

June 16, 2015

The Honorable Chuck Grassley  
United States Senate  
135 Hart Senate Office Building  
Washington, DC 20510

The Honorable Patrick Leahy  
United States Senate  
437 Russell Senate Office Building  
Washington, DC 20510

The Honorable Bob Goodlatte  
United States House of Representatives  
2309 Rayburn House Office Building  
Washington, DC 20515

The Honorable John Conyers  
United States House of Representatives  
2426 Rayburn House Office Building  
Washington, DC 20515

RE: S. 502/H.R. 920, Smarter Sentencing Act of 2015 (SSA)

Dear Chairmen Grassley and Goodlatte and Ranking Members Leahy and Conyers:

As former judges, prosecutors and law enforcement officials, we write to express our support for critical reforms to federal sentencing contained in the Smarter Sentencing Act of 2015 (SSA), S.502/H.R.920. This bill is an important step in promoting public safety and addressing unintended and expensive consequences of existing federal sentencing laws.

Nationwide, law enforcement has made significant progress in curbing violent crime in our communities. At the federal level, we trust Congress to address the parts of our sentencing policies that are simply not working. Presently, mandatory minimum drug sentences unnecessarily apply to a broad sweep of lower level offenders. These include low-level, nonviolent people whose involvement in the offense is driven by addiction, mental illness, or both. Drug offenders are the largest group of federal offenders sentenced each year, now comprising nearly half of the federal prison population. Moreover, individuals most likely to receive a mandatory minimum sentence were street-level dealers, not serious and major drug dealers, kingpins, and importers. Indeed, of the 22,000 federal drug offenders last year, only seven percent had a leadership role in the crime and 84 percent did not possess or use guns or weapons. The U.S. Sentencing Commission and other experts have found little deterrent value in sentencing low-level offenders to lengthy mandatory minimum prison terms.

Additionally, over the past three decades, our spending on federal incarceration has increased by over 1100 percent. Despite this massive investment by taxpayers, federal prisons are now at 128 percent of their capacity, undermining staff and inmate safety and prisoner rehabilitation, as well as reducing the resources available for law enforcement and crime prevention. Incarceration and detention costs have nearly doubled over the last ten years, with the Bureau of Prisons' (BOP) budget at its current level of \$7.2 billion in the President's Fiscal Year 2016 budget request. As a nation, we are expending enormous amounts of money, but failing to keep pace with our growing prison population.

Maintaining the status quo in federal sentencing policy is both fiscally imprudent and a threat to public safety. We are deeply concerned that spending on incarceration has jeopardized funding for some of our most important law enforcement priorities. The BOP budget now accounts for

approximately a quarter of the U.S. Department of Justice’s (DOJ) discretionary budget, potentially undermining other DOJ law enforcement priorities. Indeed, in 2014, the BOP’s budget grew at almost twice the rate of the rest of the Department of Justice. With more resources going to incarcerate nonviolent offenders, funding for federal investigators and prosecutors is threatened. U.S. Attorneys’ Offices and the Drug Enforcement Administration have already lost hundreds of positions and resources for state and local law enforcement have significantly decreased. Law enforcement will continue to maximize its resources to keep our communities safe, but Congress created our sentencing scheme and needs to act to help solve these problems.

The SSA reflects our concerns and embodies measured, bipartisan reforms. It does not eliminate mandatory minimums, but its modest expansion of the existing federal “safety valve,” coupled with the reduction of some mandatory minimums for nonviolent drug offenses – without changing existing statutory maximums – allows courts to make individualized assessments in nonviolent drug cases. This maintains consistency in sentencing for drug-related offenses, but allows for discretion to give less lengthy sentences in a narrow subset of cases. In the most recent U.S. Sentencing Commission survey of federal judges, a significant majority supported the modest expansion of the safety valve. It permits federal judges to determine, on a case-by-case basis, when the harshest penalties should apply.

The bill also promotes fairness and consistency by acknowledging the numerous federal prisoners who are serving sentences imposed prior to the Fair Sentencing Act of 2010, legislation that was unanimously passed in the Senate and the House. The Act reduced a decades-long sentencing disparity between crack and powder cocaine. The SSA would allow certain inmates sentenced under the old regime to petition courts and prosecutors for sentence reductions consistent with the Fair Sentencing Act and current law. This addresses an unjust disparity in sentences and could save more than \$1 billion in incarceration costs.

We appreciate your leadership in seeking bipartisan solutions to address our nation’s widely acknowledged problems with over-incarceration. Undoubtedly, addressing excessive mandatory minimums is an important piece of necessary reforms. We join the many other bipartisan and law enforcement groups supporting the Smarter Sentencing Act of 2015, and we are pleased to extend our help as you work with your colleagues in the Senate and the House to pursue reform in federal sentencing.

cc: The Honorable Richard “Dick” Durbin  
The Honorable Michael “Mike” Lee  
The Honorable Raúl Labrador  
The Honorable Robert “Bobby” Scott

*Signatories as of June 16, 2015:*

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