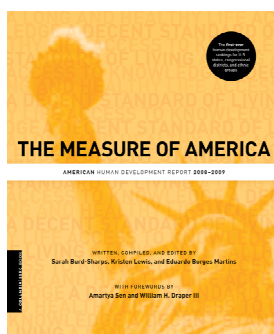


Benefits: Health Care, Employment, and Redemptive Opportunities for People with Criminal Records



BACKGROUND PAPER COMMISSIONED FOR:

THE MEASURE OF AMERICA American Human Development Report 2008-2009

**John Bouman, Wendy Pollack and Marcia Henry,
Sargent Shriver National Center on Poverty Law**
September 2007

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Health Care for All

Status

According to the U.S. Census Bureau, 47 million Americans were uninsured in 2006, up from 44.8 million in 2004. That represents about 1 in 6 Americans, and constitutes a 1.3 million increase since 2004. <http://www.census.gov/hhes/www/hlthins/hlthin06/hlth06asc.html>. The number of uninsured Americans has been growing since 2001, even after accounting for population growth. In 2001, 14.6 percent of Americans were uninsured; in 2005, that number was 15.9 percent: an extra 5.4 million people. <http://www.cbpp.org/8-29-06health.htm>. Unfortunately, lower income families bore the brunt of this decrease. <http://www.kff.org/insurance/upload/7667.pdf>.

The primary factor in the growing number of uninsured Americans is the decline of employer-sponsored health insurance. In 2001, 62.6 percent of people had employer-sponsored insurance. By 2005, that number was down to 59.5 percent. <http://www.cbpp.org/8-29-06health.htm>. In contrast, the prevalence of all types of insurance other than employer-sponsored, including individually-purchased private insurance, government programs (Medicaid and State Children's Health Insurance), Medicare, and military health care, increased over the five-year period. <http://www.cbpp.org/8-29-06health.htm>.

The costs of health insurance have dramatically risen in the 21st century. Since 2000, health insurance costs have increased by 87 percent. http://www.kff.org/insurance/7527/sections/upload/7527-section_11-2.pdf. In 2006 alone, insurance costs increased by 7.7 percent. That rate was more than twice the rate of inflation, and roughly twice the rate of increase in workers' earnings. http://www.kff.org/insurance/7527/sections/upload/7527-section_11-2.pdf. This increase is borne by both employers and employees. It accounts for the trend of decreased employer-sponsored insurance and for the trend of more employees who are offered health insurance nevertheless declining it because they cannot afford it.

The uninsured usually pay more than insured patients for the exact same services. Insurance companies are able to negotiate with providers to obtain lower prices for medical services, but uninsured patients do not have that luxury. <http://familiesusa.org/assets/pdfs/medical-debt.PDF>

These statistics show that the health care crisis cannot be fully understood only by looking at the uninsured. People with insurance face escalating costs, decreasing coverage, and the specter of employers dropping support for coverage altogether. In a recent study, researchers from Harvard University found that over half of all bankruptcies are due to expenses related to illness or injury.

Among those who filed for bankruptcy due to health expenses, the average out-of-pocket costs averaged about \$12,000 from the onset of the illness or injury. Roughly 75 percent of those who filed a health bankruptcy had insurance at the start of the medical problem, but one-third of that group lost insurance coverage over the course of the illness or injury.

<http://content.healthaffairs.org/cgi/reprint/hlthaff.w5.63v1>.

Insurance matters a great deal, however, both to those who do not have it and to those who have it and face the fear of losing it. Uninsured patients wait longer before obtaining health care for illness and injury, and tend to use health services much less than insured people.

<http://www.business.uconn.edu/healthcare/files/working-papers/2001-01.pdf>. Even upon obtaining care, uninsured people (children and adults alike) tend to receive fewer medical services and have worse outcomes than the insured. When uninsured people are admitted to the hospital, their recovery rates are worse than insured patients with the same injuries, the care uninsured patients receive is less aggressive than insured patients, and they are discharged sooner than insured patients. For example, uninsured children that are hospitalized due to injuries are twice as likely to die as insured children and 44 percent less likely to be discharged to rehabilitative care. <http://familiesusa.org/resources/publications/reports/the-great-divide-key-findings.html>. Among the population as a whole, uninsured Americans have higher rates of mortality and adverse health outcomes. <http://www.acponline.org/uninsured/lack-exec.htm>.

African American and Hispanic people are much more likely to be uninsured than white people. Between 2004 and 2005, 20.9 percent of African Americans and 34.3 percent of Hispanic Americans were uninsured. For white Americans, however, the uninsured rate was only 13.2 percent. Of course, one result of the insurance disparity is that minority Americans have much poorer health outcomes than white Americans. For example, both the infant mortality rate and the diabetes-related mortality rate among African Americans are more than twice as high as those rates among white people. Perhaps the starkest discrepancy is in the annual rate of AIDS cases. African Americans are nearly ten times more likely to have AIDS than whites, and Hispanic Americans are more than three times more likely.

<http://www.kff.org/minorityhealth/upload/7633.pdf>.

What can government do?

A comprehensive resolution of the health coverage and health care crisis is possible but has repeatedly been beaten back by entrenched interests, by ideological attitudes about the role of government, and, driven by these repeated failures, public skepticism that a solution involving a government role can ever happen. Thus there is the anomaly that the health care crisis is always a top public concern registered in virtually every poll, but serious and promising proposals to resolve it, attacked by the entrenched interests and anti-government ideologues, fail to gain consensus among jaded voters (who nevertheless continue to be outraged by the crisis and demand reforms).

Ultimately, it is the power of the enraged voters that will produce the reform. Reform is needed just as much by people who have insurance as it is by the uninsured. Thus the reform must be about more than covering the uninsured, but about comprehensive system reform that addresses not only guaranteed coverage but also cost control. This is very clear to the people themselves.

Health insurance issues dominate kitchen table angst in close to every household, 85% of which are insured -- everyone is outraged and frightened as a matter of narrow self-interest about their own security and control of their lives. Organizing aimed at the self-interest of the insured, added to the values-based organizing around the uninsured, can produce enough electoral power to trump the economic power of the opponents of government-assisted significant reform.

Substantively, significant reform should be based on 1) core values, 2) pragmatic, evidence-based ideas, 3) resources and implementation strategies that are loyal to the substantive program objectives while seeking efficient use of available funds, and 4) a "constant improvement" approach to implementation that is never satisfied or complete.

1. The core values should be at least that the health coverage be for all, that it be affordable at any income level, that it provide comprehensive preventive health care and treatment, and that it have a sustainable funding basis. A government-operated single-payer system could meet all of these values.

Canada's health care system, "medicare", provides universal and comprehensive health insurance coverage to all Canadians. Canada's publicly funded, single-payer system ensures that every Canadian receives all necessary medical services. (http://www.hc-sc.gc.ca/hcs-sss/index_e.html). The Canada Health Act establishes five program criteria that each province or territory must meet in administering its health program. The criteria include comprehensiveness, universality, and accessibility. http://www.hc-sc.gc.ca/hcs-sss/medi-assur/overview-apercu/index_e.html

But these values potentially can also be served by public-private hybrid systems. Some such systems offer "universal access", meaning that an affordable package of comprehensive coverage is offered to everyone, but there is not mandate that they buy it. Other systems mandate that everyone buy the insurance. Mandating insurance guarantees that there will be healthy people in the insurance pools, bringing down the cost for all. But mandates can be hard on low income people if they are not truly affordable.

In April 2006, the Massachusetts legislature created universal health care coverage by requiring all state residents to buy health insurance. The law requires employers with 11 or more employees to provide health insurance to their employees, or pay a contribution to the state. To help keep health care affordable, the state offers subsidized plans to individuals and small businesses. By May 2007, more than 100,000 people had gained health insurance through the system. (<http://www.kff.org/uninsured/upload/7494-02.pdf>)

There are a number of different ways to construct such systems, including insurance pools and sliding scale subsidies to make private insurance affordable, but they all are characterized by expansions of publicly funded coverage (Medicaid, SCHIP and state coverages) at the bottom levels of the economic scale. Low income people for the most part simply cannot afford health coverage on the private market no matter how low the cost is brought. Some states have augmented their public coverages by allowing beneficiaries to choose a cash subsidy to help pay the premium for private coverage ("premium subsidy"). Only one state, however, has implemented a premium subsidy as a free choice (meaning that the beneficiary can switch between public and private coverage freely). This is the better policy, because it creates both choice and competition.

Illinois implements this choice in its children's coverage program known as All Kids, and in its coverage for parents known as FamilyCare. See, www.allkidscovered.com and

www.familycareillinois.com. The premium subsidy part of these programs is known as "rebate". Beneficiaries can select a premium subsidy to help pay for private or employer-sponsored insurance, or they can choose public Medicaid-style coverage.

As this publication goes to press, American presidential candidates (recognizing the growing electoral power of public outrage over the health care crisis) are boldly promising national health care systems that aspire to satisfy these core values and that present sets of ideas in the public-private hybrid category that have a respectable chance to succeed.

The three leading democratic candidates for President, Senators Hillary Rodham Clinton, John Edwards, and Barack Obama, have all proposed dramatic changes to health care. Senator Clinton has advocated improving preventative care and decreasing medical errors. (<http://www.msnbc.msn.com/id/20002130/>). Senator Edwards would create universal access to health care by requiring employers to contribute to their employees' insurance, and making affordable health insurance available for uninsured families. (<http://johnedwards.com/issues/health-care/health-care-fact-sheet/>). Senator Obama would mandate universal health care for all Americans by requiring employers to contribute to the costs of insurance for their employees, while allowing individuals and small businesses to buy into a national health care plan that is similar to the plan available to federal employees. Senator Obama's plan is the only proposal that would require all Americans to be insured. (<http://www.barackobama.com/pdf/HealthPlanOverview.pdf>)

At a minimum, these proposals, if they are enacted and fall short of fully satisfying the core values, will nevertheless substantially move the health care issue forward to a new context in which everyone in the American public has become used to the notion that he or she has a right to decent and affordable health coverage. That would be an immense step forward from where the issue stands today.

2) Pursuit of the core values must create an atmosphere of action. Trying something is better than standing still in an unacceptable status quo. But the ideas that are tried should be based in pragmatism and not ideology. There should be a relentless pursuit of what works, meaning what accomplishes the core values in practice on the ground. If an idea does not have a track record, it could nevertheless have a compelling evidentiary basis from research that would be worth piloting. The devotion to pragmatism does not mean an end to experimentation. Promising new ideas can and should be piloted. Large-scale reforms should have some basis in pilots or in broad implementation in other jurisdictions. Similarly, the devotion to pragmatism means that existing institutions, markets, and financial interests receive no presumption of validity simply because they represent the status quo or a diminished role for government. They, too, must demonstrate results in accomplishing the core values, or else they must face change. The main point here is devotion to results in attaining the core values, not ideology about either health coverage specifically or the role of government (versus private markets) in general.

3) It is possible to achieve the dual holy grail of health care reform: improved patient outcomes and increased efficiency for health care dollars. But this cannot be achieved if the core values are sacrificed to an impatient demand for program savings or self-defeating inadequate levels of expenditures.

In response to decreasing revenue and rising Medicaid costs, many states have reformed their Medicaid programs. Some states have attempted to cut costs by creating competition among private insurers and providers. In Florida, former Governor Jeb Bush proposed Medicaid reform through which vendors compete for patients by offering different managed care options. Medicaid recipients would have a fixed stipend to spend on the plan of their choice. (<http://wphf.vwh.net/pubs/briefpdfs/Medicaid3.pdf>). Unfortunately, Florida's Medicaid changes have been unpopular with both beneficiaries and providers. Less than a year after the reforms were implemented, provider participation in Florida's Medicaid program has declined, and those providers that participate see fewer Medicaid patients. Medicaid beneficiaries overwhelmingly prefer the prior health plan. (<http://hpi.georgetown.edu/floridamedicaid/pdfs/briefing2.pdf>)

The core values call for a focus first on health outcomes. Over time, this focus on prevention, early detection of conditions, and good sustained maintenance care, will reduce expenditures on acute care while improving peoples' overall health, quality of life, and life chances. This could well reduce the overall per person costs of the health care system, and, in any event, will produce an efficient return on the health dollars invested.

Primary Care Case Management (PCCM) can help prevent unnecessary health problems among Medicaid recipients. Under a PCCM program, participants are given a primary care physician, who approves and advises the patient's medical decisions. North Carolina was one of the first states to design and implement a statewide PCCM program. The Community Care Program in North Carolina identifies Medicaid recipients that need case management (for example, patients with complex health conditions) and ensures that they have an appropriate primary care physician.
(http://www.shepscenter.unc.edu/research_programs/rural_program/wp76.pdf)

For people with chronic conditions, the careful management of care can substantially reduce expenditures, even in the short term.

Florida and North Carolina both have innovative strategies for managing Medicaid patients with chronic conditions. In Florida, Disease Management Organizations coordinate care and provide information for patients with disease. North Carolina has established a system of community networks. Each network has a case manager who coordinates with local physicians to make sure patients with illness are receiving appropriate treatment.
(http://www.shepscenter.unc.edu/research_programs/rural_program/fb_77.pdf)

In addition, both improved health outcomes and increased efficiency can be obtained by a move toward electronic medical records, to replace the chaotic paper-based systems now in place.

Around the country, hospitals and clinics are using electronic medical record (EMR) programs to reduce medical errors. An EMR program keeps track of patient health information with an electronic database. With EMRs, physicians can easily access information about new patients, which improves the quality of care and saves money.
(http://healthit.ahrq.gov/portal/server.pt?open=514&objID=5554&mode=2&holderDisplayURL=http://prodportallb.ahrq.gov:7087/publishedcontent/publish/communities/k_o/knowledge_library/key_topics/health_briefing_01232006114616/electronic_medical_health_records.html).
Research suggests that EMR systems will pay for themselves within the first few years.
(<http://healthit.ahrq.gov/portal/server.pt?open=514&objID=5554&mode=2&holderDisplayURL>

[=http://prodportallb.ahrq.gov:7087/publishedcontent/publish/communities/k_o/knowledge_library/key_topics/health_briefing_01232006114616/electronic_medical_health_records.html\)](http://prodportallb.ahrq.gov:7087/publishedcontent/publish/communities/k_o/knowledge_library/key_topics/health_briefing_01232006114616/electronic_medical_health_records.html)

4. Circling back to the core values and the importance of pragmatism, any system of health coverage reform should be constantly evaluated and approached with a "constant improvement" mentality. There has never been a perfect system. Enactment of the first comprehensive system in America will inevitably be an experiment. It will fall short in various ways. Evaluation should consist of formal and data-based methods that feed an ever-developing agenda for improvements. But evaluation should also include a community-based "information loop" that is institutionalized. This loop should involve a give and take of information: the presentation by program operators of information about the program to community-based providers, institutions and groups, and the reception by them of information from the community about implementation issues and best practices, program shortcomings and successes, and ideas for improvement. That community-based information should be an important input for the program's agenda for reinforcing what it is doing well and for constant improvement.

Make Work Pay

Status

In 2004, 7.8 million people made up the "working poor," meaning they lived below the federal poverty level despite working at least 27 weeks of the year. This group made up 5.6 percent of the labor force. Black and Hispanic workers were more than twice as likely to be among the working poor, compared to their white counterparts. In fact, at every level of educational attainment, Black and Hispanic workers were more likely to live in poverty than whites. <http://www.bls.gov/cps/cpswp2004.pdf>.

Besides the 7.8 million working poor, there are more than 30 million Americans who work in jobs that pay poverty-level wages. http://www.nccp.org/publications/pub_647.html#challenges. There are more than 40 million Americans who earn less than two-thirds of the median income. <http://www.inclusionist.org/files/lowwagework.pdf>. These low-wage workers make up one-fourth of the U.S. labor force. Unfortunately, low-wage jobs are unstable, are less likely to offer benefits, and are often dangerous or monotonous.

The root of the problem is not that low-income people do not work enough. A majority (58.3 percent) of the working poor worked full-time in 2004. In other words, roughly 4.5 million people lived in poverty in 2004, despite working full-time. <http://www.bls.gov/cps/cpswp2004.pdf>. Clearly, the problem stems from wages, not work hours.

One problem with low-wage work is that there is very little mobility. In the last 30 years, the wages of workers with only a high school degree have stagnated or decreased. http://www.nccp.org/publications/pub_647.html#challenges. For example, in a study following roughly 2,750 father-and-son pairs between 1979 and 1998, researchers found that nearly 70 percent of the sons had remained at the same level or done worse than their fathers. The biggest

increase occurred at the top of income scale, where wealthy sons often surpassed their fathers' earnings. (*Meritocracy in America: Ever high society, ever harder to ascend*, The Economist, January 1, 2005).

Low-wage workers cannot earn enough to support a family. The National Center for Children in Poverty (NCCP) estimates that a single mother, earning \$8.00 per hour (nearly \$3.00 above the minimum wage) would need to work 98 hours per week to support two children. http://www.nccp.org/publications/pdf/text_666.pdf.

Another problem is that as income increases, low-wage workers earn their way out of work support programs that help pay for food, health care, and child care. For example, if a low-wage worker with two children increases her salary from \$35,000 to \$36,000 per year, her expenses will increase by roughly \$6,000 because she will lose her child care subsidy. The worker will have to earn \$47,000 to be at the same resource level she had when her salary was \$35,000. http://www.nccp.org/publications/pdf/text_666.pdf. When families cannot make ends meet they are forced to sacrifice important necessities. For example, a single parent may choose child care that is less expensive and less stable. Workers may go without health insurance or prescription drugs. A family may move to an unsafe neighborhood, or could go hungry at the end of the month. http://www.nccp.org/publications/pdf/text_666.pdf.

As wealth inequality continues to expand, low-income people often fail to save. Though wealthy earners have vastly increased their assets in recent years, low-wage workers have struggled to do so. The problem is even more pronounced among African American and Hispanic families. Sixty percent of African American families have zero or negative net wealth. For Hispanic families, that number is 26 percent. <http://www.financeproject.org/publications/StrategiestoBuildAssets.pdf>.

In addition to the fact that it is difficult to accumulate wealth when earnings do not match expenses, there are additional reasons why asset poverty is so prevalent among low-wage workers and low-income people. For one thing, low-income people face higher costs to access financial services, which frustrates the goal of building assets. Also, low-wage workers are unlikely to have direct deposit, and may lack steady pay. <http://www.financeproject.org/publications/FESunbanked.pdf>. Most of the asset-building investments in American public policy are targeted to higher income people: various tax incentives for retirement savings; no income tax on employer-provided health insurance; home mortgage deduction; lower capital gains tax rate. There are very few similar asset-building public investments targeted for low-income workers.

What can government do?

Assuming that there will always be people at the lower end of the workforce, government can take several steps to make those jobs better – make them cover more of a family's expenses and basic needs. This is a matter of fundamental fairness regarding what standard of living anyone should have who engages in full time work. It is not only an expression of our society's values regarding work, but it is also a pragmatic concern regarding the incentives for people to engage in legitimate employment. Government can have a substantial impact on “making work pay”

through direct laws supporting higher wages, the tax system, the collective bargaining arrangements, and an array of key work support programs (e.g., child care subsidies, health insurance, nutritional assistance).

The most obvious direct income support for low wage workers is the minimum wage. The federal minimum wage was stagnant for ten years until it was increased in legislation 2007. The wage will increase to \$5.85 per hour in summer 2007, \$6.55 per hour in summer 2008, and \$7.25 per hour in summer 2009. After that, it will resume stagnating as against the cost of living, because it is not indexed. Many states did not wait for the federal increase and have enacted their own minimum wage laws, and some have indexed their minimum wage.

State minimum wages are as follows:

| State | Minimum Wage | State | Minimum Wage |
|-------------------------------|--------------|-------------------------|--------------|
| • <u>Alaska</u> | \$7.15 | • <u>Montana</u> | \$6.15 |
| • <u>Arizona</u> | \$6.75 | • <u>Nevada***</u> | \$6.33 |
| • <u>Arkansas</u> | \$6.25 | • <u>New Jersey</u> | \$7.15 |
| • <u>California</u> | \$7.50 | • <u>New York</u> | \$7.15 |
| • <u>Colorado</u> | \$6.85 | • <u>North Carolina</u> | \$6.15 |
| • <u>Connecticut</u> | \$7.65 | • <u>Ohio</u> | \$6.85 |
| • <u>Delaware</u> | \$6.65 | • <u>Oregon</u> | \$7.80 |
| • <u>District of Columbia</u> | \$7.00 | • <u>Pennsylvania</u> | \$6.65 |
| • <u>Florida</u> | \$6.67 | • <u>Rhode Island</u> | \$7.40 |
| • <u>Hawaii</u> | \$7.25 | • <u>Vermont</u> | \$7.53 |
| • <u>Illinois</u> | \$7.50 | • <u>Washington</u> | \$7.93 |
| • <u>Iowa</u> | \$6.20 | • <u>West Virginia</u> | \$6.55 |
| • <u>Kentucky</u> | \$5.85 | • <u>Wisconsin</u> | \$6.50 |
| • <u>Maine</u> | \$6.75 | | |
| • <u>Maryland</u> | \$6.15 | | |
| • <u>Massachusetts</u> | \$7.50 | | |
| • <u>Michigan</u> | \$7.15 | | |
| • <u>Minnesota**</u> | \$5.25* | | |
| • <u>Missouri</u> | \$6.50 | | |

**\$5.25 rate are for companies w/less than \$625,000 gross annual volume of sales or business. Business with more than \$625,000 gross annual volume of sales or business will have a minimum wage rate of \$6.15.

***\$6.33 rate are for businesses that do not offer health insurance coverage to employees and \$5.30 for businesses that offer health insurance.

Arizona, Florida and Montana have indexed their minimum wages to adjust to inflation. California, Delaware, Illinois, Iowa, Maine, Massachusetts, Michigan, Pennsylvania and West Virginia have all scheduled additional increases in future years. See,

<http://www.laborlawcenter.com/state-Minimum-Wage-rates.asp>.

The minimum wage, however, is no longer adequate to meet basic subsistence needs in most parts of the country. Over 70 localities have adopted a "living wage" requiring certain employers to pay more than the minimum wage. The living wage level is usually the wage a full-time worker would need to earn to support a family above federal poverty line, ranging from 100% to 130% of the poverty measurement. The wage rates specified by living wage ordinances range from a low of \$6.25 in Milwaukee to a high of \$12 in Santa Cruz. In addition to setting wage levels, many ordinances also have provisions regarding benefits (such as health insurance and paid vacation), labor relations, and hiring practices. See, http://www.epinet.org/content.cfm/issueguides_livingwage_lwo-table (providing list of 71 living wage ordinances or statutes now in effect).

Wider Opportunities for Women has developed a Family Economic Self Sufficiency campaign. As part of that campaign, WOW has developed a "Family Self Sufficiency Standard" for each state, adapted to specific counties. The standard is built around essential family costs for particular families (number and ages of children), including housing, child care, food, transportation, health care, taxes and miscellaneous expenses. Tax credits are subtracted. The total is then translated into the hourly wage that is needed to generate the amount of money indicated by the budget. For example, the "self-sufficiency wage" for a family consisting of an adult, a preschooler, and a school age child in Tulsa, Oklahoma, is \$15.74 per hour. See, http://www.wowonline.org/docs/FINAL_FESS_report_072103.pdf

The federal income tax system has been a productive place for improving the bottom line for working families. The refundable Earned Income Tax Credit is now the largest income "transfer" program for low income workers, and the Child Tax Credit also helps families. Many states have begun to develop similar credits to add onto the federal credits. These credits can be substantially improved. In addition, the credits are mostly not available to non-parenting adults. Government can enhance the lives of working people by making tax systems supportive and fair.

Recent research on the impact of the EITC is synthesized in "The Earned Income Tax Credit: Boosting Employment, Aiding the Working Poor", Robert Greenstein, Center on Budget and Policy Priorities (August 17, 2005) (available at <http://www.cbpp.org/7-19-05eic.htm>). The EITC increases employment, especially for mothers with young children and mothers with low education levels. There are corresponding decreases in welfare reciprocity. The EITC also lifts millions out of poverty. In 2003, the poverty rate among children would have been one-fourth higher without the EITC. Leading recommendations to improve the EITC include strengthening it for non-parenting adults and for families with more than three children.

Another factor that improves working people's lives is whether or not they benefit from collective bargaining in their workplace. When workers have power they are able to negotiate better wages and benefits. See, John Schmitt, Margy Waller, Shawn Fremstad and Ben Zipperer "Unions and Upward Mobility for Low-Wage Workers", Center for Economic and Policy Research (August 2007) (unionized workers in 15 low paying job categories are paid 15% higher

and are 25% more likely to have key benefits) (available at http://www.cepr.net/index.php?option=com_content&task=view&id=1279&Itemid=8). Under the Bush Administration, the attitude of the federal government has been to curtail collective bargaining rights and to fail to enforce fair labor practices requirements. The government can go a long way towards improving jobs and working conditions by taking a more even-handed approach to collective bargaining and organizing issues.

One of the growing areas for collective bargaining is among family child care providers. These child care workers are essentially self-employed, so there is no conventional "employer" with whom to bargain. One solution, followed in Illinois, is for the Governor to recognize that the state itself, as payer of child care subsidies, is the "employer" for purposes of collective bargaining. See <http://www.nwlc.org/details.cfm?id=2987§ion=newsroom>. For a survey of different unions forms, functions and collective identities, see Howard Wial, "The Emerging Organizational Structure of Unionism in Low-Wage Services," *Rutgers Law Review* 45 (Spring 1993):671-738.

Work supports can provide needed work-enabling services to families while also improving their financial bottom line. The leading work support programs are child care subsidies, health coverage, food stamps, transportation assistance, and housing help. There are many ways to expand and improve these work supports programs and to make them more effectively interact with each other.

The Center for Economic and Policy Research (CEPR) is studying the impact of work supports programs on the ability of low income working families to make ends meet. CEPR's Bridging the Gaps project is identifying large numbers of eligible families that could benefit from work supports programs but are not enrolling, and it is identifying ways to improve enrollment. See, <http://www.bridgingthegaps.org/>.

The National Center for Children in Poverty (NCCP), in its Making Work Supports Work project, has identified the ways that work supports programs do not work well together and so not smoothly phase workers off of the programs as income rises. NCCP has developed a computerized "Family Resource Simulator" that provides states with comprehensive data on these issues and allows the states to model policy improvements. See, <http://www.nccp.org/projects/mwsw.html>.

Guarantee Economic Safety for People with Employment Challenges

The Problem

There are 36.5 million people in the United States living in poverty.¹ That is equivalent to the number of people that make up the entire population of California.² Welfare in the United States

¹ "Income, Poverty, and Health Insurance Coverage in the United States: 2006", U.S. Census Bureau (Aug. 2007) at 11.

has never been universal, comprehensive or adequate. That means that even in years with the highest number of recipients, welfare, especially cash assistance, has never met the actual need.³ The categorical nature of welfare in the United States means that only a portion of those in need receives benefits.⁴ And, eligibility does not necessarily translate into receipt--there is a significant population of people eligible to receive assistance but do not. In addition, welfare, particularly cash assistance, does not provide an adequate standard of living for recipients in order to meet their basic needs. And finally, one result of the categorical nature of welfare in the United States, except for the elderly and those who can meet a very strict definition of disabled, most adult welfare recipients are generally considered able to work but may, in fact, be unable to work at all or not with a significant amount of services and support.⁵ There are large numbers of unemployed people who have medical conditions that hamper or fully prevent their employment, because those conditions are undiagnosed and/or untreated. Mental health issues are especially in this category. In addition, other chronically unemployed people, themselves capable of successful employment, are out of the workforce because they are performing valuable services in their homes by caring for family members with disabilities or with other difficulties (e.g., children with school or legal issues, navigating violent neighborhoods, persistent homelessness). For many of these types of families, employment by the adult outside of the home is not the best public policy or use of public funds.

The need is clear; the problem is the will to solve the problem. Costs are, of course, an issue. Among the American public there is dissatisfaction with the nation's efforts to deal with poverty and support for greater government assistance for the poor, however it is not a top priority.⁶ At the same time, the American public holds fast to the notion of the American Dream and believe that to be poor and receive welfare in the United States means you have rejected the core values of its populace, including independence and hard work.⁷ This dissonance of opinion about poverty, and more pointedly, about poor people, is reflected in the disparate welfare policies and programs currently and throughout United States history.

Government Role

The federal, state, or local responsibility to provide welfare has generally been accepted. The concept of welfare as state-sponsored charity, however, rather than a right, has deep roots. From colonial days forward, welfare has been a public responsibility, but with a mix of public and

² Population estimate for 2005, "State & County QuickFacts, California", U.S. Census Bureau (updated Jan. 12, 2007), available at <http://quickfacts.census.gov/qfd/states/06000.html>.

³ See, e.g., Dorothy Rosenbaum, *Families' Food Stamp Benefits Purchase Less Food Each Year*, Center on Budget and Policy Priorities (revised Mar. 9, 2007), available at <http://cbpp.org/3-6-07fa.htm>; *Report on Recommendation for TANF Grant Increases of 15 Percent in Fiscal Years 2008, 2009, and 2010*, Social Services Advisory Committee, Illinois Department of Human Services (Mar. 9, 2007) (Illinois' TANF grants are so low that they put families at risk) (on file with the author).

⁴ In addition to income and assets limits, most welfare programs have criteria that limit access to specific populations, e.g., elderly, people with disabilities, or families with minor children.

⁵ See, e.g., Sandra Hauser, *Jobless, Penniless, Often Homeless: State General Assistance Cuts Leave "Employables" Struggling for Survival*, 27 Clearinghouse Review 1456 (Apr. 1994) (Hundreds of thousands of adults terminated from cash assistance and considered employable, were in fact unable to obtain or retain employment).

⁶ Meg Bostrom, *Achieving the American Dream: A Meta-Analysis of Public Opinion Concerning Poverty, Upward Mobility, and Related Issues*, Douglas Gould & Co. (2002) at 10 [hereinafter *American Dream*].

⁷ *American Dream* at 7, 12-15. But *cf.*, there are great disparities between Blacks and whites in how poverty and the poor are perceived. *Id.* at 16.

private agencies serving the needy. Local responsibility translated into localized policies and programs, which meant that neighboring towns could have very different programs in place—including the purpose, eligibility, the type and amount of benefits, and work, residency and other requirements. Over time, the responsibility shifted from a uniquely local one of towns and cities, to townships and counties, generally with state oversight. Private charities always played a significant independent role in providing relief to the poor. But the volunteer aspects of these private agencies gave way to a more secular, professionalized bureaucracy, as did government involvement. As the United States urbanized, the number and needs of the poor became more obvious. And with the economic cycles of recessions and depression, the inability of private efforts and local governments to respond effectively was exposed. States responded with an expansion of welfare, welfare departments, and greater cooperation between government and the private philanthropic sector. But this too was a non-system, with individual states providing as much or as little relief to whomever they thought deserving.⁸

By the time Franklin Roosevelt became president in 1933, the United States economy had already spiraled down into the Great Depression with 13,000,000 people unemployed, about one third of the available work force, joining the ranks of the already destitute.⁹ Even though they were able to meet only a fraction of the need, private agencies had exhausted their resources, and cities and states were on the edge of bankruptcy.¹⁰ Clearly federal action was required. Roosevelt acted quickly to establish the first federal relief system and a massive civil works program. President Roosevelt signed the Social Security Act of 1935, which created both social insurance programs and welfare programs.¹¹ Eligibility for social insurance programs is linked to the amount of an individual's earnings over a particular period of time (i.e., Social Security for the elderly and Unemployment Compensation for laid-off workers). Eligibility for welfare programs is based on financial need and targeted to specific populations who are very poor (i.e., Aid to Dependent Children (ADC) and grants to states for the needy elderly and blind). While other western countries developed a blend of social policies and benefits for people across economic classes that blurred the distinctions between social insurance and welfare, the Social Security Act of 1935 reinforced in United States federal policy the distinction between programs for "everyone" and programs for the poor that persists to this day.

While poverty itself is not complex, what makes people poor and keeps them poor is, and is reflected in welfare policies and programs. Policymakers must recognize and accept the role racism, sexism, and xenophobia has played and continues to play in our effort to find solutions (women and people of color carry most of the burden of poverty in the U.S.¹²). Also, the role of the business community interests in keeping certain populations of poor people in or out of the

⁸ See, Michael B. Katz, *In the Shadow of the Poorhouse: A Social History of Welfare in America*, rev. ed. [New York: Basic Books, 1996] [hereinafter *Poorhouse*].

⁹ The White House, History & Tours, Past Presidents, available at <http://www.whitehouse.gov/history/presidents/fr32.html>.

¹⁰ *Poorhouse* at 220-224.

¹¹ The language of the original Social Security Act of 1935 is available at <http://www.ssa.gov/history/35activ.html>.

¹² There are 14.6 million women living in poverty, with women and their children making up the majority of the people who live in poverty (almost 13 million children). Even with the same level of educational attainment, women are much more likely to be poorer than men with an equivalent credential. Single mothers are more than twice as likely to be poor than single fathers. And among the aged, women are 67 percent more likely to be poor than men. [get figures on African Americans and Latinos]

labor market, the need to maintain civil order, particularly in times of high unemployment, and the desire to control the perceived immoral behavior of poor people, such as alcoholism and drug addiction and out-of-wedlock births. Government needs to lead the way in treating all people with dignity and deserving of an adequate standard of living.

Welfare programs have evolved over time, and despite some good efforts, the need has never disappeared, nor even drastically reduced, as there continues to be whole populations that receive little or no relief. The unacceptably high poverty levels demonstrate a need only government has the resources to fulfill, not just to cover the costs and to ensure program integrity, but to ensure that everyone, regardless of age or ability to work, is guaranteed the means necessary to procure basic needs and services.

Significant reform should be based on the understanding that we are all human beings deserving of dignity and valued as worthy, and entitled to economic safety. Core values should at minimum include that economic safety be for all regardless of age or the ability to work, that an adequate standard of living is provided in order to meet basic needs, and that there is a sustainable funding basis that is immune from competition with other funding priorities. The policies and programs that move those with employment challenges into work or into more sustainable employment should be pragmatic, evidence-based ideas. And there should be continuous evaluation of implementation to insure that resources and implementation strategies are loyal to the substantive program objectives and an efficient use of available funds. Government must leverage its resources to promote and provide lifelong learning, and create the supports needed as people move across jobs or in or out of the labor force as their life circumstances change over time.

Effective Responses

Policymakers must understand that the first step in ending poverty is a guarantee of economic safety. This would encompass an expansion of current social insurance and welfare programs, including the elimination of the categorical nature of the programs, the reintroduction of the entitlement to benefits and services, raising benefit levels and establishing at least minimum levels throughout the country, and indexing benefits so that they keep pace with inflation—universal, comprehensive, and adequate.¹³

Whether or not that actually happens, there are numerous ways to transition people out of poverty, even those with employment challenges: improving low-wage work (See, "Make Work Pay" section of this chapter); expanding access to social services—mental health treatment, domestic and sexual violence counseling; and expanding access to quality education and training at every phase of employment, such as Transitional Jobs, programs like Illinois' Job Training and Economic Development (JTED) program that requires vocational training providers to work directly with employers, bridge programs that result in participants acquiring a credential (certificate or college degree), on-the-job-training (OJT) for trainees and incumbent worker

¹³ The Social Security program is often credited with the dramatic decline in poverty among the elderly. *See e.g.*, Gary V. Engelhardt and Jonathan Gruber, *Social Security and the Evolution of Elderly Poverty* (2004) (the rapid decline in poverty among the elderly in the 1960s and 1970s can be attributed directly to the growth in Social Security benefits), available at <http://urbanpolicy.berkeley.edu/smolensky.htm>.

training for those already employed.¹⁴ Creating a pipeline toward career-path employment for people with employment challenges is a necessary ingredient to ensure that poor people are an integral part of workforce and economic development plans at all levels of government. Recognizing the right to social security under international human rights law would aid in this—seeing everyone, even the most disadvantaged among us, as part of us, part of a growing economy—part of the solution. The following are first steps toward that goal.

1. Change how success is measured in alleviating poverty, from caseload reduction to poverty reduction.

Welfare programs like TANF should have outcome measures that are meaningful. Unlike the current TANF caseload reduction and work participation measures, new measures should demonstrate program goals of escaping poverty. Four measures with both meaningful and beneficial outcomes for all low-income people are:

- (a) the percent of people in the United States (or any particular state or geographic area) at or below 200 percent of the federal poverty guidelines that receive all the public benefits they are eligible for;¹⁵
- (b) the percent of recipients, former recipients and non-recipients employed, increases in income over time, and those earning at least 200% of the federal poverty level;

¹⁴ The Ticket to Work and Self-Sufficiency Program is a program of the Social Security Administration that allows disabled recipients to engage in work and training activities, to test their ability to work, without fear of losing their benefits. More information is available at http://www.yourtickettowork.com/program_info. For a discussion of and examples of other listed policies and programs see, e.g., *Implementing the TANF Changes in the Deficit Reduction Act; "Win-Win" Solutions for Families and States*, at 25-65, Center on Budget and Policy Priorities and Center for Law and Social Policy (2nd ed., Feb. 2007), available at <http://www.cbpp.org/2-9-07tanf.pdf>; *Investing in Success: Educational Supports for Illinois Community College Students, Women Employed* (Feb. 2006) (students need academic, personal and career services, reliable and flexible child care, and reliable and affordable transportation to succeed in school), available at <http://www.womenemployed.org/docs/SupportServicesReport.pdf>; Amy-Ellen Duke, Karin Martinson and Julie Strawn, *Wising Up: How Government Can Partner with Business to Increase Skills and Advance Low-Wage Workers*, Center on Law and Social Policy (Apr. 2006), available at http://www.clasp.org/publications/wise_up_2006.pdf; Greg Schrock and Davis Jenkins, *Partnerships for Job Training and Economic Development, An Evaluation of Illinois' JTED Program*, Chicago Jobs Council (2006), available at <http://www.cjc.net/docs/JTED0106web.pdf>; and Anita Mathur with Judy Reichle, Julie Strawn, and Chuck Wisely, *From Jobs to Careers, How California Community College Credentials Pay Off for Welfare Participants*, prepared by the California Community Colleges Chancellor's Office for the Center on Law and Social Policy (May 2004), available at http://www.clasp.org/publications/Jobs_Careers.pdf.

¹⁵ The U.S. Department of Health and Human Services poverty guidelines is the most commonly used indicator of economic well-being of low-income people and the most commonly used basis for determining financial eligibility for need-based programs. The 2007 guidelines put a family of four with an annual household income at or below \$20,650 in poverty. 72 Fed. Reg. 3,147-48 (Jan. 24, 2007). The federal guidelines are themselves a point of controversy, with most critics arguing that they do not accurately reflect the material well-being of low-income people. See, e.g., "Measuring Poverty: A New Approach", Executive Summary, National Resource Council (1996), critiquing the current measure and recommending an alternative, available at <http://books.nap.edu/readingroom/books/poverty/summary.html>; Nancy K. Cauthen and Sarah Fass, *Measuring Income and Poverty in the United States*, National Center for Children in Poverty (Apr. 2007), available at http://nccp.org/media/mip07_text.pdf. An analysis of U.S. Census Bureau data by Jared Bernstein, Senior Economist and Director of the Living Standards program at the Economic Policy Institute, shows that it takes about two times the poverty guidelines to make ends meet in a typical American city. Presentation, "Using the 2006 Poverty, Income, and Health Insurance Data to Make the Case for Human Needs", (Aug. 21, 2007), available at http://www.bostonconferencing.net/index.php?option=com_content&task=view&id=182&Itemid=157.

- (c) the percent of applicants and recipients and non-recipients enrolled in education and training programs and those who have completed education and training programs which lead to a job with a median income of at least 200 percent of the federal poverty level; and
- (d) The percent of applicants, recipients, former recipients, and non-recipients engaged in barrier reduction services, such as domestic violence counseling, mental health counseling, treatment for drugs and alcohol abuse, and vocational rehabilitation services.

Institutionalizing these four measures of success, working toward steady increases in these four measures over time, and making available the necessary financial resources will begin to ensure that good policies, good practices and good intentions translate into real success for low-income people.

2. Remove barriers to education and training for public benefits recipients (e.g., TANF, Food Stamps) and other low-income people.

Earnings increase significantly by levels of education attained above a high school diploma.¹⁶ Given the strong link between educational attainment and earnings, welfare recipients and other low-income people must be afforded the opportunity to participate in education and training that will improve their earning capacity. This includes Adult Basic Education (ABE), English as a Second Language (ESL), high school and General Education Equivalent (GED) certificate programs, vocational training and higher education.

- (a) Federal TANF laws and regulations poses significant barriers to education and training. For example, vocational training is a “countable” activity that counts toward federal work participation rates, but only for up to 12 months. The Deficit Reduction Act (DRA) of 2005 and its implementing rules made it even more difficult for TANF recipients to participate in education and training programs.¹⁷ The new rules that become effective October 1, 2007, prohibit states from counting programs leading toward a bachelor degree as vocational training (the only work activity in which full-time participation in education is countable). And, states can no longer disregard the number of TANF recipients attending college when counting the number of recipients engaged in “approved” activities. Also, blended activities, ones that combine activities such as barrier reduction services and vocational training, are effectively banned. These barriers to economic advancement must be removed and replaced with rules that allow and encourage greater access to education and training, including college.¹⁸

¹⁶ *Working Together: Aligning State Systems and Policies for Individual and Regional Prosperity*, Workforce Strategy Center ((Dec. 2006) at 1-2, available at http://www.workforcestrategy.org/publications/WSC_workingtogether_12.1.06_3.pdf.

¹⁷ TANF was reauthorized and amended by Title VII of the Deficit Reduction Act of 2005 (DRA), Pub. L. 109-171, 120 Stat. 4, 135-137. *See also*, Reauthorization of the Temporary Assistance for Needy Families Program: Interim Final Rules, 71 Fed. Reg. 37,454-37,483 (2006) (to be codified at 45 C.F.R. §§ 260 *et seq.*).

¹⁸ Maine’s Parents as Scholars (PaS) program provides parents who are eligible for TANF with cash assistance and support services while they attend a two or four year post-secondary degree program. PaS graduates were substantially better off as a result of their participation in PaS than other Maine TANF recipients. *See*, Rebekah J. Smith, Luisa S. Deprez, and Sandra S. Butler, *Parents as Scholars: Education Works, Outcomes for Maine Families*

- (b) Encourage mixed strategy programs. In mixed strategy programs participants engage in a mix of activities, including job search, education or vocational training, affording participants a degree of choice in the sequencing of activities. Mixed strategy programs have proven to be more effective in increasing employment and earnings, reducing reliance on welfare, and sustaining these benefits over time than “work-first” programs, that usually require participants to begin searching for jobs as soon as they begin the program, or “education –first” programs where participants are assigned to education and training before they are required to apply for jobs.¹⁹
3. Remove barriers to postsecondary education and training for low-income people.

Of the fastest-growing occupations, most will be filled by people with postsecondary education or training (either a vocational certificate or a degree).²⁰ However, 42 percent of adults between the ages of 25 and 45 have no more than a high school diploma or GED.²¹ Changes are needed to remove the barriers that working adults and other nontraditional students face in their efforts to obtain postsecondary education and training and succeed.²²

- (a) Update financial aid policies and support success for working adults and other nontraditional students.
- (i) Simplify the financial aid application process and increase aid to the neediest students. For example, exclude the Earned Income Credit (EIC) from financial aid determinations.
 - (ii) Reduce the “work penalty” and allow low-income adults and older youth to earn more and keep a greater share of their earnings to support themselves and their families while they go to college. For example, students with children are allowed to earn only 80 percent of the federal poverty level before their student aid is cut.
 - (iii) Make financial aid more responsive to the needs of nontraditional students, particularly the Pell Grant, for those attending compressed

and Implications for TANF Reauthorization, Maine Equal Justice Partners (Mar. 2002), available at <http://www.mejp.org/PaSeduworks.htm>.

¹⁹ The Portland, Oregon National Evaluation of Welfare to Work Strategies (NEWWS) is a successful example. NEWWS combined a focus on employment, the use of both job search and education (ABE, vocational training, GED and postsecondary education), and an emphasis on finding good jobs. This program produced longer periods of employment and much higher earnings compared to control group members, and more stable employment and earnings growth than other programs. See, Gayle Hamilton, et al, *National Evaluation of Welfare-to-Work Strategies, How Effective Are Different Welfare-to-Work Approaches?, Five-Year Adult and Child Impacts for Eleven Programs*, for the U.S. Department of Health and Human Services and the U.S. Department of Education, Manpower Demonstration Research Corporation and Child Trends (Nov. 2001), available at <http://www.mdrc.org/publications/64/full.pdf>.

²⁰ D.E. Hecker, “Occupational Employment Projections to 2014,” *Monthly Labor Review*, 128 no. 11 (2005).

²¹ Working Poor Families Project, *Education and Skills Status of Adults Within State*, available at <http://www.workingpoorfamilies.org/indicators.html>.

²² See, e.g., Amy-Ellen Duke and Julie Strawn, *Recommendations to the House Committee on Education and Labor Regarding Reauthorization of the Higher Education Act*, Center for Law and Social Policy (Apr. 13, 2007), available at http://www.clasp.org/publications/hea_recs_0407.pdf; “Building a Culture of Evidence for Community College Student Success: Early Progress in the Achieving the Dream Initiative,” MDRC and Community College Research Center (May 2007), available at <http://www.mdrc.org/publications/452/full.pdf>.

- or modular formats, summer school, or taking only one course at a time, stretching their enrollment over many school terms.
- (iv) Ensure that every student receiving a Pell Grant is helped to succeed by providing the support and services they need to stay in college and expand on-campus services (e.g., changes in curriculum; academic, personal, and career services; child care; transportation).
 - (v) Provide loan forgiveness for low-income students who take traditionally low-wage employment upon graduation, such as Head Start teachers.
- (b) Help two- and four-year colleges play an increasing role in workforce development by promoting innovation in program content and delivery.
- (i) Work with employers to strengthen ties between for-credit course offerings and business workforce needs.
 - (ii) Make occupational programs more accessible to lower skilled workers. Some states allow students without a high school diploma to complete their GED while participating in for-credit courses.²³
 - (iii) Increase access to and completion of occupational credentials for lower-skilled workers through bridge programs and other innovations in remedial education. For example, the Integrated Basic Education and Skills Training Initiative (I-BEST) in Washington State pairs adult education/ESL instructors with vocational instructors to integrate contextualized remediation and English language services with occupational training. On average, I-BEST students earned five times as many college credits as other adult education/ESL students did and were 15 times more likely to complete workforce training.²⁴
- (c) Allow low-income workers participating in vocational training to receive Unemployment Insurance (UI) benefits. The current system allows dislocated workers to receive UI benefits while attending training. This benefit should be extended to all low-income workers in order to learn new skills or improve upon the ones they have so that they may advance in the workforce during periods of unemployment.

Of course, there are other issues beyond cash assistance and education and training that, if addressed, would go a long way to alleviate poverty and guarantee economic safety—public, subsidized and affordable housing; healthcare, including reproductive health; quality public education at all levels; valuing the work women do in the home without compensation; balancing the demands of both work and family that are an even greater burden for poor people; disability;

²³ Kentucky has supported local efforts to dual enroll students in adult education and college remediation, enabling them to work toward their GED and complete college coursework at the same time. See, *Educational Enrichment Services (ESS)*, Fact Sheet, Jefferson County Public Schools Adult and Continuing Education, Jefferson Community and Technology College, and Sullivan University (the adult education program has partnered with the community college and a local university to jointly enroll students enabling the students to bypass one or more college developmental education courses, saving students time and tuition costs), available at http://ged4u.com/ged4u/EES_Trans_Program/Trans%20to%20PostSecondary/EES_fact_sheet.pdf.

²⁴ Washington State Board for Community and Technical Colleges, *I-BEST: A Program Integrating Adult Basic Education and Workforce Training*, December 2005, available at http://www.sbctc.ctc.edu/docs/data/research_reports/resh_05-2_I-best.pdf.

aging; domestic and sexual violence; crime and law enforcement; financial institutions; family life and family law; and civic engagement.

Link Economic Development to Workforce Development

The Problem

There is a disconnect between economic development and workforce development, particularly as it relates to low-income people. Most government-funded workforce development exists as a second chance system for low-income people who failed, or, more aptly, were failed by, the public school system. Most economic development dollars--federal, state and local--are targeted to a need for improvements, such as infrastructure, and/or jobs (e.g., highway construction; enticing a business to build remain or locate in a particular area). But rarely do the two overlap, except when jobs are lost and displaced workers must rely on the workforce development system to retrain and find new employment, and for some incumbent work training.

Although low-skilled, low-wage jobs will remain the largest in number, over the next decade the growth in the number of jobs requiring some sort of postsecondary credential is projected to outpace those jobs by 60 percent. Earnings increase significantly by levels of education attained above a high school diploma and increasing the average level of education of a region benefits its economic development.²⁵ The global economy has fueled growing economic disparity in the U.S. and a growing need to link economic development and workforce development so that policies that support success in a global economy also support success for low-income people.

Government Role

The business community is difficult to engage without obvious benefit to its bottom line. This is particularly true when it comes to educating and training low-income people for other than low-skill, low-wage jobs. Only when the job market was very tight in the late 1990s, did some employers make an effort to train and hire poor people and acknowledge that doing so helped their bottom line. The shift in the nation's economy and the inability of low-income people to obtain and retain employment and move up the economic ladder requires the intervention of government to make the connection between economic development and workforce development. This is necessary to achieve the dual goals of successful competition in a global economy and ending poverty, allowing everyone to share the prosperity. Government should set the example by creating a pipeline toward career-path employment for low-income people for its own workforce and that of its contractors, setting minimum standards for wages, health coverage, and retirement security, taking the lead in moving private employers forward to do the same, and ensuring that the needs of low-income people are an integral part of workforce and economic development plans at all levels of government.

²⁵ *Working Together: Aligning State Systems and Policies for Individual and Regional Prosperity*, Workforce Strategy Center ((Dec. 2006) at 1-3, available at http://www.workforcestrategy.org/publications/WSC_workingtogether_12.1.06_3.pdf

Effective Responses

To achieve these goals the United States needs an integrated economic and workforce development policy that works for everyone: producing skilled workers, in strong businesses, with good jobs that foster thriving communities. To do this we have to ensure that people develop the skills businesses demand in a modern economy; create career paths and job opportunities for all working-age people, from the least skilled and most disadvantaged to middle income workers whose skills have become obsolete; invest resources in the capital and human infrastructure needed to attract and retain “high road” employers that provide quality jobs, wages, and benefits; encourage entrepreneurship, small business growth, technology transfers from the higher education system, and other economic/workforce development innovation in all communities across the country to grow competitive businesses; and support economic and workforce development that is environmentally, socially, and economically sustainable.

1. Workforce development:²⁶

- The U.S. has significantly decreased its investment in active labor market policies (employment and training, job creation and placement, etc.) over the past 20 years. It is time to reverse this course.²⁷
- Public funds should be managed by a public sector institution, with investments by business and industry partners.
- Focus on providing high-quality education and training services and creating pathways to skills and credentials that have value in the labor market.
- Place a greater priority on helping low-income adults and individuals with barriers to employment enter and succeed in the labor market, and promote retention and advancement of low-wage workers.
- Use government funds to support high-road employers.
- Government youth funding should be directed at building an effective transition support system for out-of-school and vulnerable youth.
- Promote continuous improvement of the system through accurate data collection and a strong research and demonstration agenda.
-

2. Postsecondary education:²⁸

- Increase enrollment and persistence of working adults and other nontraditional students by updating financial aid policies and supporting success—reduce the “work penalty”, increase financial aid for low-income people, and make financial aid more responsive to the needs of nontraditional students.

²⁶ See, e.g., Evelyn Ganzglass, *Workforce Investment Act: Recommendations to Improve the Effectiveness of Job Training*, Center on Law and Social Policy (June 28, 2007) (testimony before the House Subcommittee on Higher Education, Lifelong Learning, and Competitiveness, Committee on Education and Labor), available at http://www.clasp.org/publications/wia_testimony_062807.pdf; and Amy-Ellen Duke, Karin Martinson and Julie Strawn, *Wising Up: How Government Can Partner with Business to Increase Skills and Advance Low-Wage Workers*, Center on Law and Social Policy (Apr. 2006), available at http://www.clasp.org/publications/wise_up_2006.pdf.

²⁷ Thomas Kochan and Beth Shulman, *A New Social Contract: Restoring Dignity and Balance to the Economy*, EPI Briefing Paper #184 (Feb. 22, 2007) at 9-11, available at <http://www.sharedprosperity.org/bp184/bp184.pdf>.

²⁸ See, e.g., Amy-Ellen Duke and Julie Strawn, *Recommendations to the House Committee on Education and Labor Regarding Reauthorization of the Higher Education Act*, Center for Law and Social Policy (Apr. 13, 2007), available at http://www.clasp.org/publications/hea_recs_0407.pdf.

- Make quality education and training more affordable and accessible for all.
 - About 46 percent of students who begin postsecondary studies at community colleges never complete a degree.²⁹ Expand on-campus services that support success of low-income students, working adults and other nontraditional students (changes in curriculum; academic, personal and career services; child care; transportation).³⁰
3. Align state systems and policies--postsecondary education and workforce strategies with economic development--for individual and regional prosperity:³¹
 - Encourage transitions from one system to another (e.g., from ESL to postsecondary education to work).
 - Support student success in completing their education and furthering their education.
 - Strengthen ties between colleges and business workforce needs.
 - Increase the number of occupational credentials earned by low-skilled workers.
 - Strike a balance between allowing innovation that effectively serves business and workers and protecting students from continuing problems with fraud and abuse.
 4. The U.S. government should promote a policy of full employment and public-accountable economic development with sustained economic growth and high road job creation.
 5. Government must work with unions to develop economic and workforce policy and restore and strengthen workers rights and their bargaining position.
 6. U.S. trade policy should reflect our nation's values--set standards in how workers are treated, including minimum standards for wages, health coverage and retirement--and pursue trade strategies that put working people first.
 7. The U.S. must increase its investment in people, infrastructure and new technologies to enhance competitiveness. The U.S. needs to manufacture goods, not just provide services, to stay competitive globally. An investment in low-income people to develop the necessary skills is an investment in global competitiveness.
 8. The U.S. government should launch a national alternative energy development program to lessen U.S. dependence on imported energy and create jobs.
 9. Lift the burden of benefits (health care and pension benefits) from individual employers to universal systems.
 10. Ensure that all workers earn, at minimum, a living wage.
 11. Require family-centered labor market policies that include flexible work schedules, paid family leave for all workers, paid sick days for all workers, and universal child care and pre-school.
 12. Improve the Unemployment Insurance (UI) system so that all low-income workers are eligible, it is more reliable for the long-term unemployed, and more workers may receive

²⁹ Thomas Brock and Allen LeBlanc, "Promoting Student Success in Community College and Beyond: The Opening Doors Demonstration," MDRC (May 2005), available at <http://www.mdrc.org/publications/409/full.pdf>.

³⁰ "Building a Culture of Evidence for Community College Student Success: Early Progress in the Achieving the Dream Initiative," MDRC and Community College Research Center (May 2007), available at <http://www.mdrc.org/publications/452/full.pdf>.

³¹ See, e.g., *Working Together: Aligning State Systems and Policies for Individual and Regional Prosperity*, Workforce Strategy Center ((Dec. 2006), available at http://www.workforcestrategy.org/publications/WSC_workingtogether_12.1.06_3.pdf.

benefits and participate in training programs to increase their earning potential, using periods of unemployment to upgrade their skills support good jobs.

13. Create a “home protection fund” for laid-off workers, providing loans to save their homes and prevent foreclosure and preserve the fabric of their communities.³²
14. Evaluate the use of current economic development dollars, redistribute existing funds and add new funds to promote low-income people entering the pipeline of career-path employment toward high road jobs.

Whatever the policy or program, the key is to produce skilled workers, in strong businesses, with good jobs that foster thriving communities—and include low-income people in that equation.

Creating Redemptive Opportunities for People with Criminal Records

The Problem

The United States leads the world in the rate at which it incarcerates its residents. After a long period of stability, U.S. incarceration rates shot up dramatically beginning in the 1980s, driven not by any increase in violent crime but rather by changes in criminal justice and sentencing policies, especially as they affect drug offenses.³³

As of June 30, 2006, the number of inmates in U.S. prisons and jails approached two and one-quarter million, an increase of 2.8 percent in 12 months. The increase was the largest, both in absolute numbers and percentage, in several years. One in every 133 U.S. residents was in jail or prison.³⁴

We lock up 750 per 100,000 residents, a rate between five and nine times the incarceration rate of the nations to which we are most similar.³⁵ Indeed, our incarceration rate exceeds that of Russia, the industrialized country whose rate follows ours most closely, by 18 percent. In western Europe, incarceration rates are in the range of 70-150 per 100,000.

This extreme incarceration rate apparently does not serve to deter future anti-social activity. Research consistently shows that approximately two-thirds of people released from

³² Maurice Emsellem, *Innovative State reforms Shape New National Economic Security Plan for the 21st Century*, National Employment Law Project (Dec. 2006) at 11, available at <http://www.nelp.org/docUploads/NELPAgenda.pdf>.

³³ Alfred Blumstein & Allen Beck, *Population Growth in U.S. Prisons, 1980-1996*, in M. Tonry & J. Petersilia (eds.), 26 PRISONS: CRIME AND JUSTICE—A REVIEW OF RESEARCH 17-61 (1999).

³⁴ William J. Sabol, et al., Bureau of Justice Statistics, *Prison and Jail Inmates at Midyear 2006*, NCJ 217675 (2007).

³⁵ Paige M. Harrison & Allen J. Beck, Bureau of Justice Statistics Bulletin, *Prisoners in 2005*, NCJ 215092 (2006), www.ojp.usdoj.gov/bjs/pub/pdf/p05.pdf; International Centre for Prison Studies, www.prisonstudies.org.

prison are rearrested within three years, almost exclusively for felonies or serious misdemeanors, and half are convicted of new crimes.³⁶

Of course, the incarcerated are not distributed evenly across demographic groups; the racial disproportion is stark. In mid-2006, 4.8 percent of *all* black men were in custody, compared to 0.7 percent of white men and 1.9 percent of Latino men. But for young black men the disparity was even more striking: 11.7 percent of black males between the ages of 25 to 29 were incarcerated.³⁷ In low-income communities of color, criminal justice system involvement is so pervasive as to be a normative life experience.

These figures, dramatic as they are, reflect only the numbers incarcerated at a certain point in time and thus do not convey the full scope of the criminal justice system's impact. The effects of imprisonment, of course, fall upon all those who have *ever* been incarcerated. At the end of 2001 that number, including those then imprisoned, was 5.6 million—2.7 percent of the total population but 16.6 percent of black males. If current incarceration rates continue, 6.6 percent of U.S. residents born in 2001—and nearly one-third of black males—will spend some portion of their lives in state or federal prison. The overall rate in 1974 was 1.9 percent.³⁸

The “correctional population” is larger still; it includes those on parole following a sentence of incarceration, and those serving a sentence of probation, as well as those incarcerated after conviction. In 2005 the correctional population exceeded 7 million, having increased at an annual average rate of 2.5 percent during the preceding decade.³⁹

But even this figure is dwarfed by the number whose charges are dismissed or who are merely arrested and never charged, but who therefore have criminal arrest records. Evidence of the precise number is difficult to obtain, but state criminal history repositories contain more than 70 million criminal history records.⁴⁰ While this figure does not reflect unique individuals (a single individual can have more than one record), tens of millions must navigate through their lives shadowed by criminal records.

A criminal record is not the only lasting impact of arrest even when charges are dropped; many first experience a period of incarceration. Nearly 40 percent of felony defendants in large urban counties are not released before final disposition in their cases, and they are therefore subject to the harms that accompany incarceration. For the great majority bail is set but not posted, most commonly due to lack of financial resources.⁴¹ These defendants then experience infringement of their right to be presumed innocent; potential loss of employment and therefore

³⁶Patrick A. Langan & David J. Levin, Bureau of Justice Statistics, *Recidivism of Prisoners Released in 1994* (2002).

³⁷Harrison & Beck, *supra*.

³⁸Figures in this paragraph are from Thomas P. Bonczar, Bureau of Justice Statistics, Special Report: Prevalence of Imprisonment in the U.S. Population, 1974-2001, NCJ 197976 (2003).

³⁹Lauren E. Glaze & Thomas P. Bonczar, Bureau of Justice Statistics Bulletin, Probation and Parole in the United States, 2005 NCJ 215091 (2006).

⁴⁰Bureau of Justice Statistics, Criminal Record System Statistics, www.ojp.usdoj.gov/bjs/crs.htm.

⁴¹Gerard Rainville & Brian A. Reaves, Bureau of Justice Statistics, *Felony Defendants in Large Urban Counties*, 2000 (2003).

income and housing, and exposure to the extreme violence and health threats endemic in correctional facilities, including drug-resistant communicable diseases.⁴²

The price tag for these policies in dollars is staggering. National criminal justice spending reached \$186 billion in 2003, with \$61 billion of that stemming from the correctional system. The increase in the prison population over the next five years is projected to cost an additional \$27.5 billion.⁴³

The price tag for these policies in devastated lives and communities is incalculable. Our criminal justice system removes millions of people from the social fabric during the time they are incarcerated—which is usually during the time of life when people establish careers and families. Our policies evidence little or no awareness of the collateral sanctions that accompany involvement in that system and largely fail to consider what happens when the individuals return to their communities. Nearly all do return, though, tarred with an “ex-offender” label that denies them access to the prerequisites for a stable life: a place to live, a legal way to sustain themselves, the ability to reclaim family and community ties.

Government Role

This system and its effects are not accidental; they are the result of policy choices. Government should step back and examine whether the current trend to incarcerate more people has accomplished its stated goal of public safety. If not, policymakers must redesign the system, informed by an understanding that those who pass through it remain part of the community and that it is in the interest of the larger community to help people leaving jail and prison, as well as those shadowed by past incarceration or criminal records, move on and lead productive lives.

In rethinking its policies, government should begin by carefully considering the impacts of policies in place over the last three decades and by implementing any changes on the basis of solid research and information. Policymakers should act on the basis of what long-term community well-being demands, rather than legislating and regulating on the basis of anecdote and stereotype. Any limitation on the employment and other options that are available to people with past involvement in the criminal system should be narrowly targeted to meet specific needs, in most cases should require exercise of discretion rather than automatic bars, and should consider the long-term costs of competing policy choices.

It is especially critical that government face head on the overwhelmingly disproportionate racial impact evident in the criminal justice system. Racial disparities become more pronounced at each stage of the system, from arrest to incarceration, and only by explicitly recognizing and analyzing this phenomenon can we begin to address it.

⁴² See Judith Graham, *Cook County Jail Tied to Increase in Drug-Resistant Illness*, CHICAGO TRIBUNE, May 29, 2007.

⁴³ PEW CHARITABLE TRUSTS, PUBLIC SAFETY, PUBLIC SPENDING: FORECASTING AMERICA’S PRISON POPULATION 2007-2011 (2007), citing Bureau of Justice Statistics, Key Facts at a Glance, Direct expenditures by criminal justice function, 1982-2004, www.ojp.usdoj.gov/bjs/glance/tables/exptyptab.htm.

Government can begin this change in emphasis by eliminating policies that continue punishment long after incarceration—or probation or parole—ends. It must also recognize the role of substance abuse in criminal activity and the unmet need for treatment.

In the process of reexamining how people released from prison and jail can rejoin their communities and avoid recidivism, it is especially important to bear in mind that resource-strained low-income communities bear the brunt of this obligation. To succeed in reconnecting the some 700,000 formerly incarcerated community members who return each year, they require help from federal and state levels and from private partners.

Because federal prisons are a small part of the criminal justice system overall (some 12 percent of prisoners), it is primarily up to the states to create redemptive opportunities for people with criminal records. However, the federal government can lead the way in its own system and encourage state actions through funding mechanisms.

Effective Responses

To create redemptive opportunities for people with criminal records, government must make two major adjustments in its approach. First, policies must be informed by awareness that nearly all individuals in the criminal justice system will return to their communities, and the process of return begins at the moment of arrest. Everything that happens to the person after that point will influence the possibility of successful reentry. Second, government must understand that because of the indelibility of criminal records, reentry covers not merely the few weeks or months following release from incarceration, but can extend for a lifetime following release.

The myriad policy changes that are called for to foster successful reintegration of people leaving jail or prison, or other persons with criminal justice system involvement, fall primarily into four broad areas:

- using the entire period of incarceration to plan for eventual release and increase the likelihood that the person will succeed “on the outside.”
- addressing employment needs and removing unnecessary bars to employment and stability.
- limiting the availability and minimizing the impact of criminal records.
- addressing the broad health needs of those involved in the criminal justice system.

Some of the changes government should adopt will require significant investment of funds; others will require mere change in policy. But states currently spend an average of nearly

\$25,000 per year on every inmate.⁴⁴ No recommendation set forth below even approaches that cost.

1. Planning for Eventual Release

Every incarcerated individual should leave jail or prison with a roadmap that leads directly away from recidivism. The design of such a roadmap should begin with an assessment of health, education, and training needs. Correctional facilities should offer programs to meet those needs.

Continuity of Benefits: Employment will likely be a primary goal for most people upon release from jail or prison, but those who are unable to work or for whom transitional jobs are unavailable still need a source of legitimate income. Some may have received some form of benefits, e.g. Supplemental Security Income (SSI), social security disability, or food stamps, before incarceration, but these benefits are suspended or terminated when one enters prison or jail. Once suspended or terminated, it can take weeks or months from the time of application to begin receiving benefits again. Reinstatement of benefits immediately upon release will enable these individuals to meet their basic needs and thus foster stability.⁴⁵ The Social Security Act, in fact, requires that inmates have access to a prerelease procedure to apply for SSI and expedited food stamps.⁴⁶

Correctional facilities should work with the agencies that administer these benefits to ensure reinstatement for eligible individuals upon release. Correctional facilities should also identify inmates likely to be eligible for these benefits and assist them with applications. SSI benefits consist of a monthly federal grant of \$623 in 2007 plus, in most states and for certain beneficiaries, a small state supplement.⁴⁷ A single individual with no other income receives a maximum of \$155 per month in food stamps.⁴⁸ Timely reinstatement of benefits for eligible individuals would be a substantial saving over the cost of reincarceration. A change in federal law to provide for to make reinstatement of benefits automatic upon release, on a provisional basis pending redetermination of eligibility, would be the preferred solution and help ensure greater likelihood of reentry success.

⁴⁴*Id.* at 33, Table A-7. A certain economy of scale appears to operate, as the per capita cost tends to be lower in states with higher incarceration rates. The range is from barely over \$13,000 in Louisiana to nearly \$45,000 in Rhode Island.

⁴⁵ SSI benefits are suspended after 30 days and terminated after 12 months of incarceration. 20 C.F.R. §§ 416.211, 416.1325, 416.1335.

⁴⁶ 42 U.S.C. § 1383(m) & (n) (refers to “discharge or release from a public institution”). People convicted of drug felonies may, depending on the state, be ineligible for food stamps. The Bazelon Center for Mental Health Law has prepared model legislation to require continuity of benefits and transitional benefits upon release from jail or prison. While the law focuses specifically on the needs of inmates with mental illness, it could benefit any inmate who leaves incarceration eligible for public benefits. See *Building Bridges: An Act to Reduce Recidivism by Improving Access to Benefits for Individuals with Psychiatric Disabilities upon Release from Incarceration—Model Law and Commentary*, available at www.bazelon.org/issues/criminalization/publications/buildingbridges/BuildingBridges.pdf.

⁴⁷ See Social Security Online, SSI Federal Payment Amounts, www.ssa.gov/OACT/COLA/SSI.html.

⁴⁸ USDA Food & Nutrition Service, Frequently Asked Questions, www.fns.usda.gov/fsp/faqs.htm#9.

Current federal law also bans persons with drug convictions from receiving benefits under the Temporary Assistance for Needy Families and food stamp programs, unless states opt out of that ban.⁴⁹ This ban should be repealed or at least changed so that states must opt in rather than opt out. Access to these benefits, which vary widely across the country but are usually in the range of a few hundred dollars per month, could help a significant portion of people leaving prison achieve stability and avoid recidivism.

Maintenance of Family Ties: An important contributor to stability for formerly incarcerated individuals is maintenance of family ties. Imprisonment commonly disrupts these ties, especially between incarcerated parents and their children. Most state and federal prisoners report having one or more children under age 18, but more than half of incarcerated parents report *never* having visits with their children. Of the minor children in the U.S. in 1999, 2.1 percent, or 1.5 million (7 percent of black children) had a parent in state or federal prison in 1999⁵⁰

Federal and state governments should be proactive in adopting policies to help maintain parent-child bonds during a parent's incarceration. For example, they should consider placing a parent in an institution close to where child lives to facilitate visitation, and be creative in use of technology when frequent in-person visitation is difficult ("virtual visitation").⁵¹ Visiting hours should be flexible to accommodate kinship caregivers who may have to travel long distances and who have work demands. Overnight housing and family centers should be available near correctional facilities that are long distances from where inmates' families live. Where appropriate, the facilities should establish special quarters in the prison where children can spend weekends with their incarcerated parent. Parenting programs should be available to help inmates strengthen their parenting skills in preparation for reestablishing their parental role upon release. Furloughs, currently available only for funerals, should be available as well for happy family occasions such as graduations and weddings, thus enabling incarcerated family members to participate in and mark important events.

An even surer way to cement family ties is through "co-detention," or allowing mothers and children to remain together during some portion of incarceration.⁵² The longstanding program at New York's Bedford Hills Correctional Facility is the co-detention archetype; it began in 1901. California's Mother-Infant Care Program offers another model.

Nearly 10 percent of the children of female prisoners are in foster care during their mother's incarceration. Unless state child welfare agencies are assertive in helping these families maintain contact, the likelihood is significant that these mothers' parental rights will be terminated. States should include, in their definition of "reasonable efforts" that must be made to keep families together when a child is in out-of-home care, an explicit requirement for additional services when parents are incarcerated. State law should not provide that incarceration per se is

⁴⁹ 21 U.S.C. § 862a.

⁵⁰ Christopher J. Mumola, Bureau of Justice Statistics, Special Report: Incarcerated Parents and Their Children, NCJ 182335 (2000).

⁵¹ Most imprisoned parents are likely to be placed in a facility more than 100 miles from their last residence, which is where their children are most likely to live. See *id.*

⁵² Ross D. Parke & K. Alison Clarke-Stewart, *Effect of Parental Incarceration on Young Children* (2001).

grounds for termination of parental rights. Federal law should give states greater flexibility rather than requiring them to terminate the parental rights of incarcerated parents within rigid timeframes.

Minimizing Debt: Despite the long-ago abolition of “debtors’ prisons,” the nexus between prison and debt has been revived in recent decades, in a way that severely undermines a released prisoner’s ability to build a stable life. Prisoners accumulate debt from two primary sources: penalties related to the criminal case, such as fines, restitution, and costs related to arrest, prosecution, and sentencing; and child support obligations that cannot be met during incarceration. While valid public policy arguments may exist for imposing these costs on prison inmates, the debts mount with little oversight and the low income level of the vast majority of prisoners makes the likelihood of repayment negligible. Instead, debt merely makes reentry more difficult, often leading to civil judgments that worsen credit scores and make housing and employment even more difficult to obtain.

States should ensure that any financial obligations imposed on prisoners and ex-prisoners take into account and other debt and bear a realistic relationship to the person’s ability to pay. States should survey the scope of all the criminal proceeding-related financial penalties they impose so that policymakers have a complete picture. For purposes of child support, states should set realistic support orders and take affirmative steps to reduce or suspend support obligations upon incarceration without requiring the prisoner to initiate that process.

2. Employment

An individual’s primary need upon release is a source of legitimate income; while for some, as the earlier discussion indicates, this might be through public benefits, for most it will be through employment. A criminal record makes obtaining employment a challenge, especially if the person has only a spotty pre-incarceration employment record. One report suggests that only slightly over half of previously incarcerated young men are employed.⁵³

Government should greatly expand transitional jobs programs, involving private sector employers in these programs and making them available to participants even before their release from prison or jail. These programs can ease transition into the workforce by offering short-term, usually part time publicly subsidized minimum wage jobs that combine real work and real paychecks with skill development and support services, giving participants the opportunity to build a record of employment. These programs should take care to meet the specific needs not only of people who are about to leave or have recently left jail or prison, but also of those released long ago who continue to struggle to find jobs due to the barriers their records create. The cost of an annual “slot” in such a program is in the range of \$10,000-12,000, which covers part-time wages, skills training, case management, and support services.⁵⁴ Typically more than one individual rotates through a slot during the course of a year.

⁵³ Harry J. Holzer & Steven Raphael, *Employment Barriers Facing Ex-Offenders 3* (Urban Institute Reentry Roundtable, May, 2003).

⁵⁴ See e.g., David S. Kass, *The Financing Project, Financing Transitional Jobs Programs: A Strategic Guide to Federal Funding Programs* (2004).

Transitional jobs programs targeting hard-to-employ workers are underway in several major cities, including Chicago, Detroit, Milwaukee, and St. Paul, Minn. Pioneer Human Services in Seattle is often recognized as a model; it offers transitional employment and training opportunities particularly to ex-offenders and former substance abusers. The recidivism rate among its graduates is less than half that of those leaving other programs; its graduates also earned more and worked more hours.⁵⁵

Government should enlist the private sector to reach out to private employers and help address their concerns about hiring workers with criminal records. It should also expand and publicize the availability of employer incentives like the U.S. Dept. of Labor's bonding program and the Work Opportunity Tax Credit Program for employers who hire ex-offenders.⁵⁶

Finally, in developing employment policy for people with criminal records, government, in recognition of the disproportionate racial impact of the criminal justice system, should aggressively enforce civil rights laws that prohibit employment discrimination. The Equal Employment Opportunity Commission has recognized the disparate racial impact of criminal records.⁵⁷ The agency should encourage complainants to pursue claims on this basis.

3. Criminal Records

Government should take a two-part approach to criminal records. First, access to the records should be carefully regulated, limited to those with good cause to have access, and laws that prohibit unwarranted access should be enforced. Second, government should limit the extent to which criminal records can impose blanket barriers to housing, employment, etc. Instead, in most instances, criminal records should serve as barriers only when an individualized determination is made that such is necessary for community safety.

Limiting access: Transparency of the legal system has long been regarded as a foundational aspect of the U.S. justice system—a mechanism that fosters important checks on arbitrary exercise of judicial or state power. But in the criminal records context, and particularly in the age of electronic information and the Internet, powerful arguments outweigh those in favor of unlimited access.

States should fight proposals to expand access to criminal records and carefully regulate services that purport to make this information available to employers. Private employers should not have access to criminal records, and should be prohibited from asking about criminal convictions at the early stages of the job application process, except for crimes that are clearly relevant to the job (e.g., an embezzlement conviction of someone applying for a job as an

⁵⁵For more information, including on other model programs, see Amanda Elk Szekely, *Transitional Jobs for Ex-Offenders*, Welfare Information Network (Dec. 2007).

⁵⁶*Tax-Relief and Health Care Act of 2006 (P. L. 109-432)*

⁵⁷EEOC, Policy Guidance on the Consideration of Arrest Records in Employment Decisions under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e et seq. (1982), in 2 EEOC Compliance Manual (CCH), § 604, ¶ 2094, at 2133 (Sept. 7, 1990).

accountant). Where information is made available, it should be limited to conviction, not arrest, records. States should adopt and enforce laws governing the accuracy of records and non-cumbersome ways for individuals who are the subject of incorrect records to correct them.

States should adopt policies for sealing and expungement of criminal records. The option should be available for most records, varying according to the seriousness of the crime, the length of time since it occurred, and evidence of the person's rehabilitation. Through self-help desks in courthouses or other means, states should offer assistance to people with criminal records in completing applications for sealing or expungement.

Limiting use: States should avoid overbroad, blanket prohibitions on certain jobs for ex-offenders. Lifetime bans should be limited to the most serious offenses and the most sensitive jobs. Even where blanket bans are in place they should merely constitute a rebuttable presumption, with individuals subject to them having the opportunity, through an administrative process, to rebut the presumption.

Governments should review their licensing practices that ban individuals with criminal records and retain only those that are job-related. For example, most people, if asked, would probably agree that a 10-year-old petty theft conviction should not bar a person from obtaining a barber license, and yet such bars are common.

Government should model appropriate application of criminal records as bars to employment and housing. For example, government at all levels should adopt "ban the box" policies on applications for government jobs, inquiring about criminal convictions only several stages into the hiring process and only if relevant to the job in question.

Finally, government should set an example by abolishing limitations on voting rights for people with criminal convictions, including those who are incarcerated, at least if they will eventually be released. They too, after all, have a self-interest in the policies that elected officials will implement.

In all these ways, government should uphold the concept that in the absence of extremely compelling reasons to the contrary, when a criminal charge is dismissed or a sentence served, the criminal record is in the past.

4. Addressing Health Needs

To a significant extent, the criminal justice system reflects the absence of a robust health care—and particularly and mental health care—system. More than half of jail and prison inmates in 2005—and three-fourths of women in state prisons—had a mental health problem. These inmates were more likely than those without mental health problems to meet the criteria for substance dependence or abuse and to have used drugs in the month before their arrest. They

were also more likely than other prisoners to have a violent offense as their most serious offense and were more likely to have a record of violent offenses.⁵⁸

Mental health problems were especially common among jail inmates (64 percent). A quarter of jail inmates reported at least one symptom of a psychotic disorder. However, only one in six jail inmates who had a mental health problem had received treatment since admission.⁵⁹

Government should make all forms of health care available on the basis of need. Given the prevalence of mental health problems and substance abuse among prisoners, making mental health care and substance abuse treatment available as needed is especially important in reducing recidivism. The annual cost of residential substance abuse treatment is approximately \$12,500 per patient; outpatient treatment is approximately \$3,100.⁶⁰ The cost-effectiveness compared to incarceration is evident.

As part of the efforts they undertake to assist inmates maintain continuity of public benefits (discussed earlier), correctional facilities should make particular efforts to ensure that eligible inmates, upon release, have Medicaid benefits in place. Medicaid reimbursement is not available for care and services provided in “public institutions,” including jails and prisons, but nothing in federal law requires states to terminate the Medicaid benefits of inmates of correctional facilities.

States should, instead, merely suspend Medicaid during incarceration and then reinstate the benefits upon release, absent a reason to believe the person is no longer eligible. Reinstatement should include ensuring that the inmate, when released, leaves the facility with Medicaid card in hand. This policy is especially important for prisoners on medication. Those not on Medicaid at time of admission should receive help applying before release. To meet the needs of inmates with mental health problems, jails and prisons should also offer mental health and case management services during incarceration and upon release.

Restoring Fair and Adequate Budget and Tax Policies

The Problem

In addition to individual initiative and responsibility, a robust private sector, and smart investments by state and local governments, substantial progress in the fight against poverty and inequality of opportunity depends heavily on federal leadership, competence, and resources. Leadership is necessary to rally Americans to the tasks and the meeting of the necessary costs and to establish the right priorities. Competence is necessary to develop effective programs and ensure that the goals are achieved efficiently and with due speed. Resources are necessary because an adequate policy of fighting poverty and ensuring opportunity costs money. Perhaps

⁵⁸ Doris J. James & Lauren E. Glaze, Bureau of Justice Statistics, Special Report: Mental Health Problems of Prison and Jail Inmates, NCJ 213600 (2006).

⁵⁹ *Id.*

⁶⁰ INSTITUTE OF MEDICINE, PATHWAYS OF ADDICTION—OPPORTUNITIES IN DRUG ABUSE RESEARCH (1996).

the most stringent test of federal leadership on poverty and equal opportunity involves these issues of revenue and spending priorities.

The fact is that the country knows what works, because it has a powerful example. In the early part of the 20th Century, the sector of America most deeply and broadly poor was the elderly. Under the Social Security Act of 1935, a reasonable cash support for retirement was ensured. During the war on poverty era of the 1960's, Medicare was enacted to guarantee health coverage. Now the elderly are the least poor sector of American life, with official poverty close to being eliminated. Social Security and Medicare are not free, but they are forthrightly supported by dedicated tax revenues (payroll taxes). They are good ideas -- cash and health coverage -- supported by adequate revenues.

In 2001, the federal government was in surplus, with an estimated \$5 trillion surplus expected to accumulate over the ensuing 10 years, if policies remained the same. Mostly through tax cuts that disproportionately favor the wealthiest fraction of the American economy, but also through the wars in Afghanistan and Iraq, the Bush Administration's policy choices have turned this budget picture around. Just under half of the deficit has been produced by the tax cuts -- a deliberate policy choice. Over the same 10 years, the federal government is now projected to be \$3.6 trillion in deficit, a turnaround of \$8.6 trillion.

The Center on Budget and Policy Priorities is a leading expert on federal budget and tax issues. They have prepared an excellent summary of the background and current issues on the federal budget, in the form of a powerpoint with links to more detailed memoranda. Federal Budget Outlook, at <http://www.cbpp.org/budget-slideshow.htm>. Their issue-specific and time-sensitive materials on budget and tax issues can be found on their Federal Budget page, at <http://www.cbpp.org/pubs/fedbud.htm>.

The deficit not only crowds the budget by adding to the interest payments needed every year, it also provides a difficult landscape for the funding needed to adequately address poverty. The anti-tax, anti-government segment of the political right in fact uses the tax-cut driven deficit as a deliberate strategy (known as "starve the beast") to dampen federal spending on domestic programs. Fiscal conservatives, on the other hand, abhor deficits of any kind, but they also oppose most tax increases, and so their attitude on spending for most domestic anti-poverty programs is similarly hostile.

"Entitlement" programs are ones that promise program services to eligible people, without any cap in any given year. The "big three" entitlement programs are Social Security, Medicare, and Medicaid. All three are scheduled for increases as the baby boom ages in the coming decades. However, these programs are scheduled to undergo by far larger increases because of the escalation of health care costs. This escalation cannot be addressed by changes to Medicare and Medicaid (other than simply covering fewer people and denying them healthcare) In fact, Medicaid is substantially cheaper than private insurance. The way to address the increase in costs in Medicare and Medicaid is to reform the whole health care system.

"Discretionary" programs are subject every year to the limits of the appropriations process. These programs include, for example, federal aid to education, health care and pensions for

veterans, social services, employment and training, and many others. All of the discretionary programs, all defense spending, and all entitlements other than the "big three" are expected to grow at rates lower than the economy itself will grow. So the projected deficit is not the product of any "explosion" in federal spending, as some contend. Indeed, federal spending currently (including for the wars), as a percentage of the gross domestic product, is lower than the average since the 1970's. Domestic discretionary spending is a lower portion of the gross domestic product now than it was in 2001.

It is the tax cuts that are the primary driver of the long-term fiscal problem. This is the reason that the economic recovery of the past few years has not produced an increase in federal revenues, like all the other recoveries since World War II. For context, the Center on Budget and Policy Priorities estimates that if the tax cuts are preserved, balancing the budget would require a 32% cut in Social Security benefits, or a 42% cut in defense spending, or a 51% cut in Medicare, or a 20% cut in the whole federal government other than Social Security, defense and Medicare. If President Bush's tax cuts are fully realized in 2012 as he proposes, each household earning \$1 million or more per year would receive \$162,000 tax break. The top 1% of earners would receive an average of \$62,000 in tax relief. In contrast the middle 20% of taxpayers would receive an average of \$840, and the lowest 20% would receive an average of \$45.

What can the government do?

It is clear that to establish new priorities for fighting poverty and establishing equality of opportunity, there need to be adequate and increased revenues. The first step is to take a balanced approach to reduce the projected deficit. This will relieve pressure on the budget by reducing interest payments. A "balanced" approach means that everything should be on the table, including both revenues and all types of potential spending cuts. These options should be evaluated by examining the value of the claim to the spending, not the value or power of the claimant.

Looking at the big drivers of the projected deficit, it appears clear that the Bush tax cuts should be repealed (or allowed to expire as currently scheduled). In addition, it is essential to initiate and follow-through on comprehensive reform of the health care system, in order to drive down escalating costs that are pressuring Medicare and Medicaid.

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| <p>The Center on Budget and Policy Priorities' prescription for first steps in addressing federal budget and tax issues, taken from the Federal Budget Outlook slide presentation cited above, is the following:</p> |
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Some First Steps Under a Balanced Approach to Deficit Reduction

- Abide by "Pay As You Go" rules requiring both tax cuts and increases in entitlement programs to be paid for.
 - Shelve tax cuts not yet fully in effect; do not extend expiring tax cuts unless they are paid for.
 - Adopt recommendations from congressional Medicare commission to curb excessive Medicare payments to health-care providers.
 - Pare back earmarks in appropriations bills.
 - Adopt Joint Tax Committee proposals to curb unproductive tax breaks and shelters and reduce tax avoidance.
 - Use better inflation measure for everything from Social Security cost-of-living adjustments to indexing of the tax code.
-