



Testimony for the House Judiciary Committee HB 353- Criminal Procedure – Drug-Related Offenses – Repeal of Mandatory Minimum Sentences

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The American Civil Liberties Union of Maryland supports House Bill 353, which would repeal the mandatory minimum sentences for certain drug-related offenses and allow those convicted of certain drug-related offenses to participate in drug treatment programs.

Nationwide, mandatory minimum sentences have worsened racial and gender disparities in our criminal justice system and have contributed to prison overcrowding. Maintaining mandatory minimum sentencing will continue to cost the state a great deal, both financially and socially. It creates an unnecessarily large and costly prison population during this time of tight budgets and need for quality education and health care. And, most importantly, financial resources are misallocated – those who are caught up in the criminal justice system under mandatory minimum sentencing receive harsh punishment rather than the medical treatment they need.

Racial Disparities

The mass incarceration of racial minorities in this country must be placed at the forefront of challenges in Maryland and throughout the nation. The United States now has the highest rate of incarceration in the world, currently imprisoning a larger percentage of its African-American citizens than were imprisoned by South Africa at the height of apartheid. According to a 2007 report by the Justice Policy Institute, the impact of Maryland's reliance on imprisonment for drug-involved individuals is concentrated among communities of color, particularly African Americans. JPI found that in 2003, African Americans represented 28 percent of Maryland's population, but accounted for 68 percent of all drug arrests, and 90 percent of all those imprisoned in the state for a drug offense, even though surveys suggested that whites and African-Americans actually had similar rates of drug use and drug distribution.¹

¹All data is from: Justice Policy Institute, *Maryland's Mandatory Minimum Drug Sentencing Laws: Their Impact on Incarceration, State Resources and Communities of Color*, http://www.justicepolicy.org/images/upload/07-02_REP_MDMandatoryMinimums_DP-MD.pdf (February 2007).

Public Safety

In addition to its decimating effect on African-Americans, Maryland's increased use of incarceration through its mandatory minimums in drug cases does not appear to be making communities safer. JPI examined neighborhoods with high levels of violence in 2005 and found that, "the removal of young men to prison did not increase safety in these neighborhoods, and may ultimately have had the opposite effect." In fact, it was treatment that was found to be associated with crime drops, not imprisonment. In a 2006 study, JPI found that eight of the 12 jurisdictions that made greater use of treatment saw crime fall by 10 percent or more since 2000 compared to just two of the 12 jurisdictions that relied more on imprisonment.

Additionally, mandatory minimums often are used against low-level offenders rather than drug kingpins, as they generally have more information to share, which they can use to get better deals for cooperation. Locking up these low-level offenders, rather than treating them, does little to improve overall public safety.

The Budget

Sadly, Maryland is spending millions of dollars on a crime policy that doesn't work. Maryland is estimated to be spending between \$2 and \$3 million a year to incarcerate just the people serving time on mandatory minimum drug sentences. Estimating further that these individuals serve at least seven years, Maryland would pay between \$15 to \$24 million for the people admitted for mandatory minimum sentences over a seven year period. The ACLU of Maryland believes that there are better uses for these funds that would do more to foster safe and healthy communities.

In Conclusion

Since 1986, when Congress enacted mandatory minimum sentencing laws and officially launched the "war on drugs," there have been serious and systemic social ramifications that have devastated vulnerable populations in Maryland, yet we are no closer to "winning the war." The ACLU of Maryland believes this is because the war is not targeting an enemy that can be contained but rather people who need help.

What's been lost with mandatory sentencing is a sense of scale and purpose. Low-level drug offenders should not be the focus, although statistics show that they disproportionately feel the brunt of the policy. And locking up people suffering with drug addiction is not the answer, because the goal should be to foster healthy communities that can positively respond to the social realities that exacerbate drug abuse.

One answer to this predicament is to restore to judges some measure of discretion in imposing sentences, allowing them to consider such important factors as the offender's role, motivation and the likelihood of recidivism, along with the ability to consider the cases within relevant social contexts.

The ACLU of Maryland believes that the remedy contained in House Bill 353 is an important step in re-establishing a criminal justice system in Maryland that is fair and constructive, and therefore recommends a favorable report.