



Why Iowa 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, Iowa is one of only 8 states that treats crack cocaine more harshly than powder cocaine. Iowa law requires the same sentences for the possession of one amount of crack cocaine and for possessing an amount of powder cocaine that is 2.5 times larger.² This 2.5-to-1 disparity is unfair in and of itself, and it also contributes to unjustified racial disparities in Iowa's sentences, as 86% of people in prison for crack cocaine in Iowa are black, but 53% of those incarcerated for powder cocaine are white or Latino.³ Imposing different sentences for the same drug creates inequity that undermines public trust in the criminal justice system, which is detrimental to public safety.⁴

The Solution: Iowa should eliminate the sentencing disparity between crack cocaine and powder cocaine so that going forward, all people have the opportunity to get fair sentences.

The Facts:

- **There is no scientific justification for treating crack and powder cocaine differently.**
 - The initial justifications for treating crack and powder cocaine differently have been proven false.⁵ Crack and powder cocaine are different forms of the same drug, and there are no inherent differences in the risks they present. For example, both drugs can cause addiction.
- **Most states treat crack and powder cocaine the same. Iowa is an outlier.**
 - In light of the evidence mentioned above, many states that formerly treated crack and powder cocaine differently have eliminated those disparities.⁶
 - Iowa is one of only eight states that continues to treat crack and powder cocaine differently.⁷
- **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.⁸
 - 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.⁹
- **The number of people who would be impacted by eliminating the disparity is small...**
 - As of July 13, 2022, only 22 people were in Iowa prisons for crack cocaine offenses.
 - In the past five years, only 106 people entered Iowa prisons for crack cocaine offenses, an average of just 21 people per year.¹⁰



- **...but the benefits of eliminating the disparity would be enormous.**
 - Removing this unjust disparity will make Iowa’s criminal justice system more fair and equitable.
 - More equitable laws increase public trust in and cooperation with the justice system, and thereby contribute to making Iowans safer.

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 Iowa Code §124.401, *Prohibited acts — manufacture, delivery, possession — counterfeit substances, simulated controlled substances, imitation controlled substances — penalties*. <https://www.legis.iowa.gov/docs/code/124.401.pdf>; Iowa Code §124.413, *Mandatory minimum sentence — parole eligibility*. <https://www.legis.iowa.gov/docs/code/124.413.pdf>.

³ Data on the current Iowa prison population used throughout this fact sheet comes from: Iowa Data (2022), *Current Iowa Correctional System Prison Population*. <https://data.iowa.gov/Correctional-System/Current-Iowa-Correctional-System-Prison-Population/xbcv-c6t2/data>. Report date: 7/13/2022. There are probably other factors contributing to racial disparities in drug sentencing as well. Research shows that Black people and white people use drugs at similar rates and that white people are actually more likely to sell drugs than Black people. Ingraham, C. (2014). White people are more likely to deal drugs, but Black people are more likely to get arrested for it, The Washington Post. <https://www.washingtonpost.com/news/wonk/wp/2014/09/30/white-people-are-more-likely-to-deal-drugs-but-black-people-are-more-likely-to-get-arrested-for-it/>. However, 17% of people incarcerated for drug offenses in Iowa are Black, even though Black people make up only 4% of Iowa’s population. United States Sentencing Bureau (2021). Quick Facts: Iowa. <https://www.census.gov/quickfacts/IA>.

⁴ 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>.

⁵ See U.S. Sentencing Comm’n (2022). *Cocaine and Federal Sentencing Policy*. 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.

⁶ 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*, at 3-4. <https://famm.org/wp-content/uploads/EQUAL-Act-Hard-Questions.pdf>.

⁷ 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.*

⁸ *The Crack & Powder Cocaine Disparity: Tackling Hard Questions*, *supra* note 6, at 3-4.

⁹ 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.

¹⁰ Iowa Data (2022), *Iowa Prison Admissions*. <https://data.iowa.gov/Correctional-System/Iowa-Prison-Admissions/w4ib-vabz>. Report date: July 13, 2022.