

April 25, 2007

Honorable Ricardo H. Hinojosa
Chair
United States Sentencing Commission
One Columbus Circle, N.E.
Suite 2-500, South Lobby
Washington, D.C. 20002-8002

Dear Judge Hinojosa and Commissioners:

The undersigned organizations have long advocated eliminating the disproportionately harsh nature of the penalties for crack cocaine offenses under the guidelines and in federal statutes. We remain convinced that any distinction between the crack and powder penalties is unjustified.

We understand that the Commission is considering whether to propose one or another incremental adjustment to the crack cocaine penalty. We also understand that the Commission is considering not sending a proposed amendment to Congress out of concern that an incremental amendment might derail congressional efforts at reform. While we strongly believe that the Commission should go further, and encourage you to do as much as you can to ameliorate the harshness of the crack cocaine penalty structure, we urge the Commission to approve an amendment, even one that is limited in scope, before the May 1 amendment deadline.

We will support a Commission amendment that makes even incremental change to the crack cocaine penalty, so long as the Commission also submits along with it a report and recommendation that puts the matter of changing the crack mandatory minimum before Congress in the strongest possible terms. We are aware that key members of Congress are committed to addressing this issue in some fashion this year and would welcome an amendment as a first step. An incremental amendment will hardly be mistaken for the solution to the mandatory minimum that only Congress can achieve, particularly if the Commission sends a report and recommendation making clear that Congress should act. But we are very concerned about the message that will be sent, and the injustice that will continue, if the Commission declines to send any amendment to Congress.

Thank you for considering our views.

Sincerely,

The Practitioners' Advisory Group to the United States Sentencing Commission
National Association of Criminal Defense Lawyers
Federal Public and Community Defenders
Families Against Mandatory Minimums