

September 14, 2015

The Honorable Chuck Grassley  
U.S. Senate  
135 Hart Senate Office Building  
Washington D.C. 20510

The Honorable Patrick Leahy  
U.S. Senate  
437 Russell Senate Office Building  
Washington D.C. 20510

The Honorable Bob Goodlatte  
U.S. House of Representatives  
2309 Rayburn House Office Building  
Washington D.C. 20515

The Honorable John Conyers  
U.S. House of Representatives  
2426 Rayburn House Office Building  
Washington D.C. 20515

**Re: New Mandatory Minimum Sentences in S. 1762/H.R. 3011 (“Establishing Mandatory Minimums for Illegal Reentry Act of 2015”) and S. 1812 (“Improving Cooperation with States and Local Governments and Preventing the Catch and Release of Criminal Aliens Act of 2015”)**

Dear Chairman Grassley, Ranking Member Leahy, Chairman Goodlatte, and Ranking Member Conyers:

We, the undersigned 35 criminal justice reform, civil and human rights, and faith-based organizations, write to express our strong opposition to current proposals before the Senate and House that would create a new five-year mandatory minimum sentence for illegal reentry.

Current law subjects people convicted of illegal reentry (8 U.S.C. § 1326) to a sentence of up to 2 years, unless the person has a criminal record, in which case he or she can receive a sentence of up to 20 years. The U.S. Sentencing Commission guidelines also provide for increased sentences for illegal entry convictions of people with prior serious criminal records.

S.1762/H.R. 3011 would create a new five-year mandatory minimum sentence for illegal reentry, regardless of a person’s criminal record or other circumstances particular to his or her case, such as U.S. family members, asylum-seeker status, or other vulnerabilities.

S. 1812 would create a new five-year mandatory minimum sentence for illegal reentry for anyone with a prior “aggravated felony” conviction. 8 U.S.C. § 1101(a)(43) defines “aggravated felony” broadly to include theft, filing a false tax return, and failing to appear in court, as well as more serious crimes.

These proposals have enormous resource implications. Estimated conservatively, a new five-year mandatory minimum for illegal reentry would cost taxpayers nearly \$2 billion annually, assuming FY 2013 illegal reentry conviction levels, and would ultimately create a net increase in the federal prison population of approximately 65,000 prisoners.<sup>1</sup> To handle the increase, the federal Bureau of Prisons would need to build more than 20 new prisons or crowd its prisons to 167 percent of rated capacity.<sup>2</sup> As bipartisan commitment builds to reform our nation’s criminal justice system, including by reducing incarceration levels, it makes no sense to suddenly reverse course by creating new mandatory minimums that could lead to the construction of new federal prisons or create unprecedented overcrowding in the federal prison system.

Mandatory minimum sentences are “one size fits all” justice and inevitably produce sentences that do not fit the particular facts and circumstances of both the offense and the person who committed it. American justice operates on a bedrock principle that the punishment should fit the crime and the person who committed it. But by treating all offenders the same, mandatory minimum sentences frequently produce irrational and excessive punishments and contribute to unwarranted sentencing disparity. Furthermore, there is no demonstrable link between federal mandatory minimums and any decline in crime.<sup>3</sup>

We respectfully urge you to oppose S. 1762, H.R. 3011, and S. 1812. If you have any questions or concerns, please contact Ruthie Epstein, Legislative Policy Analyst, American Civil Liberties Union, at [repstein@aclu.org](mailto:repstein@aclu.org) or 202-675-2316.

Sincerely,

African American Ministers In Action  
AME Church – Social Action Commission  
American Civil Liberties Union  
Bend the Arc Jewish Action  
Bread for the World  
Church of Scientology National Affairs Office  
Disciples Justice Action Network  
Drug Policy Alliance  
Ella Baker Center for Human Rights  
Evangelical Lutheran Church in America  
Families Against Mandatory Minimums  
Families for Justice as Healing  
Grassroots Leadership  
Human Rights Watch  
Lawyers' Committee for Civil Rights Under Law  
The Leadership Conference on Civil and Human Rights  
Micah Leadership Council  
Missionary Servants of the Most Holy Trinity  
NAACP  
National African American Drug Policy Coalition, Inc.  
National Association of Criminal Defense Lawyers  
National Council of Churches, USA  
National Religious Campaign Against Torture  
NETWORK, A National Catholic Social Justice Lobby  
Office of Social Justice, Christian Reformed Church in North America  
Presbyterian Church (U.S.A.)  
Prison Policy Initiative  
Refugee and Immigration Ministries, Christian Church (Disciples of Christ) in the U.S. and Canada  
Sisters of Mercy of the Americans  
The Daniel Initiative  
The Daughters of Charity – USA  
The Sentencing Project  
T'ruah: The Rabbinic Call for Human Rights  
United Church of Christ  
United Methodist Church, General Board of Church and Society

Cc: The Honorable Mitch McConnell, Majority Leader, U.S. Senate  
The Honorable Harry Reid, Democratic Leader, U.S. Senate  
The Honorable John A. Boehner, Speaker, U.S. House of Representatives  
The Honorable Nancy Pelosi, Democratic Leader, U.S. House of Representatives  
Members of the Senate Judiciary Committee  
Members of the House Judiciary Committee

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<sup>1</sup> The population increase was calculated using U.S. Sentencing Commission data on the number of FY13 new illegal reentry convictions (n=18498) and average sentence lengths (n=18 months), and adopting the conservative assumption that average sentence lengths will not exceed the proposed 5-year mandatory minimum. *See Illegal Reentry Offenses*, UNITED STATES SENTENCING COMMISSION (April 2015) available at [http://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-projects-and-surveys/immigration/2015\\_Illegal-Reentry-Report.pdf](http://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-projects-and-surveys/immigration/2015_Illegal-Reentry-Report.pdf). The cost of this prison population increase was calculated using BOP's FY13 cost calculation of \$80.25 per prisoner, per day. *See Federal Prison System Per Capita Costs*, BUREAU OF PRISONS, available at [http://www.bop.gov/foia/fy13\\_per\\_capita\\_costs.pdf](http://www.bop.gov/foia/fy13_per_capita_costs.pdf).

<sup>2</sup> *See* Bureau of Prisons FY 2016 Performance Budget Congressional Submission, Federal Prison System, Buildings and Facilities (2015), available at [http://www.justice.gov/sites/default/files/jmd/pages/attachments/2015/02/02/federal\\_bureau\\_of\\_prisons\\_bop\\_bf.pdf](http://www.justice.gov/sites/default/files/jmd/pages/attachments/2015/02/02/federal_bureau_of_prisons_bop_bf.pdf).

<sup>3</sup> Marc Mauer, *Viewpoint*, JUDICATURE (August 2010), available at [http://sentencingproject.org/doc/publications/s\\_Viewpoint.pdf](http://sentencingproject.org/doc/publications/s_Viewpoint.pdf)