



Adding insult to injury: Mandatory minimum sentencing laws & their impact on women

For years, the evidence has mounted that mandatory minimum sentences for drug offenders do not work. They result in **disproportionately harsh sentences for low-level offenders, fail to reduce drug sales or drug dependency, cost too much and fail to protect public safety.**¹ Drug offenders often serve longer sentences than those who commit violent crimes. If that were not bad enough, Massachusetts' drug sentencing laws have a particularly harsh effect on women.

- ◆ Fifteen years ago there was already enough data available for the Boston Globe Spotlight Team to note that our state prisons were overcrowded with low-level drug offenders, including **women who played, at most, secondary roles** in drug offenses committed by their boyfriends and husbands.² The series profiled young mothers who had received 10 and 15-year sentences, even as first-time offenders.
- ◆ Even more troubling, the Globe's series showed how these **low-level offenders could serve longer sentences** than major dealers and suppliers. The women couldn't "cooperate" with law enforcement by offering information on the drug operation – because they didn't have any. They couldn't negotiate a reduction of charges by turning over drug money or assets – because they didn't have any. Instead, they took the full brunt of mandatory sentencing laws.
- ◆ Nearly **one-third of female state prisoners** are serving drug-related sentences.³ By 2009, **over half** of these women were serving mandatory minimum sentences,⁴ compared to only 12 percent just six years ago.⁵
- ◆ Noting that drug sentencing laws have contributed to longer sentences for female offenders, researchers found that **almost 70% of Massachusetts' incarcerated women have children under 18.**⁶ Children are five times more likely to end up in foster care when the mother is in prison, compared to the father. Children with either parent in prison are significantly more likely to become involved with the criminal justice system.
- ◆ In a report on substance abusing female offenders in Massachusetts, researchers found that virtually **all** women sentenced to incarceration were identified in their case records as substance abusers.⁷ Moreover, a female defendant who was identified as a substance abuser was **more likely to be sent to prison** than those who were not, raising serious questions about the state's approach to drug addiction and dependency. Yet once in prison, these same women must compete for scarce treatment options with those who are civilly committed or who are awaiting trial.⁸

- ◆ Taxpayers pay the price for our failed drug sentencing laws. It costs **\$47,000 a year** to house a state prisoner⁹ and on average **\$35,000** for a county prisoner.¹⁰ In addition, taxpayers pay for foster care and Dept. of Children and Families intervention. However, the average cost of a course of drug treatment outside of a correctional setting is **\$10,000**,¹¹ making treatment a more cost-effective option than incarceration.
- ◆ After being sent to prison, drug offenders are not allowed to participate in work release programs, earn “good conduct” credits or to apply for parole during the mandatory minimum portion of their sentence. In 2004, the bipartisan Governor’s Commission on Corrections Reform called these restrictions a **“a recipe for recidivism”** and urged the state to revise the law.¹²
- ◆ A 2005 review panel on female offenders echoed the Governor’s Commission on the need for reform.¹³ It also unanimously endorsed legislation calling for **parole eligibility for drug offenders serving mandatory minimum sentences**.¹⁴ This language was refiled and became the basis for S.2220, the sentencing reform bill that the Senate passed in 2009.
- ◆ In its 2009 summary of the changes implemented in response to the Governor’s Commission recommendations, the review panel on female offenders **again called for legislative reforms** and noted that sentencing reform bills had been filed.¹⁵

¹ See FAMM’s brochure, “The Case Against Mandatory Minimums in Massachusetts: Research, Policy Statements and Public Opinion.”

² Boston Globe Spotlight Team, “Overdosing on the drug war: a four-part series on mandatory sentencing in Massachusetts” (Sept. 24 - 27, 1995).

³ Massachusetts Department of Correction, “January 1, 2009 Inmate Statistics” (May 2009).

⁴ See footnote 3.

⁵ Executive Office of Public Safety and Department of Correction, “Governor’s Commission on Corrections Reform, Major Recommendation #13: Dedicated External Female Offender Review” (2005).

⁶ Kates, Mignon & Ransford, “Parenting from Prison: Family Relationships of Incarcerated Women in Massachusetts” (2008).

⁷ Carol Hardy-Fanta & Sylvia Mignon, “Alternatives to Incarceration for Substance Abusing Female Defendants/ Offenders in Massachusetts, 1996-1998” (2000).

⁸ See footnote 5.

⁹ Budget Department, Department of Correction.

¹⁰ Estimate of Massachusetts Sheriffs Association.

¹¹ Estimate of Association for Behavioral Healthcare, formerly known as the Mental Health and Substance Abuse Corporations of Massachusetts, based on state rates set forth at 114.3 C.M.R. §46.00, et seq.

¹² Governor’s Commission on Corrections Reform, “Strengthening Public Safety, Increasing Accountability, and Instituting Fiscal Responsibility in the Department of Correction” (2004).

¹³ See footnote 5.

¹⁴ S.931, An Act Relative to Post Release Supervision and Community Reintegration, filed in the 2005 - 06 legislative session.

¹⁵ Executive Office of Public Safety & Security and Department of Correction, “Female Offender Panel Review and Strategic Plan Final Summary” (July 2009).

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