

May 25, 2010

The Honorable John A. Boehner
Minority Leader
United States House of Representatives
Washington, D.C. 20515

Dear Minority Leader Boehner:

We are writing to urge you to support S. 1789, the Fair Sentencing Act of 2010, legislation to reduce the unjustified disparity between crack and powder cocaine sentences. The bill was approved by a unanimous vote of the Senate and is now awaiting House consideration.

In 1986, without hearings or debate, Congress adopted legislation to impose lengthy prison sentences for even low-level crack cocaine offenders. The proposed penalties were so severe that they created a 100:1 sentencing disparity between crack and powder cocaine offenses. More than 20 years later, a broad bipartisan group of criminal justice experts, law enforcement groups, and policymakers has concluded that the current 100:1 disparity cannot be justified. Those supporting reform include the National District Attorneys Association, Prison Fellowship, Federal Law Enforcement Officers Association, the International Union of Police Associations, and dozens of former federal prosecutors and judges.

The Fair Sentencing Act of 2010 would reduce the crack-powder sentencing disparity yet establish stiff new penalties for serious drug offenders. Specifically, the bill would: (1) reduce the ratio between crack and powder cocaine from 100:1 to 18:1; (2) significantly increase fines for convicted major drug traffickers; (3) direct the U.S. Sentencing Commission to increase penalties for individuals found to have engaged in aggravated conduct such as bribery of a law enforcement officer in connection with a drug offense; and (4) direct the U.S. Sentencing Commission to allow a modest sentence reduction in very limited cases, including where a person was motivated by an intimate or familial relationship or by threats or fear when the defendant was otherwise unlikely to commit such an offense (often referred to as the “girlfriend problem”).

The Fair Sentencing Act of 2010 will maintain public safety, save taxpayers money, and restore confidence in the criminal justice system. First, the bill will protect public safety by focusing federal resources on the prosecution of major and serious traffickers and will allow states to focus on the street dealers and users. The bill will also save taxpayers money. Replacing the irrational 100:1 ratio with a new 18:1 ratio and increased fines for major drug traffickers will save \$42 million over five years, according to CBO.

Finally, the bill will increase confidence in the criminal justice system by reducing the perception of racial bias. According to analyses by the U.S. Sentencing Commission, the disparity between crack and powder cocaine sentences has had a disproportionately negative

impact on African Americans. Blacks use crack at about the same rate as whites but nearly 80 percent of federal crack defendants in 2009 were African American, and crack sentences were, on average, over two years longer than sentences for powder cocaine offenses. Law enforcement and criminal justice experts say that these discriminatory effects undermine trust in the criminal justice system, especially in minority communities.

We know how easily issues related to criminal justice can become politicized in an election year. We were glad to see that the Senate put aside partisan differences and passed this compromise legislation. We hope the House will soon do the same.

Sincerely,



Pat Nolan
Vice President, Prison Fellowship



Ward Connerly
Founder and President, American Civil
Rights Institute



David Keene
Chairman, American Conservative Union



Asa Hutchinson
Senior Partner, AH Law Group
Formerly Administrator, U.S. Drug
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Grover G. Norquist
President, Americans for Tax Reform