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NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS

February 5, 2008

Re: H.R. 4545, "The Drug Sentencing Reform and Cocaine Kingpin Trafficking Act."

Dear Representative:

The National Association of Criminal Defense Lawyers, a bar association with thousands of criminal defense lawyers who practice in the federal courts across our nation., fully supports elimination of the unwarranted disparity in federal cocaine sentences pursuant to H.R. 4545, "The Drug Sentencing Reform and Cocaine Kingpin Trafficking Act." Federal sentences for drug offenses are based on the weight of the controlled substance. For two decades, federal sentencing laws have treated possession of one gram of crack cocaine as the equivalent of 100 grams of powder cocaine.

As repeatedly documented by United States Sentencing Commission, there is no sound basis -- scientific or otherwise -- for this excessive disparity, perhaps the most notorious symbol of racism in the modern criminal justice system. Eighty-one percent of federal defendants sentenced for crack cocaine are black, and their sentences are 50 percent longer than inmates serving time for cocaine powder. This is true even though two-thirds of crack defendants are low-level street dealers. Also troubling is the fact that the average sentence for possession of crack cocaine is far longer than the average sentences for violent crimes such as robbery and sexual abuse. Because even the appearance of discrimination erodes public confidence in our justice system, Congress should correct this longstanding injustice.

The current penalty scheme not only skews law enforcement resources towards lower-level crack offenders, it punishes those offenders more severely than their powder cocaine suppliers. This is incongruous with Congress's intended targets for the 5- and 10-year terms of imprisonment, mid-level managers and high-level suppliers, respectively.

In light of these well-established factors, the Sentencing Commission took action last year to reduce its crack guidelines without deviating from the mandatory minimum statutes passed by Congress. At the same time, the Commission called on Congress to enact a more comprehensive solution. On behalf of NACDL, I urge you to help complete the unfinished reform process and co-sponsor the "Drug Sentencing Reform and Cocaine Kingpin Trafficking Act." Thank you for considering our views.

Sincerely,

Carmen D. Hernandez
President

"LIBERTY'S LAST CHAMPION"

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