

MEDIA RESOURCE GUIDE

# It's Not Fair. It's Not Working.

The Initiative to End Crack and Powder Cocaine Sentencing Disparities

## It's Not Fair.

Moms all across America want their children to receive a good college education and to lead a happy and successful life.

That is all Karen Garrison wanted for her sons Lamont and Lawrence.

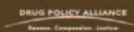
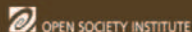
Her two boys received that college degree. But excessive mandatory sentences sent them to prison for nearly two decades for a non-violent crack cocaine offense.

## IT'S NOT FAIR. IT'S NOT WORKING.

End Crack and Powder Cocaine Sentencing Disparities.

### CONGRESS IS CONSIDERING REFORM NOW!

For more information about the sentencing disparity between crack and powder cocaine go to [www.sentencingproject.org/crackreform](http://www.sentencingproject.org/crackreform) or call 202-628-0871.



## THE FACTS

Americans believe in a system of justice where all individuals are treated equally and where laws don't single out groups for different treatment. Unfortunately the 1986 and 1988 Anti-Drug Abuse Acts established harsh and excessive penalties for crack cocaine compared to powder cocaine. It also has diverted precious resources away from prevention and treatment for drug users.

It is important that Americans know the facts:

**Although crack and powder cocaine are pharmacologically the same drug, penalties for these drug offenses are very different.**

Current policy maintains a 100 to 1 quantity-based sentencing disparity between crack and powder cocaine. This means that possessing just 5 grams of crack cocaine (10 to 50 doses) results in the same five year mandatory minimum prison sentence as selling 500 grams of powder cocaine (2,500 to 5,000 doses).

**Current research contradicts widespread myths about crack cocaine.**

The Anti-Drug Abuse Acts of 1986 and 1988 established the cocaine sentencing disparity to address the widespread belief that crack cocaine was a substantially more addictive and dangerous drug than powder cocaine. Since then, research and extensive analysis by the U.S. Sentencing Commission has revealed that such assertions are not supported by sound evidence and, in retrospect, were exaggerated or simply false. Indeed, a study published in the *Journal of the American Medical Association* reported that the physiological and psychoactive effects of crack and powder cocaine are similar.<sup>1</sup>

**African Americans in the United States are disproportionately incarcerated for drug offenses.**

In 2005, African Americans constituted more than 80 percent of the defendants sentenced to federal prison for crack cocaine offenses, even though two-thirds of crack cocaine users are white or Hispanic.<sup>2</sup>

African Americans make up 14 percent of the nation's drug users, yet they comprise 37 percent of those arrested for drug violations, and 56 percent of those in state prison for a drug offense.<sup>3</sup>

1. D. K. Hatsukami & M. W. Fischman, "Crack Cocaine and Cocaine Hydrochloride. Are the Differences Myth or Reality?" 279 *Journal of American Medicine*, No. 19, November 1996, at 1580.

2. The Sentencing Project, "Federal Crack Cocaine Sentencing," July 2007.

3. Arrest data from Federal Bureau of Investigation, File UCR91300, March 2002; prison data from Ryan S. King and Marc Mauer, "Distorted Priorities: Drugs Offenders in State Prisons," The Sentencing Project, September 2002, at 11.

## NEW MOMENTUM FOR REFORM

**New developments have rekindled interest in the crack and powder cocaine sentencing disparities and spurred momentum for reform.**

- **New Findings:** A recently released report by the U.S. Sentencing Commission, "Special Report to Congress: Cocaine and Federal Sentencing Policy," (May 2007) urges Congress to raise the crack cocaine quantities that trigger mandatory minimum sentences in order to focus penalties on serious and major traffickers and to repeal the mandatory minimum penalty for simple possession of crack cocaine.
- **New Legislation:** Senator Joseph Biden (D-Del.) introduced the Drug Sentencing Reform and Cocaine Kingpin Trafficking Act of 2007 (S.1711), which would change existing law to create a uniform sentencing structure for both forms of cocaine that makes the penalties for crack cocaine equal to that of powder cocaine.
- **New Supreme Court Hearing:** The Supreme Court on June 11 granted cert in *Kimbrough v. United States*, No. 06-6330. The case explores the reasonableness of a district judge's below-guideline sentencing decision based on the unfairness of the 100 to 1 quantity disparity between powder and crack cocaine sentences. Oral argument is scheduled for October 2, 2007.
- **New Team:** A coalition of criminal justice advocacy organizations has come together to promote reform of the crack-cocaine sentencing disparity. This coalition is led by The Sentencing Project, a national organization working for a fair and efficient criminal justice system; the Open Society Institute (OSI), a private operating and grantmaking foundation; the American Civil Liberties Union (ACLU), an organization dedicated to defending and preserving the individual rights and liberties of America's citizens; and the Drug Policy Alliance (DPA), a leader in promoting alternatives to the U.S. war on drugs.

## PUBLIC ENGAGEMENT AND PARTNERSHIPS

Another important element of the initiative will be to engage the public through events such as town hall meetings, national conferences, hearings and other opportunities. All activities will be designed to educate and raise awareness.

# THE AD CAMPAIGN

The coalition is launching a national campaign to educate the public about the crack and powder cocaine sentencing disparity. It hopes to inspire the American public to make their voices heard in order to make the mandatory penalties for crack and powder cocaine offenses more equitable and fair.

"It's Not Fair: It's Not Working" consists of three major messages:

"It's Not Fair" features Karen Garrison, mother of twin sons who received 15 and 19 year sentences for non-violent crack cocaine offenses just months after they graduated from college.

"Something's Wrong With The Math" points out that an individual only needs to possess 5 grams of crack cocaine to receive the same 5 year mandatory sentence as someone who sells 500 grams of powder cocaine.

"There's A Crack In The System" supports the American ideal of a fair and appropriate sentencing system while at the same time informing the public that possessing a small amount of crack cocaine can carry an excessive penalty.

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SENTENCING PROJECT | OPEN SOCIETY INSTITUTE | ACLU | CRACK COCAINE POLICY ALLIANCE

**SOMETHING'S WRONG WITH THE MATH**

$$\left( \frac{5 \text{ grams} = 5 \text{ years}}{\text{Crack Cocaine}} \right) \neq \left( \frac{500 \text{ grams} = 5 \text{ years}}{\text{Powder Cocaine}} \right)$$

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**THERE'S A CRACK IN THE SYSTEM**  
Americans want a Justice System that is Fair and Reasonable.

Getting caught with 5 grams of crack cocaine should not put you behind bars for 5 years.

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## TELLING THEIR STORY

Karen Garrison and Kemba Smith know first hand the effects of the disparity between crack and powder cocaine sentencing.

### Karen Garrison

Karen Garrison is the proud mother of Lawrence, who is serving 15 years and Lamont, who is serving 19 years in federal prison for non-violent crack cocaine offenses. Karen raised her twin sons as a single parent and proudly saw them graduate from college. She is a native Washingtonian who had a career in retail, fashion design, and professional hair design, as owner of her own shop and as an instructor. After nearly 15 years of being a licensed cosmetologist, she is now working in criminal justice reform. She has appeared on numerous television and radio news programs, locally and internationally, sharing the story of her sons.



### Kemba Smith

Kemba Smith has spent much of her adult life speaking against harsh mandatory sentences for crack cocaine offenses. The only child of professional parents in a suburb of Richmond, VA, Kemba was convicted in 1994 of conspiracy to distribute crack cocaine and related charges after a failed relationship with a wooing and later abusive drug-dealing boyfriend at Hampton University. Although she never actually handled or sold drugs, Kemba was sentenced for the entire amount of cocaine distributed by her boyfriend's operation – a total of 24.5 years in prison. Her son was born while she was in prison. With parents, students, journalists, and the NAACP Legal Defense and Educational Fund pleading her cause, President Bill Clinton issued her presidential clemency on December 22, 2000. She later graduated from Virginia Union University, and is now pursuing a law degree. Kemba's story is evidence of how even peripheral players can end up with long sentences for crack cocaine offenses.



*Media requests for Karen Garrison and Kemba Smith should be addressed to Sheila McGee at 202-664-2511 or [slmcgee70@aol.com](mailto:slmcgee70@aol.com).*

## COALITION PARTNERS



The **American Civil Liberties Union** is the nation's guardian of liberty, working daily in courts, legislatures and communities to defend and preserve the individual rights and liberties that the Constitution and laws of the United States guaranteed to everyone in this country.

### DRUG POLICY ALLIANCE

Reason. Compassion. Justice.

The **Drug Policy Alliance** is the leading organization in the United States promoting alternatives to the failed war on drugs. Their goal is to institute a new bottom line in U.S. drug policy, one that focuses on reducing the problems associated with both drugs and the war on drugs.



The **Open Society Institute** is a private operating and grantmaking foundation which seeks to shape public policies that assure greater fairness in political, legal, and economic systems and safeguard fundamental rights.



The **Sentencing Project** is a national organization working for a fair and effective criminal justice system by promoting reforms in sentencing law and practice, and alternatives to incarceration.

## MEDIA REQUESTS

The initiative can make available individuals who can speak about crack and powder cocaine sentencing disparities. Media should contact Sheila McGee at 202-664-2511 or [slmcgee70@aol.com](mailto:slmcgee70@aol.com) with interview or information requests.