



August 22, 2011

Patti B. Saris, Chair  
United States Sentencing Commission  
One Columbus Circle, NE, Suite 2-500  
South Lobby  
Washington, DC 20002

Dear Chair Saris:

The Sentencing Project is writing in response to the Sentencing Commission's recent request for public comment on its proposed priorities for the amendment cycle ending May 1, 2012. The Commission enters its latest cycle after a year of historic reform of the sentencing guidelines for crack cocaine offenses. We applaud the Commission's good work that culminated in its decision to provide relief to 12,000 currently incarcerated men and women serving sentences that were excessive and unfair. The impact of your work is profound, and we believe the upcoming cycle provides an opportunity to build upon your crucial reforms more broadly in the area of sentencing for drug offenses.

Last year the Commission requested and received comments from numerous organizations, including The Sentencing Project, on revising the drug sentencing guidelines. Indeed, during the Commission's April 2011 public meeting, several Commissioners raised the importance of this issue and asked questions about the appropriateness of setting the guidelines above the statutory mandatory minimums for drugs. As a follow up to the Commission's work and consideration, we urge that an amendment be proposed during the 2012 cycle that lowers the base offense levels in drug cases and thereby incorporates the mandatory minimum within the advisory guideline range.

This change is needed urgently. In 2009, more than half (51%) of the federal prison population was serving time for a drug offense. These 95,205 sentenced prisoners represented a nearly 20-fold increase from the 4,749 incarcerated drug offenders in 1980. The increased imprisonment of drug offenders constitutes the most significant source of growth in the federal prison system during this time. Indeed, even while state incarceration levels have begun to stabilize in recent years, the federal prison population continues to rise.

Moreover, the swelling of the federal prison population and the heavy proportion of drug law offenders has contributed to significant racial and ethnic disparity within the federal criminal justice system. According to the Commission's 2009 data on federal criminal cases, 70% of all drug defendants were either Black (30.6%) or Hispanic (39.7%).

Congress set sufficient, if not excessive, mandatory sentences for drug offenses. Those mandatory minimum sentences should be reflected in the recommended guideline range, and not be set below it. The current guideline framework exacerbates the problem of inordinate sentence length for drug offenses and ignores Congress's intent by excluding the statutory minimum sentence out of the relevant range. Fixing this disconnect will allow for more proportional sentences.

The Sentencing Project appreciates this opportunity to submit comments to the Commission on its priorities for the 2012 amendment cycle. We look forward to working with you again to advance a fairer federal sentencing system.

Sincerely,

A handwritten signature in black ink, appearing to read "Marc Mauer". The signature is written in a cursive, slightly slanted style.

Marc Mauer