

**Statement by Hon. Charles B. Rangel**

**Before the**

**SUBCOMMITTEE ON CRIME, TERRORISM, AND HOMELAND SECURITY**

**COMMITTEE ON THE JUDICIARY**

**HOUSE OF REPRESENTATIVES**

**FEBRUARY 26, 2008**

Good afternoon Chairman and members of the subcommittee. Thank you for inviting me to speak at a hearing of such import and consequence, one addressing the injustice of stringent crack cocaine sentencing.

The drumbeat for change has never been louder: Unfair sentences for low-level crack cocaine offenders just have got to stop. Over the past few months, authorities in the other branches have gotten the message. Last year, the Supreme Court restored judicial discretion and flexibility in sentencing, and the Sentencing Commission retroactively lowered its sky-high sentencing guidelines. It is now up to my colleagues in Congress to follow suit and do away with the 20-year legacy of an unjust and nonsensical drug policy. My bill, H.R. 460, The Crack Cocaine Equitable Sentencing Act, would do just that, by eliminating the

mandatory minimum for simple possession of crack or powder and reducing all other cocaine sentencing disparities to equal levels.

At the time these stiff penalties were enacted, they were seen as the well-intentioned cure to a frightening epidemic. The sudden rise of this new street drug, crack cocaine, impelled besieged lawmakers to slap the same 5-year sentence for possessing 500 grams of powder as it did for 5 grams of crack. But instead of reducing drug addiction and crime, those laws have swelled our prisons, fueled a racial divide that jails young Black men at disproportionate rates, left a generation of children fatherless, and driven up the costs of a justice system focused more on harsh punishment than rehabilitation.

No one condones the suffering inflicted on society by drug abuse and crime. But neither should we accept the needless devastation caused by disproportionately harsh drug laws. The numbers paint a grim picture: 500,000 of this country's 2.2 million prisoners are locked up for drug crimes, the majority on petty charges with no history of violence or high-level drug dealing. Caught in a cycle of poverty, crime and recidivism, it's no wonder that more than half of African American, male high school drop-outs have spent time in jail.

There are more effective and useful alternatives: treatment, for one, and better still, rescuing at-risk youth before they drop out of school and succumb to the allure of drugs and street life. To me, the growing incidents of dropouts, drugs, and crime are national security issues, threatening our ability to compete in the global economy. We cannot shortchange this, or future, generations and threaten our competitive standing in the world by allowing failing schools, sky-high dropout rates, an unskilled workforce, poverty, and hopelessness. We cannot afford to cede ground to countries like India and China, by allowing any of our youngsters to go astray while our standing in the world dwindles.

The policy of targeting crack cocaine users and sellers has diverted law enforcement's focus away from incarcerating drug kingpins who supply them. It seems to me there could be a more judicious allocation of resources at both ends of the drug pipeline: Choke off the flow of drugs before they reach small-time thugs on our streets and rehabilitate more of those who slip through the cracks. For them, the stigma of a prison sentence is a ticket to a career of crime. Jailing nonviolent offenders at these rates does little more than turn stupid kids who make stupid mistakes into expert criminals.

The Bush administration is attempting to blunt the Sentencing Commission's decision, relying, once more, on a politics of fear to stunt our progress. Attorney

General Mukasey has suggested that the "sudden influx of criminals from federal prison into your communities could lead to a surge in new victims as a tragic, but predictable, result." That fear is not borne out of by the facts. Most of the prisoners eligible for sentence reductions are low-level dealers, addicts, carriers. Every individual release or reduction is subject to judicial review, the process will be staggered over 30 years, and \$1 billion in prison costs will be spared.

The status quo in federal sentencing has proven anathema to racial justice, in effect if not intent: Blacks account for 38 percent of drug arrests and 59 percent of convictions, although they are only 13 percent of drug users. Excessively punitive mandatory minimums are fueling that racial gap, targeting minority communities where crack cocaine is the drug of choice. The disparity is 100-to-1 – and an average difference of 40 months in jail time – for two drugs experts say have no significant differences. Well, here's one significant difference: Over 80 percent of sentenced crack offenders are Black.

Correcting uneven punishment for nearly identical offenses has nothing to do with clemency for crack traffickers and users. It has everything to do with equality before the law. The smartest approach employs good sense; the most moral approach employs compassion. The very best approach employs both