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

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

RE: S. 1917, the Sentencing Reform and Corrections Act of 2017

Dear Chairman Grassley and Ranking Member Feinstein:

Thank you for considering S. 1917, the Sentencing Reform and Corrections Act of 2017. 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 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 including Alaska, North Carolina, South Carolina, and Utah have adopted comprehensive criminal justice reforms, most with overwhelming bipartisan support. Many of these states crafted their policy packages 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.

Louisiana is the most recent state to enact wide-ranging reforms. The package of 10 laws, passed in 2017 with strong bipartisan majorities and with the endorsement of the Louisiana District Attorneys Association, focuses prison beds on those who pose a public safety threat, strengthens community supervision, and eliminates barriers to successful re-entry. Lawmakers took particular aim at drug offenses, making numerous changes to penalty ranges. For example, the maximum prison sentence for possession of less than 2 grams of cocaine was reduced to 2 years from 5 years, while the sentence for sale of more than 4 grams of cocaine was cut to 1-10 years from 2-30 years. Due to modifications to habitual offender enhancements, the penalty for a third cocaine sale conviction fell to 5-20 years from 20-60 years.

Louisiana's reforms are expected to reduce the prison and community supervision populations by 10 and 12 percent, respectively, and avoid \$262 million in prison spending. The state will reinvest 70 percent of the savings in evidence-based programs to reduce recidivism and in services for crime victims.

The Senate bill (S. 1917) is encouraging legislation 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 more than \$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. Even with recent declines in the federal prison population after the implementation of the Fair Sentencing Act of 2010, the 2014 Clemency Initiative, and actions by the U.S. Sentencing Commission, drug offenders still represent nearly half of the federal prison population.

The best available data do not show that the dramatic rise in the federal prison population and expenditures yielded a strong public safety return. The nation's opioid epidemic demonstrates that illicit substances like heroin are more widely available, with falling street prices and purity rising to deadly levels. 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, and that certainty and swiftness of sanctions are more important for deterrence. For example, Pew recently examined publicly available 2014 data from federal and state law enforcement, corrections, and health agencies. The analysis found no statistically significant relationship between state drug imprisonment rates and three measures of state drug problems: illicit drug use, drug overdose deaths, and drug arrests.

S. 1917 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 like these are working in the states. They have shown that it is possible to reduce prison populations and costs while protecting public safety and reducing recidivism. The most recent data from the Justice Department indicates that the national crime rate remains near 50-year lows and the imprisonment rate has declined by 11 percent over eight years, with 35 states cutting crime and imprisonment simultaneously. These states have paved the political and policy path for many of the sentencing and corrections reforms included in S. 1917. We urge your committee and the full Senate to draw on these state lessons to further strengthen this legislation so it has an even greater impact on public safety, offender accountability, and corrections costs.

Sincerely,



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