Statement of Judge Patti B. Saris
Chair, United States Sentencing Commission
For the Hearing on
"S. 2123, Sentencing Reform and Corrections Act of 2015"
Before the Committee on the Judiciary
United States Senate

October 19, 2015

Chairman Grassley, Ranking Member Leahy, and distinguished Senators of the Committee on the Judiciary, thank you for providing me with the opportunity to submit this statement relating to S. 2123, the Sentencing Reform and Corrections Act of 2015, for the record on behalf of the United States Sentencing Commission ("Commission"). The Commission is pleased the Committee is focusing on sentencing issues, in particular mandatory minimum sentences in the federal criminal justice system, and applauds the bipartisan efforts that led to the introduction of S. 2123.

The vital issue of mandatory minimum sentences has been a key focus for the Commission for several years. The bipartisan Commission[1] in its 2011 report to Congress[2] unanimously agreed that mandatory minimum sentences in their current form often apply too broadly, are set too high, and are unevenly applied. As a result, mandatory minimum penalties have led to unintended disparate consequences and contributed to the current crisis with the federal prison population and budget. The problems identified in the Commission's 2011 report continue to persist, making the need for change even more urgent.

Over the past two decades, the federal prison population has increased dramatically, and offenses carrying mandatory minimum sentences have played a significant role in that increase. The number of inmates housed by the Federal Bureau of Prisons ("BOP") on December 31, 1991 was 71,608.[3] Today that number is 205,491.[4] The number of offenders in the custody of the BOP who were convicted of a statute carrying a mandatory minimum penalty similarly increased from 40,104 offenders in 1995 to 111,545 in 2010, an increase of 178.1 percent.[5]

Although the federal prison population has begun to decline, the BOP population continues to exceed capacity. Federal prison and detention costs have increased more than six-

[1] By statute, no more than four members of the Commission may be of the same political party. 28 U.S.C. § 991(a).

[2] U.S. Sentencing Comm'n, *Mandatory Minimum Penalties in the Federal Criminal Justice System* (October 2011) (Mandatory Minimum Report), http://www.ussc.gov/Legislative_and_Public_Affairs/Congressional_Testimony_and_Reports/Mandatory_Minimum_Penalties/20111031_RtC_Mandatory_Minimum.cfm.

[3] Allen J. Beck & Gillard, *Prisoners in 1994*, Bureau of Justice Statistics Bulletin 1 (1995).

[4] http://www.bop.gov/about/statistics/population_statistics.jsp. (Oct. 15, 2005).

[5] Mandatory Minimum Report, *supra* note 2, at 81.

fold from $1.36 billion for fiscal year 1991[6] to more than $8 billion a year. Prison and detention costs now account for almost one-third of the overall Department of Justice (DOJ) budget,[7] and, according to DOJ officials, are dangerously crowding out expenditures on other potential crime preventing initiatives.

In its 2011 report, the Commission outlined three key overarching principles with respect to mandatory minimum penalties. The Commission unanimously agreed that mandatory minimum penalties should (1) not be excessively severe, (2) be narrowly tailored to apply only to those offenders who warrant such punishment, and (3) be applied consistently. The Commission also found that excessively severe mandatory minimum penalties tend to be applied inconsistently, leading to unwarranted sentencing disparities.

Consistent with these governing principles, the Commission set forth several specific recommendations for modifying the mandatory minimum penalties to make federal sentencing laws more fair and uniform and to help them operate as we believe Congress intended. Among the Commission's specific recommendations are that:

- Congress should reduce the current statutory mandatory minimum penalties for drug trafficking.

- Congress should consider expanding the so-called "safety valve" at 18 U.S.C. § 3553(f) to allow a greater number of non-violent, low-level drug offenders drug offenders to be sentenced below the mandatory minimum penalties.

- Congress should give retroactive effect to the Fair Sentencing Act of 2010, which reduced the disparity in the mandatory minimum penalties for crack cocaine and powder cocaine offenders.

- Congress should reassess the scope and severity of the recidivism provisions in 21 U.S.C. §§ 841 and 960, which generally double the mandatory minimum penalties if a drug offender has a prior conviction for a "felony drug offense" and provides for mandatory life imprisonment if an offender has two or more prior drug felonies.

- Congress should eliminate the mandatory "stacking" requirement for multiple violations of 18 U.S.C. 924(c) so that the enhanced mandatory minimum penalties for a "second or subsequent" offense apply only to prior convictions.

- Congress should consider clarifying the statutory definitions in the Armed Career Criminal Act (ACCA) at 18 U.S.C. § 924(e) and reduce their severity.

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[6] Pub. L. No. 101-515, 104 Stat. 2101, 2114 (1990).

[7] U.S. Dep't of Justice, *FY 2014 Budget Request at a Glance* 3 (2013) (U.S. Dep't of Justice FY 2014 Budget Request), www.justice.gov/jmd/2014summary/pdf/fy14-bud-sum.pdf#bs; *see also* Letter from Jonathan Wroblewski, U.S. Dep't of Justice, to Hon. Patti Saris, U.S. Sentencing Comm'n, 8 (July 11, 2013) (http://www.ussc.gov/Meetings_and_Rulemaking/Public_Comment/20130801/Public_Comment_DOJ_Proposed_Priorities.pdf).

The Commission believes these recommendations also are consistent with the twin goals of reducing the strain on the federal prison population while promoting public safety. The Commission is gratified to see that many of the provisions of S. 2123 follow, at least in part, our recommendations, particularly in Title I of the bill.

The remainder of my statement will discuss certain key findings of the Commission's extensive research and data analyses as they relate to particular provisions of S. 2123.

A. Mandatory Minimums for Drug Offenses Apply to Many Lower-Level Offenders

Congress appears to have intended to impose these mandatory penalties on "major" or "serious" drug traffickers.[8] Yet, the Commission has found that in practice these penalties sweep more broadly than Congress may have intended. The drug mandatory minimum penalties are tied only to the quantity and type of drugs involved, but the Commission's research has found that the quantity involved in an offense is often not as good a proxy for the function played by the offender as Congress may have believed. For example, a courier may be carrying a large quantity of drugs, but may be a low-level member of a drug organization. Similarly, an offender convicted as part of a drug conspiracy may play a minor role in the conspiracy, personally handle a small quantity of drugs, and yet be held responsible for all the drugs trafficked in the conspiracy.

Mandatory minimum penalties currently apply in large numbers to every function in a drug organization, from couriers and mules who transport drugs often at the lowest levels of a drug organization, all the way up to high-level suppliers and importers who conspire with others to bring large quantities of drugs into the United States.[9] Commission data revealed that in fiscal year 2009, the majority of offenders of almost every function were convicted of an offense carrying a mandatory minimum penalty. For instance, nearly half of all low-level couriers, who constitute 23 percent of all drug traffickers, were convicted of an offense carrying a mandatory minimum penalty. Likewise, nearly half of all street-level dealers, who constitute 17.2 percent of all drug traffickers, were subject to mandatory minimum penalties at sentencing because they did not obtain relief either for providing substantial assistance to the government or for meeting the statutory safety valve criteria.[10]

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[8] *See* U.S.Sentencing Comm'n, *Report to Congress: Cocaine and Federal Sentencing Policy* 6 (2002); *see also*132 Cong. Rec. 27,193-94 (Sept. 30, 1986) (statement of Sen. Byrd) ("For the kingpins . . . the minimum term is 10 years . . . [F]or the middle-level dealers . . . a minimum term of 5 years."); 132 Cong. Rec. 22,993 (Sept. 11, 1986) (statement of Rep. LaFalce)("[S]eparate penalties are established for the biggest traffickers, with another set of penalties for other serious drug pushers.").

[9] To provide a more complete profile of federal drug offenders for the Mandatory Minimum Report, the Commission undertook a special project in 2010. Using a 15% sample of drug cases reported to the Commission in fiscal year 2009, the Commission assessed the functions performed by drug offenders as part of the offense. Offender function was determined by a review of the offense conduct section of the presentence report. The Commission assigned each offender to one of 21 separate function categories based on his or her most serious conduct as described in the Presentence Report and not rejected by the court on the Statement of Reasons form. For more information on the Commission's analysis, *see* Mandatory Minimum Report, *supra* note 2, at 165-166.

[10] *Id.* at 166-170.

The problem of overbreadth is compounded by the severity of the mandatory minimum penalties. Over half of all drug offenders – 5,721 of 10,966 – who were convicted of an offense carrying a mandatory minimum penalty in fiscal year 2014 were convicted of an offense carrying a 10-year mandatory minimum, a penalty Congress intended to reserve for "major" traffickers.[11]

Section 103 of S. 2123 aims to limit the overbreadth of the drug mandatory minimums by establishing a new mechanism somewhat akin to the existing statutory safety valve. This provision would permit certain offenders who are currently subject to the 10-year mandatory minimum penalty to be subject to the 5-year mandatory minimum instead. Specifically, a defendant would qualify for this new form of relief if:

(1) the defendant does not have a prior conviction for a "serious drug felony" or "serious violent felony";
(2) the defendant did not use violence or credible threats of violence or possess a firearm or other dangerous weapon in connection with the offense and the offense did not result in death or serious bodily injury to any person;
(3) the defendant did not play an enhanced role in the offense by acting as an organizer, leader, manager, or supervisor of other participants in the offense, or did not exercise substantial authority or control over the criminal activity;
(4) the defendant did not act as an importer, exporter, high-level distributor or supplier, wholesaler, or manufacturer of the controlled substance involved in the offense, or engage in a continuing criminal enterprise;
(5) the defendant did not distribute a controlled substance to a person under 18 years of age; and
(6) not later than the time of sentencing, the defendant has truthfully provided to the Government all information and evidence the defendant has concerning the offense.

The Commission is pleased that the Judiciary Committee is reconsidering the 10-year mandatory minimum penalty that applies far too commonly in drug offenses. A narrower tailoring of the 10-year mandatory minimum is more consistent with Congress's intent when it initially passed the existing mandatory minimum drug sentencing scheme. We note, however, that, as currently drafted, this is a complicated provision that is heavily reliant on definitions that are likely to be subject to litigation and offer our assistance in any way to help address potential application issues. Subject to that uncertainty, the Commission estimates that 550 offenders each year would benefit from the new provision provided in Section 103, and their average sentence would be reduced by 19.3 percent (21 months) from 109 months to 88 months. Furthermore, the provision is projected to save 127 prison beds within five years of enactment.

[11] U.S. Sentencing Comm'n, *2014 Sourcebook of Federal Sentencing Statistics*, Table 43 (2014). Of the 10,966 drug offenders convicted of an offense carrying a mandatory minimum penalty, 3,393 (30.9%) received relief under the safety valve.

B. Mandatory Minimums Have Disparate Demographic Effects

Commission research shows that the current mandatory minimum sentencing scheme affects different demographic groups in different ways. The Commission's 2011 report showed that Hispanic offenders constituted 44.0 percent of drug offenders convicted of an offense carrying a mandatory minimum in fiscal year 2010; Black offenders constituted 30.3 percent, while White offenders were 23.1 percent, and Other Race offenders were 2.5 percent.[12]

The Commission found, however, that mandatory minimum penalties still apply most often to Black offenders at sentencing because they qualify for relief from such penalties less often. Black offenders qualified for relief under the safety valve at the lowest rate of any racial group (11.1%), compared to White (26.7%), Hispanic (42.8%), and Other Race offenders (36.6%).[13] As a result, Blacks constituted 40.4 percent of drug offenders subject to a mandatory minimum at sentencing, compared to 18.4 percent for White offenders, 39.6 percent for Hispanic offenders, and 1.5 percent for Other Race offenders.

The Commission identified criminal history as the single factor excluding most Black offenders from safety valve relief. Three-quarters (75.6%) of Black drug offenders convicted of an offense carrying a mandatory minimum penalty in fiscal year 2010 were excluded from safety valve eligibility due to criminal history scores of more than one point.[14]

To help remedy this racial imbalance – as well as to alleviate the general overbreadth of the drug mandatory minimum penalties – the Commission recommended that Congress consider expanding eligibility for the safety valve at 18 U.S.C. § 3553(f) beyond offenders with only zero or one criminal history point.

Section 102 of S. 2123 broadens the safety valve to provide greater relief to more low-level, non-violent offenders. Specifically, it permits offenders who have up to 4 criminal history points to remain eligible for the safety valve, provided that the offender does not have a prior 3-point offense under the guidelines or a prior 2-point "drug trafficking offense" or "crime of violence" as defined in 18 U.S.C. § 16. Section 102 also would give courts new authority to waive the criminal history criteria entirely if the court specifies in writing the specific reasons why reliable information indicates that excluding the defendant based on the criminal history exclusionary criteria substantially overrepresents the seriousness of the defendant's criminal history or the likelihood that the defendant will commit other crimes.

The Commission is pleased that the Judiciary Committee is considering expanding the safety valve. A modest expansion of the safety valve is consistent with the goal of relieving low-level, non-violent drug offenders from the mandatory minimum penalties, as well as reducing the federal prison population. The Commission estimates that 3,314 offenders each year would benefit from the safety valve expansion proposed in Section 102, and their average sentence

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[12] Mandatory Minimum Report, *supra* note 2, at 154.

[13] Mandatory Minimum Report, *supra* note 2, at xxviii.

[14] *Id.*at 354.

would be reduced by 20 percent (11 months) from 55 months to 44 months. Furthermore, the provision is projected to save 1,593 prison beds within five years of enactment.

The Commission notes that the accuracy of these analyses is somewhat limited by the fact that, as currently drafted, the exclusion of certain 2-point criminal history events, in particular "crimes of violence," are based on definitions that have been the subject of significant litigation. Furthermore, the Commission cannot objectively predict how courts would exercise their new authority to waive the criminal history criteria, nor whether courts would exercise their authority in a uniform manner. The Commission offers its assistance in drafting alternative language to help minimize the risk of excessive litigation and to avoid any unintended differences in application.

C. Fair Sentencing Act Should Apply Retroactively

To reduce the disparities in sentencing between offenses involving crack cocaine and powder cocaine, the Fair Sentencing Act of 2010 (FSA)[15] eliminated the mandatory minimum sentence for simple possession of crack cocaine and increased the quantities of crack cocaine required to trigger the five- and ten-year mandatory minimum penalties for trafficking offenses from five to 28 grams and from 50 to 280 grams, respectively.[16] The law, however, did not make those statutory changes retroactive.

In 2011, the Commission amended the sentencing guidelines in accordance with the statutory changes in the FSA and voted unanimously to make these guideline changes retroactive. In reaching this decision,[17] the Commission considered the underlying purposes of the FSA, including Congress's intent to "restore fairness to Federal cocaine sentencing," to provide "cocaine sentencing disparity reduction," and to act "consistent[ly] with the Commission's long-held position that the then-existing statutory penalty structure for crack cocaine 'significantly undermines the various congressional objectives set forth in the Sentencing Reform Act and elsewhere.'"[18]

The Commission concluded, based on testimony, comment, and the experience of implementing the 2007 crack cocaine guideline amendment retroactively,[19] that the administrative burden on the federal courts caused by applying the FSA would be manageable even though a large number of cases would be affected.[20] The Commission was further informed by its study of the recidivism rate of crack cocaine offenders who were released early pursuant to

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[15] Fair Sentencing Act, Pub. L. No. 111–220, 124 Stat. 2373 (2010) (FSA).

[16] FSA § 2.

[17] The Commission, in deciding whether to make amendments retroactive, considers factors including "the purpose of the amendment, the magnitude of the change in the guideline range made by the amendment, and the difficulty of applying the amendment retroactively." USSG §1B1.10, comment. (backg'd). See also U.S. Sentencing Comm'n, *Notice of Final Action Regarding Amendment on Retroactivity*, Effective November 1, 2011, 76 Fed. Reg. 41,332, 41,333 (Jul. 13, 2011) (Notice of Final Action Regarding Retroactivity).

[18] *See generally* FSA.

[19] U.S.S.G. Amendments 706 (eff. Nov. 1, 2011), 710 (eff. Mar 3, 2008).

[20] *Supra* note 17 at 10.

retroactive application of the 2007 amendment. The Commission found that, five years after their early release, crack cocaine offenders who had been released early had the same recidivism rate as similarly situated crack cocaine offenders who had served their entire sentence.[21]

Almost 14,000 offenders petitioned for sentence reduction based on retroactive application of guideline amendment implementing the FSA, and courts granted relief in 7,748 of those cases.[22] The average sentence reduction in these cases has been 30 months, which corresponds to a 19.9 percent decrease from the original sentence.[23]

The same rationales that prompted the Commission to make the guideline changes implementing the FSA retroactive justify making the FSA statutory changes retroactive. Just as restoring fairness and reducing disparities are principles that govern our consideration of sentencing policy going forward, they should also govern our evaluation of sentencing decisions already made. The Commission has determined that 5,826 offenders currently in prison could receive an approximate 20 percent reduction in sentence, and we are pleased that Section 106 of S. 2123 would bring about this fundamentally fair result.

D. Recidivist Provision at 21 U.S.C. §§ 841 and 960 Are Applied Inconsistently

The Commission's research indicates that when mandatory minimum penalties are perceived as too severe, they tend to be applied inconsistently, leading to both demographic and geographic sentencing disparities. These differences were particularly acute with respect to prosecutorial practices regarding the filing of notice under section 851 of title 21, United States Code, for the recidivist penalties at 21 U.S.C. §§ 841 and 960. These provisions generally double the applicable mandatory minimum sentence (from 5 to 10 years of imprisonment, and from 10 to 20 years) for drug offenders with a prior conviction for a "felony drug offense." These provisions also subject certain offenders with two or more drug felonies to mandatory life imprisonment.

Commission interviews with prosecutors and defense attorneys in thirteen districts across the country revealed that many viewed these recidivist provisions as disproportionate and excessively severe in individual cases. As a result, the Commission observed widely divergent practices with respect to the filing of these recidivism penalties. In some districts, the filing was routine. In others, it was filed more selectively, and in one district, it was almost never filed at all.[24] Commission data bore out these differences. For example, in six districts, more than 75 percent of eligible defendants received the increased mandatory minimum penalty for a prior

[21] U.S. Sentencing Comm'n, *Recidivism Among Offenders Receiving Retroactive Sentence Reductions: The 2007 Crack Cocaine Amendment* (May 2014).

[22] U.S. Sentencing Comm'n, *Final Crack Retroactivity Data Report Fair Sentencing Act*, Table 1 (December 2014), http://www.ussc.gov/Research_and_Statistics/Federal_Sentencing_Statistics/FSA_Amendment/2013-07_USSC_Prelim_Crack_Retro_Data_Report_FSA.pdf.

[23] *Id.* at Table 8.

[24] Mandatory Minimum Report, *supra* note 2, at 111-13.

conviction, while in eight other districts, none of the eligible drug offenders received the enhanced penalty.[25]

The Commission recommended that Congress mitigate these gross differences by limiting the scope and decreasing the severity of these recidivist provisions. Section 101 of S. 2123 would do just that. Section 101 reduces the 20-year mandatory minimum to 15 years, and reduces the life imprisonment mandatory minimum to 25 years. In addition, Section 101 narrows the type of prior drug offense that would trigger the recidivist mandatory minimum penalty to a "serious drug felony," which is defined to require more than a 12-month term of imprisonment for these recidivist provisions to apply. This added limitation better reflects the sentencing court's judgment concerning the seriousness of the prior offense. Section 101, however, also would expand the type of prior offenses that would trigger the recidivist mandatory minimum penalties to a new category of offenses, "serious violent offenses."

The Commission estimates that approximately 84 offenders each year would benefit from the lower mandatory minimum penalties in Section 101. Their average sentence would be reduced by 22.5 percent (54 months) from 240 months to 186 months. Furthermore, the provision is projected to save 331 prison beds within five years of enactment. Under the bill, the statutory modifications made by Section 101 would apply retroactively to offenders sentenced prior to its enactment. There are 2,265 offenders currently incarcerated who could receive a retroactive reduction, and their average sentence would be reduced by 21.7 percent (58 months) from 257 months to 201 months. The early release of these 2,265 offenders, if granted, would occur over several years. The Commission cannot estimate the impact of the expansion of the trigger mechanism to include prior "serious violent offenses."

E. Firearms and Armed Career Criminal Act Provisions Are Applied Inconsistently and Are Too Severe

Commission research also revealed vastly different policies in different districts in the charging of 18 U.S.C. § 924(c), for the use or possession of a firearm during a crime of violence or drug trafficking crime. Under section 924(c), different factors trigger successively larger mandatory minimum sentences ranging from 5 years to life, including successive 25-year sentences for second or subsequent convictions. Significantly, section 924(c) mandates that the penalty imposed for violation of that statute must be served consecutively to any other sentences imposed on the offender, including sentences for other violations of section 924(c).

The Commission found that districts had different policies as to whether and when they would bring section 924(c) charges, and whether and when they would bring multiple section 924(c), which trigger far steeper mandatory minimum penalties.[26] Commission data bears out these geographic variations. In fiscal year 2012, just 13 districts accounted for 45.8 percent of all cases involving a conviction under section 924(c), even though those districts reported only 27.5 percent of all federal criminal cases that year. In contrast, 35 districts reported 10 or fewer cases with a conviction under section 924(c).

[25] *Id.* at 255.

[26] *Id.* at 113-14.

As a result of its findings, the Commission set forth two recommendations regarding section 924(c). First, Congress should consider amending 18 U.S.C. § 924(c) so that the enhanced mandatory minimum penalties for a "second or subsequent" offense apply only to prior convictions, thereby making it a true recidivist provision, and should consider amending the penalties for such offenses to lesser terms. Second, Congress should eliminate the mandatory "stacking" requirement and amend 18 U.S.C. § 924(c) to give the sentencing court discretion to impose sentences for multiple violations of section 924(c) concurrently with each other.[27]

Section 104 incorporates these recommendations, in part, by making section 924(c)(1)(C) a true recidivist provision by requiring an intervening conviction and by reducing the mandatory minimum for this particular provision from 25 to 15 years of imprisonment. The Commission estimates that approximately 62 offenders each year would benefit from these statutory changes, and their average sentence would be reduced by 30.4 percent (229 months) from 753 months to 524 months. Under the bill, the statutory modifications made by Section 104 would apply retroactively to offenders sentenced prior to its enactment. There are roughly 2,500 currently incarcerated offenders who could receive a retroactive reduction in sentence, but their early releases, if granted, would occur over several years.

The Commission made similar observations about the ACCA, which is codified at 18 U.S.C. § 924(e). That provision provides a 15-year mandatory minimum penalty for an offender who is convicted under 18 U.S.C. § 922(g) (felon in possession of a firearm) and who also "has three previous convictions by any court . . . for a violent felony or a serious drug offense, or both." The Commission observed that the ACCA's mandatory minimum penalty can apply to offenders who served no or minimal terms of imprisonment for their predicate offenses, which increased the potential for inconsistent application insofar as the 15-year penalty may be viewed as excessively severe in those case.[28] To mitigate both the over-severity and disparate application of the ACCA, the Commission recommended that Congress consider clarifying the statutory definitions in the ACCA and reduce its severity.

The Commission is pleased that Section 105 of S. 2123 would reduce the mandatory minimum penalty under ACCA from 15- to 10- years of imprisonment. The Commission estimates that approximately 277 offenders would benefit each year from the reduction in the ACCA mandatory minimum, with their average sentence reduced by 21.6 percent (40 months) from 185 months to 145 months. Under the bill, the statutory modifications made by Section 105 would apply retroactively to offenders sentenced prior to its enactment. There are 2,317 offenders currently incarcerated who could receive a retroactive reduction in sentence, and their average sentence would be reduce by 19.0 percent (35 months) from 183 months to 148 months. The early release of these 2,317 offenders, if granted, would occur over several years.

[27] *Id* at xxxi.

[28] Mandatory Minimum Report, *supra* note 2, at 363.

F. Corrections Reform

Although my statement is concentrated on the "front end" reforms contained in Title I of S. 2123, the bill contains equally significant provisions in Title II, the "CORRECTIONS Act." This latter half of the bill sets forth a vision for corrections reform aimed at encouraging the BOP to provide, and inmates to complete successfully, programs designed to reduce their risk of recidivism. The underlying goal of the legislation – preparing inmates for a successful reentry into society – is one we all support, not just because rehabilitation is a primary purpose of sentencing, but also because it reduces recidivism and future incarceration costs.

A fundamental tenet of the Sentencing Reform Act, which created the Commission in 1984, is that the determination – either at the front end or at the back end – of how long an offender spends in prison must be neutral with regard to race, gender, and socioeconomic status. The Commission cautions that exclusionary criteria and the use of risk assessment tools in this endeavor potentially can exacerbate unwarranted sentencing disparities based on factors prohibited by Congress in the Sentencing Reform Act. The Commission looks forward to working constructively with the Committee on any back end reform proposals.

G. Conclusion

The Commission is pleased to see the Senate Judiciary Committee undertaking a serious examination of current mandatory minimum penalties and considering options to make the federal criminal justice system fairer, more effective, and less costly. S. 2123 in many respects is consistent with longstanding recommendations of the Commission, and we are gratified to see they are under serious consideration. The Commission thanks you for holding this very important hearing and looks forward to working with you in the weeks ahead.