May 15, 2014

The President of the United States
The White House
Washington, D.C. 20500

Dear Mr. President:

On behalf of the American Bar Association, I would like to thank you for your recent comments expressing concern about the significant flaws in the administration of the death penalty in the United States and your call for an analysis of the problems with our capital punishment system.

At your May 2, 2014 press conference, days after the botched lethal injection of Clayton Lockett, you noted the troubling facts of that case as well as broader problems with the death penalty that include racial bias, risk of wrongful convictions, and lack of proportionality in who receives a death sentence. The ABA shares these concerns and has, through our extensive work in this area of law, encouraged every jurisdiction that imposes capital punishment to implement policies and procedures that ensure that death penalty cases are administered fairly, impartially, and in accordance with due process.

In response to your call to Attorney General Eric Holder to marshal an analysis of the current use of death penalty, I want to share with you the American Bar Association’s recent report, The State of the Modern Death Penalty in America: Key Findings of State Death Penalty Assessments 2006-2013. This report summarizes the work of the America Bar Association’s Death Penalty Due Process Review Project, established in 2001 to conduct research and educate the public and decision-makers on the operation of capital jurisdictions’ death penalty laws and processes in order to promote fairness and accuracy in death penalty systems.

Over the last decade, the ABA’s Death Penalty Due Process Review has studied and assessed the death penalty systems in twelve different states and has made extensive, fact-based findings regarding whether that jurisdiction’s current death penalty practices comport with the ABA’s Protocols on the Administration of Capital Punishment and Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases. Each state-based Assessment Team analyzed their jurisdiction’s current laws, rules, procedures, standards, and guidelines relating to
the administration of the death penalty and made detailed findings and recommendations, which can be found at the Project’s website.

These Assessments demonstrate why all states that implement the death penalty should undertake their own comprehensive studies of their capital punishment systems and ask themselves, as you so thoughtfully put it, “some difficult and profound questions” about their death penalty policies and laws and seek to minimize any factors that hinder the fairness and accuracy of our criminal justice system.

We understand that the federal government has limited jurisdiction over state capital punishment systems, but the American Bar Association stands ready to assist you and the Department of Justice in your efforts to study these important issues and help to ensure that our nation’s criminal justice system is as fair, just, and accurate as possible.

Sincerely,

James R. Silkenat
President