

# ProjectNewOpportunity

TESTIMONY BEFORE THE  
COMMITTEE ON THE JUDICIARY AND PUBLIC SAFETY  
COUNCIL OF THE DISTRICT OF COLUMBIA  
COUNCILMEMBER CHARLES ALLEN, CHAIR

IN SUPPORT OF THE  
CLEMENCY BOARD ESTABLISHMENT ACT OF 2017  
THURSDAY 19 OCTOBER 2017

Malcolm C. Young, Project Director  
Norman Brown, Deputy Project Director  
Project New Opportunity  
Washington, D. C. 20005

Thank you, Chairman Allen and members of this Committee for the opportunity to appear today. We are: Malcolm C. Young, Project Director for Project New Opportunity; and, Norman O. Brown, Deputy Project Director, Project New Opportunity, here to speak in support of the Clemency Board Establishment Act of 2017 (hereafter “Act”).

The Act establishes a Clemency Board which would receive and approve or disapprove two types of application for relief from a criminal conviction in the District of Columbia, and forward its recommendations to the White House Counsel’s staff for, ultimately, the President’s decision. One of these applications is for pardon, which is the removal of collateral consequences of a criminal conviction and restoration of an individual’s civil rights. The second type of application is for sentence commutation, which is the reduction of a sentence to prison, or of fines. People who are incarcerated and receive a sentence commutation are essentially allowed to leave prison ahead of their originally scheduled release date. Some call it “early release.”

We focus our testimony on the sentence commutation aspect of the Act. Sentence commutations can be used to reduce prison populations and costs and to correct exceedingly long sentences handed down for the commission of a crime which, today, would result in a shorter sentence. They can be used to recognize that people change and that what once seemed a necessary sentence for an individual now is patently unjust. Commutations can be used to limit the damage done to individuals who are subjected to long term incarceration. Commutations are an act of grace and mercy, a blessing to give and to receive.

Never the less, some people oppose sentencing commutations on the ground that people who are released “early” will engage in criminal acts, putting communities at risk. Other critics correctly observe that reentry is difficult, citing statistics that describe recidivism rates of 40% to 75% to predict failure for people released through commutations.



Our experience at Project New Opportunity suggests exactly the opposite. Done right, releasing prisoners through sentencing commutations will decrease crime and recidivism.

Briefly as to our experience, Project New Opportunity provides reentry support to two categories of federal prisoners: those who received clemency from President Obama, most in the form of sentence commutations, and those who were released ahead of their originally scheduled date because the United States Sentencing Commission reduced sentence length for federal drug offenses and made the reduction retroactive, subject however to approval by the original sentencing court.

PNO has more than 150 clients, about 80 of them in the Washington, D. C. area. More than half have been released, some for upwards of a year or more. Because Project New Opportunity is too young to have clients with two or three years' post-release experience, we can't yet compare recidivism rates over years. But we can say that, to date, not one of our clients has been in trouble with the police or while on probation supervision.

Nor do we anticipate that any of our clients will fail at reentry. If and when one does, the PNO staff and I will be deeply disappointed. That's because we work closely enough with our clients to see that most of them are striving to comply with the law, tackle family issues, deal with psychological needs and lost personal skills, and to learn how to use the technology we rely upon for communication and in our work. It is not easy. PNO's clients keep running into a full range of unanticipated problems that need be addressed. But at that point, our Reentry Consultants, the majority of whom were formerly incarcerated, step in to help their clients navigate around and through their problems. Once past one problem, it's on to the next, lessons learned and confidence improved.

PNO's approach to reentry works. Right now, Project New Opportunity is still at "0% recidivism." Individualized attention and problem solving beginning well before release and continuing as needed after release, provided by a team of previously incarcerated people who have succeeded and by skilled social workers, is one key to success.

But another key to success is that both categories of PNO's clients were screened according to developed criteria and then individually considered for release. Specifically, applicants for clemency under President Obama's clemency initiative were screened and prioritized according to six factors<sup>1</sup> in a process analogous to that the Act provides for D. C.-sentenced prisoners. Nationally, the process seems to have worked, as far as it went.<sup>2</sup>

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<sup>1</sup> U. S. Sentencing Commission, An Analysis of the Implementation of the 2014 Clemency Initiative (September 2017) at pp. 7, 30 – 32. These factors included: the applicant's status as relatively low level offender; lack of significant criminal history; good conduct in prison; and, lack of a history of violence.

As the Sentencing Commission pointed out, these factors were not applied with mechanical rigidity. Almost 86% of President Obama's clemency recipients did have a "significant criminal history," and about 40% had committed one or more offenses while incarcerated significant enough to have cost them lost good time credits, and for 15% the offenses committed while incarcerated involved violence.

<sup>2</sup> The Clemency Initiative seems to have demonstrated that the numbers of incarcerated people who are eligible for consideration under developed criteria may greatly exceed expectations. According to the U. S. Sentencing Commission, "[T]here were 2,595 offenders incarcerated when the Clemency Initiative was announced who appear to have met all the factors for clemency under the Initiative at the end of President Obama's term in office but who did not obtain relief," Ibid, at p. 34.

As best we can tell, most of President Obama's clemency recipients have avoided legal problems. Neither the United States Department of Justice, the U. S. Sentencing Commission nor Federal Probation have tracked, or, if tracked, have not released information about rearrests or recidivism rates for clemency recipients. Through our networks and from news reports, we understand that there have been just a handful of violations and rearrests from among all of the clemency recipients to date. Reincarceration of one of these, a Ms. Carol Richardson in Texas, should be attributed to a blatant failure to provide needed reentry services.<sup>3</sup> Even counting Ms. Richardson's case, the best estimate is that recidivism for all of President Obama's clemency recipients has been right around 3%-4%.

Under the proposed Act, applicants for sentence commutations in D. C. will be screened according to criteria determined by the Board much as candidates for President Obama's Clemency Initiative were screened and vetted. This alone augers well for success for those who are granted clemency.

If the District Government combines the reasonable vetting process provided for in the Act with reentry support that begins before and continues after the recipient's release, using a program model similar to Project New Opportunity's to offset the limitations in the Bureau of Prison's reentry process, there is no reason why policymakers should not expect a similarly very low, or even a non-existent rate of recidivism, for any of the clemency applications that a United States President, present or future, would grant.

Thank you very much, and we are pleased to answer any questions you may have.

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For more information and application forms, go to PNO's webpage: [www.projectnewopportunity.org](http://www.projectnewopportunity.org)

Facebook <https://www.facebook.com/ProjectNewOpp/>

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<sup>3</sup> For more on Ms. Richardson's violation and return to prison see: <http://projectnewopportunity.org/our-opinion/>

## ADDENDUM

### **About Project New Opportunity**

PNO was developed by the Center for Community Alternatives and Malcolm C. Young, an attorney experienced in criminal justice sentencing and reentry programs and policies now serving as Project Director. PNO launched in Washington, D. C. in April 2016. Norman Brown, whose life sentence was commuted by President Barak Obama, is the Project's Deputy Director.

Project New Opportunity ( <http://projectnewopportunity.org/about/> ) serves individuals who because of clemency or changes in drug law sentences are leaving the BOP in advance of their original release dates. PNO focuses most of its work on three areas: the Northern District of Illinois (Chicago), the Eastern District of Pennsylvania (Philadelphia area); and the Eastern District of Virginia. Many of our Virginia clients were actually coming back to D. C. or Maryland, and they and others were released to Hope Village, so we were quickly involved in reentry in D. C.

PNO is a partnership of social workers, formerly incarcerated people, advocates, agencies and organizations committed to the successful return of previously incarcerated individuals. The heart of PNO's work is its team of Reentry Consultants who help each incarcerated person prepare as much in advance of release as possible to reunite with family, friends and community. Reentry Consultants connect people who are leaving prison with resources which can meet their needs and maximize their assets in the location in which they expect to live. PNO's services are intended to compliment reentry programming and assistance provided by the Bureau of Prison and Federal Probation.

PNO was launched in April 2016. To date it has served about 150 clients, about 80 of them from the Eastern District of Virginia and the D. C. area. PNO's clients include 56 clemency recipients and 67 individuals whose sentences were reduced by "Drugs Minus Two" sentence modifications. There is a wide age spread: the youngest client is 25 years old; the oldest almost 73. About half come to PNO without birth certificates; one third have no idea where they will live after their release. Eleven were veterans. Almost 42% of our PNO clients thought they had jobs lined up while 57% were unsure or did not have employment.

**Project Director Malcolm C. Young**  
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Malcolm Young has more than four decades' experience in American criminal justice. After attending Catholic University Law School in Washington, D. C., he began his career in 1974 as a criminal defense attorney in Chicago, Illinois.

In 1980 Young returned to Washington, D. C., and joined the National Legal Aid and Defender Association. In 1981, Young launched a project which ultimately helped improve sentencing advocacy in more than 20 states. In 1986, Young founded and for 19 years served as Executive Director of The Sentencing Project, well-known today for its ground-breaking research and publications on criminal justice policy.

In 2005, Young returned to Chicago to direct the John Howard Association of Illinois, providing public oversight of the state's prisons, jails, and juvenile correctional facilities. He observed close-up and through the eyes of former prisoners the challenge of finding employment in the depths of the 2007 – 2008 recession. Young was awarded a 2010 Soros Justice Fellowship to explore innovative approaches to employment-related prisoner reentry.

During the summer and fall of 2015, Young was challenged to design a reentry program serving federal prisoners whose sentences for drug law violations were reduced as the result of changes in federal sentencing guidelines (“Drugs Minus Two”) and for individuals whose sentences were commuted by President Obama. Working with Marsha Weissman of the Center on Community Alternatives in New York, Young was subsequently asked to implement those recommendations in what is now Project New Opportunity.

**Deputy Project Director Norman Brown**

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Norman Brown is a returning citizen who just finished serving 24 ½ years in the BOP. He was commuted by President Obama after being sentenced to three life sentences for a non-violent drug offense.

He is now employed as the Deputy Project Director, Project New Opportunity, where he assists people coming home from prison. He also goes to Juvenile Detention Centers five days a week. Under the Department of Youth Rehabilitation Center, he is working with youth, guiding them on how to avoid a life of crime and the pipeline to prison. He completes this work under the organization, Grow-Up Grow Out. While he was incarcerated, he designed classes for BOP in self-improvement, anger management, and coping skills, etc.

Even today, Norman Brown continues to work with others to encourage them to realize the power of thought and transformation. He has participated in numerous panels at the White House, Google, Innovation Lab, and reentry conferences and forums discussing mass incarceration as well as how to rebuild your life after being incarcerated.

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