

PROJECT NEW OPPORTUNITY'S PROJECT DIRECTOR SPEAKS OUT ON FIRST STEP ACT

The First Step Act has passed the House of Representatives and now goes to the United States Senate. There it may have less support and faces a competing bill, Senator Chuck Grassley's Sentencing Reform and Corrections Act. The First Step Act would provide support for programs intended assist with reentry. The Act would allow a more rapid transfer, by up to one week for each year in custody, to half-way houses or to home confinement (electronic monitoring) for program participants who would still be under the Bureau of Prison's control and supervision. Sentence length, however, remains unchanged.

The merits of the First Step Act are sharply debated from both sides by criminal justice reform advocates. One place to hear both sides discussed reasonably is the [Deincarceration Nation's podcast on the First Step Act](#) moderated by Joshua Poe with three guests: the Brennan Center's Ames Grawert (opposed), Cut 50 Initiative's Jessica Jackson-Sloan (supporting) and Freedom Works Jason Pye (supporting). Notes posted on the website further enrich the information provided in the podcast. They include the [May 17, 2018 "Dear Colleague" letter](#) from Senators Richard J. Durbin, Cory A. Booker and Kamala D. Harris joined by two Members of Congress, Sheila Jackson Lee and John Lewis and claiming support from over 70 civil rights organizations, law enforcement and others in opposing the First Step Act with points to which the podcast moderator, responds. Joshua's notes add the ["pretty strong response" from Representative Hakeem Jeffries](#).

On the same day as the podcast, 21 May 2018, the [Leadership Council on Civil and Human Rights published its own strongly worded open letter](#) opposing the First Step Act with emphasis on the potential adverse impact on racial disparity through the use of algorithms to assess risk.

Be prepared to be whipsawed back and forth. Both sides are clearly and fully stated, and have strong points in their favor. We all have friends on both sides of the question.

There are compelling arguments in favor of the bill. It's the only piece of legislation that has any retroactive reach, it has some provisions that will benefit women in the BOP, and it adds \$50 M annually for five years for programs.

But I tend to side with Ames Grawert who, asked for the principle reason not to support the First Step Act, said simply that it is "not a measurable step toward reducing mass incarceration."

Supporters claim that the Act will initially move 4,000 federal prisoners closer to transfer from prison to half-way houses or home confinement with up to 100,000 who will ultimately benefit. These more rapid transfers will only come after application of a "risk assessment" designed and administered by the BOP, are dependent upon available space in pre-release and contract half-way house programs also administered by the BOP, exclude numerous categories of prisoners, and are thought to be likely to aggravate racial disparities in services and benefits. There is considerable skepticism that Attorney General Jeffery Sessions will administer any of this consistently with the proponent's best intentions. I share in that skepticism. The Attorney General has already reduced the number of halfway houses and the contractual obligations of half-way houses to assist people leaving federal prisons.

I am also influenced by the resemblance between the First Step Act and any number of compromised, negotiated, legislated backend reforms that have produced disappointingly small or no reductions in the prison populations in a number of states. Reforms such as these frustrate prospects for reducing prison populations to the point that the goals of Ms. Jessica Jackson-Sloan's Cut 50 Initiative won't be met until 2068, some 38 years after the Initiative's 2030 target date. I describe this reality in [Prisoners in 2016 and the Prospects for an End to Mass Incarceration](#), published by the Center for Community Alternatives.



Although relief for 4,000 potential beneficiaries is appealing, if it comes at the sacrifice of true sentencing reform, many more will lose out in the long run. During the Obama Administration and under Attorney General Eric Holder, sentencing policies and changes in federal sentencing guidelines reduced the federal prison population by about 25,000 people or -13%. Sessions has reversed Holder's policies and the administration has nominated some sentencing hardliners to the United States Sentencing Commission. Nothing but congressional action will reduce the impact of an Attorney General bent on incarcerating more people for a longer time or a sentencing commission that rejects reform.

The White House has held high-level meetings with selected advocates who are impressed by the interest shown by Jared Kushner. But how much is Kushner or the White House in control? Neither seems to have reined in Sessions's counterproductive policies. BOP Director Inch, appointed by President Trump, resigned, [reportedly to escape the crossfire between Sessions and Kushner](#).

So I think it is a mistake, and will be disappointing, to trust in the Department of Justice and the Bureau of Prisons, as opposed to Congress's changing sentences at the front end and giving more control to judges.

There are also more readily available solutions on the back end. As observed by those favoring Senator Grassley's sentencing reform bill, and as was well documented by the Colson Commission and by assessments conducted during the Obama administration, [all available here](#), the BOP has done a poor job of managing reentry, for reasons that are not all the fault of the Bureau.

But there is no reason to be dependent on the BOP to improve reentry. [Project New Opportunity's](#) approach to reentry for federal inmates starts at least six months in advance of release to a halfway house, connects people inside to the family, social, agency and organizational resources that they will need when and where they are released, and, while often benefitting from cooperation from BOP staff, is not dependent on the BOP's cooperation. There are other program models, one mentioned in the podcast, with recidivism rates less than 10% that can serve people leaving federal prison.

I respectfully suggest that by supporting reentry programs such as Project New Opportunity outside the BOP, we free ourselves from dependency on a massive corrections agency that, at best, will take years to change the culture and contractual arrangements by which it is currently bound. Advocates and political leaders are right to pursue front-end sentencing reforms which will reduce incarceration independent of back-end manipulations.

This is my opinion, not necessarily shared by organizations with which I am affiliated.

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