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**CRIMINALIZATION OF HOUSING:  
A REVOLVING DOOR THAT RESULTS IN BOARDED UP  
DOORS IN LOW-INCOME NEIGHBORHOODS IN  
BALTIMORE, MARYLAND**

SARAH SPANGLER RHINE\*

I. INTRODUCTION

In Baltimore, Maryland, the residents of several neighborhoods are being systematically displaced. Residents are not being driven out of poor and undesirable neighborhoods by development or gentrification, but they are being forced out nonetheless. They are moving out of their neighborhoods into new housing: the Maryland Criminal Justice System.

Between 1980 and 2001, the Maryland prison population more than tripled,<sup>1</sup> increasing from 7,731 to 23,752 inmates between 1980 and 2001.<sup>2</sup> Among the individuals incarcerated in prisons throughout Maryland, those from low-income neighborhoods in Baltimore City are overrepresented.<sup>3</sup> In fact, in 2001, over fifty-nine percent of prisoners released statewide returned to Baltimore City to live in three low income communities: Southwest Baltimore, Greater Rosemont, and Sandtown-Winchester/Harlem Park.<sup>4</sup> These relatively small communities received such an influx of prisoners that they absorbed more released prisoners than “some entire counties in Maryland.”<sup>5</sup>

Because a significant number of community members leave stable housing to cycle through the criminal justice system and more than 200 prisoners may be released into an already struggling community in a single year, the housing available in the community is

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1. NANCY G. LAVIGNE ET AL., URBAN INSTITUTE, A PORTRAIT OF PRISONER REENTRY IN MARYLAND 1 (Mar. 18, 2003), *available at* [http://www.urban.org/UploadedPDF/410655\\_MDPportraitReentry.pdf](http://www.urban.org/UploadedPDF/410655_MDPportraitReentry.pdf).

2. *Id.* at 1.

3. *Id.* at 3–4, 53.

4. *Id.*

5. *Id.* at 53.

substantially affected.<sup>6</sup> Consequently, if a large number of individuals from a specific geographic area are imprisoned, the larger community may have trouble maintaining housing for the incarcerated individuals, making it difficult for them to return to the community upon release.<sup>7</sup> This cycle results in an increase in substandard housing for two reasons: 1) communities do not have the resources to maintain housing for those chronically absent and 2) the population returning from incarceration has a limited income and is desperate for a place to live.

In the United States (U.S.), “up to 3.5 million people, including 1.35 million children, experience homelessness each year.”<sup>8</sup> Baltimore’s 2009 Homeless Census, a point-in-time count of individuals who are living outdoors or in the City’s shelters, revealed that 3,419 individuals were homeless.<sup>9</sup> This figure represents a twelve percent increase from 2007.<sup>10</sup> In Baltimore, the number of homeless and the number of families living below the federal poverty line shows a failure of the city, state, and national government to provide housing, or a housing subsidy, to those who need it most.<sup>11</sup> This failure to provide housing assistance to the poor and displaced is part of a nationwide trend in housing policy that disproportionately allocates housing subsidies to the highest income households in the form of tax credits, while only about fifteen percent of eligible low-income households receive any kind of housing assistance.<sup>12</sup>

The following is an analysis of the link between mass incarceration and the availability of low-income housing in Baltimore. In this article, I will consider the policy issues that arise when large numbers of individuals living in a particular area continually cycle between prison and community. Furthermore, I will analyze social and

6. LAVIGNE ET AL., *supra* note 1, at 35.

7. JEREMY TRAVIS, ET AL., URBAN INSTITUTE, FAMILIES LEFT BEHIND: THE HIDDEN COSTS OF INCARCERATION AND REENTRY 4, 7 (June 2005) *available at* [http://www.urban.org/UploadedPDF/310882\\_families\\_left\\_behind.pdf](http://www.urban.org/UploadedPDF/310882_families_left_behind.pdf) (stating that the incarceration of an adult family member changes the financial position of the family, and that family dynamics have often changed by the time that the incarcerated adult tries to reenter the community such that the family may not be able to support the individual through reentry and the acquisition of housing.)

8. NATIONAL LOW INCOME HOUSING COALITION, THE CRISIS IN AMERICA’S HOUSING: CONFRONTING THE MYTHS AND PROMOTING A BALANCED HOUSING POLICY 5 (Lisa Rangelhelli ed., Jan. 2005), *available at* <http://www.nlihc.org/doc/housingmyths.pdf>.

9. SCHOOL OF ARCHITECTURE AND PLANNING, MORGAN STATE UNIVERSITY, COUNTING MATTERS: BALTIMORE HOMELESS POINT-IN-TIME CENSUS REPORT 7 (2009).

10. *Id.*

11. MD. STATE DATA CTR., 2000 CENSUS POPULATION AND HOUSING 10 (2000), *available at* [http://www.mdp.state.md.us/msdc/census/cen2000/SF3/primary\\_profile/pdf/baci\\_sf3pp.pdf](http://www.mdp.state.md.us/msdc/census/cen2000/SF3/primary_profile/pdf/baci_sf3pp.pdf).

12. NATIONAL LOW INCOME HOUSING COALITION, *supra* note 8, at 10.

political solutions to an apparent lack of decent, safe, affordable housing in low-income neighborhoods. I assert that the destabilization of housing in low-income communities is partly due to the shifting of entire neighborhoods into prison. Finally, I conclude that “revolving door” mass incarceration exacerbates and perpetuates the housing problems currently facing Baltimore’s low-income communities. Thus, the City must identify and dismantle social policies that destabilize communities and force entire neighborhoods to call an eight-by-ten prison cell “home.”

## II. NO PLACE TO CALL HOME: DESTABILIZATION OF HOUSING IN LOW-INCOME COMMUNITIES

### *A. Public Housing: Hard Units Disappear and Vouchers Can’t Cut It*

There is a simple mathematical problem apparent in a facial analysis of the number of public housing units<sup>13</sup> provided by the Housing Authority of Baltimore City (HABC).<sup>14</sup> In fact, it is such a simple problem that it should be easy to recognize: According to the 2000 Federal Census<sup>15</sup> (the “Census”) there are 27,864 families with children living below the poverty level in Baltimore City,<sup>16</sup> but HABC is able to house less than 14,000 families in public housing units.<sup>17</sup>

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13. The Public Housing Program provides low income tenants with direct access to housing or “hard units” owned by the Housing Authority of Baltimore City. This housing subsidy allows a participant to immediate access to a housing unit in which the tenant pays up to thirty percent of their income in rent to HABC as a landlord. This type of housing provides relatively “low barrier” access to housing after approval for tenancy as it does not require the tenant to enter the private rental market. This program is authorized by statute, 24 CFR § 960 et seq., and implemented through the Administrative Plan of the Housing Authority of Baltimore City.

14. The Housing Authority of Baltimore City is a “public housing authority.” A public housing authority administers subsidized housing such as public housing and the housing choice voucher program. HABC, like other housing authorities, receives funding from several sources including the Federal Government therefore compelling HABC to follow federal regulations for subsidized housing under the Code of Federal Regulations, Title 24, Housing and Urban Development.

15. Please note that at the time of the publication of this article, the 2010 census was underway. Therefore, although new census numbers were not yet available, upon the completion of the 2010 census, such numbers can be found at: <http://2010.census.gov/2010census/>.

16. MD. STATE DATA CTR., *supra* note 11, at 10.

17. HOUSING AUTH. OF BALTIMORE CITY, SHORTCHANGED PUBLIC HOUSING, [http://www.baltimorehousing.org/pressroom\\_detail.asp?id=113](http://www.baltimorehousing.org/pressroom_detail.asp?id=113) (last visited Jan. 25, 2010) (stating that “Baltimore. City officials say their waiting list numbers 20,000 for an inventory [of public housing units] that has declined to 14,000 units this year”); HABC ANNUAL PLAN, VOL. 1, 14 (FY 2009) (stating that “as of March 31, 2008 HABC’s existing inventory includes

This lack of available affordable housing units in relation to the number of low-income families living in Baltimore leaves 3,000 to 4,000 homeless individuals living on the streets of Baltimore on any given night, and many more homeless living in shelters or doubled up with friends and family.<sup>18</sup> In addition, approximately 10,000 very low-income Baltimore families<sup>19</sup> are neither homeless nor living in public housing, but often reside in privately owned substandard housing<sup>20</sup> or in other city- or state-run housing: jail or prison. Therefore, it is imperative that HABC develop subsidized housing in Baltimore City, where there is an overwhelming need to ensure that affordable housing is available for those who need it the most. However, in order to reduce the disparity between the number of public housing units available and the size of the population in need, HABC must also re-evaluate the type of housing it develops.

In recent years, the number of public housing units in Baltimore has decreased drastically while the population in need of affordable housing has remained constant. This dramatic decrease is due to demolition of existing public housing units and HABC's practice of developing other types of housing. For instance, the City has eliminated many housing units by demolishing high-rise public housing projects.<sup>21</sup> Although tearing down high-rise housing may seem like a good idea, the City has replaced them with single unit dwellings.<sup>22</sup> This transition from large apartment complex to "low rise" buildings or row homes means that fewer units are being built, leading to a net loss in affordable housing.<sup>23</sup>

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a total of 13,242 public housing units"); *see also* AMERICAN CIVIL LIBERTIES UNION OF MARYLAND, FACTSHEET: THE DIMENSIONS OF BALTIMORE'S PUBLIC HOUSING CRISIS 1-2, <http://www.aclu-md.org/top-issues/Fair%20housing/ACLUHousingCrisisFactsheet.pdf> (last visited Jan. 25, 2010).

18. SCHOOL OF ARCHITECTURE AND PLANNING, MORGAN STATE UNIVERSITY, *supra* note 9, at 2.

19. This number is an approximation using the idea that there are 27,000 families living in poverty, 14,000 of which are housed in public housing, 3,000 of which are homeless, leaving 10,000 in need of affordable housing. It is likely that this number is substantially higher.

20. US DEPT. OF HOUSING AND URBAN DEV., LEADING OUR NATION TO HEALTHIER HOMES: THE HEALTHY HOMES STRATEGIC PLAN 16 (July 9, 2009) *available at*: [http://www.fhasecure.gov/offices/lead/library/hhi/hh\\_strategic\\_plan.pdf](http://www.fhasecure.gov/offices/lead/library/hhi/hh_strategic_plan.pdf) (stating that low income families are often forced into "substandard," "poorly maintained homes with health hazards").

21. HABC ANNUAL PLAN, VOL. 1, 14 (FY 2009).

22. *Id.* (providing for the demolition of public housing units to be replaced with mixed income units).

23. Charles Belfoure, *In Baltimore, Public Housing Comes Full Circle*, N.Y. TIMES, Mar. 19, 2000, at 7, *available at*

Not only have the number of public housing units decreased in the City, but the number of housing vouchers available through the Housing Choice Voucher Program (HCVP),<sup>24</sup> a rental subsidy provided to low income families by HABC, have become harder for low income families to access.<sup>25</sup> Currently, HABC may issue 11,000 HCVP vouchers in Baltimore City.<sup>26</sup> According to the 2000 Census, there are over 27,864 families with children and 30,581 individuals living below the poverty level in Baltimore City.<sup>27</sup> However, because vouchers available through the HCVP have not been re-issued or increased in the City since 2002, over 5,400 families are currently on a waiting list for housing vouchers, despite closure of the HCVP to new applicants since the fall of 2008.<sup>28</sup> In addition to a long waiting list, continuous cuts in funding<sup>29</sup> to housing programs<sup>30</sup> in Baltimore City

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<http://query.nytimes.com/gst/fullpage.html?res=9406E4DD1F3BF93AA25750C0A9669C8B63> (in West Baltimore, a 203 row house public/private project took the place of Lexington Terrace, five eleven-story public housing towers with a total of 677 apartments).

24. The Housing Choice Voucher Program is commonly known as "Section 8." This program provides low income tenants with a housing subsidy known as a "voucher." This voucher subsidy allows a participant enter the rental market and rent a housing unit in which the tenant pays up to thirty percent of their income in rent. This program is authorized by statute, 24 CFR § 982 et seq., and implemented through the Administrative Plan of the Housing Authority of Baltimore City.

25. See generally CENTER ON BUDGET AND POLICY PRIORITIES, INTRODUCTION TO THE HOUSING VOUCHER PROGRAM (2009), available at <http://www.cbpp.org/cms/index.cfm?fa=view&id=2817>.

26. HABC ANNUAL PLAN, VOL. 1, 14 (FY 2009) (stating that there are currently 11,718 vouchers in use which include both tenant based vouchers and project based vouchers); HOUSING AUTH. OF BALTIMORE CITY, HOUSING CHOICE VOUCHER PROGRAM FREQUENTLY ASKED QUESTIONS, [http://www.baltimorehousing.org/ps\\_hcvp\\_tenant\\_faqs.asp](http://www.baltimorehousing.org/ps_hcvp_tenant_faqs.asp) (last visited Jan. 25, 2010).

27. MD. STATE DATA CTR., *supra* note 11, at 9–10; U.S. DEP'T OF HEALTH AND HUMAN SERVICES, THE 2007 HHS POVERTY GUIDELINES, <http://aspe.hhs.gov/poverty/07poverty.shtml> (last visited Jan. 25, 2010) (stating that an individual is living in poverty in a household of one if she make less than \$10,210).

28. HOUSING AUTH. OF BALTIMORE CITY, HOUSING CHOICE VOUCHER PROGRAM, [http://www.baltimorehousing.org/ps\\_hcvp.asp](http://www.baltimorehousing.org/ps_hcvp.asp) (last visited Jan. 25, 2010); see also Edward Ericson Jr., *Nothin' Goin' On but the Rent: Change in Policy at U.S. Department of Housing and Urban Development Likely to Mean Less Section 8 Money for Baltimore Area*, BALTIMORE CITY PAPER, Apr. 28, 2004; Joan Jacobson, *Baltimore Observed: Dismantling the Ghetto*, BALTIMORE URBANITE MAGAZINE, #28, available at <http://www.urbanitebaltimore.com/sub.cfm?sectionID=4&articleID=518&issueID=40>.

29. Although HUD has allocated stimulus monies for rapid re-housing and homeless prevention, and foreclosure and eviction prevention, these monies will be distributed quickly and will not be used for long term funding of permanent housing programs. Therefore, these funds are not included in this analysis.

30. Letter from Paul T. Graziano, Baltimore Housing Commissioner, to the citizens of Baltimore (2006) (stating "[r]ecently, HUD announced an almost \$4 million cut to Baltimore's four major grant programs."); Press Release, Eric Seigel, Housing Auth. of Baltimore City, Community Block Grant Change Means Less for City (2009),

and additional barriers to utilization of such programs result in a flaccid housing authority in Baltimore City that is unable to assist families.<sup>31</sup>

HABC's inability to address the needs of low-income families is evident in the distribution and use of vouchers in the HCVP. Even those who receive a HCVP voucher, and have the opportunity to secure affordable housing, face barriers to using their subsidy.<sup>32</sup> Such barriers include the requirements that the renter must: find a landlord willing to rent to a voucher-holder, locate an apartment that passes the "site inspection" and "rent compatibility" requirements of the HCVP, and secure the apartment within sixty days of receiving the voucher.<sup>33</sup> Since Baltimore City law does not prohibit landlords from discriminating against a possible tenant based on their source of income, Section 8 voucher-holders are at a distinct disadvantage when seeking housing on the private rental market.<sup>34</sup> It is no wonder, therefore, that individuals issued HCVP vouchers in Baltimore City have difficulty using the voucher before the voucher expires.<sup>35</sup>

For individuals who are unable to access public housing or utilize HCVP vouchers, alternative housing is often unhealthy, unsafe,

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[http://www.baltimorehousing.org/pressroom\\_detail.asp?id=78](http://www.baltimorehousing.org/pressroom_detail.asp?id=78) (stating that unlike other cities, Baltimore's CDBG program is facing a decrease in funding).

31. Jen DeGregorio, *Baltimore's Lack of Affordable Housing Leaves HUD Applicants Coming*, DAILY RECORD (BALTIMORE), Apr. 22, 2005.

32. *Thompson v. U.S. Dept. of Hous. & Urban Dev.*, 348 F. Supp. 2d 398, 460 (D. Md. 2005) (stating "housing vouchers are 'not viable replacement housing options' in tight housing markets like Baltimore's").

33. William G. Grigsby & Stephen C. Bourassa, *Section 8: The Time for Fundamental Program Change?*, 15:4 HOUSING POLICY DEBATE, 805, 811 (2004).

34. See generally DANIEL GUBITS ET AL., JOINT CENTER FOR HOUSING STUDIES HARVARD UNIVERSITY, HOUSING PATTERNS OF LOW INCOME FAMILIES WITH CHILDREN: FURTHER ANALYSIS OF DATA FROM THE STUDY OF THE EFFECTS OF HOUSING VOUCHERS ON WELFARE FAMILIES 72 (Sept. 2009) (discussing the difficulty of overcoming the perceptions landlords have of voucher holders); LIBBY PERL, POVERTY AND RACE RESEARCH ACTION COUNCIL, NEEDED ELEMENT: LAWS PROHIBITING SOURCE OF INCOME DISCRIMINATION, (Jan./Feb. 2005) (stating that fifty-five percent of landlords will not accept housing vouchers); BALTIMORE HOMELESS SERVICES, THE JOURNEY HOME: BALTIMORE CITY'S 10-YEAR PLAN TO END HOMELESSNESS 16-17 (2008) (acknowledging that Baltimore City does not have an anti-discrimination law to protect against income discrimination and suggesting that a law be passed at either the state or local level to protect against income discrimination).

35. HABC has a high voucher utilization rate as determined by 24 CFR § 985.3(n), however, this does not translate into success for all voucher holders. As stated in HABC's Annual Plan, over six-thousand individuals were contacted to receive a voucher in FY 2008, and just slightly more than 1,000 units were successfully leased using a voucher. HOUS. AUTH. OF BALT. CITY, HABC ANNUAL PLAN, VOL. 1, 14 (FY 2009). See also AMERICAN CIVIL LIBERTIES UNION OF MARYLAND, FACTSHEET: THE DIMENSIONS OF BALTIMORE'S PUBLIC HOUSING CRISIS 1-2, <http://www.aclu-md.org/top-issues/Fair%20housing/ACLUHousingCrisisFactsheet.pdf> (last visited Jan. 25, 2010).

and expensive. Due to inflated housing costs and a high median income level, housing in Maryland is less affordable than housing in the nation as a whole, leaving low-income and very low-income renters with few options.<sup>36</sup> In Baltimore City, this disparity between income and housing leads many low income families to neighborhoods where affordable housing is located.<sup>37</sup> These neighborhoods are often labeled as “bad” or undesirable neighborhoods because of their high rates of vacant and substandard housing.<sup>38</sup>

*B. Abandoned Housing and Eviction Rates: Indicative of Social Ills*

Like many other U.S. cities,<sup>39</sup> Baltimore is a “city of neighborhoods,”<sup>40</sup> boasting over 200 unique neighborhoods within the city limits.<sup>41</sup> However, not all of the neighborhoods in Baltimore are well developed and maintained; the city has an alarming number of vacant properties. According to the Census, which defines a vacant unit as a “habitable housing unit that does not have anyone living in it,” approximately fourteen percent of all housing units in Baltimore were vacant in 1999.<sup>42</sup> This means that the Census places the number

36. MARYLAND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, MARYLAND HOUSING AFFORDABILITY INDEX: MEASURING THE ABILITY OF A TYPICAL FAMILY TO QUALIFY FOR A MORTGAGE LOAN ON A TYPICAL HOME, (Oct. 2003).

37. See generally AMERICAN CIVIL LIBERTIES UNION OF MARYLAND, THE CASE OF *THOMPSON v. HUD*: A BRIEFING ON SEGREGATION AND PUBLIC HOUSING IN BALTIMORE, <http://www.aclu-md.org/top-issues/Fair%20housing/ThompsonBriefing.pdf> (last visited Jan. 25, 2010).

38. LORA ENGDahl, POVERTY AND RACE RESEARCH ACTION COUNCIL, NEW HOMES NEW, NEIGHBORHOODS, NEW SCHOOLS: A PROGRESS REPORT ON THE BALTIMORE HOUSING MOBILITY PROGRAM 10 (Oct. 2009) (stating that “African Americans have historically been confined to high poverty inner city neighborhoods and housing projects, residential segregation means being segregated away from society’s opportunity structures”).

39. CITY OF NEW YORK, <http://www.nyc.gov/html/dcp/html/neighbor/neigh.shtml> (last visited Jan. 25, 2010) (stating New York is a city of neighborhoods); CITY OF BOSTON, <http://www.cityofboston.gov/neighborhoods> (last visited Jan. 25, 2010) (stating Boston is a city of neighborhoods); AM. HIST. ASS’N, <http://www.historians.org/perspectives/issues/2005/0512/supplement/0512ann13.cfm> (last visited Jan. 25, 2010) (stating that Philadelphia is known as a city of neighborhoods).

40. LIVE BALTIMORE NEIGHBORHOOD PROFILES, <http://www.livebaltimore.com/neighborhoods/list/> (last visited Jan. 25, 2010) (stating that Baltimore is a city of 225 neighborhoods).

41. *Id.*

42. BALTIMORE NEIGHBORHOOD INDICATORS ALLIANCE, VITAL SIGNS: MEASURING BALTIMORE’S PROGRESS TOWARD STRONG NEIGHBORHOODS AND A THRIVING CITY 18 (2004), available at <http://www.ubalt.edu/bnia/indicators/DailyRecordVS3.html> (stating that the Census defines a vacant unit as a “habitable housing unit that does not have anyone living in it that includes units that are for sale, rent, awaiting people to move in, seasonal, or abandoned homes”); See U.S. CENSUS BUREAU, BALTIMORE CITY, MARYLAND- FACT SHEET,



of vacant housing units in Baltimore at 42,481.<sup>43</sup> However, the Baltimore City government contradicts this figure, reporting that there are only 15,000 to 16,000 vacant housing units in the city.<sup>44</sup> Unlike the Census, Baltimore City defines a vacant unit as one that is not only unoccupied, but is also unfit for occupancy.<sup>45</sup> The difference in local and federal government definitions of “vacant” accounts for the disparity in the number of vacant units reported by Baltimore City and the Census respectively. Nevertheless, regardless of the definition of “vacant” used, the aforementioned data suggest that there are between 15,000 and 42,000 housing units in Baltimore that are both unoccupied and inhabitable.

The differences between Baltimore City’s data and Census data extend beyond the definition of what constitutes a “vacant property” to the method in which data regarding these properties is collected.<sup>46</sup> Pursuant to the Baltimore City Housing Code, property owners must register a rental unit or a lot that is vacant with the City.<sup>47</sup> Baltimore City also keeps track of neighborhood-level “vital signs” or outcome indicators.<sup>48</sup> This information, which includes data on vacant

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[http://factfinder.census.gov/servlet/SAFFacts?\\_event=Search&\\_street=4105%20RIDGEOOD%20AVE&\\_cityTown=BALTIMORE&\\_zip=21215](http://factfinder.census.gov/servlet/SAFFacts?_event=Search&_street=4105%20RIDGEOOD%20AVE&_cityTown=BALTIMORE&_zip=21215) (last visited Jan. 25, 2010) (finding that 14.1% of Baltimore City’s housing units were vacant).

43. See *id.* (finding that Baltimore City had 42,481 vacant housing units). See also BALTIMORE NEIGHBORHOOD INDICATORS ALLIANCE, VITAL SIGNS IV, PART II: HOUSING AND COMMUNITY DEVELOPMENT 25 (2006), available at <http://www.ubalt.edu/bnia/indicators/reports.html>.

44. BALTIMORE CITY MAYORAL OBJECTIVE: CULTIVATE STABLE, VIBRANT, LIVABLE NEIGHBORHOODS 2 (FY 2011) (stating the number of vacant properties, both habitable and inhabitable, in Baltimore City is 16,009) available at <http://www.baltimorecity.gov/LinkClick.aspx?fileticket=g2PNwH3xpYU%3D&tabid=215&mid=2009>; HOUSING AUTH. OF BALTIMORE CITY, STRENGTHENING HOUSING: HOUSING CODE ENFORCEMENT, A HANDBOOK FOR BALTIMORE CITY RESIDENTS, available at [http://static.baltimorehousing.org/pdf/code\\_handbook.pdf](http://static.baltimorehousing.org/pdf/code_handbook.pdf) (last visited Oct. 2009) (defining vacant housing as a building that is “unoccupied and unsafe or unfit for human habitation or other use” and clarifying that every unoccupied building is not considered vacant); BALTIMORE NEIGHBORHOOD INDICATORS ALLIANCE, VITAL SIGNS IV, PART II, *supra* note 43 at 24–25.

45. BALTIMORE, MD., BUILDING CODE § 115.4.1 (2010) (defining “vacant structure” as an unoccupied structure that is unsafe or unfit for human habitation or other authorized use”). BALTIMORE NEIGHBORHOOD INDICATORS ALLIANCE, VITAL SIGNS IV: PART II, *supra* note 34 at 24–25.

46. Odette Ramos, Column, *Vital Signs-Baltimore’s Housing Situation Isn’t as Bleak as Federal Data Suggest*, DAILY RECORD (BALTIMORE) (Jan. 28, 2005), available at <http://www.ubalt.edu/bnia/indicators/DailyRecord%20January.htm> (suggesting that the method of counting vacant units used by the U.S. Census was inaccurate).

47. BALTIMORE, MD., CODE art. 13, div. II, §§ 4.5, 11.2.

48. BALTIMORE NEIGHBORHOOD INDICATORS ALLIANCE, VITAL SIGNS IV, PART I 5 (2006), available at [http://www.ubalt.edu/bnia/pdf/0.\\_Section\\_VS\\_IV\\_Cover\\_Section\\_I.pdf](http://www.ubalt.edu/bnia/pdf/0._Section_VS_IV_Cover_Section_I.pdf).

housing, is updated annually and “continually improved upon based on the input and feedback garnered from resident focus groups.”<sup>49</sup> Using an alternative collection method, the Census relies on questionnaires distributed every ten years to determine which properties are occupied in the City.<sup>50</sup> However, regardless of variation in data collection methods, the large number of abandoned properties in Baltimore is indicative of population loss.<sup>51</sup>

Using available social and legal resources, Baltimore City government must address the numbers of vacant properties and invest in blighted neighborhoods. Neighborhoods with unsafe, unhealthy, and abandoned housing often lack residents who are sufficiently invested in the housing to maintain it.<sup>52</sup> Baltimore City’s Code of Public Local Laws recognizes that “there exist[s] within the City of Baltimore slum, blighted, deteriorated, or deteriorating areas, which constitute a serious and growing menace, injurious and inimical to the public health, safety, morals, and general welfare of the residents.”<sup>53</sup> The law suggests that these blighted areas should be rehabilitated or eliminated.<sup>54</sup> However, mere destruction of housing units without replacement aggravates the current lack of affordable housing. Furthermore, units in need of rehabilitation are rarely repaired because the Baltimore Housing Code (the “Code”) is often under- or un-enforced.<sup>55</sup> And even when the Code is enforced, it generally favors landlords and tenants are unlikely to see a positive outcome even when they raise issues of conditions in court.<sup>56</sup>

In addition to the high rate of abandoned housing discussed *supra*, Baltimore also has a high rate of eviction, with more than one

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49. *Id.*

50. U.S. CENSUS BUREAU, HOW IT BENEFITS YOUR COMMUNITY - 2010 CENSUS, <http://2010.census.gov/2010census/why/community-benefits.php>. (last visited Jan. 25, 2010).

51. James R. Cohen, *Abandoned Housing, Exploring Lessons From Baltimore*, 12:3 HOUSING POLICY DEBATE 415, 415 (2001).

52. JASON ZIEDENBERG & ERIC LOTKE, JUSTICE POLICY INST., TIPPING POINT: MARYLAND’S OVERUSE OF INCARCERATION AND THE IMPACT ON PUBLIC SAFETY 3 (March 2005).

53. BALTIMORE, MD., CODE art. 13, § 2-1 (2009).

54. *Id.*

55. See generally MD. COMM’N ON HUMAN RELATIONS, REPORT ON FAIR HOUSING IN MARYLAND 2–3 (2000) (submitting testimony suggesting that not enforcing housing codes contributed to the amount of substandard housing in the city).

56. See generally Barbara Bezdek, *Silence in the Court: Participation and Subordination of Poor Tenants’ Voices in Legal Process*, 20 HOFSTRA L. REV. 533 (1992).

complaint per renter household filed per year in the City.<sup>57</sup> Frequently-filed evictions are costly to both the tenant and the community. Although Baltimore City no longer allows landlords to place a tenant's belongings on the street during the eviction process,<sup>58</sup> many people moving in and out may discourage investment in a neighborhood. In addition, a transient population does not strengthen a community.<sup>59</sup>

Furthermore, evictions often render individuals homeless, vulnerable to arrest, incarceration, and financial downfall that may prevent them from re-entering the same rental unit in the same community. High eviction rates are not only indicative of an increasing cost of rent in a city with many families living below poverty level,<sup>60</sup> but the eviction rates are also indicative of housing ills that lead to vacant units. For instance, eviction is often evidence of a property in need of repair. Tenants often stop paying rent in an effort to get their landlord to address substandard conditions in the unit, but are unable to raise these conditions as a defense when in court for failure to pay rent.<sup>61</sup> However, despite Baltimore's aged housing stock, the City places little responsibility on landlords for maintaining habitable units.<sup>62</sup> The City fails to enforce codes to maintain the physical condition of affordable housing<sup>63</sup> and fails to create a system where landlord-tenant disputes can effectively be solved inside or outside of court.<sup>64</sup> The lack of alternatives to a lengthy, costly, and possibly ineffective rent escrow challenge to unsafe housing<sup>65</sup> leaves tenants without the capacity to effectively challenge the housing ills in Baltimore's housing.<sup>66</sup> The strained landlord-tenant relationship in

57. *Abell Foundation, A System in Collapse*, 16:2 ABELL REPORT (The Abell Found., Baltimore, Md.), Mar. 2003, at 2.

58. BALTIMORE, MD., CODE art. 4, § 9-6 (2009).

59. BALTIMORE CITY MAYORAL OBJECTIVE: CULTIVATE STABLE, VIBRANT, LIVABLE NEIGHBORHOODS 2 (FY 2011) (stating "stable neighborhoods that have healthy real estate markets", are "well-maintained and well-cared for", are "free from both perceived and actual crime" and have "engaged neighbors and strong community networks") available at <http://www.baltimorecity.gov/LinkClick.aspx?fileticket=g2PNwH3xpYU%3D&tabid=215&mid=2009>.

60. MD. STATE DATA CTR., *supra* note 11, at 10.

61. *See generally* Bezdek, *supra* note 56.

62. ABELL FOUNDATION, *supra* note 57, at 7.

63. *See generally* MD. COMM'N ON HUMAN RELATIONS, *supra* note 55, at 3 (submitting testimony suggesting that not enforcing housing codes contributed to the amount of substandard housing in the city).

64. Bezdek, *supra* note 56, at 533.

65. *Id.*; *see also* THE LEGAL AID BUREAU, INC. OF MARYLAND, YOU DON'T HAVE TO LIVE LIKE THIS!: TENANTS' GUIDE TO LEGAL SELF-HELP IN RENT ESCROW CASES (2001)(describing the rent escrow law and process for pro se litigants).

66. *Id.*

Baltimore City places a greater burden on low-income communities by transferring most identified housing problems onto the next landlord or tenant.

### III. FROM THE POORHOUSE TO PRISON:<sup>67</sup> POLICY CHOICES THAT DISPLACE CITIZENS

#### A. *Statistics: Where Are the Poor? An Institutional Approach to Housing*

The past two decades have seen a considerable increase in incarceration in the U.S. This increase is strikingly reflected in the incarceration rates in Maryland, and in Baltimore in particular.<sup>68</sup> As of 2001, Maryland had the nineteenth highest per capita incarceration rate in the U.S.<sup>69</sup> In Baltimore, one in five young African American males is in custody.<sup>70</sup> In Baltimore in 2005, “an astonishing 52% of African American males age 20-30 were in either prison or jail, on probation or parole.”<sup>71</sup> In 2005, 9,953 individuals incarcerated in the state prison system came from Baltimore City and an additional 2,280 individuals came from neighboring Baltimore County.<sup>72</sup> These statistics represent the devastation of families and neighborhoods that are left with virtually no male inhabitants and foreshadow the broader social consequences of incarcerating vast numbers of people from specific neighborhoods.<sup>73</sup> The approximately 10,000 individuals incarcerated<sup>74</sup> in Baltimore each year come from a concentrated “handful of

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67. This section of analysis will focus mainly on the incarceration rate in Maryland. Individuals serving time in prison usually serve more than one year. Although many of the same issues affect people serving time in jail who are often serving time for less than a year, the rates of imprisonment are so high that the analysis necessary to this section can be accomplished by simply considering the rates of those in prison. Part D of this section will note any unique circumstances faced by those serving time in jail.

68. Caterina Gouvis Roman & Jeremy Travis, *Where Will I Sleep Tomorrow? Housing, Homelessness and the Returning Prisoner*, 17:2 HOUSING POLICY DEBATE 389, 390–91 (2006) [hereinafter *Where Will I Sleep Tomorrow?*](stating that the national prison population has increased from 330,000 to over 1.4 million over the last 20 years); LAVIGNE ET AL., *supra* note 1, at 1 (stating that the prison population in Maryland increased from 7,731 to 23,752 during the same twenty years).

69. LAVIGNE ET AL., *supra* note 1, at 9.

70. ZIEDENBERG & LOTKE, *supra* note 52, at 9–10; Ryan Davis, *1 in 5 Young Black City Men in Jail: 52 Percent Are in Prison or on Parole or Probation*, BALTIMORE SUN, Mar. 15, 2005.

71. ZIEDENBERG & LOTKE, *supra* note 52, at 9.

72. *Id.* at 9–10.

73. *Id.*

74. *Id.*

communities.”<sup>75</sup> These impacted communities are faltering from the inconsistent presence of many of their residents.<sup>76</sup>

Despite the destabilizing effect incarceration has on communities, our social policies prioritize investment in prisons rather than neighborhoods. Communities with particularly high incarceration rates often lack safe and affordable housing. However, rather than investing in housing in these neighborhoods, local government is spending lavishly on the maintenance of prison beds.<sup>77</sup> As a rough estimate, “the Baltimore region . . . spends \$280 million annually to incarcerate 12,773 individuals” or \$22,000 per year for each person.<sup>78</sup> This expenditure is clearly excessive when compared to the budget of the Baltimore City Department of Housing and Community Development (DHCD) for fiscal year 2007, which was \$78,730,744, or approximately \$280 per family living below the poverty level in the City.<sup>79</sup> The City’s focus on prisons has essentially turned incarceration into a form of subsidized housing.

### *B. Special Problems with Re-Entry: Where Can Ex-Offenders<sup>80</sup> Sleep?*

In Maryland, 4,411 of the prisoners released from prison statewide in 2001 returned to Baltimore City.<sup>81</sup> These prisoners, ninety percent of whom were black men between the ages of twenty and forty, left prison with an average of forty dollars in their pocket.<sup>82</sup> A large portion of those released spent their first night out of prison with family or friends.<sup>83</sup> Almost all of these prisoners returned to Baltimore City conditionally on parole; twenty percent returned to prison within

75. LAVIGNE ET AL., *supra* note 1, at 63.

76. *Id.*

77. LAVIGNE ET AL., *supra* note 1, at 9; ZIEDENBERG & LOTKE, *supra* note 52, at 11.

78. *Id.*

79. CITY OF BALTIMORE, SUMMARY OF THE ADOPTED FISCAL BUDGET (2007), *available at* <http://www.ci.baltimore.md.us/government/finance/Fiscal2007SummaryAdoptedBudget.pdf>

80. There has been discussion in the advocacy community around the term “ex-offender.” Some organizations have begun to use the term “returning citizen” or “returning community member.” In this article, the term “ex-offender” is not used as a term to define or demean the identity of individuals with criminal records. The term is used because it is a widely recognized term and can be easily used to define the group described in this analysis.

81. LAVIGNE ET AL., *supra* note 1, at 51.

82. CRISTY VISHER, ET AL., URBAN INSTITUTE, BALTIMORE PRISONERS’ EXPERIENCES RETURNING HOME 5 (March 2004).

83. *Id.*; *see also* NAT’L LAW CTR. ON HOMELESSNESS AND POVERTY & NAT’L COAL. FOR THE HOMELESS, HOMES NOT HANDCUFFS: THE CRIMINALIZATION OF HOMELESSNESS IN U.S. CITIES (July 2009).

one year of their release.<sup>84</sup> For many of these men, unavailability and high cost of housing was a significant factor in their return to prison.<sup>85</sup> This is because, as discussed below, a lack of housing upon re-entry can be a violation of parole itself, or homelessness can lead the ex-offender to commit minor misdemeanor crimes which result in a violation of parole and re-incarceration.

Prisoners released into Baltimore City return to a small number of neighborhoods, mostly located in the western part of the City.<sup>86</sup> The continuous cycle of residents from these neighborhoods into prisons strongly affects community control over the neighborhood by destabilizing effected families, and therefore a large portion of the population.<sup>87</sup> Upon their return from prison, many ex-offenders are unable to reintegrate into their community due to lack of access to affordable housing, which in turn worsens the negative impact of the cycle of incarceration on neighborhoods.

Many factors hinder the ability of ex-offenders to acquire affordable housing.<sup>88</sup> One critical issue is that persons who are incarcerated or recently released face significant barriers to employment. For example, Maryland employment law impedes the ability of ex-offenders to get a job by barring them from applying to certain positions or requiring that applicants must pass a criminal background check to work in certain areas of employment.<sup>89</sup> Furthermore, although most employers are not required to do criminal background checks, they are not prohibited from doing so.<sup>90</sup> Indeed,

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84. LAVIGNE ET AL., *supra* note 1, at 52.

85. *Id.* at 53.

86. ZIEDENBERG & LOTKE, *supra* note 52, at 51.

87. See Dina Rose & Todd Clear, *Incarceration, Social Capital, and Crime: Implications for Social Disorganization Theory*, 36 CRIMINOLOGY 441, 441 (1998) (defining social control as the essence of the neighborhood, their ability to exert control over both individuals and governments to create a cohesive and desirable community).

88. *E.g.*, Housing Opportunity Program Extension Act of 1996, Pub. L. No. 104-120, 110 Stat. 834, 834-845; Quality Housing and Work Responsibility Act of 1998, Pub. L. No. 105-276, 112 Stat. 2518, 2634-43.

89. MD. CODE ANN., FAM. LAW § 5-561 (LexisNexis 2009) (restricting work in places that care for children to individuals without a criminal background); MD. CODE ANN., EDUC. § 6-113 (LexisNexis 2009) (restricting school board hiring based on criminal background); MD. CODE REGS. 10.07.14.17 (2006) & 10.07.14.27 (2004) (restricting work in healthcare to individuals without a criminal background); MD. CODE REGS. 10.09.54.06-07 (2007) (restricting the work of a personal aid to individuals without a criminal background); MD. CODE REGS. 12.10.01.17 (2008) (restricting work in correctional facilities to individuals without a criminal background).

90. MD. CODE ANN., CRIM. PROC. § 10-228 provides that employers are prohibited from asking applicants about their arrest records. But the Maryland statute does not say that an employer cannot find out about arrest records from sources other than the applicant, so the

employers have an incentive to conduct a background check before making an offer of employment as they could otherwise be accused of “negligent hiring” and held responsible for any tortious actions of their employees.<sup>91</sup>

If an employer performs a criminal background check, an ex-offender is often disqualified from obtaining the job for which he is applying. Because most individuals exit prison with little money, the inability to obtain a job to generate income makes it difficult to make a deposit on a rental unit. Ex-offenders, therefore, are often forced into homelessness or back into prison if a permanent address is a condition of their parole.<sup>92</sup>

Another barrier faced by returning offenders is lack of access to privately-owned rental housing. The Fair Housing Act provides that individuals cannot be discriminated against in housing.<sup>93</sup> The Act states that a landlord cannot “refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status, or national origin.”<sup>94</sup> The federal Fair Housing Act has been incorporated into local law, making it state policy to “provide for fair housing throughout the State of Maryland, to all its citizens, regardless of race, color, religion, sex, familial status, national origin, marital status, sexual orientation, or disability.”<sup>95</sup>

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statute probably does not forbid an employer from searching for arrest records using computer databases. MD. CODE ANN., CRIM. PROC. § 10-228 (West 2009).

91. HOMELESS PERSON’S REPRESENTATION PROJECT, EX-OFFENDERS AND EMPLOYMENT: A REVIEW OF MARYLAND’S PUBLIC POLICY AND A LOOK AT OTHER STATES 7 (June 2002); *see also* LAVIGNE ET AL., *supra* note 1, at 31–32 (stating that in a survey of 3,000 employers, two-thirds said they would not hire someone with any type of criminal background).

92. CATERINA GOUVIS ROMAN & JEREMY TRAVIS, JUSTICE POLICY CTR., URBAN INST., TAKING STOCK: HOUSING, HOMELESSNESS, AND PRISONER REENTRY x (2004) [hereinafter TAKING STOCK].

93. For example, the Fair Housing Act prohibits discrimination against an individual with a disability. The FHAA and the Rehabilitation Act define a person with a disability as an individual with a physical impairment that substantially limits one or more major life activities. 42 U.S.C. § 3602(H); 29 U.S.C. § 706(7)(A); *see also* FHAA regulations at 24 C.F.R. § 100.201(a); BALTIMORE NEIGHBORHOODS INC., WHAT IS FAIR HOUSING?, *available at* <http://www.bni-maryland.org/programsandservices/fairhousing/What%20is%20Fair%20Housing.pdf> (last visited Jan. 25, 2010) (stating that “Fair Housing means that you have the right to live where you chose without discrimination based on your physical characteristics.”).

94. 42 U.S.C. § 3604(a) (2006).

95. MD. CODE ANN., STATE GOVT. § 20-702 (West 2009).

However, fair housing laws do not prohibit private landlords from discriminating against individuals with a criminal background.<sup>96</sup> Therefore, a landlord may legally inquire about a rental applicant's criminal background, and may deny housing on the basis of the individual's criminal record. The landlord may also ask for the maximum security deposit allowed by law or increase the rent for this "high risk" renter, effectively forcing the ex-offender into homelessness.

Given their restricted access to the private housing market and limited income, many ex-offenders would be well-served by public housing or the HCVP. However, the legal barriers to obtaining public housing or a HCVP voucher are even more restrictive than those ex-offenders face in the private market. Public housing authorities have the right to deny assistance to any applicant who has participated in drug related criminal activity, violent criminal activity, or any other criminal activity that could threaten the health, safety, or peaceful enjoyment of the other housing residents.<sup>97</sup> Federal law also establishes criteria for the mandatory rejection of any applicant who has committed a sexual offense which subjects the ex-offender to lifetime registration as a sex offender, has manufactured methamphetamines on the premises of federally assisted housing, or has been evicted from federally assisted housing in the past three years for drug related activity.<sup>98</sup>

In addition to these considerable barriers, the HABC has set its own additional guidelines barring individuals from public housing and the HCVP for eighteen months if they are convicted of a misdemeanor and making them ineligible for public housing and the HCVP for three years if they have been convicted of a felony.<sup>99</sup> The HABC waived these criteria for a paltry 150 vouchers allocated specifically for ex-offenders in its fiscal year 2009 Annual Plan.<sup>100</sup> This, however, does not solve the housing problem for the thousands of individuals facing release from jail or prison, or for the nearly thirty five hundred

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96. See FHAA regulations at 24 C.F.R. §100.201 et seq.

97. See 24 C.F.R. § 982.553(a) (2009).

98. *Id.*

99. HOUSING AUTH. OF BALTIMORE CITY, FISCAL YEAR 2009 ANNUAL PLAN, app. 3, at 28, available at [http://static.baltimorehousing.org/pdf/hudapproved\\_vol1\\_2009.pdf](http://static.baltimorehousing.org/pdf/hudapproved_vol1_2009.pdf); PAUL SAMUELS & DEBBIE MUKAMAL, LEGAL ACTION CTR., AFTER PRISON: ROADBLOCKS TO RE-ENTRY: A REPORT ON STATE LEGAL BARRIERS FACING PEOPLE WITH CRIMINAL RECORDS 16 (2004).

100. HOUS. AUTH. OF BALTIMORE CITY, *supra* note 99, at 13.



individuals who are homeless in Baltimore.<sup>101</sup> The lack of state and federal housing resources available to ex-offenders reinforces the lack of social support for those attempting to regain stability and comply with the law, and ultimately forces many into homelessness.<sup>102</sup>

Although many ex-offenders face homelessness due to restrictions on subsidized housing and lack of opportunity to enter the private housing market,<sup>103</sup> the federal government funds another type of housing which may offer a few ex-offenders a reprieve. Local regulation creates legal barriers to public housing and the HCVP, but other low-income or “subsidized” housing complexes often receive some form of federal funding or tax incentives, which brings the housing they provide under the auspices of federal regulations<sup>104</sup> and the oversight of the United States Department of Housing and Urban Development (“HUD”).<sup>105</sup>

Owners of these federally subsidized housing complexes have the same right as private owners to deny a unit to a person with a criminal background, but they must have a written policy establishing criteria for eligibility and denial.<sup>106</sup> Therefore, unlike an owner of a private home who can legally reject an ex-offender without explanation, these housing complexes must provide prospective tenants with a written policy and give them the right to challenge a denial of housing based on their criminal record.<sup>107</sup> Nevertheless, the owners of federally subsidized housing units generally do not have a written policy available to applicants or deny public access to the policy.<sup>108</sup> Unfortunately, ex-offenders are often unaware that they have

101. SCHOOL OF ARCHITECTURE AND PLANNING, MORGAN STATE UNIVERSITY, *supra* note 9, at 7.

102. As a result, recently-released offenders often live with family in public housing, effectively breaking the law. *See generally* ZIEDENBERG & LOTKE, *supra* note 52.

103. *See generally* Violet Law, *Life After Lockup*, 139 SHELTERFORCE ONLINE (Nat. Housing Institute, Montclair, N.J.), Jan./Feb. 2005, available at <http://www.nhi.org/online/issues/139/afterlockup.html>.

104. *See generally* 24 C.F.R. § 900 (1990).

105. *See generally* U.S. DEPT. OF HOUS. & URBAN DEV., HUD HOUSING HANDBOOKS, <http://www.hud.gov/offices/adm/hudclips/handbooks/hsg> (last visited Jan. 25, 2010).

106. U.S. DEPT. OF HOUS. & URBAN DEV., HANDBOOK 4350.3: OCCUPANCY REQUIREMENTS OF SUBSIDIZED MULTIFAMILY HOUSING PROGRAMS ch.4, at 15 (2007) [hereinafter OCCUPANCY REQUIREMENTS HANDBOOK], available at <http://www.hud.gov/offices/adm/hudclips/handbooks/hsg/4350.3/index.cfm>; *see also* U.S. DEPT. OF HOUS. & URBAN DEV., HANDBOOK 4350.3: OCCUPANCY REQUIREMENTS OF SUBSIDIZED MULTIFAMILY HOUSING PROGRAMS: SUMMARY FOR TENANTS (2003), available at <http://www.hud.gov/offices/adm/hudclips/handbooks/hsg/4350.3/index.cfm>.

107. OCCUPANCY REQUIREMENTS HANDBOOK, *supra* note 106, ch.4, at 24.

108. This assertion is based on an unpublished study done by the Homeless Person’s Representation Project.

the right to view criteria for acceptance or to challenge a denial of admission. Even if the applicant to a federally subsidized complex challenges his denial, it is likely that he will not have access to legal counsel when asserting his right to housing.<sup>109</sup>

Finally, many ex-offenders spend time in short-term housing situations such as shelters or half way homes.<sup>110</sup> As discussed below, individuals without a fixed residence face many barriers to obtaining permanent housing on their own and often cycle quickly back into the permanent housing that prison provides. Temporary shelters are unable to meet the needs of the ex-offender population that relies so heavily upon them.<sup>111</sup>

### *C. Special Problems with Re-Entry: Legal Barriers Ex-Offenders Face*

Some individuals being released from prison face legal barriers that make accessing housing almost impossible for them; unfortunately, these individuals often need the most support reentering society. Sex offenders, for example, face very severe housing restrictions based on their criminal background and the real or perceived threat they pose to society.<sup>112</sup> Sex offenders who are subject to lifetime registration on the state<sup>113</sup> or national<sup>114</sup> Sex Offender Registry are prohibited from living in any type of public housing.<sup>115</sup> Due to recent changes in Maryland law regulating the registration of sex offenders,<sup>116</sup> this restriction applies to almost every sexually-based offense.<sup>117</sup> As part of the mandatory requirements of sex-offender registration, the offender must provide a permanent address where he

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109. In Baltimore City, only two small legal services organizations, the Homeless Persons Representation Project and the Maryland Disability Law Center, offer legal assistance to those denied housing due to their criminal record.

110. TAKING STOCK, *supra* note 92, at xii.

111. *Id.* at iv.

112. *Id.* at 32.

113. MD. DEP'T OF PUB. SAFETY AND CORR. SERVICES, SEX OFFENDER REGISTRY, <http://www.dpccs.state.md.us/sorSearch> (last visited Oct. 27, 2009).

114. UNITED STATES DEP'T OF JUSTICE, SEX OFFENDER REGISTRY, <http://www.nsopw.gov/Core/Conditions.aspx?AspxAutoDetectCookieSupport=1> (last visited Jan. 25, 2010).

115. 24 C.F.R. § 982.553(a)(2) (2009).

116. MD. CODE ANN., CRIM. PROC. §11-701 et seq. (West 2009).

117. See generally MD. CODE ANN., CRIM. PROC. §§ 11-700-27 (West 2009); see also Md. Dep't of Safety and Corr. Services, Frequently Asked Questions, [http://www.dpccs.state.md.us/onlineservs/sor/frequently\\_asked\\_questions.shtml](http://www.dpccs.state.md.us/onlineservs/sor/frequently_asked_questions.shtml) (last visited Jan. 25, 2010) (explaining the law).

presently resides so that he can be contacted or found.<sup>118</sup> If an offender fails to provide an address, he is considered to be in violation of his parole.<sup>119</sup>

It can be particularly problematic for an offender to independently establish a fixed address due to lack of income and the absolute right of private landlords to deny a unit based on criminal background.<sup>120</sup> Therefore, most ex-offenders, including sex offenders, live with family members upon release.<sup>121</sup> A significant problem with this arrangement is that most prisoners return to low income households likely to live in public housing, Section 8, or federally assisted housing.<sup>122</sup> If sex offenders register their address as that of their family, the family is at risk of being evicted from their subsidized housing.<sup>123</sup> Ex-offenders who cannot stay with family have very few other options available and often end up living on the streets.<sup>124</sup> For a sex offender, not having a fixed address<sup>125</sup> to register with the Maryland Sex Offender Registry is a parole violation which places the offender back into prison “housing.”<sup>126</sup>

Although many ex-offenders are required obtain housing, or consider doing so a priority upon release, most ex-offenders face significant legal barriers to accessing housing upon release from prison. Accordingly, in line with the difficulty of obtaining housing, a high number of prisoners are homeless at the time of their arrest and a

118. MD. CODE ANN., CRIM. PROC. §§ 11-700-727 (West 2009).

119. MD. CODE ANN., CRIM. PROC. § 11-704 (West 2009).

120. See TAKING STOCK, *supra* note 92, at 31.

121. See CRISTY VISHER ET AL., *supra* note 82 at 6 (stating that three months after release 80 percent of prisoners released in Baltimore were living with family).

122. See generally LAVIGNE ET AL., *supra* note 1.

123. See 24 C.F.R. § 982.553(a)(2) (2009); MD. CODE ANN., CRIM. PROC. § 11-704 (West 2009); MD. CODE ANN., CRIM. PROC. §§ 11-700-727 (West 2009); NICHOLAS FREUDENBERG, URBAN INSTITUTE, COMING HOME FROM JAIL: A REVIEW OF HEALTH AND SOCIAL PROBLEMS FACING US JAIL POPULATIONS AND OPPORTUNITIES FOR REENTRY INTERVENTIONS 4 (2006) *available at* [http://www.urban.org/reentryroundtable/inmate\\_challenges.pdf](http://www.urban.org/reentryroundtable/inmate_challenges.pdf) (stating the “many inmates and families [are] forced to choose between providing shelter to a returning family member, thus risking eviction, or, refusing housing to the family member back from jail or prison, thus safeguarding their own tenancy but putting the ex-inmate at risk of homelessness.”).

124. See *Where Will I Sleep Tomorrow?*, *supra* note 68, at 390-91.

125. Individuals who are homeless or living on the street are without a fixed address.

126. See MD. CODE ANN., CRIM. PROC. § 11-706 (West 2009); Ann Parks, *Homeless Sex Offender Challenges Registration Rule in MD COA*, DAILY RECORD (BALTIMORE), May 4, 2006 (reporting that “a 65-year-old man who, after serving 26 years in jail for rape, was jailed again less than two years after his release for failure to follow the registration requirements for a sexually violent offender...because when [he] was evicted from his Silver Spring residence—due to a campaign by neighbors objecting to his blighted past—he became homeless, with arguably no residence to call his own” (internal quotations omitted)).

significant proportion of people who are homeless have a criminal history.<sup>127</sup> The cycle of incarceration and re-incarceration in Baltimore mirrors national rates of recidivism. A recent national study of prisoners found that over fifty-two percent of prisoners had returned to prison within three years of their release.<sup>128</sup> In Maryland in 2001, seventy percent of prisoners released into the community had been in prison on at least one previous occasion.<sup>129</sup> By 2002, “more than 15 percent of the men and women released in 2001 had already returned to prison.”<sup>130</sup> The prisoners who re-offended within a year usually were arrested for property crimes, suggesting that their motivation was economic.<sup>131</sup> However, ex-offenders who are able to secure and maintain permanent housing upon release are less likely to return to prison,<sup>132</sup> suggesting that Baltimore City could significantly reduce rates of recidivism by providing stable and affordable housing.<sup>133</sup>

*D. Special Problems with Jail: How a Short Time Served can Have a Lasting Effect*

According to the United States Department of Justice (USDOJ), “jails are locally-operated correctional facilities that confine persons before or after adjudication [who]. . . have a sentence of a year or less.”<sup>134</sup> The number of individuals serving time in jail rose from 226 individuals per 100,000 U.S. residents in 2000 to 258 individuals per 100,000 U.S. residents in 2008.<sup>135</sup> This increase in number of individuals serving time in jail has destabilized neighborhoods by directly impacting social structure and community support.<sup>136</sup>

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127. Margot B. Kushel et al., *Revolving Doors: Imprisonment among the Homeless and Marginally Housed Population*, 95:10 AMERICAN JOURNAL OF PUBLIC HEALTH, 1747, 1747 (Oct. 2005).

128. LAVIGNE ET AL., *supra* note 1, at 25–26.

129. *Id.* at 25.

130. *Id.* at 26.

131. TAKING STOCK, *supra* note 92, at 12.

132. *See id.* at 8.

133. In 1995, Baltimore began a Shelter Plus Care program to provide five years of housing to ex-offenders who were homeless and had mental illness or who were homeless parolees in danger of a parole violation. The program provided housing for 366 adults and 224 children and only six percent of those in the five year program returned to prison. This program demonstrates the importance of providing stable housing to ex-offenders. *Id.* at 30.

134. BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, JAIL STATISTICS (2009), <http://www.ojp.usdoj.gov/bjs/jails.htm>.

135. *Id.*

136. *See* Dina Rose & Todd Clear, *supra* note 87.

One of the especially damaging effects that jail has on communities is that it removes a pillar of stability: mothers. In low income communities, single mothers are often the backbone of the community, maintaining stable housing and providing support for young children.<sup>137</sup> In 1999, “[a]lmost 1.5 million minor children had a parent in prison. . .”<sup>138</sup> Although most of these children had a father serving time, the number of mothers in prison increased ninety-percent between 1991 and 1999.<sup>139</sup>

Generally, women who go to prison are not violent criminals; they are young (between twenty-five and thirty years old), they are mothers, and they are “women without resources—financial or human.”<sup>140</sup> For these women, being locked up, even for the shortest period of time, “hastens the breakdown of their relationships with their families and communities, further damages the fragile balance of their lives, removes them from their responsibility for their behavior, and then returns them ill-equipped to live a normal, crime-free life.”<sup>141</sup> In the face of great adversity, women returning from jail to community must find housing and other resources for themselves and their children. As discussed above, ex-offenders face considerable barriers to accessing such resources.<sup>142</sup> Therefore, women who spend time in jail exit at high risk of homelessness, poverty, and failing to provide for children. Putting women in jail for “sporadic or habitual crimes basically against themselves”<sup>143</sup> guarantees the deterioration of neighborhoods that would otherwise have been held together by the hard work of low income women.<sup>144</sup>

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137. See MD. STATE DATA CTR., 2000 CENSUS POPULATION AND HOUSING (2000), available *at* [http://www.mdp.state.md.us/msdc/census/cen2000/SF3/primary\\_profile/pdf/baci\\_sf3pp.pdf](http://www.mdp.state.md.us/msdc/census/cen2000/SF3/primary_profile/pdf/baci_sf3pp.pdf) (last visited Jan. 2010) (stating that in Baltimore City there are around 34 thousand female-headed households with children under 18 and no husband and only around 5 thousand male-headed households with children under 18 and no wife).

138. Press Release, U.S. Dept. of Justice, Almost 1.5 Million Minor Children have a Mother or Father in Prison (Aug. 30, 2000), <http://www.ojp.usdoj.gov/bjs/pub/press/iptc.pr>.

139. *Id.*

140. KATHRYN WATTERSON, WOMEN IN PRISON: INSIDE THE CONCRETE WOMB 34–35 (rev. ed., 1996) (also noting that most women are in jail because they don’t have a family to support them, suggesting that if they did, they would not be in jail).

141. *Id.* at 23.

142. See *supra* Part III.C.

143. WATTERSON, *supra* note 140, at 23.

144. TERESA CIABATTARI, UPJOHN INST., WORKING PAPER NO. 05-118, SINGLE MOTHERS, SOCIAL CAPITAL, AND WORK-FAMILY CONFLICT 3 (stating that financially disadvantaged, black, single mothers create and benefit from strong social supports and community networks).

Furthermore, placing young women and young mothers in jail, rather than treating the behavior that brings them into the criminal justice system as a public health issue where appropriate, may increase health costs for their communities. Women are often imprisoned because of behavior that puts their physical health at risk, such as using drugs or selling sex for money.<sup>145</sup> Consequently, many women who are serving jail time have an elevated risk of acquiring HIV when in jail or upon returning to their community.<sup>146</sup> A study of 611 women from low-income communities in Baltimore City demonstrated the connection between taking personal health risks and how these risks may lead to or result from jail time.<sup>147</sup> This study suggested that the delinquent behavior of women that often results from the lack of personal or financial resources places them at a high risk for both health risks such as HIV and frequent, short-term incarceration.<sup>148</sup> Imposing repeated short jail sentences in response to “delinquent” and destructive behavior that ultimately represents a public health crisis places communities at risk.

Jail is extremely stressful for men and women serving time, and for their communities. “[J]ails are designed to be temporary holding facilities” and do not provide resources to inmates, forcing them to rely heavily upon social networks outside the jail for physical and emotional assistance.<sup>149</sup> These social networks are also needed when those serving time in jail re-enter society, and are especially important for individuals who did not have the benefit of prison programs focused on re-entry.

Individuals serving a short sentence face the same problems finding housing and employment as do individuals serving longer periods of time in prison. The consequences of not securing a job and a place to live are severe, as housing and employment status can directly

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145. Molly Davis, *Jail and HIV Risk*, ENDEAVORS, Winter 2007, available at <http://research.unc.edu/endeavors/win2007/fogel.php>.

146. *Id.* (indicating that many women who are incarcerated engage in sexual behavior upon release that puts them at risk for HIV).

147. ANDREA GIELEN ET AL., CTR. FOR THE PREVENTION OF YOUTH VIOLENCE, JOHNS HOPKINS UNIV., EXPERIENCE OF YOUTH VIOLENCE AMONG LOW-INCOME URBAN WOMEN (2007).

148. *Id.*

149. Christine H. Lindquist, *Social Integration and Mental Well-Being among Jail Inmates*, 15:3 SOCIOLOGICAL FORUM 431, 432–33 (2000) (suggesting that there are serious stressful mental effects on individuals serving time which, in turn are reflective of social integration).

affect parole.<sup>150</sup> Therefore, jail is often a stepping stone to prison because jail creates a revolving door of time served for short offenses, which pulls individuals in and out of their community without giving them the resources to build a life for themselves on the outside, essentially making prison their permanent residence.<sup>151</sup>

#### V. POLICY SOLUTIONS TO STOP THE SYSTEMATIC RELOCATION OF LOW-INCOME NEIGHBORHOODS INTO PRISON: AN UNCERTAIN CONCLUSION

As discussed above, the cyclical nature of criminalization and recidivism<sup>152</sup> is directly linked to the lack of permanent affordable housing in our communities and the overall increase in imprisonment nationwide.<sup>153</sup> Although the general population loss in Baltimore can be attributed to other factors to some degree, I assert that the population loss in many neighborhoods is directly related to the incarceration of residents.<sup>154</sup> The legal and practical barriers to affordable housing are clear, but stopping the cycle of incarceration cannot be achieved simply by removing these barriers. Many policy determinations must be made before the loss of housing in low income communities in Baltimore is clearly understood and effectively managed.

There are a number of re-entry programs and services for ex-offenders in Baltimore. For instance, the Department of Corrections has established programs to help prisoners prepare for re-entry.<sup>155</sup> In addition, community groups assist prisoners with housing, substance abuse, and employment.<sup>156</sup> There are also halfway houses,<sup>157</sup> shelters,

150. As discussed *supra*, individuals with a criminal record cannot enter public housing on their release and they have to disclose their criminal background to prospective landlords and employers.

151. Neal Augenstein, *Life After Jail: The Challenges Women Face*, (WTOP Radio broadcast Jan. 27, 2006), available at <http://www.wtop.com/?nid=25&sid=682109> (stating that many inmates returning to society are tempted to return to a life of crime based on the difficulty of the transition and quoting a woman returning to society stating "I'd figure I'll do six months in jail, no problem. I need to eat, I need to pay bills, I need to live.").

152. See *supra* Part III.

153. See *supra* Part II.

154. See generally LAVIGNE ET AL., *supra* note 1.

155. LAVIGNE ET AL., *supra* note 1, at 2.

156. See TAKING STOCK, *supra* note 92, at 51 (discussing the Druid Heights Ex-Offender Housing and Comprehensive Assistance Program); see generally BALTIMORE CITYWIDE RE-ENTRY AND RE-INTEGRATION STEERING COMMITTEE, EX-OFFENDER RESOURCE GUIDE (2005), available at [http://www.oedworks.com/exoffender/resource\\_guide.pdf](http://www.oedworks.com/exoffender/resource_guide.pdf) (listing resources for ex-offenders).

and outpatient treatment centers that provide housing and other support for ex-offenders.<sup>158</sup> However, these initiatives alone are not enough to break the cycle; changes must be made on a larger scale.

Legislators have introduced several bills that have the potential to affect the resources that are being allocated between prisons and housing. The Second Chance Act of 2005<sup>159</sup> “reauthorize[d] the Department of Justice’s funding of demonstration projects that provide ex-offenders with a continuum of housing, education, health, employment and mentoring services.”<sup>160</sup> Congress has further strengthened the federal initiative to house low income families by extending the funding of programs like the Shelter Plus Care program in Baltimore.<sup>161</sup> However, despite this important progress at the federal level, the most promising initiative with the potential to impact the allocation of resources between prisons and housing is taking place in Baltimore City.

In her 10-Year Plan to End Homelessness, Baltimore Mayor Sheila Dixon expanded the Housing First Program in the City (“Housing First”).<sup>162</sup> Housing First provides an opportunity for Baltimore’s vulnerable citizens to gain stable housing and receive greatly needed supportive services.<sup>163</sup> Housing First employs an alternative service model<sup>164</sup> to provide immediate housing and voluntary services to homeless persons regardless of the barriers that they face.<sup>165</sup> Although this program utilizes HCVP vouchers and therefore excludes applicants on the basis of criminal history, the Housing First model has the potential to inform other housing options

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157. In this article the use of the term “halfway house” is meant to encompass Single Room Occupancy (SRO) tenancies, transitional housing tenancies, and supportive housing tenancies.

158. See TAKING STOCK, *supra* note 92, at 51.

159. H.R. 1704, 109th Cong. (2005).

160. See *Second Chance Act Introduced*, 10:17 MEMO TO MEMBERS (Nat’l Low Income Hous. Coal., Washington, D.C.), Apr. 29, 2005, at 3, 3–4.

161. A bill reauthorizing the McKinney-Vento Homeless Assistance programs was signed by President Barack Obama on May 20, 2009, as part of the Helping Families Save Their Homes Act and the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act. Pub. L. No. 111-22, 12 Stat. 1632 (2009). The Senate bill was S. 808, 111th Cong. (2009); the House bill was H.R. 1877, 111th Cong. (2009).

162. BALTIMORE HOMELESS SERVICES, *THE JOURNEY HOME: BALTIMORE CITY’S 10-YEAR PLAN TO END HOMELESSNESS 14–15* (2008).

163. *Id.* at 14.

164. *Id.* Baltimore’s Housing First model, as described in the 10-year plan, “links permanent housing with supportive services to help chronically homeless individuals and families obtain quick access to permanent housing while providing the support services needed to live independently and successfully.” *Id.*

165. *Id.*



in Baltimore City and throughout the nation. By addressing the link between lack of affordable housing and growing prison populations, programs that combine housing with voluntary supportive services that meet the many needs of ex-offenders, represent a more comprehensive approach to reducing the devastating effects of incarceration in Baltimore's communities.

A drawback to such housing initiatives is that they are unable to effectively meet the current need. For example, the Shelter Plus Care Program serves only a small portion of the ex-offender population<sup>166</sup> and Housing First does not serve those with recent criminal records.<sup>167</sup> To assist the ex-offenders who face homelessness, more housing programs must be established to accommodate the current ex-offender population and prevent recidivism.

Law enforcement, the parole commission, low income communities, and the state need to work together to ensure the availability of affordable housing for everyone who needs it. The first step is to realize the link between incarceration and homelessness and apply this knowledge accordingly. Then, the state must address the imbalance in funding between prisons and low-income communities. As discussed above, a disproportionate amount of money is funneled into Maryland prisons. Maryland should consider re-allocating a portion of the money currently used to fund prisons to support prisoners re-entering their communities upon release. Ideally, the money would be used to create a housing program for returning prisoners similar to the Shelter Plus Care, Housing First, or other supportive housing programs that already exist.

Additionally, a political shift needs to occur. The state, the city, law enforcement, and the parole commission need to examine the demographics of the ex-offender population and acknowledge that ex-offenders should be a class protected by anti-discrimination laws. Most prisoners re-entering society did not commit crimes of violence against another individual.<sup>168</sup> In fact, most offenders carry with them a greater

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166. See HOUS. AUTH. OF BALTIMORE CITY, HOUSING CHOICE VOUCHER PROGRAM INFORMATION GUIDE 7-8 (June 2006) (providing for the award of project based vouchers to some shelter plus care programs); BALTIMORE CITY, CONTINUUM OF CARE COMPETITION: HOMELESS ASSISTANCE AWARD REPORT 1-2 (FY2009) (providing for the award of funding to shelter plus care recipients).

167. HOUS. AUTH. OF BALTIMORE CITY, HABC ANNUAL PLAN, VOL. 2, 15-3 to 15-6 (FY 2009).

168. LAVIGNE ET AL., *supra* note 1, at 40-41 (noting that although many ex-offenders have committed crimes classified as violent, they are not crimes that physically harmed another individual. i.e. drug related offenses)

burden then any burden they imposed upon another individual or society as a whole: the public stigma of being an ex-offender.

The Baltimore City Council and Maryland legislature should recognize that ex-offenders are burdened with an immutable characteristic, or a “characteristic which its possessors are powerless to escape or set aside.”<sup>169</sup> Having a felony record satisfies the definition of an “immutable characteristic”<sup>170</sup> because, like individuals in other protected groups, ex-offenders are stigmatized to the point where they face discrimination in many facets of their lives such as access to housing. Penalizing someone on the basis of a characteristic that he is powerless to change arguably goes against a deep-seated societal belief that “legal burdens should bear some relationship to individual responsibility or wrongdoing.”<sup>171</sup> However, if ex-offenders continue to have a lifelong cross to bear, preventing them from entering housing or gaining employment, we will fail to uphold the American ideal that individual merit or achievement can be attained by any human being, regardless of background.<sup>172</sup> Recognizing ex-offenders as individuals in need of protection and nurturing by making them a protected class will transform both the political landscape and the physical and social composition of our neighborhoods. Eventually, having a criminal history will be seen as a characteristic that should not be used as a tool of discrimination by private landlords and employers. Legal recognition of the burden carried by ex-offenders will ultimately redefine the way we think about community.

Finally, better communication between parole officers, ex-offenders, and community members will help to eliminate homelessness. Parole officers in Baltimore City should be given fewer cases to manage and should be encouraged to become part of the community that they serve. If parole officers, ex-offenders, and community members engaged in dialogue about housing problems and neighborhood development, the ex-offender and the community would be more likely to view the City and state as collaborators in a solution rather than entities that created the problem.<sup>173</sup>

It is important to note that although housing problems are a critical factor in community decline, establishing housing programs

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169. *Regents of the Univ. of Cal. v. Bakke*, 438 U.S. 265, 360 (1978) (Brennan, J., concurring in the judgment in part and dissenting in part).

170. *Bakke*, 438 U.S. at 360 (Brennan, J., concurring in part and dissenting in part).

171. *Bakke*, 438 U.S. at 360–61 (Brennan, J., concurring in part and dissenting in part).

172. *Id.* (describing the ideal that “advancement sanctioned, sponsored, or approved by the State should ideally be based on individual merit or achievement.”).

173. See generally Law, *supra* note 103 (describing one such model of collaboration).

alone cannot address the needs of ex-offenders. There must be a comprehensive, community-based approach to housing that recognizes the cycle of incarceration<sup>174</sup> and provides affordable housing for all of the low income families living in Baltimore. Such an approach should integrate system-wide approaches (such as federal bills) with existing community approaches (such as employment programs and halfway houses). This approach should be grounded in an understanding that impoverished communities are destabilized by the high concentration of families and individuals impacted by incarceration.<sup>175</sup> The social control in these destabilized communities has been destroyed and, therefore, the communities are unable to escape the cycle of crime and instead the community in effect reproduces the “very dynamics that sustain crime.”<sup>176</sup>

#### VI. POSSIBLE HOUSING SOLUTIONS: FINDING NEW TOOLS TO REPAIR BROKEN DOORS

Residents of Baltimore’s low income neighborhoods are incarcerated at an alarming rate; they are essentially being displaced and relocated to prisons. The greater Baltimore community<sup>177</sup> must respond to this pressing issue. The struggles of low-income neighborhoods and their residents have a ripple effect on every aspect of the City; the prison system, the housing market, the school system, the health care system, and the problem of over-incarceration are interconnected. Although the result of the displacement of residents from struggling neighborhoods to jails and prisons may be clear, the answer of how to best nurture these communities and the residents that live there, or will return to live there after serving time in prison, is less evident.

In response to this dilemma, it is important to explore some possible solutions to the loss of housing in low income communities, such as permanent supportive housing programs and other subsidies. However, such an analysis is problematic because a solution for one neighborhood, or one person, cannot and should not be compartmentalized. Rather, any single solution must be looked at as a

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174. Although re-entry programs are important, it is equally important to keep individuals from entering prison since low income individuals without stable housing are prime candidates for prison housing.

175. ZIEDENBERG & LOTKE, *supra* note 52, at 14.

176. *Id.*

177. For example, politicians, commercial developers, middle and upper class citizens, and most importantly, the individuals who live in low income neighborhoods.

piece of a much bigger puzzle. A single step, no matter how comprehensive, will not be enough to stem the cycle of incarceration and destruction of neighborhoods in Baltimore City. There must be recognition that there is not a single solution to this devastating problem. This is not to say, however, that nothing should be done. In fact, it is encouragement to lay foot upon path and begin with a single step towards the rebuilding of neighborhoods.

*A. Shelters, Halfway Homes and the Difference between a Bed, a Place to Stay, and a Home*

Community development corporations and community service providers have come to realize that supportive housing is an important aspect of helping prisoners re-enter society after a period of incarceration.<sup>178</sup> However, housing is “more than supplying beds, which is all a homeless shelter is equipped to do”<sup>179</sup> and more than the job-oriented temporary housing strategy of most halfway houses. Housing for ex-offenders must be “about remolding a crime-battered life through supportive housing.”<sup>180</sup> Baltimore’s current network of shelters and halfway houses is insufficient to ensure the rehabilitation of the ex-offender and improve conditions in his community. Rather, if the City hopes to ultimately make life better for all residents, stakeholders must embrace supportive housing to help the individual and the community.

Housing means more than a bed to sleep in. The long term needs of individuals and communities are not met if re-entry support is temporary and is not part of an effort to reintegrate ex-offenders into the community that they left behind. Furthermore, homeless shelters do not have enough beds to serve the number of individuals who need them.<sup>181</sup> And although halfway houses are a place to live for more than just a day or two, individuals can usually only live in the halfway house for a short period of time. While they serve an important

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178. Law, *supra* note 103.

179. *Id.*

180. *Id.* It is imperative to note that temporary housing does play a key role in providing much needed emergency assistance to individuals and families and this analysis should not be misunderstood as an attempt to find it unnecessary. Temporary housing is not, however, a good solution to the revolving door between prison and low income communities. It is not a solution to the rebuilding of communities that have been devastated by a loss of population and need a stable housing market.

181. See generally SCHOOL OF ARCHITECTURE AND PLANNING, MORGAN STATE UNIVERSITY, *supra* note 9 (describing the results of a point in time census of Baltimore’s homeless population).

purpose, halfway houses are unrealistic as more than very temporary living situations; they do not create lasting community ties or permanent housing for the individuals “transitioning” though.

Supportive housing addresses the long-term needs of individuals and communities by providing ex-offenders with housing and helping them to re-integrate into their communities. But providing supportive housing involves more than creating a place for ex-offenders in current public housing, for several reasons. Most significantly, there is not enough public housing in Baltimore to provide housing for ex-offenders and languishing on a long waiting list is an unsuitable option for individuals who need immediate assistance.<sup>182</sup> In addition, providing supportive housing is necessary because ex-offenders are currently unable to live in public housing alone or with their families upon returning to the community.

Finally, the need for supportive housing is not satisfied by helping ex-offenders obtain substandard, overpriced rental units. Supportive housing should give low income households, including ex-offenders, an opportunity to choose housing that meets health and safety standards, that will remain stable and affordable for an indefinite period of time, and that is geographically located with access to employment, support services, and family support.

Permanent supportive housing in Baltimore could be connected with the Housing Choice Voucher Program, as in the City’s Housing First program, or function independently, like New York City’s Pathways to Housing program.<sup>183</sup> Regardless of the form it takes, in order to be successful supportive housing must provide a low- or no-barrier housing option that is open to all and connected to needed supportive services. Such a supportive housing program would not only have a lasting impact on the individual housed,<sup>184</sup> but it would

182. See HOUS. AUTH. OF BALTIMORE CITY, SHORTCHANGED PUBLIC HOUSING, [http://www.baltimorehousing.org/pressroom\\_detail.asp?id=113](http://www.baltimorehousing.org/pressroom_detail.asp?id=113) (last visited Jan. 25, 2010) (identifying the disparity between the over 20,000 individuals on the public housing waiting list and 14,000 public housing units in Baltimore City); see also *supra* Part II.A.

183. See generally PATHWAYS TO HOUSING, <http://www.pathwaystohousing.org> (last visited Jan. 25, 2010).

184. See HEALTH CARE FOR THE HOMELESS, HOUSING FIRST AT HCH, <http://www.hchmd.org/housingfirst.shtml> (last visited Jan. 25, 2010) (showing that twenty-seven of every thirty individuals housed in the program remain housed); see generally Carole E. Siegel et al., *Tenant Outcomes in Supported Housing and Community Residences in New York City*, 57:7 PSYCHIATRIC SERVICES 982, available at <http://www.pathwaystohousing.org/Articles/Publications.html> (describing a study examining supported housing and community residences in New York City).

also save communities the money and resources it takes to care for an individual without housing.<sup>185</sup>

*B. Providing Housing through Subsidies Unrelated to Current HUD Programs: An Exploration of Tax Based, Development Based, and Need Based Subsidies*

Low-income households and ex-offenders are often unable to gain access to housing without financial assistance. However, Baltimore has not established sufficient programs to meet the needs of all low-income households who do need assistance in order to access to safe, decent, affordable housing. Currently, the most prevalent form of financial assistance for low-income households are housing subsidies provided by the federal government through state, local, or federal subsidized housing programs codified in the Housing and Urban Development portion of the Code of Federal Regulations.<sup>186</sup> However, funding for these subsidies has not substantially increased. Rather than relying solely on government subsidies for individuals, development of low income housing should prioritize re-building stable neighborhoods and creating viable community resources.

Housing affordability remains a pervasive problem in Baltimore.<sup>187</sup> Over the past ten years, the price of housing has more than doubled, leaving low income people with very little purchasing power, or even opportunity to rent.<sup>188</sup> A study by the Joint Center for Housing Studies at Harvard University explains that “American Community Survey data reveals that 17 million households spent more

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185. The cost of homelessness to a community includes not only the intangible destruction of social structures, it also includes tangible costs such as the cost of emergency medical care, emergency shelter, police department resources, judicial resources and incarceration. See Pathways to Housing, About Us, <http://www.pathwaystohousing.org/TopMenu/AboutUs-2.html> (last visited Jan. 25, 2010) (noting that the public costs of caring for one homeless individual in a year can total over \$40,000).

186. 24 CFR § 1-4199.

187. *Harvard Report: Continuing Housing Challenges for Low Income Households Resources*, 12:24 MEMO TO MEMBERS (Nat'l Low Income Hous. Coal., Washington, D.C.), June 15, 2007, at 7 [hereinafter *Harvard Report: Housing Challenges*].

188. See JOINT CTR. FOR HOUS. STUDIES, THE STATE OF THE NATION'S HOUSING 2007, ADDITIONAL TABLE: METROPOLITAN AREA HOUSE PRICE-INCOME RATIO, 1980-2006 (2007), available at [http://www.jchs.harvard.edu/publications/markets/son2007/metro\\_affordability\\_index\\_2007.xls](http://www.jchs.harvard.edu/publications/markets/son2007/metro_affordability_index_2007.xls) (table listing the median house price to median household income ratio from 1980 to 2006 for various metropolitan areas); NAT'L LOW INCOME HOUS. COAL., *supra* note 8, at 6, 8 (demonstrating that rental affordability has declined for low income households and affordability problems have been due primarily to increased rental costs).

than half their income on housing in 2005” and “78% of households spending more than half their income on housing were in the bottom quarter of the income distribution, meaning they earned less than \$23,000 a year.”<sup>189</sup> Nearly ninety-five million people in the United States, or approximately one-third of the U.S. population, have housing problems related to high housing costs, inadequate living conditions, homelessness, and overcrowding.<sup>190</sup> This national crisis, in which the cost of housing far exceeds the means of many, is not temporary. Therefore, low income households need a long-term public subsidy in order to obtain decent and safe housing.

Unfortunately, “55 percent of [very low income renter households] receiving subsidies still live in unaffordable, inadequate or crowded housing”<sup>191</sup> as there is currently not an effective tax subsidy program<sup>192</sup> in place for low income individuals. Government housing subsidies are disproportionately allocated to the highest income households, making homes more affordable to America’s affluent.<sup>193</sup> Low income households are often unable to afford safe housing, even with members working full time, and yet do not receive the financial benefits that the highest income households receive.<sup>194</sup> A simple mathematical solution to begin addressing access to affordable housing for low income households would be to make direct tax relief given to the wealthy available to the poor, and in the same proportion.<sup>195</sup> Importantly, unlike public housing, tax benefits and similar subsidies present few barriers and are given to all individuals who qualify regardless of criminal background.

In cities, cries of environmental determinism<sup>196</sup> and ambitiously planned public housing projects have led to widespread

189. *Harvard Report: Continuing Housing Challenges*, *supra* note 187, at 7.

190. *Id.* at 5.

191. NAT’L LOW INCOME HOUS. COAL., *supra* note 8, at 5.

192. *Id.* Although there are currently low income tax credits available for income and housing, they do not provide the necessary support for low income families as is evidenced by pervasive statistics notice the lack of resources for low income families. What is available is not enough. *See generally* 26 USC § 42; 26 CFR § 1.342-9; 26 USC § 42(m)(1)(B)(iii).

193. *Id.* at 9 (stating that in 2003, for individuals with an average annual income of \$148,138 “the federal government spent \$57.2 billion in housing-related tax expenditures and 100 million in direct housing assistance,” twice as much as was spent to help individuals earning less than \$18,500 a year).

194. *See id.*

195. For example, the nearly fifty-eight billion dollars we spend to subsidize housing for those earning over one-hundred thousand dollars annually should be multiplied by five for those who are making twenty thousand dollars annually.

196. Environmental determinism is the view that an outcome (such as poverty, illegal activity, divisive behavior) is determined by the housing or neighborhood that you live in. An example of this would be that most individuals serving time in prison or jail come from a

building, destruction and rebuilding of low income housing.<sup>197</sup> Although there has been a recent push to develop mixed income housing, and some antiquated public housing has been demolished and replaced with mixed income developments, these efforts do not repair low-income neighborhoods.<sup>198</sup> Low-income neighborhoods need economic investment and rehabilitation in order to make them adequate for renters and home owners. Perhaps “in blighted urban areas, public-private partnerships can create viable, sustainable communities by introducing a mix of housing, commercial and recreational amenities that spur economic development.”<sup>199</sup> But such development should be in the form of rebuilding and community assistance and not demolition or massive housing construction. Following the “broken windows” theory,<sup>200</sup> if private developers begin to rehabilitate individual units of housing and the city begins to pay more attention to housing code violations<sup>201</sup> and general neighborhood appearances,<sup>202</sup> residents will be positively affected. It is not enough that the Baltimore City Housing Code recognizes systemic housing

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select number of zip codes and, therefore, one could assert that living in that zip code is a determining factor of eventual incarceration. See Stephen Frenkel, *Geography, Empire, and Environmental Determinism*, GEOGRAPHICAL REVIEW, VOL. 82, NO. 2 143–45 (Apr. 1992).

197. See generally Alexander von Hoffman, *High Ambitions: The Past and Future of American Low-Income Housing Policy*, 7:3 HOUSING POLICY DEBATE 423 (1996) (discussing the history and rationale of various housing projects in the U.S. since the 1930s).

198. Charles Belfoure, *In Baltimore, Public Housing Comes Full Circle*, N.Y. TIMES, March 19, 2000, Section 11, at 7; Eric Siegel, *U.S. Judge is Asked to Order Housing for Poor in Suburbs*, BALTIMORE SUN, March 21, 2006, at 1A; see generally *Thompson v. U.S. Dept. of Hous. and Urban Dev.*, 348 F. Supp. 2d 398, 404–409 (D. Md. 2005) (summarizing a history of discrimination in Baltimore’s public housing system and finding that HUD failed to affirmatively promote fair housing in Baltimore).

199. Press Release, Bank of America, Bank of America Celebrates Grand Opening of Parren J. Mitchell Business Center (Sept. 7, 1999) (quoting William Couper, president of Bank of America Greater Baltimore).

200. The theory that if one window in a neighborhood is broken and remains so, it shows a lack of attentiveness that will lead to greater crime. See Deborah A. Cohen et al., *Why is Poverty Unhealthy? Social and Physical Mediators*, 57 SOCIAL SCIENCE AND MEDICINE 1633 (2003).

201. As noted above, there is a gross under enforcement of housing code violations in Baltimore City and specifically in low income neighborhoods. It is important to keep in mind that any effort to repair and rebuild neighborhoods must be reinforced by a continued attentiveness of the city to housing code violations. An increase in enforcement of the housing code would most likely have a drastic effect on housing, especially low-income rental units.

202. For example, providing for street cleaning, waste disposal, and sidewalk repair.



ills;<sup>203</sup> rather, there must be visible and aggressive code enforcement if laws are to benefit the communities they are meant to serve.<sup>204</sup>

Development of safe, affordable housing in Baltimore City could be accomplished by engaging private developers. Traditionally, private developers have not developed low income housing unless there are incentives in place to do so.<sup>205</sup> Baltimore City could increase its housing stock by providing developers with a combination of subsidies, incentives and a mandate to invest capital. For example, the City could attach a mandate for investment in low income neighborhoods to desired commercial or residential property or give a zoning exception to desired development space in exchange for investment in a low-income community. The City could also provide tax or purchase incentives for certain areas of the city where rehabilitation of homes, while costly, is necessary and more beneficial to the neighborhood than new construction.

Most importantly, private developers need to understand the impact that their capital investment could have in lower income communities around Baltimore. While these communities may be poor, they are not without political and social capital. Enticing developers to engage with the community could ultimately be mutually beneficial for the developers and the communities they serve.

## VII. PROBLEMS WITH THE SOLUTIONS: LOOKING AT A HOLISTIC THEORY AND QUESTIONING PERSPECTIVE

### *A. How does Housing fit into the Big Picture? A Partnership between Community, Individual, and Prison*

Safe, decent, and affordable housing is critically important to members of the low income communities and to ex-offenders.<sup>206</sup> Because housing is so important, housing problems are so widespread,

203. Baltimore, Md., Code art. 13, § 2-1 (2009).

204. See generally MD. COMM'N ON HUMAN RELATIONS, REPORT ON FAIR HOUSING IN MARYLAND (2000) (submitting testimony suggesting that not enforcing housing codes contributed to the amount of substandard housing in the city).

205. This is why governments have developed incentives, such as the Low Income Housing Tax Credit (LIHTC) to encourage development of affordable housing. See 26 USC § 42.

206. See *Where Will I Sleep Tomorrow?*, supra note 68, at 398 (explaining that “Permanent supportive housing has not traditionally been designed for ex-offenders” even though arrests, parole violations and re-arrests are more likely among homeless individuals and individuals who are released from prison with no place to go.”). Furthermore, large numbers of low income renters and home owners live in housing with serious problems making it unaffordable and unsafe. NAT’L LOW INCOME HOUS. COAL., supra note 8, at 5.

and individuals are so strongly influenced by their environment, one of the major components to creating safe, affordable housing in low-income neighborhoods is the existing neighborhood. Civic associations, neighborhood and community groups, advocates, and incarcerated individuals long ago recognized that there was a housing crisis.<sup>207</sup> The problem is that no one has listened to the community.

### *B. Loss of the Stable Middle Class*

The widening income disparity between lower income Americans and affluent Americans<sup>208</sup> makes it increasingly difficult for many individuals and families to afford decent housing. When the middle class disappears entirely, so will any hope for providing housing to the low-income families in our society. Even if low income households spend large portions of family income on housing, this will be insufficient to meet the growing housing cost burden, and the housing in our society will revert to stratification found in third world countries: we will see only mansions and shacks.

Today, families are spending more of their income on housing than they did only one generation ago.<sup>209</sup> In 2001, “about 80% of low- and moderate-income homeowners spent more than half of their income on housing.”<sup>210</sup> This is a problem, especially considering that “[m]any experts say no more than 36% of gross monthly income should go toward credit card bills, car payments and mortgages combined.”<sup>211</sup> This high spending on housing translates into more than high credit card debt and bankruptcy; it means that families and individuals are increasingly being forced to accept housing that is of a lower standard or in a different geographic location than they would have previously considered.<sup>212</sup> Between 1970 and 2007, the number of

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207. The Baltimore Neighborhood Collaborative is an example of such an initiative. See Baltimore Neighborhood Collaborative, [www.bncbaltimore.org](http://www.bncbaltimore.org).

208. *Income Inequality is at an All-Time High: STUDY*, HUFFINGTON POST (Aug. 2009) (stating that income inequality in the United States is at an all time high).

209. See Christine Dugas, *Middle Class Barely Treads Water*, USA TODAY, Sept. 15, 2003, at 1B.

210. According to the Department of Housing and Urban Development (HUD), “affordable housing” should cost less than thirty percent of a family’s income, either in rent or a monthly mortgage. *Id.*

211. *Id.*

212. See *Thompson v. U.S. Dept. of Hous. & Urban Dev.*, 348 F.Supp. 2d 398, 460 (D. Md. 2005) (“In sum, it appears that the relative expense and lack of affordability of housing outside of Baltimore City may present a significant barrier to Section 8 voucher-holders who might wish to pursue private housing in the Baltimore Region but outside the city.”).

middle-income neighborhoods nationwide<sup>213</sup> declined from fifty-eight percent to forty-one percent.<sup>214</sup> In effect, this means that the middle class families who used to strike a balance between the very poor and the very rich in urban areas are fleeing the high prices and substandard housing, leaving the very poor stranded without the ability to afford decent housing.

The housing crisis does not exist only in low income neighborhoods. Skyrocketing bankruptcy and a drastic increase in families defaulting or foreclosing on mortgages is evidence that the high cost of housing is a pervasive problem in middle class America.<sup>215</sup> Bankruptcy and foreclosure rates among the middle class deny suitable housing to those who should most benefit from the homeownership campaigns that often underlie the community revitalization efforts of American cities.<sup>216</sup> Middle class homeowners not only “bring well-documented stability and investment to neighborhoods” but they also historically have created vehicles for their own housing and their own success.<sup>217</sup> With the recent rise in mortgage foreclosures there is a serious threat to neighborhood stability for the middle class and neighborhood revitalization for the lower-middle class or poverty level families.<sup>218</sup>

The lack of decent, affordable housing exacerbates the current trend of incarcerating the poorest of our society. A shrinking middle class will make the poor and incarcerated a more prevalent demographic in our current society, leaving a haven only for the very rich. Furthermore, a declining middle class will exacerbate the social costs of decrepit housing, poor conditions, and deteriorating neighborhoods that low income individuals deal with every day. It is time to save our middle class, protect affordable housing, and avoid an impending crisis.

213. As a proportion of all metropolitan neighborhoods.

214. Gregg Fields and Jenny Staletovich, *Area Sees Middle Class Exodus*, MIAMI HERALD, Aug. 13, 2006.

215. See Lucy Delgadillo, *Targeting Bankruptcy Prevention Programs to Vulnerable Census Tracts*, 11:2 FORUM FOR FAMILY AND CONSUMER ISSUES (2006), <http://ncsu.edu/ffci/publications/2006/v11-n2-2006-december/fa-3-targeting.php> (finding that Census tracts located in metropolitan areas are associated with higher bankruptcy rates); TONY FAVRO, CITY MAYORS, US SUBPRIME MORTGAGE CRISIS HURTS INDIVIDUALS AND WHOLE COMMUNITIES (Apr. 14, 2007), <http://www.citymayors.com/finance/us-subprime.html>.

216. FAVRO, *supra* note 215.

217. *Id.*

218. *Id.*

### *C. Housing as a Right*

In the current complex American society where individuals are fleeing high priced urban and suburban areas, but with a continued desire to settle in large homes in gated communities, Americans are occasionally forced to look at a significant civil rights question: should housing be a right guaranteed and protected for all? America is plagued by those who cannot afford housing, but this is a problem that many would prefer remain invisible, or at least well hidden. However, as we are currently living in a society suffering from recession and devastation, Americans have been forced to recognize the existence of a substantial housing problem. Therefore, it is a ripe time politically and socially for legal recognition of the right to housing. The Housing Act of 1949 not only provided a national housing goal, but also recognized the right to housing in its language regarding the provision of a “decent home and suitable living environment for every American family.”<sup>219</sup> This promise has been continually renewed;<sup>220</sup> it is finally time for the U.S. government to give Americans the right to collect on this promise.

Although courts have not yet found that there is a fundamental right to housing, this does not mean that there is no hope that they will do so in the future. The current atmosphere of the Supreme Court may not be perceived as friendly towards humanitarian reforms or international law, but there are already some important precedents in place. In domestic law, for instance, in a case finding that low income individuals must not be discriminated against the Court indicated the possibility of a future determination that housing is a right.<sup>221</sup> There is a new civil rights struggle in the housing arena: the increasing criminalization and punishment of homelessness<sup>222</sup> and the link between race, housing, and prison. This reality, in the context of both domestic<sup>223</sup> and international pressure regarding the right to housing,

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219. Housing Act of 1949, Pub. L. No. 81-171, 63 Stat. 413 (1949).

220. Congress has continued to renew some form of the National Housing Act to present day. 12 USC § 17151 (2006).

221. See *James v. Valtierra*, 402 U.S. 137, 144–45 (1971) (Marshall, J., dissenting) (stating that it is unconstitutional to discriminate against “low income” individuals and that there should not be a law that treats the poor more harshly than it does the rich).

222. Maria Foscarinis et al., *The Human Right to Housing: Making the Case in U.S. Advocacy*, 38:3–4 CLEARINGHOUSE REV. J. OF POVERTY L. AND POL’Y 98, 108 (2004).

223. In a time when homelessness is rising, Congress has made the first step towards a right to housing. U.S Representative Maxine Waters recently introduced a bill in the U.S. Congress which guarantees children, youth, and families a right to housing. See H.R. Res. 582, 111th Cong. (2009).

suggests that U.S. courts should recognize housing as a basic human right.<sup>224</sup>

Beyond domestic law, international treaties are legally relevant and even determinative in certain cases where domestic law should be “interpreted whenever possible not to conflict with ratified treaties.”<sup>225</sup> In the United States, international law is treated with the status of federal common law without any necessary legislation in the U.S.<sup>226</sup> International law has recently recognized and promoted the concept that housing is a human right. “The right to housing is defined most clearly in Article 11(1) of the International Covenant on Economic, Social, and Cultural Rights.”<sup>227</sup> The right to housing is defined using seven factors: security of tenure, affordability, adequacy, accessibility, proximity to services, availability of infrastructure, and cultural adequacy.<sup>228</sup>

Although the U.S. has not currently signed on to any treaty advocating for the right to housing, the existence of this international law is a positive step in three ways. First, the Supreme Court may consider international human rights law when interpreting U.S. law. Second, international law has been and will be implemented by nations around the world to the best of their financial and social capability;<sup>229</sup> it would be prudent for the U.S. to follow the lead of nations around the world, especially considering the growing housing problems within American borders.<sup>230</sup> Third, recognition of housing as a human right in international law and treaties means that there is a continued discussion on the topic. In turn, this continued discussion forces the U.S. to engage in debating whether housing is a right, which may ultimately lead the federal government to support a right to housing.

224. See Press Release, National Law Ctr. on Homelessness and Poverty, Rep. Lewis Introduces Resolution Promoting U.S. Human Rights Leadership Abroad and At Home (May 2009), [http://www.nlchp.org/view\\_release.cfm?PRID=88](http://www.nlchp.org/view_release.cfm?PRID=88).

225. See generally *Murray v. Schooner Charming Betsy*, 6 U.S. 64 (1804).

226. See *Banco Nacional de Cuba v. Sabbatino*, 376 U.S. 398, 428 (1964); *The Paquete Habana*, 175 U.S. 677, 700 (1900).

227. Foscarinis et al., *supra* note 222, at 99; see also International Covenant on Economic, Social and Cultural Rights art. 11, Dec. 16, 1966, 993 U.N.T.S. 3.

228. Foscarinis et al., *supra* note 222, at 99.

229. See generally Eric S. Tars and Caitlin Egleson, *Great Scot!: The Scottish Plan to End Homelessness and Lessons for the Housing Rights Movement in the United States*, 16:1 GEO. J. ON POVERTY L. POL'Y 187 (2009) (discussing Scotland's efforts to combat homelessness and what the U.S. may learn from it).

230. *Id.*

The Court has used international human rights law as a guide when considering human rights issues.<sup>231</sup> If the Court finds that housing is human right, Congress has the capability to fund housing through the appropriations process. The U.S. has a history of providing help to individual citizens so that they can participate in the capitalist economic system.<sup>232</sup> Congress continues to fund entitlement programs that range from public education and tax incentives, to medical care, food stamps, and cash assistance.<sup>233</sup> Congress, and the American people, should continue to promote economic participation and such participation may necessarily include the entitlement of housing. Working towards economic equality will decrease the disparity in income and allow more individuals to access affordable housing.

The recognition of housing as a human right in the U.S. may seem impossible or unnecessary to some. Such reservations should not stop advocates from continuing to fight for official recognition of the right to housing. Recognizing housing as a human right will build the foundation to revitalize neighborhoods and lower incarceration rates throughout the nation.

*D. Implementing a Housing System with Value: A Struggle to Ensure that Housing Ideals Reflect Community Values*

A complete solution to the housing crisis should be based on the needs of the individual, the neighborhood, and the greater community. The question is: how does that solution evolve and how should it be implemented? The core values of this comprehensive solution should come from the community and not a political or governmental organization. Each neighborhood and city must find a way to combat the housing crisis in a way that strengthens communities, rehabilitates decrepit housing and addresses the specific needs of individual communities. For example, a community may want public housing, Section 8, the Community Block Grant Program, Hope VI projects, Shelter Plus Care and Housing First to be available

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231. The Supreme Court has considered international law and opinion in the arena of the application of the death penalty to juvenile offenders. *See* *Thompson v. Oklahoma*, 487 U.S. 815, 818 (1988) (citing to international human rights law in a footnote); *Roper v. Simmons*, 543 U.S. 551, 554 (2005) (giving weight to international opinion concerning the matter before the court).

232. *See* Chester Hartman, *The Case for a Right to Housing*, 9:2 HOUSING POLICY DEBATE 223, 232–33 (1998).

233. This argument may be seen as a bit of a stretch considering the current anti-entitlement bent in U.S. government, however it remains true that we, as a society, continue to fund and therefore value economic participation by every citizen. *See id.* at 232.

in their neighborhood. However, the community should not be forced to adopt or accept only one of these solutions, or a specific combination of the above, nor should they be limited to these solutions or a set “menu” of choices. A community should have a conduit for expressing needs and desires to local housing authorities, but even more importantly, the local housing authorities should listen and help to implement the solutions suggested for the problems targeted by the community.<sup>234</sup> No single policy can act as a band-aid for the housing crisis that is sending whole neighborhoods to live in prison; the only solution that will work must be found through community collaboration.<sup>235</sup>

### VIII. CONCLUSION

Baltimore, as well as the rest of urban America, is experiencing a crippling phenomenon: individuals from low-income neighborhoods are no longer being housed in those neighborhoods; they are being housed in prison. The solution is to step back from the systems that are currently in place for solving the problems of low-income communities, look at the problem in the context of housing, and strive to find a new approach to providing safe, affordable housing to every individual or family currently without access to such housing. Very simply, using prison to replace the failing housing of low-income communities is not a solution to the housing crisis; but the alternative has not yet been realized. A solution to the affordable housing crisis faced by Baltimore will require continued and constant action by a new coalition that, in every community, includes diverse parties and equally diverse solutions. Therefore, this is a call to those who have been working or will be working towards a solution: the time has come to recognize that in Baltimore there is a criminalization of housing

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234. It should be noted that the sentiment of communities is not always constructive or positive. Although community voices should be encouraged and heard on the housing crisis, this is not a suggestion that checks should not be put in place to prevent movements such as Not in My Backyard (NIMBY) from refusing to participate in positive housing solutions. MERRIAM-WEBSTER DICTIONARY (2010) (defining NIMBY as “opposition to the locating of something considered undesirable (as a prison or incinerator) in one’s neighborhood.”).

235. This assertion may seem broad and undeveloped, but as the community justice model has developed across the U.S., so has the understanding that: 1) involvement of community is key to problem solving and 2) each community is unique. Therefore, the assertion in this context is meant to be a broad assertion and not a well developed community model. For more information on community justice models see generally David R. Karp and Todd R. Clear, *Community Justice: A Conceptual Framework*, in 2 CRIMINAL JUSTICE 2000, BOUNDARY CHANGES IN CRIMINAL JUSTICE ORGANIZATIONS (2000).

which results in the destruction of our communities and we must act to repair our broken doors.



