

Ros-Lehtinen	Solomon	Traficant	Bass	Fattah	Latham	Regula	Skaggs	Traficant
Rose	Souder	Upton	Bateman	Fawell	LaTourette	Richardson	Skeen	Upton
Royce	Spence	Visclosky	Becerra	Fazio	Laughlin	Riggs	Skelton	Velazquez
Sabo	Spratt	Vucanovich	Beilenson	Fields (TX)	Lazio	Rivers	Slaughter	Vento
Salmon	Stearns	Waldholtz	Bilbray	Filner	Leach	Roberts	Smith (MI)	Visclosky
Sanford	Stenholm	Walker	Bilirakis	Flanagan	Levin	Roemer	Smith (NJ)	Vucanovich
Saxton	Stockman	Walsh	Bishop	Foglietta	Lewis (CA)	Rogers	Smith (TX)	Waldholtz
Scarborough	Stump	Wamp	Biley	Foley	Lewis (GA)	Rohrabacher	Smith (WA)	Walker
Schaefer	Talent	Watts (OK)	Brown (CA)	Forbes	Lewis (KY)	Ros-Lehtinen	Solomon	Walsh
Schiff	Tanner	Weldon (FL)	Brown (FL)	Ford	Lightfoot	Rose	Souder	Wamp
Scott	Tate	Weldon (PA)	Brown (OH)	Fowler	Lincoln	Roth	Spence	Ward
Seastrand	Tauzin	Weller	Brown (TN)	Fox	Linder	Roukema	Spratt	Waters
Shadegg	Taylor (MS)	White	Bryant (TX)	Frank (MA)	Lipinski	Roybal-Allard	Stearns	Watt (NC)
Shaw	Taylor (NC)	Whitfield	Bunn	Franks (CT)	Livingston	Rush	Stenholm	Watts (OK)
Shuster	Thomas	Wicker	Bunning	Franks (NJ)	LoBiondo	Sabo	Stockman	Waxman
Sisisky	Thompson	Wilson	Burr	Frelinghuysen	Lofgren	Salmon	Stokes	Weldon (FL)
Skeen	Thornberry	Wise	Burton	Frisa	Longley	Sanders	Studds	Weldon (PA)
Skelton	Thornton	Wolf	Buyer	Frost	Lowey	Sanford	Stump	Weller
Smith (MI)	Tiahrt	Young (AK)	Callahan	Funderburk	Lucas	Sawyer	Stupak	White
Smith (NJ)	Torkildsen	Young (FL)	Calvert	Furse	Luther	Saxton	Talent	Whitfield
Smith (TX)	Torres	Zeliff	Camp	Gallegly	Maloney	Scarborough	Tanner	Wicker
Smith (WA)	Torricelli		Canady	Ganske	Manton	Schaefer	Tate	Williams

NOT VOTING—8

Chapman	Hilliard	Tucker
Fields (LA)	Houghton	Volkmer
Flake	Tejeda	

□ 1622

Mr. QUINN and Mr. HASTINGS of Florida changed their vote from "yea" to "nay."

Messrs. SHAYS, MOAKLEY, and GANSKE changed their vote from "nay" to "yea."

So the motion to instruct was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LAHOOD). Without objection, the Chair appoints the following conferees: Messrs. YOUNG of Florida, MCDADE, LIVINGSTON, LEWIS of California, SKEEN, HOBSON, BONILLA, NETHERCUTT, ISTOOK, MURTHA, DICKS, WILSON, HEFNER, SABO, and OBEY.

MOTION TO CLOSE CONFERENCE WHEN CLASSIFIED NATIONAL SECURITY INFORMATION IS UNDER CONSIDERATION

Mr. YOUNG of Florida. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. YOUNG of Florida moves, pursuant to rule XXVIII (28), clause 6(a) of the House Rules, that the conference meetings between the House and the Senate on the bill, H.R. 2126, making appropriations for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes, be closed to the public at such times as classified national security information is under consideration; provided, however, that any sitting Member of Congress shall have a right to attend any closed or open meeting.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. YOUNG].

Pursuant to clause 6 of rule XXVIII, this vote must be taken by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 418, nays 3, not voting 11, as follows:

[Roll No. 722]

YEAS—418

Abercrombie	Bachus	Barcia
Ackerman	Baesler	Barr
Allard	Baker (CA)	Barrett (NE)
Andrews	Baker (LA)	Barrett (WI)
Archer	Baldacci	Bartlett
Army	Ballenger	Barton

Bass	Bateman	Becerra	Beilenson	Bilbray	Bilirakis	Bishop	Biley	Blute	Boehlert	Boehner	Bonilla	Bonior	Bono	Borski	Boucher	Brewster	Brown (CA)	Brown (FL)	Brown (OH)	Brownback	Bryant (TN)	Bryant (TX)	Bunn	Bunning	Burr	Burton	Buyer	Callahan	Calvert	Camp	Canady	Cardin	Castle	Chabot	Chambliss	Christensen	Chryslers	Clay	Clayton	Clement	Clinger	Clyburn	Coble	Coburn	Coleman	Collins (GA)	Collins (IL)	Collins (MI)	Combest	Condit	Conyers	Cooley	Costello	Cox	Coyne	Cramer	Crane	Crapo	Creameans	Cubin	Cunningham	Danner	Davis	de la Garza	Deal	DeLauro	DeLay	Dellums	Deutsch	Diaz-Balart	Dickey	Dicks	Dingell	Dixon	Doggett	Doolittle	Dornan	Doyle	Dreier	Duncan	Dunn	Durbin	Edwards	Ehlers	Ehrlich	Emerson	Engel	English	Ensign	Esholm	Evans	Everett	Ewing	Farr
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Fattah	Fawell	Fazio	Fields (TX)	Filner	Flanagan	Foglietta	Foley	Forbes	Ford	Fowler	Fox	Frank (MA)	Franks (CT)	Franks (NJ)	Frelinghuysen	Frigren	Longley	Lowey	Lucas	Luther	Maloney	Mannton	Manzullo	Markey	Martinez	Martini	Mascara	Matsui	McCarthy	McCollum	McCrery	McDade	Gordon	McDermott	Goss	Graham	Green	Greenwood	Gunderson	Gutierrez	Gutknecht	Hall (OH)	Hall (TX)	Hamilton	Hancock	Hansen	Harman	Hastert	Hastings (FL)	Hastings (WA)	Hayes	Hayworth	Hefley	Hefner	Heineman	Herger	Hilleary	Hinchee	Hobson	Hoekstra	Hoke	Holden	Horn	Hostettler	Houghton	Hoyer	Hunter	Hutchinson	Hyde	Inglis	Istook	Jackson-Lee	Jacobs	Jefferson	Johnson (CT)	Johnson (SD)	Johnson, E. B.	Johnson, Sam	Johnston	Jones	Kanjorski	Kaptur	Kasich	Kasich	Kelly	Kennedy (MA)	Kennedy (RI)	Kennelly	Kildee	Kim	King	Kingston	Klecza	Klink	Klug	Knollenberg	Kolbe	LaFalce	LaHood	Lantos	Largent
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NAYS—3

Chenoweth	DeFazio	Stark
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NOT VOTING—11

Browder	Flake	Tejeda
Chapman	Gephardt	Tucker
Dooley	Hilliard	Volkmer
Fields (LA)	Rangel	

□ 1642

So the motion was agreed to.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the following Members be the conferees on the part of the Senate to the bill (H.R. 4) "An Act to restore the American family, reduce illegitimacy, control welfare spending and reduce welfare dependence": Mr. ROTH, Mr. DOLE, Mr. CHAFEE, Mr. GRASSLEY, Mr. HATCH, Mr. MOYNIHAN, Mr. BRADLEY, Mr. PRYOR, and Mr. BREAUX. From the Committee on Labor and Human Resources for the consideration of title VI and any additional items within their jurisdiction including the Child Abuse and Protection Act title; Mrs. KASSEBAUM, Mr. JEFFORDS, Mr. COATS, Mr. GREGG, Mr. KENNEDY, Mr. DODD, and Ms. MIKULSKI. From the Committee on Agriculture, Nutrition, and Forestry; Mr. LUGAR, Mr. DOLE, Mr. HELMS, Mr. LEAHY, and Mr. PRYOR.

The message also announced that the Senate agrees to the amendment of the House to the resolution (S. Con. Res. 27) "Concurrent resolution correcting the enrollment of H.R. 402".

DISAPPROVAL OF CERTAIN SENTENCING GUIDELINE AMENDMENTS

Ms. PRYCE. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 237 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 237

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2259) to disapprove certain sentencing guideline amendments. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with clause 2(1)(2)(B) of rule XI are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. An amendment in the nature of a substitute consisting of the text of S. 1254, as passed by the Senate, shall be considered as adopted in the House and in the Committee of the Whole. The bill, as amended, shall be considered as the original bill for the purpose of further amendment under the five-minute rule. The bill, as amended, shall be considered as read. No further amendment shall be in order except the amendment in the nature of a substitute printed in the report of the Committee on Rules accompanying this resolution, which may be offered only by Representative Conyers of Michigan or his designee, shall be considered as read, shall be debatable for one hour equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill, as amended, to the House with such further amendment as may have been adopted. The previous question shall be considered as ordered on the bill, as amended, and any amendment thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. After passage of H.R. 2259, it shall be in order to take from the Speaker's table the bill S. 1254 and to consider the Senate bill in the House. All points of order against the Senate bill and against its consideration are waived. It shall be in order to move to strike all after the enacting clause of the Senate bill and to insert in lieu thereof the provisions of H.R. 2259 as passed by the House. All points of order against that motion are waived. If the motion is adopted and the Senate bill, as amended, is passed, then it shall be in order to move that the House insist on its amendment to S. 1254 and request a conference with the Senate thereon.

□ 1645

The SPEAKER pro tempore. The gentleman from Ohio [Ms. PRYCE] is recognized for 1 hour.

Ms. PRYCE. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the distinguished gentleman from Ohio [Mr. HALL], my good friend, pending which I yield myself such time as I may consume.

During consideration of this resolution, all time yielded is for the purposes of debate only.

(Ms. PRYCE asked and was given permission to revise and extend her remarks and include extraneous material.)

Ms. PRYCE. Mr. Speaker, House Resolution 237 provides for the orderly and expedited consideration of H.R. 2259,

legislation reported from the Judiciary Committee to disapprove certain sentencing guidelines proposed by the U.S. Sentencing Commission.

Specifically, the rule provides 1 hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary.

The rule waives clause 2(1)(2)(B) of rule XI, which requires the inclusion in committee reports of rollcall votes, against consideration of the bill. It also provides for the adoption in the House and in the Committee of the Whole of an amendment in the nature of a substitute, consisting of the text of the Senate-passed bill, S. 1254.

The rule provides that the bill, as amended, shall be considered as the original bill for the purpose of amendment, and shall be considered as read.

The rule makes in order an amendment in the nature of a substitute which may be offered by Representative CONYERS or his designee. That amendment, if offered, shall be considered as read, shall be debatable for 1 hour, and shall not be subject to amendment. As is the right of the minority, the rule also permits one motion to recommit the bill, with or without instructions.

The rule further provides that after passage of the House bill, it will be in order to consider the Senate bill, and all points of order against the Senate bill, and all points of order against the Senate bill and against its consideration are waived.

Under the rule, it will be in order to move to strike the text of the Senate bill and insert the House-passed text, and all points of order against such a motion are waived. Finally, the rule provides that if the motion is adopted and the Senate bill is passed, then it will be in order to move that the House request a conference with the Senate.

Mr. Speaker, the underlying legislation which this rule makes in order, H.R. 2259, responds to the strong opposition expressed by America's law enforcement community to recent recommendations made by the U.S. Sentencing Commission which would result in reduced sentences for certain crack cocaine-related and money laundering offenses.

The House is compelled to act on this disapproval measure in a timely manner because the Commission's recommendations in these two areas will take effect automatically unless Congress intervenes before November 1.

The other body has already passed substantially similar legislation. Under this structured rule, the House will still have the opportunity to debate outstanding concerns about this legislation, while also minimizing the need for the lengthy conference process.

Mr. Speaker, as a former judge and prosecutor, I witnessed firsthand many cases which involved drug-related offenses. More than I would like to remember. I certainly sympathize with

the concerns expressed by Representative CONYERS, and others who testified before the Rules Committee yesterday, about the disparity in sentences involving different forms of cocaine and its relationship to the African-American community. In fact, I wholeheartedly agree with one of my Rules Committee colleagues who commented yesterday that neither the status quo, nor the proposed solution, is acceptable.

I am confident, however, that this legislation moves the debate in the right direction by giving the Commission time to consider other sentencing options for cocaine-related offenses, while signalling our firm resolve that drug-related and money laundering offenses will not go unpunished.

The war on drugs is clearly far from over. We owe it to our citizens and especially to our young people, whether they live in the inner cities or in more affluent suburban neighborhoods, to teach them that drug use is a certain path to self-destruction.

As the committee report on H.R. 2259 points out, witnesses at the Crime Subcommittee's hearing on crack cocaine acknowledged important differences between crack and powder cocaine. For example, crack is more addictive than powder cocaine; it accounts for more emergency room visits; it is more popular among juveniles; it has a greater likelihood of being associated with violence; crack dealers have more extensive criminal records than other drug dealers and they tend to use young people to distribute the drug at a greater rate. In short, the hearing evidence overwhelmingly demonstrated significant distinctions between crack and powder cocaine.

While the evidence clearly indicates the differences between crack and powder cocaine which may warrant differences in sentences, the committee notes that the current 100-to-1 quantity ratio used to evaluate the severity of crimes involving either powder or crack cocaine is not the appropriate ratio. I agree that the goal must ultimately be to ensure that the uniquely harmful nature of crack is reflected in sentencing policy, while also upholding the basic principles of equity in our criminal code.

Our colleagues should also note that if the Commission's guidelines were to go into effect without Congress lowering the current statutory mandatory minimums, it would create gross sentencing disparities. Sentences just below the statutory minimum would be drastically reduced, but mandatory minimums would remain much higher.

For example, an offender convicted of distributing 5 grams of crack would, under the statutory mandatory minimum penalty, face a mandatory prison term of 5 years.

However, an offender convicted of distributing 4.9 grams of crack could, under the Commission's guidelines, receive a sentence within a range of 0 to 6 months of imprisonment. Just traces,

means the difference between days of incarceration and years of incarceration.

I am also pleased to note that the administration supports the bill's intent with regard to penalties for trafficking, as well as the section related to money laundering offenses.

The Commission's money laundering amendment would deprive prosecutors of an important law enforcement tool used in attacking criminal enterprises that engage in a wide variety of illegal activities, and whose very existence depends on their ability to deposit and launder the proceeds from these activities. Stiff sentences, which treat the

act of money laundering itself as a serious offense, should be preserved.

In closing, Mr. Speaker, let me reassure Members that the debate on how best to close the sentencing disparity in cocaine-related cases will not come to an end with passage of this legislation. In fact, the debate is certain to continue as the Commission fulfills the mandate included in H.R. 2259 to examine additional alternatives to current proposals.

This is a fair and balanced rule, Mr. Speaker, which will allow Members to debate the basic question of whether the distinction between different forms of cocaine and their impact on society should warrant differing sentences.

It also provides the minority with two separate opportunities to amend the base legislation. First, through a complete substitute, if offered by Representative CONYERS or a designee; and second, through a motion to recommit which, if offered with instructions, can include almost any amendment as long as it is consistent with the rules of the House.

Mr. Speaker, this rule was reported by the Rules Committee by voice vote, as was the underlying legislation, and I strongly urge its adoption by the House today.

Mr. Speaker, I include the following material for the RECORD:

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,<sup>1</sup> 103D CONGRESS V. 104TH CONGRESS

(As of October 17, 1995)

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open <sup>2</sup>	46	44	51	73
Modified Closed <sup>3</sup>	49	47	16	23
Closed <sup>4</sup>	9	9	3	4
Total	104	100	70	100

<sup>1</sup> This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

<sup>2</sup> An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

<sup>3</sup> A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

<sup>4</sup> A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

(As of October 17, 1995)

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350-71 (1/19/95)
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255-172 (1/25/95)
H. Res. 51 (1/31/95)	O	H.J. Res. 1	Balanced Budget Amdt	
H. Res. 52 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95)
H. Res. 53 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95)
H. Res. 55 (2/1/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95)
H. Res. 60 (2/6/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95)
H. Res. 61 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95)
H. Res. 63 (2/8/95)	MO	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95)
H. Res. 69 (2/9/95)	O	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95)
H. Res. 79 (2/10/95)	MO	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95)
H. Res. 83 (2/13/95)	O	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/13/95)
H. Res. 88 (2/16/95)	MC	H.R. 7	National Security Revitalization	PO: 229-100; A: 227-127 (2/15/95)
H. Res. 91 (2/21/95)	O	H.R. 831	Health Insurance Deductibility	PO: 230-191; A: 229-188 (2/21/95)
H. Res. 92 (2/21/95)	MC	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95)
H. Res. 93 (2/22/95)	MO	H.R. 889	Defense Supplemental	A: 282-144 (2/22/95)
H. Res. 96 (2/24/95)	MO	H.R. 450	Regulatory Transition Act	A: 252-175 (2/23/95)
H. Res. 100 (2/27/95)	O	H.R. 1022	Risk Assessment	A: 253-165 (2/27/95)
H. Res. 101 (2/28/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95)
H. Res. 103 (3/3/95)	MO	H.R. 925	Private Property Protection Act	A: 271-151 (3/2/95)
H. Res. 104 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 105 (3/6/95)	MO	H.R. 988	Account Accountability Act	A: voice vote (3/6/95)
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: 257-155 (3/7/95)
H. Res. 109 (3/8/95)	MC			A: voice vote (3/8/95)
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps	PO: 234-191 A: 247-181 (3/9/95)
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: 242-190 (3/15/95)
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/28/95)
H. Res. 119 (3/21/95)	O			A: voice vote (3/21/95)
H. Res. 125 (4/3/95)	MC	H.R. 1271	Family Privacy Protection Act	A: 217-211 (3/22/95)
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	A: 423-1 (4/4/95)
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: voice vote (4/6/95)
H. Res. 130 (4/5/95)	O	H.R. 483	Medicare Select Expansion	A: 228-204 (4/5/95)
H. Res. 136 (5/1/95)	MC	H.R. 655	Hydrogen Future Act of 1995	A: 253-172 (4/6/95)
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/2/95)
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: voice vote (5/9/95)
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	A: 414-4 (5/10/95)
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95)
H. Res. 146 (5/11/95)	O	H.R. 614	Fish Hatchery—Minnesota	A: voice vote (5/15/95)
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	A: voice vote (5/15/95)
H. Res. 155 (5/22/95)	MC	H.R. 1561	American Overseas Interests Act	PO: 252-170 A: 255-168 (5/17/95)
H. Res. 164 (6/8/95)	MO	H.R. 1530	Nat. Defense Auth. FY 1996	A: 233-176 (5/23/95)
H. Res. 167 (6/15/95)	MC	H.R. 1817	MilCon Appropriations FY 1996	PO: 225-191 A: 233-183 (6/13/95)
H. Res. 169 (6/19/95)	O	H.R. 1854	Leg. Branch Approps. FY 1996	PO: 223-180 A: 245-155 (6/16/95)
H. Res. 170 (6/20/95)	O	H.R. 1868	For. Ops. Approps. FY 1996	PO: 232-196 A: 236-191 (6/20/95)
H. Res. 171 (6/22/95)	O	H.R. 1905	Energy & Water Approps. FY 1996	PO: 221-178 A: 217-175 (6/22/95)
H. Res. 173 (6/27/95)	C	H.J. Res. 79	Flag Constitutional Amendment	A: voice vote (7/12/95)
H. Res. 176 (6/28/95)	MC	H.R. 1944	Emer. Supp. Approps	PO: 258-170 A: 271-152 (6/28/95)
H. Res. 185 (7/11/95)	O	H.R. 1977	Interior Approps. FY 1996	PO: 236-194 A: 234-192 (6/29/95)
H. Res. 187 (7/12/95)	O	H.R. 1977	Interior Approps. FY 1996 #2	PO: 235-193 D: 192-238 (7/12/95)
H. Res. 188 (7/12/95)	O	H.R. 1976	Agriculture Approps. FY 1996	PO: 230-194 A: 229-195 (7/13/95)
H. Res. 190 (7/17/95)	O	H.R. 2020	Treasury/Postal Approps. FY 1996	PO: 242-185 A: voice vote (7/18/95)
H. Res. 193 (7/19/95)	C	H.J. Res. 96	Disapproval of MFN to China	PO: 232-192 A: voice vote (7/18/95)
H. Res. 194 (7/19/95)	O	H.R. 2002	Transportation Approps. FY 1996	A: voice vote (7/20/95)
H. Res. 197 (7/21/95)	O	H.R. 70	Exports of Alaskan Crude Oil	PO: 217-202 (7/21/95)
H. Res. 198 (7/21/95)	O	H.R. 2076	Commerce, State Approps. FY 1996	A: voice vote (7/24/95)
H. Res. 201 (7/25/95)	O	H.R. 2099	VA/HUD Approps. FY 1996	A: voice vote (7/25/95)
H. Res. 204 (7/28/95)	MC	S. 21	Terminating U.S. Arms Embargo on Bosnia	A: 230-189 (7/25/95)
H. Res. 205 (7/28/95)	O	H.R. 2126	Defense Approps. FY 1996	A: voice vote (8/1/95)
H. Res. 207 (8/1/95)	MC	H.R. 1555	Communications Act of 1995	A: 409-1 (7/31/95)
				A: 255-156 (8/2/95)

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS—Continued

[As of October 17, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 208 (8/1/95)	O	H.R. 2127	Labor, HHS Appropriations FY 1996	A: 323-104 (8/2/95)
H. Res. 215 (9/7/95)	O	H.R. 1594	Economically Targeted Investments	A: voice vote (9/12/95)
H. Res. 216 (9/7/95)	MO	H.R. 1655	Intelligence Authorization FY 1996	A: voice vote (9/12/95)
H. Res. 218 (9/12/95)	O	H.R. 1162	Deficit Reduction Lockbox	A: voice vote (9/13/95)
H. Res. 219 (9/12/95)	O	H.R. 1670	Federal Acquisition Reform Act	A: 414-0 (9/13/95)
H. Res. 222 (9/18/95)	O	H.R. 1617	CAREERS Act	A: 388-2 (9/19/95)
H. Res. 224 (9/19/95)	O	H.R. 2274	Natl. Highway System	PQ: 241-173 A: 375-39-1 (9/20/95)
H. Res. 225 (9/19/95)	MC	H.R. 927	Cuban Liberty & Dem. Solidarity	A: 304-118 (9/20/95)
H. Res. 226	O	H.R. 743	Team Act	A: 344-66-1 (9/27/95)
H. Res. 227 (9/21/95)	O	H.R. 1170	3-Judge Court	
H. Res. 228 (9/21/95)	O	H.R. 1601	Internatl. Space Station	A: voice vote (9/27/95)
H. Res. 230 (9/27/95)	C	H.J. Res. 108	Continuing Resolution FY 1996	A: voice vote (9/28/95)
H. Res. 234 (9/29/95)	O	H.R. 2405	Omnibus Science Auth	A: Voice Vote (10/11/95)
H. Res. 237 (10/17/95)	MC	H.R. 2259	Disapprove Sentencing Guidelines	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; D-defeated; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

Ms. PRYCE. Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

(Mr. HALL asked and was given permission to revise and extend his remarks.)

Mr. HALL of Ohio. Mr. Speaker, House Resolution 237 is a modified closed rule which will allow consideration of H.R. 2259, a bill to disapprove sentencing guidelines amendments scheduled to take effect November 1, 1995, unless Congress intervenes. Some of these guidelines relate to the sale and possession of crack cocaine and cocaine powder, and money laundering.

As my colleague from Ohio, Ms. PRYCE, has ably described, this rule provides 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary.

Under this modified closed rule, the ranking minority member of the Committee on the Judiciary, or his designee, may offer an amendment in the nature of a substitute. No other amendments may be offered.

I am disappointed that the Rules Committee did not grant an open rule. I believe that a full and open discussion about the sentencing guidelines is the best way to consider this bill.

Mr. Speaker, I yield 3 minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, the vast majority of the speakers who will be following me are African Americans, and some Members are going to come to the conclusion that the issue we will be discussing today is a race issue. It really is not. It is a fairness issue, and to vote to support the Sentencing Commission is not a matter of whether you are tough on crime or whether you support law and order issues. It is really a matter of whether you are willing to do the right thing, the fair thing. It goes to the heart of what is on America's mind today, the different perceptions between the black and white communities within America as to the integrity of our judicial system.

Why should a person with a high income who might get caught with \$200 of powdered cocaine in their fancy automobile and more likely in an affluent neighborhood, why should they have, in the first place, less chance of being caught and, in the second place,

much less chance of getting a severe penalty than a young child really holding a \$20 piece of crack cocaine in a drug-infested neighborhood?

But the reality is that we created this system of disparity. All I want is what the Sentencing Commission wants, which is equal justice under the law, and the fact is we do not have that today, because at the time there was a rage about crack cocaine. So we imposed mandatory penalties on crack cocaine that do not apply to powder cocaine.

But it is the affluent who buy the powder cocaine, who have much more choice within their lives, and it is the young, poor children and youth of low-income neighborhoods, whether they be black or white or Hispanic, who are much more likely to have crack cocaine in their possession, and they are the ones that the criminal justice slams and puts them away for much of their productive lives. If you are going to do that, do that to the affluent people as well, the people who have much more choice in their lives, who are paying much more for their cocaine habit and have less excuse.

I urge my colleagues to support the Sentencing Commission to do what is fair and right and to start the healing process within our great country.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

□ 1700

Ms. JACKSON-LEE. Mr. Speaker, I thank the gentleman for yielding me this time and for his kindness and leadership.

Mr. Speaker, I think the real issue is the role of this Congress? How do we stop drug addiction and drug abuse, and how do we explain to the American people the travesty of our acts today? Disapproving a report regarding reforming of a system that racially discriminates against some defendants versus other defendants who commit the same drug related crime. That is what is happening on the Republican side of the aisle.

The U.S. Sentencing Commission is not a biased body. It is comprised of prosecutors and Judges from around this Nation. It is not an organization that is in the hip pocket of some inner city or some local urban gang.

But what the U.S. Sentencing Commission came to tell the Committee on

the Judiciary was that this Nation has a problem. Our Federal judges are forced to be unfair with this cruel sentencing structure. The courts are unable to make decisions, that do punish, but do not sentence certain races of people more extreme than any other.

It also ties the hands of Federal courts to cure drug-addicted defendants through fair treatment programs.

It is clear that we all abhor the use of drugs, crack, and powder cocaine, but we also support the Constitution and fairness and equality for all. This report clearly speaks to the question of fairness, and I, like the gentleman from Ohio [Mr. HALL] wish there were an open rule so we could be fair and for instance increase the time served for those possessing cocaine.

We are not going to be fair. We are going to continue to send those living on street corners in inner-city America to their death by way of incarceration for 5 years and 10 years and 35 years, and then those who are in Beverly Hills or somewhere else possessing cocaine can get away with 6 months or less.

Let us be fair. That is what we need.

Ms. PRYCE. Mr. Speaker, I yield 4 minutes to the gentleman from Florida [Mr. MCCOLLUM], the distinguished chairman of the Subcommittee on Crime of the Committee on the Judiciary.

Mr. MCCOLLUM. Mr. Speaker, I thank the gentlewoman for yielding this time.

Mr. Speaker, I think the debate we are going to see quite a bit of this afternoon about drugs, and powder versus crack cocaine, is a very important one to have right now, because there is a lot of misunderstanding. There is a misunderstanding about what this rule and the bill that is going to ensure does or does not do.

We are dealing with 27 recommendations of the Sentencing Commission to change the guidelines on a whole range of sentences the Commission made last May, I guess it was now. Two of those recommendations we are suggesting we disapprove, and we have until November 1, Congress does, to do that. Those two recommendations deal with questions of lowering the amount of the penalty for crack cocaine possession and for trafficking, and the other one deals with money laundering.

On the crack cocaine side, drawing all of the debate here in the rules discussion, we are talking about something that is probably not even well understood even then, because there is a fundamental difference between crack and powder cocaine and its treatment in the law that the Sentencing Commission can have nothing to do with.

The fact of the matter is we have minimum mandatory sentences for the crack crystal form of cocaine, which is the most deadly, most addictive, most dangerous, most widely used, and the one we want to get at the most. The penalty for that is a 5-year minimum mandatory sentence for even the simple possession of five grams of that. It takes 500 grams of powder to get the same 5-year minimum mandatory sentence.

There is a real reason for that distinction in history. We are not out here debating that today. We can debate it, but we are not in any format to change it, because the Sentencing Commission can only address that which is below 5 grams or below 500 grams. Their changes actually would create a greater disparity for that reason. They have proposed changes for those who possess 4.9 grams and under, but they do nothing for anybody who possesses 5 grams, one-tenth of a gram greater.

What we are dealing with as well is the truth of the matter, that when you talk about crack, as opposed to powder, you are talking about something that is always dealt in small quantities. So when somebody has 5 grams of crack, they are probably a trafficker. There is a presumption in the law for the most part that they are. Maybe we do not need the possession penalty at all, because a prosecutor quite probably could go into court and prove trafficking on simply 5 grams of crack cocaine being possessed by somebody, as well as a lesser quantity probably than 500 grams on powder.

But the issue is do we today want to disavow the Sentencing Commission guidelines and send it back to them to try to work through a better guideline, while we look at maybe concerns we have over these minimum mandatories, which we have a right to do separately, and in the Subcommittee on Crime we may well do over the next year.

In the meantime, let the Sentencing Commission work again to find a way out of the problem it created. It created a problem in this area because it is only addressing those underneath the 5-gram level and under the 500 in the case of the powder cocaine.

I would suggest the prudent thing to do is to follow what this rule does today; allow us by virtue of enacting this rule to adopt the Senate provisions, which are refined over what came out of the Committee on the Judiciary in the House in the sense that it recommends that we send this back to the Sentencing Commission and orders them in essence to produce certain results following broad guidelines that

we give them in their own realm where they have jurisdiction. Then let the rule of the House and the way we normally work things through the committee structure deal with the other concerns being expressed today.

We really do have a problem with crack cocaine. It is really dangerous stuff. We have had testimony from the police chief and the chief prosecutor as well as the chief trial judge in the District of Columbia, who are all African-Americans, that they do not want to see us make the actual equalization between the punishments for crack and powder. They see a need, as most prosecutors and other people do, whether they are black or white, to keep a distinction. I just urge that consideration.

Mr. HALL of Ohio. Mr. Speaker, I yield 8 minutes to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Speaker, I think the gentleman from Texas for yielding me this time to debate on the rule.

Mr. Speaker, I rise in opposition to the rule. I am opposed to the rule because the rule does not give sufficient time to debate this important issue. Of course, I guess I should not be surprised, if we are talking about debating the Medicare bill for 1 or 2 or 3 hours tomorrow, that we are giving only a small amount of time to this issue. But I do think that my colleagues need to understand what this debate is about and why it is important.

I start by making reference to 2 days ago. Two things significant happened 2 days ago. First of all, the President of the United States addressed this Nation about the Issue of race relations in this country. Here is what he said, part of what he said:

And blacks are right to think something is terribly wrong when African-American men are many more times likely to be victims of homicide than any other group in this country; when there are more African-American men in our corrections system than in our colleges; when almost one in three African-American men in their twenties are either in jail, on parole, or otherwise under the supervision of the criminal system. Nearly one in three, and that is a disproportionate percentage in comparison to the percentage of blacks who use drugs in our society. Now, I would like for every white person here in America to take a moment to think how he or she would feel if one in three white men were in similar circumstances. We are at a dire position in this country insofar as the number of black men incarcerated or in the prison system is concerned.

On the same day, on Monday, 1 million black men stood up and came to this Nation's Capitol and said we want to take responsibility for our families and our communities and what is going on in our communities, and all we are asking from this Congress is fairness. This is an introspective look at ourselves, and all we want is fairness.

Now, there is not anybody going to come on this floor today—we heard Ms. PRYCE say when she talked about the rule, we have heard everybody who gets up on this floor today on this issue—who is going to submit that the dispar-

ity that exists in the sentencing between crack cocaine and powder cocaine is a fair disparity. There is nobody who is going to come in here and argue that. So what this issue is about, as the gentleman from Virginia [Mr. MORAN] has indicated, is fairness. It is about fairness.

Crack cocaine and powder cocaine are two forms of the same drug. They are cocaine. Crack cocaine is 30 minutes of baking of powder cocaine. That is all it is. You put it in an oven and it comes out the other end crack cocaine. Yet 5 grams of crack cocaine will get you a mandatory minimum penalty, whereas 500 grams of powder cocaine will get you a similar penalty. If somebody is convicted of selling \$225 worth of crack cocaine, they get the same penalty as somebody get who sells \$50,000 worth of powder cocaine.

Crack cocaine is the only drug that we have subject to a mandatory minimum sentence. Now, I am not going to stand here and argue that crack cocaine is not a serious drug, but it is no more serious than heroin. There is no mandatory minimum for heroin. It is no more serious than LSD. There is no mandatory minimum for LSD. Methamphetamines, you name it, there is no other drug that has a mandatory minimum. And yet we have singled out crack cocaine for a 5-year mandatory minimum.

Why? I do not know. They said because it was a dangerous drug. But is not heroin a dangerous drug? Is not powdered cocaine a dangerous drug? Is not LSD a dangerous drug? So how could we discriminate in that way?

What is the impact of that discrimination? Poor young kids who can only afford crack go to jail. Rich young kids who can afford powder cocaine go home and sleep in their own beds at night.

Then people ask, why is one in three black persons, who happen to be the poorest people, in jail, when that is not the case for white young people? Why are there more black teenagers or college age kids in jail than there are in college?

This is a fairness issue, my friends, and this bill does not even put any time limitation for the Sentencing Commission to report back. I tried to correct that by offering an amendment, and the Committee on Rules said no, we will not even let you put a time limitation. We are going to discuss this to death. Let the Sentencing Commission go back and study it for 10 years so we do not have to deal with it in the Congress of the United States.

That is what this is all about. Justice delayed is justice denied, and we are delaying and denying justice to the very people who need it in our society.

□ 1715

Ms. PRYCE. Mr. Speaker, I yield 30 seconds to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Speaker, I thank the gentlewoman for yielding me

time. I just wanted to respond. I respect my good friend from North Carolina a great deal, but one thing about which he said is, I think, a mistake, and I suspect he does not realize it.

The Sentencing Commission has to report back next May. They report every May, and we are asking them to send this back to us the next time they get the chance, and that is in the language of the bill as adopted.

Mr. WATT of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. MCCOLLUM. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. Mr. Speaker, I would say to the gentleman there is absolutely nothing in this bill that says the Sentencing Commission must report back by next May. The Sentencing Commission might report back by next May on some other issue, but there is no requirement in this bill that requires it.

Mr. MCCOLLUM. Mr. Speaker, reclaiming my time, I would simply say they do report back next May.

Mr. HALL. Mr. Speaker, I yield 4 minutes to the gentleman from Virginia [Mr. SCOTT].

Mr. SCOTT. Mr. Speaker, the present law, as has already been stated, finds that five grams of crack will get you 5 years mandatory minimum. That is a couple hundred dollars worth. Five hundred grams of powder is what you have to sell to get the same amount of time. That is tens of thousands of dollars.

The facts we have found are that 95 percent of those convicted of crack are black or Hispanic, although the majority of users are white. For powder, 75 percent of those convicted of powder cocaine offenses are white.

The Sentencing Commission equalized the base sentence for both of those offenses with enhancements. You will get extra time after the base if a firearm is used, violence, death, if juveniles are used, if there is a prior record, depending on an individual's role in the enterprise, whether or not they are near schools, if other crimes are involved. The way crack is distributed generally will get more enhancements. But they will be getting a higher sentence because of what they did not because of their race.

We have the Commission to get the sentencing policy out of politics and into reason. In fact, over 500 prior recommendations have been made. None have been rejected.

The evidence we have seen in drug courts, Mr. Speaker, is that it makes more sense to have users of drugs treated by drug treatment rather than go to jail anyway. When we had drug courts consider, we found those we sent to prison would have a recidivism rate of 68 percent, whereas those sent to treatment would have a recidivism rate of 11 percent.

Mr. Speaker, by having this mandatory minimum for those who are guilty of possession only of a couple of hundred dollars worth of crack, we will

have more crime and spend more money and lock up a group that is 95-percent black or Hispanic.

So we have the rule. The rule does not allow an amendment for the money laundering part. We had no hearings on that, so we do not know what that is about and no amendment has been ruled in order. There is no date for the reporting back for the Sentencing Commission, other than their normal reporting back. There is, Mr. Speaker, a report from the Justice Department, but not the Sentencing Commission.

We have recommended in this legislation that they study this issue for another year. Mr. Speaker, last year we told them to study it. They studied it and they came back and told us that it was wrong to have the disparity.

I hope that we will reject the rule and reject the bill.

Ms. PRYCE. Mr. Speaker, I yield 7 minutes to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Speaker, I thank the gentlewoman for yielding me this time. I was sitting in my office and listening to some of the debate. The gentleman from South Carolina was speaking as I walked out the door, and the suggestions were being made that there was some racist motivation behind the question of minimum mandatory sentencing for crack cocaine and possession thereof. And also the question was raised as to how did this ever get into the law.

Well, Mr. Speaker, I want to tell the gentleman how it got into the law. It was an amendment I put into the law, and I put it in when I was on the Judiciary Committee. At that time I felt that it was a very important provision to be in the law. There was no racist motivation whatsoever in putting that in the law.

It was about in 1986, right about then. I was on the Judiciary Committee. Crack cocaine was almost a recent phenomenon, but it was growing like Topsy. This was something back in 1981 or 1980, back when I was mayor of Fort Lauderdale, when a crack was a thing in the sidewalk. We knew nothing about crack cocaine. This came in in the early 1980's, and we found the instant addictive nature of this substance was absolutely debilitating.

We also found that where it was being used most, and where it was creating its worst problems were in minority areas because of the cheapness of it. We found this was an area that was being unfairly, unconscionably impacted by cocaine, crack cocaine, as it is even today.

So I would say to the gentleman from South Carolina that it was because of concern for what this was doing in minority neighborhoods, how it was tearing up these neighborhoods, and it has. The gentleman well knows this from his own background. The problem that we have in the inner cities, particularly in minority areas right now, the crime and all of this, is that the drug problem in this country has absolutely torn these neighborhoods apart.

What did it seem to be the best thing to do? The best thing to do was to go after the dealers. We set quantities we felt that would qualify people as dealers, not users but dealers, people who were going in and exploiting the poor people and stealing their lives and their future by selling them crack cocaine.

There was no racist motivation at all. As a matter of fact, it was a question of trying to save the minority neighborhoods from this awful curse that had gone all across this country, and it is not only confined in the minority areas. I will not suggest that. But it seemed that was where it was having its biggest impact, and this is where we had to go after the problem, and this is why we did it.

Mr. WATT of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. SHAW. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. Mr. Speaker, first of all, I would say to the gentleman that I am from North Carolina. We take those distinctions pretty seriously in my part of the country.

Mr. SHAW. I apologize.

Mr. WATT of North Carolina. Some of my best friends do live in South Carolina.

Mr. SHAW. I hope one day to have a home in your State.

Mr. WATT of North Carolina. Mr. Speaker, I want to assure the gentleman, whose integrity and honesty has preceded me in this body. I have heard about the gentleman's integrity, and I have never suggested that the motivation 10 years ago, or whenever this was put into the law, was a racist motivation. However, the impact of this law has been very, very, very substantially racist in its impact. To defend a provision in the law 10 years later, based on knowledge that the gentleman did or did not have 10 years ago, is something that I would hope that the gentleman would not do.

I agree that 10 years ago the gentleman did not have knowledge about crack. But the information that has been submitted to the Committee on the Judiciary now suggests that the gentleman happened to have been wrong about a lot of the assumptions that the gentleman was making; that this drug was more addictive than powder cocaine. Both of those drugs are addictive.

And, Mr. Speaker, to the extent that the drug is accompanied by violence or other surrounding things, they are socioeconomic things, and the Sentencing Commission's recommendations would take where there was violence or enhancing the penalty where children were involved.

So notwithstanding the fact that your motives were good 10 years ago, the fact is that now hindsight is a lot better than foresight. And I am not questioning the gentleman's foresight. I am questioning the gentleman's motivation in putting this into the law at the time he did. But we now know better, and we should not just stand up

and say, OK, we made a mistake 10 years ago, so let us prolong the mistake and make it again.

Mr. SHAW. Mr. Speaker, reclaiming my time, I thank the gentleman from North Carolina for clearing that up, and I will be sure not to make that mistake again.

I would go back to the point that what we were after was dealers. We were not after users on minimum mandatory. And the gentleman made the statement in his remarks earlier as to why did we go after heroin and some of those other drugs. Heroin use back in 1986 had fallen way down, and we did have certain information about crack cocaine, and it really scared us very much about what would happen to our neighborhoods.

Mr. WATT of North Carolina. Mr. Speaker, if the gentleman will yield further, that is the point I am asserting to this body.

I do not argue with the facts that were available 10 years ago or whenever it occurred. Len Bias had just died. There were a lot of facts that would have justified our making that assumption. But two wrongs, as my mama used to tell me, do not make a right; and we can correct that wrong now if we will do it. If we will have the courage to do what is just now, not 10 years ago.

Mr. SHAW. Mr. Speaker, reclaiming my time, I would close by just saying to the gentleman that the inner-city neighborhoods, the poor minority neighborhoods, are the most fragile in the entire country. They are the ones that have to be protected. They are the ones where we have to rid the neighborhood of the drug dealers. I think we must all work together to see this does not happen.

Mr. MCCOLLUM. Mr. Speaker, will the gentleman yield?

Mr. SHAW. I yield to the gentleman from Florida.

Mr. MCCOLLUM. Mr. Speaker, I just want to make the point, as much as I wish it were changed, as the gentleman from North Carolina is suggesting, I see in the crime subcommittee the same statistics today as when the law was passed.

Mr. HALL of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. CONYERS], the former chairman and now the ranking member of the Committee on the Judiciary.

(Mr. CONYERS asked and was given permission to revise and extend his remarks.)

Mr. CONYERS. Mr. Speaker, I am very glad my friend, the gentleman from Florida [Mr. SHAW], is still on the floor, because there are two points that I would like to make that are very important here.

First of all, we appreciate his concern for our neighborhoods that are ravaged with drugs. The gentleman referred to the minority community. We now have 40 African-American Members, men and women, in the Congress that are, with all due respect, as con-

cerned as he is, if not more so, about the pernicious effects of drugs in our community. We welcome the gentleman to this concern that we all mutually have, and now we invite him to listen carefully to the points that we are making.

The first one has already been made, and it is that there is no accusation of a racist motive when this disparity was first brought into the law. But the second one is much more important, and that is that we can now correct what has now been proven to be a disparity that turns on race and economic ability.

In other words, what has happened in the sentencing disparity is that more and more African-Americans and Hispanics, minorities in poorer neighborhoods, have been deliberately targeted. That has increased the incarceration rate.

Another study that I would refer you to shows now that the number of young African-American males caught in the criminal justice process is not one out of four but is now one out of three. One of the main reasons is this disparity.

And so it would seem from the gentleman's comments that I could invite him to join us in my amendment that merely ends the disparity of 100 to 1.

□ 1730

We will now make the possession part, and that is what you complained of, and that is what we complained of. We are not talking about sale or trafficking. We are talking only about possession. We should understand here that this debate and the amendment that will follow deals only with possession. People who have never committed an offense, never been incarcerated, have no record, and are yet being sentenced to 5 years for mere possession. Would that amendment have some appeal to the gentleman from Florida under these circumstances?

Ms. PRYCE. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Speaker, I would like to say to my friend from Michigan that I always listen to him, sometimes voluntarily, sometimes not voluntarily, but I have certainly listened to the remarks that he has just made. And I would say to the gentleman that we are not talking about mere possession here.

Before reaching the minimum mandatory sentencing guidelines, for the law now, one has to have over 5 grams of crack cocaine. That qualifies them as a trafficker, not a casual user. And if the gentleman does not believe that qualifies them as a trafficker, I would suggest that he might want to argue that further within the committee to change the level, the committee on which the gentleman is the ranking Democrat member.

But I would say to the gentleman that we need to go after drug traffickers of all these drugs that are destroying the future of the young Americans,

and that is exactly what this crack cocaine continues to do.

Mr. HALL of Ohio. Mr. Speaker, I yield 3 minutes to the gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Speaker, I rise in strong opposition to this resolution of disapproval. The Congress has no business overriding the expertise of the U.S. Sentencing Commission. Crack cocaine mandatory minimums make a mockery of justice. Yes, this is a fairness issue and, yes, whether we like it or not, it is a race issue.

The U.S. Sentencing Commission was designed to take the politics out of criminal sentencing, to be bipartisan. Yet its judgment, based on years of experience and a responsibility to justice, is being summarily rejected in this bill.

Mr. Speaker, Federal sentences for crack are 100 times greater, 100 times greater, than those for powder cocaine. The implications of this disparity are severe. Yes, this is a fairness issue and, whether my colleagues like it or not, it is a race issue. Young white males are not filling up those jails. Let me tell my colleagues, that statistic that was given of young black males between the ages of 20 and 29, one of three in our communities are in the criminal justice system.

We do not like drugs. We do not want drugs. We want to prosecute people who traffic, but we do not want to take a silly young man who happens to get a crack or two pieces of crack and put him in jail. They could get 10 years mandatory minimums under this law that we are operating under now.

Members know it is wrong. The Sentencing Commission knows that it is wrong. They want to correct it. What are we doing? Why do we not let their work go into effect? It does not make good sense.

Further, let me tell my colleagues what is happening. Minorities represented an average of 96 percent of those prosecuted for crack cocaine nationally in Federal courts from 1992 to 1994. This is a fairness issue, sir, and it is a race issue.

I do not know why we have taken the time of this House to try to overrule the Sentencing Commission, who spends hours, who have all of the data, all of the statistics.

Mr. Speaker, we had a march out there just the other day. We had a march with 1 million black men who came to this city, and they said,

We are going to take responsibility but we want a little fairness in the system. We want you to know that we cannot continue to live, we cannot continue to live in a system that disregards us, that marginalizes us, a system that is not fair, that is not equal.

Did Members not hear them? Did Members not see them? Why do Members persist in this kind of unfairness? I am telling my colleagues, we need to do nothing but let the Sentencing Commission's recommendations go into effect.

I want to tell my colleagues those young men said, "We are going to take

responsibility, we are going to help clean up our communities, but we need you to give us some help." Let us be fair. Let us stop sending young black and Latino males off to jail at 18 and 19 years old to give 5 and 10 years of their lives and never be rehabilitated.

Ms. PRYCE. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Speaker, I would say to the gentlewoman from California, who would not yield to me, that she is talking about these innocent young blacks with just a few things in their pocket. We are talking about 20 to 50 doses. Nobody walks around with that unless they are selling and unless they are trafficking, and those are the ones we are after.

I do not know how it is in California, but I can tell you that in Dade County, in Broward County, and Palm Beach County that I represent, and as a matter of fact right here in this Nation's Capital in the minority areas, they are saying come in and arrest the drug traffickers, get them out of our neighborhood. Put them in jail and throw the key away.

That is the voice of America. That is the voice of the minorities in the areas that are responsible who want to get their areas up out of poverty, get out of the gutter, get the problems out of their neighborhoods and get the crimes out of the streets so again they can walk their streets and sit on their front porch and they can enjoy life.

Mr. HALL of Ohio. Mr. Speaker, I yield 30 seconds to the gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Speaker, let me say to the gentleman, that I believe that he is sincere, but I want him to know that the gentleman does not love my community more than I do. The gentleman does not care about it more than I do.

Mr. Speaker, I care about those who are hungry. I care about the young people who are not going to be able to work because of the policies of the other sides of the aisle. I care about the babies. I care about the welfare mothers, and I want real welfare reform.

So, Mr. Speaker, I do not want the gentleman to ever believe that he cares more about my community than I do. I do not want the gentleman to think that somehow his policies and his beliefs are right for my community. I would like the gentleman to ask me sometime, and ask us sometimes, those who work in those communities.

Mr. Speaker, I tell the gentleman, no black leader has said to him: Lock up our kids and have this disparity in law. Nobody said that to the gentleman.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida [Mrs. MEEK].

[Mrs. MEEK of Florida asked and was given permission to revise and extend her remarks.]

Mrs. MEEK of Florida. Mr. Speaker, it has been well-demonstrated and

well-said here today that there is a disparity in the way African-Americans are treated and the way other Americans are treated, particularly minorities, when it comes to cocaine and crack cocaine.

The facts have been revealed to us. The figures have been revealed to us. So what more do we need? What we see here is a study and what keeps this country in a turmoil is when we do not look at the facts and the impact of the facts on the people we all represent.

Mr. Speaker, I think each of us saw the 1 million black men who were here the day before yesterday. They are crying out for fairness. That is all they are asking for. Fairness. So, that if someone uses crack, they will get a sentencing. If someone uses cocaine, they will get a sentencing. That there will not be a disparity just because one is convicted of crack cocaine and the other one is using cocaine.

Mr. Speaker, that is all that is being asked for here. When we usurp the sentencing guidelines, that means that we are saying that they do not know what they are doing. They have not studied this situation. Here we come in Congress and do some micromanaging from here, when we have not tested any of these theories.

Let me tell my colleagues something. Minorities represent, and not only African-Americans but other minorities, represent—our jails are full of them. This is the newest industry we have. I say to my colleagues, go down there. They will see the jails. They are full. Know why? An average of 96 percent of those prosecuted for crack cocaine in Federal courts from 1992 to 1994 were African-Americans and minorities. These are facts. And that is all we are saying today. Why not do this?

Mr. Speaker, I want this particular rule or resolution killed, because it needs to be. I do not think it is bipartisan. It is just a matter of saying we want to be fair. We want to treat all Americans the same. We should not have a different yardstick; one for crack cocaine and one for cocaine. One yardstick for all with liberty and justice for all. That is all we ask.

Ms. PRYCE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. BAKER].

Mr. BAKER of California. Mr. Speaker, I am going to surprise everyone. I am a conservative Republican on law and order. I am for "Three Strikes, You're Out," and I am for this particular motion that is being made by the gentleman from Michigan [Mr. CONYERS].

Mr. Speaker, we did not address this problem. We did not attempt to straighten out money laundering when people did not launder money. We have a perception that we do not want to be to the left of anybody. We are tough on crime. We are tougher on crime than my colleagues on the other side of the aisle are.

Mr. Speaker, their perception is because we have a 100-to-1 ratio in weight

between rock cocaine and powder cocaine, that this is a race issue; just because 96 percent of the people arrested under rock cocaine are black. Imagine that.

Mr. Speaker, we did not lock the Sentencing Commission, which is housed in the Department of Justice and staffed by the Department of Justice, in the room with the Justice Department so they could come over here and play each other against each other. We do not know these folks. They are too lenient; we are really tough.

They know and they both admit these ratios are wrong. And the black people feel like they are being picked on. Why? I would say to the gentleman from Florida [Mr. SHAW], because it is 10 doses versus 5,000 doses in my white suburbia.

Mr. Speaker, I do not know why they feel they are being picked on, just because if someone is arrested with 10 doses, they are presumed to be a pusher and they have to have 5,000 doses of my powder to be a pusher. They get 5 automatic years, with the judge not able to say this guy has never been arrested before.

Mr. Speaker, in money laundering it is even more egregious. If a person wants to steal poker chips from their employer, because they work for Harrah's, they should be convicted of stealing. That is 18 months. When they go to cash that in, that is money laundering. They don't hide it. They do not change their name. They cash the chips in. Forty-six months.

If one of my colleagues takes a bribe from a Federal Bureau of Investigation agent who works long and hard and spends months to set them up and says, "Thank you for your vote on the B-2 bomber. Here is a check. We want to see you come back." If my colleagues do not stop them and say, "Wait a minute. There is no connection between my vote and your check," because they have known they are being set up, they get 18 months for taking the bad check.

They get 46 months for depositing it in their own name, reporting it in the FEC, paying State income tax and Federal income tax, if it were an honorarium, prior to their being gone, or if it is a campaign fund. It is money laundering.

They did not commit money laundering. But, they need this tool in order to get them to cop to the other, because they do not think they took that check in bad faith from Lockheed, or whoever the lobbyist is, because that member believes in the B-2 bomber. It is built in California and I will walk over coals to support it. But if my colleagues do not correct that man when he hands them a check and innocently says, "This is because you voted for the B-2 bomber," they are going to jail. But not for stealing or bribery. They going for money laundering.

The Commission is right. A stopped clock is right twice a day. The Clinton administration is right twice a day.

Mr. Speaker, I say to the gentleman from Florida [Mr. MCCOLLUM], we should lock up the Sentencing Commission and the Department of Justice in a room and make them tell us what is the correct ratio for crack cocaine? What is money laundering, if it is not depositing a check? Let us address these problems.

Mr. Speaker, I am going to vote to vote with these folks, because they are dead right.

Mr. Speaker, the bill under consideration, H.R. 2259, would overturn the sentencing guideline recommendations of the U.S. Sentencing Commission concerning penalties for money laundering and crack cocaine. The rationale for this legislation is that we have to be tough on criminals, and that any reduction in sentencing for these specific crimes sends the wrong signal to those who participate in these illegal activities.

I understand this very real concern, and it is one that I share. I have been in public office for 15 years, during which I have been at the forefront of the fight against crime. From truth in sentencing to three strikes, you're out, my legislative history is clear: We must have zero tolerance for criminal activity.

At the same time, we must be sure that our penalties are just and our justice system itself is fair. And that's why I'm opposing H.R. 2259 today. The bipartisan Sentencing Commission has called for reform of the mandatory sentencing guidelines for money laundering. The Commission does not want to reduce sentences for drug kingpins or major fraud operations. The Commission has recommended making sentences for money laundering in keeping with the gravity of the crime. In fact, sophisticated fraud would receive more serious punishment than under current law.

But the Commission does call for less severe mandatory sentences on those who have engaged in less serious fraudulent activity. For example, in the case of United States versus Manarite, a defendant who skimmed casino chips was convicted of money laundering for cashing in the chips at the casino. In another instance, United States versus LeBlanc, a bookmaker who accepted checks in payment for gambling debts was convicted of money laundering for negotiating the checks.

Yes, theft is a criminal action that deserves punishment—yet for the law to view depositing ill-gotten gains into a bank account as money laundering is silly. These minor-league crimes are simply not on par with sophisticated operations in which millions of dollars are laundered through the banking system. Due to mandatory minimum sentencing, such minor offenders are filling our Federal prisons—prisons now crowded beyond capacity.

In a word, the hands of Federal judges are tied—they are compelled to send low-level crooks to jail with violent, dangerous offenders. When a convicted rapist is spending less time in jail than a bank teller who took \$1,500 and deposited it into a bank account, something is obviously wrong.

The Sentencing Commission—a bipartisan group of Republicans and Democrats—is calling for stiffer penalties on those who engage in sophisticated money laundering schemes. But the Commission also wants to give judges greater discretion in the sentencing of minor offenders. This is not softness on crime—it fits in perfectly with the conservative philosophy of

cracking down on thugs while at the same time avoiding the micromanagement of the criminal justice system at the Federal level.

Mr. Speaker, I strongly urge a “no” vote on H.R. 2259. This is a matter of justice and of true federalism—letting local judges decide how best to punish wrong-doers. In our zeal to fight crime, let's not trample on the prerogatives of State and municipal authorities. Let's fight crime—not common sense.

Mr. HALL of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. FATTAH].

Mr. FATTAH. Mr. Speaker, it is idiotic for us to have a disparity in these ratios for powder cocaine or crack. In fact, I would say to the gentleman from Florida [Mr. SHAW] and the gentleman from Florida [Mr. MCCOLLUM], one has to have powder cocaine in order to make crack cocaine.

□ 1745

The reality is that the people who have the powder cocaine are directly responsible for the creation of the crack cocaine. So, if one wanted to root out the evil and punish it, one would create the disparity in the reverse.

Now, what we have here is a situation where I think that most people in this country can recognize that on one hand we have most of the people arrested for crack happen to be white, but most of the people who are convicted and serving these mandatory minimums happen to be black. There is a problem right there. We have had a number of studies that show in every case the sentencing for crimes in our country is racially influenced and more severe. Every time the crime is the same, there is a differential in the sentencing. So, unfortunately it falls upon people in minority communities to bear the brunt of that.

One does not have to recognize that. But I think that the American people can see the sheet being pulled away from what is a racist implementation of the criminal justice system in this country, and we shall reap what we sow. People who serve on juries are right not to feel comfortable with our criminal justice system, not to feel as though it is balanced. What do we create when we send a kid away or a young adult for 5 years in jail? Are we educating them while they are in jail? Are we giving them drug treatment while they are in jail? Are we doing anything for them? No. In fact, proposals from this side of the aisle want to make that 5 years the roughest 5 years of their life.

Then I would suggest that we reap what we sow. They will return to these same communities, having learned nothing other than how to be hardened criminals when they were, in fact, just innocent victims of the allowance of our Government to allow these drugs to flow into these communities from the beginning. The coca leaf is not grown here. We do not see a lot of African-American young people from Philadelphia or Watts flying these fancy airplanes or speedboats across

the ocean bringing this cocaine in here. To have a disparity in which we make crack more evil than powder cocaine, when one needs the powder to make the crack, is asinine.

Ms. PRYCE. Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield the balance of my time to the gentleman from Michigan [Mr. CONYERS].

(Mr. CONYERS asked and was given permission to revise and extend his remarks.)

Mr. CONYERS. Mr. Speaker, 48 hours ago this Nation, perhaps the world, was galvanized by the resolve that has never happened before publicly in our community. A million African-American males came together to pledge to restore and fight for family values, to build up their neighborhoods, to fight crime, to root out evil and wrongdoing. Now, 2 days later, we come here to re-examine whether we will deal with this moment of fairness in terms of crack and powder disparity in sentencing.

Please listen to the members of the Congressional Black Caucus and their friends that bring us not expert testimony, but they live in, represent, have grown up with, are a part of the communities that are being wracked by this unfair sentencing.

I want to deal with one problem that the gentleman from Florida has raised in which he has cavalierly said time and time again that, if you have 5 grams of crack, it is presumed that you are a dealer. A gram is one-thirtieth of an ounce. You have to prove that you are a dealer. If you are arrested for possession, possession is possession. Trafficking is a different crime entirely.

Ms. PRYCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule will allow Members, as they have been doing for the last hour, to debate the basic question of whether the distinction between different forms of cocaine and their impact on society should warrant different sentences. I urge passage of this rule. It will allow Members of different opinions on this very important issue to debate them fully.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to House Resolution 237 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2259.

□ 1750

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2259) to disapprove certain sentencing guideline

amendments, with Mr. BEREUTER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Florida [Mr. MCCOLLUM] and the gentleman from Michigan [Mr. CONYERS] each will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, each year, the Sentencing Commission amends its sentencing guidelines with the aim of promoting more consistent Federal sentencing policy. The Commission is to follow Congress' lead as Congress—not the Sentencing Commission—sets sentencing policy. The Commission's congressionally established mandate is to fill in the gaps in Federal sentences.

This year, the Commission sent up 27 proposed amendments to the guidelines for congressional review. H.R. 2259 would prevent 2 of them—amendments 5 and 18—from taking effect. Amendment 5 would dramatically reduce crack penalties, by treating crack cocaine the same as powder cocaine. Amendment 18 would dramatically reduce money laundering penalties. H.R. 2259 keeps the penalties where they currently are.

Mr. Chairman, H.R. 2259 is the right thing to do. It preserves the current penalties for crack cocaine traffickers and white collar money launderers. It continues the congressionally established policy of treating crack cocaine and powder cocaine differently, by refusing to lower the crack trafficking penalties. And it avoids allowing the Sentencing Commission to lower guideline sentences so substantially that our Federal sentencing policy would be plagued with severe sentencing disparities for similar crimes.

The evidence is clear: Crack and powder cocaine are different, and should be punished accordingly: crack is more addictive than powder cocaine; it accounts for more emergency room visits; it is most popular among juveniles; it has a greater likelihood of being associated with violence; and crack dealers have more extensive criminal records than other drug dealers and make greater use of young people in distributing crack. Congress is right to maintain the current stiff sentences for crack trafficking.

As I stated when the Judiciary Committee considered the bill in September, the current distinction between crack and powder cocaine offenses may not be perfect. When Congress established these penalties in 1986 and 1988, we attempted to set punishments that fit the crimes and that sent the unmistakable message that drug trafficking will simply not be tolerated. To that end, Congress established a 100 to 1 quantity ratio that provides mandatory minimum sentences for offenses

involving 5 grams or more of crack cocaine and 500 grams or more of powder cocaine. Such actions are always subject to occasional review and I for one am certainly willing to consider alternative proposals. Indeed, this bill requires the Sentencing Commission to recommend an adjustment to the quantity ratio. It may be that Congress will want to change the 100 to 1 quantity ratio by increasing the penalties for powder cocaine. But I am unwilling to retreat in the attack on drug traffickers by sending a message to crack dealers that Congress is softening its stance regarding the acceptability of their behavior. Our goal must ultimately be to ensure that the uniquely harmful nature of crack is reflected in sentencing policy and, at the same time, uphold basic principles of equity in the United States Code.

In June 1995, the House Crime Subcommittee heard dramatic testimony from the police chief, the U.S. attorney, and the chief judge in the District of Columbia about how crack has devastated the Nation's Capital. They warned us in unmistakable terms not to reduce crack penalties to those of powder offenses because of the more destructive nature of the crack market. As we debate this bill today, we must all remember the following fact: No one is more opposed to reducing the crack cocaine sentences than those who have been devastated by the scourge of crack trafficking and the violence and death that it brings. Ultimately, H.R. 2259 is about whether or not this Congress has the courage to continue to fight the war on drugs by being tough on those who traffic in death.

H.R. 2259 responds to the overwhelming opposition expressed by America's law enforcement community to the Sentencing Commission's crack proposal. The Justice Department strongly opposes the Commission's crack amendment because tough crack cocaine penalties are vital tools for Federal prosecutors who are attempting to uproot deadly drug trafficking organizations.

H.R. 2259 also prevents the Commission's recommendations concerning the possession of crack cocaine from taking effect. The Commission's recommendation would treat the possession of crack in the same manner as simple possession of powder cocaine. This would be a mistake. The crack possession offense is not used by prosecutors for mere simple possession cases. The possession of even relatively small amounts of crack is frequently inseparable from the trafficking of crack. The crack trafficking trade is unique, and generally involves trafficking in much smaller quantities of crack than in the powder cocaine trade. An offender caught with 5 grams or more of crack, as provided under the statute, can be reasonably presumed to be engaged in trafficking even though the quantity possessed is relatively small; furthermore, it is the street

level dealers who are the only ones visible to law enforcement and who can lead to the arrest of larger traffickers.

The Crime Subcommittee is aware that the Commission's amendment No. 8 will change the methodology used to calculate the weight of marijuana plants. The Crime Subcommittee will be carefully following the implementation of this amendment to ensure that it in no way represents a step backward in the war on drugs. I would like to thank my friend from Oregon, Mr. BUNN, for his assistance in ensuring that amendment No. 8 does not undermine our counterdrug efforts. Any retreat at this time in our battle against the evil of illegal drugs, and in particular crack cocaine, would be a mistake this Congress would long regret. Congress must not lose its resolve.

H.R. 2259 would also prevent the Commission's amendment No. 18 regarding the money laundering amendment from taking effect. The Commission's money laundering amendment would substantially reduce the base offense level in the sentencing guidelines for money laundering activities of all types. The Commission's amendment then proposes that certain enhancements corresponding to specific offenses be added to the base offense level. Even with the proposed enhancements, however, the amendment would significantly reduce the sentences for various serious offenses, including arms violations, and murder for hire.

The Commission's amendment defines a category of offenses to be less serious when the offense that underlies the money laundering activity is closely associated with the money laundering activity itself. These offenses would receive a base offense level corresponding to the underlying crime only, and receive no enhanced sentence for the money laundering activity itself. Such a proposal is troubling because it fails to provide at least some additional punishment for the money laundering activity itself.

Under amendment 18 a wide range of money laundering cases of varying severity would receive reduced sentences. For example, laundering \$100,000 or more of fraud proceeds so as to conceal the source would be reduced from a range of 27 to 46 months to a range of 21 to 27 months.

It is clear that the current money laundering guidelines can be improved. There are undoubtedly cases where money laundering sentences have appeared to be disproportionate to the underlying crime. Starting in November, I intend to work with Members of both parties, the Senate, the Justice Department, and the Sentencing Commission to develop a sensible amendment to the money laundering guidelines. Such a change must address the problem of overly harsh penalties for receipt and deposit cases where the money laundering activity is minimal, while avoiding the sweeping across-the-board reductions that the Commission's amendment would produce. At

the same time, we must not lower the sentences for significant money laundering.

At a time when organized criminal enterprises are growing and expanding their operations, we must not support a proposal that would substantially reduce the sentence for so many criminal activities, even serious ones.

H.R. 2259 also requires the Sentencing Commission to submit to Congress recommendations proposing revision of the sentencing guidelines and the statutes that deal with crack cocaine and powder cocaine sentences. The bill further requires the Justice Department to submit to the Senate and House Judiciary Committees, not later than May 1, 1996, a report on the charging and plea practices of Federal prosecutors with respect to money laundering. I support these requirements. However, I want to make an important point about the language of the bill that calls for the Commission's recommendations for a revised drug quantity ratio. The recommendations called for in section 2(a) (1) and (2) should not be understood to be an invitation for the Commission to recommend again, as they did this year, that the drug quantity ration be changed to a ratio of 1 to 1. Such a ratio, even with penalty enhancements, fails to reflect the many substantial differences between crack cocaine and powder cocaine.

Mr. Chairman, H.R. 2259 is an important piece of legislation. It will ensure that Federal law enforcement continues to have the tools necessary for combating drug trafficking and money laundering. This is no time for Congress to back off the war on drugs.

□ 1800

I think it is very important at this point in time we realize that November 1 is a deadline looming. If we do not adopt this bill today before us, and send it over to the other body, and get it enacted into law and signed by the President, these 2 provisions, the 2 out of the 27 that we do not agree with, will become law automatically and be the new sentencing guidelines on November 1. So the deadline is to act now. It will be nice to correct things around the edges where we see the problems, but we need more time to work on those. The best course of action is to adopt this bill, send the matter of these two issues of crack cocaine and money laundering back to the Sentencing Commission, get them to report back to us, get the Justice Department to issue a report, and next year make the changes that are more responsible than those contained in the two amendments we disapprove today.

Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I point out to the gentleman from Florida [Mr. MCCOLLUM], my good friend with whom I have worked on Committee on the Judiciary across the years, that sending this bill

back is the best way to dodge the issue. The one thing we do not want to do is, after the Sentencing Commission has taken years of studying this, to tell them to go back and study it some more. That is what they have done.

Mr. Chairman, what we need to do is give it to them one way or the other, and now is the moment to correct the disparity between crack cocaine and powdered cocaine. Let us do it today.

Mr. Chairman, I yield 5½ minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Chairman, I hope very much that we reject this rejection of the Sentencing Commission.

Many Members of this body have a speech in which they talk about our efforts to fight poverty, our efforts to house people, our efforts to defeat hunger, and they say we spend all this money and it has not worked. They point to gross statistics that say, "Gee, there are still poor people, there is still bad housing." Mr. Chairman, I do not think much of that method of argumentation, but I also would expect them at least to be consistent in applying it because, if we want to look at an area where a policy that has cost an awful lot of money does not on its face appear to have worked, let us look at the policy of trying to combat drug abuse by locking up for long periods of time people who have committed no violent crime, have taken nothing from anybody by force, have struck no one, have attacked physically no one, and are at most very, very low-level, bottom-of-the-chain members of drug sales or may not be sellers at all. They may simply be users, and they may, by that, be users who share with one or two other people.

Mr. Chairman, what we have is a policy which has locked up large numbers of mostly young men for very long periods of time, and it has not worked very well. I know it is popular, and I have to say one of the things that is the oddest I have heard in this debate is Members who say, "Let's have the courage to reject the Sentencing Commission, let's have the courage to continue to lock these people up for many, many years." I cannot think of anything that takes less courage in America today than the perpetuation of this policy.

I think courage is, "Let's think about it." But we are not simply talking here about what I think is a mistaken policy of locking up nonviolent violators of the drug law for very long periods of time, as dumb and as wasteful as I think that is. That is a policy I cannot change right now.

We are talking about one particular aspect of this which says given that we are going to lock up these mostly young men who have done no violent crime against anybody and who have not been caught selling anything, because then they would be charged differently, but who are holding, what, almost a quarter of an ounce or a half an

ounce, that we will treat them very harshly, but we will do it in a way which, and let us be very clear, no one has called into question the premise here. The sentencing disparity is overwhelmingly objectively a racist one.

Now maybe my colleagues think it is justified, but no one has denied that the effect of the policy is to treat young black men much more harshly for the possession of a given quantity of this substance of cocaine in this form than others. I can think of no policy which we have which in fact ends up so racially distorted, and I have to say I have had people on the other side say, "Well, it is because we care about these communities."

Mr. Chairman, I am one who believes that elections are meaningful in this country. I am skeptical when I hear large numbers of voters complain about the actions of this Congress because they sent us here. No one parachuted into this dome, no one got appointed here, and I believe that people on the whole elect people who represent them.

So when, and I have to say this to the overwhelming white majority of which I am a part in this House, when our African-American colleagues come here in large numbers and plead with us to allow a nonpartisan body of experts to change this racially disparate policy, it is a march to this floor of our African-American colleagues who are pleading with us to alleviate the most racially unfair policy in America, and, please, even if my colleagues disagree, do not tell them, "Oh, this is in the interest of your community, this is what the people you represent really want." I believe that we do not stay in this place very long if we do not reflect the people who sent us here, and when we have this extraordinary expression from the wide spectrum of opinion we often get within the Congressional Black Caucus saying we are doing a terrible disservice to this Nation and to these young people when we perpetuate this racially disparate situation, then it seems to me people ought to listen.

We have talked about the racial problems reflected in the verdict of O.J. Simpson. Many Members here, and let us be honest, many Members here were disappointed that a march led by Louis Farrakhan got such enthusiasm. I ask, "Why do you think it is happening? Why do you have this great disparity?" It is partly because of the kinds of policies we have here. Can we really be so sure about maintaining this disparity in sentencing in the face of the Sentencing Commission's argument, even if my colleagues think that maybe they can make some technical justification because of the chemistry of the powder versus the chemistry of the crack? Is it worth perpetuating the anger, and the anguish, and the sense of manifest unfairness that it brings? I do not see how anyone in good faith can argue that we, as a Nation, are well served by maintaining this.

Mr. Chairman, no one is talking about letting people walk. No one is talking about letting people off the hook. We are asking for a recognition of a very grave racial injustice.

Mr. MCCOLLUM. Mr. Chairman, I yield 5 minutes to the gentleman from Tennessee [Mr. BRYANT], a member of the committee.

Mr. BRYANT of Tennessee. Mr. Chairman, I rise in support of H.R. 2259. This bill disapproves 2 of 27 proposed amendments to U.S. Sentencing Commission Guidelines. Those two proposals pertain to cocaine sentencing and money laundering.

This legislation is necessary in order to keep these recommendations from taking effect on November 1, so we must act now.

On first glance it may sound sensible to have the same penalties for crack and powdered cocaine, but the difference between the two types of substances justifies the greater penalties for crack.

Mr. Chairman, the Subcommittee on Crime, of which I am a member, and many of those people speaking tonight are on that committee, heard testimony from the Sentencing Commissioner who wrote the minority report, and from an Assistant Attorney General in the Department of Justice who, among others, recommended our regarding this present differential between crack and powder. Now their testimony was in favor of keeping stronger penalties for crack cocaine. It was compelling. Crack cocaine offenses should be punished severely because of the threat it poses to society and, in particular, the communities in which it is used and sold. Crack cocaine is more psychologically addicting than powdered cocaine and more likely to lead to drug dependence. It produces a more intense high and, thereafter, produces a quicker and sharper drop from this intense high. Crack cocaine accounts for many more emergency room visits than powdered cocaine, and importantly crack is cheap. It is popular among teenagers, and it is most likely to be associated with violent crimes, burglaries, carjackings, drive-by shootings, whatever.

Let there be no mistake about it: Crack cocaine threatens our society's future. Because crack is cheap, its market is easy to get into.

One study has found " \* \* \* that crack distribution lacks a set of highly centralized or formally organized distribution syndicates. It relies heavily on the 'low end' dealer [and] users [who] \* \* \* occupy a shadowy ground between dealing and consuming."

Crack is cheap and it is widely available, and, because of its popularity among teenagers and its close association with violence, crack directly threatens our next generation.

My colleagues, we have a duty as a civilization, as a lawful society, to do all that we can to fight this threat and to try to protect our young people of all races. That is why I do not under-

stand this argument of race, this objection to the current crack-powder ratio, that it unduly punishes blacks.

In a recent speech on The Mall, and I think it has been referenced already, the Reverend Jesse Jackson stated that, and I quote:

Why are there so many blacks in jail? Is it behavior or is it the rules? Let me talk about the rules here. Five grams of crack cocaine, five years mandatory. Five hundred grams of powdered cocaine, you get probation.

Mr. Jackson then went on to charge, and again, I quote:

That's wrong; it's immoral; it's unfair; it's racist; it's ungodly; it must change.

Some of my distinguished colleagues on the other side of the aisle seem to use the same argument, and I have a great deal of respect for their intelligence, and their honesty, their integrity, and their position in this. I just disagree with them. I do not think this is racial.

It is my hope that as a legislative body, we, as representatives of the millions of Americans who sent us here to protect them from the hopelessness of the American drug culture and the rampant violence which results from it, can look above and beyond these charges leveled by Mr. Jackson and others with a sense of purpose and reason.

Make no mistake about it though. Our penal system must not begin to be tailored around race, socioeconomic status, or anything else for that matter. We do not need prosecution by quota. We need to crack down on crack cocaine.

My colleagues, do not be misled by the weightless argument by the time-honored issue of race concerning crack and powder cocaine. As a former prosecutor, U.S. attorney, I learned that we must prosecute the crimes regardless of the neighborhood in which they occur. Can we turn our backs on the many inner-city areas where crack is an epidemic, killing its youth who are the victims? Are the victims of the crack-associated crime any less deserving of the full weight and support of the prosecution and our law simply because those victims are black? No. Penalties must continue to be consistent with the nature of the crime without regard to outside factors which have no bearing on the commission of that crime.

Indeed, let us not forget that the sentencing Commission reported that in regard to the penalty differences between crack and powder cocaine, and I quote, "The penalties apply equally to similar defendants regardless of race."

This is what the Sentencing Commission said:

No, it is not the rules. Blacks are not in jail because the system treats them differently than anybody else. These blacks in jail are there because they were dealing with one of America's most dangerous drugs that is plaguing our society.

This is important to me. I could go on, but let me try to summarize what I am saying here.

The fact that the penalties apply equally to each and every American, regardless of their race, is the essential point to keep in mind. If the Members of this body have a problem with equal treatment under the law, then they should voice that concern. But there really is no such concern, because the current penalties do in fact treat everyone the same.

Mr. Chairman, let me finish, and, if I have time, I would like to yield to the gentlewoman from Colorado [Mrs. SCHROEDER], but I do want to make this final point in conclusion. Congress may later decide to modify the quantity ratio of crack cocaine and powdered cocaine, and I trust that we will retain substantially more severe penalties for crack offenses. However, H.R. 2259 is not the vehicle for changing the quantity ratio.

I urge my colleagues to pass this legislation, disapprove these two of the Sentencing Commission recommendations, and allow the Committee on the Judiciary to revisit the quantity-ratio issues through a reasonable process.

□ 1815

Mr. CONYERS. Mr. Chairman, I yield 5 minutes to the gentleman from North Carolina [Mr. WATT], a Member who has concentrated his efforts on this activity.

Mr. WATT of North Carolina. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I guess I have to eat my words now, because I thought nobody was going to come to this floor and say that what we are doing is fair. The gentleman from Tennessee [Mr. BRYANT] has said it and he said it with a straight face. I just find that absolutely unbelievable.

Mr. Chairman, my colleagues have to understand what is going on here. Crack cocaine and powder cocaine are both cocaine. Crack cocaine happens to be used by poor people who are predominantly black people because it is cheap. Powder cocaine happens to be used by white people who happen to be richer, and as a consequence, you get this disparity in the application of the law.

Mr. Chairman, I said in an earlier debate here on the floor, I made a mistake; I said that it is 30 minutes to get from powder cocaine to crack cocaine. I was corrected. It is actually 10 minutes. I am told that if you put a tablespoon of baking soda with powder cocaine and you put it in a microwave and bake it for 10 minutes, that converts it to crack cocaine. You cannot get to crack cocaine without going through powder cocaine. So how we can justify a greater penalty for crack cocaine than for powder cocaine I just simply do not understand.

So, then you presume that if somebody has 5 grams of crack cocaine, they are dealing in cocaine. Five hundred grams of powder cocaine is necessary before you get to that same presumption. Five grams of crack cocaine

produces 10 doses. Five hundred grams of powder cocaine produces 5,000 doses. Five grams of crack costs \$225. Five hundred grams of powder cocaine costs \$50,000. So what do we end up with? The rich guys have to have \$50,000 worth of this substance, 500 grams of it, to even think about getting the same sentence that the poor person has.

The gentleman says that is fair? There is no way that we can assert to the American people that that is fair. There is no way that I can assert to my community, to the black community, to the black residents that live throughout America and who live in my congressional district that that is fair. If I cannot assert to them that the laws are fair, then I cannot assert to them that they have to abide by them. Fairness is the basis of every law, or should be.

Mr. Chairman, we cannot say to black people in the country, you deserve to go to jail for something that white people do not go to jail for. It is unfair, it is outrageous, it is despicable, that we would sit here on this floor of Congress, 2 days after the President has talked about fairness, 2 days after a million people have come here and begged for fairness, and we say, let us go do business as usual, let us keep this in effect while we study it some more.

We have been studying this issue for a long, long time, and it is time for us to deal with it and deal with it in a way that is fair to the American people and to our communities.

Mr. CONYERS. Mr. Chairman, I yield 3½ minutes to the gentleman from New Mexico [Mr. SCHIFF], a member of the committee.

Mr. SCHIFF. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of H.R. 2259. This debate has begun to touch on an issue which is broader than we can possibly cover today, and that is disparate representation in the criminal justice system of the races. We all know that there is a disparate number of African-Americans in prison and other custody today than of non-African-Americans. That does not mean that African-Americans are a majority, but they are represented in the criminal justice system more frequently than their percentage in the population. I personally believe that occurs for a number of reasons.

For example, law enforcement is oriented towards street crimes. The fact of the matter is, less educated criminals tend to commit street crimes, whereas more educated criminals tend to commit the more sophisticated crimes, like fraud and embezzlement. In fact, with respect, I think many Americans may not know that when they hear about the crime rate, it does not include every crime. Only street crimes are counted. Murder, rape, robbery, aggravated assault, burglary, larceny, auto theft, and arson. If anyone commits any one of those crimes, then the crime rate goes up. If someone commits a sophisticated crime like em-

bezzlement, the crime rate does not go up.

Now, I think that that kind of approach will have a disparate impact. However, I do not think the solution is to prosecute fewer burglary or arson or larceny cases. I think the solution is to prosecute more fraud and embezzlement cases and the like which are generally committed by otherwise middle class, probably non-African-American individuals.

That is how I feel about this particular debate. I think a number of arguments have been made that crack cocaine in fact is worse for a number of reasons than powder cocaine. For example, in my own community of Albuquerque, NM, tragically, just a short time ago, a young child, under 2 years old, virtually a baby, died from eating crack cocaine that was available in the house where the baby was. I suppose this could happen ultimately with any drug, but it happened with crack.

Mr. Chairman, I wanted to make the point that if disparity is the issue, and if fairness is the issue, and there really is not a logical reason to distinguish crack cocaine from powder cocaine, then there is another solution, which is raise the penalty on powder cocaine. I think to be reducing drug penalties is to send the exact wrong message to the Nation at this time.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. SCHIFF. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, let me say, we heard this before at the Committee on the Judiciary, our colleague from Virginia, Mr. SCOTT, tried to offer an amendment to do what the gentleman said, to raise the powdered penalty, and a Republican made a point of order and was ruled out of order. The majority carefully drew this bill so that any effort to raise the penalty for powder would be out of order. So the gentleman says that, but we are presented with the situation where no one can do it.

Mr. SCHIFF. Mr. Chairman, reclaiming my time, this particular bill came before us according to the law to accept or reject specific recommendations from the sentencing guidelines commission, and that amendment, if even seriously made, was out of order at that time.

Mr. FRANK of Massachusetts. Mr. Chairman, if the gentleman will yield further, why did the gentleman put out such a bill?

Mr. SCHIFF. Mr. Chairman, it is my time.

I am saying that I am willing to pursue the idea further about whether there is a legitimate difference between crack and powder cocaine, and if there is not, I will support a bill, a separate bill on this floor to raise the penalty for powder cocaine. If we raise the penalties, there is no disparity and no unfairness, as the other side has argued.

Mr. CONYERS. Mr. Chairman, I yield 30 seconds to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Chairman, Members on the other side have said at the committee and here: well, the answer is to raise, if you think the disparity is unfair, the penalty for powder. Some of us do not think that is the answer, but let us be very clear. Neither do they. Because I never saw people with a worse case of the gonnas. They are gonna do it, but they do not do it.

Nobody on that side has put out such a bill. They have put this bill before us in a way that makes it out of order. So for people to try to argue that the real way to deal with disparity is to raise the penalty for powder and then do nothing to accomplish that, they are rebuking that argument.

Mr. CONYERS. Mr. Chairman, I yield 4 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER], the ranking member of the Committee on the Judiciary.

Mrs. SCHROEDER. Mr. Chairman, I thank the gentleman from Michigan [Mr. CONYERS] for yielding me this time, and I thank him for his statement on this.

Mr. Chairman, I came to talk about Judge Lyle Strom. Judge Lyle Strom was appointed by President Reagan. He is the chief judge of the U.S. District Court in Nebraska, not a State known for a lot of radicals. They look like they have great common sense out in Nebraska, especially a Reagan appointee.

Well, let me tell you about Judge Lyle Strom. This brave judge has stood up and become the first Federal judge to refuse to impose a mandatory minimum sentence in a crack case, because he thought it was totally unfair, as did the Sentencing Commission who has studied this and is saying it is totally unfair.

Mr. Chairman, crack cocaine is minutes away from being powder cocaine. What you are really doing by protecting powder cocaine, which is what the other side is really doing, I think here today, is that they are protecting the entrepreneurs. They take the powder cocaine and cook it up and can sell it. Oh, well, we do not want to get the big guys. We want to get the little guys at the end of the line, and we have a disparity of 100 to 1. We are not talking a little disparity. It is a 100 to 1 disparity that we are talking about here when we look at the differences in the sentencing.

Now, Mr. Chairman, it seems to me that when you look at people like the judge who is head of the court in Nebraska, and when you look at the Sentencing Commission, which is not a radical bunch of people, they are saying to us that if we want this justice system to be considered fair and equal, and if we are going to sew up the holes in Miss Justice's blindfold so she is not peaking out to see whether this is a little entrepreneur that has powder and is

going to make it into a lot of things, and who knows, it could be healthful later on, then we really need to act on what they are saying rather than throw what they are saying aside.

I really find it amazing that people are coming here and saying, oh, no, this is fair, this is fine, and then the gentleman from Massachusetts [Mr. FRANK] just pointed out that the other things that are being said on this floor are also untrue, and that is that if you really think you ought to raise powder cocaine up, then raise it up. Who is stopping you from doing it? However, every time that is tried, no, they have a reason for not doing that, either.

Mr. Chairman, it is absolutely no wonder that people think this is unfair, because it is unfair. Every objective soul that has really looked at this, including 8 of the 10 witnesses that appeared in front of the subcommittee and testified on this, and I tell you, it is the other side who called them, 8 of the 10 witnesses, when polled, disagreed with this bill. They were called to testify on this bill and they did not think that we should do this bill. They thought we should introduce fairness into our legal system. What a radical concept, that this 100 to 1 ratio was unfair, and that if we could not figure out that the root cause of crack cocaine was power and we were going to insist on protecting powder possession, but going after crack possession, we really look like we got it all backward.

I would say that 8 out of 10, when they are called by the people trying to push the bill and could not get a better vote than that, is enough to say we all ought to sit up and take notice and we ought to listen to the many, many fair and objective people who have studied this and say we should move forward. Otherwise, we are never, never going to be able to look African-Americans in this country in the eye and say we are treating them fairly, because we are not, and we better deal with it. Mr. Chairman, if my colleagues vote for this bill tonight, they are not treating them fairly, and they are allowing this injustice to continue.

□ 1830

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT], a former law enforcement officer.

(Mr. TRAFICANT asked and was given permission to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Chairman, I do not believe the Republicans are trying to be unfair; I just believe they are wrong.

Cocaine is listed under Federal law as a narcotic. Cocaine is, in fact, a central nervous system stimulant. To really look at the severity of the abuse of drugs in our country, we have to understand, and Congress does not even understand the phenomenon. As a result, our laws are all screwed up.

Show me an abuser of a central nervous system stimulant such as meth-

amphetamine administered intravenously and I will show you someone as strung out and as dangerous as a crack cocaine abuser. Cocaine is imported, not crack. Cocaine and crack cannot be separated.

The right thing to do would be to treat both of these lethal drugs under the same mode. The problem that we have out in society today is we misidentify drugs, we confuse the scene, and we have so many powerful burdens and powerful penalties that no one really understands it.

I tell my colleagues the truth. Working in the field for 11 years, I worry about that youngster getting ahold of cocaine, mixing it with heroin, with that speed ball; and after a while they will throw the cocaine away, and they will be strung out on the street corner, be the toughest person to rehabilitate. There is no rehabilitation. These youngsters have never been anywhere.

Let me make this statement. To treat crack differently than cocaine has no defensible merit and no argument on this floor, none whatsoever for any professional who understands it.

Vince Lombardi was loved by all, the great Hall of Famer. Willie Davis was asked, "Why do you love Vince Lombardi so much?" He said, "I love him because he treated us all alike, like dogs, but all alike."

Let me tell Members something. The kids on the streets have crack because they want to get them strung out as fast as possible, but we should not treat these drugs differently. They are one and the same, my friends, and we are wrong if we do that.

Mr. CONYERS. Mr. Chairman, I yield 4 minutes to the gentleman from Virginia [Mr. SCOTT].

Mr. SCOTT. Mr. Chairman, 5 grams of crack, 10 doses, a couple of hundred dollars worth, 5 years mandatory minimum; 500 grams of powder, 5,000 doses, tens of thousands of dollars to get the same penalty. In fact, possessing the 10 doses only gets a person more time than distributing tens of thousands of dollars worth of powder cocaine.

Ninety-five percent of those convicted for crack offenses are black and Hispanic. Seventy-five percent of those convicted of powder offenses are white. The Commission decided to equalize the base sentence with enhancement. Some say that crack dealers ought to get more because of the nature of the distribution. The enhancements will take that into consideration. Because you will get more time if you have a firearm, violence or death, juveniles, prior prison records, near schools, leadership role in the enterprise, other crimes, the sentencing will be based on the crime and based on an objective determination, not because the group happens to be 95 percent black.

Mr. Chairman, the reason that we have a Commission is to take the politics out of the sentencing. Over 500 prior sentence changes have been made. None have been rejected. They can consider the evidence.

For example, the evidence in possession is that there is a 68-percent recidivism rate for those that go to prison, 11 percent recidivism rate for those who get treatment. So we spend more money, end up with more crime if we send people to prison for simple possession. The Commission can act intelligently and make that decision without regard to the political implications.

The reason for the Commission is to put things in perspective, Mr. Chairman. Five-year mandatory minimum for users and small-time street dealers with a couple of hundred dollars worth, 95 percent black and Hispanic. Street dealers will be replaced as soon as they get arrested. Those distributing tens of thousands of dollars of uncooked crack or pre-crack or powder can get probation, a group 75 percent white. The Commission can treat large-scale dealers of tens of thousands of dollars of uncooked crack more seriously than street dealers or simple possession without regard to political implications.

This bill rejects the intelligent, non-political analysis of the Commission in an unprecedented act. The bill suggests that we should go back, to send the issue back to the Sentencing Commission to study it. Yet there is no date for the end of the study. And there is nothing to study.

Because they told us what they thought. They told us that there is an unjustified disparity with racial overtones. We should defeat the bill, let the nonpolitical Sentencing Commission recommendations become law. It is the fair thing to do.

Mr. MCCOLLUM. Mr. Chairman, I yield 4 minutes to the gentleman from Georgia [Mr. BARR], a member of the committee.

Mr. BARR. Mr. Chairman, I think the distinguished gentleman from Florida [Mr. MCCOLLUM], the chairman of the Subcommittee on Crime and Criminal Justice, for yielding me the time.

Mr. Chairman, this really has to be one of the most bizarre debates that I have witnessed in the 10 months that I have had the honor of serving in this Congress of the United States. I was just reminded of how bizarre it is listening to one of the proponents of the sentencing guideline recommendations, the sentencing commission recommendations talk about us protecting powdered cocaine users. That is bizarre.

Then we have people saying there is absolutely no difference whatsoever between powdered cocaine and crack cocaine when there are in fact substantial differences, in terms of the effect it has on the person, how quickly it has that effect on that person and how much more deeply and quickly addictive crack cocaine is than powdered cocaine. Yes, they come from the same base; yes, they are chemically similar, but in their effects they are very, very different and the crack cocaine is much more dangerous.

I am also reminded in this debate, Mr. Chairman, about how out of touch Members on the other side are from the real world. The real world, Mr. Chairman, is a world that I have visited, have worked in and talked with people in when I had the honor of serving as the United States attorney for the Northern District of Georgia. Not simply content with staying in the Federal Building or in the United States courthouses, myself and police officers and Federal agents and assistant United States attorneys regularly went out into the community to determine are, in fact, our priorities the priorities of the people who want to be protected from drug dealers, murderers and thieves in their communities.

In many of those visits, Mr. Chairman, I had the opportunity to talk with men and women and mothers and fathers in housing projects, many of them in Atlanta where we have some of the oldest and poorest housing projects in the country, many of them populated not exclusively but in terms of the number of people predominantly by black families, and in talking with those mothers and those fathers and those children and those brothers and sisters, they do not share the belief of our colleagues on the other side.

They told me than, they tell us now, they tell law enforcement officers now, I do not care whether that person is black or white who is dealing death in the form of crack cocaine, I do not care whether that person who murders people either deliberately or inadvertently by drive-by shootings because they are high on crack cocaine or because they think that person may have snatched on them, they want those people off the streets. They want them off the streets and they deserve to have this Congress heed that cry and not be diverted, not be drawn off target by specious arguments, absolutely specious arguments that we are hearing from the other side that simply because we want to punish very strongly, very strictly and hopefully very swiftly people that deal in a very, very addictive, very dangerous mind-altering drug such as crack cocaine, that we think because much smaller quantities can result and are used in fact for trafficking and distribution than larger quantities of powdered cocaine, that those people ought to be punished more because it is those people who are going into the housing projects where our black youth are being killed and those mothers particularly tell me. They told me this when I was United States attorney, they tell me now as a Representative in the United States Congress, "Get those people off the streets and put them away for a long period of time."

That is the real world. Those are the real arguments. In fact, Mr. Chairman, those are also the arguments of this administration. The Clinton administration came to the Congress of the United States and they said, yes, we may argue that there has to be or per-

haps might be some different equation we use but even this administration recognizes that there is in fact a difference, a very big difference between the effects of crack cocaine and powdered cocaine and it is appropriately and has been appropriately for going on a decade now reflected in the difference in sentencing because it reflects differences in the real world use and effect of these drugs.

Mr. CONYERS. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I appreciate what the gentleman from Georgia just said, but when you go into white houses and white neighborhoods, they want white dealers put away, that sell it to white people. But they do not say put them away for a longer period of time than black people, or put black people away for a longer period of time than white people. It is a crime problem.

You know what cocaine does in the suburbs? People shoot people in the suburbs. They beat their children. They beat their spouses. They screw up their businesses. They leave home. They have dissolutions of families, of marriages and children are left and are wards of the State.

It is the same drug. It is the same scourge on communities. The suggestion that somehow because black people believe in law enforcement and do not like people selling drugs in the streets that that means they are for the unequal treatment of people is crazy, is absolutely crazy. We ought to deal with this as it is.

You have a little luxury because you come through parts of my district and pick it up in your BMW and go to a home where a cop would not go unless you called them and you get the luxury of using it and dealing it, you get a different penalty.

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Chairman, I thank my friend, the gentleman from Michigan [Mr. CONYERS], for yielding me the time.

Mr. Chairman, let me tell this to my colleague from Georgia. I live in my district. I live in the city of Atlanta. I know the people of Atlanta. I have visited and stayed overnight on more than one occasion in the projects. I served on the city council in that city for almost 6 years, served on the public safety committee. I know the police department of that city.

This amendment is about fairness, equality and justice. It is about treating our poor and minorities the same way we treat others in our society.

Chemically, crack and powder cocaine are the same drug. They are the same in every way but one. Poor people use crack. People of color use crack. People who use crack go to jail.

On the other hand, more affluent people use powdered cocaine; and when they are caught and arrested and pros-

ecuted, they often go free or get lighter sentences than those who use crack cocaine. This is not only wrong, it is unjust, and it should not be.

These are the facts. The way the law is designed, it sends poor people to jail. It sends people of color to jail. This is not justice. This law is not right. It is not fair.

My colleagues, cocaine is cocaine. Breaking the law is breaking the law. It is time to stop discriminating against the poor and people of color. It is time to treat poor people the same way we treat the rich. It is time to treat each and every person who uses cocaine the same.

The Conyers amendment will go a long way to restoring fairness to our justice system. It will restore faith and confidence. As recent events have shown, many of our citizens see two different judicial systems. They see different laws for different people. They see statutes that discriminate and a system that does not treat all people equally under the law. That is not the American way. That is wrong. It is dead wrong, and it must be changed. We have an opportunity tonight to change it.

I urge my colleagues to support justice, equality, fairness and integrity. Support the Conyers amendment.

□ 1845

Mr. McCOLLUM. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri [Mr. EMERSON].

(Mr. EMERSON asked and was given permission to revise and extend his remarks.)

Mr. EMERSON. Mr. Chairman, it seems to me that cocaine is all bad and it should all be strongly discouraged, crack or powder.

The issue should not be the lowering of standards to conform with another but perhaps the raising of one standard to bring them all up to equal status. So I rise today in strong support of disapproving certain drug sentencing guidelines as recommended by the Sentencing Commission.

I think that fighting our Nation's war on drugs has got to be swift and sure. By accepting a rollback in punishment for crack cocaine offenses, we would be sending precisely the wrong message. That is why I introduced legislation in this Chamber to block the Commission's recommendations.

According to the Federal Bureau of Investigation bulletin of a mere 5 months ago:

The sentencing tables used in drug cases base punishments on the type and amount of the drug as well as the criminal history of the defendant. Offenses involving crack cocaine receive substantially higher sentences than those dealing with cocaine in its powdered form due to crack's higher addictive qualities.

We cannot play ostrich by sticking our heads in the sand and thinking America's drug problem is simply going to solve itself and go away. Our constituents expect us to stand up for

them and to make their, our, neighborhoods safer. By disapproving the Sentencing Commission's recommendations, we will be doing that.

Let us look at the facts. Drug trends prove the need for stiff punishment. There is no question about that. The sale, the manufacture, the possession of cocaine, according to the Federal arrest rates, has skyrocketed in this last decade alone.

In addition, the number of Federal cocaine seizures has jumped from nearly 8,000 kilograms in 1983 to more than 78,000 in 1992, and according to the Justice Department's uniform crime reports for 1993, nearly 2 out of every 3 people arrested for selling and manufacturing drugs was in the heroin or cocaine and their derivatives category, while almost half of everyone arrested for drug possession fell into that same category.

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

(Ms. JACKSON-LEE asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise today to say that H.R. 2259 absolutely needs to be rejected. It flies in the face of what we consider to be the notion of equality under the law.

It is interesting that my colleague, the gentleman from Georgia [Mr. BARR], can talk about how he has traveled the highways and byways of inner-city Atlanta. But let me say to you that it is all in the asker of the question as to what the responder says. I asked the same question in neighborhoods that I grew up in, and I asked a group of African-American ministers, "How many of you enjoy your community using drugs? Would you raise your hands?" I got no takers. But then I asked the fairness question: "How many of you understand that those who sell crack get 100 times more sentencing than those who sell cocaine?" Shock came across their faces because they really understand the needs of their members day after day after day. They are in the homes of crying mothers who say, "He simply wanted to have a job." They are in the homes of crying families who say, "Where is the treatment facility for those who are addicted?" That is what the question becomes.

Then we want to reject the language of a sentencing commission that is bipartisan, which, if I might simply read on page 105 in a report from the U.S. Sentencing Commission, February 1995, "Cocaine and Federal Sentencing Policy," and it says, "Thus, the media and public fears of a direct causal relationship between crack and other crimes do not seem to be confirmed by empirical data."

What is the Congress talking about? By this action today this Congress is unfairly saying "Throw them in the

jailhouse and throw the key away." Ninety-five percent of them are minorities. Throw equality under the law out the window.

I abhor drugs. But what I am saying to you is you are not fixing something. You are destroying a community, and then we find out in this same report, on page 105, that the members of inner-city communities are not cocaine or heroin abusers or criminals. Basically, factors such as prospects of employment in the crack trade for young persons who most likely will be unemployed are the key to getting them out on the street selling drugs. Where are the real jobs to solve this problem?

Where are the solutions from my colleagues, the Republicans, on job creation, on job training?

I am going on the record, I do not want to see drugs proliferating in our communities across this Nation. But as a member of the Committee on the Judiciary, understanding the Constitution, equal protection under the law, I think it is atrocious that we stand here today, rejecting a bipartisan commission that simply says equalize the sentencing, and likewise documents that other crimes do not necessarily come out of crack usage.

What we need are jobs in our communities, treatment in our communities. This is an abomination. Let us stop the abomination. Let us not support H.R. 2259 and support the Conyers substitute which affirms the fair U.S. Sentencing Commission's recommendation. The Commission's recommendations help stop crime. This Republican legislation destroys lives.

Ms. JACKSON-LEE. Mr. Chairman, I must rise in opposition to S. 1254, which has been made in order as original text for the bill to disapprove sentencing guidelines that would equalize the sentencing for the sale and possession of powder and crack cocaine.

The current sentencing guidelines are an affront to our professed notion of equality under the law. There is a 100-to-1 disparity in sentencing for offenses concerning crack cocaine versus powder cocaine. If an individual possesses 5 grams of crack cocaine, he is subject to a mandatory minimum sentence of 5 years. Whereas an individual who possesses 500 grams of powder cocaine is subject to a maximum sentence of 1 year. This is patently unfair.

Moreover, the racial disparity in sentencing of crack cocaine offenders is unacceptable.

The statistics show that 88 percent of the convictions for crack cocaine are against African-Americans. In the city of Los Angeles, no white American has been convicted of a crack cocaine offense since 1986. Despite this evidence of racial disparity around the country with respect to cocaine sentencing, this bill would destroy the opportunity to reduce such disparity and make our criminal justice system more equitable.

The recommendations of the Sentencing Commission are sound and the result of significant research and deliberation. This commission is comprised of a distinguished group of men and women who have reviewed a significant amount of data and heard testimony from interested parties on this critical matter.

Some proponents of this bill are using stories and anecdotes from a few members of the law enforcement community that crack cocaine offenders should be subject to such harsh sentencing.

The commission voted 5 to 4 in approving the new sentencing guidelines. All of the commissioners, however, agree that the current sentencing disparity between offenses for crack cocaine and powder cocaine is too high.

A rejection of this bill would be a perfect opportunity for Congress to help all Americans have a greater confidence in our Criminal Justice System. In the Subcommittee on Crime and in the full Judiciary Committee, we had an opportunity to vote on amendments that would accept the recommendations of the U.S. Sentencing Commission but that would lead toward some reduction in this disparity. However, those amendments were defeated on a party line basis. Some Members may argue that this bill, S. 1254, is a better bill than the bill that was reported out of the Judiciary Committee. This bill is still bad public policy.

Let us use this opportunity to restore a sense of fairness in the Criminal Justice System. It is not a matter of being tough on crime but a matter of whether our Judicial System will have any credibility by millions of Americans.

Mr. MCCOLLUM. Mr. Chairman, I yield 4 minutes to the gentleman from Indiana [Mr. BUYER], a member of the committee.

Mr. BUYER. Mr. Chairman, this is the third time now that I have, with patience, listened to the debate of my colleagues from both sides.

I do rise in support of H.R. 2259 to disapprove the recommendations made by the U.S. Sentencing Commission regarding crack cocaine and money laundering.

Despite what we hear from the opponents of this bill, the legislation is about being tough in the war against drugs. It is about standing up for our children's right to grow up drug-free and be saved from the scourge of drug abuse that has ruined so many young lives.

I applaud the courage of the chairman, the gentleman from Florida [Mr. MCCOLLUM], for moving forward with this legislation in the face of some of the allegations we hear tonight. He does so out of concern for all of America's children.

The U.S. Sentencing Commission has recommended equalizing these penalties for distribution of the cocaine and crack cocaine, and I believe that it is simply wrong.

Although the same drug, crack cocaine possesses the greater risk to society due to its increased addictiveness, the manner in which it is marketed, and the increased association with violence. Our sentencing policies must reflect the inherent differences, not be race-based, sex-based, or national origin-based. The Sentencing Commission-proposed changes do not do this.

The powder cocaine, due to price, is generally used by the more affluent. One of the most distressing things about crack is it is cheap and inexpensive. Of these using cocaine, crack was

the more popular among 12-to-17-year-olds than among any other age group. Crack is highly addictive and is available to our children for little more than lunch money. The other harms associated with crack are an increase of violent crime, destructive to the entire neighborhoods, to the child, and to domestic abuse. Our sentencing policies must reflect these greater harms to society.

The target of these sentencing guidelines is the dealers of crack cocaine. Under current policies, a mid-level dealer who distributes 50 grams of crack would trigger a 10-year sentence. Under the proposed changes by the Sentencing Commission, this same dealer would only face a 12-to-18-month sentence. This is too short of a time for someone responsible for selling up to 500, 500 crack transactions that devastate 500 potential lives.

In closing, let me leave with my colleagues the words of someone on the front lines fighting the war on drugs. I recently received a letter from the Marion County prosecutor in Indianapolis. He writes and says,

I simply cannot understand why the United States Sentencing Commission would consider lightening the penalties for crack cocaine distribution relative to other narcotic drugs. To do so would be a serious mistake and would more than likely lead to even fewer meaningful prosecutions of crack cocaine dealers in Federal court.

I must make one other comment, and that is it is not justice nor equality to base criminal prosecutions based through the dimension of color, sex, or national origin. If we take the arguments that I have listened to here tonight, and let us look at it from the other perspective and say if white-collar crime, that there are more whites in America that commit bank fraud, in a racial disparity of 1000 to 1, should we then reduce the penalties? If we then look at sex and say that how many, if there are greater men that commit battery against spouses, should we have lesser penalties against the men? If we look to the dimension of national origin and say that because there are more illegal aliens from Mexico versus Canada, that therefore we should not be harsh on illegal aliens from Mexico?

The penalties of crime should not be based due to the dimension of color, sex, or national origin, period, and I support the efforts of the gentleman from Florida [Mr. MCCOLLUM].

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume, to point out to my colleague on the Committee on the Judiciary that, first of all, my substitute does not include dealers, trafficking. It only deals with possession.

Second, the majority of crack users in America are not African-Americans. They are white.

Mr. Chairman, I yield the remainder of my time to the distinguished gentleman from North Carolina [Mrs. CLAYTON].

(Mrs. CLAYTON asked and was given permission to revise and extend her remarks.)

Mrs. CLAYTON. Mr. Chairman, I rise in opposition to this bill and in support of the Conyers substitute.

The distinguished jurist, Judge Learned Hand on one occasion stated, "If we are to keep our democracy, there must be one commandment, Thou shalt not ration justice."

Indeed, this Nation is the leading democracy in the world because we labor to ensure that our citizens are governed by one standard of justice—equal under law, according to the inscription above the U.S. Supreme Court Building.

It troubles me that this bill seeks to disapprove the proposed sentencing guidelines regarding crack cocaine.

The question is why?

Do the recommendations of the Sentencing Commission create a dual standard of justice?

The answer is "no."

In fact, the recommendation of the Sentencing Commission is to create a single standard for all cocaine offenses—whether the offense involves powder or crack cocaine.

That, it seems to me, meets the mandate of equal justice.

Do the recommendations of the Sentencing Commission call for a change in sentencing for cocaine offenses?

Again, the answer is "no."

The recommendations simply provide for cocaine offenses involving crack to be equal to those involving powder cocaine—the penalty for both will be the same, and the penalty for powder cocaine remains unchanged.

Mr. Chairman, let us not forget that the 1994 crime bill directed the Sentencing Commission to examine the disparity between sentencing for crack cocaine and powder cocaine offenses.

The Commission followed that directive, and made 27 recommendations on May 1, 1995, including recommendations to equalize the penalties for crack and powder cocaine.

The Commission did what Congress told them to do.

Now—because the Commission did not do what some would have preferred that they do—we are faced with an effort to undo what they did.

The Sentencing Commission is composed of judges and lawyers and others, expert in the field of sentencing.

They conducted their business within the administrative authority given them by an act of Congress.

No proponent of this bill has argued that the Commission acted without authority.

They stayed within the banks of the law that created them.

Why then do some now seek to negate the legitimate actions of the Sentencing Commission?

Why are some willing to accept a dual standard of justice in our law enforcement system?

Why are some willing to allow minority citizens, low income citizens, to

bear a stricter sentencing burden than nonminorities bear—for the same offense?

Why are some willing to overlook the fact that African-Americans account for almost 90 percent of those convicted of Federal crack cocaine charges?

Those are the questions, Mr. Chairman, and they are compelling.

I hope we will get some honest answers.

Then, let us reject this ill-advised, constitutionally awkward legislation.

Mr. MCCOLLUM. Mr. Chairman, I will conclude by making a couple of points. First of all, what we are all about here tonight in this bill is to disavow two of the Sentencing Commission recommendations, one of them dealing with money laundering, that has hardly been discussed. Clearly, we need to veto that. We do not want it to go into effect. It would dramatically reduce the penalties for money laundering in this country. We may need to revise them a little bit, but not as dramatically as they have done.

Second, this question of revising the issue of disparity, difference, if you will, between the quantities of crack and the quantities of powder that trigger mandatory minimum sentencing and sentencing guidelines; we cannot change the minimum mandatory here tonight. That is not what it is about. For 5 grams of crack, the minimum mandatory is going to remain equal to 500 grams of powder. We can debate that for a long time to come. But that is the case.

By failing to enact this tonight, we will let the Sentencing Commission guidelines go into effect that I think would be far worse than what we have today because there would be even greater disparity in the crack sentencing proposition. I am sure we will get a chance to debate it in a few minutes.

The decision of the Sentencing Commission was 5-to-4. It was very close on this issue for a lot of the reasons we have been debating tonight, and I look forward in a few moments to the debate on the amendment the gentleman from Michigan is going to offer, because we can discuss then how possession indeed in this case is the same as trafficking.

Mr. MFUME. Mr. Chairman, today we vote on legislation which would disapprove the U.S. Sentencing Commission's guideline amendments regarding the disparity between crack and powder cocaine sentences.

When Congress created the Sentencing Commission in 1984, it entrusted an independent body with the difficult task of establishing and making recommendations regarding guidelines for Federal crimes. During deliberations on last year's crime bill, Congress directed the Sentencing Commission to study the sentencing disparity in cocaine.

Under current law, individuals who are convicted of crack cocaine offenses are subject to penalties that are 100 times more severe than those convicted of powder cocaine offenses. In other words, a defendant who sells 5 grams of crack cocaine will receive the same 5-year

mandatory minimum sentence as a defendant who sells 500 grams of powdered cocaine. In addition, possession of 5 grams of crack results in the imposition of the 5-year penalty, but possession of 5 grams of powdered cocaine will only result in a 1-year maximum sentence.

Earlier this year, the Commission produced a report in which it strongly supported the elimination of the current 100 to 1 ratio. Despite an in-depth study that took into consideration empirical and scientific data, this House now seeks to dismiss the Commission's recommendations and thereby allow the sentencing disparity to continue. Passage of this bill would mark the first time that the Congress has rejected the guideline amendments proposed by the Sentencing Commission.

Americans have looked upon the judicial system with increasing mistrust partly in light of the controversy surrounding the disparity in sentencing involving cocaine. The findings of the Commission indicate that African-Americans accounted for 88.3 percent of Federal crack cocaine trafficking convictions in 1993, Hispanics 7.1 percent and whites 4.1 percent. The low cost of crack cocaine makes it the drug of choice for poorer Americans, many of whom are African-American. The Commission found that "the high percentage of blacks convicted of crack cocaine offenses is a matter of great concern . . . Penalties clearly must be neutral on their face and by design." The presence of such a racial disparity calls into question the integrity of a judicial system that premises itself on fairness.

The harshness of the penalty ratio has been shown to be unfairly focused upon low-level drug dealers and addicts rather than cartels, smugglers, and large scale traffickers who deal in powder cocaine before it is converted into crack for sale at the street level.

These problems are further aggravated by law enforcement practices wherein minority areas are targeted. Earlier this year, a Federal appeals court dismissed a case against four African-Americans accused of selling crack because the Government refused to provide evidence that might determine if the defendants had been unfairly targeted. Joining the majority opinion, Justice Stephen Reinhardt stated that the statistics compiled by the Federal public defender's office raised "a strong inference of invidious discrimination" against minorities.

Conversely, not a single white has been convicted of a crack cocaine offense in Federal courts serving Los Angeles and its surrounding counties since Congress enacted its mandatory sentences for crack dealers in 1986. Rather, these defendants are prosecuted in State courts where sentences are far less. In their dissenting opinion, Democrats on the Committee on the Judiciary properly expressed concern in stating that "the existence of such a facially flawed sentencing scheme undermines the credibility of our entire system of Federal laws and might invite discriminatory behavior by Federal law enforcement personnel."

According to research conducted by the Sentencing Commission, mandatory minimum penalties for powder and crack cocaine have not been uniformly applied. This is due in large part to lower State penalties for crack. Thus the decision to prosecute in Federal rather than State court can have a tremendous impact on an individual sentence. As

such, the choice of forum is a significant factor in determining sentence length.

The problems that have arisen with the current cocaine sentencing disparity highlight the basic problem with mandatory minimum sentencing laws. These laws were designed as an added crime deterrent and were intended to reduce sentencing disparity by eliminating the discretion that judges and parole boards exercise. However, mandatory minimum sentences prevent judges from making the time fit the crime.

In conclusion, Mr. Speaker, I ask my colleagues to oppose this bill and support the findings of the U.S. Sentencing Commission which examined this issue closely and opposed the current penalty scheme.

Mr. STOKES. Mr. Chairman, I rise in strong opposition to H.R. 2259, a bill that disapproves of the sentencing guideline amendments. Let me state from the beginning that I recognize the challenge we face in curbing drug abuse in our Nation. In fact, I have been a longstanding advocate for strong congressional action to reduce and prevent the scourge of drug abuse and addiction from our Nation's communities. Nonetheless, I cannot support this measure before us today because it creates two brands of justice, one white and one black.

H.R. 2259, disapproves of the U.S. Sentencing Commission's proposed sentencing guideline amendments regarding crack cocaine and money laundering. The 1994 crime bill directed the U.S. Sentencing Commission to examine the disparity between sentencing for crack cocaine and powder cocaine offenses. On May 1, 1995, the Commission made 27 recommendations, including recommendations to equalize the penalties for crack and powder cocaine. The action proposed in this legislation will short-circuit the recommendations of the acknowledged experts in this field, the U.S. Sentencing Commission.

While the most recent FBI uniform crime report states that, since 1989, the number of crimes per 100,000 inhabitants is down 4 percent, the African-American community has increasingly become the target of the criminal justice system. A Washington-based advocacy group, known as the "Sentencing Project," confirmed this fact when it reported that a shocking one-third or 32.2 percent of young black men in the age group 20-29 is in prison, jail probation or on parole. In contrast, white males of the same age group are incarcerated at a rate that is only 6.7 percent.

As the Nation experiences a slight overall decline in the crime rate, 5,300 black men of every 100,000 in the United States are in prison or jail. This compares to an overall rate of 500 per 100,000 for the general population, and is nearly five times the rate which black men were imprisoned in the apartheid era of South Africa. America is now the biggest incarcerator in the world and spends approximately \$6 billion per year to incarcerate black men. The number of African-American males under criminal justice control, 827,440 exceeds the number enrolled in higher education.

When we examine why African-Americans are increasingly being targeted for punishment by the justice system, one factor stands out as a primary contributor—the mandatory minimum sentences associated with crack cocaine offenses. The evidence clearly establishes a

disparity under current law in sentencing between crack cocaine and powder cocaine. Those persons convicted of crack possession receive a mandatory prison term of 5 years by possessing only one-hundredth of the quantity of cocaine as those charged with powder cocaine possession.

The U.S. Sentencing Commission found that blacks accounted for 84.5 percent of Federal crack convictions in 1993. Because of this and other unbalanced drug control laws, the number of incarcerated drug offenders has risen by 510 percent from 1983 to 1993. In addition, the number of African-American women incarcerated in State prisons for drug offenses increased a staggering 828 percent from 1986 to 1991. Clearly, the African-American community has been disproportionately represented in this dramatic increase that is the direct result of the crack mandatory minimums.

Mr. Chairman, the time has come for the Congress to have the courage to do the right thing, end this racist and unfair targeting of African-Americans for punishment. The time has come for all of us to take this small step in favor of justice and equality for all Americans. I urge my colleagues to vote against this bill.

Mr. STUPAK. Mr. Chairman, I rise today to express my support of H.R. 2259.

As my colleagues may know, on July 19, I introduced H.R. 2073, legislation similar to H.R. 2259 and S. 1254. We need to remain tough on crime, and my legislation and the bill being considered today represent a commitment against drug abuse and drug traffickers. The scourge that crack cocaine brings to communities all across America must be stopped, and the proposal by the U.S. Sentencing Commission to change Federal sentencing guidelines pertaining to crack cocaine was, quite simply, wrong and wholly inappropriate.

As a former law enforcement officer, I fully understand the overwhelming need to prevent the Sentencing Commission's proposal from being implemented. The guidelines, if allowed to become law in just 2 weeks, would mean that some offenses that are now subject to 5- to 10-year mandatory prison sentences could potentially result in sentences involving no required prison term at all. This is the completely wrong message to be sending out to traffickers and users of crack cocaine.

A major part of our effort to fight crime and defeat criminals rests with punishing those dealing drugs, the pushers and traffickers who have inflicted tremendous harm on literally thousands of individuals, tremendous harm on families all across America, and tremendous harm on communities and neighborhoods in our own congressional districts.

There are some who point to the apparent disparity in sentences for crack cocaine as opposed to powder cocaine. I actually believe that there should be an adjustment in these respective sentences, but I prefer to see an increase in the penalties for powder cocaine, instead of lowering the penalties for crack cocaine, as the Sentencing Commission has proposed.

Mr. Chairman, this response to the guidelines proposed by the Sentencing Commission is responsible and fair. Most of all, this legislation represents our continued commitment to combatting drug abuse and stopping those who wish to destroy the lives of thousands of our fellow citizens.

Mr. RUSH. Mr. Chairman, I rise today in support of the Conyers substitute. It is ironic

that we are in the House of Representatives to consider a proposal that is the opposite of our concept of justice and fair play. The scales of justice must be balanced. Yet, this measure seeks to arbitrarily place a greater value on possession of crack cocaine over powdered cocaine. During this evening's dialog, I have heard many speaker's argue that crack cocaine is more devastating to our community than powder cocaine. To this I say—a rose by any other name still has thorns.

The distinguished manager for the Republican majority has argued that this measure is color blind. I dare say, it is anything but that. Such an assertion is confounding in light of the fact that it is now common knowledge that one in three African-American males is in some way impacted by the judicial system. This fact alone makes it clear that African-Americans will be disproportionately affected. This is anything but color blindness.

What is the motivation behind this measure? Is it to get tough on crime by locking them up and throwing away the key by any means necessary? Or, is there a conspiracy among the Republican majority to incarcerate as many African-American males as possible?

This bill is nothing more than a narrow minded effort to ostracize those who already bear the brunt of the injustices within our judicial system.

We must combat crime. We must make our streets safer for our families. However, this must not be done at the expense of individuals who some have an embedded fear, if not hate for. If in fact the Republican majority wants to establish a color blind society, as it professes, it is dishonesty, if not intellectual heresy, to introduce a bill such as this. This bill is blatantly biased, it is not based on sound legal rationale, and is direct in contradiction with our standards of justice.

Mr. SANDERS. Mr. Chairman, I am outraged that we are not given the option to support both fairness in our criminal justice system and a strong stance against crime and illegal drugs. The issue here is extremely important. There is no excuse for a young man in the ghetto to be arrested for crack cocaine possession and get 5 years in prison when the more affluent powder cocaine user risks only 1 year in jail. The simple fact is that the poor and the black minority are treated unfairly under current sentencing guidelines.

Don't get me wrong. This Congressman thinks that drugs are a scourge on America and I strongly believe we must fight cocaine use in any form. We should be addressing the fairness issue by raising the punishment for powder cocaine, not lowering the sentence for crack offenses. I am deeply disturbed that this was not given as an option today.

I come from an almost all white State and I know that the people of Vermont want tough law enforcement and tough penalties against drug dealers. But they do not believe that a white cocaine user should be treated far more leniently than a black cocaine user. And that is what the issue is here today. The criminal justice system must be fair and unbiased or it is simply not just.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, an amendment in the nature of a substitute consisting of the text of S. 1254, as passed by the Senate, is adopted, and the bill, as amended, is considered as an original

bill for the purpose of further amendment, and is considered read.

The text of the amendment in the nature of a substitute consisting of the text of S. 1254 is as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DISAPPROVAL OF AMENDMENTS RELATING TO LOWERING OF CRACK SENTENCES AND SENTENCES FOR MONEY LAUNDERING AND TRANSACTIONS IN PROPERTY DERIVED FROM UNLAWFUL ACTIVITY.**

In accordance with section 994(p) of title 28, United States Code, amendments numbered 5 and 18 of the "Amendments to the Sentencing Guidelines, Policy Statements, and Official Commentary", submitted by the United States Sentencing Commission to Congress on May 1, 1995, are hereby disapproved and shall not take effect.

**SEC. 2. REDUCTION OF SENTENCING DISPARITY.**

(a) RECOMMENDATIONS.—

(1) IN GENERAL.—The United States Sentencing Commission shall submit to Congress recommendations (and an explanation therefor), regarding changes to the statutes and sentencing guidelines governing sentences for unlawful manufacturing, importing, exporting, and trafficking of cocaine, and like offenses, including unlawful possession, possession with intent to commit any of the forgoing offenses, and attempt and conspiracy to commit any of the forgoing offenses. The recommendations shall reflect the following considerations—

(A) the sentence imposed for trafficking in a quantity of crack cocaine should generally exceed the sentence imposed for trafficking in a like quantity of powder cocaine;

(B) high-level wholesale cocaine traffickers, organizers, and leaders, of criminal activities should generally receive longer sentences than low-level retail cocaine traffickers and those who played a minor or minimal role in such criminal activity;

(C) if the Government establishes that a defendant who traffics in powder cocaine has knowledge that such cocaine will be converted into crack cocaine prior to its distribution to individual users, the defendant should be treated at sentencing as though the defendant had trafficked in crack cocaine; and

(D) an enhanced sentence should generally be imposed on a defendant who, in the course of an offense described in this subsection—

(i) murders or causes serious bodily injury to an individual;

(ii) uses a dangerous weapon;

(iii) uses or possesses a firearm;

(iv) involves a juvenile or a woman who the defendant knows or should know to be pregnant;

(v) engages in a continuing criminal enterprise or commits other criminal offense in order to facilitate his drug trafficking activities;

(vi) knows, or should know, that he is involving an unusually vulnerable person;

(vii) restrains a victim;

(viii) traffics in cocaine within 500 feet of a school;

(ix) obstructs justice;

(x) has a significant prior criminal record; or

(xi) is an organizer or leader of drug trafficking activities involving five or more persons.

(2) RATIO.—The recommendations described in the preceding subsection shall propose revision of the drug quantity ratio of crack cocaine to powder cocaine under the relevant statutes and guidelines in a manner consistent with the ratios set for other drugs and consistent with the objectives set forth

in section 3553(a) of title 28 United States Code.

(b) STUDY.—No later than May 1, 1996, the Department of Justice shall submit to the Judiciary Committees of the Senate and House of Representatives a report on the charging and plea practices of Federal prosecutors with respect to the offense of money laundering. Such study shall include an account of the steps taken or to be taken by the Justice Department to ensure consistency and appropriateness in the use of the money laundering statute. The Sentencing Commission shall submit to the Judiciary Committees comments on the study prepared by the Department of Justice.

No further amendment is in order except the amendment in the nature of a substitute printed in House Report 104-279, which may be offered only by the gentleman from Michigan [Mr. CONYERS] or his designee, is considered read, is debatable for 1 hour, equally divided and controlled by the proponent and an opponent of the amendment and is not subject to amendment.

It is now in order to consider the amendment printed in House Report 104-279.

□ 1900

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. CONYERS: Strike all after the enacting clause and insert the following:

**SECTION 1. DISAPPROVAL OF AMENDMENTS RELATING TO LOWERING OF CRACK SENTENCES AND SENTENCES FOR MONEY LAUNDERING AND TRANSACTIONS IN PROPERTY DERIVED FROM UNLAWFUL ACTIVITY.**

In accordance with section 994(p) of title 28, United States Code, amendments numbered 5 and 18 (except to the extent they amend section 2D2.1) of the "Amendments to the Sentencing Guidelines, Policy Statements, and Official Commentary", submitted by the United States Sentencing Commission to Congress on May 1, 1995, are hereby disapproved and shall not take effect.

**SEC. 2. REDUCTION OF SENTENCING DISPARITY.**

(a) RECOMMENDATIONS.—

(1) IN GENERAL.—The United States Sentencing Commission shall submit to Congress recommendations (and an explanation therefor), regarding changes to the statutes and sentencing guidelines governing sentences for unlawful manufacturing, importing, exporting, and trafficking of cocaine, and like offenses, including unlawful possession, possession with intent to commit any of the forgoing offenses, and attempt and conspiracy to commit any of the forgoing offenses. The recommendations shall reflect the following considerations—

(A) the sentence imposed for trafficking in a quantity of crack cocaine should generally exceed the sentence imposed for trafficking in a like quantity of powder cocaine;

(B) high-level wholesale cocaine traffickers, organizers, and leaders, of criminal activities should generally receive longer sentences than low-level retail cocaine traffickers and those who played a minor or minimal role in such criminal activity;

(C) if the Government establishes that a defendant who traffics in powder cocaine has knowledge that such cocaine will be converted into crack cocaine prior to its distribution to individual users, the defendant should be treated at sentencing as though the defendant had trafficked in crack cocaine; and

(d) an enhanced sentence should generally be imposed on a defendant who, in the course of an offense described in this subsection—

(i) murders or causes serious bodily injury to an individual;

(ii) uses a dangerous weapon;

(iii) uses or possesses a firearm;

(iv) involves a juvenile or a woman who the defendant knows or should know to be pregnant;

(v) engages in a continuing criminal enterprise or commits other criminal offenses in order to facilitate his drug trafficking activities;

(vi) knows, or should know, that he is involving an unusually vulnerable person;

(vii) restrains a victim;

(viii) traffics in cocaine within 500 feet of a school;

(ix) obstructs justice;

(x) has a significant prior criminal record;

or

(xi) is an organizer or leader of drug trafficking activities involving five or more persons.

(2) **RATIO.**—The recommendations described in the preceding subsection shall propose revision of the drug quantity ratio of crack cocaine to powder cocaine under the relevant statutes and guidelines in a manner consistent with the ratios set for other drugs and consistent with the objectives set forth in section 3553(a) of title 28, United States Code.

(b) **STUDY.**—No later than May 1, 1996, the Department of Justice shall submit to the Judiciary Committees of the Senate and House of Representatives a report on the charging and plea practices of Federal prosecutors with respect to the offense of money laundering. Such study shall include an account of the steps taken or to be taken by the Justice Department to ensure consistency and appropriateness in the use of the money laundering statute. The Sentencing Commission shall submit to the Judiciary Committees comments on the study prepared by the Department of Justice.

The **CHAIRMAN**. Pursuant to the rule, the gentleman from Michigan [Mr. CONYERS] will be recognized for 30 minutes, and a Member opposed will be recognized for 30 minutes.

Mr. **MCCOLLUM**. Mr. Chairman, I am opposed to the amendment.

The **CHAIRMAN**. The gentleman from Florida [Mr. MCCOLLUM] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. CONYERS].

Mr. **CONYERS**. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I offer a very simple substitute to the Senate bill that we are dealing with this evening. I offer my amendment as a substitute to the language in S. 1254. My bill is exactly the same in the language as S. 1254 in every respect, except that it deletes the section disapproving the Sentencing Commission's recommendation that the penalties for crack cocaine and powder cocaine be equalized.

To make it clear, we are now dealing with my substitute amendment. I urge that it be carefully considered.

Mr. Chairman, I reserve the balance of my time.

Mr. **MCCOLLUM**. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think the gentleman is sincere in what he wants to do, and I know that there is considerable concern about the difference between the quantities that are involved in the possession offense for crack and the quantities involved with respect to powder. That has really been the discussion through the general debate and some of the rule debate this evening.

My own judgment personally is the Sentencing Commission ultimately should come back both for trafficking and possession with something that closes that gap, but does not go to the 1 to 1 ratio, that does not completely eliminate it, which is what the gentleman would do with regard to the so-called possession offense.

But one point really needs to be made. When we are dealing with 5 grams of crack, which is what we are talking about tonight, we are dealing with 20 to 50 doses at least of crack. We are not really dealing with possession in the simple sense of mere use. We are dealing with a dealer.

When somebody is out on that street and he has 5 grams in his possession, he does not have it there for the purposes of consuming it or using it. He has it there because he is out there to sell it, to make money, to traffic in it. That is the common amount, and a very sizeable amount that is used by those who are out there selling it.

If you want to look at how this all takes place, the Colombian cartel, for example, sends the powdered cocaine to New York or Chicago or San Francisco or Atlanta or wherever. They probably have somebody here, maybe legally or illegally, who is a Columbian, part of the Columbian mafia, if you will, and they divide up that powder. And they, more likely than not, are the one that converts it to crack in a large warehousing operation, not a little operation where we are going to take a spoon and put it in the microwave, although you can do that and get results.

The truth is, they make very large quantities of crack, and they get their folks out there in New York or Atlanta or Jacksonville or Miami or wherever, that distribute or sell this crack in these doses of about 20 to 50, in that kind of quantity. So 5 grams is a very common amount for a major crack distribution ring member to be carrying around.

Prosecutors do not prove their case on proving a sale. It is very difficult to do. Even when you are dealing with the large powder Colombian cartel members, in proving huge quantities, it is usually proved by circumstantial evidence of proving they have had this huge quantity, and inferring from that or having the jury infer from that that indeed, there is a trafficking going on here.

Occasionally they are fortunate enough to be able to prove by some

technical method that money transferred or occurred. If we take away from the law the sentencing distinctions on the possession of 5 grams of crack, as the gentleman from Michigan wants to do, we have undermined the Federal prosecutors in doing any kind of effort to prosecute effectively those who are the dealers for the most part in the United States. They may still be able to catch occasionally one of the Colombian cartel members or one of his honchos from Colombia sitting up in the big cheese of New York, but they are not going to be able to deal with street crime effectively at all anymore. I want all Members to understand what the gentleman is proposing is a dramatic reduction in the sentencing for those who are dealers in crack.

Now, one other point needs to be made, and that is that because we are dealing with what the Sentencing Commission can do, if literally it is 5 grams of crack that we are talking about, then in that situation the minimum mandatory sentence is not going to be altered by anything we do tonight. The Sentencing Commission has no power over that. It is not before us tonight. The Congress would have to go in and alter it. It is a minimum mandatory sentence, as is the 500-gram minimum mandatory sentence for powder. That disparity that so many are talking about will remain on the books tonight, no matter what we do.

What we will do is to have the strange anomaly, if we were to adopt the gentleman's amendment, of having somebody dealing in 4.9 grams of crack being able to get a very much lower sentence than the minimum mandatory sentence for the 5 gram dealer.

Do not believe there are not going to be a lot of people out there trying to weigh cocaine very carefully to be sure they are only carrying around 4.8 or 4.9 grams and not 5, because they are going to get a huge difference in the sentence they could get in the Federal courts for this particular situation.

In addition to that, you are going to mess up the chain reaction the prosecutors need. They need to grab that guy who is the dealer on the street. They do not care about the user. If you look at the thousands, and there are thousands of those locked up who are dealers on the streets in Federal prisons today, we are not talking about hundreds of thousands, but several thousand, most of them, 99 percent of them are not there for any use. They are there because they are a dealer, and they are there because they did not cooperate in helping getting the bigger guy who actually provided them with the stuff.

This is an important leverage tool for our prosecutors, the ability to prosecute the 5 grams of crack, the street dealer with this 20 to 50 doses in his pocket out there, and threaten him, even if we do not actually put him in jail, with the fact that he can go there for a long period of time.

A few of them decide that they are not going to squeal, and they are not going to tell who the other person is upstairs, and they do wind up serving their sentences, perhaps longer than maybe some others might like to see happen. But we cannot relent now in the war against drugs at the street level and expect to be able to be successful in any way if we adopt the Conyers amendment. It is not an appropriate amendment to adopt tonight.

I would also make one or two other points while I am up here about the racist question. I have heard it debated ad nauseam and I understand the sincerity of those making it, but let me suggest to you that the fact that there are more blacks in jail, whether it is for this reason or a lot of other reasons, and they are there for a lot of other reasons, whether there are more blacks on death row, which we have debated out here when we debated the death penalty, proportionate to their population numbers and ratios to the whites or other races in our society, or in the case of the crack cocaine issue, it is not racist that they are there. It is not, in my judgment, at all racist.

If you think about those words, the idea of racism implies prejudice. It implies that we in Congress or those in law enforcement are out there intentionally attempting to put somebody in jail because of the color of their skin or to make them serve a longer sentence. That is not so. What we are talking about is the truth of the matter, is that for better or worse, many African-Americans, especially these juveniles who do not have the jobs that have been discussed out there tonight as well, who for a variety of root causes, welfare, and so forth, look to the way of crime, particularly dealing in crack, as a way to make money. They are naturally going to be the ones that are most often caught up in it, but it does not mean the fact that we are equally applying the laws, which we are, to whites and blacks and Asians and Hispanics and everybody else, that the law is racist or that the end result is racist. It is not. It is not.

Ms. WATERS. Mr. Chairman, will the gentleman yield?

Mr. MCCOLLUM. I yield to the gentleman from California.

Ms. WATERS. Mr. Chairman, let me give the gentleman a fact, and tell me whether or not this is racist. In Los Angeles, the U.S. district court prosecuted no whites, none, for crack offenses between 1988 and 1994. This is despite the fact that two-thirds of those who have tried crack are white, and over one-half of crack's regular users are white. I will give you that fact again. None. Not one white in the U.S. district court in Los Angeles was prosecuted for crack offenses between 1988 and 1994. Check it out.

Mr. MCCOLLUM. Mr. Chairman, if I can reclaim my time, I will check it out. I would suggest to the gentleman, unless there is an extraordinarily good reason why, that perhaps

the prosecutor you just named may himself have been in some way prejudiced or biased. That is the implication you have given. But the statistics alone do not prove racism, just as they do not prove disparate impact. Statistics do not prove it. They suggest we ought to look into it. I would not question we should look into it. But by and large, the truth of the matter is, if we are applying it equally, the law itself is not racist.

Perhaps an individual prosecutor might be racist. I believe though that the issue tonight does not have bearing on directly, though we are concerned about it, with what an individual prosecutor might do, but rather what are the guidelines that we are giving them? What are the guidelines of the law, what are the guidelines of the Sentencing Commission, what are the guidelines of the Department of Justice. We can then go back and should go back in our committee work and in our jobs as Members of this Congress and as the executive branch in its role in the Department of Justice in ferreting out racial bias and discrimination and improper processing.

If it is a U.S. attorney that does something improper and discriminatory in nature, he ought to be disciplined. We should take advantage of making sure that happens. But the law itself, which is what we are dealing with tonight, should be colorblind, and it is colorblind in this regard.

Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, would my colleague, the chairman of the committee, remember, we do not have to check out the statement of the gentleman from California [Ms. WATERS]. I brought that before the Subcommittee on Crime's attention months ago. This is not something we ought to have to check out.

The second thing I would like my friend from Florida to remember is that, and he has repeatedly said this during this debate, 5 grams possession of cocaine or crack is no presumption that they are selling. Sale and trafficking is a completely different crime. So the gentleman should remember that there is no way that the gentleman can presume that someone that has 5 grams of anything is indeed dealing in sale. That turns on the facts and the evidence in the court. If the prosecutor finds someone selling, he will prosecute for sale.

Now, Mr. Chairman, we are going to be working on this subject of crime and race for the rest of our career, I would say to the gentleman from Florida [Mr. MCCOLLUM], so we do not want to get off into space tonight on it. What I want the gentleman to know, and perhaps we will have to deal with this more carefully in our committee, is that African-Americans by more than one study are more likely to be arrested, more likely to be charged with

more offenses, more likely to be prosecuted, more likely to receive heavier sentences, more likely to go to death row. That is because of the racial injustice in the criminal justice system.

Please remember this as we proceed on into other related subjects about race and the criminal justice system.

Mr. Chairman, I yield 4 minutes to the gentleman from New Jersey [Mr. PAYNE], who serves now as the current chairman of the Congressional Black Caucus.

Mr. PAYNE of New Jersey. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, as chairman of the Congressional Black Caucus, I rise in strong opposition to this outrageous attempt to thwart the recommendations of the Sentencing Commission and I rise in strong support of the Conyers amendment. The sentencing guidelines are an effort to restore some degree of fairness to our criminal justice system by addressing the enormous disparities that exist between the penalties for crack cocaine and those for powder cocaine.

Mr. Chairman, the Sentencing Project, a national nonprofit group, recently noted that while African-Americans constitute 13 percent of all monthly drug users, they represent 35 percent of arrests for drug possession, 55 percent of convictions and 74 percent of prison sentences. One of the primary reasons we have experienced a rise in minority incarcerations is the imbalance in our national drug policy not an increase in crime.

Is this equal justice under the law—to say that if you can afford powdered cocaine you will be given preferential treatment in the courts? I don't think any fair-minded American supports this blatant inequity in our system.

Our drug policy has become a tale of two cities, or, more accurately, a tale of two classes—rich and poor.

Mr. Chairman, it was the U.S. Congress which created the Sentencing Commission in 1984 to allow criminal justice professionals to establish sentencing guidelines for Federal crimes. Now, Congress has decided that they don't like the decision that the Commission has made, after careful study and analysis, to equalize the penalties for crack and powder cocaine. The Commission specifically noted that "blacks comprise the largest percentage of those affected by the penalties associated with crack cocaine."

As some of my colleagues have pointed out, the Million Man March this past Monday highlighted the importance of racial justice as we work to rid our communities of drugs and violence and to restore hope to Americans who have been living too long with no hope and little faith in our system of justice. Restore fairness and equity to our criminal justice system—oppose this attempt to disapprove the Sentencing Commission recommendations and support the Conyers amendment.

□ 1915

Mr. MCCOLLUM. Mr. Chairman, I yield myself 1½ minutes.

I just wanted to make a response to the gentleman from Michigan in particular, my good friend who is the ranking member on the minority side of the full committee. I certainly recognize, as he suggests, that we do have to deal, as a committee, and the subcommittee on crime particularly, with the potential for racial bias and concerns in law enforcement and in our judiciary. And I am willing and ready to do that.

But, Mr. Chairman, the issue tonight is really not over that, it is over the law. The cold hard law that is going to be applied to whites and blacks and everybody else. Whether or not it is applied equally by individuals who are in the system is another separate matter. We are talking now about the actual guidelines, the sentence guidelines.

I, for one, and I think a lot of us who do believe in fairness and equity, do not want to reduce the penalties for crack cocaine. We do not want to do it. We might consider later on, and hope the Sentencing Commission does some leveling of the process of disparity that has been discussed by raising perhaps the powder, but the way to deal with it is to send this back to the Sentencing Commission tonight, not attach an amendment that dramatically lowers these penalties.

Where there is a problem with bias in the system, let us work to get it out of the system. The bias is not in the sentencing, it is not in that part of the law. The bias is in, if it is there, in the individuals and how they are enforcing the law.

Mr. CONYERS. Mr. Chairman, I yield myself 30 seconds to continue the dialog with the chairman of the subcommittee.

As the gentleman knows, this is a disparity that comes about because one community uses one drug and that this drug has been pinpointed by law enforcement officers and the arrest rate has gone up astronomically.

As the gentleman also knows, the rate of usage of even crack is exceeded in the white community and there is no 95 percent conviction rate for that same drug.

Mr. Chairman, I yield 3 minutes to the gentleman from New York, Reverend FLAKE.

(Mr. FLAKE asked and was given permission to revise and extend his remarks.)

Mr. FLAKE. Mr. Chairman, some of us who stand on this floor tonight have been put in a very untenable position by persons who indicate that periodically they have an opportunity to go into these communities and they make a determination on what is best for the persons in that community by the basis of those periodic trips.

I stand tonight, Mr. Chairman, as a person who lives in such a community as they visit, a community where I also happen to pastor a church of some 8,300

members. I think I am in a position to do a pretty good job of judging that which is imperative for a change in the quality of life there.

Let me make it very clear that the position that some of us are put in to night is to give the appearance that we do not want to see drugs dealt with harshly. Let us make sure that it is understood that that is not the case. What we do want is fairness. We want equality. We want justice. The reality is we have seen too many of our young men become the fodder for the development of the growing criminal justice enterprise in this Nation. Too many young people with promise and prospects and possibilities have been cut short largely because our laws are not justifiable.

Over the last several weeks we have come face-to-face with the reality that the Commission report was in fact not only projective but has become reality, in that we do have two societies with two views on almost everything. And undergirding most of those views is the reality of race.

I cannot imagine that we in the U.S. House of Representatives cannot see that differential. We react very violently. We react in such ways to declare. We cannot imagine how people could possibly react to decisions they see in society based on what they perceive to be the evidence. It is because of circumstances like those that we face today, Mr. Chairman, circumstances where there is a class of people who believe that they are being dumped on by the very system that has a responsibility to protect them, a system that has a responsibility to deal fairly, not on the basis of misperceptions, not on the basis of stereotypes, not on the basis of anecdotal evidence that has no real support.

Indeed, Mr. Chairman, in this case, persons were put on a commission. They had an obligation to look at all sides of an issue. They looked and what they discovered was a disparity. It seems to me that the Congress ought to accept that recommendation. They ought to understand that what all people in this Nation want, regardless of their color, is to make sure that in our laws there is justice.

They will see no justice in what we do tonight, and we will wonder the next time there is a march, whether it is a million men or whether it is 400,000 does not matter, why are they marching? Why are they demanding so much? What do they want? What they want is justice. What they want is a system that is fair.

Mr. Chairman, if we cannot raise the standards as it relates to crack, we cannot raise the standard as it relates to heroin, then we ought to at least find a way to make it equal. It ought not to be based on race, and it is, whether we say it or not.

Mr. MCCOLLUM. Mr. Chairman, I yield 3 minutes to the gentleman from Tennessee [Mr. BRYANT].

Mr. BRYANT of Tennessee. Mr. Chairman, I thank the gentleman from Florida for yielding me time.

I just want to follow up on some of the comments being made tonight and continue the reference to these statutes and penalties being race-based and basing that primarily on statistical data of sheer numbers of people in the penitentiary. As most people who have worked in this industry and who have been involved in the prosecution and investigation of these types of cases understand, the typical drug scheme out of Colombia, or wherever, is somewhat an upside-down pyramid, where we have the source country sending out drugs. And as they go further away from Colombia and enter into the United States, and further into the central United States, they are distributed to more and more people, again, much like an upside-down pyramid, to the point that they begin to reach the streets and reach the communities.

They are readily available, because they are easily hid. We are talking about small rocks here. Because they are very cheap, they are very accessible to our young people, our teenagers, people who do not have a lot of money to spend, people who will very oftentimes commit acts of violence to get the money to purchase these. And primarily because these drugs are extremely addictive, I question those people that stand up and say that they are the same thing.

Mr. Chairman, that process of cooking that cocaine makes a tremendous difference on that crack. I think the evidence clearly shows that crack cocaine, as I have mentioned before, is not only more addictive but it causes a more intense addiction, a more intense high, as well as a more intense drop off of that high, which creates the addiction. Again, they may be the same thing beginning and end, but that process which results in the crack cocaine makes a dramatic difference to the users, and I cite those statistics of the sheer numbers of people who use those.

Because of that, Mr. Chairman, we cannot ignore this problem that is sweeping our communities. If we do, as has been alluded to by the gentleman from Georgia [Mr. BARR] and so many other people, what do we tell these people who come up and rise up in the communities, the mothers of these children, that we would like to choose to ignore at this point; that we are not going to prosecute these cases; that we are working under some sort of quota system because so many blacks at that level in this upside-down pyramid are in prison?

That is not the way our system works. In fairness and equality, we have to prosecute all those cases. It may be at some point in the future this ratio of 100 to 1 is too high and that we will have to revisit this. But I think most of us would agree we do not want to lessen the penalties for cocaine but rather increase those at the appropriate time.

I, for one, Mr. Chairman, and I think the gentleman from Florida [Mr. MCCOLLUM], the committee chairman, has indicated he shares that same desire of perhaps bringing those ratios closer together, but let us not send the wrong message to our society by lessening penalties for crack cocaine.

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia [Mr. SCOTT], a distinguished member of the Committee on the Judiciary.

Mr. SCOTT. Mr. Chairman, this amendment exposes the bill for what it is. Ten doses of crack, about a couple hundred dollars' worth, possession only, 5 years mandatory minimum. No amount of possession of uncooked crack, that is powder, can get an individual a mandatory minimum. In fact, it takes almost \$50,000 worth of cocaine for conviction of distribution to get the 5 years mandatory minimum.

So we have the situation where we can catch someone distributing 20,000 dollars' worth of powder, they get probation; and the person caught with a couple hundred dollars' worth of possession only, crack cocaine, gets a 5-year mandatory minimum.

Mr. Chairman, 95 percent of those who are charged with crack offenses are black or Hispanic, 75 percent of those charged with powder offenses are white. This amendment addresses possession only.

We have heard, through evidence in drug courts, that the best way to deal with nonviolent, low level, first offense, possession only drug offenders is through treatment. If we send them to jail we can expect a recidivism rate of 68 percent, which would cost us, at 5 years, \$25,000 a year, it costs us \$125,000. If we give them treatment, an 11-percent recidivism, an 80-percent drop, at \$1,600 in cost, that is less than 2 percent of what it took to send them to prison.

So if we lock up a group, virtually all black and Hispanic, it will cost us more and we will end up with more crime. That does not make sense.

Mr. Chairman, we do not have a mandatory jail sentence for any drug possession charge other than crack, for which virtually all the defendants are black and Hispanic. Not uncooked crack, that is powder, not heroin, PCP, LSD. Nothing for possession only. The 5-year mandatory minimum for possession of crack costs more, results in more crime, and locks up minorities. That is why the Commission voted to change it.

Mr. Chairman, we have never rejected a Commission recommendation. At least let the recommendations as far as possession of crack go forward. Vote "yes" on the Conyers amendment.

Mr. CONYERS. Mr. Chairman, I yield 4 minutes to the gentleman from California [Ms. WATERS].

Ms. WATERS. Mr. Chairman, we have been before this body this evening pointing out the disparity, pointing

out the inequality, pointing out the injustice of the system as it operates now. I am surprised at much of the rhetoric and all of these so-called conversations that my friends on the other side of the aisle have been having in minority communities.

□ 1930

I am glad to know that my colleagues are going there. I am glad to know that they are communicating. But let me tell my colleagues what the mothers in my community say where I live.

They say: Ms. WATERS, why do they not get the big drug dealers? What is this business under Bush that stopped resources going to interdiction? Why is it large amounts of drugs keep flowing into inner cities? Where do they come from and why do not they get the real criminals, Ms. Waters, why is it 19-year-olds, who are just stupid? They are not drug dealers; 19-year-olds who wander out into the community and get a few rock crack cocaine. Why is it they end up in the Federal system? Why is it they end up with these 5-year minimum mandatory, up to 10 years mandatory sentences? Why can you not get the big guys?

They say: We believe there is a conspiracy. This is what mothers in these communities say. We believe there is a conspiracy against our children and against our communities. They do not understand it when policymakers get up and say, Oh, it is not interdiction that we should be concerned about. As long as there is a desire for drugs, they are going to continue to flow and what we have got to do is just concentrate on telling them, Just say no.

They say: Ms. WATERS, we do not understand that and we do not know why a first-time offender, who happens to be black or Latino, ends up with a 5-year sentence. And why is the Federal Government targeting our communities? They are targeting our communities and they are not targeting white communities who are the major drug abusers. They are targeting our communities from the Federal level. Thus, our kids go into the Federal system and the whites, who are drug abusers and traffickers, go into the State systems. They get off with their fancy lawyers with probation, with 1 year, with no time, and our kids are locked up.

Mr. Chairman, for those of my colleagues who say, Well, we know it is unfair, but just keep letting it go on for a while and we will take a look at it, are they out of their minds? How can they stand on the floor of Congress pretending to support a Constitution and a democracy and say, "We know it is not fair, but just let it continue and we may take another look at it"?

When I give them the facts and they know them to be true, and I will say it again. In Los Angeles, the U.S. District Court prosecuted no whites, none, for crack offenses between 1988 and 1994. And my colleagues tell me that they

think it may be applied unequally? This is despite the fact that two-thirds of those who have tried crack are white and over one-half of crack regular users are white. This is a fairness issue and it is a race issue.

Mr. Chairman, I do not care how they try and paint it. I do not care what they say. This is patently unfair. It is blatant and my colleagues ought to be ashamed of themselves. It is racist, because their little white sons are not getting caught up in the system. They are not targeted. Our children are.

Mr. Chairman, they are going into the Federal system with mandatory sentences and it is a race issue. It is a racist policy.

Mr. Chairman, I yield back the balance of my time.

Mr. MCCOLLUM. Mr. Chairman, I yield 4 minutes to the gentleman from Georgia [Mr. BARR], a member of the committee.

Mr. BARR. Mr. Chairman, do my colleagues on the other side of the aisle know what they all are applauding? They are applauding going lenient on people who traffic in death in their communities. In their communities in Los Angeles and in Georgia and all across the country.

Mr. Chairman, if it is so improper, it is so outrageous for this Congress to be debating whether to disapprove proposals, and that is all the Sentencing Commission's amendments are, is proposals, if it is so outrageous as these folk on the other side of the aisle would have the country believe, to be debating whether or not we, as representatives of the people, believe that these guidelines are in fact appropriate or not appropriate, then I am tempted, I will not ask, but I am tempted to ask many on the other side of the aisle who were here a decade ago when the Sentencing Reform Act was passed that gave rise to the mechanism that brings us here this evening, why they in fact voted for that. Why the Congress a decade ago voted for that, when in fact the law itself provides for this review mechanism itself.

Mr. Chairman, the law passed by previous Congresses, in which they were in a majority, passed a Sentencing Reform Act that set up the Sentencing Commission and set up the mechanism that says in each and every instance when these amendments are proposed by the Sentencing Commission, that they shall in fact be reviewed or either adopted or rejected by the Congress of the United States.

That is, in fact, Mr. Chairman, very appropriate, lawful, and clearly contemplated by them when this law was passed. The mechanism that brings us here this evening. And it is extremely disingenuous for those very people to now say, we should not be passing judgment on the Sentencing Commission. After all, they were set up by statute. The same statute said explicitly that we should pass judgment on these.

In fact, Mr. Chairman, the mechanisms and the penalties we are debating here tonight reflect reality. Not

what is going on on the other side of the aisle, but reality in the real world.

In the real world, Mr. Chairman, crack cocaine kills people. It kills people quicker than powdered cocaine. It creates a more intense, more serious, and much more rapid high in much less quantities than powdered cocaine. It is reflective of those proven scientific facts, Mr. Chairman, that have led prosecutors utilizing these statutes, adopted previously by the Sentencing Commission, to say to drug dealers, drug traffickers, those who possess more than 5 grams of crack cocaine, which is a significant quantity of crack cocaine. It might not be a significant quantity of marijuana or powdered cocaine to the same extent, but it is a significant quantity. It is, in fact, these quantities that deal the death in the communities by people that they wish to protect here this evening.

In fact, Mr. Chairman it provides law enforcement an important tool. Law enforcement goes where the crack cocaine is. They do not make it up. They go where the crack cocaine is being distributed and is being trafficked. These sentencing guidelines with the mandatory minimums, Mr. Chairman, give them essential tools, very essential tools to root out these dealers and runners who operate in broad daylight. It gives our law enforcement officials, Mr. Chairman, in many instances the only vehicle that will take them from those daylight sales of those quantities. They may appear small, but they are numerous, they are frequent and they are dangerous, to get them inside to the distributors, the top level distributors, which, in fact, Mr. Chairman, we as Federal prosecutors, deal with. We do prosecute top-level drug traffickers through Organized Crime Drug Enforcement Task Forces and other task forces across the country.

So, Mr. Chairman, I am not going to stand here and listen to the demagoguery on the other side saying that we do not prosecute these cases. We do prosecute them. They are being prosecuted and let us not let up now.

Mr. CONYERS. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. HASTINGS].

Mr. HASTINGS of Florida. Mr. Chairman, I would ask the gentleman from Georgia [Mr. BARR] to be responsive to a question that I would like to put to him, if he would.

Mr. Chairman, I heard the gentleman from Georgia say that this gives law enforcement a tool for the purpose of being able to get inside the larger portions of the operation. I gather that to be the essence of what you said. You were a prosecutor and I was a judge. Name me one crack case that led to a Colombian drug dealer being put in jail. Name one.

Mr. BARR of Georgia. How about Operation Polar Cap, Judge?

Mr. HASTINGS of Florida. Operation Polar Cap did not start with a crack cocaine operation whatsoever.

Mr. BARR of Georgia. It dealt in crack cocaine.

Mr. HASTINGS of Florida. You said that street dealers lead to that kind of tool. You know doggone well that is not true.

Mr. BARR of Georgia. I am not going to be lectured here by you. We are dealing with the real world, Mr. Chairman.

Mr. HASTINGS of Florida. What real world are you talking about?

Mr. BARR of Georgia. The real world that you are not operating in any longer, Judge.

Mr. HASTINGS of Florida. When you stand there and give forth with pontification as if you were God, we live these circumstances every day of our lives. You have not lived there and don't you dare come forward in that manner.

The CHAIRMAN pro tempore (Mr. BEREUTER). The gentleman from Florida did control the time. The committee will follow proper procedural order here.

Mr. CONYERS. Mr. Chairman, I yield 4 minutes to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Chairman, I want to be measured in my response, because this is an issue that is of utmost importance because it deals with fairness. And some of our perceptions of fairness are different than other folks' perception of fairness.

But I just want to appeal to my colleagues, and anybody who is listening, to understand what we are talking about. Five grams. That is what I have got in my hand here. That will get you 5 years in prison. Take this and multiply it times 100 of powder cocaine and you still will not get 5 years in prison. This is 5 grams.

Now, if anybody can say to me that that is fair, whether you live on the white side of town or the black side of town, on this side of the tracks or that side of the tracks, if the gentleman from Georgia [Mr. BARR] can stand up with a straight face and say that that is fair, if he can sleep with himself at night, that is fine. I do not have a problem with that.

But my colleagues ought to know that my constituents do not think that that is fair. It is not about being soft on crime. It is not about condoning drugs. It is not about wanting drugs in our communities. It is about being able to look our children in the face and say: There is fairness in our system of justice. There is fairness in our laws.

That is what this debate is about. My colleagues can say that it is about let us study it again until next year. They can say it is about trying to protect us from ourselves in our communities, and we do not know what is good for our own communities. They can stand up and lecture us about what is good in our communities.

They can say that it ain't about race. They can say that we ought to make the judgment today, based on what we thought was the case 10 years ago when this law was passed. But they ought not be able to go home tonight and look at themselves in the mirror and say that that is fair, because they know it ain't.

The American people know that it is not. And the people who gathered out here on this Mall several days ago know that it is not fair. My colleagues are asking them to have respect for a system of justice that they know, and we know, and they know it is not fair.

When they do not have respect for that system of justice, we cannot be responsible for them. My colleagues want us to be responsible, and we try to be responsible. But in order to be responsible, my friends, we must have equity and fairness in the system.

So, I do not want to belabor this. My friends can pass the buck. They can say we will deal with it next year. But the reason we set up the Sentencing Commission and gave them this authority was to come back with tough decisions and recommendations just like this. And when we draw it back into the political process and politicize these issues of fairness, that we tried to take the politics out of, so that we can go back and say I was tough on crime, I was tough on drugs, my colleagues have got to understand that there is an issue of fairness that everybody knows exists. And if they are not fair, it is going to come back to bite them and they can count on it.

□ 1945

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

I have here from the sentencing project, which did a study called "Young Black Americans and the Criminal Justice System Five Years Later." They end their summary of that report with a chart showing the percentages of African-Americans in the population among the monthly drug users, what percentage they constitute of drug arrests, of drug convictions and prison sentences. Here I think, I say to my colleagues, is where we can get an idea about the unfairness of the system without any doubt whatsoever.

The first chart, the first bar is of the U.S. population of African-Americans by percentage, 12 percent. The next bar is monthly drug users who are African-Americans, 13 percent. The third bar is drug arrests, African-Americans arrested for drug use, 35 percent of all those arrested. But 13 percent are drug users, 35 percent arrested.

The next bar is drug convictions, 55 percent. And the last bar is prison sentences, 74 percent.

So from 12 percent of the population, to 13 percent of the monthly drug users, to 35 percent of the drug arrests, to 55 percent of the drug convictions, to 74 percent of the prison sentences, it seems to me a good time this evening, Mr. Chairman, for the Subcommittee on Crime of the House Committee on the Judiciary, that we begin to plan for an investigation into the relationships between race and the criminal justice system.

Now, we have done that in a couple of important respects this year. I would like all of our colleagues to know

about what the gentleman has done in that regard, because we are having hearings on the militia in America very soon, next month. That was a result of the gentleman's cooperation and the gentleman from Illinois [Mr. HYDE], the chairman, that we would look into these militia, also these other organizations, the skinheads, the Aryan Nations and other sorts of groups.

I have been trying to get that investigation and hearing for many years. We now have another request in to the chairman, not unrelated to this subject, about investigating police activity in America now that we have found that, in Philadelphia, police have been planting drugs, planting evidence to the extent that they have spoiled hundreds of cases pending and that have occurred in the criminal justice system in that city.

We know about the Fuhrman tapes, 12 hours of tapes that recount an incredible amount of intentional lawbreaking not only on the part of former Detective Fuhrman but that was endemic throughout the police department in which he served for many years.

We have complaints coming from as close in as Maryland, as far as New York. New Orleans has been a problem that the Department of Justice has been investigating with a long list of others.

So what we are talking about, and I think we are having an intelligent discussion on it, is race and crime and the criminal justice system. Tonight we focus 48 hours after a million people have visited the Capital. We are now focusing on one item of this huge, complex, difficult-in-America subject to discuss.

I commend the gentleman for the way he has been forthcoming across the months, the gentleman from Florida [Mr. MCCOLLUM]. I know that the gentleman indeed has some reservation about this disparity. The gentleman does not support the sentencing commission, but I do. Most of the Members, I think, in this Congress, after having listened to this debate tonight, will support the substitute that I make to the Senate bill merely to bring into focus one of two recommendations that the gentleman has sought to have rejected by the sentencing commission.

Please, let us give it a shot. It does not change the statutory, mandatory offenses, as the gentleman well knows, but it is the beginning step. It is the beginning step toward undoing this mischief that creates 95 percent of the crack cocaine prosecutions being brought to African-American and Hispanic citizens.

Please join us in this effort. It will not break the bank. It will not change the problems in the criminal justice law. It will not end racism in America. But it will be one small but all-important step toward us making this a better place to live. It will restore some

confidence that is badly needed in the system.

I urge the gentleman to give it his utmost consideration. I hope that all of the Members of this House that have heard this debate will come in and vote freely and fairly about whether or not this disparity between powder and crack should be eliminated this night in this place on this vote.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair would observe that the gentleman from Michigan [Mr. CONYERS] has 1½ minutes remaining, and the gentleman from Florida [Mr. MCCOLLUM], has 11½ minutes remaining.

Mr. MCCOLLUM. Mr. Chairman, I yield 3 minutes to the gentleman from Tennessee [Mr. BRYANT].

Mr. BRYANT of Tennessee. Mr. Chairman, it is an honor to follow such speakers as my distinguished colleagues from the other side of the aisle, my colleagues on the Committee on the Judiciary, the ranking member, the gentleman from Michigan [Mr. CONYERS], the gentleman from Virginia [Mr. SCOTT], and the gentleman from North Carolina [Mr. WATT], who always give serious, measured, well-reasoned debate to any issue that they deal with and to which, while I may disagree with them many of the times, I always try very hard to listen and understand and follow their logic, which is always there. But I think we just have oftentimes philosophical differences, recognizing the same problem out there but just having different ways to get to the solving of those problems.

My colleague from North Carolina held up five packets of sugar as an example of how little amount we are talking about here. But if we were not talking about sugar but rather five packages of rock cocaine and how that would translate in the real world, how much havoc would that wreak, how many lives that would destroy, how much hope that would destroy, I think we would all be shocked at how much addiction that small amount, that small quantity can cause. I think this Congress recognized that 10 years ago and has consistently recognized that over the last 10 years, up to this point.

The laws mentioned that no prosecution of any particular race, color or creed, these laws apply to all. They are equal laws for all people. It may be, if I am hearing from the other side, they are being applied maybe not uniformly. It may be we need more investigators and officers to go out there and ferret out all of the people that are using crack cocaine. But I can tell Members, in the inner city, for all those reasons I have mentioned in the past, how cheap it is, how easy it is hidden, how addictive it is, what a high it can cause. The concentration consistently seems to be in minority areas in the city.

I know from personal experience that is where the law enforcement officers tend to go, where the crime, where the

majority of the crime is. They go out to the highways, interstates to catch the speeders. There are people speeding elsewhere, but most speed there, so they are going to be out there where most of these crimes are committed.

Yes, there are substantially higher drug dealers caught. We seem to focus on the crack cocaine, the street dealers, but they are used to build bigger cases, the gentleman from Georgia [Mr. BARR] mentioned. While it may not cause the downfall of the Colombian kingpin, I can assure Members that these people have been used to make bigger and bigger cases, as we go up that or back up the other side of that inverted pyramid and cause other cases to be made over the years.

The people are being prosecuted for powder cocaine as well as crack cocaine. We are having some success there, but we have got a long way to go. Again I urge my colleagues not to water down these penalties, not to send the wrong message, not only to our young people but to those drug dealers out there that we are lessening that deterrent for drug dealing.

The CHAIRMAN. The gentleman from Florida [Mr. MCCOLLUM] has the right to close, and the gentleman from Michigan [Mr. CONYERS] has 1½ minutes remaining.

Mr. CONYERS. Mr. Chairman, I yield myself the balance of my time.

One reminder about the substitute that is before us, it is dealing with crack possession only, not trafficking, not people working in the underworld. Small amounts of crack, 5 grams, about one-sixth of an ounce is all that is involved.

We implore Members to consider this substitute favorably, which comports with the recommendations of the Sentencing Commission, which we, in fact, created a number of years back. It is a small but very, very important step forward. We hope that with this debate we have illuminated the minds of many of our colleagues who may have been wondering just what this was really all about.

Support my substitute amendment.

Mr. MCCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first of all, I want to tell the gentleman from Michigan, as he well knows, that I respect him and his suggestion with regard to our working together and continuing to work together on trying to resolve matters that involve the problems of the criminal justice system, including those problems where there may be bias or discrimination, those continued relationships will go on. And we will have hearings that indeed will examine those types of problems, particularly when they involve Federal law enforcement officers and which are under our jurisdiction.

With respect to those matters that I think he alluded to a few moments ago, involving some of the State officers, it may well be that is more appropriate

in another subcommittee of the Committee on the Judiciary, the Subcommittee on the Constitution, but I am willing to work with him on all levels about all of that.

Also he probably is well aware that yesterday I joined some of his colleagues on that side of the aisle and some of mine on this side in both races in an effort to encourage the President to form a new Kerner Commission to examine the problems of racial tensions in this country. I personally think it is time we do that again. I think some of the misunderstandings would be helped by a dialog that that commission would represent.

But I think tonight the discourse we have had reflects some divisions of opinion over what is indeed the nature of the subject of criminal justice and sentencing and what is indeed the law and what is impartial and what is cold about it and what should be equal to everybody and what may indeed be perceived as prejudicial or biased or in some way, as someone put it awhile ago, I think the gentleman from North Carolina, unfair.

It is my considered judgment, in all honesty, that the sentencing guidelines that we are wanting to retain and would otherwise be disturbed by the Sentencing Commission if we do not reject the guidelines or if we were to adopt the gentleman's amendment, I believe those underlying guidelines are fundamentally fair. There may be an appropriate time in the future to raise the punishment for powder cocaine to a higher level. But I believe there is nothing about it that is unfair or racially motivated or biased in any way to say, as I do and many of my colleagues, that we want to keep the punishment for crack cocaine and dealing in crack cocaine at the level it is now.

□ 2000

Send that message. Have a mandatory sentence for 5 grams of crack cocaine. That message needs to be out there on the street, and we need to give law enforcement at the Federal level every tool it can have to get crack and cocaine off the streets. I do not want to lower it, and tonight my colleague's amendment, if it were adopted, make no mistake about it, would lower the amount of the punishment for the trafficking in 5 grams or so of crack cocaine, which is 20 to 50 doses, which is the street dealer, which is the runner who is out there who, as a couple of folks on my side have pointed out earlier this evening, is the person we see every day as a police officer on the street, the one we can go after, and the one we can get, and the one who leads on, hopefully, in cases to larger dealers. It is that person who is selling that crack not just in the ghetto, but in the schools of our country, in the schools that are inhabited by all races of all colors and all nationalities, exposing our youth to the death that crack and cocaine do imply and do occur at times, and while I can be sympathetic

to the concerns that there are more blacks in jail today because of dealing at this level in crack cocaine, I am sympathetic because of the fact that I know that they come from problem families because their youths oftentimes are starting into this effort at the ages of 10, 12, 14, not 19 as somebody said earlier, but very young ages to deal maybe because of poverty, maybe because they got involved in a gang, maybe because they do not have the right education. Who knows the reason? But they are there because they dealt in the cocaine at the time. They are not there because of the problems that created the environment out of which they came, and, while I would like to deal with that environment, and I will be glad to work with those on the other side of the aisle as well, as those on my side, to deal with it, the place and the time is not tonight. It is not in dealing with the question of sentencing guidelines.

What we are here about tonight is simple. We are here tonight to say that 25 of the 27 recommended amendments of the Sentencing Commission be allowed to go into effect, but we are here tonight to reject two of them, two of them to lower the punishments dramatically for money laundering and crack cocaine, and I, for one, believe that those are simple, straightforward messages. We do not have the opportunity tonight to eliminate, or reduce, or mitigate minimum mandatory sentences for crack cocaine or anything else. We are simply here to reject or accept the question with regard to the recommendations of the Sentencing Commission, and with respect to the crack cocaine issue and the gentleman's specific concerns as are addressed in the Conyers amendment, we are dealing with a recommendation that came to us split 5-to-4. The minority, four, fought strongly against, and we are here tonight dealing with a matter where we have heard from law enforcement of all levels, of all races, of all colors, telling us that they believe there should be a distinction between powder and crack, that crack is more dangerous. We have heard the experts. They told my subcommittee that it is more addictive, it does lead to more problems, it is the major problem, and we do need to keep differences, and we are here tonight to send this back to the Sentencing Commission and say, "Look, there may be some mitigation you want to do. Go look at it again, but don't bring us back a 1-to-1 ratio between crack and powder. We want to see something different."

The gentleman from Michigan's amendment would go to an absolute 1-to-1 ratio between powder and crack tonight. It would reduce substantially the amount of punishment for crack dealers. It does not increase the powder. It is not permitted tonight under the rules. It is, make no mistake about it, if adopted, a reduction, a dramatic reduction, in the punishment for crack

cocaine dealing in this country as we know it.

Mr. SCOTT. Mr. Chairman, will the gentleman yield?

Mr. MCCOLLUM. I yield to the gentleman from Virginia.

Mr. SCOTT. Mr. Chairman, I would ask the gentleman about the Conyers amendment itself; it just deals with possession. It does not do anything dealing with distribution, dealing. It discourages all of that.

Mr. MCCOLLUM. Reclaiming my time, Mr. Chairman, it deals with possession of 5 grams or so of crack, and it is that possession—not use, not consumption—that we are concerned about. It is that possession which is in fact dealing. It is trafficking.

If I can retain my time, I say to the gentleman, you do not possess 5 grams of crack, which is 20 to 50 doses, for your personal consumption. That is the normal routine street-dealer amount that it's cut up in and divided and sold in. This is a dealer, and it is the way prosecutors prove their case. They don't have the ability to prove the actual cash transactions in most instances. That is true of the bigger transactions, as well as the smaller transactions, so we are dealing now with the possession question, but a possession question concerning trafficking, not simple use.

So, let us make no mistake about it. If we take this tool away from our Federal prosecutors, we are not going to be allowing them to do their job, we are not going to get crack dealing off the streets, and we are not going to get the major prosecutions that we want to have.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. MCCOLLUM. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Subcommittee Chairman on Crime, ask any prosecutor. Five grams of possession is possession. Trafficking—sale—is a different crime, and, if there is evidence for that, that is what the charge will be. Please do not muddy the waters as we conclude this debate.

Mr. MCCOLLUM. Reclaiming my time, I would suggest that the muddied waters are there because the reality of prosecution is that in this area of the law in dealing with crack we are talking about distributors, we are talking about possession of large quantities, dealing quantities. That in and of itself is proof of dealership, and that is the way cases are made. We are tonight talking about something very significant and very important that would, if adopted—the Conyers amendment—destroy the underlying prosecutions of crack dealers on the streets of this country.

Mr. Chairman, I urge a "no" vote.

The CHAIRMAN pro tempore (Mr. BEREUTER). The question is on the amendment in the nature of a substitute offered by the gentleman from Michigan [Mr. CONYERS].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MCCOLLUM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 98, noes 316, not voting 18, as follows:

[Roll No. 723]

AYES—98

Abercrombie	Gejdenson	Parker
Andrews	Gibbons	Pastor
Baker (CA)	Hall (OH)	Payne (NJ)
Becerra	Hastings (FL)	Pelosi
Beilenson	Hilliard	Peterson (FL)
Berman	Hinchev	Roybal-Allard
Bevill	Horn	Sabo
Bishop	Jackson-Lee	Sanders
Bonior	Jefferson	Sawyer
Browder	Johnson, E. B.	Schroeder
Brown (FL)	Kennedy (MA)	Scott
Clay	LaFalce	Serrano
Clayton	Lantos	Lewis (GA)
Clyburn	Lewis (GA)	Lofgren
Collins (IL)	Martinez	Matsui
Collins (MI)	Martinez	McCarthy
Condit	Matsui	McDade
Conyers	McCarthy	McDermott
Coyne	McDade	McKinney
DeFazio	McDermott	Meek
Dellums	McKinney	Mfume
Dingell	Meek	Miller (CA)
Dixon	Mfume	Mink
Engel	Miller (CA)	Moakley
Ensign	Mink	Moran
Evans	Moakley	Morella
Farr	Moran	Murtha
Fattah	Morella	Nadler
Filner	Murtha	Nadler
Flake	Nadler	Oliver
Foglietta	Oliver	Orton
Ford	Orton	Owens
Frank (MA)	Owens	

NOES—316

Ackerman	Clement	Forbes
Allard	Clinger	Fowler
Archer	Coble	Fox
Armey	Coburn	Franks (CT)
Bachus	Coleman	Franks (NJ)
Baesler	Collins (GA)	Frelinghuysen
Baker (LA)	Combest	Frisa
Baldacci	Cooley	Frost
Ballenger	Costello	Funderburk
Barcia	Cox	Gallegly
Barr	Cramer	Ganske
Barrett (NE)	Crane	Gekas
Barrett (WI)	Crapo	Gephardt
Bartlett	Creameans	Geren
Barton	Cubin	Gilchrest
Bass	Cunningham	Gillmor
Bentsen	Danner	Gilman
Bereuter	Davis	Gonzalez
Bilbray	de la Garza	Goodlatte
Bilirakis	Deal	Goodling
Bliley	DeLauro	Gordon
Blute	DeLay	Goss
Boehlert	Deutsch	Graham
Boehner	Diaz-Balart	Green
Bonilla	Dickey	Greenwood
Bono	Dicks	Gunderson
Borski	Doggett	Gutierrez
Brewster	Dooley	Gutknecht
Brown (OH)	Doolittle	Hall (TX)
Brownback	Dornan	Hamilton
Bryant (TN)	Doyle	Hancock
Bryant (TX)	Dreier	Hansen
Bunn	Duncan	Hastert
Bunning	Dunn	Hastings (WA)
Burr	Durbin	Hayes
Burton	Edwards	Hayworth
Buyer	Ehlers	Hefley
Callahan	Ehrlich	Hefner
Calvert	Emerson	Heineman
Camp	English	Herger
Canady	Eshoo	Hilleary
Cardin	Everett	Hobson
Castle	Ewing	Hoekstra
Chabot	Fawell	Hoke
Chambliss	Fazio	Holden
Chenoweth	Fields (TX)	Hostettler
Christensen	Flanagan	Houghton
Chryslers	Foley	Hoyer

Hunter	McKeon	Sanford
Hutchinson	McNulty	Saxton
Hyde	Meehan	Scarborough
Inglis	Menendez	Schaefer
Istook	Metcalf	Schiff
Jacobs	Meyers	Schumer
Johnson (CT)	Mica	Seastrand
Johnson (SD)	Miller (FL)	Sensenbrenner
Johnson, Sam	Minge	Shadegg
Johnston	Molinari	Shaw
Jones	Mollohan	Shays
Kanjorski	Montgomery	Shuster
Kaptur	Moorhead	Skeen
Kasich	Myers	Skelton
Kelly	Myrick	Smith (MI)
Kennedy (RI)	Neal	Smith (NJ)
Kennelly	Nethercutt	Smith (TX)
Kildee	Neumann	Smith (WA)
Kim	Ney	Solomon
King	Norwood	Souder
Kingston	Nussle	Spratt
Klecza	Oberstar	Stearns
Klink	Obey	Stenholm
Klug	Ortiz	Stockman
Knollenberg	Oxley	Stump
Kolbe	Packard	Stupak
LaHood	Pallone	Talent
Largent	Paxon	Tanner
Latham	Payne (VA)	Tate
LaTourette	Peterson (MN)	Tauzin
Laughlin	Petri	Taylor (MS)
Lazio	Pickett	Taylor (NC)
Leach	Pombo	Thomas
Levin	Pomeroy	Thornberry
Lewis (CA)	Porter	Thornton
Lewis (KY)	Portman	Tiahrt
Lightfoot	Poshard	Torkildsen
Lincoln	Pryce	Torricelli
Linder	Quillen	Upton
Lipinski	Quinn	Viscosky
Livingston	Radanovich	Vucanovich
LoBiondo	Rahall	Waldholtz
Longley	Ramstad	Walker
Lowe	Reed	Walsh
Lucas	Regula	Wamp
Luther	Richardson	Ward
Maloney	Riggs	Weldon (PA)
Manton	Rivers	Weller
Manzullo	Roberts	Wicker
Markey	Roemer	Wise
Martini	Rogers	Wolf
Mascara	Rohrabacher	Wyden
McCullum	Ros-Lehtinen	Young (AK)
McCrery	Rose	Young (FL)
McHale	Roth	Zeliff
McHugh	Roukema	Zimmer
McInnis	Royce	
McIntosh	Salmon	

NOT VOTING—18

Bateman	Harman	Tucker
Boucher	Rangel	Volkmer
Brown (CA)	Spence	Weldon (FL)
Chapman	Stark	White
Fields (LA)	Studds	Whitfield
Furse	Tejeda	Wilson

□ 2025

Ms. ESHOO, Mr. BARRETT of Wisconsin, and Mr. OBERSTAR changed their vote from "aye" to "no."

Mr. CONDIT changed his vote from "no" to "aye."

So the amendment in the nature of a substitute is rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. No further amendments are in order.

Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WALKER) having assumed the chair, Mr. BEREUTER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2259) to disapprove certain sentencing guideline amendments, pursuant to House Resolution 237 he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the committee amendment in the nature of a substitute.

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

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. WATT OF NORTH CAROLINA

Mr. WATT of North Carolina. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. WATT of North Carolina. Yes, I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. WATT of North Carolina moves to recommit the bill H.R. 2259 to the Committee on the Judiciary with instructions to report the same back to the House forthwith with the following amendment:

In section 2(a)(1), strike "The United States" where it appears immediately after "IN GENERAL.—" and insert "Not later than March 1, 1996, the United States".

□ 2030

Mr. WATT of North Carolina. Mr. Speaker, it is quite obvious from the last vote that the Members of this body wish to have this matter studied further and have a recommendation made back by the Sentencing Commission. But there is an oversight in this bill and the motion to recommit simply would correct that oversight. That oversight is to specify a date by which the Sentencing Commission would report back to the Congress. The motion to recommit would simply set March 1, 1996, as that date.

The gentleman from Virginia [Mr. SCOTT] is a co-offeror of this motion to recommit and I yield to the gentleman from Virginia.

Mr. SCOTT. Mr. Speaker, we have never before rejected a recommendation of the Sentencing Commission although we have had 500 or so opportunities. We are going to send this back to the Commission to study. They have already studied it. They said the disparity between crack cocaine and powdered cocaine sentencing is not justified and that there are severe racial implications. The purpose of the Commission is to take the politics out of sentencing.

This bill makes no sense because it gives a person convicted of possession of only a couple of hundred dollars' worth of crack cocaine, 95 percent of that group are black or Hispanic, they give them a tougher sentence than those who are caught distributing tens of thousands of dollars' worth of powdered cocaine, 75 percent happen to be white. The Commission eliminated this disparity after due deliberation and if

we are going to tell them to reconsider, we ought to at least give them a date certain by which they ought to report. I stand in support of the motion to recommit.

Mr. WATT of North Carolina. I thank the gentleman from Virginia [Mr. SCOTT].

Mr. Speaker, this is really not a controversial motion to recommit. All it does is specify the date by which the Sentencing Commission is to report back to this Congress.

The gentleman from Florida [Mr. MCCOLLUM], the chairman of the subcommittee, conceded during the general debate on this bill that he thought there was a date specified in the bill by which we would expect the Sentencing Commission to report back. In fact, there is no date specified in this bill as to when the Sentencing Commission will report back. The Sentencing Commission has already studied this issue at some length. Everybody knows that there is a major unfairness and disparity in the sentencing, and we need to correct that disparity as quickly as we can possibly correct it if there is going to be any faith in our justice system.

I would ask my colleagues to support the motion to recommit for that purpose.

Mr. MCCOLLUM. Mr. Speaker, I rise in opposition to the motion to recommit.

I recognize the gentleman's sincerity in wanting to put a technical date in here for reporting time for the Sentencing Commission, but I do not believe that is necessary, and I think it could be counterproductive. I will tell why.

First of all, the Sentencing Commission will regularly, in due course, report May 1 of next year; and I believe that it is very inherent and implicit if not explicit in what we are sending out today that we want them to report back on that date, when they routinely do anyway, with some new suggestions in the two areas that we are disapproving, which are the reductions of the amount of time in money laundering and the amount of time in crack cocaine.

We are saying today to them by rejecting their two recommendations that what they have done is simply too severe. They have dramatic reductions in the punishments both in money laundering across the board and in crack cocaine trafficking and dealing.

Second, and I think this is really the most important part of this, the gentleman has come back with not the May 1 date but a March 1 date; and a date at all like this being put into the bill by this motion to recommit would be different from what the other body has done. They have already passed exactly what we have done, and we have a deadline of November 1, just 12 days from now, to reject the Sentencing Commission's recommendations or they go into effective law.

We do not have a lot of time for the other body to mess around or to have a

conference, and I do not think that the concern over the reporting date merits the problematic issue that would result in our having the potential for this whole thing to go down because the other body did not timely act or we did not get together.

The Sentencing Commission will report in due course May 1 of next year. We directed them by explicit language in this bill that they are to come back to us on the issues of the crack cocaine and the issue of the money laundering.

I urge a "no" vote on this motion to recommit.

The SPEAKER pro tempore (Mr. WALKER). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. WATT of North Carolina. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage.

The vote was taken by electronic device, and there were—ayes 149, noes 266, not voting 17, as follows:

[Roll No. 724]

AYES—149

Abercrombie	Filner	Meek
Andrews	Flake	Mfume
Bachus	Foglietta	Miller (CA)
Baessler	Ford	Minge
Baker (CA)	Frank (MA)	Mink
Baldacci	Frost	Moakley
Barrett (WI)	Gejdenson	Moran
Becerra	Gephardt	Morella
Beilenson	Gibbons	Nadler
Bentsen	Gonzalez	Neal
Bevill	Green	Oberstar
Bishop	Gutierrez	Obey
Bonior	Hall (OH)	Olver
Browder	Hastings (FL)	Ortiz
Brown (CA)	Hefner	Orton
Brown (FL)	Hilliard	Owens
Brown (OH)	Hinchee	Pastor
Bryant (TX)	Horn	Payne (NJ)
Cardin	Houghton	Payne (VA)
Clay	Hoyer	Pelosi
Clayton	Jackson-Lee	Peterson (FL)
Clement	Jacobs	Pickett
Clyburn	Jefferson	Pomeroy
Coleman	Johnson (SD)	Richardson
Collins (IL)	Johnson, E.B.	Rivers
Collins (MI)	Johnston	Rose
Conyers	Kennedy (MA)	Roybal-Allard
Coyne	Kennedy (RI)	Rush
de la Garza	Kennelly	Sabo
DeFazio	Kildee	Sanders
Dellums	Klecza	Sawyer
Dicks	Lantos	Schroeder
Dingell	Levin	Scott
Dixon	Lewis (GA)	Serrano
Doggett	Lincoln	Sisisky
Dooley	Lofgren	Skaggs
Doolittle	Lowe	Slaughter
Duncan	Maloney	Spratt
Ehlers	Markey	Stenholm
Engel	Martinez	Stokes
Ensign	Matsui	Thompson
Eshoo	McCarthy	Thornton
Evans	McDade	Thurman
Farr	McDermott	Torres
Fattah	McKinney	Towns
Fazio	Meehan	Trafficant

Velazquez	Watt (NC)	Woolsey
Vento	Watts (OK)	Wynn
Visclosky	Waxman	Yates
Waters	Williams	

NOES—266

Ackerman	Geren	Myrick
Allard	Gilchrest	Nethercutt
Archer	Gillmor	Neumann
Armey	Gilman	Ney
Baker (LA)	Goodlatte	Norwood
Ballenger	Goodling	Nussle
Barcia	Gordon	Oxley
Barr	Goss	Packard
Barrett (NE)	Graham	Pallone
Bartlett	Greenwood	Parker
Barton	Gunderson	Paxon
Bass	Gutknecht	Peterson (MN)
Bereuter	Hall (TX)	Petri
Bilbray	Hamilton	Pombo
Bilirakis	Hancock	Porter
Bliley	Hansen	Portman
Blute	Hastert	Poshard
Boehlert	Hastings (WA)	Pryce
Boehner	Hayes	Quillen
Bonilla	Hayworth	Quinn
Bono	Hefley	Radanovich
Borski	Heineman	Rahall
Brewster	Herger	Ramstad
Brownback	Hilleary	Reed
Bryant (TN)	Hobson	Regula
Bunn	Hoekstra	Riggs
Bunning	Hoke	Roberts
Burr	Holden	Roemer
Burton	Hostettler	Rogers
Buyer	Hunter	Rohrabacher
Callahan	Hutchinson	Ros-Lehtinen
Calvert	Hyde	Roth
Camp	Inglis	Roukema
Canady	Istook	Salmon
Castle	Johnson (CT)	Sanford
Chabot	Johnson, Sam	Saxton
Chambliss	Jones	Scarborough
Chenoweth	Kanjorski	Schaefer
Christensen	Kaptur	Schiff
Chrysler	Kasich	Schumer
Clinger	Kelly	Seastrand
Coble	Kim	Sensenbrenner
Coburn	King	Shadegg
Collins (GA)	Kingston	Shaw
Combest	Klink	Shays
Condit	Klug	Shuster
Cooley	Knollenberg	Skeen
Costello	Kolbe	Skelton
Cox	LaFalce	Smith (NJ)
Cramer	LaHood	Smith (TX)
Crane	Largent	Smith (WA)
Crapo	Latham	Solomon
Cremeans	LaTourette	Souder
Cubin	Laughlin	Stearns
Cunningham	Lazio	Stockman
Danner	Leach	Stump
Davis	Lewis (CA)	Stupak
Deal	Lewis (KY)	Talent
DeLauro	Lightfoot	Tanner
DeLay	Linder	Tate
Deutsch	Lipinski	Tauzin
Diaz-Balart	Livingston	Taylor (MS)
Dickey	LoBiondo	Taylor (NC)
Dornan	Longley	Thomas
Doyle	Lucas	Thornberry
Dreier	Luther	Tiaht
Dunn	Manton	Torkildsen
Durbin	Manzullo	Torricelli
Edwards	Martini	Upton
Ehrlich	Mascara	Vucanovich
Emerson	McCollum	Waldholtz
English	McCrery	Walker
Everett	McHale	Walsh
Ewing	McHugh	Wamp
Fawell	McInnis	Ward
Fields (TX)	McIntosh	Weldon (FL)
Flanagan	McKeon	Weldon (PA)
Foley	McNulty	Weller
Forbes	Menendez	White
Fowler	Metcalf	Whitfield
Fox	Meyers	Wicker
Franks (CT)	Mica	Wise
Franks (NJ)	Miller (FL)	Wolf
Frelinghuysen	Molinari	Wyden
Frisa	Mollohan	Young (AK)
Funderburk	Montgomery	Young (FL)
Gallely	Moorhead	Zeliff
Ganske	Murtha	Zimmer
Gekas	Myers	

NOT VOTING—17

Bateman	Boucher	Fields (LA)
Berman	Chapman	Furse

Harman	Spence	Tucker
Rangel	Stark	Volkmer
Royce	Studds	Wilson
Smith (MI)	Tejeda	

□ 2053

Mr. HORN changed his vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. WALKER). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MCCOLLUM. Mr. Speaker, I demanded a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 332, noes 83, not voting 17, as follows:

[Roll No 725]

AYES—332

Ackerman	Cubin	Hamilton
Allard	Cunningham	Hancock
Andrews	Danner	Hansen
Archer	Davis	Hastert
Armey	de la Garza	Hastings (WA)
Bachus	Deal	Hayes
Baesler	DeFazio	Hayworth
Baker (LA)	DeLauro	Hefley
Baldacci	DeLay	Hefner
Ballenger	Deutsch	Heineman
Barcia	Diaz-Balart	Herger
Barr	Dickey	Hilleary
Barrett (NE)	Dicks	Hinchee
Barrett (WI)	Doggett	Hobson
Bartlett	Dooley	Hoekstra
Barton	Dornan	Hoke
Bass	Doyle	Holden
Bentsen	Dreier	Horn
Bereuter	Duncan	Hostettler
Bevill	Dunn	Houghton
Bilbray	Durbin	Hoyer
Bilirakis	Edwards	Hunter
Bliley	Ehlers	Hutchinson
Blue	Ehrlich	Hyde
Boehlert	Emerson	Inglis
Boehner	English	Istook
Bonilla	Ensign	Jacobs
Bono	Eshoo	Johnson (CT)
Borski	Everett	Johnson (SD)
Brewster	Ewing	Johnson, Sam
Browder	Farr	Johnston
Brown (OH)	Fawell	Jones
Brownback	Fields (TX)	Kanjorski
Bryant (TN)	Flanagan	Kaptur
Bryant (TX)	Foley	Kasich
Bunn	Forbes	Kelly
Bunning	Fowler	Kennedy (RI)
Burr	Fox	Kennelly
Burton	Franks (CT)	Kildee
Buyer	Franks (NJ)	King
Callahan	Frelinghuysen	Kingston
Calvert	Frisa	Klecza
Camp	Frost	Klink
Canady	Funderburk	Klug
Cardin	Gallegly	Knollenberg
Castle	Ganske	Kolbe
Chabot	Gekas	LaFalce
Chambliss	Gephardt	LaHood
Chenoweth	Geren	Lantos
Christensen	Gibbons	Largent
Chrysler	Gilchrest	Latham
Clement	Gillmor	LaTourette
Clinger	Gilman	Laughlin
Coble	Gonzalez	Lazio
Coburn	Goodlatte	Leach
Collins (GA)	Goodling	Levin
Combest	Gordon	Lewis (KY)
Condit	Goss	Lightfoot
Cooley	Graham	Lincoln
Costello	Green	Linder
Cox	Greenwood	Lipinski
Cramer	Gunderson	Livingston
Crane	Gutierrez	LoBiondo
Crapo	Gutknecht	Longley
Cremeans	Hall (TX)	Lowey

Lucas	Payne (VA)	Smith (NJ)
Luther	Peterson (FL)	Smith (TX)
Maloney	Peterson (MN)	Smith (WA)
Manton	Petri	Solomon
Manzullo	Pickett	Souder
Markey	Pomeroy	Spratt
Martini	Porter	Stearns
Mascara	Portman	Stenholm
Matsui	Poshard	Stump
McCollum	Pryce	Stupak
McCrery	Quillen	Talent
McHale	Quinn	Tanner
McHugh	Radanovich	Tate
McInnis	Rahall	Tauzin
McIntosh	Ramstad	Taylor (MS)
McKeon	Reed	Taylor (NC)
McNulty	Regula	Thomas
Meehan	Richardson	Thornberry
Menendez	Riggs	Thornton
Metcalf	Rivers	Thurman
Meyers	Roberts	Tiahrt
Mica	Roemer	Torkildsen
Miller (FL)	Rogers	Torricelli
Minge	Ros-Lehtinen	Upton
Moakley	Rose	Visclosky
Molinari	Roth	Vucanovich
Mollohan	Roukema	Waldholtz
Montgomery	Salmon	Walker
Moorhead	Sanford	Walsh
Murtha	Sawyer	Wamp
Myers	Saxton	Ward
Myrick	Scarborough	Weldon (FL)
Neal	Schaefer	Weldon (PA)
Nethercutt	Schiff	Weller
Neumann	Schumer	White
Ney	Seastrand	Whitfield
Norwood	Sensenbrenner	Wicker
Nussle	Shadegg	Wise
Obey	Shaw	Wolf
Ortiz	Shays	Woolsey
Orton	Shuster	Wyden
Oxley	Siskey	Young (AK)
Pallone	Skelton	Young (FL)
Parker	Slaughter	Zeliff
Pastor	Smith (MI)	Zimmer
Paxon		

NOES—83

Abercrombie	Frank (MA)	Payne (NJ)
Baker (CA)	Gejdenson	Pelosi
Becerra	Hall (OH)	Pombo
Beilenson	Hastings (FL)	Rohrabacher
Bishop	Hilliard	Roybal-Allard
Bonior	Jackson-Lee	Rush
Brown (CA)	Jefferson	Sabo
Brown (FL)	Johnson, E. B.	Sanders
Clay	Kennedy (MA)	Schroeder
Clayton	Kim	Scott
Clyburn	Lewis (CA)	Serrano
Coleman	Lewis (GA)	Skaggs
Collins (IL)	Lofgren	Stockman
Collins (MI)	Martinez	Stokes
Conyers	McCarthy	Thompson
Coyne	McDade	Torres
Dellums	McDermott	Towns
Dingell	Meek	Traficant
Dixon	Mfume	Velazquez
Doolittle	Miller (CA)	Vento
Engel	Mink	Waters
Evans	Moran	Watt (NC)
Fattah	Morella	Watts (OK)
Fazio	Nadler	Waxman
Finler	Oberstar	Williams
Flake	Olver	Wynn
Foglietta	Owens	Yates
Ford	Packard	

NOT VOTING—17

Bateman	Harman	Studds
Berman	McKinney	Tejeda
Boucher	Rangel	Tucker
Chapman	Royce	Volkmer
Fields (LA)	Spence	Wilson
Furse	Stark	

□ 2104

The Clerk announced the following pair:

On this vote:

Ms. Harman for, with Mr. Berman against.

Mrs. THURMAN changed her vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. MCCOLLUM. Mr. Speaker, pursuant to the provisions of House Resolution 237, I call up from the Speaker's table the Senate bill (S. 1254) to disapprove of amendments to the Federal Sentencing Guidelines relating to lowering of crack sentences and sentences for money laundering and transactions in property derived from unlawful activity, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The text of S. 1254 is as follows:

S. 1254

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DISAPPROVAL OF AMENDMENTS RELATING TO LOWERING OF CRACK SENTENCES AND SENTENCES FOR MONEY LAUNDERING AND TRANSACTIONS IN PROPERTY DERIVED FROM UNLAWFUL ACTIVITY.**

In accordance with section 994(p) of title 28, United States Code, amendments numbered 5 and 18 of the "Amendments to the Sentencing Guidelines, Policy Statements, and Official Commentary", submitted by the United States Sentencing Commission to Congress on May 1, 1995, are hereby disapproved and shall not take effect.

**SEC. 2. REDUCTION OF SENTENCING DISPARITY.**

(a) RECOMMENDATIONS.—

(1) IN GENERAL.—The United States Sentencing Commission shall submit to Congress recommendations (and an explanation therefor), regarding changes to the statutes and sentencing guidelines governing sentences for unlawful manufacturing, importing, exporting, and trafficking of cocaine, and like offenses, including unlawful possession, possession with intent to commit any of the forgoing offenses, and attempt and conspiracy to commit any of the forgoing offenses. The recommendations shall reflect the following considerations—

(A) the sentence imposed for trafficking in a quantity of crack cocaine should generally exceed the sentence imposed for trafficking in a like quantity of powder cocaine.

(B) high-level wholesale cocaine traffickers, organizers, and leaders, of criminal activities should generally receive longer sentences than low-level retail cocaine traffickers and those who played a minor or minimal role in such criminal activity;

(C) if the Government establishes that a defendant who traffics in powder cocaine has knowledge that such cocaine will be converted into crack cocaine prior to its distribution to individual users, the defendant should be treated at sentencing as though the defendant had trafficked in crack cocaine; and

(D) an enhanced sentence should generally be imposed on a defendant who, in the course of an offense described in this subsection—

(i) murders or causes serious bodily injury to an individual;

(ii) uses a dangerous weapon;

(iii) uses or possesses a firearm;

(iv) involves a juvenile or a woman who the defendant knows or should know to be pregnant;

(v) engages in a continuing criminal enterprise or commits other criminal offenses in order to facilitate his drug trafficking activities;

(vi) knows, or should know, that he is involving an unusually vulnerable person;

(vii) restrains a victim;

(viii) traffics in cocaine within 500 feet of a school;

(ix) obstructs justice;  
(x) has a significant prior criminal record;

or  
(xi) is an organizer or leader of drug trafficking activities involving five or more persons.

(2) **RATIO.**—The recommendations described in the preceding subsection shall propose revision of the drug quantity ratio of crack cocaine to powder cocaine under the relevant statutes and guidelines in a manner consistent with the ratios set for other drugs and consistent with the objectives set forth in section 3553(a) of title 28 United States Code.

(b) **STUDY.**—No later than May 1, 1996, the Department of Justice shall submit to the Judiciary Committees of the Senate and House of Representatives a report on the charging and plea practices of Federal prosecutors with respect to the offense of money laundering. Such study shall include an account of the steps taken or to be taken by the Justice Department to ensure consistency and appropriateness in the use of the money laundering statute. The Sentencing Commission shall submit to the Judiciary Committees comments on the study prepared by the Department of Justice.

The **SPEAKER** pro tempore (Mr. WALKER). The gentleman from Florida [Mr. MCCOLLUM] is recognized for 1 hour.

Mr. MCCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

This bill is the companion Senate bill that is referred to in the rule of the bill we just adopted. I ask for its adoption.

Mr. Speaker, I move the previous question on the Senate bill.

The previous question was ordered.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 2259) was laid on the table.

#### PERSONAL EXPLANATION

Ms. MCKINNEY. Mr. Speaker, I was not recorded on rollcall vote No. 725. I would like the RECORD to show had I been recorded I would have voted "no".

#### GENERAL LEAVE

Mr. MCCOLLUM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill just considered.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

#### LEGISLATIVE PROGRAM

(Mr. ARMEY asked and was given permission to address the House for 1 minute.)

Mr. ARMEY. Mr. Speaker, I would like to take a minute to inform the Members that there will be no more votes tonight. We will begin to proceed with special orders.

In a minute I will be asking unanimous consent to convene the House at 9 a.m. tomorrow. This is an agreement

we have made with the minority so that the Members would expect then the House to convene at 9 a.m. We would then proceed to have fifteen 1-minute on each side of the aisle and then begin consideration of the rule for the health care bill.

Mr. Speaker, we would expect the first vote to come sometime between 10:30 and 10:45 tomorrow morning.

#### HOUR OF MEETING TOMORROW

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 9 a.m. tomorrow, Thursday, October 19, 1995.

The **SPEAKER** pro tempore. (Mr. BUNN of Oregon). Is there objection to the request of the gentleman from Texas?

There was objection.

#### SPECIAL ORDERS

The **SPEAKER** pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. JONES] is recognized for 5 minutes.

[Mr. JONES addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

#### MEDICARE BILL SACRIFICES SENIORS

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Alabama [Mr. BEVILL] is recognized for 5 minutes.

Mr. BEVILL. Mr. Speaker, I rise in strong opposition to the so-called Medicare Preservation Act, which this House will vote on tomorrow. This bill does not preserve Medicare. It preserves the high cost of health care and sacrifices our senior citizens.

Seniors will be asked to pay more out-of-pocket for their health care needs if this legislation is enacted. And, what is the justification for that? It's not so save Medicare from bankruptcy. Only \$90 billion of the proposed \$270 billion in Medicare cuts is needed to keep the program solvent for the next 10 years.

The seniors are being asked to pay more so that the wealthy in this country can get a tax break. That's what this legislation is all about. It's not about preserving Medicare. It's about giving the Nation's wealthiest people a tax break at the expense of 37 million American senior citizens and their families.

This legislation will impact more than one in every six people in my Fourth Congressional District in Alabama who depend on Medicare. This bill jeopardizes the quality of their

health care, the affordability of their health care and their choice of doctors. That's the last thing they need or want.

Most people would agree that changes are needed to ensure the long-term survival of Medicare. In fact, Congress already has performed minor surgery on the Medicare program nine times when changes were needed.

But, this plan calls for major surgery on Medicare when there is no emergency. I think Congress needs to wait until after the Presidential election and then perform minor surgery to keep Medicare fiscally sound. We shouldn't do it when there is no immediate need and we certainly shouldn't do it in the middle of presidential politics.

We must continue to fight waste, fraud and abuse in the Medicare program. We must tighten enforcement of laws we already have on the books. And, any savings ought to go back into the program itself.

If there is so much concern about the viability of Medicare into the 21st century, let's use any savings to make the program better. Medicare savings certainly should not be used to further reduce taxes for the big corporations and the high income people.

This legislation represents an attempt to balance the budget on the backs of senior citizens. The cuts to Medicare account for 30 percent of all the proposed spending reductions for the next 7 years. Is this fair?

Is it fair to jeopardize the quality of care available to the elderly under Medicare, their choices of doctors and hospitals, and most importantly, their ability to pay for health care services? I submit that it is not fair.

We do not need to rush forward with an ill-conceived plan just so we can give wealthy people a tax break.

Any changes in Medicare need to be carefully crafted, well-thought-out and publicly debated. Congress should examine all the options for strengthening the Medicare program and devise a plan to achieve savings without penalizing senior citizens.

Instead, this House will vote tomorrow on a plan to unfairly cut \$270 billion from Medicare to pay for a \$245 billion tax cut for the wealthy. If this plan passes, seniors will pay more and get less.

I will vote against unfair cuts in Medicare. I will vote to ensure that the Nation's senior citizens have quality, choice and affordability when it comes to their medical care.

□ 2115

The **SPEAKER** pro tempore (Mr. BUNN of Oregon). Under a previous order of the House, the gentleman from California [Mr. CUNNINGHAM] is recognized for 5 minutes.

[Mr. CUNNINGHAM addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]