

## **Sentencing Reform Is Threatened by Having William Otis and Henry Hudson on the U.S. Sentencing Commission**

Recently, the Administration announced four nominees to the U.S. Sentencing Commission, the bipartisan seven-member panel that sets sentencing guidelines for federal judges. For Americans who are invested in reforming our justice system, two of those nominees – William Otis and Henry Hudson – raise serious concerns. Both are “tough-on-crime” proponents who would undermine this country’s progress in addressing the sentencing disparities that help create mass incarceration.

Mr. Otis, a Georgetown University Law Adjunct Professor and former prosecutor, has demonstrated the kind of bias that should disqualify him from a position on the Sentencing Commission. According to press reports, his years of public statements, like his view on the inherent criminality of minorities, have drawn strong criticism from civil rights groups. In a 2013 blogpost, for example, Otis defended a judge who declared that Blacks and Latinos are more violent than Whites by agreeing with the judge’s sentiment and adding that “Orientals” hold values that keep them out of jail. The racist nature of these remarks is not in keeping with the exemplary character that a nominee to the Sentencing Commission should possess. Neither is his view on the criminality of minorities consistent with reality, as studies have shown that people of color and White people use drugs at similar rates, yet nearly 60% of this country’s incarcerated population is Black and Latino. It is these precise sentencing disparities that will not be ameliorated by a nominee like Otis who strongly supports mandatory minimum sentences for drug offenses.

Mr. Hudson, a judge in the U.S. Eastern District of Virginia, also raises concerns of bias. According to press accounts, his reputation for handing out aggressive punishments earned him the nickname “Hang ‘Em High” Henry. A longtime prosecutor, Hudson once proclaimed, “I live to put people in jail.” Earlier in his career, Hudson prosecuted a mentally impaired man for the rape and murder of an Arlington woman. After serving five years in prison, the man was exonerated by DNA evidence. Hudson, nonetheless, refused to apologize for putting the innocent man behind bars. His zeal for punishment is the opposite of what the Sentencing Commission needs.

These nominees threaten to undo the progress that the Sentencing Commission has made – indeed, Otis once called for the elimination of the Commission. Without continued sentencing reform, there can be no realistic reduction of our country’s staggering prison population. At less than 5% of the world’s population, the U.S. contains more than 20% of its prison population. Already, 1 in 6 Latino men and 1 in 45 Latina women, can expect to be imprisoned. This means that 1 in 28 Latino children has an incarcerated parent compared to 1 in 57 White children, which is admittedly also too high.

Supporters who believe these appointees are appropriate because they characterize the Commission’s work as largely “technical” miss the real-world consequences of sentencing. Reforming our justice system will make for strong families and communities that are economically whole and emotionally sound. The Hispanic Bar Association of the District of Columbia (HBA-DC) and the Hispanic National Bar Association (HNBA) have urged Congress to enact criminal justice reform – the bipartisan support for such reform exists. As lawyers, and as members of a community disproportionately impacted by harsh and discriminatory sentencing policies, we know the damage families and communities suffer through the uneven application of laws. Because William Otis and Henry Hudson would steer the nation away from reform, they should not serve on the Sentencing Commission.

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