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PUBLIC DEFENDER
Seventeenth Judicial Circuit

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Eugene Pettis
President
The Florida Bar
651 E. Jefferson St.
Tallahassee, FL 32399-2300

Dear Mr. Pettis,

United States Attorney General Eric Holder took an unprecedented step and directed the Department of Justice to review and revamp federal charging decisions and sentencing practices to counter race and ethnic disparities in the criminal justice system. In February, Attorney General Holder called on the National Association of Attorneys General to join him in recalibrating and reforming the criminal justice system and work to “break the vicious cycle of poverty, criminality and incarceration that traps individuals and weakens communities.” He specifically noted the American Bar Association’s efforts to combat the collateral consequences of criminal convictions that adversely impact a convicted felon’s successful re-entry into society.

In response to the Attorney General’s directive, the Department of Justice instituted a “Smart on Crime” initiative to reform “the criminal justice system for the 21st century”. The initiative promotes the fairer enforcement of laws, just punishment for low-level, non-violent crime, and prevention and re-entry efforts to deter crime and reduce recidivism. The ABA has adopted a comprehensive plan for sentencing and corrections reform, which eliminates minimum mandatory sentences and expands the use of alternative sentences, to curtail the ever-increasing prison population.

It is with this back-drop that I write to you as the President of the Florida Bar and request the Florida Bar to join these efforts to restore balance, equality and fairness to the criminal justice system. Our bar has remained silent while the Department of Justice and the American Bar Association have taken these important steps. We have been silent despite overwhelming data that proves the disproportionate

effects of the criminal justice system on minorities, the mentally ill and poverty stricken communities. Florida has one of the highest prison populations in the country that has the highest incarceration rate in the world. Florida also has one of the highest frequencies of children charged as adults due to a prosecutor's virtually unbridled discretion to direct file a child in the adult criminal justice system. The NAACP has documented the existence of a school-house-to-jail-house pipeline which only fuels the "vicious cycle of poverty, criminality and incarceration" denounced by Attorney General Holder.

Both the United States Attorney General and the American Bar Association have recognized that the criminal justice system is broken in this country- and it is also broken in the State of Florida. The Florida Bar cannot continue to ignore the injustice and disparity rampant in our criminal courts.

My office has opposed harsh minimum mandatory sentencing, the imprisonment of drug addicts, the use of racial profiling and the dual systems of justice in Broward County- one for the well-connected and one for the indigent and invisible. We have written letters to the elected state attorney and to the press. We have written letters to the Department of Justice. We have exposed police abuses that erode our system of justice - "walking while black," "biking while black," extracting confessions with Tasers, and fabricated police reports. The Public Defender's Office uncovered discriminatory and race-based police practices utilized by officers in the Fort Lauderdale Police Department. We found that 93% of people ticketed for walking in the street and not on a sidewalk, even if there was no sidewalk, were black. We also discovered that 96% of the people cited for not registering a bike were black. In addition, despite the fact that only 31% of Fort Lauderdale's population is black, more than 65% of all seat belt citations were issued to black citizens in 2010. Approximately 70% of all seat belt violations were issued to black citizens in 2011 and 2012. The Fort Lauderdale Police Department's Bias-Based Profiling Administrative Reviews for 2010, 2011 and 2012 documented that 50%, 49% and 48%, respectively, of *all* traffic citations issued were issued to African Americans despite the fact that blacks make up 31% of the population. Criminal charges that arise from racially discriminatory traffic stops are filed despite these police practices. If these things occur in Broward County, arguably the most liberal county in the state, there are even more and greater abuses in this state.

It is time for all Florida attorneys, not just public defenders, not just criminal defense attorneys, to demand criminal justice reform. I am asking the Florida Bar to champion the abolition of mandatory minimum sentence which strip the court of all discretion, the establishment of alternative sentences, the fair enforcement of law, the establishment of re-entry programs to combat recidivism, the elimination of collateral

consequences of convictions that do not promote safety but instead act as barriers to successful re-entry, and the imposition of strict standards for a judicial waiver process before children are prosecuted as adults.

As Mr. Holder acknowledged, our criminal justice system is broken. Who better to fix it than attorneys sworn to support the Constitutions of the United States and the State of Florida. I urge you to take immediate action.

Sincerely,

A handwritten signature in black ink, appearing to read "Howard Finkelstein". The signature is written in a cursive, flowing style with some ink bleed-through from the reverse side of the page.

Howard Finkelstein
Public Defender
17th Judicial Circuit