



Why Missouri Must #EndTheDisparity Between Crack & Powder Cocaine Sentences

The Problem: Crack cocaine and powder cocaine are two forms of the same drug, and there is no scientific basis for treating them differently under the law.¹ Despite this, Missouri is one of only 8 states that treat crack cocaine more harshly than powder cocaine. Missouri law requires the same sentences for the possession of one amount of crack cocaine and for possessing an amount of powder cocaine that is 18.75 times larger.² Imposing different sentences for the same drug creates inequity that undermines public trust in the criminal justice system, which is detrimental to public safety.³

The Solution: Missouri should eliminate the sentencing disparity between crack cocaine and powder cocaine and make this reform retroactive so that all people have the opportunity to get fair sentences.

The Facts:

- **There is no scientific justification for treating crack and powder cocaine differently.**
 - They are simply different forms of the same drug and there are no inherent differences in the risks they present. For example, both can cause addiction.⁴
- **Most states treat crack and powder cocaine the same.**
 - In light of the evidence mentioned above, many states that formerly treated crack and powder cocaine differently have eliminated those disparities.⁵
 - Missouri has the second-largest sentencing disparity between crack and powder cocaine in the country, and is one of only eight states that continues to treat crack and powder cocaine differently.⁶
- **Public safety is not harmed by equalizing crack and powder cocaine sentencing.**
 - Eliminating sentencing disparities between crack and powder cocaine has not led to increases in drug use or crime. In fact, the six states that have eliminated disparities since 2005 all saw subsequent decreases in drug crimes.⁷
 - After the federal sentencing disparity between crack and powder cocaine was reduced, recidivism rates among people who received reduced sentences for crack cocaine offenses were similar to those for people who served longer sentences.⁸
- **The number of people who would be impacted by eliminating the disparity is small...**
 - As of August 5, 2022, only 94 people were in Missouri prisons for cocaine offenses, though the available data does not clarify whether the case involved crack or powder cocaine.⁹

- **...but the benefits of eliminating the disparity would be enormous.**
 - Removing this unjust disparity will make Missouri’s criminal justice system more fair and equitable, increase public trust in the justice system, and thereby contribute to making Missourians more safe.
 - Fixing this injustice for those already sentenced for crack cocaine offenses benefits not only those individuals, but also their families, who would be reunited sooner.

¹ See e.g. “Congress OKs Fair Sentencing Act,” UPI, (July 20, 2010), https://www.upi.com/Top_News/US/2010/07/28/Congress-OKs-Fair-Sentencing-Act/22641280367802/?ur3=1; Editorial, "The Fair Sentencing Act of 2010: It's about time," Los Angeles Times, (July 31, 2010) <http://articles.latimes.com/2010/jul/31/opinion/la-ed-sentencing-20100731>.

² Revised Statutes of Missouri §579.065. *Trafficking drugs, first degree — penalty*. <https://revisor.mo.gov/main/OneSection.aspx?section=579.065>. Revised Statutes of Missouri §579.068. *Trafficking drugs, second degree — penalty*. <https://revisor.mo.gov/main/OneSection.aspx?section=579.068>.

³ Ghandnoosh, N. (2015). *Race and Punishment: Racial Perceptions of Crime and Support for Punitive Policies*, The Sentencing Project. <https://www.sentencingproject.org/wp-content/uploads/2015/11/Race-and-Punishment.pdf>.

⁴ U.S. Sentencing Comm’n (2002). *Cocaine and Federal Sentencing Policy*, at 18 https://www.ussc.gov/sites/default/files/pdf/news/congressional-testimony-and-reports/drug-topics/200205-rtc-cocaine-sentencing-policy/200205_Cocaine_and_Federal_Sentencing_Policy.pdf.

⁵ Between 2005 and today, California, Connecticut, Ohio, Oklahoma, Maryland, and South Carolina eliminated sentencing disparities between crack and powder cocaine. FAMM (2021). *The Crack & Powder Cocaine Disparity: Tackling Hard Questions*, pages 3-4. <https://famm.org/wp-content/uploads/EQUAL-Act-Hard-Questions.pdf>.

⁶ The eight states that treat crack and powder cocaine differently and their respective disparities are Arizona (12 to 1), Iowa (2.5 to 1), Maine (3.5 to 1), Missouri (18.75 to 1), New Hampshire (28 to 1), North Dakota (1.8 to 1), Vermont (2.5 to 1), and Virginia (2 to 1). *Id.*

⁷ *Id.*

⁸ Hunt, K. S. and Peterson, A. (2014). *Recidivism Among Offenders Receiving Retroactive Sentence Reductions: The 2007 Crack Cocaine Amendment*, U.S. Sentencing Comm’n. https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-projects-and-surveys/miscellaneous/20140527_Recidivism_2007_Crack_Cocaine_Amendment.pdf.

⁹ Missouri Department of Corrections (2022), *Sunshine Law File*. <https://doc.mo.gov/media-center/sunshine-law>. Download date: 8/5/2022/