



FAITH & FREEDOM COALITION

April 12, 2021

The Honorable Dick Durbin
152 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Chuck Grassley
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Jerrold Nadler
2138 Rayburn House Office Building
Washington, DC 20515

The Honorable Jim Jordan
2142 Rayburn House Office Building
Washington, DC 20515

Re: EQUAL Act, S. 79 and H.R. 1693

Dear Chairman Durbin, Ranking Member Grassley, Chairman Nadler, and Ranking Member Jordan,

On behalf of the Faith & Freedom Coalition, I write in support of S. 79 and H.R. 1693, the Eliminating a Quantifiably Unjust Application of the Law Act or "EQUAL Act."

Faith & Freedom Coalition is a membership, non-profit organization with over 2.5 million members nationwide committed to educating, equipping, and mobilizing people of faith and like-minded individuals to be effective citizens. Over the past six years, we have successfully advocated for passage of a variety of criminal justice and prison reform bills at the federal level and in more than a dozen states. Topics have included reform of mandatory minimum laws, probation and parole reform, criminal expungement laws, compassionate release, the rights of incarcerated women, and many other topics.

S. 79 and H.R. 1693, the EQUAL Act, would end the federal prison sentence disparity between crack cocaine and powdered cocaine offenses that was originally enacted with overwhelming bipartisan support in the Anti-Drug Abuse Act of 1986 (passed the House 392-16 and passed the Senate 97-2). The 1986 Act mandated a minimum sentence of 5 years without parole for possession of 5 grams of crack cocaine while it mandated the same sentence for possession of 500 grams of powder cocaine. This 100:1 disparity reflected Congress' belief that crack cocaine posed a significantly greater danger to our communities than powder cocaine and therefore required a more stringent punishment.

While this approach was well-intentioned and driven by a desire to protect law-abiding citizens from the violence and crime that accompanied the rise of crack cocaine and did in fact help contribute to a decrease in drug crimes, there were unintended and detrimental results as well. Notably, it greatly increased the federal prison population and its costs and, most troublingly, it unintentionally created

racial disparities in federal sentencing. In 1996, a decade after enactment, 85.8 percent of those who were sentenced for federal crack cocaine offenses were Black according to the U.S. Sentencing Commission.

Recognizing the increase in the federal prison population and the disparate effect of the 100:1 differential, Congress has already taken bipartisan actions to correct the law. In 2010, Congress passed the Fair Sentencing Act, which prospectively reduced the crack-powder cocaine differential from 100:1 to 18:1, and the First Step Act of 2018 made this change retroactive. More than 90 percent of the defendants who had their sentences reviewed under Section 404 of the First Step Act were Black.

Congress has acted in a cautious and measured manner as it has adjusted the 100:1 differential over the past decade and its revisions have not resulted in an increase in crime. Faith & Freedom Coalition believes that Congress can safely do away with any prospective differential between crack and powder cocaine as well as retroactively apply these changes to persons still serving prison sentences under the prior guidelines through individualized case review in federal court. We also recommend that the funds saved by the decrease in the federal prison population should be redirected to support victims of crime and to programs that are proven effective in promoting public safety and crime reduction such as substance abuse and mental health treatments.

Thank you for considering our views and for all of your work on this important matter. If you have any questions or if there is any issue where we can be of assistance to you, please don't hesitate to contact us.

Sincerely,



Timothy R. Head
Executive Director

Sincerely,



Patrick D. Purtill
Director of Legislative Affairs