

October 14, 2015

The Honorable Chuck Grassley
Chairman, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Patrick Leahy
Ranking Member, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

RE: S. 2123, the Sentencing Reform and Corrections Act of 2015

Dear Chairman Grassley and Ranking Member Leahy:

Thank you for introducing and holding a hearing on S. 2123, the Sentencing Reform and Corrections Act of 2015. Pew appreciates your efforts to forge bipartisan consensus on the critical issue of criminal justice reform.

Since 2006, The Pew Charitable Trusts' Public Safety Performance Project has provided nonpartisan research, analysis, and assistance to states seeking to develop sentencing and corrections policies and practices that protect public safety, hold offenders accountable, and control costs. The project does not advocate preset solutions, but rather works in partnership with leaders and stakeholders to develop data-driven policy options based on careful analysis of each jurisdiction's particular challenges, as well as lessons learned from across the country.

Beginning with Texas in 2007, more than two dozen states have enacted comprehensive criminal justice reforms, most with overwhelming bipartisan support. Many of these states have adopted their reforms as part of the Justice Reinvestment Initiative, a collaborative effort between Pew and the U.S. Department of Justice Bureau of Justice Assistance, the Council of State Governments Justice Center, the Crime and Justice Institute, and other partners.

Alabama, Nebraska, and Utah adopted wide-ranging reform packages this year. Utah's new policies are especially noteworthy for their depth and comprehensiveness: they reduce sentencing guidelines for a broad range of offenses; convert all simple drug possession crimes from felonies to misdemeanors, which means offenders can no longer be sent to state prison; establish a system of meaningful earned time credits for inmates who participate in risk-reduction programming; and decriminalize more than 200 misdemeanors, meaning that violators cannot be jailed. The changes are projected to prevent nearly all of the state's anticipated prison growth over the next 20 years, avoiding \$500 million in expected prison costs and redirecting a portion of the savings toward stronger, less expensive incarceration alternatives.

S. 2123 is an encouraging bill because it would begin to apply some of the key lessons learned in the states to the federal system, which can benefit from significant reform. Since 1980, the federal prison population has risen more than 700 percent and federal prison spending has climbed nearly 600 percent, from less than \$1 billion to nearly \$7 billion in inflation-adjusted dollars.

The increased imprisonment of drug offenders—through policy decisions such as mandatory minimum sentencing based on drug quantity and the elimination of federal parole—has helped fuel this growth. As Pew reported in August, drug offenders released from federal prison in 2012 spent an average of 58.6 months behind bars, compared with 23.2 months for those released in 1988. Those sentenced for

relatively minor roles represent the largest share of federal drug inmates, with more than a quarter being “couriers” or “mules,” the lowest-level roles on the U.S. Sentencing Commission’s scale of culpability.

The best available data do not show that this dramatic prison expansion yielded a strong public safety return. Illicit substances like heroin and cocaine are more widely available, as indicated by falling street prices and rising purity. Drug offenders who served shorter federal prison terms and were released under the Sentencing Commission’s 2007 Crack Cocaine Amendment actually had lower recidivism rates, indicating that longer sentences do not have their intended deterrent effect. This finding is consistent with a large body of research that shows there is little relationship between the length of prison terms and recidivism rates.

S. 2123 takes steps towards a new approach by making important changes to federal drug sentencing laws, including by expanding safety valves for lower-level drug distributors and retroactively reducing penalties for crack cocaine offenders sentenced under a system that Congress abolished in 2010. In addition, the bill makes beneficial modifications to the back end of the federal prison system by allowing certain lower-risk inmates to earn time off their sentences for productive behavior. There is ample research to support these steps and many more. These include refocusing lengthy mandatory minimums on high-level drug traffickers; extending earned time credits to high-risk offenders, whose reoffending rates could be substantially reduced through participation in evidence-based programs; and reinvesting some of the prison savings in such programs and other efforts to prevent crime.

Criminal justice reforms in the states have shown that it is possible to reduce prison populations and costs while protecting public safety and reducing recidivism. From 2009 to 2014, the national crime rate has dropped by 15 percent while the imprisonment rate has declined 7 percent, and the two rates are now falling simultaneously in more than 30 states. These states have paved the political and policy path for many of the sentencing and corrections reforms included in S. 2123. We urge your committee and the full Senate to draw on these state lessons to even further strengthen this legislation and pass a bill that has the greatest possible impact on public safety, offender accountability, and corrections costs.

Sincerely,

Adam Gelb
Director, Public Safety Performance Project
The Pew Charitable Trusts