

## SMARTER SENTENCING ACT -- (Senate - March 17, 2015)

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Mr. LEE. Madam President, we rise today to speak in favor of the Smarter Sentencing Act, a bipartisan piece of legislation that would make targeted reforms to mandatory minimum sentences for nonviolent drug offenders.

I was proud to join my distinguished colleague from Illinois, Senator *Durbin*, in introducing this legislation. He and I wish to thank our cosponsors, Senators *Jeff Flake*, *Cory Booker*, *Ted Cruz*, *Pat Leahy*, *Rand Paul*, *Sheldon Whitehouse*, *Johnny Isakson*, and *Chris Coons*.

I also wish to thank the lead sponsors of the House version of the Smarter Sentencing Act, Congressmen *Raúl Labrador* and *Bobby Scott*.

It is not often that you see a political coalition such as this one on Capitol Hill. It reflects the importance of an issue whose time has come--reforming our Federal sentencing laws. We come to the floor today to explain what the Smarter Sentencing Act does and to address some common misconceptions about our bill that have been expressed on the Senate floor.

I ask my friend and colleague Senator *Durbin*: What problems does the Smarter Sentencing Act seek to address?

Mr. DURBIN. Madam President, I thank the Senator from Utah not only for his leadership on this issue but for the fact that we have been able to work together on an issue that is not considered to be simple in nature. It is challenging, complex, and controversial in some respects. As the Senator mentioned at the outset, we have done it on a bipartisan basis. If one looks at the cosponsors of the Smarter Sentencing Act, they span the political spectrum.

I was standing at our press conference--as the Senator from Utah

was speaking--next to Senator *Ted Cruz*. Some said: *Durbin* and *Cruz* are on the same bill? As the saying goes around here, obviously one of us has not read it. The fact is that we both read it, and we both understand the importance of this undertaking.

Our criminal justice system in America is in crisis. The United States of America holds more prisoners, by far, than any other country in the world. The Federal prison population has grown by 750 percent since 1980 and our Federal prisons are approximately 30 percent over capacity.

Over the past 30 years, spending on Federal incarceration has increased more than 1,100 percent. Our exploding prison population now consumes a quarter of the Justice Department's

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discretionary budget. These runaway expenditures are undermining other law enforcement efforts. The U.S. attorney's office and the Drug Enforcement Administration have already lost hundreds of positions, and resources for State and local law enforcement have decreased dramatically.

The biggest drivers of growth in the Federal prison population are drug sentences. There are almost 50,000 more drug offenders in Federal prisons now than 20 years ago--50,000. This problem is made even worse by mandatory minimum sentences which have grown by 155 percent over the past 15 years. One-third of all Federal prisoners are now subject to mandatory minimums and 50 percent of those are drug offenders.

These mandatory penalties don't allow our courts to distinguish between the big-time career offenders, who ought to be the focus of our effort, and lower-level offenders. Now, that just is not very smart, and it is not effective when it comes to holding offenders accountable and protecting public safety.

We are expected to be joined at any minute by the Senator from New Jersey, Mr. *Booker*, and I thank my friend for joining us in this effort to spotlight this important issue of criminal justice reform.

I will turn the floor over for my colleague and the lead sponsor of this bill, Senator *Lee*, to respond to the question of the importance of this undertaking.

Mr. LEE. Madam President, we have new research that shows there are two big problems we face as a result of these mandatory minimum sentences within our Federal system. First, they are not needed to ensure public safety in many instances, and second, they are having a very negative impact on certain disadvantaged communities.

Last year, the National Research Council of the National Academies issued a major study of incarceration in the United States. One of their main conclusions is that mandatory sentencing and excessively long sentences generally do not have a significant deterrent effect and are ineffective unless targeted at offenders with a very high rate of recidivism or extremely dangerous offenders.

The National Research Council concluded: ``[We] have reviewed the research literature on the deterrent effect of such laws and have concluded that the evidence is insufficient to justify the conclusion that these harsher punishments yield measurable public safety benefits."

And recent data from the U.S. Sentencing Commission, an independent and bipartisan Federal agency, shows that shorter sentences can accomplish the same goals without compromising public safety.

Our communities have paid a high cost for the stiff sentences that mandatory minimums require. The National Research Council found that high incarceration rates are concentrated in poor, minority neighborhoods, and that the incarceration of significant numbers of residents in these neighborhoods actually compounded existing social and economic problems such as unemployment, poverty, family disruption, poor health, and drug addiction.

Mr. DURBIN. Madam President, if I could ask the Senator from

Utah if he would yield for a moment.

Mr. LEE. Yes.

Mr. DURBIN. Senator *Booker* has joined us, and we are happy to have his cosponsorship on this legislation. I hope he might be able to make some of his own observations on the very issue the Senator from Utah has been discussing.

Mr. BOOKER. Madam President, I wish to pick up where my friend left off. I thank, from the bottom of my heart, the leadership of Senator *Lee* and Senator *Durbin* on what is an extraordinary piece of legislation in terms of its impact.

My colleagues have made it clear time and again--in the last Congress and in this Congress--that the application of mandatory minimum sentences, especially in drug cases, feeds the perception of pervasive unfairness in our criminal justice system just for the points that Senator *Lee* was making. This perception is based in that reality.

When I was mayor, I used to always say, ``In God we trust," but everyone else, ``Bring me data." The data is clear from the U.S. Sentencing Commission, which shows that mandatory minimums have a disparate impact on minority communities.

Let's be clear. The majority of illegal drug users and dealers in our country are white, but three-quarters of all the people incarcerated for drug offenses are Black and Latino, and the large majority of individuals subject to Federal mandatory minimum penalties are African American and Hispanic. That perception is fed by this reality: African Americans are granted relief from mandatory minimum penalties as are other citizens under the so-called safety valve, but Blacks get the safety valve far less than other groups.

For example, the data shows that in 2010, 63.7 percent of White offenders received the safety valve relief while only 39.4 percent of Black offenders received that benefit.

In 2012, Blacks were 26.3 percent of all drug offenders, but they were 35.2 percent of the drug offenders who received no safety valves whatsoever--no relief from the mandatory minimum penalties.

I will now yield back for Senator *Lee*, again, the lead sponsor of this bipartisan legislation, and I ask the Senator: What does this legislation do, specifically, to address mandatory minimums?

Mr. LEE. Madam President, I thank the Senator from New Jersey for this question, which really cuts to the heart of many of the most important reasons why we feel this bill needs to become law.

First, the Smarter Sentencing Act would reduce Federal mandatory minimum penalties for drug offenses in a very targeted way. Our bill would allow Federal judges to determine--on a case-by-case basis--when the harshest penalties should apply. We don't repeal any mandatory minimum sentences, and we do not lower any maximum sentences. This approach maintains a floor below which no offenders can be sentenced, but it gives judges the discretion to determine when the very harshest penalties should apply in a particular case.

These changes in mandatory minimum sentences do not apply to violent offenses, and they do not apply to offenders who import drugs into the United States unless, of course, the offender's role is limited solely to transporting or storing drugs or money.

Second, the Smarter Sentencing Act would modestly expand the Federal safety valve, which allows Federal judges to sentence a limited number of nonviolent drug offenders at levels below the mandatory minimum sentence. Our bill would expand the safety valve to nonviolent offenders with only a minor criminal history. Individuals who use weapons or play a leadership role in the offense in question would be ineligible for the safety valve in those circumstances.

I ask the senior Senator from Illinois, Mr. *Durbin*, to explain other important provisions of our bill.

Mr. DURBIN. I thank the Senator from Utah.

When I was a Member of the House of Representatives many years ago, we were told there were some dramatic changes when it came to the use of narcotics in America. In fact, they came to us and said: We are worried. There is a new form of cocaine called crack cocaine. It is dirt cheap. It is \$5 for a hit. It is deadly addictive, and if a woman is addicted to it and happens to be pregnant, it could seriously damage the baby she is carrying.

We did something at the time which seemed like the right thing to do. What we did was to establish a sentencing standard for crack cocaine dramatically larger than powder cocaine--100 times larger. I voted for it, and the belief was that we were sending a clear message to anyone in America: If you get caught with crack cocaine, we are going to throw the book at you. That is what we voted for.

I remember that the rollcall in the House of Representatives was bipartisan. We felt--all across the spectrum: Let's get the message out and get it out now before crack cocaine causes its damage.

Under the law at the time, it took 100 times more powdered cocaine than crack to trigger the same mandatory minimum sentences--100 times. For example, possessing 5 grams of crack carried the same 5-year mandatory minimum sentence as selling 500 grams of powdered cocaine. That was the 100-to-1 crack-powder sentencing disparity.

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The crack-powder disparity disproportionately affected African Americans, who made up more than 80 percent of those convicted of Federal crack offenses.

At a hearing I held in 2009, former Bush administration DEA head Asa Hutchison, known to many of us as a former colleague in the House, testified: ``Under the current disparity, the credibility of our entire drug enforcement system is weakened."

What was happening? African Americans were noting what was going on here. They were being sent, as Senator *Booker* said, over to the prison system and put away for years and years for the use of a tiny amount of crack cocaine because of the sentencing guidelines that we established in the House of Representatives. The Smarter Sentencing Act addresses this issue.

I might add that in 2010, I joined with Senator *Jeff Sessions*, a Republican from Alabama, in sponsoring the Fair Sentencing Act. We decided that we would address this issue of the 100-to-1 disparity and try to make sense out of it. I support 1 to 1. I think that is what the science backs. But we reached a political agreement--that is the nature of the Senate and the House. The bill unanimously passed the Senate and the House and was signed into law by the President. The Fair Sentencing Act reduced the sentencing disparity between crack and powdered cocaine.

The Smarter Sentencing Act--the bill we are considering today--addresses this again. It would allow some inmates who were sentenced before the Fair Sentencing Act to petition for the sentence reductions that this law put in place in 2010. This provision would not automatically reduce a single sentence of anyone serving under the old 100-to-1 standard,

but it would allow Federal judges and prosecutors to conduct a case-by-case, singular, individual review as to whether the individual should have their sentence reduced. Responding to our decreased reliance on prisons, the Smarter Sentencing Act would direct the Justice Department to report to Congress on how the cost savings from our bill would be used to reduce crime and prevent recidivism.

Let's respond to a few misstatements that have been made about the Smarter Sentencing Act. One of our colleagues said: ``We are not sending huge numbers of nonviolent drug offenders to Federal prison under lengthy mandatory minimum sentences."

I ask the Senator from New Jersey how he would respond to that comment?

(Mr. GARDNER assumed the Chair.)

Mr. BOOKER. I appreciate that, and I hope we all in the Senate can deal with the same set of facts. We are entitled to different opinions and different conclusions regarding the facts, but we should not be debating facts when we have them here before us.

So let's take a look at those facts. In 2011, the sentencing commission issued a comprehensive study about mandatory minimum sentences. The study found that almost 55,000 people were in Federal prisons serving mandatory minimum sentences for a drug crime. That was more than 50 percent of all Federal drug offenders and more than a quarter--25 percent--of all Federal prisoners, period.

Second, the great majority of Federal drug offenders do not use violence. Let me say that one more time because it is very important. We are talking about in this bill nonviolent offenders, and the great majority do not use violence. The sentencing commission's most recent data shows that less than 1 percent of offenders used or threatened violence in committing their crime, and no weapons--no weapons--were involved in more than 80 percent of drug cases.

Third, many of those serving mandatory minimum drug sentences are low-level offenders. It is true that certain low-level offenders such as the couriers don't often receive mandatory minimums. But other low-level offenders frequently are sentenced to mandatory minimums.

For example, among those who are most likely to receive a mandatory minimum sentence are street-level dealers--those who sell less than 1 ounce of a drug. Almost 45 percent of street-level dealers are serving mandatory minimums in Federal prison.

Finally, these mandatory minimum sentences are lengthy. They are costly. They drain taxpayer resources. A recent sentencing commission study shows that the average sentence for mandatory minimums was 132 months--11 years in Federal prison without



parole.

Some claim also that mandatory minimum prison sentences are not a major factor in the massive increase in the Federal prison population and overcrowding in Federal prisons. Remember, in the last 30 years, we have had an explosion in our Federal prison population--800 percent. Some people say that mandatory minimums have had nothing to do with that. I look to my colleague from Utah to respond. Is that true?

Mr. LEE. It is not true. It is simply inaccurate. So those who insist that our exploding Federal prison population somehow has nothing to do with the explosive use of mandatory minimum prison sentences within our Federal system are simply wrong.

In its 2011 report, the U.S. Sentencing Commission concluded that mandatory minimums have had ``a significant impact on the Federal prison population."

From 1995 through 2010, the number of Federal prisoners serving a mandatory minimum sentence grew from 29,603 to 75,579. That is a 155-percent increase. It represents over one-third of all Federal prisoners.

As of December 2014, over 59 percent of the 210,567 Federal inmates--125,000 inmates over all--had been convicted of an offense carrying a mandatory minimum. Of these, 74.3 percent, which represents 91,806 inmates, were required to serve that mandatory minimum sentence or more.

In 2013, 62.1 percent of all drug offenders were convicted of an offense carrying a mandatory minimum. Over 60 percent of them received no safety valve relief and 70 percent of them did not receive relief for cooperating with authorities.

Some have argued that those serving sentences for nonviolent drug offenses have long and violent criminal histories, but sentencing commission data shows this is inaccurate. In 2013, 49.6 percent of drug offenders had little or no criminal history, and only

7 percent of drug offenders were sentenced under the ``career offender'' sentencing guideline, which requires two prior convictions for a drug offense or a crime of violence.

But here is the important point: The Smarter Sentencing Act reduces certain mandatory minimum sentences for nonviolent drug offenses, but we do not lower the maximum sentence. That means a judge can sentence offenders all the way up to the statutory maximum if she determines it is appropriate under the circumstances.

Some have raised concerns about how reducing mandatory minimum sentences might impact serious problems such as the heroin epidemic or narcoterrorism. Can the Senator from Illinois address that?

Mr. DURBIN. I want to address that because it is a problem in my State and across the United States. We are finding that high school students are turning to heroin. It is affordable, sadly. It is affordable, and they are using it as an alternative to other drugs. We certainly know the peril and dangers from narcoterrorism. The Smarter Sentencing Act which we are cosponsoring only reduces mandatory minimum sentences for nonviolent drug offenses. There is a separate mandatory minimum of 20 years that applies when the drugs have resulted in death or serious bodily injury. Any dealer who sells drugs that killed or hurt someone, such as an accidental overdose, will still be subject to the same mandatory minimum of 20 years. Our bill does not touch that provision of the law.

As for narcoterrorism, a special Federal sentencing guideline applies. The truth is charges under that statute are very rare. Between 2008 and 2012, only three cases--three--out of almost 200,000 were sentenced under that guideline. But the Smarter Sentencing Act does not change the sentencing guideline enhancement for narcoterrorism or any of the enhancements for terrorism. We don't cut corners when it comes to that serious crime.

In fact, our bill directs the sentencing commission to ensure that

severe sentences for `` violent, repeat, and serious drug traffickers who present public safety risks remain in place." Also, there will continue to be dozens

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of statutory penalties and sentencing enhancements in the sentencing guidelines allowing judges to impose heightened sentences for violent and repeat offenders.

The Smarter Sentencing Act which we are describing doesn't automatically reduce a single sentence and it doesn't eliminate any mandatory minimum or reduce any maximum sentence at all. Our bill simply restores the traditional authority of a Federal judge to impose a sentence that fits the crime and the criminal, based on the circumstances of the case, while maintaining a floor below which no one person can be sentenced.

Can the Senator from New Jersey discuss the impact the Smarter Sentencing Act will have on communities that have been most negatively impacted by the crisis in our Federal justice system?

Mr. BOOKER. I appreciate that question. This is one of the reasons I am so passionate about the legislation originally introduced by Senator *Lee* and the Senator from Illinois, because the mandatory minimums are patently unfair to people all across America. Whether one is White or Black, to have a disproportionate sentence unnecessary to punish a person and prevent a person from doing a future nonviolent crime is bad enough, but when we are talking about, as the Senator from Illinois was before, so negatively concentrated in certain urban areas, it creates an invasive belief that begins to undermine faith in our criminal justice system alone. As we said earlier, the overwhelming majority of drug users and sellers are White, but the overwhelming number of people incarcerated and arrested for it are Black, as well as those receiving mandatory minimums.

But what people have to understand is that this has a punishing effect on us all. No. 1, it is hurting families. A friend of mine

brought to my attention a ``Sesame Street" clip where even the educators in public broadcasting are seeing that certain communities have so many of their men--nonviolent offenders--being sucked into the prison system for these long sentences that we have created a generation of children growing up without their parents. That has a difficult impact when it comes to the poverty of that family, when it comes to the challenges of having a provider pull away. So the Smarter Sentencing Act is a tool to help to relieve that problem, as well as the costs to us all.

What is wonderful--at a time when we have debt, when we need to invest in infrastructure and many other needs, the current system is costing us hundreds of billions of dollars annually. This legislation I have signed on to as a cosponsor offers a savings that can be redirected to community efforts that prevent crime in the first place--evidence-based programs that undermine crimes in the first place--as well as to helping people coming out of prison stay out of prison. We can save money and still protect public safety with lower rates of incarceration and a greater reliance on community revision and treatment.

The wonderful thing about this is that what I am saying is not speculation. It is the facts we are experiencing in States that have already embraced reducing mandatory minimums. In fact, many of these States--and it is wonderful that this is bipartisan legislation--many States are red States. We are seeing this path of reducing crime, reducing prison populations, creating savings, being shown to us in State after State model that the Federal Government should follow--models seen in Texas and in Georgia.

Senator *Flake* encouraged us to pay attention to overcriminalization in the Federal system. He too is a champion of reforming the system and making it better. I wish to ask the Senator from Arizona: How does the Smarter Sentencing Act address the problem of overcriminalization?

Mr. FLAKE. I thank the Senator from New Jersey, and I thank Senator *Durbin* and Senator *Lee*. It is great to be a part of this

bipartisan effort, the Smarter Sentencing Act.

This is important because this section requires the Attorney General and the heads of certain Federal agencies to each submit a public report that identifies all criminal offenses that are established by statute or regulation that each agency enforces. These reports must provide information on the elements of each offense, the potential penalty and the required intent for each offense, and the number of prosecutions for each offense for the last 15 years. This is valuable information.

This section also requires the Attorney General and the relevant agencies to establish a publicly accessible index for these offenses. This information is an important step toward understanding the scope of the overcriminalization problem. When we have this information, we will have a better idea of why these sentences are being imposed and we can make better recommendations moving ahead.

There are some who argue that long mandatory prison sentences encourage defendants to plead guilty and to cooperate with prosecutors. They claim that by reducing mandatory minimum sentences, our bill will reduce the incentive for defendants to plead guilty and thus cooperate.

How would the Senator from Utah respond to that complaint?

Mr. LEE. Those who make that argument--those who suggest that by passing this bill we would reduce the bargaining power of prosecutors--are mistaken.

The sentencing commission data on this point shows that the longer a mandatory minimum sentence is, the more likely a defendant is not to plead guilty and to cooperate and instead to insist on going to trial.

Sentencing commission data also showed that rates of cooperation for crimes that have no mandatory minimum sentence are the same and even higher for drugs that do have rigid

mandatory minimum sentences.

The reality is that defendants are most likely to cooperate when they have information to give. That is why high-level drug offenders receive relief of mandatory minimum sentences at much higher rates than lower offenders. Defendants who organize or manage a drug trafficking enterprise have the most information with which to bargain as they enter into discussions with prosecutors. Low-level offenders who have less responsibility and less knowledge often don't have much information to offer, no matter how long a mandatory minimum sentence they might face in a particular case.

Judge William Wilkins, who was appointed to the bench by President Reagan and served as the first chair of the U.S. Sentencing Commission, said the following:

There are few Federal judges engaged in criminal sentencing who have not had the disheartening experience of seeing major players in crimes before them immunize themselves from the mandatory minimum sentences by blowing the whistle on their minions, while the low-level offenders find themselves sentenced to the mandatory minimum prison term so skillfully avoided by the kingpins.

Some of them claim the Smarter Sentencing Act will add up to \$1 billion in Federal spending.

Senator *Flake*, is that true?

Mr. FLAKE. That is creative accounting, to put it mildly. Here is the reality. The Congressional Budget Office has taken a look at this and has analyzed the impact of passing the Smarter Sentencing Act. It is true there will be costs incurred mainly because of benefits that are paid to people who are not in prison for so long, but the CBO estimated that in the first 10 years alone, our bill would save approximately \$4 billion, for a net savings of about \$3 billion. Those savings can be redirected to efforts to reduce and prevent crime in the first place.

Senator *Booker*, I think it is partly because of this reason, the

cost savings, that we have such broad support of the bill. Would the Senator discuss some of the groups that are supporting this legislation?

Mr. BOOKER. This incredible convergence of people from all different stripes in our country, all different backgrounds, races, religions, and political philosophy--let's just start with the bipartisan U.S. Sentencing Commission and the Judicial Conference have both urged Congress to reduce mandatory minimum penalties and both have stated their support for this legislation, the Smarter Sentencing Act.

It is supported by faith leaders such as the Justice Fellowship and the United States Conference of Catholic Bishops. It is supported by advocacy groups across the political spectrum and has been endorsed by conservative leaders such as Grover Norquist and

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Americans for Tax Reform, Eli Lehrer and the R Street Institute, Pat Nolan, former president of the Justice Fellowship, Marc Levin of the Texas Public Policy Institute, and Freedom Works.

It is supported by law enforcement leaders, including the Major Cities Chiefs Association and the Association of Prosecuting Attorneys, which represents many of the largest district attorney's offices in the country--big cities. They represent county, Federal, State, and local prosecutors--prosecutors at every level.

The bill is supported by the Council of Prison Locals, which represents more than 28,000 correctional workers in the Federal Bureau of Prisons. The bill is also supported by crime victims themselves, including the National Task Force to End Sexual and Domestic Violence, a coalition of more than 1,000 different organizations that advocate on behalf of victims of domestic violence, dating violence, sexual assault, and stalking. As they explain, mandatory minimum drug sentences are draining the resources needed for victims. Women who are victims of domestic violence sometimes end up serving long sentences that the

Congress intended for kingpins and other drug organization leaders. All of that unity in this country supports this act.

I wonder, is there anything else Senator *Lee* would like to say about this bipartisan, widely supported by both the data and the advocates across the quantum spectrum--is there anything else the Senator would like to add?

Mr. LEE. Yes, and I would like to conclude my remarks in a moment by wrapping up. Before I do that, though, I notice on the floor with us is my friend Senator *Whitehouse*, who happens to be another supporter and cosponsor of this bill and who is also the ranking member on the Senate Judiciary Committee, and I would ask Senator *Whitehouse* to say a few words about this bill.

Mr. WHITEHOUSE. Thank you, Senator *Lee*. I am glad to be a part of this conversation. I share the concern that we all have for a Federal prison system that is 30 percent over capacity and costs \$6 billion a year already. We have to add, if we are going to take care of the 30 percent over capacity--that is \$6 billion under the present circumstances, and that \$6 billion comes out of law enforcement budgets and community support budgets that could be making our streets safer.

At the beginning of every sentence, a judge imposes the duration of the sentence, and at the end of every sentence, a prisoner makes a decision about how he or she is going to engage with the public upon their release. There is a bill that deals with the latter part, helping prisoners make better decisions and be better prepared to reengage with the public once they are released. I hope very much the bill Senator *Cornyn* and I are leading in the Senate Judiciary Committee can, as this moves forward, be connected because the two are linked thematically, and it makes a big difference.

The reason we care about how people at the end get back into regular society is because if they reoffend they go back to prison again and add to the prison population and add to the costs. If they are in longer than they should be, then we are not getting any



public safety benefit out of all of this.

So I look very forward to working with all my colleagues to try to see if we can get together in the Senate a comprehensive piece of sentencing reform legislation. Having been a prosecutor myself, having used mandatory minimums, I appreciate that they can, in certain circumstances, have value, but I think if one looks at the big picture, this sentencing reform legislation is important and will serve the public interest in a great variety of respects, including safer communities. So that is why I am cosponsoring it and that is why I am an ardent supporter of it.

In closing, let me thank Senator *Durbin* and Senator *Lee* for their leadership as the lead coauthors of this legislation and Senator *Flake* and Senator *Booker* for their efforts on behalf of this as fellow cosponsors.

Mr. LEE. I thank Senator *Whitehouse*.

Mr. President, I would like to conclude by thanking my colleagues for their help. First of all, thanks to Senator *Durbin* for working with this Senator over the last couple of years in developing this legislation. I thank my other cosponsors as well. I thank Senator *Booker*, Senator *Whitehouse*, and Senator *Flake*, who have joined us today.

This is truly a bipartisan, bicameral effort that brings support from across the political spectrum. Excessive mandatory minimums do not make us safer. The last 30 years have shown us that they are applied unevenly and they leave a gaping hole in the communities they impact most heavily. Now we as a society have to pick up the tab. We must decide if we will continue to pay the high fiscal and social costs that mandatory minimums impose. It is important for us to remember these costs do have many manifestations.

Sometimes in this body we focus only on the fiscal pricetag that can be expressed in raw numbers, but doing that allows us to ignore too often the high human costs--the families and the

communities that have lost brothers, sons, fathers, uncles, and nephews, people who could be back in their communities contributing meaningfully to their success, who are instead sent away for sometimes far too long of a prison sentence. We can continue down this current path or if we could try something smarter, that perhaps would be better.

The Smarter Sentencing Act gives us an opportunity to do precisely that--to do something smarter, to rely less on prison, and to do more with scarce resources. Instead of just paying for prisons, it would allow us to work smarter in pursuit of justice.

I hope all my colleagues will join us in supporting the Smarter Sentencing Act.

I thank the Presiding Officer.

The PRESIDING OFFICER. The Senator from Rhode Island.

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