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Social Policy Analysis: Support the Second Chance Act of 2007

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On April 9, 2008, President George W. Bush signed the Second Chance Act of 2007 into law. The full title of the Act includes, Community Safety Through Recidivism Prevention and is Public Law Number 110-199 (or HR. 1593). Several versions of this bill have been through the house and the senate, some more successful than others. However the origin of this law reaches back to 1968 and the Omnibus Crime Control and Safe Streets Act (OCCSSA). Many amendments have been made since 1968 and the law now focuses its efforts more on successful transitions out of prison rather the strengthening of law enforcement, as it previously had.

The Second Chance Act of 2007 reauthorizes (but does not appropriate) funds to “improve existing programs and to create new and innovative programs (Library of Congress, 2008)” to facilitate reentry. Improvements to existing programs would consist of changes to the OCCSSA. This includes continued funding for “adult and juvenile offender state and local reentry demonstration projects,” as well as violent offender truth in-sentencing grant funds. The Second Chance Act is also comprised of a definition of candidates for the drug court grant programs and enhancement of the state offenders program for residential substance abuse treatment (Library of Congress, 2008). The new programs created include reentry courts at the state, tribal, and local levels, grants for technology careers training demonstration, the opportunity for alternatives to incarceration with drug treatment, grants for substance abuse treatment that is family-focused, and grants for creating and enhancing education at prisons, jails, and juvenile facilities (Library of Congress, 2008).

Due to the increasingly large numbers of those confined in prisons and the amount of money spent toward incarceration every year, this bill received strong bipartisan support in the House of Representatives and in the Senate. “The Second Chance Act, H.R. 1593, was introduced by Democratic Representative Danny Davis on March 20, 2007 (Nelson & Turetsky, 2008).” “It passed in the House by a 347 to 62 vote on November 13, 2007... (Nelson & Turetsky, 2008).” In the Senate, with support and introduction by Senator Joe Biden, the “legislation passed unanimously on March 11 and had 34 cosponsors, including Sens. Arlen Specter (R-PA), Sam Brownback (R-KS) and Patrick J. Leahy (D-VT) (cited at Reentry Policy Council, 2008).”

The legislation had passed in the House in November but was “stalled” in the Senate for some time afterwards (Drug War Chronicle, 2008). This came about “by a legislative “hold” put on it by Sen. Jeff Sessions (R-AL), who had expressed a number of concerns about it, including some on the cost and effectiveness of the program (Drug War Chronicle, 2008).” After Senator Sessions “lifted his ‘hold’ ... on a Monday night, the legislation passed both the Senate Judiciary Committee and a Senate floor vote by unanimous consent (Drug War Chronicle, 2008),” the next day.

The strong bipartisan support was not only seen in Congress but also throughout the community. Democratic Senator Biden states, “the Second Chance Act also has tremendous support from over 200 local and national organizations, including a wide cross-section of civil rights, justice, faith-based and community organizations (cited at Reentry Policy Council, 2008).” In addition he goes on to say that, “the American Bar Association, the Council of State Governments, the Justice Fellowship, the Leadership

Conference on Civil Rights and the NAACP, among others, have been instrumental partners in ensuring that this legislation offers ex-offenders hope for the future (cited at Reentry Policy Council, 2008).”

After the passage of the legislation some opposing discussions have ensued in the House of Representatives. Three Republican Representatives have expressed their concern with the Second Chance Act. In May, 2007 Representative Gohmert (R-TX), Blackburn (R-TN) and Carter (R-TX) exclaimed protest about the amount of benefits that “felons” could receive. Representative Gohmert posed the argument that felons would have access to more opportunities than those serving in the United States military (Congressional Record, 2007). Representative Carter stated concerns with education grants that those in prison or coming out of prison would be able to access (Congressional Record, 2007). Carter discussed apprehension with the fact that it may be possible for someone in prison to get grants to attend college (Congressional Record, 2007). The reality that the college education obtained could lead a “felon” to achieve a bachelor’s degree or even a master’s degree, Carter found quite unacceptable (Congressional Record, 2007).

Despite the opposition the legislation had strong support. The focus of intervention on crime, management, prevention, and deterrence has crossed the table for years. Over time the interventions have changed. Looking back at the roots of the Second Chance Act by understanding its origin in the 1960’s and the OCCSSA, gives more insight into the changes and innovation that is now occurring.

The desire for increased government intervention towards crime came about in the early to mid-1960's, when racial protesting was at an all time high. Signs of crime and violence were highly visible. Brian, Landsberg, & Macmillan-Thomson (2004) wrote that:

May 1965 marked the first time that a majority of people responding to nationwide polls named crime as the most important problem facing the nation. Such fears can be tied to forces beyond crime itself. Civil disobedience and marches by Southern blacks were met by widespread violence in the form of beatings, bombings, and murders by or with the approval of local police and government, most famously during the Birmingham protests of 1963. Broadcast over the nation's televisions, images of protests and police reaction gave many Americans the impression that lawlessness was epidemic. Urban riots only intensified such feelings (Historical Background, ¶ 4).

Beginning in Harlem, a section of New York City, in 1964, and Watts, a section of Los Angeles, in 1965, summers came to be marked by urban unrest. Often sparked by incidents and allegations of police brutality, civil disorders occurred in over 100 cities by 1968, accompanied by looting, arson, and clashes with police and the National Guard. Reactions to crime, protest, and riots carried with them strong undercurrents of racism, a consistent facet of American law and politics in this period (Historical Background, ¶ 5).

As evidenced above, the issue of crime was a hot topic in 1964 during the presidential election. "Candidates George Wallace and Barry Goldwater called for 'law

and order' in challenging, Lyndon Johnson (Landsberg, et al., 2004).” When Johnson won the presidency that year he took the issue of crime head on. He created the President’s Commission on Law Enforcement and the Administration of Justice, otherwise known as, the Katzenbach Commission (Landsberg, et al., 2004). This commission studied crime from a more holistic perspective, such as looking at the reasons for crime. This research and the outcomes served as the basis for the Omnibus Crime Control and Safe Streets Act (OCCSSA) of 1968. These philosophies also were congruent with the Johnson’s Great Society.

The OCCSSA addressed crime in four different ways. “It created the Law Enforcement Assistance Administration (LEAA) to provide financial assistance to state and local government law enforcement... and included provisions regarding the admissibility of confessions in criminal trials (through an amendment to the act in the Senate) (Landsberg et al., 2004).” The OCCSSA also “established procedures to allow wiretapping by law enforcement authorities and it included provisions that placed regulations on firearm sales and possession (Landsberg et al., 2004).”

Even though much of the OCCSSA focused on crime enforcement, the past research gave us a basis for what we know today. The research conducted on crime during the 1960’s was innovative. Looking at the reasons for crime is a very insightful tool that can tell any country a lot about themselves. Besides focusing on prevention and deterring crime from occurring, it has become obvious, over the years that our focus also needs to include prevention and more specifically reentry of those leaving prison back into society.

There are many problems encountered by those reentering society after being released from prison. The Legal Action Center (2004) notes many “existing legal barriers” for those facing reentry (p.8). They find that employers in most states can deny employment to people who were arrested but not convicted of a crime (Legal Action Center, 2004). Employers are also allowed to refuse jobs to anyone with criminal records, despite how long ago the crime was committed (Legal Action Center, 2004). Additionally the Legal Action Center (2004) found that those convicted of a drug felony are not eligible for public assistance or food stamps in most states. Not to mention that most states make information about conviction and criminal history easily accessible to the public through the Internet, leaving many with no chance for services and not even an interview for employment or housing (Legal Action Center, 2004). So the message from our society is clear, if a person has been convicted of a crime they are “second-rate” citizen and they will be forever. These roadblocks deny justice and basic rights to individuals.

Other important factors regarding reentry are general safety, security, and justice for all. Anyone could find themselves or their family member facing incarceration for a number of unintentional or purposeful acts. I believe that each of us would prefer to know that we would be treated fairly and as a person. Further facts regarding federal, state, and local statistics of those incarcerated, those about to leave prison, and/or those on probation and parole, will provide staggering evidence for additional support of the Second Chance Act.

The International Center for Prison Studies (2007) states that the “U.S. has the highest rate of incarcerated people in the world...702 people per 100,000.” In addition, Republican Senator Sam Brownback notes that “currently, almost two-thirds of the 600,000 individuals released from prison will be re-arrested (cited at Reentry Policy Council, 2008).” These numbers are evidence of the problems of the United States criminal justice system.

The Bureau of Justice Statistics gives several numbers that articulate the additional relevance for the Second Chance Act. They state that at “yearend 2006, over five million adult men and women were under Federal, State, and local probation or parole jurisdiction (U.S. Bureau of Justice, 2008).” The Bureau of Justice goes on to say that three-quarters of those on probation or parole supervision, had committed a non-violent offense. More than a quarter of those offenses requiring probation were for drug law related violations and one sixth for driving while intoxicated (U. S. Bureau of Justice, 2008). Furthermore the U. S. Bureau of Justice (2008) states that “nearly all of the offenders on parole (94%) had been sentenced to incarceration of more than 1 year and about 4 in 10 parolees had served a sentence for a drug offense.”

These numbers show that the majority of offenders are incarcerated for non-violent crimes and that sentences are typically at least one year. The numbers point out how many of those in prison are there for drug or alcohol related offenses. The Second Chance Act works to address issues especially with the offenders previously noted. The Act looks at the fact that better and more effective treatment is available to those who have not been violent and have drug and alcohol addictions.

Our society is looking at more effective ways of dealing with these “criminals” rather than just putting them in prison. According to Democratic Senator Joe Biden, “the Second Chance Act of 2007 could eventually save American taxpayers hundreds of millions of dollars, given that, on average, the annual cost of incarcerating a prisoner exceeds \$20,000 – a number that increased six-fold between 1982 and 2002 (Reentry Policy Council, 2008).” This decrease and reinvestment of funds into more preventative and corrective measures will prove successful if the appropriate funding is obtained.

The U. S. Bureau of Justice (2001) goes on to say that “direct expenditure for each of the major criminal justice functions (police, corrections, judicial) has been steadily increasing. This is documented by noting that state expenditures for corrections have increased by 145 percent in 2001 (U. S. Bureau of Justice, 2001). The Foundation for National Progress (2007), states that since 1980 the United States has had a 189 % increase in spending towards prisons and only a 32 % increase towards education. These statistics provide further evidence for a need for change and for the Second Chance Act.

The need for the Second Chance Act can not be denied. The House, the Senate, and the President agree. Not to mention hundreds of other groups and organizations that is also in support of the Act. But how does it work and if passed in 2007 what change has occurred? This presents the problem with the Second Chance Act. The Act authorized funds for federal and state reentry programs but did not appropriate them.

Families Against Mandatory Minimums (FAMM) (2008) explains that, “in Congress, no money can be spent (appropriated) unless it is first authorized (p. 1).” Furthermore, “once authorized, the appropriations committee appropriates or distributes

funds to a program (FAMM, 2008, p .1).” The amount of money suggested for these programs, is just that, a suggestion. The funds may be more or less than originally reauthorized. “We do not know yet whether Congress will appropriate some, all or none of the money the Second Chance Act authorizes (FAMM, 2008, p. 1).”

The Congressional Budget Office (CBO) found that if the money authorized was funded “that implementing H.R. 1593 would cost about \$400 million over the 2008-2012 periods (CBO, 2007).” They go on to say that “enacting the bill would not affect direct spending or receipts (CBO, 2007).” Additionally “H.R. 1593 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments (CBO, 2007).”

The Center for Law and Policy breaks down what programs are set to receive what funding. They find five major areas in which the funding will be focused. This provides approximately, “\$110 million for adult and juvenile offender state and local reentry demonstration programs; \$40 million for grant projects to provide job training, mentoring, and transitional services; \$20 million for reentry courts; and \$130 million in funding for substance abuse treatment, education and training, and mentoring (Nelson and Turetsky, 2008).” The fifth area includes funding for a federal prisoner reentry initiative, other pilot programs, a number of research studies, and other provisions. Each of these areas incorporates numerous important details, functions, roles and supervisions. In order to better understand the legislation, I will look at exclusively at the state and local demonstration projects.

The adult and juvenile offender state and local demonstration projects are amendments to the new legislation from the initial OCCSSA legislation. The grants issued under this amendment will be administered by the Attorney General. These grants will address pre and post release services for those incarcerated or facing reentry. The grant also plans to incorporate families of the incarcerated and to address the needs of victims. This section of legislation has some of the most stringent guidelines for implementation and evaluation. In order for these grants to be obtained the “grant projects must incorporate a long-term strategic plan, a reentry task force, and a rigorous evaluation component (Nelson & Turetsky, 2008).”

This legislation calls for \$55 million for 2009 and for 2010 to address these reentry issues. The agencies interested must contribute 50% of the funding towards the projects. In addition two percent of the funding from these grants is designated for the National Institute of Justice to conduct an evaluation (Nelson & Turetsky, 2008). Moreover “the Attorney General may use two percent of the funds to establish a National Adult and Juvenile Offender Reentry Resource Center (Nelson & Turetsky, 2008).”

State and local governments, territories or Indian tribes are permitted to submit an application for the grant funds discussed. In order for these entities to apply and acquire the funds, they must follow the explicit guidelines mentioned above. More specifically “they must develop a **long-term reentry strategic plan** that includes a goal of reducing recidivism by 50 percent over a 5-year period, measures progress and performance outcomes, and include extensive public and private coordination (Nelson & Turetsky, 2008).” The plan requires many different outcomes to be measured. This may cause lengthy organization and time consumption in order to establish. Some outcomes

mentioned are “recidivism, supervised release violations, substance abuse, mental health, employment, education, housing, and child support (Nelson & Turetsky, 2008).” In addition, “grant applicants must establish a **Reentry Task Force** that examines ways to pool funding streams, identifies best practices, and analyzes supervised release processes (Nelson & Turetsky, 2008).”

Furthermore there are seven other specifics that must be met by those bodies seeking grant funds. This includes backing of the chief executive officer of the entity, description of interagency collaboration, incorporation of a governmental task force, and the identification of the governmental and non-profit agencies roles. Other areas of necessity are the identification of legal barriers to reentry, ability to have evidence-based practices evaluated and the ability to describe replication of the project (Nelson & Turetsky, 2008).

In deciding qualification of applicants, precedence will be given to those “from geographic areas with a disproportionate reentry population; that target high-risk offenders; with a strong community consultation component; that demonstrate effective case management and management designs, including pre-release planning; that undertake a review of supervised release processes; and that provide for an independent evaluation that include random assignment and controlled studies ‘to the maximum extent possible’ (Nelson & Turetsky, 2008).” These designated areas are ones that the Second Chance Act hopes to focus. Conducting research of these practices will help further understanding of criminal justice and future focal points.

Finally grants funds may be used on services to offenders in prisons, jails or juvenile institutions. These funds could focus on educational or vocational skills as well

as efforts toward job placement. Funding will also be provided for mentoring in prison that can be utilized for the offender upon reentry into the community. Those that seek to engage in comprehensive and coordinated post-release supervision and services are welcome to seek funding. Projects that engage in promoting “safe, healthy, and responsible family and parent-child relationships (Nelson & Turetsky, 2008)” are another focus of these funds. Grants are also eligible with focuses on substance abuse treatment and services. In addition a concentration on connecting veterans or other offenders with housing and health care services is encouraged. Lastly, a core focus is on services that encourage payment of restitution, security, counseling and other services for victims (Nelson & Turetsky, 2008).

One of the other areas the Second Chance Act focuses on is pilot programs. One such program “would authorize the appropriation of \$5 million a year for 2008 and 2009 for Bureau of Prisons (BOP) to establish the Elderly Nonviolent Offender Pilot Program, (CBO, 2007).” This would allow some prisoners over 60 years in age, who had committed non-violent offenses to complete a period of their sentence at home (CBO, 2007). This is another strategy to greatly reduce numbers of non-violent offenders from prisons rolls. However some of the programs created with the Second Chance Act would be necessary to support these offenders upon leaving prison. This would be especially important since these offenders are likely to have less family support available and less opportunities for employment, therefore with low or no incomes.

The Second Chance Act also has a great deal of focus on eliminating those non-violent offenders with alcohol or drug addictions from prison. “H.R. 1593 would authorize the appropriation of such sums as necessary for each of fiscal years 2008 and

2009 for Department of Justice (DOJ) to make grants to state and local prosecutors to develop drug-treatment programs for offenders that would serve as alternatives to imprisonment (CBO, 2007).” Other similar programs, like the drug court programs, cost approximately \$20 million each year. Addressing addictions with individuals would in turn, improve many families connectedness and functioning.

Furthermore the Second Chance Act approves funding for the National Institute of Justice and the Bureau of Justice Statistics to conduct several studies and reports. These studies would focus “mostly on recidivism and other issues relating to the reentry of offenders into the community (CBO, 2007).” The CBO estimates that about \$3 million is needed in 2008 to carry out these studies. However, thus far no money has been appropriated for any of the programs in the Second Chance Act, but the Act is up for review again this year.

This past summer the Second Chance Act was in the spot light again. When the House and Senate Appropriations Committees looked at mark-ups for 2009 appropriations, they turned to the Second Chance Act. The House reserved \$45 million and the Senate reserved \$20 million for Second Chance programs during sessions this June. Yet again the Act was supported by Democratic Senators Brownback, Biden, and Leahy as well as Republican Senator Specter. Congressmen Davis and Coble were advocates in the House. “Mark-up of the appropriations bills is only the first step in the appropriations process this year (Reentry Policy Council, 2008).”

For these important programs to move forward, funding for the Second Chance Act is necessary. The concepts that the Act entails are a positive direction for society.

They are ideas that have developed over time as research has developed and new concerns have risen to the surface.

I think Senator Joe Biden (2008) says it best, “an ounce of prevention, as they say, is worth a pound of cure (cited at Reentry Policy Council, 2008).” The Second Chance Act would provide prevention and intervention services. The strong bipartisan support shows the desire of the American people to address our country’s needs in some of the most effective ways possible.

In looking into the Second Chance Act of 2007, I found a great deal of literature. Initially I found particular interest in this policy because it seems to be very progressive and advocates for a real change in the way society addresses crime, criminals, and reentry into the general population. These policies take into account the fact that prisoners or ex-prisoners have a high recidivism rate after the first three years upon leaving prison. It also recognizes that these ex-offenders must have a way to survive, make a living and get connected with resources in order to be successful. These policies have wide spread support and are very important, as well as fiscally responsible. However they lack funding. Budgets must be rearranged to include appropriation for this Act now.

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