



# LAW ENFORCEMENT LEADERS

To Reduce Crime & Incarceration

June 25, 2019

Hon. Philip E. Berger  
16 West Jones Street, Rm. 2007  
Raleigh, NC 27601

Hon. Daniel Forest  
20401 Mail Service Center  
Raleigh, NC 27699

Hon. Harry Brown  
300 N. Salisbury Street, Rm. 300-B  
Raleigh, NC 27603

Hon. Daniel Blue  
16 West Jones Street, Rm. 1129  
Raleigh, NC 27601

**Re: North Carolina First Step Act (H.B. 511)**

Dear Senate President, President *pro tempore*, and Leaders,

We write to you on behalf of Law Enforcement Leaders to Reduce Crime & Incarceration—a coalition of over 200 former and current U.S. Attorneys, district attorneys, state attorneys general, police chiefs, and sheriffs—in support of the latest iteration of the North Carolina First Step Act. We applaud the bill's recent passage through the Senate Judiciary Committee and encourage you to support its passage on the Senate floor.

Please see the attached letter previously submitted in support of the bill and signed by 24 of our members who have led law enforcement offices in jurisdictions that employ sentencing safety valves. We continue to stand behind the North Carolina First Step Act. Thank you for your consideration and please do not hesitate to reach out if we can be of any service.

Sincerely,

**Ronal Serpas**

Executive Director  
Law Enforcement Leaders to Reduce Crime & Incarceration  
Former Police Superintendent  
New Orleans, Louisiana

**Taryn Merkl**

Senior Counsel  
Law Enforcement Leaders to Reduce Crime & Incarceration  
Former Assistant U.S. Attorney  
Eastern District of New York



# LAW ENFORCEMENT LEADERS

## To Reduce Crime & Incarceration

April 30, 2019

Hon. Philip E. Berger  
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Raleigh, NC 27601

Hon. Daniel Forest  
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Raleigh, NC 27699

Hon. Harry Brown  
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Raleigh, NC 27603

Hon. Daniel Blue  
16 West Jones Street, Rm. 1129  
Raleigh, NC 27601

### **Re: North Carolina First Step Act (S.B. 404)**

Dear Senate President, President *pro tempore*, and Leaders,

We write to you as members of Law Enforcement Leaders to Reduce Crime and Incarceration—a coalition of over 200 former and current U.S. Attorneys, district attorneys, state attorneys general, police chiefs, and sheriffs—in support of the North Carolina First Step Act. Each signatory to this letter has served the public in a jurisdiction that has a sentencing safety valve in place. Drawing on this collective experience, we believe safety valves (laws that gives judges limited discretion to depart from mandatory minimums) are an effective tool to reduce incarceration and promote public safety.

For decades, unchecked mandatory minimums have swelled the national prison population with little return on public safety. As you are well aware, North Carolina is no exception, with \$1.55 billion spent on corrections in 2016 and a prison population that has more than doubled since 1980.<sup>1</sup> The North Carolina First Step Act would give judges discretion to depart from certain drug mandatory minimums if doing so would be consistent with public safety.<sup>2</sup>

Drug mandatory minimums often yield the appropriate sentence for the crime. But their rigidity also produces disproportionate sentences that keep people behind bars for far too long. Overly long sentences waste taxpayer dollars, erode trust in our justice systems, and often make us *less* safe. In fact, studies show that individuals who are low risk—just the individuals that might qualify for a safety valve reduction—are more likely to recidivate if incarcerated for longer periods of time.<sup>3</sup>

Law enforcement and legislators across the country are starting to realize that we cannot incarcerate our way out of the opioid epidemic. We know today that long mandatory minimums do little to reduce drug use.<sup>4</sup> And studies show that dollar for dollar, treatment is more effective at curing addiction than incarceration.<sup>5</sup> A safety valve would give judges discretion to choose treatment, probation, or a shorter sentence over a mandatory minimum when appropriate.

Safety valves have a proven success record. The federal safety valve went into effect in 1994 and has been applied to 80,000 nonviolent drug offenders since.<sup>6</sup> Many of us have served as federal

prosecutors and seen firsthand the benefits of this law. Congress recognized as much with the overwhelming bipartisan passage of the federal FIRST STEP Act.<sup>7</sup> The bill reduced mandatory minimums for certain drug crimes and also greatly expanded the existing federal safety valve.<sup>8</sup>

States across the country are also using safety valves without compromising public safety, including Georgia, Virginia, Maryland, and Louisiana to name only a few.<sup>9</sup> North Carolina can call on the experience of these states as it implements its own law.

As law enforcement, we understand your duty to protect the health and safety of your constituents. This is especially true in the face of rising opioid deaths, a crisis that is in all our backyards. With hundreds of years of collective experience protecting public safety, we believe the North Carolina First Step Act would do just that, and we urge you to pass it into law.

Sincerely,

**Ronal Serpas**

Executive Director  
Law Enforcement Leaders to Reduce Crime and Incarceration  
Former Police Superintendent  
New Orleans, Louisiana

**John Choi**

County Attorney  
Ramsey County, Minnesota

**Richard Deane, Jr.**

Former President  
National Association of Former United States Attorneys  
Former U.S. Attorney  
Northern District of Georgia

**Rev. Allison DeFoor**

Former Sheriff  
Monroe County, Florida

**Richard Doran**

Former Attorney General  
Florida

**Edward Dowd, Jr.**

Former President  
National Association of Former United States Attorneys  
Former U.S. Attorney  
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**Neill Franklin**

Executive Director  
Law Enforcement Action Partnership  
Former Police Commander  
Baltimore, Maryland

**Mike Freeman**

County Attorney  
Hennepin County, Minnesota

**Doug Gansler**

Former Attorney General  
Maryland  
Former States Attorney  
Montgomery County, Maryland

**Barry Grissom**

Former U.S. Attorney  
District of Kansas

**Greg Hamilton**

Former Sheriff  
Travis County, Texas

**Hal Hardin**

Former U.S. Attorney  
Middle District of Tennessee  
Former Judge  
Davidson County, Second Circuit Court

**Timothy Heaphy**

Former U.S. Attorney  
Western District of Virginia

**John Hummel**

District Attorney  
Deschutes County, Oregon

**Justin Kollar**

Prosecuting Attorney  
Kauai County, Hawaii

**Cameron McLay**

Former Police Chief  
Pittsburgh, Pennsylvania

**Charles McClelland**

Former Police Chief  
Houston, Texas

**Matt Orwig**

Former U.S. Attorney  
Eastern District of Texas

**Richard J. Pocker**

Former U.S. Attorney  
District of Nevada

**Rick Raemisch**

Former Executive Director  
Colorado Department of Corrections  
Former Sheriff  
Dane County, Wisconsin

**Richard Rossman**

Former U.S. Attorney  
Eastern District of Michigan

**Susan Segal**

City Attorney  
Minneapolis, Minnesota

**J. Scott Thomson**

Police Chief  
Camden County, New Jersey

**Joyce Vance**

Former U.S. Attorney  
Northern District of Alabama

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<sup>1</sup> Compare NORTH CAROLINA DEP'T OF CORRECTIONS RESEARCH AND PLANNING, 1980 DAILY UNIT POPULATION AVERAGES, <https://randp.doc.state.nc.us/pubdocs/0002117.PDF> (last visited Apr. 22, 2019) with Eric A. Hooks et al., North Carolina Dep't of Public Safety, Fiscal Year 2016-2017 Annual Statistical Report (2017), <https://randp.doc.state.nc.us/pubdocs/0007081.PDF> (showing an increase in daily average prison population of 15,145 in 1980 to 37,903 in FY 2016-2017).

<sup>2</sup> S.B. 404, 2019 Leg., Reg. Sess. (N.C., 2019), <https://webservices.ncleg.net/ViewBillDocument/2019/2095/0/DRS35180-ML-89A>.

<sup>3</sup> See PAUL GENDREAU ET AL., THE EFFECTS OF PRISON SENTENCES ON RECIDIVISM, PUBLIC WORKS AND GOVERNMENT SERVICES CANADA (1999), <https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/ffcts-prsn-sntncs-rcdvsm/ffcts-prsn-sntncs-rcdvsm-eng.pdf> (reviewing fifty studies, primarily in the United States, involving 336,052 offenders). See also, Heaton et. al, *The Downstream Consequences of Misdemeanor Pretrial Detention*, 69 STAN. L. REV. 711 (2017), <https://review.law.stanford.edu/wp-content/uploads/sites/3/2017/02/69-Stan-L-Rev-711.pdf>; Arpit

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Gupta et. al, *The Heavy Cost of High Bail*, 45 J. LEGAL STUD. 471 (2016),  
<http://www.columbia.edu/~cjh2182/GuptaHansmanFrenchman.pdf>.

<sup>4</sup> PEW CHARITABLE TRUSTS, MORE IMPRISONMENT DOES NOT REDUCE STATE DRUG PROBLEMS (2018),  
[https://www.pewtrusts.org/-/media/assets/2018/03/pspp\\_more\\_imprisonment\\_does\\_not\\_reduce\\_state\\_drug\\_problems.pdf](https://www.pewtrusts.org/-/media/assets/2018/03/pspp_more_imprisonment_does_not_reduce_state_drug_problems.pdf).

<sup>5</sup> JONATHAN CAULKINS ET AL., RAND CORPORATION, MANDATORY MINIMUM DRUG SENTENCES: THROWING AWAY THE KEY OR THE TAXPAYERS' MONEY? (1997),  
[https://www.rand.org/pubs/monograph\\_reports/MR827.html](https://www.rand.org/pubs/monograph_reports/MR827.html); DOUG MCVAY ET AL. JUSTICE POLICY INST., TREATMENT OR INCARCERATION? (2004), [http://www.justicepolicy.org/uploads/justicepolicy/documents/04-01\\_rep\\_mdtreatmentorincarceration\\_ac-dp.pdf](http://www.justicepolicy.org/uploads/justicepolicy/documents/04-01_rep_mdtreatmentorincarceration_ac-dp.pdf).

<sup>6</sup> FAMILIES AGAINST MANDATORY MINIMUMS, EXCEPTION #1 TO MANDATORY MINIMUM SENTENCES (2013),  
<https://famm.org/wp-content/uploads/FS-Fed-Safety-Valve-for-Drug-Offenses-3553f-NW.pdf>.

<sup>7</sup> See Roll Call Vote 115<sup>th</sup> Congress – 2<sup>nd</sup> Session, S. 756, (Dec. 18, 2018),  
[https://www.senate.gov/legislative/LIS/roll\\_call\\_lists/roll\\_call\\_vote\\_cfm.cfm?congress=115&session=2&vote=00271](https://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=115&session=2&vote=00271) (showing 87 YEAS and 12 NAYS); Final Vote Results for Roll Call 448, S. 756 (Dec. 20, 2018),  
<http://clerk.house.gov/evs/2018/roll448.xml> (showing 358 YEAS and 36 NAYS).

<sup>8</sup> First Step Act of 2018, Pub. L. No. 115-391, Sec. 402 (2018).

<sup>9</sup> See Families Against Mandatory Minimums, How Sentencing Safety Valves Can Help States Protect Public Safety and Save Money 13-18 (2013), <https://outlook.office.com/owa/?realm=lawenforcementleaders.org&exsvurl=1&ilcc=1033&modurl=0&path=/attachmentlightbox>.