

May 30, 2014

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

The Honorable Mitch McConnell
Minority Leader
United States Senate
371 Russell Senate Office Building
Washington, DC 20510

RE: Support the Bipartisan “Smarter Sentencing Act of 2013” (S. 1410)

The undersigned organizations that are part of the Justice Roundtable coalition write to express our support for S. 1410, the Smarter Sentencing Act (SSA). The primary features of this bipartisan legislation are that it reduces lengthy sentences for certain people convicted of non-violent drug offenses by decreasing the 5, 10 and 20 year mandatory minimums to 2, 5 and 10 years; narrowly expands the “safety valve” exception in lower level cases; and promotes consistency by allowing those sentenced under the old crack sentencing regime to return to court to have their sentences reviewed and recalculated to conform to current law.

There are over 217,000 people under the custody of the Federal Bureau of Prisons (BOP).¹ System wide, the Bureau is operating at 32 percent over its rated capacity². In his 2013 testimony before the House Appropriations CJS Subcommittee, BOP Director Charles Samuels singled out the excessive sentences and increasing prosecutions for drug offenses as the primary contributor to the continued population growth. He stated, “(d)rug offenders comprise the largest single offender group admitted to Federal prison and sentences for drug offenses are much longer than those for most other offense categories.”³ Research by the Urban Institute found that increases in expected time served, specifically for drug offenses, contributed to half of the prison population growth between 1998 and 2010.⁴ A 2013 report by the Congressional Research Service concluded that the increase in the

¹ Federal Bureau of Prisons Website, *Quick Facts*, http://www.bop.gov/about/statistics/population_statistics.jsp. (last updated May 29, 2014).

² Hearing on Reassessing Solitary Confinement: The Human Rights, Fiscal, and Public Safety Consequences, Before the Subcommittee on the Constitution, Civil Rights, and Human Rights, Senate Committee on the Judiciary, (February 24, 2014) (statement of Charles E. Samuels, Jr., Director of the Federal Bureau of Prisons, available at:

<http://www.judiciary.senate.gov/imo/media/doc/02-25-14SamuelsTestimony.pdf>

³ Hearing on Federal Bureau of Prisons FY 2014 Budget Request Before the House Comm. On Appropriations, Subcomm. on Commerce, Justice, Science, and Related Agencies, (April 17, 2013)(statement of Charles E. Samuels, Director of the Federal Bureau of Prisons), available at:

<http://appropriations.house.gov/uploadedfiles/hhrg-113-ap19-wstate-samuelsc-20130417.pdf>

⁴ Nancy LaVigne, Julie Samuels, Urban Institute *The Growth & Increasing Cost of the Federal Prison System: Drivers and Potential Solutions* pg. 5 (2012).

amount of time people were expected to serve was the result of longer sentences and the requirement that they serve approximately 85 percent of federal sentences.⁵ Currently, people convicted of drug offenses make up 50 percent of the BOP population.⁶

Congress must courageously embrace the challenge to reverse this alarming course of unrestrained incarceration. The bipartisan Smarter Sentencing Act addresses the overcrowding which plagues the federal system by helping to improve drug sentencing policy without jeopardizing public safety. The Smarter Sentencing Act has support not only from civil rights, criminal justice, faith-based, and human rights organizations, but from prosecutors and law enforcement groups as well.

The International Union of Police Associations, representing more than 100,000 active duty law enforcement and emergency medical personnel, described the Smarter Sentencing Act as a “thoughtful, modest, and we believe, safe approach to address this growing concern” of overcrowding. The Association of Prosecuting Attorneys, which represents prosecutors at all levels, stated “this legislation improves public safety, helps redirect resources from federal incarceration of lower-level drug offenders to our most important law enforcement priorities, and promotes fairness of sentences for drug offenders who were sentenced prior to the enactment of the Fair Sentencing Act.”

A group of over 100 former judges, prosecutors and law enforcement officials have also spoken-out in support of the Smarter Sentencing Act. They expressed concern that spending more money on incarceration jeopardizes funding for priorities such as crime prevention, law enforcement and reducing recidivism. “With more resources going to incarcerate nonviolent offenders and fewer resources spent to investigate and prosecute violent crimes and support state and local law enforcement efforts, public safety will be at risk.” The President of the Council of Prison Locals, American Federation of Government Employees, AFL-CIO, representing over 37,000 correctional workers nationwide in the Federal Bureau of Prisons, offered “wholehearted support” of S. 1410, stating that the legislation “is long overdue.” He stressed that the crisis in prison overcrowding causes correctional worker understaffing, resulting in the formation of “a perfect storm for disaster.”

The Smarter Sentencing Act is supported by many in law enforcement because of its moderate approach to reform. It applies only to mandatory minimum sentences for federal nonviolent drug offenses, not those convicted of violent, sex, child exploitation, white collar, or terrorism crimes. It does not abolish any federal mandatory minimum sentences or eliminate or limit any prosecutorial charging discretion – all those convicted of drug offenses carrying a mandatory minimum will still go to prison for at least two, five, or ten years or more. The Smarter Sentencing Act will not only reduce federal prison populations but, when enacted, will save at least \$2.7 billion as well.⁷ Furthermore, under the bill, the

⁵ Nathan James, Congressional Research Service, *The Federal Prison Population Build-up: An Overview, Policy Changes, Issues and Options* pg. 8 (January 22, 2013) (hereinafter CRS report).

⁶ Federal Bureau of Prisons Website, *Quick Facts*, <http://www.bop.gov/news/quick.jsp>. (updated May 29, 2014)

⁷ Urban Institute, *Stemming the Tide: Strategies to Reduce the Growth and Cut the Cost of the federal Prison System 24-25* (Nov. 2013), available at <http://www.urban.org/UploadedPDF/412932-stemming-the-tide.pdf>.

Attorney General is held accountable for ensuring that the cost savings are reinvested in law enforcement, crime prevention and recidivism reduction programs.

While the undersigned organizations would like to see greater and more far-reaching sentencing reform, we believe that Congress must act now to address the prison overcrowding crisis and embrace the modest approach sponsored by Senators Durbin (D-IL) and Lee (R-UT). Despite our concern with amendments added during mark-up which added new 5 year mandatory minimums for sexual abuse and terrorism offenses and a 10 year minimum for interstate domestic violence⁸, we feel that passage of the bill is a smart bipartisan solution to tackle the unsustainable growth in the federal prison population and address the serious safety and fiscal problems that exist in the BOP.

We thank those Senators who already support the Smarter Sentencing Act and urge others to support it as well with no additional mandatory minimum sentences or other unhelpful amendments as the bill continues through the legislative process.

Cc: Members of the U.S. Senate

Respectfully submitted,

A Future and A Hope
A New PATH
African American Ministers In Action
Alliance of Baptists
American Civil Liberties Union (ACLU)
American Probation and Parole Association
Arkansas Voices for Children of Prisoners
Blacks in Law Enforcement of America
BOOM!Health
The Brennan Center for Justice
Call to Do Justice
Celebrities for Justice
Center and Library for the Bible and Social Justice
Charles Hamilton Houston Institute for Race & Justice at Harvard Law School
Chicago Coalition for the Homeless
Church of Scientology National Affairs Office
Colorado Criminal Justice Reform Coalition
Colorado CURE
Colorado Prison Law Project
Council on Prevention and Education; Substances, Inc.
Criminon New Life DC

⁸ Victims' rights groups such as the National Task Force to End Sexual and Domestic Violence Against Women oppose the 5 and 10 year minimums for sexual abuse and domestic violence because these sentences make it less likely that victims will report their abusers and get the help they need.

Crossroad Bible Institute
CURE
DC Commission on Reentry and Returning Citizens Affairs
DC Reentry Task Force
Deer Rehabilitation Services Inc.
Drug Policy Alliance
Ella Baker Center for Human Rights
Families Against Mandatory Minimums
Families for Justice as Healing
Friends Committee on National Legislation
Haymarket Center (IL)
Hip Hop Against Mandatory Minimums
Human Rights Defense Center
Human Rights Watch
Innocence Project
International Council of Community Churches
Justice As Healing
Justice Policy Institute
Justice Strategies
Kansas Association of Criminal Defense Lawyers
LA County HIV Drug & Alcohol Task Force
Law Enforcement Against Prohibition
Lawyers' Committee for Civil Rights Under Law
Legal Action Center
The Leadership Conference of Civil and Human Rights
Life for Pot- Release Nonviolent Drug Offenders
Marijuana Policy Project
Maryland CURE
Mennonite Central Committee U.S. Washington Office
NAACP
NAACP Legal Defense and Educational Fund
National African American Drug Policy Coalition, Inc.
National Alliance for Medication Assisted Recovery (DE)
National Association of Blacks in Criminal Justice
National Association of Criminal Defense Lawyers
National Association of Social Workers
National Council of Churches, USA
National Lawyers Committee
National Legal Aid & Defender Association
National Transitional Jobs Network at Heartland Alliance
National Urban League
Open Society Policy Center
Perspectives, Inc.
Popular Resistance
Presbyterian Church U.S.A.
Public Justice Center
Racial Justice Initiative of TimeBanks USA
Religious Action Center of Reform Judaism
Remove Intoxicated Drivers'
Rhode Island State Council of Churches

Safe and Sound Campaign
Safe Streets Arts Foundation
Safer Foundation
Samuel DeWitt Proctor Conference
StoptheDrugWar.org
Students for Sensible Drug Policy
The Center for Community Alternatives
The Constitution Project
The Drug Policy Forum of Texas
The National Council on Alcoholism and Drug Abuse – St. Louis Area
The National Workrights Institute
The Prison Policy Initiative
The Sentencing Project
Treatment Communities of America
United Methodist Church, General Board of Church and Society
University Legal Services
Women's Alliance for Theology, Ethics and Ritual