

August 9, 2018

TO: Members of Congress and Staff

FR: FAMM

RE: Facts sheets explaining potential sentencing additions to FIRST STEP Act

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In May, the U.S. House passed the FIRST STEP Act (H.R. 5682) by a vote of 360 to 59. Some Senate leaders have argued that any criminal justice reform bill considered by the Senate must include sentencing reform. Earlier this month, President Trump expressed a willingness to consider adding four sentencing reform provisions to the FIRST STEP Act.

As Members of Congress consider adding some commonsense sentencing provisions from the Senate Judiciary Committee-approved Sentencing Reform and Corrections Act (SRCA, S. 1917), we thought it would be useful to provide some background on the four sentencing provisions under consideration. **In the four factsheets that follow, we explain the problem that current sentencing law is creating, provide an example of how it is harming real people, share the proposed reform found in SRCA, and relay the potential financial impact based on studies conducted by the Congressional Budget Office and the U.S. Sentencing Commission.** We recognize that the reforms included in SRCA might change during negotiations and that the impact of these reforms will change accordingly.

To learn more about these provisions and the FIRST STEP Act, please join FAMM for a discussion with former federal prosecutors, sentencing law experts, and directly impacted families and individuals. The event will take place on August 22<sup>nd</sup> at 2pm in Room 226 of the Dirksen Senate Office Building.

## **Factsheet #1: FIXING 18 U.S.C. § 924(c) “STACKING”**

### ***The Problem***

Section 924(c) currently gives often absurdly lengthy sentences to people who are not true repeat gun offenders.

Federal law requires additional 5-, 7-, 10-, and 30-year mandatory minimum sentences for possessing, brandishing, or discharging a gun in the course of a drug trafficking crime or a crime of violence (18 U.S.C. § 924(c)). There are also mandatory minimum sentences of an additional 25 years for each subsequent § 924(c) conviction. The law requires that these mandatory prison terms be served back-to-back (i.e., consecutively, not concurrently) with each other and with any other punishment the person receives for the underlying offense. This is known as “stacking,” and it can result in absurdly lengthy sentences, even when all the criminal charges arise from one offense or course of conduct in a single indictment.

It is far from clear that Congress intended to require stacking for people who were not truly repeat offenders. Before the 1993 U.S. Supreme Court decision in *Deal v. United States*,<sup>1</sup> some lower courts did not apply the enhancement for subsequent § 924(c) convictions unless a defendant had already been convicted of and served a sentence for a prior § 924(c) conviction. This interpretation made sense because there would be no reason to impose the 25-year mandatory minimum for second and subsequent offenses until the initial lengthy sentence was given an opportunity to have a deterrent effect. *Deal*, however, resolved the ambiguous language in § 924(c) with an expansive reading and allowed stacking. This meant that multiple § 924(c) charges in one indictment, even if they arose from one offense or course of conduct, could each trigger the 25-year consecutive mandatory minimum sentences.

There are other problems with § 924(c) stacking:

- It is often applied to nonviolent gun owners who do not actually harm or injure anyone;
- It applies even to legally purchased and registered guns and rifles found in the person’s home, even if the guns were not present or used during the actual offense. All too often, a nonviolent or addicted drug offender selling drugs in their home can find themselves serving an extra five or 25 years in prison just because they also had guns in the home – even if the guns were never used during a drug sale.

There is widespread agreement that the lengthy gun enhancements required by § 924(c) should not be stacked. At the October 2015 markup of the Sentencing Reform and Corrections Act, then-senator Jeff Sessions said, “I think the stacking issue is a problem...I would support reform of the stacking provisions somewhat like you have it in the bill today.”<sup>2</sup>

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<sup>1</sup> 508 US 129 (1993).

<sup>2</sup> U.S. Senate Judiciary Committee, Executive Business Meeting, Oct. 22, 2015, <https://www.judiciary.senate.gov/meetings/executive-business-meeting-10-22-15>.

## ***Real-Life Examples***

The most infamous example of § 924(c) stacking requiring an unjust sentence is the case of Weldon Angelos, who received a mandatory 55-year prison sentence for selling small amounts of marijuana on three occasions, each time with a gun in his possession.

Newer cases are being created every day. In July 2018, Reagan-appointed federal judge T.S. Ellis criticized prosecutors in two cases in Virginia. In one, Ellis was forced to impose a 40-year mandatory sentence on Frederick Turner, a low-level drug offender, because Turner delivered a gun from the drug conspiracy leader to a confidential informant. Turner never used a gun or carried a gun at any other time. From the July 2 edition of [\*The Washington Post\*](#):

Turner was dealing meth for [the conspiracy leader] Ramadan from about May 2017 to his arrest in September, according to court documents.

There was no evidence that Turner carried a gun or was involved in a situation where guns were used. But he visited Ramadan's house and knew that Ramadan carried a gun and kept weapons there to protect the drugs. Turner also knew that other people involved in the ring were armed. And when Ramadan sold a gun to the undercover detective, it was Turner who retrieved the gun from Ramadan's car and packaged it with meth for him.

Those facts resulted in convictions on two counts of having a firearm while dealing drugs. That extended his sentence by 30 years, because the two mandatory minimum sentences — five years for a first offense and 25 for a second — must run consecutive to the 10-year mandatory minimum for his two drug crimes.

Ramadan was sentenced to 16 years in prison. Other defendants, part of the larger takedown of armed drug dealers in Northern Virginia, got as few as four.

Judge Ellis regretted the excessive 40-year sentence he was forced to impose on Turner. As early as 2015, Judge Ellis wrote to the Senate Judiciary Committee, "I urge Congress to clarify that language in § 924(c)(1)(C) in order to prevent unjust applications in instances where a prior § 924(c) conviction has not yet been given an opportunity to have a deterrent effect. Moreover, fairness demands that Congress make the change explicitly retroactive."<sup>3</sup>

## ***The SRCA Fix***

The SRCA provision would:

- Clarify that the 25-year mandatory minimum sentence for a second or subsequent offense of possessing guns in the course of drug trafficking offenses or crimes of violence under 18 U.S.C. § 924(c) only applies when the prior § 924(c) conviction is already final prior to the commission of the new § 924(c) offense. In other words, SRCA would apply §924(c) sentences only to true repeat gun offenders;

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<sup>3</sup> Letter from Judge T.S. Ellis III to Senator Chuck Grassley and Congressman Robert Goodlatte, Dec. 1, 2015, at 2, <https://www.politico.com/f/?id=00000164-6faa-d85b-a776-ffb22630001>.

- Make this sentencing reform retroactive.

### ***Potential Impact***

**Cost-savings:** \$120 million over 10 years, according to Congressional Budget Office score of SRCA in 2016.<sup>4</sup> There is not a current CBO estimate of SRCA.

**People Impacted:** 61 people annually, prospectively; 721 people retroactively (as of October 28, 2017).<sup>5</sup>

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<sup>4</sup> Congressional Budget Office, S. 2123, The Sentencing Reform and Corrections Act of 2015 (May 17, 2016), <https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/costestimate/s2123-r.pdf>.

<sup>5</sup> Letter from Glenn R. Schmitt, U.S. Sentencing Comm'n, to Congressional Budget Office, at 4 (Mar. 9, 2018) [hereinafter USSC Impact Letter], at [https://www.ussc.gov/sites/default/files/pdf/research-and-publications/prison-and-sentencing-impact-assessments/March\\_2018\\_Impact\\_Analysis\\_for\\_CBO.pdf](https://www.ussc.gov/sites/default/files/pdf/research-and-publications/prison-and-sentencing-impact-assessments/March_2018_Impact_Analysis_for_CBO.pdf).

## **Factsheet #2: ELIMINATING EXCESSIVE 21 U.S.C. §§ 841, 851 SENTENCING ENHANCEMENTS, INCLUDING LIFE WITHOUT PAROLE SENTENCES, FOR DRUG CRIMES**

### ***The Problem***

Current law gives mandatory 20-year and life without parole sentences to drug offenders with prior drug convictions, which are unjust and excessive.

21 U.S.C. § 841 sets forth the most commonly prosecuted drug offenses and establishes weight thresholds that trigger various mandatory minimum prison sentences. For example, an individual who buys or sells five to 49 grams of methamphetamine is subject to a five-year mandatory minimum. An individual dealing 50 grams or more of meth is subject to a 10-year mandatory minimum. These already harsh mandatory penalties in § 841 are doubled to 20 years if the defendant has a prior conviction for a state or federal “felony drug offense” and to life without parole if the defendant has two prior felony drug offense convictions. To obtain these sentences, the prosecutor must file a § 851 information, making the court aware of the prior conviction(s).

The major problems with these § 851 enhancements are:

- Their excessive length;
- They can be triggered even if the prior “felony drug convictions” are for drug possession, not trafficking. As a result, many people with convictions arising from drug addiction can later find themselves facing incredibly lengthy prison sentences in federal court, even if they never spent a day in prison for their prior drug offenses;
- They can be triggered by offenses that are not actually “felony drug convictions.” Under current law, an enhancement would be triggered for a state court misdemeanor conviction where the defendant could have been sentenced to at least a year and a day (a sentence that usually makes an offense classifiable as a felony) but actually received probation, never spent a day in jail, and simply paid a small fine;
- It does not matter how old the prior drug conviction is. An individual charged with selling drugs at 55 could have his or her sentence doubled because of a prior offense committed at age 16;
- They fail to deter repeat drug offenders because they are applied inconsistently and thus do not increase the certainty or uniformity of punishment. Prosecutors file (and withdraw) § 851 enhancement at varying rates and with little or no explanation as to how they are used, other than to coerce plea deals. The U.S. Sentencing Commission found that:
  - § 851 enhancements were applied inconsistently, with wide geographic variations in eligibility, filing, withdrawal, and ultimate application of the enhancement among offenders. For example, *five districts sought § 851 enhancements against more than 50% of eligible drug trafficking offenders while 19 districts sought no 851 enhancements against any eligible offenders*<sup>6</sup>;

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<sup>6</sup> U.S. Sentencing Comm’n, Application and Impact of 21 U.S.C. § 851: Enhanced Penalties for Federal Drug Trafficking Offenders 6 (July 2018), [https://www.uscc.gov/sites/default/files/pdf/research-and-publications/research-publications/2018/20180712\\_851-Mand-Min.pdf](https://www.uscc.gov/sites/default/files/pdf/research-and-publications/research-publications/2018/20180712_851-Mand-Min.pdf).

- § 851 greatly increased sentences. For example, when the government filed an § 851 information, offenders received an average sentence of over five years longer (61 months) than when an § 851 information was not filed against an eligible offender;<sup>7</sup>
- Offenders who remained subject to the § 851 enhancement at sentencing received an average sentence of nearly a decade longer (107 months) than the average sentence for offenders who received relief from the filed § 851 information because of the safety valve or by providing substantial assistance<sup>8</sup>; and
- While § 851 enhancements had a significant impact on all racial groups, black offenders were impacted by them most significantly.<sup>9</sup>

### ***Real-life Example***

Sandra Avery is one of many examples of how §§ 841 and 851 results in unfair, disproportionate sentences. Sandra Avery endured a difficult childhood that included sexual abuse, but she went on to serve in the army, earn a college degree, overcome an addiction to crack. She became a born-again Christian and worked as an accountant. Sadly, in her early forties, her life spun out of control: she became addicted to crack cocaine again, lost her job, and started delivering and selling small amounts of crack for her husband, a crack dealer.

In 2005, Avery was arrested and indicted by a federal grand jury for possessing 50 grams of crack with intent to deliver, an offense then carrying a mandatory minimum sentence of 10 years. Avery refused to enter into a plea agreement with the government because it did not offer anything less than 10 years and because, as she told [Human Rights Watch](#), “I simply was not in my right mind at the time.” She was convicted after trial and sentenced to life.

The life sentence resulted from the government’s choice to use the §§ 841, 851 sentencing enhancement based on Avery’s previous drug convictions. During the early 1990s, she had been convicted three times under Florida law for possessing small amounts of crack for her personal use; the value of drugs in those three cases amounted to less than \$100, and she was sentenced to community supervision.

Sandra Avery did not need to die in prison. Fortunately, she will not. President Obama commuted her life sentence in January 2016. Her life sentence, however, was imposed only because she exercised her right to trial and because prosecutors used the extreme sentencing enhancement found in §§ 841 and 851.

### ***The SRCA Fix***

- Reduces the mandatory minimum life without parole sentence to a mandatory minimum 25-year sentence for a third drug offense under §§ 841, 851, and makes this reform retroactive;
- Reduces the mandatory minimum 20-year sentence to a mandatory minimum 15-year sentence for a second drug offense under §§ 841, 851, and makes this reform retroactive;

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<sup>7</sup> *Id.* at 30.

<sup>8</sup> *Id.* at 36.

<sup>9</sup> *Id.* at 32.

- Limits prior drug offenses that can trigger §§ 841, 851 sentences to those for which (1) the person served more than one year in prison and, (2) the release from imprisonment was within 15 years of the commission of the current offense; and
- Applies the 15-year and 25-year mandatory minimum drug sentences for repeat drug offenders to a new group of people who previously would not have received them, those who have one or more broadly-defined “serious violent felony” prior convictions.

### ***Potential Impact***

**Cost-savings:** \$67 million over 10 years, according to Congressional Budget Office,<sup>10</sup> according to Congressional Budget Office score of SRCA in 2016. There is not a current CBO estimate for SRCA.

**People Impacted:** 60 people annually, prospectively; 3,095 people retroactively (as of October 28, 2017).<sup>11</sup>

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<sup>10</sup> Congressional Budget Office, S. 2123, The Sentencing Reform and Corrections Act of 2015 (May 17, 2016), <https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/costestimate/s2123-r.pdf>.

<sup>11</sup> Letter from Glenn R. Schmitt, U.S. Sentencing Comm’n, to Congressional Budget Office, at 4 (Mar. 9, 2018) [hereinafter USSC Impact Letter], at [https://www.ussc.gov/sites/default/files/pdf/research-and-publications/prison-and-sentencing-impact-assessments/March\\_2018\\_Impact\\_Analysis\\_for\\_CBO.pdf](https://www.ussc.gov/sites/default/files/pdf/research-and-publications/prison-and-sentencing-impact-assessments/March_2018_Impact_Analysis_for_CBO.pdf).

## **Factsheet #3: MAKE THE FAIR SENTENCING ACT RETROACTIVE**

### ***The Problem***

The Fair Sentencing Act of 2010 (FSA) reduced the weight disparity between crack and powder cocaine mandatory minimum sentences from 100:1 to 18:1. The FSA was a compromise measure that did not correct all the injustices of the crack-powder disparity – many still believe that there should be no disparity between crack and powder cocaine at sentencing, since the drugs are chemically identical. The FSA’s alterations to crack mandatory minimum sentences were not made retroactive. Today, thousands of federal crack cocaine offenders remain in prison serving mandatory minimum terms that Congress, the president, and the country have repudiated as unfair and racially discriminatory.

These lengthy sentences are not increasing public safety. We know this, in part, because the U.S. Sentencing Commission studied the impact of its 2007 decision to retroactively apply its reductions to the guideline for crack cocaine sentences. The Commission found that those who were released early did not reoffend at a higher rate than those individuals who served their full sentences.

### ***Real-life Example***

Eugene Downs is serving a 10-year mandatory minimum sentence for selling at least 50 grams of crack cocaine. He committed this offense on August 2, 2010, one day before the Fair Sentencing Act became law. Had Downs been sentenced under the FSA, he would have faced a five-year mandatory minimum. If the FSA were made retroactive, Downs could petition the court to resentence him to a five-year mandatory minimum sentence.<sup>12</sup>

### ***The SRCA Fix***

SRCA would make the Fair Sentencing Act (FSA) of 2010 retroactive, allowing crack cocaine offenders sentenced before August 3, 2010, to petition courts for sentences in line with the FSA’s reforms to the 100-to-one disparity between crack and powder cocaine mandatory minimum sentences. There are several important safeguards to how retroactivity is implemented:

- Courts are not required to grant petitions for an FSA sentence;
- Courts can reject sentence reductions if they find the person poses a threat to the public;
- Prosecutors get a chance to argue against a sentence reduction.

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<sup>12</sup> Kara Gotsch, *Thousands are Stuck in Prison, Just Because of the Day They Were Sentenced*, WASH. POST (Jan. 31, 2018), [https://www.washingtonpost.com/opinions/thousands-are-stuck-in-prison--just-because-of-the-date-they-were-sentenced/2018/01/31/0c1629e2-fd68-11e7-ad8c-ecbb62019393\\_story.html?noredirect=on&utm\\_term=.b68a2cf6fc5f](https://www.washingtonpost.com/opinions/thousands-are-stuck-in-prison--just-because-of-the-date-they-were-sentenced/2018/01/31/0c1629e2-fd68-11e7-ad8c-ecbb62019393_story.html?noredirect=on&utm_term=.b68a2cf6fc5f).



### ***Potential Impact***

**Cost-savings:** \$343 million over 10 years, according to Congressional Budget Office,<sup>13</sup> according to Congressional Budget Office score of SRCA in 2016. There is not a current CBO estimate for SRCA.

**People Impacted:** 3,147 people eligible for retroactive relief (as of October 28, 2017).<sup>14</sup>

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<sup>13</sup> Congressional Budget Office, S. 2123, The Sentencing Reform and Corrections Act of 2015 (May 17, 2016), <https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/costestimate/s2123-r.pdf>.

<sup>14</sup> Letter from Glenn R. Schmitt, U.S. Sentencing Comm'n, to Congressional Budget Office, at 4 (Mar. 9, 2018) [hereinafter USSC Impact Letter], at [https://www.ussc.gov/sites/default/files/pdf/research-and-publications/prison-and-sentencing-impact-assessments/March\\_2018\\_Impact\\_Analysis\\_for\\_CBO.pdf](https://www.ussc.gov/sites/default/files/pdf/research-and-publications/prison-and-sentencing-impact-assessments/March_2018_Impact_Analysis_for_CBO.pdf).

**Factsheet #4: EXEMPT LOW-LEVEL DRUG OFFENDERS FROM SEVERE  
MANDATORY MINIMUMS  
(Safety valve expansion)**

***The Problem***

One of the only exceptions to mandatory minimum drug sentences, the “safety valve” is so narrow that many low-level offenders with minimal criminal records are excluded from relief.

In 1994, Congress created the “safety valve” (18 U.S.C. § 3553(f)) to help ensure that mandatory minimum drug sentences were focused on higher-level drug traffickers, not those playing minor roles in a drug conspiracy. The safety valve is a strict five-part test, all parts of which must be met for the person to qualify for a sentence below the applicable mandatory minimum:

1. The person did not have more than one criminal history point, as calculated under the U.S. Sentencing Guidelines;
2. The person did not play a leadership role in the offense;
3. The person did not possess or use a gun in relation to the offense;
4. The offense did not result in death or serious bodily injury to any other person; and
5. The person pleads guilty and confesses their role in the offense.

The safety valve’s requirement of only one criminal history point can easily be met or exceeded by virtually every city, state, and federal crime, including misdemeanors. Old offenses, including those where a person did not even have to serve prison or jail time, can count and disqualify a person from safety valve eligibility. Examples include careless driving, trespassing, insufficient funds check, and disorderly conduct; all count in the calculation if the sentence was a term of probation of more than one year.<sup>15</sup> The effect is that even very minor criminal histories can exclude people from safety valve eligibility, even if they meet all the other criteria and played minor roles in the drug activity.

In FY 2016, 22 percent of drug offenders qualified for the safety valve.<sup>16</sup> People who received the benefit of the safety valve received sentences, on average, 69 months shorter than those who received the mandatory minimum.<sup>17</sup> Nonetheless, the U.S. Sentencing Commission has found that “[a] significant portion of offenders who performed relatively low-level functions did not qualify under the safety valve provision. For example, a significant portion of Couriers (31.9%), Mules (28.8%), and Employees/Workers (33.9%) did not qualify for the safety valve in fiscal year 2016,” and these offenders received longer sentences.<sup>18</sup>

***Real-life Example***

There are many people who would receive fairer sentences because of an expanded safety valve.

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<sup>15</sup> U.S.S.G. § 4A1.2 (2018).

<sup>16</sup> U.S. SENTENCING COMM’N, MANDATORY MINIMUM PENALTIES IN THE FEDERAL CRIMINAL JUSTICE SYSTEM 6 (Oct. 2017), [https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2017/20171025\\_Drug-Mand-Min.pdf](https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2017/20171025_Drug-Mand-Min.pdf).

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at 7.

[Shirley Schmitt](#) was a methamphetamine addict who pooled resources with other addicts to buy pseudoephedrine and make meth for their own use – they never actually sold or distributed the drug to others or for profit. Shirley began using methamphetamine after the death of her husband and quickly became addicted to the drug. As the judge said at sentencing:

All matters of methamphetamine manufacturing are serious. The Court's well aware of that. But this case, the evidence was pretty clear, that there wasn't anybody really selling any methamphetamine. There wasn't – nobody had any big cars or stacks of 20s in their pocket or anything like that. It involved a group of addicts who were satisfying their own addiction.

The judge rejected the claim that Shirley was the leader of the conspiracy, stating that there can be no leader when the conspiracy is nothing more than “a group of people who had next to no money and were not selling anything and were all working together trying to satisfy their addictions.” Pending trial, Shirley entered and completed treatment and has since maintained her sobriety. Shirley met every prong of the existing safety valve but one: criminal history. For that reason, the judge had to give her a mandatory minimum 10-year sentence.

The criminal record that disqualified Shirley from receiving the safety valve was two prior convictions arising from one incident in 2008. They were misdemeanor offenses for which she never served time: purchase of pseudoephedrine over the limit and possession of drug paraphernalia. SRCA's safety valve reforms are not retroactive and would not reduce Shirley's sentence if they were enacted today. However, had SRCA's safety valve reform been in effect at the time of her offense, Shirley would have qualified for its safety valve and received less time in prison.

### *The SRCA Fix*

The SRCA safety valve reforms would expand safety valve criteria so that minor offenses do not disqualify a person who meets all the other eligibility criteria. Specifically, they would:

- **Expand** the existing drug “safety valve” exception at 18 U.S.C. § 3559(f) so that drug offenders can receive sentences below the mandatory minimum term if:
  - Based on the federal sentencing guidelines, they do not have more than 4 criminal history points (excluding any 1-point prior offenses), or a prior 3-point offense, or a prior 2-point violent offense,<sup>19</sup> OR
  - The court determines that the person does not have a prior serious violent felony or serious drug felony conviction and that the criminal history score substantially over-represents the seriousness of the defendant's criminal record or the likelihood that he will commit more crimes; AND
  - They were not a leader, organizer, manager, or supervisor in the offense; AND
  - They did not use or possess a gun; AND
  - They pled guilty; AND

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<sup>19</sup> The term “violent offense” means either a state or federal “crime of violence,” as defined in 18 U.S.C. § 16, that is punishable by imprisonment. Section 16 defines a crime of violence as an offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another.

- No death or serious bodily injury resulted to any person.
- **Create** an additional safety valve exception for drug offenders facing 10-year mandatory minimum sentences so that the person can receive the 5-year mandatory minimum prison term instead if:
  - They do not have a prior conviction for a “serious drug felony” or a “serious violent felony”; AND
  - They were not a leader, organizer, manager, or supervisor in the offense; AND
  - They did not act as an importer or exporter, high-level distributor or supplier, wholesaler, or manufacturer, unless the person was a minor or minimal participant, as defined in the sentencing guidelines; AND
  - They did not use or possess a gun; AND
  - They pled guilty; AND
  - No death or serious bodily injury resulted to any person; AND
  - They did not sell drugs to or with a person under age 18.

### ***Potential Impact***

**Cost-savings:** \$233 million over 10 years, according to Congressional Budget Office,<sup>20</sup> according to Congressional Budget Office score of SRCA in 2016. There is not a current CBO estimate for SRCA.

**People Impacted:** 2,141 people annually, prospectively, for broadening of existing safety valve; 207 people annually, prospectively, for creation of new safety valve for 10-year mandatory minimum drug sentences<sup>21</sup>

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<sup>20</sup> Congressional Budget Office, S. 2123, The Sentencing Reform and Corrections Act of 2015 (May 17, 2016), <https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/costestimate/s2123-r.pdf>.

<sup>21</sup> Letter from Glenn R. Schmitt, U.S. Sentencing Comm’n, to Congressional Budget Office, at 4 (Mar. 9, 2018) [hereinafter USSC Impact Letter], at [https://www.ussc.gov/sites/default/files/pdf/research-and-publications/prison-and-sentencing-impact-assessments/March\\_2018\\_Impact\\_Analysis\\_for\\_CBO.pdf](https://www.ussc.gov/sites/default/files/pdf/research-and-publications/prison-and-sentencing-impact-assessments/March_2018_Impact_Analysis_for_CBO.pdf).