



October 19, 2015

The Honorable Charles Grassley
Chairman
Committee on the Judiciary
United States Senate

The Honorable Patrick Leahy
Ranking Member
Committee on the Judiciary
United States Senate

Re: Support the Sentencing Reform and Corrections Act of 2015 (S.2123)

Dear Chairman Grassley and Ranking Member Leahy,

On behalf of The Leadership Conference on Civil and Human Rights, a coalition charged by its diverse membership of more than 200 national organizations to promote and protect the rights of all persons in the United States, we wish to express our support for the recently introduced Sentencing Reform and Corrections Act of 2015 (S.2123). Our country incarcerates a higher percentage of its population than any other country in the world. This practice is not only unjust, but destroys lives and communities and costs taxpayers exorbitant amounts of money. This legislation is one important step toward restoring our nation's commitment to justice and fairness.

More than 30 years ago, the United States adopted "tough on crime" policies and mandatory minimum sentences. As a result, our prison population has skyrocketed. In fact, over the last two decades alone, the federal prison population increased by almost 790 percent.¹ Currently, the Federal Bureau of Prisons (BOP) has custody of nearly 206,000 people.² The agency's facilities are operating at almost 23 percent over capacity.³ The president's FY 2016 budget request for BOP was \$7.3 billion, which would account for more than 25 percent of the Department of Justice's (DOJ) entire budget.⁴

Several reports have suggested that mandatory minimum sentences are a major contributor to the growing federal prison population.⁵ Research by the Urban Institute found that increases in expected time served, specifically for drug offenses, contributed to half of the prison

¹ Nathan James, *The Federal Prison Population Buildup: Overview, Policy Changes, Issues, and Options* (2014), available at <http://www.fas.org/sgp/crs/misc/R42937.pdf>.

² Federal Bureau of Prisons, https://www.bop.gov/resources/news/20151001_populationDecline.jsp (last updated October 5, 2015).

³ *Id.*

⁴ U.S. Department of Justice, *FY 2016 Budget Request*, available at http://www.justice.gov/sites/default/files/jmd/pages/attachments/2015/01/30/4_prisons_and_detention_fact_sheet.pdf.

⁵ Nancy LaVigne & Julie Samuels, Urban Institute, *The Growth & Increasing Cost of the Federal Prison System: Drivers and Potential Solutions* pgs.1-2 (2012).

Officers

Chair

Judith L. Lichtman
National Partnership for
Women & Families

Vice Chairs

Jacqueline Pata
National Congress of American Indians
Thomas A. Saenz
Mexican American Legal
Defense and Educational Fund
Hillary Shelton
NAACP

Treasurer

Lee A. Saunders
American Federation of State,
County & Municipal Employees

Board of Directors

Barbara Arnwine

Lawyers' Committee for
Civil Rights Under Law
Helena Berger

American Association of
People with Disabilities

Cornell William Brooks
NAACP

Lily Eskelsen Garcia
National Education Association

Marcia D. Greenberger
National Women's Law Center

Chad Griffin
Human Rights Campaign

Linda D. Hallman
AAUW

Mary Kay Henry
Service Employees International Union

Sherrilyn Ifill
NAACP Legal Defense and
Educational Fund, Inc.

Jo Ann Jenkins
AARP

Michael B. Keegan
People for the American Way
Samer E. Khalaf, Esq.
American-Arab

Anti-Discrimination Committee
Elisabeth MacNamara

League of Women Voters of the
United States

Marc Morial
National Urban League

Mee Moua
Asian Americans Advancing Justice |
AAJC

Janet Murguía
National Council of La Raza

Debra Ness
National Partnership for
Women & Families

Terry O'Neill
National Organization for Women

Priscilla Ouchida
Japanese American Citizens League

Rabbi Jonah Pesner
Religious Action Center
Of Reform Judaism

Anthony Romero
American Civil Liberties Union

Shanna Smith
National Fair Housing Alliance

Richard L. Trumka
AFL-CIO

Randi Weingarten
American Federation of Teachers

Dennis Williams
International Union, UAW

**Policy and Enforcement
Committee Chair**

Michael Lieberman
Anti-Defamation League

President & CEO

Wade J. Henderson
Executive Vice President & COO
Karen McGill Lawson

population growth between 1998 and 2010.⁶ A 2013 report by the Congressional Research Service (CRS) concluded that the increase in the amount of time people were expected to serve was the result of people receiving longer sentences and being required to serve approximately 85 percent of their sentences after Congress eliminated parole for federal prisoners.⁷ The increased time served by people convicted of drug offenses accounted for almost one-third of the total federal prison population growth between 1998 and 2010.⁸ Currently, people convicted of drug offenses make up 48 percent of the BOP population.⁹ These statistics illustrate the need to move away from the “tough on crime” laws and focus more on “smart on crime” policies.

In addition, mandatory minimums prevent judges from taking into account an individual’s background and the circumstances of his/her offenses when determining his/her sentence, and they have a disproportionate impact on African Americans and Latinos. Today, FOP reports that 37 percent of its current prison population is African American and 34 percent is Latino even though both groups represent only about one third of the nation’s population combined. Much of this is a result of enhanced penalties for drug offenses.¹⁰ In its 2011 report to Congress, the U.S. Sentencing Commission conducted a review of mandatory minimum sentencing policies in which it found that Hispanic people accounted for 38.3 percent of those convicted with a mandatory minimum, Black people 31.5 percent, White people 27.4 percent, and people who identify as “other race” 2.7 percent.¹¹ The study also showed that Black people received relief from mandatory minimum sentences *least* often, compared with Whites, Hispanic people, and people who identify as “other race.” Finally, it found racial disparities in the percentage of all people convicted of a federal offense who were subject to a mandatory minimum penalty sentencing; 65.1 percent of Black people convicted of a federal offense received a mandatory minimum sentence, followed by 53.5 percent of Whites, 44.3 percent of Hispanics, and 41.1 percent of other races.

Mandatory minimum sentencing reform is crucial to slowing the overwhelming growth of our prison population and addressing its disproportionate impact on minority communities. While the Sentencing Reform and Corrections Act doesn’t reduce or eliminate mandatory minimums, the bill will make several positive reforms with regards to mandatory minimum sentences. It will reduce enhanced penalties that apply to people with prior drug convictions, and eliminate the “three-strikes” mandatory life provisions. It will expand exceptions to the application of mandatory minimums (called the “safety valve”) to people with more extensive criminal histories. It will also create a second safety valve that gives judges discretion to sentence certain people with low-level offenses below the 10-year mandatory minimum. In

⁶ *Id.*

⁷ Nathan James, Congressional Research Service, *The Federal Prison Population Buildup: Overview, Policy Changes, Issues, and Options* pg. 8 (April 15, 2014).

⁸ Kamala Mallik-Kane, Barbara Parthasarathy, William Adams, *Examining Growth in the Federal Prison Population, 1998 to 2010*, pg. 3 (2012).

⁹ Federal Bureau of Prisons, http://www.bop.gov/about/statistics/statistics_inmate_offenses.jsp (last updated September 26, 2015).

¹⁰ Federal Bureau of Prisons, https://www.bop.gov/about/statistics/statistics_inmate_ethnicity.jsp (last updated September 26, 2015).

¹¹ U.S.S.C. Report to Congress, *Mandatory Minimum Penalties in the Federal Criminal Justice System*, October 2011. Retrieved October 19, 2015, *available at*

http://www.uscc.gov/Legislative_and_Public_Affairs/Congressional_Testimony_and_Reports/Mandatory_Minimum_Penalties/20111031_RtC_PDF/Executive_Summary.pdf.

all, these measures will ensure that strict mandatory minimums are not imposed on individuals who have little or no criminal history.

While the bill is an important step towards reforming mandatory minimums, we have some concerns because it includes several new mandatory minimums. For example, the bill creates new mandatory minimums for interstate domestic violence and creates a new mandatory minimum for the export of controlled arms. These provisions are contrary to our longstanding opposition to mandatory minimum sentencing. Nevertheless, we acknowledge that the overall effect of passing this bill will be to protect individuals currently or entering the criminal justice system from excessive sentences.

The bill will make other changes in the justice system. It will make the Fair Sentencing Act of 2010 retroactive and apply many of the sentencing provisions in the bill retroactively. As a result, individuals currently serving excessively long sentences will be able to petition a judge for a reduction in their sentence. Finally, the bill will assist incarcerated persons as they prepare for life after release by expanding prerelease and re-entry programs. This will contribute to reducing recidivism and help formerly incarcerated individuals successfully reintegrate into society.

We commend the chairman, ranking member, and the other co-sponsors for their leadership and hard work toward addressing mass incarceration. We urge the other members of the Senate Judiciary Committee to support this bill and join its sponsors in making the first step towards improving our justice system. If you have any questions, please feel free to contact Sakira Cook at cook@civilrights.org or (202) 263-2894. Thank you for your consideration of this important legislation.

Sincerely,



Wade Henderson
President & CEO



Nancy Zirkin
Executive Vice President