



March 6, 2014

Comprehensive Criminal Justice Reform Must Include Both Front End and Back End Reform

The Honorable Patrick Leahy
Chairman, Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20515

The Honorable Charles E. Grassley
Ranking Member, Committee on the Judiciary
152 Dirksen Senate Office Building
Washington, DC 20515

Dear Chairman Leahy, Ranking Member Grassley, and Senate Judiciary Committee
Members:

On behalf of The Leadership Conference on Civil and Human Rights, a coalition of more than 200 national organizations, we write to express our support for the Senate Judiciary Committee's bipartisan efforts to address the impact that both front end and back end policies have on the federal prison system. The Committee's recent action on the Smarter Sentencing Act (S.1410), and today's consideration of the Whitehouse-Cornyn substitute amendment for S.1675, the Recidivism Reduction and Public Safety Act of 2013, mark important steps toward reducing the nation's federal prison population in favor of smarter approaches to crime and recidivism reduction.

The federal prison population has increased from approximately 25,000 in FY1980 to nearly 216,000 today. The Bureau of Prison's (BOP) budget has also doubled over the past decade, reaching its current level of \$8.4 billion in the President's FY15 budget request, approximately 25 percent of the Department of Justice's overall budget. Despite this growing budget, current BOP Director Charles Samuels has acknowledged that, under current conditions, the system is at over-capacity, jeopardizing the safety of staff and inmates.ⁱ The nation can no longer afford to ignore the societal and budgetary costs of our growing federal prison population. In order to have a criminal justice system that is fair, targeted, and cost-effective, the entire system must be reformed – both in terms of reducing the number of individuals entering our prisons, as well as with respect to providing opportunities for recidivism reduction programming, improving services for drug treatment, and offering incentives for lawful behavior in prison and upon release.

We applaud the Smarter Sentencing Act's reconsideration of mandatory minimum penalties. As several recent studies have outlined, both the human and economic costs of mandatory minimum sentencing are great. In its 2011 report to Congress, the U.S. Sentencing Commission found that mandatory minimum sentences disproportionately impact

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communities of colorⁱⁱ and that Black offenders received relief from mandatory minimum sentences *least* often, compared with White, Hispanic, and Other Race offenders.ⁱⁱⁱ In addition to these racial disparities, the Commission noted that mandatory minimum sentences are the leading contributor to our burgeoning federal prison population and the increased economic costs to our national budget. The Smarter Sentencing Act is a modest reform that, if enacted, is estimated to save taxpayers more than 3 billion over 10 years^{iv}, without jeopardizing public safety.

We urge the Committee to now support efforts to address the critical need to promote effective re-entry programming for individuals in federal prison. Ninety-five percent of incarcerated individuals will return to our communities and in the interest of public safety, we must ensure that they are on a path for successful reintegration back into society while in prison and upon their release. It is a smart investment to implement risk assessments for the federal population and expand vital programming, given that evidence-based programs, job-training, and education can reduce recidivism and lead to better outcomes for individuals returning to their families and neighborhoods.

The Justice Department's most recent annual report to the U.S. Sentencing Commission underscored this point. The department concluded that the explosive growth of the U.S. prison population has impacted our communities, "including the erosion of trust and confidence in the criminal justice system among many citizens, particularly in disadvantaged communities and communities of color."^v It also acknowledged that, under the current budget climate, "the resources available for all non-prison criminal justice areas" are diminishing. Specifically, the Department found that, "if the current spending trajectory continues and we do not reduce the prison population and prison spending, there will continue to be ... less support to state and local criminal justice partners, less support to treatment, prevention and intervention programs, and cuts along a range of other criminal justice priorities."^{vi}

The societal and budgetary cost savings associated with comprehensive criminal justice reform are unmatched. These efforts could free up valuable resources needed to assist key public safety initiatives, such as re-entry and recidivism reduction programs for individuals upon release, crime prevention and treatment programs, and other grant programs targeted to vulnerable populations.

We commend the Committee's recent efforts to address both front and back end reform designed to improve both federal sentencing laws and the functioning of the federal prison system. As we move forward in the legislative process it is important to note that while reforms to address back end drivers of our prison system are needed, they cannot function as a substitute for front end sentencing reform. Our continued progress toward meeting the economic and societal challenges posed by the current prison system and establishing a smarter, fairer criminal justice system depends on a comprehensive approach to reform. If you have any questions, please feel free to contact Sakira Cook at cook@civilrights.org or (202) 263-2894 or Nancy Zirkin atzirkin@civilrights.org or (202) 263-2880. Thank you for your consideration.

Sincerely,



Wade Henderson
President & CEO



Nancy Zirkin
Executive Vice President



ⁱ Charles E. Samuels, Jr. (Director, Federal Bureau of Prisons). "Testimony on Oversight of the Federal Prison System before the Judiciary Committee of the U.S. House of Representatives Subcommittee on Crime." (September 19, 2013).

ⁱⁱ USSC. Report to Congress, *Mandatory Minimum Penalties in the Federal Criminal Justice System*, October 2011. Retrieved September 17, 2013, available at

http://www.ussc.gov/Legislative_and_Public_Affairs/Congressional_Testimony_and_Reports/Mandatory_Minimum_Penalties/20111031_RtC_PDF/Executive_Summary.pdf. The report determined that Hispanic offenders accounted for 38.3 percent of those convicted with a mandatory minimum, Black offenders 31.5 percent, White offenders 27.4 percent, and "other race" offenders 2.7 percent.

ⁱⁱⁱ *Id.*

^{iv} Nancy LaVigne, Julie Samuels, Samuel Taxy, Urban Institute, *Stemming the Tide: Strategies to Reduce the Growth and Cut the Cost of the Federal Prison System*, pg. 3-5 (2013). The report concludes that reduction in mandatory minimums would account for \$2.5 billion, FSA retroactivity would account for \$229 million, and expanded safety valve accounts for \$544 million in savings over 10 years.

^v *Id.*

^{vi} Letter of J. Wroblewski, Office of Policy and Legislation to The Honorable Patti B. Saris, United States Sentencing Commission, July 11, 2013. Last accessed: <http://www.justice.gov/criminal/foia/docs/2013annual-letter-final-071113.pdf>