Conference Paper
Minimum Sentences, Maximum Suffering
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Abstract
Mandatory minimum sentencing has created a judicial system where offenders are subject to "one size fits all" policies and the will of Congress rather than receiving individualized sentences. Prosecutors coerce defendants into pleading guilty by threatening to pile on more charges with mandatory minimum sentences, and many judges have expressed their belief that mandatory minimum sentencing imposes unfair sentencing and restricts judicial discretion. This paper considers all of the relevant evidence, as well as three different policy options for reforming or abolishing mandatory minimum sentencing, and provides a clear path for making the American Judicial System fairer and more individualized.

Introduction

America prides itself in its judicial process and seeks to ensure fair trials and just punishment. However, in an effort to deter crime, Congress has imposed unnecessarily harsh sentencing and replaced judicial discretion with "one size fits all" sentencing charts. This paper discusses mandatory minimum sentencing, which has imposed harsh sentences on many offenders, many of whom are low level and first-time offenders, and has removed the ability of judges to factor in specifics from each case during sentencing. This paper proposes several policy options to address mandatory minimum sentencing, including two options for reform and one option for abolishing mandatory minimum sentencing altogether.

Policy Problem

The Situation. Mandatory minimum sentencing laws force judges to hand down minimum prison sentences based solely off of charges brought against a defendant by prosecutors. This removes the ability for judges to have discretion and practice judgement on a case-by-case basis, as sentences have been forced into "one size fits all" categories. Judges have had their wills stripped away in favor of the opinions of Congress, which are often fueled by political agendas rather than the desire for fair treatment under the law.

Mandatory minimum sentencing has resulted in decade long or life long sentences for non-violent offenders, and many judges feel forced into handing out these sentences. Prosecutors often threaten to bring up more charges with mandatory minimums unless defendants plead guilty, which has resulted in a 95% rate of pleading guilty.[1] This has resulted in a system where practically all defendants facing drug charges (among other charges) receive stacks of mandatory minimum prison sentences without fair trial. Congress has abandoned the idea that Federal judges have the wisdom and discernment to identify and punish serious drug offenders. High-level offenders often trade information about other criminals in exchange for reduced sentences, which has created a system where low-level offenders are disproportionately charged due to mandatory minimums. These sentencing laws have greatly contributed to the overgrowth of the federal prison system, which has hurt the taxpayer, stifled economic growth, and disrupted the wellbeing of the most struggling American communities.

Original Intent. In 1984, Congress passed the Comprehensive Crime Control Act of 1984. This act lessened judges' abilities to exercise their discretion, eliminated parole for many charges, and increased the power of prosecutors by establishing mandatory minimums.[2] The act also raised maximum sentences and increased pretrial detention. The original intent of lawmakers was for this act to minimize disparities in sentencing and make sentences more transparent in order to increase public safety. Congress also intended to give harsher punishments to repeat offenders, and assumed that this was the best option in every case. Mandatory minimum sentencing laws were created with the purpose to deter crime, but this arguably has failed.

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[1]"Mandatory Minimums and Sentencing Reform," Criminal Justice Policy Foundation, No Date, https://www.cjpf.org/mandatory-minimums

[2] "Categorical Mistakes: The Flawed Framework of the Armed Career Criminal Act and Mandatory Minimum Sentencing Comments," Harvard Law Review, November 8, 2019, https://heinonline.org/HOL/Page?handle=hein.journals/hlr133&id=207&collection=journals&index=

<div align="center">**Relevant Evidence**</div>

Alarming Statistics. Mandatory Minimum Sentencing statutes have been put in place for sentencing for many different crimes. This has led to a system where a large portion of defendants face charges with mandatory minimum sentences. Overall, defendants are convicted of an offense carrying a mandatory minimum penalty in 26.1% of all cases.[3] While this is not a majority of cases, statistics become alarming when a specific category is examined. Perhaps the most affected category of defendants is drug offenders. 68.1% of drug offenders are convicted of an offense carrying a mandatory minimum penalty.[4] This highlights how mandatory minimum sentencing statutes have affected many defendants with drug charges, many of whom were first time or nonviolent offenders.

These statistics are incredibly concerning when plea bargains are taken into account. As shown above, at least 95% of federal drug defendants plead guilty, and one factor that causes this is the threat to stack more mandatory minimum charges. Given all of these statistics, it is plausible to assume that a decent proportion of defendants convicted of offenses with mandatory minimum charges plead guilty when they are innocent due to threats from federal prosecutors. If the ability for prosecutors to threaten defendants with mandatory minimum charges was removed, the number of false convictions would likely decrease drastically.

Racial Disparities It has long been argued that policing and sentencing is disproportionately harsh on Black and Hispanic Americans, and the data surrounding racial disparities in mandatory minimum charges is quite telling. It is important to examine disproportionate sentencing for Black and Hispanic offenders, as they account for 69.4% of all offenders convicted of a mandatory minimum penalty.[5] Prosecutors arbitrarily choose to push for a doubled sentence on repeat offenders who are non-white more than they do for offenders who are white.[6] Furthermore, due to disparities in mandatory minimum sentencing lengths for crack and powder cocaine, Black Americans serve almost as much time in prison for a nonviolent drug offense as whites do for a violent offense.[7]

The evidence shows that first-time non-violent offenders often find themselves serving life sentences, and that a large portion of these life sentences are tied to mandatory minimum sentences for drugs that are primarily used by non-white Americans. Handing out life sentences for a small mistake, often made when individuals are teenagers or young adults, traps many in cycles of poverty and incarceration. While deterring crime is certainly important, disproportionately targeting members of certain communities and punishing mistakes with decades or life behind bars does little to deter crime. In fact, statistics show that longer sentences desensitize inmates to the threat of future imprisonment and give offenders the opportunity to get more connected in crime

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[3] "Quick Facts on Mandatory Minimum Penalties," United States Sentencing Commission, 2019, https://www.ussc.gov/sites/default/files/pdf/research-and-publications/quick-facts/Quick_Facts_Mand_Mins_FY19.pdf

[4] Ibid

[5] "Quick Facts on Mandatory Minimum Penalties," United States Sentencing Commission, 2019, https://www.ussc.gov/sites/default/files/pdf/research-and-publications/quick-facts/Quick_Facts_Mand_Mins_FY19.pdf

[6] "Written Submission of the American Civil Liberties Union on Racial Disparities in Sentencing Hearing on Reports of Racism in the Justice System of the United States," American Civil Liberties Union, October 27, 2014, https://www.aclu.org/sites/default/files/assets/141027_iachr_racial_disparities_aclu_submission_0.pdf

[7] Ibid

circles, thus increasing crime rates.[8] Thus, longer sentences due to mandatory minimum statutes contribute to cycles of imprisonment and disproportionately trap non-white Americans.

Unnecessary Sentences. As shown above, mandatory minimums were meant to fairly hand out sentences to criminals for the purpose of crime deterrence. Since mandatory minimums have been put in place, many lives have been disrupted with unfairly harsh sentencing, especially for nonviolent offenders. While considering the statistics of the effects of mandatory minimum sentencing is vital, another necessary method to understand the effects of mandatory minimum sentencing is to highlight certain cases and examine the opinions of judges.

In 1991, nineteen-year-old Brenda Valencia drove her aunt to a house where her aunt then sold seven kilos of cocaine. It was unclear whether or not Valencia was aware of the cocaine, and prosecutors did not even attempt to prove that she was involved in the sale. Relying on the testimony of a sole drug dealer who was working as an informant, prosecutors were able to "prove" that Valencia was merely aware of the sale. Despite no prior arrests, Valencia was handed the mandatory minimum sentence of twelve years and seven months, with two of those years being added because her aunt was carrying a concealed weapon. The sentencing judge commented that "This case is the perfect example of why the mandatory minimum sentences are not only absurd but an insult to justice… It's absolutely ridiculous to impose this sentence in this case, considering the degree of participation that this defendant had in this crime."[9]

In 1991, Gregory Mays was convicted of cocaine conspiracy after agreeing to aid a friend in selling cocaine. Mays was unwilling to cooperate in the cocaine deal before being persuaded by an informant, and only participated to pay off medical bills for his son with medical problems. Mandatory minimum statutes required that his ten-year sentence be doubled to twenty years because of May's prior drug convictions. The sentencing judge in this case said "I find that I join the long list of judges who are appalled at what they have had to do, and I'm appalled by what I feel I'm required to do now…Nothing would delight me more than to have the appellate court send you back here and say that something is wrong with the sentence."[10]

Both of these cases highlight the unintended consequences of mandatory minimum sentencing, as in both cases disparities were reinforced instead of minimized, and the opinions and discretion of judges were eliminated. These two cases have several sharp differences and similarities, which highlight how mandatory minimums effect people across all categories.

The first area of note is past sentencing. Valencia was a first-time offender, but the judge in her case was not able to put this into consideration. In the case of Mays, the judge was forced to double his sentence because of past convictions, even though the judge considered this excessive. This highlights how empirically mandatory minimums remove the ability of judges to consider past criminal records and the overall character of defendants.

The second area of concern is the involvement of informants. In Valencia's case, prosecutors were relying solely on the testimony of an informant, which was pitted against the testimony of Valencia, to prove her involvement in the drug deal. As shown above, mandatory minimum sentencing statutes incentivize high-level offenders to provide as much incriminating evidence as possible in order to lower sentences. In this case, the judge was not able to take into

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[8] "Five things about deterrence," National Institute of Justice, May 2016, https://www.ojp.gov/pdffiles1/nij/247350.pdf

[9] "Mandatory sentencing was once America's law-and-order panacea. Here's why it's not working." Families Against Mandatory Minimums, No Date, https://www.prisonpolicy.org/scans/famm/Primer.pdf

[10] Ibid

account the validity of the informant's testimony, and was not able to weigh Valencia's past record and character when considering the testimony of a high-level offender. In Mays's case, the judge was not able to consider the role an informant had in coercing Mays to aid in the crime. Reports prove that Mays repeatedly resisted the informant's efforts to recruit him in the drug operation, which could highlight Mays's character and help prove that under normal circumstances he would not commit a crime, allowing for the possibility of parole. But the judge was not able to consider any of this, as mandatory minimums eliminate most of a judge's ability to exercise discretion in sentencing.

Another area of interest is the opinions of the judges. In both cases, the judge commented that they felt that mandatory minimum statutes were requiring the sentence to be too high. The judge in Valencia's case believed that her sentence should be lower due to her very limited participation in the crime. This highlights how mandatory minimum sentencing statutes remove the ability of a judge to discern the case and interpret the law. Judges do not want "one size fits all" sentencing policies, and mandatory minimum laws force the opinions of Congress onto the Judicial branch. The comments made by the judge in Mays's case highlight another area of interest. The judge noted that he was joining a "long list of judges" who were appalled with the fact that they were required to hand out such long sentences for cases where they felt it was not necessary. This proves that judges disliking mandatory minimum sentencing laws is not unique to these several cases. Most judges feel as if these statutes are too harsh and would rather hand out sentences on a case-by-case basis.

The stories of Valencia and Mays are not unique. Tens of thousands of Americans, if not more, have been subject to sentences that were higher than what the judge in their case felt was appropriate.

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Alternative Policy Options
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General Guidelines. There are several different policy options that range from altering mandatory minimum sentencing statutes to eliminating them entirely. All proposed policies will attempt to lessen or eliminate the negative impacts of mandatory minimum sentencing laws that were outlined above.

The Smarter Sentencing Act. The first alternative policy option would be for Congress to pass the Smarter Sentencing Act, which was recently reintroduced into Congress. The Smarter Sentencing Act has major bipartisan support, and was introduced by Senate Majority Whip Dick Durbin (D-IL), Chair of the Senate Judiciary Committee, and Senate Judiciary Committee member Senator Mike Lee (R-UT). The Smarter Sentencing Act would lower certain mandatory minimum drug sentences and give federal judges the authority to conduct individualized reviews to determine sentences on a case-by-case basis.[11] The Smarter Sentencing Act would reform mandatory Minimum Sentencing laws by allowing for the consideration of a defendants' criminal past (including whether or not previous convictions have been for violent offenses), by reducing the lengths of many mandatory minimum sentences, by making the law more transparent, and by allowing offenders sentenced under the old regime to petition the sentencing court for a reduction

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[11] "Durbin, Lee Introduce Smarter Sentencing Act," Senate Judiciary Committee, March 26, 2021, https://www.judiciary.senate.gov/press/dem/releases/durbin-lee-introduce-smarter-sentencing-act#:~:text=The%20Smarter%20Sentencing%20Act%20gives,for%20certain%20nonviolent%20drug%20offenses.

in their sentences.[12] Lowering sentences would create a prison system that hands out fair punishment while avoiding long sentences that would only increase cycles of poverty and incarceration. The Smarter Sentencing Act would modernize the mandatory minimum sentencing regime by recognizing that certain sentences are too harsh, especially for nonviolent offenders. This alternative policy option would make mandatory minimum sentencing fairer and more just without eliminating the system entirely, and would likely be the most politically feasible option.

An expanded Smarter Sentencing Act. The second alternative policy option would be for Congress to pass an expanded version of the Smarter Sentencing Act. While the Smarter Sentencing Act that is currently awaiting debate in Congress focuses only on sentencing for drug offenders, Congress could expand this reform to cover a multitude of areas other than sentences for drug charges. The Smarter Sentencing Act is a step towards restoring justice to our legal system, as it ensures that sentences rightly correspond to the seriousness of the offense and reduces sentences for nonviolent offenders.[13] It is good that many members of Congress have recognized the importance of ensuring justice and fairness for those charged with drug offenses, as this is the area with the highest rate of mandatory minimum sentencing. However, if Congress believes that nonviolent offenders should have their record taken into consideration and that mandatory minimums should be lowered, then it should expand these reforms to all areas, not just drug charges. An expanded version of the Smarter Sentencing Act would allow Congress to revisit each category of mandatory minimum sentencing and examine the effects of said sentencing to determine the best reform for each area.

Abolishing Mandatory Minimum Sentencing. The third alternative policy option would be for Congress to eliminate the use of mandatory minimum sentencing as a whole. Instead, judges would be allowed to exercise discretion and decide sentencing on a case-by-case basis. Instead of relying on "one size fits all" sentencing charts, judges would follow the principle of stare decisis, using previous cases to determine the standard. Of course, judges would need to account for previous cases that included mandatory minimum sentencing when exercising the principle of stare decisis. Judges would also be able to factor in the specific details of a case, such as the defendant's criminal record, their degree of involvement in the crime(s), whether or not they were violent, and many other factors. Abolishing mandatory minimum sentencing would return to judges the vital discretion necessary to provide just and individualized sentencing, and would enable many offenders convicted of low-level and nonviolent offenses to exit prison much sooner.[14] Taking into consideration the fact that judges would hand out shorter sentences if mandatory minimum statutes were removed, this policy option would prevent many offenders from serving harsh sentences and would greatly reduce disparities in sentencing.

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[12] "The Case For the Smarter Sentencing Act," The Heritage Foundation, July 28th, 2014, https://www.heritage.org/crime-and-justice/commentary/the-case-the-smarter-sentencing-act
[13] "The Smarter Sentencing Act," Prison Fellowship, No Date, https://www.prisonfellowship.org/about/justicereform/landing-pages/legislation-primers/the-smarter-sentencing-act/
[14] "FAMM releases statement on the introduction of the Smarter Sentencing Act of 2021," Families Against Mandatory Minimums, March 26, 2021, https://famm.org/famm-releases-statement-on-the-introduction-of-the-smarter-sentencing-act-of-2021/

<center>**Criteria**</center>

General Standards. An effective policy must have standards that it seeks to meet. This allows for policy makers to determine which policy option(s) will be best, and gives them the framework by which to view the success of previously implemented policies. There are several criteria that should be used to determine the best policy option for addressing mandatory minimum sentencing.

Proportional Punishment. The first criterion is the principle of proportional punishment, which requires that criminal sentencing and punishment rightly correspond to the seriousness of the offense, the intent of the defendant, and past sentences imposed on other offenders for the same crime.[15] The principle of proportional punishment ensures that sentences are not too long and that different sectors of the population are not given longer sentences disproportionately. It upholds the principle of stare decisis, thus allowing for generally uniform but fair sentencing.

Judicial Discretion. The second criterion is judicial discretion, which is the power of the judiciary to make legal decisions according to their individualized evaluation while guided by legal principles. Our nation was built upon the premise of the separation of powers, meaning that the judicial, legislative, and executives branches have their own areas of authority and should not come into conflict with one another or overstep their authority and act in the place of another branch. A policy to address mandatory minimum sentencing must uphold this principle, ensuring that each branch, especially the judicial branch, is allowed to fulfill its role in the sentencing process.

<center>**Projected Outcomes**</center>

Projected Outcomes of Reforming Mandatory Minimum Sentencing. The first two alternative policy options, which focus on reforming mandatory minimum sentencing rather than abolishing it altogether, would mitigate many of the negative impacts of mandatory minimum sentencing while likely avoiding some of the potential tradeoffs.

The reforms listed in the Smarter Sentencing Act would largely be in line the with the principle of proportional punishment. As stated above, the act would take a defendant's criminal past into consideration during sentencing. This would help ensure that punishment and sentencing rightly corresponds to the seriousness of the offense. The act would also lower sentences in many cases, which would help ensure that sentences are not unnecessarily long. The act would also help to reduce racial disparities in sentencing, as it would lower many minimums for drug charges. The Smarter Sentencing Act would not, however, be able to prevent prosecutors from coercing defendants into pleading guilty by threatening to bring forward more charges with mandatory minimum sentences attached. This would limit the act's ability to uphold the principle of proportional punishment, as many innocent defendants would continue to face undeserved sentences.

The reforms listed in the Smarter Sentencing Act would also be in line with the criterion of judicial discretion, although to a limited extent. By lowering mandatory minimum sentences, judges would be given a slightly greater ability to determine sentences, but the continued existence of mandatory minimums would restrict much discretion. Allowing judges to take a defendant's criminal past into account would also increase judicial discretion, as judges would be given more

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[15]   "The   Smarter   Sentencing   Act,"   Prison   Fellowship,   No   Date, https://www.prisonfellowship.org/about/justicereform/landing-pages/legislation-primers/the-smarter-sentencing-act/

freedom to determine sentencing in one category of the process. While the Smarter Sentencing Act would still leave in place limited judicial discretion due to the continued existence of mandatory minimum sentencing, it would return to judges some discretion in the areas of the defendant's criminal past and whether or not their past convictions were for violent offenses.

Projected Outcomes of Abolishing Mandatory Minimum Sentencing. The third alternative policy option, which would abolish the use of mandatory minimum sentencing altogether, would likely mitigate most of the impacts of mandatory minimum sentencing and best uphold the listed criteria, but would likely lead to some of the potential tradeoffs.

Abolishing mandatory minimum sentencing would best uphold the principle of proportional punishment. No mandatory minimums would mean that judges would determine sentencing and punishment based on the seriousness of the offense, not based off of mandatory minimum sentencing charts. It would also allow judges to factor in the defendant's intent and ability to be rehabilitated, which would allow judges to hand out sentences in proportion with what best fits each offender. It also allows sentences to be based on past sentences given to other offenders for the same crime as opposed to uniform mandatory minimums. This would help guarantee that all Americans receive similar sentences, regardless of their ethnicity. Perhaps most obviously, abolishing mandatory minimum sentencing would ensure that sentences are not too long, as judges will give sentences shorter than current mandatory minimum sentences when they determine that is best suits the individual offender. This would create a judicial and prison system that is less crowded and that is only incarcerating those who deserve to be incarcerated. Upholding proportional punishment ensures that Americans are paying less for the prison system and that thousands of Americans don't spend a lifetime behind bars due to one mistake.

Abolishing mandatory minimum sentencing would best uphold the criterion of judicial discretion. Mandatory minimum sentencing statutes were created to replace the discretion of judges with the opinions of Congress. Abolishing these statutes would allow judges to use their evaluation in a manner individualized to each court case. It would also uphold the separation of powers, as it would remove legislation that gives Congress the power to determine the punishment for violating law. One of the major roles of the judicial branch is to uphold the law and punish those who offend it. Removing mandatory minimums would allow judges to carry out their constitutional duty free of the restrictions of Congress. Many judges are appalled when forced to hand out mandatory minimum sentences, especially when they would hand out lower sentences in the absence of such limitations.[16] These judges believe that abolishing mandatory minimum sentencing would have the outcome of restoring judicial discretion and creating a fairer and more individualized sentencing system.

Stakeholders There are many stakeholders who would be affected by the implementation of any of the three alternative policy options.

The first group of stakeholders is the judges. As proven throughout this paper, mandatory minimum sentencing removes the ability of judges to exercise discretion and determine fair sentences on an individualized basis. All three policies would allow judges to do their jobs to a greater extent without the interference of Congress. This would prevent judges from giving sentences that "appall" them, and would create a judicial system that caters to the individual, not "one size fits all" statutes.

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[16] "Mandatory sentencing was once America's law-and-order panacea. Here's why it's not working." Families Against Mandatory Minimums, No Date, https://www.prisonpolicy.org/scans/famm/Primer.pdf

The second group of stakeholders is the offenders. As proven above, there are many cases where judges believe that offenders should receive shorter sentences, but are unable to hand out such sentences due to mandatory minimum sentencing statutes. All three alternative policy options would greatly benefit many offenders, many of whom are low level or first-time offenders. Offenders convicted of a nonviolent drug crime with minimal involvement, for example, would spend less time in prison, giving them more time to rebuild their lives and contribute to society. Non-white offenders would also greatly benefit, as they would be receiving sentences that are more in line with their White counterparts.

The third group of stakeholders is all Americans. With less than 5% of the global population, the United States incarcerates more than 20% of the world's prisoners.[17] This disproportionate prison population is a great societal and economic burden on all Americans. Longer sentences due to mandatory minimum sentencing means that there are more people incarcerated, which means that Americans are forced to pay more for the prison. Over time, this leads to increased taxes and decreased spending on other areas, such as defense or health care. More people incarcerated due to mandatory minimum sentencing means that there are less people in the workforce and less parents at home. Reforming or abolishing mandatory minimum sentencing would give the United States a much larger workforce, which could increase economic output. It would also allow many parents to be at home with their children, raising them to have good values and pursue a good lifestyle.

Tradeoffs

Flawed Discretion. Of course, when enacting a major reform meant to stop sentences from being too harsh, it is possible to inadvertently cause some sentences to be too light. If mandatory minimum sentencing is abolished, there will almost certainly be cases where many people feel as if a sentence is not long enough. There are several reasons why this concern, while valid, should not be seen as an overly harmful tradeoff.

First is stare decisis. Once mandatory minimum sentencing is abolished, standards and precedents would form over time to direct judges in their sentencing. This is how the judicial system operates for cases without mandatory minimum sentences involved, which is the vast majority of cases. Judges who hand out unreasonably low sentences would have to defend their decisions and would risk having their reputations damaged.

Second is appellate court. If prosecutors believe that a sentence is too light in comparison with other cases or in regards to federal sentencing guidelines, then they could seek to appeal for a longer sentence. This would allow judges in appellate courts to focus on the sentencing alone, allowing for even more discretion in the sentencing process.

While flawed judicial discretion could be a possible tradeoff under options one or two, these options would account for it to a greater extent. These options preserve the existence of mandatory minimum sentencing statutes, and merely reduce many sentence lengths. This would ensure that there are virtually no cases where the sentence is too low, as judges would still be held to some form of a minimum.

When weighing this potential tradeoff with the potential benefits of abolishing mandatory minimum sentencing, it is clear that the benefits outweigh the tradeoffs. As stated above, this is a risk that is already managed in all cases without mandatory minimum sentencing involved, and

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[17] "What percent of the U.S. is incarcerated?" (And other ways to measure mass incarceration)," Prison Policy Initiative, January 16, 2020, https://www.prisonpolicy.org/blog/2020/01/16/percent-incarcerated/

stare decisis and appellate courts would mitigate most of the negative impacts of this tradeoff. In purely utilitarian terms, the benefits outweigh the harms. As stated above, there have been tens of thousands or more offenders convicted of charges with mandatory minimum sentences, and if even a small portion of those offenders deserved shorter sentences under the proposed criteria, then the time saved by preventing harsh sentencing would likely outweigh the time lost due to some cases of light sentencing.

General Recommendation

The Best Alternative Policy Option While all three alternative policy options would mitigate the negative impacts of mandatory minimum sentencing to a great extent and would be a great benefit to society, the third alternative policy option best meets the proposed criteria and is the most likely to succeed in solving for the listed negative impacts.

As shown above, abolishing mandatory minimum sentencing is the best alternative policy option for meeting the criteria of proportional punishment and judicial discretion. It would allow judges to base sentencing off of the individual case, not uniform sentencing charts, and would give judges the ability to factor in the specifics of each case to ensure fair sentences. Furthermore, without the continued existence of mandatory minimum sentencing, its negative impacts such as unnecessarily long sentences and large societal burdens would cease to exist.

While the third alternative policy option is certainly the most desirable, this paper recognizes that it may not be the most politically feasible. There are many members of Congress who are tough on crime and would oppose any reform or policy that would lead to lower sentencing. If it is determined that the third alternative policy option is not politically feasible, then option one would be recommended.

The Smarter Sentencing Act is the true middle ground option, as it has already shown to have major bipartisan support. It appeases both parties, as Democrats tend to support lessening sentencing laws and Republicans, while generally more tough on crime, have recognized that many mandatory minimum sentencing statutes have gone too far. Many Democrats, including President Biden, have openly supported abolishing mandatory minimum sentencing as a whole, and would thus be likely to support reform. While convincing Republican lawmakers to sign onto the bill would be more difficult, it is most certainly feasible. Many fiscal conservatives are in support of the Smarter Sentencing Act, as they see mandatory minimum sentencing as imposing unnecessary government spending through higher incarceration rates. One supporter of the act is Senator Ted Cruz (R-TX), who nobody would suspect of being soft on crime. The Smarter Sentencing Act is also supported by major conservative advocacy groups such as Americans for Tax Reform, Heritage Action for America, and the Faith and Freedom Coalition. It is also supported by major players in the law enforcement community such as the Association of Prosecuting Attorneys and the International Union of Police Associations, which could persuade lawmakers who are tough on crime to support the act.

Conclusion

The Future of America's Judicial System. Mandatory minimum sentencing has created a judicial system where offenders are subject to "one size fits all" policies and the will of Congress rather than receiving individualized sentences. Prosecutors coerce defendants into pleading guilty by threatening to pile on more charges with mandatory minimum sentences, and many judges have

expressed their frustration with mandatory minimum sentencing. Offenders serve unnecessarily long sentences that fail to deter future crime, and nonwhite Americans are disproportionately punished.

Congress should abolish mandatory minimum sentencing, as this would best uphold the criteria of proportional punishment and judicial discretion. Abolishing mandatory minimum sentencing would also create a fairer judicial system and free our society of many unnecessary burdens such as high incarceration rates.

While abolishing mandatory minimum sentencing is the best option, reforming it to have lower sentences and allow for more judicial discretion is a desirable option as well. These reforms should be implemented if it is determined that abolishing mandatory minimum sentencing is not politically feasible.