

Empowering the Sentencing Commission: A Different Resolution to the Cocaine Sentencing Drama

38 Rutgers L. Rec. 74 (2011) | [WestLaw](#) | [LexisNexis](#) | [PDF](#)

Cocaine sentencing policy has been the source of vociferous debate for more than twenty years. Under the traditional sentencing scheme, criminal defendants convicted of crack cocaine offenses (who were usually black) were disproportionately sentenced to longer prison terms than defendants convicted of powder cocaine offenses (who were usually not). Despite decades of criticisms toward this disparity, Congress did not change the sentencing law until August 2010. On the other hand, the United States Sentencing Commission was an unlikely hero that affirmatively acted to reduce the disparity between crack and powder cocaine sentences. That role is largely underappreciated. Based on the Commission's 2007 retroactive amendment that reduced the sentencing guideline ranges for crack convictions, Congress should recognize the value of the Commission and grant it additional power.

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