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February 14, 2008

Support Fair and Rational Sentencing by Eliminating the Sentencing Disparities between Crack and Powder Cocaine

Dear Senator:

On behalf the Leadership Conference on Civil Rights (LCCR), the nation's oldest, largest, and most diverse civil and human rights coalition, we urge you to eliminate the sentencing disparities between crack and powder cocaine. In the wake of recent changes to the federal sentencing guidelines and recommendations by the U.S. Sentencing Commission (USSC), several worthy reform bills have been introduced in Congress, including the Drug Sentencing Reform and Kingpin Trafficking Act of 2007 (S.1711), which we urge you to support. There is substantial bipartisan recognition that the mandatory minimum statute treating one gram of crack cocaine the same as 100 grams of powder cocaine must be corrected and only Congress can do so.

Among the Senate bills addressing the sentencing disparities, S.1711, introduced by Sen. Biden (D-DE), comes closest to rational reform of crack cocaine penalties. This proposal begins the process of shifting the federal law enforcement focus from low-level street sellers toward higher-level traffickers. It eliminates the disparity in federal sentencing for crack versus powder cocaine offenses, without a shift in the current powder cocaine penalty. It also brings crack sentencing in line with powder cocaine, as well as with all other drugs, by applying mandatory minimums only to dealers and not those convicted of simple possession.

We acknowledge Sen. Sessions (R-AL) for taking the first step in the Senate toward legislative reform with a bill that would narrow the gap between crack and powder cocaine to a 20:1 quantity ratio with the Drug Sentencing Reform Act of 2007 (S. 1383). However, this bill only decreases the disparity, when it is clearly past time to eliminate the disparity completely. Also, rather than narrowing the gap by raising the amount of crack required to trigger the mandatory minimum, it would decrease the amount of powder cocaine that would trigger a minimum sentence. This approach would increase the number of cases to which the draconian sanctions applied, further burdening the courts and prisons with low-level offenders. We commend Sen. Hatch (R-UT) for introducing the Fairness in Drug Sentencing Act of 2007 (S.1685), which would reduce the federal crack cocaine disparity without a shift in the current penalty for powder cocaine. Also important, the bill would eliminate the mandatory minimum sentence for simple possession of crack cocaine, bringing it in line with simple possession of any other drug. However, like Sen. Sessions' bill, it would only reduce, rather than eliminate

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the disparity between the amounts of crack and powder cocaine that trigger the mandatory minimum sentences.

Attention to reform of crack cocaine sentences has gained momentum over the past several months. The U.S. Supreme Court has upheld the USSC's guidelines, further highlighting the need for reform. Indeed, President Bush recently commuted the prison sentence of an individual convicted of a crack offense who had served 15 years of his 19 year sentence. A change in the mandatory minimum crack statutes, however, can only occur legislatively.

Eliminating the 100 to 1 disparity is long overdue. We ask that you co-sponsor S. 1711, the Drug Sentencing Reform and Kingpin Trafficking Act introduced by Sen. Biden. If you have any questions, please contact Nancy Zirkin, at (202) 263-2880 or David Goldberg, Senior Counsel, at (202) 466-0087, regarding this or any other issue.

Sincerely,

Wade Henderson
President & CEO

Nancy Zirkin
Vice President / Director of Public Policy