

April 21, 2015

The Honorable Charles E. Grassley  
Chairman, Committee on the Judiciary  
135 Hart Senate Office Building  
Washington, DC 20510

The Honorable Patrick J. Leahy  
Ranking Member, Committee on the Judiciary  
437 Russell Senate Office Building  
Washington, DC 20510

The Honorable Bob Goodlatte  
Chairman, Committee on the Judiciary  
2309 Rayburn House Office Building  
Washington, DC 20515

The Honorable John Conyers  
Ranking Member, Committee on the Judiciary  
2426 Rayburn House Office Building  
Washington, DC 20515

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

We are writing to voice our support for the Smarter Sentencing Act (SSA, S. 502/H.R. 920) and to request that you include sentencing reform in your immediate Committee mark-up agendas.

Crime causes harm at multiple levels of society and demands accountability. Punishment should be proportionate to the offense, and should aim to restore all parties impacted by crime and incarceration. The current base mandatory minimum sentences for federal drug offenses are not achieving these goals and have resulted in men and women serving excessive sentences at the expense of families, communities, and all American taxpayers. This disproportionate punishment violates our values of liberty and justice and is detrimental to family and community flourishing. The SSA is an opportunity to restore proportionality in our federal system without impeding our ability to combat drug violence and protect victims.

The SSA would advance our shared values, but it would also help to address the unsustainable growth in the federal prison system. The federal prison population has increased from approximately 25,000 in 1980 to over 209,000 today. Federal prisons are now at 128 percent of their capacity, and even higher overcrowding exists in medium and high security facilities. As a result, the inmate-to-staff ratio has increased, putting corrections officials and prisoners at risk and making it more difficult to operate effective faith-based and other recidivism-reduction programs. Thus, failing to significantly reduce the federal prison population is a failure to protect public safety.

The ballooning prison population also comes at a severe fiscal price. The Bureau of Prisons' budget has doubled over the past decade, reaching approximately 25 percent of the Department of Justice's overall budget. We should be returning police power to the

states, not expanding the federal prison system's size and expense. The SSA directs the Attorney General to outline how savings resulting from the proposed sentencing reforms will be reinvested toward law enforcement, crime prevention, and recidivism reduction programs, thereby increasing the effectiveness of our criminal justice spending.

The SSA lowers certain drug mandatory minimums, but does not lower the maximum sentences. Of the 22,000 federal drug offenders sentenced last year, only seven percent played a leadership role in the crime, half had little or no prior criminal record, and 84 percent did not possess or use weapons. The person most likely to receive a mandatory minimum sentence is a street-level dealer: 68 percent of street-level drug sellers convicted in FY 2010 received no relief from the mandatory minimum sentence, through either the safety valve or substantial assistance. However, in order to punish more culpable behavior, the SSA maintains the current sentencing enhancements. People using weapons and playing leadership roles, for example, will still have significant time added to their base sentences.

Additionally, the SSA slightly broadens eligibility criteria for the federal "safety valve," allowing judges to reduce sentences for certain people convicted of drug offenses who fall into criminal history category two or less and who meet the other elements of the safety valve's strict objective test. The SSA would also allow people sentenced before the Fair Sentencing Act of 2010 took effect to petition for sentence reductions consistent with the current law. Federal courts successfully and efficiently conducted review of similar sentence reductions after 2007 and 2011 changes to the Sentencing Guidelines. Finally, the SSA tackles overcriminalization, protecting Americans' liberty by requiring compilations of all statutes and regulations that carry criminal penalties.

We believe these changes will restore proportionality in our federal system while protecting public safety. This legislation passed the Senate Judiciary Committee with strong bipartisan support last Congress and already has broad cosponsorship in both the House and Senate in the 114<sup>th</sup> Congress. The SSA and the issues it seeks to address deserve the Committee's urgent deliberation. Thank you for your consideration.

Sincerely,

Bernie B. Kerik  
NYC Police Commissioner (retired)  
American Coalition for Criminal Justice  
Reform

Grover Norquist  
President  
Americans for Tax Reform

David Labahn  
President/CEO  
Association of Prosecuting Attorneys

Abby Skeans, Esq.  
Associate  
Clapham Group

Jonathan Bydlak  
President  
Coalition to Reduce Spending

Timothy Head  
Executive Director  
Faith & Freedom Coalition

Tony Perkins  
President  
Family Research Council

Rev. Dean Nelson  
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Michael A. Needham  
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American Legislative Exchange Council

Craig DeRoche  
Executive Director  
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Ministries

Leith Anderson  
President  
National Association of Evangelicals

Eli Lehrer  
President  
The R Street Institute

David Williams  
President  
Taxpayers Protection Alliance

Marc Levin  
Director, Center for Effective Justice  
Texas Public Policy Foundation

Newt Gingrich  
Former Speaker  
U.S. House of Representatives

Jeff Frazee  
Executive Director  
Young Americans for Liberty