



The Honorable Richard Durbin  
Committee on the Judiciary  
United States Senate  
Washington, D.C. 20510

The Honorable Charles Grassley  
Committee on the Judiciary  
United States Senate  
Washington, D.C. 20510

May 26, 2021

**RE: Support for the COVID-19 Safer Detention Act and First Step Implementation Act**

Dear Chairman Durbin and Ranking Member Grassley,

As the Judiciary Committee prepares to consider the COVID-19 Safer Detention Act (S.312) and the First Step Implementation Act (S.1014) tomorrow, I write to express The Sentencing Project's support for the advancement of these two critical pieces of bipartisan sentencing reform legislation. Both bills respond to a wealth of criminological research that illustrates the ineffectiveness of lengthy prison sentences that keep people behind bars long after they have demonstrated full rehabilitation and readiness to successfully reenter society.

While research shows older people generally pose a negligible threat to public safety, this population represents the fastest-growing portion of the federal prison population.<sup>1</sup> Within this context, we applaud the fact that the COVID-19 Safer Detention Act would help to reduce excessively lengthy sentences by expanding release opportunities for elderly or terminally ill individuals. The bill expands compassionate release eligibility to "old-law prisoners" sentenced before November 1987, who have historically been excluded from this type of relief and offers them a second chance. The bill also includes urgent provisions to safeguard the lives of elderly individuals as the COVID-19 pandemic continues to ravage federal prisons.

To date, the Federal Bureau of Prisons (BOP) has reportedly refused to approve compassionate release requests based on COVID-19 vulnerability. Since March 1, 2020—around the start of the pandemic—BOP has received 30,969 compassionate release requests, of which only 0.1% have been approved.<sup>2</sup> These shortcomings have had tragic implications: over 45,000 people incarcerated in federal facilities have contracted COVID-19, and at least 236 have died from the

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<sup>1</sup> Nellis, A. (2021). *No End in Sight: America's Enduring Reliance on Life Imprisonment*. The Sentencing Project.

<sup>2</sup> U.S. Department of Justice, Federal Bureau of Prisons (2021). Letter to Senator Schatz and Senator Lee in response to request for data on compassionate release and CARES home confinement during the COVID-19 pandemic, <https://documentcloud.adobe.com/link/review?uri=urn:aaid:scds:US:a61e1ed9-c057-4a29-bbd7-f4c796879e34#pageNum=1>.

disease.<sup>3</sup> Thirty-five of those individuals died while waiting for BOP to review their petition.<sup>4</sup> Importantly, the COVID-19 Safer Detention Act would add COVID-19 vulnerability as a basis for compassionate release and shorten the judicial review process for early release during the pandemic.

The First Step Implementation Act also advances the goal of reducing needlessly lengthy prison sentences, a crucial step towards creating a fairer criminal justice system. The Sentencing Project endorsed the First Step Act of 2018's reduction of mandatory minimum sentences for drug offenses, but we remain concerned by the lack of retroactivity for most of the sentencing provisions in the law.<sup>5</sup> The First Step Implementation Act remedies this inequity by applying sentence reduction opportunities to individuals convicted prior to the First Step Act's passage.

Among several other positive provisions, the bill also allows courts to reduce sentences imposed on individuals who have served at least 20 years for crimes they committed as minors. This brings the federal justice system more in line with brain science research that illustrates the diminished criminal culpability of children, as well as a series of Supreme Court opinions that call for meaningful release opportunities for people who committed their crimes as youth.<sup>6</sup>

We congratulate the Committee for its thoughtful and collaborative work to advance these bipartisan bills that have the potential to reduce mass incarceration, reunite families, and better guarantee the health and safety of the federally incarcerated population. We urge you and your colleagues to pass them out of Committee without any amendments that would limit eligibility for sentence reductions or early release opportunities included in either bill.

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

Sincerely,



Amy Fettig  
Executive Director

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<sup>3</sup> Federal Bureau of Prisons (2021). *COVID-19 May 21, 2021 Update*.

<sup>4</sup> U.S. Department of Justice, Federal Bureau of Prisons (2021). Letter to Senator Schatz and Senator Lee in response to request for data on compassionate release and CARES home confinement during the COVID-19 pandemic, <https://documentcloud.adobe.com/link/review?uri=urn:aaid:scds:US:a61e1ed9-c057-4a29-bbd7-f4c796879e34#pageNum=1>.

<sup>5</sup> The Sentencing Project (2018). *The Sentencing Project Calls on Congress to Pass First Step Act*.

<sup>6</sup> The Sentencing Project (2019). *Youth Sentenced to Life Imprisonment*; Rovner, J. (2021). *Juvenile Life Without Parole: An Overview*. The Sentencing Project.