



### Talking Points: Minimum Mandatory Sentences/Criminal Justice Reform

- Massachusetts is not in crisis. According to the Pew Center, MA is 49<sup>th</sup> in the nation for incarceration per capita (only ME has a lower rate). MA also ranks 3<sup>rd</sup> in the nation for population density (while ME has 20% of our population and less than a tenth of our density).
- In the last 4 years alone, the DOC reports a 15% decline in the MA prison population. Next month, when the DOC issues its annual report on inmate population trends 2016, MA will show a still further 5% decline in just one year, from over 9,000 inmates to 8,634 inmates as of January 1<sup>st</sup> 2017.
- Mandatory minimums and truth-in-sentencing laws came about because there were wide disparities in sentences for the same crimes committed in the suburbs vs in inner cities, and because judges refused to hold people accountable and justice became a revolving door.
- MA law enforcement is not tough on crime, but smart on crime. The goal is not to incarcerate everyone, but to reserve prison for the most violent and recidivist offenders.
- Mandatory minimum sentences are reserved for the small percentage of offenders who commit homicides, certain gun crimes, sex crimes against children and drug trafficking.
- Drug minimum mandatory sentences have already been “reformed;” In 2012, the Legislature reduced the mandatory sentences by 25-30%, while also increasing the threshold weights of drugs needed to trigger a min mand sentence; in addition, the size of the “school zone,” which could add commitment time to a distribution conviction, was dramatically reduced.
- In the Summer of 2014, the District Attorneys undertook a review of the criminal records of the then 1,462 offenders incarcerated in the DOC on 1/1/14 serving for a governing drug offense (all drug offenses, not just those with min mand sentences).
  - The great majority of offenders were convicted of multiple drug offenses that had resulted in the current commitment;
  - 20% of the offenders had accompanying charges that involved violence or firearms;
  - 74% of the offenders had a history of violence or firearms;
  - The inmates collectively had a total of 58,654 arraignments on their record, or an average of approximately 40 arraignments per offender.

- Non-violent drug offenders are not in jail or prison; incarceration occurs in MA only after a lengthy criminal history demonstrates recidivism and violence. The District Attorneys believe in second, third, and fourth chances. MA is incarcerating the right offenders – the violent recidivists.
- However, we can do more:
  - increase programming within our correction facilities;
  - increase post-release supervision;
  - eliminate the practice of “and a day sentence” which may be attractive to a defendant at first blush but set him up for failure ultimately when he returns unsupervised to the same circumstances which led him to prison in the first place.
  
- Asking if a person supports the elimination or reduction of mandatory minimum sentences for drug offenders is very different from asking a person if he supports reducing penalties for drug traffickers, especially in the midst of an opioid epidemic.
  
- Race: There is racial disparity in incarceration rates. It is argued that mandatory minimum sentences disproportionately impact African-Americans in MA. However, any disproportionate representation of people of color is not caused by mandatory minimum sentences for drug traffickers, nor will it be corrected by repealing or reducing mandatory minimum sentences. Unfortunately, there are disparities in many of our systems, which affect those in poverty – education, housing, health care, social services, employment – there are many socioeconomic factors that keep poor communities at a disadvantage, and these ills cannot be cured by the criminal justice system alone.
  
- Drug trafficking vs. drug users: Drug trafficking is entirely different from drug use, drug abuse and drug possession. Drug trafficking often involves violence, guns and substantially large quantities of drugs. Drug trafficking is an inherently violent business that exploits addiction for profit. Drug addicts need treatment, and there are no mandatory minimum sentences for street-level drug dealing and possession for personal use.