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5 Myths About That Demon Crack

By Craig Reinerman

Should judges have the discretion to depart from severe sentencing guidelines if they lead to unjust results? The Supreme Court wrestled with this question Oct. 2 during oral arguments in a crack-related case, *Kimbrough v. United States*. The case had percolated up through the lower courts because the trial judge refused to impose a required sentence he found deeply unfair.

At the peak of the panic over crack cocaine in the mid-1980s, Congress passed a rash of laws requiring longer prison sentences. One such law created a 100-to-1 disparity between crack and cocaine offenses. You have to get caught with 500 grams of powder cocaine – but only five grams of crack cocaine – to get a mandatory minimum sentence of five years.

Crack is often used in impoverished inner cities, and police focus their surveillance efforts there. The result? Racially discriminatory sentencing that has packed prisons with African Americans. Many state and district court judges agree that the disparity is unfair, and only 13 of the 50 states still legally distinguish between crack and cocaine. In fact, the 20-year-old crack laws are based on myths:

1. Crack is different from cocaine.

When the crack scare began in the mid-1980s, politicians and the media outdid each other with horror stories about this new chemical boogeyman. They spoke as if crack were a completely different drug from cocaine, but that is a pharmacological fallacy. Crack is simply the base form of cocaine hydrochloride powder that is smoked. Cocaine is crack snorted in powder form. The only difference is that smoking delivers more cocaine to the brain faster, just as vodka will get you drunk faster than wine. Smoking crack is merely an intense new way to ingest an old drug. Even the director of the National Institute on Drug Abuse testified in 2006 that the "pharmacological effects of cocaine are the same, regardless of whether it is in the form of cocaine hydrochloride [powder] or crack cocaine."

2. Crack is instantly and inevitably addicting.

Drug-control officials justified the new laws by claiming that crack was "the most addictive substance ever known." Of course, this had been said of other drugs in earlier drug scares, beginning with the temperance crusade against alcohol. Still, experts and ex-addicts agree that crack cocaine produces a powerful rush and is easy to abuse; many users have binged on it compulsively and done themselves serious harm.

But the great majority of people who try crack do not continue to use it. For 20 years, the government's National Survey on Drug Use and Health has found that about 80 percent of those who have ever tried crack had not used it in the past year. And a recent study in the *Journal of*

the American Medical Association showed that crack cocaine is not significantly more addictive than powder cocaine.

3. The "plague" of crack use spread quickly into all sectors of society.

This never happened. Whatever its allures, crack use never spread very far into suburban high schools, college campuses or the broad working and middle classes. Crack use remains concentrated in a small slice of the most vulnerable part of the population: marginalized poor people.

When this mode of ingesting cocaine first appeared among wealthy Wall Streeters, professional athletes, rock stars and Hollywood types, it was called freebasing. When some of them got into trouble doing it, treatment programs were expanded. But when the same practice began to appear in ghettos and barrios under the street name crack, it led to an imprisonment wave. In fact, its use among what was already depicted as a "dangerous class" is part of the reason that crack was seen as especially dangerous.

4. Crack is the direct cause of violent crime.

Politicians repeatedly cited the association between crack and crime to justify Draconian laws. It is true that many crack abusers have committed crimes. At first, everyone assumed that this crack-crime link stemmed from the addict's craving for crack's potent high, but it turns out that the chain of causality is more complex. Studies of New York police records funded by the Department of Justice showed that most "crack-related homicides" had to do with the tinderbox context in which crack was sold: high unemployment, desperate poverty, hugely profitable illicit drug markets and easily available firearms. Crack is no longer in the media spotlight, but its use has persisted at nearly the levels of 20 years ago; meanwhile, violent crime has declined dramatically for a decade.

5. Harsh sentences for crack are necessary to deter "serious" and "major traffickers."

This was what Congress claimed when it passed the laws, but it defined "serious" trafficking as five grams -- less than one-sixth of an ounce. U.S. Sentencing Commission figures have long shown that more than three-fourths of those snagged are merely users and low-level sellers caught with tiny amounts. And they are overwhelmingly African Americans. Perversely, small-time sellers serve up to five times longer in prison than the cocaine-powder dealers caught with the same weight, who may well have supplied them.

These laws have helped increase the number of drug offenders in U.S. prisons nearly ninefold, from about 50,000 when President Ronald Reagan took office in 1981 to more than 450,000 today. They have helped triple the prison population and given the United States the highest rate of incarceration in the world. This costs U.S. taxpayers billions each year, but it has never made much of a dent in our most serious drug problems.

We cannot incarcerate our way to a "drug-free society."

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