

December 9, 2024

President Joseph R. Biden
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

Dear President Biden,

We, the undersigned state and national conservative and faith-based leaders and organizations, know that prioritizing second chances and public safety will make our communities stronger and safer. As part of upholding our values, we believe that America's criminal justice system requires updating to hold people appropriately accountable and improve public safety. It is with this background that we respectfully urge you to use your executive clemency power to allow people who have already served years—sometimes decades—in federal prison and who would receive significantly shorter prison terms if they were sentenced today an opportunity to come home.

People, cases, and the law can change in ways that may justify review to determine if any remaining period of incarceration is necessary for public safety. For example, there are [numerous documented cases](#) where prisoners have intervened to protect correctional officers from prison violence. In Georgia, three prisoners [saved the life of a correctional officer](#) who suffered a heart attack. In [Tennessee](#), an inmate saved the life of a correctional officer who was choking. These are just examples of how post-sentencing events should provide an opportunity for a second look.

In addition to supporting numerous state level policies, we advocated for the passage of the First Step Act and, more recently, the Federal Prison Oversight Act. And we continue to support other reforms like the EQUAL Act to eliminate the sentencing disparity between crack and powder cocaine.

There are many thousands of people in our federal prisons serving disproportionately long sentences for offenses that would result in much shorter prison terms if they were sentenced today under current law and practice. An example of this situation can be found in the First Step Act, a major piece of legislation we all supported that was enacted by your predecessor. The First Step Act reined in the use of sentence stacking under 18 USC sec. 942(c) such that a sentencing enhancement could not be applied unless charges for the prior offense had become final. In short, prosecutors can no longer charge multiple counts of violating 924(c) in the same indictment to obtain 55-year sentences like in [the infamous case of Weldon Angelos](#). [According to the United States Sentencing Commission](#), the exact same behavior that would have required a 55-year

mandatory minimum sentence prior to enactment of the First Step Act now merits a 15-year sentence. There is no deterrence value in preserving such sentences. We urge you to use your clemency power to give these individuals a meaningful second chance. There is a critical opportunity to grant clemency for people who did not benefit from changes made by the First Step Act, people who were subject to the crack-powder cocaine sentencing disparity, and people who have spent decades in prison but cannot apply for compassionate release simply because they were sentenced under the “old law” before the adoption of the Federal Sentencing Guidelines.

Any clemency effort should focus on prioritizing fairness while reflecting our commitment to public safety, fiscal responsibility, and efficiency within the justice system.

Most people would be surprised to learn that if Congress reduces the penalty for a specific crime, that the sentences imposed on earlier defendants would not be adjusted. It doesn’t comport with the concept of fairness, as most Americans think about it.

Beyond fairness, taking such a step would relieve pressure on the Bureau of Prisons, which is facing a staffing crisis as the BOP population is increasing. It should also permit increased opportunities for participation in proven anti-recidivism programming. Since 95% of those in BOP facilities will return home someday, increasing the opportunities for such programming will reduce the re-offense rate and improve community safety. Further, unnecessarily long sentences overburden our federal prison system, straining infrastructure and staff, leading to overcrowded facilities and unsafe conditions for both those incarcerated and the people who work in prisons. Reuniting individuals who have served excessive sentences will allow them to contribute productively to society, reducing both the social and financial costs of incarceration.

And decades long sentences are an inefficient use of taxpayers’ dollars. They divert resources away from evidence-based policies that prioritize prevention and rehabilitation—the true benchmark of public safety.

Of course, clemency considerations must be made with an eye towards safety. That requires the vetting of individuals to determine whether they continue to pose public safety risks. Following the positive recommendations of the Office of the Pardon Attorney, which are the product of rigorous individualized investigations, would provide a clear and transparent way to address these considerations. We are confident that this can be done for those still serving sentences issued under more punitive parameters than what are in place today.

Clemency is not just the right thing to do; it is also a good policy. As a result of the First Step Act, nearly 30,000 individuals were able to return to their families and communities earlier than their original release date. Research shows that the reoffending rate among this group is 37%

lower compared to a similar group that did not benefit from the law's changes.¹ And similar outcomes have happened in the states, too. For example, in Oklahoma, after certain low-level offenses were no longer eligible for prison sentences, Governor Stitt utilized his commutation power to release people whose sentences would be reduced due to the law change. This resulted in the immediate release of 462 people, saving a total of 1,931 years in prison without compromising public safety. In fact, those released under commutation law had a vastly lower reincarceration rate within the first two years (5%) compared to the national reincarceration rate (32%). These data are in line with conservative principles and can be similarly achieved on a federal level.

Clemency is not an act of leniency. It is about ensuring that sentencing laws are applied fairly and consistently, particularly in cases where outdated laws have led to disproportionately harsh punishments. Through a broad and principled clemency effort, you can reduce incarceration without compromising public safety, provide second chances to those who have demonstrated rehabilitation, and relieve the burdens on our federal prison system.

Sincerely,

Right On Crime
CPAC Nolan Center for Justice
Faith & Freedom Coalition
Unify.us
Due Process Institute
Prison Fellowship

¹ Council on Criminal Justice, "First Step Act: An Early Analysis of Recidivism," August 2023, <https://counciloncj.foleon.com/first-step-act/fsa/>