

**Statement of Senator Patrick Leahy (D-Vt.),
Chairman, Senate Judiciary Committee
Executive Business Meeting
March 6, 2014**

We have three judicial nominations and one executive nomination listed on our agenda. All were held over last week, and I hope that they can be reported to the Senate today by the Committee.

Also on our agenda today is Senator Whitehouse's "back-end" sentencing bill, the Recidivism Reduction and Public Safety Act. I understand he has come to an agreement with Senator Cornyn and we will begin consideration of that bill with their bipartisan substitute amendment.

The Committee has spent considerable time over the last several months discussing how to confront the unsustainable growth of our federal prison population. The FY 2015 Budget request which was released this week asks for a total of \$8.5 billion for federal prisons and detention. That is a \$97 million increase over last year and is nearly one-third of the Department of Justice budget. This growth means fewer resources for federal prosecutors, DEA agents, and FBI agents; it means less support for state and local law enforcement; and limited funding for crime prevention programs and victim services. It means that if we do nothing—if we fail to address our burgeoning prison population—we will be cutting the very programs that help keep us safe.

I believe the most important thing we can do to address this budgetary crisis is to reduce mandatory minimum sentences. That is why I partnered with Senators Paul, Durbin, and Lee to move the Smarter Sentencing Act through Committee earlier this year with a strong bipartisan vote. I also believe that we should address the back-end of sentencing by encouraging *all* inmates to participate in recidivism-reduction programming in exchange for receiving small amounts of time off their sentences. These efforts are critical to improving public safety. That is why I supported Senator Whitehouse's original Recidivism Reduction and Public Safety Act, which drew on provisions I originally introduced as part of the Second Chance Act of 2011 and which had the support of every Democratic member of this Committee.

I am concerned that the substitute we will consider today has moved far from that original idea. Rather than a narrowly tailored modification to existing practice, this new proposal before us today offers a sweeping change to sentencing policy and I am concerned that we may not fully understand its implications.

For example, by creating a new risk assessment model and allowing only *some* inmates, specifically those deemed "lower risk," to receive significant amounts of credit, we may exacerbate existing racial and socio-economic disparities in our prison system and fail to incentivize participation by those who most need the programming. I am also concerned that this legislation contains no authorizations to support the expansive new requirements we are imposing on the Bureau of Prisons and the Judiciary.

I know that Senators Whitehouse and Cornyn have negotiated in good faith and I do not want to stand in the way of their agreement. I will ultimately support their compromise, but I remain concerned about the unintended consequences it may have. I hope they will continue to work

with me going forward. I also hope that they will in turn remain committed to enacting meaningful mandatory minimum reform. This back-end compromise is not a substitute for taking action on the Smarter Sentencing Act.

In addition to the agenda we have before us, I would also like to note that members of this Committee and our staff are currently working to determine how we can come together to address the problem of “patent trolls.” After our hearing in December, I scheduled a series of briefings in January and February for Committee staff to hear views on the legislative proposals. Like many of you, I have continued to meet with stakeholders who care deeply about this issue. My goal is to accomplish meaningful, targeted reform that will address abuses in the system while preserving what makes our patent system great. This is yet another effort where we are trying to forge a bipartisan compromise to achieve our goal. I hope we will be able to list patent legislation for mark up later this month.

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