

Housing and Incarceration Memorandum

From: Chelsea Tabart
To: Chloe Cockburn, Open Philanthropy
Re: Intersection between housing and incarceration for criminal justice reform (CJR) grant-making
Date: August 22, 2016

A. Summary of findings

Following a shallow investigation, my best guess is that there are not existing opportunities to fund activities at the intersection of housing and incarceration likely to decrease US prison populations at scale. CJR activities connected to housing focus on prisoner re-entry and people whose health and behavioral profile put them in frequent contact with the criminal justice system (CJS); activities unlikely to be sufficiently high-impact for a funder focused on transformative decarceration.

Funding housing related activities that prevent people entering the CJS has more potential for significant impact: unstable housing is strongly associated with incarceration in the US. Indeed, this re-framing is timely because housing has gained some national attention following publication of extensive qualitative research on low-income Milwaukee renters in *Evicted: Poverty and Profit in the American City*.¹ However, a funder interested in working on CJR through this lens would have to generate funding opportunities. My shallow review of the funding landscape found that neither housing nor CJR advocates use the framing that appropriate, stable housing prevents criminal justice system (CJS) contact. One reason for this may be that existing the social science research is correlative rather than causative, and it is therefore plausible that other factors such as educational attainment drive both housing stability and incarceration.² Another may be that housing advocates are reluctant to associate low-income housing with criminality. Randomized research on housing and CJS contact, and pilot advocacy campaigns connecting housing with mass incarceration therefore seem like plausibly impactful funding opportunities; however, I do not feel confident that they would be the most impactful use of philanthropic funds, primarily due to the uncertainty around whether housing drives incarceration.

B. Summary of data/research on connection between housing and incarceration.

This section is organized as follows. Intersections of housing and incarceration that seemed plausible to me that were not contradicted by ~10hrs of research are set out as a numbered

¹For book reviews see: http://www.nytimes.com/2016/02/28/books/review/matthew-desmonds-evicted-poverty-and-profit-in-the-american-city.html?_r=0;
http://www.huffingtonpost.com/entry/eviction-matthew-desmond-book_us_56e996e3e4b065e2e3d82403.

² See p. 12, Burns Institute, <http://www.burnsinstitute.org/wp-content/uploads/2013/12/Balancing-Scales-Justice1.pdf>: "The dearth of research and data examining which extrajudicial factors drive criminal justice system contact is surprising ... There is a need for research and analysis of the disparities within and created by these external systems in order to determine the factors most predictive of criminal justice system involvement."

list, in roughly chronological order from first contact with the CJS. Data/research supporting those intersections and a brief discussion appears under each.

1. *There is a strong correlation between housing instability and incarceration.*

Some data shows a strong correlation between homelessness:

- Of the ten states that spent a larger proportion of their total expenditures on housing, all ten had incarceration rates lower than the national average.³
- High-quality surveys of parolees in California found that 48% percent of all interviewees had a history of homelessness and 18% had been evicted. Home ownership among all system-involved interviewees was significantly lower than among the county average, and white residents were significantly more likely to own their homes than residents of color. Overall, researchers formed the view that 'most interviewees did not have stable housing as adults.'⁴
- Nationally, 26 per cent of the incarcerated report being homeless in the year prior to incarceration.⁵

I did not find strong evidence that lack of appropriate housing was *causing* incarceration. One reason for this is that, as the Burns Institute observes, disaggregated data about contact with the criminal justice system and the social factors driving that contact – eg, access to housing and employment – does not exist. In this vacuum, two things bear mention:

- Housing instability is probably more common than national statistics suggest: The Milwaukee Area Renters Study conducted between 2009-2011 (n=~1,000) found that 13% of Milwaukee renters were involuntarily displaced from housing in the two years prior to being surveyed, whereas formal reports of evictions were much lower.
- Housing may simply not be a good predictor of CJS involvement – rather, poverty, low educational attainment or lack of access to meaningful employment may drive both incarceration and housing instability – and more social science research is needed to test this hypothesis.

2. *People may be stuck in jail/prison because they have no place to live (bail, parole, probation).*

A few quick Google searches here did not turn up statistics about whether and to what extent this hypothesis is true, and I deprioritized looking in to this potential connection between housing and incarceration because its impact on overall incarceration rates is likely lower than other connections between housing and incarceration. My guess is that these statistics would exist at a State or district level within some public defense or criminal law focused legal center offices, if a funder thought it worth exploring this further. However, if the connection does exist, policy solutions are not obvious. My impression is that emergency housing systems are already underfunded and funding them may not be the best humanitarian use of the next available philanthropic funds.

3. *The criminalization of homelessness potentially leads to incarceration.*

³ JPI, p.10-11.

⁴ Burns, p.10.

⁵ See: <http://www.csh.org/csh-solutions/serving-vulnerable-populations/re-entry-populations/>.

High levels of homelessness seem to me likely cause incarceration because of the ubiquity of homelessness offenses.⁶ My intuition is that the increase in incarceration would take the form of both increased initial overnight stays following minor arrests, and unresolved fines etc. that escalate into longer stints of incarceration for homeless people. I did not look into the evidence of the precise incarceration burden that homelessness-driven offenses creates a great deal – though I think this would be a good area for further research. One data point that seems to support the hypothesis that decriminalizing homelessness would reduce incarceration is a nation-wide survey of homeless populations in American cities conducted by the Western Regional Advocacy Project. It found that high arrest rates - 30% of persons had been arrested for sleeping in public, 26% for loitering in public and 25% for sitting or lying down.⁷

I looked briefly into trends in homelessness to see whether decarceration was significantly increasing homelessness – it's not. Rather, homelessness is decreasing overall and across every sub-group as the nation continues to recover economically from the GFC. On this, I found the National Alliance to End Homelessness' year in review helpful – it has state-by-state data highlighting states where homelessness is defying the downward trend (for example, in Washington DC it increased 12.9% from 2013-2014).⁸

4. *Lack of secure housing makes one more likely to have repeat contact with CJS, especially just after coming out of incarceration.*

The link between re-entry, lack of housing and risk of recidivism is the best researched of the plausible connections between housing and incarceration. Persons leaving incarceration with a criminal record, and in some places those with arrest records, cannot access government subsidized housing. An estimated 100 million (nearly 1/3) of Americans have some type of criminal record.⁹ There is no federally funded alternative to house people excluded from public housing for this reason. JPI notes that in 1997 the California Department of Corrections reported that 50% of Los Angeles and San Francisco parolees were homeless.¹⁰ According to qualitative research done by the Burns Institute, 47% percent of interviewees reported that their involvement in the criminal justice system has had a negative impact on their housing opportunities (n=179 parolees). In addition, incarceration may cause a person to lose rent control or to be foreclosed upon.

Lack of housing on exiting prison has been linked to recidivism:¹¹

- A 1998 qualitative study conducted by the Vera Institute of Justice found that people leaving a correctional facility in New York City for parole who entered

⁶ See generally, the National Legal Center for Homelessness and Poverty's 2013 report *No Safe Place*: https://www.nlchp.org/documents/No_Safe_Place, and pp.23-26 of the Institute for Policy Studies' 2015 report *The Poor Get Prison*, <http://www.ips-dc.org/wp-content/uploads/2015/03/IPS-The-Poor-Get-Prison-Final.pdf>

⁷ See https://www.nlchp.org/documents/No_Safe_Place, p. 7.

⁸ Link here: <http://www.endhomelessness.org/library/entry/the-state-of-homelessness-in-america-2015>

⁹ HUD Guideline, p. 2: <http://portal.hud.gov/hudportal/documents/huddoc?id=PIH2015-19.pdf>.

¹⁰ JPI, p. 5.

¹¹ JPI, P. 6

shelters for the homeless were *seven times* more likely to abscond during their first month after release than those who had some form of housing.

- A study funded by the Fannie Mae Foundation revealed a 20 percent recidivism rate for people leaving Illinois correctional facilities for two specific long-term housing programs compared to a 50 percent recidivism rate for those who did not participate in the programs

A quick Google Scholar search suggests there is a significant body of further literature on the connection between housing and recidivism post-release. I put it to one side because it was outside the scope of a shallow investigation.

The location of a parolee's housing can also affect future incarceration outcomes. This kind of research is particularly relevant because of a current bipartisan legislative push (discussed below) for location based vouchers to be issued and location-based outcomes to be measured by HUD. Research demonstrates that parolees who return to poor neighborhoods are more likely to return to prison than others, irrespective of their individual characteristics.¹² Further, the density of other parolees exerts a significant effect.¹³ A 2015 study by Kirk uses Hurricane Katrina as a natural experiment: the 5,400 parolees leaving prison in 2005 and 2006 dispersed throughout Louisiana, and finds that the fewer parolees in a subject's neighborhood, the less likely she was to reoffend.

C. Efforts to work on the problem

a. How has the problem been commonly understood?

My take is that the housing/CJR connection has largely been understood as an issue of:

- *Integration*. Here, the programmatic focus is on frequent users, probably because providing long-term housing solutions for them is cost-effective relative to the services they are accessing. My view is that a funder interested in transformative decarceration would find these opportunities insufficiently impactful.
- *Equity*. Here, the focus is on whether there are certain types of infractions which should not limit access to public housing, and whether criminalization of homelessness for 'public order' reasons essentially criminalizes poverty. Overall, however, I think it is important to recognize that the shortage of housing for persons exiting prison occurs in the context of severe defunding of affordable housing and an under-supply of public housing and affordable housing stock in the US more generally. In 2013, only 33% of poor renters received any kind of federal assistance, and only 15% live in public housing. Accordingly, I'm skeptical of whether equity based reforms of public housing access (ie, allowing people with criminal records to access it, ring-fencing some % of units for the immediately homeless) could substantially reduce housing-related incarceration.

¹² "Previous research had found that former prisoners who return to poor neighborhoods are more likely than those who return to middle-class or affluent areas to end up back in prison, regardless of those former prisoners' individual characteristics."

<https://www.themarshallproject.org/2015/06/04/you-can-t-go-home-again-.ZbxTouxRL>

¹³ <http://www.pnas.org/content/112/22/6943.abstract>.

- i. **Gaps in the research or what people are acting on.**
 - I have come across no information about using housing as a preventive strategy against incarceration, except in relation to ensuring people are not incarcerated for homelessness offences.
 - There is almost no research on either how unstable housing (as opposed to other low-opportunity conditions) causes people to enter the CJS, or how stable housing might divert them from it. Housing First (discussed in section C.c.i. below), an intervention focused on rapidly housing an area's homeless, may provide a natural experiment for this kind of research.
 - None of the advocacy for increased affordable housing stock I came across cited preventing CJS contact as a goal or potential benefit of the advocated outcome.

- ii. **Summary of assessments from the following types of actors/orgs: CJ advocates, housing advocates, government bodies, criminologists (if you come across any), housing experts**
 - HUD appears focused on re-entry issues, frequent users and on removing barriers to public housing for people with criminal records.
 - The Corporation for Supportive Housing is a major advocacy organization that promotes housing solutions for frequent users based on, inter alia, decreasing the burden on the prison system.
 - Criminal Justice Advocates such as JPI and the Burns Institute seem to take a view similar to that I've set out above – that a clear correlation between housing instability and incarceration exists and that it is worthy of further research. In addition, they are focused on the provision of housing as an anti-recidivism strategy.
 - Housing advocates and experts appear to focus on the connection between homelessness and incarceration, and in particular on the risk the recently released face in becoming homeless. I have not seen any advocates connect the defunding of public housing with mass incarceration – possibly because the field is cautious to associate those who access housing with people who commit crime.

- b. **Significant institutions, people, funders (including collaboratives), government bodies, researchers, and other formations working in this space, with a brief overview of what they are doing, as well as any conferences or other hubs of activity in this arena.**
 - The FUSE Pilot Project (discussed below) was run by the Corporation for Supportive Housing. It has variously been supported by the Robert Wood Johnson Foundation, The Jacob and Valeria Langeloth Foundation, Open Society Foundations, and The JEHT Foundation. CSH also promotes Oxford Houses – a housing treatment model for formerly incarcerated persons with substance abuse issues centered on self-governance is well-researched and has strong results.¹⁴
 - The Urban Institute's What Works Collective has done some qualitative research on how people are housed following release from incarceration (largely by social networks). It published a briefing paper in 2012 on policy priorities, largely suggesting future directions for research focused on creating proven pathways

¹⁴ See summary on p.7, [2]-[3] in the Urban Institute Briefing Paper: <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/412552-Housing-as-a-Platform-for-Formerly-Incarcerated-Persons.PDF>

through which formerly incarcerated persons' housing can be a pathway to successful reintegration.¹⁵

- US Interagency Council on Homelessness has published some research and organized inter-agency governmental conferences. It looks at combatting the criminalization of homelessness, supporting supportive housing for 'frequent flyers' and reducing barriers to accessing housing for people with criminal or arrest records.
- Center for Budget and Policy Priorities has published a number of policy briefs focused on public housing voucher systems.
- The Fortune Society – a re-entry organization in NYC -- in 2014 began suing a private landlord for its blanket ban on renting to people with criminal records, arguing it is a civil rights violation as that condition overwhelmingly burdens African-Americans and Hispanics.¹⁶
- The Justice Policy Initiative and the Burns Institute of California have each written research reports looking at the connection between housing and incarceration and calling for more research, the latter conducting significant qualitative research.
- Various national housing advocacy bodies (eg, the National Fair Housing Alliance, National Low Income Housing Coalition) and homelessness advocacy bodies (eg, the National Alliance to End Homelessness and the National Law Center on Homelessness and Poverty) – all do work related to increasing the volume of affordable housing and access to it, but none seem to me to have focused specifically on incarceration related connections.

c. Policy/practice interventions

i. Significant bills and pilots that have already happened

- *Equity in access to housing for people with criminal records.* End 2015, HUD released a guidance supporting a more selective criminal history process for access to public housing, including that arrest records 'may not be the basis for denying admission, terminating assistance or evicting tenants' and noting that HUD does not require public housing authorities to adopt "one-strike" rules in relation to certain kinds of criminal convictions (guidance here: <http://goo.gl/4bsFzx>). I'm not sure of the extent to which State and local public housing authorities are required to follow this guidance, my understanding is that legally some jurisdictions must follow it and some may follow it. I have not looked into this a great deal, or at housing advocates' expectations about on-the-ground implementation.¹⁷
- *Supportive housing.* Frequent User Service Enhancement (FUSE), a pilot project examining a particular supportive housing program for frequent users, was conducted in NYC and published in 2014. A two-year follow-up evaluation conducted by Columbia University showed 50% fewer days spent in jail by participating clients

¹⁵ See generally, <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/412552-Housing-as-a-Platform-for-Formerly-Incarcerated-Persons.PDF>. On the research: 'For example, the Urban Institute's multisite, longitudinal Returning Home study found that between 48 and 62 percent of returning prisoners slept at a relatives' house on their first night out of prison (La Vigne, Visher, et al. 2004; Visher and Courtney 2007). After a few months out of prison, more than 80 percent were living with a family member across the Returning Home study sites; only 20–40 percent of those living with family were paying rent (Visher et al. 2004).'

¹⁶ <http://fortunesociety.org/2014/10/31/press-release-new-lawsuit-challenges-landlords-ban-on-renting-to-those-with-criminal-records/>

¹⁷ Note also that alongside this announcement, HUD and the DOJ funded \$1.7 million for Public Housing Authorities to aid eligible residents under 24 to expunge or seal their records.

when compared with a control group.¹⁸ A further pilot in Hennepin County Minnesota found 39% fewer days spent in jail by participating clients.¹⁹

- *Homelessness prevention/supportive housing.* Utah has piloted "Housing First" – a model that sets out to house all chronically homeless people with mental illness and criminal records, housing 91% of their homeless population (2,000 people) over the last 8 years.²⁰ It has enjoyed significant national coverage and been lauded for reducing costs to the state. Various other states and districts in the US have adopted it, the most recent being New Jersey (state-wide) and Dallas have just announced adopting the measure.²¹ A high-quality RCT was conducted in Canada.²² As noted above, roll-outs of this measure are potentially a natural experiment that would allow us to assess whether decreasing homelessness decreases incarceration.
- *Rehabilitation and re-entry.* HUD and the DOJ funded \$1.7 million for Public Housing Authorities to aid eligible residents under 24 to expunge or seal their records, and \$8.7m in pay for success funding for supportive housing.²³

ii. Things in the works

- *Voucher legislation.* Housing Opportunities Through Modernization Act (H.R. 3700) is a bipartisan bill that will, inter alia, expand access to the voucher system for low-income and homeless households and permit them to move to "low-poverty neighborhoods". It *may* be a preventive strategy for low-income children becoming incarcerated: Recent research shows that moving children under 13 to low-poverty neighborhoods increases their income by an average of 31%, increases their chances of attending college and decreases their chances of becoming a single parent.²⁴ It was passed unanimously by the House of Representatives on 2 February 2016, and is being supported by the Center for Budget and Policy Priorities (see advocacy document here: goo.gl/Wd6SJX).

d. Experts worth talking to (based on a shallow review)

If a funder wanted to explore the connection between housing and incarceration further, I would suggest they connect with the following five people (or their colleagues):

¹⁸ The evaluation, and further research on other aspects of the program are available here: <http://goo.gl/5ShPob>. FUSE is run by the Corporation for Supportive Housing and funded by the Open Society Foundations, the Robert Wood Johnson Foundation, the Jacob and Valeria Langeloth Foundation and the JEHT Foundation.

¹⁹ Ibid.

²⁰ <https://pathwaystohousing.org/programs-partners/stories/housing-first-utah>

²¹ <http://www.theguardian.com/us-news/2016/mar/20/tiny-home-dallas-homeless-housing-first-strategy>; <http://politickernj.com/2016/03/christie-announces-new-statewide-housing-first-initiative-to-assist-njs-vulnerable/>.

²² <http://ps.psychiatryonline.org/doi/abs/10.1176/appi.ps.201400167>

²³ <https://www.whitehouse.gov/the-press-office/2015/11/02/fact-sheet-president-obama-announces-new-actions-promote-rehabilitation>

²⁴ Note this study did not measure incarceration as an outcome. See: Raj Chetty, Nathaniel Hendren, and Lawrence F. Katz, "The Effects of Exposure to Better Neighborhoods on Children: New Evidence from the Moving to Opportunity Experiment," May 2015, http://scholar.harvard.edu/files/lkatz/files/mto_manuscript_may2015.pdf.

- The head of the Housing Team at the Center for Budget and Policy Priorities, as they seem to closely understand the federal landscape for either funding public housing or making it more accessible.²⁵
- Prof Matthew Desmond, the lead investigator for the Milwaukee Area Renters Study and author of *Evicted*. My guess is that he would have a good sense of what research has been done on housing's connection to various social outcomes, as well as tractable opportunities to improve the volume and quality of affordable housing stock.
- An economist/statistician. I would ask her to look at the housing/ recidivism literature, and also potentially to look at whether recent radical decreases in homelessness in various states (see discussion of Housing First above) have caused measurable decreases in incarceration (data for Utah should exist from 2014).
- Laura John Ridolfi – lead author of the Burns Institute research, to discuss the gap in the literature about whether and how housing instability causes CJS contact and what the CJR field is doing from an advocacy perspective about housing more generally.
- A leading housing advocate you are connected to – for a candid assessment of why the field does not discuss incarceration much at all in its advocacy, my guess is that there are reasonable tactical considerations for them avoiding including a CJR perspective in their organizing.

F. Conclusion

In summary, it is clear that persons who have been incarcerated face severe difficulty accessing housing, and tolerably clear that housing instability is correlated with increased likelihood of both CJS contact and re-entry. However, based on a shallow investigation housing interventions do not seem like the most impactful way to meaningfully reduce prison populations. In the former case, this is because this strategy is unlikely to achieve transformative decarceration. In the latter case, this is both because I did not find promising funding opportunities and because of uncertainty around whether housing in fact drives incarceration.

A funder interested in significantly reducing prison populations through housing related interventions specifically should consider:

- Funding high-quality research into the connection between adequate housing and incarceration,
- Seeking opportunities to fund housing advocacy focused on the connection between housing and incarceration, and
- Funding legislation work related to increasing housing and decreasing homelessness generally, on the ground that if there were any initiative with high potential for impact it would likely affect people at risk of incarceration too.

²⁵ I formed this impression based on their work on their materials on the Housing Opportunities Through Modernization Act (H.R. 3700).