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House of Representatives
Washington, DC 20515-1004

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July 11, 2014

Chair Patti Saris
U.S. Sentencing Commission
One Columbus Circle NE, Suite 2-500
Washington, DC 20001-8002

Attn: Public Affairs-Retroactivity Public Comment

Dear Chair Saris:

I write to express my support for applying Amendment 3 to U.S.S.G. §1B1.10 with complete retroactivity. Unfortunately, approximately 51,000 currently incarcerated drug offenders who have been sentenced since 1987 have received excessive sentences. Applying Amendment 3 only to sentences given after November 1, 2014 would do a disservice to Americans who are currently incarcerated.

When offenders enter the criminal justice system, there is an expectation that prison sentences are accurately calibrated. The U.S. Sentencing Commission is tasked with establishing sentencing policies for the federal courts and serving as a resource for Congress and criminal justice practitioners. The fact that the lower end of the calculated guideline drug sentence has been *higher* than the mandatory minimum prison term is unacceptable because it has led inmates to face harsher prison sentences than necessary. Our country prides itself on "liberty and justice for all" and the flaw in the sentencing guidelines that has fortunately been acknowledged by the Commission restricts Americans' liberty and cheats them of justice. It is neither just nor fair to incarcerate individuals, who have no choice but to trust the system, for longer amounts of time than necessary.

It is also important to note that applying the amendment retroactively will not be detrimental to our public safety. The amendment will not apply to the most threatening inmates and the court system has the ability to accommodate sentence reduction requests. As in 2007 and 2011, when crack cocaine amendments were implemented, there will be no automatic sentence reductions. The courts will have the discretion to consider prisoners' danger to the community and can deny sentence reduction requests based upon inmates' threat to public safety. Courts also proved that they are able to handle sentence reduction requests from over 40,000 inmates when responding to the crack cocaine amendments. Most prisoners who would be eligible under this new amendment would still have many years left to serve on their sentences giving courts and law enforcement time to plan and prevent disruption to case management.

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I also urge you to reject the Department of Justice (DOJ)'s proposal to only apply the amendment to "lower level, nonviolent drug offenders without significant criminal histories." The federal prison system accounts for more than 25% of the DOJ's budget and is currently operating at 132% overcapacity. Everything must be done to reduce these numbers without posing a threat to our public safety. The Commission's own analysis shows us that applying the amendment retroactively will save our government \$2.4 billion. It simply makes sense.

Finally, failure to retroactively apply the amendment will disproportionately impact prisoners of color. National data shows that people of all races use drugs at the same rate, yet Blacks and Hispanics comprise nearly 75% of all federal drug offenders. This disproportionately high rate is a reflection of the bias against people of color in the system and this is unacceptable.

It is for these reasons that I urge the Commission to render a just result to the thousands that have been incarcerated with unduly long sentences and apply Amendment 3 retroactively. Thank you for taking the initiative on this very important matter and I commend you for your commitment to repairing the flaws in our sentencing guidelines.

Sincerely,

A handwritten signature in blue ink that reads "Hank Johnson". The signature is stylized and written over the printed name below it.

Henry C. "Hank" Johnson, Jr.
Member of Congress