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of

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on

Federal Mandatory Minimum Sentencing Provisions

**before the
U.S. Sentencing Commission**

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—BUILDING ON A PROUD TRADITION—

Good afternoon, Mr. Chairman and the distinguished Vice Chairmen and Commissioners of the U.S. Sentencing Commission. My name is David Hiller, National Vice President of the Fraternal Order of Police, the largest law enforcement labor organization in the United States, representing more than 327,000 rank-and-file police officers in every region of the country.

I want to thank you, Mr. Chairman, and the rest of the Commission for inviting me here this afternoon to share the views of these rank-and-file officers on the question of mandatory minimums in Federal law.

Throughout our nation's history, Congress, as well as the legislatures of the several States, have routinely imposed mandatory minimum sentences for a variety of offenses. There are three principles which lead Congress and other legislative bodies to adopt mandatory minimum sentences: to deter future offenders, to provide a defined period of separation of the offender from society, and

to ensure consistency through the criminal justice system so that individuals convicted of specific crimes receive similar sentences. Let us examine each of these points in turn.

The effectiveness of deterrence is difficult to quantify, but the establishment of specific and hopefully harsh penalties for serious crimes is to deter individuals from engaging in these crimes in the future, leading—in theory—to a reduction crime. Another deterrence factor is that offenders charged with crimes, like drug or human trafficking can be induced to provide evidence and information about other members of their illegal operations in exchange for reduced time or dropping certain charges. This is a powerful investigatory and prosecutorial weapon against criminal conspiracies and organizations.

Secondly, sentences of a specified length separate the offender from the public for that time period, which protects the public and functions as an absolute deterrent against that particular individual during the time of his incarceration. The greater the offense, the more serious the punishment. Violent crimes, which are a graver threat to public safety, necessarily engender longer mandatory sentences. The fight against crimes involving firearms is an excellent example, with mandatory minimums applying to both initial and repeat offenses. The use of mandatory minimum sentences is crucial to eliminating gun violence and reflect the seriousness of using firearms to commit crimes.

The third rationale for mandatory minimum sentences is to ensure fairness, consistency, and uniformity so that offenders receive similar sentences throughout the criminal justice system for committing similar crimes. In fact, the establishment of this body, the United States Sentencing Commission, in 1984 was in large part to achieve this very goal.

The adoption of the Comprehensive Crime Control Act of 1984 established mandatory minimum sentences in an effort to combat the growing problem of drug trafficking and violence associated with those operations. Increased mandatory minimums were put into place for offenses committed in the vicinity of schools and the use of firearms during the commission of a drug-related offense also triggered harsher mandatory penalties.

The adoption of these policies by Congress was the result of considered deliberation and an overall crime-fighting strategy. The Anti-Drug Abuse Acts of 1986 and 1988, as well as the Crime Control Act of 1990 expanded mandatory minimum sentences for a variety of serious offenses, from drug-related to financial crimes. These Acts, along with a renewed emphasis on community policing and Federal programs to deploy 100,000 additional law enforcement officers in our nation's communities, turned the tide in our effort to combat crime.

Crime rates have reached historic lows in the past 15 years in part because of our policing approach and the effectiveness of mandatory minimums for our most dangerous offenders.

It is important to recognize that reduced crime rates are not just statistics on a page—they mean less victims of violence, reduced availability of narcotics to our children, and safer neighborhoods and schools.

The FOP recognizes that there are those who cite individual instances or cases where non-violent, first time offenders are serving lengthy prison terms in Federal facilities. But this is inconsistent with the available data. In FY2008, there were 105 Federal cases of simple possession, in which only 58 were sentences to the statutory minimum penalty. And, Congress implemented a “safety valve” in 18 USC Section 3553(f) which provides for additional protection for first-time offenders without a prior criminal history, who did not employ firearms or violence in furtherance or commission of the underlying offense and who are not significant components of a large criminal enterprise.

These individuals are not and should not be the targets of our nation's crime-fighting strategy, of which the use of mandatory minimums is an integral part.

Congress itself is considering legislation to greatly reduce the sentences for those convicted of trafficking in crack cocaine. It is possible that Congress will consider reducing or increase the mandatory sentences for other crimes and offenses—and the FOP believes that our input on these issues is critically important as these debates move forward.

In conclusion, Mr. Chairman, I want to thank you and the Commission for your consideration of the view of the more than 327,000 members of the Fraternal Order of Police, and would be pleased to answer any questions you might have.