



March 20, 2007

United States Sentencing Commission
One Columbus Circle, NE,
Suite 2-500,
Washington, DC 20002-8002

Attention: Public Affairs Officer

On behalf of the National Council of La Raza¹ (NCLR), and the Mexican American Legal Defense and Educational Fund² (MALDEF), we are respectfully submitting public comments to the U.S. Sentencing Commission (USSC) on federal sentencing laws for crack and powder cocaine offenses.

NCLR and MALDEF believe that the elimination of the threshold differential that exists between crack and powder sentences is the only fair solution to eradicating the disparity. This should be achieved by raising the crack threshold to the levels of powder. Current federal law punishes crack cocaine offenders much more severely than any other drug offenders. This subjects low-level participants, like lookouts, to the same or more severe sentences as major dealers. Current federal law has had a disproportionate impact on communities of color and low-income communities.

The Anti-Drug Abuse Act of 1986 intended to curb the "crack epidemic" by focusing on "major traffickers." This resulted in the conviction of individuals found in possession of only 5 grams of crack cocaine triggering a five-year mandatory minimum sentence, while it takes 500 grams of powder cocaine possession to trigger the same sentence. And while possession of 50 grams of crack cocaine triggers a ten-year mandatory minimum sentence, the law requires possession of 5,000 grams of powder cocaine to trigger the same sentence.

Numerous studies have documented that the 100:1 powder-crack sentencing ratio directly contributes to persistent racial imbalances in the justice system, affecting mainly African Americans but increasingly Latinos.³ Although the spirit of the law was to go after the

¹ NCLR is the largest national Latino civil rights and advocacy organization in the U.S. Through its network of nearly 300 affiliated community-based organizations (CBOs), NCLR reaches millions of Hispanics each year in 41 states, Puerto Rico, and the District of Columbia. NCLR conducts applied research, policy analysis, and advocacy, providing a Latino perspective in five key areas – assets/investments, civil rights/immigration, education, employment and economic status, and health.

² Founded in 1968, MALDEF, the nation's leading Latino legal organization, promotes and protects the rights of Latinos through advocacy, litigation, community education and outreach, leadership development, and higher education scholarships.

³ According to the Sentencing Project, *Hispanic Prisoners in the United States*, the number of Hispanic in federal and state prisons rose by 219% from 1985 to 1995, with an average annual increase of 12.3%.

Please accept this letter as public comment. A PDF version with relevant citations can be found at <http://www.ssdp.org/campaigns/ussc-cocaine-letter.pdf>

Thanks,
Tom Angell
Students for Sensible Drug Policy

March 26, 2007

Attention: Public Affairs
United States Sentencing Commission
One Columbus Circle, NE
Suite 2-500
Washington, DC 20002-8002

Re: USSC Federal Register notice requesting public comment on cocaine sentencing

As an organization representing thousands of American college students concerned with the negative impact that both drug abuse and overly-punitive drug policies have on our campuses and communities, Students for Sensible Drug Policy (SSDP) strongly urges the U.S. Sentencing Commission to equalize sentencing for crack and powder cocaine to the current level for the latter.

As you know, the amount of crack that currently triggers an automatic felony charge and a mandatory minimum sentence upon conviction (5 grams) is 100 times lower than the amount necessary to trigger a felony charge and mandatory minimum for powder cocaine (500 grams).

Students have a particular interest in seeing these penalties equalized because the current sentencing scheme can hamper their eligibility for the Hope Scholarship Credit. The credit, which is unavailable to taxpayers with felony drug convictions, can be applied to the first \$1,000 of a student's education expenses and half of the next \$1,000 over the first two years of college. In 2003 alone, just under 3.5 million taxpayers took advantage of the credit.

By equalizing the penalties for crack and powder cocaine, fewer students convicted of possessing relatively small amounts of crack cocaine for personal use will be deemed ineligible for the Hope Credit. Low- to middle-income students who are unable to take advantage of the credit may be more likely to leave school and never return. Such individuals are increasingly disposed to develop serious drug problems, commit crimes, or rely on costly social service programs, instead of becoming law abiding and productive members of society.

Young people also suffer collateral damage when their parents are convicted of drug offenses. Youth whose parents are incarcerated are often left without the familial grounding and/or financial resources needed to get accepted to, and stay enrolled in, college. Adolescents and children can also lose access to housing, food stamps, or other government assistance programs

when their parents are convicted of drug offenses.

Students are also very concerned with the racial implications of the sentencing disparity. In 2000, there were more African American men incarcerated in prisons and jails than there were enrolled in colleges and universities, thanks in large part to our nation's drug sentencing policies.

In 2003, 80% of defendants sentenced under crack cocaine laws were African Americans, despite the fact that greater than 66% of crack cocaine users in the United States are Hispanic or white.

The disparity in sentencing between powder and crack cocaine has had a devastating impact on African American individuals, communities, and families by inhibiting educational opportunity and by breaking up families through incarceration.

For these and other reasons, we respectfully urge the Commission to eliminate the disparity between sentences for powder and crack cocaine by aligning both penalties to the current level of the former.

Sincerely,
Kris Krane, Executive Director
Students for Sensible Drug Policy

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