

ProjectNewOpportunity

Project New Opportunity and the First Step Act

The Trump Administration has just enacted the First Step Act (FSA), federal criminal justice reform that should soon release 2,400 - 2,660 individuals “early.” Many are ill prepared. Thousands more will follow in coming years. The legislation sets up an elaborate “system” of reducing recidivism that will take years to implement and may not be as effective as desired.

Project New Opportunity (“PNO”) successfully demonstrated how to minimize recidivism for federal prisoners released “early” under the Obama administration. PNO could implement an expanded program without delay to obtain similar outstanding results for individuals released through the First Step Act. Their successful return will show the public and policymakers that most long sentences are unnecessary, setting the stage for further sentencing reform.

Project New Opportunity

In 2015, working with the support of the New York-based Center for Community Alternatives, Malcolm C. Young created Project New Opportunity (PNO) to demonstrate that federal inmates vetted and approved for release from federal prison under the Obama administration’s Clemency 2014 Initiative and the United States Sentencing Commission’s reduction in drug sentence guidelines could surmount the difficulties that confront returning citizens and avoid legal trouble. PNO’s sponsors were motivated by their expectation, that a high rate of successful returns would encourage the Obama administration and Congress to further decrease sentences and increase grants of clemency.

PNO achieved that high rate of successful returns. Participants overcame challenges and found their place in a community. To date, as far as we can determine, none of the first 100 PNO clients have been rearrested or violated terms of release.

PNO succeeded by selecting, training and employing formerly incarcerated individuals as Reentry Consultants. Whenever possible, PNO’s consultants began their work with individuals six months or more in advance of their release from the Federal Bureau of Prisons (BOP). Consultants develop each client’s trust and understanding, identify the individual’s priorities and provide a steady hand and counsel during the difficult transitions through the half-way house system and back to the community. Reentry Consultants with a shared experience and insights into what is required to make the transition from prison serve as guides and tutors, helping their clients connect to families when possible, to their communities and to resources including local reentry programs and services that would best meet their immediate and pressing needs. What impresses clients most, a survey showed, is PNO’s Consultant’s desire to assist, to be available on a “call me when you need to” basis.

PNO’s central office in Washington, D. C., provides its Reentry Consultants with training, a methodology, resource directories, backup support from lead staff and social workers, and strategies for dealing with problems. The D. C. staff screens applications, obtains information from defense counsel (usually federal defenders), assigns Reentry Consultants and supports a communications intra-net over which Reentry Consultants transmit files and share expertise, experience and information.

PNO staff and consultants work directly with BOP counselors and reentry coordinators in federal prisons, halfway house administrators and federal probation officers to smooth the way for its clients. But PNO does not depend upon the sometimes slow-to-react BOP bureaucracy to work effectively with its soon-to-be-released clients.

The PNO program model is replicable. By providing services in local or regional offices, PNO's overall approach and methods could benefit many of the 50,000+ federal inmates released each year.¹ PNO seeks out and serves the "regular," "average" inmate as well as those who are articulate and fortunate to have caught the attention of prominent people. PNO's Consultants are dedicated, empathetic, reflective and well-trained. They prefer service over public notice. Located in different places in the country, they have become a team, a community of their own eager to grow and to help people marked by the experience of incarceration to find their place in the world.

The First Step Act (FSA)

The First Step Act (FSA) is a compromise bill the passage of which was the result of years of hard work and advocacy. Prospectively, the FSA should shorten prison terms for thousands of inmates. Close to 2,400 – 2,660 individuals are eligible to be considered for release quite promptly because the FSA makes the reforms of the 2010 Fair Sentencing Act retroactive. Some portion of more than 1,800 individuals may be released under FSA's mandate to implement compassionate release for older and ill inmates. The FSA expands the "safety valve" provisions in sentencing law that allow judges to avoid mandatory minimums in some cases, eases "three strikes sentences" (from life to 25 years) and increases "good time credits" from a maximum of 47 to 54 days annually – a week off for each year in prison. Official estimates are that the FSA could result in the "early" release of 53,000 individuals over the next 10 years.²

The FSA enacted important humanitarian reforms: it puts an end to shackling expectant and delivering mothers and consideration of the release of ill and aged inmates. It requires (with allowed exceptions that could become the rule) all inmates be housed within 500 driving miles of their homes.

A large portion of the legislation requires the BOP under the Attorney General's direction to expand vocational and rehabilitative programs within the BOP, assignment to which is tied to a cumbersome and yet-to-be-created risk and needs assessment "system." The FSA authorizes up to \$50M annually for five years to the BOP to implement the "system."

For individuals confined in the BOP, program participation will increase good time credits, allowing for earlier transfer to pre-release at a half-way house or in-home detention. Individuals convicted of certain offenses are ineligible to participate. Estimates are that just over 100,000 individuals will benefit from the FSA's increased good time provisions.³

The time line for implementing the "system" extends over a year, with more time allowed to put empirically-proven "evidence-based recidivism reduction programs" ("EBRRP"s) and "productive activities" in place. But two provisions in the FSA authorize the BOP to provide the benefits of the Act to individuals in the interim. First, the FSA authorizes the BOP to treat an existing program as an approved EBRRP if research shows that it is "likely to be effective in reducing recidivism."⁴ Second, the BOP may immediately expand "existing programs and productive activities" and reward individuals with 10 days of credit toward release to a half-way house or home confinement for each 30 days of participation in those programs.⁵

The speed with which relief reaches eligible individuals depends upon the enthusiasm and diligence with which the Attorney General and the BOP implement the FSA's various program requirements. Some observers are skeptical.⁶ But there is no need to wait upon the Attorney General and BOP. Advocacy groups, especially formerly-incarcerated individuals who reach back to people they knew inside the BOP, have already gained the release of individuals and their stories are appearing in broadcast, print and on-line media.⁷

Some stories remain aspirational,⁸ written with the hope rather than the assurance that the BOP will vigorously administer the FSA to benefit people held at long distances from home, elderly in

poor health, and who have taken advantage of every available program and are in need of guidance and support as they return home.

What's needed is a systematic approach, identifying and reaching out to the thousands of "ordinary" individuals dispersed throughout BOP's 120 facilities known to their families or to their federal defenders, providing guidance and the voices of experience from those who have made the transition, connecting people leaving the BOP to the resources that will assure a safe, successful return. This is precisely what PNO has been doing. No better program model exists that will accomplish the goal of making the FSA work for all eligible individuals.

PNO meets an additional FSA requirement of a program that has been shown to be "likely" to reduce recidivism.⁹ It does so by addressing the "uniquely disruptive and confounding impact of incarceration" with a program that develops trust between a person soon to be released from the BOP and a formerly incarcerated individual with the insight into what it takes to overcome the "culture shock" of a return to the free world, access to relevant services, and coupled with strategic coordination with federal defenders, the BOP, federal halfway houses, federal probation and reentry courts.

PNO's Mission

PNO has the administrative and technological tools at the ready. It is prepared to put in place a core group of seasoned Reentry Consultants to provide direct services to individuals now in the BOP who can benefit from the FSA. It has the experience and materials to help design locally-based programs, train staff and additional Reentry Consultants, and monitor and report on progress and success.

PNO can help the FSA achieve its goals. But it can also serve a larger purpose.

The First Step Act is just that: one step forward. It's written to exclude too many individuals from its benefits and is far too parsimonious in the amount of time by which it reduces long sentences. But as did Clemency 2014 and reforms to drug law sentencing, FSA's successes will educate policy-makers and the public alike to a promising truth: by combining reasonable vetting of incarcerated individuals (which both clemency, drug sentencing reforms, and the retroactive application of the Fair Sentencing Act provide) and the PNO model of reentry, we can release thousands more of the individual victims of mass incarceration with every expectation of satisfactory, even rewarding behavior in the community. PNO wants success for its clients. Beyond that, it wants to help make the case for greater reforms and shorter sentences in years to come.

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Additional information:

- 1) PNO's web site at <http://projectnewopportunity.org/about/>
- 2) Justice Strategies Working Paper: "Lessons for Sentencing Reform and Reentry: A Case Study of Project New Opportunity," Center for Community Alternatives (New York, December 2018) at: <http://www.communityalternatives.org/pdf/PNO-Document-New-Version-Final.pdf>

Endnotes

¹ E. Ann Carson, *Bulletin: Prisoners in 2016*, U. S. Department of Justice Bureau of Justice Statistics (January 2018) at Table 8.

² Andrea Driesch, Trump’s prison plan to release thousands of inmates, McClatchydc 21 December 2018, <https://www.mcclatchydc.com/news/politics-government/congress/article223414935.html>

³ Individuals incarcerated in the BOP as of May 2018 who are not disqualified as an “ineligible prisoner” as defined in the bill as it was reviewed by the United States Sentencing Commission “Estimated Effect of Clarification of 18 U.S. C. Sec. 924(c)”. The bill has since been modified, so this number may understate the number of individuals eligible under the bill.

⁴ Title I, First Step Act Sec. 101, § 3635 (3)(A).

⁵ Title I, First Step Act Sec. 102, § 3621 (h)(4).

⁶ E. g., see Lara Yeretsian, “Perspectives: Barr Could Steer the First Step off Course” Law 360 (January 27, 2019) on-line at <https://www.law360.com/articles/1122358/barr-could-steer-first-step-act-off-course>

⁷ E.g., see Julietta Martinelli, “Matthew Charles, Nashville Man Who Gained National Attention, Is Released From Prison Again,” Nashville Public Radio January 3, 2019 on line at: <https://www.nashvillepublicradio.org/post/matthew-charles-nashville-man-who-gained-national-attention-released-prison-again>; “Booker Helped Free This Man and Others with The First Step Act,” NowThis News, 19 January 2019 at <https://nowthisnews.com/videos/politics/cory-booker-and-the-first-step-act> (describing release of Edward Douglas); and, John Schuppe, “Man serving life for 140 grams of crack is one of thousands counting on the First Step Act,” U. S. News on line 19 December 2018, at <https://www.nbcnews.com/news/us-news/man-serving-life-140-grams-crack-one-thousands-counting-first-n949831>

⁸ See, for example, accounts provided on line by #FirstStepAct at: <https://www.firststepact.org/stories>

⁹ See the research report *Lessons for Reform and Reentry*, cited above, in “Additional information.”