

[Washington and Lee University](#)

W&L Law Professor Cited in U.S. Sentencing Commission Report

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The work of Washington and Lee criminal law scholar [Erik Luna](#) is cited extensively in a new report issued by the U.S. Sentencing Commission. Titled "Report to Congress: Mandatory Minimum Penalties in the Federal Criminal Justice System," the report assesses the impact of mandatory minimum penalties on federal sentencing, particularly in light of the U.S. Supreme Court's decision in *Booker v. United States*, which rendered the federal sentencing guidelines advisory.

Luna's inclusion in the report follows his testimony before the Commission last year on the mandatory minimum issue. In his testimony, Luna argued that mandatory minimums should be eliminated because they don't achieve their desired results, and at the same time they compromise the integrity of the criminal justice system.

"Mandatory minimums effectively transfer sentencing authority from trial judges to federal prosecutors, who may pre-set punishment through creative investigative and charging practices, producing troubling punishment differentials among offenders with similar culpability," says Luna. Of particular concern, he adds, is the appearance of racial and ethnic disproportionality in criminal justice.

The U.S. Sentencing Commission establishes sentencing policies and practices for the federal courts, including guidelines on the appropriate form and severity of punishment for offenders convicted of federal crimes. One of Luna's chief concerns is that mandatory minimums redistribute power in the criminal justice system.

Professor Erik Luna was quoted in the report, saying that federal mandatory minimum penalties can "overwhelm" state and local choice on criminal justice issues, thereby "effectively and powerfully nullifying state and local judgments." He noted that he was concerned "that law enforcement considers vast sentencing differentials between state and federal systems as some type of unmitigated good, essentially treating the states as the junior varsity."

An expert in criminal law and procedure, Luna is frequently called upon to testify regarding issues of criminal justice. He previously offered testimony before a U.S.

congressional subcommittee on the judiciary on the ability of U.S. states to provide legal services to indigent defendants as required by law. Luna also testified before the Senate Judiciary Subcommittee on Crime and Drugs for a hearing examining whether violence against America's homeless population is on the rise.

Luna's varied experience includes service as a Fulbright Scholar researching restorative justice in New Zealand, a visiting scholar in Germany at the Max Planck Institute for Foreign and International Criminal Law, and a visiting professional at the International Criminal Court in The Hague. He is also an adjunct scholar with the Cato Institute, a public policy research foundation. Earlier this year, Luna was elected to the American Law Institute, the most prestigious law reform body in the U.S.