

# The Sentencing Project

## Criminal Justice Issues and Prisoners' Rights

<https://www.sentencingproject.org/publications/national-coalition-rejects-death-penalty-increased-penalties-drug-offenses/>

## Policy Issue Resources

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President Donald J. Trump  
The White House  
1600 Pennsylvania Ave., NW  
Washington, DC 20500

March 26, 2018

### Re: National coalition rejects death penalty and increased penalties for drug offenses

Dear President Trump:

The United States must effectively confront the devastation resulting from substance use disorders. The skyrocketing increase in overdose deaths totaling 64,000 in 2016 alone is a national tragedy that requires substantial resources from the federal government as well as state and local public health officials to address. Given these circumstances, the 62 undersigned faith, civil rights, treatment and legal organizations are deeply troubled by the punitive elements of your administration's proposal regarding the nation's drug problems including increasing already harsh sentences for drug offenses and employing the death penalty. We unequivocally condemn accelerating the use of the death penalty and urge your administration to support proven public health strategies to end the opioid crisis, reduce problematic drug use and save lives.

As criminologists and many policymakers have documented, ratcheting up already tough sentences for people with drug convictions will produce little public safety benefit while carrying heavy fiscal, social, and human costs. 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 the substance use disorders that users, and many sellers themselves, struggle with. Increasing already severe prison terms has a limited deterrent effect because most people do not expect to be apprehended for a crime, are not familiar with relevant legal penalties, or criminally offend with their judgment compromised by substance use or mental health problems.<sup>1</sup>Lynch, J., Heimer, K., Peterson, R.D., Miller, J., DeJong, C., Armstrong, G., Zhang, S.X. (2017). *Statement of the American Society of Criminology Executive Board Concerning the Trump Administration's Policies Relevant to Crime and Justice*. American Society of Criminology. See also: Lee, M., Durbin, R., Paul, R. & Booker, C. (2017). *Letter to the Attorney General on DOJ Charging and Sentencing Policy*.

Current federal mandatory minimum sentences, which apply to many drug offenses, are considered among the harshest in the country. Nearly half of the Bureau of Prisons population is comprised of people convicted of drug offenses. African Americans and Latinos comprise 76% of this population.<sup>2</sup>Carson, E. (2018). *Prisoners in 2016*. Bureau of Justice Statistics. even though all racial and ethnic groups engage in illicit drug activities at similar rates.<sup>3</sup>Johnston, L. D., O'Malley, P. M., Bachman, J. G., & Schulenberg, J. E. (2012). *Monitoring the Future: National Survey Results on Drug Use, 1975- 2012*. Ann Arbor, MI: The University of Michigan Institute for Social Research. (TbIs. 4-5, 4-6, and 4-7); Beckett, K., Nyrop, K., & Pfingst, L. (2006). *Race, Drugs, and Policing: Understanding Disparities in Drug Delivery/Arrests*. *Criminology*, 44(1), 10537 (pp. 167); Riley, K. J. (1997). *Crack, Powder Cocaine, and Heroin: Drug Purchase and Use Patterns in Six Major U.S. Cities*. National Institute of Justice. (pp. 1516).As of 2012 people serving a federal prison term for a drug offense were serving an average of 11.3 years.<sup>4</sup>In 2016, the average prison sentence imposed on those entering federal prisons for a drug offense in contrast to the average sentence being served by those already there was 5.6 years. Taxy, S., Samuels, J., & Adams, W. (2015). *Offenders in Federal Prison: Estimates of Characteristics Based on Linked Data*. United States Department of

Justice, Bureau of Justice Statistics; United States Sentencing Commission (2017). [\*2016 Sourcebook of Federal Sentencing Statistics\*](#). Figure E: Length of Imprisonment in Each General Crime Category, Fiscal Years 2012-2016. Almost half (49%) of the 3,861 individuals serving a federal life-without-parole sentence in 2016 are incarcerated for a drug offense.<sup>5</sup>Nellis, A. (2017). [\*Still Life: Americas Increasing Use of Life and Long-Term Sentences\*](#). The Sentencing Project.

Concerns about these harsh federal sentences have led to broad bipartisan consensus in support of criminal justice reform. Indeed, Senate Judiciary Chairman Chuck Grassley advanced his bipartisan Sentencing Reform and Corrections Act through committee on a 16-5 vote in February. The bill would give federal judges discretion in sentencing people below a mandatory minimum sentence for low-level drug cases and curb outsized sentences.

According to a 2017 report from the National Research Council, Lack of economic opportunity, poor working conditions, and eroded social capital in depressed communities, accompanied by hopelessness and despair, have been the underlying structural determinants of substance use disorders.<sup>6</sup>Bonnie, R., Ford, M., & Phillips, J. (Eds.). (2017). [\*Pain Management and the Opioid Epidemic: Balancing Societal and Individual Benefits and Risks of Prescription Opioid Use\*](#). Washington, DC: The National Academies, Pg. 41. Moreover, limited access to drug treatment and medically assisted treatments in particular has undermined the opioid response. One study found that just 21.5% of people with opioid use disorder received any treatment between 2009 and 2013 including non-professional treatment such as self-help groups.<sup>7</sup>Saloner, B. & Karthikeyan, S. (2015). *Changes in Substance Abuse Treatment Use Among Individuals With Opioid Use Disorders in the United States, 2004-2013*. The JAMA Network, 314(14), Pgs. 1515-1517. Surveys reveal that one-third of people with substance use disorder did not seek out professional treatment because they lacked health care coverage or could not afford the cost.<sup>8</sup>Hughes, A., William, M. R., Lipari, R. N., Bose, J., Copello, E.A.P., & Kroutil, L.A. (September 2016). [\*Prescription Drug Use and Misuse in the United States: Results from the 2015 National Survey on Drug Use and Health\*](#). Substance Abuse and Mental Health Services Administration. Rockville, MD: National Survey on Drug Use and Health Data Review, Table 5.61B.

To address these needs we endorse investments in communities to expand educational and vocational opportunities, and to ensure access to community-based drug treatment programs, medical care and mental health services. We reject the punitive and overly simplistic approach of the War on Drugs that has contributed to the United States world record levels of incarceration, and has fractured families and communities in the process. We ask for your support in advancing a more humane and evidenced-based approach to ending the opioid crisis.

If you have questions, please contact Kara Gotsch, Director of Strategic Initiatives at The Sentencing Project at (202) 628-0871 or [kgotsch@sentencingproject.org](mailto:kgotsch@sentencingproject.org) or Jesselyn McCurdy, Deputy Director of the American Civil Liberties Union Washington Legislative Office at (202)675-2307 or [jmccurdy@aclu.org](mailto:jmccurdy@aclu.org).

Sincerely,

African American Ministers In Action  
Akeela, Inc.  
American Civil Liberties Union  
American Friends Service Committee  
Brennan Center for Justice at NYU School of Law  
Buried Alive Project  
CANDO Foundation  
Church of Scientology National Affairs Office  
Congregation of Our Lady of Charity of the Good Shepherd, US Provinces  
The Constitution Project at POGO  
Criminal Justice Policy Foundation  
CURE (Citizens United for Rehabilitation of Errants)  
Daytop New Jersey  
Defending Rights & Dissent  
Drug Policy Alliance  
The Evangelical Lutheran Church in America  
Exodus Foundation.org  
Faith Action Network  
Families Against Mandatory Minimums  
FedCURE  
Franciscan Action Network  
Friends Committee on National Legislation  
Harm Reduction Coalition  
Human Rights Watch  
Islamic Society of North America  
Jewish Council for Public Affairs  
Justice Programs Office at American University  
Justice Strategies  
Latin America Working Group  
Law Enforcement Action Partnership  
Legal Action Center  
Life for Pot  
National Advocacy Center of the Sisters of the Good Shepherd  
NAACP  
National Association of Criminal Defense Lawyers  
National Association of Social Workers  
National Center for Lesbian Rights

National Center for Transgender Equality  
National Council of Churches  
National Immigration Project of the National Lawyers Guild  
National LGBTQ Task Force  
NETWORK Lobby for Catholic Social Justice  
NORML  
Office of Social Justice, Christian Reformed Church in North America  
Ohio Justice & Policy Center  
Presbyterian Church (U.S.A.)  
Queeri  
Safer Foundation  
The Sentencing Project  
Sinsinawa Dominican Peace and Justice Office  
StoptheDrugWar.org  
Students for Sensible Drug Policy  
Transgender Law Center  
Treatment Communities of America  
Union for Reform Judaism  
Unitarian Universalist Association  
United Church of Christ, Justice and Witness Ministries  
The United Methodist Church General Board of Church and Society  
WOLA (Washington Office on Latin America)  
Witness to Mass Incarceration  
Women Who Never Give Up  
Worker Justice Center of New York

Cc: Secretary Alex Azar, Attorney General Jeff Sessions, Speaker Paul Ryan, House Minority Leader Nancy Pelosi, Senate Majority Leader Mitch McConnell, Senate Minority Leader Charles Schumer, U.S. House and Senate Judiciary Committees

Footnotes[+]

Increase in U.S. jail & prison population in the last 40 years

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