

REENTRY TALK

Community Service Society of New York
NY Reentry Roundtable

Keeping it Real: A Perspective on the Formerly Incarcerated in New York

by Gabriel Torres-Rivera

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I remember my first day out of prison after eight years. Walking toward my parents' house, I was concerned about more things than I could keep track of in my head. Where could I work? Where would I live? Would I have an understanding parole officer? My wife had left me during my incarceration and taken our three children with her, so I did not have a support network to ease my transition back into the community and society. All I had were my parents (who were struggling with money and job pressures themselves) and brothers and sisters with families of their own.

I was to be on parole for five years. At our first meeting, my parole officer told me he was unhappy that I had been released, and that he would look for chances to send me back to prison. Like the majority of those released from prison, my immediate needs were money and employment. I would need money for food and to house myself, and to buy clothes to wear to interviews. I would need a job to satisfy my financial needs and, most of all, to satisfy one of the main and most pressing conditions of my parole: to be gainfully employed. Everywhere I went for an interview, I would be asked about the “last place of employment” and whether I had been convicted of a felony. My answers to these questions would immediately rule me out as a prospective employee in many places.

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More than 1.6 million people are confined in American prisons across the country, an enormous number that places the U.S. incarceration rate first in the world. More than 600,000 prisoners are released annually,¹ adding to a population of nearly 12 million people with prior felony records—equal to 8 percent of the domestic labor force.² These statistics paint a disturbing picture: 5.4 percent of the adult population, 9.2 percent of the adult male population, and 23 percent of the African American adult male population are living with a prior felony conviction.³ Justice Department statistics also show that 38 percent of the current U.S. prison population is black, compared with about 12 percent of the general population. In 2008, African Americans were about six times more likely to be incarcerated than whites. The incarceration rate for Latinos was 2.3 times higher than whites.

The formerly incarcerated reentering their communities often face discrimination, limited work experience and preparation, and restrictions that impede their ability to earn a living and obtain basic necessities such as housing. Research shows that men who have been incarcerated have significantly lower wages, employment rates, and annual earnings than men who have never been incarcerated.⁴ But incarceration not only reduces pay and employment, it also effectively limits the kinds of jobs that are available, particularly when occupational licenses are required.

The Problem in New York

New York State makes access to many trades and professions more difficult for people with conviction histories. There are more than 120 occupational licenses in New York State,⁵ some of which require that their holders be of “good moral character.” This mandate effectively bars the licensing agencies from considering a person with a conviction history unless she or he can produce a Certificate of Good Conduct or a Certificate of Relief from Disabilities. Even then, agencies may deny licenses to people with conviction histories if their convictions are directly related to the license they seek, or if issuing the license would create a risk to persons or property.⁶ In some cases, licensing laws pose additional restrictions based on the nature of an applicant’s criminal record. For these reasons, people who have a conviction history, facing barriers to getting a job that requires a

license, and having few other options, may find themselves turning to their old networks, getting involved in the same situations that landed them in prison in the first place, and landing back there—far from the dreams and goals they set for themselves.

If an individual has the bad fortune to find him or herself reincarcerated, he or she will join tens of thousands of other New Yorkers in state custody. While rates of incarceration are down, there are nearly 59,000 people in New York State prisons, plus an additional 52,000 parolees and 119,000 probationers.⁷ Those who make up this population of nearly 230,000 often share several characteristics: low levels of education, a lack of work experience, few vocational skills, and substance abuse histories. All of these factors significantly limit their employment opportunities, even without the licensing barriers just discussed. The alarming unemployment rates of the formerly incarcerated (for example, in 2009, the unemployment rate for parolees in New York State reached 54 percent⁸) illustrate the extreme difficulties faced by those returning from prison and trying to provide for themselves and their families.

Parolees typically return to their home communities. In New York State, the majority of formerly incarcerated individuals return to a handful of New York City communities with high incarceration rates, including Central Brooklyn, Harlem, the South Bronx, and Jamaica, Queens. High concentrations of formerly incarcerated people, many without jobs or health care and some without homes, exacerbate poverty and destabilize the economic and civic life of these communities.

CSS Responds

The Community Service Society (CSS), an organization with a 165-year history of representing the needs of low-income New Yorkers, recognizes the challenges facing residents of our city who return to their families and communities after periods of incarceration. As the rate of incarceration has increased, and recidivism has undermined the stability of families, it has become clear that these individuals and their family members fall within the universe of persons that CSS has traditionally served. But a majority of New Yorkers also acknowledge the burden that incarceration imposes not only on affected individuals

but also on society as a whole. CSS conducts an annual survey of New Yorkers entitled *The Unheard Third*. When last polled, 75 percent of all respondents supported investing in public programs for the formerly incarcerated.⁹

Incarceration not only costs society money (New York State spends more than \$55,000 per prisoner, per year¹⁰) but it disrupts families by interrupting parent-child relationships and placing new burdens on governmental services such as schools, foster care, and adoption agencies. Incarceration also causes an erosion of social capital, political alienation, and distrust of public authority.¹¹

Reentry is a Continuum

CSS believes that people should begin to prepare for their return home—even if it will be years in coming—as soon as they are incarcerated. For this process to work, prisons and jails must provide inmates with tools and resources so that they will be prepared to manage a drug- and crime-free lifestyle in their communities, while developing attachments to the workforce. Reentry initiatives that include recovery programs for substance abusers, mental health programs, and especially transitional job training and career planning should begin the day the offender arrives at the correctional facility.

Research indicates that prison educational and vocational programs can improve behavior, reduce recidivism, and increase employment prospects upon release.¹² But they are not the entire answer. Jobs keep people from reentering prison. Without work, people have no way to support themselves and their families, and lose hope. Statistics bear this out: in New York State, 89 percent of people who violated the terms of their probation or parole were unemployed at the time of the violation.¹³ Transitional employment is a workforce strategy designed to overcome barriers to employment by combining work in time-limited, wage-paying jobs with skills development and supportive services designed to help participants move seamlessly into the labor market. In 2008–09, CSS successfully teamed with grassroots advocates Community Voices Heard to urge significant state investment in a promising workforce development model that combines transitional jobs, subsidized work,

CSS RESPONDS:

Our Work on Behalf of the Formerly Incarcerated

Sharing Information, Building Alliances

NY Reentry Roundtable and Albany Advocacy Day

The monthly **NY Reentry Roundtable** forum, convened by CSS, includes more than 50 member organizations, individual activists, and the formerly incarcerated, who meet to discuss ways to successfully transition those with conviction histories back into their communities and families.

CSS established the annual Albany Advocacy Day in 2007 as an outgrowth of the Reentry Roundtable, bringing more than 100 advocates each year to meet with key legislators in Albany to advocate on behalf of a legislative reform agenda.

Removing Barriers, Rebuilding Lives

Highlights of CSS Litigation Work

- CSS is co-counsel in a nationwide class action lawsuit brought under Title VII of the Civil Rights Act, which challenges the U.S. Census Bureau's practice of screening out job applicants who have arrest records, regardless of whether the arrest led to an actual criminal conviction.
- CSS brings and litigates discrimination claims on behalf of individual New Yorkers improperly denied jobs or occupational licenses by private companies and government agencies.
- CSS helps clients of its Record Repair Program (see below) to fix difficult problems with their New York State and FBI rap sheets, including sealing old arrests that did not lead to criminal convictions.
- CSS filed an *amicus curiae* brief in the New York State Court of Appeals supporting the Appellate Division's ruling in *Acosta v. New York City Department of Education* that protects people with conviction histories from employment discrimination by government agencies.

Building Skills, Supporting Second Chances

CSS Record Repair, MentorUP, and MentorCHIP Programs

- **The Record Repair Program** trains older adult volunteers to help people with conviction histories request, read, and repair their NYS Division of Criminal Justice Services rap sheets and criminal records maintained by consumer credit reporting agencies.
- **MentorUP** trains volunteer mentors to build the confidence and social skills of youth who are in Alternatives to Detention (ATD) programs. MentorUP's highly motivated volunteers work to help young people break the cycle of recidivism and carve out a better future.
- **MentorCHIP** offers site-based mentoring with an academic and asset-building focus to build the academic confidence and social skills of children ages 6–16 whose parents are incarcerated.

and paid education and training. CSS continues to pursue this and other policy improvements to lower the barriers facing formerly incarcerated New Yorkers on their reentry to the community.

CSS believes that laws which punitively restrict employment based on an individual's criminal history should be reviewed, and those provisions which are not directly linked to improving public safety should be eliminated. We worked to translate that belief into action. In recent years, with the help of CSS and other advocacy organizations from around New York State (including the Legal Action Center, Fortune Society, Bronx Defenders, and Women's Prison Association), several bills were passed to address legislative barriers to employment faced by the formerly incarcerated. In June 2009, New York State amended its alcoholic beverage control law to allow qualified individuals with criminal records to be employed in certain establishments that hold liquor licenses. Another law passed in 2009 addressed inconsistent references to certificates of rehabilitation in occupational licensing statutes, thus removing barriers to licensing previously faced by many New Yorkers. In 2008, legislation supported by CSS and its partner organizations eliminated the automatic disqualification of individuals with criminal records from applying for licenses to barber or practice cosmetology. These laws should provide new opportunities for the formerly incarcerated to obtain jobs in industries from which they were previously barred. However, CSS will continue to monitor the effects of this legislation to ensure that the formerly incarcerated benefit from these laws.

It is hard to identify which industries provide the greatest number of employment opportunities for the formerly incarcerated. The construction and building trades, which traditionally have been open to employing people with conviction histories, have been hurt by the economic downturn and are hiring fewer people overall—thus further exacerbating the difficulties experienced by the formerly incarcerated in seeking employment. While nonprofit organizations such as the Fortune Society, Center for Employment Opportunities, and the Women's Prison Association provide direct services—including transitional employment—to the formerly incarcerated and attempt to connect them to permanent jobs, the recession has hurt these organizations and limited the number of people they can realistically serve.

These programs provide direct help to people navigating the labor market—which in many cases has changed drastically during the years they were incarcerated. Particularly in these challenging economic times, however, preparation for joining the working world should begin even before release. CSS supports the revitalization of work release programs for individuals serving sentences for nonviolent crimes. These programs enable people to complete their final year of incarceration in a minimally restrictive environment where they can participate in appropriate community-based employment, education, and training, thus greatly increasing the likelihood of their successful reentry. Successful work release programs engage participants in realistic transitional planning, provide access to treatment for health, mental health, and chemical dependency needs, and give participants support in reuniting with family or acquiring permanent housing.

Finally, CSS supports several policies and practices that would facilitate the successful reintegration into society of New Yorkers with a criminal record:

- The state Legislature, which has considerable authority over the New York City's taxes, should adopt legislation that would allow the city to amend local tax laws to grant tax credits to businesses that hire qualified formerly incarcerated people. Since the majority of the state's formerly incarcerated populations reside in the five boroughs (specifically, the seven New York City communities mentioned above), New York City should be permitted to enact laws that would benefit both its businesses and its returning citizens.
- Given the severe economic downturn, more entry-level jobs now require higher skill levels than ever before. The State should be urged to redesign the vocational and educational programs within the Department of Correctional Services by creating training opportunities that are relevant to the modern workplace.¹⁴ Making sure that these programs are certified by the appropriate agencies (e.g. the State Department of Education) will ensure that they count toward obtaining occupational licenses when an individual is released.

- The Department of Correctional Services should also provide more educational opportunities for incarcerated people who have already completed their high school education or obtained a GED. Federal law was changed in 1994 to make incarcerated people ineligible for Pell grants, which almost immediately resulted in a reduction of 70 post-secondary prison programs to just four.¹⁵ The state equivalent of the Pell Grant Program, created after the federal program was eliminated, was terminated under the Pataki administration—a mistaken, short-sighted move. Education should not stop with a high school diploma or GED.

While our recommendations are not necessarily cure-alls, they certainly go a long way toward creating safer and stronger communities, reducing barriers to formerly incarcerated people when they return home, and making it possible to *stay* home by providing realistic work opportunities.

“ Since my release from prison in 1979, eight presidential elections have occurred, 21 U.S. Supreme Court Justices have taken the oath of office, and 10 attorneys general have been appointed—yet little has changed for the formerly incarcerated. I’ve worked hard to redeem myself and to make a good life for my family. I have an education degree and a law degree and have been fortunate in my career, but there are certain jobs I can never have because I am a formerly incarcerated person who was convicted of a felony.

Many people have this view of what a formerly incarcerated person is like, of some guy who is always looking to break the law. But the fact is that the great majority of us come out with hopes and dreams and aspirations. Unfortunately, we run into barriers that make it difficult for us to return to our communities in a constructive way. Until these antiquated, discriminatory policies and practices that impede our full reintegration are eliminated, I and anyone with a criminal record will continue to live on the margins of society.”

This is the first in a series of articles examining the experiences of people attempting to adjust to life after prison. Subsequent articles will explore the situation of the formerly incarcerated in the areas of housing, health care and mental health, job training, and civic participation.

NOTES

¹ Petersilia, Joan. *When Prisoners Come Home—Parole and Prisoner Reentry*. London: Oxford University Press. 2003.

² Pager, Devah. “The Mark of a Criminal Record,” *American Journal of Sociology*, Vol. 108, No. 5, 937-75 (March 2003).

³ Uggen, Christopher, Jeff Manza, and Melissa Thompson. “Citizenship, Democracy, and the Civic Reintegration of Criminal Offenders,” *The Annals of the American Academy of Political and Social Science*, Vol. 605: No. 1 (May 2006): 281-310.

⁴ Western, Bruce. “Mass Imprisonment and Economic Inequality,” *Social Research*, Vol. 74: No. 2 (Summer 2007).

⁵ See “New York State Occupational Licensing Survey,” ©2006 Legal Action Center.

⁶ N.Y. Correct. Law §755.

⁷ National Institute of Corrections: 2009 Statistics for the State of New York, <http://nicic.gov/features/statestats/?State=NY>, last visited August 18, 2010.

⁸ New York State Division of Parole website at www.parole.state.ny.us/program_stats.html, last visited August 13, 2010.

⁹ “The Unheard Third.” Community Service Society, 2006. At <http://www.cssny.org/research/unheardthird/index.html>.

¹⁰ National Institute of Corrections: 2009 Statistics for the State of New York, <http://nicic.gov/features/statestats/?State=NY>, last visited August 18, 2010.

¹¹ Weiman, David F. “Barriers to Prisoners’ Reentry into the Labor Market and the Social Cost of Recidivism,” *Social Research*, Vol. 74: No. 2 (Summer 2007).

¹² Gaes, Gerald G., et al. “Adult Correctional Treatment,” in Michael Tonry and Joan Petersilia (eds.), *Prisons* (Chicago, IL: University of Chicago Press, 1999); Kim A. Hull et al. “Analysis of Recidivism Rates for Participants of the Academic/Vocational/Transition Education Programs Offered by the Virginia Department of Correctional Education,” *Journal of Correctional Education* Vol 51: No. 2 (2000): 256-61;

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¹³ Mukamal, Debbie. “Confronting the Employment Barriers of Criminal Records: Effective Legal and Practical Strategies,” *Journal of Poverty Law and Policy*, January-February 2000.

¹⁴ National Institute of Corrections, The Independent Committee on Reentry and Employment. “Report and Recommendations to New York State on Enhancing Employment Opportunities for Formerly Incarcerated,” 2006.

¹⁵ New York State Commission on Sentencing Reform, “What Works in Correctional Programming,” 2007.