



RESEARCH AND ADVOCACY FOR REFORM

The Honorable Jerrold Nadler
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

The Honorable Jim Jordan
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

July 20, 2021

RE: Pass the Eliminating a Quantifiably Unjust Application of the Law (EQUAL) Act

Dear Chairman Nadler and Ranking Member Jordan,

As the House Judiciary Committee prepares to mark up the Eliminating a Quantifiably Unjust Application of the Law (EQUAL) Act tomorrow, I write to express The Sentencing Project's support for this bipartisan sentencing reform bill that would finally eliminate the federal sentencing disparity between crack and powdered cocaine offenses. This issue has a long legacy that exemplifies for many Americans the worst extremes of the 50-year-old War on Drugs and the racial injustice associated with federal mandatory minimums for drug offenses.

Tomorrow's markup comes almost 35 years after the passage of the Anti-Drug Abuse Act of 1986, which imposed the same harsh penalties for one amount of crack cocaine and 100 times the same amount of powder cocaine. At the time of the Anti-Drug Abuse Act's passage, proponents of the law claimed the 100:1 sentencing disparity was necessary due to the allegedly "extra addictive" nature of crack. However, scientific research and decades of experience now make clear that the political hysteria surrounding crack cocaine was not only unwarranted but devastatingly harmful for Black communities.

Broad bipartisan consensus regarding the injustice of the 100:1 disparity, fortunately, led Congress to approve the Fair Sentencing Act of 2010 to reduce the disparity to 18:1, and the First Step Act of 2018 made this reform retroactive. However, the continued sentencing imbalance has maintained harsh mandatory minimums for low-level offending—primarily street-level selling—and done little to improve public safety or curb the use or sale of cocaine in the United States.

Meanwhile, the disproportionate sentences for crack cocaine have played a lead role in exemplifying racial injustice in our criminal legal system. In 2019, 81% of people convicted of crack cocaine offenses were Black, even though white and Latinx people have historically accounted for over 66% of crack cocaine users.

The EQUAL Act offers an opportunity to create a more proportionate, fair, and equitable criminal justice system by entirely eliminating the sentencing disparity between crack and powder cocaine, and applying these reforms retroactively. The bill would bring the federal justice system more in line with the vast majority of states that do not punish crack and powder cocaine differently.

I congratulate the Committee for its work to advance bipartisan sentencing reform bills during the 117th Congress. The Sentencing Project urges you to pass the EQUAL Act out of committee—without any amendments that would limit its impact—to address widespread racial disparities in the criminal justice system.

For questions, please contact Kara Gotsch, The Sentencing Project's Deputy Director, at kgotsch@sentencingproject.org or 202-628-0871, ext. 103.

Sincerely,

A handwritten signature in black ink, appearing to read "Amy Fettig". The signature is fluid and cursive, with the first name "Amy" written in a larger, more prominent script than the last name "Fettig".

Amy Fettig
Executive Director