

Thursday, December 13, 2007

"She don't lie, she don't lie, she don't lie."

DEA image in the public domain. Ah, 1977, before sentencing guidelines, before Nancy Reagan's "Just Say No" campaign, before I ever stepped foot in law school. That's when Eric Clapton released "Cocaine" (just click the title here and listen to the song). Cocaine has been very much in the criminal defense news this week. On December 10, the United States Supreme Court gave trial judges wide discretion not only to attempt to rectify the unjust sentencing guidelines disparity between powder cocaine and cocaine base, but went further to permit trial judges wide latitude in departing from the guidelines for all criminal cases (which, however, permits them wide latitude to depart upwards from the guidelines, and not just downwards). Next, on December 11, and almost like precision choreography, the United States Sentencing Commission "unanimously voted" ... to give retroactive effect to a recent amendment to the Federal Sentencing Guidelines that reduces penalties for crack cocaine offenses. Retroactivity of the crack cocaine amendment will become effective on March 3, 2008." The Sentencing Commission's news release goes on to say that: "Not every crack cocaine offender will be eligible for a lower sentence under the decision. A Federal sentencing judge will make the final determination of whether an offender is eligible for a lower sentence and how much that sentence should be lowered. That determination will be made only after consideration of many factors, including the Commission's direction to consider whether lowering the offender's sentence would pose a danger to public safety. In addition, the overall impact is anticipated to occur incrementally over approximately 30 years, due to the limited nature of the guideline amendment and the fact that many crack cocaine offenders will still be required under Federal law to serve mandatory five- or ten-year sentences because of the amount of crack involved in their offense." U.S. Sent. Comm. News Release (Dec. 11, 2007) (emphasis added). In any event, the Sentencing Guidelines change narrows but does not eliminate the sentencing disparity between powder cocaine weight and cocaine base weight. Moreover, only Congress -- and not the U.S. Sentencing Commission -- can reduce the 100:1 powder cocaine to crack cocaine sentencing disparity for mandatory minimum sentences. Therefore, please contact your Senators and House members now to urge them to change the mandatory minimum sentencing laws accordingly (and later we can urge them to eliminate mandatory minimum sentencing entirely). Jon Katz.

Posted by Jon Katz in Drugs at 00:00

How much time can someone spend if they were caught with 1 gram of coke in D.C. i know is differnt in all states but what the avearge in dc for 1 gram
Anonymous on Jun 25 2008, 01:14

Hi, Jack (your listed homepage address doesn't work):

The maximum penalty in D.C. for simple possession of cocaine is 180 days in jail. D.C. Code Â§ 48-904.01(d) .

Distribution, possession with intent to distribute and manufacturing carries up to thirty years. For cocaine, even as small as 1 gram can be sufficient to convict for possession with intent to distribute, depending on the surrounding circumstances. D.C. Code Â§ 48-904.01(a)(2)(A).

Take care. Jon
Anonymous on Jun 25 2008, 21:33

Very unexpected post I would say! Was interesting to learn about Eric Clapton... Besides thank you for not making me register to just leave a comment, way too many sites are doing that now. And then thanks for the info here, though. It's much appreciated. Keep up good works!
Anonymous on Apr 23 2009, 10:53