

**Testimony to the United States House of Representatives
Committee on the Judiciary
Subcommittee on Crime, Terrorism, and Homeland Security**

Hearing: “Women and Girls in the Criminal Justice System”

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Chairman Bass, Ranking Member Ratcliffe, and Members of the Committee thank you for inviting me to appear today.

My name is Patrice Onwuka, and I am a senior policy analyst at the Independent Women’s Forum. We are a nonprofit organization, committed to increasing the number of women who value free markets and personal liberty. We advance policies that enhance people’s freedom, choices, and opportunities. My work focuses on expanding opportunity for women.

There’s no better time to talk about women and opportunity than today.

As of June, we are at a near record-low unemployment rate for women of [3.3 percent](#). There are more than [11 million](#) women-owned businesses. Over [1,800](#) new small businesses started each day on average from 2017 to 2018. Firms owned by women of color have had triple-digit growth over the past decade. We graduate more women from college today than men and in scores of industries, women outearn men.

Because of a strong economy and over 7 million unfilled positions, employers are considering for employment applicants whom they would have passed on in the past. That includes returning citizens and people who have criminal records. This is good news for this community that struggles with obtaining steady employment, a key factor determining whether they will become a productive citizen or return to prison.

Women in the justice system are also benefiting from greater opportunity, but unfortunately, they have been left out of the conversation of criminal justice reform. I’m glad today’s hearing will focus on their unique issues and concerns,

The number of women in prison has increased by more than [700 percent](#) since 1980. As a nation, we are home to around 30 percent of the world’s incarcerated women.

Lawmakers on the left and the right recognize that in the past we may have been tough on crime -- and needed to be. Today, the shift to be smart on crime provides a chance

to reform laws that have yielded punishments which were out of whack with the crime or to create policies that help women prepare for life after serving time.

Over Incarceration of Women

Judges have enjoyed discretion in weighing the merits of cases and determining the best punishment for crimes committed by individuals.

Our justice system changed significantly in the 1970s and 1980s when Congress and state legislatures implemented mandatory sentencing for drug crimes with the intention of attacking the drug trade and deterring people from drug use. Understandably, the spread of drugs warranted a strong response. Unfortunately, limiting judicial discretion and imposing inflexible punishments led to skyrocketing incarceration rates. There were just [13,000 incarcerated women](#) in 1980 and that swelled to more than [110,000 women](#) in 2016. The federal female prison population has risen twice as fast as the male population. Some 1.3 million women are under the supervision of our criminal justice system.

Women are more likely to commit property crimes and drug crimes and offenses than men. In state prisons, for example, [25 percent](#) of women in prison have been convicted of a drug offense, compared to 14 percent of men in prison.

Because of sentencing changes, low-level, non-violent offenders landed in federal prisons for longer periods of time, when otherwise, they might have been given parole or sent to diversion programs.

Conservative and liberal lawmakers are trying to address the unintended consequences of a heavy-handed approach to sentencing.

The bipartisan First Step Act passed and signed into law by President Donald Trump in December 2018, reduced or reformed several federal mandatory minimum laws that, prospectively, will reduce unjustly harsh sentences, restore discretion to judges, and allow for resentencing.

In 2019, over a dozen female inmates ([2 percent](#) of 1,050 federal inmates) received reduced sentences as a result of these changes. Going forward, likely more women will end up serving fairer sentences or may be given alternatives to sentencing such as community-based diversion programs, rehabilitation for addiction, treatment for mental illness, paying restitution, or community service.

Alternatives to imprisonment can rehabilitate the offender, reduce prison and jail costs, and prevent additional crimes from occurring in the future. Victims of crimes are helped, communities are helped, and individuals are helped.

Americans overwhelmingly support alternatives to sentencing: [77 percent](#) of adults believe that alternatives to incarceration should be used often or sometimes.

Criminal justice reforms should not eliminate punishments for offenders, but they offer a chance to ensure that punishments fit the crimes. Effective punishments can reduce the likelihood that a woman recidivates. Over 40 percent of all people leaving prison will re-offend and be back in prison within three years of their release.

By addressing underlying causes of crime such as addiction or mental illness, we may help people from reoffending. That is good for families, who don't have to lose moms and dads for years at a time. It also allows women to keep working to earn income, pay taxes, and support their families. That truly gives people a chance at a better life.

Dignity for Women in Prison

Women have unique health and wellness needs that men do not have and ones that do not disappear when they serve time in prison. Women need on-going gynecological care and prenatal care if they are pregnant. Women have menstrual cycles that demand hygiene products such as menstrual pads and tampons. They require separate facilities for showering and using the toilet.

Serving a criminal sentence should not mean that female inmates serve in dehumanizing, unsanitary, unsafe, or unhealthy conditions. Nor should they have to pay for products that they cannot afford.

If women are pregnant, it is especially important for both the health of the mother and the baby that their prenatal care is provided.

As a mother of a seven-month-old, I can only imagine how challenging it would be to be restrained while pregnant and especially during labor and delivery. Although 2,000 births occur to women in custody, the stories of miscarriages that follow from shackled inmates falling and hurting themselves remind us why this practice was important to end.

These are two areas where progress has been achieved on the federal and state levels. The First Step Act directed the Federal Bureau of Prisons to make feminine hygiene products available to prisoners for free. It also prohibits the use of restraints on pregnant women in federal prisons unless there are good reasons for her to be restrained, such as being a flight risk or a healthcare professional determines the use of restraints is necessary for treatment.

There are still areas for more to be done at the federal level to provide dignity for women inmates. It's reasonable for women to have privacy from male correctional officers when they are undressed in showers, bathrooms, and dressing rooms or being

searched. States are adopting such measures like Louisiana, which [passed](#) reforms to preclude male correctional officers from conducting pat-down searches.

These are expectations that transcend partisanship and underscore that even behind bars, women should be treated with dignity.

Removing Barriers to Opportunity:

We are living through an impressive time for women in the labor force. The tight job market today is also encouraging employers to hire individuals that they would not have considered before such as those with a criminal record. Some private employers are proactively removing questions about criminal pasts from employment applications.

Yet, too many women are locked out of the economic recovery, the labor force, and the prospect of economic mobility because of their criminal background. From sentencing to second chances, women who desire to make amends, better themselves, and become productive citizens face government-imposed barriers to achieving opportunity.

Once a woman leaves incarceration, she needs to work. Former inmates who find steady employment are less likely to return to crime. However, women with low educational levels and who lack a steady employment history and vocational skills face difficulty finding employment.

The government can help women gain the skills, education, and training that they need to secure work opportunities beginning while serving their time.

Vocational training and career technical education programs teach inmates employment skills or job-specific skills with the goal of reducing the risk of recidivating.

The First Step Act encouraged rehabilitation programs and offers significant incentives to inmates who participate in recidivism reduction programs.

Congress and states should explore and assess the effectiveness of such programs to scale what works and learn what doesn't work.

Occupational Licensure

Occupational licenses are another barrier of entry for those with a criminal record. Occupational licenses are government "permission slips" to work in a vocation. Workers have to satisfy state-level requirements of education and training at their own expense.

Occupational licensure has expanded significantly over the last five decades [increasing](#) from just 5 percent of the workforce in 1950 to 20 percent in 2000.

There are hundreds of occupations that require licensure and many of them are vocations that women work in: manicurists, cosmetologists, makeup artists, preschool

teachers, shampooers, interior designers, florists, hair braiders, and tax preparers. These can be low- and middle-income vocations where individuals can work for employers or be entrepreneurs.

Occupational licensure creates barriers to work because they often require higher levels of educational attainment and skills that can be costly and take a long time to secure. The qualifications may be unnecessary or unrelated to the actual vocation. Many occupational licenses are not portable across state lines. Most concerning, many states have “good character” standards that prohibit ex-offenders from ever obtaining a license.

A study by an Arizona State University researcher [found](#) that states with the heaviest occupational licensing burdens saw an average increase of over 9 percent in new-crime recidivism rates over a three-year period. Conversely, states with the lowest burdens and no character provisions saw an average decline of nearly 2.5 percent in the recidivism rate.

Reforming occupational licenses are an important key to reducing recidivism. This is a bipartisan area of concern; the Obama Administration released a report calling for occupational licensing reforms. It’s encouraging to see states eliminate licensing requirements or good character provisions.

Preparing women for life after prison will help them settle into a productive lifestyle and prevent them from returning to the behaviors that led to their crimes.

The criminal justice system is an area where we believe that smart reforms can help women who are breadwinners for households where someone is serving time or who have themselves been in the justice system and want to be productive members of society.

It’s exciting to see criminal justice reforms at the state and federal level deliver transformational impact for women and by extension their families and communities.

Thank you for the opportunity to be here this morning to discuss these issues of importance to women in society. I welcome any questions you may have.