

Two large black silhouettes of hands are positioned on the left side of the page. The top hand is reaching down, and the bottom hand is reaching up, with their fingers nearly touching. This graphic serves as a background element for the title.

# **Enterprise Programs: Freeing Entrepreneurs to Provide Essential Services for the Poor**

## **A Task Force Report**

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# Enterprise Programs: Freeing Entrepreneurs to Provide Essential Services for the Poor

## A Task Force Report

Editor

Roger Koppl  
Fairleigh Dickinson University

Contributors

Wendell Cox  
Wendell Cox Consultancy/Demographia

Jennifer Dirmeyer  
Hampden-Sydney College

Devon M. Herrick  
National Center for Policy Analysis

Kai Jaeger  
San Jose State University

Edward P. Stringham  
Fayetteville State University

Shirley Svorny  
California State University, Northridge

Diana W. Thomas  
Utah State University

Michael D. Thomas  
Utah State University

National Center for Policy Analysis

2011

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## Foreword

by Hon. Pete du Pont, former governor of Delaware

There is no more urgent task than getting people back to work and improving the prospects for economic progress of all Americans — especially the poor. Consider this: As of May 2011, 9.1 percent of Americans were unemployed and looking for work. But workers who are minorities, less educated and inexperienced face greater employment challenges than others. Among ethnic minorities, for example, the Hispanic unemployment rate was 11.9 percent and the African American unemployment rate was 16.2 percent. Unemployment of college graduates was half the overall national rate and one-third the unemployment rate of workers with less than a high school education. Among teenagers 16 to 19 years old, more than one in five was unemployed, and among black teenagers, more than four in 10 was unemployed.

How can we create job opportunities for those who face the greatest barriers to employment? This report suggests an approach that does not require a massive spending program; in fact, it uses private sector capital and talent. Furthermore, it does not require top-down direction from Washington; it can be implemented locally, by citizens, public officials and businesses working in concert. Finally, this approach not only creates jobs for some, but improves the living standards of others in the community.

This innovative concept is called Enterprise Programs. Its goal is to free entrepreneurs to provide essential services to the poor — such as transportation, child care, security, housing and health care. A task force from across the United States assembled by the National Center for Policy Analysis found that cost increasing regulations have priced low-income families out of the market for many services that are essential to their quality of life and prospects for economic progress. The task force members identified regulations that keep low-income families from enjoying the benefits of competition and entrepreneurship and force them to rely on less consumer-friendly public services instead. The alternative approach they propose is straight-forward: Lift regulatory barriers for individual entrepreneurs, businesses and charities who propose to serve primarily low-income populations.

As explained in this report, Enterprise Programs would benefit the consumers of the newly available services as well as create job opportunities for the workers who provide the services. Many of these services would create opportunities for the poor themselves to become entrepreneurs.

Cost-increasing regulations often make it prohibitive to provide low-cost services to the poor. Further, these unwise regulations affect low-income families in their role as providers as well as in their role as consumers. For instance, according to a recent study, 29 percent of all jobs now require a license. Many states impose formal educational requirements for occupations

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that exclude workers with fewer credentials but more practical experience. In many cases, these services could be provided by individuals with less formal training, at a lower cost.

As this report shows, if they are freed from unnecessary regulations, entrepreneurs will provide services that would meet the needs of those at the bottom of the income ladder and open up job opportunities for them in the process. It is our hope that communities across the United States will pursue the possibilities presented by this unique and innovative idea.

Pete du Pont  
Chairman of the Board,  
National Center for Policy Analysis

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# Introduction

by Roger Koppl, Fairleigh Dickinson University

For many years, government poverty-fighting programs have attempted to provide services for the poor that charities or the market do not. The approach has been tried over and over with disappointing results costing trillions of tax dollars. Indeed, since 1964, the federal and state governments have spent over \$16 trillion in the War on Poverty, and they are projected to spend at least another \$10 trillion over the next decade.<sup>1</sup>



Some of these programs have had positive effects on the poor. Food stamps, for example, seem to have improved birth weights for the children of mothers in the program.<sup>2</sup> Most programs, however, have shown few lasting results. For instance, a 1998 New York Times story noted that “federal and state agencies have plowed billions of dollars into Appalachia through economic development programs, highway construction and job-creation initiatives.”<sup>3</sup> The article acknowledged that the “money and countless programs have had only marginal effects on breaking a cycle of poverty and despair that continues throughout many parts of Appalachia.”

**Enterprise Programs.** There are many private sector alternatives to government programs for the poor — including efforts by for-profit and nonprofit organizations. These are typically entrepreneurial enterprises run by individuals, businesses and nonprofit organizations (such as churches and service organizations). These enterprises compete for dollars and innovate to improve the effectiveness of the services they provide.

Unfortunately, a host of government regulations bar or limit these potential entrepreneurial efforts. The concept of Enterprise Programs is a way around these regulatory barriers. It builds on earlier efforts called “Enterprise Zones” and “Empowerment Zones” that exempted carefully defined geographical areas from some of the regulations that negatively impact the poor.<sup>4</sup> Enterprise Programs are designed to cut across these geographical boundaries. They are a way to reduce or eliminate regulatory barriers for entrepreneurs who meet one requirement: that they provide an essential service predominately to poor and distressed families.

In this report, a task force of experts assembled by the National Center for Policy Analysis examines five essential services: transportation, child care, security, housing and health care. These services are important to the quality of life and opportunities for economic progress of low-income individuals

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and families. Task force members analyzed typical problems faced by the poor attempting to access these services and by entrepreneurs attempting to provide them. In each of these areas, they identified barriers created by government regulations and recommend targeted regulatory relief.

**Regulations versus Markets.** The principal focus of this report is on for-profit market enterprises, but the same principles apply to nonprofit enterprises. In either case, government regulations are a poor substitute for the marketplace. Indeed, they cannot match the three “I’s” of free markets: incentives, information and innovation.<sup>5</sup>

- ⇒ The profit-and-loss system gives entrepreneurs incentives to offer better products than their competitors. If a business gives consumers poor value for their money, it will suffer losses. If its products give consumers good value for their money, the business will be profitable.
- ⇒ Markets create information, too. Losses tell the entrepreneur to improve, the creditor to be wary, and the potential entrant to be pessimistic. Profits tell the entrepreneur to expand, the creditor to be willing, and the potential entrant to be optimistic.
- ⇒ Finally, markets spur innovation. As entrepreneurs learn more about what their customers want, they will try to compete by improving the goods and services they provide. Invention, innovation and entrepreneurialism brought us cell phones. Market competition then made them cheap, slim and smart. Market competition also brought us personal computers, iPads, flat-screen televisions and countless other innovations that we now take for granted.

The three I’s create a vigorous contest among entrepreneurs to better serve customers. It is the judgment of the consumer that matters — not bureaucrats, efficiency experts or backroom dealmakers. In the free market, the customer is king.

The three I’s also tell us how regulation can go wrong. Bad regulations twist incentives, mute information and slow innovation.

- ⇒ Unwise regulation twists incentives when it encourages firms to curry favor with legislators or regulators in hopes of getting special benefits. Economists call such special interest lobbying “rent seeking.”<sup>6</sup> Successful rent seeking is called “regulatory capture.”<sup>7</sup>
- ⇒ Unwise regulation mutes information when it makes profit and loss depend too much on politics or arbitrary rules.<sup>8</sup> The “allowed rate of return” of many regulated electric utilities, for example, motivates them to build power plants that cost more, not less, because applying a rate of return to a bigger base increases profits.<sup>9</sup> In such cases, regulation makes it hard to produce electricity cheaply.

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⇒ Unwise regulation slows innovation when it makes new products hard to launch and gives old products special protections. Before airline deregulation, for example, carriers could not adopt the hub-and-spoke system that has driven down the cost of air travel over the past 30 years.<sup>10</sup>

**One-Size-Fits-All Regulations.** Poorly designed regulations can inhibit private businesses from better serving low-income Americans (or the low-income from providing services to others). Sometimes this serves special interests. Often, however, they are well-meaning measures aimed at preventing harm to the people businesses should serve. Whether well-intentioned or not, the bad effects of poorly designed regulations are the same.

Part of the problem is the one-size-fits-all approach. Measures that might help middle class Americans can hurt poor Americans. For example, middle class homeowners may try to protect their property values through restrictions designed to protect the beauty of an affluent suburb. In such settings, it makes sense to have guidelines specifying minimum house sizes and minimum lot sizes. In poor neighborhoods, however, such restrictions can put affordable housing out of reach. Targeted regulatory relief can address this sort of disparate impact.

Many legislative proposals are based on the premise that government is best at providing needed goods and services to poor Americans. But the evidence from around the world is overwhelming: Market economies have done much better by the poor than nonmarket economies.<sup>11</sup> Enterprise Programs take seriously the difference in outcomes in market and nonmarket economies. The idea is based on a basic vision of markets and poverty: The entrepreneurial market process is good for the poor. It helps them escape poverty by providing opportunities for work and to develop their own businesses if they so choose. The process also provides services precisely tuned to the particular circumstances of the poor.

**Entrepreneurial Solutions.** This report explains how targeted regulatory relief would free entrepreneurs to provide improved services to the poor, and allow the poor to become entrepreneurs themselves. Thus:

*Transportation.* Jennifer Dirmeyer explains how legal restrictions in transportation often thwart market solutions to the transportation problems of poor Americans. Americans living in poverty need to travel to get groceries, find housing, interview for jobs and show up for work. But legal limitations prevent entrepreneurs from using their minivans and sports utility vehicles to take groups of people to closely situated destinations — especially transporting workers to and from job sites. Such restrictions are often designed to protect taxicab owners from competition. With an Enterprise Program, entrepreneurs would be free to create jitney services and carry more than one passenger to various destinations for whatever price the market will bear.

*Child Care.* Diana Weinert Thomas explains how government regulations sometimes hinder market solutions to the child care problems of poor

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Americans. Legal limits, such as child to adult ratios and zoning restrictions, often put child care services out of reach for the poor, whereas a properly designed Enterprise Program would help bring safe and practical solutions to low-income Americans.

*Security Services.* Kai Jaeger and Edward Stringham explain how restrictive measures often supported by local police can prevent market solutions to the security problems of poor Americans. Requiring private security personnel to complete training programs administered by state or local police agencies, for example, may needlessly restrict entry and thereby place the cost of services out of reach for neighborhood associations in poor areas. A properly designed Enterprise Program would help bring realistic and cost-effective policing options to low-income Americans.

*Housing.* Michael Thomas and Wendell Cox explain how zoning restrictions and building codes can thwart market solutions to the housing problems of poor Americans. Local governments often restrict land use, block the use of inexpensive modular homes, limit the number of rental housing units, create minimum lot sizes, and impose cost-increasing amenities such as specific landscaping requirements. All too often, regulations designed to protect property values in affluent neighborhoods have the unintended consequence of reducing housing construction and availability on less valuable property in need of redevelopment. With an Enterprise Program, less restrictive housing and zoning laws (where appropriate) would help bring alternative housing solutions to low-income Americans.

*Health Care.* Shirley Svorny and Devon Herrick explain how legal restrictions prevent market solutions to health care access for low-income Americans. For instance, restrictions on medical practices often prevent nurses, physician assistants and paramedics from providing valuable services. Ironically, paramedics who patch up soldiers on the battlefield in Afghanistan would be breaking the law if they did the same thing in most American cities. In some parts of the country, walk-in clinics in shopping malls allow nurses to give flu shots, take temperatures, prescribe antibiotics and deliver other timely, inexpensive care. But even these innovative services are often saddled with burdensome, cost-increasing regulations. With an Enterprise Program, store-front clinics would be freer to operate and bring the services of nurses, physician assistants and paramedics to poor Americans.

The specific regulations requiring reform vary from city to city and state to state. There are other essential services, such as education, that could be targeted. Local citizens know the problems in their communities, and local entrepreneurs could no doubt propose other services to the poor that should be eligible for the program. This report is intended as a starting point for such dialogues.<sup>12</sup>

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1. Heritage Foundation, "The Unsustainable Growth of Welfare," Solutions for America, August 17, 2010. Available at <http://www.heritage.org/Research/Reports/2010/08/The-Unsustainable-Growth-of-Welfare>.
  2. See Douglas Almond, Hilary W. Hoynes and Diane Whitmore Schanzenbach, "Inside the War on Poverty: The Impact of Food Stamps on Birth Outcomes," *Review of Economics and Statistics* (forthcoming).
  3. Michael Janofsky, "Pessimism Retains Grip on Appalachian Poor," *New York Times*, February 9, 1998. Available at <http://www.nytimes.com/1998/02/09/us/pessimism-retains-grip-on-appalachian-poor.html>.
  4. Enterprise Zones were first proposed by Rep. Jack Kemp (R-N.Y.). Empowerment Zones were the Clinton administration's version of the Kemp idea.
  5. Peter Boettke, "Hayek and Market Socialism: Science, Ideology and Public Policy," *Economic Affairs*, Vol. 25, No. 4, 2005, pages 54-60.
  6. Gordon Tullock, "The Welfare Costs of Tariffs, Monopolies, and Theft," *Western Economic Journal*, Vol. 5, No. 3, 1967, pages 224-232. Anne O. Krueger, "The Political Economy of the Rent-Seeking Society," *The American Economic Review*, Vol. 64, No. 3, 1974, pages 291-303.
  7. George T. Stigler, "The Theory of Economic Regulation," *The Bell Journal of Economics and Management*, Vol. 2, No. 1, 1971, pages 3-21. Richard A. Posner, "Theories of Economic Regulation," *The Bell Journal of Economics and Management*, Vol. 5, No. 2, 1974, pages 335-358. Bruce Yandle, "Bootleggers and Baptists: The Education of a Regulatory Economist," *Regulation*, Vol. 7, No. 3, 1983, page 12.
  8. Roger Koppl, *Big Players and the Economic Theory of Expectations* (New York: Palgrave Macmillan, 2002).
  9. Helene Connor-Lajambe provides a case study (Helene Connor-Lajambe, "Societal Impacts of Utility Overinvestment," *Utilities Policy*, October 1990, pages 78-87). Adam R. Fremeth and Guy L. F. Holburn discuss how "asymmetric information" affects rate hearings (Adam R. Fremeth and Guy L. F. Holburn, "Information Asymmetries and Regulatory Decision Costs," *Journal of Law, Economics, and Organization*, forthcoming in 2012).
  10. Vernon L. Smith, *Rationality in Economics: Constructivist and Ecological Forms* (New York: Cambridge University Press, 2008), page 472.
  11. Andrei Shleifer, "The Age of Milton Friedman," *Journal of Economic Literature*, Vol. 47, No. 1, 2009, pages 123-135. Peter Leeson, "Two Cheers for Capitalism?" *Society*, Vol. 47, No. 3, 2010, pages 227-233.
  12. I would like to thank the staff of the National Center for Policy Analysis for their assistance to the task force and in the preparation of this report, especially: John Goodman, president and CEO, who began developing the concept of Enterprise Programs in 2005 in response to Hurricane Katrina; Joe Barnett, director of policy research, who helped revise the manuscript; Courtney O'Sullivan, editor, who edited and proofed it; and Amber Jones, director, creative & digital communications, who designed and produced the report. Finally, I would like to thank the other members of the task force who lent their expertise to this project: Wendell Cox, Jennifer Dirmeyer, Devon M. Herrick, Kai Jaeger, Edward P. Stringham, Shirley Svorny, Diana W. Thomas and Michael D. Thomas. It has been a pleasure working with them all.

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# The Jitney Potential: Transportation Regulation and the Welfare of the Poor

By Jennifer Dirmeyer, Hampden-Sydney College

Transportation costs account for about 17 percent of the total household expenditures of the average American family, according to the Bureau of Labor Statistics. The share of household expenses associated with vehicle purchases, gasoline, maintenance, insurance and public transportation — a category that includes buses, trains, trolleys, taxis and airplanes — is second only to housing costs.<sup>1</sup> Thus, policies that affect transportation options have a significant impact on the general welfare of Americans.

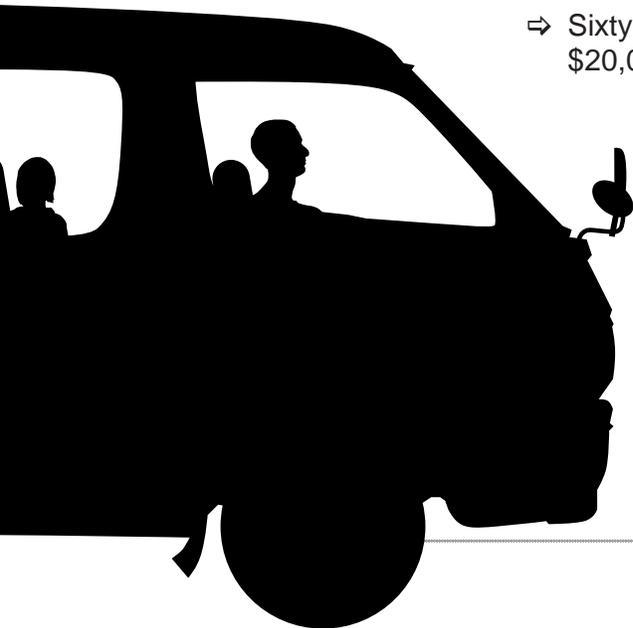
For the 13.2 percent of Americans with incomes below the poverty threshold, the potential impact of transportation policy is even greater.<sup>2,3</sup> Public transportation is an essential service for the poor because it is necessary to take them to jobs, health care providers and educational opportunities.<sup>4</sup> However, local government regulations on transportation providers often prevent entrepreneurs from offering such options.

**Transportation Demand.** Automobile use is high among every income group because it is the most convenient form of transportation. But high taxi fares and automobile prices make these options less than ideal for low-income individuals. Thus, there is considerable potential in the transportation market for a service that is inexpensive and convenient.

Surprisingly, even those who do not own cars still make most of their trips by car. According to the 2001 National Household Travel Survey (NHTS):

- ⇒ Americans take more than 80 percent of all trips by automobile, making it the most common form of transportation.
- ⇒ Sixty-nine percent of individuals with incomes less than \$20,000 per year own at least one vehicle, and 76 percent of all their trips are by automobile.<sup>5</sup>
- ⇒ Even in households that do not own a vehicle, over 34 percent of all trips are taken in a vehicle — presumably by borrowing, renting or riding as a passenger in a car.<sup>6</sup>

This trend also appears in overall taxi usage: 22 percent of taxi riders are in the lowest income quintile (the lowest 20 percent). The majority of riders come from either the wealthiest quintile (33 percent) or the poorest (22 percent).<sup>7</sup>



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Individuals in the lowest income quintile are less likely to own an automobile and make up a greater percentage of public transit users — especially bus riders — than any other income group. NHTS data show that individuals in the lowest income group (with incomes less than \$20,000 yearly) account for 47.1 percent of bus ridership and 19.7 percent of subway riders.<sup>8</sup>

By contrast, in the next-to-lowest income quintile, 87.3 percent of trips were by automobile, indicating that as a household emerges out of poverty an automobile is one of its first major purchases.<sup>9</sup>

**Time and Money Costs.** The working poor spend much of their resources on transportation — both time and money. The value of an individual's time can be measured by his or her hourly wage.<sup>10</sup> Since low-income individuals receive lower hourly wages than wealthier individuals, it follows that they should be more willing to choose less costly, more time-intensive modes of travel such as buses and trains, rather than private automobiles and taxis.

Economist Edward Glaeser and his colleagues, using survey data, calculated the time cost of various modes of transit for commuters who live within 10 miles of their workplace:

- ⇒ Bus travel entails an average of 22 minutes in fixed time costs — the time it takes to walk to and from public transportation services as well as time spent waiting at stops and transfers — and time costs of 2.95 minutes per mile traveled.
- ⇒ Taking the train cost about the same amount of time as taking a bus, with a somewhat lower fixed time cost of 18 minutes and a somewhat higher per mile cost of 3.3 minutes.
- ⇒ Driving a car one owns, by comparison, entailed substantially lower time costs — 5.6 minutes for fixed costs and 1.6 minutes per mile.

Thus, it is clear that public transportation would be chosen over vehicle ownership whenever the opportunity cost of time is low enough relative to the monetary cost of car ownership.<sup>11</sup> John Calfee and Clifford Winston found that consumers with annual incomes of \$7,500 to \$12,500 were willing to pay up to \$3.06 to save one hour of travel time, whereas higher income individuals were willing to pay more than \$7.<sup>12</sup> These results are consistent with other estimates of poor individuals' willingness to pay to save travel time.

Consumers choose among available transportation services by trading off the value of waiting time, walking time, traveling time, traveling quality and monetary costs. Customers who face high financing costs or who expect to take fewer trips will elect to “rent” the transportation services of taxis, buses or trains rather than purchase a vehicle. Finally, customers taking trips where the quality of travel is especially valuable or where walking and waiting times are especially onerous (such as trips to the grocery or the doctor) may elect to take taxis over buses or trains.

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Low-income individuals make up the largest percentage of bus riders *and* the second largest percentage of taxi riders. This points to the potential for a welfare enhancing travel alternative that is slightly more expensive than a bus fare yet more “convenient.” However, choosing between taking a taxi and a bus may be somewhat like choosing between a filet mignon and a spam sandwich. While the bus generally costs between \$1.50 and \$2.50 for local service and \$3.50 and \$6.00 for express, a taxicab ride costs roughly five times as much as a bus trip of the same distance.<sup>13</sup> And in low-income neighborhoods, poor service means long waiting times and even uncertainty regarding the arrival of a taxi at all. The difference in monetary cost is so extreme that the increase in quality and convenience is worth the trade-off only in the most extreme cases.<sup>14</sup>

**Transportation Supply.** The market for transportation services is composed of both public and private providers. Automobiles and taxis are produced in the private market and buses and trains are generally public. Local governments often include transportation services as part of the public goods package. In order to better serve their constituents, a transit authority can adjust bus service along three vectors: number of buses per route per hour, number of stops per mile and fare.

Local governments face a quandary: They are committed to providing transportation services to all constituents, but the costs of doing so are often prohibitive. Increasing the number of buses per route decreases waiting time and therefore decreases the individual’s cost of travel; however, it also increases the bus company’s operating costs. Likewise, increasing the number of stops decreases walking costs but increases travel time and operating costs.<sup>15</sup>

Local regulations also affect the availability of private transportation options. For example, strict parking restrictions make it more costly to own an automobile, and limits on the number of taxicabs make it difficult to travel by taxi in some neighborhoods.<sup>16</sup>

The jitney is a bus-taxi hybrid that offers unscheduled but regular service along a mostly fixed route. But in most U.S. cities, the jitney — a potential form of public transportation — has been virtually outlawed by a confluence of local government regulations. These policies are extremely detrimental to the welfare of the poor. Regulations preventing the operation of jitneys are as misguided as they are pervasive. The jitney has the potential to fill the gap in the transportation options and increase the welfare of America’s poor.

## The Jitney Potential

The term “jitney” has been used to describe a variety of privately provided multiple passenger transit options, from the purely appointment-based private

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transit that is commonly used by Americans with disabilities to illegal or unlicensed taxis. For this study, jitneys will be defined by four characteristics: shared ride at a fixed rate (such as a bus), fixed route (such as a bus), unscheduled (such as a taxi), and independently operated (such as a taxi).

There are two reasons to investigate the jitney option. First, they are smaller vehicles than buses and therefore have lower fixed costs. In comparison to buses, jitneys could optimally provide more vehicles per route and more stops, which is particularly useful in areas with low but persistent bus ridership. Second, while they may be slightly more expensive than bus trips, there is currently a “gap” in the spectrum of transportation services from bus or rail to taxis. While consumers may be willing to pay moderately higher prices in return for more convenience, there is no such service available in most U.S. metropolitan areas.

**The History of the Jitney.** Jitneys first arrived in the United States in the early 20th century when the automobile became a transportation option for average Americans. In 1914, people on their way to work in the central business districts of cities like San Francisco would stop and pick up individuals waiting for the streetcar as a means of earning extra money or defraying the costs of their automobiles. By 1915 jitneys were a source of serious competition for streetcar operators, resulting in decreased ridership and cuts in service. Beginning in 1916, the streetcar “interests” pushed for regulations that eventually made it impossible for jitneys to continue operating.<sup>17</sup>

Streetcar companies rightly complained that jitneys free-rode off their investment in establishing a client base along a fixed route. But jitneys did not *just* take streetcar customers. Jitney revenues were actually higher than the streetcar losses, indicating that they brought new customers into the public transportation market.<sup>18</sup> As regulation drove jitneys out of business, these customers were forced to turn either to public transportation or private vehicle ownership. As either option was clearly not their first choice, the loss of the jitney surely made them worse off.

**Modern Day Jitneys.** Today, jitneys operate mainly in poor neighborhoods to carry low-income individuals to mass transit service access points — such as bus transfer hubs, light rail or commuter rail stations, or intermodal transit centers in order to get to work or to make certain high value trips such as to the grocery store or the doctor. Jitney operators gather at centralized locations and travel along a route picking up and dropping off riders in exchange for an unregulated fixed fee.

In the United States, jitneys remain illegal in most large cities, but have persisted (illegally) in cities such as Chicago, Detroit, Pittsburg, Omaha, New York and Miami.<sup>19</sup> In a few cities, the illegal jitney operations have become so pervasive that the local governments have taken steps to legalize them. In New York City, a transit workers’ strike pressured authorities to stop enforcing laws that prohibited jitneys from picking up passengers without a previous

arrangement. It is estimated that up to 5,000 illegal jitneys operated regularly in the early 1990s.<sup>20</sup>

In Miami, a state law prevented city governments from regulating intercounty transportation. Since the Miami metro area includes several different cities, this law effectively made jitneys legal for about three years. The market for jitneys was further strengthened when the city allowed jitney service to run while repairs from Hurricane Andrew were being completed. After a surge in the jitney market, Miami took a tactic from New York, responding by authorizing a few routes that did not compete with buses.<sup>21</sup>

Despite attempts to move toward a more open market for jitneys, conflicts with public transit authorities have ensured that jitneys remain illegal or uncompetitive

**Table I: Regulations Preventing Taxis From Providing Jitney Services**

<u>City</u>	<u>Restricted Licensing</u>	<u>Vehicle Size Restrictions</u>	<u>Shared-Ride/ Flat Rate</u>	<u>Bus Stop Solicitation</u>
New York City	Yes	5 or fewer passengers	Only in commuter loading zones <sup>29</sup>	Prohibited
Los Angeles	Yes	8 or fewer passengers	Commuter zones	*
Houston	Yes	No	Prohibited	Prohibited
Miami	Yes	7 or fewer passengers	Prohibited	Prohibited
Washington, D.C.	No <sup>30</sup>	No	Commuter zones	Prohibited
Atlanta	Yes	No	Prohibited	*
Minneapolis	No	5 or fewer passengers	*	*
St. Louis	Yes	5 or fewer passengers	*	Prohibited
Chicago	Yes	*	*	Prohibited
Boston	Yes	*	*	*
Detroit	Yes	5 or fewer passengers	*	Prohibited
Phoenix	No	*	*	Prohibited
San Francisco	*	*	*	Prohibited
Tampa	*	7 or fewer passengers	*	*
Denver	*	7 or fewer passengers	Commuter zones	*
Baltimore	*	9 or fewer passengers	*	*
Cincinnati	*	*	*	Prohibited
Sacramento	*	*	Prohibited	*
Philadelphia	Yes	8 or fewer passengers	Prohibited	*
Chattanooga	Yes	9 or fewer passengers	*	Prohibited
Atlantic City	Yes	*	Prohibited	Prohibited

\* Indicates that there was no mention of this type of regulation found in the city ordinance.

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in most areas. For example, an attempt was made in 1983 to license jitneys in Los Angeles. In order to deal with rising public transportation deficits, the Los Angeles Public Utilities Commission authorized two associations to organize jitney service along six major bus routes. However, a subsequent California Supreme Court ruling allowed the state to impose a new half-cent transportation tax. The Transit Authority responded by reducing bus fares on the already overloaded system from \$0.85 to \$0.50. Unable to compete against the heavily subsidized public transit, the jitneys went out of business within a year.<sup>22</sup>

There are a few cities that support a legal jitney market. For example, Atlantic City, New Jersey, licenses 190 jitneys to run on five routes. Jitney operators are required to register with the Atlantic City Jitney Association (ACJA) and are dispatched along their routes by ACJA dispatchers. The routes are kept strictly separate from bus routes and jitneys are not permitted to deviate even short distances from the route.

Houston recently began licensing jitneys because informal services in downtown areas showed there was a market demand for the service. Again, the number of jitneys is limited and routes are severely restricted. Similarly, in New York City, which has a flourishing illegal jitney market, the city recently began a pilot program allowing jitneys to operate on discontinued bus routes.

Where jitney services have operated, either legally or illegally, consumer-reported benefits fall into three categories: Jitneys are faster than buses, save walking and waiting time, and offer better quality service.<sup>23</sup> On the supply side, jitneys are better able to adjust to changing transportation patterns, respond to the differences in peak and off-peak demand, and they provide moderately more convenient services such as making small detours off route for a lower price than a taxi. These characteristic features explain the persistent popularity of jitney services in urban environments, even where illegal.

While it may appear that local governments are more open to the use of jitney services to relieve stressed transit systems, most cities still prohibit them, and the few that do provide licenses restrict jitney numbers significantly. In fact, not a single city allows jitneys to operate in a manner that makes use of all of the benefits of a jitney system. The reason for this trend may be politics more than economics.

## **The Regulatory Environment**

Regulation of jitneys first began in the early 20th century with city ordinances requiring expensive operating permits and liability bonds. These controls were explicitly designed to protect the streetcar companies from unwanted competition. Operating costs grew so much that the legal market for jitneys

**Table II: Regulations Preventing Commuter Vans From Providing Jitney Services**

<u>City</u>	<u>Vehicle Size Restrictions</u>	<u>Street Hail/ Unscheduled Pick-ups</u>	<u>Route Restrictions</u>
New York City	9-20 passengers	Prohibited	Commuter zones
Los Angeles	*	Prohibited	Airport only
Washington, D.C.	*	Prohibited	Union Station only
Atlanta	7-15 passengers	*	Airport only
Minneapolis	10 or fewer passengers	Prohibited	*
Boston	*	Prohibited	Airports and subway stations
Detroit	7-15 passengers	Prohibited	*
Seattle	*	Prohibited	*
Portland	*	Prohibited	*
Cincinnati	*	Prohibited	*
Philadelphia	*	Prohibited	*
Chattanooga	*	*	Commuter zones

\* Indicates that there was no mention of this type of regulation found in the city ordinance.

quickly disappeared. Today, jitneys are regulated under the same ordinances that cover taxis but the motivation behind the regulations still appears to be to limit competition.

There are two features of jitney service that create the potential for welfare enhancement: greater convenience for a moderately (at most) higher price, and a more flexible supply than buses. In order to provide these benefits jitneys must be able to reduce the walking and waiting time associated with bus riding, and offer lower prices than taxis. Most regulations pertaining to jitney service restrict for-hire vehicles from performing these functions.

There are three different areas of regulation that keep entrepreneurs from offering jitney-type services: regulations that prevent taxis from operating as jitneys, regulations that prevent commuter vans from operating as jitneys and regulations that prevent jitneys from operating as jitneys.

**Regulations that Prevent Taxis from Being Jitneys.** In most cities in the United States, taxis are heavily regulated. There are licensing requirements, operation requirements, and usually a legally mandated limit on the number of taxis that can operate in a jurisdiction. In most cases the limits on the

**Table III: Regulations On Legal Jitney Services**

<u>City</u>	<u>Vehicle Size</u>	<u>Routes</u>	<u>Non-Compete with Buses</u>	<u>Number of Routes Approved</u>
New York City	6-20 passengers	Restricted	Yes	6
Houston	9-15 passengers	Restricted	Yes	1
Miami	15 or fewer passengers	Restricted	Yes	10
Chicago	10 or fewer passengers	Restricted	Yes	Unknown
Boston	Unrestricted	Restricted	Yes	Unknown
San Francisco	15 or fewer passengers	Restricted	No mention	17
Atlantic City	13	Restricted	Yes	5

number of taxis ensures that taxis do not provide jitney services. In cities where the quantity of taxi service supplied is low enough to generate some monopoly profits, taxi drivers have no incentive to provide the sort of route service for low prices that makes jitneys valuable to consumers.<sup>24</sup>

However, in cities with a large bus ridership and high bus prices, there are still incentives for some taxi drivers to provide jitney services. In these cases the potential ridership is large enough to make route-cruising profitable even for licensed taxis. But many cities enforce operating restrictions on taxicabs that keep them from legally operating as jitneys. Among these regulations are restrictions on vehicle size, group riding or shared rides. As shown in Table I, several large U.S. cities limit taxi ridership to nine, eight or even five passengers. These restrictions keep taxis from competing for bus customers and ensure that it is not profitable to provide a “route” service.

Many cities go on to restrict group riding or shared riding specifically, requiring permission from each passenger to pick up another person, and disallowing the flat rate feature of jitneys by requiring the first passenger to pay the metered amount to his stop and the second passenger to pay the remaining fee. This sort of fee structure would prohibit the jitney from collecting fees from every customer who got in at a particular stop, again ensuring that it would not be profitable to give a multitude of short, overlapping rides along a mostly fixed route.

Furthermore, many cities explicitly prohibit competition between taxis and buses by prohibiting solicitation of passengers at bus stops. The central argument against allowing jitneys is that they simply act to take away riders from popular transit routes (called cream-skimming) without adding value.

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Economist Daniel Klein and his coauthors argue that under certain conditions, jitneys may require the existence of bus routes in order to operate. The anchor of the established scheduled bus route serves as a means of coordinating customers and jitney drivers along a route.<sup>25</sup>

The authors show that unless there is a large enough ridership along a particular route, a negative feedback loop may occur that causes the entire market to disintegrate. For example, if jitneys begin to find it difficult to fill up their vehicles along a particular route, they may cycle less frequently. This in turn discourages customers from waiting for a jitney, making the alternative bus transport more attractive. This means fewer customers, which means fewer jitneys and so on until the market dissolves.<sup>26</sup>

However, in cities with large enough markets, jitneys are able to function alongside bus routes or completely independent of them. Evidence for this is found in the numerous cities that have functioning illegal jitney markets. Furthermore, cities could establish coordination points or jitney “commons” to solve a potential coordination problem.

**Regulations Preventing Commuter Vans from Being Jitneys.** As mentioned above, most cities do not have to worry about taxis providing jitney services due to the restriction on the number of licensed taxis. However, there are other sources of competition for taxis and buses. Specifically, licensed livery vehicles — including limos, commuter vans and shuttles — may all have the incentive to provide jitney services, but they are also regulated so that they do not provide jitney services.

The most effective of these restrictions are placed on cruising and street hails. Commuter vans act as feeders for major transportation hubs such as train stations and subway stops. Therefore a city that allows commuter vans must allow group riding or shared rides at least in this context. In order to prevent these vans from operating as jitneys — that is, picking up and dropping off passengers along a semifixed route — operating restrictions prevent livery vehicles from accepting street hails. Some cities have restrictions so that any ride on a commuter van must be prearranged by appointment, effectively limiting the convenience of a jitney service.

Commuter vans are also strictly limited in size to ensure that they do not compete with either taxis or buses if they do manage to offer jitney-type services.<sup>27</sup> As shown in Table II, many cities require commuter vans to seat between seven and 15 people. This regulation has the effect of limiting the flexibility of service offered.

**Regulations Preventing Jitneys from Being Jitneys.** Finally, there are at least six cities in the United States that have some form of licensed jitney service. However, these services are strictly regulated, many of them in ways that reduce their value to customers. [See Table III.] Atlantic City has the most extensive jitney service in the United States for a city of its size, with five

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approved jitney routes and 190 licensed jitneys. However, every jitney in Atlantic City is required to join the Atlantic City Jitney Association and follow its rules.

Atlantic City is a prime example of a jitney market with limited appeal as a jitney. Jitneys are restricted to five routes, they are not allowed to make even short detours, and jitney size is regulated to precisely 13 passengers. In effect, the jitney service in Atlantic City is simply a privately serviced bus route, as rigid licensing and route restrictions prohibit jitneys from competing with other buses or amongst themselves. These regulations prohibit the jitneys from providing the additional convenience that is valued by jitney customers, and they exhibit none of the route and time flexibility of independent jitney operations.

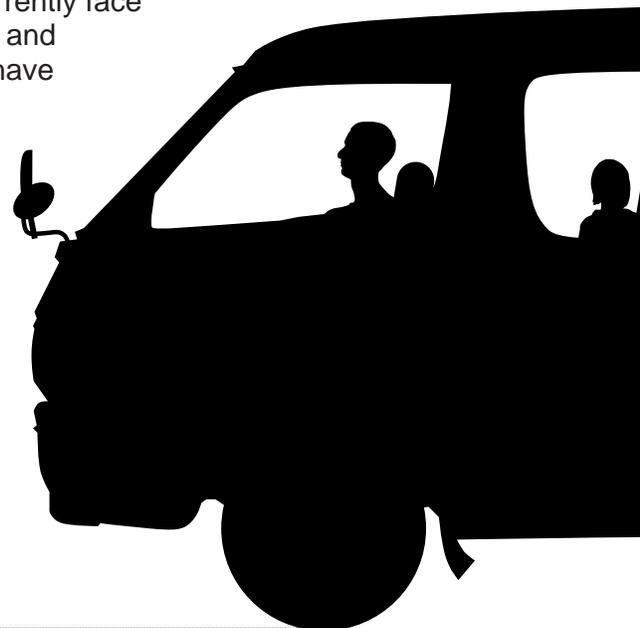
In Houston the ordinance concerning jitneys reads: "Jitney means a motorized passenger vehicle having a manufacturer's rated seating capacity of not less than nine nor more than 15 passengers including the driver, that is operated upon a closed loop following specified streets and highways in a specified direction, and is operated without a fixed schedule, carrying passengers from place to place in exchange for a fee." Again, however, the ordinance restricts service to a few routes that do not compete with buses and prohibits detours. This is also true of New York, San Francisco and Miami.

The justifications for regulations on jitneys have not changed much since they were initiated in 1915. Jitneys represent unwanted competition for the public transportation services and the taxi market. While most city ordinances do not even mention the jitney, the operating restrictions on taxis and for-hire vehicles serve to prohibit jitney service as effectively as if they had explicitly outlawed them.

## Conclusion: Legalize Jitneys

In the United States, individuals with low incomes currently face an extreme choice between the inexpensive bus ride and the drastically more expensive taxi. While few cities have permitted jitneys or shared-ride taxis, in many cities illegal jitney services have emerged to fill that gap. Local governments will continue to face budget crises that limit the expansion of public transit, and increasing traffic congestion will likely pull more wealthy people to residences closer to the central city, where they compete with the poor for available public transit services. Thus, the cost to the poor of prohibiting the jitney option will continue to grow.<sup>28</sup>

Legalizing jitneys would have a dramatic effect on the welfare of the poor. However, that goal is



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complicated by the fact that jitneys are rarely outlawed in city charters. Three distinct areas prevent jitney operators from providing the services that make jitneys valuable to low-income consumers: prohibitions on ride sharing and street hails and restrictions on routes.

The primary benefits of jitneys include faster service on both heavily and lightly traveled routes, more comfortable rides, slight detours off route — perhaps for an extra fee — and more flexibility to respond to changing demographic patterns. Jitneys are able to operate less expensively in some areas and as overflow vehicles during peak periods. The primary dangers of jitney service are the “poaching” of bus transit customers and potentially added traffic congestion.

Allowing jitneys to operate may cost public transit operators revenue, but the public benefit is greater than the lost revenue to government.

## **Policy Recommendations**

The need for public transportation for the poor that is moderately priced and convenient can be met by lowering the barriers to jitney service.

### **Taxis Operating as Jitneys.**

- ⇒ Cities should not limit the quantity of taxis permitted to serve an area.
- ⇒ Group and shared rides with a flat rate should be allowed.
- ⇒ Taxis should be permitted to solicit passengers at bus stops.

### **Commuter Vans Operating as Jitneys.**

- ⇒ Commuter vans should be allowed to pick up passengers without a prearranged appointment and they should be allowed to accept street hails.
- ⇒ Commuter vans should not be limited by the size of the vehicle or the number of passengers it has the capacity to carry.

### **Jitneys Operating as Jitneys.**

- ⇒ Jitneys should not be required to join associations, such as the Atlantic City Jitney Association, in order to operate.
- ⇒ As with shuttles, the capacity of the vehicle or the number of passengers should not be limited.
- ⇒ Routes should be allowed to vary and compete with bus routes.

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1. Consumer Expenditure Survey, 2008, Table 46. Available at <http://www.bls.gov/cex/2008/share/income.pdf>.
  2. The poverty threshold varies with the number of individuals and dependents in the household. It ranges from \$11,201 for a single individual under the age of 65 to \$21,910 for a family of four up to \$43,292 for a family of nine or more. See: U.S. Census Bureau, "Current Population Survey, 2009 Annual Social and Economic Supplement," Table POV35. Available at [http://www.census.gov/hhes/www/cpstables/032009/pov/new35\\_000.htm](http://www.census.gov/hhes/www/cpstables/032009/pov/new35_000.htm).
  3. U.S. Census Bureau, "Current Population Survey, 2009 Annual Social and Economic Supplement," Table POV01. Available at [http://www.census.gov/hhes/www/cpstables/032009/pov/new01\\_100\\_01.htm](http://www.census.gov/hhes/www/cpstables/032009/pov/new01_100_01.htm). As of 2008, 13.2 percent of individuals living in the United States had incomes below the poverty threshold and an additional 4.7 percent of individuals had incomes within 25 percent of that number. Inside principal cities the number is even higher with 17.7 percent of individuals having incomes below poverty level and an additional 5.8 percent have incomes within 25 percent of that threshold. U.S. Census Bureau, "Current Population Survey, 2009 Annual Social and Economic Supplement," Table POV40. Available at [http://www.census.gov/hhes/www/cpstables/032009/pov/new40\\_002.htm](http://www.census.gov/hhes/www/cpstables/032009/pov/new40_002.htm).
  4. Transportation policy has long been recognized as an important component of individual welfare. See John R. Meyer, John F. Kain, Martin Wohl, *The Urban Transportation Problem* (Cambridge: Harvard University Press, 1965).
  5. John Pucher and John Renne, "Socioeconomics of Urban Travel: Evidence from the 2001 NHTS," *Transportation Quarterly*, Vol. 57, No. 3, Summer 2003, pages 49-77.
  6. John Pucher and John Renne, "Socioeconomics of Urban Travel: Evidence from the 2001 NHTS," page 57.
  7. John Pucher and John Renne, "Socioeconomics of Urban Travel: Evidence from the 2001 NHTS," pages 63-64.
  8. Ibid.
  9. John Pucher and John Renne, "Socioeconomics of Urban Travel: Evidence from the 2001 NHTS," pages 58-59.
  10. Gary S. Becker, "A Theory of the Allocation of Time," *Economic Journal*, Vol. 75, No. 299, September 1965, pages 493-508.
  11. Edward Glaeser, Matthew Kahn and Jordan Rappaport, "Why do the poor live in cities? The role of public transportation," *Journal of Urban Economics*, 2007, pages 12-13.
  12. John Calfee and Clifford Winston, "The Value of Automobile Travel Time: Implications for Congestion Policy," *Journal of Public Economics*, Vol. 69, No. 1, July 1998, pages 83-102.
  13. Schaller Consulting, "Taxi Fares in Major U.S. Cities," January 2006. Available at <http://www.schallerconsult.com/taxi/fares1.htm>.
  14. The large price difference combined with the high percentage of taxi users in the lowest quintile provides more evidence that a service that provides more convenient, moderately priced transportation would be in high demand.
  15. H. Mohring, "Optimization and Scale Economies in Urban Bus Transportation," *American Economic Review*, Vol. 62, No. 4, September 1972, pages 591-604.
  16. Adrian T. Moore and Ted Balaker, "Do Economists Reach a Conclusion on Taxi Deregulation?" *Econ Journal Watch*, Vol. 3, No. 1, January 2006, pages 109-132. Available at <http://www.econjournalwatch.org/main/intermedia.php?filename=MooreBalakerDoEconomistsJanuary2006.pdf>.

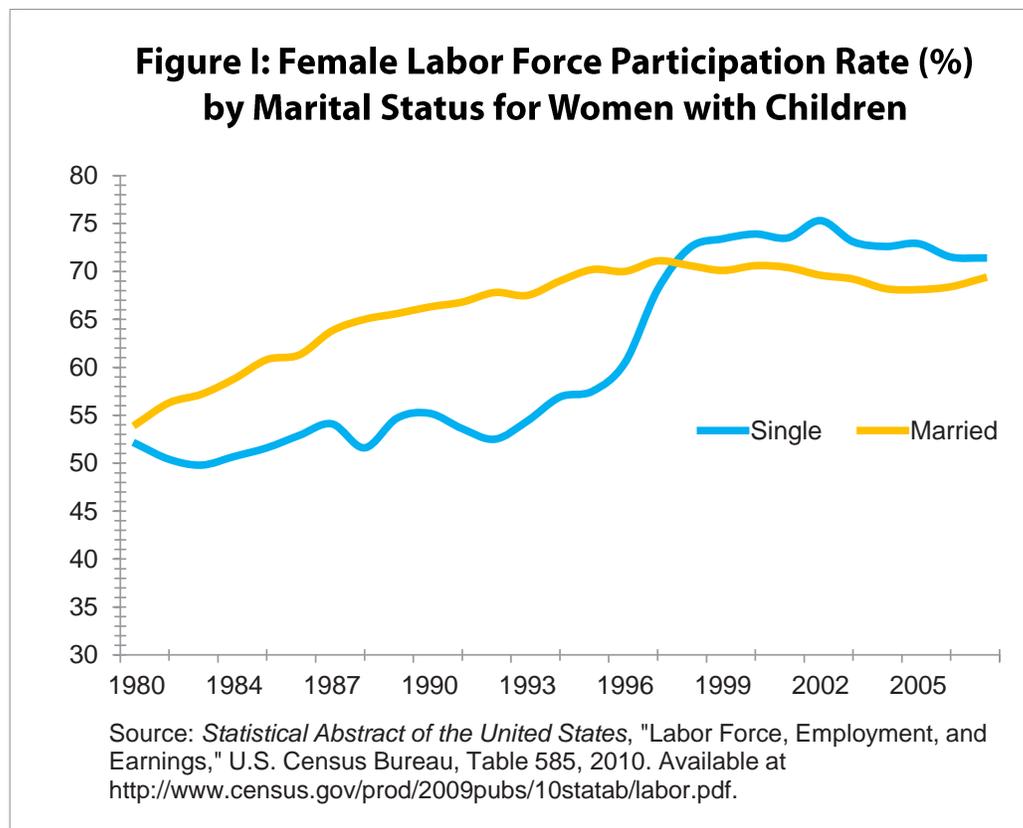
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- <sup>17</sup> Ross D. Eckert and George W. Hilton, "The Jitneys," *Journal of Law and Economics*, Vol. 15, No. 2, 1972, pages 293-325.
- <sup>18</sup> Ross D. Eckert and George W. Hilton, "The Jitneys," page 296.
- <sup>19</sup> Peter T. Suzuki, "Vernacular Cabs, Jitneys and Gypsies in Five Cities," *Transportation Research*, Vol. 19, No. 4, July 1985, pages 337-347.
- <sup>20</sup> Daniel Klein, Adrian Moore and Binyam Reja, "Curb Rights: Eliciting Competition and Entrepreneurship in Urban Transit," *Independent Review*, Vol. 2, No. 1, Summer 1997, pages 29-54.
- <sup>21</sup> D.K. Boyle, "Jitney Enforcement Strategies in New York City," *Transportation Research Record*, Vol. 1,433, 1994, pages 177-184.
- <sup>22</sup> Roger Teal and Terry Nemer, "Privatization of Urban Transit: The Los Angeles Jitney Experience," *Transportation*, Vol. 13, 1986, pages 5-22.
- <sup>23</sup> Daniel Klein Adrian Moore and Binyam Reja, "Curb Rights: Eliciting Competition and Entrepreneurship in Urban Transit," page 33.
- <sup>24</sup> Of course, even if this is the case, illegal or unlicensed taxis often provide this service.
- <sup>25</sup> Daniel Klein Adrian Moore and Binyam Reja, "Curb Rights: Eliciting Competition and Entrepreneurship in Urban Transit."
- <sup>26</sup> Ibid.
- <sup>27</sup> Z.W. Farkas and Matthew De Rouville argue that local ordinances against jitneys are comprised of a variety of regulations that effectively prohibit the desirable functions of jitneys from competing with public transit buses and taxis. Z.W. Farkas and Matthew De Rouville, "The Potential of the Jitney: A Case Study of the Baltimore Metropolitan Area," *Transportation Quarterly*, Vol. 42, No.1, January 1988, pages 89-105.
- <sup>28</sup> Stephen LeRoy and Jon Sunsteltie show that the current transportation problem will only get worse as more wealthy people are drawn to mass transit because of increased congestion on highways. Stephen LeRoy and Jon Sonsteltie, "Paradise Lost and Regained: Transportation Innovation, Income and Residential Location," *Journal of Urban Economics*, Vol. 13, 1983, pages 67-89.
- <sup>29</sup> Commuter zones refer to large transportation hubs such as train stations and airports where taxis and commuter vans are granted the right to load several passengers at once for a flat rate.
- <sup>30</sup> While Washington, D.C., claims to have unrestricted taxi licensing it has in fact suspended all new independent taxi license grants. By granting new licenses to large companies only, the city has in effect agreed to enforce restrictions on competition just as a medallion system would.

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# Increasing the Supply of Affordable Child Care

By Diana W. Thomas, Utah State University

Child care has become increasingly important as more women with children work. The portion of single women with children who work increased from roughly half in 1980 to nearly three-fourths in 2007 [see Figure I]. Similarly, the portion of married women with children who work rose from 54 percent in 1980 to 70 percent in 2007.<sup>1</sup>



As a result of increased work by single mothers and couples, children are spending a growing amount of time in nonparental care. This is true for both low- and high-income families [see Figure II]:

- ⇒ In 2002, among high-income families whose mothers were employed, 43 percent of children under age 5 spent at least 35 hours per week in nonparental care.

⇒ Similarly, in low-income families with employed mothers, 39 percent of children under age 5 spent at least 35 hours in nonparental care.<sup>2</sup>

**Figure II: Percent of Children Under Five with Employed Mothers and How Many Hours Per Week They Spend in Nonparental Care**

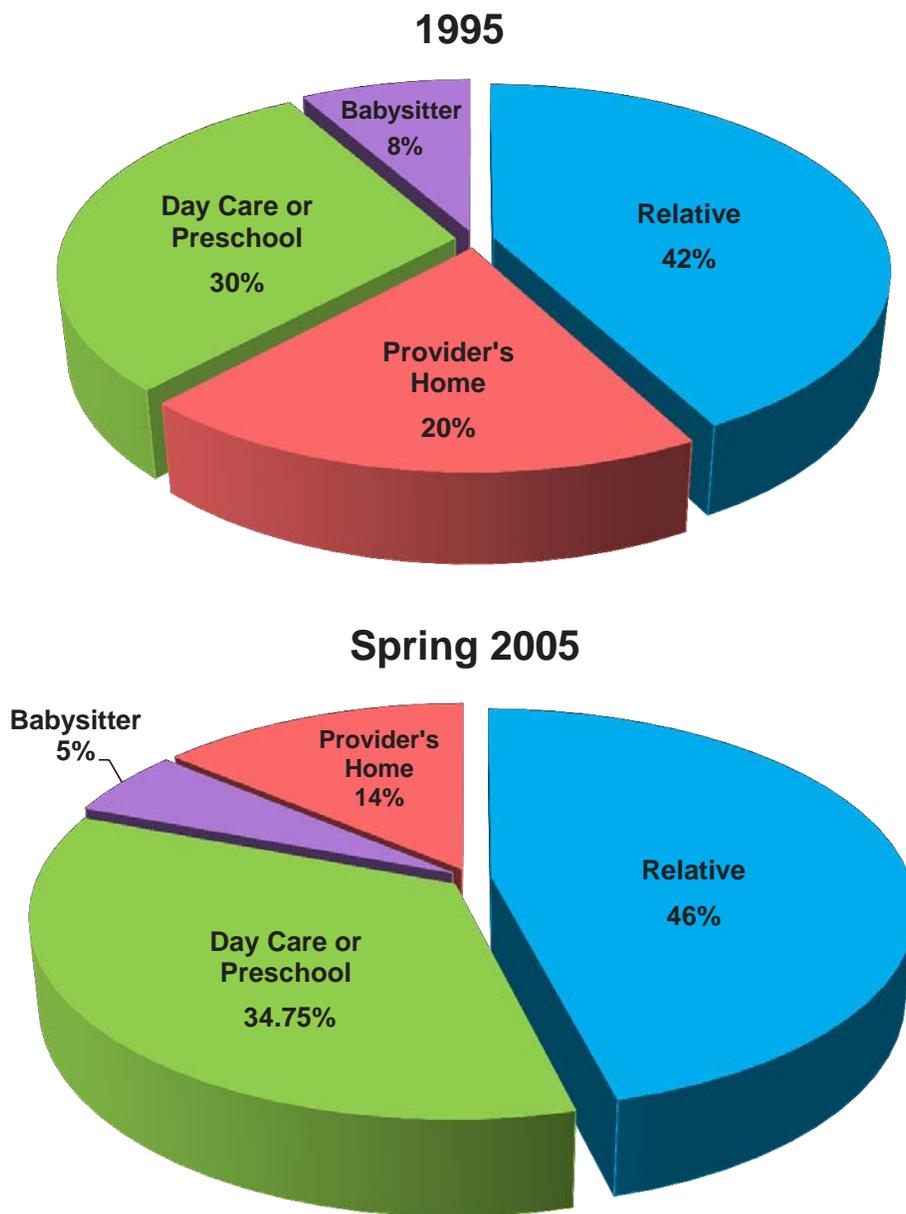


Source: Jeff Capizzano and Regan Main, "Many Young Children Spend Long Hours in Child Care," *Snapshots of America's Families 3*, Urban Institute, March 31, 2005.

**Who's Watching the Kids?** Many parents depend on multiple child care arrangements, and some have no regular caregivers. Interestingly enough, the proportion of children who receive care in large institutions (day cares and preschools), and the proportion who receive care by relatives, have both increased in recent years.<sup>3</sup> For example, according to U.S. Census data:

- ⇒ The portion of children under age 5 who were in a day care center or preschool rose from 30 percent in 1995 to about 35 percent in 2005.
- ⇒ Care by relatives (other than a parent) rose from 42 percent to 46 percent.
- ⇒ By contrast, the portion of children in family day care — that is, child care for a small number of children in the home of an unrelated provider — fell from 20 percent to 14 percent. (Additionally, the portion cared for by babysitters in the child's home also fell, from 8 percent to 5 percent.) [See Figure III.]

**Figure III: Nonparental Child Care Arrangements  
for Children under 5 Years, 1995 vs. 2005**



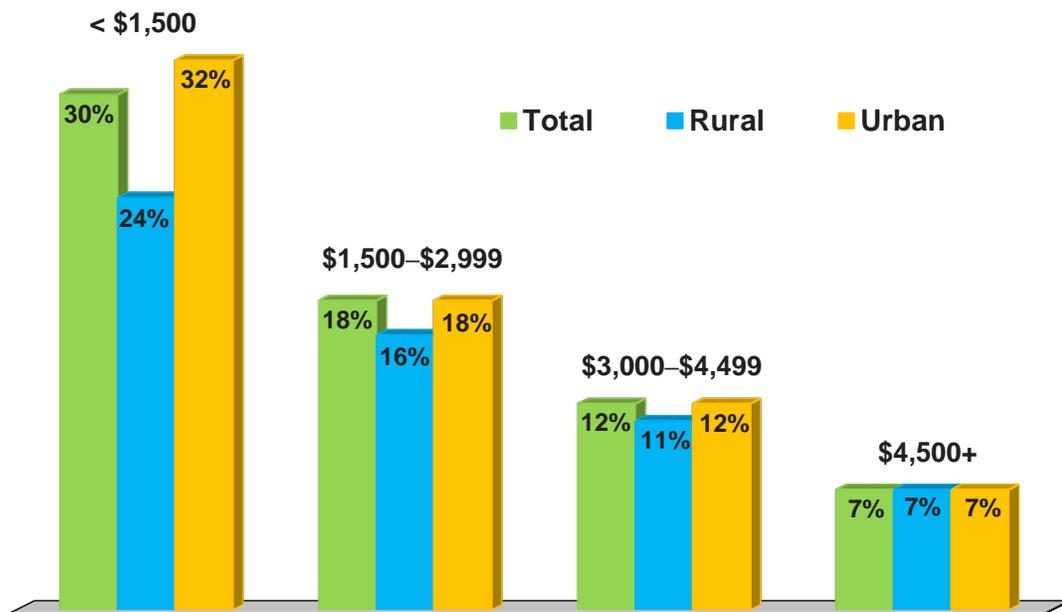
Source: Lynda Laughlin, "Who's Minding the Kids? Child Care Arrangements: Spring 2005 and Summer 2006," Current Population Reports, P70-121, U.S. Census Bureau. Available at <http://www.census.gov/prod/2010pubs/p70-121.pdf>.

**Child Care Costs and the Decision to Work.** Why has the portion of family care arrangements fallen? It may be coincidental, but over the past two decades, the federal government has provided more subsidies for institutional child care and has encouraged more stringent state regulation of child care.<sup>4</sup> The states have put in place licensing requirements with the intention of improving the quality of out-of-home care. However, by making it more costly to become a child care provider, regulations and licensing requirements have driven up the price of nonparental care.

With rising prices, families have to spend ever-larger shares of their income on child care. Though low- and high-income families might spend the same absolute amount on child care, these expenditures as a percentage of income are much higher for poor families [see Figure IV]. Families with less than \$1,500 in monthly family income spent 30 percent of their income on child care, on average, while families with \$4,500 or more in monthly family income spent only 7 percent of their income on the same services.

The cost of child care is often so high that it becomes the deciding factor in a family's decision whether to rely on welfare or seek employment. Statistical evidence suggests that single mothers in particular base their decision about whether to seek employment or apply for welfare on the price of child care.<sup>5</sup> If child care is relatively cheap, a single mother might be able to earn enough income to pay for child care and

**Figure IV: Percent of Monthly Family Income Spent on Child Care (2005)**



Source: Kristin Smith and Kristi Gozjolko, "Low Income and Impoverished Families Pay More Disproportionately for Child Care," Carsey Institute, Policy Brief No. 16, Winter 2010.

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sustain her family. As child care becomes more costly, it becomes more attractive for single mothers to apply for welfare and supply their own child care. Thus, increasing regulatory burdens, which drive up child care prices, encourage welfare dependency.

While families pay more, child care providers remain one of the lowest wage earning groups in the country. Again, regulation intended to improve the quality of out-of-home

## Federal Child Care Subsidies

Programs at the federal level are mostly targeted at providing child care subsidies to low-income families and supporting parents who are seeking to enter the work force or pursue an education.

**Child and Dependent Care Income Tax Credits.** This tax credit is a nonrefundable credit, meaning it cannot reduce the amount of income tax owed to less than zero. It allows parents of children under the age of 13 to deduct child care expenses of up to 35 percent of all qualifying expenses or a maximum of \$3,000 per child from their taxable income. The percentage of child care expenses deductible falls gradually to 20 percent for families with adjusted gross income over \$43,000.

The child care tax credit's status as nonrefundable significantly limits its value to the poorest families. In fact, as research by economists Patricia Anderson and Phillip Levine shows, the rate of use of the child care tax credit is lowest for income tax returns that claimed annual income of up to \$10,000, followed by income tax returns that claimed income between \$10,000 and \$20,000. They report that the highest rate of use is for incomes between \$75,000 and \$100,000.<sup>8</sup> Furthermore, the child care tax credit is not available for unlicensed care by relatives or family care providers.

**Head Start Child Care.** Head Start was enacted in 1965 and is the longest running program targeting women in low-income households. The program offers grants to public and private, nonprofit and for-profit child care providers to deliver services to low-income families. It serves children ages 3 to 5 whose family income is at or below the Federal Poverty Level. Head Start was supplemented in 1994 with the Early Head Start program, which serves families with infants and toddlers as well as pregnant women. The purpose of the Head Start program is to "provide comprehensive child development services to economically disadvantaged children and families, with a special focus on helping preschoolers develop the early reading and math skills they need to be successful in school."<sup>9</sup> In 2009, roughly 900,000 children were enrolled in Head Start Programs. The average cost per child was \$7,600 and the total cost of the program was \$7.1 billion.

**Child Care and Development Block Grants.** The federal Child Care and Development Block Grant (CDBG) subsidizes child care programs for low-income families, as well as families receiving temporary public assistance, and those transitioning from welfare to work or education. In 2006, states received over \$4.8 billion in funding through the Child Care and Development Fund (CCDF).<sup>10</sup> The average monthly number of children served through CCDF funds was 1.77 million.<sup>11</sup> Seventy-eight percent of all families receiving CCDF assistance were receiving it for employment reasons, meaning the funds were used to pay for child care while parents worked, and 10 percent received assistance to pursue training or education.<sup>12</sup> Seventy-three percent of all children being served through CCDF funds were served in regulated settings.<sup>13</sup> In addition to providing assistance to low-income families, CCDF regulates basic health and safety requirements for eligible providers. Subsidized day care programs are usually plagued with long wait lists.

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care has been shown to be at least partially at fault. Because parents respond strongly to increases in the cost of care, child care providers have not been able to raise prices when regulatory burdens have increased. Thus, rising regulatory compliance costs have led to lower staff wages.<sup>6</sup> Low wages result in high staff turnover and low levels of job commitment, which negatively affects the quality of child care.<sup>7</sup> One way to decrease the price of care and lower the burden on poor families would be to provide regulatory relief to child care centers and family care homes that supply child care to the poor.

**Regulation and Quality.** Public policies regarding child care generally have one or two goals: 1) raising the quality of child care to improve outcomes for the children, and/or 2) increasing the availability and affordability of child care to enable parents, primarily women, to pursue careers or education. The first goal is mostly pursued on the state level through regulation and licensing requirements. The second goal is pursued through various federal child care subsidy programs [see the sidebar, “Federal Child Care Subsidies”].

Regulatory relief should not come at the expense of the quality of child care; it is therefore important to take a critical look at existing regulations and their effects on price and quality. Some types of regulation might significantly affect the price of care without affecting quality. Getting rid of those types of regulation would be a first step in the direction of providing affordable child care to low-income families. Two regulations are low-hanging fruit in this regard: group size limits and zoning.

*Regulating Staffing Ratios.* The National Association of Child Care Resources and Referral Agencies (NACCRRA) rates state child care licensing regimes based on how they address seven criteria: child/staff ratios, background checks, training, inspection, health and safety requirements, child development, and parent communication and involvement. Appendix Table A summarizes some of the more prominent licensing criteria and their specific implementation in each state.<sup>14</sup>

All states regulate child care centers, but only certain states regulate small family day care homes. Private child care homes are generally smaller than centers and are less stringently regulated. As the appendix table shows:

- ⇒ The child to staff ratio for infants in child care centers ranges from a low of three infants per one staff member in Kansas, Maryland and Massachusetts, to a high of six infants per one staff member in Arkansas, Georgia, Louisiana, Nevada and New Mexico.
- ⇒ Some states also limit the number of children that can be cared for in one group by multiple caregivers — such group size limits range from a low of six infants per group in Maryland to a high of 20 in South Dakota.

Group sizes for children 4 years and older are not limited in many states, but where they are regulated, they range from 35 in Texas and 36 in Georgia to 20 in a number of other states including Alaska, Connecticut and Illinois.

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- ⇒ For children 4 years and older, the child to staff ratio is lowest in New York and Maine with no more than eight children per one staff member.
  - ⇒ The 4-year-old ratio is highest in Florida and North Carolina with 20 children per staff member.

The licensing threshold for small family day care homes begins with one nonrelated child in 10 states. Arkansas, Iowa, Indiana and Mississippi have the highest licensing threshold starting at six children. Seven states do not regulate small family child care homes at all.

*Zoning Laws and Safety Requirements.* In most states, child care is regulated with the intention of providing a safe, healthy and stimulating learning environment. While health and safety are certainly desirable characteristics of a child care environment, they come at a cost.

In Milwaukee County, Wisconsin, the mean cost of required home improvements for a family care provider was \$936 in 1990 — equivalent to \$1,561 in 2010, according to William Gormley, a professor of public policy at Georgetown University.<sup>15</sup> This indicates that modifying a small child care home to meet safety requirements can be a financial challenge for providers who already have small margins and are generally low-paid. The challenge is especially great during recessions, when struggling families may have a greater need for affordable care. Economist David Henderson has argued that regulations can make children less safe by encouraging “parents and providers to make illegal arrangements” due to the cost of the regulations.<sup>16</sup>

In addition, child care providers in many states are significantly restricted in their ability to supply child care services out of their own homes. Zoning laws prohibit business activities in residential neighborhoods and require high fees for permits that grant exceptions.

Covenants and zoning laws are intended to maintain the quality of life in a community. Important concerns are to limit traffic in and out of residential neighborhoods and to maintain standards for noise. Ideally, however, small family child care homes operate out of the provider’s own home in a residential neighborhood. If small family day care homes provide services mainly for the nearby residential community, additional traffic is minimal and the provider’s small size (six or fewer children) limits the amount of additional noise, compared to what already exists in a neighborhood of young families with children.

**Child Care Quality: What Matters?** What factors really matter for the quality of child care? Child development research suggests that child care quality can be evaluated by either structural or process measures.<sup>17</sup> Structural measures are easily observable features of a care environment, such as group size, staff-child ratio, teacher education and training, safety and staff turnover. Process measures, on the other hand, are based on the frequency, duration and quality of interactions between the child and his or her caregiver and other children.<sup>18</sup>

Research suggests that process measures are more closely related to good outcomes for children and therefore are better indicators of quality. However,

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since process quality is difficult to observe, regulations are usually based on structural measures. Indeed, most states base their licensing requirements on specific staff-child ratios, group size and teacher education, as summarized in the appendix table.

When classrooms within each center are compared, and when the characteristics of the home are accounted for, many of the structural measures of quality are insignificant.<sup>19</sup> The only variable that remains important is teacher training in early childhood education. More specifically, the only educational measure that consistently mattered for quality care is that the caregiver had taken a college course in early childhood education in the past year.<sup>20</sup> No other measure of teacher training was statistically significant.

Smaller group size and higher staff-child ratios did not seem to enhance child care quality. Instead, research has found that existing child care regulations have the unintended consequence of reducing staff wages at child care centers, while not having a significant effect on any measure of quality.<sup>21</sup> Evidence from some European countries suggests that greater group sizes and lower staff-child ratios do not result in lower child care quality. In fact, many European countries are able to provide better quality care with better educated staff at a lower cost than in the United States because they allow bigger groups and lower staff-child ratios.<sup>22</sup>

The findings on staff ratios are consistent with other research that found the only regulatable measure of child care that affects observable measures of child care quality is how much caregivers are paid.<sup>23</sup> Wages are the greatest contributor to the cost of child care — roughly 70 percent of total costs. Day care providers earn the lowest wages of any occupational group.<sup>24</sup> Relaxing restrictions on group size and staff-child ratio requirements could significantly lower the cost of child care without lowering quality. If caregivers are allowed to care for a larger number of children, they can earn higher wages. Higher wages, in turn, would attract better-educated providers. This would reduce turnover rates for day care staff and increase the commitment of teachers and caregivers to their careers.

To maintain quality, while lowering costs, in-service training requirements for teachers should remain at the center of regulatory constraints. This would allow better care environments, despite a reduction in staff-child ratios.

## Conclusion

Shortages of child care services persist. Reducing those shortages in the current regulatory environment would increase child care costs. Staff-child ratio requirements and group size limits have contributed to rising costs without resulting in quality improvements. Because quality has not improved, parents are unwilling to pay more; thus, wages for child care staff remain low. Low wages, in turn, can be blamed for high turnover rates and low commitment to quality on the part of many child care providers.

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Instead of improving quality and making child care available to more families, regulation has led to higher prices for families and lower wages for child care staff without improving child care quality. In fact, lower staff-child ratios may have even contributed to reductions in quality, because they have resulted in lower wages for child care staff. In addition, zoning laws prohibit especially small family daycare homes from operating out of residential neighborhoods where affordable child care services are in particularly high demand.

If ineffective regulatory requirements such as staff-child ratios and group size limits were replaced by training requirements for child care teachers, the quality of care would improve. Without limits on group size and minimum staff-child ratios, the cost of child care would go down and the wages of staff would go up. Furthermore, higher wages for child care staff could result in additional quality improvements, because better paid staff tend to be more motivated and more committed to the quality of care.

Child care policy in the United States should be targeted at reducing regulatory requirements for providers that serve low-income families. Enterprise programs for the child care sector could result in better child care at lower prices for more families, which would empower working mothers and increase family income.

## **Policy Recommendations**

Thirty-nine percent of low-income children under the age of 5 spend at least 35 hours per week in nonparental care. States have put in place licensing requirements on child care centers with the intention of improving the quality of out-of-home care. Unfortunately, many of these restrictions have caused the cost of child care to rise without a commensurate increase in quality. This is especially relevant to low-income mothers, who often must choose between seeking work and paying for child care, or relying on welfare and staying home with a child. State-level group size regulations and zoning and safety requirements significantly affect the price of care without affecting quality.

Affordable child care shortages can be alleviated by lowering barriers to entry. Thus:

- ⇒ Group size regulations should be relaxed for child care suppliers.
- ⇒ Child caregivers should not be required to meet any higher level of competence than a custodial parent or school volunteer.
- ⇒ Zoning should not be so restrictive as to prevent small, home-based providers from competing with large commercial or charitable day care centers.

**Appendix Table A: Licensing Requirements by State**

<u>State</u>	<u>Child Care Centers</u>					<u>Family Day Care Homes</u>		
	Infants		4-year-olds		Minimum Preservice Qualification	Full Annual Compliance Reviews	Children per Provider	Minimum Licensing Size
	Child-Staff Ratio	Group Size	Child-Staff Ratio	Group Size	Requirement for Teachers			
Alabama	5:01	NR	18:01	NR	Clock hours in ECE within 30 days of employment	0.5	6	1
Alaska	5:01	10	10:01	20	No preservice qualifications*	1	8	5
Arizona	5:01	NR	15:01	NR	Experience (with high school diploma/GED)	0.33	NL	-
Arkansas	6:01	12	15:01	30	Enrolled in GED program	1	3†	6
California	4:01	NR	14:01	NR	Reg. occupation program certificate, clock hours in ECE, and experience*	0.2	8	2
Colorado	5:01	10	14:01	24	Vocational or occupational education program and experience	risk-based schedule	8	2
Connecticut	4:01	8	10:01	20	High school diploma or GED*	0.33	9	1
Delaware	4:01	NR	14:01	NR	Completion of a vocational child care program and experience	1	6	1
Washington, D.C.	4:01	8	10:01	20	Clock hours in ECE and experience	1	6	1
Florida	4:01	NR	20:01	NR	Clock hours in ECE within 15 months of employment*	3	4†	2
Georgia	6:01	12	18:01	36	Experience (with high school diploma/GED)	1	6†	3
Hawaii	4:01	8	16:01	NR	CDA credential and experience	0.5-1	6	3
Idaho	NL	NL	NL	NL	NL	NL	NL	-
Illinois	4:01	12	10:01	20	CDA or CCP credential	0.33	8	4
Indiana	4:01	8	14:01	24	High school diploma or GED*	0.5	12	6
Iowa	4:01	NR	14:01	NR	No preservice qualifications	0.5	6	6
Kansas	3:01	9	14:01	24	Observation in licensed preschools or child care centers and experience	1	6	1
Kentucky	5:01	10	14:01	28	No preservice qualifications	1	6	4
Louisiana	6:01	NR	16:01	NR	No preservice qualifications	1	NL	-
Maine	4:01	8	8:01	20	Experience	1	4†	3
Maryland	3:01	6	10:01	20	Clock hours in ECE and experience	0.5	8	1
Massachusetts	3:01	7	10:01	20	Graduate of a vocational program in ECE*	0.5	6	1
Michigan	4:01	12	14:01	NR	No preservice qualifications*	0.5	6	1
Minnesota	4:01	8	10:01	20	CDA credential and experience	Not specified	10†	2
Mississippi	5:01	10	16:01	20	Experience	2	4†	6
Missouri	4:01	8	10:01	NR	No preservice qualifications	2	4†	5
Montana	4:01	NR	10:01	NR	Experience	1	6	3
Nebraska	4:01	12	14:01	NR	Experience	by history	10†	4
Nevada	6:01	NR	13:01	NR	No preservice qualifications	1	9†	5
New Hampshire	4:01	12	14:01	24	Completion of a vocational child care course*	1	4†	4

*(table continues on next page)*

State	Child Care Centers					Family Day Care Homes		
	Infants		4-year-olds		Minimum Preservice Qualification	Full Annual Compliance Reviews	Children per Provider	Minimum Licensing Size
Child-Staff Ratio	Group Size	Child-Staff Ratio	Group Size	Requirement for Teachers				
New Jersey	4:01	12	14:01	20	CDA or CCP credential and experience*	0.33	NL	-
New Mexico	6:01	NR	14:01	NR	Clock hours in ECE	1	6	5
New York	4:01	8	8:01	21	Experience (with high school diploma/GED)*	0.5	5†	3
North Carolina	5:01	10	20:01	25	Experience (with high school diploma/GED)*	1	5†	3
North Dakota	4:01	8	10:01	20	No preservice qualifications	1	4†	4
Ohio	5:01	10	14:01	28	No preservice qualifications	2-Jan	NL	-
Oklahoma	4:01	8	15:01	30	Completion of 10th grade and enrolled in GED program*	3	5†	1
Oregon	4:01	8	10:01	20	Experience*	1	10	4
Pennsylvania	4:01	8	10:01	20	Experience (with high school diploma/GED)*	1	6	4
Rhode Island	4:01	8	10:01	20	Experience (with high school diploma/GED)*	1	2*	4
South Carolina	5:01	NR	18:01	NR	Experience (with high school diploma/GED)	2	6	2
South Dakota	5:01	20	10:01	20	No preservice qualifications	1	NL	-
Tennessee	4:01	8	13:01	20	High school diploma or GED	1	7	5
Texas	4:01	10	18:01	35	Experience (with high school diploma/GED)	0.5	12	4
Utah	4:01	8	15:01	30	High school diploma or GED	1	8†	5
Vermont	4:01	8	10:01	20	CDA credential*	1	10	3
Virginia	4:01	NR	14:01	NR	Clock hours in ECE within 1 month of employment and experience	0.5	NL	-
Washington	4:01	8	10:01	20	Experience (with high school diploma/GED)	0.33	2†	1
West Virginia	4:01	8	14:01	24	Experience*	0.5	6	4
Wisconsin	4:01	8	13:01	24	Clock hours in ECE and experience	during license continuation	8	4
Wyoming	4:01	10	14:01	30	No preservice qualifications	1	10	3

\* State requires at least one teacher in a program or classroom to be prequalified at a higher level than stated here.

† Maximum number of infants or toddlers, varying number of additional children might be allowed.

NL = Not licensed

NR = No response

CDA = Child Development Associate credential awarded by the Council for Professional Recognition

CCP = Certified Child care Professional credential awarded by the National Child Care Association

ECE = Early childhood education

GED = General Educational Development test

NAC = National Administrators Credential awarded by the National Child Care Association

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1. *Statistical Abstract of the United States*, "Labor Force, Employment, and Earnings," U.S. Census Bureau, Table 585, 2010. Available at <http://www.census.gov/prod/2009pubs/10statab/labor.pdf>.
  2. Jeff Capizzano and Regan Main, "Many Young Children Spend Long Hours in Child Care," *Snapshots of America's Families* 3, Urban Institute, March 31, 2005.
  3. Kristin Smith, "Who's Minding the Kids? Child Care Arrangements: Fall 1995," *Current Population Reports*, P70-70, U.S. Census Bureau. Available at <http://www.census.gov/prod/2000pubs/p70-70.pdf>.
  4. David R. Henderson, "Clinton's Child Care Proposals: The Mediocre, the Bad and the Ugly," National Center for Policy Analysis, Brief Analysis No. 255, January 19, 1998. Available at <http://www.ncpa.org/pub/ba255>.
  5. Rachel Connelly and Jean Kimmel, "The Effects of Child Care Costs on the Employment and the Welfare Reciprocity of Single Mothers," *Southern Economic Journal*, Vol. 69, No. 3, 2003, pages 498-519. They find that the price of child care is a significant factor in influencing a woman's decision to enter the labor force. More specifically, they find that a 1 percent increase in the price of child care would result in a decrease in employment of single mothers of between 0.3 percent and 1.1 percent. They also find evidence that the probability of a single mother being a welfare recipient increases with increasing child care cost.
  6. David M. Blau, "Unintended consequences of child care regulations," *Labour Economics*, Vol. 14, January 2007, pages 513-538. Available at <http://www.unc.edu/depts/econ/profs/blau/Unintended%20consequences%20of%20child%20care%20regulations2.pdf>.
  7. William T. Gormley, Jr., "Regulating Mister Rogers' Neighborhood: The Dilemmas of Day Care Regulation," *Brookings Review*, Vol. 8, No. 4, 1990, pages 21-28. The author reports that staff turnover rates for child care providers is 40 percent.
  8. Patricia M. Anderson and Phillip B. Levine, "Child Care and Mothers' Employment Decisions," National Bureau of Economic Research, Working Paper 7058, March 1999. Available at <http://www.nber.org/papers/w7058.pdf>.
  9. U.S. Department of Health and Human Services, Administration for Children and Families, "About the Office of Head Start." Available at [http://www.acf.hhs.gov/programs/ohs/about/index.html#prog\\_desc](http://www.acf.hhs.gov/programs/ohs/about/index.html#prog_desc).
  10. U.S. Department of Health and Human Services, Administration for Children and Families. Available at <http://www.acf.hhs.gov/programs/ccb/>.
  11. U.S. Department of Health and Human Services, Administration for Children and Families, "FFY 2006 CCDF Data Tables," Table 1. Available at [http://www.acf.hhs.gov/programs/ccb/data/ccdf\\_data/06acf800/table1.htm](http://www.acf.hhs.gov/programs/ccb/data/ccdf_data/06acf800/table1.htm).
  12. U.S. Department of Health and Human Services, Administration for Children and Families, "FFY 2006 CCDF Data Tables," Table 10. Available at [http://www.acf.hhs.gov/programs/ccb/data/ccdf\\_data/06acf800/table1.htm](http://www.acf.hhs.gov/programs/ccb/data/ccdf_data/06acf800/table1.htm).
  13. U.S. Department of Health and Human Services, Administration for Children and Families, "FFY 2006 CCDF Data Tables," Table 4. Available at [http://www.acf.hhs.gov/programs/ccb/data/ccdf\\_data/06acf800/table1.htm](http://www.acf.hhs.gov/programs/ccb/data/ccdf_data/06acf800/table1.htm).
  14. Data in the appendix table are taken from the National Association of Regulatory Administration's 2008 Child Care Licensing Study. Available at: <http://www.naralicensing.org/displaycommon.cfm?an=1&subarticlenbr=205>.
  15. According to the Bureau of Labor Statistics \$1 in 1990 is equivalent to \$1.67 in 2010. Consumer Price Index statistics, the basis for this calculation, are available at <ftp://ftp.bls.gov/pub/special.requests/cpi/cpiat.txt>.

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- <sup>16</sup> David R. Henderson, "Day Care: Children vs. Government," National Center for Policy Analysis, Brief Analysis 248, November 11, 1997. Available at: <http://www.ncpa.org/pdfs/ba248.pdf>. See also, David R. Henderson, "Clinton's Child Care Proposals: The Mediocre, the Bad and the Ugly."
- <sup>17</sup> For reviews of the literature on child care quality see: Lieselotte Ahnert and Michael E. Lamb, "Nonparental child care: context, quality, correlates, and consequences," *Child Psychology in Practice*, Vol. 4, February 5, 1998. Available at: <http://www.child-encyclopedia.com/documents/Ahnert-LambANGxp.pdf>. See also, John M. Love, Peter Z. Schochet and Alicia L. Meckstroth, "Are They in Any Real Danger? What Research Does — And Doesn't — Tell Us About Child Care Quality and Children's Well-Being," *Mathematica Policy Research*, May 1996. Available at: <http://www.mathematica-mpr.com/PDFs/realdanger.pdf>.
- <sup>18</sup> John M. Love et al., characterize high process quality as follows: "Caregivers encourage children to be actively engaged in a variety of activities; have frequent, positive interactions with children that include smiling, touching, holding, and speaking at children's eye level; promptly respond to children's questions or requests; and encourage children to talk about their experience, feelings, and ideas." John M. Love, Peter Z. Schochet and Alicia L. Meckstroth, "Are They in Any Real Danger? What Research Does — And Doesn't — Tell Us About Child Care Quality and Children's Well-Being," page 5.
- <sup>19</sup> A review of the empirical literature on the relationship between different characteristics of the care environment and child-specific outcomes by David M. Blau found that most studies fail to control for center-specific and family-specific characteristics. David M. Blau, *The Child Care Problem: An Economic Analysis* (New York: Russell Sage Foundation, 2001).
- <sup>20</sup> David M. Blau, "The Production of Quality in Child Care Centers," *Journal of Human Resources*, Vol. 32, No. 2, 1997, October 1996, pages 354-387. Available at <http://www.jstor.org/pss/146219>. See also, David M. Blau, "The Production of Quality in Child Care Centers: Another Look," *Applied Development Science*, Vol. 4, No. 3, June 2000, pages 136-148. Available at <http://www.informaworld.com/smpp/content~db=all~content=a783719913~frm=abslink>.
- <sup>21</sup> David M. Blau, "Unintended consequences of child care regulations," *Labour Economics*, Vol. 14, January 2007, pages 513-538. Available at <http://www.unc.edu/depts/econ/profs/blau/Unintended%20consequences%20of%20child%20care%20regulations2.pdf>.
- <sup>22</sup> For a discussion of different child care policy regimes in Europe, see William T. Gormley, *Everybody's children: child care as a public problem* (Washington D.C.: Brookings Institution, 1995).
- <sup>23</sup> Kirby Deater-Deckard, Marlene Eisenberg, Sandra Scarr, "Measurement of Quality in Child Care Centers," *Early Childhood Research Quarterly*, Vol. 9, June 1994, pages 131-151.
- <sup>24</sup> William T. Gormley, Jr., "Regulating Mister Rogers' Neighborhood: The Dilemmas of Day Care Regulation," *Brookings Review*, Vol. 8, No. 4, 1990, pages 21-28.

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# Improving Security by Allowing More Private Options

By Kai Jaeger, San Jose State University and Edward Peter Stringham, Fayetteville State University

Private security guards and private police are often overlooked as an alternative to government police.<sup>1</sup> At the most basic level, locks, alarms and armed self-defense are important forms of private security.<sup>2</sup> Private security can also take the form of informal volunteer policing and professional armed private police.<sup>3</sup> In many major cities today, housing complexes, neighborhood associations, airports, university campuses and shopping areas rely on various forms of private policing.<sup>4</sup> Private security guards actually outnumber public police officers by a ratio of three



to one, with 1.5 million employees in the private security industry.<sup>5</sup> There are more than 9,000 private security firms in the United States alone.<sup>6</sup> Government regulation is the main barrier to more private crime reduction programs. Lowering barriers to private security will give people more options to reduce crime.<sup>7</sup>

Private policing can also improve the security of the poor. Relaxing regulation and introducing enterprise programs for policing will provide more security options to people who are currently poorly served by government law enforcement.

## Why Private Police Are a Desirable Alternative Today

Some people are concerned that private security increases social inequality, because the rich are better able to afford private security and protect themselves against crime. Private security might displace crime from rich neighborhoods to poor neighborhoods.<sup>8</sup>

**Government Policing and the Poor.** Government law enforcement clearly does not always serve all groups equally. For example, low-income neighborhoods often receive reduced public security services.<sup>9</sup> In addition, not all racial disparities in incarceration rates are attributable to disparities in criminal activity.<sup>10</sup> Black Americans, for example, are more likely to be convicted and receive greater punishment than non-black Americans.<sup>11</sup> According to researchers Ronald Weitzer and Steven Tuch, African-Americans

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“are more likely than whites to report having negative interactions with police, to be exposed to media reports of police misconduct, and to live in high-crime neighborhoods where policing may be contentious — each of which increases perceptions of police misconduct.”<sup>12</sup> Radley Balko of the Reason Foundation has documented problems with public policing including the increasing militarization of law enforcement.<sup>13</sup> Economist Paul Roberts and lawyer Lawrence Stratton document how law enforcement officials routinely pursue personal and political agendas at the expense of recognizing basic individual rights.<sup>14</sup>

**Private Police Are Customer Service Oriented.** Many people believe that private police only provide protection for private property, assets and employees. However, private security companies have not only expanded in quantitative terms but have also increased the range of their activities — from foot patrols to private investigation and even making arrests.<sup>15</sup> Private officers can perform most, if not all, necessary law enforcement tasks.<sup>16</sup> Indeed, the National Institute of Justice says that every public police function could be privatized or outsourced.<sup>17</sup> In some places, the private sector has already taken over nearly all public police functions.<sup>18</sup> Private officers are increasingly responsible for public security in shopping malls, universities and gated communities.

Some argue that the functions of private and public policing are no longer distinguishable.<sup>19</sup> Nonetheless, distinctions exist. Private security companies are profit-oriented and receive their revenues from customers while the public police are taxpayer-funded and mostly respond to crimes after the fact. While government police are supposed to enforce the general law, private police respond directly to the consumers who hire them. As profit-motivated enterprises, private police tend to be customer oriented, and they typically follow a proactive approach with the focus on loss prevention.<sup>20</sup>

On the other hand, although public police forces are not-for-profit enterprises, they frequently act in their own interest rather than the public interest.<sup>21</sup> Police make choices to increase their revenue, such as focusing their efforts on cases with assets that can be seized, since the police are allowed to keep a percentage of the proceeds from asset forfeiture.<sup>22</sup> Public police also make various choices to maximize their payroll through overtime pay or to increase their retirement pay through so-called pension spiking, in which they attempt to maximize the pay credited toward their pension.<sup>23</sup>

**Private Policing Reduces Crime.** Research by economists Bruce Benson and Brent Mast found some evidence indicating that private police reduce murder, robbery and auto theft, and strong evidence that private policing reduces rape.<sup>24</sup> At the neighborhood level, private policing has significantly reduced crime rates in the affected areas.<sup>25</sup> For example:

- ⇒ After the “Grand Central Partnership,” an organization of over 6,000 businesses, hired a private security force to guard a 70-block area in the midtown Manhattan area, crime rates dropped by 20 percent after two years, by 36 percent after three years and 53 percent after five years.

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⇒ The introduction of private policing by Critical Intervention Services in a low-income area of Florida reduced crime an average of 50 percent.<sup>26</sup>

Starrett City, a housing development in the New York City borough of Brooklyn, illustrates how private protection gives middle class and poorer neighborhoods the opportunity to improve safety. Starrett City, an apartment complex with about 20,000 residents, was surrounded by high-crime neighborhoods. To reduce crime, apartment management introduced its own police force, which had full police powers in the complex.<sup>27</sup> This change had a significant impact on crime rates: Compared to the whole nation, New York state and the neighboring 75th Precinct, Starrett City had lower crime rates for murder, rape, assault, burglary, larceny and vehicle theft.<sup>28, 29</sup>

Other private means of crime reduction are community efforts such as patrols and neighborhood watches. The U.S. Department of Justice analyzed 18 studies from the United States and the United Kingdom that paired neighborhood watch areas with similar neighborhoods that had no watch program. In 15 areas, crime rates fell with the neighborhood watch. In three areas, crime increased despite the watch.<sup>30</sup>

In the Rainier Valley section of Seattle, a low income area with a high crime rate, the community established several crime prevention projects in cooperation with the local police and with the support of the Rainier Chamber of Commerce, including the first business crime watch program.<sup>31</sup>

**Private Police Cost Less than Government Police.** Private security agencies tend to provide services at lower prices than off-duty public officers, enabling poorer communities to buy their own security force. For example, in 1994 the San Francisco Patrol Special Police, a collection of independent private police, charged \$25 to \$30 per hour depending on the particular service, while off-duty public officers charged up to \$58 for an hour of security service.<sup>32</sup> In Walnut Creek, California, local authorities estimated that it would cost taxpayers four times as much as a private security force to provide increased patrols and respond to calls in a private development.<sup>33</sup> In order to save on the \$1.8 million annual cost of sending police to respond to residential burglar alarms, 99.7 percent of which are false alarms, the chief of police in Arlington, Texas, proposed contracting out responses to private security firms.<sup>34</sup>

Some authors argue that even if private policing simply displaced crime from one area to another, it would reduce the cost of public policing in affected areas, thus allowing the public police to devote more resources to high crime districts.<sup>35</sup> For example, according to one estimate, New York Police Department costs would have been \$750,000 higher in 1984 without the private protection of Starrett City.<sup>36, 37</sup>

## Regulatory Barriers to Private Policing

Despite the benefits of private policing agencies, many high-crime neighborhoods do not hire them because of cost-increasing regulations and the unwillingness of

regulators to approve their use, due to conflicts of interest. Certain authors argue that high regulatory standards might improve the quality of private security, but increase the costs of compliance for security providers, thus reducing market competition.<sup>38</sup> Consequently, the price to employ a security agency might increase, making it more difficult for poorer people to buy protection, in turn making them even more vulnerable to crime.

Table I illustrates how the powers of private police and their regulation differs from region to region. Restrictions at the local municipal level are often quite rigid, thereby inhibiting the expansion of the private policing industry.

**Table I: Comparison of Regulatory Schemes among Representative Private Policing Organizations**

<u>Agency Name</u>	<u>San Francisco Patrol Special Police</u>	<u>North Carolina Company Police</u>	<u>Cincinnati, Ohio Private Police</u>	<u>Portland, Oregon Portland Patrol Inc.</u>
<b>State</b>	Calif.	N.C.	Ohio	Ore.
<b>Governing Laws</b>	Yes	Yes	Yes	Yes
<b>Armed</b>	Yes	Yes	Yes	Yes
<b>Arrest Powers</b>	No	Yes	Limited	No
<b>Police Radio Frequency</b>	Yes	Yes	Yes	No
<b>Uniforms Regulated</b>	Yes	Yes	Yes	No
<b>Fees Regulated</b>	No	No	No	No
<b>Oversight</b>	Police Commission	Attorney General	Police Department	Private Business
<b>Entity Regulating Training</b>	Police Commission	State	City	State
<b>Entity Investigating Citizen Complaints</b>	Police	Attorney General	Police	Private Business
<b>Government Funding</b>	Indirectly — Operational Support	No	No	Indirectly — Contracts

Source: The Public Safety Strategies Group.

**Regulation of Private Police.** Regulation of private policing on the state and local level differs considerably, ranging from selection, training and insurance requirements to almost no regulation. According to 2000 data (the most recent available):

- ⇒ Some 39 state governments have a department that regulates private security, and 36 of these administer both security companies and guards.
- ⇒ Thirty-six states require criminal background checks, 23 states require licensees to pass an examination and 22 states mandate some form of training, varying from four hours general training in Tennessee to 40 hours in Florida for unarmed services.

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- ⇒ Armed security services are required to have additional training ranging from four hours in South Carolina to 47 hours in New York.
  - ⇒ Twenty-five states demand insurance coverage (ranging from proof of liability to \$1,000,000).
  - ⇒ Additionally, 18 states impose bond requirements for guards, and four states require bonds for companies, ranging from \$2,000 to \$50,000 for guards and from \$7,000 to \$100,000 for companies.<sup>39</sup>

Other regulations that prevent the expansion of private security include gun control laws that prevent private security from being armed, limiting their effectiveness; laws preventing security companies from patrolling more than one property, forcing them to be stationary guards; laws giving government the ability to restrict the hiring practices of private security firms, limiting supply; and policies mandating that private businesses hire off-duty police rather than private security, creating unfair competition.

These laws give government police a monopoly over policing, and simply eliminating some or all of these restrictions would make people safer.

**Case Study: The Colorado Market for Security Services.** Colorado does not regulate the security industry at the state level. The state's Department of Regulatory Agencies (DORA) has the authority to create regulatory agencies for specific industries or impose standards if it has enough evidence that these measures will support the public good.

Colorado law requires groups with regulatory proposals to submit them to DORA. The National Association of Security Companies (NASCO) proposed legislation to regulate Colorado's private security industry.<sup>40</sup> NASCO proposed a statewide regulatory plan for unarmed and armed security officers that would require them to pass a criminal background check, a license examination and participate in 8 to 20 hours of training. Private security companies would be required to have liability insurance with a minimum coverage of \$1 million or, alternatively, provide a bond in an unspecified amount.<sup>41</sup>

DORA pointed out that some of these regulations already existed in several local jurisdictions in Colorado.<sup>42</sup> DORA discovered that there were generally only a few complaints about private security officers, mostly concerning unlicensed activities and failure to notify the police department of incidents.<sup>43</sup>

To support its case, however, NASCO submitted a list of 22 incidents of alleged misconduct by private officers.<sup>44</sup> However, only 12 of the 22 cases took place in Colorado and many examples were anecdotal, which made a confirmation of accuracy and truthfulness impossible.<sup>45</sup> Aside from one case, the proponents of regulation could not prove that any harm had occurred in Colorado, or that local regulation could not prevent all abuses. Therefore, DORA found that "the examples submitted failed to even allege any actual harm" and "that the absence of regulation has not harmed Colorado citizens."<sup>46</sup>

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The DORA report noted why the security market in Colorado seems to be accountable and work professionally even without state level regulation. A key regulatory mechanism is the contract between a security company and a client, in which the client can stipulate what competency security guards should have.<sup>47</sup>

DORA also noted some of the problems with government regulation. For example, security companies, private guards and their clients do not agree on minimum training requirements. Different companies and guards perform a vast variety of the activities, which makes it difficult for regulators to determine a minimum competency level.<sup>48</sup> Instead, the report highlighted the risk that the proposed regulation “would implement an expensive and burdensome regulatory system,” especially in light of the low salary many private guards earn.<sup>49</sup> The analysis concluded that regulation was not justified.<sup>50</sup>

This case suggests that associations like NASCO do not always represent a whole industry, and the request for regulation may be in the interest of larger firms hoping to suppress business competition.

**Case Study: San Francisco Patrol Special Police.** Regulators sometimes block access to private alternatives because of their own interest in the security market. For example, the private San Francisco Patrol Special Police offer better prices than the public San Francisco Police Department, and many communities would like to hire more of them, but the San Francisco Police Department interferes with the hiring process.

Some members of the San Francisco Police have viewed the Patrol Special Police as competition and have acted to restrict the Special Police. According to San Francisco Police Department data, the chief of police approved only five of 27 applicants between 2005 and 2008.<sup>51</sup> Several Patrol Special Police candidates assert that they were rejected without reasonable explanation, or that their applications were delayed for months. The application of Antjuan Taswell seems to present ample evidence: It took Taswell four attempts over 14 years to receive an appointment from the chief of police as a patrol special officer, and then only after the ordeal was publicized in the news media.<sup>52</sup>

This restrictive policy is due to the interest of the San Francisco Police Department in reducing competition of the Patrol Special Police for the off-duty work of their own officers.<sup>53</sup> Off-duty work is a lucrative opportunity for San Francisco police officers, who reach a salary ceiling after only four years of service. Data from 2008 indicates that approximately 50 percent of the 2,300 strong police department work off-duty, earning an extra \$9.5 million.<sup>54</sup>

In San Francisco, the Patrol Special Police provide services and protection that the police department does not offer. Services are proactive rather than reactive. Patrol Special Police officers also focus on narrow and, thus, easily served geographic neighborhoods where they build long-term relationships and become trusted members of the community. The officers are responsive to their clients and neighborhood needs from initiation of the service contract. They have an incentive to listen carefully to client opinions and priorities, and to flexibly

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change service components as desired and advisable. They can only stay in business if their clients are satisfied. They also have an incentive to respond quickly, usually before a San Francisco police officer can respond, and they are known for handling both quality of life service calls and calls for serious safety matters when the police department sometimes chooses not to respond at all.

In addition taxpayers have to subsidize off-duty police work through the police program that approves and assigns officers to such activities. These subsidies give the police an advantage over special patrol officers. A program audit would uncover these subsidies.

Some regulations have dubious public safety rationale — such as regulation of the color of special patrol officers' uniforms — or give the police access to proprietary information they can use to their competitive advantage — such as requiring Patrol Special Police to turn over information about private contracts.

## Ensuring the Quality of Private Security Services

Without specific government regulations, what would constrain the behavior of private police?<sup>55</sup> Regulations are often implemented in the belief that private police could act against the public interest. Many people believe that private police left to their own devices will either pursue their own interests or the interests of those hiring them, which may not be aligned with the public interest.<sup>56</sup> Table II, however, indicates several nongovernmental ways the accountability and professionalism of the private security industry is ensured: through market competition, self-regulation of the industry, or control by institutions in civil society such as the media.<sup>57, 58, 59, 60</sup>

**Market Competition.** Market competition is a primary contributor to quality. Just as grocery stores compete to provide quality, so too can private police. Profit-oriented companies try to cut costs, but economist Bruce Benson points out that this is a good thing and competition ensures firms offer their customers satisfaction in order to stay in business.<sup>61</sup> As long as firms have to compete for customers, they will not cut costs in ways that customers find unattractive.<sup>62</sup>

In an open market any firm that offers unsatisfactory service will lose business and eventually be driven out of the market.

**Rule of Law.** There are legal constraints that discourage private police from acting out of control.<sup>63</sup> Like the public police, private security companies and their personnel have to obey the law. If companies abuse their powers in the form of excess violence, negligence, false arrest or false imprisonment, they can be held accountable through civil and criminal prosecution. Besides the legal costs incurred from litigation, the security company would have to internalize the cost of a bad reputation because market participants do not want to deal with an unreliable or criminal agency.

Some experts maintain that civil and criminal laws may even provide a higher level of accountability for private than public police, especially if public authorities are more inclined to convict private than public officers for violations.<sup>64</sup> Moreover, unlike private police, public officers possess substantial immunity from charges.<sup>65</sup>

**Self-Regulation.** Industry self-regulation provides another alternative to government regulation. It can often be a superior alternative to government regulation, because private parties know more about their circumstances and how to solve problems than government bureaucrats.<sup>66</sup> Some researchers, and some of the larger firms in the industry, maintain that voluntary self-regulation is insufficient and binding government rules are needed.<sup>67, 68, 69</sup> But many of the calls for governmentally enforced regulation seem to come from larger firms that can more easily bear the costs of industry-wide regulation.<sup>70, 71, 72, 73</sup>

However, membership in self-regulatory associations can convey knowledge to consumers about the reputation and training standards of member firms. Firms that do not meet certain requirements or act in a substandard manner can be expelled.<sup>74</sup>

**Insurers.** The insurance industry also exerts pressure on firm behavior.<sup>75</sup> According to Paul Bailin and Stanton Cort, “Insurers are eager to develop regulations and/or standards to define risk levels and liability. Armed security guards, for example, can incur substantial liability through their actions. Products and services that offer protection also can be held liable for failure. Insurers need standards to set appropriate rates.”<sup>76</sup>

**Table II: The Impact of Different Control Mechanisms**

<u>Control Mechanism</u>	<u>Possible Benefits</u>	<u>Possible Costs</u>	<u>Works Well If</u>	<u>Needs Improvement If</u>
<b>Government Regulation</b>	Decreased transaction costs for consumers; guarantees certain quality requirements.	Higher costs for consumers, decreased market accountability.	No conflict of interest between the regulators and the regulated; government can have the necessary knowledge.	Conflict of interest; heterogeneous markets make it difficult for government to acquire knowledge.
<b>Market Competition</b>	Higher quality; lower costs for consumers.	Emergence of cowboy companies; quality suffers from cost-cutting.	Competitive markets; companies have long-term profit goals.	Consolidated markets; companies have short-term profit goals.
<b>Rule of Law</b>	Private officers are accountable for their actions. Security companies comply with conditions stipulated in a contract.	Litigation costs in resources and time.	Rule of law is well enforced; actual laws are supportive for quality measures of security companies.	Rule of law is poorly enforced; actual laws restrict quality measures of security companies.
<b>Industrial Self-Regulation</b>	Decreased transaction costs for consumers; quality standards for members.	Increased transaction costs when actual standards are lower than supposed standards of members.	No conflict of interest. Rules can be augmented by a well functioning insurance industry and media.	Conflict of interest. Media/civil society activities are biased; specific culture discourages building of social capital.

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Insurers can affect the behavior of private police by charging higher fees for armed security companies, inducing companies to improve their training standards or offer an unarmed service.<sup>77</sup> Insurers require security companies to conduct several examinations, such as background and criminal record checks, drug and psychological tests and polygraph tests.<sup>78</sup>

**Social Restraints.** Though nongovernmental organizations — such as community groups, research institutions and the media — do not possess direct regulatory control, they can play a crucial role in improving the knowledge about the security market.<sup>79</sup> Potential press exposure of a misbehaving company can provide significant incentives for companies and the industry in general to behave. Strong social capital, “the ability of people to work together for the common purposes in groups and organizations,” is likely to strengthen the functioning of the security market.<sup>80</sup>

Others argue that existing civil, criminal and contractual law provides a check on the behavior of private police so that no additional regulations of them are needed.

## Conclusion

Private policing is an important policy option that should be considered by communities across the country. It is already commonplace and can be expanded simply by reducing or eliminating some or all of the restrictions government has placed on the industry. An analysis of how government regulation differs from state to state suggests what may happen as regulations change.<sup>81</sup>

Although many policymakers believe that private officers might abuse their power because they are not as accountable as the public police, a growing body of evidence questions these criticisms. Many areas already have alternative mechanisms of control that lead to accountability and professionalism. In a free market, profit-seeking companies have an incentive to provide good service. Security companies that offer poor services will lose clients and market share. Additionally, industrial associations, insurance companies, media coverage and other parts of civil society can play a vital role ensuring that private police serve clients rather than abusing them. This was shown by the 2006 report of the Colorado Department of Regulatory Agencies, which found no evidence that private security guards abused their power, even in the absence of statewide regulation.

Private policing offers a viable alternative to government police for poor neighborhoods. There are many examples where private policing works quite well, suggesting that people who are neglected or mistreated by government police will be better off if they, their landlords or local businesses are able to purchase more private security. Unfortunately, people in many poor neighborhoods are unable to buy private protection because regulation increases the price of protection, thus restricting their access to private security alternatives. Regulatory relief would give the poor more options for reducing crime.

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## Policy Recommendations

The market should be allowed to meet the demand for expanded private security services.

- ⇒ Private businesses should be allowed to hire private security guards who are not off-duty police officers.
- ⇒ Security companies should be allowed to patrol more than one property.
- ⇒ Gun control laws that prevent private security guards from being armed should be eliminated.
- ⇒ Security firms should not be regulated by officials who are competitors, and the amount of time allowed for officials to process security firms' applications to operate should be limited.

In addition, regulations with dubious public safety rationale should be reconsidered.

- ⇒ Regulations that raise costs for trivial reasons — such as requiring private officers to wear certain color uniforms — should be repealed.
- ⇒ The public police should not be allowed access to private firms' proprietary information, which they could use to their competitive advantage.

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1. The term policing will be used as Clifford Shearing defines it, namely as “preservation of the peace, that is, to the maintenance of a way of doing things where persons and property are free from unwarranted interference so that people may go about their business safely.” Clifford D. Shearing, “The Relation between Public and Private Policing,” *Crime and Justice*, Vol. 15, 1992, pages 399-434.
  2. Households that engrave their property with an identification that shows that they subscribe to a burglar alarm service systematically reduce their chances of being robbed. Bruce L. Benson, *To Serve and Protect: Privatization and Community in Criminal Justice. Political Economy of the Austrian School Series* (New York: New York University Press, 1998), pages 152-153.
  3. For an overview of the literature on private policing in America: Bruce L. Benson, *To Serve and Protect: Privatization and Community in Criminal Justice. Political Economy of the Austrian School Series* (New York: New York University Press, 1998), and James F. Pastor, *The Privatization of Police in America* (Jefferson: McFarland & Company, 2003).
  4. Clifford D. Shearing and Philip Stenning, “Modern Private Security: Its Growth and Implications,” in Michael Tonry and Norval Morris, eds., *Crime and Justice: An Annual Review of Research*, Vol. 3 (Chicago: University of Chicago Press, 1981); Clifford D. Shearing and Philip Stenning, “Private Security: Implications for Social Control,” *Social Problems*, Vol. 30, No. 5, 1983, pages 493-506.
  5. William C. Cunningham, John J. Strauchs and Clifford W. Van Meter, *Private Security Trends, 1970 to 2000: The Hallcrest Report II* (Boston: Butterworth-Heinemann, 1990).
  6. Paul Bailin and Stanton Court, “Industry Corner: Private Contractual Security Services: The U.S. Market and Industry,” *Business Economics*, Vol. 31, No. 2, 1996, pages 57-62.
  7. Philip E. Fixler and Robert W. Poole Jr., “Can Police Services Be Privatized?” *Annals of the American Academy of Political and Social Science*, Vol. 498, 1988, page 118.
  8. Nigel South, “Privatizing Policing in the European Market: Some Issues for Theory, Policy, and Research,” *European Sociological Review*, Vol. 10, 1994, page 231.
  9. New York City’s 1994 Mollen Commission Report on police corruption records an illustrative exchange between a testifying police officer and a commission member:

“Q: Did you beat people up who you arrested?”

“A: No. We’d just beat people in general. If they’re on the street, hanging around drug locations. It was a show of force.

“Q: Why were these beatings done?”

“A: To show who was in charge. We were in charge, the police.”

The City of New York, “Mollen Commission Report,” July 7, 1994, page 48.

There also have been several high-profile police-corruption scandals since then, including the Los Angeles Police Department’s Rampart scandal and Chicago’s police torture scandal.
  10. See, for example Gary Ford, “The New Jim Crow,” *Rutgers Race & the Law Review*, Vol. 11, 2010, page 329.
  11. Richard C. Dieter, *The Death Penalty in Black and White: Who Lives, Who Dies, Who Decides* (Washington, DC: Death Penalty Information Center, 1998).
  12. Ronald Weitzer and Steven Tuch, “Race and Perceptions of Police Misconduct,” *Social Problems*, Vol. 51, 2004, page 305.
  13. See for example, Radley Balko, *Overkill: The Rise of Paramilitary Police Raids in America*, Cato Institute, White Paper, July 17, 2006. Available at [http://www.cato.org/pub\\_display.php?pub\\_id=6476](http://www.cato.org/pub_display.php?pub_id=6476).

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- <sup>14</sup> Paul C. Roberts and Lawrence M. Stratton, *The Tyranny of Good Intentions: How Prosecutors and Law Enforcement Are Trampling the Constitution in the Name of Justice* (New York: Three Rivers Press, 2008).
- <sup>15</sup> Mahesh Nalla and Cedrick Heraux, "Assessing Goals and Functions of Private Police," *Journal of Criminal Justice*, Vol. 31, 2003, pages 237-47; Fred Schreier and Marina Caparini, "Privatising Security: Law, Practice and Governance of Private Military and Security Companies," Geneva Centre for the Democratic Control of Armed Forces, DCAF Occasional Paper No. 6, March 2005. Available at <http://www.isn.ethz.ch/isn/Digital-Library/Publications/Detail/?ord516=OrgaGrp&ots591=0C54E3B3-1E9C-BE1E-2C24-A6A8C7060233&lng=en&id=14077>.
- <sup>16</sup> James F. Pastor, *The Privatization of Police in America* (Jefferson: McFarland & Company, 2003), page 29.
- <sup>17</sup> Marcia Chaiken and Jan Chaiken, *Public Policing-Privately Provided*. National Institute of Justice. Issues and Practices (Washington, D.C.: U.S. Government Printing Office, 1987), page 6.
- <sup>18</sup> Philip C. Stenning, "Powers and Accountability of Private Police," *European Journal on Criminal Policy and Research*, Vol. 8, 2000, pages 325-52.
- <sup>19</sup> Les Johnston, *The Rebirth of Private Policing* (London: Routledge, 1992); David Bayley and Clifford Shearing, "The Future of Policing," *Law and Society Review*, Vol. 30, 1996, pages 585-606; Rick Sarre, "Issues of Governance for 21st Century Policing and Security: A Theoretical Overview," *Police Practice and Research: An International Journal*, Vol. 1, No. 2, 2000, pages 169-181; Elizabeth E. Joh, "The Paradox of Private Policing," *Journal of Criminal Law and Criminology*, Vol. 95, No. 1, 2004, pages 49-132.
- <sup>20</sup> Clifford D. Shearing and Philip Stenning, "Modern Private Security: Its Growth and Implications," in Michael Tonry and Norval Morris, eds., *Crime and Justice: An Annual Review of Research*, Vol. 3. (Chicago: University of Chicago Press, 1981); Marcia Chaiken and Jan Chaiken, *Public Policing-Privately Provided*. National Institute of Justice. Issues and Practices (Washington, D.C.: U.S. Government Printing Office, 1987); Tim Prenzler and Rick Sarre, "The Regulation of Private Policing: Reviewing Mechanisms of Accountability," *Crime Prevention and Community Safety: An International Journal*, Vol. 1, No. 3, 1999, pages 17-28; Elizabeth E. Joh, "The Paradox of Private Policing," *Journal of Criminal Law and Criminology*, Vol. 95, No. 1, 2004, page 62.
- <sup>21</sup> Roger Koppl, "Romancing Forensics: Legal Failure in Forensic Science Administration," in Edward Lopez, ed., *The Pursuit of Justice: Law and Economics of Legal Systems* (New York: Palgrave MacMillan, 2010), page 55.
- <sup>22</sup> Bruce Benson, David Rasmussen, and David Sollars, "Police Bureaucracies, Their Incentives, and the War on Drugs," *Public Choice*, Vol. 83, 1995, pages 21-45.
- <sup>23</sup> Edward P. Stringham, "A Report on the Patrol Special Police and Community Safety in San Francisco," Independent Institute Working Paper No. 74, 2009.
- <sup>24</sup> Bruce L. Benson and Brent Mast, "Privately Produced General Deterrence," *Journal of Law and Economics*, Vol. 44, No. 2, 2001, pages 725-746.
- <sup>25</sup> Bruce L. Benson, *To Serve and Protect: Privatization and Community in Criminal Justice. Political Economy of the Austrian School Series* (New York: New York University Press, 1998), page 156.
- <sup>26</sup> Bruce L. Benson, *The Benefits of Privatized Crime Control* (Oakland: Independent Institute, 1999).
- <sup>27</sup> William Walsh, Edwin Donovan and James McNicholas, "The Starrett Protective Service: Private Policing in an Urban Community," in Garry Bowman, Simon Hakim, Paul Seidenstat, eds., *Privatizing the United States Justice System* (Jefferson, N.C.: McFarland, 1992), pages 157-77.

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- <sup>28</sup> A 1984 demographic survey found that the residents were ethnically diverse (65 percent white, 20 percent black, 8 percent Hispanic, 5 percent Asian, 2 percent others), had middle-class incomes (median of \$24,000 although the rent of some poorer residents was subsidized under Section 8 funding), and most residents were blue-collar workers or city employees. Edwin J. Donovan and Williams F. Walsh, *An Evaluation of Starrett City Security Services* (University Park, Penn.: Pennsylvania State University Press, 1986), page 31.
- <sup>29</sup> The crime data are from 1984 and 1985. Edwin J. Donovan and Williams F. Walsh, *An Evaluation of Starrett City Security Services*.
- <sup>30</sup> Some of the watch programs included other projects that might also have contributed to lower crime rates, such as engraving owner information on valuables, or working with neighbors to improve the security of their homes. Katy Holloway, Trevor Bennett and David P. Farrington, "Crime Prevention Research Review No. 3: Does Neighborhood Watch Reduce Crime?" U.S. Department of Justice Office of Community Oriented Policing Services, 2008. Available at <http://www.cops.usdoj.gov/files/RIC/Publications/e040825133-res-review3.pdf>.
- <sup>31</sup> Erwin A. Blackstone and Simon Hakim, *Police Services: The Private Challenge* (Oakland, Calif.: Independent Institute, 1996). The crime rate in the area of South Seattle was reduced by approximately 14 percent between 1987 (start of the project) and 1989 (whereas other portions of Seattle experienced decreases only after 1988).
- <sup>32</sup> Richard Cole, "Dispute in San Francisco Over Use of Special Security Patrols," *New York Times*, October 1994.
- <sup>33</sup> In 1980, the residents of the private development paid \$555,000 for private security services, whereas public policing services would cost an additional \$1.5 million a year. Bruce L. Benson, *To Serve and Protect: Privatization and Community in Criminal Justice. Political Economy of the Austrian School Series* (New York: New York University Press, 1998), pages 156.
- <sup>34</sup> Susan Shrock, "Arlington police chief wants city to study outsourcing responses to burglar alarm calls," *Fort Worth Star-Telegram*, November 3, 2010. Available at <http://www.star-telegram.com/2010/11/02/2598864/arlington-police-chief-wants-city.html#ixzz1BUtr4wk>.
- <sup>35</sup> Nigel South, "Privatizing Policing in the European Market: Some Issues for Theory, Policy, and Research," *European Sociological Review*, Vol. 10, 1994, pages 219-233.
- <sup>36</sup> This cost would not imply the same quality of protection as the New York Police Department of the 75th Precinct, which responded to 30.60 percent of calls, while call response was 94.44 percent for the private force of Starrett City.
- <sup>37</sup> Edwin J. Donovan and Williams F. Walsh, *An Evaluation of Starrett City Security Services* (University Park, Penn.: Pennsylvania State University Press, 1986).
- <sup>38</sup> In Great Britain, for instance, it was estimated that the new license requirements of 2001 would lead to 30 percent fewer private security officers in the market. Lucia Zedner, "Liquid Security: Managing the Market for Crime Control," *Criminology and Criminal Justice*, Vol. 6, No. 3, 2006, page 272.
- <sup>39</sup> The Colorado Department of Regulatory Agencies reports, "Furthermore, how private security is regulated on the state level varies vastly: In 18 states, the department of public safety/state police/Department of Homeland Security regulates the security industry. In 10 states, the department charged with professional and occupational licensing does so. Of the remaining states, four regulate through the attorney general/department of law/department of justice, three through the Department of State, two through the Labor Department, one through the Agriculture Department, and one has a standalone board with no parent agency." See: Colorado Department of Regulatory Agencies, "Private Security Companies and Private Security Guards," Office of Policy, Research and Regulatory Reform, 2006, pages 19-20.

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- <sup>40</sup> Colorado Department of Regulatory Agencies, "Private Security Companies and Private Security Guards," page 1.
- <sup>41</sup> Colorado Department of Regulatory Agencies, "Private Security Companies and Private Security Guards," pages 2-7.
- <sup>42</sup> Colorado Department of Regulatory Agencies, "Private Security Companies and Private Security Guards," page 1.
- <sup>43</sup> Colorado Department of Regulatory Agencies, "Private Security Companies and Private Security Guards," page 32.
- <sup>44</sup> Colorado Department of Regulatory Agencies, "Private Security Companies and Private Security Guards," page 21.
- <sup>45</sup> Ibid.
- <sup>46</sup> Colorado Department of Regulatory Agencies, "Private Security Companies and Private Security Guards," page 33.
- <sup>47</sup> Colorado Department of Regulatory Agencies, "Private Security Companies and Private Security Guards," page 39.
- <sup>48</sup> Colorado Department of Regulatory Agencies, "Private Security Companies and Private Security Guards," page 34.
- <sup>49</sup> Colorado Department of Regulatory Agencies, "Private Security Companies and Private Security Guards," page 38.
- <sup>50</sup> Colorado Department of Regulatory Agencies, "Private Security Companies and Private Security Guards," page 39.
- <sup>51</sup> Ron Russell, "To Serve & Collect," *San Francisco Weekly*, June 3, 2008.
- <sup>52</sup> Ron Russell, "After 14 Years, His SFPD Paperwork is Approved," *San Francisco Weekly*, July 2, 2008.
- <sup>53</sup> Richard Cole, "Dispute in San Francisco Over Use of Special Security Patrols." Paul Kretkowski, "Cops vs. Cops," *San Francisco Weekly*, April 19, 1995. Ron Russell, "To Serve & Collect."
- <sup>54</sup> Ron Russell, "To Serve & Collect."
- <sup>55</sup> Scott Burbidge outlines the recent paradigm shift in the discussion of control mechanisms of private police. Scott Burbidge, "The Governance Deficit: Reflections on the Future of Public and Private Policing in Canada," *Canadian Journal of Criminology and Criminal Justice*, Vol. 47, No. 1, 2005, page 67.
- <sup>56</sup> Tyler Cowen, "Law as a Public Good: The Economics of Anarchy," *Economics and Philosophy*, Vol. 8, 1992, pages 249-267.
- <sup>57</sup> Philip C. Stenning, "Private Policing: Some Recent Myths, Developments and Trends," in David Biles and Julia Vernon, eds., *Private Sector and Community Involvement in the Criminal Justice System: proceedings of a conference held in Wellington, New Zealand on November 30-December 2, 1992* (Canberra: Australian Institute of Criminology, 1994), pages 145-155. Philip C. Stenning, "Powers and Accountability of Private Police," pages 325-352.
- <sup>58</sup> Rick Sarre, "Accountability and the Private Sector," *Security Journal*, Vol. 10, No. 2, 1998, pages 97-102.
- <sup>59</sup> Mark Button and Bruce George, "Too Little Too Late? An Assessment of Recent Proposals for the Private Security Industry in the United Kingdom," *Security Journal*, Vol. 10, 1998, pages 1-7.
- <sup>60</sup> Law Commission of Canada, *In Search of Security: The Roles of Public Police and Private Agencies* (Ottawa: Law Commission of Canada, 2002); Law Commission of Canada, *In Search of Security: The Future of Policing in Canada* (Ottawa: Law Commission of Canada, 2006).

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- <sup>61</sup> Bruce L. Benson, *To Serve and Protect: Privatization and Community in Criminal Justice. Political Economy of the Austrian School Series* (New York: New York University Press, 1998); Bruce L. Benson, "Crime Control through Private Enterprise," *Independent Review*, Vol. 2, No. 3, 1998, pages 341-371.
- <sup>62</sup> "The resulting profit motive provides a strong incentive to produce at low costs, but since consumers are free to choose how they will spend their money, the only way that a private entrepreneur can legally obtain customers and profits is by persuading people that a quality service is being offered at a reasonable price, relative to the options available. [...] Thus, competition forces private firms to offer relatively high-quality services at relatively low prices." See: Bruce L. Benson, *To Serve and Protect: Privatization and Community in Criminal Justice. Political Economy of the Austrian School Series* (New York: New York University Press, 1998), page 145.
- <sup>63</sup> Philip Stenning and Clifford Shearing, "Private security and private justice: Doing justice to justice," *British Journal of Law and Society*, Vol. 6, No. 2, 1979, pages 261-271.
- <sup>64</sup> Philip Stenning, "Powers and Accountability of Private Police," pages 325-352.
- <sup>65</sup> Michael Braun and David J. Lee, "Private Police Forces: Legal powers and Limitations," *University of Chicago Law Review*, Vol. 38, 1971, page 565.
- <sup>66</sup> Peter J. Boettke, "Is the only form of 'reasonable regulation' self regulation? Lessons from Lin Ostrom on regulating the commons and cultivating citizens," *Public Choice*, Vol. 143, No. 3/4, 2010, pages 283-291.
- <sup>67</sup> Notably, many security associations that have lobbied for stronger government regulations in various countries have adopted this argument. See: Mark Button and Bruce George, "Too Little Too Late? An Assessment of Recent Proposals for the Private Security Industry in the United Kingdom," *Security Journal*, Vol. 10, 1998, page 1; CoESS and UNI Europa, *Joint declaration of CoESS and UNI-Europa on the European Harmonisation of Legislation Governing the Private Security Sector* (Brussels: CoESS & UNI-Europa, 2001); Andrea Gimenez-Salinas, "New Approaches Regarding Private/Public Security," *Policing & Society*, Vol. 14, No. 2, 2004, page 161; Scott Burbidge, "The Governance Deficit: Reflections on the Future of Public and Private Policing in Canada," *Canadian Journal of Criminology and Criminal Justice*, Vol. 47, No. 1, 2005, page 65. The National Association of Security Companies (NASCO), America's largest contract security trade association, argues that "legislatures must create higher standards in all 50 states to ensure better training, [and] institute background checks." See: Joseph Ricci, "Private Security's Role," in Securitas USA, ed., *Private Security's Solutions* (Parsippany NJ: Securitas, 2006), pages 38-39.
- <sup>68</sup> Les Johnston, "Regulating Private Security," *International Journal of the Sociology of Law*, Vol. 20, No.1, 1992, pages 1-16.
- <sup>69</sup> Elizabeth E. Joh, "The Paradox of Private Policing," *Journal of Criminal Law and Criminology*, Vol. 95, No. 1, 2004, page 111.
- <sup>70</sup> Lucia Zedner, "Liquid Security: Managing the Market for Crime Control," *Criminology and Criminal Justice*, Vol. 6, No. 3, 2006, page 281.
- <sup>71</sup> Philip Stenning, "Powers and Accountability of Private Police," pages 325-352.
- <sup>72</sup> One explanation for the industry's demand for stricter government regulation might be the fear that the bad reputation of a fraudulent or low-quality firm will negatively affect the business prospects of the entire industry, but Lucia Zedner and Philip Stenning contend that the security associations are dominated by larger firms that benefit from stronger regulation because it drives smaller companies out of the market. See: Julie Berg, "The Accountability of South Africa's Private Security Industry: Mechanisms of Control and Challenges to Effective Oversight," *Acta Criminologica*, Vol. 21, No. 1, 2008, page 88; Lucia Zedner, "Liquid Security: Managing the Market for Crime Control," *Criminology and Criminal Justice*, Vol. 6, No. 3, 2006, page 281; Philip C. Stenning, "Powers and Accountability of Private Police," page 341. Stenning writes, "Typically only the larger firms (which dominate the private policing

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market) actually participate (and can afford to), and this leads easily to claims that industry self-regulation is no more than a self-serving mechanism operated in the interests of these larger firms in order to further dominate the market and reduce or eliminate effective competition.”

- <sup>73</sup> George Stigler, “The Theory of Economic Regulation,” *Bell Journal of Economics and Management Science*, Vol. 3, 1971, pages 3-18.
- <sup>74</sup> Edward P. Stringham, “The Emergence of the London Stock Exchange as a Self-Policing Club,” *Journal of Private Enterprise*, Vol. 17, No. 2, 2002, pages 1-19.
- <sup>75</sup> Philip C. Stenning, “Powers and Accountability of Private Police.”
- <sup>76</sup> Paul Bailin and Stanton Cort, “Industry Corner: Private Contractual Security Services: The U.S. Market and Industry,” *Business Economics*, Vol. 31, No. 2, 1996, page 60.
- <sup>77</sup> Bruce L. Benson, “Crime Control through Private Enterprise,” *Independent Review*, Vol. 2, No. 3, 1998, page 351.
- <sup>78</sup> Legal restrictions about polygraph and background examinations, however, make it more difficult for security companies to perform efficient screening of job applicants. See: Ira A. Lipman, “Personnel Selection in the Private Security Industry: More Than a Résumé,” *Annals of the American Academy of Political and Social Science*, Vol. 498, No. 1, 1988, pages 83-90; Paul Bailin and Cort Stanton, “Industry Corner: Private Contractual Security Services: The U.S. Market and Industry,” Colorado Department of Regulatory Agencies, “Private Security Companies and Private Security Guards,” page 33.
- <sup>79</sup> Julie Berg, “The Accountability of South Africa’s Private Security Industry: Mechanisms of Control and Challenges to Effective Oversight,” *Acta Criminologica*, Vol. 21, No. 1, 2008, pages 91-92.
- <sup>80</sup> Francis Fukuyama, *Trust: The Social Virtues and the Creation of Prosperity* (New York: Free Press, 1995), page 10; Lawrence E. Harrison, *The Central Liberal Truth. How Politics Can Change A Culture and Save It From Itself* (Oxford: Oxford University Press, 2006), page 50.
- <sup>81</sup> Some studies about private policing indicate that several factors lead to better performance, but differing institutional arrangements on the local, state and international level were not subject to empirical examinations. Charles T. Clotfelter, “Public Services, Private Substitutes, and the Demand for Protection against Crime,” *American Economic Review*, Vol. 67, 1977, pages 867-877. William Walsh, Edwin Donovan and James McNicholas, “The Starrett Protective Service: Private Policing in an Urban Community,” in Garry Bowman, Simon Hakim, Paul Seidenstat, eds., *Privatizing the United States Justice System* (Jefferson, N.C.: McFarland, 1992), pages 157-77; Edwin Zedlewski, “Private Security and Controlling Crime,” in Garry Bowman, Simon Hakim, Paul Seidenstat, eds., *Privatizing the United States Justice System* (Jefferson, N.C.: McFarland, 1992); Morgan O. Reynolds, *Using the Private Sector to Deter Crime* (Dallas: National Center for Policy Analysis, 1994); Vera Institute of Justice (ed.), “The Public Accountability of Private Police. Lessons from New York, Johannesburg, and Mexico City” (Washington D.C.: Vera Institute of Justice, 2000); Bruce L. Benson and Brent Mast, “Privately Produced General Deterrence,” *Journal of Law and Economics*, Vol. 44, No. 2, 2001, pages 725-746.

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# Expanding Housing Choices

By Michael D. Thomas, Utah State University and  
Wendell Cox, Wendell Cox Consultancy and NCPA Adjunct Scholar

Well-meaning housing policies have gone wrong by focusing on groups who already have access to many housing options — middle and higher income individuals and families — instead of the poor, who have fewer choices. Targeted regulatory relief would give developers, builders and property owners opportunities to propose innovative solutions to affordable housing and empower low-income individuals and families with choices that were previously unavailable.

## Identifying the Housing Affordability Problem

Enterprise Programs focus on people rather than geographic regions, thus the attention is on households. And because poverty is usually measured by households, the quality of available housing affects household living standards. The poverty level for a household is currently defined as three times the income required to buy a “fully nutritious diet.”<sup>1</sup> For example:

- ⇒ The 2010 U.S. Census Bureau poverty threshold was \$11,344 for a single adult under 65.
- ⇒ It was \$22,314 for a household of four people.
- ⇒ The threshold was \$29,887 for a household of six people in 2010.<sup>2</sup>

The value of 200 percent of the poverty level is frequently used to track changes in conditions for lower income people.<sup>3</sup>

**Table I: National Housing Cost Burden for Renters  
in Selected Metropolitan Areas**

<u>Category</u>	<u>National Average</u>	<u>Maximum</u>	<u>Minimum</u>
Renter Occupied Housing	34.13 percent	Los Angeles, CA 49.27 percent	Detroit, MI 27.96 percent
Median Gross Rent (per month)	\$842	San Jose, CA \$1,414	Buffalo, NY \$663
Percent Spending > 35 Percent of Income on Housing	42.48 percent	Orlando, FL 50.75 percent	Kansas City, MO-KS 36.10 percent

Note: Created using data from: U.S. Census Bureau, “Rental Housing Market Condition Measures: 2009,” October, 2010. Available at <http://www.census.gov/prod/2010pubs/acsbr09-7.pdf>. All included are defined by the census areas.

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**Housing Cost Burden.** The majority of U.S. residents, including those in low-income households, live in urban areas. Many of these residents face what is called a housing cost burden.

The U.S. Census Bureau considers a renting household “burdened” if it spends 35 percent or more of its income on housing costs.<sup>4</sup> Nationwide, over 40 percent of renters were considered burdened in 2009, but the percentage varied widely from location to location. For instance, as Table I shows:

- ⇒ In the Kansas City, Missouri, metropolitan area, only 36 percent of renters were considered burdened.
- ⇒ In Orlando, Florida, more than 50 percent of renters were burdened.
- ⇒ The national average was 42.48 percent.

This burden is especially acute for members of low-income groups. By contrast, less than 20 percent of households making more than \$42,500 have this problem.<sup>5</sup>

**Renters vs. Owners.** In order to understand the housing problems of the poor, it is important to distinguish between renters and owners. A higher percentage of all households rent in urban areas. Renting has both positive and negative effects on a household. The main benefit is that a tenant does not have to consider the investment aspect of the property and is less exposed to the associated risk. In addition, mobility is greater. Also, the renter does not have to pay a down payment — just a security deposit. On the downside, the renter has no control over the investment in the property and is dependent on the landlord’s decisions.

Both renters and owners face similar problems as the quality of a housing unit changes over time. Homes, like other goods, age and depreciate in value. This contributes to a process called filtering. Filtering is part of a normal cycle in property value for an urban area: construction, decline and renewal.<sup>6</sup> In the decline phase of filtering, houses become more affordable as their defining amenities become less valuable in the marketplace. As a property becomes less desirable, those with the financial ability to do so remodel it, or they buy a home with preferred amenities. The concern is that the primary source of low-income housing is housing stock that has not been updated and is deteriorating



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During the decline phase of filtering, individuals can buy more square footage given their budget; but this benefit does not consider the cost of structural problems. For instance, insulation quality has improved over time and therefore the less visible and higher cost of heating older homes must be considered. It is also more likely that the homes available at lower prices were poorly maintained and therefore could have hazards not transparent to the occupants. One particularly compelling hazard is exposure to lead paint. Consider:

- ⇒ Lead paint was outlawed in 1978 for housing structures.
- ⇒ Yet, in 2010, 58 percent of children under the age of seven in low-income Detroit households tested positive for developmental disorders due to lead paint exposure.<sup>7</sup>

Subsidized housing is offered as a solution to problems that arise from filtering, like those in Detroit. [See the sidebar on “Housing Projects and Subsidies.”]

## Housing Projects and Subsidies

Federally funded local housing authorities offer subsidized housing units to qualified households. Relative to the demand for affordable housing, these units are in short supply. Applicants wait so long for a unit or voucher that in many areas the lists are closed.<sup>8</sup>

Subsidized housing falls into two major categories: public housing and Section 8 rental certificates for low-income individuals and families.

**Public Housing.** Public housing creates housing zones — defined geographical areas that qualify for the program due to residents’ high poverty rates. The public housing stock consists mainly of multiunit housing where households pay no more than 30 percent of their income for rent. Approximately 1.2 million households live in public housing units, according to the U.S. Department of Housing and Urban Development (HUD).<sup>9</sup>

A 2003 HUD study noted some problems with public housing that distinguish it from other affordable housing, including poor management and maintenance, and a shortage of capital investment.<sup>10</sup> Thus, while public housing does provide shelter for some low-income families and individuals, it does not provide them with choices, one of the primary goals of Enterprise Programs.

**Section 8 Vouchers.** The Section 8 voucher program consists of subsidies that are redeemable for either “project-based” housing or “tenant-based” housing. Project-based housing vouchers are granted to private landlords who reserve some or all units for low-income households. The federal government then makes up the difference between the tenant’s contribution and the market rental price. Tenant-based vouchers are granted to individuals independently of the housing location; therefore the recipient can rent any apartment on the market, allowing for more choice.

Whereas housing projects increase concentrations of poverty, vouchers have been linked to reducing overcrowding, malnutrition and food insecurity.<sup>11</sup> Indeed, HUD research shows that section 8 housing vouchers are consistent with improvement in quality of life when households use vouchers to move to the suburbs.<sup>12</sup> These findings are encouraging for Enterprise Programs research, which advocates expanded household choice.

## Good Intentions and Access to Affordable Housing

The recent housing bust has left the United States with a 14 percent housing vacancy rate.<sup>13</sup> However, the least-well-off are not benefiting from the housing surplus. The particulars of the housing problem are complex, but many restrictions placed on lower-income housing create a shortage at precisely the same time that a surplus exists in higher-end homes.

Most of this empty housing stock consists of single family homes. As Table II indicates, detached homes are the type of housing in which most Americans live:

- ⇒ There are 109 million single family detached homes in the United States.
- ⇒ About 24 million of those homes are owner-occupied.
- ⇒ Just 3.4 million single family detached homeowners are considered low-income.

**Table II: Housing Descriptions**

<u>Housing Stock</u>	<u>Mortgages [Low-income]</u>
130 million, housing units	76.4 million, owner occupied homes [6.4]
109 million, have a single family home within half a block	24.2 million, owned free and clear [3.4]
16 million, manufactured homes (8.7 million in a group with other similar structures)	35.3 million, with one mortgage [1.9]
16 million, have a manufactured home within half a block	10.9 million, with two mortgages [0.3 million, with two mortgages]
39 million, multi-unit dwellings	

Source: Created using data from the U.S. Census Bureau, "American Housing Survey," May 1, 2009. Available at <http://www.census.gov/hhes/www/housing/ahs/datacollection.html>. Definitions are available at: <http://www.census.gov/hhes/www/housing/ahs/ahs01/appendixa.pdf>.

**Home Ownership and the American Dream.** In 2002, George W. Bush announced his goal of extending home ownership to 5.5 million new homeowners during his presidency.<sup>14</sup> This well-intentioned policy was motivated by an interest in expanding the "American dream" of home ownership, although homeownership has increased substantially since the mid-20th century. Consider:

- ⇒ Ownership rates rose from 44 percent of households in 1940 to 62 percent by 1960.
- ⇒ Ownership rates rose to 65 percent in 1995.
- ⇒ After easing credit in the late 1990s, the ownership rate rose to 69 percent.

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The Bush administration's new initiative encouraged lenders to extend credit to households who could not previously qualify for mortgages. The result was a housing bubble. By making it possible for them to take on debt beyond their means, foreclosures and short sales resulted when the bubble burst. Ultimately, damage was done to the administration's goal of increasing home ownership.

**Barriers to Home Ownership for Low-Income Individuals.** Several conditions functionally exclude lower-income individuals from the home ownership market. The first is the high transaction costs of purchasing a home — Table III details these costs. In addition, there are a variety of land-use regulations that increase the cost of new homes. The most important of these are zoning and antisprawl regulations, known by various names, such as “growth management” or “smart growth.”

### **Table III: Cost Calculations for a \$200,000 Home**

Real estate transaction = 5 percent gross = \$5,000
Closing costs = 4–8 percent = \$2,000–\$8,000
Down payment 5–10 percent = \$5,000–\$20,000
Total = \$14,000–\$33,000
(closing costs and real estate fees are often “rolled into” (included in) the loan amount)
PMI insurance = \$400–\$475 a year
Interest payment first year (5 percent APR) ≈ \$4,750–\$5,650
Median home price 10/2010 = \$201,600 <sup>34</sup>
Median gross rent 2010 = \$842*12 = \$9,744 <sup>35</sup>

*Zoning.* Zoning laws and land use regulations that attempt to “densify” housing and reduce suburban sprawl can add significantly to the cost of a house. The “2010 Demographia Residential Land Use & Regulation Cost Index” compares estimated land and regulatory costs for new entry-level houses in 11 representative metropolitan regions — Atlanta, Dallas-Fort Worth, Houston, Indianapolis, Minneapolis-St. Paul, Portland, Raleigh-Durham, San Diego, Seattle, St. Louis and Washington-Baltimore. The 11 regions were selected for geographical and regulatory balance, and because there was sufficient data available from which to develop the index.

Generally, land and regulatory costs are 25 percent of the net cost of constructing a house, after subtracting the cost of site infrastructure construction. In a metropolitan region with normal land and regulation costs, the cost of the house will be 80 percent of the total price, while the cost of the land and regulation will be 20 percent. Thus, it is a good assumption that any house price above 125 percent of construction costs is due to excess land and regulation costs.

The index numbers are calculated by dividing the estimated land and regulatory cost in a metropolitan region by this “normal” cost. The index illustrates the extent to which more restrictive land regulation in metropolitan areas adds to the cost of new housing [see Table IV]:<sup>15</sup>

- ⇒ Gross actual land and regulation costs add \$13,200 in a less restrictive market such as Houston.
- ⇒ Land and regulation costs approach \$240,000 in more restrictive markets, such as San Diego.

**Table IV: Demographia Land & Regulation Cost Index**

<u>Metropolitan Market</u>	<u>Expected Raw Land &amp; Regulation Cost</u>	<u>Gross Actual Land &amp; Regulation Cost</u>	<u>Excess Land &amp; Regulation Cost</u>
<b>Traditional</b>			
Atlanta	\$16,100	\$16,100	\$0
Indianapolis	\$13,900	\$13,900	\$0
Raleigh-Durham	\$16,000	\$16,000	\$0
St. Louis	\$16,900	\$16,900	\$0
<b>Texas</b>			
Dallas-Fort Worth	\$14,500	\$14,500	\$0
Houston	\$13,200	\$13,200	\$0
<b>Exclusionary</b>			
Minneapolis-St. Paul	\$20,000	\$48,700	\$28,700
<b>Reform</b>			
Seattle	\$18,000	\$69,400	\$51,400
Portland	\$16,900	\$76,200	\$59,300
Washington-Baltimore	\$16,000	\$90,700	\$74,700
San Diego	\$18,100	\$239,100	\$221,000

Source: “New 2,150 Square Foot Detached House,” Table 2. Available at <http://www.demographia.com/dri-full.pdf>.

*Antisprawl: Smart Growth and Urban Growth Boundaries.* Smart growth, popular among urban planners, seeks to minimize urban footprints out of fear that too much land is being consumed by sprawl. Land development strategies therefore include restrictions (such as urban growth boundaries) that ration the amount of land available, inevitably raising housing prices.

Planners also favor other provisions that make development more costly, such as high impact fees to pay for any infrastructure (roads, water and sewer lines) associated with the development. In addition, large minimum lot sizes may be imposed to make it virtually impossible to build new housing on the urban fringe.

Smart growth policies also shut out many benefits such as improved labor market efficiency (which increases employment, incomes and reduces poverty), as well as a more competitive retail sector and its reduction in the cost of living.<sup>16</sup>

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*Inclusionary Zoning.* Many communities have tried to increase the supply of affordable housing through inclusionary zoning laws. These laws give builders incentives, or sometimes require them, to reserve a portion of new units for sale to low and/or moderate-income households at below-market prices. Inclusionary zoning laws can require homebuilders to sell a portion of new homes in a development at below-market prices.<sup>17</sup> They can require new developments in certain areas to have smaller lots and less square footage for a certain number of homes. Smaller home inclusion is intended to create lower-income housing in more affluent areas, creating socioeconomic diversity. Even when developers build areas like these, the home values fluctuate more than similar unrestricted houses. Values are higher during the housing boom and lower during the bust.<sup>18</sup>

Numerous California communities have adopted inclusionary zoning; but, in fact, the regulations have made housing less affordable than ever. According to a 2004 Reason Foundation study:

- ⇒ New home prices increased by up to \$44,000 in 45 San Francisco Bay Area cities that enacted inclusionary zoning laws.
- ⇒ Inclusionary zoning in Los Angeles and Orange Counties increased the price of new homes by up to \$66,000.

By preventing developers from realizing the full revenue potential of their land, inclusionary zoning is, in effect, a tax. Builders pass on this tax to landowners and market-rate homebuyers. If they cannot pass it on, they simply stop building and move on to other jurisdictions. When landowners and builders are forced to absorb part of the tax, it lowers the incentive to build new homes.

*Homeowners Associations.* Many jurisdictions are encouraged to create homeowners associations (HOA) based on evidence that HOAs are correlated with the successful preservation of housing purchase prices.<sup>19</sup> Such associations restrict the development of the property after individual homeowners buy a parcel from a developer. A typical HOA covenant, for instance, would prohibit the combination of two properties to accommodate a multifamily housing structure. An HOA also sets legal restrictions on features of the property including landscaping and other modifications.

Other restrictions can include specific requirements like xeriscaping (landscaping that survives on rainwater alone). Or the HOA may require a water irrigation system, which increases the upfront costs that an individual has to pay. Restrictions like these raise the cost of ownership, and lower flexibility of the owner. Owners who fail to comply with the HOA rules can be fined or even lose their homes.

Making the ownership experience subject to group decisions eliminates the extremes that might lower property value. The impact for the individual homeowner is that his investment is protected. On the other hand, lower-income persons can be denied access to parcels of land because of a prohibitively expensive sales price. HOA restrictions can be considered well intentioned, but they benefit more affluent households and reduce access for the least-well-off.

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## Thinking Outside the Box: Innovative Housing Solutions

Increasing housing choices is the key goal of Enterprise Programs. Each household would like to purchase the best housing they can find and afford. For some, the best might mean avoiding lead paint. For others it means finding a location outside of a housing project. Another group might prefer to live close to their employment prospects. In all these cases the restrictions meant to protect housing values have limited the options for households seeking access in the first place.

**Manufactured Housing.** In 2007, a manufactured home cost \$40.82 per square foot, while a traditional site-built home cost more than twice as much — an average of \$92.51 per square foot. Thus, manufactured home parks could provide low cost single-family housing. Single units could provide infill housing — on vacant lots that were never developed, or where existing structures have been condemned. However, local zoning regulations often limit residential construction to traditional site-built homes, and prohibit manufactured housing altogether. It is often claimed that manufactured housing decreases adjacent property values; however, a joint study by Harvard University and the Massachusetts Institute of Technology found that manufactured homes have no impact on the property values of adjacent site-built homes.<sup>20</sup>

Tornado risk is one of the significant barriers to manufactured housing. In some areas, local regulations mandate publicly provided tornado shelters in areas with a high density of manufactured homes. According to recent research, consumers pay more for lots that have accessible tornado shelters. Where manufactured homes are densely congregated, the owner of the lots spreads the cost of providing this safety amenity over multiple units.<sup>21</sup>

## Homeownership 2.0<sup>23</sup>

“Homeownership 2.0” is an innovative approach to housing finance designed to increase access to homeownership, developed by law professor Lee Anne Fennell. It does not make sense for most households to take a real estate gamble in one area in addition to paying for the construction and maintenance of their home. Rather than create only one option for purchase, Homeownership 2.0 allows a flexible scale where the homeowner assumes a minimum investment in the property necessary to eliminate moral hazard, but no more exposure to the ups and downs of the market beyond that which is consistent with the individual’s investment strategy. As opposed to renting, partial ownership would increase choice and allow more options for low-income families beyond renting.

New financial arrangements could also increase access for lower-income homeowners who cannot afford the additional burden of investing in a parcel of land. Selling off some of the owner’s opportunity for an upside, the return on land (as well as offloading the risk of the downside, losses), could help a potential owner pay the transactions costs of buying a home. As an incentive to give up capital gains, some of the fees associated with purchasing a home could be paid for by a real estate investor willing to share risk with the homeowner.

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Modular homes must pass rigorous standards and inspections to satisfy strict federal safety standards. These standards help manufactured homes withstand straight-line winds.<sup>22</sup> Obviously, however, neither manufactured homes nor site-built homes are a match for tornadic winds.

New manufactured homes are often financed through the builder. Because of their limited life, owners do not build wealth — especially if they sit on rented land — but if purchased second-hand they avoid debt and the associated servicing charges. If financing were more available to those with limited means, the advantages of manufactured housing might induce them to buy. Currently, single-family homeowners must take on a specific investment bundle that includes the home *and the land*. Allowing financing innovations that let the borrower buy the home, but rent the land, would help the less affluent achieve the benefits of both home ownership and affordable housing. [See the sidebar, “Homeownership 2.0.]

**Alternative Materials.** Affordable housing can be built using alternative materials and construction techniques, such as strawbales, geodesic domes and concrete, but local ordinances often restrict the materials that can be used.<sup>24</sup>

*USA Today* has called the use of alternative materials an “outside-the-box idea” that has captured the interest of some architects and homebuyers.<sup>25</sup> One couple in upscale Redondo Beach, California, for instance, built a 3,220 square-foot home for about 60 percent to 67 percent the cost of a home made with more traditional materials. Most of the homes in the United States built in this manner seem to have been designed for affluent consumers interested in the environmental implications of using recycled materials. The time may have come, however, to turn this practice into a source of high-quality, low-cost housing for less-affluent Americans. This approach is particularly appropriate because of the current surplus of shipping containers.<sup>26</sup>

In some cities, steel cargo containers that carry freight by truck, rail and ship are being converted into housing. A Fort Worth, Texas, nonprofit organization called A Place to Sleep recently proposed constructing a community of affordable housing using 48-foot containers as single-family homes on individual lots. According to the *Fort Worth Star-Telegram*, the organization estimates the cost per unit could be as low as \$20,000 for a 408 square-foot home with a small kitchen and bathroom. Unfortunately, the plan was opposed by the local neighborhood, and prompted the Fort Worth City Council to inquire about changing zoning ordinances to discourage such construction.<sup>27</sup>

Portable school buildings are another alternative material that can be used for housing. A Raleigh, N.C.-based nonprofit called Builders of Hope seeks to create affordable, sustainable, energy-efficient housing by refurbishing existing structures, including portable school buildings that are no longer needed. The organization upgrades the structures with new insulation, wiring, plumbing, heating and cooling.<sup>28</sup>

**Accessory Apartments.** Accessory apartments (also called “in-law apartments” or “granny flats”) are units on a single-family lot, but independent of the single family home, with separate kitchen and bathroom fixtures. These units allow homeowners to lease part of their home as a separate living space. This permits individuals who would not be able to afford property taxes in middle class neighborhoods to move up the socioeconomic ladder. It also allows current residents who have decreasing revenue, such as the elderly, to stay in their home.<sup>29</sup>

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Unfortunately, local zoning ordinances often restrict the number and size of accessory apartments, if they are permitted at all. Lexington, Massachusetts, for example, allows two alternative dwelling units per lot, provided the main structure is connected to public water and sewage. In addition, a minimum of one off-street parking space must be provided for every unit. The accessory unit cannot exceed 1,000 square feet and cannot have more than two bedrooms.<sup>30</sup>

**Single Resident Occupancy.** Boarding houses, or single resident occupancy (SRO) hotels, are multiple-tenant buildings that typically have shared kitchen and bathroom facilities for individual tenants. SROs declined after World War II because they did not meet what Americans considered the minimum standard of living, but they resurged in the 1980s as subsidized housing failed. In places such as San Diego, this was facilitated through deregulation. Specifically:

- ⇒ Cities that have single resident occupancy hotels allow residential construction on commercially zoned land.
- ⇒ The cities have eliminated some amenity requirements, such as requiring a full kitchen and parking spaces.
- ⇒ They allow alternatives that are equivalent to building code safety requirements — such as allowing sprinkler systems as substitutes for fire escapes.

Some cities have implemented additional policies to allow the creation of more SROs, such as:

- ⇒ The cities classify SROs as hotels, which are allowed to have a percentage of units that are handicap accessible, rather than required to make every room accessible.
- ⇒ They have eliminated hotel taxes and fees on the SROs.
- ⇒ They have created special zoning classifications that allow private builders to construct them.<sup>31</sup>

While less restrictive regulations have been adopted in some communities, many local governments still make it difficult for SROs to operate legally. For example, a New York City law that went into effect on May 1, 2011, bans apartment rentals for less than 30 days, effectively outlawing SROs and long-stay hotels.<sup>32</sup> Where they are allowed, long-stay hotels are increasingly occupied by families who cannot afford the security and rent deposit for an apartment, and do not want the long-term financial commitment of an apartment lease. They have kitchens (or “kitchenettes,” a refrigerator and a stove) and effectively function as apartments.

**Rental Vouchers.** Increasing home ownership as a percentage of housing stock should not be considered a panacea for improving living standards for the poor. Removing the tie between location and subsidies would help to increase the choice set for lower-income families and individuals regardless of their status as homeowners or renters. One way to extend choice is to allow means-tested individuals meeting certain requirements to apply for funds to finance rentals in a larger selection of private rental markets.

The current subsidy for private housing is still tied to the qualifying landlord. Working with landlords might increase variety, but it does not target the individual as Enterprise Programs do. The current system fixes the housing expenditures of subsidized

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households at 30 percent of income. If they earn more (less), they pay more (less). However, the program limits choice of the housing units themselves. Tying the subsidy to the individual rather than the unit would make landlords compete for their rental payment. Improved incentives would make landlords more responsive to the individual and help to increase responsiveness to the occupant's needs and preferences.

Today, vouchers are limited to rent, but if qualifying low-income families were also allowed to apply the subsidy toward a down payment on a home, they would have even more choices.<sup>33</sup>

## Conclusion

Improving housing options for low-income households is not an intractable problem, but it has not been a priority for policymakers. The central problem is identified as restrictions on household choice. As with all policy evaluation, responding to consumer choice is an important measure of success. The persistence of the access problem emanates from policy designed to protect the middle-income household's property value. Enterprise Programs would promote better outcomes by targeting regulatory relief to improve the housing options available to poorer households.

## Policy Recommendations

Policymakers should consider the following recommendations to help make housing more affordable:

- ⇒ Allow new developments and infill housing on smaller lots and with less square footage.
- ⇒ Allow manufactured home developments in urban and suburban areas.
- ⇒ Expand the choice of allowable building materials to include alternatives, such as cargo containers, portable schoolrooms and concrete.
- ⇒ Encourage the transfer of empty residential lots and property with dilapidated structures to private developers and owners through local tax auctions and urban homesteading programs.
- ⇒ Allow homeowners to build and rent accessory apartments.
- ⇒ Allow single resident occupancy and long-stay hotels.
- ⇒ Allow vouchers to be used toward the down payment on a home as well as rent.
- ⇒ Consider innovative approaches to financing and sharing risk of homeownership between the institution providing the loan and the individual homeowner by allowing for partial equity ownership.

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1. Gordon M. Fisher, "The Development of the Orshansky Poverty Thresholds and Their Subsequent History as the Official U.S. Poverty Measure," U.S. Census Bureau, 1992. Available at <http://www.census.gov/hhes/povmeas/publications/orshansky.html>.
  2. "Poverty Threshold," U.S. Census Bureau, 2010. Available at <http://www.census.gov/hhes/www/poverty/data/threshld/index.html>.
  3. For a detailed discussion see page 108, in Donald J. Hernandez, Nancy A. Deton and Victoria L. Blanchard, "Children in the United States of America: A Statistical Portrait by Race-Ethnicity, Immigrant Origins, and Language," *Annals of the American Academy of Political and Social Science*, Vol. 633, No. 1, 2011, pages 102-127. Also see page 143 in Amy M. Burdette, Terrence D. Hill and Lauren Hale, "Household Disrepair and the Mental Health of Low-Income Urban Women," *Journal of Urban Health: Bulletin of the New York Academy of Medicine*, Vol. 88, No. 1, February 2011, pages 142-153, and page 146 in John Holahan, "The 2007-09 Recession And Health Insurance Coverage," *Health Affairs*, Vol. 30, No. 1, January 2011, pages 145-152.
  4. Created using data from: "Rental Housing Market Condition Measures: 2009," U.S. Census Bureau, October, 2010. Available at <http://www.census.gov/prod/2010pubs/acsbr09-7.pdf>. All included are defined by the census areas.
  5. "Rental Housing Market Condition Measures: 2009," U.S. Census Bureau.
  6. Stuart S. Rosenthal, "Old Homes, Externalities, and Poor Neighborhoods. A Model of Urban Decline and Renewal," *Journal of Urban Economics*, Vol. 63, No. 3, May 2008, pages 816-840.
  7. Tina Lam and Kristi Tanner-White, "High Lead Levels Hurt Learning for DPS Kids," *Detroit Free Press*, May 16, 2010. Available at <http://www.freep.com/article/20100516/news01/5160413>.
  8. For example, Kim Horner, "Thousands expected to seek rental vouchers as Dallas Housing Authority accepts first applications since 2006," *Dallas Morning News*, April 6, 2011. Available at <http://www.dallasnews.com/news/community-news/dallas/headlines/20110406-thousands-expected-to-seek-rental-vouchers-as-dallas-housing-authority-accepts-first-applications-since-2006.ece>. See also, Kim Horner, "Dallas Housing Authority: 15,000 vouchers applications 'irretrievably lost' in website snafu," *Dallas Morning News*, April 7, 2011. Available at <http://www.dallasnews.com/news/community-news/dallas/headlines/20110407-dallas-housing-authority-15000-voucher-applications-irretrievably-lost-in-website-snafu.ece>.
  9. "HUD's Public Housing Program," U.S. Department of Housing and Urban Development. Available at [http://portal.hud.gov/hudportal/HUD?src=/topics/rental\\_assistance/phprog](http://portal.hud.gov/hudportal/HUD?src=/topics/rental_assistance/phprog).
  10. Gregory A. Byrne, Kevin Day and James Stockard, "Taking Stock of Public Housing," U.S. Housing and Urban Development, September 16, 2003. Available at <http://www.hud.gov/offices/pih/programs/ph/am/docs/harvcs-tkstk.doc>.
  11. Ruth A. Lindberg et al., "Housing Interventions at the Neighborhood Level and Health: A Review of the Evidence," *Journal of Public Health Management & Practice*, Vol. 16, No. 5, September/October 2010, pages S44-S52.
  12. David Varady and Carole C. Walker, "Case Study of Section 8 Rental Vouchers and Rental Certificates in Alameda County, California: Final Report," October 2000. Available at <http://www.huduser.org/publications/pdf/alameda.pdf>.
  13. According to U.S. Census table number 977 there were 130.113 million units in 2009 of which 18.815 million were vacant (14.143 million for a whole year).
  14. George W. Bush, "President Calls for Expanding Opportunities to Home Ownership: Remarks by the President on Homeownership," June 2002. Available at <http://georgewbush-whitehouse.archives.gov/news/releases/2002/06/20020617-2.html>.

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15. "Demographia Land & Regulation Cost Index: New 2,150 Square Foot Detached House," Table 2. Available at <http://www.demographia.com/dri-full.pdf>.
16. For example, see Rémy Prud'homme and Chong Wong Lee, "Size, Sprawl, Speed and the Efficiency of Cities," *Urban Studies*, October 1999. Available at <http://usj.sagepub.com/content/36/11/1849.abstract>.
17. James Franko, "Barriers to Affordable Housing," National Center for Policy Analysis, Brief Analysis No. 680, December 1, 2009. Available at <http://www.ncpa.org/pub/ba680>.
18. Jenny Schetz, Rachel Meltzer and Vicki Been, "Silver Bullet or Trojan Horse? The Effects of Inclusionary Zoning on Local Housing Markets in the United States," *Urban Studies*, Vol. 48, No. 2, pages 1-33.
19. An example of such evidence: William H. Rogers, "A Market for Institutions: Assessing the Impact of Restrictive Covenants on Housing," *Land Economics*, Vol. 82, No. 4, November 2006.
20. James Franko, "Barriers to Affordable Housing."
21. Kevin M. Simmons and Daniel Sutter, "Tornado Shelters and the Manufactured Home Parks Market," *Natural Hazards*, Vol. 43, No. 3, May 2007, page 365-378.
22. John C. Goodman, "Aid to Katrina Victims: A Right/Left Consensus," National Center for Policy Analysis, Brief Analysis No. 529, September 23, 2005. Available at <http://www.ncpa.org/pub/ba529>.
23. Lee Anne Fennell, "Homeownership 2.0," *Northwestern University Law Review*, Vol. 102, No. 3, page 1,047.
24. James Franko, "Barriers to Affordable Housing."
25. Katherine Lackey, "Shipping Containers Become Distinctive Housing on Land," *USA Today*, July 14, 2009. Available at [http://www.usatoday.com/money/economy/housing/2008-07-14-shippingcontainers\\_N.htm#](http://www.usatoday.com/money/economy/housing/2008-07-14-shippingcontainers_N.htm#).
26. For examples of container homes, see <http://weburbanist.com/2008/05/26/cargo-container-homes-and-offices/>.
27. James Franko, "Barriers to Affordable Housing."
28. Roy Appleton, "New class of housing," *Dallas Morning News*, April 7, 2011.
29. Howard Husock, "Repairing the Ladder: Toward a New Housing Policy Paradigm," Reason Foundation, Policy Study No. 207, July 1996.
30. U.S. Housing and Urban Development, "Accessory Dwelling Units: Case Study," Office of Policy Development and Research, June 2008. Available at <http://www.huduser.org/portal/publications/adu.pdf>.
31. Howard Husock, "Repairing the Ladder: Toward a New Housing Policy Paradigm."
32. Bruce Golding, "Upper West Side Building Owners File Suit over New SRO Law," *New York Post*, February 26, 2011. Available at [http://www.nypost.com/p/news/local/manhattan/bid\\_to\\_flip\\_flop\\_cheap\\_apartment\\_law\\_D5adQI4R4OPaTXtjHMwZVJ](http://www.nypost.com/p/news/local/manhattan/bid_to_flip_flop_cheap_apartment_law_D5adQI4R4OPaTXtjHMwZVJ).
33. Joe Barnett and Pamela Villarreal, "Housing for Hurricane Victims," National Center for Policy Analysis, Brief Analysis No. 533, October 6, 2005. Available at <http://www.ncpa.org/pub/ba533>.
34. "Median and Average Sales Prices of New Homes Sold in United States," U.S. Census Bureau. Available at <http://www.census.gov/const/uspricemon.pdf>.
35. U.S. Census Bureau, median gross rent is included for comparison.

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## Increasing Access to Health Care

By Shirley Svorny, California State University, Northridge  
and Devon M. Herrick, National Center for Policy Analysis

Poor people often have difficulty accessing good health care. They tend to live in areas underserved by physicians and medical facilities, and have problems that make them unable to pay for care. More often than the general population, they distrust hospitals, delay treatment and do not follow care instructions. In addition, they are disproportionately affected by chronic illnesses, including heart disease and diabetes.<sup>1</sup>

Though federal, state and local governments subsidize some health care services for the poor, government regulations raise the cost of medical care delivered by public programs and private providers. Regulations also limit service availability.

Regulatory relief is the key to increasing access to health care for underserved and low-income consumers. If health care providers serving these individuals were exempted from state and federal regulations that dictate how care must be provided, it would lower the costs of services. Additionally, more health care providers would be attracted to medically underserved areas and populations if they were free to change services to make them more accessible and affordable. This is particularly important in rural areas, for the uninsured and for illegal immigrants with few legal health care options.



## Government Efforts to Increase Access to Care

There are many state and federal programs that attempt to solve the problem of limited access to care.<sup>2</sup> Nevertheless, many individuals remain unserved or underserved.

**Medicaid.** Medicaid provides medical, and in some cases dental, insurance for individuals who are poor or disabled, with funds from the federal government and the states.<sup>3</sup> But low reimbursement rates in some states make it hard for patients to find a primary care physician.<sup>4</sup>

**Financial Incentives to Health Care Professionals.** State and federal governments offer health care providers bonuses and education loan repayment to attract them to underserved areas. For example, in Health Professional Shortage Areas the federal government offers a 10 percent bonus to physicians to serve Medicare participants.<sup>5</sup> However, two studies have found the bonuses are not sufficient to attract physicians to work in rural areas.<sup>6</sup>

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Some states and the U.S. Department of Health and Human Services' National Health Service Corps offer scholarships and loan repayment to physicians, nurse practitioners, physician assistants and certified nurse midwives willing to practice in underserved areas.<sup>7</sup>

**Community Health Workers.** Federal and state governments fund community health workers in states with underserved and remote populations. Community health workers improve access to care by serving as intermediaries between patients and health care providers. They translate, counsel, educate, refer and provide some direct services, such as blood pressure screening.

In Alaska, for example, villages select individuals to be trained as community health aides. Once trained, they refer patients to midlevel clinicians and physicians, regional hospitals and the Alaska Native Medical Center.<sup>8</sup> There is some empirical evidence linking community health workers to positive health outcomes in low-income and minority populations.<sup>9</sup>

**Community Health Centers.** Federally Qualified Health Centers (FQHC) and so-called FQHC Lookalikes are community health centers that receive federal grants. Funding for these centers has more than doubled in the last decade. Community health centers make extensive use of nonphysician clinicians including nurse practitioners, physician assistants and nurse midwives.<sup>10</sup> The clinicians who serve areas or populations the federal government has designated as Medically Underserved are eligible for enhanced Medicare and Medicaid reimbursement, among other benefits.<sup>11</sup> Rural Health Clinics that meet federal requirements also qualify for extra reimbursement. They must use a team approach, using both physicians and nonphysician clinicians to provide care.

**Critical Access Hospitals.** Rural populations are often poor, covered only by Medicaid, and have access only to a federally funded critical access hospital. Doctors who serve such rural populations are usually employees of these facilities. Medicare's Rural Hospital Flexibility Program subsidizes Critical Access Hospitals for emergency care in rural areas. Given the difficulty of attracting physicians to rural areas, Medicare allows nonphysician clinicians to staff these facilities, supervised remotely by a physician. The nonphysician clinician may be a physician assistant, nurse practitioner, clinical nurse specialist and in some cases, a nurse. Most states with large rural populations allow this type of set-up, but some states still do not allow nonphysician clinicians to work without a physician on site.

**Telemedicine.** Federal funds have been allocated to telemedicine as a way of getting care to rural populations. For example, the Federal Communications Commission funds the California Telehealth Network, which is designed to connect providers in rural and underserved areas to a broadband network that will be used exclusively for health care.

However, broadband access alone is insufficient, as there must be clinicians at the other end. For instance, clinic managers in California's medically underserved San Joaquin Valley have difficulty finding specialists willing to treat their predominantly Medicaid-insured patients, given Medi-Cal's low reimbursement rates.<sup>12</sup>

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**Increasing the Number of Health Professionals.** International medical graduates have been recruited by state and federal agencies to fill the gap in communities where physician-population ratios are low. States use the J-1 Visa waiver program to attract international medical graduates, as does the National Health Service Corps.<sup>13</sup> Also, state medical schools have been given the task of increasing the number of graduating physicians who practice within the state. Many programs now screen applicants in search of individuals likely to serve rural or otherwise disadvantaged populations, and some have been successful.<sup>14</sup>

## Who Provides Care?

One of the goals of the Patient Protection and Affordable Care Act (ACA) is to increase the number of individuals covered by private health insurance or enrolled in public health programs like Medicaid. This will significantly increase demand for primary care physicians. On average, the newly insured will nearly double their consumption of health care.<sup>15</sup> According to the *Journal of the American Medical Association*, there are 778,000 practicing doctors in the United States.<sup>16</sup> Just under half of them are primary care physicians. Before passage of the ACA in 2010, the Association of American Medical Colleges estimated that an additional 45,000 primary care physicians would be needed by 2020 to keep up with demand. But many patients already experience difficulty accessing primary care, particularly low-income individuals and families.

**Midlevel Clinicians.** In 2004, in addition to physicians (M.D.s and D.O.s), there were more than 240,000 advanced practice nurses and 60,000 physician assistants working in the United States.<sup>17</sup> Studies suggest nonphysician clinicians can competently provide from 60 percent to 90 percent of primary care.<sup>18</sup> Nurse practitioners and physician assistants have more medical training than registered nurses and are able to deliver some routine medical care without the direct supervision of a physician, including: prescribing or renewing prescriptions for most drugs, ordering blood tests, performing routine medical examinations, monitoring chronic conditions, counseling patients about prevention, and treating colds, sore throats and the flu.

Despite the emphasis on primary care in their education, many physician assistants work in specialty practices that are not specifically licensed by the states.<sup>19</sup>

**Nurses and Other Caregivers.** Based on 2004 data, there were 2.9 million registered nurses (RNs) in the United States, including those in advanced practice, and about 750,000 licensed practical and vocational nurses (LPNs and LVNs). In addition, there are millions of unlicensed aides and orderlies holding a variety of certifications.<sup>20, 21</sup> For example, emergency medical services (EMS) employ many trained professionals and volunteers who can competently provide care. The EMS workforce in the United States includes approximately 600,000 emergency medical technicians (EMTs), 142,000 paramedics and more than 1 million firefighters (many of whom are cross-trained in EMS). EMS providers include First Responders who have about 40 hours of training, EMT-Basics who have about 110 hours of training, EMT-Intermediates who have about 200-400 hours of training, and Paramedics who have

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1,000 or more hours of training.<sup>22</sup> Certification and scope of practices varies from region to region. Additionally, there are military-trained medics, some of whom seek civilian certifications, although state agencies often don't recognize their service training.<sup>23</sup>

## Barriers to Increasing Health Care Access

Unfortunately, government policies artificially increase demand, raise costs, and limit the availability of care to the poor. Tax subsidies to employer-provided health plans encourage the purchase of policies with low copays. The result is increased consumption, some of which may be attributed to physician-induced demand. Regulations restrict the number of health care facilities and limit who can provide health care. These factors drive the cash price of health care higher than it otherwise would be. As a result, the working poor who do not qualify for Medicaid or employer-sponsored coverage have difficulty paying for the health care that is available.

**Barrier to Care: Restrictions on Physicians.** Medical licensure for physicians is highly restrictive. A physician must go through an expensive and time consuming process to be licensed in another state. By contrast, Certified Public Accountants are not licensed, but are certified by a private organization and are able to practice in any state.

Many states have restrictions on telemedicine that make it illegal for a physician in one state to consult with a patient in another state without an initial face-to-face meeting. It is also illegal in most states for a physician who has examined a patient from another state to continue treatment of the patient via the Internet. Unless the physician is licensed in the state where the patient resides, he or she may be considered to be practicing medicine without a license.<sup>24</sup>

**Barrier to Care: Restrictions on Nonphysician Clinicians.** Numerous studies have found that the cost of care patients receive from nonphysician clinicians such as nurse practitioners and physician assistants is much lower than the same services performed by a physician, but that the quality is the same.<sup>25</sup>

Unfortunately, nonphysician clinicians are severely restricted in the duties they can perform. For example:

- ⇒ Many states do not allow nurse practitioners to practice independent of physician oversight or collaboration.<sup>26</sup>
- ⇒ About a dozen states still do not allow nurse practitioners to prescribe Schedule II controlled substances, such as morphine and oxycodone. Alabama and Florida do not allow nurse practitioners to prescribe any controlled substances.<sup>27</sup>

In addition, no state allows physician assistants to practice independently, although it is not uncommon for physician assistants to have relative autonomy, conferring with a supervising physician as necessary. As is the case for nurse practitioners, about a dozen states do not allow physician assistants to prescribe Schedule II drugs. The state of Kentucky does not allow physician assistants to prescribe any controlled substances.<sup>28</sup>

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**Barrier to Providing Care: Unnecessary Credentials.** Midlevel medical professions have successfully raised barriers to entry by increasing the amount of education required to obtain a license. For example, some states require new nurse practitioners to obtain a graduate degree. In many instances, the health professions are able to impose higher education requirements (which necessarily raise the cost of education and training) because state licensing laws require individuals to have graduated from accredited training programs, and professional organizations control the accrediting process. Consumers are worse off as a result, particularly those in underserved areas. For example, it does not require an advanced practice nurse, audiologist, or physical therapist with a clinical doctorate to deliver most health care services, but the accrediting organizations have moved in this direction. Opportunities to increase one's scope of practice through on-the-job training and experience are generally missing in the U.S. health care system, although they are keys to success in nearly every other industry.

**Barrier to Providing Care: American Medical Association Reimbursement Codes.** In a process called regulatory capture, organized special interests use the regulatory apparatus to further their own interests.<sup>29</sup> Codes used to determine the reimbursement of health care providers are controlled by the American Medical Association (AMA), which has little interest in designing codes for alternative providers or the use of productivity improving technology, such as e-mail and phone access to physicians or advance practice nurses.<sup>30</sup>

For example, the Current Procedural Terminology (CPT) codes that federal and state programs use to reimburse health care professionals, are controlled by the AMA and restrict who can be reimbursed for performing a given procedure. This has limited the reimbursement of nonphysician clinicians, reducing their ability to contribute to improved patient health. An improved system of codes would both document the contributions of nonphysician clinicians and allow an analysis of their impact on medical outcomes.<sup>31</sup>

Codes also do not reimburse practices for communicating with patients by e-mail. This provides little incentive for medical practices to adopt this efficiency enhancing technology. When Kaiser Permanente gave e-mail access to their patients in Hawaii, office visits fell by 25 percent.<sup>32</sup>

**Barrier to Care: Hospital Associations.** Hospital associations have been equally successful in influencing public policy, limiting competition to protect their market power. State-level certificate-of-need programs were promoted as a way to avoid duplication and save money, but they made it hard to compete with existing facilities. Hospital lobbyists have successfully limited the growth of specialty hospitals that produce efficiencies by focusing on a particular service.<sup>33</sup> State and federal tax codes favor not-for-profit hospitals with tax exemptions that are not available to for-profit entrepreneurs.

**Barrier to Care: Restrictions on Physician-Owned Hospitals.** The 2010 Patient Protection and Affordable Care Act permanently bans new physician-owned hospitals, even though for-profit hospitals are more likely to come up with innovative, efficiency improving ways to restructure services.<sup>34</sup>

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**Barrier to Care: State and Federal Laws Inhibiting Beneficial Collaboration.** A U.S. physician practice could easily provide doctor visits in a traditional office, coupled with chronic disease management services from a foreign doctor (by telephone or e-mail) and tests done at a convenient retail clinic, when needed. Yet this service could run afoul of the so-called Stark laws. The federal Stark laws make it illegal for a physician to refer a patient for treatment to a clinic in which the doctor has a financial interest. Nor may a physician reward providers who refer patients to him or to a hospital in which he has a financial interest.

Unfortunately, laws meant to prevent self-dealing and kickbacks also inhibit beneficial collaboration between doctors and hospitals. For instance, the Stark laws could prevent a physician practice from referring a patient with a chronic condition to an affiliated disease management program or prevent him from referring a patient needing minor treatment to an affiliated walk-in clinic.

By limiting compensation arrangements for referrals and collaboration, the Stark laws tend to result in rigid physician group practices that are not particularly convenient or economical for patients.

**Barrier to Care: State Restrictions on the Employment of Doctors.** About one-third of the states have laws banning the “corporate practice of medicine,” which prevent corporations from hiring physicians to practice on their behalf.<sup>35</sup> The implication is that a corporate employer might exert undue pressure to skimp on quality in order to increase or preserve profits. These laws ostensibly aim to ensure the quality of medical care, but in practice they inhibit innovative service arrangements.<sup>36</sup> For example, in many states a company may not establish a chronic disease management service and hire physicians to monitor clients.

One-third of the states have passed laws allowing some firms (such as hospitals and health plans) to hire physicians directly to practice on their behalf. In the rest of the states, the laws are either unclear or appear to support or restrict the practice to varying degrees.<sup>37</sup>

## Are These Regulations Necessary?

It is often claimed that medical professions and health care delivery should be highly regulated in order to protect patient health and safety. It is argued that health care is highly technical, consumers are not equipped to judge quality and patients are especially vulnerable and require special protection. Are these concerns valid?

**Does Health Care Require More Regulation than Other Goods?** If there is an economic argument for government intervention in health care, it rests on the idea that consumers cannot identify quality and need assistance. Not everyone buys that premise. In fact, economists who have examined the market for physician services argue that licensing constrains the efficient combination of inputs, limits innovation in how care is provided, and limits innovation in medical education.<sup>38</sup> Of the major health economics textbooks, only one is on the fence with respect to the negative impact of

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medical professional licensing.<sup>39</sup> A 1963 paper by economist Kenneth Arrow argued for state intervention to offset an information disadvantage consumers have when they buy health care.<sup>40</sup> However, Arrow questioned the ability of state medical boards to assure quality. He acknowledged that existing laws only guaranteed initial training, not continued competence. He was troubled that licensing laws limited the variation in quality that some consumers might prefer. Furthermore, he acknowledged that licensing restricted the supply of medical care. He pointed out the inefficiencies of state laws:

The licensing laws...exclude all others from engaging in any one of the activities known as medical practice. As a result, costly physician time may be employed at specific tasks for which only a small fraction of their training is needed, and which could be performed by others less well trained and therefore less expensive.<sup>41</sup>

Clearly Arrow's position is not a defense of stringent licensing, as it is often cited.

**Quality Assurance in Health Care.** Many people think that state medical licensing boards are necessary to assure health care quality. Thus, they oppose allowing individuals to take on more tasks, even as their experience and skills increase. But there are other ways to assure quality in health care.<sup>42</sup>

Consumers use private information in selecting health care providers and they would do well under a less restrictive system.<sup>43</sup> Consumers rely on hospital and Health Maintenance Organization (HMO) brand names. When hospitals with strong reputations confer credentials and privileges on particular physicians, consumers count on those physicians' specialty and skills. Health maintenance organizations and other health insurers must also credential physicians in their provider networks to avoid serious liability for adverse events. Most hospitals and HMOs make sure that physicians have medical malpractice insurance which provides yet another level of oversight. Consumers also rely on referrals from other practitioners, friends and family.

Oversight of medical practices actually occurs at the point of care. Hospitals check out every person they hire to make sure their training, experience and skills match the tasks they will be permitted to attempt. Hospitals, health care providers and medical malpractice underwriters have substantially more information about individual practitioners than can be gleaned by relying on state licensing.

Medical professional liability insurance underwriters scrutinize physicians and other clinicians they insure. One way to be sure a clinician has the requisite skills is if she carries malpractice insurance that covers the procedures she performs. If consumers relied on medical malpractice underwriting — which negotiates restrictions on practice for clinicians with problematic records — instead of state licensing, consumers would actually have a greater level of protection.<sup>44</sup>

Medical professional licensing and scope-of-practice rules discourage or prohibit productivity-improving innovations in medical education and health care delivery.<sup>45</sup>

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Ending state licensing and scope-of-practice restraints would improve access to care by allowing more individuals to use the skills they learn on the job. We know that many nurse practitioners and physician assistants, trained in primary care, end up working in a specialty field for which they have no formal training. Their success in doing so suggests that the protections are not coming from licensing but from concerns, oversight and liability at the point of care.

**The Role of Competition.** State laws and regulations make it very difficult to innovate in providing health care. In other sectors of the economy, regulation is not as prevalent. For example, Wal-Mart has done wonders for families who are poor. Thanks to Wal-Mart's lower prices, families who are poor save hundreds to thousands of dollars a year on everyday purchases. But if state governments regulated product distribution the way they regulate medical care, Wal-Mart never could have put in place the innovations that made its distribution network efficient.

Wal-Mart's success can also be attributed to the fact that consumers were free to leave their old providers and patronize Wal-Mart. If retail purchases were paid for the way much of health care is paid for, with reimbursement for purchases limited to existing state-approved providers, Wal-Mart never could have brought its cost-saving innovations to the retail market.

Finally, the profit motive is important. Wal-Mart was not the only firm trying to improve customer service, but it has been most successful in the ongoing competition to attract customers to retail stores. Looking at the bottom line in an effort to increase profitability forces firms to consider how to lower costs or improve the quality of their product.

In health care, providers fail to innovate because they are protected from the competition of pioneering entrepreneurs. Reimbursement is tied to existing methods of providing care, leaving little incentive to improve existing practices.

## **Solutions for Medically Underserved Populations**

Some federal and state programs that subsidize providers in poor communities allow nurse practitioners and others to perform more primary care tasks. There have been some private sector innovations such as miniclinics located in retail stores, but much more is possible.

The key to expanding access to care is to free medically underserved populations from regulations that limit access to care. The criteria for allowing providers to operate free of many regulations could be one that is already in place: the federal government's criteria for Medically Underserved Areas (MUAs) and Populations (MUPs), based on the Index of Medical Underservice (IMU).<sup>46</sup> The IMU involves four variables — ratio of primary medical care physicians per 1,000 population, infant mortality rate, percentage of the population with incomes below the poverty level, and percentage of the population age 65 or over.

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Some of these areas may include communities, as in California, that have large numbers of illegal immigrants. Without regulatory reform, individuals in these communities must rely on underground care providers. Alternatively, sick individuals show up at emergency rooms when their illness has become severe enough to require hospital treatment.

Following are examples of the kinds of constraints that should be lifted.

**Make Scope-of-Practice Regulations Less Restrictive.** One way to increase access to care is to exempt nurse practitioners, physician assistants, nurse midwives and other midlevel clinicians from state laws that limit their scope of practice if they serve low-income or rural populations. Studies have demonstrated that there are no adverse effects, and even some beneficial effects, in allowing nurse practitioners to provide primary care to underserved populations.<sup>47</sup>

Some states with large underserved populations have legislatively expand the scope of practice of nonphysician clinicians, increasing the autonomy of advanced practice nurses, including nurse practitioners and nurse midwives.<sup>48</sup> They allow health care professionals to provide primary care and prescribe certain drugs independent of physician supervision. Numerous studies suggest they are very effective substitutes for physicians in this capacity, yet in many states it remains illegal for them to provide care independent of physician oversight.<sup>49</sup>

For example, in order to better serve its rural populations, Alaska has set aside licensing laws that in other states restrict access to care. Dental health aid therapists, for instance, practice in remote areas where dentists rarely visit. The allowable scope of practice can be rewritten by the supervising dentist as therapists become more knowledgeable and gain skills through continuing education.<sup>50</sup>

*Dental Services.* Researchers considering the challenge of getting oral health services to individuals in rural and institutional settings in the United States have proposed new roles for existing health care providers, such as expanding the role of dental hygienists in providing care. They also advocate new education and workforce models to include new types of providers — such as dental health aid therapists and dental therapists.<sup>51</sup> To expand access to preventative care, they suggest reimbursing physicians, nurse practitioners and physician assistants who apply fluoride varnishes during well-child exams.

*Pharmacists.* Expanding the scope-of-practice of pharmacists would also increase access to services in medically underserved communities. In 2007 the U.S. Food and Drug Administration proposed adding a new class of behind-the-counter drugs consumers could buy after consultation with a pharmacist, including drugs for migraine headaches and drugs to improve cholesterol levels. Other countries, including Britain, already use this system to dispense drugs that do not require sophisticated diagnosis and prescription. Pharmacists could also counsel patients with chronic diseases on appropriate drug use and disease management. For instance, most states already allow pharmacists to initiate and monitor drug therapy for diabetics.<sup>52</sup> Allowing these services in all underserved communities could lower costs and increase access to care.

**Reform Education and Training Requirements.** State education and training requirements are stricter than necessary. An exemption from state laws in medically underserved communities would encourage innovative education and training programs,

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and increase the supply of health care providers. Current state-level efforts to dictate the training and curricula for community health workers are likely to move us in the wrong direction and should be evaluated in terms of the impact on access to care.<sup>53</sup> The attributes that make these individuals helpful in improving health outcomes in underserved communities may be lost with standardization in required education or training.

For example, some clinic-based programs recruit community health workers from among their patients who, despite their lack of formal training, have much to contribute. *Health* is the goal, not health *care*. Community health workers and others can contribute by monitoring individuals with chronic conditions and making sure they have access to medication before they end up in the hospital.

**Encourage Alternatives to Traditional Providers.** Traditional providers cannot afford to practice in rural or poor communities. The use of alternative providers should be encouraged, and regulations that constrain alternative methods of providing care should be lifted in medically underserved areas. For example, mobile health clinics, such as Chicago's Asthma Vans, focus on a particular service and bring it to consumers. The critical component in getting the best care is to give consumers some choice.

If providers who serve individuals in medically underserved areas were exempted from some state laws and regulations, patients would have more options and be more likely to get the care they need. This could prevent many unnecessary visits to the emergency room. Moreover, the type of lifestyle changes that community health clinics encourage are likely to have a much bigger effect on health in underserved communities than a brand new critical care hospital.

**Expand Retail Clinics.**<sup>54, 55</sup> Walk-in clinics are small health care centers located inside big-box retailers, pharmacies or strip shopping center storefronts. The consulting firm Deloitte estimates there are 1,100 to 1,200 retail clinics currently, and the number is likely to grow to 3,200 by 2014. Prices are often only half that of traditional medical practices. The clinics are staffed by nurse practitioners and offer a limited scope of services. Services are reimbursed by most health plans, but about one-third of patient visits are paid out-of-pocket. Many of these cash-paying patients are uninsured.

State officials and local zoning authorities must license a facility, but some local representatives are opposed to retail clinics, making growth difficult.<sup>56</sup> For example, Massachusetts health officials were opposed to plans to open MinuteClinics in the Boston area and actively tried to prevent the clinics from opening.<sup>57</sup> In an interview, the Director of Communications for the Boston Public Health Commission reported that the organization's board was exploring ways to limit the presence of retail clinics and whether the city has authority to do so. The official called the clinics "unsafe" and "ill-equipped to monitor community health needs."<sup>58</sup>

Retail clinics also often have a hard time meeting licensing requirements, because some states require amenities that make it cost prohibitive to operate a retail clinic. In Massachusetts, regulations for clinics require a separate entrance for patients, handwashing stations in patient bathrooms, minimum size requirements for exam rooms, an area for storing dirty linens and a separate reception desk.<sup>59</sup> In addition, clinics must have blood collection facilities even though MinuteClinics do not treat conditions requiring blood tests.<sup>60</sup>

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**Health Stamps.** Medicaid recipients should be given funds to cover the cost of preventative care and allowed to choose where they want to buy services. Like food stamps, funds could be accessed through a health debit card. What they do not spend on preventative care could be applied to the purchase of other health care services, giving recipients an incentive to shop around for care. Consumer shopping would create incentives for facilities to experiment with forms of delivery, locations and hours. Medicaid patients should be allowed and encouraged to purchase care from for-profit entities, so that entrepreneurs have an incentive to invest in innovative methods of service.<sup>61</sup> This might lead to greater use of for-profit innovations such as retail clinics.

**For-Profit Hospitals.** In Southern California, Prem Reddy has taken stage as an innovative health care entrepreneur.<sup>62</sup> In hospitals he has taken over, he has eliminated some expensive services.<sup>63</sup> He has changed how health personnel are employed, taken steps to assure patients are discharged as soon as it is medically appropriate and reconfigured systems to make services more convenient. His efforts have kept hospitals open, improving access to care in the communities where they are located. Critics lament the focus on profit-generating services, but forcing hospitals to provide every service makes hospital care expensive.<sup>64</sup>

**Alternative Reimbursement Codes.** State Medicare and Medicaid providers who serve low-income populations should be allowed to use direct reimbursement codes that differ from those mandated by the U.S. Department of Health and Human Services.

At one time, states had the authority to design codes for their own use for Medicaid reimbursement. Alaska, for example, created reimbursement codes for behavioral health paraprofessionals who served rural populations. When the state codes were abolished in 2003, Alaska was allowed, on a test basis, to use a private coding system provided by ABC Coding Solutions. The state saved several million dollars, but was required to sunset the codes in favor of codes approved by the Department of Health and Human Services in January 2010.<sup>65</sup>

**Equivalent Reimbursement for Comparable Services.** Providers should be reimbursed based on the skill required to perform the service, rather than who performs it. This would encourage more efficient use of personnel.<sup>66</sup>

Restrictions on reimbursement to pharmacists for disease management in nonorganized systems and pharmacies reduce the incentives for, and availability of, pharmacists to provide these services. If the objective is to encourage innovations in the provision of care to underserved areas and populations, reimbursement must be more flexible and able to accommodate new ways of structuring and providing care. The beneficial side effect is that researchers will have data on exactly who is providing care and can evaluate the outcomes.

**Three-Year Medical Degrees.**<sup>67</sup> A number of medical schools are implementing three-year degree programs as an alternative to the traditional four-year program. A study from the Carnegie Foundation for the Advancement of Teaching recommends that all medical schools consider adding a three-year degree option.<sup>68</sup> Such programs could significantly reduce the cost of a medical education to students and medical schools, and would allow an increase in the number of doctors sooner rather than later.

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## Conclusion

If innovators were not constrained by regulations and reimbursement mechanisms that favor traditional means to deliver care, the availability of health care would increase and competition would lower prices.

## Policy Recommendations

The key to expanding access to care is to free medically-underserved populations — those in rural areas or in poor urban communities — from regulations that limit access to care. The kind of policies that should be considered include:

- ⇒ End many state licensing and scope-of-practice restraints.
- ⇒ Allow nonphysician clinicians to perform more duties without physician supervision.
- ⇒ Promote innovation in medical education, including three-year medical degrees.
- ⇒ Relax education and training requirements for professionals working with underserved populations.
- ⇒ Allow alternative reimbursement codes to include non-physician clinicians.
- ⇒ Reform the tax code so it does not favor nonprofit hospitals over private entities.
- ⇒ Expand alternatives to traditional providers, such as retail clinics.
- ⇒ Reform local zoning and licensing laws to allow retail clinics to offer a wider range of services.

By exempting providers who serve individuals in medically underserved areas from many state laws and regulations, patients would have more options and be more likely to get the care they need.

- 
1. Janice E. Hitchcock, Phyllis E. Schubert and Sue A. Thomas, *Community Health Nursing: Caring in Action*, 2nd edition (Clifton Park, New Jersey: Delmar Learning, 2003), page 698.
  2. U.S. Dept. of Health and Human Services, Health Resources and Services Administration, "Shortage Designation: HPSAs, MUAs & MUPs," May 28, 2010.
  3. On dental care, see Burton Edelstein, "The Dental Safety Net, Its Workforce, and Policy Recommendations for its Enhancement," *Journal of Public Health Dentistry*, Vol. 70, 2010, pages 32-39.
  4. Brent R. Asplin et al., "Insurance Status and Access to Urgent Ambulatory Care Follow-up Appointments," *Journal of the American Medical Association*, Vol. 294, No. 10, September 14, 2005, pages 1,248-54.
  5. Centers for Medicare and Medicaid Services, Medicare Learning Network, Health Professional Shortage Area (HPSA) Fact Sheet, ICN: 903196, March 2010; available at <http://www.cms.gov/MLNProducts/downloads/HPSAfactsht.pdf>.
  6. L. R. Shugarman and D. O. Farley, "Shortcomings in Medicare Bonus Payments for Physicians in Underserved Areas," *Health Affairs*, Vol. 22, No. 4, pages 173-178, 2003; U.S. Department of Health and Human Services, Office of Inspector General, "Medicare Incentive Payments in Health Professional Shortage Areas: Do They Promote Access to Primary Care?" OEI-01-93-00050, June 1994.
  7. Washington Higher Education Coordinating Board, "Health Professional Loan Repayment." Available at <http://www.hecb.wa.gov/paying/waaidprgm/HealthLoanRepayPage.asp>.
  8. Alaska Community Health Aide Program, "CHAP General Program Information and History." Available at <http://www.akchap.org/GeneralInfo.cfm>.
  9. U.S. Dept. of Health and Human Services, Health Resources and Services Administration, Bureau of Health Professions, "Community Health Worker National Workforce Study," March 2007; available at <ftp://ftp.hrsa.gov/bhpr/workforce/chw307.pdf>.
  10. U.S. Department of Health and Human Services, Health Resources and Services Administration, Bureau of Primary Health Care. Health Centers: America's Primary Care Safety Net, Reflections on Success, 2002-2007, Rockville, MD., June 2008.
  11. Rural Assistance Center, "FQHC Frequently Asked Questions." Available at [http://www.raconline.org/info\\_guides/clinics/fqhcfqaq.php#whatis](http://www.raconline.org/info_guides/clinics/fqhcfqaq.php#whatis).
  12. Diana Marcum, "Telemedicine Struggles in Central Valley amid Hope, Hardship," California Healthline, California HealthCare Foundation, June 7, 2010. Available at <http://www.californiahealthline.org/features/2010/telemedicien-struggles-in-central-valley-amid-hope-hardship.asp>.
  13. Keith M. Mueller, "The Immediate and Future Role of the J-1 Visa Waiver Program for Physicians; The Consequences of Change for Rural Health Care Service Delivery," Special J-1 Visa Waiver Program Task Force, Rural Policy Research Institute, pages 2002-2003, April 2002.
  14. H. K. Rabinowitz, "Recruitment, Retention, and Follow-up of Graduates of a Program to Increase the Number of Family Physicians in Rural and Underserved Areas," *New England Journal of Medicine*, Vol. 328, No. 13, pages 934-939, April 1, 1993.
  15. Jack Hadley and John Holahan, "Covering the Uninsured: How Much Would It Cost?" *Health Affairs*, Web Exclusive, June 4, 2003.
  16. Devon M. Herrick, "Critical Condition: Primary Care Physician Shortage," National Center for Policy Analysis, Brief Analysis No. 706, May 25, 2010. Available at <http://www.ncpa.org/pub/ba706>.
  17. Shirley Svorny, "Medical Licensing: An Obstacle to Affordable, Quality Care," Cato Institute, Policy Analysis No. 621, September 17, 2008. Available at [http://www.cato.org/pub\\_display.php?pub\\_id=9640](http://www.cato.org/pub_display.php?pub_id=9640).
  18. Harold C. Sox, Jr., "Quality of patient Care by Nurse Practitioners and Physician's Assistants: A Ten-Year Perspective," *Annals of Internal Medicine*, Vol. 91, No. 3, 1979, pages 459-468. Also, Julie A. Fariman et al., "Broadening the Scope of Nursing Practice," *New England Journal of Medicine*, Vol. 364, No. 3, January 20, 2011, pages 193-6; Institute of Medicine, *The Future of Nursing: Leading Change, Advancing Health*

- 
- (Washington, D.C.: National Academies Press, 2010.) And, Miranda Laurent et al., "Substitution of Doctors by Nurses in Primary Care," *Cochrane Database of Systematic Reviews*, 2005. Available at <http://onlinelibrary.wiley.com/doi/10.1002/14651959.cd001271>.
19. American Academy of Physician Assistants, "Issue Briefs: PAs and Specialty Practice." Available at <http://www.aapa.org/gandp/issuebrief/index.html>.
  20. Bureau of Labor Statistics, "Licensed Practical and Licensed Vocational Nurses," *Occupational Outlook Handbook, 2010-11 Edition* (Washington, D.C.: Government Printing Office, 2009). Available at <http://www.bls.gov/oco/ocos102.htm#emply>.
  21. "Unlicensed Assistive Personnel." Available at [http://en.wikipedia.org/wiki/Unlicensed\\_assistive\\_personnel](http://en.wikipedia.org/wiki/Unlicensed_assistive_personnel).
  22. National Association of Emergency Medical Technicians, "About EMS," 2008. Available at [http://www.naemt.org/become\\_a\\_member/careers/aboutems.aspx](http://www.naemt.org/become_a_member/careers/aboutems.aspx).
  23. Devon Herrick and Pamela Villarreal, "Health Care for Hurricane Victims," National Center for Policy Analysis, Brief Analysis No. 532, October 6, 2005. Available at <http://www.ncpa.org/pdfs/ba532.pdf>.
  24. Devon M. Herrick, "Convenient Care and Telemedicine," National Center for Policy Analysis, Policy Report No. 305, November 28, 2007. Available at <http://www.ncpa.org/pub/st305>.
  25. Judith Barberio, "Starting a Practice and Practice Management," in Luceille A. Joel, ed., *Advanced Practice Nursing*, 2nd ed. (Philadelphia: F.A. Davis Company, 2009).
  26. American College of Nurse Practitioners, "Nurse Practitioner Scope of Practice." Available at <http://www.acnpweb.org/i4a/pages/index.cfm?pageid=3465>.
  27. The Drug Enforcement Agency gives Schedule II status to drugs under the following conditions: "a high potential for abuse . . . a currently accepted medical use in treatment in the United States or a currently accepted medical use with severe restrictions [and] abuse of the drug or other substances may lead to severe psychological or physical dependence." 21 USC Sec. 812, available at <http://www.deadiversion.usdoj.gov/21cfr/21usc/811.htm>; State statistics are from Wesley Byrne, "U.S. Nurse Practitioner Prescribing Law: A State by State Summary," *Medscape Nurses*, November 2, 2010. Available at <http://www.medscape.com/viewarticle/440315>.
  28. American Academy of Physician Assistants, "Summary of State Laws for Physician Assistants." Available at <http://www.aapa.org/for-employers/state-laws-and-regulations/517-summary-of-state-laws-for-physician-assistants-abridged-version>
  29. George J. Stigler, "The Theory of Economic Regulation," *Bell Journal of Economics*, Vol.1, No. 2, Spring 1971.
  30. C. Chen et al., "The Kaiser Permanent Electronic Health Record: Transforming and Streamlining Modalities Of Care," *Health Affairs*, Vol. 28, No. 2, March/April 2009, pages 323-33.
  31. Letter from Sen. Trent Lott to HHS Secretary Tommy G. Thompson, July 27, 2001. Available at <http://www.aapsonline.org/medicare/lottcptletter.htm>. A 1997 federal appeals court decision found that the exclusive use of the AMA's CPT codes by Medicare gave the AMA an unfair advantage over competitors. Decision of the Ninth Circuit Court of Appeals, *Practice Management Information Corporation v. The American Medical Association*, Docket No. 94-56774, August 6, 1997. Available at <http://ftp.resource.org/courts.gov/c/F3/121/121.F3d.516.94-56774.html>.
  32. Catherine Chen et al., "The Kaiser Permanente Electronic Health Record: Transforming and Streamlining Modalities of Care," *Health Affairs*, Vol. 28, No. 2, March 2009, pages 323-33.
  33. Regina Herzlinger talks about hospital efforts to limit competition in her book, *Who Killed Health Care?* (McGraw-Hill, 2007).
  34. Kathryn Nix, "Side Effects: Physician-Owned Hospitals Face New Regulations, Limits on Growth," *The Foundry: Conservative Political News*, May 6, 2010. Available at <http://blog.heritage.org/2010/05/06/side-effects-physician-owned-hospitals-face-new-regulations-limits-on-growth/>. Rob Bluey, "Obamacare has

- 
- a Poison Pill for Doctor-Owned Hospitals," *Washington Examiner*, May 4, 2010. Available at <http://www.washingtonexaminer.com/opinion/columns/OpEd-Contributor/Obamacare-has-a-poison-pill-for-doctor-owned-hospitals-92705029.html>. Eric Zimmerman and Roger D. Strode, Jr., "CMS Proposes to Implement Physician-Owned Hospital Restrictions," posted to Health Care POV by Frank Irving, July 21, 2010. Available at [http://community.advanceweb.com/blogs/rs\\_2/archive/2010/07/21/cms-proposes-to-implement-physician-owned-hospital-restrictions.aspx](http://community.advanceweb.com/blogs/rs_2/archive/2010/07/21/cms-proposes-to-implement-physician-owned-hospital-restrictions.aspx).
- <sup>35</sup> For a discussion, see Devon M. Herrick, "Demand Growing for Corporate Practice of Medicine," *Health Care News*, Heartland Institute, January 1, 2006. Also see Mary H. Michal, Meg S.L. Pekarske, Matthew K. McManus and Reinhart Boerner Van Deuren, "Corporate Practice of Medicine Doctrine 50 State Survey Summary," National Hospice and Palliative Care Organization, September 2006. Available at: <http://www.nhpco.org/files/public/palliativecare/corporate-practice-of-medicine-50-state-summary.pdf>
- <sup>36</sup> Nicole Huberfeld, "Be Not Afraid of Change: Time to Eliminate the Corporate Practice of Medicine Doctrine," *Health Matrix*, Vol. 14, No. 2, 2004, pages 243-91.
- <sup>37</sup> Mary H. Michal, Meg S.L. Pekarske, Matthew K. McManus and Reinhart Boerner Van Deuren, "Corporate Practice of Medicine Doctrine 50 State Survey Summary," National Hospice and Palliative Care Organization, September 2006. Accessed at: <http://www.nhpco.org/files/public/palliativecare/corporate-practice-of-medicine-50-state-summary.pdf>
- <sup>38</sup> Shirley Svorny, "Do Economists Reach A Conclusion? Medical Licensing," *Econ Journal Watch*, Vol. 1, No. 2, August 2004, pages 279-305.
- <sup>39</sup> Charles E. Phelps, *Health Economics*, 4th ed., Addison Wesley, 2010.
- <sup>40</sup> Kenneth J. Arrow, "Uncertainty and the Welfare Economics of Medical Care," *American Economic Review*. Vol. 53, No. 5, 1963, pages 941-973.
- <sup>41</sup> Kenneth J. Arrow, "Uncertainty and the Welfare Economics of Medical Care," page 957, see footnote.
- <sup>42</sup> Shirley Svorny, "Medical Licensing: An Obstacle to Affordable, Quality Care."
- <sup>43</sup> Milton Friedman, *Capitalism and Freedom* (Chicago: University of Chicago Press, 1962); Shirley Svorny, "Medical Licensing: An Obstacle to Affordable, Quality Care."
- <sup>44</sup> Shirley Svorny, "Medical Malpractice Insurance Protects Consumers," Working Paper, 2010.
- <sup>45</sup> Shirley Svorny, "Licensing Doctors: Do Economists Agree?" *Econ Journal Watch*, Vol. 1, No. 2, August 2004, pages 279-305.
- <sup>46</sup> U.S. Department of Health and Human Services, "Shortage Designation: Medically Underserved Areas and Populations." Available at <http://bhpr.hrsa.gov/shortage/muaguide.htm>.
- <sup>47</sup> For citations to this literature, see Shirley Svorny, "Medical Licensing: An Obstacle to Affordable, Quality Care."
- <sup>48</sup> "Scope-of-practice laws and strict limits on the types of medical professionals allowed to practice independently pose a threat to retail clinics' growth." These walk-in clinics, which may be located in retail outlets such as Wal-Mart and Target, "are staffed by nurse practitioners and offer a limited scope of services." Devon M. Herrick, "Retail Clinics: Convenient and Affordable Care," National Center for Policy Analysis, Brief Analysis No. 686, January 14, 2010. Available at <http://www.ncpa.org/pdfs/ba686.pdf>.
- <sup>49</sup> For citations to empirical studies, see Shirley Svorny, "Medical Licensing: An Obstacle to Affordable, Quality Care."
- <sup>50</sup> Susan M. Skillman, Mark P. Doescher, Wendy E. Mouradian et al, "The Challenge to Delivering Oral Health Services in Rural America," *Journal of Public Health Dentistry*, Vol. 70, Pages 49-S57, 2010.
- <sup>51</sup> The *Journal of Public Health Dentistry* published an excellent special issue titled "Improving Oral Healthcare Delivery Systems through Workforce Innovations," Vol. 70, 2010. The objective was to "further develop ideas presented at the 2009 Institute of Medicine workshop." Elizabeth Mertz and Len Finocchio, "Improving Oral

- 
- Healthcare Delivery Systems through Workforce Innovations: An Introduction,” pages S1-S5; Susan M. Skillman et al., “The Challenge to Delivering Oral Health Service in Rural America,” pages S49-S57; Paul Glassman and Paul Subar, “Creating and Maintaining Oral Health for Dependent People in Institutional Settings,” *Journal of Public Health Dentistry*, pages S40-S48.
- <sup>52</sup> Kathleen Johnson and Shirley Svorny, “Why Shouldn’t Pharmacists Be Prescribers?” *Los Angeles Times*, October 22, 2007. Available at <http://articles.latimes.com/2007/oct/22/opinion/oe-svorny22>.
- <sup>53</sup> Marlynn L. May, Bitá Kash and Ricardo Contreras, “Community Health Worker (CHW) Certification and Training: A National Survey of Regionally and State-Based Programs, Final Report to The Office of Rural Health Policy, Health Services Administration, U.S. Dept. of Health and Human Services,” Southwest Rural Health Research Center, School of Rural Public Health, Texas A&M University System Health Science Center, May 2005. Available at [http://www.srph.tamhsc.edu/centers/srhc/PDF/CHW\\_cert\\_final.pdf](http://www.srph.tamhsc.edu/centers/srhc/PDF/CHW_cert_final.pdf). Also, U.S. Dept. of Health and Human Services, Health Resources and Services Administration, Bureau of Health Professions, “Community Health Worker National Workforce Study,” March 2007. Available at <ftp://ftp.hrsa.gov/bhpr/workforce/chw307.pdf>.
- <sup>54</sup> Devon M. Herrick, “Concierge Medicine: Convenient and Affordable,” National Center for Policy Analysis, Brief Analysis No. 687, January 19, 2010. Available at <http://www.ncpa.org/pub/ba687>.
- <sup>55</sup> Devon M. Herrick, “Retail Clinics: Convenient and Affordable,” National Center for Policy Analysis, Brief Analysis No. 686, January 14, 2010. Available at <http://www.ncpa.org/pub/ba686>. For names and locations, visit [www.ccaclinics.org](http://www.ccaclinics.org).
- <sup>56</sup> Liz Kowalczyk, “CVS Seeks to Open Clinics in its Stores,” *Boston Globe*, May 2, 2007.
- <sup>57</sup> Ibid.
- <sup>58</sup> Christine McConville, “Now, Wait a Minute! Menino Slams In-Store Health Clinic Plan,” *Boston Herald*, January 11, 2008.
- <sup>59</sup> Andis Robeznieks, “MinuteClinic Struggles in Mass., Still not Welcome in Boston,” *Modern Physician*, August 10, 2009.
- <sup>60</sup> Liz Kowalczyk, “State Signals It’s Open to Retail Medical Clinics,” *Boston Globe*, July 17, 2007.
- <sup>61</sup> Burton Edelstein, “The Dental Safety Net, Its Workforce, and Policy Recommendations for its Enhancement,” *Journal of Public Health Dentistry*, Vol. 70, pages 32-39, 2010, notes that FOBRA runs for-profit dental clinics in 22 states providing care to almost a million children in underserved and low-income communities.
- <sup>62</sup> Dr. Reddy runs Prime Healthcare Services, Inc.
- <sup>63</sup> Daniel Costello and Andrea Chang, “Healthcare: Hospital to Get a New Owner,” *Los Angeles Times*, Nov. 1, 2007. Available at <http://articles.latimes.com/2007/nov/01/business/fi-hospital1>.
- <sup>64</sup> Regina Herzlinger makes this point in her book, *Who Killed Health Care?* (McGraw-Hill, 2007).
- <sup>65</sup> Affiliated Computer Systems, Inc., “Alternative Billing Concepts (ABC) Codes Sunset Effective January 1, 2010.” Available at [http://www.medicaidalaska.com/Downloads/Providers/TrainingMaterials\\_ABC\\_Code\\_Sunset\\_Presentation.pdf](http://www.medicaidalaska.com/Downloads/Providers/TrainingMaterials_ABC_Code_Sunset_Presentation.pdf). ABC Coding Solutions, “Excerpt from a Report Sent by Alternative Link to HHS Secretary Michael Leavitt on October 5, 2005.” Available at <http://www.abccodes.com/downloads/ExerptHHSReport-Final.pdf>.
- <sup>66</sup> Mary D. Naylor and Ellen T. Kurtzman, “The Role Of Nurse Practitioners In Reinventing Primary Care,” *Health Affairs*, Volume 29, Number 5, May 2010, pages 893-899.
- <sup>67</sup> Devon M. Herrick, “Critical Condition: Primary Care Physician Shortage.”
- <sup>68</sup> Molly Cooke, David M. Irby and Bridget C. O’Brien, *Educating Physicians: A Call for Reform of Medical School and Residency* (San Francisco: Jossey-Bass, June 2010).

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## Taskforce Member Biographies

**Wendell Cox**, principal of the Wendell Cox Consultancy in metropolitan St. Louis, is an adjunct scholar with the National Center for Policy Analysis, a senior fellow with the Heartland Institute and a visiting fellow in the Thomas A. Roe Institute for Economic Policy Studies at the Heritage Foundation. He was appointed to three terms on the Los Angeles County Transportation Commission by Mayor Tom Bradley and was appointed by Speaker of the House Newt Gingrich to the Amtrak Reform Council, to complete the unexpired term of New Jersey Governor Christine Todd Whitman. Mr. Cox holds a Bachelor of Arts degree in government from California State University, Los Angeles and a Master of Business Administration degree from Pepperdine University.

**Jennifer Dirmeyer** received her Ph.D. in economics from George Mason University in 2009. She is currently an Assistant Professor of Economics at Hampden-Sydney College in Virginia where she is also the Director of Student Development at the Center for the Study of Political Economy. Her areas of research interest are political economy and entrepreneurship.

**Devon M. Herrick** is a senior fellow with the National Center for Policy Analysis. His focus includes Internet-based medicine, patient empowerment, medical privacy and health technology-related issues. His research includes health insurance coverage and pharmaceutical drug issues. He spent six years working in health care accounting and financial management for a Dallas-area health care system. Herrick received a Ph.D. in Political Economy and a Master of Public Affairs degree from the University of Texas at Dallas. He also holds graduate degrees in finance and economics from Amberton University and Oklahoma City University, as well as a Bachelor of Science in accounting from the University of Central Oklahoma.

**Kai Jaeger** studied economics at San Jose State University where he was a teaching assistant for Edward Stringham. In 2011, Jaeger will complete his Master of Science in Comparative Politics at Essex University. He will then join the political science graduate program at Duke University.

**Roger Koppl** is a professor of economics and finance in the Silberman College of Business and director of the Institute for Forensic Science Administration at Fairleigh Dickinson University and a senior fellow with the National Center for Policy Analysis. His main research area is forensic science administration, which is the study of how error rates in forensic science may be affected by institutional and organizational structures. He holds a Master of Arts in economics from New York University and a Ph.D. in economics from Auburn University.

**Edward P. Stringham** is the Lloyd V. Hackley Endowed Chair for Capitalism and Free Enterprise Studies at Fayetteville State University. He is past president of the Association of Private Enterprise Education, editor of the *Journal of Private Enterprise*, editor of two books, and author of more than two dozen

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articles in refereed journals including the *Journal of Institutional & Theoretical Economics*, *Public Choice*, and the *Quarterly Review of Economics & Finance*. Stringham earned his Ph.D. from George Mason University in 2002.

**Shirley Svorny** is a professor of economics at California State University, Northridge. She holds a Ph.D. in economics from the University of California, Los Angeles. She is an expert on the regulation of health care professionals, including medical professional licensing.

**Diana W. Thomas** is an assistant professor of economics in the Department of Economics and Finance at the Jon M. Huntsman School of Business at Utah State University. She received her Ph.D. in economics from George Mason University and teaches international economics. Her research is in the areas of public choice and development economics.

**Michael D. Thomas** is an adjunct professor in the Department of Economics and Finance at the Jon M. Huntsman School of Business at Utah State University. He received his Ph.D. in economics from George Mason University. Thomas is also a researcher in the Civil and Environmental Engineering Department at Utah State University.

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## Summary of Policy Recommendations

Poor Americans face difficulties accessing many services that most Americans take for granted, some of which are essential to their ability to work and live in a safe environment. Such services include transportation, child care, security, housing and health care. Federal, state and local government programs exist to meet these needs, but they are often costly and do a poor job of meeting the needs of low-income families. However, private entrepreneurs — individuals, for-profit businesses and entrepreneurial charities — could supplement government efforts or provide better alternatives.

Unfortunately, a host of government regulations bar or limit these potential entrepreneurial efforts. The concept of Enterprise Programs is a way around these regulatory barriers. Earlier efforts called “Enterprise Zones” and “Empowerment Zones,” exempted designated low-income areas from some of the regulations that negatively impact the poor. Enterprise Programs build on these concepts, but are not limited to a prescribed geographic area and encompass a variety of services that would increase economic opportunities for, and improve the quality of life of, low-income families and communities. Enterprise Programs are a way to reduce or eliminate regulatory barriers for entrepreneurs who meet one requirement: that they provide an essential service predominately to poor and distressed families.

In this report, a task force of experts assembled by the National Center for Policy Analysis analyzed and recommended regulations that should be targeted for regulatory relief. Local entrepreneurs and citizens must identify the specific barriers in their communities, and the essential services that should be eligible for Enterprise Programs. However, this report is offered as a starting point for their work. It marshalls evidence of the problems faced by low-income families in transportation, child care, security, housing and health care, and it recommends public policy changes that would allow the private sector to create solutions.



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## Transportation

Transportation to any job, or to a higher wage job, is a continuing problem for the poor. Surprisingly, according to the 2001 National Household Travel Survey, some 69 percent of individuals with incomes less than \$20,000 per year own at least one vehicle, and 76 percent of all trips by low-income individuals are by automobile. Even in households that do not own a vehicle, more than 34 percent of all trips are taken in a vehicle other than a bus — including borrowing, renting or riding in a car. In fact, 22 percent of taxi riders are in the lowest one-fifth of the income distribution. Individuals in the lowest income group account for 47.1 percent of bus riders. Bus fares are subsidized, but service to and from centers of employment or to medical facilities is often inconvenient.

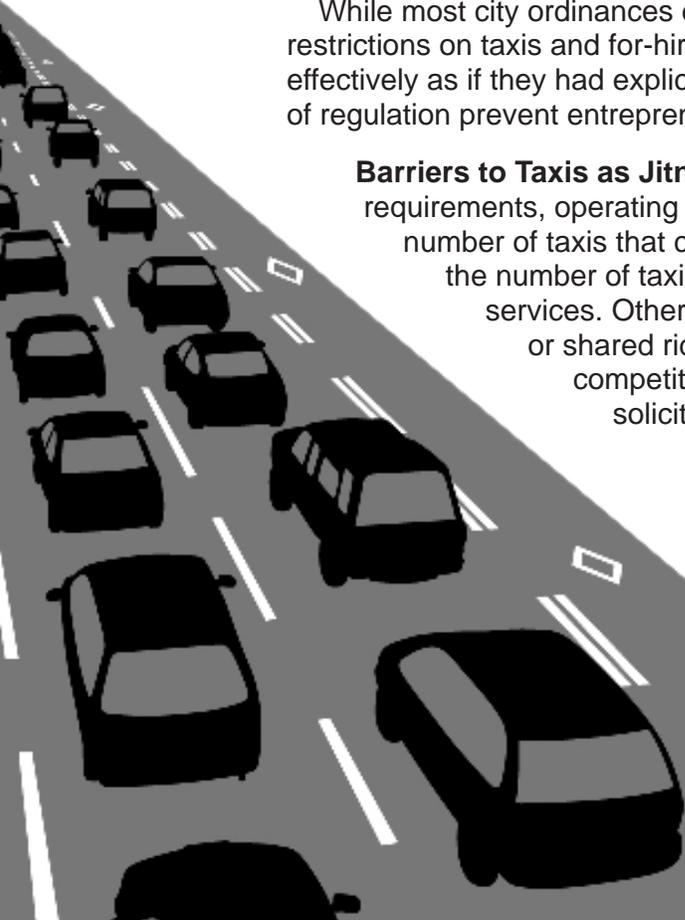
A need exists for public transportation that is more convenient than buses, but costs less than an exclusive taxi ride. This need can be met by lowering the barriers to jitney services. The term jitney has been used to describe a variety of privately provided, multiple-passenger transit options, from the appointment-based transit commonly used by Americans with disabilities to illegal or unlicensed taxis. The benefits of jitneys include faster service on both heavily and lightly traveled routes, more comfortable rides, slight detours off route — perhaps for an extra fee — and more flexibility to respond to changing demographic patterns. In addition, jitneys are able to operate less expensively than buses in some areas and can act as overflow vehicles during peak periods.

While most city ordinances do not even mention the jitney, the operating restrictions on taxis and for-hire vehicles serve to prohibit jitney service as effectively as if they had explicitly outlawed them. Three different areas of regulation prevent entrepreneurs from offering jitney-type services.

**Barriers to Taxis as Jitneys.** In most U.S. cities there are licensing requirements, operating requirements and usually a limit on the number of taxis that can operate. In most cases the limit on the number of taxis ensures that they do not provide jitney services. Other regulations restrict vehicle size, group riding or shared rides. Furthermore, many cities explicitly bar competition between taxis and buses by prohibiting solicitation of passengers at bus stops.

**Barriers to Commuter Vans as Jitneys.** Licensed livery vehicles including limos, commuter vans and shuttles all have the incentive to provide jitney services, but — like taxis — they are strictly regulated.

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The most effective restrictions are on cruising and street hails. Some cities say that any ride on a commuter van must be prearranged by appointment, effectively limiting the convenience of a jitney service. Commuter vans are also strictly limited in size — usually between 7 and 15 passengers — to ensure that they do not compete with either taxis or buses if they do manage to offer jitney-type services.

**Barriers to Jitney Service.** There are at least six cities in the United States that have some form of licensed jitney service. However, these services are regulated to the point that their value as a jitney service is diminished. For example:

- ⇒ Atlantic City licenses 190 jitneys to run on five routes.
- ⇒ However, jitney operators are required to register with the Atlantic City Jitney Association and are restricted to five routes from which they cannot deviate.
- ⇒ In addition, the routes are kept separate from bus routes, and jitney size is regulated to precisely 13 passengers.

In effect, the jitney service in Atlantic City is simply a bus route served by a private carrier. Rigid licensing and route restrictions prohibit jitneys from competing with other buses or with each other.

**Policy Recommendations.** The need of low-income individuals for public transportation that is moderately priced and convenient can be met by lowering the barriers to jitney service.

*Allow Taxis to Operate as Jitneys.*

- ⇒ Cities should not limit the quantity of taxis permitted to serve an area.
- ⇒ Group and shared rides at a flat rate should be allowed.
- ⇒ Taxis should be permitted to solicit passengers at bus stops.

*Allow Commuter Vans to Operate as Jitneys.*

- ⇒ Commuter vans should be allowed to pick up passengers without a prearranged appointment.
- ⇒ Commuter vans should not be limited by the size of the vehicle or the number of passengers it has the capacity to carry.

*Allow Jitney Services.*

- ⇒ Jitneys should not be required to join associations, such as the Atlantic City Jitney Association, in order to operate.
- ⇒ As with shuttles, the capacity of the vehicle or the number of passengers carried should not be limited.
- ⇒ Routes should be allowed to vary and compete with bus routes.

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## Child Care

With more children spending time in nonparental care, concerns about the quality of out-of-home care have increased. These concerns have led state and local governments to regulate and license facilities and caregivers. However, these barriers to entry make it more costly to become a child care provider, driving up the price of nonparental care.

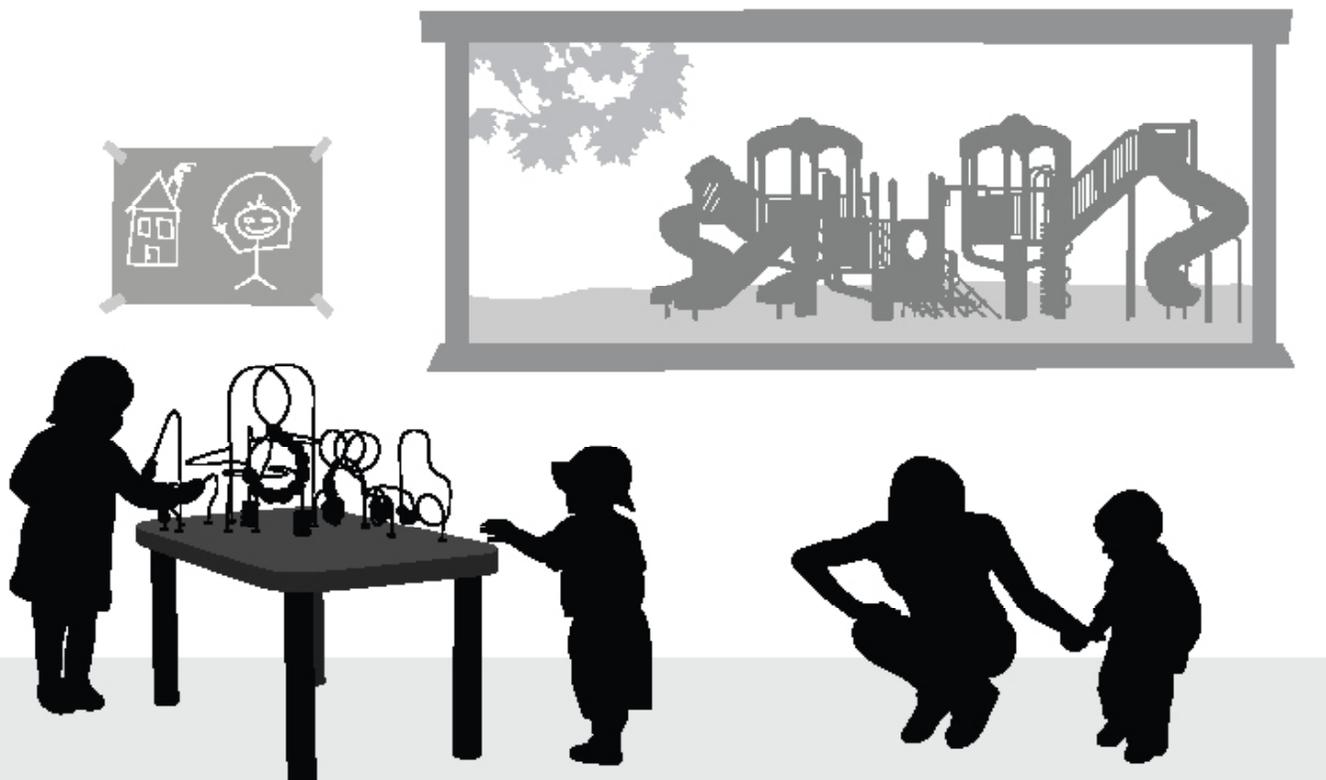
Low-income families spend a higher percentage of their monthly income on nonparental child care than high-income families. Consider:

- ⇒ Families with less than \$1,500 in monthly family income spend on average 30 percent of their income on child care.
- ⇒ Families with \$4,500 or more in monthly family income spend only 7 percent of their income on child care.

The cost of day care is often so high that it becomes the deciding factor in a family's decision whether to rely on welfare or seek employment, especially for single mothers.

Because parents respond strongly to increases in the cost of care, providers have not been able to raise prices when regulatory burdens have increased. Increasing regulatory compliance costs has therefore resulted in lower staff wages. Low wages result in high staff turnover and a low level of job commitment, both of which negatively affect the quality of care.

State and local regulations significantly affect the price of care without improving quality.



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**Group Size Regulations.** Studies have shown that maximum group sizes and maximum child-staff ratios do not significantly contribute to high quality child care outcomes. Instead, good child care outcomes are more closely connected to the quality of the interactions between the caregiver and the child.

**Licensing Caregivers.** Regulations that require child care workers to have credentials equivalent to a teacher do not improve care, but raise costs and create artificial shortages in service.

**Zoning Laws.** In many places, zoning laws prohibit small family day care homes from operating in residential neighborhoods where affordable child care services are in particularly high demand. Intended to maintain the quality of life in a community, zoning laws prohibit business activities within residential neighborhoods and require high fees for permits that grant exceptions. However, if small family day care homes provide services mainly for the nearby residential community, concerns such as additional traffic would be minimized.

**Policy Recommendations.** Affordable child care shortages can be alleviated by lowering barriers to entry, allowing informed parents to select the providers and facilities that best meet the needs of their children. Thus:

- ⇒ Group size regulations should be relaxed for child care suppliers.
- ⇒ Child caregivers should not be required to meet a higher level of competence than a custodial parent or school volunteer.
- ⇒ Zoning should not be so restrictive as to prevent small, home-based providers from competing with large commercial or charitable day care centers.

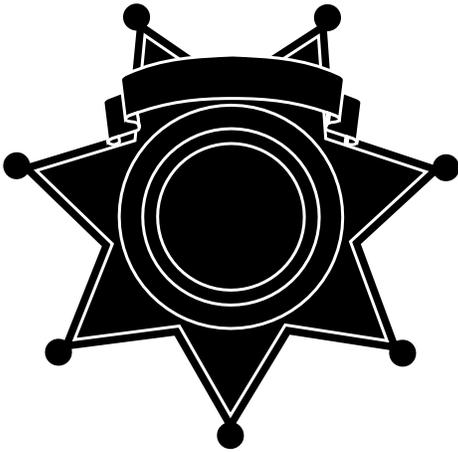
## Private Security

Low-income families and the businesses that serve them are frequently victimized by criminals, but they have fewer resources than higher income populations to hire their own protective services. Private security agencies could provide services at lower prices than off-duty public officers, enabling poorer communities to buy their own security force. Government regulations create the biggest barriers to more private programs for reducing crime. Private police are often regulated due to concerns that they might act against the public interest. In fact, restricting private security options often benefits only two groups: public police who do not want competition and private criminals who want people to have as little protection as possible.

At the most basic level locks, alarms and armed self-defense are important forms of private security. Private security can also take the form of informal volunteer policing and professional armed private police. Competition ensures

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that firms offer their customers satisfaction in order to stay in business. As long as firms have to compete for customers they will not cut costs in ways that customers find unattractive. In an open market, any firm that offers unsatisfactory service will lose business and eventually be driven out of the market.



Private security agencies are usually able to provide services at lower prices than off-duty public officers because there are fewer restrictions (such as formal credentials) on whom they can employ. In San Francisco, for example, the Patrol Special Police, a category of independent private police, charged \$25 to \$30 per hour in 1994, while off-duty public officers charged up to \$58 for an hour of security service.

Despite the benefits of private policing agencies, some high-crime neighborhoods do not hire them. Among the likely reasons are the cost of regulation and conflicts of interest among regulators. High regulatory standards might improve the quality of private security, but increase the costs of compliance for security providers, thus reducing market competition and raising prices. Additionally, regulators might block access to private alternatives because of their personal and/or institutional interest in the security market.

**Policy Recommendations.** The market should be allowed to meet the demand for expanded private security services.

- ⇒ Private businesses should be allowed to hire private security guards who are not off-duty police officers.
- ⇒ Security companies should be allowed to patrol more than one property.
- ⇒ Gun control laws that prevent private security guards from being armed should be eliminated.
- ⇒ Security firms should not be regulated by officials who are competitors, and the amount of time allowed for officials to process security firms' applications to operate should be limited.

In addition, regulations with dubious public safety rationale should be reconsidered.

- ⇒ Regulations that raise costs for trivial reasons — such as requiring private officers to wear certain color uniforms — should be repealed.
- ⇒ The public police should not be allowed access to private firms' proprietary information, which they could use to their competitive advantage.

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## Housing

Government policies reduce the market supply of affordable housing for low-income families and individuals. The supply of government-owned housing units is limited, the quality is poor, and often confines low-income families to areas of concentrated poverty and failing public schools. Rent subsidies offer the poor more flexibility regarding location, but rent vouchers are rationed by long waiting lists.

Most poor families, however, depend on the private market for housing. Eliminating government regulations that reduce the supply and raise the cost of housing has a greater potential than government-supplied housing to increase the choices open to the poor.

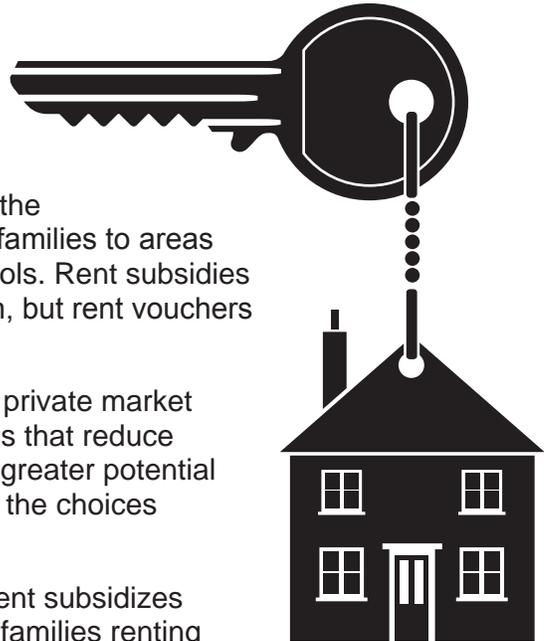
**Subsidized Housing.** The federal government subsidizes housing units for low-income households. The families renting these units face significant challenges, however.

*Public Housing.* The public housing stock consists primarily of multiunit projects where households pay no more than 30 percent of their income for rent. Public housing serves geographically defined areas with high concentrations of poverty. According to the U.S. Department of Housing and Urban Development (HUD), 1.2 million U.S. households live in public housing units administered by 3,300 local housing agencies. A 2003 HUD study noted that problems included isolation from the community, poor management, and a focus by HUD on rules and organization instead of performance.

*Section 8 Vouchers.* Section 8 voucher subsidies are redeemable for either “project-based” housing or “tenant-based” housing. Project-based housing vouchers are granted to landlords who reserve some or all units for low-income households. The federal government then makes up the difference between the tenant’s contribution and the actual rent. Tenant-based vouchers are granted to individuals independently of the rental location, therefore the recipient can rent any apartment on the market. The tenant-based approach allows more choice.

Whereas housing projects increase concentrations of poverty, housing vouchers have been linked to reduced overcrowding, malnutrition and food-insecurity. Indeed, HUD research shows that section 8 housing vouchers improve the quality of life when households use vouchers to move to suburban areas.

**Barriers to Home Ownership for Low-Income Individuals.** Several conditions functionally exclude lower-income individuals from the home ownership market. The first are the high transactions costs of purchasing a home. In addition,



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there are a variety of restrictions on housing construction that increase the cost and reduce the supply.

*Manufactured Housing.* Municipal regulations often limit residential construction to traditional site-built homes, and prohibit manufactured housing altogether. In 2007, a manufactured home cost \$40.82 per square foot, while a traditional site-built home cost more than twice as much — an average of \$92.51 per square foot. It is often claimed that manufactured housing decreases adjacent property values; but a joint study by Harvard University and the Massachusetts Institute of Technology found that manufactured homes have no impact on the property values of adjacent site-built homes.

*Nontraditional Materials.* Affordable housing can be built using alternative materials and construction techniques, such as straw bales, geodesic domes and concrete, but local ordinances often restrict the materials that can be used. In some cities, steel cargo containers that carry freight by truck, rail and ship are being converted into housing. According to the *Fort Worth Star-Telegram*, a charity that planned to build stand-alone units using alternative materials estimated the cost could be as low as \$20,000 for a 408 square-foot home with a small kitchen and bathroom. Unfortunately, the plan was opposed by the local neighborhood, and prompted the Fort Worth City Council to inquire about changing zoning ordinances to discourage such construction.

*Minimum Square-Footage and Lot Sizes.* Minimum square-footage and lot size requirements vary by location. For instance, a one-bedroom unit in Waukesha County, Wisconsin (outside of Milwaukee, Wisconsin), must be a minimum of 500 square feet. In Inglewood, California, a lot must be at least 5,000 square feet for a two-unit structure, and if more than two are built, the lot must be at least 3,000 square feet larger.

*Zoning Barriers to Rental Housing.* Many zoning laws discourage rental housing, ostensibly in order to protect property values. For example, 70 percent of towns and cities in eastern and central Massachusetts allow single family housing on at least 80 percent of the land within their boundaries, whereas over 60 percent of communities allow multifamily housing on less than 20 percent of the land. Much of this regulation is enforced through minimum lot sizes, structural requirements (such as maximum building heights) and provisions requiring owner-occupied housing.

*Restrictions on Long-Term Stay Motels and Single Resident Occupancy Hotels.* A single resident occupancy (SRO) is a multiple tenant building that typically has shared kitchen and bathroom facilities for tenants. SROs and motels with weekly rentals provide housing without the cost of security and rental deposits usually required for leased apartments. SROs, or boarding houses, declined after World War II because they did not meet what Americans considered the minimum standard of living, but they resurged in

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the 1980s as subsidized housing failed. In places such as San Diego, this was facilitated through deregulation.

While zoning has been relaxed in some locations, many local governments still make it difficult for SROs and long-term stay motels to operate legally. For example, a New York City law that went into effect on May 1, 2011, bans apartment rentals for less than 30 days, effectively outlawing SROs.

*Restrictions on Subdividing Houses and Accessory Apartment Rentals.* Alternative dwelling units (often called accessory apartments, in-law apartments or granny flats) are units on a single-family lot, but independent of the single family home, with a separate kitchen and bathroom. These units allow homeowners to lease part of their home as a separate living space. This permits individuals who would not be able to afford property taxes in middle class neighborhoods to move up the socioeconomic ladder. It also allows current residents who have decreasing revenue, such as the elderly, to stay in their home.

Unfortunately, local zoning ordinances often restrict the number and size of accessory apartments, if they are permitted at all. Lexington, Massachusetts, for example, allows two alternative dwelling units per lot, provided the main structure is connected to public water and sewage. In addition, a minimum of one off-street parking space must be provided for every unit. The accessory unit cannot exceed 1,000 square feet and cannot have more than two bedrooms.

**Policy Recommendations.** Policymakers should consider the following recommendations to help make housing more affordable:

- ⇒ Allow new developments and infill housing on smaller lots and with less square footage.
- ⇒ Allow manufactured home developments in urban and suburban areas.
- ⇒ Expand the choice of allowable building materials to include alternatives, such as cargo containers, portable schoolrooms and concrete.
- ⇒ Encourage the transfer of empty residential lots and property with dilapidated structures to private developers and owners through local tax auctions and urban homesteading programs.
- ⇒ Allow homeowners to build and rent accessory apartments.
- ⇒ Allow single resident occupancy and long-stay hotels.
- ⇒ Allow vouchers to be used toward the down payment on a home as well as rent.

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- ⇒ Consider innovative approaches to financing and sharing the risk of homeownership between the institution providing the loan and the individual homeowner by allowing loans for partial equity ownership.

## Health Care

Poor people often have difficulty accessing health care. They tend to live in areas underserved by physicians and medical facilities. In addition, more often than the general population, the poor tend to distrust hospitals, delay treatment and do not follow up on care instructions. They are also disproportionately affected by chronic illnesses, including heart disease and diabetes. The federal and state governments heavily subsidize safety-net hospitals and clinics; however, due to their location and hours of service government facilities are often inconvenient for patients. There are private alternatives to public programs, such as walk-in clinics in big-box retailers. However, laws restricting who can provide health care services raise the cost of private care, and restricting business locations limit their accessibility to the poor.

Regulatory relief is the key to achieving access to health care for underserved and low-income consumers. Regulatory relief would lower the cost of doing business, attracting providers to medically underserved areas and populations. This is particularly important in rural areas and for illegal immigrants, who have few options among the health care alternatives allowed by law.

**Restrictions on Medical Personnel.** Scope-of-practice restrictions, education and training requirements, and federal reimbursement codes limit the availability of services in underserved communities.

*Scope-of-Practice Restrictions.* State laws limit the scope of practice of nurse practitioners, physician assistants, nurse midwives and other midlevel clinicians. In 27 states, nurse practitioners are not permitted to practice without physician oversight, and in 38 states they are not allowed to prescribe drugs.

However, studies and experience have demonstrated that allowing nurse practitioners to provide primary care to underserved populations does not adversely affect the quality of care, while increasing access.



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*Credentialing Requirements.* State education and training requirements are often stricter than necessary for public health and safety. Occupational licensing is often used to restrict the number of practitioners in order to reduce competition and raise the incomes of incumbent providers.

Furthermore, there are many individuals with health care training who are not allowed to administer care under the supervision of a clinician, including, for example, army-trained medics. In addition, even minimally trained community health workers can provide valuable health care services by monitoring individuals with chronic conditions and making sure they have access to medication.

*Federal Reimbursement Codes.* Federal reimbursement codes support existing methods of providing care. The current reimbursement codes are owned by the American Medical Association, which has little interest in designing codes for alternative providers. In order to encourage innovations in health care services to underserved areas and populations, reimbursement must be more flexible and able to accommodate new ways of structuring and providing care.

*Alternative Providers.* Traditional providers cannot afford to practice in rural or poor communities, but regulations sometimes limit or forbid alternative methods of providing care. Alternative providers include mobile health clinics that focus on a particular service and bring it to consumers.

**Restrictions on Retail Clinics.** Walk-in clinics located inside big-box retailers, pharmacies or strip shopping center storefronts offer services that are often half the price of more traditional medical services. Unfortunately, some cities place burdensome conditions on clinics, such as excessive square footage and parking requirements. Their applications for necessary business permits are sometime opposed by public and charity hospitals and clinics that perceive them as competitors.

**Policy Recommendations.** The key to expanding access to care is to free providers and medically-underserved populations — in rural areas or in poor urban communities — from regulations that limit access to care. Policies should be considered that would:

- ⇒ End many state licensing and scope-of-practice restraints.
- ⇒ Allow nonphysician clinicians to perform more duties without physician supervision.
- ⇒ Promote innovation in medical education, including three-year medical degrees.
- ⇒ Relax education and training requirements for professionals working with underserved populations.

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- ⇒ Allow alternative reimbursement codes to include non-physician clinicians.
  - ⇒ Reform the tax code so it does not favor nonprofit hospitals over private entities.
  - ⇒ Expand alternatives to traditional providers, such as retail clinics.
  - ⇒ Reform local zoning and licensing laws to allow retail clinics to offer a wider range of services.

By exempting providers who serve individuals in medically underserved areas from state laws and regulations, patients would have more options and be better able to get the care they need.

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## About the NCPA

The National Center for Policy Analysis (NCPA) is a nonprofit, nonpartisan organization established in 1983. Its aim is to examine public policies in areas that have a significant impact on the lives of all Americans — retirement, health care, education, taxes, the economy, the environment — and to propose innovative, market-driven solutions. The NCPA seeks to unleash the power of ideas for positive change by identifying, encouraging and aggressively marketing the best scholarly research.

**Health Care Policy.** The NCPA is probably best known for developing the concept of Health Savings Accounts (HSAs). NCPA President John C. Goodman is widely acknowledged (*Wall Street Journal*, *National Journal*) as the “Father of HSAs.” The NCPA also outlined the concept of using federal tax credits to encourage private health insurance and helped formulate bipartisan proposals in both the Senate and the House. The NCPA and BlueCross BlueShield of Texas developed a plan to use money that federal, state and local governments now spend on indigent health care to help the poor purchase health insurance.

**Taxes & Economic Growth.** The NCPA helped shape the pro-growth approach to tax policy during the 1990s. A package of tax cuts designed by the NCPA and the U.S. Chamber of Commerce in 1991 became the core of the Contract with America in 1994. Three of the five proposals (capital gains tax cut, Roth IRA and eliminating the Social Security earnings penalty) became law. A fourth proposal — rolling back the tax on Social Security benefits — passed the House of Representatives in summer 2002. NCPA research demonstrates the benefits of shifting the tax burden on work and productive investment to consumption. An NCPA study by Boston University economist Laurence Kotlikoff analyzed three versions of a consumption tax: a flat tax, a value-added tax and a national sales tax.

A major NCPA study, “Wealth, Inheritance and the Estate Tax,” completely undermines the claim by proponents of the estate tax that it prevents the concentration of wealth in the hands of financial dynasties. Actually, the contribution of inheritances to the distribution of wealth in the United States is surprisingly small. Senate Majority Leader Bill Frist (R-TN) and Senator Jon Kyl (R-AZ) distributed a letter to their colleagues about the study. In his letter, Sen. Frist said, “I hope this report will offer you a fresh perspective on the merits of this issue. Now is the time for us to do something about the death tax.”

**Retirement Reform.** With a grant from the NCPA, economists at Texas A&M University developed a model to evaluate the future of Social Security and Medicare, working under the direction of Thomas R. Saving, who for years was one of two private-sector trustees of Social Security and Medicare. The NCPA study, “Ten Steps to Baby Boomer Retirement,” shows that as 77 million

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baby boomers begin to retire, the nation's institutions are totally unprepared. Promises made under Social Security, Medicare and Medicaid are completely unfunded. Private sector institutions are not doing better — millions of workers are discovering that their defined benefit pensions are unfunded and that employers are retrenching on post-retirement health care promises.

**Pension Reform.** Pension reforms signed into law include ideas to improve 401(k)s developed and proposed by the NCPA and the Brookings Institution. Among the NCPA/Brookings 401(k) reforms are automatic enrollment of employees into companies' 401(k) plans, automatic contribution rate increases so that workers' contributions grow with their wages, and better default investment options for workers who do not make an investment choice.

**Environment & Energy.** The NCPA's E-Team is one of the largest collections of energy and environmental policy experts and scientists who believe that sound science, economic prosperity and protecting the environment are compatible. The team seeks to correct misinformation and promote sensible solutions to energy and environment problems.

**Educating the Next Generation.** The NCPA's Debate Central is the most comprehensive online site for free information for 400,000 U.S. high school debaters. In 2006, the site drew more than one million hits per month.

**Promoting Ideas.** NCPA studies, ideas and experts are quoted frequently in news stories nationwide. Columns written by NCPA scholars appear regularly in national print and online publications such as the *Wall Street Journal*, the *Washington Times*, *USA Today* and many other major-market daily newspapers, as well as on radio talk shows and in public policy newsletters.

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