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The amendment has some historical background. Back when the law was passed that established how long sentences were to be for various amounts of various substances, it was determined that crack cocaine or cocaine base was so much more insidious than regular powder cocaine that sentences in crack cases ought to be much higher than sentences in powder cocaine cases. As a result, the U.S. Sentencing Guidelines were established setting up a 1 to 100 ratio between crack and powder cocaine. What this meant was that someone responsible for 10 grams of crack would receive the same sentence as someone responsible for 1000 grams (1 kilogram) of powder cocaine. In interviews at major CPG companies around the world, we asked dozens of marketing and growth executives about this new reality. Their answers were clear: fulfilling an ambitious growth mandate requires a marketing agenda that is far more sophisticated, predictive, and customized than ever before. It requires a different playbook with new approaches and tools that few have yet to fully master. While broad reach, powerful, resonant storytelling, and creativity remain critical, marketers now need to utilize data and analytics at scale to crack the code that enables more targeted and engaging interactions to shape consumer behavior.

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I have not independently verified this, but I also note that in the discussion following the Amendment, the Sentencing Commission discusses including a provision that says that the career offender guideline should no longer be applied to possession with intent to distribute as opposed to possession of crack or cocaine base when the possession involves less than 5 grams. I also have not independently verified this, but from what I could gather, the Sentencing Commission did not make this change, and instead simply sought to eliminate the difference. The Commission didn't want to eliminate the difference, however, because they didn't think that it made sense to have career offenders get a reduction in sentence based on quantity of crack or cocaine base. Now, the Commission has said essentially, "Well, it doesn't make sense to apply a lower sentence to cocaine base offenders because it doesn't make sense to apply the career offender guideline to crack and cocaine base offenders." I don't know if this will make a difference in terms of whether or not you will be sentenced under the career offender guidelines because I don't know that the Sentencing Commission ever intended to eliminate the career offender enhancement. But I will continue to recommend to my clients that they file motions for reduction in sentence under the crack amendment. Because if I do get a motion granted, the Career Offender enhancement will not apply and the sentence will be reduced from 240 months (20 years) to 100 months (10 years). Here is how it is likely to work out, using a hypothetical example.

Lets say that an individual convicted in a crack possession or conspiracy case is sentenced based on relevant conduct quantity of 500 grams of crack, and he or she has 4 criminal history points. The sentence range corresponds to Offense Level 36 and Criminal History Category of III. And based on this, the individual, then, before November 1, 2007, receives a sentence of 240 months (20 years). 5ec8ef588b

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