



U.S. Department of Justice

*Crime - Mandatory Minimums*

Criminal Division cc: Litt

OPTIONAL FORM 99 (7-90)

FAX TRANSMITTAL

# of pages >

To	<i>Jose Carda</i>	From	<i>Grace</i>
Dept./Agency		Phone #	<i>Mastalli</i>
Fax #		Fax #	

Assistant Attorney General

February 1, 1995

MEMORANDUM

TO: Chairman Conaboy  
All Commissioners

FROM: Jo Ann Harris *[Signature]*

SUBJECT: Department of Justice Position Statement  
COCAINE AND FEDERAL SENTENCING POLICY

I am attaching the Department of Justice Position Statement regarding Cocaine and Federal Sentencing Policy to be included in the Commission's report on the subject.

The Department eagerly awaits the revised draft of the report.

## Department of Justice Position Statement

### COCAINE AND FEDERAL SENTENCING POLICY

Although cocaine base (crack) and cocaine hydrochloride (cocaine powder) are chemically similar, there are significant differences in the predominant manner the two substances are ingested and marketed. Based on these differences and the resulting harms to society, the Department of Justice rejects any proposal to equate crack with cocaine powder and believes that traffickers of crack cocaine should be subject to higher penalties than traffickers of like amounts of cocaine powder.

Current research shows that crack is a more dangerous and harmful substance for many reasons. The most common routes of administration of the two drugs cause crack to be the more psychologically addictive of the substances. The quicker, more intense, and shorter-acting effects of crack contribute to its greater abuse and dependency potential as compared to snorted cocaine powder. Moreover, identifiable social and behavioral changes occur much more quickly with crack use than with the use of cocaine powder.

Crack can easily be broken down and packaged into very small and inexpensive quantities for distribution -- sometimes as little as single dose quantities. Crack is thereby marketed to the most vulnerable members of society, including those of lower socioeconomic status and youth. Additionally, the open-air street markets and crack houses used for the distribution of crack cocaine contribute heavily to the deterioration of neighborhoods and communities. Both the scale of marketing and its open and notorious nature enable many, who would not previously have had access to cocaine powder, to purchase, use, and become addicted to crack cocaine. Moreover, the present crack market is associated with violent crime to a greater extent than that of cocaine powder. Crack cocaine has thus had a severe, negative impact on many families and communities, and in particular, on minority communities.

The seller of crack is well aware of its addictive qualities and the familial and community devastation it engenders. Thus, we believe that crack cocaine traffickers should be sentenced more heavily than cocaine powder traffickers. Although we recognize, as a policy matter, that an adjustment in the current penalty structure may be appropriate, any such adjustment must reflect the greater dangers associated with crack as opposed to cocaine powder.

Furthermore, we do not believe that specific offender characteristics in the Sentencing Guidelines will be able to account for all of the differences in harms caused by the substances, both because of the systemic nature of some of those harms and because of problems of proof in individual cases. Before making any final recommendations, the Sentencing

2

Commission should consider and report to Congress about the impact any suggested changes would have on law enforcement's efforts against crack and cocaine powder trafficking and any impact these changes may portend for the level of use of the substances.