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NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS

John Wesley Hall
PRESIDENT

June 10, 2009

The Honorable Arlen Specter
Chairman
Subcommittee on Crime and Drugs
Drugs
United States Senate
Washington, DC 20510

The Honorable Lindsey Graham
Ranking Member
Subcommittee on Crime and
United States Senate
Washington, DC 20510

Re: The "National Criminal Justice Commission Act of 2009" (S. 714)

Dear Mr. Chairman and Senator Graham:

On behalf of the National Association for Criminal Defense Lawyers (NACDL), I am writing to endorse the National Criminal Justice Commission Act of 2009 (S. 714). The Act would establish a blue-ribbon commission to conduct a comprehensive review of the federal, state, and local criminal justice systems. Specifically, we are pleased to note that the Act would direct the commission to review "all areas of federal and state criminal justice costs, practices, and policies," a review which we anticipate would shed light on the waste caused by excessive criminalization and incarceration.

A top-to-bottom examination of our criminal justice system is urgently needed. Almost one percent of the adult population of the United States is behind bars, and about one in thirty-one are either incarcerated or on probation. These numbers are staggering from a historical perspective; for instance, the number of incarcerated drug offenders has increased 1200% since 1980. The United States today imprisons more of its citizens than any democracy in history. Indeed, our moniker as "a nation of jailbirds" (or "a nation of jailors") is well-deserved: we number only 5 percent of the world's population, yet we account for 25 percent of the world's prisoners.

The prison system itself is rife with abuse and inefficiency. The prevalence of sexual assault and violence within prisons is well-documented. Perhaps less well-known is the warehousing of the mentally ill in prisons: four times as many mentally ill people are in prisons than in mental health institutions. Furthermore, our country has increasingly incarcerated people for nonviolent offenses, often triggered by illness or drug dependence.

"LIBERTY'S LAST CHAMPION"

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NACDL's recent report, Minor Crimes, Massive Waste: The Terrible Toll of America's Broken Misdemeanor Courts, describes how the overcriminalization of minor infractions has burdened local courts and attorneys. For instance, the New York crime of sleeping on a subway is punishable by imprisonment of up to 10 days. Feeding the homeless is a misdemeanor offense in Las Vegas, Orlando, and several other cities. In many jurisdictions, charges of driving with a suspended license account for a significant portion of the docket. Such misdemeanors divert resources from where they are needed most: violent crime.

Research and state-level efforts have demonstrated that alternatives to incarceration for nonviolent offenders may generate substantial savings without endangering the public. A four-year study of 2,600 Washington state inmates released early found significant cost reductions and no negative impact on recidivism. In the current economic climate, the wastefulness of incarceration is especially unjustifiable.

Not only is mass incarceration expensive, it's also not working. A concerted effort to prosecute and imprison illegal substance users over the past three decades has utterly failed to reduce substance use. However, drug policy has devastated minority communities. Although African Americans comprise 12 percent of the U.S. population and 14 percent of monthly drug users, they account for 37 percent of those arrested on drug charges and 74 percent of drug offenders sentenced to prison. An African American male born in the United States has a greater than one-third chance of spending time in prison.

The skyrocketing costs of imprisonment and the economic crisis have created a unique political moment in which the public supports curbing the excesses of so-called "tough on crime" policies. Twenty-eight Senators have co-sponsored the National Criminal Justice Commission Act so far. NACDL urges the Senate Judiciary Committee to move forward with S. 714 and to take all steps necessary to ensure its passage.

Sincerely,

A handwritten signature in black ink, reading "John Wesley Hall". The signature is written in a cursive, flowing style with a large, prominent "J" and "H".

John Wesley Hall
President, National Association of Criminal Defense Lawyers