



National Program Planning Concurrence Proposal SENTENCING REFORM

BACKGROUND INFORMATION

Sentencing Reform Concurrence at Convention 2012

The LWVDC will sponsor a proposal for concurrence based on our sentencing positions at the LWVUS Convention, June 8 – 11, 2012 in Washington, DC. These positions were studied and adopted by the LWVDC in 1982 and reaffirmed in 2009. See the LWVDC's "Where We Stand" (lwvdc.org > publications) for our positions on criminal justice. We are collaborating on this concurrence proposal with the ad hoc committee on sentencing reform created at Convention 2010 in Atlanta.

Title: *Sentencing Policy*

- 1) The LWVUS believes alternatives to imprisonment should be explored and utilized, taking into consideration the circumstances and nature of the crime.***
- 2) The LWVUS opposes mandatory minimum sentences for drug offenses.***

Why Sentencing Reform Is Needed

The United States incarcerates more of its citizens than any country in the world. The exceptional growth in our prison population over the last 30 years is due to changes in sentencing policies that now prioritize lengthy confinement, including for nonviolent offenses, and not because of an increase in crime rates. This nation's "war on drugs" over the last three decades, more than any other factor, has fueled the incarceration boom. The number of people behind bars for drug offenses has increased more than 12-fold since 1980.

The results of this mass incarceration include broad disenfranchisement among ex-offenders with felony records, as well as huge obstacles to employment, housing, and education for those seeking a crime-free life after incarceration. In addition, racial disparity pervades the criminal justice system, and communities of color are most impacted by incarceration and the burdens of a criminal record. The LWVUS should approve the two proposed provisions on sentencing policy that would reduce U.S. mass incarceration and ensure an effective system of justice.

Arguments for Alternatives to Incarceration Where Appropriate

In 2008 the U.S. put one of every 48 working-age men behind bars and spent \$75 billion on corrections, the majority on incarceration. Filling prisons with non-violent offenders is a waste of human potential. Some states are beginning to reform their prison and sentencing policies to reduce bloated incarceration rates. States are also directing some of the funds that will be saved from lower incarceration rates to helping ex-felons integrate back into the communities to which they will be returning after prison.

Alternatives to incarceration should be fair, affordable, and consistent with public safety. They can include drug and mental health courts, halfway houses and day reporting centers, restitution requirements, rehabilitative services, and more. Other alternatives include new technologies like GPS systems that monitor the whereabouts of offenders and help enforce curfews; and automated kiosks, which allow offenders to check in with probation authorities without having to take time off from work or other responsibilities.

Alternatives save taxpayers money. They keep offenders with their families and jobs, instead of in prison or jail with inmates convicted of violent crimes.

For more information, see Families Against Mandatory Minimums (FAMM) Alternatives to Incarceration Fact Sheet

www.famm.org/Repository/Files/Alternatives%20in%20a%20Nutshell%207.30.09%5B1%5DFINAL.pdf

(FAMM is a nonprofit organization founded in 1991 to challenge what they believe to be the inflexible and excessive penalties required by mandatory sentencing laws. FAMM promotes sentencing policies that give judges the discretion to distinguish between defendants and sentence them according to their role in the offense, the seriousness of the offense, and their potential for rehabilitation. FAMM's members include prisoners and their families, attorneys, judges, criminal justice experts, and concerned citizens.)

Arguments for Opposing Mandatory Minimum Sentences for Drug Offenses

Congress created federal mandatory minimum sentences 25 years ago, requiring harsh sentences for nonviolent offenders. As a Rand report noted even in 1997, "The rise in mandatory minimum sentences has damaged the integrity of the justice system, reduced the role of judges in meting out punishment and increased the power of prosecutors beyond their proper roles....The dynamic is another reason to repeal mandatory sentencing laws, which have proved disastrous across the country, helping fill up prisons at a ruinous cost...without increasing public safety."

Judges often cannot consider mitigating factors that would help impose fair sentences for drug offenders, particularly low-level offenders. The proportion of drug offenders sentenced to prison has swelled from 79 percent in 1998 to 93 percent in 2004. Many of those are serving extraordinarily long sentences, receiving little or no addiction treatment, and growing older, sicker and more in need of taxpayer-provided medical care.

Even the U.S. Sentencing Commission, appointed by Congress, reported in November, 2011, that most mandatory minimum sentencing laws are too harsh, applied inconsistently, and filling our prisons with so many low-level offenders that they have contributed to overcrowding and budget crisis.

In fiscal year 2010, two of every three offenders convicted of an offense carrying a mandatory minimum penalty were drug offenders. Almost half of all drug offenders were convicted of an offense carrying a 10-year penalty.

The rate at which drug offenders were subject to the mandatory minimum penalty at sentencing varied by race, gender and citizenship. Black offenders were subject most often, in 60.6 percent of their offenses carrying such a penalty, followed by Hispanic (41.0%), White (36.3%), and Other Race offenders (27.7).

The War on Drugs has had a profound impact on African-Americans and Hispanics arrested for drug offenses. They are imprisoned at rates that greatly exceed their proportion of the drug-using population. This is due in part to law enforcement practices, but also to drug sentencing policies that have been enacted since the 1980s at both the federal and state level. Every state now has some form of mandatory sentencing, often applying to drug offenses.

For more information about mandatory minimum sentences, see "Understanding Federal Mandatory Minimums and Guidelines" (www.famm.org/Repository/Files)

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