December 3, 2013

The Honorable Bob Goodlatte    The Honorable John Conyers, Jr.
U.S. House of Representatives         U.S. House of Representatives
2309 Rayburn Office Building  2426 Rayburn Office Building
Washington, DC 20515          Washington, DC 20515

Dear Chairman Goodlatte and Ranking Member Conyers:

I write on behalf of the American Bar Association to thank you for establishing the bipartisan Over-criminalization Task Force in the House Judiciary Committee, to commend its work to date, and to urge you to reauthorize the Task Force for another six-month period so that it can continue its thoughtful deliberations.

The Task Force has provided a forum for a constructive conversation on the problems of over-criminalization of law in the federal system. We are supportive of the early focus of the Task Force on assessing the scope of the problem, the erosion of mens rea requirements, and regulatory solutions. We believe that a consensus on more careful use of criminal sanctions is emerging from this focus— a consensus that acknowledges that robust enforcement of regulatory laws must be maintained where criminal punishment is not appropriate. Moreover, we have observed in the bipartisan discussions at the Task Force meetings an agreement that over-criminalization is not limited to these issues, but is more broadly pervasive and problematic.

With additional time, the Task Force will have the opportunity to more closely examine the problem of federalization of state criminal law, overuse of mandatory minimum sentencing, the proliferation of collateral consequences of conviction, and the related need to overhaul the federal criminal code. These problem areas are critical contributors to the massive growth in federal criminal law and to the unprecedented and unsustainable growth in the federal prison population in recent decades.

We strongly support a focused examination of these problems and urge the Committee to reauthorize the Task Force for another six months to continue the work it has begun. The ABA stands ready to assist the Task Force as it proceeds in its important examination of federal over-criminalization.

Sincerely,

Thomas M. Susman