

Sonya Spiewak

How sentences for drug offenses are excessive.

The punishment should always fit the crime, right? Well, when it comes to some drug offenses the punishment seems to be too excessive. In Virginia, there are mandatory minimum laws that apply to many offenses, such as drug offenses. The judge must give the individual the minimum sentencing, regardless of any mitigating factors that take place. In a recent article, Tony Romero of Justice Forward Virginia discussed the mandatory minimum law. Romero gave two examples of offenses with harsh mandatory minimums that would not fit the crime. The first example was, under the Virginia law, a “volunteer firefighter with no criminal history, who took one Oxycodone tablet from his mother’s medicine cabinet and put it in his room, where he also kept his lawfully registered rifle, would be incarcerated for two years upon conviction.” He also stated how, “a college student with no criminal history who gave her 17-year-old brother a marijuana cigarette while she was home on break would serve a two-year sentence upon conviction.” Even though these aren’t actual cases, they are perfect examples of ones that could happen.

Instead of helping those who deal with problems due to drugs, locking them up seems to be the easiest or preferred legal option. About half of the people spending time in federal prison are there for a drug offense. Incarceration itself is not going to reduce drug usage. Instead, counseling and rehabilitation would better serve individuals with substance use disorders or petty drug crimes than giving them an excessive carceral sentence. Counseling and rehabilitation provide individuals with an opportunity to go back into the real world with better tools to remain drug free. After being sent home from prison, individual may be free, but they carry with them the stigma and harm of incarceration long after release. However, if the community sees this

person receiving help and attempting to make a change, they will more likely be accepted by the community. More damage can be done to them by being incarcerated with other individuals with criminal charges and enduring long sentences. Mandatory minimum sentences are causing a significant problem by creating higher levels of mass incarceration in Virginia.

This problem could have ended in February of 2021. There was a bill that was supposed to get rid of the mandatory minimum sentences, but it failed after lawmakers could not come to an agreement. Instead of taking away the mandatory minimum sentences for all offenses, Virginia could start with low-level drug-related offenses. For example, New York and Kentucky have both changed their mandatory minimum sentencing laws which has made a drastic change in the prison populations. In 1973 the state of New York passed the “Rockefeller drug laws,” which imposed harsh mandatory sentences for drug possession. Because of that, the prison population of New York rose dramatically. In 2009, the state of New York decided to remove the mandatory minimums for low-level drug offenses, which allowed judges to use discretion while making sentencing decisions. This allowed more room for drug treatment in lieu of incarceration. The number of individuals sent to prison, along with the lengths of sentences in New York has declined significantly (Law Enforcement Leaders). In 1992, the state of Kentucky created laws regarding mandatory minimums for drug possession within 1,000 yards of school grounds. This led to a major increase in the state’s prison population because of the harsh punishments for low-level drug possession. The state of Kentucky passed HB 463 in 2011, which is the law that changed the mandatory minimum rule for drug possession within 1,000 yards of schools to 1,000 feet. This change lowered the prison population in just one year and the money saved from that was used for drug treatment services (Law Enforcement Leaders).

Virginia is, however, taking some steps toward reducing its carceral populations and reducing criminal penalties for marijuana through legalization. In April of 2020, marijuana was decriminalized for simple possession. As of July of 2021, Virginia finally legalized the drug. Many expect that the rate of incarceration for drug offenses will lower this year and will be ongoing. With the legalization of marijuana and reformed mandatory minimum sentencing laws, Virginia could lower the prison populations and help, rather than harm, individuals with substance use disorders.

Many people are simply unaware of these harsh sentencing laws and therefore do little to change them. If this concerns you, you can start by contacting your local congressman or local politician(s) about this issue. Progressive changes will allow judges to use their discretion for the individual's punishment *and rehabilitation* instead of having to simply follow the mandatory minimum sentencing guideline. Every individual deserves a fair punishment for their crime. Over sentencing can only be solved if everyone learns about the mandatory minimum sentencing laws in our state and takes direct action to change them.

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