

Case study:

**Coordinating cross-
government action in the US
– The Federal Interagency
Reentry Council**

Case study: Coordinating cross-government action in the US – The Federal Interagency Reentry Council

Produced by the UK Health Forum and commissioned by the Health Foundation.

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Case study: Coordinating cross-government action in the US – The Federal Interagency Reentry Council

Summary

This case study examines the processes that led to the establishment and implementation of the US Federal Interagency Reentry Council (Federal Council), which was concerned with reducing the high levels of recidivism in the US. Incarceration is associated with a higher prevalence of adverse health outcomes compared to the general population, and leads to restricted access to the determinants of health such as employment, education and housing, with knock-on impacts on their dependents. The US has the highest levels of imprisonment in the world, with a rate of 655 prisoners per 100,000. Although the England and Wales rate is significantly lower at 141 per 100,000, this rate is the highest in Western Europe.⁽²⁾

As part of the ‘war on drugs’ in the late 70s and early 80s, new sentencing laws were introduced by the Reagan administration which led to rapid increases in offender sentencing and recidivism rates from the 1980s onwards. This was accompanied by a lack of consensus on what action was needed to address the problem within the criminal justice community. Under the leadership of the Attorney General during the Clinton administration (1993–2001), the Department of Justice (DOJ) hosted a series of expert round-tables and accompanying papers to explore how rising prisoner numbers could be addressed. One proposal by Jeremy Travis, then director of the DOJ’s National Institute of Justice, called for a radical review of reentry – defined as the process of managing the transition from imprisonment to release. Drawing on lessons from drug offender programmes, the proposal called on actors to build interagency relationships and mobilise networks to create a comprehensive support system spanning housing, employment and other sectors. This and several of the other ideas that emerged from the process were subsequently developed by others.

Among them, in 2001 the influential NGO, Council of State Governments, established a national Re-Entry Policy Council to review the evidence and develop recommendations for state governments. It convened 100 actors ranging from politicians and judges, to ex-criminals, victims and researchers (including Travis). The groundbreaking report, *Charting the Safe and Successful Return of Prisoners to the Community*, was published in 2005. It provided, for the first time, a comprehensive set of evidence and consensus-based recommendations for addressing the challenge of reentry.

Reflecting the bipartisan political support for the issue, in 2004 President Bush (2001–09) publicly committed to a reentry prisoner initiative in his State of the Union Address to Congress, saying ‘America is the land of second chance, and when the gates of the prison open, the path ahead should lead to a better life’. The Bush administration passed the Second Chance Act with bipartisan support in 2007, expanding provisions for offender reentry.

Building on the Act, the Obama administration (2009–17) established the Cabinet-level Federal Council in 2011, which committed to developing effective reentry policy and coordinating action. Chaired by the Attorney General, the Federal Council expanded from seven to 20 departments and was recognised as a model interagency collaboration in 2014. Among its outcomes, the Federal Council removed barriers to employment, education and healthcare for ex-convicts; issued guidance to clarify misconceptions on issues such as access to public housing; and facilitated the introduction of prevention and reentry coordinator positions in every US Attorney’s Office across the country.

US incarceration rates have fallen from a peak of 755 per 100,000 in 2008 to 655 per 100,000 in 2016. Among the key lessons underpinning this success, criminal justice actors:

- built cross-sector and multi-sector collaborations which generated the evidence, developed consensus-based solutions, and mobilised high-level and public political support for action
- exploited the need to cut public sector expenditure on prisons as a result of the financial crisis
- persuaded the Bush administration to introduce the Second Chance Act which provided a legal framework, funding for action, and demonstrated the need for a national coordination mechanism
- persuaded the Obama administration to establish the Federal Council whose robust governance mechanism maximised cross-government coordination and sustainability.

Reducing high levels of prisoner reoffending remains a key priority for the UK government and the lessons of this case study are important for the UK.

Introduction

The US has the highest incarceration rate globally, with 655 prisoners per 100,000 of the population or approximately 2,000,000 prisoners (local, state and federal) in 2016. (1) Although US incarceration rates have declined from a peak of 755 per 100,000 in 2008, they are still very high. The incarceration rate for England and Wales is 141 prisoners per 100,000 of the population. While the UK rate is much lower than that of the US, the UK tops the prisoner league table in Western Europe. The Scandinavian countries have the lowest incarceration rates in Europe (eg Denmark 59 per 100,000, Sweden and Finland both 57 per 100,000) owing to a cultural preference for and high levels of investment in rehabilitation.^(1, 2)

Incarceration is associated with higher rates of adverse health outcomes compared to the general population. For example, around 40% of prisoners in the US reported having a chronic medical condition compared to 31% in the general population in 2011–12; similarly, instances of high blood pressure, diabetes and asthma were 1.5 to two times more prevalent among prisoners compared to the general population.⁽³⁾ Incarceration also affects access to a number of important determinants of health such as healthcare, employment, education and housing, with knock-on effects on their families and dependents.⁽⁴⁾

The number of people imprisoned for drug offences alone in the US ballooned from 40,900 in 1980 to 469,545 by 2015 and half of the 222% growth in the state prison population between 1980 and 2010 was due to an increase of time served in prison for all offences.⁽⁵⁾ The increase in incarceration in the US has been attributed to factors that have influenced who is incarcerated and for how long.⁽⁴⁾ These include the poor economic climate nationally and associated lack of work for those without formal education; lawlessness associated with anti-war and civil rights movements; institutionalisation of people with mental health conditions owing to lack of alternative treatment options; widespread cuts to social services funding; and approaching substance use disorders as a criminal justice issue.⁽⁴⁾ At all levels of government a 'tough on crime, war on drugs' approach led to laws which increased sentence lengths, reduced access to rehabilitative programmes, and called for increased enforcement for certain types of crimes – typically drug crimes occurring in poorer urban communities.

The criminal justice system in the US is a complex network of systems at the federal, state, and special jurisdictional levels like military courts.⁽⁶⁾ The US Department of Justice (DOJ) has overall responsibility for criminal justice at the federal level. It is made up of several agencies such as the Federal Bureau of Investigations, Drug Enforcement Division and the United States Parole Commission. The DOJ is headed by the politically appointed Attorney General who is the Chief Lawyer to the US government.⁽⁶⁾ The federal system manages cases that are national in scope, for example assassination of government officials, bankruptcy, copyright, patents and some maritime cases. State criminal justice systems handle crimes that have taken place in the specific state, for example traffic violations, drug offences, family disputes and robberies.

The DOJ's Attorney General enforces federal laws, provides legal counsel in federal cases, interprets the laws that govern executive departments, heads federal jails and institutions, and examines alleged violations of federal laws.⁽⁷⁾ Each US state has a state attorney general, who is the chief legal representative to the state. In some states, the attorney general also serves as the head of the

district department of justice, with responsibilities similar to the US DOJ. The criminal justice system has three main components: law enforcement, adjudication and corrections. The corrections component is concerned with reform and rehabilitation. It is run by a network which includes publicly run and privately operated institutions.

This case study examines the processes that led to the establishment and implementation of the US Federal Interagency Reentry Council (Federal Council), which is concerned with coordinating federal-level action to reduce the high levels of recidivism in the US.

Timeline

Year	Event
1984	Sentencing Reform Act passed under the Reagan administration as part of the Comprehensive Crime Control Act ⁽⁸⁾
1986	Anti-Drug Abuse Act passed ⁽⁹⁾
1988	Republican President George H.W. Bush elected
1992	Democratic President Bill Clinton elected
1997–99	Increasing prisoner numbers and rates of recidivism identified by Attorney General, Janet Reno
2000	Examination of the issue begins via evidence generation, coalition building and round tables led by the Urban Institute
2000	Republican President George W. Bush elected
2002	State Government Re-Entry Policy Council established (State Council)
2004	Bush's State of the Union Address commits to giving ex-criminals a second chance ⁽¹⁰⁾
2005	State Council report published <i>Charting the Safe and Successful Return of Prisoners to the Community</i>
2007	Justice Reinvestment Initiative developed to inform research-based policy changes to help improve prison growth, hold offenders accountable and protect public safety
2007	The Second Chance Act (SCA) passed
2008	SCA signed into law ⁽¹¹⁾
2008	National Reentry Resource Centre developed as part of the SCA
2008	Democratic President Barack Obama elected
2009	Internal review of the DOJ recommended by Attorney General Derek Holder (Head of the DOJ)
2011–16	Federal Interagency Reentry Council convened (Federal Council)
2011	State Recidivism Reduction Program developed as part of the SCA ⁽¹²⁾
2013	DOJ develops its Smart on Crime Initiative
2013	Department of Veterans Affairs launches Veterans Reentry Search Service
2014	The Government Accountability Office ⁽¹³⁾ awards the Federal Council as a model interagency collaboration
2015	White House launches the Fair Chance Business Pledge ⁽¹⁴⁾
2015	DOJ announces Second Chance Fellow ⁽¹⁵⁾
2016	President issues a formal Memorandum for the Federal Council in January ⁽¹⁶⁾
2016	The Justice Department designated a National Reentry Week for April
2016	Republican President Donald Trump elected
2017	<i>An Evaluation of Seven Second Chance Act Adult Demonstration Programs: Impact Findings at 18 months</i> published ⁽¹⁷⁾

Description of the policy

The Sentencing Reform Act

Drug use in the US emerged as a growing problem in the late 1970s, with 25 million people classed as current drug users by 1979. There were particular concerns about the effect of the problem on young people, and parent groups such as the National Federation of Parents for Drug Free Youth mobilised in response to the high rates of youth marijuana use. These groups had a strong impact on the new Republican President, Ronald Reagan (1981–89), who was elected into office in 1980 and saw action on drugs as being politically advantageous to his campaign.

As the drug problem grew, it became more visible and was associated with an increased amount of violence in states like Florida where most of the drug traffic flowed. The military were called in to assist smaller agencies with enforcement.⁽¹⁸⁾ This military involvement led to framing of the issue as the ‘War on Drugs’ from 1982, and the issue’s growing momentum led to the passing of Reagan’s Sentencing Reform Act in 1984.⁽¹⁹⁾

New sentencing laws introduced under the Act had a large impact on the sentencing of offenders, particularly those charged with minor drug offences. Between 1984 and 1999, the number of people charged with a drug offence in district courts increased about 3% annually, on average, from 11,854 to 29,306.⁽²⁰⁾ In 1999, roughly 65% of those charged had previously been arrested and 28% had five or more previous arrests. Approximately two out of every three people released from prison in the US were re-arrested within three years of their release.⁽²¹⁾

‘Because of this Reagan initiative, federal prisons are filled with pre trial detainees deemed dangerous, or subject to a handful of statutory presumptions that largely result in jailing low-level drug dealers. Lengthy pre trial detentions of a year or more are not uncommon.’

Source: *No Mercy: Ronald Reagan's tough legal legacy* (22)

Reframing the problem

The growing prisoner numbers and recidivism levels during the 1980s and 1990s were accompanied by a lack of consensus on what action was needed to address the problem. The criminology sector had adopted a ‘nothing works’ professional ideology, which held the view that interventions to rehabilitate prisoners were ineffective because the causes of the high prisoner numbers were structural, and could only be resolved through social justice.⁽²³⁾ Although this argument had some merit, it led the researchers in the field to be primarily focused on examining the problem and showing what did not work as opposed to identifying and demonstrating what did work.

Under the leadership of the Attorney General during the Clinton administration (1993–2001), the DOJ began a programme of work to explore how the problem of rising prisoner numbers could be solved. This involved a combination of research and pilot programmes, as well as expert round tables and community engagement.⁽²⁴⁾ As part of this process, in 1998 the DOJ’s National Institute of Justice and Corrections Program Office joined forces to explore how sentencing and corrections policies could improve at the state and federal level, through a series of sessions with stakeholders. The initiative was led by the directors of the two institutions, and over two years they brought together the field’s leading practitioners and scholars from a broad cross-section of points of view.

The experts explored whether there was a better way to think about the purposes, functions and interdependence of sentencing and corrections policies. The sessions were accompanied by a series of discussion papers, which distilled the experts' judgments on the strengths and weaknesses of current practices and the most promising ideas for future developments.⁽²⁵⁾

'I worked at the National Institute of Justice, the research arm of the Department of Justice and was working for Jeremy Travis who was the director at the time who was working for Janet Reno, the Attorney General at the time. That's when, 1997, '98, '99, because of all the changes in sentencing and law and the crack epidemic, our prison population had begun to spike up, up, up. One day Janet Reno asked Jeremy Travis, as the Research Director, "What are all these numbers, all these new people who are going in, what happens when they get out?" And there began the early exploration and where Jeremy then coined the term reentry. You know, rehabilitation had always been a lexicon, people getting out had been in there but there was such a sense, I am sure you've heard, maybe you haven't but, in the criminal justice field there was a very famous study that was captioned as 'Nothing Works' and people had really turned away from rehabilitation.

So in 1999, at the very end of the Clinton administration, we started exploring this issue. There were a series of papers that came out, the Attorney General Reno gave the first public speeches about this and we had our first pilot projects. We had no money, zero Dollars, [we] put out calls for concept papers to the field round reentry courts and public safety partnerships with police departments and State departments of correction to really explore the idea of how to respond to people coming out in increasing numbers and the high recidivism rate. What do we do about that? It really re-framed an old issue that had increased recently and it had not gotten noticed or a fresh eye in years, forever.'

Source: Key informant from the criminal justice sector

Among the topics covered, the papers included an analysis and proposal on rethinking prisoner reentry, which was authored by Jeremy Travis, the director of the National Institute of Justice (1994–2000). Travis drew attention to the evidence that the rising prisoner numbers were being driven by increases in the length of time served by offenders, as well as a rise in parole violations by ex-prisoners which had doubled to 34% between 1980 and 2000.⁽²⁶⁾ He proposed a radical review and reconsideration of the reentry agenda, defined as the process of managing the transition status from 'imprisoned offender' to 'released ex-offender'. Drawing on lessons from innovations in the area of criminal justice such as drug treatment, Travis proposed a reentry model which mobilised networks of formal and informal social control to create a comprehensive support system that began at sentencing and continued with in-prison activities and into community based supervision during the period of release.⁽²⁶⁾ Travis identified that the main challenge to such a model would be to build the interagency relationships that were essential to making the reentry model work, and this would be a radical and new way of doing business.

Building consensus on a blueprint for reentry policy

At the time of the DOJ's 1998–2000 sessions and papers based on them, no one knew whether they 'would be instrumental in developing a new paradigm for sentencing and corrections, or even whether they would generate broad-based support for a particular model or strategy'.⁽²⁵⁾ However,

many of the ideas and proposals that emerged from the process were subsequently developed further by others.

Among the major developments that followed, in 2000 the Justice Policy Centre at the Urban Institute launched an ongoing investment in prisoner reentry research. Travis and some members of his team moved from the DOJ to the influential Institute, where they were able to contribute to the Centre's ground-breaking research to better understand the pathways of successful reintegration, the social and financial costs of current policies, and the impacts of prison and reentry on individuals, families, and communities.⁽²⁷⁾ The Centre's work included undertaking research, producing policy briefings and collaborating with partners on a wide range of issues from studies into the effects of reentry on children and the role of families and the community, to the public health and housing dimensions, to evaluations of programmes at the county, state and federal level.⁽²⁷⁾

A respondent describes some of the Justice Policy Centre's work below:

'The Urban Institute spent several years developing a series of studies around reentry and held reentry roundtables and all of this information is public and online on the Urban Institute website. So it is the first time that we knew that it wasn't just a Criminal Justice issue but really it was about health and housing, employment and education and all of the other issues because it was about poverty and neighbourhood.'

'We brought people into the same room, scholars and academics for the first time, to try and unpack this issue along all those dimensions. We commissioned papers and had public conversations and wrote monographs and studied this issue in several States and interviewed thousands of prisoners about what their expectations were and what their reality was before they were released. Six months before release, right after release and at various intervals for a couple of years and the issue definitely began to catch steam and attention and was recognised as an issue that needed attention and needed a systematic way of State, in particular, but also Counties and the Federal System to start preparing people for release and supporting the integration when people got out.'

Source: Key informant from the criminal justice sector

In 2001 the Council of State Governments (CSJ), a public, non-profit organisation, passed a resolution which established a State Re-Entry Policy Council on offenders' reentry into communities. CSJ provided information, research and training to state officials in all three branches of government in every state and territory. Its resolution described the bipartisan concern of state government officials about prisoner reentry, their desire to inform state policymaking around this issue, and their interest in federal government initiatives that recognised the uniqueness of each jurisdiction.

The issue was identified as pressing for several reasons:

- unprecedented numbers of people being released from US prisons and jails
- high recidivism rates which were creating a costly cycle of incarceration, release and return

- large corrections budgets to accommodate increasing numbers of inmates at a time when most states were being forced to cut critical services
- newspaper headlines describing tragedies related to the uncoordinated release of individuals that might have been prevented with a better allocation of scarce resources.

The State Government Re-Entry Policy Council (State Council) was charged with developing a comprehensive, bipartisan set of recommendations for policymakers to improve the likelihood ex-prisoners would avoid crime and become productive, healthy members of families and communities. It was organised into three advisory groups:

- Supportive Health and Housing,
- Public Safety and Restorative Activities, and
- Workforce Development and Employment Opportunities.

Collectively, members of the advisory groups came from diverse backgrounds and jurisdictions across the country. They ranged from legislators, judges and enforcement officials to victims of crime, ex-criminals and researchers.

The State Council was funded by the DOJ, Department of Labor, and Department of Health and Human Services, with additional funds from private philanthropic foundations such as The Robert Wood Johnson Foundation. It was overseen by a steering committee comprising 10 national organisations specialising in probation and parole, corrections administration, housing, drugs and alcohol, mental health, workforce, the courts and research (eg the Urban Institute).

The State Council met over two years to develop consensus through a series of meetings, round tables and focus groups. Its groundbreaking report, *Charting the Safe and Successful Return of Prisoners to the Community*, was published in 2005.⁽²⁸⁾ The report provided, for the first time, a comprehensive set of consensus-based recommendations on developing and implementing reentry policy. The 600 page document included 35 policy statements which were presented as a three-part blueprint for action to address reentry:

- Part I reviewed the steps for policymakers and practitioners to develop solid foundations from which to build reentry programmes and policies for successful transition from prison to the community
- Part II provided policy statements and recommendations, beginning from admission to a corrections facility and continuing through the completion of supervised release
- Part III explained the improvements needed across housing, workforce development, substance abuse treatment, mental health services, and children and family support services.

The significance of the report is illustrated by the quote below:

'[...] the Council of State Governments in probably early 2001, 2002, brought together a Re-Entry Policy Council [State Council]. It had representatives like an extension of the reentry roundtable, it had representatives from the right and left of the political spectrum but also all of the different disciplines. Again, health, housing, education, employment, criminal justice to sit together at a table for months and months and months and come up with a number of recommendations for what to do about reentry. This report which is online at the Council of State Government's Justice Centre on their National Reentry Resource Centre looks like a

phonebook right, it was an encyclopaedic – you know, document of all of the different ways to cut this issue.

‘Recommendations for individuals, for public agencies, for families, for law enforcement, for all the different sectors. It was kind of the Bible of... it was addressed in so many ways that it wasn’t something a jurisdiction could just pick up and implement, but it was a great resource as to what the leading experts thought and had consensus around. I think 100 leading experts around the field signed on to this as a consensus document and so it was just a great guide and resource for people who were getting into this issue. That was in 2005.’

Source: Key informant from the criminal justice sector

The Second Chance Act

Following the change of government in 2001, the Bush administration (2001–08) continued to support the reentry agenda. President Bush committed to a reentry prisoner initiative in his State of the Union Address to Congress and the public in 2004. Bush had a personal interest in the issue as a Christian who believed in redemption. He was also connected to the influential prison reform advocate Charles Colson, who had served time for Watergate-related offences of the Republican Nixon government before becoming a born-again Christian and prison reform advocate on his release (see Box 1). The quote below encapsulates how the President described giving people a second chance as a core value of America:

‘In the past, we’ve worked together to bring mentors to the children of prisoners and provide treatment for the addicted and help for the homeless. Tonight I ask you to consider another group of Americans in need of help.

‘This year, some 600,000 inmates will be released from prison back into society. We know from long experience that if they can’t find work or a home or help, they are much more likely to commit crime and return to prison.

‘So tonight, I propose a four-year, \$300 million Prisoner Reentry Initiative to expand job training and placement services, to provide transitional housing and to help newly released prisoners get mentoring, including from faith-based groups.

America is the land of second chance, and when the gates of the prison open, the path ahead should lead to a better life.’

Source: President George W. Bush, 2004 State of the Union Address⁽²⁹⁾

Box 1: Charles Colson, influential prison reform advocate with connections to the Bush dynasty

Charles Colson had been a lawyer and part of President Nixon's Republican administration (1969–74) before being imprisoned for his role in the Watergate scandal which culminated in Nixon's premature resignation from office. Colson subsequently became a born-again Christian and founded the Prison Fellowship – the world's largest Christian ministry to prisoners – on his release. Colson's reentry into society in 2000 was facilitated by Governor Jeb Bush, the brother of President George Bush (2001–08). Jeb restored Colson's rights to practice law, vote and serve on a jury, which had previously been lost with his felony conviction.⁽³⁰⁾ Colson became a leading and influential voice in the evangelical political movement, and his work with ex-offenders was hailed as 'a model for [President] Bush's ideas about faith-based funding.' He was subsequently awarded the Presidential Citizens Medal (2008) – the second highest honour available to a US citizen – for his services to prison reform by President Bush.⁽³⁰⁾

One respondent described the contrasting arguments adopted by the Republican Party and Democratic Party in their support for reentry policy. While the Democrat's support was underpinned by the need to promote public safety and social justice, the Republican Party's support was underpinned by the moral values of redemption and forgiveness:

'The Administration had changed [from Clinton], George Bush was President and I will never forget watching him, sitting on my couch watching the State of the Union and George Bush famously for those of in [sic] the US, he said "this is a land of second chances and when the prison gates open, we are a country that should welcome people home". Those were not his words but it was pretty close and he used the phrase "a land of second chances".

'It was for so many of us, who had worked in this area, it was so exciting to see the next Administration pick this up and build on it and double down on it and say this isn't a partisan issue, it's not a political issue, this is something that we have got to get right and while the Democrats had really framed this initially as a public safety issue, that was the urgency. All these people are getting out and recidivism rates are high, we have to change that.

He was framing it as a moral issue and one of redemption you know and that everyone can change and owe it to our fellow Americans to support that. So this issue continued to pick up, really pick up get more and more traction.'

Source: Key informant from the criminal justice sector

The Second Chance Act (SCA), named after President Bush's 2004 State of the Union address, was passed with bipartisan support in 2007. It amended the Omnibus Crime Control and Safe Streets Act of 1968⁽³¹⁾ to reauthorise, rewrite and expand provisions regarding adult and juvenile offender reentry projects. The quote below illustrates some of the ways in which the Act helped to support the reentry agenda:

'The SCA (Second Chance Act) was important because it increased the amount of time federal prisoners could receive in halfway houses; clarified confusion about the use of home confinement; created a test program that allowed some elderly offenders to be released early; and authorised funding for reentry programs across the country. All of these aspects of the SCA were positive steps forward in sentencing reform. Improving reentry and reducing

the number of people who return to prison is good for public safety, taxpayers, and state and federal prison systems, many of which were overcrowded.'

Source: Attorney General Eric Holder at the 2009 ABA Convention⁽³²⁾

The funding associated with the Act was provided and administered by the DOJ's Office of Justice Programs to support reentry programmes and strategies for adults, juveniles and youth. Examples of some of the programmes funded included:

- support for organisations that provided comprehensive reentry services to participants who were screened, assessed and identified for participation before their release from prison
- use of screening and assessment to determine risk and needs; treatment interventions that targeted criminal thinking; and provision of evidence-based substance use and mental health treatment practices and services both before and after release.

The SCA also committed to the establishment of the National Reentry Resource Centre as the primary source of information and guidance on reentry. The centre provides resources for delivery of training and technical assistance; advances the knowledge base of the reentry field; helps to promote 'what works' in reentry by helping to develop peer networks and information exchange; and provides information for people returning to communities and their families.⁽³³⁾

The Federal Interagency Reentry Council

In 2011 the Obama administration (2009–17) established a cabinet-level Federal Interagency Reentry Council (Federal Council), which represented a significant executive branch commitment to developing effective reentry policy and coordinating action.^(34,28) Its mission was to:

- make communities safer by reducing recidivism and victimisation;
- help those returning from prison and jail to become productive citizens; and
- make financial savings by lowering the direct and wider societal costs of imprisonment.

As part of its remit, the joint work of the Federal Council agencies was focused on improving a variety of related outcomes including public health, child welfare, employment, education and housing.

The Federal Council was chaired by the Attorney General, Derek Holder, who had put in motion a process leading the Federal Council's establishment on his appointment. Holder had previously served as Deputy Attorney General during the Clinton administration and had a long history of engagement with the issue from its early days (see section on reframing the problem), as well as through his role in the courtroom as a judge⁽²⁸⁾, as the quote below illustrates:

'He also will talk about being a judge and saying people come before him over and over again and also just knowing the depth of their stories and the trauma that most of them had endured at some point in their lives, often many points in their lives and so this was an issue that resonated with him because I think he had seen it in his court room, he had been exposed to it throughout his career and certainly was aware. And, importantly he always felt that the whole pulling together of the Reentry Council [Federal Council] was a part of all the early drafts that the Second Chance Act provided. They provided all the funding and for some

reason, no one knows why, it was cut out of the last version and so there has always been a push from the outside stakeholders for the Department or someone convene this group.'

Source: Key Informant from the criminal justice sector

Several additional factors contributed to the Federal Council's establishment. Among them, the experience of the earlier State Council had highlighted the utility of such an approach for galvanising action at the federal level. Proposals for a Federal Council had been included in early drafts of the SCA (around 2004–05), but failed to make the final version. The 2008/09 financial crisis provided a political window which helped to refocus and maintain interest in and attention to the reentry issue. The high incarceration rates at a time of resource constraints at the state level meant that in some states, budgets for corrections were growing at a faster rate than state Medicaid (healthcare) and education budgets, as the respondent describes below:

'Then in the late 2000s, 2008 or so when the economy went south in the US, State governments were strapped. Budgets were so tight at the State level, the City level, the County level and one of the things that was recognised as they analysed their budgets was that corrections was taking an increasing share of State money that was surpassing many growth factors, it was a faster budget growth than Medicaid and education. In some places they were spending more money on prisons than higher education and it became such a large of budgets [sic] that there was a much more substantial interest in this issue because we started having governors, Republican governors, Democratic governors saying, "gosh this issue is... we've got to find a different way because we can't afford to do business this way. We're spending all of this money on corrections and we're not getting the returns. People are coming out and they are landing back in our system. We've got to do this differently, we've got to... we can't, we can't..."'

Source: Key Informant from the criminal justice sector

According to a key informant, there was also support for the establishment of a Cabinet-level cross-government task force from within the DOJ, as an interagency group of civil servants had been working on reentry policy for several years. A core group of government departments involved in reentry issues and programmes met to discuss their common interests and the possibility of further coordination of their efforts. These agencies included the Departments of Labor, Justice, Veterans Affairs, Education, Housing and Urban Development, and Health and Human Services. Following a number of early interactions and meetings between officials from these agencies, interest grew for a more formal and coordinated approach to advance effective reentry policies.⁽¹³⁾

'So, the [Federal] Council, when I came to the department in April 2000, I was asked very early on to develop an inner agency group at the assistant secretary level that focused on the issue of prisoner reentry and it's an issue that I'd worked on for many years beforehand. So, the summer of 2010, we started pulling together a few of the core agencies at the staff level working me [sic] and worked up a proposal that by January became the... the Attorney General Derek Holder who was interested in chairing it and holding this [Federal] Council at the Secretary level.'

Source: Key Informant from the criminal justice sector

Governance structure

The Federal Council's governance structure included a cabinet-level council, and a complementary staff (civil servant) tier with representatives from each department. This provided a model which ensured that: a) cross-sector coordination by government agencies across programmes and research was maximised, and duplication minimised; b) the use of evidence-based practices across government was enhanced;⁽⁴⁾ and c) action was sustained across changes in political administrations:

'One thing that was really beautiful about this is while the political leaders who ran the Cabinet level group were obviously going to change with the Administration, the staff group, by design, was almost all career staff. We made sure that we had career staff that were not going to turn over as part of the [Federal] Council with every Agency.'

'[...] this cross-agency group at the staff level met every single month for 7 years and learned from one another. What we did over time, it was good governance. We inventoried all of our resource streams; we inventoried to look to see if there was duplication or opportunity to leverage each other's finds. We reviewed each other's proposals; we talked about budgets, programme strategies. We shared evaluation results, we briefed each other at meetings that [sic] people would learn about every agency's priorities and policies and how they connect to this issue...'

Source: Key informant from the criminal justice sector

Mobilising and coordinating resources for reentry

The Federal Council did not have dedicated funding for its work other than the time/personnel contributions from its members. However, it was able to drive action by mobilising the resources of its members through three main approaches of: coordinating federal resources across the system, facilitating policy change and working to dispel myths. In one example, an interactive map was developed to identify the federal reentry funding streams and grants available in each state. Agencies also share reentry funding announcements and technical assistance opportunities via the National Reentry Resource Centre funding page.⁽³³⁾ Another way in which agencies coordinated resources was by being able to draw on the diverse expertise of Federal Council members to consider evidence from a range of disciplines when developing interventions.⁽⁴⁾

Facilitating policy change and improvement

Through its high-level cross-government commitment to addressing the problem of reentry, the Federal Council was able to provide impetus and support to its members' individual activities. The quote below illustrates how the Federal Council provided one of its members – an independent national commission addressing equal opportunity – with the space to pass controversial guidance on the employment of ex-convicts by showing that the issue was a priority for and relevant to the whole of government:

'[...] the pivotal, the really anchoring change that happened was in 2012 and that was the Equal Employment Opportunity Commission which issues some critical guidance for employers and it provided a framework for so many of the things that came after it. That was unusual because they were an independent commission so it was not like they could be told what to do. It was partisan and also they were a willing seat at the table and their Chair

was very active with us and she's been holding hearings for the guidance and she says that the fact that this [Federal] Council existed gave them the cover and room to pass this guidance because it showed that the whole of the Administration, all these issues were impacted by reentry. I think it gave them more impetus to actually pass the guidance which was very controversial.'

Source: Key informant from the criminal justice sector

The Federal Council also helped to address a barrier to employment in which job applicants were required to disclose prior criminal convictions at the job application stage, irrespective of whether those convictions were relevant to the job in question. The policy presented a barrier for ex-prisoners and the Federal Council helped to facilitate a change in policy, through its member: The Office of Personnel Management. This office modified the hiring process for most federal jobs through its 'Ban the Box' rule, which delayed inquiries into criminal history until after a conditional employment offer had been made. By banning the box, a potential job applicant would not have to disclose any prior criminal convictions as this box would no longer be on job application forms.⁽³⁵⁾

'So, that was what we were thinking of, what can we do even without money or, you know, on top of money, on top of policy change, what can we do to help change the narrative and basically say "hey, if we're bringing on people with a record, there is a lot of talent out there and, if you cut out all that talent just because... if you cut out everyone with a record and don't consider them on an individual basis, you will miss this kind of talent". So we did that, we showcased it, we changed... instituted a Ban the Box rule for federal hiring and then we asked the private sector to do the same thing.'

Source: Key Informant from the criminal justice sector

Working to dispel myths

The Federal Council worked to eliminate some of the barriers to progress through a programme of dispelling myths. One strategy for doing this was to produce short one-page guidance documents to clarify confusion around an aspect of complex legislation and policy. In one example, the Federal Council initiated the development of guidance by the Department of Housing and Urban and Development (HUD) which helped to dispel a commonly held myth that ex-prisoners were not eligible for public housing, when in fact the exclusion only applied to a very specific type of conviction:

'When we first started, at the staff level and were inventorying what we could change, what we had authority, our Agencies, to change before talking about what other barriers... someone from the Department of Labor said, "You know, if only we could change housing policy. Here, you know people with a record can't get into public housing and that's not fair and [HUD] should change their rules" and the guy from the HUD said, "Hey, that's not our rule. We don't have a rule in the books that says that, in fact there's only two very specific conviction types that bar people from public housing. They are very specific, very specific, everyone else, it's up to the Housing Agency and it's a case of spaces". And the group basically said, "That is an urban myth because everyone thinks it's a HUD rule and if we could just shine a light on things that the public believes to be true and aren't even true, this is a barrier.'

Source: Key Informant from the criminal justice sector

Another approach to dispelling myths involved working with ‘champions of change’ to promote the agenda to high-level decision makers within government and the wider system (the bully pulpit^{*}). In one example, employers and business leaders who had changed their hiring regulations were invited to encourage others to support policy change through the Fair Chance Business Pledge. The purpose was to demonstrate that business could help to reduce the barriers to successful reentry by enabling fairer competition for jobs, attainment of stable housing and support for families, and to help former offenders to contribute to their communities. In another example, the Federal Council held a competition to recruit a Second Chance Fellow – ie someone with first hand experience of being incarcerated who had been able to turn their lives around, and could serve as a role model (see Box 2).

Box 2: Daryl Atkinson, Department of Justice Second Chance Fellow⁽³⁶⁾

‘A Second Chance Fellow was someone who had been incarcerated, had turned their lives around, had become an expert in the field and was an incredible role model. So we brought on board this absolutely incredible person named Daryl Atkinson who had been incarcerated in a State prison. As he says, “went in with a high school education, came out with a high school education”. He got out, he worked his way through college, then through law school and then became an incredible advocate and expert. He was on parole with a first prior only actually, a second-chance fellow and he not only had a seat at the table for the Reentry Council [Federal Council] over staff meetings, he and I worked hand-in-hand, but he also had a seat at the table in the Cabinet level meetings and he had a bully pulpit and he moderated a cabinet-level discussion with the Attorney General Lynch and the Secretaries of Education, Labor and Housing and Urban Development.

‘What happened is that people invited him into the room, they wanted to hear from him because he had first-hand experience and you know, people who are so far away from that experience want to hear about it first-hand and his perspective. So, what happened is, he was the smartest guy in the room. He was brilliant, creative, strategic, funny, so compelling. An incredible story teller that people just wanted him back in the room because he activated ideas and every Agency wanted him to speak to their staff, to speak to their constituencies.’

Source: Key Informant from the criminal justice sector

Enhancing sustainability

In 2016, President Obama issued a formal Memorandum for the Federal Council, an executive action that helps to manage and govern actions, practices, and policies so that the formally established Federal Council could continue its work. It was intended to formalise the Federal Council so that it would be protected when the administrations changed at the next election. During the first five years of the council, a staff working group made up of representatives of the various agencies had met monthly in between the Federal Council’s meetings. The Presidential Memorandum made this process more formal by designating civil servants in posts such as interim directors and support staff for the Federal Council to ensure continuity when the cabinet level elected officials changed after the election.

^{*} ‘Bully pulpit’: the process of advocating an agenda to high-level decision makers and influencers

'So we'd been operating this systems for 5 or 6 years before that Memorandum but it was intended to memorialise it, to formalise it, to give it structure so that it would be protected when the Administration changed and what we did before we left was named people as interim director and deputy and the staff group. One thing that was really beautiful about this is while the political leaders who ran the Cabinet level group were obviously going to change with the Administration, the staff group, by design, was almost all career staff. We made sure that we had career staff that were not going to turn over as part of the [Federal] Council with every Agency. So for several months I think the group continued to meet at the staff level and the Cabinet level didn't which, in my view, given their views on some of these issues, was probably a good thing.'

Source: Key Informant from the criminal justice sector

Recent developments

As of Autumn 2017, the Trump administration had not yet appointed a Cabinet-level Federal Council, and its operation at that level is undergoing a pause. Although there is ongoing support from within the Republican party for the initiative, there is uncertainty surrounding the Federal Council's continuation in the current administration.

'If it had been another Republican Administration, almost any other Republican Administration, I think that the [Federal] Council would have and could have continued in a really positive, productive way. [...] In the States, State governors were leading the way, Republicans, and most of the people who are running for president on the Republican side were supportive of this issue. This Administration is out of step with Republicans on this issue. So that said, it is very much up in the air. I do think it's on pause, I do not think that they have undone most of the policies that we've put in place.'

Source: Key Informant from the criminal justice sector

Evaluation

In 2016 the White House and DOJ published the report *The Federal Interagency Reentry Council: A Record of Progress and a Roadmap for the Future*. The report was mandated on the back of a Presidential Memorandum from Barack Obama to ensure that the Federal Government continued the important work of the council and built on its successes. It included an overview of the aims of the council, its structure and approach, key successes achieved during the Federal Council's first five years, and an overview of actions for the future.⁽⁴⁾

Outcomes

Key outcomes of the Federal Council include:

Barriers to employment for people with criminal records were eliminated

The Federal Council facilitated the adoption of several measures which removed barriers to the employment of ex-convicts. The Employment Opportunity Commission issued guidance framework on the appropriate use of arrest and conviction records in employment decisions under the 1964 Civil Rights Act, which led to a number of further actions such as:

- Guidance and a directive on obligations in the use of criminal records as an employment screen was issued by the Department of Labor to American Job Centres and federal contractors
- A 'Ban the Box' to delay criminal history checks for most federal jobs until after a conditional employment offer was made, was published by the Office of Personnel Management. This was complemented by a White House Fair Chance Business Pledge to encourage similar action in the private sector
- Eligibility for micro-loans for businesses with a staff member on probation or parole was expanded by the Small Business Administration
- Grants to strengthen employment readiness among the reentry population were issued by the Departments of Labor and Justice.

Access to education was expanded

The Departments of Education and Justice worked on a number of initiatives to expand access to improve education and employment chances among ex-convicts. Examples of initiatives included:

- joint guidance and reentry efforts to bridge the gap between institution and community-based education and support services
- a Second Chance Pell pilot programme, which provided incarcerated Americans with grants to pursue post-secondary education in order to get jobs and support their families
- a joint Fair Chance Higher Education Pledge with the White House, which encouraged institutions to delay criminal history checks in the admissions process, where appropriate.

Barriers to housing were reduced

The HUD issued breakthrough policy clarifications illustrating the misconceptions around HUD rules governing access to public housing for people with criminal records.

Access to health care and health services was increased

The Department of Health and Human Services facilitated access to health care coverage and services for ex-convicts. As these individuals have disproportionately high rates of chronic, infectious and behavioural health conditions, the measures are expected to improve public health and safety.

New staff positions were established to institutionalise reentry efforts

The DOJ introduced prevention and reentry coordinator positions in every US Attorney's Office to provide ongoing support for reentry and crime prevention efforts throughout the country. The Federal Bureau of Prisons also created a new Reentry Services Division, led by a newly-established assistant director position.

Access to information was improved through centralised mechanisms

Among the initiatives to improve access to information, the Social Security and Health Departments created dedicated reentry webpages within existing websites on topics such as benefits and child support. The Federal Council supported the development of an interactive map identifying federal grants and other funding opportunities available for reentry work (in collaboration with the National Reentry Resource Centre).

Community engagement and public awareness activities were improved

Public awareness was raised through fact sheets including the Reentry Myth Busters⁽³⁶⁾ and events such as the White House 'Champions of Change' which focused on issues such as improving outcomes for children of formerly incarcerated parents and improving parents' education and employment opportunities.

Federal Council's model was championed as a model interagency collaboration

As a further testament of its success, membership of the Federal Council expanded from seven departments at its first meeting in 2011, to include 20 departments. In 2014 the Government Accountability Office identified the Federal Interagency Reentry Council as one of four model interagency collaborations. The Federal Council's collective work at the federal level set a positive example for many states and localities, several of which started similar councils. Examples include US Interagency Council on Homelessness and the Rental Policy Working Group.⁽⁴⁾

Contributed to the decline in the prison population

The US prison population began to steadily decline from a peak of 755 per 100,000 in 2008, when the SCA was introduced, to 655 per 100,000 in 2016. The investment and programmes that followed the introduction of the Act, including the establishment of the Federal Council, are likely to have contributed to this decline.⁽¹⁾

Lessons learned

What worked

1. The extent of the problem, both in terms of its size and the rapid rate of growth in the US prison population, contributed to the high levels of public and political awareness and support for action, as the quotes below illustrate:

'You know, mass incarceration, 100 behind bars, 1 in 30 under some kind of supervision and really, we are talking about 1 in 3 people have some kind of criminal record. So when you talk to people, when you go into a church or a school or an office or really anywhere you go and you begin to ask people, "Do any of you know or have a relative or someone that you care about who's incarcerated?", you can't go into a room without it touching so many people. There are so many people who are impacted by it and that became a recognised issue that it touched so many people.'

Source: Key informant from the criminal justice sector

'Newspaper headlines describe tragedies related to the uncoordinated, wholesale release of individuals that might have been prevented with a better allocation of scarce resources.'

Source: The Federal Interagency Reentry Council: A Record of Progress and a Roadmap for the Future⁽⁴⁾

2. Reentry policy actors were able to use evidence-based arguments successfully to reframe the problem of recidivism from being perceived as a threat to public safety which couldn't be solved, to one of opportunity. They used a variety of arguments to describe the reentry problem and its associated solutions in order to galvanise the support of a wide variety of different actors with different interests. For example, arguments such as everyone has a right to redemption resonated with right-wing and Christian actors, social justice arguments resonated with left-leaning actors, and saving costs to taxpayers resonated with members of the public, politicians and administrators. This contributed to high levels of public, administrative and political support for reentry, which was sustained at the Presidential level from the Clinton administration in the 1990s through to the end of the Obama administration in 2017, and created a climate in which the Federal Council was able to be established and thrive.
3. Successive cross-sector and multi-sector collaborations such as the DOJ 1998–2000 multi-sector roundtables and papers, and the Council of State Government's State Council (2002–04) also played an important role in facilitating the eventual establishment of the Federal Council. These mechanisms helped to create a community of interested and supportive actors who collectively drew attention to the problem of reentry, developed consensus-based solutions, and implemented relevant research, pilot projects and programmes. These combined activities all helped to create an environment which was favourable to the eventual establishment of the Federal Council.
4. The Second Chance Act provided a legal mandate and resources which served to galvanise interest and action on prison reform and reentry policy across all sectors. The legal duty to help remove the barriers to prisoner reentry created a climate in which the Federal Council was able to be established and flourish.

5. The financial crisis and associated budget crises across local and national governments in the late 2000s also helped to create a policy window in which the high-level cross-government Federal Council was established in order to help address the problem of recidivism and its costs, as the quote below illustrates:

'I do think that from the White House perspective and the Justice Department leadership perspective, it was a big financial issue because it was taking up a huge amount and a huge share, an increasing share of the Department of Justice's budget. I do think that was very real and added to the urgency of why it was the Federal Government's job to do this. Their job and many other actors, so that part was very real.'

Source: Key informant from the criminal justice sector

6. Although the Federal Council did not have any dedicated funding, it was able to draw successfully on other resources to help further its objectives. Examples of these resources included using the evidence generated by its members to inform action; using champions from business and ex-prisoners who had benefited from reentry support to mobilise stakeholders; as well as drawing on the support of President Barack Obama who not only established the Federal Council but also signed a Memorandum at the end of his presidency to help ensure its long-term sustainability:

'So in the [Federal] Reentry Council context we wanted... we had opportunity for people in the Administration who could talk about this issue and to help shift the narrative. So one of our real hopes was to talk about not just... the whole issue had been framed over the years as one of threat, you know as a public safety threat, that's why something should be done about it. So we began to change the narrative somewhat to also the opportunity. We have thousands and thousands and thousands of people who have been through the system and come out and come to do incredible things with their lives and if people can't get out and get a foot in the door for a job, for example, then they have no chance of being successful. So, from the President and the Attorney General and several other Cabinet Secretaries are talking about this issue as a human issue and trying to shine a light on people... for example one bully pulpit opportunity, we highlighted champions of change, we called them. People who had really changed their lives and their communities for the better who had been through the system and we tried to get employers on board, business leaders, to talk about this issue and to change their hiring regulations.'

Source: Key informant from the criminal justice sector

7. The Federal Council's governance structure, with a cabinet-level council, and a complementary civil servant tier, was another key factor to its success. This provided a model which ensured that: a) cross-sector coordination by government agencies across programmes and research was maximised and duplication minimised; b) the use of evidence-based practices across government was enhanced; and c) action was sustained across changes in political administrations.

What didn't work

The US continues to have the highest levels of incarceration in the world, and while the Federal Council has made some significant achievements over the last five years, several ongoing barriers and challenges to progress remain. Three are described below.

1. This case study has illustrated how the US prison system is hugely complex, involving multiple agencies within government and outside government. As a result, coordinating joined-up efforts and actions across agencies to support reentry for ex-convicts remains an ongoing challenge, and the persistence of myths can serve to stifle action:

'There are so many places that need to work differently to change outcomes. There are 50 State prison systems, there's 3,000 County gaol systems and then, when people get out it is often different Agencies that have any authority or... ways they can be helpful on the outside to people just when they need support and honestly, it's no Agency's job to provide reentry support. There are parole officers that supervise people coming out of State prison in many cases, but it is not their job to make sure that they're connected to health care and a job and education.'

Source: Key informant from the criminal justice sector

2. Another ongoing barrier to progress which the Federal Council has been working to change is perceptions, for example, from reentry being perceived as a threat to society, to an opportunity to help people to get more out of their lives, not return to prison and save taxpayers' funding.
3. Owing to the complexity of the reentry agenda, securing definitive evidence of the impact of individual programmes or initiatives can be difficult to achieve in the short term, particularly in an environment where there are multiple programmes and funding streams – whose combined activities all contribute to improving services and outcomes.⁽¹⁷⁾ There is the risk that this type of 'absence of evidence of impact' can be used as an excuse for inaction.

Implications for the UK

The prison population in England and Wales reached the historically high level of around 86,000 people in 2014, or the equivalent of 149 per 100,000 people⁽³⁷⁾. This helped to maintain the UK's position as second in the Organisation for Economic Co-operation and Development (OECD) incarceration league table, after the US. Record prisoner numbers have led to a number of problems including overcrowding, and reduced safety, decency, security and order, and reduced rehabilitation initiatives such as in-prison employment to prepare prisoners for employment on release from prisons.⁽³⁷⁾

In 2014, the government introduced its Transforming Rehabilitation programme for future delivery of offender management in custody in England and Wales^(37,38). The policy has three elements:

- a. strong, viable public sector provision
- b. a smaller public sector working alongside more diverse service provision by private, voluntary and third sector partners
- c. reduced unit costs through efficiency improvements and 'payment by results'.

The policy has led to a proliferation in the range of partner organisations providing probation services. 35 self-governing probation trusts were replaced by a new public sector National Probation Service and 21 Community Rehabilitation Companies (CRCs) owned by eight organisations, each with a different constitution and outlook.⁽³⁸⁾

The reforms extended probation supervision to include offenders released from prison sentences of less than 12 months, and CRCs were required to commence resettlement services ahead of offenders being released from prison. To incentivise CRCs, a portion of their income was dependent on whether those they supervised went on to reoffend.⁽³⁸⁾

However, in 2017, the Annual Report of the Chief Inspector of Probation for England and Wales found that the system has been plagued by a number of problems including IT system challenges, financial pressures, reduced staffing levels and increased workloads, redundancies and replacement of staff with less experienced junior workers.⁽³⁸⁾

It found that specialist support services had reduced, offender recall rates were high, and 'none of government's stated aspirations for Transforming Rehabilitation had been met in any meaningful way.' The report concluded that 'the current national delivery model does not have at its heart the effective, joined-up local partnership work and other specialist services so much needed, for many who offend'.⁽³⁸⁾

Reducing the high levels of prisoner reoffending through improved rehabilitation services remains a key priority for the government, and the current system is not working. This case study on the US Federal Council provides important lessons on how the coordination of cross-sector action could be strengthened to reduce prisoner re-offending in the UK.

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