

There is no separate Federal offense for what is called possession with intent to distribute. Those who possessed with that intent are treated the same as those who distribute. We need to look at drug distribution sentences in the Federal system as well.

Drug trafficking cases are sometimes subject to mandatory minimum sentences. For instance, just under half of all drug courier offenders were subject to mandatory minimum sentences, but under 10 percent were subject to mandatory minimum sentences at the time of their sentencing.

There are two main reasons so few of these offenders are actually sentenced to a mandatory minimum. The first is they may fall within the safety valve Congress has enacted to prevent mandatory minimum sentences from applying to low-level, first-time drug offenders or, second, they may have provided substantial assistance to prosecutors in fingering high-level offenders in a drug conspiracy.

That is an intended goal of current Federal sentencing policy, to put pressure on defendants to cooperate in exchange for a lower sentence so evidence against more responsible criminals can be attained. As a result, even for drug couriers the average sentence is 39 months. That seems to be an appropriate level.

We are not sending huge numbers of nonviolent drug offenders to Federal prison under lengthy mandatory minimum sentences. I want to make it very clear, this is the biggest sentencing myth of them all. When Federal drug sentencing is discussed, we need then to keep in mind the facts. There are hardly any nonviolent drug-offending Americans in Federal prison for mere drug possession. The quantities of drugs underlying the vast majority of Federal possession cases are high and sentences are fair. For drug courier distribution cases, only 10 percent of offenders are subject to mandatory minimum sentences at the time of sentencing.

I hope you will be on notice and be on guard. Don't let anyone tell you Federal mandatory minimum sentences are putting large numbers of non-violent offenders in jail for long periods of time at great taxpayer expense. Don't let anyone tell you such offenders are the reason for the increase in Federal drug prisoners over the years. Don't let anyone tell you harsh mandatory sentences for low-level nonviolent offenders are decimating various communities.

Apart from the clear evidence from the Sentencing Commission regarding Federal drug offenders, I want to draw attention to the responses to questions from witnesses before our Judiciary Committee just this month. Testifying before the committee, Milwaukee County Sheriff David A. Clarke, Jr., stated: "Federal mandatory minimum sentences have struck terror into the hearts of career criminals . . . and have provided longer periods of respite

from the impoverished and crime-ridden communities that can least afford their return."

The sheriff said he feared the effect in his inner-city community of changing Federal drug mandatory minimum sentences. I have told my colleagues I am going to be open to lowering some Federal mandatory minimum sentences but only where specific situations may warrant that and if we can add or raise new ones for such offenses as arms export control violations, financial crimes, and child pornography possessions. Those three categories do not have to be extremely long sentences under present law, but too many judges are systematically sentencing these offenders to probation. Especially when the Supreme Court has taken away any other means of making sure judges do not let these offenders walk, mandatory minimum sentences are the only way Congress can require these offenders serve any time at all.

I am trying to inform my Senate colleagues through the use of facts. In doing that, by looking at the facts, we will not make unwise and dangerous changes to our Federal sentencing laws. I ask my colleagues to stick to the facts and avoid repeating myths. I pointed out those myths. It is a myth to say sentences for drug possession and nonviolent offenders justify the Smarter Sentencing Act. That bill does not apply to possession at all. Many drug offenses necessarily involve violence. Drug conspiracies operate with the threat or the use of force.

Whatever the offense charged, if the offender has a history of violent crime, he is a violent offender, and the sentence will and should reflect that fact. It is a myth to say the Smarter Sentencing Act would save money. All it would do is shift costs from incarceration to the victims who bear the cost of the crimes that earlier released offenders would commit. That is one of the reasons the bill is dangerous.

The Congressional Budget Office also says it would add billions of dollars in mandatory spending, regardless of what upfront discretionary savings there may be. I would ask my colleagues to get this: It is a fact the Smarter Sentencing Act would cut sentences for a range of heroin offenses, including importation and dealing, while the entire Nation is in the midst of a heroin epidemic and a rising number of deaths from heroin overdoses.

I would ask my colleagues to get this: It is a fact from the heads of the FBI and the Drug Enforcement Agency and Federal police organizations that mandatory minimum sentences spur cooperation from defendants and enable the successful prosecution of high-level drug criminals who cause most of the tremendous harm. That includes cooperation from defendants charged with narcoterrorism.

I would ask my colleagues to get this: It is a fact the so-called Smarter Sentencing Act would cut in half the mandatory minimum sentences Con-

gress put in place for distributing drugs to benefit terrorists or terrorist organizations. It would cut in half the mandatory minimum sentences for members of Taliban, Al Qaeda, ISIS or Hezbollah who deal drugs that fund terrorism. That would mean less cooperation to bring charges of narcoterrorism, get terrorists off the streets, and obtain intelligence to help prevent future attacks.

As President Obama's U.S. attorney for the Southern District of New York has remarked, "[T]here is a growing nexus between drug trafficking and terrorism, a threat that increasingly poses a clear and present danger to our national security.

So I ask my colleagues to get this: It is a fact that the so-called Smarter Sentencing Act is dangerous not only because of its effect on increased crime and victimization but on national security as well.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. LEE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

DEPARTMENT OF HOMELAND SECURITY FUNDING

Mr. MERKLEY. Mr. President, I rise today to urge our colleagues to come together quickly to pass a clean Homeland Security bill. We are now just 16 days away from a Homeland Security shutdown. The clock is ticking. A shutdown would be wholly unnecessary and, quite frankly, completely dangerous. We know we do not lack for security threats. It was less than 2 years ago that terrorists attacked the Boston Marathon. It was just weeks ago that we witnessed a horrific series of terror attacks on our friends in Paris. We know the brutal destabilizing force known as the Islamic State, or ISIL, is determined to hurt our Nation and our citizens. The world is a dangerous place.

At a time like this, we should be working together on a bipartisan basis to fund and strengthen Homeland Security, but instead we are facing insecurity, instability, and uncertainty because some want to hold the funding for the Department of Homeland Security hostage—hostage to a partisan political debate.

Is it really more important to hold a fight over deporting children who came to the United States and know no country other than the United States, came here through no fault of their own? Is it more important to hold this fight over deporting those children than it is to protect America against terrorist threats?

Although protecting against these threats is reason enough to oppose this misguided strategy, the resulting fallout would not just be limited to national security. This bill includes

FEMA grants to disaster-stricken areas. This bill includes funding for grants to local fire departments—grants that would not occur.

Thousands of essential public servants—from Homeland Security, to FEMA, to our terrific men and women in the Coast Guard—would be asked to keep on working even though we are not paying them. This is not the way to run a nation. This is certainly not the way to address national security threats that face us.

I think it is telling when a strategy is being criticized from Members on both sides of the aisle. This is a foolhardy game being played with our national security.

A colleague from Arizona said on this floor just yesterday—a colleague from across the aisle—that “to attempt to use a spending bill in order to poke a finger in the President’s eye is not a good move.”

Another colleague from across the aisle, from Illinois, said, “The American people are pretty alarmed, as they should be, about security . . . the way to go forward is just fund DHS,” the Department of Homeland Security. He continued, “We ought to strip the bill of extraneous issues and make it about homeland security.”

That is the path forward, to have a funding bill for Homeland Security, stripped of political riders designed to take on one issue or another when those issues can be addressed in separate bills. If someone really wants to prioritize the deportation of children who came here through no fault of their own and know no country other than the United States, our DREAMers, then they should write that bill, put it through committee, and then the majority should bring the debate to the floor of this Chamber. I can tell you that I would be voting against that bill, but we would have the debate on that issue separate from the conversation about funding Homeland Security.

I found it interesting to read the Wall Street Journal the other day. It refers to immigration restrictionists who want a larger brawl and have browbeat GOP leaders into adding needless policy amendments. That is coming from the Wall Street Journal. They proceed to say in regard to the fight over prioritizing the deportation of folks who are here without legal credentials and who have criminal backgrounds, that the President is “prioritizing” those deportations of those with criminal backgrounds. The Wall Street Journal says:

That is legitimate prosecutorial discretion, and in opposing it Republicans are undermining their crime-fighting credentials.

So if some of my colleagues want to argue that the President should not prioritize deporting individuals with criminal backgrounds, which I think should be prioritized, have that debate, but do not hold the Homeland Security bill hostage to that particular fight.

In this morning’s paper, there was an article about the funding of the De-

partment of Homeland Security. This is in the Washington Post. It refers to the Grand Old Party at impasse as a measure stalls in the Senate. It quotes the Speaker of the House, Mr. BOEHNER. Speaker BOEHNER says, “It is time for the Senate to do their work,” and he proceeds to give a little lecture to Senators. He says, “You know, in the gift shop out here, they’ve got these little booklets on how a bill becomes a law.” Well, I encourage Speaker BOEHNER to actually read that book because what that book says is that in order to pass through the Senate, it has to get on the floor and it has to have support to be approved by this Chamber.

So, Speaker BOEHNER, I encourage you to actually read the pamphlet you recommended because sending over funding for Homeland Security laden with unrelated policy riders is going to make sure that bill dies here in the Senate. Don’t take my word for it, take the Senate’s version or expression on this. It has come up for three votes in the Senate. We have voted three times to kill this House bill, giving clear instruction to the House: Send us the actual Department of Homeland Security bill free of these political riders, and we will put it on the floor, and we will have that debate, and we will undoubtedly pass that bill. But if you want to play political games rather than looking out for the security of the United States of America, don’t expect the Senate to rubberstamp your political games, Speaker BOEHNER.

So that is where we are now. I do encourage the Speaker to go right down the gift shop—I will be happy to buy him a copy of this, and I will be happy to read the phrases to the Speaker on exactly how a bill becomes law.

It is deeply disturbing to the American people to see these types of political games being played with our Nation’s security. We live in a dangerous world, and we need to take seriously our responsibility to fund this Department.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. ERNST). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

(The remarks of Mr. BROWN pertaining to the introduction of S. 522 are printed in today’s RECORD under “Statements on Introduced Bills and Joint Resolutions.”)

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

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

Mr. RUBIO. Madam President, are we on the Carter nomination?

The PRESIDING OFFICER. The Senator is correct.

Mr. RUBIO. Madam President, this is an important nomination, at a time when this country faces very significant national security threats.

AUMF

As I commented yesterday, the President came to us yesterday asking us to authorize the use of force, and I think we should do that. I am not necessarily sure we should do it in the way he has asked us to do it. I think it should be a pretty straightforward authorization, and here is what it should say. It should say we authorize the President of the United States to destroy ISIS and to defeat their military. It is up to the Commander in Chief to decide the right way in which to do that.

I have very serious concerns and very serious reservations about our current strategy when it comes to ISIS. I am not sure it is sufficient. I think it is a strategy that will contain them but will not defeat them. In fact, ISIS is now popping up, for example, in Libya, where they have a very significant hub. They have a very significant presence in Benghazi. Just a few days ago they carried out an attack in Tripoli. We are now hearing media reports that ISIS has a presence in Afghanistan, perhaps even terrorist training camps.

So they continue to grow their affiliates, they continue to grow their presence, and we need an authorization of the use of force that allows us to defeat them anywhere in the world where they are to be found.

The President’s suggestion has been well received. We thank him for submitting one. But now it is the responsibility of the Senate to do its job and to write one of its own. It may reflect many of the things the President wants, but what I believe it should reflect more than anything else is that we authorize him to defeat ISIS no matter what it takes and no matter how long it takes. If we have problems with the President’s strategy, there are different ways to address it. I do have problems with the strategy and I want that to be addressed.

ISRAEL

Mr. Carter’s nomination comes at another important moment. In that same region of the world, one of America’s strongest allies and its very existence is under attack. Of course I am talking about Israel, the Jewish State—an extraordinary story in the history of the world. Here is a country founded after the end of World War II as a homeland for the Jewish people so that never again—never again—would they have nowhere to go if they faced the sorts of oppression, the sort of genocide they faced during the Holocaust.

Since that time the Jewish State has had an extraordinary story. From an economic perspective, it is a vibrant, first-rate country with a first-rate economy. What is most interesting is this is not a country with oil or a country with vast supplies of natural gas.