October 29, 2013

The Honorable Raul R. Labrador
United States House of Representatives
1523 Longworth Office Building
Washington, DC 20515

The Honorable Bobby C. Scott
United States House of Representatives
1201 Longworth Office Building
Washington, DC 20515

Dear Representative Labrador and Representative Scott:

I write on behalf of the American Bar Association to express our strong support for the Smarter Sentencing Act (SSA) of 2013, a bill that will address some of the causes for the unsustainable and unnecessary growth in the federal prison population by helping to reduce lengthy sentences for certain people convicted of nonviolent offenses. We applaud you for your leadership in introducing this important legislation.

In 1980, the federal prison population was approximately 25,000 people, but since then it has grown by an alarming rate of 790 percent. Currently, the Federal Bureau of Prisons (BOP) has custody of more than 219,000 people. The agency’s facilities are operating at almost 40 percent over capacity. The President’s FY 2013 budget request for BOP was $6.9 billion, accounting for more than 25 percent of the Department of Justice’s entire budget.

Recently, several reports have concluded that mandatory minimum sentences are a major contributor to the growing federal prison population.1 Research by the Urban Institute found that increases in expected time served, specifically for drug offenses, contributed to half of the prison population growth between 1998 and 2010.2 A 2013 report by the Congressional Research Service found that the increase in the amount of time people were expected to serve was partially the result of people receiving longer sentences and partially the result of their being required to serve approximately 85 percent of their sentences after Congress eliminated parole for federal prisoners.3 The increased time served by drug offenders accounted for almost one-third of the

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2 LaVigne Urban Institute Report at 5
total federal prison population growth between 1998 and 2010. In addition, drug offenders continued to make up 42 percent of the BOP population despite increases in the number of immigration and weapon offenders during the same time period.

These statistics illustrate the need to move away from rote “tough on crime” laws of the 1980s and focus more on evidence-based “smart on crime” policies. This bipartisan Smarter Sentencing Act does just that by taking an incremental approach to modernizing drug sentencing policy, by: (1) expanding the existing federal “safety valve” that allows judges to sentence below a mandatory minimum in appropriate cases; (2) reducing mandatory minimum sentences for qualified non-violent drug offenses; and (3) applying the provisions of the Fair Sentencing Act of 2010 to eligible persons currently serving sentences for drug offenses.

The Smarter Sentencing Act is a much-needed first step to creating a fairer criminal justice system, while also addressing the serious safety and budgetary problems that exist in BOP. We look forward to working with you to enact this important legislation in this Congress.

Sincerely,

Thomas M. Susman

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5 Id.