Fordham Urban Law Journal

Volume 30 | Number 5 Article 4

2003

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Recommended Citation
Jeanne Flavin and David Rosenthal, *La Bodega de la Familia: Supporting Parolees' Reintegration Within a Family Context*, 30 Fordham Urb. L.J. 1603 (2003).
Available at: https://ir.lawnet.fordham.edu/ulj/vol30/iss5/4

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Cover Page Footnote
The Authors gratefully acknowledge the contributions of Family Justice and La Bodega de la Familia family case managers and other staff, as well as the clients of La Bodega, their families, and parole officers. Appreciation is also extended to Carol Shapiro, Executive Director, and Hilary Maddux, Director of Communications, Family Justice, Inc., for their valuable comments on an earlier draft.

This article is available in Fordham Urban Law Journal: https://ir.lawnet.fordham.edu/ulj/vol30/iss5/4

LA BODEGA DE LA FAMILIA: SUPPORTING PAROLEES' REINTEGRATION WITHIN A FAMILY CONTEXT

*Jeanne Flavin**
*and David Rosenthal***

I. THE CHALLENGE OF PAROLE AND REINTEGRATION

Parole was developed with the goal of ensuring individuals a successful return to society after a period of incarceration.[1] Recidivism statistics suggest, however, that parole is not successful in meeting these goals, particularly for persons convicted of drug offenses.[2] Two-thirds of all released drug offenders are rearrested within three years, and more than one-third of all new prison admissions are parole failures.[3] In New York State, over one-third of the adjudicated drug defendants had at least one prior drug conviction, and approximately one-third of the paroled drug offenders had their parole revoked within three years for committing new felonies (typically new drug crimes).[4] In 1993, the New York City Criminal Justice Agency found that roughly half of all those convicted of drug felonies in New York City were rearrested within two years.[5]

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1. See N.Y.S. Division of Parole, Mission Statement, *at* http://parole.state.ny.us (last visited July 15, 2003).

2. Nationally, drug offenders account for one-third of all released prisoners and parolees. *See* PATRICK A. LANGAN & DAVID J. LEVIN, U.S. DEP'T OF JUSTICE, RECIDIVISM OF PRISONERS RELEASED IN 1994 (2002); James P. Lynch & William J. Sabol, *Prisoner Reentry in Perspective*, 3 CRIME POL'Y REP. 2-26 (2001).

3. *See* LANGAN & LEVIN, *supra* note 2; *see also* Jeremy Travis & Joan Petersilia, *Reentry Reconsidered: A New Look at an Old Question*, 47 CRIME & DELINQUENCY 291, 299 (2001).

4. N.Y. STATE COMM'N ON DRUGS AND THE COURTS, CONFRONTING THE CYCLE OF ADDICTION & RECIDIVISM: A REPORT TO CHIEF JUDGE JUDITH S. KAYE, Section I The Problem of Drugs and the Courts: The Central Issue of Addiction and Rectivism (2000), *available at* http://courts.state.ny.us/addictionrecidivism62000.html (last visited July 15, 2003).

5. *Id.*

Each week, about 300 people are released from New York state prisons and return to New York City.[6] In New York City, as in other major cities, persons released from prison are expected not only to avoid rearrest, abide by the law, and fulfill the conditions of parole, but also to secure stable housing, employment, and healthy ties to others. Family Justice, through its storefront service, La Bodega de la Familia, is a non-profit organization that helps Lower East Side parolees through the reintegration process by using a unique family case management approach that calls upon the resources of families and community partners.[7]

The parolees who come to La Bodega illustrate the often-desperate need for services so many face following a release from prison. "I haven't seen most of my family for six years and I've never seen my daughter. What kind of relationship are we going to have?" "I'm worried about how my kids will respond to me coming home." "How will my brother feel when a parole officer searches his room?" "I need a job, but will anyone hire me?" "How long am I going to be able to live with my mother? What if I let her down?" "I'm afraid I'm going to relapse and wind up in prison. How can I prevent that?"

This Essay describes not only how La Bodega de la Familia responds to the diverse challenges posed by reintegration, but also the benefits of a model of justice supervision that recognizes individuals' social locations within their families and communities. Following a brief summary of the characteristics of Lower East Side parolees and La Bodega participants, Part II presents the social context into which parolees from the Lower East Side return. Part III outlines how La Bodega de la Familia has successfully responded to the challenge by emphasizing the importance of identifying and recognizing family strengths and community partners. Finally, Part IV discusses how current parole and criminal justice practice might benefit by shifting from an orientation focused on individuals and their shortcomings to one which focuses on families and their strengths.

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6. Two-thirds of the 26,000 people released from New York state prisons in 2001 are from New York City. Linda Ostreicher, *When Prisoners Come Home*, GOTHAM GAZETTE, Jan. 2003, at 1, *available at* http://www.gothamgazette.com/socialservices/jan.03.shtm (last visited July 15, 2003).

7. EILEEN SULLIVAN ET AL., VERA INST. OF JUSTICE, FAMILIES AS A RESOURCE IN RECOVERY FROM DRUG ABUSE: AN EVALUATION OF LA BODEGA DE LA FAMILIA 1-2 (2002).

II. *La Vida* Loisaida—Life on the Lower East Side

Since 1996, La Bodega has served hundreds of parolees and their families on New York City's Lower East Side, a neighborhood colloquially known as "Loisaida."[8] La Bodega clients are predominantly unemployed Hispanic males with a history of convictions for drug use.[9] Socio-demographically, they are representative of the larger Loisaida community which is both racially and ethnically diverse, and relatively poor.[10] Hispanics, non-Hispanic whites, and Asians each comprise about thirty percent of the roughly 100,000 people who live there and African-Americans comprise about nine percent.[11] The median household income is approximately $27,000, with one-quarter of households reporting annual incomes of $10,000 or less.[12] Similar to other urban neighborhoods across the nation, Loisaida features high levels of substance-abuse and drug-related crime, some availability of health and substance abuse treatment services, and evidence of community organization at a neighborhood level.[13] The ability of individuals and families to survive given the realities of poverty, unemployment, illiteracy, crime, truancy, drug addiction, HIV/AIDS, and physical and mental illness are a testament to the community's strengths and resiliency. Despite the hardships that many residents face, Loisaida is a vibrant community; families and community services form a web of support for residents and individuals reach out to each other in good and bad times.

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8. *The Real Loisaida*, N.Y. Times, May 27, 1981, at C8. "Loisaida, actually, is the area between 14th and Houston Streets, from Avenue A east. This sunny, flowery, Spanish-flavored name for the Lower East Side was conferred on an unpromising piece of real estate by our Puerto Rican fellow residents to cheer things up a bit." *Id.*

9. Similar to other New York City parolees, eighty percent of Loisaida parolees are male and seventy percent are Hispanic. Nearly eighty percent were unemployed, with one third reporting an annual household income of less than $5,000. *See* Sullivan et al., *supra* note 7, at 59. According to the New York Division of Parole, the typical New York City parolee is an unemployed Hispanic or African-American male in his mid-thirties with no high school diploma or GED. He probably has a history of substance and alcohol use, and has been convicted of a drug offense. N.Y. State Div. of Parole, Parolee Demographics: Parolee Facts (Mar. 2000), *at* http://parole.state.ny.us/paroleedemo.html (last visited July 15, 2003).

10. Carol Shapiro, Vera Inst. of Justice, Making a Match: Finding the Right Neighborhood for a Family Drug Crisis Center 9 (1995), *available at* http://www.familyjusticeinc.org/pressrel/fjmakingmatch.doc (last visited July 15, 2003).

11. *Id.*

12. *See* Bureau of the Census 2000 Household Data, *available at* http://www.infoshare.org (last visited July 15, 2003).

13. Shapiro, *supra* note 10, at 4-6.

But, while community-based organizations abound, there is little outreach to the families of those people who use drugs, most of whom are dealing with multiple challenges, including the recent release from prison of a loved one.[14] Moreover, Loisaida is undergoing continual change. La Bodega participants returning to Loisaida after a six-year sentence face a dramatically altered physical and socio-demographic landscape.[15] Signs that used to be exclusively in Spanish are now in English, reflecting a reduction in the area's Hispanic population.[16] Gift shops, bars, and restaurants have replaced empty lots and former "crack houses."[17] While the presence of poverty is still keenly felt, the number of persons receiving public assistance has dropped by over fifty percent.[18]

Although gentrification has contributed to cosmetic improvements in the neighborhood, other social problems remain and have worsened in the wake of the September 11, 2001 terrorist attacks.[19] Non-profit organizations have lost funding due to city and state budget cuts.[20] Foundations lost capital on the stock market and have been forced to reduce grants, delay payments, or simply cut off their funding to non-profits.[21] Drug and alcohol abuse, domestic violence, and homelessness have all increased.[22] In December 2001, 30,000 New York City recipients of public assistance were knocked off the welfare rolls, having hit federal time limits; an-

14. La Bodega de la Familia, Helping Families Struggling with Addiction, Why La Bodega?, *at* http://www.familyjusticeinc.org/bodega/whybodega.html (last visited July 15, 2003).

15. SHAPIRO, *supra* note 10, at 8-9.

16. Karen Pekarchik, *Alphabet City: The ABCs of Gentrification*, BUS. WK. ONLINE, June 11, 2001, *at* http://www.businessweek.com/magazine/content/01_24/b3736044.htm (last visited July 15, 2003).

17. *Id.*

18. According to the New York City Department of City Planning, the Hispanic population of Community Board 3 (which encompasses the Lower East Side, Two Bridges, and Chinatown), dropped more than fifteen percent between 1990 and 2000. The number of persons receiving public assistance dropped fifty-nine percent from 21,403 in 1994, to 8,740 in 2000. N.Y. CITY DEP'T OF CITY PLANNING, COMMUNITY DISTRICT 3 PROFILE (2000).

19. Ron Scherer, *"Paper" Losses, Real-World Impact; as Stocks Losses Mount—Not $8 Trillion Since Peak—Tough Choices Face Retirees, Colleges, and Nonprofits*, CHRISTIAN SCI. MONITOR, July 22, 2002, at 1.

20. *Id.*

21. Since their peak in March 2000 to July 2002, stocks have lost about $8 trillion in value, an amount equal to the annual economic output of Japan, Germany, and Canada combined. *Id.*

22. N.Y. ASS'N OF ALCOHOLISM & SUBSTANCE ABUSE PROVIDERS, INC., STRENGTHEN TREATMENT AND PREVENTION: 2002-2003 NYS BUDGET AGENDA, *available at* http://www.asapnys.org/Public_Policy/2002-2003%20Budget%20Agenda.pdf (last visited July 15, 2003).

other 19,000 lost their benefits in 2002.[23] Arguably, however, the two most pressing and longstanding needs faced by returning Lower East Side parolees are those of housing and employment.[24] Each of these needs will be discussed separately here.

A. Housing Barriers

A stable address is required to permit parole officers to make home visits to check on the parolee's progress.[25] Although many parolees seek residence with family members, this is not a viable option for all parolees. Their family members may live outside New York State (if only across the river in New Jersey). In addition, many families are already living in overcrowded conditions or are struggling to make ends meet.[26] For some parolees, living with family members may be a source of stress and temptation rather than a safe haven; about ten percent of the drug users in one study

23. Linda Ostreicher, *The Limits of Time Limits on Welfare*, GOTHAM GAZETTE, Jan. 2002, *at* http://www.gothamgazette.com/socialservices/jan.02.shtml (last visited July 15, 2003); JoAnn Wypijewski, *Fight for Survival in NYC*, 274 NATION, Jan. 21, 2002, at 8 (2002).

24. Of course, parolees face many substantial challenges in addition to securing housing and a job. For example, parolees experience a documented lack of access to physical and mental health services. Persons convicted of felony drug offenses also face federal post-conviction penalties, such as lifetime prohibitions against receiving Temporary Assistance for Needy Families ("TANF") or food stamps. Another provision bans individuals who violate parole or probation orders (including minor technical violations) from receiving TANF or food stamps. New York is one of ten states and the District of Columbia which have passed legislation to eliminate the ban on benefits for individuals with felony drug convictions. The fact remains, however, that parolees are subjected to considerable governmental social control. The welfare system, for instance, encompasses a variety of different programs, including housing assistance (rent vouchers, public housing), employment assistance (job training), food assistance (food stamps, the Woman, Infants, and Children Program ("WIC"), school lunches), medical care (Medicaid, state-subsidized health insurance), childcare subsidies, and cash assistance (TANF, Supplemental Security Income ("SSI")). Men and women with family responsibilities may deal with additional bureaucracies (for example, the Board of Education, Family Court, Administration for Children's Services) on behalf of their children or other family members. Each criminal justice and social service agency has its own requirements for its clients regarding scheduled appointments and documenting eligibility and compliance, thus potentially contributing to the stress of reentry. *See* AMY E. HIRSCH ET AL., CTR. FOR LAW & SOC. POL'Y & CMTY. LEGAL SERVS., EVERY DOOR CLOSED: BARRIERS FACING PARENTS WITH CRIMINAL RECORDS (2002); JEREMY TRAVIS ET AL., URBAN INST., Prison to Home: The Dimensions and Consequences of Prisoner Reentry 25-30 (2001).

25. DIV. OF PAROLE, N.Y. STATE, NEW YORK STATE PAROLE HANDBOOK (1998), *available at* http://parole.state.ny.us/parolehandbook.html (last visited July 15, 2003).

26. Crowding is also becoming more common. The proportion of renter households that were crowded (more than one person per room) in 1999 was eleven percent, a slight increase over 1996, when the crowding rate was 10.3 percent. N.Y. CITY RENT GUIDELINES BD., 2002 INCOME AND AFFORDABILITY STUDY 4 (2002).

had at least one family member who had used cocaine in the past thirty days.[27] Furthermore, as a result of the 2002 Supreme Court ruling that public housing officials could evict entire families if a guest or someone in the household was convicted of a drug offense, many recent parolees cannot go home to public housing without putting their families and friends at risk of eviction.[28]

Since 1996, public housing authorities and other providers of federally assisted housing can exercise the option of denying housing to certain individuals, including those who use illegal drugs.[29] In New York, people with criminal records must finish parole and then wait up to six years before renting in public-housing projects, even though they may otherwise be eligible for low-income housing.[30] Although private landlords are not permitted to refuse to rent to someone on the basis of a conviction for past drug use (considered a disability), a person convicted of the sale or manufacture of drugs, or someone who is currently a drug user, is not protected.[31] Furthermore, while the law ostensibly protects against discrimination on the basis of drug addiction, landlords do not necessarily refrain from acting on their biases and the laws are not always enforced in a rigorous or timely fashion.[32]

Very few housing alternatives exist for individuals who cannot live in public housing or with friends or relatives.[33] The most re-

27. SULLIVAN ET AL., *supra* note 7, at 48.

28. Dep't of Hous. & Urban Dev. v. Rucker, *consolidated with*, Oakland Hous. Auth. v. Rucker et al., 535 U.S. 125 (2002).

29. NAT'L HOUS. LAW PROJECT, CONGRESS' NEW PUBLIC HOUSING AND VOUCHER PROGRAMS (1999), *at* http://www.nhlp.org/html/hlb/1098/1098congress.htm (last visited July 15, 2003).

30. Amanda Ripley, *Living on the Outside: Doing Time is Hard, but Trying to Reenter Society After Prison is Almost Impossible*, TIME (2002) *at* http://www.time.com/time/2002/inmate/cover.html (last visited July 15, 2003).

31. MARY ANN HALLENBORG, THE NEW YORK LANDLORD'S LAW BOOK (2000).

32. COMM. ON CIVIL RIGHTS, ASS'N OF THE BAR OF THE CITY OF N.Y., IT IS TIME TO ENFORCE THE LAW: A REPORT ON FULFILLING THE PROMISE OF THE NEW YORK CITY HUMAN RIGHTS LAW (Dec. 2001), *available at* http://legalminds.lp.findlaw.com/list/queerlaw/frm04758.html (last visited July 15, 2003).

33. Homeless shelters are not ideal placements for offenders upon release from prison for a variety of reasons, including the likelihood that an individual will come into contact with people who engage in crime or illicit drug use. Other problems associated with temporary housing include the stress of not having privacy or secure space to store one's belongings (including essential documents such as one's prison release certificate, birth certificate, addresses, etc.). Given the problems associated with temporary housing, it is not surprising that former offenders in New York City who stayed in homeless shelters were seven times as likely as others to abscond from parole. *See* Ostreicher, *supra* note 6, at 2. While far from the ideal, even temporary housing may be hard to obtain in the midst of an economic crisis and a housing shortage. All indicators of homelessness have worsened since 2001, including the

cent available New York City housing statistics suggest that apartments remain expensive and hard to find.[34] In 1999, New York City's overall rental vacancy rate of 3.19 percent qualified as an "emergency" condition, as defined by state law.[35] According to the New York City Rent Guidelines Board, the stabilized median monthly rent for a studio apartment in 1998 ranged from $568 (in upper Manhattan) to $1,042 (in core Manhattan, which includes the Lower East Side).[36]

Gentrification also has reduced the amount of affordable housing.[37] Between 1996 and 1999, the number of low-rent units declined by 6.5 percent, while the number of high-rent units increased by 10.6 percent.[38] Many of the low-rent tenements on the Lower East Side continue to be converted into market-value spaces that most working families cannot afford.[39] Although few tenants move, when someone does leave, the rent increases.[40] The United States Census Bureau reports that the average median household income in New York City is $38,000. According to housing analysts, this means that a family can afford to spend up to $800 in monthly rent.[41] The average rent for a one-bedroom apartment in Lower Manhattan, however, is $1,500 to $2,700 per month.[42] According to the New York City Rent Guidelines Board, "an individual earning the minimum wage would have to work 131 hours per week to afford an average one-bedroom apartment in New York City. Similarly, an individual would have to earn a wage of $19.10/hour to afford a typical two-bedroom apartment in New York City."[43]

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number of single adults and families in temporary housing, the average number of days in temporary housing, and the number of families found ineligible for temporary housing. N.Y. CITY RENT GUIDELINES BOARD, 2002 HOUSING SUPPLY REPORT (2002), *available at* http://tenant.net/Oversight/Rgbsum02/hsr02.pdf (last visited July 15, 2003).

34. David Firestone, *The Rent Battle: The Reaction; Rent Regulations Firmly Supported in New York City*, N.Y. TIMES, June 11, 1997, at A1.

35. N.Y. CITY RENT GUIDELINES BOARD, *supra* note 33.

36. These figures are downwardly biased and/or artificially low given the many units that are rent controlled, rent stabilized, and unregulated.

37. Deliah D. Lawrence, *Can Communities Effectively Fight Displacement Caused by Gentrification*, 11 J. AFFORDABLE HOUSING & COMM. DEV. LAW 357, 358 (2002).

38. N.Y. CITY RENT GUIDELINES BOARD, 2002 INCOME AND AFFORDABILITY STUDY app. 8 (2002).

39. *Id.* at 4.

40. *Id.*

41. Maria Pikramenos, *Maturing Apt. Mkt. Immune to Economic Slowdown*, 36 MULTI-HOUSING NEWS 31 (2001).

42. *Id.*

43. *See* N.Y. CITY RENT GUIDELINES BOARD, *supra* note 38, at 4.

B. Employment Barriers

Parolees across the country are seriously disadvantaged when trying to enter the job market. Nearly one of every three state prisoners has a reported learning disability, a hearing or vision problem, or a mental or physical condition, and the prevalence of speech disabilities among prisoners is three times higher than among the general public.[44] The United States Department of Justice reports that nearly half of all persons incarcerated in state prison for drug convictions have not completed high school or earned their GED.[45] Less than one in three state and federal prisoners participates in vocational training to learn particular job skills.[46] Many parolees have histories of extensive drug use or other medical problems which prevent them from qualifying for jobs requiring heavy manual labor.[47] In addition, parolees are generally undereducated, with few marketable skills.[48] For example, La Bodega's employment coordinator reports that it is frequently difficult to help parolees undertake successful job searches because many of them cannot read a job ad, thus rendering published employment resources of limited value.[49] Furthermore, the primary or sole language for a sizeable percentage of La Bodega participants is Spanish.[50] Even if a La Bodega participant is not limited by these specific problems, or manages to overcome them through training, educational, or therapy programs, structural factors, such as bans on employment for persons with convictions, job discrimination, and a lack of jobs, still pose significant barriers to employment.[51]

Job discrimination against persons with felony convictions is common.[52] In New York, the law permits employers to ask appli-

44. LAURA MARUSCHAK & ALLEN J. BECK, U.S. DEP'T OF JUSTICE, BUREAU OF JUSTICE STATISTICS, MEDICAL PROBLEMS OF INMATES, 1997, at 1 (2001).

45. CAROLINE WOLF HARLOW, BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, EDUCATION AND CORRECTIONAL POPULATIONS 1 (2003).

46. *Id.* at 4; *see* Travis & Petersilia, *supra* note 3, at 299.

47. *See* RICHARD B. FREEMAN, NAT'L BUREAU OF ECON. RESEARCH, WHY DO SO MANY YOUNG AMERICAN MEN COMMIT CRIMES AND WHAT MIGHT WE DO ABOUT IT? 23 (Working Paper 5451 1996), *available at* http://www.nber.org/papers/w5451.pdf (last visited July 15, 2003).

48. *See* Ostreicher, *supra* note 6, at 1.

49. Conversation with Alexandra Como at La Bodega, New York City, N.Y., (Feb. 10, 2003).

50. *See* SULLIVAN ET AL., *supra* note 7, at 27.

51. *See* TRAVIS ET AL., *supra* note 24, at 31.

52. *See* Travis & Petersilia, *supra* note 3, at 304; *see also* Bruce Western et al., *The Labor Market Consequences of Incarceration*, 47 CRIME & DELINQUENCY 410, 412 (2001).

cants if they have ever been convicted of a crime, but only permits an employer to use an applicant's prior felony convictions as a basis for denying employment if there is a legitimate business interest related to the job or if the applicant poses a risk to people or property.[53] In the current social climate, however, past or present drug use continues to carry a stigma which prevents many released drug offenders from obtaining suitable employment. According to David Nidus of the Fortune Society:

> [l]aw and reality often don't mix well, since an employer interested in keeping ex-offenders out of the workplace can almost always find some other element on which to base the rejection of a client. Employers cannot ask about arrests but in the world of background checks, can often find out about them unless a client cleans up their rap sheet.[54]

A shortage of jobs also impedes released La Bodega participants and other New York City parolees from acquiring gainful employment.[55] Since the 1960s, the number of industrial-sector jobs, those jobs which historically provided work to unskilled or uneducated workers, has been halved, having a significant impact on local employment opportunities.[56] More recently, in the economic aftermath of September 11, 2001, New York lost tens of thousands of jobs.[57] The manufacturing industry lost the highest proportion of jobs, while construction and service jobs showed a slight gain.[58] Jobs in the service sector, however, tend to be fewer and lower-paying than those in the industrial sector.[59] Furthermore, while some employers may consider hiring a parolee to move bricks, it is less likely that a paroled drug offender would be seriously considered for a position in a trendy Lower East Side coffee shop. New York City's October 2002 unemployment rate of 7.2 percent was

53. *See* N.Y. EXEC. LAW §§ 246(15)-(16) (McKinney 1993).

54. E-mail from David Nidus, Fortune Society, to Jeanne Flavin, (Oct. 21, 2002) (on file with authors). Nidus also advises ex-offender clients to:

> market themselves as a person who is changed, who has learned their lesson who will do everything never to go back, and a person who recognizes they will have to work that much harder for the employer. We tell them to quickly state the nature of their conviction in understandable layman terms, distance themselves from it and do everything in their power to make the interview about their skills and abilities.

Id.

55. *See* FREEMAN, *supra* note 47, at 8.

56. Some argue that the collapse of the job market for less skilled men contributes to their involvement in crime. *See id.* at 23.

57. *See* N.Y. CITY RENT GUIDELINES BOARD, *supra* note 38, at 7.

58. *Id.* at 3.

59. *See id.* at 4.

the second highest among major metropolitan areas.[60] The seasonally adjusted index of help-wanted ads fell to its lowest level in fifty years, more than twenty-five percent lower than the previous year.[61] Available low-skill jobs, such as dishwasher or delivery worker, are generally extremely low paying while requiring long hours. Parolees may be offered better work "off-the-books," but such work is forbidden by the conditions of parole.[62] The shortage of jobs for low-skilled workers prompted one economist to conclude that, "[h]ow to improve the job market for less skilled young American men, and reverse the huge decline in their earnings and employment opportunities is *the problem* of our times, with implications both for crime and many other social ills."[63]

The bleak situation that La Bodega participants face with regard to housing and employment is captured in the observations of Jo Ann Wypijewski, board member of a Lower East Side community-based organization:

> the supposed era of good feeling ushered in by the [September 11th] tragedy hasn't stopped landlord harassment or evictions . . . gentrification steams forward in the Lower East Side . . . low-income people never just have housing problems; they have employment problems and health problems and family problems and immigration problems, and all of those are getting worse.[64]

The situation begs the question: "How can parolees be expected to fulfill the expectations of reintegration in a context marked by such structural obstacles?" The staff of La Bodega de la Familia responds to this question on a daily basis. As outlined in the next Section, they do so by employing a unique family case management approach which involves partnering, not only with families, but also with parole and with the community.

III. THE BODEGA MODEL: FAMILY CASE MANAGEMENT

In 1996, La Bodega de la Familia opened as a demonstration project of the Vera Institute of Justice to test the proposition that engaging and supporting families of drug users in community based justice supervision would reduce the harms that substance abuse

60. *See id.* at 2.

61. Leslie Eaton, *New York Economy Shows Slight Gains but Is Still Weak, Reports Say*, N.Y. TIMES, Nov. 28, 2002, at B3.

62. *This Year the Nation's Prisons Will Release More than 630,000 People—A New Record*, TIME, Jan. 21, 2002, at 60.

63. FREEMAN, *supra* note 47, at 24.

64. Jo Ann Wypijewski, *Fight for Survival in NYC*, 274 NATION 8, 8 (2002).

causes within families.[65] Seven years later, La Bodega de la Familia, Family Justice's direct service program, has demonstrated its effectiveness by reducing drug use, limiting the use of incarceration as a justice response to relapse, and enhancing well-being for family members.[66]

La Bodega serves as a laboratory for designing, testing, and refining new strategies and tools for its Family Case Management ("FCM") model. Its storefront services include counseling and relapse prevention services, walk-in assessment and referral for all neighborhood residents, and twenty-four hour crisis support in drug-related emergencies.[67] La Bodega created an employment coordinator position in order to better match substance users and their families with jobs in the community.[68] In response to requests by its government partners, and the fact that more than eighty percent of participating families live in neighborhood public housing, La Bodega is creating an outpost in public housing.[69] Recently, La Bodega has undertaken development of "The Bridge Project" to help participants transition from an intensive family case management service to a less intrusive or intensive service.[70] The goals of the project include not only sustaining the benefits of family case management, but also encouraging leadership and community involvement as a means of reducing dependence on La Bodega.[71]

La Bodega accepts parolees released into the Ninth and Seventh police precincts who also meet two additional criteria: 1) the parolee must have a history of substance abuse; and 2) there must be at least one family member willing to participate in the program.[72] A recent study of 179 Loisaida drug users found that approximately one-third reported using heroin, cocaine, and/or marijuana regularly in the past thirty days.[73] On average, the Lower East Side parolees had four convictions and had been incarcerated sev-

65. *See generally* SULLIVAN ET AL., *supra* note 7.

66. In May 2002, the Vera Institute of Justice published an evaluation of La Bodega. *See id.* Much of the information reported here reflects material presented in that evaluation and in Family Justice documents.

67. *See id.* at 17-20.

68. *Id.* at 56-57.

69. *See id.*

70. *See* Family Justice, *The Bridge Project: Developing Phase 3 of the FCM Model*, *at* http://www.familyjusticeinc.org/rcd/projectsbridge.html (last visited July 15, 2003).

71. *See id.*

72. La Bodega defines *family* broadly to comprise the network of people who have influence (both positive and negative) in a parolee's life, and includes those tied by blood or marriage, as well as friends and other significant individuals (for example, a counselor or community worker).

73. *See* SULLIVAN ET AL., *supra* note 7, at 8-11.

enty-six months during the course of their lifetimes.[74] The study also found that, although more than half of the Lower East Side drug users had mental health scores indicating they were depressed, the vast majority also had social support scores which indicated they had people in their lives on whom they could rely for social support, for example, understanding, advice, material aid, company, and affection.[75] Furthermore, most were very involved with their families.[76] This presence of family members and a social support system is integral to La Bodega de la Familia's framework.

To appreciate La Bodega's success, one must understand the four core principles of the FCM model: focus on families; focus on strengths; operation from a case management perspective; and partnership with the community.[77] Unlike many programs, the focus of La Bodega is on the family, not the individual.[78] Many families are involved in multiple systems, for example, welfare, housing, education, foster care, etc. Ignoring the multiplicity of needs and resources can jeopardize progress made by any individual family member. For example, it is difficult for the head of the household to sustain employment if others in the family have serious unmet mental health or substance abuse needs. The FCM approach sees the family not as another cluster of problems, but as potential resources. Encompassed within this principle is the recognition that families are there for the long haul, whereas government services and interventions are short-term.

A focus on the family also provides access to family and community options that may not be possible with an individual focus. For

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74. *See id.* at 11.

75. *Id.* at 37-38.

76. *See id.*

77. CAROL SHAPIRO & ROSEMARY MCGINN, FAMILY JUSTICE, PARTNERING WITH FAMILIES: A NATURAL RESOURCE FOR DRUG COURTS (2001). Case management, as used here, refers to systematic interventions to help people access and fully utilize resources of all kinds, both internal and external.

78. Many organizations undertake advocacy efforts designed to remove the aforementioned barriers through legal reform and other attempts to increase the access to affordable housing, gainful employment, drug treatment, and public services. Other organizations focus on providing direct services to offenders. For example, the Fortune Society, the Osborne Association, and a host of other organizations offer counseling, referrals to vocational training, job placement, and educational programs for persons released from prison or jail. Over the years, many of these agencies have added or expanded their service offerings to include families of persons involved in the criminal justice system. By contrast, since its inception, La Bodega de la Familia has made families the focus of its efforts. For a comprehensive list of information sources for persons released from prison or jail in New York City, see STEPHAN LIKOSKY, THE N.Y. PUB. LIBRARY, CONNECTIONS 2003 AND THE JOB SEARCH (2003).

example, family members often recognize warning signs of potential relapse long before an individual is willing to acknowledge them or they come to the attention of a parole officer. On many occasions, family members have encouraged the individual parolee to contact their La Bodega case manager or have contacted the family case manager themselves in order to avert or mitigate a relapse.[79] Working with family members may also help identify and reduce those family stressors which have been shown to lead to increased drug use and criminal activity. If a parolee is living with a family member, for instance, contact with the family case manager may help prevent small problems from developing into larger ones which might jeopardize the living arrangement.[80]

La Bodega also focuses on strengths by helping families to identify and activate their resources.[81] In doing so, La Bodega prepares substance users and their families for self-sufficiency even in the face of unanticipated problems. La Bodega's philosophy assumes that families are more than they may appear to be at any given moment (including and especially when they are stressed), and that all families are not only capable of change, but are also experts in their own lives.[82] For many La Bodega clients, this is a welcome change from a justice system that views their past failings as evidence of their incompetence to exert a positive influence over their lives.

La Bodega's practice model is family case management.[83] Definitions of case management vary, but most include elements of making referrals and coordinating services to meet identified needs, providing support, problem solving, monitoring, and under-

79. SULLIVAN ET AL., *supra* note 7, at 45.

80. Many people perceive family "dysfunction" as part of the problem that has led to an individual's criminal involvement or substance abuse. Admittedly, some families may not want to help or be capable of helping. Family members may themselves be dealing with profound crises, and cannot serve as a social support network. In La Bodega's experience, however, these families are the exception. In most cases, families' dysfunctional responses reflect a lack of knowledge about constructive ways of responding rather than indifference. For example, many family members express concern by getting angry or cutting off loved ones hoping that "tough love" results in behavior change. Even family members who have been hurt in the past or who are dealing with their own problems, however, will try to help a loved one if they believe that something has changed or if they find a source of ongoing support. Provided with additional insight, they often are very successful in providing support and interrupting negative sequences. *See* Carol Shapiro & Meryl Schwartz, *Coming Home: Building on Family Connections*, 5 CORRECTIONS MANAGEMENT Q. 52, 52-61. (2001).

81. *Id.* at 56-57.

82. *Id.*

83. *Id.*

taking advocacy on behalf of the client.[84] La Bodega family case managers also engage in assessment, planning, and goal-setting with their clients.[85] In the case of La Bodega, the client is not just the individual parolee, but also his or her family members. The focus is on coordinating the delivery of services by other providers, and providing an entrance into a system that may not always seem welcoming.

La Bodega also emphasizes partnering and collaboration.[86] This emphasis recognizes that families are intertwined with multiple systems and they need to forge realistic and useful bonds with those organizations. "Ecomaps" are a tool used to elicit information on family connections to both government and informal systems.[87] Through use of the ecomap, a family case manager can learn about the relationship of a family member to a place of worship, a community center, a public housing complex, a city social service agency, etc.

The Bodega Model also includes a close partnering relationship with participants' parole officers.[88] The New York State Division of Parole has assigned a small number of parole officers to work exclusively with those parolees who have family in La Bodega's service area.[89] La Bodega staff and the Division of Parole have developed a protocol that involves family members in every stage of the process. Rick Levy, former Regional Director of the New York State Division of Parole observes, "[c]onnecting with families has helped our officers to have more insight into the lives of the people they supervise. Enlisting the help of family members who are invested in their loved one's success has given our officers a new and powerful ally."[90]

Even before an offender is released from prison, a parole officer and a family case manager visit the offender's family to engage family members in the supervision process, to assess their needs, and to introduce them to the family case management approach.[91] Family case managers meet and communicate regularly with parole

84. HARVEY A. SIEGAL, U.S. DEP'T OF HEALTH & HUMAN SERVS., COMPREHENSIVE CASE MANAGEMENT FOR SUBSTANCE ABUSE TREATMENT 5 (1998).

85. Shapiro & Schwartz, *supra* note 80, at 57.

86. *Id.*

87. SULLIVAN ET AL., *supra* note 7, at 18.

88. Shapiro & Schwartz, *supra* note 80, at 58-59.

89. SULLIVAN ET AL., *supra* note 7, at 21.

90. Funding Proposal, Family Justice, The Partner Project #877 (2002) (on file with the authors).

91. SULLIVAN ET AL., *supra* note 7, at 21.

officers. Each member of the FCM team is responsible for contributing to the "success" of the case, with success measured not only in terms of traditional parole practice (for example, the parolee remains drug and crime free, makes timely reports to parole, and meets curfews), but also in terms of family members meeting some of their own needs for social, economic, and emotional support.[92]

One parole officer observed that participation in La Bodega has made his work more effective, if more demanding, noting "[i]t was so simple before: two dirty urines, send the parolee to a program and if he relapsed send him back to jail. Getting a warrant on somebody—that's easy. With La Bodega there is more meat involved in the decision making . . . Bodega gives another chance."[93] Commenting on La Bodega's relationship with parole officers, a family case manager observed, "we make mutual decisions most of the time. If there is no threat to the community or to the individual parolee, then we are able to make decisions as a process collectively and have the decision be about achieving the best end result for the parolee."[94]

Empirical evidence suggests that La Bodega's approach is effective in promoting the well-being of drug using parolees and their families.[95] In May 2002, the Vera Institute of Justice published an evaluation of La Bodega in which outcomes for a sample of La Bodega participants were compared with outcomes for a similar group of drug users and their family members.[96] Data were collected as study members entered the research and again six months later. The researchers found that substance users involved in La Bodega were significantly more likely to refrain from using any illegal drugs and less likely to be arrested or convicted.[97] The difference seems to be attributable to pressure and support from Bodega case managers and family members rather than to the greater use of drug treatment among Bodega participants. The evaluation also encompassed family members who expressed a need for social services, such as medical care, housing, food, or vocational training at their first interview.[98] Six months later, nearly ninety percent of La

92. CAROL SHAPIRO, U.S. DEP'T OF JUSTICE, *La Bodega de la Familia*: Reaching Out to the Foregotten Victims of Substance Abuse (1998).

93. *See* SULLIVAN ET AL., *supra* note 7, at 22.

94. Elizabeth Angiello, Family Case Managers' Discretion 4 (Nov. 5, 2002) (unpublished paper) (on file with the Authors).

95. *See* SULLIVAN ET AL., *supra* note 7, at 34.

96. *See generally id.*

97. *Id.* at 39-43.

98. *Id.* at 35-36.

Bodega family members reported that their need had been addressed, compared to less than two-thirds of the family members in the comparison group.[99]

IV. DIRECTIONS FOR THE FUTURE OF PAROLE AND PRISONER REINTEGRATION

Historically, there has been a lack of public support for anything that doesn't purport to "get tough" on crime. The situation, however, is changing. Declining crime rates have contributed to the public being less concerned about street violence and more concerned about issues such as education, the economy, and health care.[100] At the same time that people are calling for more money for education and services, state governments are grappling with the high costs of maintaining prisoners in a poor economy.[101] Consequently, legislators have been prompted to reexamine some of the most stringent laws, such as those imposing mandatory minimum sentences and forbidding early parole.[102] This may signal the beginning of a reversal in a twenty-year trend toward more punitive anti-crime measures.[103] In other words, the window of opportunity for parole reform is open *now.*

La Bodega's family case management approach offers an alternative approach to parole and prisoner reintegration that does not compromise community safety. Deterrence and enforcement based approaches to parole assume that the way to ensure parolees' future law-abiding behavior is to make certain that the consequences of violating parole conditions are sufficiently certain and severe to deter engaging in criminal activity, including drug use. By contrast, family case management and other public health-oriented models make the health and well-being of individuals and those around them the focus. The emphasis is on preventing relapses, intervening when risk factors present themselves, and trying to mitigate the damage if a relapse does occur.

All approaches to prisoner reintegration recognize that when individuals fail under parole supervision, entire families and communities may be destabilized. One inevitable consequence of these

99. *Id.* at 36-37.

100. Fox Butterfield, *States Ease Laws on Time in Prison*, N.Y. TIMES, Sept. 2, 2001, at A1.

101. *Id.*

102. *Id.*

103. Butterfield, *supra* note 100, at A1; Professor Michael Jacobson, Comments at New York Academy of Sciences Seminar, *entitled* The Challenge of Prisoner Reintegration (Oct. 9, 2002).

systemic failures is that poverty, substance abuse, criminal behavior, and incarceration are carried over from one generation to the next.[104] The experience of La Bodega, however, shows that the very families who have been destabilized by drugs and crime may also be a major stabilizing influence for the parolee.[105] By drawing upon family members' mutual loyalties, inherent strengths, desire to help, and availability, probation and parole agencies can improve supervision and treatment outcomes, as well as family well-being. Family case management recognizes that many people have a vested interest in ensuring that an individual is successfully reintegrated into society, and calls upon these people to play a role in the process. It assumes that families and communities offer resources that can be mobilized in support of the reintegration process.

By contrast, our current parole system places the burden of responsibility for reintegration solely on the individual parolees and over-burdened parole officers.[106] Moreover, the traditional relationship between parolees and parole officers tends to be adversarial, i.e., structured around parole officers detecting and responding to violations and parolees trying to avoid having relapses or violations detected.[107] Partnership between family case managers and parole officers changes the adversarial nature of the relationship between the parolee and the parole officer. The result is a relationship among family case managers, parole officers, parolees, and parolees' families that fosters honesty and assumes a shared commitment to the goal of reintegration.

Family case management offers a less rigid and arguably more effective approach to parole than deterrence-based approaches. It views drug use and criminal activity as occurring on a continuum, with some behaviors being more damaging to individuals and those around them than others. Such an approach encourages one to think about parole failure and drug-related harms not as an inevitable fact of life, but as a problem that can be prevented, or at least

104. *See, e.g.*, Ostreicher, *supra* note 6, at 1.

105. SULLIVAN ET AL., *supra* note 7, at 34.

106. On average, New York State parole officers have caseloads of one hundred regular cases and forty cases requiring intensive supervision. Parole officers in the other nineteen states with statewide parole systems have average caseloads of sixty-nine and twenty-nine, respectively. CITIZENS BUDGET COMM., MAKING MORE EFFECTIVE USE OF NEW YORK STATE'S PRISONS (2000), *at* http://www.cbcny.org/DOCS52000.htm (last visited July 15, 2003).

107. *See generally* JOAN PETERSILIA, WHEN PRISONERS COME HOME: PAROLE AND PRISONER REENTRY (2003).

mitigated. By contrast, conventional justice supervision tends to be based on a view of criminal activity and drug use as an "all-or-nothing" proposition. All relapses and all violations—even minor ones—are potential grounds for revocation of parole. This view also contributes to abstinence from criminal activity or drug use being falsely equated with "successful reintegration." In reality, experience has demonstrated that persons who desist from drug use or criminal activity may nonetheless engage in behaviors that, although damaging to the public good, go unaddressed because of the narrow focus on certain behaviors.[108]

Effective family case management requires a fundamental philosophical shift, not just the incorporation of families into our current parole practices. Unless we move away from an individualistic, deterrence-based model focusing on punishing failures to one based on families, public health, and strengths, we risk simply expanding the scope of the current system to include families.[109] To be effective, parole must seek good outcomes in connection to families and communities, not at their expense. Our responses to crime must respect and promote the autonomy of families, particularly poor families who, as noted earlier, are often subjected to considerable social control by a variety of governmental and other social service agencies.

In sum, family case management encourages us to think creatively about how society might better support parolees, families, and communities.[110] The experience of La Bodega de la Familia illustrates that, even in the face of potentially daunting structural obstacles, it is possible to implement programs which reduce the harms associated with substance abuse. Moreover, it offers hope for more effective and humane means of prisoner reintegration.

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108. *See generally* SHADD MARUNA, MAKING GOOD: HOW EX-CONVICTS REFORM AND REBUILD THEIR LIVES (2001).

109. Martin Silverstein, *The Ties That Bind: Family Surveillance of Canadian Parolees*, 42 SOC. Q. 395, 395-420 (2001).

110. For example, women family members, play a central and positive role in many parolees' lives. *See generally* DAVID ZUCCHINO, MYTH OF A WELFARE QUEEN (1997). More attention needs to be given to the ways in which women can be assisted in their efforts to stretch resources to meet a parolee's need for housing, food, employment, transportation, child care, and other forms of support. The advances made through participation in family case management need to be supported and upheld by community resources around the family. Families can provide support throughout the frustrating job-seeking process, but they cannot restructure an economy to make jobs available. They can offer someone a place to stay or provide a housing reference, but they cannot create safe, affordable housing where none exists.