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January 21, 2014

U.S. Sentencing Commission
Attn: Public Affairs
One Columbus Circle, N.E., Suite 2-500
Washington, D.C. 20002-8002

Re: Proposed Amendment 3

Dear Judge Saris and Commissioners:

This letter concerns the proposal to lower drug sentencing guidelines by two levels. As a private attorney and CJA panel member who represents many assigned cases in federal court as well as state court defendants in the State of New York, I have, over the years, seen the results of overly punitive sentencing of individuals who become involved in the distribution of drugs.

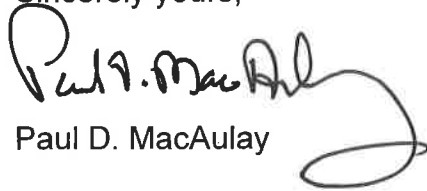
New York State had, for many years, one of the most draconian sentencing statutes for those involved in the possession and/or distribution of drugs. After many years of explosive growth in the prison population with no corresponding reduction in the level of arrests for such offenses, the State came to the conclusion that it could no longer financially afford to continue its policy of jailing drug offenders when such policy served no legitimate purpose.

An argument might be made that the exploding costs of housing drug offenders is worth while if there was in fact a corresponding reduction in the sale of drugs on our streets. Such is not the case. As you know from your report, "Report to the Congress: Mandatory Minimum Penalties in the Federal Criminal Justice System" (October, 2011), 23, 964 drug offenders populate federal prisons. As you also know, Federal Prisons are thirty-seven percent over capacity and consume ever greater amounts of the Department of Justice's budget. "Mass incarceration on a scale almost unexampled in human history is a fundamental fact of our country today," writes New Yorker's Adam Gopnik. The United States has 760 prisoners per 100,000 citizens which is seven to ten times as many as most other developed countries in the world. (Fareed Zakaria, "Incarceration Nation: The war on drugs has succeeded only in putting millions of Americans in jail", Time Magazine, April 2, 2012). We make up 5% of the world's

population but we make up 25% of the world's jailed prisoners.

In 1980 the U.S.'s prison population was about 150 per 100,000 and has more than quadrupled since then. It's clear that punitive sentencing is not working. It's time that we recognize that the "war on drugs" with its punitive sentencing structure is not working. Its time to end this insanity

Sincerely yours,

A handwritten signature in black ink, appearing to read "Paul D. MacAulay". The signature is stylized with a large initial "P" and a long, sweeping underline that loops back under the name.

Paul D. MacAulay