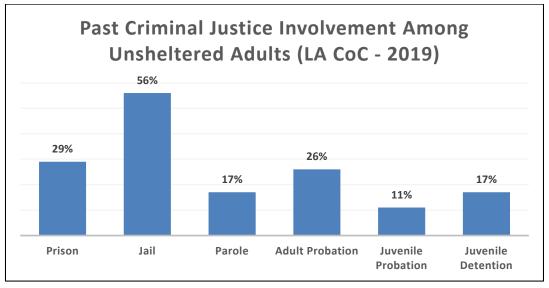


Homelessness and the Criminal Justice System

Background

Homelessness and interaction with the criminal justice system are intimately connected. According to the Los Angeles Homeless Services Authority's (LAHSA) 2019 Adult Demographic Survey, 64% of adults experiencing homelessness who are unsheltered in the Los Angeles Continuum of Care (LA CoC) have at some point been involved with the criminal justice system including jail, prison, adult and juvenile probation, parole, and juvenile detention (LAHSA, 2019). Research suggests that formerly incarcerated individuals are more likely to experience homelessness than those who have not been incarcerated. One study found that formerly incarcerated individuals are almost 10 times more likely to experience homelessness than the general public (Couloute, 2018), and evidence shows that arrest history is a strong indicator of long-term homelessness (Caton et al., 2005). Additionally, individuals experiencing homelessness are more likely to become incarcerated than their housed peers (Cusack & Montgomery, 2017). This literature review will synthesize the findings of researchers and practitioners on how homelessness relates to criminal justice system involvement and vice versa, and will highlight best practices for reducing recidivism among people experiencing homelessness.



Source: LAHSA Adult Demographic Survey, 2019

Key Takeaways:

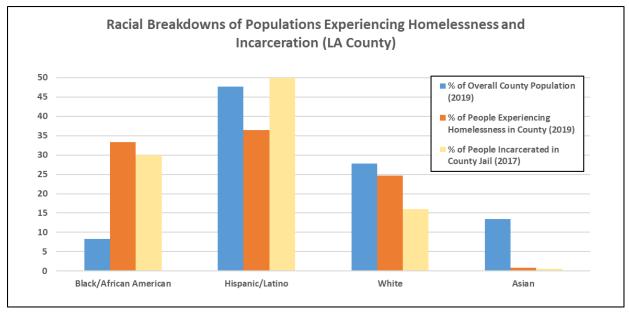
- Homelessness and criminal justice system involvement are reciprocally linked experiencing homelessness increases the likelihood of incarceration and vice versa.
- Formerly incarcerated individuals face individual and systemic barriers to securing stable housing, which makes them vulnerable to homelessness.
- Local jurisdictions are increasingly implementing policies that criminalize activities associated with homelessness like sleeping in public and living in vehicles.
- People experiencing homelessness are less likely to be convicted of felonies and violent crimes and more likely to incarcerated for non-violent offenses than housed offenders.



Literature Review & Data Analysis

Background and Research Motivation

Since the early 1980s, there has been tremendous growth nationwide of the populations of both incarcerated people and people experiencing homelessness (Metraux & Culhane, 2004). These groups share many of the same characteristics, including disproportionately high rates of poverty, mental health challenges, and substance use. African American men are overrepresented among both the homeless and incarcerated populations (LAHSA, 2018), and both incarceration rates and rates of homelessness among women are growing faster relative to men (The Sentencing Project, 2019; Welch-Lazoritz et al., 2015).



Source: LAHSA, 2019; LA County Sheriff's Department, 2018

There is also a reciprocal relationship between homelessness and justice system involvement (Cusack & Montgomery, 2017). People experiencing homelessness are more likely to be involved with the criminal justice system as both victims and alleged perpetrators than individuals who are stably housed (Mayer & Reichert, 2018). Inversely, formerly incarcerated individuals are almost 10 times more likely to experience homelessness than those without an incarceration history (Couloute, 2018). Municipal codes that effectively criminalize homelessness by prohibiting activities like sitting on the sidewalk or sleeping in vehicles are common in cities nationwide, which increases the likelihood that people experiencing homelessness receive citations or are arrested (National Law Center on Homelessness & Poverty, 2017). Many people experiencing homelessness are thus caught in a cycle in which their homeless status makes them more likely to be arrested and incarcerated and their subsequent criminal record makes them more likely to experience housing instability and homelessness (Gowan, 2002). African Americans caught in this cycle are subject to the additional compounding effects of institutional racism and a fraught history with police (LAHSA, 2018).

Individuals who have just been released from jail or prison face difficulties securing stable housing due to a number of factors including unemployment and poverty, familial problems, and restrictive



policies that make individuals convicted of certain crimes ineligible for government subsidized housing programs (Roman & Travis, 2006). These difficulties often result in housing instability, as formerly incarcerated individuals tend to make frequent moves between housing locations post-release, and homelessness (Fontaine, 2013). Researchers and practitioners have found that interventions such as reentry planning, case management, and post-release supportive housing improve housing and health outcomes and reduce recidivism rates among recently release formerly incarcerated individuals (Listwan et al., 2018; Hickert & Taylor, 2011; Roman & Travis, 2004). Furthermore, the reform of policies that criminalize homelessness and that make it difficult for formerly incarcerated people to secure employment and housing could help break the homelessness-criminal justice system cycle (Gray & Smith, 2019; National Law Center on Homelessness & Poverty, 2017).

Homelessness and Incarceration: A Revolving Door

A number of researchers have found evidence of disproportionately high rates of homelessness among incarcerated individuals. Two studies by the same researchers found that approximately 9% of inmates in state and federal prisons and 15% of the nationwide jail population had experienced homelessness in the year before their incarceration (Greenberg & Rosenheck, 2008; Greenberg & Rosenheck, 2008b). These rates of homelessness are up to 6 times and 11 times, respectively, greater than the rate among the general population (Greenberg & Rosenheck, 2008; Greenberg & Rosenheck, 2008b). According to a report by LAHSA's Ad Hoc Committee on Black People Experiencing Homelessness (2018), nearly 20% of the Los Angeles County Jail population were experiencing homelessness upon entering the jail system. Rodriguez and Brown (2003) report that 20% of individuals released from New York City jails experience homelessness or housing instability upon release. This cycle is compounded as evidence also suggests that individuals who have been to prison multiple times are almost twice as likely to experience homelessness upon release as those who are only been incarcerated once (Couloute, 2018). Additionally, individuals who have been recently released from prison are more likely to experience homelessness than those who have been out of prison for more than four years (Couloute, 2018).

People experiencing homelessness are also more likely to have been incarcerated than those who are stably housed. According to the Los Angeles Homeless Services Authority's 2019 Adult Demographic Survey, 56% of unsheltered adults in the LA CoC have spent time in jail and 29% have been to prison (LAHSA, 2019). One study of adults experiencing homelessness in Oklahoma City, OK found that 57% of its sample had been to jail more than three times in their lifetime (Gonzalez et al., 2017). Another study that analyzed multiple years of LAHSA Homeless Count and Adult Demographic Survey data found that in Los Angeles County 51% of men experiencing homelessness for the first time and 65% of men experiencing chronic homelessness had been incarcerated at least once in their lifetime (Flaming et al., 2018). The same study found that women experiencing homelessness were less likely to have been incarcerated than men, but still had disproportionately high rates of incarceration history, and that women experiencing chronic homelessness were more likely than women experiencing homelessness for the first time to have been incarcerated (Flaming et al., 2018). A different study of shelter use among people experiencing homelessness in New York City, NY found that nearly a quarter of its sample had been incarcerated in either a New York State prison or a New York City jail within the previous two years (Metraux & Culhane, 2006). Youth experiencing homelessness also have high incarceration rates compared to housed youth - according the Coalition for Juvenile Justice (2016), nearly 44% of youth experiencing homelessness have been to jail, prison, or a juvenile detention center. The same report

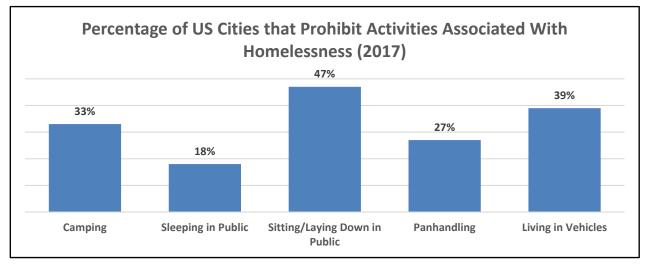


noted that African American, Latinx, and LGBTQ youth are overrepresented in both the populations of youth experiencing homelessness and youth involved in the justice system (Coalition for Juvenile Justice, 2016).

Criminalization of Homelessness

As the number of people experiencing homelessness grows nationwide, local governments are increasingly using criminal laws to address the presence of these individuals in public spaces (Foscarinis, 1996). Researchers have found that while these kinds of laws and their enforcement may work to force people experiencing homelessness out of certain areas, they are ineffective at addressing the underlying issue of homelessness (Culhane, 2010). In many cases, individuals experiencing homelessness who receive citations for minor offenses like jaywalking, sleeping in public, panhandling, etc. cannot afford to pay the fines, which results in the fines increasing and the issuance of arrest warrants (Los Angeles Community Action Network, 2010). One study found that a quarter of its sample of people experiencing homelessness in Seattle, WA reported currently owing court-mandated fines, and that those with legal fine debt experienced homeless spells that averaged nearly two years longer than individuals without court debt (Mogk et al., 2019).

According to a recent analysis of legal codes in 187 cities across the country, not only are antihomeless laws found in a significant portion of American cities, but they have also become more common over the last decade (National Law Center on Homelessness & Poverty, 2017). The chart below shows the percentages of US cities that have banned different activities associated with homelessness. Over the past decade, the number of cities with bans on camping has increased by 69%, bans on living in vehicles are up 143%, and bans on sleeping in public have increased by 31% (National Law Center on Homelessness & Poverty, 2017). All of these types of bans target behaviors that are associated with people experiencing homelessness, who resort to prohibited activities due to lack of housing and income.



Source: National Law Center of Homelessness & Poverty, 2017

Research also shows that incarcerated people with histories of homelessness are more likely to have been convicted for non-violent crimes than incarcerated individuals who have not experienced homelessness (Mayer & Reichert, 2018). According to Gonzalez et al. (2018), among a sample of



people experiencing homelessness in Oklahoma City, OK, drug possession was the most common type of offense reported by those with arrest histories. The same study found that arrests for violent crimes such as assault, robbery, domestic violence, murder, and rape were the least prevalent types of arrests (Gonzalez et al., 2018). Not surprisingly, given the prevalence of local anti-homeless legislation, people experiencing homelessness report high rates of arrests for so-called "status offenses" including jaywalking, panhandling, sleeping, drinking or urinating in public, and selling clothes without a license (Los Angeles Community Action Network, 2010; Gowan, 2002). Additionally, multiple studies have found that incarcerated people experiencing homelessness are less likely to be convicted of felonies and violent crimes and more likely to be incarcerated for non-violent property crimes than housed offenders (Fitzpatrick & Myrstol, 2019; Greenberg & Rosenheck, 2008b).

Barriers to Housing for Formerly Incarcerated Individuals

Upon release from jail or prison, formerly incarcerated individuals face multiple barriers to securing housing, which increases the likelihood that they will experience both homelessness and re-incarceration.

Unemployment

One major barrier to securing housing is unemployment, which leaves formerly incarcerated individuals with little or no income and limits housing options. According to a report by the Prison Policy Initiative, the unemployment rate for formerly incarcerated people of working age is over 27%, compared to about 5% for the general population (Couloute & Kopf, 2018). Another study documented a link between unemployment and homelessness for formerly incarcerated individuals, finding that those who were unemployed had a 44% higher probability of experiencing homelessness and a 61% higher probability of returning to prison than those who had an income of at least \$6,000 in the previous quarter (Herbert et al., 2015). A different study reported that among formerly incarcerated African American men, incarceration history was associated with fewer types of employment available post-release and that the limited job prospects interfered with finding homes (Cooke, 2004). Finding employment can be challenging for justice-involved individuals, as employers tend to ask about criminal histories on applications and discriminate against people with criminal records, even if the crime for which they served time is not relevant to the job or occurred a long time ago (National Health Care for the Homeless Council, 2012). Occupational licenses and certifications for many professions are also commonly denied to those with criminal histories (National Conference of State Legislatures, 2018). This challenge is compounded for African Americans who already experience much higher unemployment rates than the overall population (Bureau of Labor Statistics, 2018). In 2018, the nationwide unemployment rate for the civilian noninstitutional population of people age 16 and older was 6.5% for African Americans compared to 3.9% for the overall population and 3.5% for whites (Bureau of Labor Statistics, 2018).

Individual barriers

Formerly incarcerated individuals are more likely to have mental and physical health challenges and higher rates of substance use than the general population, which can make it more difficult to find and maintain stable housing (Fontaine & Biess, 2012). According to Greenberg and Rosenheck (2008b), homelessness and incarceration increase the risk of each other, and mental health and substance use challenges increase the risk further. They report that jail inmates with histories of homelessness are more likely to have mental health and substance use challenges than those who have not experienced homelessness (Greenberg & Rosenheck, 2008b). McNeil et al. (2005) had similar findings – 18% of their overall sample of San Francisco County Jail inmates had a diagnosis



of a mental disorder compared to 30% of the inmates who were experiencing homelessness.

Strained relationships with family and friends also pose a risk of homelessness and housing instability for formerly incarcerated individuals. According to Roman and Travis (2006), the first post-release home for the majority of returning prisoners is with a family member, friend, or significant other. However, for many formerly incarcerated individuals, time spent incarcerated can damage ties with their families (LAHSA, 2018; Gowan, 2002). Interpersonal conflicts and a reluctance of family members to welcome back formerly incarcerated individuals can make living with family members unviable, further limiting housing options and increasing the likelihood of homelessness (Roman & Travis, 2006). Strong family support is associated with lower substance use and higher employment rates for formerly incarcerated individuals, suggesting that those with weak or no family support are more vulnerable to unemployment and substance use challenges which further compound the difficulties of securing stable housing post-release (Fontaine & Biess, 2012).

Structural barriers

Certain housing and correctional policies serve as obstacles to securing stable housing for formerly incarcerated individuals and increase their risk of homelessness and re-incarceration. For example, under federal law, public housing authorities (PHAs), which administer federally funded subsidized housing programs, must reject housing applications for households that contain a) registered lifetime sex offenders and b) individuals who have been convicted of manufacturing methamphetamines on PHA property (National Low Income Housing Coalition, 2017). However, PHAs in individual states have a wide range of discretion when it comes to eligibility for potential tenants with criminal histories, and in many cases will prohibit individuals with even minor criminal records from receiving assistance (Gray & Smith, 2019). These restrictions can eliminate affordable housing options for formerly incarcerated individuals who are already more vulnerable to unemployment and homelessness. Additionally, federally subsidized housing programs targeted for the unsheltered population require that someone experience homelessness for at least 24 hours to be eligible for assistance. Therefore, this makes returning prisoners who entered the system with a residence but no longer have one ineligible for these programs on their first day after release (Roman & Travis, 2006).

Service gaps between jails and housing programs exist as well; there is no consistent method for tracking discharges of inmates who may be vulnerable to homelessness (Los Angeles County Homeless Initiative, 2016) and there is often lack of coordination between correctional facilities and the coordinated entry systems that connect individuals to programs and services (California Health Policy Strategies, 2019). Furthermore, many supportive housing interventions require clients to be experiencing chronic homelessness, which, as federally defined, does not include individuals who have been incarcerated for more than 90 days (LAHSA, 2017).

In addition to public housing restrictions, correctional policies can make it difficult for post-release individuals to secure stable housing. Conditions of parole and/or probation often prohibit formerly incarcerated individuals from associating with people with a criminal record. For example, a parolee who has a family member with a criminal record cannot move in with that family member upon release without risking violating parole and re-incarceration (Roman & Travis, 2006). Another common issue is that prisons are generally located in rural areas hundreds of miles away from the urban areas where many of the incarcerated individuals are from, meaning that upon release they might have to pay for transportation and travel a great distance before they can even start looking for



housing options (Metraux et al., 2007). Furthermore, people experiencing homelessness are often at risk of re-incarceration because they have difficulties abiding by the terms of their probation or parole due to lack of transportation and a stable address, the loss of property like cell phones, and difficulty reporting to supervision officers (Gray & Smith, 2019).

Interventions and Policy Recommendations

Evidence suggests that there are interventions that are effective in improving housing outcomes and reducing recidivism for people experiencing homelessness and/or formerly incarcerated individuals. Researchers and advocacy groups are also calling for the reform of local anti-homeless legislation and housing, employment, and correctional policies to help ensure that fewer people experiencing homelessness end up in the criminal justice system and that individuals released from the system can find appropriate housing.

Pay For Success

An emerging, innovative model for financing PSH projects called Pay For Success (PFS) has been employed in the context of formerly incarcerated individuals at risk of homelessness. In the PFS model, private investors provide initial capital funding for a program (in this case PSH service delivery), and if an independent evaluation shows that the program has met previously agreed-upon success metrics, the public sector repays the investors, sometimes with interest (Lantz & Iovan, 2018). While PFS has traditionally been used for service delivery programs, the model could also be used to finance construction of new PSH as long as there are measurable success metrics associated with the project.

In 2016, HUD and the Department of Justice launched the \$8.7 million Pay for Success Permanent Supportive Housing Demonstration grant to test cost-effective ways to help individuals cycling between the criminal justice and homeless service systems, while making new permanent supportive housing available for the reentry population (Federal Interagency Reentry Council, 2016). This grant and other funding from the state of California are helping to support a PFS program in Los Angeles County called Just In Reach, which provides PSH solutions to people experiencing homelessness who are currently in custody in Los Angeles County Jail and who, without an intervention, would likely return to homelessness upon release (Hilton Foundation, 2017). The up-front capital (\$10 million) for the program came from a private philanthropic organization and a private healthcare company. Once eligible participants enroll in the program, program staff begin providing case management services while the individual is still incarcerated. Upon release, program staff picks up the participant and matches them with interim housing until a Los Angeles County Department of Health Services (DHS)-contracted PSH provider assigns the individual to appropriate housing given their unique needs. Metric monitoring by an independent evaluator and related success payments from Los Angeles County to the Hilton Foundation have been underway for two years and will continue through 2021.

Policy reform

Researchers, advocates, and practitioners have made several policy recommendations to remove barriers to housing for formerly incarcerated individuals and reduce the number of people experiencing homelessness in the criminal justice system:

• **Public housing** - recommendations include repealing federal laws that prohibit public housing for certain types of offenders, urging PHAs to adopt admission policies that put less weight on criminal records more than a decade old, only considering offenses that are relevant to being a good tenant, and



examining convictions rather than arrest histories (Tsai & Rosenheck, 2012).

- **Employment** the National Health Care of the Homeless Council (2012) has called for legislation that would prohibit employment discrimination based on criminal history. Over 150 cities and counties and 35 states (including Los Angeles County and the state of California) have implemented "Ban the Box" policies, which remove the check box asking about criminal history on job applications, and 13 states have extended fair-chance hiring policies to private employment (National Employment Law Project, 2019).
- **Reentry planning** Roman and Travis (2004) call for more effective and widespread housingfocused reentry planning for incarcerated individuals. They recommend that reentry planning begin at the time of sentencing and should include the identification and assessment of each individual's housing needs, and around-the-clock support from an assigned housing advocate for the 24-hour period immediately following release (Roman & Travis, 2004). Los Angeles County Department of Health Services' Whole Person Care program, which offers enrolled individuals incarcerated in the county jail system reentry planning services and referrals to housing programs, among other things, could serve as a model.
- Criminalization of homelessness recommendations for reducing the number of people experiencing homelessness in the criminal justice system include repealing local anti-homeless legislation and enacting statewide legislation that limits local authority to criminalize homelessness (National Law Center on Homelessness & Poverty, 2017). In addition, the federal government has called for providing police officers with mental health crisis training, coordination between behavioral health agencies and law enforcement to encourage mental health treatment instead of arrests, and citation dismissal programs that allow people experiencing homelessness with court debt to participate in service programs in lieu of paying a fine (United States Interagency Council on Homelessness, 2012). Homeless courts, such as the one in Santa Monica, CA, that use alternative sentencing that encourages participation in housing programs have shown promising results in housing stability outcomes for people experiencing homelessness who have been arrested for minor status offenses (Buenaventura, 2018).

Permanent Supportive Housing and Rapid Re-Housing

Though some evidence suggests that permanent supportive housing (PSH), which combines non-timelimited affordable housing and wraparound support services, can improve health outcomes, housing stability, and reduce health costs for people experiencing chronic homelessness, its effects on those who have also had past experience with criminal justice system are inconclusive (Srebnik et al., 2013; New York City Department of Health and Mental Hygiene, 2013; Basu et al., 2012). Some evidence shows that participation in PSH programs can be effective at reducing recidivism for individuals with histories of homelessness recently released from incarceration (Listwan et al., 2018; Fontaine, 2013; Hickert & Taylor, 2011). Tsai and Rosenheck (2012) found that PSH participants with incarceration histories had the same positive health, employment, and housing outcomes as those with no incarceration histories. despite having more complex challenges due to their time spent incarcerated and chronically homeless. However, one study examining rapid re-housing, which is more short-term and is designed for individuals who need less intensive support services than those experiencing chronic homelessness, could not definitively determine a significant decrease in the risk of further criminal justice involvement and improved housing stability for formerly incarcerated individuals with histories of homelessness (Hignite & Haff, 2017). More research in this area should be undertaken to understand with more certainty the effects of certain housing interventions for this population.

> *This literature review was developed by: Ian Gabriel, Elly Schoen, and Victoria Ciudad-Real*



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