

Felony drug prosecution handbook

P.J. Merriman - Prosecuting and Defending Drug Offence Cases: A Practitioner's Handbook

Federal Trafficking Penalties for Schedules I, II, III, IV, and V (except Marijuana)				
Schedule	Substance/Quantity	Penalty	Substance/Quantity	Penalty
I	Cocaine 1000 grams or more or 50 grams or more of a salt, salted form, salted derivative, or anesthetic derivative of cocaine	First Offense: Not less than 20 years in prison, and if death or serious bodily injury results, lifelong probationary and supervised release for the remainder of the term.	First Offense: Not less than 20 years in prison, and if death or serious bodily injury, and long term supervised release for the remainder of the term.	
II	Cannabis Resin 28.75 grams or more	First Offense: Not less than 5 years, and up to 40 years, or life	First Offense: Not less than 20 years in prison, and if death or serious bodily injury, and long term supervised release for the remainder of the term.	
III	Federal Marijuana (including marijuana resin)	First Offense: Not less than 5 years, and up to 40 years, or life	First Offense: Not less than 10 years, and up to 40 years, or life	
IV	Federal Analogue 10-99 grams residue	Second Offense: Not less than 10 years, and up to 40 years, or life	Second Offense: Not less than 10 years, and up to 40 years, or life	
V	100-199 grams residue both ways, life	Third Offense: Not less than 10 years, and up to 40 years, or life	Third Offense: Not less than 10 years, and up to 40 years, or life	
	200-499 grams residue both ways, life	Fourth Offense: Not less than 10 years, and up to 40 years, or life	Fourth Offense: Not less than 10 years, and up to 40 years, or life	
	500-4999 grams residue both ways, life	Fifth Offense: Not less than 10 years, and up to 40 years, or life	Fifth Offense: Not less than 10 years, and up to 40 years, or life	
	50,000 grams or more both ways, life	Sixth Offense: Not less than 10 years, and up to 40 years, or life	Sixth Offense: Not less than 10 years, and up to 40 years, or life	
	500,000 grams or more both ways, life	Seventh Offense: Not less than 10 years, and up to 40 years, or life	Seventh Offense: Not less than 10 years, and up to 40 years, or life	
	5,000,000 grams or more both ways, life	Eighth Offense: Not less than 10 years, and up to 40 years, or life	Eighth Offense: Not less than 10 years, and up to 40 years, or life	
	50,000,000 grams or more both ways, life	Ninth Offense: Not less than 10 years, and up to 40 years, or life	Ninth Offense: Not less than 10 years, and up to 40 years, or life	
	500,000,000 grams or more both ways, life	Tenth Offense: Not less than 10 years, and up to 40 years, or life	Tenth Offense: Not less than 10 years, and up to 40 years, or life	
	5,000,000,000 grams or more both ways, life	Eleventh Offense: Not less than 10 years, and up to 40 years, or life	Eleventh Offense: Not less than 10 years, and up to 40 years, or life	
	50,000,000,000 grams or more both ways, life	Twelfth Offense: Not less than 10 years, and up to 40 years, or life	Twelfth Offense: Not less than 10 years, and up to 40 years, or life	
	500,000,000,000 grams or more both ways, life	Thirteenth Offense: Not less than 10 years, and up to 40 years, or life	Thirteenth Offense: Not less than 10 years, and up to 40 years, or life	
	5,000,000,000,000 grams or more both ways, life	Fourteenth Offense: Not less than 10 years, and up to 40 years, or life	Fourteenth Offense: Not less than 10 years, and up to 40 years, or life	
	50,000,000,000,000 grams or more both ways, life	Fifteenth Offense: Not less than 10 years, and up to 40 years, or life	Fifteenth Offense: Not less than 10 years, and up to 40 years, or life	
	500,000,000,000,000 grams or more both ways, life	Sixteenth Offense: Not less than 10 years, and up to 40 years, or life	Sixteenth Offense: Not less than 10 years, and up to 40 years, or life	
	5,000,000,000,000,000 grams or more both ways, life	Seventeenth Offense: Not less than 10 years, and up to 40 years, or life	Seventeenth Offense: Not less than 10 years, and up to 40 years, or life	
	50,000,000,000,000,000 grams or more both ways, life	Eighteenth Offense: Not less than 10 years, and up to 40 years, or life	Eighteenth Offense: Not less than 10 years, and up to 40 years, or life	
	500,000,000,000,000,000 grams or more both ways, life	Nineteenth Offense: Not less than 10 years, and up to 40 years, or life	Nineteenth Offense: Not less than 10 years, and up to 40 years, or life	
	5,000,000,000,000,000,000 grams or more both ways, life	Twentieth Offense: Not less than 10 years, and up to 40 years, or life	Twentieth Offense: Not less than 10 years, and up to 40 years, or life	
	50,000,000,000,000,000,000 grams or more both ways, life	Twenty-first Offense: Not less than 10 years, and up to 40 years, or life	Twenty-first Offense: Not less than 10 years, and up to 40 years, or life	
	500,000,000,000,000,000,000 grams or more both ways, life	Twenty-second Offense: Not less than 10 years, and up to 40 years, or life	Twenty-second Offense: Not less than 10 years, and up to 40 years, or life	
	5,000,000,000,000,000,000,000 grams or more both ways, life	Twenty-third Offense: Not less than 10 years, and up to 40 years, or life	Twenty-third Offense: Not less than 10 years, and up to 40 years, or life	
	50,000,000,000,000,000,000,000 grams or more both ways, life	Twenty-fourth Offense: Not less than 10 years, and up to 40 years, or life	Twenty-fourth Offense: Not less than 10 years, and up to 40 years, or life	
	500,000,000,000,000,000,000,000 grams or more both ways, life	Twenty-fifth Offense: Not less than 10 years, and up to 40 years, or life	Twenty-fifth Offense: Not less than 10 years, and up to 40 years, or life	
	5,000,000,000,000,000,000,000,000 grams or more both ways, life	Twenty-sixth Offense: Not less than 10 years, and up to 40 years, or life	Twenty-sixth Offense: Not less than 10 years, and up to 40 years, or life	
	50,000,000,000,000,000,000,000,000 grams or more both ways, life	Twenty-seventh Offense: Not less than 10 years, and up to 40 years, or life	Twenty-seventh Offense: Not less than 10 years, and up to 40 years, or life	
	500,000,000,000,000,000,000,000,000 grams or more both ways, life	Twenty-eighth Offense: Not less than 10 years, and up to 40 years, or life	Twenty-eighth Offense: Not less than 10 years, and up to 40 years, or life	
	5,000,000,000,000,000,000,000,000,000 grams or more both ways, life	Twenty-ninth Offense: Not less than 10 years, and up to 40 years, or life	Twenty-ninth Offense: Not less than 10 years, and up to 40 years, or life	
	50,000,000,000,000,000,000,000,000,000 grams or more both ways, life	Thirty-offense: Not less than 10 years, and up to 40 years, or life	Thirty-offense: Not less than 10 years, and up to 40 years, or life	
	500,000,000,000,000,000,000,000,000,000 grams or more both ways, life	Thirty-first Offense: Not less than 10 years, and up to 40 years, or life	Thirty-first Offense: Not less than 10 years, and up to 40 years, or life	
	5,000,000,000,000,000,000,000,000,000,000 grams or more both ways, life	Thirty-second Offense: Not less than 10 years, and up to 40 years, or life	Thirty-second Offense: Not less than 10 years, and up to 40 years, or life	
	50,000,000,000,000,000,000,000,000,000,000 grams or more both ways, life	Thirty-third Offense: Not less than 10 years, and up to 40 years, or life	Thirty-third Offense: Not less than 10 years, and up to 40 years, or life	
	500,000,000,000,000,000,000,000,000,000,000 grams or more both ways, life	Thirty-fourth Offense: Not less than 10 years, and up to 40 years, or life	Thirty-fourth Offense: Not less than 10 years, and up to 40 years, or life	
	5,000,000,000,000,000,000,000,000,000,000,000 grams or more both ways, life	Thirty-fifth Offense: Not less than 10 years, and up to 40 years, or life	Thirty-fifth Offense: Not less than 10 years, and up to 40 years, or life	
	50,000,000,000,000,000,000,000,000,000,000,000 grams or more both ways, life	Thirty-sixth Offense: Not less than 10 years, and up to 40 years, or life	Thirty-sixth Offense: Not less than 10 years, and up to 40 years, or life	
	500,000,000,000,000,000,000,000,000,000,000,000 grams or more both ways, life	Thirty-seventh Offense: Not less than 10 years, and up to 40 years, or life	Thirty-seventh Offense: Not less than 10 years, and up to 40 years, or life	
	5,000,000,000,000,000,000,000,000,000,000,000,000 grams or more both ways, life	Thirty-eighth Offense: Not less than 10 years, and up to 40 years, or life	Thirty-eighth Offense: Not less than 10 years, and up to 40 years, or life	
	50,000,000,000,000,000,000,000,000,000,000,000,000 grams or more both ways, life	Thirty-ninth Offense: Not less than 10 years, and up to 40 years, or life	Thirty-ninth Offense: Not less than 10 years, and up to 40 years, or life	
	500,000,000,000,000,000,000,000,000,000,000,000,000 grams or more both ways, life	Forty-offense: Not less than 10 years, and up to 40 years, or life	Forty-offense: Not less than 10 years, and up to 40 years, or life	
	5,000,000,000,000,000,000,000,000,000,000,000,000,000 grams or more both ways, life	Forty-first Offense: Not less than 10 years, and up to 40 years, or life	Forty-first Offense: Not less than 10 years, and up to 40 years, or life	
	50,000,000,000,000,000,000,000,000,000,000,000,000,000 grams or more both ways, life	Forty-second Offense: Not less than 10 years, and up to 40 years, or life	Forty-second Offense: Not less than 10 years, and up to 40 years, or life	
	500,000,000,000,000,000,000,000,000,000,000,000,000,000 grams or more both ways, life	Forty-third Offense: Not less than 10 years, and up to 40 years, or life	Forty-third Offense: Not less than 10 years, and up to 40 years, or life	
	5,000,000,000,000,000,000,000,000,000,000,000,000,000,000 grams or more both ways, life	Forty-fourth Offense: Not less than 10 years, and up to 40 years, or life	Forty-fourth Offense: Not less than 10 years, and up to 40 years, or life	
	50,000,000,000,000,000,000,000,000,000,000,000,000,000,000 grams or more both ways, life	Forty-fifth Offense: Not less than 10 years, and up to 40 years, or life	Forty-fifth Offense: Not less than 10 years, and up to 40 years, or life	
	500,000,000,000,000,000,000,000,000,000,000,000,000,000,000 grams or more both ways, life	Forty-sixth Offense: Not less than 10 years, and up to 40 years, or life	Forty-sixth Offense: Not less than 10 years, and up to 40 years, or life	
	5,000,000,000,000,000,000,000,000,000,000,000,000,000,000,000 grams or more both ways, life	Forty-seventh Offense: Not less than 10 years, and up to 40 years, or life	Forty-seventh Offense: Not less than 10 years, and up to 40 years, or life	
	50,000,000,000,000,000,000,000,000,000,000,000,000,000,000,000 grams or more both ways, life	Forty-eighth Offense: Not less than 10 years, and up to 40 years, or life	Forty-eighth Offense: Not less than 10 years, and up to 40 years, or life	
	500,000,000,000,000,000,000,000,000,000,000,000,000,000,000,000 grams or more both ways, life	Forty-ninth Offense: Not less than 10 years, and up to 40 years, or life	Forty-ninth Offense: Not less than 10 years, and up to 40 years, or life	
	5,000,000,000,000,000,000,000,000,000,000,000,000,000,000,000,000 grams or more both ways, life	Fiftieth Offense: Not less than 10 years, and up to 40 years, or life	Fiftieth Offense: Not less than 10 years, and up to 40 years, or life	

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Prosecution

Similarly, it might be important to include a perjury or false statement count in an indictment charging other offenses, in order to give the jury a complete picture of the defendant's criminal conduct. Neither this statement of principles nor any internal procedures adopted by individual offices create any rights or benefits. Authority to approve such pleadings is limited to the United States Attorney, the Chief Assistant United States Attorney, and supervisory criminal Assistant United States Attorneys, or a committee including at least one of these individuals.

Drug and Alcohol Policies

The Commission has recognized those bases for departure that are commonly justified.

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Therefore the prosecutor must be familiar with the Sentencing Guideline rules applicable to grouping offenses see USSG § 3D and to relevant conduct see USSG § 1B1.

Drug and Alcohol Policies

For example, the multiple offense rules in Part D of Chapter 3 of the guidelines and the relevant conduct standard set forth in Sentencing Guideline § 1B1. However, recognizes that an individualized assessment of the facts and circumstances of a particular case could lead to the conclusion that a sentence above or below the advisory guidelines range would be more appropriate.

Prosecution

In such an event, prosecutors may make such recommendations with supervisory approval. Such a plea does not require that the actual sentence range be determined in advance.

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Second, such a record will facilitate identification by government attorneys in the course of weighing future agreements not to prosecute, plea agreements, pre-trial diversion, and other discretionary actions of persons whom the government has agreed not to prosecute. Attorneys for the government should familiarize themselves with these alternatives and should consider pursuing them if they are available in a particular case. Authority to approve such pleadings is limited to the United States Attorney, the Chief Assistant United States Attorney, and supervisory criminal Assistant United States Attorneys, or a committee including at least one of these individuals.

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The availability of this statement of principles to federal law enforcement officials and to the public serves two important purposes: ensuring the fair and effective exercise of prosecutorial discretion and responsibility by attorneys for the government, and promoting confidence on the part of the public and individual defendants that important prosecutorial decisions will be made rationally and objectively on the merits of each case.

Prosecution

When a person has committed a federal offense, it is important that the law respond promptly, fairly, and effectively. In weighing the importance of these possible consequences, the attorney for the government should consider the state of the criminal docket and the speedy trial requirements in the district, the desirability of handling a larger volume of criminal cases, and the workloads of prosecutors, judges, and defense attorneys in the district. The court must not participate in these discussions.

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