

bills, and I hope we can bring this bill to the Senate floor as soon as possible so that there is sufficient time to conference the two bills and see legislation signed into law this year.

FAIR SENTENCING ACT OF 2010

Mr. KAUFMAN. Mr. President, I rise today to praise the enactment of the Fair Sentencing Act of 2010, S. 1789, which was signed into law on Tuesday by President Obama. This reform, which significantly narrows the sentencing disparity between crack and powder cocaine from 100:1 to 18:1, is a long overdue victory for a criminal justice system rooted in fundamental fairness.

I am all for tough antidrug laws, but those laws must also be fair. Current law is based on an unjustified distinction between crack cocaine and powder cocaine. The mere possession of 5 grams of crack—the rough equivalent of five packets of sugar—carries the same sentence as the sale of 500 grams of powder cocaine.

As it turns out, this 100-to-1 disparity is unjustified by science. Moreover, it disproportionately affects African Americans who make up more than 80 percent of those convicted of Federal crack offenses.

Law enforcement experts say that the disparity has undermined trust in the criminal justice system, particularly in minority communities.

Making this change a reality required leadership from the very top: from President Obama's personal involvement to great efforts by Senators DICK DURBIN, JEFF SESSIONS, ORRIN HATCH, and others. Achieving this reform took significant political muscle and it took a continuing effort.

I especially want to note the Vice President's early and sustained leadership on this issue.

Back in 2002, when very few in this body wanted to touch this politically toxic problem, then-Senator BIDEN held a hearing that exposed the need to reduce the crack-powder disparity. Particularly significant was his willingness to admit that he, and Congress generally, made a mistake when they created the distinction back in 1986.

In June 2007, Senator BIDEN without any cosponsors on either side of the aisle introduced the first Senate bill that would have equalized the penalties for crack and powder cocaine without raising penalties for powder. The introduction of this bill changed the entire landscape of the crack-powder debate. No longer was the question "Should the disparity be reduced?" No longer was the debate about whether the 100:1 disparity was reasonable. The Biden bill shifted the burden to the naysayers to justify why 1:1 wasn't the right policy solution.

After Senator BIDEN assumed his duties as Vice President of the United

States, Senator DURBIN picked up the Senate torch and reintroduced the Biden bill. I was proud to join him as a cosponsor of S. 1789. He then worked closely with colleagues on both sides of the aisle to find a compromise that would both satisfy the needs of law enforcement and return fundamental fairness to the sentencing for these sorts of offenses.

I would be remiss if I did not mention one more crucial participant in this long-running effort. As my colleagues in this body know, much of what we accomplish here on behalf of the American people is influenced greatly by our talented staff.

In this case, reducing the disparity between crack and powder cocaine—without increasing penalties for powder—would not likely have been achieved without the dedication of a very talented public servant, Alan Hoffman.

Alan, while serving as then-Senator BIDEN's chief of staff, delivered one of the first pushes that started to roll this stone forward, and he kept at it for many years. It is undeniable that many had significant roles to play in this remarkable achievement. But it is equally undeniable that Alan's longstanding drive to right this wrong and shift the policy debate fundamentally was crucial to our being able to celebrate this accomplishment today.

As my colleagues know, I have spoken many times in the Senate about the outstanding men and women who constitute our Federal workforce. Alan Hoffman has been a loyal and dedicated public servant who deserves credit for his work today.

FINDINGS OF THE NTSB

Mr. CARDIN. Mr. President, I rise today to discuss the findings of the National Transportation Safety Board's final report on its investigation into the fatal June 22, 2009, Metrorail crash on the Red Line near Fort Totten.

This report is a call to action for Congress to pass legislation that will help prevent such tragedies on our Nation's public transit systems from ever happening again.

Last week, the NTSB presented the findings of its year-long investigation into last year's Metrorail crash that killed eight passengers and the train's conductor nine total. The fatal accident also hospitalized 52 passengers with serious injuries and left approximately 30 others with minor injuries.

The investigation concluded:

The cause of the crash was a series of faulty track circuits that failed to detect the presence of a stopped train on the right-of-way.

The severity of the accident was compounded by the poor crashworthiness of the 30-plus year-old railcars involved in the accident where most of the injuries and fatalities occurred.

Lastly, NTSB determined that safety has not been a priority for WMATA. Simply put,

Metro lacks a "Culture of Safety" throughout its entire organization.

NTSB Chairman Deborah Hersman aptly put it in her statement regarding the release of its findings: "Metro was on a collision course long before this accident. The only question was when Metro would have another accident—and of what magnitude."

The root cause of the crash was a faulty track circuit that failed to detect the presence of a train pulling into Fort Totten Station.

As a result, the system did not signal a second approaching train to hold at a safe distance on the track.

When working properly, the track circuits are designed to detect and trace the presence of trains on the right-of-way. This effectively prevents two trains from occupying the same stretch of track at the same time.

A particularly troubling finding of the NTSB's investigation is that a 2005 "near accident" on the Orange and Blue lines' in the Potomac River tunnel coming into the Rosslyn Station was caused by an identical track circuit malfunction to the one that caused the June 22 crash.

In other words, Metro knew, from firsthand experience, about the serious risks track circuit failures present.

The NTSB concluded that if WMATA had taken a lesson from the 2005 "near accident" at Rosslyn and made fixing the track circuit failures throughout the system a priority, the June 22, 2009, tragedy would have been avoided entirely.

The second layer of safety meant to prevent a crash in the case of a track circuit failure are automatic alerts sent to Metro Central Command to alert control officers when a track circuit failures occurs.

However, ignoring these warnings were part of Metro's operational protocol.

The NTSB reported that prior to the Red Line crash, track circuit failures were such a frequent occurrence, that Central Command was receiving an average of 3,000 system alerts a week.

Central Command's response to the overwhelming number of alerts was to implement an automatic override program.

The override allowed Metro to operate around the alerts, rather than fixing the circuit failures triggering the alerts.

The constant barrage of alerts ended up creating a culture of complacency rather than creating a culture of urgency.

This negligent managerial approach to solving the warning rather than solving the problem is entirely irresponsible and exemplifies the lack of a Safety Culture at Metro.

Because the approaching train was under automatic control it was completely reliant on receiving the correct operations signals from the track circuits.