



Congressional Research Service Report Calls for Mandatory Minimum Reform

A January 22, 2013, report from the Congressional Research Service shows that mandatory minimum sentences are the primary driver of the enormous increases in the federal prison population and budget over the last 30 years. The report's recommendations include repealing, reducing, or otherwise reforming mandatory minimum sentences. The report is entitled "The Federal Prison Population Buildup: Overview, Policy Changes, Issues, and Options" and is available at <http://www.fas.org/sgp/crs/misc/R42937.pdf>.

Report Highlights:

- The number of inmates under the Bureau of Prisons' (BOP) jurisdiction has increased from approximately 25,000 in FY1980 to nearly 219,000 in FY2012
- Causes of prison population growth:
 - Increasing the number of federal offenses subject to mandatory minimum sentences
 - Mandatory minimums have also led to increases in sentences under the federal sentencing guidelines
 - Making more crimes federal offenses
 - Eliminating parole
- The BOP is currently overcrowded, operating at 38% over its rated capacity; it has been operating at rates of over 25% over its rated capacity since 1998
- Between FY2000 and FY2012,
 - The per capita cost of incarceration for all inmates increased from \$21,603 to \$29,027
 - Appropriations for the BOP increased from \$3.668 billion to \$6.641 billion
 - The BOP has consumed an increasingly large percentage of the DOJ's discretionary budget; in FY 2012, it reached 25%
- The largest portion of newly-admitted inmates are being incarcerated for drug offenses.

Report Recommendations:

Other than building more prisons, using more private prisons, or increasing rehabilitative programming so that recidivism is reduced, Congress should consider the following policy changes to reduce the prison population:

- Modifying mandatory minimum penalties
- Expanding the use of Residential Reentry Centers (halfway houses)
- Placing more offenders on probation
- Reinstating parole for federal inmates
- Expanding the amount of good time credit an inmate can earn
- Repealing federal criminal statutes for some offenses.



Report Excerpts on Mandatory Minimums:

“Mandatory minimum penalties have contributed to federal prison population growth because they have increased in number, have been applied to more offenses, required longer terms of imprisonment, and are used more frequently than they were 20 years ago. . . . Not only has there been an increase in the number of federal offenses that carry a mandatory minimum penalty, but offenders who are convicted of offenses with mandatory minimums are being sent to prison for longer periods. For example, the USSC found that, compared to FY1990 (43.6%), a larger proportion of defendants convicted of offenses that carried a mandatory minimum penalty in FY2010 (55.5%) were convicted of offenses that carried a mandatory minimum penalty of five years or more. While only offenders convicted for an offense carrying a mandatory minimum penalty are subject to those penalties, mandatory minimum penalties have, in effect, increased sentences for other offenders. The USSC has incorporated many mandatory minimum penalties into the sentencing guidelines, which means that penalties for other offense categories under the guidelines had to increase in order to keep a sense of proportionality” (p. 8).

“As discussed earlier, the USSC concluded that, in part, mandatory minimum penalties have contributed to the growing federal prison population. It might be argued that some or all mandatory minimum penalties should be repealed as a way to manage the growth of the federal prison population. Allowing defendants to be sentenced using the federal sentencing guidelines could allow for more individualized sentencing, thereby allowing the court to mete out punishment using an array of variables that reflect a more nuanced analysis of a defendant’s culpability. Opponents of widespread use of mandatory minimum penalties contend that they are a blunt instrument with which to determine a proper sentence. The USSC reported that ‘certain mandatory minimum provisions apply too broadly, are set too high, or both, to warrant the prescribed minimum penalty for the full range of offenders who could be prosecuted under the particular criminal statute.’ Also, to the extent that mandatory minimum penalties have contributed to sentence inflation as a result of the USSC incorporating them into the federal sentencing guidelines, repealing some mandatory minimum penalties might reduce the amount of time inmates serve in federal prison. . . . Even if Congress chooses not to repeal any mandatory minimum sentences, policymakers could review current mandatory minimum penalties to ensure that they are (1) not excessively severe, (2) narrowly tailored to apply only to those offenders who warrant such punishment, and (3) applied consistently.” (p. 37)