



May 24, 2021

Chair Dick Durbin  
711 Hart Senate Office Building  
Washington, D.C., 20510

Ranking Member Chuck Grassley  
135 Hart Senate Office Building  
Washington, D.C., 20510

**Re: Markup of the First Step Implementation Act, the Prohibiting Punishment of Acquitted Conduct Act, and the Covid-19 Safer Detention Act**

Chair Durbin and Ranking Member Grassley,

The Niskanen Center writes to commend the Senate Committee on the Judiciary for its scheduled markup of the First Step Implementation Act (S. 1014), the Prohibiting Punishment of Acquitted Conduct Act (S. 601), and the COVID-19 Safer Detention Act (S. 312).

Public safety, social order, and the fair administration of justice are necessary elements of a free and open society. Governments have a duty to protect people from violence and secure property from theft and destruction. In fulfilling this duty, governments have a corresponding obligation to affirm the rule of law, respect constitutional rights and due process, impose just and effective punishments, eliminate inequities, and promote the common good across communities.

Public policy should reflect the best available evidence. Decades of consistent research show credible threats of swift, certain, and fair sanctions for criminal behavior deliver justice and public safety more effectively and efficiently than severe prison sentences imposed on a fraction of criminals who are caught, prosecuted, and convicted. Separately, public policy ought to reflect that the United States Constitution provides necessary limits on the means by which the state may attempt to achieve its ends, including basic obligations like protecting public safety and social order.

On the whole, the bills scheduled for markup reflect an appreciation for these sound principles. **As such, we support the markup of these bills, and we encourage the Committee to oppose unrelated or politically divisive amendments that could jeopardize their advancement.**

We look forward to additional conversations with congressional offices and committee staff to provide further information regarding our position on these bills, including the evidence we use to support our position. We hope you view us as a resource regarding future criminal justice legislation.

Respectfully,

Greg Newburn  
Director, Criminal Justice  
The Niskanen Center

Matthew Bulger  
Government Affairs Manager, Criminal Justice  
The Niskanen Center