

animate that truth with the same resilience the same dignity, the same decency, and the same pragmatic approach the American people have applied to every task and every challenge.

It's long past time for the President to address the American people in prime time, to level with us about the monumental task ahead, to summon our support.

I and most of my colleagues will stand with him.

So yes, when it comes to foreign policy, I have a fundamental difference of opinion with some in this Administration and I'll be talking more about it in the next few weeks. But that's okay because I'm reminded of the words of Senator Arthur Vandenberg who said: "Bipartisan foreign policy does not involve the remotest surrender of free debate in determining our position. On the contrary, frank cooperation and free debate are indispensable to ultimate unity. It simply seeks national security ahead of partisan advantage. Every foreign policy must be totally debated and the loyal opposition is under special obligation to see that this occurs."

I think it is my obligation to articulate an opposing view.

MEMORANDUM

To: Senator Carper
From: Margaret Simmons
Re: Mandatory Minimum Sentencing
Date: April 28, 2003

BACKGROUND

The Anti-Drug Abuse Act of 1986 provided mandatory minimum sentences of imprisonment for possession with intent to distribute powder and crack cocaine. In this statute Congress established a quantitative 100-to-1 sentence ratio between the two (i.e., it takes 100 times as much powder cocaine as crack cocaine to trigger the same sentence). Under this distinction, a person convicted of possession with intent to distribute a pound of powder cocaine (453.6 grams) would serve considerably less time in a federal prison than one convicted of possession with intent to distribute 5 grams of crack. The United States Sentencing Commission incorporated the ratio into its generally binding sentencing guidelines. Since enactment, it has become apparent that the incidence of this sentencing differential falls disproportionately on African-American defendants.

Instructed to study the situation, the Sentencing Commission proposed amendments that would equate crack and powder cocaine for sentencing purposes and recommended that Congress drop the 100-to-1 ratio from its own mandatory penalties. Congress rejected both the amendments and the suggestion for equating, but directed the Commission to re-examine the issue and report back recommendations reflecting more moderate adjustments.

In May 2002 the Sentencing Commission issued its report to Congress on cocaine and federal sentencing policy. In that report, the Commission recommended a three-pronged approach for revising federal cocaine sentencing policy: increase the five-year mandatory minimum threshold quantity for crack cocaine offenses to at least 25 grams (and the ten-year threshold quantity to at least 250 grams); provide direction for more appropriate sentencing enhancements within the guidelines' structure that target the most serious drug offenders for more severe penalties without regard to the drug involved; and maintain the current mandatory minimum threshold quantities for powder cocaine offenses. The Commission found that there does not appear to be evidence that the current quantity-based penalties for powder cocaine are inadequate.

DRUG SENTENCING REFORM ACT OF 2001

In the last Congress, Senator Sessions introduced legislation to reduce the disparity in punishment between crack and powder cocaine offenses, and to focus the punishment for drug offenders on the seriousness of the offense and the culpability of the offender. The legislation reduces the disparity in sentences for crack and powder cocaine from the ratio of 100-to-1 to 20-to-1. (Under state law in Delaware, the ratio is 1-to-1.) It does so by reducing the penalty for crack and increasing the penalty for powder cocaine. For example, for the five-year mandatory minimum, the bill would decrease the trigger amount for powder cocaine from 500 grams to 400 grams, and increase the trigger amount for crack cocaine from 5 grams to 20 grams.

In addition, the bill shifts some of the sentencing emphasis from drug quantity to the nature of the criminal conduct. The bill increases penalties for the worst drug offenders that use violence and employ women and children as couriers to traffic drugs. The bill also decreases mandatory penalties on those who play only a minimal role in a drug trafficking offense, such as a girlfriend or child of a drug dealer.

RECOMMENDATION

Senator Sessions legislation is a good start to address the disparities in mandatory sentencing between crack and powder cocaine, and achieves the recommended 20-to-1 sentencing ratio proposed by the Sentencing Commission. The bill does so by lowering the threshold quantities for powder cocaine, and increasing the threshold for crack cocaine.

However, the Sentencing Commission's recommendation was to leave the quantity-based penalties for powder cocaine unchanged. Given that this recommendation was unanimous, I think it should be given considerable weight. Thus, I would not recommend supporting legislation that adjusts the disparity in sentencing between crack and powder cocaine by changing the threshold amounts for powder cocaine.

In addition, Hispanic groups and civil rights groups are very opposed to Senator Sessions' legislation since his bill essentially increases the penalties for powder cocaine by lowering the amount needed to receive a mandatory sentence. In addition, the legislation does not address the 5-year mandatory minimum for simple possession of crack cocaine. Crack cocaine is the only drug that has a mandatory minimum sentence for simple possession.

Finally, Senator Biden's Subcommittee held a hearing in the last Congress to review the recommendations of the Sentencing Commission. It is clear from the transcript of that hearing that Senator Biden believes that the mandatory minimum sentencing should be changed, but he does not support Senator Sessions' approach. According to Senator Biden's staff, the Senator had been interested in developing his own legislation to address the mandatory minimum sentence issue in the last Congress. Therefore, given Senator Biden's history on this issue, from writing the original mandatory sentencing law in 1986 to his interest in adjusting this law, I would strongly recommend that you speak with him directly before taking any action on this subject.

NAACP V. ACUSPORT

Mr. LEVIN. Mr. President, last week U.S. district court judge Jack Weinstein of the Eastern District of New York found in the case of National Association for the Advancement of Colored People v. Acusport, Inc. et al. "clear and convincing evidence" that

some gun manufacturers are guilty of "careless practices."

The NAACP filed the lawsuit against gunmakers and wholesalers for what they argued were negligent firearms distribution practices. The NAACP lawsuit did not seek financial relief but sought injunctive relief to force the gun industry to take meaningful steps towards safer business practices.

Judge Weinstein's decision was a broad condemnation of current business practices in the gun industry. Judge Weinstein said "the evidence presented at trial demonstrated that defendants are responsible for the creation of a public nuisance and could, voluntarily and through easily implemented changes in marketing and more discriminating control of sales practices of those to whom they sell their guns, substantially reduce the harm occasioned by the diversion of guns to the illegal market and by the criminal possession and use of those guns."

Although Judge Weinstein did not grant the NAACP the relief it sought, the gun industry should take no consolation in this result. In fact, relief was denied only because the court found that all New Yorkers suffered from the same kind of injuries from gun industry misconduct suffered by members of the NAACP.

The Lawful Commerce in Arms Act that recently passed the House and that has been referred to the Senate Judiciary Committee would shield negligent and reckless gun dealers from many legitimate civil lawsuits like the NAACP case. Certainly, those in the industry who conduct their business negligently or recklessly should not be shielded from the civil consequences of their actions. I urge my colleagues to oppose this bill.

THE RETIREMENT OF SHARON PETERSON

Mr. BAUCUS. Mr. President, I rise to pay tribute and express my deepest appreciation for a member of my staff who has served the U.S. Senate, me personally, and the State of Montana admirably.

Today is my State director Sharon Peterson's last day. She retires today after more than 22 year of service in the Senate.

Sharon's career in public service is the culmination of a lifetime of hard work.

Sharon became interested in public service after seeing the late Senate Majority Leader Mike Mansfield speak in Lewistown. He inspired her to give back to Montana. Which she's been doing ever since.

As a Fergus County rancher, along with her husband Garde, she has always been interested in the policies that affect Montana agriculture. And she's considered an expert in the field.

Sharon helped organize Montana Women Involved in Farm Economics—or WIFE—in 1975. This led to an appointment from President Jimmy

Carter to the U.S. Commission on Alcohol Fuels, where she served from 1979 to 1981.

I remember vividly Sharon bending my ear on ethanol. She once traveled to Washington—before she was on my staff—to advocate for increased ethanol production. I remember being late for a Capitol Hill press conference and Sharon literally dragging me by my shirtsleeves to make it on time. She was just like that—always on the move, always aggressive.

A former State Chair for the Montana Democratic Party, Sharon was very politically active. And she was a familiar face in Helena during many state legislative sessions.

Sharon joined my staff in Billings in 1981. Back then, we didn't have e-mail, no Blackberry on Palm Pilots. We didn't even have computers in my State offices when Sharon first started. Only an old roll-paper fax or two. This made it challenging for our State operation. But they worked hard to stay in touch with Washington.

Sharon served as my scheduler for 10 years. And she was tenacious in making sure I was on time, which is, as we all here in the Senate know, not an easy task—especially back then.

I once did a work day—I work alongside Montanans at least one day a month—at the Stillwater Mine in Columbus. I was having so much fun working in the mine, I didn't want to leave. Sharon, afraid of nothing and against the caution of mine workers, came down into the mine shaft to get me to my next meeting.

She once called the kitchen of a restaurant in Choteau and told the dishwasher to get me moving.

Sharon helped organize the 1989 Montana Cattle Drive celebrating Montana's bicentennial. Again, I was having so much fun I stayed out on the drive for several days longer than I was supposed to. Sharon drove out to camp and took me to a pay phone to call my Washington staff.

Sharon helped on my first Senate campaign, in 1978. She helped deliver Fergus County, which she later realized was a lot harder than one might think.

I appointed her my State director 1993. In this role, she was a key advisor to me. She was a strong voice for Montana on agriculture, transportation, rural health and education, trade and natural resources. She fought for rural communities and Main Street businesses.

She was a tireless advocate for farmers and ranchers, helping to pass numerous farm bills and helping producers through the drought of the 1980s.

She organized the first of many trade trips to foreign countries.

As State Director, Sharon took great pride in making sure our State operation ran smoothly and served Montanans well. She answered my toll free line for 22 years. That's the 800 number Montanans use to get in touch with

me. She was dedicated to case work. She personally helped thousands of Montanans.

For many years I have counted on Sharon to educate us on the realities of living in rural areas. She insisted we apply good Montana common sense to everything we do. She believes strongly in protecting the Montana values of doing what's right, common sense, faith, hard work, a strong connection to the land, and community.

Her Montana roots run deep. Long ago, we tried to get Sharon to move to Washington. She stayed for two weeks and went home. Montana is her home. She loves our State. I doubt she'll ever leave. Sharon's a rancher. She's a salt-of-the-earth Montanan.

When I asked Sharon what the best part of the job was she said: "The ability to help people and make Montana an even better place."

She did both.

I'll miss her. My staff will miss her. The Senate will miss her. And most importantly the State of Montana will miss her.

She truly made "The Last Best Place" even better. For that, we are eternally grateful. And we wish her and Garde all the best.

NOMINATION OF PAUL MICHAEL WARNER

Mr. HATCH. Mr. President, I rise in support of the nomination of Paul M. Warner of Salt Lake City, who has been renominated by President Bush for the position of U.S. attorney for the District of Utah.

Paul Warner has had a remarkable career in public service. After graduating from the J. Reuben Clark Law School in 1976, he enlisted in the U.S. Navy Reserve Judge Advocate General Corps, where he served as both prosecutor and defense counsel. From 1982 to 1989, Mr. Warner served in the Utah Attorney General's Office, where he did tremendous work on both civil and criminal matters. In 1983, he enlisted with the Utah Army National Guard, Judge Advocate Branch, where he has risen to the rank of colonel. Since 1989 he has served in the U.S. Attorney's Office for the District of Utah, where he has worked on both civil litigation and criminal prosecution. He became the U.S. Attorney for the District of Utah in 1998 and has served ably in that office ever since.

I think it is important to have a career prosecutor with the reputation and ability of Paul Warner to lead the Federal law enforcement effort in Utah. He is a man committed to the rule of law and has a proven track record on the problems that affect Utah, notably methamphetamine proliferation and illegal reentry by criminal aliens.

Paul Warner has been able to be so effective because he has developed a great working relationship with Federal, State, and local law enforcement personnel. I believe that without excep-

tion he is respected and trusted as a skillful prosecutor and an able administrator.

Paul Warner has had several notable career achievements. Most notably he rose to the Olympic challenge of presiding over one of the largest peace time mobilizations of law enforcement personnel in United States history. I can't give him enough credit for facilitating the cooperation of Federal, State, and local law enforcement personnel that allowed the Salt Lake Olympic Games to run so smoothly. It was a tremendous undertaking, and the State of Utah, the United States of America, and the World Olympic Community owe a debt of gratitude to Paul Warner for negotiating the Herculean task of facilitating a safe environment that allowed the Salt Lake City Olympic Games to be enjoyed by so many throughout the world.

Paul Warner has also used his legal acumen and personal relationships to defuse several tense situations, including the controversies surrounding the Federal land use policies affecting Utah and the imposition of background checks at the Salt Lake International Airport following the 9/11 terrorist attacks.

Paul Warner has been honored on several occasions for his commitment to public service. He is the recipient of the United States Army Commendation Medal for meritorious service during Operation Desert Storm for legal work done in mobilizing members of the Utah Army National Guard. He later received two oak leaf clusters for meritorious service as Staff Judge Advocate. Mr. Warner was given a Special Achievement Award from the U.S. Department of Justice, and a Special Commendation from U.S. Attorney, District of Utah, for outstanding work as First Assistant U.S. Attorney. Finally, he has received the Community Relationship Award from the Salt Lake City branch of the NAACP.

Paul Warner is a man of integrity and honesty. He is a great American who has spent his career in public service. I can't say enough about this honorable and talented man. I have no doubt that he will continue to be an able U.S. attorney. He deserves a speedy confirmation by this committee and by the full Senate. I sincerely hope that my colleagues will join me in supporting his renomination to be the United States Attorney for the District of Utah.

RURAL DEVELOPMENT PROGRAMS IN MEXICO

Mr. GRASSLEY. Mr. President, on July 10, the Senate passed an amendment to S. 925, the Foreign Relations Authorization Act, to authorize \$100 million for rural development programs in Mexico. This amendment authorizes funding for programs to promote microcredit lending, to promote small business and entrepreneurial development, to aid small farms impacted by the collapse of coffee prices,