

Promoting Access to Stable, Permanent Housing for All New Yorkers

Reentry Housing in New York | Executive Summary

There are very few housing resources for persons exiting the criminal justice system in New York. Moreover, many persons will require affordable housing and supportive services in order to maintain stability. The lack of housing resources puts the over 90 thousand New Yorkers exiting New York prisons and jails annually at a high risk of homelessness and recidivism. Supportive housing is a proven cost-effective vehicle for stopping the revolving door of homelessness, incarceration, and crisis service use for persons who need housing combined with services. Others simply need suitable housing that they can afford, or would be able to move on from supportive housing if suitable alternatives were available. Persons with criminal justice history need fair access, consistent with public safety, to affordable and market rate housing in order to support successful reentry and reduce the risk of reincarceration.

An estimated 25 thousand people are released from New York State prisons each year, and of these, nearly half return to New York City.¹ In addition, nearly 81 thousand people were released from New York City Department of Corrections (DOC) jails in 2013.² Of all the issues facing returning prisoners, the need to secure housing is one of the most essential. Many of those released each year are homeless and have traditionally cycled out of prison and into the NYC shelter system,³ or unlicensed, unregulated three-quarter houses. In fact, analyses of the NYC Department of Homeless Services (DHS) adult homeless shelter populations in the city indicate that between 20-23 percent of homeless individuals have been incarcerated at some point in the two years prior to entering the shelter system⁴ and about 19 percent of persons released from NY State prisons last year listed shelters as their first known address.⁵

Recommendations

Supportive Housing

- The next City and State supportive housing agreement should dedicate 15% of new supportive housing resources (across all populations) to individuals and families with criminal justice histories and target supportive housing resources to the highest need persons.
- The City should employ a definition of chronic homelessness to include individuals cycling between incarceration and homelessness. The City should explore adopting a definition that includes episodic homelessness to include persons cycling between shelter and the criminal justice system, such as the U.S. Department of Housing and Urban Development (HUD) definition which includes individuals who have four documented episodes of homelessness in the past three years.
- The City should allow recently released persons who have served longer sentences, who otherwise meet eligibility criteria and are at risk of homelessness, to access supportive housing. These individuals are especially vulnerable due to lack of family and community supports during reentry.

Affordable Housing

- Expand housing options for formerly incarcerated persons and other very low-income individuals and provide pathways to improved conditions including developing legal shared housing options for unrelated adults, piloting enhanced shelter allowance payments to three-quarter houses that meet building and program standards, and the creation of a new local rental assistance program.
- The City should prevent housing discrimination against persons with criminal justice backgrounds by:
 - providing background checks to housing providers and developers to ensure that any information that cannot be considered, such as sealed records or information older than cutoff points is not used to discriminate against an applicant; and

¹ NYS DOCCS. 2010. 2007 Releases: Three Year Post Release Follow-up. Albany: New York State Department of Corrections and Community Supervision.

² New York City Department of Correction. During calendar year 2013, 80,807 people were released from NYC DOC jails.

³ Metraux, Stephen, Caterina Roman, and Richard S. Cho. 2007. "Incarceration and Homelessness." Washington, DC: US Dept. of Health and Human Services.

⁴ Burt et al. 1999; Eberle et al. 2001; Kushel et al. 2005; Schlay & Rossi 1992.

⁵ Navarro, Mireya. November 14, 2013. *Ban on Former Inmates in Public Housing Is Eased*. The New York Times.

- requiring that record of conviction be considered only at the stage that an individual has been determined eligible for an apartment and disqualification because of a record should meet criteria directly related to public safety.

Public Housing

NYCHA has recently taken tremendous steps towards promoting reentry by revising the permanent exclusion policy so that a single violation conviction no longer creates an automatic bar, starting the ineligibility “clock” at time of release from jail or prison, looking at whether the exclusion period has been met at the time that a person reaches the end of the waiting list rather than at the time of application, and creating the Family Reunification Pilot. But NYCHA still bars thousands of New Yorkers based on convictions.

- NYCHA should not use “blanket” bans on applicants with any conviction record, except the two narrow mandatory exclusions required by federal law.⁶
- No conviction should be used as a basis for termination or exclusion from tenancy unless NYCHA demonstrates that it considered: (1) the nature of the conduct and how it bears on the safety and security of other residents; (2) the gravity of the conduct; (3) the time that has passed since the conviction and/or completion of the sentence; and (4) evidence of the applicant / resident’s rehabilitation. NYCHA should provide a written statement of analysis of all factors. If NYCHA determines that a conviction bears a substantial relationship to tenancy, NYCHA should not deny the application based on the conviction if three years have passed since the applicant was placed on probation, paroled or released.
- The maximum length of exclusion from a household based on conviction or non-desirability should be three years, with opportunity to apply to lift the exclusion sooner, based on evidence of rehabilitation.
- NYCHA should never consider arrests or other unproven allegations, or sealed records when assessing an application or as any part of the basis for a permanent exclusion or termination proceeding and NYCHA should never begin termination proceeding before a case has been resolved.
- NYCHA should not exclude children under the age of 21 unless it can demonstrate that they pose an immediate threat to other tenants (or the general public).

Private / Market Rate Housing

The NYC Human Rights Law (§ 8-107 (11)) prohibits any inquiry about or adverse action based on *arrests not followed by a conviction* in connection with employment or licensing, but not for housing. By the same token, the Human Rights Law (§ 8-107 (10)) prohibits blanket discrimination based on conviction history in violation of Article 23-A of the NYS Correction Law.

- The City should Amend the NYC Human Rights Law HRL § 8-107 (11) to cover private landlords, and amend HRL § 8-107 (10) to create a parallel protection for housing, specifying that:
 - Private landlords may not implement “blanket” bans on housing applicants based on convictions.
 - No conviction should be used as a basis for termination or exclusion from tenancy unless the landlord demonstrates that s/he considered: (1) the nature of the conduct and how it bears on the safety and security of other residents; (2) the gravity of the conduct; (3) the time that has passed since the conviction and/or after release or placement on probation or parole; and (4) evidence of the applicant / resident’s rehabilitation.
 - Private landlords may not inquire about convictions if three years have passed since the applicant was placed on probation, paroled or released.
 - Private landlords must never consider arrests, other unproven allegations or information about cases that have been sealed or are confidential in assessing an application.

⁶ Persons Subject to Lifetime Sex Offender Registration (42 U.S.C. § 13663(a)) and Persons Convicted of Methamphetamine Production (42 USC § 1437n(f)) will be found ineligible.