

UNITED STATES SENTENCING COMMISSION  
WRITTEN TESTIMONY  
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VICTIMS ADVISORY GROUP  
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My name is Francey Hakes. I am a member of the Commission's Victims Advisory Group. I am also a former state and federal prosecutor. I was this nation's first National Coordinator for Child Exploitation Prevention and Interdiction and was appointed to that position by Attorney General Eric Holder in 2010. When the AG offered me the position, he said "I'm going to ask you, no I am going to demand that you be bold and aggressive in this position." He didn't really know it at the time, but bold and aggressive pretty much defines me and my career during which I have advocated for victims of crime. Having specialized in crimes against women and children, I have advocated for a lot of victims. So when I argue here, as I do, against the proposed retroactivity of the Criminal History Amendments, I do so with a wealth of cases that inform my opinion.

I have sat in my office holding the hand of a child victim as they relive the horror they endured at the hands of a sex offender, or of a woman terrified to go home because she is being stalked and will never feel safe with the offender free. More times than I can count, I nonetheless remember every face. Only a robot would be unmoved by their tears and their fear. I also remember their astonishing bravery in standing up against their offender in court, my promise to them that it would make a difference bolstering them as they testified. I never promised convictions, but I always promised to fight for them and for justice. As I transitioned from state to federal prosecutor, I was able to make an additional promise to crime victims: truth in sentencing. Because that is the system under which I practiced as an AUSA. Prosecutors and victim advocates across this country have made those same promises to victims, and District Judges have explained carefully to them, that the sentence imposed in court meant something, that they could be certain of the offenders' incarceration for the period of time imposed by the Court.

The Commission proposes to open the floodgates, as the Department of Justice has also argued, to tens of thousands of offenders to petition to have their sentences adjusted downward, which

will result in many offenders being released before the sentence imposed by the District Court is actually completed. The push to throw open the jailhouse doors is shocking enough, but more shocking still is the utter lack of any mention of victims or victims rights in the Impact Analysis done on the retroactivity proposal. It appears to me that, once again, the focus remains on those who literally prey on others instead of on those wholly innocent in the circumstances that brought them into the justice system. My question is why, why are victims being ignored in the push to release offenders who have committed crimes like: firearms offenses, murder, kidnapping, manslaughter, stalking, child pornography and sexual abuse. I don't think the general public has any idea that these crimes, with real victims, and which involved serious suffering at the hands of the offenders, are part of the push to open the jails.

I can only assume the answer, in part, is because, unlike me, unlike the nation's prosecutors and victim advocates, the policy makers behind this decision have not had to sit in front of victims of crime and promise to seek justice for them. They have not taken calls on weekends and in the middle of the night from victims fearful of what might happen in court. They have not had to look into the eyes of a child depicted in horrific abuse in images of child pornography as they struggle to breathe knowing how many other people, besides the offender, have gotten pleasure from their abuse. They have not seen, firsthand, the fear of someone being stalked or who was kidnapped. They must surely have not seen the terrible wounds resulting from gun violence or talked to those who try to live in neighborhoods blighted by drug trafficking. These offenders are actual predators. The Webster's definition of predator is: one who injures or exploits others for personal gain or profit. The crimes in this retroactivity proposal perfectly illustrate that definition.

While we certainly appreciate these public hearings, it seems as though these victims have already been forgotten by these amendments that effectively reinstate parole in a system where victims have been told it doesn't exist. This proposal violates victims rights under the law, and it poses a real risk to public safety. I urge the Commission to follow its own precedent and reject this proposal. I hope the Commission will remember that those preyed upon by these offenders are real people. They deserve protection. They deserve to be remembered by policy makers when making policy that so personally, and so directly impacts their lives. I'm here for them. I speak for them. And I will speak boldly and aggressively on their behalf. This. Is. Wrong.