



Multidisciplinary Association for Psychedelic Studies  
3141 Stevens Creek Blvd, #40563  
San Jose, CA 95117

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United States Sentencing Commission  
One Columbus Circle, N.E., Suite 2-500  
Washington, D.C. 20002  
Attn: Public Affairs – Priorities Comment

Dear United States Sentencing Commissioners,

I'm Rick Doblin, PhD (Public Policy, Kennedy School of Government, Harvard University, 2001), submitting this comment letter on behalf of the Multidisciplinary Association for Psychedelic Studies (MAPS), a 501(c)3 non-profit organization I founded in 1986 with a mission to develop medical, legal, and cultural contexts for people to benefit from the careful use of psychedelics and cannabis. For decades, MAPS has focused on researching 3,4-Methylenedioxymethamphetamine (MDMA), primarily to develop MDMA-assisted therapy into an FDA-approved treatment available by prescription.

I am writing today concerning the USSC's drug sentencing guidelines and the Drug Quantity and Drug Conversion Tables (hereinafter, the Tables). In 2001, I testified before the United States Sentencing Commission (USSC) regarding the drug sentencing guidelines for MDMA at a time of unscientific hysteria over supposed MDMA neurotoxicity.<sup>1</sup> Today, the penalties for MDMA are more severe than the penalties for cocaine, and the neurotoxicity fears have been disproven. Specifically, I join the voices of organizations across the country to urge the Commission to conduct a complete review and revision of the Tables, and suggest beginning by completing the review of MDMA that was started in 2017, but never completed due to changes in USSC priorities and quorum.

For over half a century, the United States' drug policy has ripped families and communities apart while failing to achieve its stated purpose of realizing a drug-free world. Richard Nixon

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<sup>1</sup> See, USSC Public Hearing March 19 - 20, 2001 (March 2001),  
<https://www.ussc.gov/policymaking/meetings-hearings/public-hearing-march-19-20-2001>

announced the War on Drugs in 1971 and, in doing so, perpetuated an ongoing rhetoric and myth of Black criminality<sup>2</sup>. Ronald Reagan escalated the impact of this policy by prioritizing punishment over treatment, thereby causing a significant increase in the incarcerated population, especially for nonviolent drug offenses.

Over fifty years of ongoing political and educational messaging demonizing drug use and stigmatizing drug users has failed to realize a drug-free world, but the underlying racial and social motivations have succeeded. Since its inception, the drug war has been overwhelmingly enforced in non-white communities, especially low-income ones,<sup>3</sup> causing the country's inflated prison population to be disproportionately comprised of Black, Latino, and Indigenous people.<sup>4</sup> It has led to lengthy terms of imprisonment for relatively low-level offenses and for those with little to no criminal history<sup>5</sup>, which perpetuates cycles of trauma and violence. The same conditions have fueled and perpetuated violence internationally and in inner-city neighborhoods nationwide,<sup>6</sup> and have led to increases in concentration, adulteration, and toxicity of the substances themselves.

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<sup>2</sup> John Ehrlichman, Nixon's Assistant for Domestic Affairs, said: "You want to know what this [war on drugs] was really all about? The Nixon [Administration] . . . had two enemies: the antiwar left and [B]lack people . . . We knew we couldn't make it illegal to be either against the war or black, but by getting the public to associate the hippies with marijuana and blacks with heroin, and then criminalizing both heavily, we could disrupt those communities. We could arrest their leaders, raid their homes, break up their meetings, and vilify them night after night on the evening news. Did we know we were lying about the drugs? Of course we did." (Equal Justice Initiative. *Nixon Adviser Admits War on Drugs Was Designed to Criminalize Black People*. March 25, 2016.

<https://eji.org/news/nixon-war-on-drugs-designed-to-criminalize-black-people/>

<sup>3</sup> See, Colleen Walsh, *Solving Racial Disparities in Policing*, Feb. 23, 2021,

<https://news.harvard.edu/gazette/story/2021/02/solving-racial-disparities-in-policing/>; see also, ACLU DC, *Racial Disparities in Stops by the DC Metropolitan Police Department*, June 16, 2020, [https://urldefense.com/v3/\\_https://www.acludc.org/sites/default/files/2020\\_06\\_15\\_aclu\\_stops\\_report\\_final.pdf\\_!!Phyt6w!M3tbrIzizSTS6KMjsaPASyXWMFeEA1fk6tY9rjOLLeAtcunXEj6k0DAkg0%24](https://urldefense.com/v3/_https://www.acludc.org/sites/default/files/2020_06_15_aclu_stops_report_final.pdf_!!Phyt6w!M3tbrIzizSTS6KMjsaPASyXWMFeEA1fk6tY9rjOLLeAtcunXEj6k0DAkg0%24)

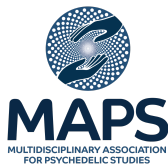
<sup>4</sup> "The incarceration boom fundamentally altered the transition to adulthood for several generations of [B]lack men and, to a lesser but still significant extent, [B]lack women and Latino men and women. By the turn of the 21st century, [B]lack men born in the 1960s were more likely to have gone to prison than to have completed college or military service." (Vera, *American History, Race, and Prison*,

<https://www.vera.org/reimagining-prison-web-report/american-history-race-and-prison>)

<sup>5</sup> *Id.*

<sup>6</sup> Heather Ann Thompson explained in a 2015 interview with Nursing Clio that "intensive incarceration has emptied communities of their elders, their parents, their grandparents, and their children now, through the juvenile justice system. It has made them even poorer because there are no jobs. It has basically created an environment where violence can flourish . . . Should we be surprised that violence is a problem when we make an economy illegal, and make it the only economy that is available because there are no factories?" (Nursing Clio, *An Interview with Historian Heather Ann Thompson (Part 2)*, Nov. 5, 2015,

<https://nursingclio.org/2015/11/05/an-interview-with-historian-heather-ann-thompson-part-2/#:~:text=What%20we%20start%20to%20see,environment%20where%20violence%20can%20flourish>)



An increasingly multi-partisan coalition is calling for change. In 2017, the USSC published a report describing, in part, how drug-related mandatory minimum penalties have been "applied more broadly than Congress may have anticipated."<sup>7</sup> Such non-discretionary sentencing has had the effect of incarcerating people for longer amounts of time than the evidence shows deters further criminal activity<sup>8</sup> - at the taxpayer's expense.

### The USSC should conduct a multi-year study to revise the Tables

Reversing and mending the harms of the war on drugs will require effort from across the government and political spectrum, and the USSC is uniquely positioned to shift one of the foundational roots of the problem: drug sentencing. The Drug Quantity and Drug Conversion Tables, set by the USSC, are used as a benchmark for federal drug sentencing and are often referenced or relied on in state sentencing decisions. Bringing these Tables into alignment with modern research about drug risks and harms would lead to more humane and more accurate outcomes, alleviating some of the socioeconomic harms of the drug war and saving public funds, without risking public safety.

This is not only a significant opportunity<sup>9</sup> but a timely one. In April 2024, following the Health and Human Services Department's recommendation, the Attorney General announced its proposal to reschedule cannabis to Schedule III.<sup>10</sup> Given that the Tables presently translate quantities of various illegal drugs into their marijuana-equivalent quantities for the purpose of determining relative harm, it would be appropriate to utilize the multi-agency review already happening with cannabis to review and update the tables.

Additional research about other historically stigmatized substances should also inform this review. The Food and Drug Administration (FDA) has now granted breakthrough therapy designation to three Schedule I drugs. MDMA-assisted therapy for PTSD received breakthrough designation in 2017, and two breakthrough therapy designations have been granted for psilocybin, for treatment-resistant depression in 2018 and for major depressive disorder in

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<sup>7</sup> USSC, *Mandatory Minimum Penalties for Drug Offenses in the Federal Criminal Justice System*, Oct. 2017, at 6. [https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2017/20171025\\_Drug-Mand-Min.pdf](https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2017/20171025_Drug-Mand-Min.pdf)

<sup>8</sup> National Institute of Justice. *Five Things About Deterrence*. May 2016. <https://www.ojp.gov/pdffiles1/nij/247350.pdf>

<sup>9</sup> Drug offenses make up the largest portion of the federal docket. (See, Fiscal Year 2021 Overview of Federal Criminal Cases. [https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2022/FY21\\_Overview\\_Federal\\_Criminal\\_Cases.pdf](https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2022/FY21_Overview_Federal_Criminal_Cases.pdf))

<sup>10</sup> Alicia Wallace et al. CNN. *Justice Dept Plans to Reschedule Marijuana as a Lower-risk Drug*. April 30, 2024. <https://www.cnn.com/2024/04/30/economy/dea-marijuana-rescheduling/index.html>



2019.<sup>11</sup> In 2024, the FDA extended the same status to an LSD formula for the treatment of generalized anxiety disorder.<sup>12</sup> The FDA is currently reviewing a new drug application for MDMA-assisted therapy<sup>13</sup>, for which they will likely have a decision by August 2024 (*see below*, for more information on this Commission’s historical treatment of MDMA).

Meanwhile, there has been growing bipartisan support to fund clinical trials exploring the use of psychedelics<sup>14</sup> to treat traumatic brain injuries, depression, military sexual trauma, and post-traumatic stress disorder in veterans.<sup>15</sup> For instance, in the 2024 National Defense Authorization Act, the Department of Defense authorized funding a study on psychedelics for the treatment of post-traumatic stress disorder (PTSD) in military members.<sup>16</sup> In March 2024, the Department of Veterans Affairs passed a budget allocating \$20 million for clinical trials for MDMA and psilocybin.<sup>17</sup> The National Institutes of Health has also opened funding opportunities for studying psychedelic-assisted therapy for chronic pain in older adults.<sup>18</sup> This shift in the evidence base, and concurrent changes in federal policy, reflects an increasing willingness and mandate to reevaluate long-held assumptions about controlled substances, paving the way for more drug policies driven by data rather than dogma.

Alongside the evidence and government agencies, recent polls have found an overwhelming majority of American voters are also eager for a new approach to drug laws and responses to drug-related offenses.<sup>19</sup> Over 60% support ending the War on Drugs; “eliminating criminal

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<sup>11</sup> Heal DJ, Smith SL, Belouin SJ, Henningfield JE. *Psychedelics: Threshold of a Therapeutic Revolution*. *Neuropharmacology*. 2023 Sep 15;236:109610. doi: 10.1016/j.neuropharm.2023.109610. Epub 2023 May 27. PMID: 37247807.

<sup>12</sup> Joao L. de Quevedo. *FDA Grants Breakthrough Status to LSD Formula and Opens a New Frontier in the Generalized Anxiety Disorder (GAD) Treatment*, April 1 2024, [https://med.uth.edu/psychiatry/2024/04/01/fda-grants-breakthrough-status-to-lsd-formula-and-opens-a-new-frontier-in-the-generalized-anxiety-disorder-gad-treatment/#:~:text=Legal%20Experts,FDA%20Grants%20Breakthrough%20Status%20to%20LSD%20Formula%20and%20Opens%20a,Generalized%20Anxiety%20Disorder%20\(GAD\)%20Treatment&text=In%20a%20groundbreaking%20move%2C%20the,generalized%20anxiety%20disorder%20\(GAD\).](https://med.uth.edu/psychiatry/2024/04/01/fda-grants-breakthrough-status-to-lsd-formula-and-opens-a-new-frontier-in-the-generalized-anxiety-disorder-gad-treatment/#:~:text=Legal%20Experts,FDA%20Grants%20Breakthrough%20Status%20to%20LSD%20Formula%20and%20Opens%20a,Generalized%20Anxiety%20Disorder%20(GAD)%20Treatment&text=In%20a%20groundbreaking%20move%2C%20the,generalized%20anxiety%20disorder%20(GAD).)

<sup>13</sup> *Lykos Therapeutics Announces FDA Acceptance and Priority Review of New Drug Application for MDMA-Assisted Therapy for PTSD*, February 9, 2024, <https://news.lykospbc.com/2024-02-09-Lykos-Therapeutics-Announces-FDA-Acceptance-and-Priority-Review-of-New-Drug-Application-for-MDMA-Assisted-Therapy-for-PTSD>

<sup>14</sup> Referred to as “hallucinogenic substances” in the Controlled Substances Act.

<sup>15</sup> Matt Saintings, *The Potential Healing Power of Psychedelics*, November 27, 2023, <https://www.dav.org/learn-more/news/2023/veterans-and-the-new-psychedelic-renaissance/>

<sup>16</sup> Herrington, *Biden Signs Defense Spending Bill Funding Psychedelic Research* Forbes.

<sup>17</sup> Curtis, *VA-funded psychedelic therapy trials for PTSD could save lives, veteran organization says* Fox 13 News

<sup>18</sup> See e.g., *Safety and Early Efficacy Studies of Psychedelic-Assisted Therapy for Chronic Pain in Older Adults (UG3/UH3 Clinical Trial Required) NOFO*

<sup>19</sup> ACLU. *Poll Results on American Attitudes Toward War on Drugs*. June 9, 2021. <https://www.aclu.org/documents/poll-results-american-attitudes-toward-war-drugs>

penalties for drug possession and reinvesting drug enforcement resources into treatment and addiction services”<sup>20</sup>; repealing mandatory minimum sentences for drug crimes; and commuting, or reducing, the sentences of people incarcerated for drugs.<sup>20</sup> Representing one of “the few truly bipartisan issues in American politics,” the “breadth and depth of support for change suggests that there are few issues for which the nation’s laws so misrepresent the preferences of the American people as for drugs.”<sup>21</sup>

Despite these widespread calls for evidence-based policies and new approaches for regulating controlled substances, the Tables continue to be based on outdated medical, scientific, and sociological information. Not only do they recommend disproportionately severe penalties, they have no basis in the actual risks posed by each substance, the realities of the illicit drug market, criminal culpability, or other public safety factors.<sup>22</sup> Congress<sup>23</sup> and this Commission<sup>24</sup> have already acknowledged that the Tables have resulted in outrageous sentencing disparities for otherwise similar behaviors, at least in the context of crack versus powder cocaine.

### Begin the review of the Tables by re-evaluating MDMA

Like crack cocaine, the Tables have also irrationally allocated harsh penalties for MDMA. In 2001, in response to Congress’s directive in the Ecstasy Anti-Proliferation Act, the Sentencing Commission increased penalties for MDMA by updating the Tables to treat one gram of MDMA as the equivalent of 500 grams of marijuana.<sup>25</sup> In its report to Congress explaining its reasoning,<sup>26</sup> the Commission relied on incomplete science and a misguided understanding of MDMA’s social harms.<sup>27</sup> Even during the Commission’s 2001 deliberations on MDMA sentencing, several scientists opposed a 1:500 ratio, arguing that a 1:10 ratio—even lower than the pre-2001 ratio—would be most reasonable.<sup>28</sup>

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> Jonathan Perez-Reyzin, Leslie Booher & Ismail Ali, *Unfinished Business: Revisiting the Drug Conversion Tables and Their Treatment of MDMA*, 35 Federal Sentencing Reporter 24–26 (2022); *see also*, Hon. Lynn Adelman, *Sentencing Drug Offenders Justly While Reducing Mass Incarceration*, 34 Federal Sentencing Reporter 2–11 (2021).

<sup>23</sup> Aris Folley, *Congress Set to Tackle Crack, Powder Cocaine Sentencing Disparity Before Year’s End*, December 18, 2022, <https://thehill.com/business/3778680-congress-set-to-tackle-crack-powder-cocaine-sentencing-disparity-before-year-s-end/>

<sup>24</sup> *Change In Federal Cocaine Sentencing Policy Recommended Findings To Be Submitted To Congress*, April 5, 2002, <https://www.uscg.gov/about/news/press-releases/april-5-2002>

<sup>25</sup> USSG App. C, amend. 621 (2001).

<sup>26</sup> U.S. Sentencing Comm’n, *MDMA Drug Offenses: Explanation of Recent Guideline Amendments* (2001).

<sup>27</sup> *See, e.g.*, Alyssa C. Hennig, *An Examination of Federal Sentencing Guidelines’ Treatment of MDMA (“Ecstasy”)*, 1 Belmont L. Rev. 267, 286 (2014).

<sup>28</sup> Fed’n of Am. Scientists, *Comment on the Proposed Changes to MDMA (“Ecstasy”) Penalties 2* (Mar. 9, 2001), [https://www.uscg.gov/sites/default/files/pdf/amendment-process/public-comment/200103/200103\\_PCpt8.pdf](https://www.uscg.gov/sites/default/files/pdf/amendment-process/public-comment/200103/200103_PCpt8.pdf).



In the more than two decades since 2001, it has become even clearer the Commission relied on incomplete, and sometimes incorrect, data. For example, George Ricaurte, a key source of the Commission's data on MDMA toxicity, was forced to retract an MDMA toxicity study after it was found that he had used methamphetamine instead of MDMA.<sup>29</sup> At the same time, clinical studies, including those sponsored by MAPS, have shown evidence MDMA is both generally safe and potentially beneficial for mental-health treatments, including for post-traumatic stress disorder (PTSD).<sup>30</sup>

For years scientists, legal scholars, judges, public defenders, and activists have called out the faulty science and urged the Commission to reexamine its decision. This has included testimony from the ACLU<sup>31</sup> and the Federal Defenders.<sup>32</sup> Judicial decisions have also tasked the Commission with reexamining its MDMA guidelines.<sup>33</sup> In 2016, the Commission finally resolved to review the guidelines for MDMA, along with those for synthetic cannabinoids and synthetic cathinones, by conducting a multiyear study.<sup>34</sup> In 2017, the Commission asked for public comment on the 1:500 Drug Conversion Table ratio for MDMA, and on what ratio to set for a synthetic cathinone called methylone, given its similarity to MDMA.<sup>35</sup> Many of the same groups advocating for a reexamination of the guidelines responded to the request. The Federal Defenders again submitted testimony in support of a less punitive ratio.<sup>36</sup>

Since then I have submitted testimony outlining in great detail the flaws in the original 2001 data and the results of contemporary research, writing that “the totality of evidence we have available,

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<sup>29</sup> Donald G. McNeil, Jr., *Research on Ecstasy Is Clouded by Errors*, N.Y. Times (Dec. 2, 2003), <https://www.nytimes.com/2003/12/02/science/research-on-ecstasy-is-clouded-by-errors.html>.

<sup>30</sup> See, e.g., Jennifer M. Mitchell et al., *MDMA-Assisted Therapy for Severe PTSD: A Randomized, Double-Blind, Placebo-Controlled Phase 3 Study*, 27 *Nature Med.* 1025 (2021).

<sup>31</sup> ACLU, *Comments on Proposed Amendments to Sentencing Guidelines*, Policy Statements, and Commentary 1 (Mar. 19, 2012), [ussc.gov/sites/default/files/pdf/amendment-process/public-comment/20120329/ACLU%20Comments%20to%20USSC%20on%20BZP%20MDMA%20and%20Immigration%202012-19-12s.pdf](https://ussc.gov/sites/default/files/pdf/amendment-process/public-comment/20120329/ACLU%20Comments%20to%20USSC%20on%20BZP%20MDMA%20and%20Immigration%202012-19-12s.pdf).

<sup>32</sup> Fed. Pub. & Cmty. Defs., *Public Comment on USSC Notice of Proposed Priorities for Amendment Cycle Ending May 1, 2014* (July 15, 2013), [https://www.fd.org/sites/default/files/criminal\\_defense\\_topics/essential\\_topics/sentencing\\_resources/defender\\_recommendations/defender-comment-on-usscs-notice-of-proposed-priorities-for-amendment-cycle-ending-may-1-2014.pdf](https://www.fd.org/sites/default/files/criminal_defense_topics/essential_topics/sentencing_resources/defender_recommendations/defender-comment-on-usscs-notice-of-proposed-priorities-for-amendment-cycle-ending-may-1-2014.pdf).

<sup>33</sup> See, e.g., *U.S. v. McCarthy*, 2011 WL 1991146 (S.D.N.Y. May 19, 2011); *U.S. v. Trung Dinh Phan*, Case No. CR10-27-RSM (W.D. Wash. May 3, 2011).

<sup>34</sup> U.S. Sentencing Comm'n, *Final Priorities for Amendment Cycle*, 81 Fed. Reg. 58004, 58005 (Aug. 24, 2016).

<sup>35</sup> U.S. Sentencing Comm'n, *Sentencing Guidelines for United States Courts*, 82 Fed. Reg. 28382, 28383–84 (June 21, 2017).

<sup>36</sup> Fed. Def. Sent'g Guidelines Comm., *Public Comment on MDMA/Methylone/Synthetic Cathinones* (Aug. 7, 2017), [https://www.fd.org/sites/default/files/criminal\\_defense\\_topics/essential\\_topics/sentencing\\_resources/defender\\_recommendations/defender\\_comments\\_on\\_mdma.methylone.synthetic\\_cathinones\\_aug\\_2017.pdf](https://www.fd.org/sites/default/files/criminal_defense_topics/essential_topics/sentencing_resources/defender_recommendations/defender_comments_on_mdma.methylone.synthetic_cathinones_aug_2017.pdf).





which is significantly more than there was when the [Commission] came to its first conclusion...strongly indicates that the sentencing guidelines are extremely disproportionate and in fact unrelated to MDMA's actual risks."<sup>37</sup>

In 2018, when amending the guidelines in response to its multi-year study, the Commission excluded any mention of MDMA from its amendments or its reasoning.<sup>38</sup> In fact, it set a 1:380 ratio for all synthetic cathinones, including methylone, without any reference to its prior call for comments on the relationship between MDMA and methylone.<sup>39</sup> Since then, the Commission has not indicated any further movement on the issue of MDMA's entry in the Tables.

### Bring the Tables in line with modern science

For the Tables to be more in line with the stated process for regulation under the CSA, there is a serious need for the USSC to re-evaluate sentences based on "current scientific knowledge regarding the drug or other substance," potentially positive "pharmacological effect[s],"<sup>40</sup> and likelihood of misuse and dependence<sup>41</sup>.

MAPS and countless other organizations across the political spectrum and around the country are coming together to organize and inform the USSC and the general public about the importance of this issue. The United States is long overdue for sentencing reform, and the urgency lies especially with drug-related offenses. As a complete review and revision of the Tables will likely require the USSC to conduct a multi-year study, the Commission must take an important first step to initiate such an inquiry now.

Sincerely,  
Rick Doblin, Ph.D.  
Founder & President, MAPS

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<sup>37</sup> Rick Doblin, *Testimony to the U.S Sentencing Commission Re: MDMA* (Mar. 15, 2017), <https://maps.org/wp-content/uploads/2020/07/RDoblin-MDMA-USSC-Statement-MDMA.pdf>.

<sup>38</sup> USSG App. C, amend. 807 (2018).

<sup>39</sup> *Id.*

<sup>40</sup> United States Drug Enforcement Administration. *The Controlled Substances Act*.  
<https://www.dea.gov/drug-information/csa>

<sup>41</sup> Any inquiry should take into account ways harm reduction approaches, public education, and proven methods of avoiding harm and use among minors can reduce the likelihood of misuses and dependence. Revising the Tables would likely lead to a reduction in resources spent on enforcement, prosecution, and punishment. Those resources could then be reinvested to bolster effective harm reduction and public education efforts. (See, Counsel of State Governments, *Justice Reinvestment Initiative*, <https://csgjusticecenter.org/projects/justice-reinvestment/#:~:text=Justice%20Reinvestment%20is%20a%20data,Justice%20Reinvestment>)