

August 27, 2013

The Honorable Eric H. Holder, Jr.
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Holder,

We write to you to commend you on your recent speech at the American Bar Association convention. As former federal prosecutors and judges, we know the importance of strong law enforcement efforts to keep our communities safe. However, as you pointed out in your speech, the system is now putting too many people away for too long, and reform is desperately needed.

In June, many of us signed onto a letter to the Senate and House Judiciary Committees in support of the Justice Safety Valve Act, sponsored by Senators Pat Leahy (D-VT) and Rand Paul (R-KY), which would allow judges more discretion in sentencing. Specifically, it would authorize judges to depart from a mandatory minimum in cases, for example, where the defendant did not engage in violence and is unlikely to reoffend. We also support the efforts to reform mandatory minimums reflected in the Smarter Sentencing Act, which was introduced recently in the Senate by Senators Dick Durbin (D-IL) and Mike Lee (R-UT), which makes changes to drug-related mandatory minimums, including reducing some mandatory minimums and providing retroactivity for changes in crack cocaine mandatory minimums that were made in the Fair Sentencing Act.

Not only do lengthy mandatory minimums often lead to unjust results, they also waste valuable resources that could be put to good use elsewhere. As you well know, the federal prison population stands at 18 percent above capacity, with about half of those incarcerated being drug offenders. Common sense reforms, such as those implemented by your new directive to federal prosecutors or the bipartisan bills we highlighted above, can reduce crime and prison spending. We note, for example, the U.S. Sentencing Commission's recent announcement that the government saved over half a billion dollars when guidelines for crack cocaine offenses, as modified by the Fair Sentencing Act, were made retroactive.

Congress must act to allow for more discretion in sentencing. In the meantime, we applaud you for directing federal prosecutors to exercise discretion when deciding to prosecute a case federally. Justice is best achieved when all sides work together to ensure that sentences are fair. We hope you will continue your strides toward fairness in the criminal justice system, and we will continue to speak out in support of those efforts.

Signatories as of August 27, 2013:

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CC: The Honorable Richard Durbin
The Honorable Patrick Leahy
The Honorable Michael Lee
The Honorable Rand Paul