



The Case Against Mandatory Minimums in Massachusetts: Research, Policy Statements and Public Opinion

When mandatory minimum sentences for drug offenses were first enacted, there was scant evidence that such laws succeeded in reducing drug use and sales. Nearly 30 years later, the verdict is in: mandatory minimums do not work. Instead, they result in disproportionately harsh sentences for low-level offenders, do not address drug dependency, cost too much and fail to protect public safety.

Mandatory minimums don't work as intended.

- William H. Rehnquist, the late **Chief Justice of the U.S. Supreme Court**, spoke out against mandatory minimums, especially those that result in harsh sentences for first-time offenders, calling them “perhaps a good example of the law of unintended consequences.” *Remarks delivered at the National Symposium on Drugs and Violence in America (1993).*
- By 1995, a Boston Globe investigation found that state prisons had become overcrowded with low-level, often first-time drug offenders who **routinely received longer sentences than violent criminals.** “*Overdosing on the Drug War: Mandatory Sentencing in Massachusetts*” (1995).
- The state Department of Correction reports that drug offenders make up over one-quarter of the prison population and notes that fluctuating rates of drug-related incarcerations **undermine that claim that mandatory minimums deter drug use.** *Massachusetts Dept. of Correction, “January 1, 2009 Inmate Statistics” (2009).* The Massachusetts Sentencing Commission reports that over 30% of those state prisoners either had **no prior criminal record or only a few convictions for minor offenses.** *Massachusetts Sentencing Commission, “Survey of Sentencing Practices FY 2008” (2009).*
- Substance abuse continues to increase. Calling addiction a “**public health epidemic,**” a state commission noted that 3,265 Massachusetts residents died from opiate-related overdoses alone from 2002 to 2007. “*Recommendations of the OxyContin and Heroin Commission*” (2009). In 2005, almost **22% of the state budget** was spent on “shovel[ing] up the wreckage of substance abuse and addiction,” primarily in the areas of healthcare, the criminal justice system and schools. Treatment programs accounted for less than 2% of that amount. *National Center of Addiction and Substance Abuse at Columbia University, “Shoveling Up II: The Impact of Substance Abuse on Federal, State and Local Budgets” (2009).*

Even worse: School zone sentences.

Massachusetts’ drug-free “school zone” law applies to a person who commits *any* drug offense within 1,000 feet of a school. It adds two to 15 years to the sentence for the underlying offense. In 2008, over 25% of all mandatory minimum sentences were for school zone violations, even though the evidence keeps mounting that the law doesn’t work.

- A study of school zone prosecutions showed that **less than 1% of the cases involved sales to minors**, those whom school zone laws were intended to protect. *William N. Brownsberger & Susan Aromaa, "An Empirical Study of the School Zone Law in Three Cities in Massachusetts" (2001).*
- A 2008 report on Hampden County school zone cases found that the law does not drive drug activity away from children but instead creates an **"urban effect,"** where city dwellers are punished more harshly than suburban or rural residents who commit the same offense. *Prison Policy Initiative, "The Geography of Punishment" (2008).*

Law enforcement calls for reform.

Unlike most other prisoners, drug offenders serving mandatory minimum sentences are not allowed to participate in work release programs, earn "good conduct" credits or apply for parole, the very systems designed to reduce the likelihood that ex-offenders will commit new crimes.

- A bipartisan commission convened by Gov. Romney urged the state to revise mandatory minimum drug sentencing laws, calling our current policies **"a recipe for recidivism."** *Governor's Commission on Corrections Reform (2004).*
- The state's top law enforcement officials acknowledge that mandatory minimum sentences for drug offenses sometimes result in non-violent offenders serving lengthy sentences that are **disproportionate to the risk that they pose to the community.** *Executive Office of Public Safety, Fact Sheet on Governor's crime prevention bill (2009).*
- Middlesex County Sheriff James V. PiPaola **supports parole reform.** *"Revisiting drug sentences," Boston Herald (2006).* Norfolk County Sheriff Michael G. Bellotti says that mandatory minimums prevent him from dealing with non-violent offenders "in ways that are more effective from both **public safety and cost-effective standpoints.**" *"Sentencing guidelines are not working," Patriot Ledger (2009).*

Taxpayers pay the price.

- The Massachusetts Taxpayers Foundation described how the state's costly sentencing system is **crowded with non-violent offenders** and supported reforms that would "provide less-costly alternatives to incarceration for first-time and non-violent offenders." *Massachusetts Taxpayers Foundation, "State Fiscal Crisis: Golden Opportunity for Reform" (2003).*
- The Department of Public Health convened over 20 state, local and federal agencies to develop a substance abuse strategic plan for the state. The group found that drug treatment resulted in **decreased costs for healthcare and crime**, along with increased earnings for those who received treatment. *"State of Massachusetts Substance Abuse Strategic Plan" (2005).*
- The Department of Correction calculated the 2009 annual cost of incarceration for a state prison inmate at about **\$47,000**, while the Massachusetts Sheriffs' Association estimates that the annual cost of for an inmate at a county House of Correction is **\$35,000**. According to the Mental Health and Substance Abuse Corporations of Massachusetts, the average cost of a course of drug treatment is **\$10,000, making treatment a more cost-effective option than incarceration.**

- Over the past 10 years, the budgets for the state’s prisons and jails have grown at a faster rate than the budgets for most other state services, including **public health, higher education and local aid**. *Crime and Justice Institute, “Priorities and Public Safety: Reentry and the Rising Costs of our Corrections System (2009).*
- Worcester County Sheriff Guy Glodis argues that “tough on crime” sentencing laws have led to an **“unprecedented financial crisis.”** *“Now’s the Time for Prison Reform,” Metrowest Daily News (2009).*

Racial disparities have increased.

Some early supporters of mandatory minimums hoped that one-size-fits-all penalties would lead to more uniform sentences among different racial groups, thereby reducing racial disparities. They were wrong.

- U.S. Supreme Court Justice Stephen G. Breyer wrote that mandatory minimum sentences “have **reintroduced much of the sentencing disparity**” they were created to eliminate. *Harris v. United States, 535 U.S. 545, 570 (2002) (concurring in part and concurring in the judgment).*
- In 2008, over **75% of those serving mandatory prison sentences** in Massachusetts for drug offenses were people of color. *Massachusetts Sentencing Commission, “Survey of Sentencing Practices FY 2008” (2009).* Yet people of color make up **fewer than 20%** of the state’s residents. *U.S. Census Bureau (2009).*
- Such wide disparities cannot be explained by drug use, as the Massachusetts Department of Public Health found that **drug use is roughly comparable between racial groups**. *“Alcohol Use, Illicit Drug Use, and Gambling in Massachusetts” (2005).* Rather than opting for a public health approach to the demand for drugs, our drug policies have “focused on suppliers, and in particular, **suppliers in minority neighborhoods.**” *Human Rights Watch, “Targeting Blacks: Drug Law Enforcement and Race in the United States” (2008).*

The legal profession’s long-standing opposition.

- The Boston Bar Association first called for the **repeal of mandatory minimum sentences**, except for first degree murder, in 1991. *“The Crisis in Corrections and Sentencing in Massachusetts,” in conjunction with the Crime and Justice Foundation (1991).*
- In 2004, a special commission of the American Bar Association urged a **nationwide repeal of mandatory minimums**. *American Bar Association Justice Kennedy Commission, “Reports with Recommendations to the ABA House of Delegates” (2004).*
- Most recently, the Massachusetts Bar Association’s Drug Policy Task Force issued a major report calling for a **public health approach** to drug use and urging the state to reform mandatory minimum sentencing laws. *“The Failure of the War on Drugs: Charting a Course for Change in Massachusetts” (2009).*

Community leaders oppose mandatory minimums.

- The **U.S. Conference of Mayors** declared that mandatory minimum sentences are ineffective at reducing substance abuse and crime. *United States 75th Annual Conference of Mayors (2006)*.
- According to the **U.S. Conference of Catholic Bishops**, “We must renew our efforts to ensure that the punishment fits the crime. Therefore, we do not support mandatory sentencing that replaces judges’ assessments with rigid formulations.” *“Responsibility, Rehabilitation, and Restoration: A Catholic Perspective on Crime and Criminal Justice” (2000)*.
- Many other **major religious denominations** have also called for the repeal of mandatory minimum prison sentences, including the National Council of Churches, United Methodist Church, Presbyterian Church (USA), Episcopal Church, Evangelical Lutheran Church in America, Progressive United Baptist Convention, United Church of Christ, Union for Reform Judaism and the Unitarian Universalist Association. *Interfaith Drug Policy Initiative (2004)*.

The public agrees.

In a 2005 study, researchers found that Massachusetts residents **overwhelmingly opposed mandatory minimum sentences**, regardless of their political party, age or race. For drug offenses, about three-fourths of the state’s residents preferred mandatory drug treatment to mandatory prison time. *Crime and Justice Institute & Doble Research Associates, “Rethinking Justice in Massachusetts: Public Attitudes Toward Crime and Punishment” (2005)*.

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