



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

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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-12-743>; 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.