1. Illegal Sales to Minors

Criminal penalties for persons convicted of illegally selling alcohol or other drugs to minors should be greater than current penalties for such sales to adults.

Throughout the Advisory Commission field hearings, a recurrent theme was the need, expressed by many of the public, law enforcement and treatment personnel, for tougher penalties against convicted drug pushers who sell drugs or alcohol to youth.22 There is ample precedent for creating a separate class or category of crimes specifically focused on the sale of large quantities of alcohol and hard drugs to youth. The typical state alcohol beverage control laws or juvenile protection laws provide penalties for the purchase and/or sale of alcohol by or to a minor.23 State laws typically prohibit sales of alcohol and other potentially dangerous substances to particularly vulnerable individuals.24 Moreover, many states prohibit the sale or the act of providing a dangerous weapon or other instrumentality to a young person.25 Also typical of these laws is the prohibition of certain sexual conduct relating to youth or other especially vulnerable persons.26 Finally, many states provide special assault "victim" categories to protect certain persons at risk, particularly police officers, teachers, students and the elderly.27 This recommendation is consistent with these other, longstanding prohibitions regarding sales or conduct involving youth and other susceptible groups. Recently, a number of states have proposed and enacted mandatory minimum sentences for a limited group of serious crimes including gun violations,28 drunk driving29 and drug selling generally.30 Typically, these sentencing laws, as they relate to drug selling, define a list of serious and harmful drug classifications including heroin, PCP (phencyclidine or "angel dust"), methamphetamine and methaqualone.31 Some proposals also include possession of very large quantities of marijuana.32 The mandatory minimum sentencing aspects of these laws typically provide for no parole and no probation from rigid custodial sentences for possession of these listed substances in the quantities specified in the statutes.33

In 1983, however, the ABA House of Delegates passed a recommendation against mandatory minimum sentencing.34 At that time the emphasis was on drug offenses in general without any further qualification, rather than on tougher sentences for the sale of large quantities of dangerous drugs to youth. Moreover, despite the efforts of law enforcement and judicial control, there have been numerous citations of ever-increasing alcohol and other drug use by youth,35 and inappropriate punishments for the pushers.36 To clarify, this recommendation is directed specifically at increased sentences for a class of crime -- selling large quantities of alcohol or hard drugs to young people -- not at mandatory minimum sentencing. Under the terms of this recommendation, any and all relevant individual sentencing considerations would still be applicable. Only the maximum applicable penalty would be affected. For these reasons, this recommendation is appropriate for consideration at this time.
1. Illegal Sales to Minors

Written by Administrator
Thursday, 27 May 2010 00:00 - Last Updated Tuesday, 04 January 2011 22:02

22See, e.g., testimony of William Coletti, Sue Rusche, Gregg Raduka, Ph.D., C.A.C., Randall Simpson, Atlanta; and Barry Nidorf, Los Angeles.


24See, e.g., 50 Pa. Cons. Stat. Ann. Sec. 4605(1) (Purdon 1983) (providing separate penalities for delivery of "any alcoholic or other intoxicating or narcotic substance to any person in a mental health facility without the director's knowledge or consent").


27See, e.g., 18 Pa. Cons. Stat. Ann. Sec. 2702(2)(3) (Purdon 1983) (police officers) and (5)("teaching staff member, school board member, other employee or student of any elementary or secondary publicly-funded educational institution"). It should be noted that these special "victim" categories were specifically enacted despite the Commentary to the Model Penal Code.
opposing such special categories. See Model Penal Code and Commentaries (Official Draft and Revised Comments 1980), Part II, at 183-5. See also Cal. Penal Code Sec. 243(b) (West 1985).


31Id. See also on the quantities, Rendell Greenleaf Proposes Minimum Drug Sentences, Phila. Inq., March 6, 1985, Sec. B, at 1.

32Id. at 2.

33Id.

34ABA Policy on "Mandatory Minimum Prison Sentences," February, 1974:
The ABA opposes, in principle, legislatively or administratively imposed mandatory minimum prison sentences not subject to probation or parole for criminal offenders, including those convicted of drug offenses.
The ABA further approves that the ABA President is authorized to advocate this position in any appropriate forum.

35See supra note 22.
36 Supra note 31, at 2.