

March 10, 2010

Pass S. 1789
“Fair Sentencing Act of 2009”
with no amendments

Senator Patrick Leahy, Chair
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Senator Jeff Sessions, Ranking Member
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Chairman Leahy and Ranking Member Sessions:

The undersigned organizations are part of the Justice Roundtable and represent a broad constituency of civil and human rights, criminal justice, legal, law enforcement, service provider, and faith organizations. The Justice Roundtable’s mission is to advance public safety through rational reform of the U.S. criminal justice system. Tomorrow, the Committee on the Judiciary will mark-up S. 1789, the “Fair Sentencing Act of 2009.” Our diverse organizations strongly urge that you and the Committee support and pass S. 1789 as originally introduced by Senator Richard Durbin, and oppose any amendments that would maintain excessive penalties for low-level offenses, establish new mandatory minimum penalties, and fail to protect defendants with limited culpability from harsh mandatory sentences.

For twenty-four years, the federal government has punished individuals convicted of possessing or selling small quantities of crack cocaine more harshly than defendants convicted of other drug offenses. In what has come to be known as the 100:1 ratio, it takes 100 times the quantity of powder cocaine to receive the same mandatory minimum penalty imposed for crack cocaine offenses. One who possesses or distributes just five grams of crack cocaine (the weight of a couple of sugar packs), receives the same five-year sentence as one who distributes 500 grams of powder cocaine. The Fair Sentencing Act of 2009 prioritizes federal law enforcement resources for serious and major drug traffickers by transferring the focus from low-level participants which state and local law enforcement are capable of prosecuting, to international and interstate networks which demand federal attention.

Support for the complete elimination of the disparity and a reprioritization of federal law enforcement resources has reached unprecedented levels, with more and more voices joining the call for rational reform. In addition to previous testimonies and statements from police chiefs, prosecutors, and religious conservatives, just last week on March 3, over a dozen former federal judges and prosecutors -- including retired United States District Court Judges, a retired United States Circuit Court Judge, former United States Attorneys, and former high-ranking Department of Justice officials -- united in a letter to you strongly expressing their support for the Fair Sentencing Act of 2009 and its 1:1 ratio for crack and powder sentencing. In urging that there be no further delay in remedying

this injustice any longer, the prestigious group of former prosecutors and judges stressed that “(t)he disparity between sentences for offenses involving crack cocaine and powder cocaine diverts limited federal law enforcement resources away from prosecutions of high-level traffickers and kingpins, while unjustifiably discriminating against African-Americans.”

As you approach mark-up tomorrow, we urge that the Fair Sentencing Act’s goal of completely eliminating the sentencing disparity between the two forms of cocaine not be compromised by amendments that would maintain excessive penalties for low-level offenses, establish new mandatory minimum penalties, or fail to protect those with peripheral involvement from harsh sentences. Moreover, we urge that you not adopt amendments that would duplicate the penalties already set within the U.S. Sentencing Guidelines for aggravating factors, and remember that judges have the authority to enhance sentences when the individual circumstances of a case so warrant.

Eliminating the disparity between crack and powder cocaine and refocusing federal drug law enforcement resources to large-scale traffickers is not a partisan issue; it is a necessary correction to a mistake created in federal law nearly a quarter of a century ago. The window of opportunity is open now to finally rectify this grave injustice. The undersigned organizations urge you to oppose counterproductive amendments during markup, and pass S. 1789 - the Fair Sentencing Act of 2009 - as originally introduced.

cc: Senate Judiciary Committee

Sincerely,

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