

National Association of Assistant United States Attorneys

Safeguarding Justice for All Americans

Board of Directors March 6, 2018

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Washington, DC 20002-8002

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Dear Chief Judge Pryor:

David A. Marye
Secretary
(E.D. KY)

The National Association of Assistant United States Attorneys (NAAUSA) submits the following comments in response to Part A of the proposed amendments to the Sentencing Guidelines relating to synthetic cathinones, published on January 26, 2018.

Patricia Booth
(S.D. TX)

Karen Escobar
(E.D. CA)

Eric Gibson
(E.D. PA)

Lauren Jorgensen
(S.D. FL)

The National Association of Assistant United States Attorneys represents the interests of 5,400 Assistant United States Attorneys employed by the Department of Justice and responsible for the prosecution of federal crimes and the handling of civil litigation throughout the United States. United States Attorneys and Assistant United States Attorneys are the gatekeepers of our system of justice. Our primary responsibility is to protect the innocent and convict the guilty.

Laura Kaplan
(MA)

Joseph Koehler
(AZ)

Jennifer Kolman
(E.D. TN)

NAAUSA has in its membership hundreds of prosecutors who handle narcotics cases every day. As the Commission has acknowledged, the difficulties presented by newly designed synthetic cathinones, also known as "bath salts," are complex and wide ranging, due to the inconsistency of applying the Sentencing Guidelines as currently written.

Mark Vincent
(UT)

As we are certain the Commission is aware,

Marc Wallenstein
(HI)

Clay West
(W.D. MI)

Michael Whyte
(W.D. TX)

Geoffrey Wilson
(C.D. CA)

The abuse of synthetic stimulant drugs known as "bath salts" has become a major public health threat across the U.S. Unlike traditional cosmetic bath salts, which are made to be added to bath water, toxic bath salt products have no legitimate use for bathing and are produced specifically for recreational drug abusers as legal substitutes for cocaine, ecstasy (MDMA), and amphetamines. Case reports and clinical studies¹ have shown that the use of these designer drugs can cause severe psychiatric symptoms and possibly death. Individuals abusing bath salts have ranged in age from teenagers to adults in their forties.

Executive Director
Dennis Boyd

Counsel
Bruce Moyer

¹ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3474442/>

After an offender has been convicted of a federal narcotics offense involving these synthetic drugs, the sentencing hearings typically involve the calling of a chemist and pharmacologist on both sides to delve into the chemical composition of the drug. These hearings are extremely time consuming and costly, and have resulted in considerable uncertainty across the federal circuits.

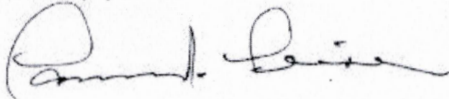
The chemical composition of these "designer drugs" is constantly changing, even though all cathinones share a core structure. Similarly, these drugs have common effects as noted above. Because these drugs share similar structures and have similar effects, they should be treated uniformly in the sentencing guideline context despite their slight variations in chemical structure. This, in turn, will avoid unwarranted sentencing disparities that currently occur based on those variations.

The proposed amendment would simplify the process of determining the sentence in these cases, bringing needed certainty to the justice system. NAAUSA recommends adopting the same marihuana equivalency ratio for this group of synthetic cathinones as is currently used for methcathinone, namely, 1 gram to 380 grams of marihuana. NAAUSA also supports establishing a base minimum offense level of 12 for these drug offenses. This equivalency will, in turn, promote respect for the law, provide just punishment for synthetic cathinone offenses, and enhance public confidence in our justice system.

Conclusion

In summary, NAAUSA urges the adoption of Part A of the proposed amendment, including a drug equivalency of 1 gram to 380 grams of marihuana for synthetic cathinones, and establishing a base minimum offense level of 12 in these cases. We appreciate your consideration of these comments in finalizing your proposed amendments to the Guidelines.

Sincerely yours,



Lawrence J. Leiser
President