

Drug Offenders Get Retroactive Sentence Reductions

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WASHINGTON (NNPA) – In a major move last week, the U.S. Sentencing Commission voted unanimously to moderate federal sentencing guidelines for drug offenses, and apply the guidelines retroactively. Consequently, more than 46,000 currently incarcerated drug offenders – 73 percent of whom are Black or Latino – will now be eligible for a reduction in their sentences.

“This amendment [to the guidelines] received unanimous support from Commissioners because it is a measured approach,” said Judge Patti B. Saris, chair of the commission. “It reduces prison costs and populations and responds to statutory and guidelines changes since the drug guidelines were initially developed, while safeguarding public safety.”

The Sentencing Commission is an independent agency in the federal court system tasked with creating federal prison sentencing policy. Though the amendment is aimed at reducing overcrowding (another of the agency’s responsibilities), there are also implications for the legacy of the war on drugs. The Commission reports that federal prisons are over capacity by 32 percent. In the long run, the amendment could save nearly 80,000 “bed years.”

“We think [the amendment] represents really an historic step forward in terms of making changes to the war on drugs, which has been waged for three decades – and hasn’t really reduced the amount of drugs that are available, and hasn’t done that much about drug abuse, but has filled half our fed-



The U.S. Drug Sentencing Commission. On July 18, the panel voted unanimously to apply a reduction in the sentencing guideline levels applicable to most federal drug trafficking offenders retroactively. Unless Congress disapproves the amendment, beginning Nov. 1, 2014, eligible offenders can ask courts to reduce their sentences. Offenders whose requests are granted by the courts can be released no earlier than Nov. 1, 2015.

sentences reduced. The courts will review to determine whether reducing the sentence poses a public threat. Motions will be decided on a rolling basis—but actual releases won’t begin until November 1, 2015.

The time allows for a smooth transition. Judges will be able to carefully review each of the eligible 46,290 cases, and prosecutors will have time to object, if desired. Federal probation professionals will have time to prepare to supervise those being released

low-level drug offenders to treatment as opposed to incarceration, has increased each year since 2012.

Additionally, there has been some traction and effective collaboration on drug reform in recent years. In 2008, for example, President George W. Bush signed the Second Chance Act into law, which gave subsidies to companies that hired ex-offenders. Even the Commission’s vote has been a collabo-

orative process, eliciting more than 60,000 mostly-favorable letters from elected officials, organizations, citizens, and legal professionals during a public comment period.

However, social, executive, and judicial interventions alone are not enough to address the lingering effects of the drug war. For example, the scope of the Sentencing Commission’s vote only affects those serving time in federal facilities; meanwhile, the bulk of the nation’s drug offenders are convicted at the state level.

Without Congressional action, some drug policy problems—particularly the mandatory minimum guidelines that impose sentences based on the amount and drug involved, regardless of the case facts and/or judge’s assessment—will remain in effect. Several elected officials have made attempts at legislation to address these issues. Most recently, the Smarter Sentencing Act, introduced in the Senate last year, and again in March, seeks to allow the court to disregard the mandatory minimum guidelines in cases involving low-level, nonviolent offenders.

“The Sentencing Commission did about as well as it could, given the constraints with mandatory minimum [sentencing guidelines], which can only be repealed or reduced by Congress,” says Haile. “Some people might be tempted to think that...this [vote] means the problem is solved, but really it’s going to continue to be a problem even when all these reforms are carried out. We’ll still need to heal the problems from mandatory minimums, and we’ll still need Congressional action.”

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eral prison cells with people with drug offenses,” says Jeremy Haile, federal advocacy counsel for the Sentencing Project, a national incarceration research, reform, and advocacy organization.

“It’s been a particularly devastating blow—the war on drugs—to communities of color. So even though people of all races use and sell drugs at roughly the same rates, Blacks and Latinos are far more likely to be incarcerated for drug offenses.”

The amendment works by raising the drug quantity thresholds that trigger mandatory minimum sentences. Sentencing for federal

earlier than expected, and the Federal Bureau of Prisons will have time to set-up reentry provisions for them.

The commission estimates that those approved will receive a reduction of about two years, on average. Because the eligible cases span a few decades, these early releases will take place over many years. Though there are a few thousand offenders whose resentencing would allow them to be released immediately on the November date.

This amendment is another step in a slow, but sweeping effort to get a handle on inef-

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drug offenses moving forward will use this new threshold, but the amendment is also retroactive. Many offenders’ cases would no longer meet those thresholds.

Offenders must meet seven criteria to be eligible for a revised (and likely reduced) sentence, including: an original sentence longer than the mandatory minimum; no convictions under career criminal guidelines; and no alterations to the original mandatory-minimum sentence through special leniency or assisting authorities.

Starting now, eligible offenders can file a motion to have their cases reviewed and

fective drug policy. In 2010, the Obama administration released its first plan for drug policy reform, a holistic strategy to address drugs as an international and public health issue. And according to independent political fact-checking project, Politifact, President Barack Obama has kept most of his drug reform promises.

In 2010, he signed the Fair Sentencing Act, which reduced the mandatory minimum sentencing guidelines that had created a decades-long 100-to-1 sentencing disparity between crack and cocaine offenses. Funding to state drug courts, which funnel

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