

## Crack laws press harder on blacks | Rigid sentences worry activists, federal panel

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### Document Text

Strangers seldom venture through San Diego's Mountainview neighborhood, where Raymond Brewton grew up. Even the nearby pizza parlors, he says, won't deliver.

On West Street, crack houses and street corner dealers are the norm. Kids like Brewton, who graduated from high school with a clean record, have a hard road.

It's the kind of community where the law-abiding generally welcome police and support efforts to stamp out drugs.

But, increasingly, leaders of inner-city communities like this one are complaining that the war on drugs is taking an unexpected and deadly toll.

Among people ranging from such grass-roots activists to members of the Congressional Sentencing Commission, there is concern that federal laws crafted to get tough on crack cocaine use have had the side effect of subjecting black drug offenders to lengthier prison terms than those imposed on whites.

And because the laws are so harsh, critics say, young, first-time offenders caught with small amounts of crack go to prison for years without a chance of parole. They say that by the time these kids get out there is little hope for rehabilitation.

The federal crack policy, its critics say, is stripping African-American communities of their most precious resource -- their young people.

"No one wants drugs in our neighborhoods," says Barbara Martin, a community activist in San Diego's Oak Park neighborhood. "We're not saying it's OK to sell drugs. What we're saying is, 'Don't put our kids away for years and years.'"

"If they do wrong, they should be punished. But they should be punished the same as white kids."

Brewton is a case in point.

At 24, the clean-cut, church-going athlete had spent most of his life with his nose to the grindstone. He got his first job at 16, working at Carl's Jr. A boxer, Brewton trained for the Golden Gloves. In his spare time he worked out with younger kids at a local gym.

Brewton says he always counseled the youngsters to stay away from drugs. It was advice he says he heeded every day of his life -- except one.

It happened, Brewton says, after his girlfriend left him, he lost his job and his world seemed to suddenly unravel.

He was at his lowest ebb, he says, when he met Tegi Johnson, a woman who later acknowledged in court that she was a longtime drug dealer facing a life sentence.

According to her own testimony, Johnson made a deal with federal agents to nab local drug dealers in return for a more lenient sentence. Eventually, she was responsible for the arrests of nearly two dozen black men, who now face between 5 and 20 years for selling crack to her.

Brewton says Johnson, posing as his friend, begged him to get her drugs.

"She would call me at all hours of the night," he said in an interview. "She tried to make numerous deals with me that I wouldn't do."

Finally, however, Brewton did agree to hook Johnson up with a dealer for \$50 and was present when she bought a small amount of crack cocaine.

He was charged with distribution of crack but has pleaded innocent, saying he was entrapped. If convicted, he will pay with five years of his life -- a mandatory sentence over which the judge who sentences him will have no control.

#### Mothers and sons

It was stories like Brewton's that led Martin to form a group called Equal Justice Under the Law. Starting with just a few families, the group has grown as women in the city's black neighborhoods have asked churches to become involved in their cause, Martin says.

"We are the mothers, and we're watching as our sons go off to prison," she says.

Martin's son has not been accused of any drug crime, but, she reasons, "Your problems today could be mine tomorrow."

The group, which now includes community activists, African-American ministers, church members and the relatives of young men facing drug convictions, meets periodically with San Diego defense lawyers who have filed court challenges to the way sentences in such cases are set.

Bishop George D. McKinney, pastor of St. Stephen's Church of God in Christ in Encanto, says he is concerned about the crack cocaine sentencing rules because they contribute to a larger problem -- the death of the traditional black family.

"We are losing our young men, and no culture can survive without men," McKinney says. "Don't misunderstand. No one in their right mind would advocate mollycoddling drug pushers. All we're saying is that justice should be fair."

The controversy began after Congress established strict mandatory sentences for users and sellers of all drugs in the late 1980s. The mandatory sentences -- which apply only to people convicted in federal courts -- were set much higher for crack cocaine than for powdered cocaine or other drugs.

The reasoning was that crack, or rock cocaine, a derivative of powdered cocaine, is cheaper, more addictive and more deadly. A smaller amount also produces a shorter, more intense high.

#### Shorter high, longer sentence

But crack, known as the ghetto drug, is used mostly in the inner cities by members of minorities. Powdered cocaine is

more popular in the suburbs and among whites. Powdered cocaine is generally conceded to be the drug of choice of the cultural elite, most likely to provide weekend recreational highs for young, white executives.

According to federal sentencing laws, one gram of crack equals 100 grams of powdered cocaine. That means a person caught with five grams of crack -- the equivalent of about one sugar packet -- is subject to the same mandatory prison sentence as a person caught with 500 grams of powdered cocaine.

Because federal judges' hands are tied by the sentencing laws, in each case the judge would have no choice but to send the offenders to prison without possibility of parole for at least five years regardless of the circumstances or the defendant's past criminal conduct.

It did not take long for defense lawyers to notice that their crack clients were mostly African-American and that they were going to prison for lengthier terms.

"Blacks are being locked up for decades because the drug they can afford happened to incur the wrath of Congress," says Michael Crowley, a San Diego defense attorney who has been active in civil rights litigation.

Of crack, Crowley says, "You can get high one time on 20 bucks, and go to prison for two years. By the time you get out, you have a degree in criminality and not much hope of anything else."

Crowley and other lawyers nationwide have been challenging the sentencing rules as inherently discriminatory. But federal appeal courts have consistently disagreed, saying that even though the heavier sentences fall more often on African-Americans they are justified because crack is more dangerous, cheaper, more available and more potent.

Accusations of forum shopping

Lawyers for two defendants in Los Angeles have now taken a different tack.

They are accusing police, federal prosecutors and federal agents of intentionally channeling black defendants into the federal court system, where the mandatory sentences for crack are more severe than in state courts.

State courts also generally allow judges to lighten punishment for first-time offenders or because of extenuating circumstances.

Using statistics showing the number and race of the people arrested in Los Angeles for drug crimes, defense lawyers there contend that although African-Americans made up 58 percent of those arrested for selling crack cocaine during the study period 83 percent of those charged in federal court were black.

Though whites made up 3 percent of those arrested for selling crack cocaine, none of the defendants charged in federal court was white, the lawyers say.

"Despite this potential pool of Anglo offenders, no Anglos were subject to federal charges," attorney Paul Rochmes wrote in papers submitted to a court.

Rochmes is now trying to get federal and state prosecutors to explain the process that channels certain defendants into state court and others into federal court.

In San Diego, lawyers for all the defendants ensnared by Tegi Johnson have filed a similar challenge, contending that although whites are being arrested for crack offenses few are tried in federal court.

Martha Hall, Brewton's lawyer, says statewide statistics show that 10 percent of the people arrested for selling crack are white. But in federal court in San Diego, she says, only one white defendant has ever been prosecuted for the offense.

The Rev. Norman Copeland, pastor of Bethel African Methodist Episcopal Church in Logan Heights, says the statistics point to a clear case of discrimination.

"If you see very few white males coming through the federal system and receiving those harsh sentences, and you know that there is violence in all communities, and you know that there are drugs in all communities, what other conclusion can you come to?" he asks.

Discrimination claims denied

The U.S. Attorney's Office denies it has intentionally targeted blacks for tougher prosecution.

Federal prosecutor Mike Lasater, however, concedes that certain investigations, simply by their nature, target specific groups.

"When you go to investigate the Sicilian Mafia, you can pretty much bet that most of the defendants are going to be Italian," says Lasater, who is prosecuting suspects caught in the Tegi Johnson sting.

"If you investigate the Hell's Angels, most will be white. And, when you have an informant who is an African-American and has mostly been dealing in that community, you are going to get blacks.

"But the U.S. Attorney's Office does not and will not select a person for prosecution because of race."

Nevertheless, concern that the harsher sentencing in crack cases is racially unfair has spread across the criminal justice system.

Nationwide, numerous federal judges have expressed severe reservations. And the Congressional Sentencing Commission, created to help Congress formulate federal sentencing guidelines, has publicly voiced its concerns.

The commission has already come out against the laws that require judges to impose mandatory sentences, saying the mandates negate the ability to give breaks to first-time offenders and small operators.

The commission, which has been studying whether the laws governing crack are discriminatory, has scheduled an open hearing in Washington on Tuesday to let people from across the country voice their views. A report recommending reforms to Congress is expected to follow.

Attorney General Janet Reno has said she will also make her own report to Congress.

But commission communications director Kent Larsen says he doubts Congress will make any changes without pressure from constituents. And reducing prison time for drug offenses, he adds, has a limited constituency.

"Judges don't like the minimum mandatory sentences," says Larsen. "But Congress likes them.

"The answer from Congress is that people just shouldn't get involved in drugs in the first place."

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**Abstract** (Document Summary)

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