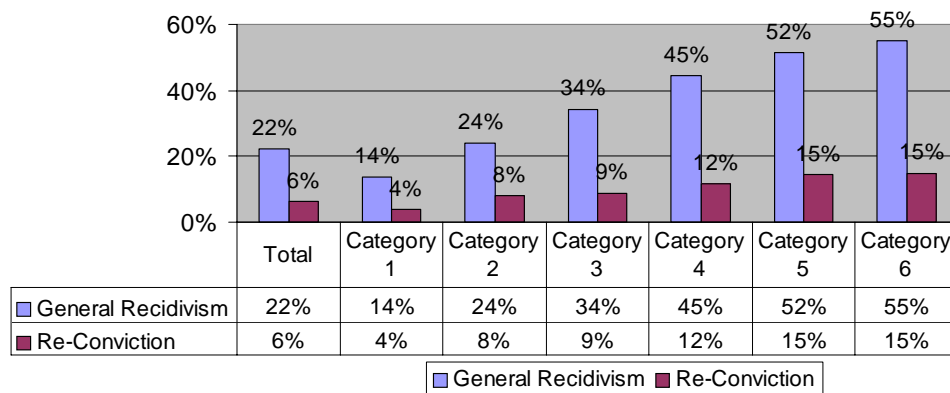
<sup>27</sup> United States Sentencing Commission, *A Comparison of the Federal Sentencing Guidelines Criminal History Category and the U.S. Parole Commission Salient Factor Score*.

<sup>28</sup> For examples of how the CHC system works within the federal sentencing guidelines, (continued...)



**Figure 7** summarizes the USSC’s findings. Generally, the study showed that an offender’s criminal history was strongly associated with the likelihood of the offender recidivating after being released. The more prior convictions or the more serious the nature of the offender’s crimes, the more likely the offender was to recidivate. The study also showed that the definition of recidivism had a large impact on the resulting statistics. For example, for the most hardened ex-offenders, general recidivism, which includes *any* contact with the criminal justice system, was at 55% after two years. Over this same period, the re-conviction rate for the most hardened ex-offenders was only 15%. This discrepancy shows that the definition of recidivism is important; even for the most hardened ex-offenders, the reconviction rate was relatively low compared with the general recidivism.

**Figure 7. United States Sentencing Commission Recidivism Findings**



**Source:** CRS presentation of United States Sentencing Commission data.

**National Recidivism Study Limitations.** The rearrest, reconviction, and resentencing data used in both the USSC and the BJS study come from official records maintained by the states’ and the Federal Bureau of Investigation’s (FBI) official criminal history repositories. These repositories understate the actual recidivism levels to some unknown extent because they rely on local police agencies and courts to supply them with notifying documents. These documents are not always filed by local police departments or courts, however. In addition, if the offender provided a different name or a fraudulent identity document to police, and this misinformation was not discovered, they would likely not be captured by the data. Lastly, even if the criminal is correctly identified and the document is sent to the repository, the repository may not be able to match the person identified in the document with their records. This could occur, for example, if the document that has been submitted is filled out incorrectly or is illegible.

Moreover, as previously noted, there is some debate about what kind of outcome measure should be included when measuring recidivism. Should recidivism statistics

<sup>28</sup> (...continued)

please refer to CRS Report RL32846, *How the Federal Sentencing Guidelines Work: Two Examples*, by Charles Doyle.

include any contact with the criminal justice system by an ex-offender? Or should recidivism statistics be limited to the commission of crimes by ex-offenders that result in new convictions or new sentences? Both the BJS and the USSC studies showed wide differentials between general recidivism, which includes any contact with the criminal justice system, and re-conviction rates for new crimes. The length of the follow-up period will also play a role in the recidivism statistics that are generated. Because of the costs and difficulties associated with studying recidivism, most studies follow ex-offenders for two or three years. There is a dearth of information concerning what happens to ex-offenders beyond the three-year window that is typically studied.

For all of these reasons, caution should be taken when attempting to draw conclusions about the efficacy of policy measures based solely on recidivism statistics. When using recidivism statistics to evaluate a program, it is important to understand exactly what is included in the definition of recidivism. For example, consider the following hypothetical scenario: a program is evaluated and shows significant decreases in the number of ex-offenders that are convicted of new crimes and sentenced to new prison terms; however, the number of ex-offenders arrested for violating their parole actually increased. Was this program successful or not? Did it make society safer or not? This may well be an unlikely scenario, but it calls attention to the fact that recidivism may mean different things to different people. While recidivism statistics remain the best information available concerning whether ex-offenders come into contact with the criminal justice system after being released from prison and what the nature of that contact is, they are but one factor to be considered when evaluating the efficacy of a program, because of the concerns outlined above.

**Importance of Considering Other Outcome Measures.** While recidivism has traditionally been the most widely used metric used to determine the effectiveness of correctional and reentry programs, it is important to note here that other outcome measures can help determine whether an offender's reintegration into society is succeeding. Measures of attachment to social institutions, such as employment, involvement in community activities, church-going, and participation in support groups, can be important bellwethers of an offender's transition to the community.<sup>29</sup> For example, one study of drug court<sup>30</sup> participants showed that drug courts reduce drug use among their participants and that children born to drug court participants are less likely to be born addicted to drugs.<sup>31</sup> Given the high societal costs associated with substance-dependent infants, for that particular program, recidivism was arguably not the most important outcome measure that could have been considered. To give policy makers a better idea of what happens to ex-offenders, program evaluations are best focused on the entire universe of activities that ex-offenders engage in.

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<sup>29</sup> Joan Petersilla, "What Works in Prisoner Reentry? Reviewing and Questioning the Evidence," *Federal Probation*, vol. 68, no. 2, 2004, pp. 4-8. Hereafter referred to as "Questioning the Evidence."

<sup>30</sup> Drug court programs typically divert nonviolent offenders arrested for drug-related crimes to treatment centers as opposed to prison.

<sup>31</sup> Questioning the Evidence, p. 7.

## Offender Reentry: A Brief Literature Review

Virtually all prisoners currently being detained in secure facilities will, someday, be released into the community, and more offenders are transitioning into the community today than ever before. Offender reentry is a complex issue that touches on a wide range of social and governmental networks and programs. Offender reentry policies can vary significantly from state to state, and from community to community within particular states. The policies affecting prisoners and the kinds of programs available to them both in and out of prison depend on a variety of factors, including the availability of funding for social programs within states and communities and the number of private non-profit and religious organizations operating in a given community. The federal government plays a supporting role through the numerous grant funding opportunities (discussed below). Complicating factors affecting how offender reentry works in a given community can include

- the varying types of sentences handed down,
- the different kinds of release mechanisms available to judges,
- the types of programs provided in prisons by correctional systems,
- the intensity of supervision provided or required by the parole or releasing agency,
- the family and community support available to the offender,
- the kinds of social services available in the offender's community, and
- the status of the local economy and the offender's ability to obtain employment.<sup>32</sup>

### Offender Reentry Defined

Before we can discuss offender reentry programs, however, we must understand what constitutes offender reentry. Some observers note that offender reentry is the natural byproduct of incarceration, because all prisoners who are not sentenced to life in prison and who do not die in prison will reenter the community at some point. According to this school of thought, reentry is not a program or some kind of legal status but rather a process that almost all offenders will undergo.<sup>33</sup> A variant on this approach to reentry is the concept that offender reentry, "simply defined, includes all activities and programming conducted to prepare ex-convicts to return safely to the

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<sup>32</sup> Richard P. Seiter and Karen R. Kadela, "Prisoner Reentry: What Works, What Does Not, and What Is Promising," *Crime & Delinquency*, vol. 49, no. 3, 2003, pp. 360-388. Hereafter referred to as "Prisoner Reentry: What Works."

<sup>33</sup> Questioning the Evidence, 4-5.

community and to live as law abiding citizens.”<sup>34</sup> The basic idea here is that every activity and process that a prisoner undergoes while in the judicial and correctional systems will have some nexus with their reentry into the community.

Although this broad definition of reentry certainly encompasses all the activities that may impinge on or affect a prisoner’s reentry into society, it may be a cumbersome one for the purposes of crafting and evaluating government policies. For example, it is difficult, if not impossible, to measure the outcome of a reentry program if one includes in the definition of reentry every activity that a prisoner undergoes during his time in the criminal justice system. This has led many in the field to focus on a more narrow and thus more manageable definition of reentry. This more narrow definition is often stated in two parts: correctional programs that focus on the transition to the community (such as prerelease, work release, halfway houses, or other programs specifically aiming at reentry) and programs that have initiated some form of treatment (such as substance abuse, life skills, education, or mental health) in prison that is linked to community programs that will continue the treatment once the prisoner has been released.<sup>35</sup> Narrowing the definition of reentry thusly allows policy makers to focus on programs that expressly aim to manage the transition from detention to the community.

## **Program Effectiveness: The “What Works” Literature**

Compared with other social science fields, there has been a relative lack of rigorously designed studies on the issue of offender reentry. Nevertheless, in recent years, there has been increasing attention on this issue and a number of new studies have been published. This has allowed academics to undertake some of the first broad meta-analyses<sup>36</sup> of offender reentry studies. Some of these studies have hewn closely to the “what works” paradigm created by University of Maryland researchers for a National Institute of Justice report to Congress.<sup>37</sup> This concept was adapted to the field of offender reentry in a 2003 St. Louis University Study.<sup>38</sup> The “what works” literature attempts to identify programs that are effective by creating a scoring system to evaluate studies based on whether they can be proven to have an impact. Inherent to this approach is the need to identify program evaluations that provide evidence concerning the effect the program had on certain outcome measures. The “what works” paradigm essentially focuses on whether studies have accomplished the following things:

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<sup>34</sup> Questioning the Evidence, p. 5.

<sup>35</sup> Prisoner Reentry: What Works, p. 370.

<sup>36</sup> Meta-analyses are a type of systematic review of studies that allow researchers to draw conclusions across a wide range of studies by using statistical methods to derive quantitative results from the analysis of multiple sources of quantitative evidence.

<sup>37</sup> Lawrence W. Sherman, Denise Gottfredson, Doris MacKenzie, John Eck, Peter Reuter, and Shawn Bushway, *Preventing Crime: What Works, What Doesn’t, What’s Promising*, National Institute of Justice, 1997.

<sup>38</sup> Offender Reentry: What Works.

- controlled for variables in their analysis that may have been the underlying cause of any observed connection between the program being studied and the outcome measures being analyzed;
- determined whether there are measurement errors resulting from problems with the study, including such things as participants being lost over time or low response rates to interview requests; and
- calculated the statistical power of the analysis to detect the program's effects on outcome measures. Included in this category are things such as sample size and the base rate of crime in the community.<sup>39</sup>

The “what works” model uses these core criteria to place studies into five distinct categories, with category 5 being the most scientifically rigorous, and thus considered most effective, studies. The model then uses this criteria to identify programs that, based on the evidence considered, have been proven to work, programs that are promising, and programs that do not work.

Following is a brief discussion of the types of offender reentry programs that have been found to be effective in the “what works” literature, as well as in other studies. It is important to note here that, just because a program has been proven to work in one location, or for a certain population, does not necessarily mean that it can be just as effective in other locations or among other populations. A number of factors can impinge on a program's effectiveness in any given location. For example, while knowing that a program has worked in the past can provide a model or blueprint to guide policy practitioners in other locations, how a program is implemented is just as important to its ultimate success as the underlying model that it is based on. The most effective model program can be compromised if it is not implemented properly. In addition, geographic, demographic, and other differences between locations can affect whether a program that succeeded in one place succeeds in another. Nevertheless, knowing that a program has worked in the past is of use to policy makers as they consider where to allocate funding and other resources.

**Employment.** There are a number of studies that demonstrate that employment is a fundamental component of the reentry process, and that ex-offenders who are able to find stable employment are much more likely to succeed in their rehabilitation than those who cannot find work.<sup>40</sup> Several vocational and work programs were found to effectively reduce recidivism and improve the job-readiness of ex-offenders by the “what works” review.<sup>41</sup>

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<sup>39</sup> Offender Reentry: What Works, pp. 370-373.

<sup>40</sup> See, for example, Shawn Bushway and Peter Reuter, “Labor Markets and Crime Risk Factors,” in *Preventing Crime: What Works, What Doesn't, What's Promising. A Report to the United States Congress*, the National Institute of Justice, 1997, Chapter 6. Jeremy Travis, *But They All Come Back: Facing the Challenges of Prisoner Reentry*, The Urban Institute Press, 2005.

<sup>41</sup> Prisoner Reentry: What Works, pp. 373-374.

**Drug Treatment.** Drug rehabilitation and treatment have also been found to be effective by a number of different studies, including the “what works” literature. These studies showed that, for recidivism and drug-use relapse, drug treatment can significantly improve outcome measures. In general, programs that provide intensive treatment in prison, combined and integrated with aftercare programs, have been shown to be effective in reducing recidivism and substance abuse among their participants — especially for offenders with serious crime and substance abuse histories.<sup>42</sup>

**Halfway House Programs.** A number of programs that provide transitional housing for ex-offenders as they begin their transition into the community have been found to be effective. Offenders participating in halfway house programs were found to commit fewer and less severe offenses than those who did not participate. Participants also performed better on a range of other outcome measures, such as finding and holding a job, being self-supporting, and participating in self-improvement programs; however, these results were not statistically significant.<sup>43</sup>

**Other Kinds of Programs.** The “what works” review concluded that other programs were either not effective or had not been studied enough for firm conclusions to be drawn. Education programs, for example, were found to raise educational achievement scores but not to reduce recidivism. Pre-release programs and programs focusing on violent offenders and sex offenders showed some evidence that they were effective in reducing recidivism, but few of these kinds of studies made it through the selection process. This precluded any firm conclusions from being drawn about these kinds of programs and pointed to the need for more evaluations.<sup>44</sup>

**Limitations with the “What Works” Literature.** One of the main limitations associated with the “what works” literature is the dearth of studies that meet its rigorous requirements. For example, the offender reentry study cited above was only able to identify 32 studies that met their selection criteria. Only 19 of these program evaluations contained a comparison, or control, group, and of these, only two were randomized control trials.<sup>45</sup> This has led some to question whether the programs identified to work by this literature review are, in fact, effective.<sup>46</sup> Moreover, most of the studies identified by the “what works” literature evaluate

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<sup>42</sup> Prisoner Reentry: What Works, p. 374.

<sup>43</sup> Prisoner Reentry: What Works, p. 378. A study’s statistical significance is typically interpreted as a level of confidence (usually expressed as a probability, e.g., 95%) that an estimated impact is not merely the result of random variation, indicating that at least some of the measured impact may, with substantial confidence (e.g., 95% confidence), be attributed to the treatment as a cause.

<sup>44</sup> Prisoner Reentry: What Works, pp. 376-379.

<sup>45</sup> For more information about the use of randomized control trials to evaluate government programs, refer to CRS Report RL33301, *Congress and Program Evaluation: An Overview of Randomized Controlled Trials (RCTs) and Related Issues*, by Clinton Brass, Blas Nuñez-Neto, and Erin D. Williams.

<sup>46</sup> Questioning the Evidence, p. 7.

program effectiveness based almost entirely on recidivism. As previously noted, some believe other outcome measures may be just as important in deciding whether a program has been effective in reintegrating ex-offenders into their communities. Lastly, evaluations that incorporate random assignment and provide statistically rigorous results are, by and large, expensive. This means that policy makers are often confronted with hard decisions concerning whether to fund additional services or evaluations of existing programs.

**Conclusions.** After reviewing the available literature, some patterns appear to emerge. Many of the programs that have been proven to be effective share some of the same attributes, regardless of whether they focus on vocational training, substance abuse prevention, mental health services, or alternative housing. The attributes shared by most of these programs include the following:

- they start during institutional placement, but take place mostly in the community;
- they are intensive in nature, lasting typically at least six months;
- they focus services on individuals determined to be at high-risk of recidivating through the use of risk-assessment classifications; and
- if they are treatment programs, they use cognitive-behavioral treatment techniques, matching particular therapists and programs to the specific learning characteristics of the offenders.<sup>47</sup>

## Current Law

The federal government's only grant program exclusively focused on offender reentry was authorized by the 21<sup>st</sup> Century Department of Justice Reauthorization Act of 2002.<sup>48</sup> The act authorizes the Attorney General (AG) to make grants of up to \$1 million to states, territories, and Indian tribes to fund adult and juvenile offender reentry demonstration projects. Funding can be used to provide the following services for adults:

- oversight and monitoring of offenders released into the community,
- substance abuse and mental health treatment and aftercare,
- vocational training and education,
- convening community and victim impact panels and educational classes,

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<sup>47</sup> Questioning the Evidence, pp. 6-7.

<sup>48</sup> P.L. 107-273, Title II, Division B, § 2421(a). Codified at 42 U.S.C. 3797w.

- establishing and implementing graduated sanctions and incentives, and
- “other treatment to promote effective reintegration into the community.”

Purpose areas eligible for funding for juvenile offender reentry are largely similar to those listed above, but also include providing offender reentry planning when the juvenile is initially incarcerated and coordinating the delivery of community-based services post-release.

To be eligible for funding, applicants to these demonstration grants must describe their long-term strategy, including how the jurisdiction will pay for the program once federal funding ends, and identify the governmental and community agencies that will be coordinated by the project. Applicants must also describe the methodology and outcome measures that will be used to evaluate the program. The federal share of any grant issued may not exceed 75% of the costs of the project; however, the AG is authorized to waive this requirement. This program was last authorized through FY2005; this means that it is currently unauthorized. However, this grant program has continued to receive funding.

In addition to the offender reentry demonstration grant program outlined above, purpose areas that can be used to fund offender reentry programs at the state and local level exist in a large number of federal grant programs. The following section provides an overview of the current programs that can include some funding for offender reentry purposes.

## Federal Offender Reentry Programs

A wide array of federal programs and grants can be used by states to support offender reentry. Many of these programs participated in the federal government-wide Serious and Violent Offender Reentry Initiative (SVORI), a four-year \$300 million initiative that pooled the federal offender reentry resources of the Departments of Justice, Labor, Education, and Housing and Urban Development in order to reduce recidivism.<sup>49</sup> This program officially concluded in FY2005 and is currently being evaluated. More recently, the Office of Justice Programs (OJP) announced it had formed a partnership with the Department of Labor known as the Prisoner Reentry Initiative (PRI). The PRI program, like SVORI, is an interagency effort to coordinate the provision of federal funding for the reintegration of offenders into the community. While funding opportunities for offender reentry programs exist within the purpose areas of many broad grant programs, only one grant program is (PRI) specifically tailored for offender reentry within the federal government. Both the SVORI and the PRI utilized the authorization outlined above; however, as previously noted, the authorization expired in FY2005 but the program has continued to receive appropriations in FY2006 and FY2007. Following is a brief description

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<sup>49</sup> U.S. Department of Justice, Office of Justice Programs, *2005 Congressional Budget Justifications*, p. 37.



of the main federal programs that have been used to help state and local entities to fund activities relating to the reintegration of ex-offenders into local communities. It is important to note that some of these programs may no longer be receiving funding; these programs are identified below. Other programs that are currently funded may not provide funding for offender reentry purposes every fiscal year. Nevertheless, these programs have been included to provide a comprehensive look at the universe of federal resources that could be used for offender reentry purposes.

## **Offender Reentry Programs at the Department of Justice (DOJ)**

The Office of Justice Programs within DOJ oversees a wide array of grant programs that include support for offender reentry programs or activities among the purpose areas eligible for funding. Some of these programs may be more focused on offender reentry than others, but all of them can be used for offender reentry purposes.

***The Serious and Violent Offender Reentry Initiative.*** The Office of Justice Programs (OJP) coordinated a federal offender reentry pilot program for adult offenders, the Serious and Violent Offender Reentry Initiative (SVORI). This program focused on coordinating the way federal agencies distribute existing offender reentry funding. The main federal agencies involved were the Departments of Justice, Labor, Education, and Housing and Urban Development. As part of SVORI, their objective was to help state and local agencies navigate the wide array of existing state formula and block grants and to assist the states and communities to leverage those resources to create comprehensive offender reentry programs. The program distributed \$110 million to 69 grantees and concluded in FY2005; it is currently being evaluated.<sup>50</sup>

***The Prisoner Reentry Initiative.*** The Prisoner Reentry Initiative (PRI) appears to have been instituted as a replacement for the SVORI program. According to OJP, the PRI provides funding for model offender reentry programs that focus on providing services and assistance during the three phases of offender reentry: at detention facilities, just prior to and after the offender's release, and during an ex-offender's long-term transition to the community.

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<sup>50</sup> The Urban Institute and RTI International, *National Portrait of the Serious and Violent Offender Reentry Initiative*, available at [[http://www.urban.org/UploadedPDF/1000692\\_SVORINationalPortrait.pdf](http://www.urban.org/UploadedPDF/1000692_SVORINationalPortrait.pdf)].

**Table 1. Direct Appropriations for DOJ Reentry Grant Programs**

Fiscal Year	Appropriation	Public Law	Conference Report
FY2001	\$30,000,000	P.L.106-553	H.Rept. 106-1005
FY2002	\$14,934,000	P.L.107-77	H.Rept. 107-278
FY2003	\$14,934,000	P.L.108-7	H.Rept. 108-10
FY2004	\$5,000,000	P.L.108-199	H.Rept. 108-401
FY2005	\$10,000,000	P.L. 108-447	H.Rept. 108-576
FY2006	\$8,000,000 <sup>b</sup>	P.L. 109-208	H.Rept. 109-272
FY2007	\$7,897,600 <sup>c</sup>	P.L. 110-5	N/A
FY2008	\$11,750,000	P.L. 110-161	House Appropriations Committee Print
FY2009 (Request)	— <sup>d</sup>	N/A	N/A

**Note:** As previously noted, DOJ replaced the SVORI program with the PRI program in FY2006; however as both of these grant programs were implemented under the authority granted by the reentry program codified at 42 U.S.C. 3797w, they have been combined in this table. It is important to note as well that reentry funding has been appropriated in other federal agencies' budgets.

- a. Department of Justice, *2006 Congressional Authorization and Budget Submission*, p. Office of Justice Programs 17.
- b. In FY2006, there was also \$5 million appropriated for reentry grant programs under the Office of Justice Programs and \$3 million appropriated for faith-based reentry programs under the Federal Prison Service. These totals have been combined in this table, but it should be noted that they are for different programs.
- c. The FY2007 appropriation is based on FY2006 enacted minus a 1.28% rescission, as per P.L. 110-5.
- d. The FY2009 President's request for the Prisoner Reentry Initiative would eliminate the program, consolidating its funding and purpose areas into a large discretionary grant program known as the Byrne Public Safety and Protection Program.

**Other DOJ Grant Programs.** DOJ maintains formula grant programs outlined below that provide assistance to states or local units of government according to legislatively mandated formulas; this funding can be used for offender reentry purposes at the state or local unit of government's discretion. In addition to these programs, the Edward Byrne Justice Assistance Grant program can also be used by states to support offender reentry activities and initiatives.<sup>51</sup>

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<sup>51</sup> For more information about the Justice Assistance Grant program, please refer to CRS Report RS22416, *Edward Byrne Memorial Justice Assistance Grant Program: Legislative and Funding History*, by Nathan James.

**Community Oriented Policing Services (COPS).**<sup>52</sup> The COPS program does not expressly authorize funding for offender reentry purposes;<sup>53</sup> nevertheless, under its broad community policing mandate, OJP has used this grant program on occasion to fund pilot offender reentry programs. The most recent of these was the Value-Based Reentry Initiative (VBRI). As part of this initiative, mentors were chosen from faith-based and community organizations to serve as liaisons between the released offender and the resources and services available in the community, including housing, employment, and health services. Five local organizations participated in the program in Missouri, Michigan, California, Washington DC, and Massachusetts. Funding for the VBRI program expired in FY2005.<sup>54</sup>

**The Weed and Seed Program.**<sup>55</sup> The Weed and Seed program can also provide funding for state offender reentry programs. According to DOJ, the Weed and Seed program focuses on a two-pronged approach. On the one hand, local law enforcement agencies and prosecutors work together to “weed out” criminals who participate in violent crime and drug abuse. On the other hand, the program seeks to “seed” the community with services, encompassing prevention, intervention, treatment, and neighborhood revitalization. Offender reentry programs can fall under both of these parameters because funding can be used to provide supervision for ex-offenders in the community, as well as to develop support services. In addition to participating in the PRI program, Weed and Seed is currently collaborating with the Corporation for National and Community Service and the Local Initiatives Support Corporation to create volunteer-driven offender reentry initiatives in communities.<sup>56</sup>

**The Violent Offender Incarceration/Truth in Sentencing Program.** Though the main focus of this program was to build or expand correctional facilities to increase the number of convicted violent offenders that can be housed, up to 10% of the award to any given facility could have been used to pay for the cost of offender drug testing and intervention programs for incarcerated offenders, as well as post-release supervision, including funding facilities for transitional housing that allow offenders to be monitored electronically as they reintegrate into their

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<sup>52</sup> For more information about the COPS program, please refer to CRS Report RL33308, *Community Oriented Policing Services (COPS): Background, Legislation, and Issues*, by Nathan James.

<sup>53</sup> See 42 U.S.C. 3796dd.

<sup>54</sup> U.S. Department of Justice, “Value-Based Initiative and Value-Based Reentry Initiative,” COPS Fact Sheet, April 10, 2006.

<sup>55</sup> For more information about this program, please refer to CRS Report RL33489, *An Overview and Funding History of Select Department of Justice (DOJ) Grant Programs*, by Nathan James.

<sup>56</sup> Office of Justice Programs, Community Capacity Development Office, “Reentry,” available at [<http://www.ojp.usdoj.gov/ccdo/programs/reentry.html>].

neighborhoods.<sup>57</sup> This program has not received funding since FY2001<sup>58</sup> and has been unauthorized since FY2000.<sup>59</sup>

**Juvenile Justice Grant Programs.**<sup>60</sup> The Office of Juvenile Justice and Delinquency Prevention (OJJDP) administers a number of grants that can be used by states and units of local government to provide aftercare services (i.e., offender reentry programs) for juvenile delinquents who are returning to their communities from residential placement (i.e., prison). These programs include the State Formula Grant program, which states can use to fund a variety of programs, including aftercare programs; the State Challenge Grant program, which is a discretionary grant program used to fund innovative approaches to juvenile justice (including the provision of aftercare services); and the Juvenile Mentoring Program, which connects juveniles returning from placement with mentors.

**The National Institute of Corrections (NIC).** Within the Federal Bureau of Prisons, NIC provides assistance for state and local corrections agencies. NIC provides training, technical assistance, and information services to these agencies, and assists with policy and program development. NIC’s offender reentry-related support typically covers programs focused on preparing offenders for offender reentry while they are incarcerated. Specifically, the Office of Correctional Job Training and Placement works to advance the employability of offenders and ex-offenders.<sup>61</sup>

## Offender Reentry Programs at Other Federal Agencies

As previously mentioned, many federal departments provide funding through a wide array of programs and block grants, which can be used by states for offender reentry. The following list is not meant to be an exhaustive one, but it does capture many programs run by other departments that can be used to support state offender reentry initiatives.

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<sup>57</sup> See Office of Justice Programs, “Violent Offender Incarceration/Truth-in-Sentencing Incentive Grant Program,” available at [<http://www.ojp.usdoj.gov/BJA/grant/VOITISpurp.pdf>], and U.S. Department of Labor, Employment & Training Administration, “Serious and Violent Offender Reentry Initiative Appendices,” available at [[http://www.doleta.gov/sga/sga/reentry\\_app.cfm](http://www.doleta.gov/sga/sga/reentry_app.cfm)].

<sup>58</sup> Bureau of Justice Assistance, “Violent Offender Incarceration and Truth-in-Sentencing (VOI/TIS) Incentive Program,” available at [<http://www.ojp.usdoj.gov/BJA/grant/voitis.html>].

<sup>59</sup> See 42 U.S.C. 13701 et seq.

<sup>60</sup> For more information about juvenile justice grant programs, please refer to CRS Report RL33947, *Juvenile Justice: Legislative History and Current Legislative Issues*, by Blas Nuñez-Neto.

<sup>61</sup> U.S. Department of Labor, Employment & Training Administration, “Serious and Violent Offender Reentry Initiative Appendices,” available at [[http://www.doleta.gov/sga/sga/reentry\\_app.cfm](http://www.doleta.gov/sga/sga/reentry_app.cfm)].

**The Department of Labor (DOL).** The Workforce Investment Act<sup>62</sup> (WIA) of 1998 (P.L.105-220) authorized a nationwide system of workforce development programs, America’s Workforce Network, that provides information and services to connect youths and adults with employers.<sup>63</sup> These programs, which can be used by ex-offenders, provide services such as skills-training and job-placement. DOL also instituted a Young Offender Reentry Demonstration Grant Program, which provides funds to communities for offender reentry programs for offenders aged 14 to 21 who are already in the criminal justice system or are considered high-risk. This program focuses on job-training, education, substance-abuse treatment, mental health care, housing assistance, and family support services.

In addition, DOL maintains two programs that provide incentives for companies to hire ex-offenders. The Work Opportunity Tax Credits program<sup>64</sup> provides up to \$2,400 in tax credits to companies for every former offender they hire,<sup>65</sup> and the Federal Bonding Program<sup>66</sup> allows companies who cannot obtain bonding or insurance from their own providers to bond ex-offenders for up to \$25,000 for up to six months.<sup>67</sup>

**The Department of Education (DOE).** Numerous DOE programs can be used by states to help fund or provide technical support for offender reentry programs that focus on education. The Office of Vocational and Adult Education provides several different programs for offender reentry. The Lifeskills for State and Local Inmates Program provides funding for demonstration projects to reduce recidivism through educational services before inmates are discharged into the community.<sup>68</sup> The Grants to States for Workplace and Community Transition Training for Incarcerated Youth Offenders funds postsecondary education and vocational training to people under the age of 25 from five years before their release to one year post-

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<sup>62</sup> U.S. Department of Labor, Employment & Training Administration, “Serious and Violent Offender Reentry Initiative Appendices,” available at [[http://www.doleta.gov/sga/sga/reentry\\_app.cfm](http://www.doleta.gov/sga/sga/reentry_app.cfm)].

<sup>63</sup> For more information about the Workforce Investment Act, please refer to CRS Report RL33687, *The Workforce Investment Act (WIA): Program-by-Program Overview and Funding of Title I Training Programs*, by Blake Naughton.

<sup>64</sup> For more information about the Work Opportunity Tax Credits Program, please refer to CRS Report RL30089, *The Work Opportunity Tax Credit (WOTC)*, by Linda Levine.

<sup>65</sup> U.S. Department of Labor, Employment & Training Administration, “Work Opportunity Tax Credit” available at [<http://www.doleta.gov/business/Incentives/opptax/>].

<sup>66</sup> For more information about the Federal Bonding Program, please refer to CRS Report RL30248, *The Employment Service: The Federal-State Public Labor Exchange System*, by Alison Pasternak and Ann Lordeman.

<sup>67</sup> U.S. Department of Labor, Employment & Training Administration, “Federal Bonding Program,” available at [<http://www.bonds4jobs.com/program-background.html>].

<sup>68</sup> U.S. Department of Education, “Life Skills for State and Local Prisoners Program,” available at [<http://www.ed.gov/programs/lifeskills/index.html>].

release.<sup>69</sup> Title II of the Workforce Investment Act, Adult Education and Family Literacy, also authorized funding to be appropriated for basic skills instruction; up to 10% of the funds can be used for institutionalized offenders or for ex-offenders in community programs. In addition, the Perkins State Grant Program allows states to use up to 1% of their funds to serve offenders in institutions.<sup>70</sup>

**The Department of Housing and Urban Development (HUD).** HUD funds a variety of programs that help states and local governments to support housing programs. The Community Development Block Grant Program aims to assist states develop viable urban communities. Funds are allocated by formula to the states, and communities and grantees have significant discretion concerning how to allocate their federal funding — including using some funds to provide housing for ex-offenders.<sup>71</sup>

**The Department of Health and Human Services (DHHS).** DHHS provides funding for a multitude of programs that can be used to help offender reentry programs through the Substance Abuse and Mental Health Services Agency<sup>72</sup> (SAMHSA) and the Office of Community Services. These programs include the Recovery Community Support Program, which targets people and families recovering from drug abuse and addiction, and several block grant programs. SAMHSA also funds a program that specifically targets offender reentry known as the Young Offender Reentry Program (YORP). The YORP provides funding for state, tribal, and local governments, as well as community based non-profit organizations, to expand substance abuse treatment and supervision programs for juvenile and young adult offenders re-entering the community.<sup>73</sup> Funds for DHHS programs may be used to provide substance abuse or mental health services for offenders on parole or probation. However, DHHS funds may not be used to provide services to incarcerated offenders.<sup>74</sup>

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<sup>69</sup> U.S. Department of Education, “Guide to U.S. Department of Education Programs, FY2007,” p. 38, available at [<http://www.ed.gov/programs/gtep/gtep.pdf>].

<sup>70</sup> U.S. Department of Labor, Employment & Training Administration, “Serious and Violent Offender Reentry Initiative Appendices,” available at [[http://www.doleta.gov/sga/sga/reentry\\_app.cfm](http://www.doleta.gov/sga/sga/reentry_app.cfm)].

<sup>71</sup> U.S. Department of Labor, Employment & Training Administration, “Serious and Violent Offender Reentry Initiative Appendices,” available at [[http://www.doleta.gov/sga/sga/reentry\\_app.cfm](http://www.doleta.gov/sga/sga/reentry_app.cfm)].

<sup>72</sup> For more information about SAMHSA, please refer to CRS Report RL33997, *Substance Abuse and Mental Health Services Administration (SAMHSA): Reauthorization Issues*, by Ramya Sundararaman.

<sup>73</sup> Testimony of Senior Policy Advisor to the Administrator Cheri Nolan, Substance Abuse and Mental Health Services Administration, U.S. Department of Health and Human Services, before the Committee on the Judiciary, Subcommittee on Corrections and Rehabilitation, Thursday, September 21, 2006.

<sup>74</sup> U.S. Department of Labor, Employment & Training Administration, “Serious and Violent Offender Reentry Initiative Appendices,” available at [[http://www.doleta.gov/sga/sga/reentry\\_app.cfm](http://www.doleta.gov/sga/sga/reentry_app.cfm)].

## Legislation in the 110<sup>th</sup> Congress

A number of bills introduced in the 110<sup>th</sup> Congress touch on the issue of offender reentry. The only comprehensive offender reentry bills to have seen action thus far in the 110<sup>th</sup> Congress are H.R. 1593 and S. 1060, commonly known as the Second Chance Act. H.R. 1593 was reported out of the House Committee on the Judiciary on May 9, 2007, and was passed under a motion to suspend the rules by the House on November 13, 2007, by a vote of 347 to 62. S. 1060 was ordered to be reported out of the Senate Committee on the Judiciary on August 2, 2007, but was never actually reported.<sup>75</sup> Instead, the Senate reported H.R. 1593 out of the Senate Committee on the Judiciary by unanimous consent on March 11, 2008; H.R. 1593 was passed by the Senate by unanimous consent on the same day. The President signed the Second Chance Act (P.L. 110-199) into law on April 9, 2008. The following section provides an overview of the bills touching on the issue of offender reentry in the 110<sup>th</sup> Congress; for a section-by-section analysis of the Second Chance Act, please refer to **Appendix A**.

### The Second Chance Act

A bill called The Second Chance Act has been introduced in each Congress since 2000. While these bills have differed from Congress to Congress, they would all have reformed the offender reentry process. In the 110<sup>th</sup> Congress, four separate bills have been introduced that include similar language. Two of them, H.R. 1593 and S. 1060, have seen action of some sort. As previously noted, H.R. 1593 was enacted as P.L. 110-199 on April 9, 2008. The other two are S. 2237, a broader crime control bill that includes a section called the Enhanced Second Chance Act, and H.R. 623. Following is a brief discussion of each of these bills.

P.L. 110-199 expands the current offender reentry grant program at DOJ, replacing the four purpose areas currently eligible for funding with new purpose areas spanning every phase of the offender reentry process.<sup>76</sup> Applicants for these grants would be subjected to a number of requirements, including submitting a reentry strategic plan with their application, describing the long-term strategy, and providing a detailed implementation schedule, among other things. The Act requires that states and localities match 50% of the federal funds provided; up to half of this state match (or 25% of the overall total funding) can be composed of in-kind contributions. The Act also directs the Bureau of Prisons (BOP) to modify various components of its offender reentry planning process for federal ex-offenders, establishes a prisoner reentry program at BOP, and endows the agency with new authorities.

The Act also creates some new demonstration grant programs, including

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<sup>75</sup> As of December 11, 2007, the text of S. 1060, as ordered reported, has not been made available.

<sup>76</sup> H.R. 1593 includes 7 broadly written purpose areas, whereas S. 1060 includes 21 more specific purpose areas. Despite this difference, the grant program in both bills would fund the same kinds of activities.

- grants for state and local reentry courts;
- grants for drug treatment diversion programs;
- grants to expand substance-abuse programs for prisoners and ex-offenders; and
- grants to expand the use of career training programs and mentoring programs.

While the Act authorizes a number of new pilot programs and expands the current offender reentry grant program at DOJ, it is important to note here that all of these authorizations are subject to the availability of appropriations. If funding is not appropriated for these programs in FY2009, they will probably not go into effect.

S. 1060 includes language that is largely similar to that found P.L. 110-199; however, S. 1060 included some grant programs that were not included in the Act, such as grants to study the use of drug treatment to reduce illegal drug demand and grants to ensure the availability of pharmacological drug treatment services in prison.

S. 2237, the Crime Control and Prevention Act of 2007, includes Section III, the Enhanced Second Chance Act of 2007. In a number of respects, Section III of S. 2237 is similar to H.R. 1593 and S. 1060. S. 2237 would replace the current offender reentry grant program's four purpose areas with 27 new purpose areas spanning every phase of the reentry process; these purpose areas and the requirements to be eligible for funding are broadly similar to those found in H.R. 1593 and S. 1060. S. 2237 would also direct the Bureau of Prisons (BOP) to establish pre-release planning procedures for ex-offenders, but unlike H.R. 1593 and S. 1060, the bill does not create a new offender reentry program for federal prisoners or provide new authorities to BOP. S. 2237 would create three new grant programs:

- grants to study the effects of revoking an ex-offender's parole,
- grants to community based organizations to provide mentoring and other transitional services to ex-offenders, and
- grants to establish group homes for recovering substance abusers.

Of these three new grant programs, only the group home grant program differs from those that would be established by H.R. 1593 and S. 1060. However, a number of grant programs that are included in H.R. 1593 and S. 1060 are not in S. 2237.

In addition, S. 990 and H.R. 1692, the Fighting Gangs and Empowering Youth Act of 2007, include language similar to that found in H.R. 1593, S. 1060, and S. 2237 that would expand the current offender reentry grant program for ex-offenders and establish a National Adult and Juvenile Offender Reentry Resource Center.

H.R. 623, the Second Chance for Ex-Offenders Act of 2007, has been introduced in each Congress since the 106<sup>th</sup> Congress. The bill would allow non-violent offenders (defined as offenders who did not use weapons or violence in the



course of committing their crimes) to petition to have their criminal records expunged. Eligibility would be restricted to individuals without prior convictions, and petitioners would have to remain free from substance dependency for a minimum of one year and complete at least a year of community service. Once a record is expunged, DOJ would be allowed to disclose the name of the offender and the agency that has custody over the record (but not information concerning the offense) only in certain cases, including criminal investigations, gun applications, and government employment applications. Expunged records would be restored if the individual was convicted for a new crime.

## **Other Offender Reentry-Related Legislation**

S. 456, the Gang Abatement and Prevention Act, was passed by the Senate on September 21, 2007. The bill includes a provision (§ 302) that would establish a Gang Prevention Grant program administered by the Office of Justice Programs at DOJ. Among other purposes, this grant could be used to fund reintegration strategies for the reentry of gang-members into the community. The bill would also create a National Gang Research, Evaluation, and Policy Institute that would be charged, among other things, with facilitating the implementation of data-driven reentry programs for gang-offenders. Similar offender reentry-related language exists in H.R. 3547, the Gang Prevention, Intervention, and Suppression Act.

H.R. 3467, the Second Chance for America's Veterans Act, would direct the Secretary for Veterans Affairs to create a workforce offender reentry grant program for incarcerated veterans. The program would be established in at least 24 locations equitably distributed across the United States, and at least one of these locations would be in a penal institution administered by the Bureau of Prisons. The program would include referral and counseling services in order to assist incarcerated veterans with job training and placement, housing, health care, and other benefits. Grant funding for these purposes would be made available to state agencies, non-profit organizations, and state and local workforce investment boards, and each program funded by this grant would be directed to provide a detailed outcomes report, including recidivism data, to the Secretary of Veterans Affairs. The bill would authorize appropriations of \$15 million each year from FY2008 through FY2011.

H.R. 3409, the Place to Call Home Act, would create a Youth Offender Reentry Grant program. Under this program, the Attorney General would be directed to create a program that would identify incarcerated young adults who would be eligible for release prior to their 25<sup>th</sup> birthday and provide targeted offender reentry services to these individuals. Pre-release services to be provided would include training in daily living skills, training in parenting skills, training in budgeting and financial management skills, substance abuse prevention, mental health counseling, and preventive health activities. The AG would also be directed to provide any further assistance needed at the pre- and post-release stages to connect offenders with employment, housing, mentors, and post-secondary education. To be eligible for funding, states would be required to submit a plan describing how they plan to meet the program's goals, how funding would be used for both pre- and post-release planning and services, and how funding would be distributed among a diverse range of qualified non-profit and private organizations. States would also be required to make a series of certifications, including, among other things, that not more than 30%

of the funds allotted to the state would be used for post-release room and board for eligible ex-offenders, and that public and private organizations have been consulted in developing the plan and given at least 30 days to submit comments on the plan. Funding would be distributed to states based in part on the ratio of the number of individuals in that state between the ages of 13 and 25 compared with the national average. States would be required to collaborate with DOJ in establishing evaluation procedures and data-driven outcome measures; 1.5% of the overall funding for this program would be used by the AG to fund evaluations of the state programs. The bill would authorize \$200 million for this program.

S. 1907 and H.R. 3187, the Meth Mouth Correctional Costs and Reentry Support Acts, would establish a grant program to fund programs that would identify, eliminate, and report on the degree to which poor dental health undermines an ex-offender's transition to the community. Funding could be used, among other things, to provide dental treatment programs at correctional facilities, promoting oral hygiene among inmates, and assessing the oral condition of inmates at their release. S. 1907 would authorize annual appropriations of \$100 thousand each year from FY2009 through FY2011; H.R. 3187 would authorize \$5 million each year over the same time period.

## Current Legislative Issues

There are a number of oversight issues relating to the administration of federal offender reentry grant funding that may be of concern to Congress. Following is a brief discussion of selected issues, including the adequacy of the federal government's existing offender reentry grant programs, the lack of coordination between different federal agencies concerning offender reentry, and the lack of current recidivism statistics for ex-offenders.

### Adequacy of Existing Offender Reentry Programs

This report has demonstrated the breadth of funding opportunities available in the federal government for offender reentry purposes. As previously discussed, funding that can be used to support offender reentry programs exists in grant programs administered by the Departments of Justice, Labor, Education, Housing and Urban Development, and Health and Human Services. Among the number of federal grant programs that include purpose areas that can be used to fund offender reentry, a handful of programs government-wide were identified that are *specifically* tailored to offenders for reentry purposes: the Prisoner Reentry Initiative at the Departments of Justice and Labor, the Grants to States for Workplace and Community Transition Training for Incarcerated Youth Offenders and the Lifeskills for State and Local Inmates Program within the Department of Education, and the Young Offender Reentry Program within the Department Health and Human Services.

The comparative lack of targeted offender reentry grant funding may be of issue for Congress because of the apparent need for a wide range of services for offenders both pre- and post-release. According to a report of the Reentry Policy Council, “[a]lthough approximately three of every four people released from incarceration

have a history of substance abuse, only 10 percent in state prison and three percent in local jails receive formal treatment prior to release. Just one-third (35 percent) of those released from prison participated in educational programs while incarcerated; even fewer (27 percent) took part in vocational training.”<sup>77</sup> A potential issue for Congress may include whether the current grant programs within the federal government can adequately support state and local correctional systems as they confront the wide array of services that ex-offenders require to successfully transition back to the community. If federal programs are seen as adequate, then no action by Congress may be necessary. Otherwise, policy options could include expanding the purpose areas of existing grant programs that are being funded, either to broaden the types of offender reentry programs that could be funded or to add such programs to grant programs that do not currently include offender reentry among their purpose areas. Another policy option could include creating new grant programs specifically tailored to specific kinds of offender reentry programs, such as housing assistance, drug treatment, or job training programs, among others.

## **Lack of Current Federal Recidivism Statistics**

As previously noted, the only national-level recidivism statistics concerning the reentry of prisoners into the community are more than a decade old. These studies showed that over two-thirds of ex-offenders had come into contact with the legal system, either through a new arrest, a violation of the terms of their release, or a new conviction, within three years of their release. However, there are no current national-level recidivism statistics, and the Bureau of Justice Statistics does not currently have plans to update their recidivism study because of funding constraints.<sup>78</sup> While a number of states have conducted studies of their prisoners’ recidivism, the lack of national-level statistics poses a challenge for policy makers as they consider the issue of offender reentry. Without a current, national-level analysis of which ex-offenders are more likely to recidivate, it is difficult to target funding to offender reentry programs that address the at-risk population. Indeed, much of the offender reentry literature being published today continues to cite the Bureau of Justice Statistics study from the mid-1990s when referring to recidivism. A potential issue of interest for Congress may include whether a new, national level recidivism study is needed to better understand the current trends in recidivism and to better target federal funding to the ex-offenders that are most likely to re-offend. Policy options could include providing funding to the Bureau of Justice Assistance to update their 1994 study or to undertake a new study, or funding an educational institution or non-profit entity to undertake a national-level recidivism study.

## **Focus on Recidivism**

While few would argue that recidivism is the most important measure of an offender reentry program’s impact, there is a growing consensus within the offender

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<sup>77</sup> Council of State Governments, Re-Entry Policy Council, *Report of the Re-Entry Policy Council: Charting the Safe and Successful Return of Prisoners to the Community*, January 2005, p. 3.

<sup>78</sup> From a telephone conversation with the Bureau of Justice, August 8, 2007.

reentry field that other outcome measures need to be considered when determining whether a program has been effective.<sup>79</sup> Many practitioners believe that an individual's reintegration into the community should be measured by a number of indicators concerning their attachment to social networks, and not just by whether they come into contact with the criminal justice system again. Possible measures of reintegration can include whether an ex-offender has found and maintained a job; whether the ex-offender has reconnected with his family and, if he has children, whether he is supporting them; whether the ex-offender has become involved in his community through participation in church events, neighborhood organizations, and support groups; and whether the ex-offender has attained sobriety or is participating in a treatment program. A potential issue for Congress could include whether these alternate measures of an offender reentry program's effectiveness in fostering reintegration within the community should be considered when deciding how best to allocate grant funding and other government resources. A related issue could be whether reporting on these alternate outcome measures should be required of programs receiving federal grant funding.

## Coordination Between Federal Agencies

There are a number of entities that bring together offender reentry professionals from state and local governments, non-profit organizations, and academic institutions, including the Reentry Policy Council founded by the Council of State Governments and the Reentry Roundtable hosted by the Urban Institute. Both of these organizations attempt to bolster information sharing about best-practices and funding opportunities and coordination between the various state and local agencies and stake-holders within the offender reentry field. However, the extent to which the various federal agencies with grant programs that can be used for offender reentry purposes coordinate their efforts is currently unclear.

While the Serious and Violent Offender Reentry Initiative, as previously noted, reportedly brought together stakeholders from the Departments of Justice, Labor, Education, and Health and Human Services, that pilot program ended in FY2005 and is currently being evaluated. Over the last two years, DOJ notes that it has coordinated the Prisoner Reentry Initiative with the Department of Labor.<sup>80</sup> Despite the collaborations noted above, it is unclear to what extent these various departments have been coordinating the reentry funding available through their various other grant programs. This raises a potential issue concerning the extent to which duplication of resources is currently occurring across the federal government. A number of the grant programs identified above share purpose areas or can be used to fund similar activities. This could create a certain measure of confusion among state and local entities applying for offender reentry grant funding. There is currently no federal

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<sup>79</sup> See, for example, Jeremy Travis, "In Thinking About 'What Works,' What Works Best?," Margaret Mead Address at the National Conference of the International Community Corrections Association held in Indianapolis, Indiana, on November 10, 2003, Urban Institute Justice Policy Center; James Lynch, "Prisoner Reentry: Beyond Program Evaluation," *Criminology & Public Policy*, vol. 5, no. 2, May 2006; and Questioning the Evidence.

<sup>80</sup> *Learn About Reentry*.

entity currently legislatively charged with coordinating federal offender reentry programs and services across the federal government. A potential issue for Congress could include whether some form of coordinating council or federal offender reentry clearinghouse should be created to provide supervision and oversight to the federal government's offender reentry efforts.

## **Evaluations of Offender Reentry Programs**

As previously noted, there is a comparative lack of scientifically rigorous evaluations of offender reentry programs. The "what works" literature review cited earlier was able to identify only 32 evaluations undertaken over a 30-year span that met their selection criteria; of these, only 2 were randomized control trials. The lack of rigorous evaluations of offender reentry programs makes it difficult for policy makers at every level of government to make informed decisions concerning what programs to fund and what initiatives to support. This may be of issue to Congress during both the appropriations and authorization processes. During the appropriations process, Congress faces decisions about what kinds of grant programs should be funded that are likely to be complicated by the lack of available data concerning what kinds of programs are effective. During the authorization process, as Congress considers whether to modify existing grant programs or create new grant programs, the lack of evidence makes ensuring that effective programs are being created more challenging. Potential issues for Congress to consider could thus include whether more evaluations should be funded through the federal grant process and whether scientific evaluations should be required of existing programs.

## **Appropriations for the Second Chance Act**

The Second Chance Act expanded DOJ's current offender reentry grant program and authorized a number of targeted pilot programs. However, because the Act was enacted in April of 2008, these programs were enacted too late to be included in the President's budget request for FY2009. Indeed, as previously noted, the President's FY2009 request proposes consolidating the DOJ offender reentry grant program into a larger discretionary grant program. Whether funding is to be included in the FY2009 appropriation for the offender reentry programs and activities within DOJ that were authorized by the Second Chance Act will likely be an issue that Congress considers as the FY2009 appropriations bills are debated.

## **Conclusion**

This report has shown that over the past two and a half decades, the prison population and the number of ex-offenders being released into the community have been increasing. The increasing number of ex-offenders entering the community has put pressure on public policy makers to provide treatments and services that will smooth the reintegration process while reducing recidivism. When deciding what programs to fund, policy makers often focus on reducing recidivism. The focus on reducing recidivism, however, is complicated by the fact that there are different definitions of recidivism. For example, the last major national-level study showed that two-thirds of ex-offenders came into contact with the legal system and that about

half were back in prison within three years of their release. However, only a quarter of the ex-offenders ended up in prison for having committed new crimes; another quarter were back in prison for technical violations of their release (such as failing a drug test). Whether technical violations should be considered a measure of recidivism or whether recidivism should be confined to the commission of new crimes has engendered much debate within the criminal justice field.

While the emphasis on reducing recidivism is important, programs should also be evaluated based on other outcome measures such as their ability to connect ex-offenders with jobs, services, and institutions in their communities. The best available research has shown that there are a number of services that can help ex-offenders reconnect with their communities and lower recidivism, including programs focusing on providing vocational training, substance abuse prevention, mental health services, and alternative housing. The most successful programs focus on high-risk offenders, are intensive in nature, begin during institutional placement, and take place mostly in the community. However, a relative lack of scientifically rigorous research has made it difficult to draw definitive conclusions about which programs are most effective.

As Congress debates this issue, a number of policy issues may be considered, including whether the current federal grant programs are adequate or whether new programs should be created, whether there is a need for more current national-level recidivism data, whether enough coordination of the many programs that may be used to help ex-offenders is occurring within the federal government, whether more evaluations of offender reentry programs are needed, and whether funding will be appropriated for the programs and activities that were authorized by the Second Chance Act.

## **Appendix A. Section-by-Section Comparison of the Second Chance Act**

The Second Chance Act, P.L. 110-199, was passed by the House on November 13, 2007, and by the Senate on March 11, 2008. The Act was signed into law on April 9, 2008. Following is a section-by-section analysis of the Act's provisions.

### **Amendments to Current Offender Reentry Grant Program (§ 101)**

The Second Chance Act would reauthorize and expand the adult and juvenile offender state and local offender reentry demonstration projects codified at 42 U.S.C. 3797w(b-c). The Act would replace the four current purpose areas eligible for funding with seven broad purpose areas:

- educational, literacy, vocational, and job placement services;
- substance abuse treatment and services, including programs that start in placement and continue through the community;
- programs that provide comprehensive supervision and offer services in the community, including programs that provide housing assistance and mental and physical health services;
- programs that focus on family integration during and after placement for both offenders and their families;
- mentoring programs that start in placement and continue into the community;
- programs that provide victim-appropriate services, including those that promote the timely payment of restitution by offenders and those that offer services (such as security or counseling) to victims when offenders are released; and
- programs that protect communities from dangerous offenders, including developing and implementing the use of risk assessment tools to determine when offenders should be released from prison.

Applicants for these grants would be subjected to a number of requirements, including submitting a reentry strategic plan with their application, describing the long-term strategy, providing a detailed implementation schedule, identifying the local government's role in the plan, and describing the "evidence based methodology and outcome measures" that would be used to evaluate the programs and "provide valid measures" of the program's impact.

The Act would allow the Attorney General (AG) to make grants for these programs if the applications received meet the following conditions:

- they are explicitly supported by the chief executive of the unit of government applying for the funding;
- they extensively discuss the role that the various law enforcement entities involved in the reentry process will have in the program;
- they provide extensive evidence of collaboration among the state and local health, housing, child welfare, education, substance abuse, victims services, employment, and law enforcement agencies;
- they provide a plan for analyzing any statutory, regulatory, or other hurdles that may exist to reintegrating offenders into the community; and
- they include a reentry taskforce as described below to carry out the activities funded under the grant.

The Act requires applicants to develop a comprehensive strategic reentry plan that contains measurable five-year performance outcomes, with the goal of reducing recidivism by 50% over this period. As a condition of funding, applicants are also required to create offender reentry taskforces that would integrate the prime offender reentry stake-holders in their communities in order to pool resources, facilitate data-collection, and reduce recidivism. Grantees are also required to submit annual reports to DOJ that identify the specific progress made toward achieving their strategic performance outcomes, and may be eligible for future grants if they demonstrate adequate progress towards reducing recidivism by 10% over a two-year period.

In awarding grants under this program, the AG is directed to prioritize applications that

- focus on geographic areas with a disproportionate population of ex-offenders;
- include input from non-profit organizations, consultation with victims and ex-offenders, and coordinate with families;
- demonstrate effective case management in order to provide comprehensive and continuous services during reentry;
- review the adjudications process for parole violations in the applicant's criminal justice system;
- provide for an independent evaluation of the program, including, to the extent practicable, the use of random assignment; and
- target high risk offenders through the use of validated assessment tools.



Additionally, the Act establishes a National Adult and Juvenile Offender Reentry Resource Center by authorizing the AG to make a grant available to an eligible organization. The selected organization are directed to provide education, training, and technical assistance to states and other governments in order to collect and disseminate data and best practices in offender reentry, including the use of evaluation tools and other measures to assess and document performance. Up to 4% of the authorized level of funding can be used to establish and run this center.

The Act authorizes \$55 million in both FY2009 and FY2010 for these programs and limits funding for technical assistance and training to between 2% and 3% of the overall total appropriated. The total federal share of funding for these grants is limited to 50%; however, up to 50% of the state and local matching funds (i.e., 25% of the overall grant) could be fulfilled through in-kind contributions of goods or services.

### **Improvement of the Residential Substance Abuse Treatment for State Offenders Program (§102)**

This provision requires states receiving grants under the residential substance abuse treatment program (42 U.S.C. 3796ff) to ensure that individuals participating in these programs receive aftercare services, including a full continuum of support services. The Act defines residential substance abuse treatment programs as a course of comprehensive individual and group substance abuse services lasting at least six months in residential treatment facilities that are set apart from the general population of a prison or jail. The Act also requires the AG to study the use and effectiveness of the funds used to provide the required aftercare services.

### **Definition of Violent Offender for Drug Court Program (§103)**

The Act modifies the government's current drug court grant program, restricting the current definition of "violent offender" to individuals charged with or convicted for certain offenses that are punishable by a sentence of longer than one year (prior there was no minimum sentence length).<sup>81</sup> The Act requires all grantees under this program to adhere to this definition of "violent offender" within three years of the enactment of the act (i.e., April 9, 2011), and requires the secretary to publish regulations to this effect within 90 days of enactment. Any drug court not adhering to this definition by April 9, 2011, would see their grant allocations reduced.

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<sup>81</sup> In order to be considered a "violent offender," an individual has to have committed this crime while in possession of a firearm or dangerous weapon, the crime has to have resulted in the death or serious bodily injury of a person, force had to have been used against someone's person, or the offender had 1 or more prior convictions for a felony crime of violence involving the use or attempted use of force against a person with the intent to cause death or serious bodily harm. See 42 U.S.C. 3797 u-2(a)(1).

## **New Offender Reentry Grant Programs**

Subtitle B creates a number of new targeted grant programs within the Department of Justice (DOJ) relating to the reintegration of offenders into the community.

### **State and Local Reentry Courts (§111)**

This provision creates a new grant program within DOJ to fund reentry courts. Subject to the availability of appropriations, grants up to \$500,000 are made available for state and local adult and juvenile court systems in order to establish and maintain reentry courts. These courts will be tasked with monitoring juvenile and adult offenders reentering into the community and providing them with a coordinated and comprehensive array of services, including housing assistance, education, job training, health services, and substance abuse treatment. In order to be eligible for funding, applicants have to demonstrate the need for their program; create a long-term strategy and detailed implementation plan; identify the government and community entities that would be coordinated by the project; and describe the methodology and outcome measures that would be used to evaluate the program. Additionally, applicants are required to submit annual reports to DOJ including a summary of the activities carried out with the grant and an assessment of whether these activities are meeting the needs identified in the grant application. The Act authorizes \$10 million for this program in FY2009 and FY2010. The total federal share of funding for these grants is limited to 50%; however, up to 50% of the state and local matching funds (i.e., 25% of the overall grant) could be fulfilled through in-kind contributions of goods or services.

### **Drug Treatment Alternative to Prison Programs (§ 112)**

This provision creates a new grant program for state and local prosecutors to fund the development, implementation, and expansion of drug treatment programs that are alternatives to imprisonment. The programs require eligible offenders, after having received the consent of the prosecutor, to participate in comprehensive drug treatment programs in lieu of imprisonment. Criminal charges would be dismissed upon completion of the program. Offenders failing to successfully complete their treatment programs would serve their original sentence. In order to be eligible for these programs, the offender in question could not have had any prior felony use of force convictions or have been charged with or convicted of an offense involving a firearm, a dangerous weapon, or the use of force against another individual. The Act authorizes \$10 million for this program in FY2009 and FY2010. The total federal share of funding for these grants is limited to 50%; however, up to 50% of the state and local matching funds (i.e., 25% of the overall grant) could be fulfilled through in-kind contributions of goods or services.

### **Family Substance Abuse Treatment Alternatives to Incarceration Grants (§113)**

This provision creates a new grant program to develop, implement, and expand the use of family-based substance abuse treatment programs as alternatives to

incarceration for non-violent parent drug offenders. Among other things, the treatment is required to be clinically appropriate, comprehensive, and long-term and would be provided in a residential setting rather than an outpatient or a hospital setting. The program is required to include the implementation of graduated sanctions applied on the basis of the offender's accountability throughout the course of the program and the development of reentry plans for offenders. Offenders failing to complete the program are required to complete the sentence for the underlying crime involved. Grantees are required to submit annual reports to DOJ detailing the effectiveness of their programs using evidence-based data. Prison-based programs are required to locate their programs in an area separate from the general population, to create and support treatment plans for incarcerated parents, and to ensure continuity of care if participating offenders are transferred to a different facility. The Act authorizes \$10 million in FY2009 and in FY2010 for these grants; not less than 5% of this total is to be allocated to Indian Tribes.

### **Grants to Evaluate and Improve Educational Methods at Prisons, Jails, and Juvenile Facilities (§114)**

This program authorizes the AG, subject to the availability of appropriations, to make grants to evaluate, identify, and improve programs that focus on providing educational and vocational programs for offenders by identifying and implementing best practices. Grantees are required to submit reports within 90 days of the last day of the final fiscal year of a grant detailing the progress that they have made. The Act authorizes appropriations of \$5 million for this program in FY2009 and FY2010.

### **Technology Careers Training Demonstration Grants**

The Act authorizes the AG to make grants to states, units of local governments, territories, and Indian Tribes to provide technology career training for prisoners. Grants may be awarded for programs that establish technology careers training programs for offenders during the three-year period prior to their release. Access to the Internet during the program will be restricted to ensure public safety. Grantees must submit a report to DOJ describing and assessing the program each fiscal year. The Act authorizes \$10 million for this program in FY2009 and FY2010.

### **New Drug-Treatment and Mentoring Grant Programs**

Title II of P.L. 110-199 authorizes a series of new grant programs for drug-treatment and mentoring purposes. Subtitle A (§201) focuses on drug treatment programs, Subtitles B and C (§§211-214) focus on training and mentoring programs, and Subtitle C (§231) would create a federal offender reentry program at the Bureau of Prisons.

### **Offender Reentry Substance Abuse and Criminal Justice Collaboration Program (§201)**

The Act authorizes the AG to make grants to states, units of local governments, territories, and Indian Tribes in order to improve drug treatment programs in prisons and reduce the use of alcohol and other drugs by long-term abusers under correctional

supervision. Grants may be used to continue or improve existing drug treatment programs, develop and implement programs for long-term substance abusers, provide addiction recovery support services, and establish pharmacological drug treatment services as part of any drug treatment program offered to prisoners.<sup>82</sup> Grant applicants are required to identify the entities that will be involved in providing the treatment, certify that this treatment has been developed in consultation with the Single State Authority for Substance Abuse,<sup>83</sup> certify that the treatment will be clinically appropriate and will provide comprehensive treatment, and describe how evidence-based strategies have been incorporated into the program, including the collection and analysis of data. The AG is required to submit a report to Congress detailing best practices relating to substance abuse treatment in prison and comprehensive treatment of long-term substance abusers by September 30, 2009. Another report on the drug treatment programs funded through this grant program is required by September 30, 2010. The Act authorizes appropriations of \$15 million for this program in both FY2009 and FY2010.

### **Mentoring Grants to Nonprofit Organizations (§211)**

This provision would create a new grant program to provide mentoring and other transitional services for offenders being released into the community. Funding could be used for mentoring programs both in placement and during reentry, programs providing transition services during reentry, and programs providing training for “offender and victims issues.” Priority would be given to applicants providing for the evaluation of their programs, using randomized control trials to the maximum extent feasible. Applicants would be required to identify and report on specific outcome performance measures related to the overall goal of reducing recidivism. The bills would authorize \$15 million in FY2009 and in FY2010 for these grants.

### **Responsible Reintegration of Offenders (§212)**

The Act authorizes the Secretary of Labor to make grants to non-profit organizations to provide a wide array of mentoring, job training and job placement services, and other comprehensive transitional services. Grants may not be used to provide substance abuse treatment, mental health treatment, or housing services; however, grants can be used to coordinate with other entities providing these services. Applications for the program must identify the specific eligible area that will be served and the need for support in this area and describe the services that will be provided, the partnerships that have been established with the criminal justice system and housing authorities, and how other sources of funding will be leveraged to provide support services. In order to be eligible for funding, programs must be

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<sup>82</sup> Pharmacological drug treatment involves using drugs and medications in the treatment of substance abuse. See Clayton Mosher, Scott Akins, and Chad Smith, “Pharmacological Drug Treatment” Paper presented at the annual meeting of the American Society of Criminology, Royal York, Toronto. 2008-04-21.

<sup>83</sup> States would be required to identify an entity that would be the single State administrative authority responsible for planning, developing, implementing, monitoring, regulating, and evaluating substance abuse services within the State.

located in urbanized areas or clusters (as determined by the Bureau of the Census) that have a large number of prisoners returning to the community and high recidivism rates (however, no definitions for a large number of returning prisoners or high recidivism rates are provided). To be eligible for the program, offenders would be at least 18 years old, have no prior adult convictions or convictions for violent or sex-related offenses, and have been released from prison no more than 180 days before they begin participating in the grant program.<sup>84</sup> Not more than 15% of the grant may be used to pay for administrative costs. The Act authorizes \$20 million in appropriations for the Secretary of Labor to carry out this section in both FY2009 and FY2010; up to 4% of the appropriation may be used to provide technical assistance.

### **Bureau of Prisons Policies on Mentoring Contacts (§213)**

This provision would direct the Director of the Bureau of Prisons (BOP) at DOJ to adopt and implement a policy by July 9, 2009, to ensure that mentors working with incarcerated offenders are permitted to continue providing their services to the offender after their release from prison. The Director is required to submit a report to Congress concerning this policy's implementation by September 20, 2009.

### **Bureau of Prisons Policies on Chapel Library Material (§214)**

The Director of the BOP is required to discontinue the Standardized Chapel Library project, or any other project that compiles, lists, or restricts prisoner access to materials provided by chapel libraries by May 9, 2008. Exceptions are made for materials that incite, promote, or suggest violence and materials prohibited by law.

### **Federal Prisoner Reentry Program (§231)**

The Act establishes a prisoner reentry program within the BOP. BOP is required to create a federal prisoner reentry strategy that will

- assess each prisoner's skill level at the beginning of their prison term (including academic, vocational, health, cognitive, interpersonal, daily living, and other related skills);
- create a skills development plan for prisoners to be carried out during their term of imprisonment;
- determine program assignments for prisoners based on the needs identified by the assessment;
- give priority to the reentry needs of high-risk populations, including sex-offenders, career criminals, and prisoners with mental health problems;
- coordinate and collaborate with other criminal justice, community-based, and faith-based organizations;

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<sup>84</sup> Grantees may exempt 10% of their clients from this 180 day requirement.

- collect information about a prisoner's family relationships and parental responsibilities; and
- provide incentives for prisoners to participate in skills development programs.

Incentives for prisoners to participate in skills development programs include allowing offenders to spend the maximum amount of time in community confinement facilities. Additionally, BOP is required to assist offenders in obtaining identification prior to their release.

The Act modifies current law to include a number of new duties for the Director of BOP. These new duties include the establishment of prerelease planning procedures for all federal offenders that help prisoners apply for federal and state benefits prior to their release, and the establishment of reentry planning procedures to provide federal offenders with information in a number of reentry-related areas. BOP is required to establish and implement a system that will allow it to quantitatively track progress in responding to the reentry needs of its inmates and to provide an annual report to the House and Senate Committees on the Judiciary concerning its progress. An annual report is also required containing recidivism statistics for federal prisoners, including information concerning the relative recidivism rates of offenders participating in major inmate programs. After the initial report establishes a baseline recidivism rate for BOP ex-offenders, the Act establishes 5- and 10-year goals of 2% and 5% reductions in this rate, respectively.

BOP is further required to ensure that the United States Probation and Pretrial Services System has medical information for inmates scheduled for release in order to create supervision plans that address the medical and mental health care needs of ex-offenders, and to ensure that each prisoner in community confinement has access to medical and mental health care.

In addition to the offender reentry program established above, the Act also establishes two new programs within BOP:

- A pilot program within BOP to determine the effectiveness of allowing certain elderly, non-violent offenders to serve the remainder of their sentences on home detention. In order to be eligible for this program, offenders would have to be 65 years old or older and have never been convicted of a violent or sex-related crime or given a life-sentence, among other things.
- A program to provide satellite tracking of certain high-risk individuals after their release from prison, in conjunction with the use of graduated sanctions, the provision of reentry related services, and the involvement the offender's family, a victim advocate, and the victim. The Act authorizes \$5 million for this purpose in FY2009 and in FY2010.

## **Offender Reentry Research (§241)**

The Act allows, but does not direct, the National Institute of Justice to conduct research into offender reentry. This research may include a study identifying the number and characteristics of children with incarcerated parents and their likelihood of engaging in criminal activity, a study identifying mechanisms to compare recidivism rates between states, and a study on the characteristics of individuals released from prison who do not recidivate.

The Act also allows, but does not direct, the Bureau of Justice Statistics to conduct research on offender reentry. This research may include an analysis of the populations that present unique reentry challenges, studies to determine the characteristics of individuals who return to prison (including which individuals pose the highest risk to the community), annual reports on the profile of the population leaving detention and entering the community, a national recidivism study every three years, and a study of post incarceration supervision (e.g., parole) violations.

## **Grants to Study Post-Incarceration Supervision Violations (§242)**

This provision creates a new grant program to fund state studies aimed at improving data-collection on offenders who have their post-incarceration supervision revoked in order to better identify which individuals pose the greatest risk to the community. In order to receive funding, states have to certify that their program would collect “comprehensive and reliable data” and have to provide this data to the Bureau of Justice Statistics.

## **Addressing the Needs of Children of Incarcerated Parents (§243)**

This provision directs the AG to collect data and develop best practices concerning the communication and coordination between state corrections and child welfare agencies, especially as they relate to the safety and support of children of incarcerated parents. The best practices developed should include policies, procedures, and programs that could be used to safeguard the parent-child bond during incarceration and assist incarcerated parents in planning for the future and well being of their children.

## **Study of Effectiveness of Depot Naltrexone for Heroin Addiction (§244)**

The act authorizes the AG, acting through the National Institute of Justice, to make grants to public and private research entities to evaluate the effectiveness of depot naltrexone for the treatment of heroin addiction. In order to be eligible for funding, research entities must demonstrate that they conduct research in a public or private institution of higher education, that they plan to work with parole or probation officers for offenders under court supervision, and that they will use randomized control trials to evaluate their programs. Grantees are required to submit reports to DOJ describing and assessing the uses of their grant.

## **Authorization of Appropriations for Research (§245)**

The Act authorizes \$10 million in both FY2009 and FY2010 to carry out the research programs authorized by §§241-244.

## **Clarification of Authority to Place Prisoner in Community Corrections (§251)**

This provision would require the Director of the BOP to ensure, to the extent practicable, that prisoners within the federal correctional system spend up to a year at the end of their sentence focusing on their reentry into the community. As part of this practice, BOP would be authorized to transfer offenders to community correctional facilities or to home confinement (for the shorter of the last 10% or six months of their sentence). The provision would also give BOP the discretion to disregard a court's order that an offender serve part of his sentence in a community correctional facility.

## **Residential Drug Abuse Program in Federal Prisons (§252)**

The Act replaces the current definition of a residential drug abuse program with language defining such a program as a course of individual and group activities and treatment lasting at least six months in residential treatment facilities that are set apart from the general prison population. The Act also stipulate that this treatment can include pharmacotherapies that extend beyond the six-month period.

## **Contracting for Services for Post-Conviction Supervision of Offenders (§253)**

This provision would give the Director of the Administrative Office of the United States Courts the authority to enter into contracts with public and private agencies to monitor and provide a wide array of services to offenders in the community to promote their reintegration.

## **Extension of National Prison Rape Elimination Commission (§261)**

The Act extends the authorization for the National Prison Rape Elimination Commission<sup>85</sup> from three years to five years.

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<sup>85</sup> 42 U.S.C. 15606(d)(3)(A).