February 5, 2013

The Honorable Patrick Leahy
224 Dirksen Senate Office Building
United States Senate
Washington, DC 20510

The Honorable Mike Crapo
239 Dirksen Senate Office Building
United States Senate
Washington, DC 20510

Dear Senator Leahy and Senator Crapo:

I write on behalf of the American Bar Association (ABA), with nearly 400,000 members across the country, to express our opposition to the inclusion of any mandatory minimum sentencing provisions in S. 47, the Violence Against Women Reauthorization Act of 2013 (VAWA).

The ABA strongly supports reauthorization of VAWA and strongly supports your exemplary leadership in moving the legislation forward for action. As introduced, S. 47 enjoys broad bipartisan support, as well as the overwhelming support of the American public. In its current form, S. 47 does not include any mandatory minimum sentences. We think it should remain that way through passage.

As much as we support effective penalties to punish and deter the domestic violence, sexual assault, and stalking offenses in S. 47, we do not believe that including mandatory minimum sentencing provisions is necessary, appropriate, or cost-effective. In fact, these provisions could be counterproductive in combatting violence. According to the National Task Force to End Sexual and Domestic Violence Against Women, the threat of a lengthy, mandatory prison sentence for an intimate partner abuser could deter a victim from reporting a crime. Because the victim and offender are often related or in an intimate relationship, many of the crimes included in VAWA will involve complex facts and unique circumstances. Such complicated crimes demand that courts have flexibility to ensure that the sentence fits the crime and the offender, protects victims, and best meets the needs of the family or couple impacted.

Finally, more mandatory minimum sentences would only increase the burdens on and high costs of our already overcrowded federal prison system. A recent Congressional Research Service report (Congressional Research Service, The Federal Prison Population Buildup: Overview, Policy Changes, Issues, and Options (Jan. 22, 2013), available at http://www.fas.org/sgp/crs/misc) reveals that mandatory minimums are the primary driver of high prison populations and increasing prison costs. Mandatory minimum sentences are unfair, ineffective, and result in extraordinary costs to American taxpayers.
Accordingly, as the Senate considers S. 47, we urge you to oppose the adoption of any mandatory minimums. Thank you for your leadership on this important issue, and please do not hesitate to contact us if you should have any questions.

Sincerely,

Thomas M. Susman