

November 18, 2009

Co-Sponsor S. 1789
“Fair Sentencing Act of 2009”

Dear Senator:

Our diverse organizations strongly urge that you co-sponsor and support S. 1789, the “Fair Sentencing Act of 2009.” This legislation, introduced by Senator Richard Durbin (D-IL), would eliminate the disparity in cocaine sentencing which has perpetuated perceptions of unfairness and misdirected federal enforcement resources. Eliminating the disparity between crack and powder cocaine is not a partisan issue; it is a necessary correction to address an inequality created in federal law 23 years ago. We ask that you join Senator Durbin and the bill’s original co-sponsors - Judiciary Committee Chairman Leahy and Senators Cardin, Dodd, Feingold, Franken, Kaufman, Kerry, Levin, Specter, and Whitehouse - in supporting and co-sponsoring this critical legislation.

Support for elimination of the disparity has reached unprecedented levels over the past year. In a speech to fellow prosecutors in July, Attorney General Eric H. Holder stated, “[w]e all know that this egregious difference in punishment is simply wrong.” He stressed that “[t]he Department of Justice will never back down from its duty to protect our citizens and our neighborhoods from drugs or from the violence that too often accompanies the drug trade. But we must discharge this duty in a way that protects our communities as well as the public’s confidences in the criminal justice system.”

Police and prosecutors have also testified for reform. Miami Police Chief John Timoney in his April testimony before the Senate Judiciary Subcommittee on Crime and Drugs emphasized that the distinction between crack cocaine and powder cocaine defied logic from a law enforcement perspective, saying: “It’s the same drug. It’s just manufactured differently.” Former U.S. Attorney for the Western District of Tennessee, Veronica Coleman-Davis testified in May before the House Subcommittee on Crime, Terrorism and Homeland Security that correcting this injustice “is not only consistent with good policy, but also good politics.” Former Los Angeles Police Chief William Bratton has also indicated his support for the complete elimination of the disparity.

Pat Nolan of Prison Fellowship Ministries pointed out in an October Senate briefing that “the sentence for any crime must reflect the magnitude of the harm done.” The current sentencing structure for crack cocaine offenses ignores this principle because it sets excessive mandatory minimum penalties for first-time and nonviolent crack cocaine offenses, including simple possession. As a result, Nolan and former Congressman J.C. Watts (R-OK), wrote in the *Washington Times*, “...the 100-1 crack and powder cocaine sentencing disparity has resulted in federal resources being misdirected on small-time drug dealers and not on stopping the flow of drugs into the country.” Critiques of the harsh sentences have also been heard from Asa Hutchinson, former Republican congressman and Director of the Drug Enforcement Administration in the Bush Administration. He stated, “it makes no sense that somebody arrested for using crack

cocaine should receive a substantially longer prison term than somebody who is convicted of using powder cocaine. It's long past time to reduce that disparity."

Legislation that eliminates the cocaine sentencing disparity, and limits the excessive penalties for low-level crack offenses, also makes sense because it would save taxpayers money - a critical consideration during a time of economic hardship. Moreover, passage of S. 1789 would improve public safety and restore federal drug enforcement priorities by refocusing federal law enforcement on the pursuit and prosecution of high-level traffickers.

The window of opportunity is open now to finally rectify this grave injustice which has remained unresolved for nearly a quarter of a century. Co-sponsor S. 1789 today, the "Fair Sentencing Act of 2009," by contacting Lara Quint at lara_quint@judiciary-dem.senate.gov, or (202) 224-2152. The undersigned organizations thank you for your support of this important step towards fair and rational sentencing.

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