

A PROPOSAL TO HAVE FEDERAL SENTENCING GUIDELINES ADJUSTED
BY LOWERING BASE OFFENSE LEVELS
(THIS PROPOSAL IS TARGETED AT AMENDMENT #44)

SUBMITTED TO :
UNITED STATES SENTENCING COMMISSION

SUBMITTED BY:
THEODORA GARZA
CONCERNED AMERICAN and
STUDENT AT THE UNIVERSITY OF TEXAS
IN SAN ANTONIO, TEXAS
FEB.15th,1995

SUMMARY

The present existence of mandatory minimum sentences imposed by Congress in 1987 for even the smallest federal drug violations has failed to reduce crime during its practice in federal courts. These mandatory sentences have kept **non-violent offenders** in prison for more time than violent criminals convicted of other offenses. Federal Judges are no longer allowed to use their discretion when passing sentences on to convicted offenders, and these minimums group all of the accused into one group where individual circumstances are not allowed to be taken into consideration. It is unjust for **legitimate business people**, such as car dealers or realtors to sell a car or a home to a person who unbeknownst to them is a drug dealer, and for the car dealer or realtor to later be prosecuted for money laundering, and consequently stand convicted on a drug offense. The American Business Sector are not trained D.E.A. agents. They are Americans who tried to follow in the path of the American Dream, and tried to run their business to the best of their knowledge. It is extremely **unconstitutional** to force such people to serve lengthy jail terms. It is a waste of taxpayer's money, and a waste of these people's lives. Additionally, the law has been poorly drafted, and while these mandatory minimum sentences are excellent political tools, they are **unconstitutional** and have failed to reduce drug crimes.

The United States Sentencing Commission should work to bring about changes in a failed system. The Commission should make recommendations to Congress for necessary revisions on federal sentencing guidelines to restore judicial discretion as well as fairness and sanity. The nation needs a more rational, pragmatic approach. It is simply not right for all accused persons to be thrown into one single category, where they must all face the same harsh sentences. Distinctions have to be made between non-violent offenders who were not directly involved in the drug business in any way, and offenders who have a history of violence. Base offense levels need to be lowered in order to avoid the imposition of an automatic lengthy jail term where individual circumstances were not taken into consideration.

PROBLEMS WITH THE CURRENT SENTENCING GUIDELINES

There are several factors that cause the current sentences to be **unfair, unconstitutional, race biased, expensive, and a failure in general**. Prisons have become **grossly overcrowded** and violent criminals are being released in order to make room for those labeled as drug offenders.

1. The present mandatory sentences don't make distinctions for non-violent drug offenders. Small time offenders (**gofers and mules**), and **offenders such as money launderers**, some of whom have **never even seen drugs in their lives**, must face the same **harsh sentencing** as big ringleaders, and sometimes harsher sentences. Many of the people who stand convicted of money laundering were not involved in the selling of drugs in any way. They had no culpable intent. They simply sold an item to a person who later on was convicted of being a drug dealer. Many times these drug dealers are facing long sentences, and in turn decide to produce a "story" for prosecutors whereupon they inform the prosecutor of a business person who was willing to sell them an item without exposing them as being involved in illegal activity. The **true criminals are granted reduced sentences**, and legitimate, hard working business people's lives are ripped apart, and they must face the horrible reality of their inhumane sentences. **Prosecutors are cutting deals** with high-level traffickers, even those that are **animalistic thugs**. These violent thugs are used to testify against the "ignorant" car-dealers, or realtors, or accountants, and on and on. The word ignorant is used here to again emphasize that these business people were unaware that they were selling an item or providing a service to a drug dealer. Until these people stand convicted of such a

crime, it is not public knowledge that they are indeed drug dealers, and again, **business people are not trained Drug Enforcement Agents**. Surely it was never the intention of Congress to allow for such things to go on in the American Judicial System.

2. Prisons are extremely overcrowded (with the wrong people).

Federal prisons are **full of first time, non-violent drug offenders**. The federal inmate population has risen from 24,000 in 1980 to 76,815 today. Without changes it will top 116,000 in 1999. Some states, under court orders to ease prison overcrowding, are **routinely releasing violent criminals early to make room for drug offenders**. There is no statutory requirement that murderers and rapists be kept in prison, but there is a requirement that drug offenders, (money launderers, etc.), be kept in. **Violent, threat imposing criminals are released into our streets to make room for non-violent minor league drug offenders**. Perhaps that is why the newspapers reek of stories such as the one involving Polly Klaas, **a child who was murdered by a violent offender who had been released. Was he released in order to make room for a money launderer?** The very idea of such things going on in my beloved country are scary indeed! **These mandatory minimums have created a lousy legal system that should not exist in America!**

3. The cost of maintaining prisoners is overwhelming.

American taxpayers pay **\$4.5 million a day to incarcerate federal prisoners**, and according to the Justice Department's estimates, **another \$100 million a week will be needed to build enough prisons just to hold mandatory minimum inmates**. Americans are tired of having to pay so much in taxes. Obviously, the maintaining and building of prisons to **house non-violent inmates is a great contributor to the tax burden**. Perhaps if the whole country were to become well informed with these circumstances, and be allowed to vote on this issue, they would vote to **release those non-violent people** who have had **draconian sentences** imposed upon them. Would an American Citizen be content with the fact that he or she was paying such a vast amount in taxes to **incarcerate someone such as a non-violent, clean record female realtor? Or a non-violent, clean record car dealer who sold a suburban to someone who he had no idea was a drug dealer?** And the examples go on and on and on. Is it right for taxpayers to be so unnecessarily burdened financially? And is it right for undeserving Americans to be denied the right to life, liberty, and the pursuit of happiness with the imposing of such **harsh, draconian sentences?**

4. Mandatory minimum sentences have packed prisons, but have not brought about any reduction in crime

Many of the nation's federal judges and members of the American Bar Association have concluded that the **mandatory minimums have been a failure**. Mandatory minimums have to be adjusted. **Distinctions must be made! Base offense levels should start out differently for different individuals**. Each accused person's history should be examined and taken into account. **A first time offender should not have to automatically start out with a five or ten year sentence**. The imposing of such a sentence is extremely harsh, to say the least. **What a waste of life!** Many of the people facing such sentences and currently serving such sentences are kind, giving intelligent people who have contributed much to society. **Why must they be torn from their families for such a lengthy period of time?** Why can't they be **allowed to contribute to society through community service?** Allow for them to contribute to society and not detract from it through all the taxes Americans must pay due to their incarceration. Each case that comes before a federal judge should be examined **individually**, with all existing circumstances being allowed to be taken into consideration.

PROPOSAL

The United States Sentencing Commission should request that Congress **immediately** adjust federal sentencing guidelines. **Base offense levels need to be adjusted** : they **need to be lowered**. Again, they need to start out differently for different individuals. This **amendment must be retro-active** so that those who needlessly suffer with their imposed **draconian sentences** may again grasp some sort of hope that their nightmare of an ordeal might soon come to an end, and so that families can be united.

JUSTIFICATION

As American Citizens, we are promised **life, liberty** and the **pursuit of happiness**. Certain laws that have existed in our country have removed some of these promises. For instance, we should remember that we had laws that agreed with slavery. **Slavery was accepted and condoned because recorded laws stated that it was legal**. The law was wrong then, and it is wrong now with the imposition of mandatory minimum sentences. Government and law are supposed to exist for the people, for the betterment of society, and not for the purpose of being unconstitutional. **It is time for this injustice to end**. Too many good, decent human beings are being ripped from their families, and **every family member painfully suffers needlessly**. Injustice is not what America is about. Incarcerating non-violent fathers, mothers, sisters and brothers for long, pain staking sentences is not bettering society. Children of all ages need their mothers and fathers. Having a father or mother figure in a young person's life is detrimental.

The evidence shows that the mandatory laws have drastically failed. All that these laws have created are situations in which prisons have surpassed their holding capacities, and taxpayers have unnecessarily spent millions.

I personally witnessed the **rape of justice** when dealing with federal sentences through the conviction of my father and brother. They were both accused of money laundering. A violent drug dealer was arrested, and was facing twenty to twenty five years in jail for various crimes. Through his high priced attorney, he decided to plead guilty and realized that he could have his sentence drastically reduced if he produced a "story" for the prosecutors. The drug dealer had bought several vehicles from my father's dealership, and my brother was the salesman in the transactions. At the time of his purchases, **it was not a known fact that he was in fact a drug dealer**. His brother was the County Clerk in my father's town, and had served on the school board for many years. They both represented to the townspeople that they had a legitimate horse racing business from which they derived a substantial income. They raced their horses at various racetracks, and had a business account at the local bank. (**Our attorneys, more interested in their fees than in their clients**, did not bother to mention this important fact to the jurors.) This drug dealer told the prosecutors that my family knew he was a drug dealer, and that they were very accommodating to him when selling him the vehicles. Our attorneys also failed to mention to the jury that each time a vehicle was sold to this person, a check for the cost of the vehicle had to immediately be written out to GMAC since all of the vehicles on the lot were simply lent to the dealership on a consignment basis. There is not much profit in the sale of new vehicles. My father's dealership made about two or three hundred dollars (or less) each time a vehicle was sold to this person. The jury was kept under the impression that each time a vehicle was bought by this person, the full amount went

straight into my father's and brother's pockets. **No amount of money in the world could compensate for this nightmare that we all now currently live in.**

The outcome of the trial was that the **violent** drug dealer, a cold-blooded thug, (as we learned through the trial as his crimes were exposed), **got his sentence reduced to a measly three years**, due to his "honesty and cooperation", and my father and brother were damned with almost seven.

My **brother** is a hard working **non-violent young man** who simply did his job and sold cars for a commission. He never even handled any of the money at the dealership, yet he stands convicted of being a money launderer. The commissions he earned will never add up to the cost of many years of his life and freedom.

My father is probably **one of the last living altruists**. He was a **Volunteer Fireman** in his community, as well as a **Boy Scout Troop leader to many fine men**. He has **never** been involved with drugs, and would probably not even know what they look like, yet he stands convicted on a drug offense. This fifty-three year old man who continuously served his community throughout his life, must now waste it in a prison. The prosecutor, a woman who asks for leniency where thugs are concerned, stared at him throughout the trial as if he were a mass murderer. **It broke my heart, but not quite my hope. I still possess some sort of hope** that justice can come into our lives, and the lives of others like us, **who needlessly suffer**.

That is the purpose of this letter: to try and make my hopes a reality.

CONCLUSION

By adjusting federal sentencing laws, and **lowering base offense levels**, constitutional rights can be restored, and accused Americans won't have to face **inhumane, barbaric** sentences where they are incarcerated for **inanelly mandated periods of time**. Improved laws will make for a better society. Human compassion must come into focus, and non-violent human beings who made a mistake, or who were found guilty by an uncaring, uninformed jury, should have their lengthy sentences reduced so that they can bring to an end their unbearable nightmares.