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Safeguarding Liberty, Justice & the Rule of Law

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Former Judges and Prosecutors Back Federal Sentencing Reform

WASHINGTON, D.C. -- Former judges and prosecutors from across the country are urging Congress to adopt the Smarter Sentencing Act, bipartisan legislation designed to relieve the nation's overcrowded prisons by giving federal judges more discretion in sentencing those convicted of nonviolent drug offenses.

"Maintaining the status quo in federal sentencing policy is both fiscally imprudent and a threat to public safety. We are deeply concerned that spending on incarceration has jeopardized funding for some of our most important law enforcement priorities," wrote the 130 former judges, prosecutors and law enforcement officials in a [letter organized](#) by The Constitution Project and delivered to the House and Senate Judiciary Committees today.

"This legislation addresses one of the major contributors to our exploding federal prison population--nonviolent drug offenders--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, a bipartisan legal watchdog group.

Among those signing the letter are Judge William S. Sessions, former director of the FBI; former state attorneys general from Illinois, Pennsylvania, Tennessee and Virginia; and former state Supreme Court justices from Florida, Georgia, Mississippi, Montana and Texas.

The [Smarter Sentencing Act](#) (S. 502, H.R. 920) 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 judges and prosecutors noted 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-without changing existing 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 in a narrow subset of cases."

The letter pointed out that the U.S. Sentencing Commission and other experts have found little deterrent value in sentencing low-level offenders to lengthy mandatory minimum prison terms. A recent survey of federal judges conducted by the sentencing commission found a significant majority support a modest expansion in the "safety valve."

The United States has seen a 500 percent increase in the number of inmates in federal custody over the last 30 years, and almost half of all federal inmates are serving sentences for drug offenses. Additionally, over the past three decades, spending on federal incarceration has increased by more than 1100 percent. In 2014, the Congressional Budget Office [estimated](#) that implementation of these reforms would save taxpayers approximately \$4 billion over ten years.

A copy of the letter with the full list of signatories is available at www.constitutionproject.org.

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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 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 through scholarship, advocacy, policy reform and public education initiatives. Established in 1997, TCP is based in Washington, D.C.

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