



How FAMM's Sentencing Reforms Advance Racial Justice

For nearly 30 years, FAMM has been a leading voice for federal and state sentencing reform. FAMM has focused its advocacy on repealing and reforming mandatory minimum sentencing laws, which cause disproportionate damage to communities of color. We are proud of what we have accomplished, but we have so much more work to do.

Advancing racial justice to date

FAMM has led successful campaigns in Congress and in the states to address the sentencing laws and policies that were most responsible for creating racial disparities in sentences and in our prison population.

Crack sentencing reform. The most racially discriminatory sentencing policy was the 100:1 disparity between federal crack and powder cocaine sentences. While crack and powder cocaine are similar drugs, harsh mandatory minimum prison sentences applied to crimes involving much smaller quantities of crack. These disproportionate punishments harmed Black Americans, who represented roughly 80 percent of crack case defendants, compared to just 7 percent who were white.

FAMM fought to reduce this disparity by championing:

- Two reductions in the sentence range for crack-related offenses, adopted by the U.S. Sentencing Commission in 2007 and 2014;
- Passage of the Fair Sentencing Act of 2010, which reduced the disparity from 100:1 to 18:1;
- Passage of the First Step Act of 2018, which applied the Fair Sentencing Act's crack reform retroactively.

In 2014, the U.S. Sentencing Commission estimated that *the Fair Sentencing Act reforms cut approximately 20,000 years total from the excessive sentences Black people were serving for crack offenses*. Since the First Step Act passed, more than 3,400 individuals have received an average sentence reduction of nearly six years. Ninety-one percent of those receiving a reduction were Black, meaning that *the First Step Act has cut another 18,000 years total from sentences that Black people were serving for crack offenses*.

These reforms cut excessive crack cocaine sentences in another way. Because the quantity needed to trigger a lengthy federal mandatory minimum was no longer so small, federal

prosecutors sought fewer prosecutions in federal court. Overall, federal prosecutions for crack-related offenses dropped 50 percent.

Some states maintain disparities between crack and powder cocaine sentences, and FAMM has sought to address those. In 2016, FAMM led the successful effort to pass a drug sentencing bill in Iowa, which reduced the state's 10:1 crack-powder sentence disparity to 2.5:1.

Drug-free school zone laws. While nearly all drug mandatory minimum laws produce racial disparities, state drug-free school zone laws are especially harmful. These laws dramatically increase the sentence of an individual who is caught buying or selling drugs within a certain distance of a school or library, e.g. 1,000 feet. While the laws were intended to keep drugs away from schools and children, they have succeeded only in enhancing the sentences of people of color, who frequently live in cities and neighborhoods that fall nearly completely within school zones. For example, the Pennsylvania Sentencing Commission found that 41 percent of Pennsylvania's school zone offenders were Hispanic, even though they make up only 6 percent of drug delivery offenders. Similar disparities were found in other states: Black and Hispanic people made up 80 percent of individuals who received school zone sentence enhancements in Massachusetts and 96 percent in New Jersey.

FAMM was proud to play a role in reforming discriminatory drug-free school zone laws in Tennessee (2020), Massachusetts (2012), and New Jersey (2010), and in preventing lawmakers from reinstating a similar law in Pennsylvania after it was struck down in court in 2015.

Executive clemency. In 2014, FAMM was one of the founding members of Clemency Project 2014, one of the biggest pro bono mobilizations in history. FAMM and its partners helped review applications for sentence commutations based on criteria set forth by the Obama administration. By the end, 1,696 people—71 percent of whom were Black—received commutations that averaged more than 11 years. In sum, the Obama clemency effort cut more than **13,000 years of unnecessary incarceration from Black people serving federal drug sentences.**

In addition to these successes, FAMM has led campaigns to repeal, reform, or prevent adoption of new mandatory minimum sentencing laws in several states, including Florida, Michigan, Pennsylvania, Iowa, Massachusetts, Missouri, and Georgia. As a result of all of these efforts and those of our reform-minded allies, the Black incarceration rate is at its lowest point since 1989, and the disparity between Black and white incarceration rates for drug crimes fell from 15-to-1 in 2000 to 5-to-1 in 2016. We are gratified by the progress we have made, but recognize we have a long way to go to create a fairer justice system.

Looking forward: targeting racial disparities with a bold agenda

FAMM is committed to eliminating disparities based on race and ethnicity. As such, we remain focused on attacking the main drivers of these disparities, which are extreme sentences and sentence enhancements. Black people are disproportionately serving extreme sentences. One out of seven people in prison today are serving a life sentence; half are black. Other studies have

shown that Black people are more likely to be charged with crimes that carry lengthy mandatory minimum sentences or mandatory sentencing enhancements.

We recognize that many factors contribute to Black people receiving longer sentences, including disparate treatment at each step of the justice system: encounters with police, prosecutorial charging decisions, judges' sentencing discretion, and parole boards' release decisions. To combat these disparities, we must create more mechanisms for justice system actors to reconsider and curb extreme sentences.

FAMM has launched a nationwide campaign in support of a Second Chances Agenda to reform extreme sentences at the state and federal level. This agenda includes: (1) passing "second look" laws that direct courts to reconsider a person's sentence after 10 or 15 years to determine whether a shorter sentence is appropriate; (2) expanding compassionate releases for sick and elderly prisoners who pose no risk to public safety; (3) encouraging governors and the president to use their clemency authority to shorten extreme sentences; and (4) eliminating extreme mandatory sentences and making the reforms retroactive.