

**“Federal Cocaine Sentencing Laws: Reforming the 100-to-1 Crack/Powder  
Disparity”  
Subcommittee on Crime, Terrorism  
& Homeland Security  
House Committee on Judiciary  
United States House of Representatives  
Testimony of Congressman Roscoe G. Bartlett  
February 26, 2008**

Thank you for the opportunity to share my views with you today concerning the 100-1 Crack vs. Powder Cocaine Disparity. I recognized in 2002 that this ratio that had been adopted in haste and driven by fear was not justified by the facts. I recognized that this disparity which discriminated against lower income individuals who more often use crack was not justified by the effects of crack compared to powder cocaine and I introduced a bill to address it. Since then, more evidence has accumulated to strengthen my conviction. I am here today to specifically welcome and support the position by the National District Attorneys Association that the sentencing disparity should be reduced. I welcome this hearing. I hope that Congress will follow the recommendations of numerous authorities and approve reducing this ratio.

This past December, the U.S. Sentencing Commission unanimously voted to reduce retroactively lengthy sentences meted out to thousands of people convicted of crack cocaine-related offenses over the past two decades. That same month, the U.S. Supreme Court ruled that a federal judge hearing a crack cocaine case “may consider the disparity between the Guidelines’ treatment of crack and powder offenses.”

Both of these decisions reflect a growing concern that there should not be a 100:1 ratio in the amounts of powder cocaine and crack cocaine that trigger mandatory minimum sentences. We now have more and better information than we did in the past in order to assess the ratio and make adjustments. Any changes to the ratio must be based on empirical data. I am a scientist; I have a Ph.D. in human physiology. With the substantially more evidence that we have now, the 100-1 unequal treatment is not justified. Our laws should reflect the evidence of harm to society. If we don’t adjust this ratio by reducing it, we would be clinging to fear instead of facts.

There should be bipartisan support for the adjustment in the ratio. The law places great value on maintaining precedent, but precedent based on fear should not be protected. I am also an engineer. As an engineer, I know that in order to make improvements, we should be in a constant state of reexamination. The past good faith reasons for the 100-1 disparity cannot be justified by the current evidence that has accumulated. Politics and the law must catch up to scientific evidence.

In 2002, I introduced a bill to eliminate the disparity in sentencing between crack and powder cocaine, with regard to trafficking, possession, importation, and exportation of such substances, by changing the applicable amounts for powder cocaine to those currently applicable to crack cocaine. I introduced it several times since then. Now, we have even more substantial evidence and support for addressing disparities in the law regarding crack and powder cocaine than we did then.

Joseph Cassilly, State's Attorney for Harford County, in my district, will address the evidence and put forth reasons that certain myths should be dispelled. The 100:1 ratio cannot be justified by evidence. Congress should not support the *status quo*. I hope that my colleagues will not allow the pursuit of the perfect to prevent the potential adoption of a compromise that would reduce the unjustified current 100-1 disparate ratio in the treatment of crack compared to powder cocaine. I thank you for your efforts on behalf of the Congress to advance the goal of justice in our society.