

# Mandatory sentencing

[Law](#), [Criminal Justice](#)



CRJ 100 Mandatory Sentencing Kimberly Manjarres Arizona State University

There are many things that are uncertain in life. If there are clouds in the sky, does that mean it's going to rain today? If you're going to get into a car accident on the way to work? No matter what uncertainties we face in life, the Legislature has taken away some uncertainties with mandatory sentencing. Mandatory sentencing can be traced as far back as the biblical times with "An eye for an eye and a tooth for a tooth," Exodus 21: 23-27. This is interpreted to mean that if a person commits a crime against another then they should suffer the same fate. Unfortunately, we don't have the same laws that once existed when Jesus was walking the earth. Although many people believe that if a crime is committed, no matter what circumstances exist, regardless of race, ethnicity or wealth, the laws should apply equally to all. Thus leading us to support the push for mandatory sentencing. Mandatory sentencing is a predetermined punishment for specific crimes that takes the discretion of sentencing out of the judge's hands. (Senna & Siegel, 2008) Mandatory sentencing forces a judge to deliver the same punishment to all offenders charged with the same crime no matter what mitigating or aggravating factors exist in the case. Someone should not receive special treatment or a more lenient sentence over someone else who committed the same crime for any reason. Many people believed this was happening quite frequently in the days of Al Capone when corruption was high among government officials which began with the police and trickled its way to the judges. Mandatory sentencing began in 1951 with Congress' response to the war on drugs was the enactment of the Boggs Act. The Boggs Act didn't distinguish between the dealers, suppliers or the

homeless addicts but rather mandated a prison term of two to five years for a simple first time possession of illegal drugs. (Smith, 2008) While this may seem harsh to many, I don't believe it is. Some people believe that a first time offender shouldn't see the inside of a prison cell for that length of time but instead should be receiving treatment for their addiction. Yet, others believe that without mandatory sentencing the only offenders who would receive any type of "treatment" would be those who could afford the better attorneys or those who could afford pay their way out of their sentence. I believe that much like the Boggs Act of 1951; in today's world and with the enforcement of mandatory sentencing, the Courts don't have the ability to distinguish between the wealthy or the poor but rather the Courts are forced to deliver the same punishment to all individuals. The Courts are no longer given the chance to become corrupt and must adhere to the letter of the law. Each state varies with mandatory sentencing. California has the "three strikes law" and Arizona has one of the harshest mandatory sentencing with its misdemeanor DUI laws. Once a person is convicted of a first time DUI they must serve a mandatory minimum anywhere from twenty-four hours up to forty-five days in jail. Although, a person will spend more time in the county jail for a simple DUI offense than they would if they had committed any number of felony offenses, I believe the mandatory sentencing provisions in the DUI laws attempts to deter future offenders or repeat offenders from committing the same act. A first time offender who is charged with Taking the Identity of Another or Forgery will never even see the inside of a jail cell, but those individuals also never put another person's life in a direct line of fire as is the case with every DUI offender. According to a May 2004 report

issued by the Families Against Mandatory Minimums, FAMM believes there is “ no direct relationship between incarceration rates and crimes rates. ”

Therefore, we should focus on treating the nonviolent substance offenders instead of sentencing them to prison. However, what they fail to mention is that their research is based on false pretenses that treatment wasn't sought prior to prison. Although there are a number of nonviolent offenders in the Arizona prison system not one person would face a “ mandatory sentence” as a first time offender. Most substance offenders who are in the Arizona prison system are repeat offenders or first time offenders who committed dangerous felonies. So why shouldn't they be sentenced to a prison term? Some people believe that no matter what the offense, each case is unique and should be treated as such. Someone who is a drug addict buying methamphetamine from their dealer shouldn't be treated the same as the dealer who sold it to them. But rather they should be able to receive substance abuse treatment so that they can become a productive member of society. I would simply argue that they should have been already been that productive member of society but chose not to be and as such, should be treated just the same as the drug dealer. After all, isn't it the addict who keeps the drug dealer in business, don't they contribute just as much to the problem as the dealer themselves? While others could argue that mandatory sentencing forces the Judicial System to hide behind the illusion of fair and equal justice to all. But what about a person who was brought up to believe a specific way and was never taught any different. What about a child who was molested and was forced to live through unimaginable things, a child who grew up believing that the only way to show their love to a child was to hurt

them? Are we to treat them the same as a grown adult who was brought up in a good and safe home, whom has an evil heart and preys upon children for their own disgusting satisfaction? Why should we be able to now hide behind mandatory sentencing when it suits our needs or our dissatisfaction? Mandatory sentencing is neither fair nor impartial. It works when we want it to work and fails when we need individual treatment in a society that needs it the most. It takes the discretion away from those who we entrust to do the right thing. Mandatory sentencing is not hard enough for the victims and gives no individuality to the offenders. REFERENCES Families Against Mandatory Minimums (2004, May) Arizona Prison Crisis: A Call for Smart Crime Solutions. Retrieved February 16, 2009 from <http://www.famm.org/Resources/FAMMReports.aspx> Senna, Joseph J., Siegel, Larry J. (2008) Introduction to Criminal Justice (11th ed.). Belmont, CA: Thompson Wadsworth. Smith, Jordan (2008, October) The Austin Chronicle. Reefer Madness: Drug Laws are So Fifties. Retrieved February 16, 2009 from <http://www.austinchronicle.com/gyrobase/Issue/column?oid=689798>