



U.S. Sentencing Commission
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NEWS RELEASE

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**U.S. SENTENCING COMMISSION PROMULGATES PERMANENT AMENDMENT
TO THE FEDERAL SENTENCING GUIDELINES
COVERING CRACK COCAINE, OTHER DRUG TRAFFICKING OFFENSES**
Also promulgates amendments regarding firearms and other offenses

WASHINGTON, D.C.— Today the United States Sentencing Commission promulgated amendments to the federal sentencing guidelines covering drug trafficking offenses, firearms offenses, and other federal offenses.

The Commission promulgated a permanent amendment implementing the provisions of the Fair Sentencing Act of 2010 (Pub. L. No. 111–220). The Fair Sentencing Act, signed by the President on August 3, 2010, among other things, reduced the statutory mandatory minimum penalties for crack cocaine trafficking and eliminated the mandatory minimum sentence for simple possession of crack cocaine. Specifically, the Act reduced the statutory penalties for offenses involving manufacturing or trafficking in crack cocaine by raising the quantities required to trigger statutory mandatory minimum terms of imprisonment — from 5 grams to 28 grams for a five-year mandatory minimum and from 50 to 280 grams for a 10-year mandatory minimum. The Act also contained directives to the Commission to review and amend the federal sentencing guidelines to account for certain aggravating and mitigating circumstances in drug trafficking cases to better account for offender culpability.

Commission chair, Judge Patti B. Saris (District of Massachusetts) said, “The Fair Sentencing Act was among the most significant pieces of criminal justice legislation passed by Congress in the last three decades. For over 15 years, the Commission has advocated for changes to the statutory penalty structure for crack cocaine offenses. The Commission applauds Congress and the Administration for addressing the sentencing disparity between crack cocaine and powder cocaine offenders.”

No crack cocaine offender will see his or her sentence increase based solely on the quantity thresholds the Commission set today in the federal sentencing guidelines. As a result of today’s action, the federal sentencing guidelines will focus more on offender culpability by placing greater emphasis on factors other than drug quantity.

Based on an analysis of the most recent sentencing data, the Commission estimates that crack cocaine offenders sentenced after November 1, 2011, will receive sentences that are approximately 25 percent lower on average as a result of the changes made to the federal sentencing guidelines today. Moreover, the Commission estimates that these changes may reduce the cost of incarceration for crack cocaine offenders in the federal prison system in the future.

Today's vote by the Commission will set the triggering quantities of crack cocaine for the five and 10-year mandatory minimum penalties (28 grams and 280 grams, respectively) at base offense levels 26 and 32, which correspond to a sentencing range of 63-78 months and 121-151 months, respectively, for a defendant with little or no criminal history. This action maintains proportionality with other drug types insofar as the quantity of illegal drugs, including crack cocaine, required to trigger the five- and ten-year statutory mandatory minimum penalties is subject to the same base offense level no matter the drug type.

Pursuant to statute, the Commission must consider whether its amendment to the federal sentencing guidelines implementing the Fair Sentencing Act should apply retroactively. The Commission plans to hold a hearing on June 1, 2011, to consider retroactivity, and voted today to seek public comment on the issue.

The Commission also voted to promulgate an amendment to increase penalties for certain firearms offenses. For example, the Commission voted to provide increased penalties for certain "straw purchasers" of firearms and for offenders who illegally traffic firearms across the United States border. Judge Saris stated, "Firearms trafficking across our borders is a national security issue. The Commission is aware of the view by some that firearms trafficking is fueling drug violence along our southwest border. We sincerely appreciate all of the public input we received from criminal justice stakeholders on this very important issue. The Commission's decision to increase penalties for these offenses will promote public safety and deterrence."

In addition, the Commission voted to promulgate amendments implementing the Patient Protection and Affordable Care Act of 2010 (Pub. L. No. 111-148), the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Pub. L. No. 111-203), and the Secure and Responsible Drug Disposal Act of 2010 (Pub. L. No. 111-273). More information regarding these amendments, and other amendments promulgated today, will be forthcoming on the Commission's website at www.ussc.gov.

The Commission must submit its 2010-2011 amendment package to Congress by May 1, 2011. Congress has 180 days to review the amendments submitted by the Commission. The amendments have a designated effective date of November 1, 2011, unless Congress acts affirmatively to modify or disapprove them.

The 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 structure the courts' sentencing discretion to help ensure that similar offenders who commit similar offenses receive similar sentences.

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