

FAMMMGram

Working for fair and proportionate sentencing laws

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AFTER MORE THAN a dozen years of study, discussion and debate, the U.S. Sentencing Commission successfully enacted an historic sentencing guideline reform that makes federal crack cocaine penalties more equitable. The reform shortens sentences by an average of 15 months for nearly 70 percent of federal crack cocaine defendants sentenced after November 1, 2007.

On December 11, the Commission went the extra mile and made the reform “retroactive.” This means the lower sentences can apply to people already serving federal sentences for crack cocaine offenses. Nearly 19,500 people in prison are now eligible for sentence reductions of between one and four years. The effective date of retroactivity is March 3, 2008, giving

the courts and probation officers time to prepare and process cases. Although the

Nearly 19,500 people in prison are now eligible for sentence reductions of between one and four years.

reductions are not automatic and judges may refuse to grant them to individuals they believe could pose a public safety risk, the reform brings the light at the end of the tunnel much closer for thousands of individuals serving decades behind bars. The Commission estimates that 2,520 people could be eligible for early release the first year. (See questions and answers on retroactivity, page 4.)

These exciting reforms are a victory for FAMMM, which has been leading efforts for fair and proportionate sentencing since 1991.

Esther Allen (l) and Karen Garrison (r) applaud the Commission's decision on retroactivity.

NEVER IN MY 16 years of writing to you in the President's Message have I done so with a lighter and more hope-filled heart. Sentencing policy is ending the year with a bang! In the past 36 hours the U.S. Supreme Court sent a powerful message to Congress and the country that sentences must be no greater than necessary to do justice. And, the U.S. Sentencing Commission made clear that crack cocaine sentences violate that mandate with its decision to make crack cocaine guideline changes retroactive, allowing nearly 20,000 people in federal prison to petition for reductions in their sentences. These decisions will touch and change thousands of lives for the better.

While this explosion of sentencing sanity might seem as if it happened overnight, it was the culmination of years of work. I know this because FAMM has been there every step of the way. Since the early 90s, we have testified at every Sentencing Commission hearing on crack cocaine, insuring that the voices of the prisoners and their families are heard. FAMM members' cases helped build the record of injustice that the Commission cited in its decision to change crack cocaine penalties. At the Supreme Court we have submitted or supported amicus briefs in every critical sentencing case since 1994.



Julie Stewart

FAMM's work, and that of a dedicated circle of individuals and organizations committed to criminal justice, has led these reforms. This is an example of Democracy at its best, when the peoples' voices are heard – and it feels great!

I'm tempted to sit back and savor our victories for a while but its back to work. I'm nagged by a feeling that although we won a battle, we have not won the war. I imagine it like being "in the hole" in prison for years and suddenly being released back into the general prison population. While it's certainly better than the "hole," you're still in prison. In this case, we're still imprisoned by the mandatory minimum sentences that Congress controls. Until we win the repeal – or serious reform – of statutory mandatory minimum sentences, we have not succeeded in our mission to insure that sentencing laws are fair and proportionate.

That's why we need to keep fighting, and why the burst of rationality in sentencing policy during the past 36 hours is so important. It helps us make the case in Congress that mandatory minimum sentences must be reformed too, so that the last rope that binds judicial hands is loosed and judges, not Congress, can once again be judges.

So, rejoice in our victories this year and rest up. Next year, our battle moves to Capitol Hill in full force and we need you in fighting condition. You'll be in good hands. FAMM has a remarkable staff, which deserves credit for every positive development on the sentencing front. It is an honor to work with these bright, driven, effective individuals who, thanks to your support, we can compensate for their commitment to justice.

Wishing all of us a productive and successful 2008!

Staff changes

Laura Sager (below), a tireless leader for sentencing justice and coordinator of FAMM's state sentencing



campaigns since 1997, is dedicating herself to a new cause. As director of the Michigan

Campaign for Justice, Laura will be working to obtain much-needed funding and support for indigent defense. However, Laura will continue to work as a consultant to FAMM and lead our efforts in Michigan. FAMM's members and staff are grateful for her contributions to sentencing justice, which include spearheading the historic reform of Michigan's mandatory drug sentences in 1998 and 2003.



Since 1991

Mission: FAMM is the national voice for fair and proportionate sentencing laws. We shine a light on the human face of sentencing, advocate for state and federal sentencing reform, and mobilize thousands of individuals and families whose lives are adversely affected by unjust sentences.

Julie Stewart
President

Mary Price
Vice president and general counsel

Laura Sager
FAMM consultant

Monica Pratt Raffanel
Production director

Angelyn Frazer
Deputy director of state legislative affairs

Andrea Strong
Director of member services

Joseph J. Greer
N.J. project director

Roxana Rincones
Finance and administration director

Molly Gill*
Staff attorney

Christie Wrightson
Development director

Jennifer Seltzer Stitt
Federal legislative director

Tom Burkert
Administrator

Karen Garrison
D.C. office assistant

Peter Ninemire
Organizer

FAMM National Office
1612 K Street, NW, Suite 700
Washington, DC 20006
phone (202) 822-6700
fax (202) 822-6704
www.famm.org

See state sections for contact information on FAMM's state projects in Michigan and New Jersey.

*Admitted to practice law only in Minnesota; supervised by Mary Price, a member of the D.C. Bar

Washington Post profiles Julie Stewart



Lois Raimondo, The Washington Post

JULIE STEWART'S FIGHT to reform mandatory sentencing laws was profiled on November 20, in a front page story in the Washington Post Metro section titled, "Brother's drug sentence ignited woman's crusade; D.C. group helps win relaxed penalties."

It details how Stewart started FAMM in 1991 after her brother Jeff was convicted for growing marijuana and sentenced to a five-year mandatory minimum sentence in federal prison. "I was astounded," said Stewart. "We are putting people in prison with sentence lengths that used to be reserved for the most violent offenders."

The article credits FAMM as being one of the groups responsible for persuading the U.S. Sentencing Com-

mission to change penalties for some federal crack cocaine offenses. "Julie is a

very effective advocate, and she has a high degree of credibility," Judge William W. Wilkins of the U.S. Court of Appeals for the 4th Circuit, the first chairman of the U.S. Sentencing Commission, told the Post. "She always has her facts down, and she firmly believes in what she is doing."

To read the Washington Post profile on Julie, visit www.famm.org and click "press room," then "FAMM in the news."

FAMM in the news

The Washington Post

Nov. 13, 2007

Panel may cut sentences for crack

"They've been gone for almost 10 years, and the crack in the door with this little change is good. As far as the retroactivity, part of it is not to think nothing until I see it. They still have to go back to court. It's not as easy as it seems if it does become retroactive. You just have to do the right thing and hope you get something back."

– Karen Garrison, office assistant
[referring to possible sentence reductions her twin sons could receive under the retroactive crack guideline]

MOBILE REGISTER

Nov. 17, 2007

Crack inmates could be released early

"There's a total equity issue here and a moral imperative for the commission to act retroactively."

– Julie Stewart, president



Nov. 2, 2007

More equity in cocaine sentencing

"We believe it would be cruelly ironic to recognize and correct the injustice of the guideline that has lengthened thousands of sentences, and then deny the benefit to the very prisoners whose unjust sentences they identified and relied on for evidence of its flawed operation and injustice."

– Mary Price, vice president and general counsel

Austin American-Statesman

Nov. 3, 2007

Shortcoming seen in new drug sentencing guidelines

"Hundreds of our members have written letters to Congress telling them why this amendment should be made retroactive.... There is a huge racial disparity in sentencing for crack cocaine in our legal system and it needs to be corrected."

– Julie Stewart, president

Detroit Free Press

Nov. 19, 2007

Editorial: End cocaine disparities

In fairness to offenders already sentenced, the Sentencing Commission and Congress should make those changes retroactive, "which could affect the sentences of nearly 20,000 federal inmates."

– Monica Pratt Raffanel, production director

Los Angeles Times

Nov. 30, 2007

Clemency bids backing up for Bush

"Instead of just pardoning a turkey, we would like the president to also commute [the sentences of] some human beings."

– Molly Gill, staff attorney
[referring to the traditional ceremonial pardoning of Thanksgiving turkeys at the White House.]



(Top) Sentencing Commissioners prepare to vote on retroactivity.

(L to r): Julie Stewart and DeAnn Coffman, who testified on behalf of women prisoners, with Sentencing Commissioners

“At its core, this question is one of fairness. This is an historic day. This system of justice is, and must always be, colorblind.”

JUDGE WILLIAM K. SESSIONS III OF THE UNITED STATES DISTRICT COURT IN VERMONT AND SENTENCING COMMISSIONER

CONTINUED FROM PAGE 1

“We’re thrilled that the Sentencing Commission took the initiative to propose crack sentencing reforms and then make them retroactive. Somebody needed to break the logjam on crack penalties and the Commission did it,” said Julie Stewart, president of Families Against Mandatory Minimums (FAMM). “While the new

crack cocaine guideline doesn’t completely solve the problem of excessive crack cocaine penalties, it moves us closer to that goal. Now it is time for Congress to finish the job.”

Unfortunately, the crack guideline change will not reduce mandatory minimum sentences for crack co-

caine. Only Congress can fix that problem by passing a bill to reform the Anti-Drug Abuse Act of 1986, which created mandatory minimum sentences for all drug offenses. In a climate of fear and without scientific evidence to justify the harsh penalties, crack cocaine offenders were singled out for particularly harsh punishment – just five grams of crack cocaine triggers mandatory prison sentence of five years. The impact of that policy has fallen disproportionately on blacks, incarcerating them for decades for relatively small quantities of the drug.

But the Sentencing Commission’s recent actions on crack cocaine have created momentum in Congress to adjust the mandatory minimum sentences for crack. There are now five bills pending in the U.S. Senate and House of Representatives that address crack sentencing and there are discussions underway about possible broader sentencing reforms for all drug sentences.

Frequently asked questions about crack amendment retroactivity

Q: What is the crack amendment?

A: On May 1, 2007, the U.S. Sentencing Commission proposed an amendment to the U.S. Sentencing Guidelines to reduce the sentencing ranges for crack cocaine offenses by two levels. The amendment went into effect on November 1, 2007, and will affect 70 percent of crack cocaine cases sentenced in federal courts, reducing sentences by an average of 15 months.

Q: What does “retroactivity” mean?

A: Amendments to the Sentencing Guidelines that reduce sentences apply only to those sentenced after the date the amendment goes into effect. When the Commission makes an amendment “retroactive,” it permits people sentenced before the amendment date to ask the court to recalculate their sentence using the new, lower sentence range. To make the amendment apply to people sentenced *before* November 1, 2007, the Commission must vote to make the amendment “retroactive” and add it to the

list of amendments found in § 1B1.10(c) of the guidelines.

Q: Has the Commission made the amendment retroactive?

A: Yes. On December 11, the Commission publicly voted *unanimously* to make the crack amendment apply to prisoners sentenced before November 1, 2007 for crack cocaine offenses. The effective date of retroactivity is March 3, 2008, giving the courts and probation officers time to prepare to process cases.

Q: What is the impact on sentences now that the crack amendment is retroactive?

A: Sentences could be reduced by *an average of 27 months* for approximately 19,500 federal prisoners sentenced before November 1, 2007. Individual sentence reductions however will vary a great deal and can be shorter or longer than 27 months, depending on the original crack cocaine sentence and how much the court decides to reduce any given prisoner’s sentence. Over 1,500 of those prisoners could be eligible for immediate release from prison if they are given the full benefit of the crack amendment.

Q: Why did the Commission make the crack amendment retroactive?

A: The Commission has long stated that the current crack guidelines overstate the serious-

ness of crack offenses, are too broad, apply mostly to low-level offenders, and disproportionately affect blacks. The Commission said these concerns were “so urgent and compelling” that reform was necessary. Those concerns are equally valid for people currently in prison and for those not yet in prison. Applying the crack amendment to those sentenced before November 1, 2007, was the right thing to do and will increase respect for the guidelines and fairness in the system.

Q: Will the crack amendment automatically apply to all crack offenders sentenced before November 1, 2007?

A: No. Only the sentencing court can decide whether the amendment applies to the prisoner and whether the prisoner gets a sentence reduction. To obtain a sentence reduction, the prisoner must make a motion under 18 U.S.C. § 3582(c)(2) to the court that sentenced him/her. This motion can be formal (i.e., a motion with legal arguments in its support) or informal (i.e., a letter to the court asking for a reduction), *but cannot be brought until after the effective date of the retroactive amendment, March 3, 2008.*

IMPORTANT NOTE: There is *no guarantee* that any given prisoner will receive a sentence reduction even if they are eligible for

Members make the difference

MANY FAMM members, including twins Lamont and Lawrence Garrison, could benefit from the retroactive changes. Arrested just months after graduating from Howard University, Lamont received 19 years and Lawrence received 15 years in prison, for conspiring to distribute crack and powder cocaine. With retroactivity, the brothers would see their sentences lowered by roughly four and three years, respectively. Karen Garrison, mother of the twins and FAMM's office assistant, helped put a "human face" on the need for retroactivity by giving interviews about the guideline changes to many national news outlets during FAMM's campaign, including CNN, The Washington Post, CBS News, The Christian Science Monitor, The Los Angeles Times, and others.

FAMM members and supporters helped generate a record 33,000 letters to the U.S. Sentencing Commission urging them to make the change retroactive. More than 30 FAMM members attended the Commission's

public hearing on retroactivity November 13.

At the hearing, FAMM president Julie Stewart voiced their concerns to the commissioners and asked the FAMM members to stand and be recognized by the commissioners. Silently mothers, fathers, brothers, sisters and children who traveled from as far as Florida rose to their feet holding pictures of their loved ones in prison.

"I am deeply grateful for the outstanding efforts of our FAMM members," said Stewart. "Their attendance at the hearing and many letters showed the commissioners there is a high level of public support for making the new crack guideline retroactive. It helped the Commission reach the tipping point we needed to obtain retroactivity for deserving FAMM members." **FG**



Karen Garrison (center) with CNN's crew and correspondent, Alina Cho.

one. Whether to reduce a crack sentence is entirely up to the court that sentenced the individual.

Q: Does the crack amendment change the mandatory minimum sentences for crack crimes?

A: No. The mandatory minimum sentence for a crime involving at least five grams of crack will remain five years. The mandatory minimum sentence for a crime involving at least 10 grams of crack will remain 10 years. Only Congress can change these mandatory minimums.

Q: Who will not get the benefit of the retroactive crack amendment?

A: Those sentenced under the career offender guideline, § 4B1.1, or the armed career offender guideline, § 4B1.4, and those serving only the five-year or 10-year mandatory minimum (i.e., they did not benefit from the safety valve or a downward departure for substantial assistance) cannot benefit from the amendment. Also, those with base offense levels of less than 12 or greater than 43 and those whose offense involved more than 4.5 kilograms of crack cocaine will not be able to receive a sentence reduction.

Q: How can prisoners get help?

A: To find out whether a prisoner's case fits the criteria and get assistance with a sentence

reduction motion, the prisoner should contact the trial or appellate attorney who represented the prisoner. If the attorney is not able to help, the prisoner should call or write the Federal Public Defender's office in the district in which the prisoner was convicted and explain that the prisoner is unrepresented and wishes to seek a sentence reduction motion. We cannot guarantee that the Federal Defender in any given district will be able to assist, but all the offices are aware that the guideline was made retroactive, and many are prepared to help. You can find the Federal Public Defender by going to www.fd.org/pdf_lib/defenderdir.pdf. If the Federal Public Defender cannot help, the prisoner should write to the court that sentenced the prisoner to ask that an attorney be appointed to help request a sentence reduction. You can locate courts by going to this link: www.uscourts.gov/courtlinks/.

Q: Can someone at FAMM calculate what my (or my loved one's) new sentence will be if the court agrees to reduce the sentence??

A: No. We do not know all the details of each prisoner's case or all the factors used to calculate a sentence and we do not know what the judge will decide to do.

Q: Does the crack amendment do anything to reduce sentences for meth offenders?

A: No, unless the crime involved meth *and* crack, and the sentence was calculated for meth *and* crack.

Q: Will FAMM keep us informed?

A: Yes. Keep checking on FAMM's website (www.famm.org) for full updates on how the amendment is being applied retroactively.

Q: Is the criminal history category amendment retroactive?

A: No. The Commission did not vote to make it retroactive.

Q: How can I or my loved ones thank the Commission for making the amendment retroactive?

A: Write a thank-you letter addressed to Chairman Ricardo Hinojosa
U.S. Sentencing Commission
One Columbus Circle, NE
Suite 2-500, South Lobby
Washington, DC 20002-8002

Begin your letter "Dear Chairman Hinojosa and Commissioners" and write it in your own words.

Volunteering on the inside and out

By Andrea Strong

AS F^AM^M'S MEMBER services director, I am often the first person people talk to or email when they contact F^AM^M. My brother originally received a life sentence for marijuana, so I can relate to the stories and emotions they share.

It is bewildering when a loved one goes to prison and even worse when you personally know the injustices and inflexibility of mandatory sentences. I try to listen carefully and direct people to resources that can better help them understand their situation.



Andrea Strong (center) and volunteers at an Indianapolis tax day event

One question that often comes up when talking to family members and incarcerated people is, “How do I volunteer for F^AM^M?” There are several things I always suggest when asked:

Become a F^AM^M supporter, if you are not already. F^AM^M is a small but mighty nonprofit organization, whose work has resulted in fairer sentences for tens of

thousands of current and formerly incarcerated people. We depend on your support to keep our work moving forward. When you contribute to F^AM^M, you are making a commitment to sentencing justice by investing in F^AM^M's federal and state sentencing reform campaigns, litigation project and public education work. To keep you informed of our efforts and successes, we will send you the *F^AM^MGram*, our quarterly newsletter that is filled with sentencing news. And if you provide an email address, we will also send you online action alerts and F^AM^M's monthly eGram.

Encourage your family and friends to join. So many people I speak to feel as if they can't tell anyone about their loved ones' incarceration. It can even be hard for family members to talk about it. By encouraging your family and friends to join F^AM^M, they will have a source of accurate information on sentencing reform to discuss with you and projects to participate in.

Participate in F^AM^M volunteer projects. F^AM^M urges members to take part in the political process that ultimately has the power to change sentencing policies. For example, in June 2007, F^AM^M

launched a letter writing campaign to convince the U.S. Sentencing Commission to make the new crack cocaine sentencing guideline retroactive. Through emails, postcards and the *F^AM^MGram*, we called on our members to write the Commission – and you did not disappoint. F^AM^M members on the inside and outside helped generate 33,000 letters to the Commission supporting retroactivity. F^AM^M members also attended the Commission's public hearing on retroactivity in Washington, D.C., on November 13. Our message was heard! An activity you can start planning now to participate in is F^AM^M's 2008 Tax Day project, where volunteers distribute information on the cost of mandatory sentencing laws at post offices and other public places on April 15. Contact me for information on how to participate.

Communicate with your lawmakers. Learning how to communicate with your federal and state representatives and senators is one of the best ways you can help F^AM^M reform mandatory sentencing laws. Congress and state legislatures are responsible for creating mandatory sentencing laws, and have the power to change them. Purchase a Congressional Directory from F^AM^M for \$10 to look up your lawmakers, or use the “take action” center at www.famm.org. You can also request F^AM^M's Citizen Action Kit by contacting me.

Submit a case summary form – and tell other prisoners about it. F^AM^M works to put a human face on mandatory sentencing laws by profiling the cases of people serving them. Prisoners fill out these forms (see page 17) with the basic facts of their case and send them to F^AM^M, along with a brief personal account of their case. We use case profiles in our work with legislators, in public presentations, and in public education materials, including F^AM^M brochures, pamphlets, posters and other informational materials. F^AM^M cannot guarantee media coverage and does not provide legal representation.

Contact me. For more information on helping F^AM^M from the inside and out, please contact me. Working together, we can change mandatory sentencing laws.

Andrea Strong
F^AM^M Member Services Director
6018 Ethan Drive
Burlington, KY 41005
Tel: (859) 586-6863
famm@famm.org

Piecing together the commutation puzzle

COMMUTATIONS OF prison sentences are extraordinary and rarely granted. President Bush has given only five commutations. President Clinton approved 61 commutations. Most state governors do not grant commutations frequently.

But occasionally, commutations do happen. FAMM's work continues to focus on reforming unjust sentencing laws through the legislative process. Due to FAMM's limited resources, we do not provide legal representation for prisoners filing commutation petitions. However, we do seek to educate people about how the commutations process works. Below are some commonly asked questions about commutations.

What is a commutation?

A commutation occurs when the president or a state governor reduces the length of a prison sentence, either to time already served or to a specific number of years (e.g., a life sentence reduced to 25 years). A president commutes federal sentences; governors commute state sentences. Commutations are not court proceedings.

How do I apply for a commutation if I am a federal prisoner?

If you were convicted in federal court, fill out the proper application form and send it to the Office of the Pardon Attorney in Washington, DC. Before you write and submit your application, you should read all of the following documents:

- "Information and Instructions on Commutations and Remissions": these are instructions for filling out the application form
- Sections 1.2110 to 1.2113 of the *United States Attorney's Manual*, "Standards for Consideration of Clemency Petitions": this describes what the Office of the Pardon Attorney does, how United States Attorneys are involved, and the general factors that are considered when an application is reviewed
- Sections 1.1 to 1.11 of Title 28 of the Code of Federal Regulations: these rules describe how the application process works, from start to finish.

You can find these documents and application forms at www.usdoj.gov/pardon. You can also request them

from your case manager, or by writing or calling the Office of the Pardon Attorney at:

Office of the Pardon Attorney
1425 New York Avenue, N.W., Suite 11000
Washington, DC 20530
(202) 616-6070

How do I apply for a commutation if I am a state prisoner?

You must file for a commutation through the state in which you were convicted. (The president cannot grant state commutations.) Thus, if you were convicted in state court, do not send an application to the president or the pardon attorney. Ask your case manager or warden for information about how to apply for a commutation in your state, or write to your governor or your state's parole board and ask for information and an application form.

Do I need a lawyer to file a commutation application?

Not necessarily. At the federal level, no lawyer is required. At the state level, you also may not need a lawyer. Usually, you can fill out the application form yourself and ask friends and family members to help you raise support for your case.

How long does the application process take?

In most cases, it takes between two to five years before a person is told whether he has been granted or denied a commutation. In some states, it may take less time. Because commutations are so rare, if you apply, prepare yourself and your supporters for the possibility that you will not receive a commutation. **FG**

Attention federal and state prisoners—tell us if you are seeking a commutation

Over 60 FAMM members have responded to the federal commutations survey published in our Fall 2007 *FAMMGram*. Now, we are adding state prisoners to our survey. Please take a few minutes and write to us, answering the following questions:

- Are you currently in state or federal prison?
If you are in a state prison, which state? (Name of state)
- Have you written and filed a commutation petition? (yes or no)
If yes, please answer all of the following questions:
 - When did you file your petition? (date)
 - Has your request for commutation been denied yet? (yes or no)
If yes, when did you find out? (date)

If you have filed a petition and it has not been denied yet, please send us a copy of your commutation petition.

Send all responses to Molly Gill at 1612 K St. NW, Suite 700, Washington, DC 20006.

If you have already responded to our survey, please do not send us your information again. Participating in this survey does not mean that FAMM can help you with your case or provide you with legal representation.

Second Chance Act passes the House, not law yet

THE HOUSE OF Representatives passed **H.R. 1593**, the Second Chance Act of 2007, on November 14, 2007 by a vote of 347 to 62. Introduced by Rep. Chris Cannon (R-Utah) and Rep. Danny Davis (D-Ill.), the bill received broad bipartisan support. The Second Chance Act is designed to reduce the causes of recidivism. It



would provide states, local government and nonprofit prisoner reentry organizations \$324 million over two years to help ex-offenders obtain job training, education, literacy training,

substance abuse treatment, counseling, housing and mentoring services.

The bill differs from previous versions of the Second Chance Act. For example, it authorizes only an extremely limited pilot program for early release of eligible elderly prisoners over the age of 65. FAMM hopes to see the program restarted in a future version of the Second Chance Act.

Before becoming law, the bill must pass through the Senate and be signed by the President. Although there is some concern that disagreement between the Senate and House will slow progress on the bill, FAMM is hopeful that an improved Second Chance Act will pass during the 110th Congress.

Gang bill passes the Senate, stalls in the House

ON SEPTEMBER 22, the Senate unanimously approved S. 456, the Gang Abatement and Prevention Act of 2007, a sweeping bill that authorizes \$1 billion in funding for gang prevention, intervention and suppression programs and creates tough new federal penalties to deter and punish members of illegal street gangs.

Introduced by Sen. Dianne Feinstein (D-Calif.), S. 456 does not include any mandatory minimums, but FAMM is concerned by the excessive reliance on federal prosecution and incarceration of youth.

The bill must pass the House and be signed by the President before becoming law.

Senate hearing explores economic cost of prisons

THE SENATE JOINT Economic Committee explored the cost of prisons and their effects on society at an October hearing, “Mass Incarceration in the United States: At What Cost?” Sen. Jim Webb (D-Va.) chaired the hearing, which was well attended by committee members including Sen. Sam Brownback (R-Kans.), Sen. Robert Casey (D-Pa.), Rep. Phil English (R-Pa.), Rep. Maurice Hinchey (D-N.Y.) and Rep. Carolyn Maloney (D-N.Y.). Rep. Robert “Bobby” Scott (D-Va.), who is not a member of the committee but is

a leader on sentencing reform issues, also attended.

In his opening statement, Webb pledged to work “on a solution that is both responsive to our needs for law and order, and fairer to those ensnared by this system.” The committee heard from experts who discussed the reasons behind the growth in the prison population; the correlation between incarceration rates and crime; the economic costs of maintaining the prison system; the labor market and social costs of mass incarceration; and policy solutions that will reduce prison growth rates while maintaining public safety.



The sentencing commission hears from FAMM

On November 13, the U.S. Sentencing Commission held a day-long hearing in Washington, D.C. to consider whether to make the crack guideline change retroactive.

The Commission heard from a federal judge, public defenders, the American Bar Association, and advocacy groups like FAMM, the NAACP, Prison Fellowship Ministries, and the Sentencing Project in favor of retroactivity. The Department of Justice, the National District Attorneys Association and the Fraternal Order of Police testified against it.

"There is no legitimate argument against making the crack guideline change retroactive – in fact, there is a moral imperative to do so," Julie Stewart, president and founder of FAMM, told

the Commission. "Clearly, justice should not turn on the date an individual is sentenced."

Those speaking against making the amendment retroactive stressed concerns about safety and cost. "My concern is about the impact on communities," said Gretchen Shappert, U.S. Attorney for the Western District of North Carolina, who represented the U.S. Department of Justice. "It will be swift, it will be sudden, and, in my opinion, it will be irreversible."

Shappert's comments elicited a rebuke from the Commission. "I have been quite troubled by the [Justice] department's letter ... It gives the impression that 20,000 crack offenders are going to be put out on the streets in one fell swoop, and I think you would agree that that is a totally wrong impression to give," said Beryl Howell, a commissioner.

U.S. District Judge Reggie Walton, speaking on behalf of the Judicial Conference of the United



FAMM's Molly Gill, Jennifer Seltzer Stitt, Karen Garrison and Christie Wrightson labeling postcards for the hearing

States, the judiciary's policy-making body, argued, "While there is a concern about public safety, the bottom line need to address a fundamental unfairness outweighs that concern."

Others responded directly to concerns over administrative expenses associated with applying the amendment, arguing that costs would be less than long-term savings resulting from reduced incarceration rates.

A full transcript of the hearing is available on the U.S. Sentencing Commission's website: www.ussc.gov.

Crack cocaine legislation awaits action

GROWING LEGISLATIVE ATTENTION – and increased interest resulting from the U.S. Sentencing Commission's new crack guideline amendment – could lead to action on crack cocaine sentencing on Capitol Hill. This year, members of the U.S. Senate have introduced three bills and a member of the U.S. House introduced a bill that support the reduction of sentencing for crack cocaine. Although the Senate hearing mentioned in the Fall 2007 *FAMM Gram* was postponed, increased scrutiny of this issue may lead to hearings early next year. FAMM will report on any hearings on our website, www.famm.org.

Here are summaries and updates of the three bills before Congress that FAMM actively supports.

S. 1711, the Drug Sentencing Reform and Cocaine Kingpin Trafficking Act of 2007

Sponsored by Sen. Joseph R. Biden, Jr. (D-Del.), S. 1711 would eliminate sentencing differences between crack and powder cocaine in favor of a single mandatory minimum at the current powder cocaine levels. The bill would also eliminate the five-year mandatory minimum for simple possession of crack cocaine and authorize funding for drug treatment and enforcement. The bill increases punishment for kingpins and directs the U.S. Sentencing Commission to review

the sentencing guidelines and, if appropriate, amend them to account for culpability and role in the offense. The bill has three cosponsors.

S. 1685, the Fairness in Drug Sentencing Act of 2007

Introduced by Sen. Orrin Hatch (R-Utah), S. 1685 would reduce the difference between crack and powder sentencing by increasing the amount of crack cocaine needed to trigger the five-year mandatory minimum sentences from five to 25 grams and the 10-year mandatory minimum from 50 to 250 grams. It would also eliminate the five-year mandatory minimum for simple possession. The bill also directs the Sentencing Commission to review the sentencing guidelines and amend them if appropriate to account for specified aggravating and mitigating characteristics. The bill has three cosponsors.

H.R. 460, the Crack Cocaine Equitable Sentencing Act of 2007

Introduced by Rep. Charles Rangel (D-N.Y.), H.R. 460 would also equalize the crack and powder penalties at the powder level. The bill has 19 cosponsors and has been referred to the House Judiciary Committee's crime subcommittee. **FG**

Supreme Court affirms discretion in crack and other guideline cases

ON DECEMBER 10, the U.S. Supreme Court issued two important sentencing decisions in *Kimbrough v. United States* and *Gall v. United States*. (See *FAMM-Gram*, Fall 2007, p. 17.)

In a 7-2 ruling in *Kimbrough*, the United States Supreme Court decided that judges may consider the unfairness of the 100-to-1 ratio between crack cocaine and powder cocaine sentences and may impose a sentence below the crack guideline in cases where the guideline sentence is too severe. In *Gall*, the Court, voting 7-2, decided that judges can impose sentences that are shorter than the applicable guideline range and need not justify them with “extraordinary circumstances.” Those sentences must be reviewed by appellate courts using a deferential abuse of discretion standard. The ruling is not retroactive, but could apply in cases currently on appeal.



FAMM’s general counsel, Mary Price, says, “The *Kimbrough* decision is a tremendous victory for all who

believe that the crack and powder cocaine disparity is unjust. The *Gall* decision meanwhile breathes new life into an old mandate: that judges must impose punishment that is sufficient but not greater than necessary to do justice. Together, these decisions protect a judge’s power to look at an individual offender and give a sentence that fits the crime.”

The courts have been struggling with how to determine a reasonable sentence since the Supreme Court’s 2005 decision, *Booker v. United States*, made the guidelines unconstitutional to the extent they required a judge to increase a sentence based on facts that were not charged or proven to a jury beyond a reasonable doubt.

To fix this problem, the Court made the guidelines “advisory” and said that future guideline sentences would be reviewed for “reasonableness.” Earlier this year, the Court ruled in *United States v. Rita* that a sentence that was within the guideline range could be presumed reasonable and would withstand appellate review.

In *Gall*, the Court held that a sentence shorter than the guidelines range does not need to be justified by “extraordinary circumstances.” Instead, when an appellate court reviews a sentence, regardless of whether the sentence is inside or outside of the guidelines, the sentence must be reviewed using the “abuse of discretion” standard. This standard means the appellate court has to give great deference to the trial court’s sentencing decision. Under this new standard, the appellate court has to consider whether the trial court correctly calculated the guideline range. Then, the appellate court has to consider whether the sentence actually imposed was reasonable. Under *Rita*, sentences within the guidelines range are considered presumptively reasonable. If the sentence is outside the guidelines, it is not presumptively unreasonable. Rather, the appellate court “must give due deference to the district court’s decisions that the § 3553(a) factors, on a whole, justify the extent of the variance. The fact that the appellate court might reasonably have concluded that a different sentence was appropriate is insufficient to justify” reversing the trial court.

The issue in *Kimbrough* was whether judges could take into account the Sentencing Commission’s criticism of the 100:1 powder/crack cocaine sentencing ratio and use that criticism to justify reducing a sentence for a crack offense below the applicable guideline sentence. In *Kimbrough*, the Supreme Court held that judges must consider the guideline but can reduce a sentence below it if they find the guideline sentence is too harsh. The Court rejected the government’s argument that Congress, in establishing the crack sentencing structure in the mandatory minimum statute, meant it to be replicated and followed in the sentencing guidelines. Under advisory guidelines, judges have the discretion to follow their reasoned determination that the guideline crack cocaine sentence is unreasonable given the facts of a particular case.

Despite the decision in *Kimbrough*, judges still cannot reduce a crack cocaine sentence below the mandatory minimum sentence that is set by Congress in the statute. That is a job for Congress. **FG**

Read FAMM’s amicus brief and link to other briefs in the case in the “in the courts” section of www.famm.org. The brief can be found under “FAMM legal briefs.”

Sentencing reform gains momentum in Massachusetts

FAMM MEMBERS WERE out in force at the Massachusetts State House on November 13 for a Joint Committee on the Judiciary hearing on sentencing bills. Equipped with information packets and talking points, members fanned out to visit their state representatives and senators, where they told their lawmakers to support sentencing reform because mandatory minimums have failed the people of Massachusetts.

FAMM vice president, Mary Price, voiced their concerns in testimony before the committee, which was considering dozens of pieces of crime legislation. Price commended Massachusetts political leaders for pledging to review mandatory minimum sentences for drug crimes, including the harsh drug-free zone laws that extend 1000 feet in every direction from schools and other protected areas and blanket urban and poor neighborhoods.

After drawing attention to the FAMM members who were crowded into the hearing room, Price called on the Judiciary Committee chairs to support the reforms laid out in S. 884, a bill sponsored by Massachusetts Sen. Cynthia Creem (D-Newton). S. 884 would provide parole eligibility when prisoners serving mandatory minimum sentences have served two-thirds of the maximum sentence imposed.

FAMM was not alone in supporting S. 884. Advocating for it included David A. White, Massachusetts Bar Association president; Tony Doniger, Boston Bar Association president; Bill Leahy, chief counsel for the Committee on Public Counsel Services; and other prominent attorneys. Judge Robert A. Mulligan, chief justice for administration of the Massachusetts Trial Court and chair of the Massachusetts Sentencing Commission, was among the speakers in favor of eliminating mandatory minimums for drug offenses.

The Sentencing Commission has concluded, based on their research, that some mandatory drug sentences are very long in relation to sentences for other serious offenders, and all mandatory drug sentences disproportionately affect minorities (80 percent of



(Top): Mary Price (second from left) participates in the Massachusetts bar association panel. (Left, left to right): FAMM's Mary Price and Angelyn Frazer flank Roger Goodman, a Washington State representative and sentencing consultant

those convicted of mandatory drug crimes are minorities compared to 34 percent of those convicted of all other crimes).

In October, Price spoke at a symposium on sentencing reform sponsored by the Massachusetts Bar Association in Boston. She joined a distinguished panel that included the Sen. Robert Creedon (D-Brockton) and Rep. Eugene L. O'Flaherty (D-Chelsea), co-chairs of the Joint Committee on the Judiciary; Mary Elizabeth Heffernan, undersecretary of Criminal Justice; and William J. Leahy, chief counsel for the Committee for Public Counsel Services. Massachusetts political leaders, including Gov. Deval Patrick, House Speaker Sal DiMasi (D-Suffolk) and Senate President Therese Murray (D-Plymouth), have pledged to review mandatory minimum sentencing in the commonwealth. The Massachusetts Bar Association has made mandatory minimum sentencing reform a key priority.

FAMM's work in Massachusetts will focus on reforming mandatory minimums for drug offenses, including drug-free zone laws. To become involved with FAMM's work in Massachusetts, contact Angelyn Frazer, FAMM deputy director for state legislative affairs, at afrazier@famm.org.

Michigan

Michigan members continue push for sentencing justice

Nearly 70 Michigan FAMM members, including individuals paroled under earlier FAMM-led reforms, attended FAMM Day at the State Capitol November 27. Brenda Pearson, whose mandatory 50-200 year prison sentence was commuted by former Gov. John Engler, returned to Michigan from New York to lobby on behalf of those still in prison.

Laura Sager, FAMM consultant, gave a brief legislative update then outlined the status of negotiations on a package of bills that would provide earlier parole eligibility to hundreds of individuals sentenced under the pre-2003 mandatory



FAMM members packed the meeting room in Lansing



Brenda Pearson, Rep. Johnson and Angelita Able



Paroled from Michigan prisons, Angelita Able (center) and other former prisoners receive a standing ovation



Rep. Bettie Cook Scott

minimum drug sentences. The bills would also reform some remaining mandatory minimum drug laws.

Reps. Bert Johnson (D-Detroit) and Bettie Scott Cook (D-Detroit) greeted the assembled families and pledged their support for reforms. Johnson is one of the bill package lead sponsors, along with House Judiciary Chair Paul Condino (D-Southfield).

FAMM lobbyists Noah Smith, Jean Doss and Larry Julian provided training and guided members throughout the day. Former prisoners met with top legislative leaders, who were impressed by their presentations. Johnson introduced FAMM members assembled in the public gallery to his colleagues from the House floor.

At the end of the day, members were very encouraged by the warm reception from most legislators.

Thanks to all those who assisted in making the day a success, including our volunteers, FAMM administrator Tom Burkert, FAMM's team of consultants and the staff of Capitol Services. Michigan members will receive an update when the bill package

is introduced.



Sharpening lobbying skills during the training



Sheila Jackson listens to FAMM's legislative update



For more information on MI FAMM, contact Tom Burkert at (517) 487-1261 or tomburkert@famm.org, or write MI FAMM, P.O. Box 15007, Lansing, MI 48901-5007.

Rhode Island

Veto stands on sentencing bills

Supporters of sentencing reform in Rhode Island made a unsuccessful last-ditch attempt in October to save legislation eliminating state mandatory minimum drug sentences. Both the House and the Senate overwhelmingly passed bills (H.B. 5127 and S. 207) that would have eliminated state mandatory minimum drug sentences and restored discretion to the courts in drug-related cases, allowing individuals to be sentenced according to their role in the offense and potential for rehabilitation. Gov. Donald Carcieri (R) vetoed the legislation.

Direct Action for Rights and Equality (DARE), a Rhode Island based advocacy group, actively organized members, made calls and solicited letters asking the state senate to consider an override of the veto. FAMM sent a letter in support of this, and FAMM members in Rhode Island wrote letters to their legislators supporting the bills. The efforts were unsuccessful, and the legislation died.

The legislation to repeal mandatory minimums took three years of hard work, according to Mimi Budnick, DARE's prison committee organizer, and the recent defeat was quite devastating.

New Jersey

Support for drug free zone reform

FAMM's campaign to reform mandatory sentencing laws in New Jersey gained a powerful ally when the New Jersey Government Efficiency and Reform (NJ GEAR) Task Force On Sentencing and Corrections unanimously agreed to support legislation that reduces the size of the state's drug-free zones from 1,000 feet and 500 feet to a uniform distance of 200 feet and expands access to drug courts for nonviolent drug offenders. This is great news for advocates who support drug-free zone law reform in New Jersey.

In October, Governor Jon Corzine appointed this task force to review the New Jersey Commission to Review Criminal Sentencing proposal to reduce to size of the drug-free zone as part of the Governor's anti-crime initiative. The Sentencing Commission study determined that the current drug-free zone laws are ineffective, costly and disproportionately impact the residents in urban areas. The task force concurs with these findings.

Task force members concluded that reducing the drug-free zones to 200 feet while at the same time enhancing the zone penalty from a third to a second degree offense would improve public safety, save money and reduce racial disparity within our state correctional facilities. In addition, members of the task force expect that improvements to the drug-free zone laws will result in more effective deterrence of drug activities nears schools, which is the primary purpose of the school zone statute.

Additionally, the GEAR task force supports the modification of the state's special probation statute to allow courts additional discretion to admit nonviolent persons into the drug court program as opposed to sentencing them to lengthy prison terms. Based upon recent surveys, recidivism rates for drug court participants are significantly lower than recidivism rate for inmates released without receiving appropriate drug treatment to address their underlying addiction problem.

The task force argues that the drug-free zone proposal as well as the expansion of the drug court program will ultimately enhance public safety by improving the way government confronts criminal acts associated with drug addiction.

Assemblywoman Bonnie Watson Coleman (D-Trenton), introduced legislation A-4573, a bill that would shrink the size of the drug-free zones to 200 feet, eliminate the mandatory minimum and enhance the penalty to a second degree crime. FAMM expects this bill as well as S-278 – the Senate companion bill – to be taken up during the lame duck session, which ends January 8, 2008.

FAMM participates in NJ BIC and ACLU conferences

In October, Joseph Greer spoke at the 25th New Jersey Black Issues Convention in East Brunswick and at the New Jersey American Civil Liberties Union (NJ-ACLU) conference, "Race Still Matters," at Essex County College in Newark. At both events, Greer discussed FAMM's campaign to reform mandatory sentencing in New Jersey and how community members can help build support for the drug-free zone reform bills. Greer noted that the drug-free zone laws are a major contributor to the growing number of minorities in New Jersey prisons, citing a report by the New Jersey Commission to Review Criminal Sentencing that nearly 96 percent of people sentenced under the drug-free zone violations are either African-American or Hispanic. **FG**



For more information on New Jersey FAMM, contact Joseph Greer at (609) 577-9520, jgreer@famm.org or NJ FAMM, P.O. Box 699, Plainsboro, NJ, 08536.

2008 is President Bush's last chance for commutations

THIS THANKSGIVING, President Bush used his pardon power – the power Congress cannot control and courts cannot overrule – to pardon two befuddled-looking turkeys. The bird strutted around, photographers took pictures, and a collective loss of appetite ensued among the hundreds of human prisoners who have sought, but not received, a presidential commutation or pardon. On December 11, President Bush issued 29 pardons and only one commutation, then promptly announced that this would be all the mercy he grants this Christmas.



The message to those seeking executive clemency could not be clearer or more crushing to holiday season cheer: in the Bush presidency, even at the holidays, commutations are not just rare, they are virtually nonexistent.

As President Bush approaches his last year in office, he faces the very real possibility of ranking among the least-forgiving presidents in American history. He has repeatedly stated that he believes in second chances, but in almost seven years President Bush has pardoned only 142 people and commuted the sentences of only five people – one of whom was Scooter Libby, and three of whom had served almost their entire sentences. In the meantime, hundreds of others have applied for commutations (a reduction of sentence) or pardons (a restoration of civil liberties). They are waiting, without an end in sight, for mercy...or even just for an answer.

In a recent survey, dozens of the prisoners who are members of Families Against Mandatory Minimums (FAMM), a nonpartisan, nonprofit sentencing reform advocacy group, said they had been waiting two, three, four, or even five years for a decision from the president on the commutation petitions they filed. The system does not just fail to produce mercy – it fails at a snail's pace. When the answers do finally come, they are almost always “no.”

This is a tragedy because many prisoners seeking clemency are serving truly excessive sentences that benefit no one. Barbara Scrivner has served over 12 years of a 30-year sentence. She played a minor, addiction-driven role in her husband's methamphetamine ring. In prison, she has beaten her drug addiction, is earning a bachelor's degree from a Christian college, and counsels young people on the dangers of drug abuse. Meanwhile, her own teenage daughter is growing up without a mother.

Marty Sax is a decorated Vietnam veteran and first-time, nonviolent offender. He has served almost 15 years of a 20-year sentence for his part in a marijuana conspiracy. He has been a model inmate. Even the judge who sentenced him, the FBI agent, and an attorney who helped prosecute Marty agree that he has served too much time. John Forte is a talented musician who made the stupid decision to deliver cocaine during a time of financial hardship. It was his first and only crime, but he is serving a 14-year prison sentence.

Scrivner, Sax, and Forte were not armed, did not kill anybody, and have renounced any involvement with drugs. Together, they have served over 30 years in prison, costing taxpayers tens of thousands of dollars each year. They are not dangerous, but President Bush has not responded to their pleas for mercy.

It is not too late. President Bush has about one year left before he leaves office. Between now and then, he can turn his clemency record around by commuting the sentences of people like Scrivner, Sax, and Forte. They and many others like them would be eternally thankful to join the turkey at a Thanksgiving Day pardon ceremony, or to come home for Christmas. **FG**

Molly M. Gill is the director of the Commutations Project at Families Against Mandatory Minimums.

The following state and federal cases represent the "Faces of FAMM." As you read, ask yourself if justice is being served by the sentences they received. If you or someone you know is in a similar situation, please use the case summary form on page 17 and return it to the Washington, D.C. office.

Barbara Scrivner

JURISDICTION: Federal

OFFENSE: Conspiracy to manufacture, possess with intent to distribute and to distribute methamphetamine; possession with intent to distribute methamphetamine.

PRIORS: Possession of a controlled substance II (twice in 1987, once in 1989), theft III (1989 and 1991) and forgery I (1991).

YEAR OF BIRTH: 1966

YEAR OF SENTENCING: 1995

ADDICTED TO METHAMPHETAMINE since high school, Barbara was unemployed and desperate. She sought help from her husband, who was incarcerated at the time, and he insisted she sell methamphetamine for his friends, who were major methamphetamine manufacturers. Barbara eventually agreed. For a few weeks, the girlfriend of one of the leaders delivered the drugs to Barbara; Barbara's husband told her where to take them. After Barbara earned enough to pay her bills, she ended her ties with them. Her husband, however, joined the conspiracy and became a major distributor.

In late 1992 authorities learned about the conspiracy from a confidential informant and searched the residences of Barbara's six codefendants. They found a methamphetamine laboratory, firearms, scales, money and a drum of chemicals used to make methamphetamine. The government based part of the conspiracy's total drug weight on the drugs that could have been produced from the contents in the drum. At Barbara's residence, however, authorities only confiscated paperwork, small Ziploc baggies, scales, miscellaneous drug paraphernalia, and small trace quantities of suspected methamphetamine.

Barbara was not initially arrested with the other participants. One full year later – only after she refused to testify against the conspirators – she was indicted, based on the testimony of the leader's girlfriend and her husband's role. The government offered Barbara a plea bargain of 10 years in exchange for her knowledge of the conspiracy. She instead opted for a jury trial, not realizing the severity of the sentence awaiting her.

Since her incarceration, Barbara has committed herself to recovering psychologically and overcame her mental health issues in prison. She also graduated from a residential drug abuse program and was selected for its mentor program. As one of only a few members of the Bureau of Prisons Choices program, she speaks to teenagers about drug abuse. She is currently pursuing a degree in biblical studies from Ames Christian University. Her 15-year-old daughter now lives with Barbara's father and brother, approximately 160 miles from Barbara.



Barbara and her daughter

What sentence do you think Barbara should have received?

Under federal sentencing guidelines, Barbara received a sentence reduction as a minor participant – the only one among her codefendants. But her 11 criminal history points increased her criminal history category, and the estimated total weight of the methamphetamine involved in the case elevated her guideline range. Barbara received 30 years. Her projected release date is in 2019.

Michael Short

JURISDICTION: Federal

OFFENSE: Distribution of cocaine base

PRIORS: None

YEAR OF BIRTH: 1971

YEAR OF SENTENCING: 1992

MICHAEL WAS one of several young men, many of whom had been childhood friends, involved in a crack cocaine conspiracy. In December 1989, the leader of the conspiracy gave Michael a package containing 63 grams of crack cocaine and asked him to deliver it to customer, who was an undercover officer. After his arrest, Michael admitted to delivering the cocaine for his friend, but said he had never been involved in selling or cooking cocaine and had never seen cocaine being cooked.



However, the government contended he was a regular drug courier from 1989 to 1990 and was present when crack was cooked, basing most of their claims on the testimony of one of Michael's codefendants (who was released in 2001.) Very little physical evidence exists that links Michael to the conspiracy. Out of 21,000 phone conversations intercepted by the government, only three included

Michael as a participant. Furthermore, the confidential informant and other agents in the case testified that Michael they had never seen Michael with the leader of the conspiracy, except for the day when he delivered the package. Michael was eventually held accountable for five kilos, charges he strongly denies.

Michael was 21 when he was arrested. At the time he was between jobs and living with his mother. Unfortunately, his mother became seriously ill with kidney problems and passed away in 1997. U.S. Marshals accompanied Michael to his mother's funeral. Since his incarceration, Michael earned his Associate's Degree in Business Management from Park College in 1995 with a 3.17 GPA.

What sentence do you think Michael should have received?

This was Michael's first offense. As a nonviolent offender with no criminal history, his guideline sentence for five kilograms of crack cocaine was 19 years, seven months. On December 11, Michael received the rarest of gifts from President Bush, a commutation of his sentence. Michael has served almost 12 years in prison. **FG**

Other notable releases

In September, **RICHARD PAEY**, a Florida FAMM member sentenced to 25 years under state mandatory minimums for trafficking prescription drugs, received a sentence commutation from Gov. Charlie Crist and was freed. Paey benefited greatly from the work of outside advocates, including Florida FAMM members who wrote letters on his behalf.

GENARLOW WILSON, a Georgia teenager sentenced to a 10-year state mandatory minimum for a consensual sex act, was freed in October, after serving two years. The Georgia Supreme Court ruled 4-3 that the young man's sentence "constitutes cruel and unusual punishment."

If you have a case to share, please use the case summary form on page 17 and return it to our Washington, D.C. Without your involvement, there would be no FAMM. But with your cases, we can make an even stronger argument for changing mandatory minimum sentences.



Families Against Mandatory Minimums

1612 K Street NW, Suite 700, Washington, DC 20006 • (202) 822-6700 • fax (202) 822-6704 • www.famm.org

CASE SUMMARY

Name _____	<input type="checkbox"/> Federal Charge	<input type="checkbox"/> State Charge
ID# _____	Education _____	
Prison _____	Prisoner's Date of Birth _____	
Address _____	Ethnicity _____	Race _____
City _____	US Citizen? <input type="checkbox"/> yes <input type="checkbox"/> no If not, what country? _____	
State _____	Zip _____	

OFFENSE

Year and state in which offense occurred _____

Type(s) of drug(s) _____

Weight _____

If not drugs, other charge _____

Were weapons involved in the offense? yes no
If yes, what type(s)? _____

Were you convicted for a weapons offense? yes no

SENTENCE

Length of sentence: years _____ months _____

Was the prisoner sentenced to a mandatory minimum sentence? yes no

Habitual offender/3 Strikes? yes no

FEDERAL ONLY

a. Original Guideline Level _____

b. Adjusted Guideline Level _____

c. Did you benefit from the safety valve? yes no

d. Did you receive a mitigating role adjustment? yes no

Was there a plea bargain? yes no

Trial? yes no

Forfeiture? yes no

If yes, what kind? criminal civil

Judge's name _____

Court _____ Date of sentencing _____

County _____

Estimated release date _____

Have you filed a direct appeal? yes no Date _____

Have you filed any post-conviction motions? yes no
Date _____

Was your sentence increased for weapons? yes no

Were you convicted/charged with conspiracy? yes no

Was a confidential informant involved? yes no

Did the informant get a shorter sentence? yes no

Were any drugs seized? yes no

Do you have any prior offense(s)? yes no
If yes, list offense(s) and year(s): _____

Did the judge depart from the mandatory sentence or guidelines?
 yes no

Explain: _____

SYMPATHETIC FACTORS

At sentencing, did the judge say he/she wished he/she didn't have to give you such a long sentence? yes no

Please include summary of statement. _____

List any health problems: _____

Do you have substance abuse problems? yes no
If yes, any treatment received? _____

DOCUMENTATION

Are any of the following available for reference, if necessary? (Please do not send unless requested.)

- Presentence report (PSR) Sentencing transcripts
 Media clippings Photo of prisoner/family

FAMILY

Number of children _____ ages _____

Family's distance from prisoner, in miles _____

Who supports family? _____

Who cares for children? _____

OUTSIDE CONTACTS

Name of lawyer(s)/public defender _____

Lawyer's telephone () _____

Contact on the outside authorized to provide additional facts about the case:

Name _____

Relation to prisoner _____

Address _____

City _____

State _____ Zip _____

Telephone (day) _____

Telephone (evening) _____

Fax _____

Email _____

On a separate sheet, please write a brief personal account of what happened (1-2 pages) and list any additional factors you believe may assist us in understanding your case.

RELEASE FORM

FAMM works to repeal mandatory minimum sentences by publicizing cases that dramatize the unfairness of these laws. FAMM does not employ attorneys to represent individual cases. It is essential that the facts represented by FAMM and reported in this summary be accurate. If you do not know an answer, write "don't know." There may be a risk that publicized cases might draw a critical reaction. If you do not want your case publicized, do not put your signature at the bottom of this form.



Families Against Mandatory Minimums

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I hereby release Families Against Mandatory Minimums, Families Against Mandatory Minimums Foundation, and any news organization from any liability whatsoever from any cause and for any reason, in connection with the release, dissemination, and publication of statements and information about me and the crimes for which I have been charged or convicted.

Prisoner's signature _____

Date _____

- photo enclosed

Congressman addresses community forum on race

FAMM VOLUNTEER Bessie Morgan and members of her church, the First Baptist Church of Highland Park in Prince George’s County, Md., hosted a community forum on race and the criminal justice system in October. Guest speakers included Rep. Albert Wynn (D-Md.); Glenn Ivey, Prince George’s County State Attorney; Josephine Mourning, chair of the Southern Christian Leadership Council, Prince George’s; and Liya Amelga, NAACP president at the University of Maryland, College Park.

“We wanted to highlight the toll unjust mandatory sentencing laws are taking on communities of color and discuss ways church members and concerned citizens can work with FAMM to change the laws,” said Bessie Morgan. “Families need to know that long prison sentences can affect someone you love. Understanding how the laws work and who they affect is the first step in changing them,” said Morgan.



Josephine Mourning, Rep. Albert Wynn and Bessie Morgan

Documentary focuses on plight of prisoner and children

“**PERVERSION OF JUSTICE**,” a short documentary created by Melissa Mummert, is a moving portrait of one woman’s struggle to raise her children from federal prison. The documentary provides a glimpse into the lives of longtime FAMM member Hamedah Hasan and her three daughters.

Incarcerated since 1993, Hasan is serving a 27-year mandatory prison sentence for conspiring to distribute crack cocaine. Hasan’s case was given to Mummert in the late 1990s, after she contacted FAMM for information on mandatory sentences and women in prison. A former prison chaplain, Mummert wanted

to give voice to the family concerns that many women shared with her. She interviewed Hasan and her daughters, as well as reform advocates, including Eric Sterling, a FAMM board member.

For anyone unaware of the harsh realities of children with incarcerated parents, this documentary delivers an impact that is hard to ignore. For more information on how to obtain the documentary, visit www.perversionofjustice.com/index.html



Tyler Smith, Angelyn Frazer, Melissa Mummert and Eric Sterling

Staff members speak at University of Maryland



Karen Garrison, Angelyn Frazer and Jennifer Seltzer Stitt

FAMM’S ANGELYN FRAZER, Jennifer Seltzer Stitt and Karen Garrison spoke at a forum on mandatory sentencing laws at the University of Maryland November 28.

Alpha Theta Gamma Multicultural Sorority, Students for Sensible Drug Policy and Pi Delta Psi Fraternity, sponsored the event. FAMM’s representatives discussed the history of mandatory sentencing laws, current efforts to change federal crack cocaine sentencing policy and ways students can get involved. **FG**

In Memoriam

George Hickey

FAMM member George Hickey, 68, died on September 10. Hickey was serving a life sentence for crack distribution. He is survived by daughter Tamika Burns and other loving family members.



Your generosity made FAMM's matching grant drive a success!

We are thrilled to report that FAMM has received a record number of donations during the 2007 matching grant drive. By the time you read the *FAMMGram*, we will have reached our goal of raising \$150,000. Thanks to your overwhelming support, we may even exceed our original goal.

All of the gifts we received during the last quarter of 2007 have been matched by two very generous FAMM contributors...that means you helped FAMM raise at least \$300,000 in just three months.

FAMM has big plans for this year and we can't thank you enough for providing the funds we need to put those plans into action. Stay tuned for the total amount raised during our 2007 fundraising drive which we'll report in the spring *FAMMGram*.

Wishing you the best possible New Year!

—Your friends at FAMM



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