January 9, 2018

Honorable Charles Grassley
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Honorable Dianne Feinstein
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Re: S. 1917 (the Sentencing Reform and Corrections Act of 2017)

Dear Chairman Grassley and Ranking Member Feinstein:

On behalf of the American Bar Association (ABA) and its over 400,000 members, I write to express our support for S. 1917, the Sentencing Reform and Corrections Act of 2017, and to urge members of the Senate Judiciary Committee to promptly approve the bill without weakening amendments.

We strongly commend you both for leading bipartisan negotiations on complex sentencing and corrections issues that are desperately needed to improve fairness and achieve justice in the federal criminal justice system. Although S. 1917 does not go as far as the ABA would like in overhauling federal sentencing policy, it takes many important steps forward to reduce reliance on mandatory minimum sentences for low-level drug offenders and to improve sentencing and correction policies that impact juvenile justice.

Over the last two decades, the United States’ federal prison population has increased nearly 800% and the federal government has spent more than $7 billion a year to house these prisoners. While the inmate population has decreased over the past few years, federal prison facilities are still at 13 percent over capacity this year. According to testimony last month by the Director of the Federal Bureau of Prisons, “almost half of the Bureau’s inmate population is serving sentences for drug offenses.” Eliminating mandatory minimum sentences for drug offenses and other crimes, along with increasing judicial and prosecutorial discretion to address these offenses and investing in reentry programs to reduce recidivism, would help reduce the current prison population and also save valuable federal resources.

Mandatory minimums not only contribute to much of the nation’s incarceration rate, but they also exacerbate the levels of racial disparity in the criminal justice and correctional systems. African Americans and Latinos make up about three-quarters of the federal prison population while representing only about one-third of the nation’s population. The U.S. Sentencing Commission has reported that mandatory minimum sentences are imposed on people of color at similarly disproportionate rates. This bill offers substantive revisions to the federal sentencing system that will help reduce our reliance on lengthy prison terms for low-level offenses, lessen the disparate impact of federal sentencing policies on African Americans and Latinos, and change direction away from policies that are unsustainable.
Criminal justice reform in the United States needs to be comprehensive and, of all the legislation pending, S. 1917 is the bill that would best achieve this goal. Specific provisions that ABA supports in the current bill include:

1. Narrowing the scope of mandatory minimum sentences to focus on the most serious drug offenders and violent criminals;
2. Broadening the existing “safety valve” that allows judges to use discretion in sentencing lower-level nonviolent offenders;
3. Ensuring retroactive application of the Fair Sentencing Act of 2010 to reduce the disparity in sentencing between crack and powder cocaine offenses;
4. Expanding recidivism-reducing prison programs that allow participating prisoners to earn credits toward early supervised release and expanding “compassionate release” efforts for elderly and terminally ill prisoners;
5. Ending federal juvenile life sentences without parole, banning juvenile solitary confinement, and permitting juveniles to obtain expungement of certain criminal records; and
6. Establishing a National Criminal Justice Commission to comprehensively review the criminal justice system and make recommendations for criminal justice reform.

While we are disappointed by the inclusion of some new mandatory minimum sentencing provisions in the current draft, we believe that S. 1917 will, overall, create a more just criminal justice system than the one currently in place. Enactment will help focus prosecutorial and correctional resources on offenders who commit serious crimes that pose the greatest risk to public safety and will permit more sentencing flexibility for low-level, nonviolent offenders whose role and culpability will now receive more careful and balanced consideration by sentencing judges. It will also expand recidivism-reducing programs and juvenile justice reform to make sure that those in prison have a chance to reintegrate into society.

We appreciate your consideration of these comments and urge members of the Judiciary Committee to support S. 1917 so that it may soon be considered by the full Senate and enacted into law this Congress. If the ABA can provide any assistance, please contact Holly Cook in the ABA’s Governmental Affairs Office at 202-662-1860 or holly.cook@americanbar.org.

Sincerely,

Hilarie Bass

cc: Members of the Senate Committee on the Judiciary