



Commission recommends lighter minimum sentence for crack cocaine conviction

WASHINGTON (AP) — A first-time crack-cocaine conviction should mean a lower federal minimum sentence than under current guidelines, according to a judicial agency that has raised concerns about a disparity in punishment for people caught with crack or powder cocaine.

The U.S. Sentencing Commission voted to lower the recommended sentencing range for those caught with 5 grams or more of crack cocaine from 63 months to 78 months to a range of 51 months to 63 months. Those with at least 50 grams should serve 97 months to 121 months in prison, not 121 months to 151 months, as the guidelines now say, the commission said late Friday.

At issue is a 1986 law that includes what critics have called the 100-to-1 disparity: Trafficking in 5 grams of cocaine carries a mandatory five-year prison sentence, but it takes 500 grams of cocaine powder to warrant the same sentence.

This is the fourth time the commission, an independent agency in the judicial branch, has recommended that Congress narrow the sentencing gap. Previous recommendations, which were not adopted, have included raising the penalties for powder cocaine and lowering them for crack.

The commission's guidelines are designed to ensure that federal sentences do not vary widely from courtroom to courtroom. They were mandatory until 2005. That year, the Supreme Court said making the guidelines mandatory violated a defendant's Sixth Amendment right to a jury trial because they call for judges to make factual decisions that could add to prison time, such as the amount of drugs involved in a crime.

The commission planned to send its recommendation to Congress before May 1. Lawmakers would have until Nov. 1 to reject the new guidelines before they would become law.

Advocates for changing the law point to crime statistics that show crack is more of an urban and minority drug while cocaine powder is used more often by the affluent, and that harsher penalties for crack cocaine unfairly punish blacks.

"This unjust policy is based on little more than politics and urban myths, yet it's been allowed to stand for over 20 years, devastating African-American communities in the process," said Caroline Fredrickson, director of the ACLU's legislative office in Washington.

In November, U.S. District Judge Reggie B. Walton told the agency that federal laws requiring dramatically longer sentences for crack cocaine than for cocaine powder were "unconscionable" and contributed to the perception within minority communities that courts are unfair.

While Congress would have to overturn the 1986 law to erase minimum sentences, the commission's new rule "provides some relief to crack cocaine offenders impacted by the disparity created by federal cocaine sentencing policy," the commission said in a statement.

But the Justice Department has urged the commission to let Congress deal with the inconsistency. "While we are willing to discuss addressing the disparity in the ratio between crack and powder cocaine, we believe that

it should be done in the broader context of sentencing reform,” spokesman Brian Roehrkas said.

House Judiciary Committee Chairman Rep. John Conyers, D-Mich., a longtime advocate of equalizing penalties for crack and powder cocaine, has said he will hold hearings to address the issue.

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U.S. Sentencing Commission: <http://www.ussc.gov>

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