

Testimony of Prison Fellowship

Before the U.S. House Committee on Small Business

Prison to Proprietorship: Entrepreneurship Opportunities for the Formerly Incarcerated

October 23, 2019

Prison Fellowship® is the nation's largest Christian nonprofit serving prisoners, former prisoners, and their families, and a leading advocate for criminal justice reform. The organization was founded in 1976 by Charles Colson, a former aide to President Nixon who served a seven-month sentence for a Watergate-related crime. For over 40 years, our ministry has shared the new hope and life purpose available through Christ with men and women in prison. Those who once broke the law are transformed and mobilized to serve their community, replacing the cycle of crime with a cycle of renewal.

Our prison events, classes, and programs reach more than 375,000 prisoners each year. We have over 11,200 Prison Fellowship volunteers across the United States who make it possible to serve people in prison and more than 300,000 children of incarcerated parents annually. One hundred and thirty federal prisons participate in our Angel Tree program and several federal prisons have Prison Fellowship connection classes, which include Bible studies, recovery groups, and seminars on topics from marriage, anger management, and more.

Facing our reentry crisis

Prison Fellowship commends this committee for deliberation on the failure of our society to make good on the promise and talent of formerly incarcerated men and women. Each year, more than 600,000 state and federal prisoners come home to our communities.¹ But how are our fellow Americans, with whom we share schools, public services, grocery stores, and churches, faring? The data gives us a stark picture. More than half of former prisoners make no earnings in the first year after incarceration.² At the height of the Great Recession, the 27% unemployment rate of the formerly incarcerated was five times the national rate and “higher than the total U.S. unemployment rate during any historical period, including the Great Depression.”³ Lacking access to meaningful work and the social capital, pride, and new skills such work provides, old cycles of crime, addiction, and recidivism can trap all too many returning citizens.⁴

But these frustrating data points do not signify only losses for returning citizens. This committee should likewise consider how our economy suffers as a result of our failure to unlock employment opportunities for individuals with a criminal record. A four-year study of the John Hopkins medical system found how employees with a criminal record “were more likely to stay in their jobs for more than three years” than their peers without prior convictions.⁵ Research from Northeastern University highlights the comparable, and sometimes greater, rates of length of tenure, loyalty to employer, and workplace conduct among

¹ Jennifer Bronson & E. Ann Carson, *Prisoners in 2017*, Bureau of Justice Statistics (April 2019), <https://www.bjs.gov/content/pub/pdf/p17.pdf>.

² Adam Looney & Nicholas Turner, *Work and Opportunity Before and After Incarceration*, Brookings Institution (March 2018), <https://www.brookings.edu/research/work-and-opportunity-before-and-after-incarceration/>.

³ Lucius Couloute & Daniel Kopf, *Out of Prison and Out of Work: Unemployment Among Formerly Incarcerated People*, Prison Policy Institute (July 2, 2018), <https://www.prisonpolicy.org/reports/outofwork.html>.

⁴ Mariel Alper, et al., *2018 Update on Prisoner Recidivism: A 9-Year Follow-up Period (2005-2014)*, Bureau of Justice Statistics (May 2018), <https://www.bjs.gov/content/pub/pdf/18upr9yfup0514.pdf>.

⁵ Sophie Quinton, *Matching Ex-Offenders With Hard-To-Fill Health Care Jobs*, PEW Charitable Trusts (April 19, 2017), <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2017/04/19/matching-ex-offenders-with-hard-to-fill-health-care-jobs>.

individuals with a criminal record relative to other colleagues.⁶ Our nation’s single largest employer—the military—has long benefited from the contributions of formerly incarcerated men and women. A detailed study of the records of 1.3 million enlistment records found that “individuals who have been arrested for felony-level offenses have similar attrition rates to those with no criminal record.⁷ They are no more likely to be discharged for the negative reasons employers often assume (such as misconduct or poor work performance) . . . individuals with felony-level criminal backgrounds *are promoted more quickly and to higher ranks than other enlistees* [emphasis mine].”⁸ Successful integration of former prisoners could yield gains of \$78 to \$87 billion annually to the United States gross domestic product.⁹ The overwhelming majority of returning citizens stand ready to energetically contribute to our economy. They now await our collective decision to create avenues of second chances and restoration.

Revisiting collateral consequences

No single public policy can overcome so many unmet reentry needs, however, confronting a web of regulatory and legal barriers is an ideal place to begin. According to the Council of State Governments, individuals with a criminal record face over 44,000 “collateral consequences” within state and federal statutes and regulations.¹⁰ These collateral consequences constitute various barriers for individuals with a criminal conviction, often restricting access to housing, social insurance programs, careers, education, and full participation in civic life.¹¹

Returning citizens who have completed all terms of a sentence have paid their debt to society. Any further restrictions on the rights or privileges otherwise due to them must have a substantial, demonstrated rationale in public safety. Although some collateral consequences indeed pass this test, the overwhelming majority do not. Over 13,000 collateral consequences related to occupational licensing needlessly constrain aspiring small business owners with a prior conviction.¹² For instance, aspiring barbers, cosmetologists, manicurists, makeup artists, and residential contractors for HVAC, painting, and insulation must obtain government permissions to work in at least 30 states.¹³ In some cases, individuals with criminal records face total bans on accessing a particular license, even if an offense had no relation to the professional role in question. Other licensing boards must evaluate the “good character” of an applicant. As the Institute of Justice points out, this discretion can pose serious risks to fairness and even due process; individuals can be denied a license on the basis of “convictions for minor offenses and sometimes even arrests that never led to a conviction.”¹⁴ Other licensing regulations demand actual

⁶ Dylan Minor, et al., *Criminal Background and Job Performance*, Northwestern University (May 2017), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2851951.

⁷ Jennifer Lundquist, et al., *Does a Criminal Past Predict Worker Performance? Evidence from America’s Largest Employer*, 96 Soc. Forces 1039 (2018), <https://nicic.gov/does-criminal-past-predict-worker-performance-evidence-america-s-largest-employer-2016>.

⁸ *Id.*

⁹ Cherrie Bucknor & Alan Barber, *The Price We Pay: Economic Costs of Barriers to Employment for Former Prisoners and People Convicted of Felonies*, Center for Economic and Policy Research (June 2016), <http://cepr.net/images/stories/reports/employment-prisoners-felonies-2016-06.pdf?v=5>.

¹⁰ Justice Center, *National Inventory of Collateral Consequences of Conviction*, Council of State Government Justice Center (2019), <https://niccc.csgjusticecenter.org/>.

¹¹ *Id.*; USCCR, *Collateral Consequences: The Crossroads of Punishment, Redemption, and the Effects on Communities*, U.S. Commission on Civil Rights, <https://www.usccr.gov/pubs/2019/06-13-Collateral-Consequences.pdf>

¹² Justice Center, *supra* note 10.

¹³ Dick Carpenter, *License to Work: A National Study of Burdens from Occupational Licensing*, Institute for Justice (November 2017), https://ij.org/wp-content/themes/ijorg/images/ltw2/License_to_Work_2nd_Edition.pdf

¹⁴ *Id.*

connection between offense type and the professional occupation, but here too, the often vague definition of a “related conviction” becomes yet another limitation for Americans pursuing their professional dreams. As a result of this web of punitive occupational licensing laws, our economy does not experience the full entrepreneurial vitality of returning citizens.

Prison Fellowship challenges this counterproductive status quo in our state policy work. In 2019, our ministry played a substantial role in the development and passage of Texas’ H.B. 1342. Rather than accepting piecemeal changes in each application process, Prison Fellowship and our bipartisan partners advocated for a bold rethinking of licensing, required in over a quarter of professions in the state.¹⁵ H.B. 1342 ensures criminal history only be considered when a conviction “directly relates” to a license in question and provides clear guidance of how a conviction relates to a particular position.¹⁶ The legislation also makes a commitment to second chance hiring more central to the mission of state licensing authorities, now charged with providing greater transparency and guidance for formerly incarcerated individuals in pursuit of opportunity. Signed into law by Governor Greg Abbot in June 2019, H.B. 1342 will unlock a new wave of small business creation and proprietorship among the 4 in 10 Texans with an arrest or conviction record.¹⁷

Reimagining prisons

Discussions on improving outcomes for returning citizens generally turn to questions about reentry—what barriers or resources can former prisoners expect to face in their return home? Better approaches to these questions are necessary, but not sufficient. An improved reentry strategy will ameliorate, but not transform, outcomes. Reimagining prisons as sites for shaping entrepreneurship require investments and innovative practices in correctional education, workforce training, financial literacy, and in-prison employment. Likewise, we must recognize entrepreneurship not simply as a practical skill set but a fundamentally ethical project, rooted in disciplines of integrity, mastery of self, and honest work.

Prison Fellowship seeks to transform prisons into places where habits of good citizenship are taught and lived out. Located in 93 prisons in 27 states, the Prison Fellowship Academy is the organization’s most intensive in-prison program, taking men and women through a voluntary, holistic life transformation spanning a year, where they are mentored by Prison Fellowship staff and volunteers to lead lives of purpose and productivity inside and outside of prison. The Prison Fellowship Academy is designed to address criminogenic needs including anti-social cognition, anti-social companions, anti-social personality and temperament, family and marital relationships, substance abuse, employment, education, and recreation activities. In three state prisons in Texas and Minnesota, Prison Fellowship Academy participants make up entire prison units. The Prison Fellowship Academy and other faith-based classes are currently funded entirely through the generosity of private donors and foundations. Studies from Baylor University and Minnesota Department of Corrections document that the more intensive versions of the Academy curriculum lead to substantial improvements in post-release outcomes.¹⁸ Prison

¹⁵ Grayson Pope, *Prison Fellowship Celebrates Texas Occupational Licensing Law Reforms*, Prison Fellowship (July 2019), <https://www.prisonfellowship.org/2019/07/prison-fellowship-celebrates-texas-occupational-licensing-law-reforms/>

¹⁶ Texas H.B. 1342 (2019).

¹⁷ Pope, *supra* note 15.

¹⁸ Bryon Johnson & David Larson, *The InnerChange Freedom Initiative: A Preliminary Evaluation of a Faith-Based Prison Program*, Baylor University (2008), <https://www.baylor.edu/content/services/document.php/25903.pdf>; Grant Duwe, *Can Faith-Based Correctional Programs Work?: An Outcome Evaluation of the InnerChange Freedom Initiative in Minnesota*, National Institute of Health (2013), <https://www.ncbi.nlm.nih.gov/pubmed/22436731>.

Fellowship has a pending request to launch an Academy in the federal system and seeks to be recognized as an educational program under the Bureau of Prisons' reentry program division rather than only as a religious service under the chaplaincy division. By equipping graduates to practice the habits of good citizenship, the Academy lays the character foundation needed for lasting entrepreneurial and general employment success.

We can find other examples of how faith-based initiatives lay the moral and practical preconditions for entrepreneurship. Since 2004, the Prison Entrepreneurship Program (PEP) trains individuals in Texas prisons to become entrepreneurs and, more importantly, "CEOs of their own lives."¹⁹ Like the Prison Fellowship Academy, the PEP is informed by Christian values but open to participants of all or no faith persuasions. Ethical formation is central to the PEP curriculum; a 3 month character development program precedes the six month period where students craft and refine their business proposals alongside PEP volunteers.²⁰ Notably, PEP does not narrow its focus to individuals with low-level, non-violent charges; 2013 data highlights that 60% of PEP students actually served time for violent felonies.²¹ After graduating PEP with an entrepreneurship certificate from Baylor University, the program's alumni achieve striking results: "within 90 days of their release, 100 percent of all PEP graduates are employed. In 2016, 28 PEP-started businesses project revenues of more than \$100,000. Six project revenues of more than \$1 million."²² PEP's outcomes demonstrate that incarcerated individuals can enrich all of us when they are viewed as "assets, not liabilities" and challenged to "be productive and necessary members of American society."²³

Federal recommendations

To conclude, this 116th Congress can best invigorate entrepreneurship among returning citizens by creating constructive culture within our nation's prisons *and* a culture of second chances and restoration in our wider society. Fortunately, members of this committee are presented with numerous, bipartisan legislative vehicles to advance these goals.

The bipartisan First Step Act has already changed the lives of numerous men and women in the federal prison system. However, only strong congressional oversight can ensure the full promise of this legislation is met, which, if properly implemented, will equip more federal prisoners with entrepreneurial skills. We urge members of Congress to fully fund the legislation and press the Bureau of Prisons (BOP) to address clear gaps in evidence-based programming and productive activities.²⁴ Additionally, Congress should ensure the Bureau of Prisons complies with the First Step Act's focus on expanded BOP partnerships with non-profit and faith-based organizations who provide effective, evidence-based programming.²⁵ Finally, the legislation recognizes new programming will have more positive outcomes when combined with meaningful incentives for participation and successful completion, whether through certain privileges during incarceration or, depending on a prisoner's recidivism risk level and sentence

¹⁹ Elizabeth English, *The Prison Entrepreneurship Program: An Innovative Approach to Reentry*, American Enterprise Institute (December 2016), <https://www.aei.org/research-products/report/the-prison-entrepreneurship-program-an-innovative-approach-to-reentry/>.

²⁰ English, *supra* note 18 at 4, 6-8.

²¹ English, *supra* note 18 at 5.

²² English, *supra* note 18 at 2.

²³ English, *supra* note 18 at 13-14.

²⁴ Office of the Attorney General, *The First Step Act of 2018: Risk and Needs Assessment System*, U.S. Department of Justice (2019), https://nij.ojp.gov/sites/g/files/xyckuh171/files/media/document/the-first-step-act-of-2018-risk-and-needs-assessment-system_1.pdf

²⁵ Nathan James, *The First Step Act of 2018: An Overview*, Congressional Research Service (March 2019), <https://fas.org/sgp/crs/misc/R45558.pdf>.

type, changes in pre-release custody level.²⁶ Congress must ensure the BOP and Department of Justice develops and implements these incentives.

Pell Grant restoration for incarcerated students remains another means for federal lawmakers to create a corrections culture where individuals are learning the practical skills and moral habits necessary for entrepreneurship. From 1965 to 1994, the Pell Grant program made postsecondary education a consistent feature of American prisons.²⁷ Today, an unprecedented range of organizations, including National District Attorneys Association, Business Roundtable, U.S. Chamber of Commerce, and Prison Fellowship, and higher education leaders, including HELP Chairman Lamar Alexander, Education and Labor Chairman Bobby Scott, and Secretary of Education Betsy DeVos, have expressed their support for restoration of Pell eligibility for incarcerated students. By providing a clear mechanism of federal financial aid, Pell grant restoration will allow for expanded education within correctional facilities that fuels entrepreneurship skills. We therefore urge members of this committee to consider cosponsorship of the bipartisan REAL Act (H.R. 2168), introduced by Congressmen Jim Banks (R-IN) and Danny Davis (D-IL).²⁸

Reimagining the atmosphere of prisons must also be combined with shifting our own perceptions of our fellow citizens with a criminal conviction. During every April since 2017, Prison Fellowship's Second Chance Month has created spaces for just this cultural reimagining. Over 300 businesses, congregations, and organizations partnered with Prison Fellowship in April 2019 to promote conversations about the restrictions and stigma facing individuals with a criminal record.²⁹ This year, the White House and 23 states and jurisdictions issued Second Chance Month declarations; bipartisan congressional resolutions were also introduced in both chambers of this Congress.³⁰ With the expected reintroduction of these resolutions this coming spring, members of this committee can take a simple step to promote conversations in public policy and our communities about second chances and restoration.

Finally, we urge members of this committee to cosponsor and pass the Fair Chance Act (H.R. 1076). This legislation, introduced by Representatives Doug Collins (R-GA) and the late Elijah Cummings (D-MD), delays inquiries into an applicant's criminal history by federal agencies and among federal primary contractors.³¹ By doing this, H.R. 1076, building off the positive policy outcomes of comparable laws in states and municipalities, formerly incarcerated individuals have a chance to present their aptitudes and skills during the federal hiring process.³² The Fair Chance Act will allow returning citizens to pursue greater employment in the federal government, with some using this work experience in future entrepreneurial projects.

Thank you for this opportunity to present Prison Fellowship's policy recommendations to expand entrepreneurship among the formerly incarcerated.

²⁶ *Id.*

²⁷ Gerard Robinson & Elizabeth English, *The Second Chance Pell Pilot Program: A Historical Overview*, American Enterprise Institute (September 2017), <http://www.aei.org/publication/the-second-chance-pell-pilot-program-a-historical-overview/>.

²⁸ REAL Act of 2019, H.R. 2168, 116th Cong. (2019).

²⁹ Prison Fellowship, *Second Chance Month*, Prison Fellowship (2019), <https://www.prisonfellowship.org/about/justicereform/second-chance-month>.

³⁰ Expressing Support for the Designation of the Month of April 2019 as Second Chance Month, H.Res. 210, 116th Cong. (2019); A Resolution Designating April 2019 as "Second Chance Month," S.Res. 102, 116th Cong. (2019).

³¹ Fair Chance Act of 2019, H.R. 1076, 116th Cong. (2019).

³² Stan Veuger & Daniel Shoag, "*Ban the Box*" Measures Help High Crime Neighborhoods, American Enterprise Institute (March 11, 2019), <https://www.aei.org/wp-content/uploads/2019/03/Ban-the-Box-March-2019-update.pdf>.