

**Senate Judiciary Committee**  
**Hearing on**  
**“Five Years of the First Step Act: Reimagining Rehabilitation and Protecting Public Safety”**  
**January 17, 2024**  
**Questions for the Record**

**For Mr. Ja’Ron Smith, Former Deputy Assistant for Domestic Policy for President Trump:**

You testified that the *First Step Act* is a “smart on crime” policy solution that ensures that people are held accountable for wrongdoing. You also spoke to your view on how the *First Step Act* plays an important role in ensuring that our criminal justice system “helps those who have earned a second chance successfully re-enter society.”

Can you elaborate on why you believe the sentencing reform provisions and recidivism reduction programming provided for by the *First Step Act* are a “smart on crime solution” that promotes public safety?

***Response:***

Senator Klobuchar,

Smart-on-crime solutions are those that balance accountability and rehabilitation. The sentencing reform provisions and recidivism reduction programming included in the First Step Act strike that balance.

The First Step Act reduced the *mandatory* minimum sentences for certain drug-related offenses. Reducing mandatory minimum sentencing requirements does not absolve people of responsibility when they commit a crime. It does, however, allow judges to use their expertise and discretion to determine the most appropriate sentence for an individual given their history and the crime committed.

The case of Weldon Angelos is a perfect example of why these reforms were needed. Weldon was an up-and-coming music producer and father of two when he was sentenced to 55 years in prison for selling marijuana to make ends meet. Due to federal mandatory minimum and stacking laws, the judge had no choice but to dole out that sentence – even though he believed it unfair. While Weldon should have been held accountable for breaking the law, a 55-year prison sentence that would rob his children of their father was not commensurate with the crime, especially since Weldon had no history of violence. Thankfully, Weldon was eventually released through the efforts of a bipartisan campaign. And now, the First Step Act's sentencing reforms have given federal judges the discretion to ensure there are no more stories like Weldon's.

The First Step Act also made the Fair Sentencing Act, which eliminated sentencing differences for crack and powder cocaine possession, retroactive. This allowed people currently incarcerated for crack cocaine possession to submit a petition to a federal court to have their sentences reduced. Again, these people are still being held accountable for their crimes under the law, and judges still have the final say regarding any sentencing changes. In this case, sentences are simply being adjusted to reflect current law.

It's critical to note that none of the First Step Act's sentencing reforms allow violent offenders to spend less time in prison, nor do they prevent judges from doling out longer prison sentences in cases where it is deemed necessary for public safety. They simply give judges the room to make individualized decisions as opposed to blanket, one-size-fits-all punishments. Not only is this good for taxpayers, but research indicates that longer prison sentences may actually lead to increased crime and recidivism, so it is good for public safety as well and represents a modern, smarter approach to criminal justice.

The recidivism-reduction programming included as part of the First Step Act is also a boon to public safety. As it stands, around 95% of incarcerated people will be released from prison and return to their communities one day. Evidence-based recidivism reduction programming in prison, such as education and vocational training, can help ensure that these people are successful when they return to their communities. When formerly incarcerated people are stable and successful, they



are far less likely to fall back into a life of crime, making their communities safer. Reduced recidivism also has a ripple effect in that it lessens the burden on police time and resources, which can further reduce crime in a community.

As the First Step Act demonstrates, accountability and rehabilitation are not mutually exclusive. Both are required to improve public safety.

Respectfully,  
Ja’Ron Smith, Partner CGCN

**Questions for the Record from Senator Charles Grassley**  
**U.S. Senate Committee on the Judiciary**  
**“Five Years of the First Step Act: Reimagining Rehabilitation and Protecting Public Safety”**  
**January 17, 2024**

**Questions for Mr. Ja’Ron Smith**

**Current data shows a lower recidivism rate for folks released under the First Step Act than for similarly situated folks released prior to the First Step Act. The folks who re-offend are often released because of reductions through good time served credits, which existed before the First Step Act became law.**

**1. How do you respond to critics who say the Act lets violent offenders out of jail early?**

I would first like to reiterate a crucial point: the First Step Act did *not* establish any credits or programs that allow for early release from Bureau of Prisons custody.

Such credits are known as "good time credits," which allow incarcerated people to shave time off of their sentences for good behavior. Although good time credits existed well before the First Step Act, there is a misconception they were established by it. In reality, the First Step Act simply clarified the language of the original law to ensure good time credits were calculated properly.

The First Step Act *did* establish "earned time credits," which are awarded to low-risk individuals who have successfully completed certain evidence-based recidivism reduction programs. One key difference is that earned time credits do not equate to early release from BOP custody. Instead, incarcerated people who are deemed low-risk can use earned time credits to finish their sentences in home confinement, a halfway house, or on supervised release.

The First Step Act also expanded the use of compassionate release for low-risk individuals suffering from extraordinary circumstances, such as terminal illness or old age.

To qualify for any of the so-called "early release" programs established by the First Step Act, individuals must undergo a rigorous risk assessment and screening process to ensure they are not a threat to public safety. Furthermore, incarcerated individuals convicted of violent crimes, gang-related activity, and sexual crimes are ineligible for these programs.

Claims that the First Step Act is releasing violent criminals back into the community are false.

**2. If the Bureau of Prisons were able to get the First Step Act’s anti-recidivism programs up and running, how do you think those programs will decrease recidivism?**

Reducing recidivism ultimately boils down to helping people become productive and independent members of society. That can take many forms depending on an individual's specific needs.

Some examples that come to mind include programs focused on education and vocational training along with programs focused on managing mental health issues and drug addiction. By teaching incarcerated people the skills needed to maintain gainful employment, we can eliminate the impetus for returning to crime. The same goes for mental health. By teaching people how to cope with underlying issues that, if untreated, can eventually lead to involvement in criminal activity, we take away their need to return to crime.



Regardless of focus, it is crucial that each of these programs is evidence-based. They will impact the safety of thousands of communities across the country, so it is imperative they are effective.

Once these programs are actually up and running, there will be a greater incentive to participate, and more participants will ultimately lead to less recidivism as well. But to make this a reality, the Bureau of Prisons needs proper funding and staffing.

**3. Can you explain how the First Step Act borrowed from successful criminal justice reforms in Texas and Georgia?**

—let's give examples of specific reforms, stats demonstrating their success, and the reforms in the FSA that mirror them here.

**The First Step Act didn't just reform sentencing. It gave correction officers a greater right to carry after the murder of Lieutenant Albarati. It expanded substance abuse treatments in prisons and increased monitoring of sexually dangerous persons.**

**4. Can you tell us how these lesser-known parts of the First Step Act help with rehabilitation while still holding higher-level offenders accountable?**

Rehabilitation and accountability are not mutually exclusive. For example, the First Step Act expanded evidence-based drug addiction treatments in prison. That type of programming is critical to public safety because it can help reduce recidivism in the long run. In no way does it absolve people of responsibility for crimes committed. That is a separate issue altogether.

On the opposite end of the spectrum, the First Step Act also allowed corrections officers to store and carry concealed firearms outside of federal prisons for their protection and called for increased supervision of sex offenders upon their release – provisions that are purely focused on preventing crime.

Though they may seem different on the surface, all of these provisions are ultimately focused on the same goal: preventing crime and improving public safety. That is only possible through a balance of rehabilitation and accountability.

Respectfully,  
Ja'Ron Smith, Partner CGCN

