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February 25, 2009

Honorable Benjamin L. Cardin  
201 Russell Office Building  
United States Senate  
Washington, DC 20510

Dear Senator Cardin:

I write on behalf of the American Bar Association (ABA) to express our strong support for the Justice Integrity Act, legislation to examine the presence, cause and extent of racial and ethnic disparities that exist in the criminal justice system and to facilitate the development of proposals for reducing or eliminating racial and ethnic bias where it is found. We applaud your leadership in introducing this legislation. It provides a thoughtful approach to addressing an issue of great importance to our justice system through supporting the gathering of facts and generation of proposals for reform at the local, federal district levels. As Attorney General Eric Holder recently remarked, we should not be afraid to examine and discuss the role of race in our society and in our system of justice.

Racial disparity in the criminal justice system is of deep concern to the ABA and to all persons administering the criminal justice system. In August 2003, Supreme Court Justice Anthony Kennedy appeared before the ABA House of Delegates to urge the legal profession to do more to address the issue. He noted: "Nationwide, more than 40% of the prison population consists of African-American inmates. About 10% of African-American men in their mid-to-late 20s are behind bars. In some cities, more than 50% of young African-American men are under the supervision of the criminal justice system." An ABA Commission formed in response to these concerns, the "Justice Kennedy Commission," made policy proposals approved by our House of Delegates in 2004. One key recommendation is that states and the federal government strive to eliminate actual and perceived racial bias in the criminal justice system by enacting measures that would establish criminal justice racial and ethnic task forces to study and determine the extent of racial and ethnic disparity in the various stages of criminal investigation, prosecution, disposition and sentencing; make periodic public reports on the results of their studies; and make specific recommendations intended to eliminate racial and ethnic discrimination and unjustified racial and ethnic disparities.

We strongly support the core proposals contained in the Justice Integrity Act. It would establish a 5-year pilot program to increase the perception of fairness and to seek remedies for racial or ethnic bias that exists in the administration of federal criminal justice in the pilot districts. It would also provide other districts with guidance on how

they might eliminate or reduce racial or ethnic bias. The pilot program would be administered by the Attorney General, who would designate 10 U.S. Attorneys to form an advisory group and conduct the pilot program in their respective districts. The purpose of the program would be to gather data on the presence, cause and extent of racial and ethnic disparities that exist in each stage of the criminal justice system, including investigation and prosecution. Additionally, each of the 10 advisory groups would recommend a plan, specific to their respective districts, to ensure that unwanted racial and ethnic disparities are not being created from neutral laws or policies. Like the Civil Justice Reform Act of 1991, the Justice Integrity Act brings together the stakeholders in a district to examine practice and procedure in their own criminal justice systems. While the Civil Justice Reform Act focused on the management of civil cases, the Justice Integrity Act brings together representatives of every part of the community that has an interest in or a role to play in the administration of criminal justice. It holds the promise of tailoring solutions to meet the specific needs of each particular district.

The ABA commends you for your commitment to identify and address the root causes of racial and ethnic disparity in the federal criminal justice system. Growing racial disparities work to erode confidence among minorities that the criminal justice system is fair. All of us have a great stake in the rule of law in our justice system, and we must continually aspire to achieve both the perception and reality that our criminal justice system is fair, unbiased and just. The ABA stands ready to work with you toward timely enactment of the Justice Integrity Act.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas M. Susman", with a long horizontal flourish extending to the right.

Thomas M. Susman