



National Association of Assistant United States Attorneys

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January 27, 2014

The Honorable Eric H. Holder, Jr.
Attorney General
Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Re: Changes to Mandatory Minimums

Dear General Holder:

As members of the National Association of Assistant United States Attorneys, we have great respect for you and your office, and for that reason are reluctant to disagree with your public positions. However, after considerable deliberation, we believe we are obligated to express our concern over your actions last Thursday in announcing support for Congressional action that would weaken mandatory minimum sentencing.

As non-political, career officers of the Department of Justice, our duty is to pursue justice and prosecute and enforce the law through the powers and tools afforded to us under federal statute and regulation. We are exceedingly mindful of the force of that authority and the ethical imperative to steer clear of its abuse in the performance of our official responsibilities. This is why we do not join with those who regard our federal system of justice as “broken” or in need of major reconstruction. Instead, we consider the current federal mandatory minimum sentence framework as well-constructed and well worth preserving.

We believe the merits of mandatory minimums are abundantly clear. They reach to only the most serious of crimes. They target the most serious criminals. They provide us leverage to secure cooperation from defendants. They help to establish uniform and consistency in sentencing. And foremost, they protect law-abiding citizens and help to hold crime in check.

In the 1980's, our country underwent a crime epidemic that took root, in significant measure, because of the proliferation of crack cocaine, heroin, methamphetamines and PCP in communities across America. Violence became rampant; thirty years ago, the murder rate was twice what it is now, and the overall crime rate was not far behind. Bi-partisan majorities in Congress took action. They passed mandatory

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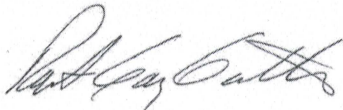
sentencing laws to combat the most pernicious of crimes. Such laws, while properly continuing to give judges substantial discretion in the great majority of cases, limited discretion in a few, very serious cases. Among the laws Congress passed were mandatory minimum sentences for drug trafficking that required judges to give at least a rock bottom sentence for the most harmful offenses.

As a result, we now have more uniformity in sentencing, and, most importantly, *crime is now half of what it was in the era before mandatory minimum sentences took hold.* The principal beneficiaries of this massive crime reduction are those who were disproportionately crime victims in the past -- minority groups, particularly those in the inner cities. When crime starts to rise, as it did before mandatory sentencing laws and will again if we tear down the statutes that have helped keep us safe -- minorities, disproportionately, will be the victims. The rest of our citizens won't be far behind.

As you know, mandatory minimum sentences are a critical tool in persuading defendants to cooperate, thereby enabling law enforcement to dismantle large drug organizations and violent gangs. Present law provides numerous opportunities for deserving defendants to avoid mandatory sentences through: cooperation in providing information about other criminals and criminal enterprises; plea bargaining, which resolves the vast majority of federal cases; the "Safety Valve," which has allowed tens of thousands of defendants to receive lower sentences; and executive clemency, which President Obama recently employed.

Our present system strikes the right balance between the need for guided sentencing discretion and the imperative for preserving the huge gains we have made against crime. We believe our current sentencing laws have kept us safe and should be preserved, not weakened. We ask you to keep our views in mind in the Department's future actions on this subject. Thank you for your attention to our concerns.

Sincerely,



Robert Gay Guthrie
President

cc: James Cole, Deputy Attorney General
H. Marshall Jarrett, Director, Executive Office for U.S. Attorneys
Peter J. Kadzik, Principal Deputy Assistant Attorney General,
Office of Legislative Affairs