

SHEILA JACKSON LEE
18TH DISTRICT, TEXAS

WASHINGTON OFFICE:
2160 Rayburn House Office Building
Washington, DC 20515
(202) 225-3816

DISTRICT OFFICE:
1919 SMITH STREET, SUITE 1180
THE GEORGE "MICKEY" LELAND FEDERAL BUILDING
HOUSTON, TX 77002
(713) 655-0050

ACRES HOME OFFICE:
6719 WEST MONTGOMERY, SUITE 204
HOUSTON, TX 77019
(713) 691-4882

HEIGHTS OFFICE:
420 WEST 19TH STREET
HOUSTON, TX 77008
(713) 861-4070

FIFTH WARD OFFICE:
4300 LYONS AVENUE, SUITE 200
HOUSTON, TX 77020
(713) 227-7740

Congress of the United States
House of Representatives
Washington, DC 20515

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CONGRESSWOMAN SHEILA JACKSON LEE OF TEXAS

STATEMENT BEFORE THE
COMMITTEE ON THE JUDICIARY

MEMBER DAY HEARING

OCTOBER 22, 2021

- As a Senior Member of this Committee, and Chair of the Judiciary Subcommittee on Crime, Terrorism, and Homeland Security, I would like to thank Chairman Nadler for his ongoing leadership and fearless championing on issues of vital import to the America people.
- I appreciate the opportunity to engage with all members of this Committee once again, and to advocate further for all Americans as we move forward to fix our criminal justice system and address the scourge of gun violence.
- There are four immediate items that I encourage this committee to address.

- First, earlier this year I introduced H.R. 5455, the “*Terry Technical Correction Act*,” which is a bipartisan and bicameral which clarifies that all offenders who were sentenced for a crack cocaine offense before the *Fair Sentencing Act of 2010* can apply for its retroactive application under Section 404 of the *First Step Act*.
- This bill is a response to the recent Supreme Court case which addressed whether low-level offenders should get reduced sentence under First Step Act.
- The Court refused to do so because the First Step Act did not make the Fair Sentencing Act retroactive for low level offenders.
- Earlier this year in *Terry v. United States*, the Supreme Court held that low-level crack offenders, whose conduct did not trigger a mandatory minimum penalty, do not qualify for resentencing under Section 404 of the *First Step Act*.
- The effect of this holding is that individuals convicted of the offenses with the lowest levels of crack cocaine are not eligible for retroactive relief, whereas other offenders are.
- The *Terry Technical Correction Act* reaffirms Congress’s intent to provide retroactive sentencing relief to all individuals convicted of crack cocaine offenses before the *Fair Sentencing Act* took effect, including individuals convicted of the lowest level crack offenses.
- As the Supreme Court noted in *Terry*, I have worked to address the sentencing disparity between crack cocaine and powder cocaine offenses since 2007.
- I am proud that this bipartisan legislation is one more step in our efforts to correct a disparity that has damaged communities of color for generations and stolen years from thousands of individuals and their families.
- Second, I have long worked to reform our broken criminal justice system so that individuals receive equal justice and those incarcerated

receive the treatment, counseling, and support necessary to reenter society without and to reduce recidivism.

- H.R. 4200, the *Residential Substance Use Disorder Treatment Act of 2021*, contributes to each of these objectives by enhancing the capabilities of states and units of local and tribal governments to provide residential substance abuse treatment for incarcerated inmates; preparing inmates for reintegration into a community by incorporating reentry planning activities into treatment programs; and assisting offenders and their communities through the reentry process by delivering community-based treatment and other broad-based aftercare services.
- Specifically, under H.R. 4200, the Residential Substance Use Disorder Treatment Program administered by the Department of Justice is reauthorized for the next five years at \$40 million annually, while making significant improvements to the program, including:
 - encouraging and supporting the expansion of clinically appropriate use of overdose reversal medications and medications for addiction treatment;
 - allowing treatment programs to enroll pretrial detainees;
 - requiring all treatment services to adhere to established clinical standards; and,
 - requiring the appropriate medical personnel in a Residential Substance Use Disorder Treatment funded prison or jail to complete training on clinical issues related to the treatment of addiction in an incarceration setting.
- I am gratified to be joined in this effort by a broad-based national coalition mental health, law enforcement, and criminal justice organizations, including the American Jail Association; Correctional Leaders Association; Major County Sheriffs of America; National Alliance on Mental Illness; National Association of Counties; National Association of Drug Court Professionals; National Criminal Justice Association; National District Attorneys Association; National League of Cities; and the National Sheriffs' Association.

- Third, I encourage this Committee to consider the “*Smarter Sentencing Act*,” which will reduce mandatory minimum sentences for drug trafficking and some importation offenses.
- Specifically, this legislation would:
 - Reduce by about half the mandatory penalties for people convicted of drug trafficking (i.e., 5-, 10-, and 15-year sentences would become 2-, 5-, and 10-year sentences);
 - Reduce by half or more the mandatory penalties for drug couriers convicted of drug importation (i.e., 5-, 10-, and 20-year sentences would become 2-, 5-, and 10-year sentences);
 - Direct the U.S. Sentencing Commission to conform its guidelines with this reform;
 - Direct judges to hear motions from people currently serving applicable sentences, and give the judges power to issue new, reduced sentences under the new law;
 - Require the Attorney General to submit a report on how cost savings from having fewer people in prison can be better invested in other public safety measures; and
 - Require the Attorney General and federal agencies to submit a report to Congress and create a public database outlining all federal criminal offenses, their potential penalties, and the number of recent prosecutions.
- For decades, drug offenses have created dilemmas for the United States' criminal justice system.
- Not all drug crimes are created equal, but with laws in place now, some non-violent drug offenders can face long-term consequences that may impede on their recovery.
- This bill is designed to allow judges to make a sentence fit the crime; while it may not change whether people go to jail, it can change how long they stay there.
- We have attempted a one-size-fits-all method for decades, and it has simply not worked.

- A judge presiding over a courtroom who is in contact with the defendant and who understands the nature and circumstances of the crime is in the best position to determine fairness to both society and the defendant.
- Finally, it is my hope that this Committee will soon consider the “*Juvenile Justice First Act*,” which will reform many of the issues that plague our juvenile justice system.
- Seeking reform requires changing minds and hearts, and that is not always an easy task, but the reform of juvenile justice is not impossible.
- We must take into consideration, childhood trauma and its impact on an already underdeveloped brain when prosecuting, punishing, and incarcerating our youths.
- We must listen to the science, which has shown that adolescence is a distinct development stage that lasts from the mid-teen years into the mid-twenties.
- It tells us that during that time, brains continue to mature and develop throughout childhood and adolescence and well into early adulthood.
- According to ACLU, research has shown that solitary confinement can cause extreme psychological, physical, and developmental harm, resulting in persistent mental health problems or even suicide.
- As such, adolescents do engage in behaviors that are risky and sometimes dangerous.
- The Supreme Court recognize this fact as demonstrated in its line of landmark cases from *Roper v. Simmons*, to *Graham v. Florida*, *J.D.B v. North Carolina*, *Miller v. Alabama*, and *Montgomery v. Louisiana*, when determining the legal culpability of juveniles facing life without parole sentences.
- Although the conservative majority stated in *Jones v. Mississippi* that it does not overrule *Miller*, this deviation from precedent is a clear reminder

that we must remain committed to enacting legislation that addresses juvenile life without parole effectively.

- The United States stands alone as the only nation that sentences people to life without parole for crimes committed before turning 18.
- Congress has much work to do in addressing this and other issues like juveniles in adult facilities, age appropriate prosecutions, reentry, fines and fees, probation, status offenses and solitary confinement.
- Thank you, I yield back my time.