

May 12, 2014

The Honorable Harry Reid
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, DC 20510

Re: Federal Criminal Sentencing Reform

Dear Majority Leader Reid and Minority Leader McConnell:

As former government officials who served in the war on drugs, we care deeply about our nation's system of justice. During our tenure, we labored to see that justice was well served, the guilty punished and the innocent protected. We recognize the ongoing need to continue to improve how the nation deals with crime.

Significant components of our statutory framework for sentencing lie at the heart of our nation's success in confronting crime. Collectively, these sentencing measures have helped substantially to reduce crime throughout our nation over the past thirty years. A series of laws, beginning with the Sentencing Reform Act of 1984, have dramatically lessened the financial and human toll of crime on Americans. Critical to these laws has been the role of mandatory minimum sentencing and the exercise by Congress of its Constitutional prerogative to establish the minimum of years of detention served by a federal offender. While federal judges are properly entrusted with great discretion, strong mandatory minimums are needed to insure both that there is a degree of consistency from judge to judge, and that differing judicial ideologies and temperaments do not produce excessively lenient sentences. In addition, and of central importance, prosecutors use strong mandatory minimums, along with safety-valves built into the current system, to induce cooperation from so-called "smaller fish," to build cases against kingpins and leaders of criminal organizations.

Because the Senate is now considering revisiting the subject of mandatory minimum penalties for federal drug trafficking offenses, we take this opportunity to express our personal concerns over pending legislative proposals. We are concerned specifically by proposals that would slash current mandatory minimum penalties over federal drug trafficking offenses -- by as much as fifty percent. We are deeply concerned about the impact of sentencing reductions of this magnitude on public safety. We believe the American people will be ill-served by the significant reduction of sentences for federal drug trafficking crimes that involve the sale and distribution of dangerous drugs like heroin, methamphetamines and PCP. We are aware of little public support for lowering the minimum required sentences for these extremely dangerous and sometimes lethal drugs. In addition, we fear that lowering the minimums will make it harder for prosecutors to build cases against the leaders of narcotics organizations and gangs -- leaders who often direct violent and socially destructive organizations that harm people throughout the United States.

Many of us once served on the front lines of justice. We have witnessed the focus of federal law enforcement upon drug trafficking – not drug possession offenses – and the value of mandatory minimum sentences aimed at drug trafficking offenses.

Existing law already provides escape hatches for deserving defendants facing a mandatory minimum sentence. Often, they can plea bargain their way to a lesser charge; such bargaining is overwhelmingly the way federal cases are resolved. Even if convicted under a mandatory minimum charge, however, the judge on his own can sidestep the sentence if the defendant has a minor criminal history, has not engaged in violence, was not a big-time player, and cooperates with federal authorities. This "safety valve," as it's known, has been in the law for almost 20 years. Prosecutors correctly regard this as an essential tool in encouraging cooperation and, thus, breaking down drug conspiracies, large criminal organizations and violent gangs.

We believe our current sentencing regimen strikes the right balance between Congressional direction in the establishment of sentencing levels, due regard for appropriate judicial direction, and the preservation of public safety. We have made great gains in reducing crime. Our current sentencing framework has kept us safe and should be preserved.

Sincerely yours,

William P. Barr
Former United States Attorney General

Michael B. Mukasey
Former United States Attorney General

Samuel K. Skinner
Former White House Chief of Staff and Former United States Attorney, Northern District, Illinois

William Bennett
Former Director of the White House Office of National Drug Control Policy

John P. Walters
Former Director of the White House Office of National Drug Control Policy

Mark Filip
Former United States Deputy Attorney General

Paul J. McNulty
Former United States Deputy Attorney General and Former United States Attorney, Eastern District, Virginia

George J. Terwilliger III
Former United States Deputy Attorney General and Former United States Attorney, District of Vermont

Larry D. Thompson
Former United States Deputy Attorney General and Former United States Attorney, Northern District, Georgia

Peter Bensinger
Former Administrator, Drug Enforcement Administration

Jack Lawn
Former Administrator, Drug Enforcement Administration

Karen Tandy
Former Administrator, Drug Enforcement Administration

Greg Brower
Former United States Attorney, District of Nevada

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Former United States Attorney, District of Arizona

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Former United States Attorney, Eastern District, Virginia

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Former United States Attorney, Southern District, Texas