

Congress of the United States

Washington, DC 20515

May 17, 2018

Dear Colleague:

We write to express our serious concerns with the FIRST STEP Act, legislation that purports to reform federal prisons but which would in fact be a step backwards.

We have heard from a wide array of stakeholders who strongly oppose this legislation because they believe that: (1) this bill has fundamental flaws; and (2) meaningful criminal justice reform must include sentencing reform. This includes the civil rights community—more than 70 groups, including the Leadership Conference on Civil and Human Rights, the ACLU, the NAACP and NAACP LDF; the federal and community defenders who represent the incarcerated people the bill is designed to help; the Law Enforcement Leaders to Reduce Crime & Incarceration—a bipartisan group of more than 200 current and former law enforcement officials; and the Council of Prison Locals—the union that represents 33,000 federal correctional workers in the Bureau of Prisons (BOP). We have attached letters from these stakeholders for your review.

Civil rights advocates point out that the bill would exclude too many incarcerated people, use risk assessments in an untested manner that would exacerbate racial and socioeconomic disparities, not provide real time off of sentences, and likely not reduce recidivism. These fundamental concerns are not simply that the FIRST STEP Act does not “go far enough,” but instead that the recidivism reduction plan that is the core of the bill could actually worsen the situation in our federal prisons by creating discriminatory non-evidence-based policies.

Recidivism Reduction Plan Based on Flawed and Exclusionary Risk Assessment System

The bill’s recidivism reduction plan would require BOP to create a new risk assessment system to determine time credits, an approach which is novel and untested. State correctional systems typically award time credits based on performance and/or disciplinary record, not a risk assessment. Research shows that risk assessments often do not accurately predict risk and can produce results that are biased against people of color—particularly African Americans. Risk assessments rely heavily on static factors, including criminal history and age at the time of the offense; and dynamic factors, including work history and educational achievement, that tend to correlate with socioeconomic class and race. This disparate impact will be exacerbated because numerous categories of individuals will be precluded from earning time credits for recidivism reduction programming, including all undocumented immigrants and those convicted of certain nonviolent immigration offenses, exclusions that will disproportionately impact Hispanics.

The bill’s credit system would focus recidivism reduction programming incentives on low- and minimum-risk individuals, when research shows recidivism reduction must be aimed at high-risk persons in order to be most effective. The FIRST STEP Act would allow medium or high risk people to “cash in” credits, but only after the warden determines, among other findings, that the

inmate would not be a danger, has made a good faith effort to reduce “recidivism risk”, and is “unlikely to recidivate.” These provisions set an unreasonably high bar and give far too much discretion to the Trump Administration’s BOP.

Further, the bill would give low- and minimum-risk incarcerated people priority for BOP prison work programs, while BOP currently does not consider the risk level of those applying for work programs. Federal Prison Industries (FPI) has reduced recidivism more than any other BOP program—according to BOP, those who participate in FPI work programs are 24 percent less likely to recidivate for as long as 12 years following release and are 14 percent more likely than non-participants to be employed 12 months after release. BOP concluded that these programs have an even greater positive impact on young people of color, who are statistically at greater risk of recidivism. There is a great demand to participate in FPI, which currently has a waitlist of more than 25,000 people. As a result, aiming for at least 75 percent of eligible low- and minimum-risk incarcerated people to participate in prison work for at least 20 hours per week, as the FIRST STEP Act would require, will necessarily restrict access to FPI for medium- and high-risk individuals. This provision alone would greatly undermine the effectiveness of BOP’s most successful recidivism reduction program.

Reforms like these are not a modest step forward. Rather, they establish new BOP policies that will institutionalize discrimination and likely fail to reduce recidivism.

The Time Credit is Not Real Time off of a Sentence

Earlier prison reform bills would not have allowed incarcerated people to use earned credits to be released, but instead to be placed in a halfway house, home confinement, or on community supervision. The FIRST STEP Act actually takes a step backwards by removing the option for community supervision. Moreover, it is likely that many prisoners would be unable to use their credits because the Trump Administration has reduced support for halfway houses that already had lengthy waiting lists.

Inadequate Funding and Staffing Will Prevent Effective Implementation

BOP correctional officers have emphasized that dire staffing and funding shortages make implementation of the bill’s recidivism reduction plan untenable. The bill authorizes only \$50 million in funding per year for five years. This authorization level, even if actually appropriated, will not adequately support expanded programming, especially at a time when Attorney General Jeff Sessions is already dramatically cutting BOP budget and staff and increasing the prison population. The Trump Administration’s federal prison budget for Fiscal Year 2019 anticipates a 3.4 percent increase in the federal prison population at the same time it eliminates 1,100 BOP positions at a cost of \$136 million. Federal correctional officers have called decreasing staff levels while increasing the prison population a “recipe for disaster.”

In fact, these BOP staffing shortages have already negatively impacted existing recidivism reduction programs. BOP now routinely relies on a practice known as “augmentation,” in which non-security staff such as secretaries, teachers, and nurses are assigned custody responsibilities. This takes staff away from their assigned duties, reducing access to programming, recreation, and education initiatives. For example, the BOP residential drug abuse program (RDAP) which

provides a one-year sentence reduction to those who complete the program, currently faces a 5,000 person wait list due to limited resources.

Too Much Discretion to Attorney General Sessions

We cannot ignore the fact that the FIRST STEP Act would be implemented by Attorney General Sessions, a vocal opponent of prison reform, and that the legislation gives him significant discretion. For example, the new risk assessment system would be created and overseen by the Attorney General. The bill also allows the Attorney General to “use existing risk and needs assessment tools as appropriate,” giving him the option of using the BOP’s current security classification system, which is not designed to determine recidivism risk and heavily relies on static factors.

Facilitating Privatization

We are also deeply concerned that this bill could facilitate the privatization of federal prison programming at a time when the Trump Administration is working closely with the private prison industry. Then-Deputy Attorney General Sally Yates issued a memo in August 2016 to begin phasing out BOP’s use of private prisons. Ms. Yates cited a DOJ Inspector General report that found private facilities do not maintain the same level of safety and security as BOP-run facilities. Despite this evidence, Attorney General Sessions issued a memo in February 2017 that directed BOP to “return to its previous approach.” The FIRST STEP Act provides that BOP shall enter into partnerships with private organizations to deliver programming under policies developed by the Attorney General. This could effectively privatize public functions and allow private entities to unduly profit from incarceration.

Impact of Positive Provisions Overstated

While we support some provisions of this bill, we are concerned that their positive impact is being overstated and in any case does not outweigh the negative impact of the recidivism reduction system that is the central purpose of the bill. For example, we have long supported a “good time credit” fix to accurately reflect congressional intent by allowing prisoners to earn 54 days of credit per year, rather than 47 days. However, we have heard some proponents of the FIRST STEP Act inaccurately claim that this provision would allow 4,000 people to be released immediately.

We asked BOP about the impact of the provision and they told us “about a decade ago when the BOP population was higher, we conducted an estimate that indicated a GTC [good time credit] fix would result in a reduction, within a year, of approximately 4,000 federal inmates in custody” (emphasis added). In other words, of the approximately 41,000 inmates who are released from BOP custody every year, some number less than 4,000 would be released a few days, weeks, or possibly months early in the bill’s first year. While we strongly support the early release of inmates who have earned good time credits, it is important to understand that the real impact of this provision is considerably smaller than the bill’s proponents claim.

Prison Reform Will Fail Without Sentencing Reform

We have supported prison reform legislation with some of the deficiencies outlined above as part of broader criminal justice reform legislation that includes critical reforms to federal sentencing laws. We have done so only because it was necessary to secure sufficient support for sentencing

reform in a Republican-controlled Congress. However, we are unwilling to support flawed prison reform legislation that does not include sentencing reform.

Moreover, we believe that prison reform will fail if we do not address the mandatory minimum sentences that have filled our prisons with individuals convicted of nonviolent offenses. The United States of America holds more prisoners, by far, than any other country in the world. Our federal prison population has grown by over 700 percent since 1980, and federal prison spending has climbed nearly 600 percent. The largest increase in the federal prison population is nonviolent drug offenders, and this problem is made worse by inflexible mandatory minimum sentences. Our federal prisons remain well over capacity, and consume one quarter of the Justice Department's discretionary budget.

Attorney General Sessions has made clear his intent to dramatically increase the prison population through the prosecution of nonviolent drug and immigration offenses. Last year, the Attorney General rescinded the Smart on Crime Initiative, which reserved stiff mandatory minimum sentences for individuals convicted of the most serious offenses, and ordered prosecutors to seek the longest possible sentence even for low-level nonviolent offenses.


Sentencing reform would give federal judges the discretion to determine the appropriate sentence based on the individual circumstances of each case, regardless of the Attorney General's agenda. This would help stop the flood of nonviolent offenders into our federal prisons and these savings would help pay for the increase in programming for prisoners.

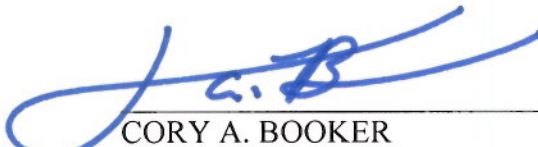
Congress should pass the Sentencing Reform and Corrections Act, which has significant bipartisan support in the Senate and broad support from law enforcement, civil rights, and faith leaders. SRCA has 28 bipartisan cosponsors, and this year the Senate Judiciary Committee reported SRCA on a 16-5 vote, a stronger vote than it did in the previous Congress.

We have heard some argue that Congress should pass prison reform legislation, rather than SRCA, because Attorney General Sessions opposed sentencing reform legislation when he was a Senator. This argument does not withstand scrutiny since then-Senator Sessions also voted against prison reform legislation. More important, as the Attorney General himself has said, it is Congress's job to make laws and the Attorney General's job to enforce the laws. In contrast, Senator Grassley, as Chairman of the Senate Judiciary Committee, has a significant role to play and he has repeatedly said that he will block any criminal justice reform legislation that does not include sentencing reform.


Thank you for considering our views. We look forward to working with you to advance meaningful criminal justice reform legislation that can pass both chambers of Congress and be enacted into law.

Sincerely,



RICHARD J. DURBIN
United States Senator

CORY A. BOOKER
United States Senator

KAMALA D. HARRIS
United States Senator

SHEILA JACKSON LEE
Member of Congress

JOHN LEWIS
Member of Congress

Enclosures



May 8, 2018

Vote “No” on The FIRST STEP Act

Dear House Judiciary Committee Member:

On behalf of The Leadership Conference on Civil and Human Rights and the 74 undersigned organizations, we urge you to vote “No” on the FIRST STEP Act that will be considered during the mark up. Any effort to pass prison reform (or “back-end” reform) legislation without including sentencing reform (or “front-end” reform) will not meaningfully improve the federal system. Across the country, states that have enacted legislation containing both front and back end reforms have reduced rates of incarceration and crime.¹ Any legislation that addresses only back end reforms is doomed to fail in achieving these goals. Without changes to sentencing laws that eliminate mandatory minimums, restore judicial discretion, reduce the national prison population, and mitigate disparate impacts on communities of color, the FIRST STEP Act alone will have little impact. **The Leadership Conference on Civil and Human Rights plans to include your position on The FIRST STEP Act in our voting scorecard for the 115th Congress.**

Moreover, proposals referred to by the White House and others as “prison reform,” including the FIRST STEP Act and S.1994, the CORRECTIONS Act, would do little to reform prisons or the federal justice system. The FIRST STEP Act attempts to allow people to participate in reentry and rehabilitation programs and earn time credits that would permit them to serve the end of their prison sentence in home confinement or halfway houses. However, currently there are not enough of these programs available in the Federal Bureau of Prisons (BOP) to serve those currently in prisons. Furthermore, BOP more recently has reduced the number of residential reentry centers it contracts with to provide halfway house programming.

In addition, many people would not be eligible to earn credits by participating in rehabilitation or reentry programs merely based on their criminal convictions. Even if a person is deemed eligible to participate in BOP programming based on the required risk and needs assessment system, after participating in programming, the BOP warden could deny the transfer of prisoners to a halfway house or home confinement if they find “by clear and convincing evidence that the prisoner should not be transferred into prerelease custody based on evidence of the prisoner’s actions after the conviction of such prisoner” and provides “a detailed written statement regarding such finding.” The federal criminal justice system is deeply flawed and needs to adopt a top to bottom overhaul. The FIRST STEP Act alone does not come close to achieving the desperately needed reforms to create a fair and just system.

The FIRST STEP Act is Unlikely to Achieve Meaningful Prison Reform.

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The FIRST STEP Act, as introduced, would exclude too many in people in federal prisons from receiving time credits for participating in the rehabilitative programs authorized by the bill. The long list of exclusions in the bill sweep in, for example, those convicted of certain immigration offenses and drug offenses.² Because immigration and drug offenses account for 53.3 percent of the total federal prison population,³ many people could be excluded from utilizing the time credits they earned after completing programming. Furthermore, these exclusions could also have a disparate impact on racial minorities, since the majority of those held in federal prison for immigration and drug offenses are people of color.⁴ Any person who will return to our communities from prison someday should get time credit incentives for completing rehabilitative programs. Any reforms enacted by Congress should impact a significant number of people in federal prison and reduce racial disparities or they will have little effect on the fiscal and human costs of incarceration.

Moreover, the purported incentives towards rehabilitation are not real or meaningful. The FIRST STEP Act's earned time credits are not real time off a sentence, but more time in a halfway house or home confinement.⁵ This is inadequate. Limited space already reduces the amount of time individuals can spend in halfway houses. Recent closures of residential reentry centers have further exacerbated the problem, making it unlikely that people will be able to use all the "time" they earn under the bill.⁶ Existing programs have been successful precisely because they provide real time off of an individual's sentence. For example, the residential drug abuse program (RDAP) provides a one-year sentence reduction to those who complete the program. However, RDAP currently faces a 5,000 person wait list due to limited resources. Additionally, home confinement is rarely used by the Bureau of Prisons⁷ and the bill eliminates the option of community supervision altogether. For the incentive structure to be real, earned time credits must equate to an actual reduction in sentence to encourage individuals to engage in rehabilitative programming. Such a real incentive structure would result in fiscal savings. For example, if only one in nine individuals earned 60 days of credit in a year, \$100 million in savings would be realized. Congress should be following the model of RDAP in any prison reform and give people real time off their sentences, not a promise of more of something they already cannot get.

Finally, the bill does not include any funding for the recidivism reduction programming it seeks to expand, already grossly underfunded. The bill authorizes only \$50 million in funding per year for five years for rehabilitative programs in federal prisons. However, there is currently no guarantee that such funding will ever actually be appropriated. Even if such funding is actually appropriated, the authorization level will not adequately support the expanded programming necessary to implement the system. Further, while the bill says any savings should be reinvested in programming, it retains a provision permitting the Attorney General to recommend how any savings should be spent, including on "law enforcement," effectively creating the option for savings not to be reinvested. Further, the bill also provides that in order to expand programming, BOP shall enter into partnerships with private organizations and companies under policies developed by the Attorney General, "subject to appropriations." This could privatize what should be public functions and could allow private entities to unduly profit from incarceration. In the end, any positive reform contemplated by the FIRST STEP Act is heavily contingent upon sufficient funding to create or expand evidenced based recidivism reduction programming and access to a halfway house or home confinement, which is highly unlikely. The bill, as drafted, is therefore an empty promise, unlikely to achieve meaningful prison reform and unlikely to reduce crime or rates of mass incarceration.

The FIRST STEP Act Provides No Incentive to Those Most in Need of Rehabilitative Programming and is Unlikely to Reduce Recidivism

The FIRST STEP Act is unlikely to reduce recidivism because it focuses time credit incentives for completing rehabilitative programs on minimum- and low-risk category prisoners who need less rehabilitation and intervention and who likely shouldn't have been sentenced to a term of imprisonment in the first place, not on medium- and high-risk prisoners who are more in need of the incentives to complete programs. Only minimum- and low-risk category prisoners can "cash in" the time credit incentives they earn, and these prisoners are able to earn more time credits than medium- and high-risk prisoners. This approach is not evidence-based. Data has demonstrated that effectively reducing recidivism requires focusing programs, jobs, and real and meaningful incentives on those *most* likely, not least likely, to reoffend. While the bill rightly attempts to incentivize participation in rehabilitation programs, it wrongly ties those credit incentives to an individual's risk category. Conversely, state correctional systems typically award time credits based on performance and/or disciplinary record, not a risk and needs assessment and according to research these systems should be used to identify appropriate correctional interventions, not to set the length of prison sentences. Ultimately, the bill takes a flawed and untested approach that is unlikely to reduce recidivism – a result that could dissuade future prison reforms and embolden critics of reform who believe that "nothing works."

Instead of this approach, earned time credits should vest at the end of each year, which will enable BOP to adjust sentences automatically and incentivize participation in recidivism reduction programs. In particular, we recommend that individuals at any risk level should be eligible to earn ten days of earned time credit for every 30 days of programming completed, vesting at the end of each year. Earned time credits that lead to actual sentence reductions – earlier release from confinement altogether – are powerful incentives for participation and meaningful rewards for individuals committed to their personal rehabilitation and reentry.⁸ Automatic adjustments would eliminate delays in prerelease, decrease court costs, and allow BOP and courts to focus their time elsewhere.

One important aspect of the FIRST STEP Act is that it relies on the use of an undeveloped profile-based algorithmic risk assessment evaluation. Within 180 days after the enactment, the Attorney General would be required to develop and adopt a risk and needs assessment system that would be used to categorize federal prisoners as minimum, low, medium, or high risk. However, the bill also gives the Attorney General and BOP Director overly broad discretion to "use existing risk and needs assessment tools as appropriate" to implement the system. This is problematic, as it could allow the Attorney General to use the BOP's current security classification system, a system that is not designed to identify specific criminogenic needs and heavily relies on static factors, as proxy for the risk and needs assessment tool, which would ultimately undermine the purpose and effectiveness of the system. Moreover, the FIRST STEP Act fails to mandate the implementation of safeguards that are necessary whenever such tools are used. For example, the bill does not require that the risk and needs assessment tool be statistically validated prior to adoption, doesn't account for the time needed to complete one in advance, and does not require that these tools be validated by an independent authority that has no stake in the outcome of each validation analysis. It is also absolutely vital that algorithmic-based tools, if they are used at all, are

designed and calibrated with input from the community and those who would be impacted by their use, rather than input from Administration officials alone. Finally, any use of a risk and needs assessment tool must establish a mechanism by which every assessed individual has a meaningful opportunity to review and challenge their designation as high, medium, low or minimum risk. Assessment instruments like the one proposed by this bill can be expensive to design, implement, and validate, and can unfortunately result in unintended, harmful consequences for individuals and communities, especially communities of color.

The FIRST STEP Act Uses Risk Assessment Tools in an Unconventional Manner, and These Assessment Tools are Often Unreliable and Exacerbate Racial and Socioeconomic Disparities.

Using a risk assessment system to determine time credits is novel and untested. State correctional systems typically award time credits based on performance and/or disciplinary record, not a risk assessment. Research shows that risk assessments often do not accurately predict risk and risk assessments often classify many people as high risk who do not reoffend. One study showed that only 52 percent of those assessed as moderate or high risk by risk assessment tools went on to commit any offense, meaning that almost half of all persons classified as moderate or high risk were actually low risk. Another study found that risk assessments were no better at predicting recidivism than regular human beings provided with the same information.⁹ An assessment of the tool used by the Administrative Office of the United States Courts, the Federal Post Conviction Risk Assessment (PCRA), found that 58 percent of offenders on probation or supervised release classified by the PCRA as high risk are not re-arrested. Risk assessments do not predict the recidivism risk of any person; they only roughly group people into a limited number of categories. When risk and needs assessment evaluations are adopted, they are typically used by states to identify programming for people in prison, rather than to award time credits.¹⁰

In addition, risk assessments often heavily rely on static factors (those that cannot change) such as criminal history, family members' criminal history, and the community in which a person lived before entering the criminal justice system. Given that communities of color are persistently over-policed across the nation and that a person's "criminal" history need not include any actual criminal convictions, consideration of these factors will likely bias the results against persons of color. Dynamic factors (those that can change over time) such as work history, family ties, and pro-social networks are nearly impossible to change while in prison and therefore make it very difficult for a person to lower their risk score during incarceration. Therefore, the FIRST STEP Act will result in a large number of people in prison unable to earn early release credits from programming by decreasing their risk category. Rehabilitative programs in prison should use a needs-based assessment to identify the criminogenic needs of each individual and develop a program of interventions to address those needs to lower the individual's risk of recidivating.

Finally, relying on a risk assessment tool for earning time credits could amplify racial disparities and perpetuate other injustices in the criminal justice system. Studies have shown that these tools can produce results that are heavily biased against Black defendants and have a disparate negative impact on African Americans.¹¹ Risk assessments rely on static factors, including criminal history and age at the time of the offense, and dynamic factors, including work history and educational achievement. Both static and

dynamic factors tend to correlate with socioeconomic class and race, and studies show that African Americans are more likely to be misclassified as high risk than White or Hispanic offenders. Therefore, although risk assessments may seem objective or neutral, the data driving many predictive algorithms is profoundly limited and biased. Furthermore, decades of criminology research has shown that such data primarily documents the behavior and decisions of police officers and prosecutors, rather than the individuals or groups that the data is claiming to describe.

The FIRST STEP Act Does Attempt to Fix the “Good Time” Credit Calculation.

The federal prison system’s method of calculating earned credit reduces a prisoner’s sentence to a maximum credit of 47 days per year – below the 54 days that Congress intended. This decision results in unnecessary increases in time served by prisoners, at significant cost. The FIRST STEP Act attempts to fix the good time credit calculation, such that prisoners would receive 54 days of good time credit per year, not 47 days, for following prison rules, which is a prospective fix only. Further, many have suggested that this fix could immediately impact 4,000 individuals if made retroactive, however this number has not been verified. According to a BOP calculation done over a decade ago, approximately 4,000 people could be eligible for release within a year, not on the first day of implementation.¹² While the “good time fix” is a much needed, positive reform, which should become law, this provision alone is not enough to overcome our overwhelming concerns with the core of the bill as outlined above.

Conclusion

It is important to note that while reforms to address back-end drivers of our prison system are needed, they cannot function as a substitute for front-end sentencing reform. Only front-end reforms have the power to significantly stem the tide of incarceration, reduce the exorbitant cost of the prison system, and give redress to those inside who are serving sentences that are disproportionate to the severity of the offense. Any approach that does not include sentencing reform will be insufficient to meet the challenges we face. Our continued progress toward meeting the economic and societal challenges posed by the current system and establishing a fair and more just system depends on a comprehensive approach to reform.

It is up to Congress to continue to advance front end and back end reform designed to improve both federal sentencing laws and the functioning of the federal prison system. If Congress is serious about addressing meaningful prison reform, it will pass legislation that would deal with the conditions of confinement such as reducing the use of solitary confinement, providing adequate medical care to prisoners, and addressing exorbitant prison phone rates. While we appreciate the inclusion of some promising provisions in the introduced bill, such as prohibitions on the shackling of pregnant women, reforms to the federal compassionate and elderly release programs, and an audit of the program several years after its implementation, these changes are not significant enough to overcome our primary concerns with the bill and many could be adopted administratively by the Bureau of Prisons. Furthermore, we remain concerned that the challenges and solutions to reforming our federal prison system have not been fully explored by this committee and that no hearings have been held in order to give due consideration to the FIRST STEP Act in particular.



For the foregoing reasons, we urge you to vote “No” on the FIRST STEP Act. If you have any questions, please feel free to contact Sakira Cook, Senior Counsel at The Leadership Conference on Civil and Human Rights, at (202) 263-2894 or cook@civilrights.org, or Jesselyn McCurdy, Deputy Director of the American Civil Liberties Union Washington Legislative Office, at (202) 675-2307 or jmccurdy@aclu.org.

Sincerely,

The Leadership Conference on Civil and Human Rights
AFL-CIO
African American Ministers In Action
American Civil Liberties Union
American Federation of Labor-Congress of Industrial Organizations
American Humanist Association
Asian Pacific American Labor Alliance
Association of University Centers on Disabilities (AUCD)
Autistic Self Advocacy Network
Bend the Arc Jewish Action
Buried Alive Project
Campaign for Youth Justice
Center for Responsible Lending
Coalition of Black Trade Unionists
Coalition on Human Needs
Color of Change
CURE (Citizens United for Rehabilitation of Errants)
Defending Rights & Dissent
Disability Rights Education & Defense Fund
Drug Policy Alliance
Equal Justice Society
Equality California
Equity Matters
Evangelical Lutheran Church in America
Faith Action Network - Washington State
Government Information Watch
Harm Reduction Coalition
Hip Hop Caucus
Human Rights Watch
Jewish Council for Public Affairs
Justice Strategies
JustLeadershipUSA
LatinoJustice PRLDEF

Law Enforcement Action Partnership
Let's Start, Inc.
Life for Pot
MomsRising
NAACP
NAACP Legal Defense and Educational Fund, Inc.
National Association of Human Rights Workers
National Association of Social Worker
National Bar Association (NBA)
National Black Justice Coalition
National Center for Lesbian Rights
National Coalition on Black Civic Participation
National Council of Churches
National Employment Law Project
National Hispanic Media Coalition
National Immigration Law Center
National Juvenile Justice Network
National LGBTQ Task Force Action Fund
National Organization for Women
National Religious Campaign Against Torture
NETWORK Lobby for Catholic Social Justice
People For the American Way
PFLAG National
Prison Policy Initiative
Safer Foundation
Service Employees International Union (SEIU)
Sikh American Legal Defense and Education Fund
Southern Poverty Law Center
Students for Sensible Drug Policy
The Decarceration Collective
The National Council for Incarcerated and Formerly Incarcerated Women and Girls
The United Church of Christ
The United Methodist Church - General Board of Church and Society
T'ruah: The Rabbinic Call for Human Rights
UnidosUS
Union for Reform Judaism
United Church of Christ
United Church of Christ, Justice and Witness Ministries
United We Dream
Washington Lawyers' Committee for Civil Rights & Urban Affairs
We Got Us Now
334 East 92nd Street Tenant Association

¹ See “Most States Cut Imprisonment and Crime.” The Pew Charitable Trusts. Nov. 10, 2014.

<http://www.pewtrusts.org/en/multimedia/data-visualizations/2014/imprisonment-and-crime>.

² See FIRST STEP Act, 115th Cong. § 13632(d)(4)(D)(xlii), (xliii), (2018).

³ See “Offenses.” *Federal Bureau of Prisons*. Last Updated Feb. 24, 2018.

https://www.bop.gov/about/statistics/statistics_inmate_offenses.jsp.

⁴ See Taxy, Sam et. Al. “Drug Offenders in Federal Prison: Estimates of Characteristics Based on Linked Data.” *Bureau of Justice Statistics*. Oct. 2015. <https://www.bjs.gov/content/pub/pdf/dofp12.pdf>. See also Carson, E. Ann. “Prisoners in 2016.” *Bureau of Justice Statistics*. Jan. 2018. <https://www.bjs.gov/content/pub/pdf/p16.pdf>.

⁵ See FIRST STEP Act, 115th Cong. § 404(a)(1)(A) (2018).

⁶ See Lynch, Sarah N. and Harte, Julia. “Exclusive: Trump Administration Reduces Support for Prisoner Halfway Houses.” *Reuters*. Oct. 13, 2017. <https://www.reuters.com/article/us-usa-justice-prisons-exclusive/exclusive-trump-administration-reduces-support-for-prisoner-halfway-houses-idUSKBN1CI2ZA>.

⁷ Office of Inspector General. (2016, November) Audit of Federal Bureau of Prisons’ Management of Inmate Placements in Residential Reentry Centers and Home Confinement. *U.S. Department of Justice*. Retrieved from <https://oig.justice.gov/reports/2016/a1701.pdf>.

⁸ For example, participation in the BOP’s residential drug abuse program (RDAP) results in a one-year sentence reduction and has had as many as 7,000 people on its waiting list. See American Bar Association. (n.d.). *Residential Drug Abuse Program (RDAP)*. Retrieved from https://www.americanbar.org/content/dam/aba/administrative/individual_rights/Ch_3-RDAP.authcheckdam.pdf.

⁹ See Walrath, Rowan. “Software Used to Make “Life-Altering” Decisions Is No Better Than Random People at Predicting Recidivism.” *Mother Jones*. Jan. 2018. <https://www.motherjones.com/crime-justice/2018/01/compas-software-racial-bias-inaccurate-predicting-recidivism/>

¹⁰ See, e.g., Tex. Gov’t Code § 498.002 (classifying inmates’ “time-earning category” based on factors other than risk assessment); R.I. Gen. Laws § 42-56-24 (determining amount of sentence credit based on factors other than risk assessment); Okla. Stat. § 57-138 (same); N.C. Gen. Stat. § 15A-1340.18 (same); Ohio Rev. Code Ann. § 2967.193 (same)

¹¹ See, e.g., Skeem, J. & Lowenkamp, C. (2015). Risk, Race & Recidivism: Predictive Bias and Disparate Impact. Retrieved from https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2687339.

¹² The U.S. Supreme Court upheld BOP’s methodology against a challenge brought by inmate petitioners.⁴¹ However, BOP officials told us that the agency was supportive of amending the statute, and had submitted a legislative proposal to Congress such that 54 days would be provided for each year of the term of imprisonment originally imposed by the judge, which would result in inmates serving 85 percent of their sentence.⁴² BOP provided us estimates in December 2011 showing that if the GCT credit allowance was increased by 7 days, as proposed, BOP could save over \$40 million in the first fiscal year after the policy change from the early release of about 3,900 inmates. As of December 2011, the legislative proposal had not been introduced on the floors of the House or Senate.



LAW ENFORCEMENT LEADERS

To Reduce Crime & Incarceration

May 9, 2018

Hon. Paul Ryan
United States House of Representatives
1233 Longworth House Office Building
Washington, D.C. 20515

Hon. Robert Goodlatte
U.S. House of Representatives
2309 Rayburn House Office Building
Washington, D.C. 20515

Hon. Nancy Pelosi
United States House of Representatives
233 Cannon House Office Building
Washington, D.C. 20515

Hon. Jerry Nadler
U.S. House of Representative
2109 Rayburn House Office Building
Washington, D.C. 20515

Hon. Kevin McCarthy
United States House of Representatives
2421 Rayburn House Office Building
Washington, D.C. 20515

RE: Law Enforcement Perspective on the FIRST STEP Act

Dear Speaker Ryan, Leader Pelosi, Leader McCarthy, Chairman Goodlatte, and Ranking Member Nadler:

I write to represent the views of Law Enforcement Leaders to Reduce Crime & Incarceration, a bipartisan group of more than 200 current and former law enforcement officials. Our mission, and our experience on the front lines of America's fight against crime, both compel us to speak out in support of policies that will keep the public safe, and to share concerns about those that will not.

Toward that end, I urge the House of Representatives and the House Judiciary Committee to continue working toward comprehensive, bipartisan sentencing reform — even as you move closer to passing prison reform legislation.

Today, the Judiciary Committee takes up the FIRST STEP Act. The bill is in many ways an improvement on its predecessor, the Prison Reform and Redemption Act, H.R. 3356.

However, we have the same concerns about the FIRST STEP Act as we did about the previous legislation. Reducing recidivism through programming and other in-prison services is vital, and the FIRST STEP Act marks progress toward that goal. But any such attempt to reduce recidivism will

be incomplete without addressing the rate at which people unnecessarily enter prison in the first place. For that reason, we believe that the FIRST STEP Act should not pass alone, but as a part of a broader push toward comprehensive criminal justice reform — one that includes updating our outdated federal sentencing laws. The Sentencing Reform and Corrections Act (“SRCA”), now pending in the Senate as S.1917, would be a worthy companion to that effort.

Over 60 of our members expressed these views more fully in our previous letter of April 23, 2018. That letter is re-attached for the Committee’s convenience.¹

Passing comprehensive sentencing reform — such as the SRCA — will allow law enforcement officers nationwide to focus their efforts on combatting the most dangerous offenders, and support their work to keep crime at record lows. It is a necessary complement to any effort to reduce recidivism among currently incarcerated offenders.

We respectfully urge Congress to take up and pass both prison reform and the SRCA.

Respectfully yours,

Ronal Serpas

Chairman

Law Enforcement Leaders to Reduce Crime & Incarceration

Former Police Superintendent

New Orleans, Louisiana

Former Police Chief

Nashville, Tennessee

cc: Members of the House Judiciary Committee

Attachment: Law Enforcement Leaders letter of April 23, 2018

¹ Letter from Law Enforcement Leaders to Reduce Crime and Incarceration to Speaker Paul Ryan et al. (Apr. 23, 2018), <http://lawenforcementleaders.org/wp-content/uploads/2018/04/LEL-SRCA-2017-Letter-of-Support.pdf>.



LAW ENFORCEMENT LEADERS

To Reduce Crime & Incarceration

April 23, 2018

Hon. Mitch McConnell
United States Senate
317 Russell Senate Office Building
Washington, D.C. 20510

Hon. Chuck Schumer
United States Senate
322 Hart Senate Office Building
Washington, D.C. 20510

Hon. Chuck Grassley
United States Senate
135 Hart Senate Office Building
Washington, D.C. 20510

Hon. Diane Feinstein
United States Senate
331 Hart Senate Office Building
Washington, D.C. 20510

Hon. Nancy Pelosi
United States House of Representatives
233 Cannon House Office Building
Washington, D.C. 20515

Hon. Paul Ryan
United States House of Representatives
1233 Longworth House Office Building
Washington, D.C. 20515

Hon. Bob Goodlatte
United States House of Representatives
2309 Rayburn House Office Building
Washington, D.C. 20515

Hon. Jerry Nadler
United States House of Representatives
2109 Rayburn House Office Building
Washington, D.C. 20515

**RE: Law Enforcement Perspective -- Sentencing Reform and Corrections Act (S.1917),
Prison Reform and Redemption Act (H.R. 3356), CORRECTIONS Act (S. 1994)**

Dear Speaker, Chairmen, and Leaders:

We write to you as members of Law Enforcement Leaders to Reduce Crime & Incarceration. As current and former law enforcement officials, our primary responsibility is, first and foremost, to protect the public safety of our country. We have dedicated our careers to fighting crime and keeping our communities safe. That same duty compels us to speak out today about the critical nature of sentencing reform as part of any criminal justice reform effort in Congress.

Law Enforcement Leaders unites more than 200 current and former police chiefs, sheriffs, district attorneys, U.S. Attorneys, and attorneys general from all 50 states and across the political spectrum. Our mission is to work to reduce crime and incarceration together. To achieve this goal, we focus

on four policy priorities — two of which call for reforming mandatory minimum sentencing laws and improving efforts to assist prisoners reenter society.

Legislation like the Prison Reform and Redemption Act (H.R.3356) and the CORRECTIONS Act (S. 1994) are useful efforts to improve the lives of those in prison. But such efforts should be coupled with efforts to reduce unnecessary incarceration, as it is in the Sentencing Reform and Corrections Act.

Today, our oversized prison population costs taxpayers \$80 billion annually and draws resources away from law enforcement efforts to fight violent crime.ⁱ To refocus our resources and enhance public safety, we urge Congress to pass legislation including both comprehensive sentencing reform and reentry programs to reduce recidivism rates.

Lawmakers and Presidents of both parties have taken great strides to reform prison systems and develop more effective reentry programs. We are grateful to the White House for allocating resources towards reducing recidivism, through the creation of the Federal Interagency Council on Crime Prevention and Improving Reentry, and for its support of similar legislative efforts. This concerted effort acknowledges the importance of setting an example of criminal justice reform on the federal level, and the impact federal policies have on state and local criminal justice practice.

However, improving prison conditions and reentry services, on their own, will not adequately solve our high rates of incarceration and recidivism. It will not stop the overuse of incarceration for minor drug-related and low-level, non-violent offenses. To have meaningful reform, we must also address our sentencing laws. As those fighting crime on the frontlines, we know from firsthand experience that it is ineffective to exhaust resources on reducing the rate of recidivism if there is no accompanying effort to reduce the rate at which people unnecessarily enter prison in the first place. For this reason, 67 of our members [wrote in support](#) of a previous version of the Sentencing Reform and Corrections Act in early 2016.ⁱⁱ

We ask the Senate, House, and White House to work together to pass the Sentencing Reform and Corrections Act in addition to any reentry legislation. The Act would shorten unnecessarily long sentences for lower-level offenders, a solution that has been shown in other parts of the country to successfully reduce crime and incarceration together.ⁱⁱⁱ

States have already had much success in such efforts. Following the elimination of prison sentences for certain low-level and non-violent felonies in 2009, Florida's imprisonment rate fell by 10.4 percent in five years, and its violent and property crime rate by 20 percent.^{iv} Similarly, South Carolina eliminated mandatory minimums for drug possession in 2010. By 2014, the state's imprisonment rate fell by 13 percent and the violent crime rate dropped 17 percent.^v By 2013, the state's three-year recidivism rate also decreased by 13 percent.^{vi} California also enacted a number of policies that significantly reduced the state's incarceration rate, including Proposition 47, which reclassified petty theft and simple, low-level drug possession as misdemeanors.^{vii} With the savings from reduced incarceration, the state invested it into community-based crime prevention

programs.^{viii} These are promising results, which can be replicated at the federal level. If Congress offers national leadership on sentencing reform, other states will also follow suit.

As law enforcement leaders, we want to make clear where we stand: Not only is passing federal mandatory minimum and reentry reform necessary to reduce incarceration, it is also necessary to help police and prosecutors continue to keep crime at its historic lows across the country. We believe the Sentencing Reform and Corrections Act will accomplish this goal and respectfully urge Congress to swiftly pass it.

Respectfully yours,

Ronal Serpas

Chairman

Law Enforcement Leaders to Reduce Crime & Incarceration

Former Police Superintendent

New Orleans, Louisiana

Art Acevedo

Police Chief

Houston, Texas

Hassan Aden

Executive Fellow

Police Foundation

Former Police Chief

Greenville, North Carolina

Cedric Alexander

Former Police Chief

DeKalb County, Georgia

Former President

National Organization of Black Law Enforcement Executives

Eric Atkinson

Chief of Police

Menomonie, Wisconsin

Jim Bueermann

President

Police Foundation

Former Police Chief

Redlands, California

Chris Burbank

Former Police Chief
Salt Lake City, Utah

Zachary Carter

Corporation Counsel
New York, New York
Former U.S. Attorney
Eastern District of New York

John Chisholm

District Attorney
Milwaukee County, Wisconsin

John Choi

County Attorney
Ramsey County, Minnesota

William Citty

Chief of Police
Oklahoma City, Oklahoma

Jerry Clayton

Sheriff
Washtenaw County, Michigan

Brendan Cox

Director of Policing Strategies
LEAD National Support Bureau
Former Police Chief
Albany, New York

Dwayne Crawford

Executive Director
National Organization of Black Law Enforcement Executives

Ron Davis

Former Director
U.S. Department of Justice, Office of Community Oriented Policing Services (COPS)
Former Police Chief
East Palo Alto, California

Allison DeFoor

Former Sheriff
Monroe County, Florida

John Diaz

Former Police Chief
Seattle, Washington

Richard Doran

Former Attorney General
Florida

Paul Fitzgerald

Sheriff
Story County, Iowa
Former President
National Sheriffs' Association

Neill Franklin

Executive Director
Law Enforcement Action Partnership
Former Police Commander
Baltimore, Maryland

Mike Freeman

County Attorney
Hennepin County, Minnesota

George Gascon

District Attorney
San Francisco County, California
Former Police Chief
San Francisco, California

Sim Gill

District Attorney
Salt Lake County, Utah

Barry Grissom

Former U.S. Attorney
District of Kansas

Gregory Hamilton

Former Sheriff
Travis County, Texas

Hal Hardin

Former U.S. Attorney
Middle District of Tennessee
Former Judge
Davidson County, Second Circuit Court

Brent D. Harris

City Prosecutor
Flagstaff, Arizona

Timothy Heaphy

Former U.S. Attorney
Western District of Virginia

Peter Holmes

City Attorney
Seattle, Washington

Walter Holton

Former U.S. Attorney
Middle District of North Carolina

John Hummel

District Attorney
Deschutes County, Oregon

Keith Humphrey

Chief of Police
Norman, Oklahoma

Joseph Jaffe

Former District Attorney
Sullivan County, New York

James E. Johnson

Former Undersecretary for Enforcement
U.S. Department of the Treasury

Kevin Joyce
Sheriff
Cumberland County, Maine

Gil Kerlikowske
Former Commissioner
U.S. Customs and Border Protection
Former Director
Office of National Drug Control Policy

George Kral
Chief of Police
Toledo, Ohio

David LaBahn
President and CEO
Association of Prosecuting Attorneys

Chris Magnus
Chief of Police
Tucson, Arizona

David Mahoney
Sheriff
Dane County, Wisconsin

Charles McClelland
Former Police Chief
Houston, Texas

Cameron McLay
Former Police Chief
Pittsburgh, Pennsylvania

Joel Merry
Sheriff
Sagadahoc County, Maine

Stephanie Morales
Commonwealth's Attorney
Portsmouth, Virginia

Peter Newsham
Chief of Police
Washington, District of Columbia

Matt Orwig
Former U.S. Attorney
Eastern District of Texas

Richard J. Pocker
Former U.S. Attorney
District of Nevada

Timothy Purdon
Former U.S. Attorney
District of North Dakota

Rick Raemisch
Executive Director
Colorado Department of Corrections
Former Sheriff
Dane County, Wisconsin

Gordon Ramsay
Chief of Police
Wichita, Kansas

Jill Ravitch
District Attorney
Sonoma County, California

Richard Rossman
Former U.S. Attorney
Eastern District of Michigan

Daniel Satterberg
Prosecuting Attorney
King County, Washington

Michael Sauschuck
Chief of Police
Portland, Maine

William Scott
Chief of Police
San Francisco, California

Susan Segal
City Attorney
Minneapolis, Minnesota

David Steingraber
Former Police Chief
Menomonee Falls, Wisconsin

Darrel Stephens
Former Executive Director
Major Cities Chiefs' Association
Former Police Chief
Charlotte Mecklenburg, North Carolina

Donald Stern
Former U.S. Attorney
District of Massachusetts

Brett Tolman
Former U.S. Attorney
District of Utah

Cyrus Vance
District Attorney
New York County, New York

John Walsh
Former U.S. Attorney
District of Colorado

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- ⁱ Eduardo Porter, *In U.S. Punishment Comes Before the Crimes*, N.Y. TIMES, Apr. 29, 2014, <https://www.nytimes.com/2014/04/30/business/economy/in-the-us-punishment-comes-before-the-crimes.html>.
- ⁱⁱ Letter from Law Enforcement Leaders to Reduce Crime and Incarceration to U.S. Senator Mitch McConnell et al. (Jan. 20, 2016), <http://lawenforcementleaders.org/wp-content/uploads/2016/01/Law-Enforcement-Leaders-SCRA-Letter-of-Support.pdf>.
- ⁱⁱⁱ Sentencing Reform and Corrections Act, S. 1917 115th Cong. (2017), <https://www.congress.gov/bill/115th-congress/senate-bill/1917/text>.
- ^{iv} PEW CHARITABLE TRUSTS, NATIONAL IMPRISONMENT AND CRIME CONTINUE TO FALL (2016), http://www.pewtrusts.org/~media/assets/2017/03/pspp_national_imprisonment_and_crime_rates_fall.pdf.
- ^v For change in the imprisonment rate *see* CORRECTIONS STATISTICAL ANALYSIS TOOL, BUREAU OF JUSTICE STATISTICS, IMPRISONMENT RATES, 1978-2016, <https://www.bjs.gov/index.cfm?ty=nps> (showing a 2010 imprisonment rate of 492 and 2014 rate of 428); For change in the violent crime rate *compare* UCR Data Online, UNIF. CRIME REPORTING STATISTICS, <http://www.ucrdatatool.gov/index.cfm> (providing crime statistics from 1960 to 2012 and showing the South Carolina violent crime rate was 602.2 per 100,000 people in 2010) *with* UCR Data Online, CRIME IN THE UNITED STATES, 2014 tbl.5 (2015), <https://ucr.fbi.gov/crime-in-the-u.s/2014/crime-in-the-u.s.-2014> (showing the South Carolina violent crime rate was 497.7 per 100,000 people in 2014).
- ^{vi} THE COUNCIL OF STATE GOVERNMENTS JUSTICE CENTER, REDUCING RECIDIVISM: STATES DELIVER RESULTS, 14 (2017), https://csgjusticecenter.org/wp-content/uploads/2018/03/Reducing-Recidivism_State-Deliver-Results_2017.pdf.
- ^{vii} Safe Neighborhoods and Schools Act, CAL. PROPOSITION 47 (2014) (codified as CAL. GOV'T CODE §§ 7599-7599.2; CAL. PENAL CODE § 1170.1; and codified as amended PENAL §§ 459.5, 473, 476a, 490.2, 496, 666; CAL. HEALTH & SAFETY CODE §§ 11350, 11357, 11377 (West Supp. 2014)). For the full text of Prop 47, see Official Voter Information Guide for 2014 General Election, UC HASTINGS SCHOLARSHIP REPOSITORY 70 (2014), http://repository.uchastings.edu/cgi/viewcontent.cgi?article=2328&context=ca_ballot_props.
- ^{viii} Jazmine Ulloa, *Prop. 47 got thousands out of prison. Now, \$103 million in savings will go towards keeping them out*, L.A. TIMES, Mar. 29, 2017, <http://www.latimes.com/politics/la-pol-sac-prop-47-grant-awards-20170329-htmstory.html>.



AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO
AND
AFGE BUREAU OF PRISON LOCALS COUNCIL, C-33



The Honorable Chuck Grassley
Chairman, Senate Judiciary Committee
135 Hart Senate Office Building
Washington, DC 20510

Senator Dianne Feinstein
Ranking Member, Senate Judiciary Committee
331 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Bob Goodlatte
Chairman, House Judiciary Committee
2309 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Jerrold Nadler
Ranking Member, House Judiciary Committee
2109 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Dick Durbin
711 Hart Senate Office Building
Washington, DC 20510

May 8, 2018

Dear Chairman Grassley, Ranking Member Feinstein, Chairman Goodlatte, Ranking Member Nadler, and Senator Durbin:

The American Federation of Government Employees, AFL-CIO, Council of Prison Locals represents 33,000 federal correctional workers in the Bureau of Prisons (BOP), the largest federal law enforcement agency within the Department of Justice. These men and women do an extremely dangerous job every day inside 122 federal prisons – in order to keep the communities outside the prison walls safe.

This already dangerous job is being made even more dangerous due to the sustained cuts in staffing levels at our federal prisons. As a direct result of these staff shortages, assaults on correctional officers are up, the introduction of contraband items, including cell phones and drugs, are at an all-time high, and attempted and successful escapes, even from medium- and high-security facilities, are an all-too-common occurrence.

In the face of these problems, the BOP refuses to adequately staff federal prisons. Instead of hiring correctional officers, they routinely rely on a practice known as “augmentation,” in which non-correctional staff such as secretaries, teachers and others who work in federal prisons are assigned custody responsibilities. This is unsafe for these non-correctional officers who were not hired to work in custodial duties. It takes them away from their assigned duties and leaves those jobs undone. It also reduces access to programming, recreation, and education initiatives, which are key to maintaining safe facilities and reducing recidivism.

These cuts to staffing and use of augmentation fly in the face of the mission of the BOP, which is to “protect society by confining offenders in the controlled environments of prisons and community-based facilities...**that provide work and other self-improvement opportunities to assist offenders in becoming law-abiding citizens**” (emphasis added). To that end, former BOP Director Harvey Lappin told the U.S. Sentencing Commission in 2009, “higher levels of crowding and reduced staffing limit our ability to prepare inmates for reentry into the community.” And six years later, then-BOP Director Charles





AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO
AND
AFGE BUREAU OF PRISON LOCALS COUNCIL, C-33



Samuels told Congress, “these high [inmate-to-staff] ratios negatively impact our ability to effectively supervise prisoners and provide inmate programs.” Cutting staff and reducing inmate programming are exactly the opposite of what BOP should be doing. It is making our prisons, and the surrounding communities, less safe and secure, and should be stopped.

AFGE and the Council of Prison Locals have for years urged Congress to address the primary cause of the explosive growth in the BOP inmate population by passing meaningful criminal justice reform. We previously endorsed sentencing reform for nonviolent offenders. In no way do we advocate for the release of career criminals or those convicted of violent crimes. Instead we believe there is a better way to do sentencing for certain types of low-level offenders. That includes returning discretion to judges to make sure the sentence handed down matches the crime committed and putting these inmates through programming that has been proven to reduce recidivism rates. These are some of the hallmarks of S. 1917, the Sentencing Reform and Corrections Act (SRCA). We urge you to strengthen reentry programming and fight any attempts to cut back this proven means of rehabilitating prisoners and reducing recidivism in BOP.

AFGE and the Council of Prison Locals have also urged Congress to pass S. 1084, the Lieutenant Osvaldo Albarati Correctional Officer Self-Protection Act, which would require the director of BOP to ensure that each warden of a BOP institution provides a secure storage area located outside of the secure perimeter of each institution for personal firearms carried to and from work by our law enforcement correctional workers. Many correctional workers, particularly those who work in or near large cities, want to carry their personal firearms because they have real worries that former prison inmates and others may attempt to harm them, which proved to be a reality when Lieutenant Albarati was murdered as a result of his work in Metropolitan Detention Center Guaynabo, Puerto Rico.

The Lieutenant Osvaldo Albarati Correctional Officer Self-Protection Act is common-sense legislation that enjoys bipartisan support in both the Senate and the House. The Council of Prison Locals has worked to include this legislation in the Sentencing and Reform and Corrections Act, and we have received assurances that you will continue to work with us to get this commonsense workplace safety bill included at the earliest opportunity. With this assurance, the Council of Prison Locals, on behalf of the 33,000 federal correctional workers in the federal Bureau of Prisons, is proud to support the Sentencing Reform and Corrections Act.

We believe the Sentencing Reform and Corrections Act takes the right approach to addressing the primary cause for the explosive growth in the BOP federal inmate population. By focusing on reducing the number of inmates that are in federal prisons and reforming the system that keeps certain types of low-level, non-violent offenders in prison longer, resources can be better focused on incarcerating and rehabilitating high-level criminals. Reducing the prison population, in addition to hiring more federal correctional workers and thereby reducing the inmate-to-staff ratio, will make federal prisons safer places to work.

Additionally, we have concerns with parts of the prison reform bill known as the FIRST STEP Act. While there are things we support in this bill, such as the inclusion of the Lieutenant Osvaldo Albarati Correctional Officer Self-Protection Act, other provisions raise serious concerns which lead us to oppose this bill. Specifically, the bill directs the Attorney General to create a new recidivism risk assessment





AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO
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AFGE BUREAU OF PRISON LOCALS COUNCIL, C-33



tool, and do so within 180 days. The current risk assessment system in use by the BOP has been developed and refined over many years, and hastily creating a new system that is untested could put the safety of correctional officers at risk.

Even more troubling is that the FIRST STEP Act only authorizes the appropriation of \$50 million a year for five years to implement this new system, an amount that we believe is inadequate and misdirected given the current state of funding and staffing shortages at federal prisons. By requiring that this new system be developed and implemented quickly, with no guarantee that Congress will actually appropriate the needed funds, this bill essentially creates an unfunded mandate that will drain already scarce resources away from where they are needed most – increasing staffing levels at our federal prisons. Further, the FIRST STEP Act does not authorize any money for the creation of the new risk-assessment system, which means that in all likelihood, DOJ will take funds from other parts of the BOP's budget to fulfill this new directive from Congress.

BOP's FY 2019 budget already includes the elimination of 1,100 positions at a cost of \$136 million. Any new funds appropriated by Congress for BOP should be spent on hiring more correctional workers in order to help undo the damage done in recent years by the elimination of staff positions and the freeze on hiring new correctional workers. At the same time BOP is seeking to cut correctional workers, their budget shows a 3.4 percent increase in the inmate population. Asking less correctional officers to supervise more inmates is a recipe for disaster. The Council of Prison Locals urges Congress to direct BOP's already scarce resources to where they are needed most – hiring correctional workers – not creating new untested systems and unfunded mandates. And we urge Congress to pass comprehensive sentencing and criminal justice reform that will help reduce our prison population.

Three federal correctional officers have been killed in the line of duty in the last decade, including two in the last five years. Congress must do everything in its power protect the federal correctional workers who protect communities across America and ensure that a murder like those that took the lives of Jose Rivera, Eric Williams and Osvaldo Albarati never happens again. Passing the Sentencing Reform and Corrections Act will help reduce the federal inmate population, better concentrate already scarce resources, and take a big step in helping better protect the federal correctional workers who help keep our communities safe.

Sincerely,

E.O. Young
National President
AFGE, CPL C-33

