

April 27, 2022

Hon. Chuck Schumer
Majority Leader
United States Senate
Washington, D.C. 20510

Hon. Mitch McConnell
Minority Leader
United States Senate
Washington, D.C. 20510

Hon. Richard Durbin
Majority Whip
United States Senate
Washington, D.C. 20510

Hon. John Thune
Minority Whip
United States Senate
Washington, D.C. 20510

RE: Support for the EQUAL Act (S. 79)

Dear Leader Schumer, Leader McConnell, Whip Durbin, and Whip Thune:

On behalf of the undersigned organizations, we write in support of the Eliminating a Quantifiably Unjust Application of the Law Act or “EQUAL Act” (S. 79) and request that you bring this critical bipartisan legislation to the Senate floor as soon as possible, as you advance bipartisan criminal justice reform. As the bill now has 11 Republican sponsors, and we believe it will garner even more bipartisan support when put to a floor vote, we urge you to ensure a clear path to passage in the United States Senate.

The EQUAL Act would finally and fully eliminate the sentencing disparity between crack cocaine and powder cocaine offenses at the federal level and would allow courts to consider applications for resentencing of past cases. The current 18-to-1 disparity is not grounded in science; crack and powder cocaine are two forms of the same drug, and one is no more harmful than the other.¹ Roughly 90 percent of individuals incarcerated for crack offenses at the federal level are Black,² evidencing one of the worst racial injustices in federal law.

The impact of this disparity is pervasive and offers no benefit to public safety. For these reasons, the EQUAL Act enjoys broad bipartisan support in both the House and Senate, as well as unprecedented endorsements from national and local law enforcement, conservative groups, faith leaders, and civil rights organizations.

The history of this disparity is disturbing. The Anti-Drug Abuse Act of 1986 created a shocking 100-to-1 quantity disparity that dictated mandatory minimum sentences for crack cocaine offenses and powder cocaine offenses. As a result, five grams of crack cocaine carried the same mandatory minimum prison sentence as 500 grams of powder cocaine. This disparity, which failed to provide the public safety return the American people deserve, instead created obvious and harmful racial disparities. In fiscal year 2020 alone, 76.8 percent of people sentenced for crack cocaine offenses were Black.³

Congress has taken bipartisan action to incrementally address this injustice. In 2010, Congress passed the Fair Sentencing Act, which reduced the original 100-to-1 disparity to 18-to-1, and, in

2018, passed the First Step Act, which made this change retroactive. The Senate now has the opportunity to finish this vital work by passing the EQUAL Act and sending it to the President's desk. On September 28, 2021, the House of Representatives passed the companion bill (H.R. 1693) in an overwhelming, bipartisan vote of 361 to 66. In the Senate, the bill is led by Senators Dick Durbin (D-IL), Cory Booker (D-NJ), and Rob Portman (R-OH), and has a total of 11 Democrats and 11 Republicans sponsoring the bill, well positioning the bill for passage in the Senate.

We cannot miss this moment to right this decades-long wrong. The EQUAL Act corrects misguided policy from 35 years ago and would continue the important bipartisan progress Congress has made to create a fairer and more effective federal justice system. We urge you to advance the EQUAL Act to the Senate floor as soon as possible, as you consider bipartisan criminal justice reforms.

Thank you for your consideration of this important legislation.

Sincerely,

A Beautiful Heart Ministries
ALEC Action
American Civil Liberties Union
Americans for Prosperity
Americans for Tax Reform
Association of Prosecuting Attorneys
Black Public Defender Association
Buckeye Institute
Catholic Mobilizing Network
Catholic Prison Ministries Coalition
Center for American Progress
Citizen Action – NY
Color of Change
Digital Liberty
Dream Corps JUSTICE
Drug Policy Alliance
Due Process Institute
Empower Mississippi
Eternal Vigilance Action
Fair Trials
FAMM
Federal Public and Community Defenders
FreedomWorks
Georgia Center for Opportunity
Human Rights for Kids
Incarcerated Nation Network, Inc
Innocence Project
Jesuit Conference, Office of Justice and Ecology

Justice Action Network
Justice Roundtable
JustLeadershipUSA
Kentucky Sheriffs' Association
The Ladies of Hope Ministries, Inc.
Lawyers Committee for Civil Rights Under Law
Leadership Conference on Civil and Human Rights
Major Cities Chiefs Association
National Association of Criminal Defense Lawyers
National Basketball Social Justice Coalition
National District Attorneys Association
National Legal Aid & Defender Association
National Urban League
New Yorkers United for Justice
Pegasus Institute
Pelican Institute
Prison Fellowship
R Street Institute
REFORM Alliance
Students for Sensible Drug Policy
Taxpayers Protection Alliance
The Sentencing Project
Tzedek Association
Vera Institute of Justice
Chief Joe Monroe, President, Kentucky Association of Chiefs of Police
Mark Holden, Chairman, Americans for Prosperity Foundation Board
Matthew Whitaker, Former Acting Attorney General, Department of Justice, United States

¹ Dorothy K. Hatsukami, PhD and Marian W. Fischman, PhD, *Crack Cocaine and Cocaine Hydrochloride: Are the Differences Myth or Reality?*, JAMA, November 1996 <https://jamanetwork.com/journals/jama/article-abstract/410806>.

² Sarah Lynch, *U.S. Justice Department backs bill to end disparities in crack cocaine sentences*, Reuters, June 22, 2021 <https://www.reuters.com/world/us/us-justice-department-backs-bill-end-disparities-crack-cocaine-sentences-2021-06-22/>

³ U.S. Sentencing Commission, *FY 2020 Sourcebook of Federal Sentencing Statistics* (Race of Drug Trafficking Offenders, Table D-2), 2020 <https://www.ussc.gov/sites/default/files/pdf/research-and-publications/annual-reports-and-sourcebooks/2020/TableD2.pdf>.