

Hello,

My name is Amy Montes. My best friend, [REDACTED], is currently incarcerated at Federal Prison Camp [REDACTED]. She is a first time, non-violent offender and received the three-year sentence that she is currently serving.

I would like to submit my comment on the priorities list to be considered for the upcoming year. Of particular importance is tentative priority number 5 (the multi-year study on recidivism), letters B and C, as they may possibly impact my friend's sentence if the measures are backdated. Additionally, being incarcerated has provided insight into the wastefulness that comes with Federal Prison Camp, as many of the programs provided at [REDACTED] are accessible to the public through social services or even at local colleges. Allowing someone like [REDACTED] to serve a home-bound sentence ('house arrest') would not only save government money and resources, it would allow for someone like her to stay in society and start her life over with more ease, thus contributing to the issue of recidivism.

[REDACTED] is fully accepting and aware that she deserves her sentence. The decisions she made are what got her to where she is. However, the changes being considered by our Commissioners would impact her and those like her – those who find themselves arrested due to poor decisions made not out of a lifetime habit, but due to circumstances during a particular moment in their lives.

I know that the Commission is aware of many of the pros and cons of the issues at hand. My goal in writing is to provide the perspective of members of the public that are directly impacted by these issues.

[REDACTED] has four beautiful children who would also benefit from having their mother home. Having such an opportunity would not be wasted, and providing first-time, nonviolent offenders with alternates to incarceration would impact our communities for the better.

Thank you for your time and consideration.

Respectfully,

Amy Montes
[REDACTED]
[REDACTED]
[REDACTED]

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U.S. Sentencing Commission
Attn: Public Affairs
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Washington, D.C. 20002-8002

Dear Members of the U.S. Sentencing Commission:

Re: Proposed guideline range amendment changes/alternatives to prison/
1st time offenders

With legislature in Congress apparently being considered on a bipartisan basis to de schedule marijuana from the controlled substance act (per www.norml.org), it is time to lower all marijuana as a crime. Yet the current administration is trying to make it worse! Thank you for sticking to your retroactivity in your 'drugs minus 2' policy. During your public comment period I'd like to comment on lowering guideline ranges so pot offenders don't have to spend as much time, or any time in jail due to mandatory minimums and guideline ranges, etc. The topics are 1st time offenders, bipartisan budget act and alternatives to incarceration.

It is amazing that there has been a lot of bipartisan support for criminal reform in Congress. They just don't seem to get it passed. Such bills as the SAFE Justice Act, and Smarter Sentencing Act, and bills lowering mandatory minimums and giving power back to judges are prevalent. Over sentencing is usually derived by subjective, unscrupulous prosecutors (more interested in pressuring a plea deal by using threats of outrageous sentences to get a defendant to agree to a lower sentence- which may still be decades of time especially in cannabis cases!) are common. It is an unjust system (prosecutor becoming the judge) during a time when marijuana is becoming more legal across all the states. Trump administration is trying to go back to 1970 era war on drugs while it is costing \$80 billion per year (*Hamilton Project, Brookings Institute*) now to lock up millions of mostly 1st time, low level nonviolent offenders (prison population is made up of 95% nonviolent offenders *per FBOP Director Charles E. Samuels Jr., 08-04-15*). More commissioners need to be appointed so common sense legislature can be put before Congress.

It has been shown that Safety Valve should not be decided on by prosecutors; as judges should decide the issues. Safety Valve and mandatory minimums have become a venue for *lying* testimony, by codefendants (encouraged by prosecutors), seeking leniency in their own cases. 'Lie' against someone else, provide 'substantial assistance' (prosecutors decide that, too) and one's own sentence is reduced while a codefendant's sentence goes up! It is easy to collectively say someone is a "leader" in a drug case whether true or not. So what happens to the person who has been called unfairly a "leader" (while the real 'leader' may be in another state)? That individual does not get Safety Valve, even though they may be a first time, non violent (weaponless) offender and yet face very long jail time. Safety Valve doesn't work justly. The quantity of drugs is also suspect due to same "lying" codefendants. Prosecutors have been known to use jailhouse snitches for leverage.



First time offenders in weaponless (drug/pot) crimes should be given alternative to incarceration through community/residential confinement programs, or probation. Many states have done this effectively (Texas) preventing a young person from losing the prime of their life during which they could be preparing for a job and/or to contribute to society, instead of wasting away in prison at taxpayer expense.

I do have a concern on your Zone D classification. As prosecutors have all the power to decide on the amount of time (often wrongly calculated due to lying codefendants- encouraged by mandatory minimum

sentencing to lie for personal leniency - a proven fact-*and* prosecutor's freedom to assign enhancements or threaten/pressure plea agreements); the ensuing sentence (which judges apparently can't question) can be a lot higher than is truthful. The fact a zone D or anyone given more than 15 offense level, it seems (or 15 months or more) apparently becomes ineligible for the lower guideline range does not seem fair. Congressmen have tried to re-write the law (SAFE Justice Act, etc where they specified how a prosecutor had to PROVE a conviction before adhering to a sentencing range(!)) but Congress has been unable to pass anything (partly due to a few objectors). Now that mass incarceration is back on the table and the unjustness of the sentencing is apparent, and while many states are legalizing a medicinal plant (pot); inmates are locked up for decades under the old laws. And many are 1st time, nonviolent offenders!

Please reclassify these lengths. 1st time, nonviolent offenders can now still get high range sentencing due to the whims of prosecutors and it is not U.S. justice to do so. Prisology has submitted a new, fairer, lower guideline range (so prison population will not exceed capacity of Federal Prisons, 28 U.S.C. 994(g), -which they already have exceeded said capacity). Such guideline range should replace the old one, as automatic, and avoid making prisoners have to retroactively go before the courts to try and get their sentences reduced (as in the 'drugs minus 2' policy). Again prosecutors have too much power and sway in these types of scenarios with serious 'weight' being put on prosecutors' opinions (who the majority of time used unfair tactics to sentence the individual in the first place even for Criminal Level 1 offenders). A Criminal level I history individual, especially in a nonviolent, weaponless, first time offense for marijuana and drugs should receive two levels BELOW what Prisology is suggesting (or NO sentence) as the new guideline range (i.e.: a level 37 individual should be downgraded to a 35, if they are a first time, nonviolent pot offender, using Prisology's new guideline range, reducing the months from 168 to 135 months) without having to go back to the courts to request a reduction! Most cases (as a horribly high percentage of the prison population is due to drugs) were put there by prosecutors using unjust tactics of lying codefendants (avoiding mandatory minimums) and by using intimidation of a defendant by threatening life sentences, et al, to get an inmate to take a plea bargain rather than prove the case in trial. Since the individual was over sentenced and over incarcerated to begin with, it is only fair to roll back these sentences (for a medicinal plant becoming legalized). The dangerous over crowding causing poor health conditions, lack of retraining for the outside world, ruining families, lives and communities is proof the sentencing needs to change. President Obama (2015) met with prisoners and heard how prosecutors threatened defendants with life in prison (for drugs) to get them to accept a 30 year plea deal. It has been proven that longer sentences do not deter crimes nor that longer sentences make the "punishment" more effective. Per Peter Orszag (White House Budget Director, 04-25-16) "longer sentences do not deter crime...it is not soft on crime to bring prisoners back into society...[it is] common sense reform." Retraining programs, community confinement and getting folks out sooner reduces the recidivism rate. So while many billions of dollars are being spent to maintain prisons, there are few "re training" programs offered and not enough good time credits are allowed. Lives are being wasted for mostly nonviolent, weaponless offences and families are being punished in the meantime. Pot offenders should not be sentenced at all!

Sally Yates deputy attorney general (Congressional Hearing on Sentencing Reform,10-19-15) did say that statistically of drug offenders less than 1% had a violent past and one half of them had NO criminal history at all. Yet we have millions in prison! (costing \$80 billion annually with poor health care and there are too few programs to retrain or allow early release for the 77% nonviolent drug offenders, per www.drugpolicy.org). Apparently studies show that housing a prisoner in Calif. for one year costs more than one year at Harvard (\$75,560. per *LATimes.com*).

We are apparently the most highly incarcerated country in the world. It needs to change as *1.53 million were the number people arrested for nonviolent drug charges in 2011*; <http://www.drugpolicy.org/drug-war-statistics>). It seems all the wasted money could be used to fight  real,  violent crime, terrorism, cartels, etc. After approximately 45 years of prohibition, 2.4 million incarcerated [\[1\]](#) (approximately 77%[\[2\]](#)

locked up from 10 years to life), are lower level nonviolent drug (pot) offenders. A strong reason to grant first time, weaponless pot offenders, alternative community confinement or probation.

Back in Aug. 1, 2012, the American Bar Association President, Wm. T. Robinson III, testified before the U.S. Senate Committee on the Judiciary, stating: **we cannot build ourselves out of this crisis** **The most significant source feeding this growth is the increased incarceration of nonviolent drug offenders.** He *recommends*:

BOP has been urged by House and Senate Appropriations Committees to, among other things: maximize the reentry time people spend in residential reentry centers as well as home confinement; expand the criteria for the use of **compassionate release** for compelling and extraordinary circumstances; and expand the use of Residential Drug Abuse Program by removing barriers to full use of the program.

Allow judges to sentence certain first-time drug offenders to probation instead of incarceration

Congress should authorize expedited consideration of prisoner eligibility for supervised release (this policy will reduce overcrowding and costs, while creating additional incentives for inmates to engage in service, educational, and vocational activities)

Early release for elderly nonviolent offenders (Second Chance Act)

EXPAND TIME CREDITS FOR GOOD BEHAVIOR. Congress should quickly implement a DOJ proposal creating a new (i.e.: Barber Amendment, as amended gives up to 128 days) good time credit that can be earned for successful participation in recidivism-reducing programs, such as education or occupational programming.

ELIMINATE MANDATORY MINIMUM SENTENCES. Restore federal judicial discretion in drug cases. The excessive mandatory minimum sentences associated with drug offences have led to over-representation of low-level and nonviolent drug offences in the federal criminal justice system.

The only way to reduce over incarceration is to put less people in jail, and to release more people (Craig DeRoche; Justice Fellowship).

The Colson Taskforce, Report to Congress by *Nathan James (Analyst in Crime Policy): The Federal Prison Population Buildup: Overview, Policy Changes, Issues, and Options*, (1) reinstating parole, (2) expanding good time credits, and (3) expanding conditions under which courts could reduce sentences pursuant to 18 U.S.C. 3582(c)(1)(A).) are other alternatives offered by experts and studies.

The concept that consuming cannabis leads to violence is laughable. Alcohol or meth is much more likely to lend itself to violence, than marijuana. Again, Sally Yates, former Deputy Attorney General states that

only 1% of drug offenders are violent and 1/2 are likely to have **NO** criminal history. Why are they imprisoned for decades!?

In your recent Overview of Mandatory Minimum Penalties in Federal Criminal Justice System, 2017, as part of Rule 5.2, "drug offenses accounted for slightly more than two-thirds of the offenses (67.3%), carrying a mandatory minimum penalty in fiscal year 2016 significantly higher than the next closest category of offenses."

Charles E. Samuels Jr. (former Director of FBOP; CSPAN 08-01-12) and Inspector General Horowitz (03-14-13) both said over crowding in prisons were due mostly to drug offenders being sentenced for **much longer** than most other offenses (murder?).

Your report, 2017, also says:

"the average sentence for Federal offenders convicted of an offense carrying a mandatory minimum penalty in fiscal year 2016 was 110 months of prison, nearly four times the average sentence (28 months) for offenders whose offense did not carry a mandatory minimum. Less people got relief from mandatory minimums in 2016 compared to 2010" and more than one half of federal inmates (2016) were convicted of an offense carrying a mandatory minimum.

In your 2011 Mandatory Minimum Report by the Commission, under "Use of Mandatory Minimum Penalties in Selected Districts, 105-111, Oct. 2011" the report flatly states in the section on discretion and studies of prosecutors that "prosecutors will charge the most serious...offense...that generates the most substantial sentence...admitting mandatory minimums play a significant role in decisions." Law enforcement purposely "file charges carrying the mandatory minimum penalty whenever applicable (id. 107)." Another example of our injustice system at work as law enforcement will purposely add to a charge to increase the mandatory minimum levels for marijuana (thus the over crowding of prisons due to drugs), while 117 million in the U.S. have admitted to using it, and approval of its use is greater than the majority of the country's population (www.drugpolicy.org). 86% of Americans say medical marijuana should be available (per Rep. Steve Cohen, www.cbsnews.com). Children's hospitals and scientific journals tout the health benefits of the product.

Congress has tried to reduce the severity of mandatory minimums and revise drug laws/ criminal reform numerous times. The Sentencing Commission has power to get it done.

People are being sent to prison for too long! An Attorney General, Inspector General, FBI Director James Comey Jr., DEA, U.S. Attorneys, former and current Congressional representatives all admit "Safety Valve, mandatory minimums, guideline ranges, conspiracy are used to coerce defendants to testify (lie) against each other for leniency" (in their own cases). We do not have a fair, impartial, or "just" justice system.

Many Congressional hearings have concluded ("Right on Crime," Criminal Justice System [Reform]; CSPAN, 07-06-16, RHOB, Capital Hill, WA D.C.) that "we need to do a much better job of helping people become productive members of society" and "there is no over-sight for prosecutors.". "We have abuses in the criminal justice system."

Texas Public Policy and Director, Marc Levin found in Texas..."staying longer in prison does not reduce recidivism" but reform/ training program and early release does!

Reforming the criminal justice system means more public safety and less crime in America. The more reentry and retraining programs are provided, the recidivism reduction rate goes up.

Besides the overcrowding, past the capacity of prisons (28 U.S.C. 994(g)), health care costs in prison have risen 61%, (per Inspector General, Congressional Oversight hearing on Bureau of Prisons, 08-04-15):

In the Report Congress To: Mandatory Minimum Penalties in the Federal Criminal Justice System, October 2011, Appendix E (11-12) the Supreme Court in *Solem v. Helm*, 463 U.S. 277 (1983) held that **◆ a criminal sentence must be proportionate to the crime for which the defendant has been convicted.◆** The General Accounting Office concluded **◆ inmates with chronic issues were not receiving proper health care◆ throughout the BOP system.◆**[3]

◆ Enduring illness is not part of a prisoner◆s sentence any more than starvation is, or torture◆ the numbers of prisoners with end-stage organ failure can no longer be ignored (<http://virtualmentor.ama-assn.org/2008/02/msoc2-0802.htm>, ◆ *Hard Times and Health Care: The Squeeze on Medicine Behind Bars*◆)◆ ◆◆ medically eligible inmates are dying behind bars◆ (See *Reform Needed for Compassionate Release of Prison Inmates* (<http://www.ucsf.edu/news/2011>). Per *Gregg v Georgia*, 428, U.S. 153, 428, U.S. 173 (1976), ◆ death◆ does not fit the crime, especially for pot.

Yet there are "waiting lists" for compassionate care release (per Director Samuels, Jr., 08-04-15). His authority was limited as the sentencing prosecutor can void a compassionate release even after the Director of the FBOP has approved it! Prosecutors have too much power to abuse the system!

The most powerful deterrent to recidivism is shorter sentencing, retraining, and not being put in the prison system at all. Community/residential incarceration should apply to 1st time offenders, mandatory minimums eliminated, guideline ranges changed, marijuana de- scheduled, and pot offenders given an alternative to prison (not jailed for a legalized medicinal plant).

Thank you for considering this very serious matter regarding our justice system.

Respectfully,

Rose Adams

[1] Drug War Statistics <http://www.drugpolicy.org/drug-war-statistics> 2013

[2] *Lessons from the U.S. Sentencing Commission Report to Congress: Mandatory Minimum Penalties in the Federal Criminal Justice System*, Oct 31, 2011 <http://www.famm.org>

[3] GAO Report on Bureau of Prisons Health Care: ◆ *Inmates Access to Health Care is Limited by Lack of Clinical Staff* (GAO/HEHS-94-36-BOP)

June 6, 2017

United States

455 Dirken Office Building

Washington, D.C 2017

Dear Charles,

Hello and good day. My name is Maggie Weuste. I am currently a [REDACTED] student at [REDACTED] High School located in [REDACTED] New York. Over the past few months I have learned many things in the state-mandated Participation in Government course. As a concerned and engaged citizen from your representative district I am writing you this letter. The purpose of my letter is because I don't agree with how the life sentence system is. This document will address certain realities and discuss my research as well as elaborate how my ideas will improve society within our state and country.

There have been many cases where people haven't committed serious crimes and they've been sentenced to life in prison or even just a few years in prison. There have also been some cases in the past where murderers have been sentenced to life in prison and they've gotten out for good behavior. When people get caught with drugs or get a DUI or anything related to that, they shouldn't be put away in jail. They should immediately get checked into a rehabilitation center and if it's a serious case where they have been selling drugs or get a DUI and put other people into danger, they should be put away in jail for at least a year or a few months. Even when it comes to self defense, there have been cases where people have been put away in jail. If someone says that they killed someone in self defense, they shouldn't be put away. Their case should be reviewed over and over again until they finally find evidence that they're innocent or not. I don't agree with the system because it seems as though everyone just gets thrown into prison and the people that get out are the true criminals. Only murderers should get a life sentence for prison. I think that they shouldn't get parole and they should just stay in prison.

I think that the life sentencing system should be changed. People who have a drug or alcohol problem should not be put away in jail, they should get put into a rehabilitation center so they can get better. People who murdered someone in cold blood should either be put to death (that's a whole other thing) or should be locked up. If someone got a DUI they should have their driver's licenses taken away and they should have to take a whole class to get it back, it shouldn't be an easy test. They would really have to work hard to get their licenses back. Their should be a

law to make the actual criminals be put into prison for life without parole and the "innocent" crimes to be put into other places like a rehab or they should have to take classes.

Hopefully, in the future everything would be safer if this became a law. The true criminals would be put away in jail, the people who did innocent crimes would be helped, and the self defense cases would be studied harder so they'll be released back to their normal lives. Anyway, thank you so much for taking the time to read this letter, I really appreciate it.