



November 3, 2009

Dear Representative:

**RE: ACLU Supports H.R. 1412, the Justice Integrity Act of 2009**

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On behalf of the American Civil Liberties Union (ACLU), a non-partisan organization with more than a half million activists and members and 53 affiliates nationwide, we urge you to co-sponsor H.R. 1412, the Justice Integrity Act of 2009, introduced by Representative Steve Cohen (D-TN), which would empower prosecutors, judges and other stakeholders in the criminal justice system to identify the root causes of and make recommendations to address unwarranted racial and ethnic disparities in the federal criminal justice system. The House Judiciary Committee Subcommittee on Crime, Terrorism and Homeland Security recently held a hearing on racial disparities within the criminal justice system. The ACLU believes that the Justice Integrity Act is an appropriate and important step that Congress could take to address any unwarranted racial and ethnic disparities in the criminal process.

The Justice Integrity Act would establish a pilot program to be implemented by ten U.S. Attorneys designated by the Attorney General within their districts. These U.S. Attorneys would appoint and chair an advisory group, consisting of judges, prosecutors, defense attorneys and other stakeholders. This group would be tasked with gathering data on racial and ethnic disparities in prosecution, determining the causes of racial and ethnic disparities, ensuring that law enforcement priorities and initiatives- charging, plea bargaining decisions and sentencing recommendations are not influenced by racial or ethnic stereotyping and ensuring that facially neutral laws and policies are applied without actual or unconscious bias. The advisory groups are charged with producing a report with their findings and recommendations, and the Attorney General will submit a comprehensive report on the results of the pilot programs to Congress.

This legislation is both overdue and greatly needed. Black males have a 32% chance of serving time in prison at some point in their lives; Hispanic males have a 17% chance; white males have a 6% chance.<sup>1</sup> Decisions made by U.S. Attorneys about who to prosecute and the types of offenses they prioritize for enforcement may impact this disparity.

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<sup>1</sup> [http://www.sentencingproject.org/doc/publications/publications/inc\\_factsaboutprisons.pdf](http://www.sentencingproject.org/doc/publications/publications/inc_factsaboutprisons.pdf)

Drug offenses comprise the most commonly prosecuted offenses in federal courts<sup>2</sup>. Despite similar rates of drug offenses, both possession and distribution, among most racial and ethnic groups, arrests for drug offenses have been heavily concentrated in communities of color. This fact was recently expanded upon in a March 2009 report from Human Rights Watch entitled *Decades of Disparity: Drug Arrests and Race in the United States*. The report found that adult African Americans were arrested on drug charges at rates that were 2.8 to 5.5 times as high as those of white adults in every year from 1980 to 2007. State-by-state data from 2006 further showed that blacks were arrested for drug offenses at rates in individual states that were 2 to a shocking 11.3 times greater than the rates for whites.<sup>3</sup> African Americans serve about the same time in federal prison for drug offenses (58.7 months) as whites serve for violent offenses (61.7 months).<sup>4</sup>

Additionally, enactment of the Justice Integrity Act would be an important step in bringing the U.S. into full compliance with our human rights treaty obligations. As a party to the International Convention on the Elimination of All Forms of Racial Discrimination, the U.S. has an obligation to guarantee the right of everyone, without distinction as to race, color, or national or ethnic origin, to equality before the law, notably in the enjoyment of the right to equal treatment before the tribunals and all other organs administering justice. The United Nations Committee on the Elimination of Racial Discrimination, which oversees compliance with this treaty, noted with concern the persistence of racial disparities in the U.S. criminal justice system in a March 2008 report. The Committee recommended –

... that the State party take all necessary steps to guarantee the right of everyone to equal treatment before tribunals and all other organs administering justice, including further studies to determine the nature and scope of the problem [persistent racial disparities in the criminal justice system], and the implementation of national strategies or plans of action aimed at the elimination of structural racial discrimination.<sup>5</sup>

Ensuring a fair system of justice is a fundamental cornerstone of our legal system and a bedrock guarantee of our Constitution. The ongoing persistence of serious racial and ethnic disparities throughout our criminal justice system illustrates the pressing need for this legislation. Additionally, our obligations under international law demand the type of action the Justice Integrity Act represents. We are pleased to support H.R. 1412 and urge you to co-sponsor and support this critically important legislation.

Sincerely,

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<sup>2</sup> Ibid, Table 2.2.


<sup>3</sup> [http://www.hrw.org/sites/default/files/reports/us0309web\\_1.pdf](http://www.hrw.org/sites/default/files/reports/us0309web_1.pdf)

<sup>4</sup> *Compendium of Federal Justice Statistics, 2003* (Oct. 2004), Table 7.16, p.112

<sup>5</sup> [http://www.aclu.org/pdfs/humanrights/cerd\\_concluding\\_report.pdf](http://www.aclu.org/pdfs/humanrights/cerd_concluding_report.pdf)



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