



U.S. Sentencing Commission
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NEWS RELEASE

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**SENTENCING COMMISSION ISSUES COMPREHENSIVE REPORT ON
STATUTORY MANDATORY MINIMUM PENALTIES**
Sends Recommendations for Statutory Changes to Congress

WASHINGTON, DC—Today the United States Sentencing Commission submitted to Congress its 645-page report assessing the impact of statutory mandatory minimum penalties on federal sentencing.

Judge Patti B. Saris, chair of the Commission stated, “While there is a spectrum of views on the Commission regarding mandatory minimum penalties, the Commission unanimously believes that certain mandatory minimum penalties apply too broadly, are excessively severe, and are applied inconsistently across the country. The Commission continues to believe that a strong and effective guideline system best serves the purposes of sentencing established by the Sentencing Reform Act of 1984.”

In the report, the Commission recommends with respect to drug offenses that Congress reassess certain statutory recidivist provisions, and consider possible tailoring of the “safety valve” relief mechanism to other low-level, non-violent offenders convicted of other offenses carrying mandatory minimum penalties. It also recommends that Congress examine and re-evaluate the “stacking” of mandatory minimum penalties for certain federal firearms offenses as the penalties that may result can be excessively severe and unjust, particularly in circumstances where there is no physical harm or threat of physical harm.

The Commission also addresses the overcrowding in the federal Bureau of Prisons, which is over-capacity by 37 percent. Saris noted, “The number of federal prisoners has tripled in the last 20 years. Although the Commission recognizes that mandatory minimum penalties are only one of the factors that have contributed to the increased capacity and cost of inmates in federal custody (an increase in immigration cases is another), the Commission recommends that Congress request prison impact analyses from the Commission as early as possible in the legislative process when Congress considers enacting or amending federal criminal penalties.”

The report was undertaken pursuant to a directive from Congress to examine mandatory minimum penalties, particularly in light of the Supreme Court’s 2005 decision in *Booker v. United States*, which rendered the federal sentencing guidelines advisory. The comprehensive

report contains the most up-to-date data and findings on federal sentencing and the application of mandatory minimum penalties compiled since the Commission released its 1991 report. The Commission reviewed 73,239 cases from fiscal year 2010 as well as its data sets from previous fiscal years to conduct the data analyses in the report and support the findings and conclusions set forth. Some of the report's key findings from the data examined from the report include –

- More than 27 percent of offenders included in the pool were convicted of an offense carrying a mandatory minimum penalty.
- More than 75 percent of those offenders convicted of an offense carrying a mandatory minimum penalty were convicted of a drug trafficking offense.
- Hispanic offenders accounted for the largest group (38.3%) of offenders convicted of an offense carrying a mandatory minimum penalty, followed by Black offenders (31.5%), White offenders (27.4%), and Other Race offenders (2.7%).
- Almost half (46.7%) of all offenders convicted of an offense carrying a mandatory minimum penalty were relieved from the application of such penalty at sentencing for assisting the government, qualifying for “safety valve” relief, or both.
- Black offenders received relief from a mandatory minimum penalty least often (in 34.9% of their cases), compared to White (46.5%), Hispanic (55.7%) and Other Race (58.9%) offenders. In particular, Black offenders qualified for relief under the safety valve at the lowest rate of any other racial group (11.1%), compared to White (26.7%), Hispanic (42.8%) and Other Race (36.6%), either because of their criminal history or the involvement of a dangerous weapon in connection with the offense.
- Receiving relief from a mandatory minimum penalty made a significant difference in the sentence ultimately imposed. Offenders subject to a mandatory minimum penalty at sentencing received an average sentence of 139 months, compared to an average sentence of 63 months for those offenders who received relief from a mandatory minimum penalty.
- 14.5 percent of all federal offenders remained subject to (meaning they received no relief from) a mandatory minimum at sentencing.

In addition, the Commission found that as of September 30, 2010, just over 39 percent of offenders in the custody of the federal Bureau of Prisons were subject to a mandatory minimum penalty at sentencing. While the number of offenders subject to a mandatory minimum penalty at sentencing has increased, the proportion of those offenders to others in federal custody has remained stable over the last 20 years.

The Commission reviewed legislation, analyzed sentencing data, and studied scholarly literature to prepare this report. It also sought the views of stakeholders from all three branches of government, as well as social scientists, scholars, and others who apply or study mandatory sentencing provisions.

The report, including an executive summary, is available on the Commission's website, www.ussc.gov.

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