

United States Senate  
WASHINGTON, DC 20510-0606

November 13, 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:

I have grave concerns that the Commission may soon vote to make its April Amendments to the United States Sentencing Guidelines pertaining to crack cocaine apply retroactively. This retroactive application would affect at least 19,500 current crack cocaine convicts sitting in federal prison and could lead to the release of 3,000-5,000 inmates immediately – those who are close to the end of their sentences.

I am 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.

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

I believe that the American public has vested Congress with the 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;

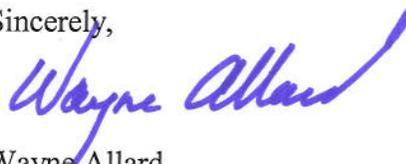
*“Generally, promulgated will be given prospective application only. However, in those cases in which the Commission considers an amendment for retroactive application to previously sentences, imprisoned defendants, it shall decide whether to make the amendment retroactive at the same meeting at which 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 extremely important issue, which will adversely affect communities across the country and interfere with Congress' review of crack cocaine sentencing issues.

I am concerned that the retroactivity 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.

I therefore urge you not to apply this amendment retroactively.

Sincerely,

A handwritten signature in blue ink that reads "Wayne Allard". The signature is written in a cursive style with a long, sweeping flourish at the end.

Wayne Allard  
United States Senator