

United States Senate

WASHINGTON, DC 20510-0104

March 30, 2007

The Honorable Ricardo H. Hinojosa
Chair
U.S. Sentencing Commission
One Columbus Circle, N.E.
Washington, D.C. 20002-8002

Dear Judge Hinojosa:

I appreciate the hard work both you and the U.S. Sentencing Commission have devoted to the issue of Federal sentencing policy regarding crack and cocaine. I look forward to the Commission's report to Congress on Crack Cocaine and Federal Sentencing Policy next month.

As you know, I was the lead sponsor of the Drug Sentencing Reform Act of 2006 in the 109th Congress and identical legislation in 2001, both of which would have reduced the disparity for crack and powder cocaine from 100-to-1 to 20-to-1 by reducing the mandatory penalty for crack cocaine and increasing the mandatory penalty for powder cocaine. The underlying goal of the bill was fairness – treating similar drugs more equally when it comes to sentencing. Senators Cornyn, Pryor and Salazar co-sponsored this legislation in a bi-partisan effort to address this inequity in federal law.

In 1986, Congress passed statutory mandatory minimum sentences for various illegal drugs, including a 5-year mandatory minimum sentence for trafficking 500 grams of powder cocaine or 5 grams of crack and a 10-year mandatory minimum for trafficking 5,000 grams of powder or 50 grams of crack. The 100-to-1 ratio of crack to powder cocaine was enacted largely to prevent the spread of crack cocaine across America, especially into minority neighborhoods. Despite that goal, crack cocaine has spread across the country and into minority neighborhoods. A recent U.S. Sentencing Commission report said that 83% percent of offenders sentenced for crack violations were African Americans. And a Bureau of Prisons study revealed that weapons use and violence are more accurate indicators of recidivism than drug use.

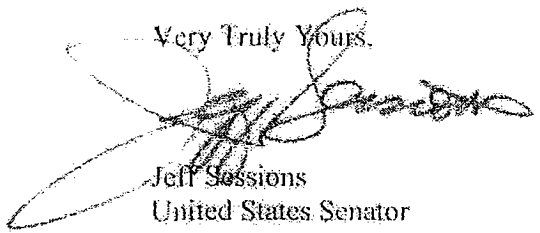
In three separate reports to Congress, in 1995, 1997, and 2002, the Sentencing Commission has urged Congress to reconsider the statutory penalties for crack cocaine. Once again, the Commission has an opportunity to work with Congress and help improve these statutory mandatory minimums by reducing the harsh disparity that currently exists. By reducing the disparity, we can strengthen the criminal justice system, reduce judicial manipulation, and restore confidence in the system's fairness.

[235]

It is my hope that the Commission's 2007 report will include an update to its 2002 Report on Federal Cocaine Sentencing Policy, specifically its data, literature review, and medical chapters. Furthermore, I would also like to see a specific recommendation to Congress about how it should amend the 100:1 statutory ratio that governs cocaine sentencing. Legislation I introduced would reduce this ratio to 20:1, and I believe that to be a sound and justified ratio based on the nature and disparate impact of crack and cocaine. This legislation is directly in line with the Commission's 2002 recommendation that the statutory ratio be no more than 20:1.

I believe these recommendations would provide a measured and balanced approach to improving the statutory and guidelines system that governs the sentencing of federal drug offenders. A more dramatic change that results in a substantial reduction in drug sentences is not consistent with sound public policy and could jeopardize the bi-partisan effort that is now underway. I believe the time has come for Congress to exercise a legislative change in this area, and I look forward to working with the Commission to get this accomplished.

Very Truly Yours,



Jeff Sessions
United States Senator

[236]