



**Frank T. Luciano, P.C.**

# NEWSLETTER

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## THE FIRST CRACK IN THE CRACK SENTENCING PROBLEM

In the 1980's, the law enforcement community began to blame the escalating violence in the inner cities with the proliferation of a new and potent drug known as crack cocaine. Fueled with the hysteria created by the so-called "war on drugs", Congress passed a law that required a minimum term of 5 years imprisonment for trafficking a mere 5 grams of crack cocaine, where it would require 500 grams of powdered cocaine to produce the same penalty. This new law was soon called the 100-to-1 ratio and it resulted in a sentencing scheme that was racially slanted against the black community. Indeed, in 2006, 82% of all people convicted of federal crimes involving crack cocaine were black. In that same year, crack offenses produced an average of over 10 years of mandatory imprisonment and powdered cocaine offenses produce only 7 years of mandatory imprisonment. In cases involving possession of crack cocaine, as opposed to distribution, the minimum federal sentence was 5 years. The minimum sentence for a simple possession of powdered cocaine was 1 year no matter what the quantity. Suffice it to say, these sentencing disparities created a righteous uproar in the African-American Community.

Scientists later determined that there was little difference between the chemical makeup of the two cocaine variants. Social scientists also determined that there was little or no connection between the use of crack cocaine and violence. Notwithstanding these important revelations, Congress and the law enforcement sector of government resisted any efforts to reduce this remarkable sentencing disparity. Nonetheless, on November 1, 2007, the United States Sentencing Commission finally lowered the penalties for most crack cocaine offenses.

The next level of this battlefield is whether this new legislative amendment should be applied retroactively, in which case, approximately 20,000 federal inmates may be eligible for an early release program.

## SMART SCHOOL TEACHERS WANTED

Free Law Related Programs and Resources

The New Jersey State Bar Association offers a wide variety of free, law-related education programs and services for New Jersey teachers and students.

### Those resources include:

- A video-loan library offering more than 250 titles, a newspaper for middle school students titled "The Legal Eagle, and other law-related publications.
- Mock trial competition and a mini-court program.
- Various programs for elementary, middle and high school teachers on law-related education topics.
- Sessions on bullying in the class room.

You may contact the New Jersey State Bar Foundation at the New Jersey Law Center, One Constitutional Square, New Brunswick, NJ 08901-1520, (1-800-free-law) or visit its website at [www.njsbf.org](http://www.njsbf.org)

THIS NEWSLETTER IS PUBLISHED BY  
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IN DRUG CASES  
DWI AND OTHER MUNICIPAL COURT CASES



## THE PLIGHT AND FIGHT OF WOMEN IN THE LAW

In 1869, Anna Belle Mansfield became the nation's first woman lawyer. By 1880, there were 200 female lawyers in the United States. Unfortunately, most were barred from practicing law. Some courts even expressed the belief that women might be unfit to serve the law. Indeed, in the latter part of the nineteenth century, the Illinois Supreme Court denied a woman's application to the bar, stating "that God designated the sexes to occupy different spheres of action and that it belonged to men to make, apply, and execute laws regarded as almost an axiomatic truth." That decision was affirmed by the United States Supreme Court and remarkably, in a concurring opinion written by Justice Joseph Bradley, it was concluded that women did not have a fundamental right "to engage in any and every profession, occupation or employment in civil life" and that "the natural and proper timidity and delicacy which belongs to the female sex evidently unfit for civic life."

Progress from this social and legal myopia was slow. Although, by 1917, 46 states, including the district of Columbia, authorized women's admission into the practice of law, gender bias persisted in the law for many years. When former Supreme Court Justice Sandra Day O'Connor graduated third in her Stanford Law School Class in 1953, the only job she was offered on graduation was a position as a legal secretary. In the decades that followed, women's

## LEGAL GOOFS

In a trial, in a small-southern-town the prosecuting attorney called his first witness, a grandmotherly woman to the stand. In his first question, he asked, "Ms. Jones, do you know me? She responded, "Why, yes, I do. I've known you since you were a boy and, frankly, you've been a big disappointment to me. You lie, you cheat on your wife, and you manipulate people and talk about them behind their backs. You think you're a big shot when you haven't the brains to realize you'll never amount to anything more than a two-bit paperpusher. Yes, I know you."

The lawyer was stunned. Not knowing what else to do, he pointed across the room and asked, "Ms. Jones, do you know defendant's attorney? She again replied, "Yes, I do. I've known Mr. Bradley since he was a youngster, too. He's lazy, bigoted, and he has a drinking problem. He can't build a normal relationship with anyone, and his law practice is one of the worst in the entire state; not to mention that he cheated on his wife with three different women. One of them was your wife. Yes, I know him."

The defense attorney nearly died.

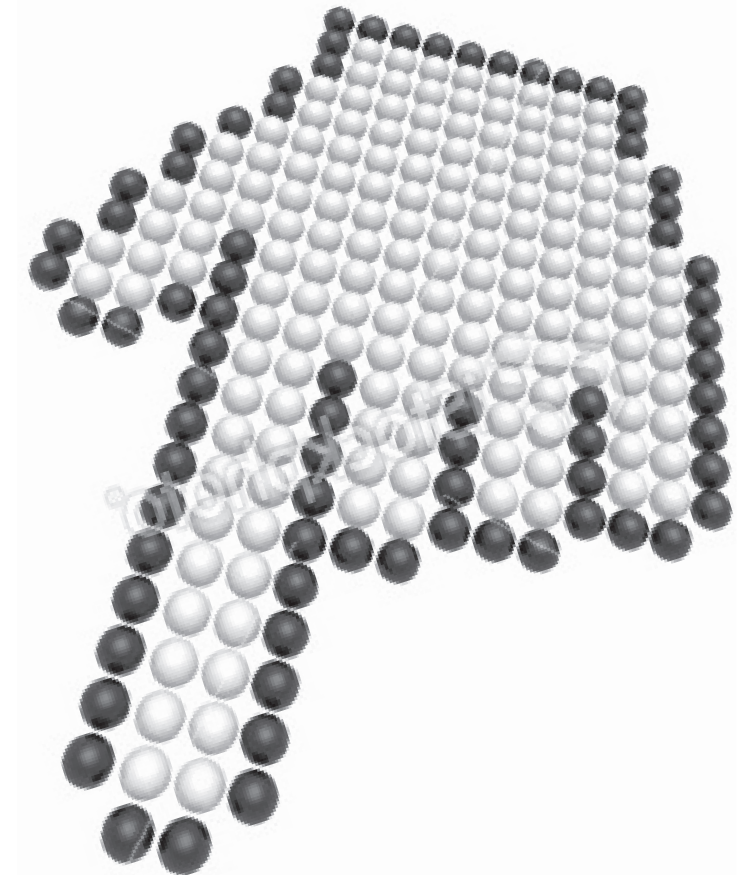
Without a moment of hesitation, the judge asked both counselors to approach the bench immediately and, in a very quiet voice, said, "If either of you idiots asks her if she knows me, I'll send you both to jail for contempt."

position in the law has become progressively better. In 1947 approximately 3.5% of all first year law school students were women. Last year, 46.3% of all first year law students were women. Recent studies have shown, however, that the minimum salary for woman attorneys is about 78% of the salary paid to male lawyers and only 16% of women lawyers are equity partners in law firms.

On a personal level, I have found most female lawyers to be more even-tempered and reasonable in the manner in which a legal controversy is analyzed and approached. More importantly, their special intuitiveness tends to make them more formidable advocates in examining witnesses and in persuading a jury.

## SOME HELPFUL WEBSITES

- [www.drugpolicy.org](http://www.drugpolicy.org) and [www.druglibrary.org](http://www.druglibrary.org) These sites can give you general insight into some of the issues associated with the "war on drugs", minimum mandatory sentences and a whole host of others related issues.
- [www.alcoholanddrugabuse.com](http://www.alcoholanddrugabuse.com) This is a website that provides information relative to alcohol and drug addictions.
- [www.legalreferences.com](http://www.legalreferences.com) A good site to use to obtain general legal information.
- [www.state.nj.us.com](http://www.state.nj.us.com) This is New Jersey's official website. It provides links to state and local information.
- [www.judiciary.state.nj.us.com](http://www.judiciary.state.nj.us.com) This site publishes court opinions and notices to the bar. It also identifies and profiles New Jersey's judges.
- [www.law.cornell.edu.com](http://www.law.cornell.edu.com) This is Cornell University's website that provides information relating to federal codes, statutes, and rules.
- [www.askanexpert.com](http://www.askanexpert.com) You can obtain answers to questions involving the law, science, technology help, entertainment, business and more.



- [www.britanica.com](http://www.britanica.com) This is the Encyclopedia Britannica website. It contains general knowledge information.
- [www.state.nj.us/treasury/gcada/alliance.html.com](http://www.state.nj.us/treasury/gcada/alliance.html.com) This site provides links to county systems for alcohol and drug abuse services.
- [www.nj.nrcs.usda.gov.com](http://www.nj.nrcs.usda.gov.com) This website is conceived to help people preserve, maintain and approve our natural resources and environment.
- [www.educationstate.nj.us/rc/rc03/menu/17-2390.html.com](http://www.educationstate.nj.us/rc/rc03/menu/17-2390.html.com) In 1995, the legislatures in New York mandated state school report cards. This website will provide you with this information.
- [www.greatschools.net](http://www.greatschools.net) Information is available at this website about public, private and charter schools in all 50 states.



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## AUTUMN WILL ARRIVE SOON

Except for thoughts of the harvest, Halloween and Thanksgiving, it is often overlooked. The joys of Autumn should not be so limited because it is a great time to take a vacation.

Our economy is still struggling, however, and fuel costs have escalated significantly. No matter where you stop to fill up your tank, the cost of gasoline is the highest in the history of our nation. Perhaps that is why there is so much discussion about “nearcations” or vacations close to home.

As a law student in rural Vermont, our new associate Josh Lurie was surprised to learn that autumn was a very big vacation season in that part of the world. Roads and highways were filled with tourists coming for “leaf-peeping” season; that spectacular time when the leaves change color and the landscape morphs into magnificent living art. Places such as Woodstock, Vermont host hot air balloon rides to see the colors change over the eastern side of the Green Mountains.

Unfortunately, for those who live in the metropolitan area, this part of Vermont is quite a ride from New York City which requires a round trip drive of several hours that covers over six hundred miles.

Do not despair. You can go “leaf-peeping” practically in your own backyard. Here are some web pages that can help you out.

- Fall Foliage in Northwest New Jersey: <http://www.njskylands.com/odfulisu.htm>
- The Delaware & Raritan Canals in Stockton, NJ: <http://www.dandrcanal.com/>
- Harriman State Park in New York (great hiking too!): <http://nysparks.state.ny.us/parks/info.asp?parkID=143>
- The Catskill Mountains in New York: <http://www.caskillmtn.org/publications/articles/2001-10-ulster-county.htm>

If you spend a little time searching the internet, you may find a fantastic autumn vacation real close to home.