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May 26, 2011

Honorable Patti B. Saris, Chair  
United States Sentencing Commission  
One Columbus Circle, N.E.  
Suite 2-500, South Lobby  
Washington, D.C. 2002-8002

Re: Congressional Black Caucus (CBC) Supports the Retroactive Application of Parts A and C of the Permanent Amendment to the federal sentencing guidelines implementing the Fair Sentencing Act of 2010

Dear Judge Saris:

The Congressional Black Caucus urges the U.S. Sentencing Commission to retroactively apply Parts A and C of the permanent amendment implementing the Fair Sentencing Act of 2010, without restriction or limitation. As you know, Part A makes changes to the drug quantity table for offenses involving crack cocaine, and Part C reflects the changes in the statutory penalties for simple possession of crack cocaine which eliminated the 5-year mandatory minimum term and lowered the sentencing guidelines for that offense as well. After more than a decade, Congress passed and President Obama signed into law the Fair Sentencing Act with the intention of "restor[ing] fairness to Federal cocaine sentencing." This historic piece of legislation is the result of recognition by both political parties that it was time for Congress to address racial disparities and excessive sentences for low-level crack cocaine offenses in the federal criminal justice system.

While both Democrats and Republicans acknowledged that the federal crack cocaine laws were exacerbating racial and sentencing disparities, the CBC recognizes that making this amendment to the sentencing guidelines retroactive is the next step in correcting this 25-year old injustice. In fact, it is only through the retroactive application of the permanent amendment that the full spirit of the law can be realized. By making this amendment retroactive, the Commission will not only help undo a long history of injustice in federal sentencing, but will have a significant impact on the lives of up to 12,040 individuals who were sentenced under the unjust sentencing law.

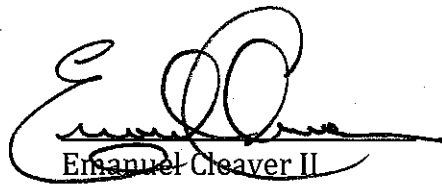


Honorable Patti B. Saris  
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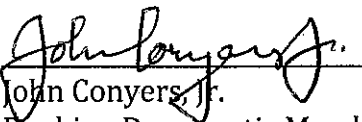
In 1993, 1995 and 2007, the Sentencing Commission applied drug offense sentencing guideline amendments retroactively. The Commission acted in 1993 to apply the LSD guideline retroactively and in 1995 it made the marijuana guideline retroactive. More recently in 2007, when the Sentencing Commission acted on its long-standing belief that its crack cocaine sentencing guidelines were adding to sentencing disparities, the Commission reduced them and applied those changes retroactively as well. We commend the Commission for its leadership in these areas. These changes have worked well and neither caused any undue burden on courts nor jeopardized public safety. This drug sentencing guideline amendment is no different than those in past years and the Commission has sound precedent upon which to apply changes to the Drug Quantity Table retroactively. Moreover, this change should be made without any restriction on the type of defendant or category of defendants who would be eligible for such relief. For the past 25 years all crack defendants were subject to the unfair law, regardless of their criminal history or any individualized factors present in their cases, so these same people should benefit from reductions in sentences.

We appreciate this opportunity to provide comment to the Commission and reiterate our unequivocal support for the retroactive application of Parts A and C of the Fair Sentencing Act guidelines. The Commission has the opportunity to address longstanding racial and sentencing disparities in the federal system, disparities that the Commission itself has encouraged Congress to rectify. Congress has finally passed a law that takes a first step in dealing with these disparities; now we encourage the Commission to make the changes in the crack cocaine guidelines retroactive.

Sincerely,



Emanuel Cleaver II  
Chairman  
Congressional Black Caucus



John Conyers, Jr.  
Ranking Democratic Member  
Committee on the Judiciary



Robert C. "Bobby" Scott  
Ranking Democratic Member  
Subcommittee on Crime,  
Terrorism and Homeland  
Security



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