

Criminal Justice System

Prompt

How should we change the court system to make it equitable for everyone?

The US criminal justice system, from the courts to policing, does not serve everyone equally. Politicians and activists believe in different ways to improve it. Many believe the problem starts in the courtroom. Mandatory minimum sentencing and high bail amounts have led to a growing prison population, especially for people of color. What is the best way to seek out reform?

Your senator is considering introducing legislation to reform the court system. Write an argumentative essay recommending what should be done to make the courtroom fair and equal for everyone. Use evidence from the sources to defend your claim, and be sure to acknowledge and address counterclaims to your position.

Source 1

Getting Rid of Mandatory Minimum Sentencing

U.S. prisons are bursting with people convicted of nonviolent drug crimes. Black and Latino men and women make up a large percentage of these prisoners. Additionally, people of color are receiving longer sentences than white people who commit similar crimes. Together, these trends are contributing to the justice system being unequal.¹

A 19-year-old woman is arrested by police when they raid a party. She is convicted of drug possession because they found a small amount of illegal drugs in her purse. She had never been arrested before. She had never been in any kind of trouble. She is the single mother of a one-year-old son and has just started her first job. But the judge in this case isn't allowed to take any of those facts into consideration. A 1986 law says that the judge must sentence her to a minimum of five years in jail. The judge believes it would be better for her not to do time in jail. He would like to order her to get treatment for her drug problem instead. But the decision is out of his hands. This is an example of mandatory minimum drug sentencing.

Mandatory minimum sentencing laws keep people in jail longer. And there's a price to be paid for that. Many agree that the cost of keeping people in jail has not been worth it. They say

¹ J. Turner and J. Dakwar, "Written Submission of the American Civil Liberties Union on Racial Disparities in Sentencing," American Civil Liberties Union, October 27, 2014, <https://www.aclu.org/other/aclu-submission-inter-american-commission-human-rights-racial-disparities-sentencing>

Criminal Justice System

that more than half of those in the federal prison system are there for nonviolent crimes that involve drugs. These sentencing laws aren't affecting the people they were really meant to affect, such as major drug dealers.²

There are many problems with mandatory minimum sentencing laws:

- The average cost for keeping someone in a federal prison is almost \$35,000 a year.
- People who commit nonviolent crimes are given the same sentences as those who have used violence.
- If you are convicted of a felony three times, you are sentenced to life in prison. This can happen even if none of those felonies were violent crimes. This is called a "three strikes" law.
- People convicted of minor drug offenses are most likely to be affected by these sentences.

Who are these people crowding our jails? Who's being sentenced to long prison terms for relatively minor crimes? There are more than 2 million prisoners in the US today. Two-thirds of them are Black or Latino.³ It's not hard to explain this: "African Americans are more likely than white Americans to be arrested; once arrested, they are more likely to be convicted; and once convicted, they are more likely to [get] lengthy prison sentences. African-American adults are 5.9 times as likely to be [jailed] than whites and [Latinos] are 3.1 times as likely."⁴

Our prison population has been growing fast since the mandatory minimum sentencing laws took effect. We know that the people being arrested, convicted, and given those longer sentences are mainly people of color. It's clear that mandatory minimum sentencing contributes to the inequality in our prison population. It is time to get rid of laws that require mandatory minimum sentences.

² J. Caulkins, "Are Mandatory Minimum Drug Sentences Cost-Effective?," RAND Corporation, 1997, https://www.rand.org/pubs/research_briefs/RB6003.html.

³ "Mandatory Sentencing was Once America's Law and Order Panacea. Here's Why It's Not Working," Families Against Mandatory Minimums, 2002, <https://www.prisonpolicy.org/scans/famm/Primer.pdf>.

⁴ "Report of the Sentencing Project to the United Nations Human Rights Committee: Regarding Racial Disparities in the United States Criminal Justice System," The Sentencing Project, April 19, 2018, <https://www.sentencingproject.org/publications/un-report-on-racial-disparities/>.

Criminal Justice System

Source 2

Mandatory Minimum Sentencing Reform: More Needs to be Done

Mandatory minimum sentencing laws force judges to give tough sentences for some crimes. They must do this even if they don't believe it's the right thing to do. Many Democrats and Republicans believe these laws should be changed. Steps have been taken to get rid of these laws. However, some argue that not enough has been done.

Minimum sentencing laws went into effect in the 1980s and 1990s. Since then, bills have been proposed that would undo some of them. In 2017, a bill supported by both Democrats and Republicans was introduced into the U.S. Senate.⁵ This legislation includes getting rid of the three strikes law and lowering minimums for non-violent offenders. This would give judges the freedom to choose probation and shorter sentences for those convicted of some crimes.

One criticism of removing mandatory minimum sentencing laws is that it doesn't replace prison sentences with services such as drug counseling or job training. In addition, federal legislation would not address sentencing laws that individual states have in place. If mandatory minimum sentencing reform is to have an impact, it must extend beyond federal legislation and must offer alternatives to imprisonment. It must also attempt to fix the basic issues of who gets arrested and why.

Source 3

Bail Reform Will Level the Playing Field

In the United States today, more than 460,000 people are in jail waiting for their trials.⁶ They have not yet been found innocent or guilty. Many of these people are in jail simply because they couldn't afford to pay bail.

Bail reform has been one of the top priorities for those trying to make the justice system fair for all Americans. Critics of bail say that it has created two levels of justice. One level is for

⁵ C. Grassley, "The Sentencing Reform and Corrections Act of 2017," Commitment on the Judiciary, 2017, <https://www.grassley.senate.gov/sites/default/files/constituents/Sentencing%2C%2010-04-17%2C%20SRCA%20115%20Summary.pdf>.

⁶ "How Many People are Locked Up in the United States?," Prison Policy Initiative, 2019, https://www.prisonpolicy.org/reports/pie2019_vector.pdf.

Criminal Justice System

people who have the money for bail. These fortunate people are able to get out of jail so they can work, care for their children, and live a normal life while waiting for trial.

The other level is for people who can't afford bail. These people await trial in jail, sometimes for many months. Because they are in jail, they can't go to their jobs or be with their families. They may lose their jobs or their places to live. Statistics show that if you have to wait for your trial in jail, you're more likely to be convicted of the crimes you're accused of. Even if you're found innocent, your life may have been ruined because you lost your job or your housing.

Some states—California, New York, and New Jersey, for example—have already made changes to their bail laws. Critics argue that eliminating bail will cause an increase in criminal behavior, but most studies have not supported this concern. Even without bail, most people show up for their trial date and most people do not commit new crimes while waiting for trial.

Bail reform isn't just about not allowing wealth to decide who does or doesn't have to stay in jail waiting for a trial. It's been shown that when prosecutors and judges decide who is or isn't to be held in jail until trial, racial bias is a factor.⁷ In other words, if you're a person of color, there's a greater chance that you won't be offered a chance to bail. White people receive offers to post bail more often.

Structural racism also causes differences in wealth among white people and people of color. Because of this, if a person of color is offered a chance to post bail, there's a greater chance that they won't be able to afford it.⁸

The bail system as it currently exists in most states is unfair to low-income people and people of color. Before an accused person sets foot in the courtroom for trial, they have been given either an advantage or disadvantage. This unfair advantage or disadvantage is based on factors that have no place in our justice system: money and race.

⁷ D. Arnold, W. Dobbie, and C. Yang, "Racial Bias in Bail Decisions," *The Quarterly Journal of Economics*, May 24, 2017, https://papers.ssm.com/sol3/papers.cfm?abstract_id=2971818.

⁸ "Poverty Rate by Race/Ethnicity," Kaiser Family Foundation, 2018, <https://www.kff.org/other/state-indicator/poverty-rate-by-raceethnicity/>.