



July 21, 2009

The Honorable Robert Scott  
U.S. House of Representatives  
Washington, DC 20515

**RE: The Sentencing Project endorses the Fairness in Cocaine Sentencing Act of 2009**

Dear Congressman Scott:

As a national criminal justice reform organization working towards a fair and effective justice system, The Sentencing Project applauds your leadership in addressing the unfairness in federal penalties for crack cocaine offenses. We are pleased to endorse **H.R. 3245, the Fairness in Cocaine Sentencing Act of 2009**.

Americans believe in a system of justice where all individuals are treated equally and where laws do not single out groups for different treatment. Unfortunately, the 1986 and 1988 Anti-Drug Abuse Acts established harsh and excessive penalties for crack cocaine compared to powder cocaine based largely on misinformation and media distortions. Current federal policy maintains a 100 to 1 quantity-based sentencing disparity between crack and powder cocaine. Possessing just 5 grams of crack cocaine (10 to 50 doses) results in the same five year mandatory minimum prison sentence as selling 500 grams of powder cocaine (2,500 to 5,000 doses).

In the 1980s, lawmakers believed that crack cocaine was a substantially more addictive and dangerous drug than powder cocaine. Two decades of research and extensive analysis by scientists, academics and the U.S. Sentencing Commission now reveal that those assertions are not supported by sound evidence. A study published in the *Journal of the American Medical Association* reported that the physiological and psychoactive effects of crack and powder cocaine are the same.

Moreover, the U.S. Sentencing Commission stated in its May 2007 report to Congress that the current penalties for cocaine offenses “sweep too broadly and apply most often to lower level-offenders.” More than 60% of federal crack cocaine convictions involved low-level drug activity, such as street-level dealing in 2006.

Perhaps the most troubling effect of the harsh penalties for crack cocaine is the significant racial disparity that exists. African Americans comprise 81.8% of the defendants sentenced to federal prison for crack cocaine offenses, even though two-thirds of crack cocaine users are white or Hispanic. African Americans account for just 27% of powder cocaine offenders.

H.R. 3245 would address mandatory minimums for low-level crack cocaine offenses in order to reprioritize federal law enforcement resources in a sensible manner. Restoring fairness to the cocaine sentencing structure requires Congress to equalize the penalties for crack and powder offenses without increasing the current mandatory sentences.

The U.S. Sentencing Commission, federal judges, scientists, lawmakers, faith-based groups and community organizations agree that federal mandatory minimum sentences for crack cocaine offenses are harsh and excessive. Recent changes to the Sentencing Guidelines for offenses involving crack cocaine are encouraging but represent only incremental progress in the effort to reform federal crack cocaine sentencing law, and do not address the harsh mandatory sentences. Only Congress can eliminate the 100 to 1 sentencing quantity disparity between crack and powder cocaine.

The Sentencing Project believes that unequal sentencing for crack and powder cocaine is unjustifiable and not supported by research. We strongly urge passage of the Fairness in Cocaine Sentencing Act of 2009.

Sincerely,

A handwritten signature in black ink, appearing to read "Marc Mauer". The signature is written in a cursive, flowing style.

Marc Mauer  
Executive Director