



**Written Statement of Celeste Trusty
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Pennsylvania House Judiciary Committee
September 24, 2019**

We thank the committee for the opportunity to share our position on the bills scheduled for votes on September 24, 2019. As this committee explores ways to hold individuals accountable for gun violence or breaking state firearm laws, FAMM urges the committee to reject mandatory minimum sentences and consecutive sentencing requirements as avenues for punishment. **FAMM opposes HB 726, HB 1850, HB 1851, and HB 1852 and urges the Committee to reject these bills.**

FAMM is a nonpartisan, nonprofit sentencing reform advocacy group founded in Washington, D.C. in 1991. FAMM’s mission is to protect public safety and promote efficiency in the criminal justice system by advocating for individualized, proportional criminal sentencing laws. We are not against punishment or prisons. Our opposition to mandatory minimums is not rooted in sympathy for anyone who choose to use firearms to engage in violent crime. Rather, our opposition is rooted in the belief – backed by all credible evidence – that mandatory minimums make law-abiding citizens less safe. Mandatory minimums tie the hands of local courts that know their communities best. One-size-fits-all sentencing earmarks resources for incarceration that would be better used by implementing more proactive strategies for decreasing crime in Pennsylvania. Cost-effective public safety requires exactly the kind of flexibility that mandatory minimums eliminate.

I. Mandatory minimum sentences do not deter or reduce gun crime.

Put simply, there is no evidence to support the claim that mandatory minimum sentences deter or reduce gun crimes or violence. A 2013 report by the Bluhm Legal Clinic at Northwestern Law School found that “the evidence indicates, repeatedly, that mandatory minimum sentences will not reduce gun violence. On the contrary, such restrictions are both costly and counterproductive.”¹ The same report concluded:

Decades of empirical research, including a recent meta-analysis reviewing over 29 separate studies of the effectiveness of policies and programs that attempt to reduce firearm violence, have established that ‘policies [like enhanced prison terms] rooted in the deterrence theory framework... have been shown to have little empirical support.’²

¹ Stephanie Kollmann and Dominique D. Nong, “Combatting Gun Violence in Illinois: Evidence-Based Solutions,” Bluhm Legal Clinic, October 17, 2013.

http://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?filename=3&article=1000&context=jclc_symposium&type=additional

² Ibid.



Furthermore, a 2003 study of Virginia’s “Project Exile” mandatory gun sentence enhancements, conducted by Steven Raphael and Jens Ludwig, “demonstrated fairly conclusively that [Project Exile] is a bust. It has no impact. It did not work.”³ We know why. Crime rates respond to policies that ensure swift and certain sanctions on those who choose to break the law. **The fear of being caught and punished quickly, not lengthy sentences, deters crime.**

II. Mandatory minimum gun penalties will cost taxpayers billions that could be better spent on making communities safer.

The mandatory minimum gun penalties and consecutive sentencing requirements in HB 726, HB 1850, HB 1851, and HB 1852 will cost taxpayers billions of dollars that would be better spent on smarter law enforcement and community engagement strategies that would actually prevent gun violence. An identical version of HB 1851 was passed by the House in 2014 (HB 1498). The Pennsylvania Department of Corrections’ analysis of that bill found that **it would cost taxpayers \$67.2 million after five years, \$366.4 million after 10 years, \$1.5 billion after 25 years, and \$3.5 billion after 50 years.** There is no reason to believe that the fiscal impact of HB 1851 would be substantially different now than it would have been in 2014.

In a world of limited resources, public safety is about choices. Lawmakers can choose to pass mandatory minimum sentences that will not deter or reduce gun violence while saddling taxpayers with billions in corrections costs. Or, lawmakers can choose to reject mandatory minimum sentences and invest resources in tools and practices that actually reduce and prevent gun violence in the community. Only the latter choice increases public safety.

III. Mandatory minimum gun penalties are unnecessary to keep Pennsylvania safe.

The Pennsylvania Supreme Court’s 2015 ruling in *Commonwealth v. Hopkins* invalidated many mandatory minimum sentences. Since that time, the state has operated without mandatory minimum sentences for drug and gun offenses. This did not cause a crime wave, but the opposite: the state’s prison population and costs have shrunk, crime has declined, and recidivism and guilty plea rates have stayed roughly the same. **Since the *Hopkins* ruling:**

- **Violent and property crime rates continue to decline in Pennsylvania.** The FBI’s Uniform Crime Report shows that both violent and property crime rates were lower in 2017 than in 2015. Pennsylvania currently enjoys low crime rates not seen since 1970.
- **Pennsylvania’s prison population has declined.** Along with the crime decline, the state’s prison population has declined. The prison population dropped for the fifth consecutive year in 2018 and is at its lowest level since 2007.⁴ The Department of Corrections (DOC) states that the Supreme Court’s invalidation of mandatory minimums “played a key role in driving the [population] reduction.”⁵

³ Jens Ludwig and Jean Raphael, “Prison Sentence Enhancements: The Case of Project Exile” in *Evaluating Gun Policy: Effects on Crime and Violence*, ed. Philip J. Cook and Jens Ludwig. (Washington, D.C.: The Brookings Institution). 280.

⁴ Samantha Melamed, [How Pennsylvania Achieved its Steepest Decline in State Prison Population on Record](#), Jan. 14, 2019.

⁵ Pennsylvania Department of Corrections, [2017: A Year of Accomplishments](#), January 2018.

- **The DOC is saving money and closing prisons.** DOC's annual budget remained over \$2 billion from 2015 to 2017,⁶ but the DOC will spend \$93 million less in 2017-2018 than it did in the 2016-2017 fiscal year. In 2017, DOC closed State Correctional Institution Pittsburgh, which is expected to save DOC over \$80 million annually.⁷
- **Recidivism has not skyrocketed.** Recidivism rates have fluctuated in the past three years. The one-year recidivism rate rose slightly between 2015 and 2017-18 (40.8% vs. 42.6%), while the three-year recidivism rate rose only slightly over the same period (63.1% vs. 63.5%).⁸ Despite these slight increases in recidivism, crime has continued to decline in Pennsylvania.
- **Plea rates have remained stable.** The invalidation of mandatory minimums has not impacted prosecutors' ability to secure convictions through guilty pleas. In 2017, 66.8% of criminal cases were processed by a guilty plea, compared to 67% in 2015.⁹

Pennsylvania does not need mandatory minimum sentences to stay safe. All the evidence and experience with these sentences shows that they increase prison populations and costs without deterring or reducing crime. **Mandatory minimum sentences will cost taxpayers a fortune without making them safer.**

Instead of reinstating ineffective and costly mandatory minimum sentences, Pennsylvania legislators should maintain the status quo after *Hopkins* and focus on investing in effective community policing, drug and mental health treatment, and violence prevention programs.

Thank you for considering FAMM's views, and please let us know how we can assist you as you consider this important issue.

⁶ [FY 18-19 Budget Testimony](#).

⁷ Pennsylvania Department of Corrections, [2017: A Year of Accomplishments](#), January 2018.

⁸ [FY 18-19 Budget Testimony](#).

⁹ Administrative Office of Pennsylvania Courts, [Caseload Statistics](#).