



National Association of Assistant United States Attorneys

Safeguarding Justice for All Americans

April 29, 2016

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Re: Response to NDAA's Views on the Sentencing Reform and Corrections Act, S. 2123

Dear Senator:

On April 26 the National District Attorneys Association transmitted a letter to members of the United States Senate endorsing the revised version of the Sentencing Reform and Corrections Act (SRCA), S. 2123. We hold our state and local colleagues in high regard for their responsibility to pursue justice at the state level. However, we regret that the NDAA letter did not acknowledge the significant adverse impact that SRCA will have on public safety or the serious negative impact the SRCA will have on the ability of federal prosecutors to disrupt and dismantle high level drug trafficking. The NDAA letter also failed to acknowledge the substantial rise in caseloads of federal, state, and local prosecutors that SRCA will cause through the reduced incarceration and early release of thousands of offenders from federal prison. State and local prosecutors are responsible for the prosecution of crimes, such as burglary, larceny, domestic assaults, and simple drug possession, while Assistant United States Attorneys (federal prosecutors) have the responsibility and expertise to directly confront interstate and international drug trafficking, along with terrorism, financial fraud, health care fraud, and many other crimes that are uniquely suited for investigation and prosecution in the federal system. In doing so, we collaborate with the FBI, DEA, ATF, IRS, and U.S. Secret Service, along with other federal, state, and local law enforcement agencies. As Assistant United States Attorneys, we know far too well the substantial constraints that SRCA will impose upon our ability to protect the public and assure that justice is served.

Contrary to the suggestion of others, the federal prison population is declining and far-reaching changes in the federal criminal justice system have already been implemented. Predictably, communities across the country are already suffering the consequences of federal and state sentencing "reforms." According to the FBI, in the first half of 2015, the murder rate in the United States increased 6.2 percent, rapes 9.6 percent, and aggravated assaults 2.3 percent.

Well intended but misguided legislation like SRCA come about when myth and misunderstanding overwhelm fact and reality. The Federal Bureau of Prisons projects the federal prison population will drop this year to its lowest level since 2004. Meanwhile state corrections systems contribute far more to the magnitude and costs of prisons in America than the federal prison system. In 2014 the Federal Bureau of Prisons held only approximately 13 percent of the approximately 1.5 million total incarcerated criminals in the United States. Greater focus in Congress should be devoted to the merits and demerits of state criminal justice initiatives before they are applied to the federal setting. Conflating states' issues, problems, and solutions with the federal criminal justice system is not only misguided, it is disingenuous. While overwhelmed state systems struggle, the Federal Bureau of Prisons offers prisoners numerous educational opportunities, job skills training, in-prison work opportunities, drug rehabilitation programs, life-skill courses, and well-administered pre-release and post-release supervision.

Further, a series of dramatic reductions in the federal sentencing guidelines by the United States Sentencing Commission have already been put in place. Those reductions will not only result in lighter sentences for drug traffickers convicted in federal court in the future, but they have been and are being applied retroactively, making tens of thousands of drug traffickers eligible for early release regardless of their ties to gangs or drug cartels, criminal history, past acts of violence, or the type or quantity of drugs involved. Those retroactive sentence reductions have already resulted in the early release of tens of thousands federal prisoners incarcerated for high level drug trafficking offenses and tens of thousands more are slated for early release. With recidivism rates running around 77 percent, no one can seriously argue that public safety will not be jeopardized. Indeed, this is already happening, as demonstrated by the tragic triple-murders charged to Wendell Callahan, a federally convicted drug trafficker released early through federal sentence reductions. It is important to note that under the revised version of SRCA, thousands more drug traffickers with profiles just like that of Callahan will be eligible for early release.

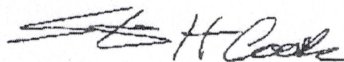
Meanwhile, as the national crime rate spirals upward and as violent crime explodes in major cities around the country, the nation is mired in the worst drug epidemic in its history. According to the most recent information from the CDC, in 2014 over 47,000 people died of drug overdoses in the United States—more deaths than from auto accidents or gun shots.

Understandably, Americans' level of concern about crime and violence is at its highest point in 15 years. According to a Gallup poll, fifty-three percent of U.S. adults say they personally worry "a great deal" about crime and violence, an increase of 14 percentage points since 2014. There can be no mistake: SRCA in its original or revised form, is contrary to the interests of Americans and contrary to growing American sentiment. At the same time, this legislation would be a gift to drug dealers and the cartels they serve, and an insult to the thousands of American families dealing with the terrible consequences of addiction fueled by dealers of heroin and other deadly drugs.

Unlike others, our association bears no pecuniary motive or self-interest to promote legislative proposals that directly or indirectly contribute to our financial stability. Our purpose and motivation in taking a position on SRCA stems only from our members' dedication to the fulfillment of their responsibilities as Assistant United States Attorneys to preserve public safety and pursue justice.

Thank you for your consideration of our concerns.

Respectfully yours,

A handwritten signature in black ink, appearing to read "Steven H. Cook". The signature is written in a cursive style with a prominent initial "S".

Steven H. Cook
President