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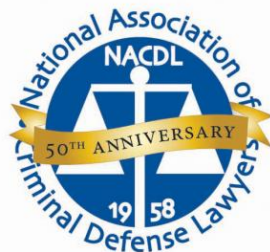
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# NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS

April 21, 2009

**Re: H.R. 265, The "Drug Sentencing Reform and Cocaine Kingpin Trafficking Act" and H.R. 1459, The "Fairness in Cocaine Sentencing Act."**

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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. 265, "The Drug Sentencing Reform and Cocaine Kingpin Trafficking Act" and H.R. 1459, "The Fairness in Cocaine Sentencing Act." Federal sentencing laws, which are based on the weight of the controlled substance, have for over two decades treated possession of one gram of crack cocaine as the equivalent of 100 grams of powder cocaine. The two are pharmacologically identical.

Scientists and researchers have been debunking claims that crack cocaine is a more addictive or dangerous drug than powder cocaine for decades. In 1996, *The Journal of the American Medical Association* published research concluding that the physiological and psychological effects of crack and powder cocaine are the same. The United States Sentencing Commission has concurred with the scientific community in finding that there is no sound basis -- scientific or otherwise -- for this excessive disparity, likely the most notorious symbol of racism in the modern criminal justice system.

Although two thirds of crack cocaine users are white or Hispanic, over eighty-one percent of federal defendants sentenced for crack cocaine are black. Almost sixty percent of those crack defendants are sentenced for low-level offenses, but the average crack cocaine sentence is far longer than the average sentences for violent crimes such as robbery and sexual abuse. The harsh penalty structure and severe racial sentencing disparity create a clear and dangerous appearance of discrimination that continues to erode public confidence in our justice system. Congress must correct this longstanding injustice.

The current penalty scheme not only skews law enforcement resources towards low-level crack offenders, but also punishes those offenders more severely than the higher level offenders supplying them with powder cocaine for conversion. This is incongruous with Congress's intended targets for the 5- and 10- year mandatory minimum sentences, mid-level managers and high-level suppliers, respectively.

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In light of these well-established injustices, the Sentencing Commission took action in 2007 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 strongly urge you to help complete the reform process and co-sponsor the “Drug Sentencing Reform and Cocaine Kingpin Trafficking Act” and the “Fairness in Cocaine Sentencing Act.” Thank you for considering our views.

Sincerely,

A handwritten signature in black ink, appearing to read "John Wesley Hall". The signature is written in a cursive, flowing style with a prominent initial "J".

John Wesley Hall  
President