

Providence Journal Editorial: "Closing the cocaine gap"

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It took time, but Congress has finally tightened the egregious sentencing gap between crimes involving crack cocaine and those linked to the powder form. In legislation signed by President Obama Aug. 3 — a disparity that had been 100 to 1 was trimmed to 18 to 1. Under previous law, a person charged in federal court with possessing 5 grams of crack faced a mandatory minimum of five years in jail. But someone with the powder form had to possess 500 grams to incur the same penalty.

Along with narrowing this gap, the Fair Sentencing Act of 2010 makes several improvements. The mandatory minimum sentence for first-time simple possession is gone. This should help bolster an important distinction between users (especially casual or first-time offenders) and dealers. The strongest punishment should be focused on the latter. Now, it will take 28 grams of crack cocaine, an amount a dealer might carry, to trigger a five-year sentence.

Severe penalties for crack were born in the 1980s, when use of the drug surged in many cities, especially among the poor. Violence was seen as a frequent byproduct. But overwhelmingly, those jailed were black. Typically, the proportion is around 80 percent. In contrast, users of powder cocaine (far more leniently treated) tend to be white. Yet recent data show that even most crack users are either white or Hispanic, indicating an intolerable racial disparity in the handling of drug offenses.

Though crack produces a more immediate high, research has found little difference between the two forms' addictive properties. The data connecting crack to violence has also weakened in recent years. Still, the new law wisely provides stiffer penalties for crack-related offenses involving violence.

In 1986, when the previous law was passed, legislators were rightly concerned about the drug abuse and lawlessness afflicting too many urban neighborhoods. But the years since have shown that incarcerating tens of thousands of chiefly black American males does little to help these communities thrive. The pool of marriage partners for women shrinks; too many children grown up without a father's involvement.

The Congressional Budget Office estimates that, with shorter sentences under the new law, the federal prison system could save about \$42 million over five years. That money would be much better spent on education and jobs. Further, like most crimes, drug offenses should primarily be dealt with by the states. For all these reasons, the new sentencing law is a move in the right direction.