

U.S. House of Representatives
Committee on the Judiciary

Washington, DC 20515-6216
One Hundred Tenth Congress

November 6, 2007

The Honorable Ricardo H. Hinojosa
United States Sentencing Commission
One Columbus Circle, N.E.
Suite 2-500, South Lobby
Washington, D.C. 20002-8002

Dear Judge Hinojosa:

We write to express our concern that the Commission may soon vote to make its April amendments to United States Sentencing Guidelines pertaining to crack cocaine apply retroactively. This decision could result in approximately 20,000 drug dealers receiving reduced sentences of more than two years on average.

We are particularly concerned that any decision by the Commission to apply its crack cocaine amendments retroactively will significantly shorten the sentence or result in the release of major crack dealers with long criminal records, including firearms offenses. Yet those convicted of simple possession will see little, if any, reduction.

We question the wisdom of releasing serious drug dealers back into our communities at the same time that many of these communities are experiencing increases in violent crime and more frequent gun violence.

We believe that Congress has the institutional responsibility to establish or modify federal sentencing policies. Congress created the Commission to collect information on sentences and their imposition and to make recommendations to Congress for its use in enacting federal sentences.

The Commission recognized that the issue of retroactivity was just as important as the guideline changes themselves and included in its own rules the requirement that

Generally, promulgated amendments will be given prospective application only. However, in those cases in which the Commission considers an amendment for retroactive application to previously sentenced, imprisoned defendants, it shall decide whether to make the amendment retroactive at the same meeting at which

it decides to promulgate the amendment. Prior to final Commission action on the retroactive application of an amendment, the Commission shall review the retroactivity impact analysis prepared pursuant to Rule 2.2.

Unfortunately, it appears that now the Commission has chosen not to follow this rule in this instance and instead has delayed consideration of this important issue, which will adversely affect communities across the country and interfere with Congress' review of crack cocaine sentencing issues.

We are concerned that the retroactive application of the Commission's April amendment will threaten America's public safety and usurp Congress' authority to perform a thorough, democratic review of the issue.

We therefore urge you not to apply this amendment retroactively.


Sincerely,



LAMAR SMITH
Ranking Member
House Judiciary Committee



J. RANDY FORBES
Ranking Member
Subcommittee on Crime, Terrorism,
and Homeland Security



F. JAMES SENSENBRENNER, Jr.
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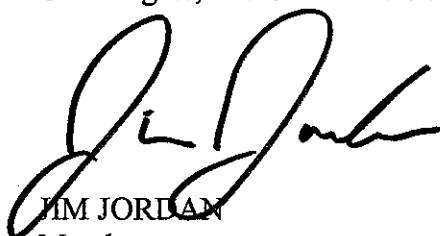
DARRELL ISSA
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LOUIE GOHMERT
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JIM JORDAN
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