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Tuesday, May 28, 2019

Senate Public Safety Committee
State Capitol, Room 2031
Sacramento, CA 95814

RE: **AB 484 (Jones-Sawyer) — SUPPORT**

Dear Committee Members:

The California Civil Liberties Advocacy is writing to express **support** for AB 484 (Jones-Sawyer). The CCLA opposes increasing mandatory minimum sentencing guidelines and rather supports returning discretion to the bench in such matters. Each case should be considered on its own individual merits, giving consideration to the weight of the evidence, the severity of the harm, and any mitigating circumstances.

Decades ago, the trend was to shift the burden of sentencing back to legislative bodies on the premise that trial judges were "ill-trained, given to inconsistency, and prey to his own prejudices," and that the "administration of criminal law would be enhanced by forfeiture of his sentencing function," arguing instead that sentencing guidelines should be left to criminologists and social sciences.[i] But even in the 1960s, when these arguments were being made, there was still skepticism due to a lack of empirical evidence, as evidenced by the following: "Given our present state of knowledge, measures like the diagnostic clinic suggest a somewhat sanguine, if not utopian, trust in the remedial powers of applied social science, psychology and psychiatry."[i]

With the "War on Drugs," prison overcrowding, and the policies ingrained into the legal system from centuries of institutional racism, it is now clear that these policies either relied on pseudoscientific data or were improperly cited to support continued draconian and bigoted policies. While it is true that too much discretion may result in wild inconsistencies from one judge or jurisdiction to the next[ii], this problem could be remedied by the Legislature imposing maximum sentencing requirements as opposed

to minimums. But that is beyond the scope of this bill, which is simply to remove the mandatory minimum 180-day jail time as a condition to granting probation for the sale of cocaine, crack, heroine, and/or PCP. If the court makes a finding that the facts and circumstances of a defendant's wrongdoing warrant probation, then what is the purpose of mandating a minimum of 180 days in jail? The CCLA concedes that jail time may be appropriate in some cases. But AB 484 does not impede a judge's discretion in imposing such a jail sentence, the bill merely removes the mandatory imposition of the jail sentence. For cases that merit probation and for which jail may not be appropriate, the sentencing judge should be able to draw on his experience, reason, and knowledge of the law in rendering an appropriate judgment and AB 484 furthers that interest.

For all of the abovementioned reasons, the CCLA strongly **supports** AB 484.

Very truly yours,

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Cc:

Senator Nancy Skinner (Chair)
Senator John Moorlach (Vice Chair)
Senator Steven Bradford
Senator Hannah-Beth Jackson
Senator Holly Mitchell
Senator Mike Morell
Senator Scott Wiener

[i] Vasoli, Robert H., 40 Growth and Consequences of Judicial Discretion in Sentencing (Notre Dame Law Review 1965).

[ii] Van Meter, Matthew,, One Judge Makes the Case for Judgment (The Atl. 2016), https://www.theatlantic.com/politics/archive/2016/02/one-judge-makes-the-case-for-judgment/463380/ (last visited May 28, 2019).