October 6, 2011

The Honorable Barbara Mikulski
Chair, Subcommittee on Commerce, Justice, Science, and Related Agencies
142 Dirksen Office Building
Washington, DC 20510

The Honorable Frank Wolf
Chair, Subcommittee on Commerce, Justice, Science, and Related Agencies
Room H-310, The Capitol Building
Washington, DC 20515

The Honorable Kay Bailey Hutchison
Ranking Member
Subcommittee on Commerce, Justice, Science, and Related Agencies
125 Hart Office Building
Washington, DC 20510

The Honorable Chaka Fattah
Ranking Member
Subcommittee on Commerce, Justice, Science, and Related Agencies
1010 Longworth House Office Building
Washington, DC 20515

Dear Chairs Mikulski and Wolf, and Ranking Members Hutchison and Fattah:

We understand that the House and Senate Appropriations Subcommittees on Commerce, Justice, Science and Related agencies will soon be meeting to reconcile the recommendations respectively approved for FY 2012. I write on behalf of the American Bar Association to urge you to support funding for FY 2012 for the Second Chance Act at at least the $70 million approved by the House Committee and to support juvenile justice funding approved by the Senate Committee.

The Second Chance Act, which passed with overwhelming bipartisan support and was signed into law in April 2008, is a common sense, evidence-based approach to reducing crime and improving public safety. It authorizes $165 million for programs to assist prisoners to successfully reenter their communities, providing a critical opportunity for a modest investment in “back-end” crime prevention that represents a tiny fraction of federal spending on the criminal justice system. With an understanding and sensitivity to the fiscal constraints facing the federal government, the ABA nonetheless believes that funds spent to reduce recidivism are cost-effective investments that more than pay for themselves in long-term savings to society and the criminal justice system.

Funding for the Second Chance Act will provide crucial resources at a time when they are desperately needed. In 2008, federal and state prisons held over 1.6 million inmates – one in every 198 U.S. residents – and released 735,000 individuals back to their communities. More than 9 million individuals are released from jail each year. Unfortunately, most individuals face numerous challenges when returning to the community from prison or jail, and research indicates that over half are reincarcerated within three years of their release. In a recent report, The Pew
Charitable Trusts estimated that, if current growth rates continue, state and federal prisons will grow by 13 percent by 2013, adding more than 192,000 prisoners at a cost of $27.5 billion. According to the Department of Justice’s Bureau of Justice Statistics, jails are growing at an even faster pace. However, research confirms that comprehensive, coordinated services can help formerly incarcerated individuals find stable employment and housing, thereby reducing recidivism. By providing the resources needed to coordinate reentry services and policies, the Second Chance Act ensures that the tax dollars spent on corrections no longer support a revolving door in and out of prison and jail.

We also urge you to support the Senate CJS Subcommittee recommendations for FY 2012 funding for juvenile justice programs. These programs, including the Title II Formula Grants Program and the Title V Local Delinquency Prevention Program under the Juvenile Justice and Delinquency Prevention Act (JJDPA), as well as the Juvenile Accountability Block Grant Program (JABG), support juvenile justice improvements essential to protecting our nation’s communities and its most at-risk youth. Criminologists estimate that steering just one high-risk youth away from a life of crime saves society $3 million to $6 million in reduced victim costs and criminal justice expenses. It is economically sound policy to invest in proven programs that help at-risk youth, keep the public safe, and save taxpayers money. We support the Senate recommendations for continued funding for these juvenile justice programs for FY 2012.

While we believe that targeted spending aimed at reducing entry into the criminal justice system through federal support for proven juvenile justice programs, and support for evidence-based reentry programs under the Second Chance Act should be strengthened, our view is that FY 2012 savings in CJS criminal justice funding should focus on providing incentives for the Bureau of Prisons (BOP) to implement steps to reduce the federal prison population.

We share your concerns about the severe overcrowding that plagues BOP facilities and agree prompt action must be taken to address dangerous overcrowding and staff shortages. However, we believe the Senate Committee-approved recommendation for building more prisons is not the answer. Rather, it is simply a continuation of a costly and failed criminal justice strategy that states and local governments around the country have already rejected in favor of sentencing reform and alternative approaches to incarceration. Congress should implement sound sentencing reform policies that relieve overcrowding, ensure fairness and reduce costs.

Fortunately, there are many practical, cost-saving measures that Congress could and should take to make this happen. In a report to Congress drafted by the National Institute of Corrections, “Estimated Effects of Potential Prison Reform,” and shared with your Committee last year, the BOP outlined several alternatives to prison building that would address prison overcrowding. We support these cost saving proposals and urge you to incorporate them into the FY2012 CJS Appropriations bill. Here are just a few examples:

- **Good Time Conduct Credits** – Federal law could be modified to allow a prisoner who is serving a term of imprisonment of more than one year, but not a term of life imprisonment, to receive credit toward the service of the prisoner’s sentence of up to 54 days for each year of the sentence imposed. This change would extend good time credits for federal prisoners by 7 days per year, enhance incentives for good behavior and
provide an immediate reduction in the population growth by 4,000, saving $41 million in the first year alone.

- **Elderly Offender Pilot Expansion** – The Second Chance Act of 2007 directed the BOP to pilot a program to place eligible elderly offenders on home detention for those at least 65 years old who have served 10 years or 75% of their imposed sentence. Given the low recidivism risk of elderly prisoners, the home confinement provision should be made permanent and the eligibility criteria should be modified by lowering both the age and sentence-length requirements.

- **Expanded Early Release for Program Completion** – Legislation should be enacted to provide early release credit for successful participation in recidivism-reducing programs such as Federal Prison Industries, vocational training, and education. This expansion would likely increase participation in reentry programs, decrease prison misconduct and thereby increase safety for staff and inmates and lower costs.

Congress must act to change the course of unchecked incarceration and its enormous human and fiscal costs. Instead of funding new prisons while cutting proven programs that divert people from prison and produce better community outcomes, we urge you to continue to support these key criminal justice programs designed to keep people out of prisons, jails and juvenile facilities and eliminate any new funding to expand prison capacity. Congress should take the sensible steps the BOP itself has highlighted.

We understand that appropriators face difficult decisions in maintaining a balanced approach in criminal justice programs this year. We urge you to support the House recommendation for continued funding of $70 million for FY 2012 for the Second Chance Act and to support the Senate recommendations for juvenile justice funding.

Sincerely

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Thomas M. Susman