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July 31, 2003

The Honorable Diana E. Murphy
Chair
United States Sentencing Commission
One Columbus Circle, NE, Suite 2-500, South Lobby
Washington, DC 20002-8002

Dear Judge Murphy:

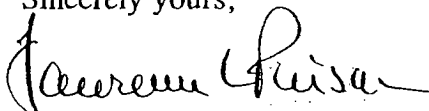
In response to the request of the United States Sentencing Commission for public comment regarding the implementation of Section 401(m) of the Protect Act, sometimes referred to as the Feeney Amendment, the Federal Judges Association responds:

Sentencing is an individualized process. In each criminal case, the sentencing court must consider the factors set forth in 18 U.S.C. § 3553. Appropriate sentencing requires that the sentencing judge be independent in his or her application of the law to the facts of that case. In order to safeguard the fairness of the federal sentencing process, the Federal Judges Association suggests the repeal of Section 401(m) of the Protect Act and supports S. 1086 and H.R. 2213. Section 401(m) fundamentally changed significant portions of the federal sentencing process. Change can be for the better. These changes were not. We believe that if the usual legislative process had been followed, this troubling amendment to the Protect Act would not have taken place. We urge that in the future, as in the past, there be time allowed for the Sentencing Commission to gather and present information concerning any proposed sentencing changes.

We believe that the judicial review of sentences provided for by the United States Supreme Court in Koon v. United States, 518 U.S. 81 (1996) should be reinstated.

We also believe that the reporting and oversight requirements of the Feeney Amendment are a clear encroachment upon judicial independence and an attempt to intimidate. Judicial independence is essential to the proper discharge of the Constitutional responsibilities of the federal judiciary.

Sincerely yours,



Lawrence L. Piersol, President
Federal Judges Association

LLP:jh