

and unjust. This policy is wrong and unfair, and it has needlessly swelled our prisons, wasting precious Federal resources.

These disproportionate punishments have had a disparate impact on minority communities. This is unjust and runs contrary to our fundamental principles of equal justice under law. According to the latest statistics of the independent and nonpartisan United States Sentencing Commission, African Americans continue to make up the large majority of Federal crack cocaine convictions, accounting for 80 percent of all Federal crack cocaine offenses, while they represent a much smaller fraction of those who use the drug. In a letter to our committee, John Payton, the president of the NAACP Legal Defense Fund, called this disparity "one of the most notorious symbols of racial discrimination in the modern criminal justice system."

These disparate penalties, which Congress created in the mid-1980s, have failed to address basic concerns. The primary goal underlying the crack sentence structure was to punish the major traffickers and drug kingpins who were bringing crack into our neighborhoods. But the law has not been used to go after the most serious offenders. In fact, just the opposite has happened. The Sentencing Commission has reported for many years that more than half of Federal crack cocaine offenders are low-level street dealers and users, not the major traffickers Congress intended to target.

The Fair Sentencing Act of 2009 returns the focus of Federal cocaine sentencing policy to drug kingpins, rather than street level dealers, and eliminates the mandatory minimum sentence for possession of crack cocaine. The 5-year mandatory minimum sentence penalty for simple possession of crack is unique under Federal law. There is no other mandatory minimum for mere simple possession of a commonly abused drug.

This bill does not legalize drugs, nor does it eliminate harsh sentences. In fact, this bill toughens some penalties. It increases fines for major drug traffickers and provides sentencing enhancements for acts of violence committed during the course of a drug trafficking offense. But this bill also helps to ensure that our system will no longer affect many minority and urban communities more harshly than offenders who use drugs in the suburbs and corporate offices. That inequality has reduced trust in law enforcement and cooperation with police, which makes us all less safe.

American justice is about fairness for each individual. To have faith in our system, Americans must have confidence that the laws of this country, including our drug laws, are fair and administered fairly. We must be smarter in our Federal drug policy. Law enforcement has been and continues to be a central part of our efforts against illegal drugs, but we must also find

meaningful, community-based solutions which enable people to feel they are being treated fairly. I look forward to working with Chief Kerlikowske, the director of the President's Office of National Drug Control Policy, to develop and deploy such a strategy.

Since 1995, the United States Sentencing Commission has issued report after report calling on Congress to address this unfair sentencing disparity. We would not be making the progress we are today without the leadership of the United States Sentencing Commission. I thank them and their chairman, Judge William Sessions.

I thank the U.S. Department of Justice for the testimony of Assistant Attorney General Lanny Breuer at our hearing on this matter last year. Attorney General Eric Holder also reminded us that "the stakes are simply too high to let reform in this area wait any longer." I agree. It is time for the Senate and House to act.

After more than 20 years, the Senate has finally acted on legislation to correct the crack-powder disparity and the harm to public confidence in our justice system it created. Although this bill is not perfect and it is not the bill we introduced in order to correct these inequalities, I believe the Fair Sentencing Act moves us one step closer to reaching the important goal of equal justice for all. I urge the House to act quickly so that the President can sign this historic legislation into law.

Mr. DURBIN. Mr. President, I ask unanimous consent that the committee substitute amendment be agreed to; the bill, as amended, be read a third time and passed; the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1789), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. DURBIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—H.R. 1586

Mr. DURBIN. Mr. President, I ask unanimous consent that on Thursday, March 18, after the Senate resumes consideration of H.R. 1586, the Senate then debate concurrently the Sessions-McCaskill amendment No. 3453 and the Pryor amendment No. 3548; that the

amendments be debated concurrently until 11:30 a.m., with the time equally divided and controlled between Senators SESSIONS and PRYOR or their designees, with no amendments in order prior to the vote; that the amendments then be set aside until 2 p.m., and at 2 p.m., the Senate proceed to vote in relation to the amendments, with the Sessions-McCaskill amendment voted first in the sequence; that prior to each vote, there be 2 minutes of debate, equally divided and controlled in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR THURSDAY, MARCH 18, 2010

Mr. DURBIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Thursday, March 18; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate proceed to a period of morning business for 1 hour, with Senators permitted to speak for up to 10 minutes each, with the Republicans controlling the first half and the majority controlling the final half; that following morning business, the Senate resume consideration of H.R. 1586, as provided for under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DURBIN. Mr. President, tomorrow we will resume consideration of the FAA reauthorization legislation. Senators should expect at least two votes to begin at 2 p.m.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. DURBIN. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 7:20 p.m., adjourned until Thursday, March 18, 2010, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate:

THE JUDICIARY

LEONARD PHILIP STARK, OF DELAWARE, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF DELAWARE, VICE KENT A. JORDAN, ELEVATED.

AMY TOTENBERG, OF GEORGIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF GEORGIA, VICE JACK T. CAMP, JR., RETIRED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. EDWARD A. RICE, JR.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COLONEL DAVID W. ALLVIN
COLONEL BALAN R. AYYAR
COLONEL THOMAS W. BERGESON
COLONEL JACK L. BRIGGS II
COLONEL JAMES S. BROWNE
COLONEL ARNOLD W. BUNCH, JR.
COLONEL THERESA C. CARTER
COLONEL SCOTT L. DENNIS
COLONEL JOHN W. DOUCETTE
COLONEL SANDRA E. FINAN
COLONEL DONALD S. GEORGE
COLONEL JERRY D. HARRIS, JR.
COLONEL KEVIN J. JACOBSEN
COLONEL SCOTT W. JANSSON
COLONEL RICHARD A. KLUMPP, JR.
COLONEL LESLIE A. KODLICK
COLONEL GREGORY J. LENGUEL
COLONEL JAMES F. MARTIN, JR.
COLONEL ROBERT D. MCMURRY, JR.
COLONEL EDWARD M. MINAHAN
COLONEL JON A. NORMAN
COLONEL JAMES N. POST III
COLONEL STEVEN M. SHEPRO
COLONEL JAY B. SILVERIA

COLONEL DAVID D. THOMPSON
COLONEL WILLIAM J. THORNTON
COLONEL KENNETH E. TODOROV
COLONEL LINDA R. URRUTIA-VARHALL
COLONEL BURKE E. WILSON

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. DANIEL P. BOLGER

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. DUANE D. THIESSEN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. REX C. MCMILLIAN

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

VICE ADM. DAVID J. VENLET

CONFIRMATION

**Executive nomination confirmed by
the Senate, Wednesday, March 17, 2010:**

THE JUDICIARY

O. ROGERIEE THOMPSON, OF RHODE ISLAND, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIRST CIRCUIT.