



October 26, 2021

Hon. Charles Schumer
Majority Leader
United States Senate
Washington, D.C. 20510

Hon. Mitch McConnell
Minority Leader
United States Senate
Washington, D.C. 20510

Hon. Richard Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Hon. Charles Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Re: Bipartisan Criminal Justice Reform Legislation in the 117th Congress

Dear Leader Schumer, Leader McConnell, Chairman Durbin and Ranking Member Grassley:

On behalf of the R Street Institute—a nonprofit, nonpartisan, public policy research organization whose mission is to engage in policy research and outreach to promote free markets and limited, effective government—we write to encourage you to advance four pieces of bipartisan, smart-on-crime legislation. These bills would build upon the work already done in Congress to create a fairer justice system that protects the principles upon which our country was founded.

These bills—the COVID-19 Safer Detention Act (S. 312), the Prohibiting Punishment of Acquitted Conduct Act (S. 601), the First Step Implementation Act (S. 1014) and the EQUAL Act (S.79)—which promote public safety while also recognizing the consequences of inefficient resource allocation; perversion of constitutional principles; and failure to change outdated policies that do not serve the purpose for which they were intended.

The COVID-19 Safer Detention Act would modestly expand compassionate release provisions; clarify the application of good time credits regarding the Elderly Home Detention Pilot Program; and encourage smart and accessible use of home confinement for vulnerable populations.

The Prohibiting Punishment of Acquitted Conduct Act would end the flagrantly unconstitutional practice of imposing enhanced sentences for new charges on account of charges that a defendant has previously been acquitted of by a jury. This egregious practice enables judges to act as if a defendant is guilty even though proven innocent. Ending this practice is critical to the integrity of justice.

The First Step Implementation Act would continue the bipartisan support for many successful provisions of the First Step Act, including furthering the 924(c) and safety valve reforms. It would also improve juvenile justice reforms and focus on smart resentencing, record sealing and expungement for those with

nonviolent offenses.

The EQUAL Act would equalize the treatment of crack cocaine and powder cocaine offenses, eliminating the 18-to-1 sentencing disparity of crack cocaine versus powder cocaine. This change is supported by decades of research that prove that crack and powder are indistinguishable forms of the same drug. Additionally, lengthier sentences for crack have neither prevented overdose deaths nor reduced crime.

Aside from their policy merits, advancing these bills would allow Congress to show its continued determination to work across the aisle amidst a contentious backdrop on an issue that affects people daily. Maintaining public safety, ensuring justice and creating a system that benefits those on all sides of the criminal legal system is a goal that can—and does—unite Americans, regardless of political ideology. We urge you to advance these bills and bring them to the Senate floor, and we thank you for your attention to and support of smart justice reform.

Sincerely,

Jillian E. Snider
Director of Criminal Justice & Civil Liberties
R Street Institute

Cc: Members of the United States Senate