Florida’s Mandatory Minimum Drug Laws: Ineffective, Expensive, and Counterproductive

In 1999, Florida passed mandatory minimums for drug trafficking. Those laws were designed to deter drug trafficking and drug abuse, and catch “multibillion dollar organizations” that "make the American Mafia look like schoolchildren."¹ Fourteen years later, it is clear these laws have failed to achieve any of their stated objectives, but instead have filled Florida’s prisons with low-level drug offenders at huge cost to Florida taxpayers.

Florida’s mandatory minimum drug laws are among the harshest in the country. They require courts to impose “one size fits all” sentences on drug offenders, regardless of their role in the crime, need for treatment, or prior criminal record. For example, being convicted of possessing over 28 grams of illegal prescription painkillers requires a minimum sentence of 25 years in prison, regardless of any extenuating circumstances.² (By contrast, the same crime in Texas carries a sentence of two years.)

These sentences are wholly disproportionate to punishments for other crimes. Despite the fact that possessing 28 grams of illegal prescription drugs is a non-violent crime which may have been committed by a first-time offender as a result of drug addiction, the 25-year mandatory minimum sentence is the same 25-year mandatory sentence given to an adult who engages in lewd or lascivious molestation of a child under 12.

Florida’s Mandatory minimum drug laws have failed to control drug trafficking and abuse.

- During fiscal year 2000-01, the criminal charge of “Trafficking in Heroin, etc., at least 4 but under 14 grams” had only 60 new prison commitments (ranking #62 in overall offenses). In fiscal year 2010-11, there were 849 new prison commitments under this criminal charge (moving it up to #10 in overall offenses). This equates to a 14-fold increase.³
- Opiate trafficking prison admissions quadrupled between FY 2006-07 and FY 2010-11.⁴
- In FY 2011, prison admissions for drug offenses were twice what they were in 1996.⁵

² Florida Statutes 893.135 (c) (1)(c)
Between 2003-2009, Florida’s prescription drug overdose rate increased 84.2%. Oxycodone overdoses increased 246.6%.  

Mandatory minimums have been so ineffective at controlling prescription drug trafficking and abuse that in 2012 – 13 years after mandatory minimum drug laws were established - Attorney General Pam Bondi called prescription drug abuse, “the most serious public health and safety threat” to the state. 

Florida’s mandatory minimum drug laws catch low-level drug offenders and subject them to unnecessarily severe prison sentences.

The sponsor of the bill that established mandatory minimum sentences for drug trafficking (Representative Victor Crist) said at the time that the bill’s provisions would apply to “the person who’s growing three barns full of marijuana, or bringing in a boatload of cocaine. We’re talking the major players who are dealing and selling these drugs.” He later added that the bill’s provisions were “drawn very tight” to exclude minor players and drug users from being subject to mandatory minimum sentences.

Unfortunately, mandatory minimums have not been enforced as their authors intended. Rather, the unintended consequences of mandatory minimums have subjected thousands of low-level drug offenders to harsh mandatory minimum prison sentences.

Florida’s Office of Program Policy Analysis and Government Accountability (OPPAGA) surveyed the 1,200 offenders admitted to Florida prisons in FY 2010-11 for opiate trafficking. OPPAGA found:

- 35% were arrested for possession of prescription painkillers or prescription fraud, not selling pills.
- 50% were arrested for sale or possession of fewer than 30 pills.
- 25% were arrested for sale or possession of fewer than 15 pills.
- 74% had not previously been admitted to prison.
- 65% were identified as needing substance abuse treatment.
- 61% were identified as being a “low risk for recidivism.”

Click here to read the stories of some of the victims of Florida’s mandatory minimum drug laws.

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8 Florida House of Representatives Corrections Committee, February 17, 1999.
Florida’s mandatory minimum drug laws are fiscally irresponsible.

- Florida’s prison population has more than doubled since 1990 and nearly quadrupled since 1984. It now stands above 100,000 inmates, the third largest prison population in the country.\textsuperscript{10}
- Florida spends nearly $100 million annually incarcerating drug offenders serving mandatory minimums.\textsuperscript{11}
- Florida’s Department of Corrections budget has increased XX\% since 1999. In fiscal year 2012, Florida spent $2.3 billion on prisons.\textsuperscript{12}
- In FY 2012, 11.1\% of General Fund appropriations were allocated to prisons.\textsuperscript{13}
- In FY 2010-11, Florida admitted 1,200 offenders to prison for opiate trafficking. The cost to incarcerate just those prisoners for one year is $24 million.\textsuperscript{14}

Florida’s mandatory minimum drug laws prevent other, better solutions to crime and drug abuse.

- Mandatory minimums divert resources away from law enforcement.

Spending tax dollars on incarceration means \textit{not} spending those same tax dollars on other, more effective crime-fighting tools. When Florida taxpayers are forced to spend nearly $100 million annually to incarcerate drug offenders serving mandatory minimum sentences, that same money cannot be spent to hire more police to patrol the streets, improve law enforcement’s equipment and technology, improve monitoring techniques for released offenders, improve efficiency in prosecution of offenders, create and fund law enforcement units designed to prevent crimes, provide mental health counseling for at-risk youth, or any alternative uses for the same tax dollars.

- Mandatory minimums preclude more effective alternative sanctions for nonviolent drug offenders.

In “Florida’s Prescription Drug Diversion and Abuse Roadmap 2012–2015,” Attorney General Pam Bondi explained what makes drug courts effective:

Drug courts reduce drug-seeking behaviors by treating the underlying addiction of the non-violent offender, thereby offering a greater chance of breaking the cycle of drug abuse, crime, and incarceration. More broadly, criminal justice agencies work closely with the substance abuse treatment community to design and run effective drug court treatment programs.

\textsuperscript{10} Florida TaxWatch, “Review of Criminal Justice Data.”
\textsuperscript{11} Id.
\textsuperscript{12} Id.
\textsuperscript{13} Id.
\textsuperscript{14} OPPAGA, “Opinions Are Mixed About Sentencing Laws for Painkiller Trafficking.”
Eligible participants for the drug court program are identified and assessed early, and then placed into a treatment program. During their time in treatment, offenders are given random drug screening tests, and are required to appear frequently in front of a judge for progress evaluations.

Bondi further explained why drug courts are more cost-effective than incarceration:

It is estimated that every $1 spent on drug courts results in costs savings of anywhere from $1.74 to $6.32 per participant. On average, drug courts cost $4,333 per client, but they save $4,705 for taxpayers and $4,395 for potential victims. But even these costs are minimal compared to the costs of incarceration, which are, on average, $19,469 per inmate per year.

Bondi concluded:

Florida must expand drug courts across the state to admit more non-violent prescription drug offenders. Doing so not only increases overall savings to the state’s budget because fewer offenders would be sentenced to costly prison time, but also decreases crime rates overall by effectively shortening a non-violent offender’s nascent criminal history by intervening earlier with effective drug treatment consisting, in part, of swift and certain sanctions.

Hundreds of Floridians, arrested each month for simple possession of pharmaceutical drugs without a valid prescription, should be afforded an opportunity for drug treatment and rehabilitation when they process through the criminal justice system. Otherwise, we will face far higher recurring criminal justice costs over time as their addictions devolve into more arrests and worse anti-social behavior. ...

Expanding Florida’s drug courts to accept and incorporate more offenders whose criminal nexus involves addiction to prescription drugs is absolutely essential to lowering overall rates of pharmaceutical drug abuse, and controlling addiction-driven crime via rational supply reduction policies.

In its report on prescription drug trafficking, OPPAGA found that:

Offenders convicted of trafficking in prescription painkillers could be eligible for commitment to treatment as an alternative to prison if they met certain criteria. Such criteria could include:

- substance abuse treatment needs;
- no prior prison admissions;
- no prior convictions for violent offenses and drug sales; and
- a low-risk of recidivism.
Of the 1,200 offenders sentenced to prison for opioid trafficking during Fiscal Year 2010-11, an estimated 310 offenders would have met all of these criteria. ...

If half of the 310 offenders meeting potential criteria for treatment were diverted from prison and successfully completed a treatment program, the total costs avoided over a three-year period would be approximately $6 million. For those diverted from longer sentences, cost savings would be greater. In addition, treatment could help reduce the likelihood that offenders will commit future crimes and thus decrease future prison costs.15

Conclusion

Mandatory minimums represent a sincere and well-intentioned effort to control crime and drug abuse. However, like many other big government programs, mandatory minimums simply have not delivered on the promises made by their proponents. In Florida, they have failed to deter drug trafficking, and failed to deter drug abuse. Meanwhile, arbitrary enforcement of mandatory minimums has created the unintended consequence of filling Florida’s prisons with low-level drug offenders at huge cost to taxpayers.

Attorney General Bondi’s findings on drug courts and OPPAGA’s findings on alternatives to incarceration for prescription drug offenders show beyond doubt that Florida’s mandatory minimum drug laws are simply not the best means to control crime and drug abuse. Yet, despite knowing that treatment is cheaper, more effective and more likely to prevent recidivism, mandatory minimum drug laws still require the incarceration of hundreds of low-level, nonviolent and first-time drug offenders every year. The result is that taxpayers are forced to pay tens of millions of dollars on a big government program that doesn’t work and leaves them less safe.

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