

News Release

U.S. Sentencing Commission
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U.S. SENTENCING COMMISSION VOTES UNANIMOUSLY TO APPLY AMENDMENT RETROACTIVELY FOR CRACK COCAINE OFFENSES *Effective Date for Retroactivity Set for March 3, 2008*

WASHINGTON, D.C. (December 11, 2007) — The United States Sentencing Commission unanimously voted today to give retroactive effect to a recent amendment to the Federal Sentencing Guidelines that reduces penalties for crack cocaine offenses. Retroactivity of the crack cocaine amendment will become effective on March 3, 2008. Not every crack cocaine offender will be eligible for a lower sentence under the decision. A Federal sentencing judge will make the final determination of whether an offender is eligible for a lower sentence and how much that sentence should be lowered. That determination will be made only after consideration of many factors, including the Commission's direction to consider whether lowering the offender's sentence would pose a danger to public safety. In addition, the overall impact is anticipated to occur incrementally over approximately 30 years, due to the limited nature of the guideline amendment and the fact that many crack cocaine offenders will still be required under Federal law to serve mandatory five- or ten-year sentences because of the amount of crack involved in their offense.

On November 1, 2007, after a six-month congressional review period, the Commission's amendment to the Federal sentencing guidelines for crack cocaine offenses took effect. The amendment was intended as a step toward reducing some of the unwarranted disparity currently existing between Federal crack cocaine and powder cocaine sentences. The Sentencing Reform Act of 1984 specifically authorized the Commission to provide for retroactive effect of amendments that result in lower penalties for classes of offenses or offenders, as this amendment could.

The Commission made its decision on retroactivity of the crack cocaine amendment after months of deliberation and years of examining cocaine sentencing issues. It solicited public comment on the issue of retroactivity and received over 33,000 letters or written comments, almost all of which were in favor of retroactivity. Last month, it held a full-day hearing on the issue of retroactivity and heard from key stakeholders in the federal criminal justice community.

The Commission considered a number of factors during its deliberations, including the purpose for lowering crack cocaine sentences, the limit on any reduction allowed by the amendment, whether it would be difficult for the courts to apply the reduction, and whether making the amendment retroactive would raise public safety concerns or cause unwarranted sentencing disparity in the federal system. Ultimately, the Commission determined that the statutory purposes of sentencing

are best served by retroactive application of the amendment. Mindful of public safety and judicial resource concerns, the Commission today issued direction to the courts on the limited nature of this and all other retroactive amendments and on the need to consider public safety in each case. The Commission delayed the effective date of its decision on retroactivity in order to give the courts sufficient time to prepare for and process these cases.

The Commission's actions today, as well as promulgation of the original amendment for crack cocaine offenses, are only a partial step in mitigating the unwarranted sentencing disparity that exists between Federal powder and crack cocaine defendants. The Commission has continued to call on Congress to address the issue of the 100-to-1 statutory ratio that drives Federal cocaine sentencing policy. Only Congress can provide a comprehensive solution to a fundamental unfairness in Federal sentencing policy. The Commission has consistently expressed its readiness and willingness to work with Congress and others in the criminal justice community to address this very important issue.

The bipartisan United States Sentencing Commission, an independent agency in the judicial branch of the federal government, was organized in 1985 to develop national sentencing policy for the federal courts. The resulting sentencing guidelines help to ensure that similar offenders who commit similar offenses receive similar sentences.

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