

TESTIMONY OF

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BEFORE

THE SUBCOMMITTEE ON CRIME AND DRUGS

COMMITTEE ON THE JUDICIARY

UNITED STATES SENATE

ON

"Restoring Fairness to Federal Sentencing:

Addressing the Crack-Powder Disparity"

APRIL 29, 2009

Chairman Durbin and Ranking Member Graham and distinguished Members of the Subcommittee:

Thank you for affording me the opportunity to testify before your committee on reforming the federal cocaine sentencing laws, commonly referred to as the crack vs. powder cocaine controversy.

My name is John F. Timoney and I am the Chief of Police of the City of Miami, Florida, serving in that position for the past six and one half years. Prior to that I spent four years as the Police Commissioner of Philadelphia and before that I spent twenty nine years in the New York City Police Department, starting as a young police officer in the South Bronx and working my way up through the ranks to become the youngest "Four Star Chief" in the history of that department.

Others have testified today on the genesis of the 100 to 1 disparity and on the efforts of many, including the United States Sentencing Commission, to try to rectify or mitigate the disparity. To date none of these efforts have been effective, having, for whatever reason, fallen on deaf ears. I am here today to lend my voice to the chorus pleading with the Congress to right a wrong.

I have no idea if the reasons given for creating the original legislation, providing much stiffer penalties for crack cocaine versus powder cocaine, were valid or not: I have heard arguments from both sides. What I can tell you, from a practitioner's perspective, is that the results or the unintended consequences - I don't think for one moment that the consequences were intended - have been an unmitigated disaster!

Making an artificial distinction about a particular form of the same drug is a distinction without a difference and that's bad enough. But when the distinction results in a dramatic disparity in sentencing along racial lines, then that distinction is simply un-American and intolerable. Furthermore, it defies logic from a law enforcement perspective.

Here's what I mean: If I arrest a guy carrying five grams of crack -that's less than a fifth of an ounce- I figure this is a low-level street corner drug dealer. Or maybe he's someone carrying a lot crack for his own personal consumption. But if I arrest a guy with 500 grams of powder cocaine -that's more than a pound- I figure this guy is a serious trafficker. The notion that both of these guys are equal and deserve the same time in jail is ludicrous.

Now let me take my two guys and show you the monetary value of their illegal contraband. In Miami today you can purchase five grams of crack for around \$150. If it is in Philadelphia or New York, my prior two cities, you may pay a higher cost of around \$200. In Miami, my undercover officers are paying anywhere from \$700 to \$1,000 per

ounce for powder cocaine and around \$14,000 for a half-kilo, 500 grams. In Philadelphia and New York you may pay a little more. Bottom line is there is a hell of a difference between \$150 and \$14,000. If you were to present these numbers to the average 8th Grader and ask them which was the narcotic trafficker, they would have little problem with the answer. It's that simple.

Finally, when unfair laws are passed, police officers see the impact at the local level. Citizens do notice these things, and they become cynical. I remember back in 1974 when President Ford issued a pardon to former President Nixon. I was a young cop patrolling the streets of the South Bronx, and I was amazed at how people would throw it back in our face if we made an arrest; they'd say, "Oh, Nixon gets pardoned; only poor people get arrested."

Of course a lot of that was just street-level nonsense, but the point is that police departments face a much more difficult challenge gaining the trust of their communities if there are glaring inequities in the justice system that are allowed to persist. These inequities breed cynicism and mistrust and should be eliminated.

Thank you for indulging me and I am ready to answer any questions you have today.