

May 19, 2011

The Honorable Eric Holder
Attorney General
U.S. Department of Justice
Washington, DC 20530-0001

Dear Attorney General Holder:

We write urging the Department of Justice to support retroactive application of the United States Sentencing Commission's revised sentencing guideline for crack cocaine.

The Sentencing Commission is currently considering whether to make the crack cocaine guideline reduction it adopted after enactment of the Fair Sentencing Act retroactive. Retroactive application of the revised guideline is the necessary next step in addressing the unfair, unjustified and racially discriminatory disparity in the treatment of the powder and crack forms of cocaine. The Department of Justice must demonstrate strong support for retroactive application of the guidelines to ensure that this next step is taken.

You, as well as the President, Vice President and others in the Administration, have played an essential role in seeking to eliminate the 100 to 1 sentencing disparity in the treatment of the powder and crack forms of cocaine. As you stated, the "Administration firmly believes that the disparity in crack and powder cocaine sentences is unwarranted, creates a perception of unfairness, and must be eliminated." With the Administration's leadership, Congress enacted the Fair Sentencing Act, significantly reducing the disparity in the treatment of the two forms of cocaine. Even though it did not eliminate the disparity in its entirety, an act the Sentencing Commission had concluded would do more to reduce the sentencing gap between blacks and whites "than any other single policy change" and would "dramatically improve the fairness of the federal sentencing system," the Fair Sentencing Act is the most important step to date towards fair, non-discriminatory drug sentencing.

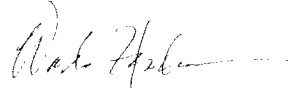
Now the Sentencing Commission is considering whether to apply its guidelines implementing the Fair Sentencing Act to individuals currently serving sentences under the prior provisions. In the past when the Sentencing Commission acted to mitigate the unfairness of crack sentences, it applied its guidelines retroactively – allowing individuals currently incarcerated an opportunity for a fairer sentence. It would be a travesty not to do so in this circumstance. Continuing to incarcerate people pursuant to the discredited, racially discriminatory former policy would undermine the progress that has been made towards fairness.

The Administration has been a leader in addressing the sentencing disparity between powder and crack cocaine. Now is not the time to stop leading. It is incumbent upon the Department of Justice to support retroactive application of the revised Sentencing

Commission guideline. We urge you to not miss this opportunity to again demonstrate the Administration's commitment to fair, racially unbiased sentencing.



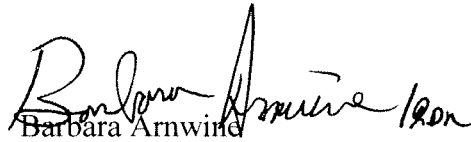
John Payton
President and Director-Counsel
NAACP Legal Defense and Educational
Fund, Inc.



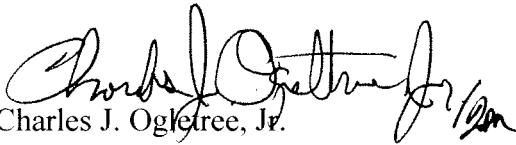
Wade Henderson
President and CEO
The Leadership Conference on
Civil Rights



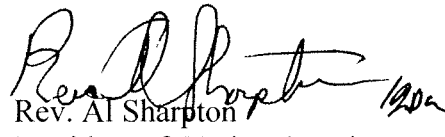
Laura W. Murphy
Director
American Civil Liberties Union
Washington Legislative Office



Barbara Arnwine
Executive Director
The Lawyers' Committee for Civil
Rights Under Law



Charles J. Ogletree, Jr.
Executive Director
Charles Hamilton Institute, and
Jesse Climenko Professor of Law
Harvard Law School



Rev. Al Sharpton
President of National Action
Network, Inc.



Hillary O. Shelton
Director, NAACP Washington Bureau &
Senior Vice President for Advocacy and Policy