

Prepared Opening Remarks of Senator Chuck Grassley
Ranking Member, Senate Judiciary Committee
Hearing on Examining Federal Sentencing for Crack and Powder Cocaine
Tuesday, June 21, 2021

Drug sentencing laws are complex. They must be fair and just, but prioritize public safety. As such, they can't be based on only violent crime risks, prevention efforts, or racial justice concerns. They must be comprehensive. This is particularly true as we evaluate today's topic: the sentencing laws on crack and powder cocaine.

I've been a partner on this issue in the past, and I've indicated my openness to reevaluating the sentencing disparity between crack and powder cocaine. But I do have some questions about how to best do this. There are discrepancies between crack and powder cocaine in terms of recidivism rates, addiction, and violent crime. These factors can't be ignored. I'm hopeful today's testimony will touch on these aspects, but I believe a comprehensive, consensus hearing on cocaine certainly would have highlighted these nuanced points.

I asked Chairman Durbin for a comprehensive hearing on cocaine, so we can have a complete understanding of all the issues. I wanted a consensus hearing, meaning that everything was agreed upon and that there are no minority or majority witnesses. But that's not how things unfolded. Today's hearing isn't consensus, nor is it as comprehensive as it should be. Instead, this hearing is focused only on sentencing issues, particularly in deference to the *EQUAL Act*. I'm disappointed that my request for a comprehensive hearing on cocaine was dismissed, particularly since I've supported efforts to review crack and powder cocaine sentencing issues in the past.

I cosponsored the Fair Sentencing Act, which changed the 100 to 1 sentencing ratio for crack and powder cocaine to 18 to 1. I supported this change being made retroactive in the First Step Act. I joined an amicus brief submitted to the Supreme Court to review the applicability of this provision. And I cosponsored the First Step Implementation Act, which further allows for retroactive review and application of cocaine sentencing. We've accomplished a lot in this area already, but maybe there's more to do. So today's hearing is likely the first of many steps on cocaine sentencing because there's still a lot we don't know.

Today's government panel, for instance, shines a light on the vacuum of information Congress is operating in. The Department of Justice submitted a statement for the record in support of the *EQUAL Act*. The Biden Justice Department's support for this bill isn't surprising. It's the same position as the Obama Administration. But nobody from the Justice Department is here to testify. Their absence makes it hard to fully evaluate and understand the scope and impact of changing the law.

And while the United States Sentencing Commission has released excellent reports on federal drug sentencing laws, its most recent comprehensive report on cocaine sentencing was in 2007. Also, the last time the Sentencing Commission testified before the Senate on this issue was in 2009. At that time, they stated that the sentencing ratio of crack and powder cocaine shouldn't be higher than 20 to 1. It's currently at 18 to 1.

Where does that leave us now? I'm worried we're barreling towards legislation without a complete picture of the issue or the necessary government witnesses before us today. I'm nonetheless looking forward to hearing testimony, learning as much as I can, and discussing steps forward. I hope the future of this discussion will highlight a variety of perspectives and be more collaborative as we seek to find a solution together.