



The Honorable Sheila Jackson Lee
Committee on the Judiciary
Subcommittee on Crime, Terrorism, and Homeland Security
United States House of Representatives
Washington, DC 20515

The Honorable Andy Biggs
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March 11, 2021

Re: Hearing on Controlled Substances: Federal Policies and Enforcement

Dear Chairwoman Jackson Lee and Ranking Member Biggs:

Thank you for holding today's important hearing on federal drug enforcement policies. The Justice Roundtable coalition and the undersigned organizations share an abiding concern over the federal government's harsh mandatory minimum sentencing regime prescribed for people with drug convictions, with an overwhelming impact on Black and Brown people. Given evidence that recent reform efforts to reduce prison sentences have not harmed public safety, we urge Congress to advance legislation that will end the excesses of mandatory minimum sentencing once and for all.

Approximately 66,000 people incarcerated for drug offenses account for almost 50% of the federal prison population today.¹ As of fiscal year 2019, 45% of people sentenced for a drug offense had little or no prior criminal history and the vast majority were low-level, including street-level sellers, couriers and mules, and had no weapons involvement in their cases.² Over 70% of the people sentenced for drug offenses in 2019 were also people of color. Federal courts have been obligated to impose stiff mandatory sentences on many of these defendants despite their low levels of engagement in the drug trade.

Fortunately, recent drug sentencing reforms have scaled back the federal prison population, without harming public safety. The federal prison population decreased by 20% relative to its

¹ https://www.bop.gov/about/statistics/statistics_inmate_offenses.jsp

² https://www.ussc.gov/sites/default/files/pdf/research-and-publications/quick-facts/Drug_Trafficking_FY19.pdf

peak level in 2011. The decline is almost twice the national average rate of decarceration.³ The reduction in the federal prison population was achieved through changes in sentencing law, including passage of the Fair Sentencing Act in 2010 and First Step Act in 2018, sentencing guidelines, prosecutorial charging policies during President Obama’s tenure, and clemency.⁴

Analyses conducted by the U.S. Sentencing Commission repeatedly find that individuals who had served reduced federal drug sentences for crack cocaine and other drugs, following Commission retroactive amendments to reduce sentences, did not experience higher recidivism rates compared to counterparts in federal prison who had served their full term.⁵

The continuation of harsh federal sentencing laws for drug offenses runs counter to research on effective crime and substance abuse policy. Because many people entering the criminal justice system are in the lower- and middle-levels of a drug operation, incarcerating these individuals often results in their being replaced by other sellers willing to fill their roles, and does nothing to address users’—and sometimes sellers’ themselves—substance use disorders. Long prison terms for these individuals also have a limited deterrent effect since most people do not expect to be apprehended for a crime, are not familiar with relevant legal penalties, or commit criminal offenses with their judgment compromised by substance use or mental health conditions.

Areas with upticks in crime and substance use problems will require more effective policies than tougher sentences that have limited effect. Expanding access to community-based drug treatment programs, harm reduction tools and services, mental health services, as well as prison-based rehabilitative programs and subsequent re-entry services is a more effective strategy to confront the nation’s drug problems.

We urge Congress to end the devastation of mass incarceration perpetuated by the War on Drugs by joining President Biden’s call for eliminating mandatory minimum sentences and by pursuing a more public health centered approach to substance use disorders in our communities.

For more information, please contact the Justice Roundtable’s Sentencing Reform Working Group Co-chairs, Kara Gotsch at kgotsch@sentencingproject.org, Aamra Ahmad at aahmad@aclu.org, and Nkechi Taifa at Nkechi@thetaifagroup.com.

Sincerely,

AIDS United
American Civil Liberties Union
CAN-DO Foundation
Center for Disability Rights
Center for Popular Democracy Action
Chicago Drug Users' Union
College and Community Fellowship

³ <https://www.sentencingproject.org/publications/can-we-wait-60-years-to-cut-the-prison-population-in-half/>

⁴ In total, Presidents Barack Obama and Donald Trump commuted federal drug sentences for almost 1,800 people.

⁵ <https://www.ussc.gov/sites/default/files/pdf/research-and-publications/backgrounders/RG-retroactivity-recidivism.pdf>

Communities United
CURE (Citizens United for Rehabilitation of Errants)
Drug Policy Alliance
End AIDS Now
Equal Justice Under Law
Fair and Just Prosecution
FAMM
Federal Public and Community Defenders
Friends of Guest House
Human Rights Watch
Jewish Council for Public Affairs
Justice Strategies
Law Enforcement Action Partnership
The Leadership Conference on Civil and Human Rights
LEAP
Legal Action Center
Let's Kick ASS NY (AIDS Survival Syndrome)
Life for Pot
Mommie Activist and Sons
National Association of Criminal Defense Lawyers
National Association of Social Workers
National Council of Churches of Christ in the USA (NCC)
National Council on Alcoholism and Drug Dependence
National Health Care for the Homeless Council
National Juvenile Justice Network
National Viral Hepatitis Roundtable
Operation Restoration
P.A.I.N. (Prescription Addiction Intervention Now)
Peacebuilding Connections
The Sentencing Project
StoptheDrugWar.org
Students for Sensible Drug Policy
The Taifa Group
Union for Reform Judaism
Urban Survivors Union
The Washington Office on Latin America
Whose Corner Is It Anyway