

CITY AND COUNTY OF SAN FRANCISCO



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OFFICE OF THE MAYOR

Mayor Edwin Lee

July 7, 2014

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

Dear Judge Saris,

I am writing in response to the United States Sentencing Commission's request for comment to strongly support the retroactive application of Amendment 3 to the federal drug sentencing guidelines.

Amending the base offense levels for controlled substances is key to addressing some of the greatest concerns with our criminal justice system. Prison populations across the United States continue to exceed their intended capacities while the health and welfare of prisoners and public safety resources are severely compromised. As stated by this Commission and the Federal Bureau of Prisons, the federal prison system is currently 32 percent over capacity, with over 216,000 inmates. Approximately 50 percent of that population is comprised of drug trafficking offenders, a majority of whom are likely to be affected by Amendment 3. If the new standard were applied retroactively, prisons could see a 35 percent population reduction, without a significant risk to public safety.

Current ranges set base offense levels slightly above mandatory minimum sentences as an incentive to defendants to cooperate with authorities. As this Commission has acknowledged, these sentencing guidelines are no longer necessary to meet that goal. If new standards are to be applied to future defendants, it is critical to allow prisoners currently serving drug sentences to request resentencing so that they may be measured by the same, appropriate standards. In my opinion, the Amendment's stated goals will not otherwise be entirely fulfilled.

Importantly, retroactive application will not negatively impact public safety. Prisoners will be subject to judicial approval for release and existing statutory enhancements are in place to serve serious and dangerous offenders with appropriately severe sentences. Additionally, data following the passage of the similar 2007 cocaine base amendment shows no significant change in recidivism rates.

Finally, retroactive application of Amendment 3 will address the challenging issue of disproportionality of minorities in federal confinement. According to this Commission, in 2013,

77.5% of all drug offenders were minorities, 74.4% being African American or Hispanic. These numbers are devastating to minority communities. Far too many families are left with at least one incarcerated parent and as a result are absorbed into a perpetual cycle of violence and incarceration.

I urge the US Sentencing Commission to support the retroactive application of Amendment 3 in order to fulfill the core purpose of the Amendment. Retroactive application will ease prison overcrowding and improve the welfare of both prisoners and the greater public. Thank you for your time and consideration.

Sincerely,

A handwritten signature in cursive script that reads "Paul Henderson". The signature is written in dark ink and is positioned to the right of the word "Sincerely,".

Paul Henderson
Deputy Chief of Staff, Office of Mayor Edwin M. Lee