

# THE CONSTITUTION PROJECT



*Safeguarding Liberty, Justice & the Rule of Law*

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## TCP Letter From More Than 100 Former Judges and Prosecutors Backs Federal Sentencing Reform

WASHINGTON, D.C. -- More than 100 former judges and prosecutors are urging Congress to adopt bipartisan legislation designed to relieve the nation's overcrowded prisons by granting judges greater discretion to sentence non-violent drug offenders below the federal mandatory minimum.

"At the federal level, we need to address the parts of our sentencing policies that are not working. Over the past three decades, what we spend on federal incarceration has increased by more than 1100 percent. Despite this massive investment, federal prisons are nearly 40 percent over capacity," wrote the former judges and prosecutors from across the country in a [letter](#) organized by The Constitution Project and delivered to Senators Dick Durbin (D-IL) and Mike Lee (R-UT) earlier this week. Durbin and Lee are the cosponsors of the Smarter Sentencing Act of 2013.

"This legislation addresses one of the major contributors to our exploding prison population -- nonviolent drug offenses -- and gives federal judges the appropriate discretion to tailor sentences to fit individual circumstances while maintaining public safety. Congress should take this opportunity to begin fixing what is clearly a dysfunctional federal sentencing regime," said Virginia Sloan, president of The Constitution Project (TCP), a bipartisan legal watchdog group.

Among those signing the letter are Judge William S. Sessions, former director of the FBI; John Schmidt, former Associate Attorney General of the Department of Justice; and former state attorneys general from Illinois, New Jersey, Pennsylvania, and Virginia.

The Smarter Sentencing Act (S. 1410, H.R.3382) would authorize federal judges to impose a prison sentence below the statutory mandatory minimum for a broader category of non-violent drug offenses, would lower the mandatory minimum sentences for certain drug offenses, and would make retroactive the provisions in the Fair Sentencing Act of 2010 that reduced the disparity between sentences for crack and powder cocaine possession.

The former federal judges and prosecutors note in their letter that the bill's "modest expansion of the current 'safety valve,' coupled with the reduction of some mandatory minimums for non-violent drug offenses-while maintaining statutory maximums-allows courts to make individualized assessments in nonviolent drug cases. This maintains consistency in sentencing for drug-related offenses, but allows for discretion to give less lengthy sentences, where appropriate."

The Senate Judiciary Committee is scheduled to consider the Smarter Sentencing Act, as well as the Justice Safety Valve Act (S. 619), another sentencing reform bill [supported](#) by many of the same former judges and prosecutors, on Thursday, December 12.

A copy of the letter with the full list of signatories is available at [www.constitutionproject.org](http://www.constitutionproject.org).

### [About The Constitution Project](#)

*Created out of the belief that we must cast aside the labels that divide us in order to keep our democracy strong, The Constitution Project (TCP) brings together policy experts and legal practitioners from across the political spectrum to foster consensus-based solutions to the most difficult constitutional challenges of our time. TCP seeks to reform the nation's broken criminal justice system and to strengthen the rule of law through scholarship, advocacy, policy reform and public education initiatives. Established in 1997, TCP is based in Washington, D.C.*