



LAW ENFORCEMENT LEADERS

To Reduce Crime & Incarceration

February 6, 2017

Hon. Charles Grassley
United States Senate
135 Hart Senate Office Building
Washington, D.C. 20510

Hon. Dianne Feinstein
United States Senate
331 Hart Senate Office Building
Washington, D.C. 20510

RE: Sentencing Reform and Corrections Act of 2015 (S.2123)

Dear Chairman Grassley and Senator Feinstein:

We write to share with you support from several major law enforcement groups for the Sentencing Reform and Corrections Act (S. 2123). The important reforms contained in this legislation will improve public safety and strengthen our criminal justice system. We hope you will introduce and pass similar legislation this year.

Reducing unnecessary incarceration is vital to the safety of our nation. Today, our oversized prison population costs taxpayers billions annually and draws law enforcement resources away from apprehending violent offenders. For this reason, law enforcement supports the Sentencing Reform and Corrections Act. This bill would free funding and time for our officers to focus on targeting and preventing violent crime, making our streets safer.

We wish to share with you letters of support for this legislation from our nation's largest law enforcement organizations, representing over 58,000 law enforcement professionals — current and former police chiefs, sheriffs, district and assistant district attorneys, attorneys' general and U.S. Attorneys from all 50 states. Attached, please find letters from the Major County Chiefs Association, Major County Sheriffs Association, National District Attorneys Association, International Association of Chiefs of Police, Law Enforcement Leaders, and former federal law enforcement officials in support of this bill.

We look forward to working with you to make our nation safer.

Respectfully yours,

Ronal Serpas
Former Police Superintendent, New Orleans, Louisiana
Co-Chairman, Law Enforcement Leaders to Reduce Crime and Incarceration



MAJOR CITIES CHIEFS ASSOCIATION

Albuquerque
Arlington
Atlanta
Aurora
Austin
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Baltimore Co.
Boston
Buffalo
Calgary
Charlotte-Mecklenburg
Chicago
Cincinnati
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San Diego
San Francisco
San Jose
Seattle
St. Louis
Suffolk Co.
Tampa
Toronto
Tucson
Tulsa
Vancouver
Virginia Beach
Washington
Winnipeg

October 13, 2015

The Honorable Chuck Grassley
135 Hart Senate Office Bldg.
Washington, D.C. 20510

The Honorable Patrick Leahy
437 Russell Senate Bldg.
Washington, D.C. 20510

Dear Chairman Grassley and Ranking Member Leahy

On behalf of The Major Cities Chiefs Association, representing the largest local law enforcement agencies in the Nation, we are writing to support your bill, the *Sentencing and Reform Corrections Act of 2015*. As the police executives, we see firsthand the urgent need to reform sentencing policies, reduce recidivism, and promote public safety by keeping the most dangerous prisoners off the streets.

Major Cities Chiefs have long been on the record in support of sentencing reform and reduction of recidivism. We have advocated for supervision and drug treatment upon release, to prevent offenders from returning to a life of crime. Our support has always been predicated on restrictions to prevent release of serious and violent offenders who prey upon the public we are sworn to protect.

We feel that this this legislation ensures that balance. It incorporates supervision and treatment provisions and it also restricts the releases of persons who pose a threat to the public.

We commend the Senate for its bipartisan work to safeguard the communities we serve. We look forward to our continued work with you to improve the safety of our Nation and ensure a comprehensive approach to sentencing reform.

Sincerely,

J. Thomas Manger
Chief of Police
Montgomery County Police Department
President, Major Cities Chiefs Association



Major County Sheriffs' Association

Sheriff Michael J. Bouchard

Vice President – Government Affairs
Oakland County Sheriff's Office
1200 North Telegraph – Building 38 East
Pontiac, MI 48341
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May 11, 2016

The Honorable Mitch McConnell
Majority Leader
United States Senate
317 Russell Senate Office Building
Washington, DC 20510

The Honorable Harry Reid
Democratic Leader
United States Senate
522 Hart Senate Office Building
Washington, DC 20510

Dear Majority Leader McConnell and Democratic Leader Reid,

On behalf of the Major County Sheriffs' Association (MCSA) and Vice President of Government Affairs, I write to you today in support of S. 2123, the bipartisan *Sentencing Reform and Corrections Act of 2015 (SRCA)*. MCSA is an association of elected Sheriffs representing the Nation's largest counties with populations of 500,000 people or more. Collectively, we represent more than 100 million Americans.

Since its original introduction in October 2015, the *Sentencing Reform and Corrections Act* has undergone substantive and meaningful changes. MCSA raised various concerns with the original bill specifically associated with extensive retroactive provisions, the reduction of firearms offenses related to the armed career criminal statute and the lack of language expressly including local law enforcement in analyzing the impact of reentry from federal "non-violent low level offenders." Through good faith negotiations from both sides of the aisle with the overall goal of public safety, MCSA now believes S. 2123 is a positive step towards addressing our criminal justice system's inadequacies.

The improved *SRCA* eliminates all changes to the armed career criminal statute, substantially limits retroactivity, adds a mandatory sentencing enhancement for fentanyl crimes, and adds an annual report requirement outlining how savings from the *SRCA* will be used to increase investment in law enforcement – specifically through crime prevention to combat gangs and high level drug traffickers, hire train and equip officers and prosecutors, and promote programs using evidence-based practices to help reduce crime and recidivism. Finally, MCSA is extremely pleased with the addition of S. 1119, the *National Criminal Justice Commission Act of 2015*.

MCSA has long advocated for the creation of a commission that would review the state of our criminal justice system, seek out areas of weakness and inefficiency, and develop solutions that will help provide a strategic plan to combat crime and promote public safety. While there have been numerous reports and panels set to examine specific elements of the criminal justice system, there has been no clear picture on how we should move forward on a broader multidisciplinary approach that covers all elements of the criminal justice system. At a time when local law enforcement budgets are still recovering from the economic recession and most

agencies are still short staffed, federal grant funding has all but been eviscerated, we believe a comprehensive look into the entire criminal justice system is warranted.

We applaud you and your staffs' commitment to public safety and willingness to compromise. Countless hours were invested and we commend everyone involved for their hard work, transparency, and courage to confront what is often seen as a politically divisive issue. As we move forward, MCSA stands ready to assist in advancing this balanced and just legislation.

Very Respectfully,

Michael J. Bouchard

Michael J. Bouchard, Sheriff, Oakland County (MI)
Vice President – Government Affairs, Major County Sheriffs' Association





National District Attorneys Association

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703.549.9222 / 703.836.3195 Fax

www.ndaa.org

April 26, 2016

The Honorable Mitch McConnell
Majority Leader
United States Senate
317 Russell Senate Office Building
Washington, DC 20510

The Honorable Harry Reid
Democratic Leader
United States Senate
522 Hart Senate Office Building
Washington, DC 20510

Dear Majority Leader McConnell and Democratic Leader Reid,

On behalf of the National District Attorneys Association (NDAA), the largest prosecutor organization representing 2500 elected and appointed District Attorneys across the United States as well as 30,000 assistant district attorneys, I write in support of S. 2123, the Sentencing Reform and Corrections Act of 2015. As a result of months of changes and good faith negotiations, our organization feels the latest version of the bill strikes the appropriate balance between targeting the highest level drug traffickers plaguing our communities, while simultaneously decreasing crime rates and addressing the burgeoning prison population.

America's federal, state, local and tribal prosecutors have as their primary responsibility the administration of justice. Everyday, prosecutors have to make tough judgment calls. Sometimes, that judgment call involves locking up individuals for a long period of time for a heinous crime that damaged a community. More often, we work hard to provide second chances and concerted efforts are made to rehabilitate an individual with the goal of reducing the chance that he or she will reoffend back into the system.

As we have seen from the cost curve published by the National Academy of Sciences, the current prison population is simply unsustainable and continues to have a greater and greater impact on broader funding and programming at the Department of Justice. Budget aside, communities across this country have shifted to embrace rehabilitation and the opinion that certain individuals in our federal prison system are serving sentences that are too long compared to the crime they committed. This legislation aims to strike the appropriate balance of time served and the relevant crime by modifying the three strikes rule for drug felonies, with a third strike now carrying a 25-year penalty as opposed to life, and second strike carrying a 15-year sentence instead of 20 years. Appropriately so, the bill expands the three strikes rule to apply to serious violent felonies, ensuring that we use prison for those we are afraid of, not those whom we are mad at based on their behavior.

One previous concern our members highlighted was the retroactive nature of many provisions in the original bill. The new version takes into account that concern by limiting the retroactivity where applicable if an individual's record contains any serious violent felony. We feel this filters out the truly dangerous individuals who should stay out of the community, while allowing lower level offenders a chance for redemption.

Our members also realize that as we see the same offenders reenter the criminal justice system time and time again, we must be creative and come up with innovative programs to reduce recidivism, including job training skills, addiction counseling and other productive activities. According to a report primarily authored by the National Center for State Courts, "properly designed and operated recidivism-reduction programs can significantly reduce offender

recidivism. Such programs are more effective, and more cost-effective, than incarceration in reducing crime rates.”

As part of the broader legislation, the Corrections Act requires the development of a risk assessment tool that will categorize inmates based on their risk of recidivism and subsequently determine which types of programming are most tailored to that individual’s needs and risks. This is an important step in targeting at risk populations and providing the necessary resources to rehabilitate those individuals with the eventual goal of returning to our communities as productive citizens. At the same time, appropriate parameters are set for who is eligible to earn good time credit for completion of the recidivism reduction programming in order to keep the most dangerous and high-risk individuals from being eligible for early release to community supervision and off the streets.

We are especially appreciative of the provision in the legislation requiring an annual report by the Attorney General outlining how savings accrued from modifications to federal sentencing will be reinvested into efforts by federal, state and local prosecutors and law enforcement to go after drug traffickers and gangs, as well as provide the necessary training and tools needed to carry out investigations, keep officers safe, and ensure successful programming and initiatives are duplicated across communities in the form of best practices. Unfortunately, as the Bureau of Prison’s (BOP) budget has continued to rise, funding for state and local law enforcement grants has been slashed to the bone negatively impacting innovative work in the field including diversion programs, updating of information sharing systems, and hot spot policing. This language is an acknowledgement that vital funding streams to prosecutors and law enforcement must be restored to protect the communities we serve.

The members of NDAA are acutely aware that our federal partners need to have the ability to allocate resources to state prosecutors to help combat human trafficking, domestic violence, the scourge of prescription drug addiction, and so many other ills that plague our communities. Absent meaningful sentencing reform, where the truly dangerous are locked up for an appropriate period of time and those with addiction or mental health issues have the chance for treatment and rehabilitation, those needed resources will not exist.

We applaud the bipartisan leadership of the Senators and staff who have spent considerable time working on this compromise legislation. Their tireless efforts have included open and transparent communication with our organization and members, which has not gone unnoticed. We look forward to working with both of you and other Senators and staff in the weeks ahead to move this bipartisan legislation forward.

Respectfully,

A handwritten signature in black ink that reads "William Fitzpatrick". The signature is fluid and cursive, with the first name "William" written in a standard cursive script and the last name "Fitzpatrick" written in a more stylized, looped cursive script.

William Fitzpatrick
President
National District Attorneys Association

cc: The Honorable Chuck Grassley
cc: The Honorable Patrick Leahy



**International Association of
Chiefs of Police**

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Fax: 703-836-4543
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May 11, 2016

The Honorable Mitch McConnell
Majority Leader
United States Senate
317 Russell Senate Office Building
Washington, D.C. 20510

The Honorable Harry Reid
Democratic Leader
United States Senate
522 Hart Senate Office Building
Washington, D.C. 20510

Dear Majority Leader McConnell and Democratic Leader Reid,

On behalf of the International Association of Chiefs of Police (IACP), the world's largest organization of law enforcement executives, we write in support of the Sentencing Reform and Corrections Act of 2015, S. 2123. We applaud the efforts of the sponsors of S. 2123 for working with the law enforcement community and other stakeholders throughout the process. We believe the revised legislation achieves a proper balance of preserving and expanding mandatory minimums for violent offenders and career criminals, while reducing recidivism, and addressing the burgeoning prison population through thoughtful and careful measures. In addition, the bill does not just stop at sentencing reform and corrections, but also takes a significant step to examine the entire criminal justice system, through the addition of the National Criminal Justice Commission Act.

For more than two decades, the IACP has advocated for the creation of a commission that would allow for a comprehensive examination and report on the state of law enforcement and criminal justice in the United States, and we are extremely appreciative that this bill includes that provision. The proposed National Criminal Justice Commission would follow in the footsteps of the 1965 Presidential Commission on Law Enforcement and the Administration of Justice. The work of that commission and the 200 recommendations it produced marked the beginning of a sea change in our methods for dealing with crime and built the framework for many highly effective law enforcement and public safety initiatives that have been in place for the last forty years.

The commission that will be established by this bill embraces the same mission as the 1965 Commission. In conducting a critical review of the criminal justice system, the commission will have the opportunity to examine and develop recommendations addressing the broad range of new and emerging challenges that confront law enforcement and the criminal justice community, from cybercrime to non-traditional organized crime, from violent street gangs to homeland security. This is absolutely essential so we can develop a strategic plan that will guide an integrated public safety and homeland security effort in the years ahead.

The safety of our communities is the paramount priority for law enforcement, and that includes keeping violent offenders off the streets and working with prior offenders on rehabilitation efforts so that when they are released they return as productive and upstanding citizens. To that end, we believe that this legislation strikes a proper balance between ensuring that those convicted of violent felonies off the streets while modifying the current three strikes rule. Under the proposed legislation, the three strikes rule for drug felonies is modified with a third strike now carrying a 25-year penalty as opposed to life, and second strike carrying a 15-year sentence instead of 20 years. Most importantly, the revised legislation now excludes offenders convicted of any serious violent felony from retroactive early release, ensuring that truly violent offenders cannot benefit from any reduced sentence opportunity established by the bill, while still allowing low-level offenders a possible chance for rehabilitation.

In addition, the IACP is also pleased that the revised bill also establishes a mandatory sentencing enhancement for offenses involving fentanyl, a dangerous opioid and a growing problem in our communities that has led to thousands of drug overdoses and deaths.

Of course, as offenders return to their communities, adequate support must be provided in order to break the cycle of recidivism. This legislation takes that into account through programs to reduce recidivism including job training, educational opportunities, and mentoring services. In addition, this legislation develops a risk assessment tool that will categorize inmates based on their risk of recidivism and make a determination on the kind and amount of recidivism reduction programming or productive activities appropriate for each prisoner's needs and risks.

Finally, S. 2123 also includes an important provision that requires an annual report by the Attorney General outlining how the reduced expenditures and cost savings resulting from modifications to federal sentencing will be reinvested into efforts that will benefit law enforcement, such as investment in law enforcement and crime prevention to combat gangs of national significance and high-level drug traffickers; to hire, train, and equip law enforcement officers and prosecutors; and to promote programs using evidence-based practices and strategic planning to help reduce crime and criminal recidivism.

On behalf of our more than 26,000 members, we applaud the senators and their staff who worked hard on this legislation. Again, we thank you for working with the law enforcement community throughout this process, and we look forward to continuing to work together to move this bipartisan legislation forward.

Sincerely,

A handwritten signature in black ink, appearing to read "T. Cunningham", with a stylized flourish at the end.

Terrence Cunningham
President
International Association of Chiefs of Police



LAW ENFORCEMENT LEADERS

To Reduce Crime & Incarceration

January 20, 2016

Hon. Mitch McConnell
United States Senate
317 Russell Senate Office Building
Washington, D.C. 20510-1702

Hon. Harry Reid
United States Senate
522 Hart Senate Office Building
Washington, D.C. 20510-2803

Hon. Paul Ryan
United States House of Representatives
1233 Longworth House Office Building
Washington, D.C. 20515-4901

Hon. Nancy Pelosi
United States House of Representatives
233 Cannon House Office Building
Washington, D.C. 20515-0512

RE: Sentencing Reform and Corrections Act of 2015, S. 2123

Dear Leader McConnell, Leader Reid, Speaker Ryan, and Leader Pelosi:

We write to express our support for the Sentencing Reform and Corrections Act of 2015 (S. 2123), similar to the Sentencing Reform Act of 2015 (H.R. 3713). As current and former leaders of the law enforcement community — police chiefs, U.S. Attorneys, federal law enforcement, and heads of national law enforcement organizations — we believe that protecting public safety is a vital goal. Our experience has shown us that the country can reduce crime while also reducing unnecessary arrests, prosecutions, and incarceration. We believe the Sentencing Reform and Corrections Act will accomplish this goal and respectfully urge you to support it. We appreciate your leadership on and concern for the important criminal justice issues facing the country today.

Our group, Law Enforcement Leaders to Reduce Crime and Incarceration, unites more than 160 current and former police chiefs, district attorneys, U.S. Attorneys, and attorneys general from all 50 states. Our mission is to replace ineffective policies with new solutions that both reduce crime and incarceration. To achieve this goal, we focus on four policy priorities — one of which is reforming mandatory minimum sentencing laws.

First and foremost, our role as law enforcement leaders is to protect public safety. We have dedicated our careers to fighting crime and have seen firsthand the toll that lawbreaking takes on communities. It is in the interest of the entire country to vigilantly combat criminal activity. We are

proud that our efforts have helped reduce crime to a historic low. Today, the crime rate is about half of what it was at its height in 1991.¹

Crime is still at an all-time low across the country. Crime rates dropped almost 30 percent from 2000 to 2014. And crime remained roughly the same in 2015 as it was in 2014, in fact decreasing 5.5 percent. Some cities are experiencing an increase in murders and this should be taken seriously. However, the data shows these increases are primarily attributable to a few cities and not evidence of a national crime wave.²

Common sense might suggest that more punishment keeps down crime. But research has shown that arbitrarily increasing time served in prison does not necessarily translate into increased public safety gains. Mandatory minimum sentencing laws are one example of laws that often impose excessively long sentences for crimes without a correlating public safety impact. Their consequences are felt throughout the country: The average prison stay has increased 36 percent since 1990.³ Research studies now show that increasing incarceration has diminishing returns on crime, and played only a modest role in the crime decline the country experienced since 1990.⁴ Policing and economic factors played a greater role.⁵

In fact, excessive incarceration can actually increase crime in some cases. Criminologists often call prison “criminogenic,” meaning that it can increase the criminal behavior of prisoners upon release.⁶ Studies have shown that this effect is particularly powerful on low-level and nonviolent offenders.⁷ Once an individual enters prison, they are surrounded by other prisoners who have often committed more serious and violent offenses. Upon release, these prisoners often have trouble finding employment and reintegrating into society due to legal barriers and social stigma. With limited options available, many ex-prisoners enter a cycle of repeat incarceration, committing more serious and violent offenses after release. Two-thirds of those who leave prison end up back in prison.⁸ For this reason, reducing recidivism is key to improving public safety.

Further, the fiscal costs spent imprisoning low-level offenders could be better used to arrest, convict, and incarcerate serious and violent offenders. Today, half of federal prisoners are drug offenders and only 7 percent are convicted of violent crimes.⁹ The federal inmate population has grown more than 400 percent since the late 1980s. Now, the Bureau of Prisons is 39 percent beyond capacity and consumes a quarter of the Department of Justice’s budget.¹⁰ These taxpayer dollars should instead target the country’s most dangerous and serious offenders, those who pose the most risk to public safety.

For these reasons, we believe that reforming mandatory minimums will help reduce crime and reduce our prison population and costs. We know from our experience as leaders in law enforcement that we can reduce crime and punish offenders appropriately without relying on these excessive and arbitrary laws.

We urge Congress to act swiftly to reform federal mandatory minimum sentencing laws. In particular, we urge Congress to pass the Sentencing Reform and Corrections Act, which makes modest but important reforms to federal mandatory minimums. Three key provisions of the bill in particular would aid in the goals of reducing crime and reducing unnecessary incarceration. First, the bill would reduce penalties for repeat non-violent drug offenders. Second, it would eliminate “three-strikes-you’re-out” mandatory life sentence and replaces it with 25 years in prison. Lastly, it would grant judges the discretion to take into account an individual’s specific circumstances when deciding his or her sentence length. These provisions, working together, would better protect public safety by targeting finite criminal justice resources on violent and serious criminals. Neither this bill nor the Sentencing Reform Act eliminates any mandatory minimums, which are important tools for law enforcement when used appropriately. Both bills preserve and target mandatory minimum sentences at violent criminals.

This is a unique moment of rare bipartisan consensus on the urgent need for criminal justice reform. As law enforcement leaders, we want to make clear where we stand: Not only is passing federal mandatory minimum reform necessary to reduce incarceration, it is also necessary to help law enforcement continue to keep crime at its historic lows across the country. We urge Congress to pass the Sentencing Reform and Corrections Act. More broadly, we urge Congress to take strong action to reform our criminal justice system, especially to reform mandatory minimums sentences.

We very much hope that we can meet with you to further explain our concerns and viewpoint on this important national issue.

Respectfully yours,

Ronal Serpas

Co-Chairman

Law Enforcement Leaders to Reduce Crime and Incarceration

Former Police Superintendent

New Orleans, Louisiana

Former Police Chief

Nashville, Tennessee

Cedric Alexander

Former President

National Organization of Black Law Enforcement Executives

Police Chief

Dekalb County, Georgia

Zachary Carter

Corporation Counsel

New York City, New York

Former U.S. Attorney

Eastern District of New York

John Chisholm

District Attorney
Milwaukee County, Wisconsin

William Citty

Police Chief
Oklahoma City, Oklahoma

Tristram J. Coffin*

Former U.S. Attorney
Vermont

Paul E. Coggins*

Former U.S. Attorney
Northern District of Texas

Brendan Cox

Police Chief
Albany, New York

Thomas Dart

Sheriff
Cook County, Illinois

Benjamin David

District Attorney
5th Prosecutorial District, New Hanover County & Pender County, North Carolina

Kevin Davis

Police Commissioner
Baltimore, Maryland

Richard Deane, Jr.

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

Allison DeFoor

Former Sheriff
Monroe County, Florida

* Not a Law Enforcement Leaders to Reduce Crime and Incarceration member.

Donald J. DeGabrielle*
Former U.S. Attorney
Southern District of Texas

Richard Doran
Former Attorney General
Florida

Edward Dowd, Jr.
Former President
National Association of Former United States Attorneys
Former U.S. Attorney
Eastern District of Missouri

Col. Alfred Durham
Police Chief
Richmond, Virginia

Dean M. Esserman
Police Chief
New Haven, Connecticut
Former Police Chief
Providence, Rhode Island

Robert Fiske, Jr.
Former U.S. Attorney
Southern District of New York

George Gascón
District Attorney
San Francisco County, California
Former Police Chief
San Francisco, California

Greg Hamilton
Sheriff
Travis County, Texas

Hal Hardin
Board of Directors Member
National Association of Former United States Attorneys
Former U.S. Attorney
Middle District of Tennessee

Janeé Harteau
Police Chief
Minneapolis, Minnesota

Walter Holton

Former U.S. Attorney
Middle District of North Carolina

Brendan V. Johnson

Former U.S. Attorney
South Dakota

James E. Johnson

Former Undersecretary for Enforcement
Department of the Treasury

Will Johnson

Police Chief
Arlington, Texas

B. Todd Jones

Former Director
U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives
Former U.S. Attorney
Minnesota

G. Douglas Jones

Former U.S. Attorney
Northern District of Alabama

Bernard Kerik

Former Police Commissioner
New York City, New York

Brian N. Kozak

Police Chief
Cheyenne, Wyoming

George Kral

Police Chief
Toledo, Ohio

David LaBahn

President and CEO
Association of Prosecuting Attorneys

Jody Lay

Police Chief
Terrell, Texas

Leon Lott
Sheriff
Richland County, South Carolina

Ronald C. Machen, Jr.*
Former U.S. Attorney
District of Columbia

Christopher Magnus
Police Chief
Tucson, Arizona
Former Police Chief
Richmond, California

David Mahoney
Sheriff
Dane County, Wisconsin

J. Thomas Manger
President
Major Cities Chiefs' Association
Police Chief
Montgomery County, Maryland

Salvatore R. Martoche
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Sherry Matteucci
Former U.S. Attorney
Montana

Charles McClelland
Police Chief
Houston, Texas

William McManus
Police Chief
San Antonio, Texas

Matthew Orwig
Former U.S. Attorney
Eastern District of Texas

Kathleen O'Toole
Police Chief
Seattle, Washington

Former Police Commissioner
Boston, Massachusetts

Andrew Peralta
President
National Latino Peace Officers Association

James Peschong
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Lincoln, Nebraska

James Petro
Former Attorney General
Ohio

Brad Pigott
Former U.S. Attorney
Southern District of Mississippi

Richard J. Pocker
Former U.S. Attorney
Nevada

Timothy Purdon
Former U.S. Attorney
North Dakota

Richard Raemisch
Former Sheriff
Dane County, Wisconsin

A.C. Roper
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Richard Rossman
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Former U.S. Attorney
Eastern District of Michigan

Michael Sauschuck
Police Chief
Portland, Maine

Eric Schneiderman

Attorney General
New York

Jiles Ship

Former President
National Organization of Black Law Enforcement Executives

David Steingraber

Former Police Chief
Menomonee Falls, Wisconsin

Donald Stern

Former President
National Association of Former United States Attorneys
Former U.S. Attorney
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Greg Suhr

Police Chief
San Francisco, California

Gregory A. Thomas

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National Organization of Black Law Enforcement Executives

Todd L. Thomas

Police Chief
Appleton, Wisconsin

Richard Thornburgh*

Former Attorney General
United States
Former Governor
Pennsylvania
Former U.S. Attorney
Western District of Pennsylvania

Brett Tolman

Former U.S. Attorney
District of Utah

John Urquhart

Sheriff
King County, Washington

Gregory Vega

Former U.S. Attorney
Southern District of California

Roberto Villaseñor

Former Police Chief
Tucson, Arizona

Edward G. Warin

Former U.S. Attorney
Nebraska

Donald Washington

Board of Directors Member
National Association of Former United States Attorneys
Former U.S. Attorney
Western District of Louisiana

Donnell White

Board Member of Police Commissioners
Detroit, Michigan

Robert White

Police Chief
Denver, Colorado

William Wilmoth

Former U.S. Attorney
Northern District of West Virginia

¹ In the twenty years from its peak in 1991, the violent crime rate has fallen from an annual 759 crimes per 100,000 people to 387 crimes per 100,000 people. Property crime has fallen from 5140 to 2905 crimes per 100,000 people. See *UCR Data Online*, UNIFORM CRIME REPORTING STATISTICS, <http://www.ucrdatatool.gov/index.cfm> (providing crime statistics from 1960 to 2012, when the latest available data for the tool is available).

² See MATTHEW FRIEDMAN, ET AL., BRENNAN CTR. FOR JUSTICE, CRIME IN 2015: A PRELIMINARY ANALYSIS (2015), update available at https://www.brennancenter.org/sites/default/files/publications/Crime_Data_Dec2015.pdf (updated Dec. 23, 2015); see also FEDERAL BUREAU OF INVESTIGATION, *Crime in the United States, 2014* tbl. 1 (2014), available at <https://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2014/crime-in-the-u.s.-2014/tables/table-1>. Based on latest available data and projections, in 2015 there were 469 additional murders in the 25 largest cities, compared to 2014. More than half (247) of that increase occurred in Baltimore, Washington D.C., and Chicago. Other cities have also seen increases although on a much smaller scale, such as 1 additional murder in Seattle, 10 in San Antonio, and 20 in New York City. See *id.*

³ PEW CTR. ON THE STATES, TIME SERVED 2 (2012), available at <http://www.pewtrusts.org/en/research-and-analysis/reports/2012/06/06/time-served-the-high-cost-low-return-of-longer-prison-terms> (finding that offenders released in 2009 served an average of almost 3 years in custody, 36% longer than offenders released in 1990).

⁴ See, e.g., STEVEN RAPHAEL & MICHAEL STOLL, THE HAMILTON PROJECT, A NEW APPROACH TO REDUCING INCARCERATION WHILE MAINTAINING LOW RATES OF CRIME (2014), available at <http://www.brookings.edu/research/papers/2014/05/01-reduce-incarceration-maintain-low-crime-rates-raphael-stoll>; NAT'L RESEARCH COUNCIL, THE GROWTH IN OF INCARCERATION IN THE UNITED STATES: EXPLORING CAUSES AND CONSEQUENCES 155 (Jeremy Travis et al. eds., 2014); OLIVER ROEDER ET AL., BRENNAN CTR. FOR JUSTICE, WHAT CAUSED THE CRIME DECLINE? (2015), available at <https://www.brennancenter.org/publication/what-caused-crime-decline>. See also Vikrant P Reddy & Marc A. Levin, *The Conservative Case Against More Prisons*, THE AMERICAN CONSERVATIVE, Mar. 6, 2013, available at <http://www.theamericanconservative.com/articles/the-conservative-case-against-more-prisons>.

⁵ See, e.g., Jeff Godown, *The CompStat Process: Four Principles for Managing Crime Reduction*, POLICE CHIEF, Dec. 2014, <http://bit.ly/15vPx6k> (associating Compstat with “the positive outcome of recurring incremental reductions in crime”); FRANKLIN E. ZIMRING, THE CITY THAT BECAME SAFE: NEW YORK’S LESSONS FOR URBAN CRIME AND ITS CONTROL 113, fig.5.5 (2011) (crediting the decreasing crime in New York City to changing policing tactics); *Where Have All the Burglars Gone*, THE ECONOMIST, July, 20, 2013, available at <http://www.economist.com/news/briefing/21582041-rich-world-seeing-less-and-less-crime-even-face-high-unemployment-and-economic>.

⁶ See, e.g., BRUCE WESTERN, PUNISHMENT AND INEQUALITY IN AMERICA 161 (2006).

⁷ See, e.g., Lynne M. Vieraitis et al., *The Criminogenic Effects of Imprisonment: Evidence from State Panel Data, 1974–2002*, 6 CRIMINOLOGY & PUB. POL’Y 589, 593 (2007).

⁸ MATTHEW DUROSE, ET AL., BUREAU OF JUSTICE STATISTICS, RECIDIVISM OF PRISONERS RELEASED IN 30 STATES IN 2005: PATTERNS FROM 2005 TO 2010 31 (2014), available at <http://www.bjs.gov/content/pub/pdf/rprts05p0510.pdf>.

⁹ E. ANN CARSON, BUREAU OF JUSTICE STAT., PRISONERS IN 2014 17, tbl. 12 (2015), available at <http://www.bjs.gov/content/pub/pdf/p14.pdf>.

¹⁰ U.S. GOV’T ACCOUNTABILITY OFFICE, GAO-12-743, GROWING INMATE CROWDING NEGATIVELY AFFECTS INMATES, STAFF, AND INFRASTRUCTURE 2, 39 (2012), available at <http://www.gao.gov/products/GAO-12-74.3>; compare U.S. DEP’T OF JUSTICE, FY 2016 BUDGET REQUEST: PRISONS AND DETENTION (2015), available at http://www.justice.gov/sites/default/files/jmd/pages/attachments/2015/01/30/4_prisons_and_detention_fact_sheet.pdf with U.S. DEP’T OF JUSTICE, FY 2016 BUDGET REQUEST AT A GLANCE (2015), available at http://www.justice.gov/sites/default/files/jmd/pages/attachments/2015/02/02/2016_budget_summary_pages_2-4.pdf.

As of September 21, 2016
Letter is still open for signatures

The Honorable Paul Ryan
Speaker of the House
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Mitch McConnell
Majority Leader
U.S. Senate
Washington, D.C. 20510

The Honorable Nancy Pelosi
Democratic Leader
U.S. House
Washington, D.C. 20515

The Honorable Harry Reid
Democratic Leader
U.S. Senate
Washington, D.C. 20510

Re: the Sentencing Reform and Corrections Act

Dear Mr. Speaker and Leaders McConnell, Pelosi and Reid:

As you consider bringing federal criminal justice reform legislation to the House and Senate floors in the coming weeks, we write to contribute to a thoughtful analysis of key provisions in the sentencing and corrections reform bills' that have already passed out of the Judiciary Committees in strong bipartisan fashion, which are vital to your deliberation.

We, the undersigned, are former federal prosecutors and senior government officials who have served on the front lines of our criminal justice system. Our purpose is to focus the discussion on the substance of the bills' proposed improvements to federal sentencing and corrections policies. Otherwise, good policy reforms could easily fall victim to politics and fear.

First, we all have one thing in common: at one time or another we all served as senior Department of Justice officials, United States Attorneys, Assistant United States Attorneys, or other government officials including judges. We all deeply believe in notions of fairness in the administration of justice, and many of us pursued successful prosecutions and argued for appropriate and substantial punishments in federal courts.

Further, some of us—going back approximately 30 years—were architects of the current sentencing regime that aimed to strike the right balance between all interests and did contribute to a dramatic reduction in crime and historic lows for violent crime.

Second, the sentencing reform provisions in H.R. 3713, the Sentencing Reform Act, and S. 2123, the Sentencing Reform and Corrections Act, will only improve the current regime—by amending just a few sentencing policies that produced unintended consequences and created imbalance in the scales of justice. These bills are the result of a very thoughtful analysis of these deficiencies that was informed by at least one former Attorney General and a handful of former U.S. Attorneys and Assistant U.S. Attorneys. They make modest, reasonable changes to the sentencing regime, including:

- They not only preserve the 5 and 10-year mandatory minimum sentences for drug offenders, but more effectively target them to high-level drug traffickers by providing a more accurate focus on the role of the drug offender instead of drug quantity alone, and increase a judge's

ability to utilize limited discretion when determining appropriate sentences. This is the only way to more effectively tie the longer mandatory minimum sentences to high-level drug traffickers and violent criminals.

- They preserve the stacking of firearms offenses but clarify the law to avoid the Weldon Angelos-type “outlier” problems that cause malfunctions of the system and other unintended consequences.

Further, the sentencing reform provisions actually give federal prosecutors new tools to target violent criminals with enhanced penalties, including:

- They expand enhanced penalties to offenders with prior serious violent felony convictions so federal prosecutors can use the drug laws to target serious violent felons.
- They increase the scope of mandatory minimum sentences to include a larger percentage of federal offenders.

Third, the corrections reform provisions in H.R. 759, the Corrections and Recidivism Reduction Act, and S. 2123 will give the Department of Justice and Bureau of Prisons new tools to reduce recidivism, which will only increase public safety, including:

- They put a new focus on rehabilitation and correction, and establish risk and needs assessment as the cornerstone of more effective recidivism reduction programming, and a more efficient federal prison system.
- They will incentivize prisoners to not only participate in programs and jobs, but to actually reduce their risk of recidivism. In fact, these provisions will effectively transform the federal prison system from risk management to risk reduction.
- The risk reassessment provisions are vital. We need to identify dynamic risk factors and indicators of real change in thinking and behavior, make prisoners demonstrate this change, and measure it over time with a standard, objective instrument as they complete their programs. This will be a major advancement for the federal system.
- Through these risk reassessments, higher-risk prisoners will have to demonstrate substantial risk reduction to progress down into lower risk categories and become eligible to utilize their earned time credits.
- And lower-risk prisoners will be eligible to spend up to 25% of their sentences in home confinement and community supervision, which will produce significant savings. This is remarkable as the most current cost of post-conviction supervision is \$3,909 per year, as opposed to \$30,621 per year for imprisonment, and \$28,999 for residential reentry centers. This is a much more cost-effective way to supervise lower-risk offenders.

In conclusion, we endorse these sentencing and corrections reform bills because they make some of the most needed improvements to the front and back ends of the federal criminal justice system. And it is important to note that substantial changes have been made to the Senate bill to effectively address concerns that the bill would result in the release of violent offenders. Specifically:

- The reduction in the enhanced mandatory minimum sentence for armed career criminals has been removed. In fact, all changes to the Armed Career Criminal Act have been removed.
- The reduction in the enhanced mandatory minimum sentence for using a firearm in connection with a crime of violence or a drug trafficking offense has been removed.
- For prior drug felons, the revised bill now prohibits any retroactive relief for any offender convicted of any serious violent felony.
- The revised bill adds a mandatory sentencing enhancement for fentanyl crimes.

We urge Congress to put these bills on the floor and pass sentencing and corrections reform legislation because it is good for federal law enforcement and public safety. It will more effectively ensure that justice shall be done. Thank you for your consideration.

Respectfully yours,

Michael B. Mukasey
Former United States Attorney General
Former Chief United States District Court Judge, Southern District of New York
Former Assistant United States Attorney, Southern District of New York

Larry D. Thompson
Former United States Deputy Attorney General
Former United States Attorney, Northern District of Georgia

Charles B. Renfrew
Former United States Deputy Attorney General
Former United States District Court Judge, Northern District of California

William S. Sessions
Former Director of the Federal Bureau of Investigation
Former United States Attorney, Western District of Texas
Former Chief United States District Court Judge, Western District of Texas

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Former United States District Court Judge, Southern District of New York
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Former Federal District Court Judge, District of Utah
Former Associate Deputy Attorney General, United States Department of Justice
Former Assistant United States Attorney, District of Utah

Bob Barr

Former Member of Congress (R-GA)

Former United States Attorney, Northern District of Georgia

Former Anti-Drug Coordinator for the United States Department of Justice, Southeastern United States

Brett L. Tolman

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Former Member of the Attorney General's Advisory Committee

Former Assistant United States Attorney, District of Utah

Matthew Orwig

Former United States Attorney, Eastern District Texas

Former President, National Association of Former United States Attorneys

Former Assistant United States Attorney, Eastern District of Texas

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Former United States Attorney, Central District of California

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Former Assistant United States Attorney, Central District of California

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David H. Coar
Former United States District Court Judge, Northern District of Illinois

Nathaniel R. Jones
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Former Federal Immigration Judge

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