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April 24, 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 Chair Hinojosa:

On behalf of the American Bar Association, I write to urge the Sentencing Commission to take any possible action during this amendment cycle to help alleviate the glaring disparity between the cocaine powder and crack guidelines. The ABA has long supported both Congressional and Commission action to eliminate this disparity, and we write to encourage the Commission to adopt an amendment to the crack guidelines before May 1st.

The American Bar Association is the world's largest voluntary professional organization, with a membership of over 400,000 lawyers (including a broad cross-section of prosecuting attorneys and criminal defense counsel), judges and law students worldwide. The ABA continuously works to improve the American system of justice and to advance the rule of law in the world.

In 1995, the House of Delegates of the American Bar Association approved a resolution endorsing the proposal submitted by the Commission that year to Congress to treat crack and powder cocaine offenses similarly and that takes into account aggravating factors such as weapons use, violence, or injury to another person. Congress never acted on the proposal.

Neither the ABA nor the Commission has changed its position. In fact, the Commission's May 2002 *Report to the Congress: Cocaine and Federal Sentencing Policy* affirms the ABA's judgment that there are no arguments supporting the draconian sentencing of crack cocaine offenders as compared to powder cocaine offenders.

Given the statutory mandatory minimum penalties in place, we recognize that the Commission cannot solve the crack sentencing problem via the Guidelines alone. But we also believe that incremental improvement is far better than none at all.

Accordingly, we urge that the Commission go as far as it believes it can to address the problem by amending the guidelines immediately. The crack-powder distinction is not only arbitrary and unjust, but we find that it has a large, disparate effect on minorities that calls into question whether the United States is adequately concerned with equal justice under law.

We also recommend that the Commission accompany its proposed amendment with a recommendation that Congress go further to address the disparity between crack and powder sentences and to consider abolishing mandatory minimum sentences across the board and so to permit the Commission to perform the informed, impartial and expert task of developing guidelines as originally anticipated by the Sentencing Reform Act.

Thank you for considering these views.

Sincerely,

A handwritten signature in black ink that reads "Denise A. Cardman". The signature is written in a cursive, flowing style with a long horizontal line extending from the end of the name.

Denise A. Cardman