



# *The Pennsylvania Commission on Sentencing*

**Subcommittee on Courts**

**HR 12 Mandatory Sentencing Project Update**

**October 16, 2008**

## **Mandatory Sentencing Project** [October 2008]

House Resolution 12, which passed on October 16, 2007, directs the Sentencing Commission to “conduct a study on the use and impact of mandatory minimum sentences.” This study builds upon the preliminary work conducted by the Sentencing Commission in response to House Resolution 613 of 2004. Due to the short time frame of HR 613, the efforts completed by the Commission could best be characterized as a preliminary investigation of mandatory sentencing in Pennsylvania, and thus did not present findings or recommendations regarding mandatory sentencing legislation in the HR 613 Report. However, some of the activities accomplished were: a review of legislative history on mandatory sentencing statutes, a review of previous research on mandatory sentencing nationwide, interviews with district attorneys, public defenders, and judges in five counties, analysis of mandatory sentences imposed during 1996, the development of a preliminary recidivism study, and a statewide survey of district attorneys and public defenders.

In response to the directives of HR 12, the Commission plans to analyze the extent to which mandatory sentences are imposed, the processing of mandatory sentencing cases, and the effectiveness of mandatory sentencing with respect to crime reduction. The study entails three phases:

**Phase I: Documentation of the current utilization of mandatory sentences.** This phase will utilize the PCS data for 2001, 2004, 2005, and 2006 to determine how often mandatory sentences are imposed for individual offenses, for the most serious offense in the criminal incident, and for the most serious offense in the judicial proceeding. Additionally, we will look at whether offenders appear to be receiving mandatory sentences beyond what is reported to the Commission.

**Phase II: Processing of mandatory sentencing.** This phase will examine how mandatory cases are processed, and the plea negotiation process. Two methods for obtaining information will be utilized: 1) data collection in the field to obtain better offense charging information, and 2) surveys of judges, district attorneys, and public defenders to obtain a better understanding of how cases are processed in their respective counties.

**Phase III: Effectiveness of mandatory sentences.** This phase will examine whether mandatory sentences are effective in accomplishing their purposes, and whether they are effective in lowering recidivism. This phase will include a survey of legislative members about the intended purpose of sentencing, as well as a survey of offenders to determine the extent of their knowledge surrounding potential sentences attached to committing crime. The recidivism study will compare offenders who are mandatory eligible and received the mandatory sentence with those who are mandatory eligible and did not receive the mandatory sentence.

**Advisory Committee.** The HR 12 Advisory Committee has met six times: November 21, 2007 [Harrisburg]; December 5, 2007 [Philadelphia]; February 8, 2008 [Pittsburgh], April 3, 2008 [Philadelphia], June 6, 2008 [Harrisburg] and September 12, 2008 [State College]. The committee has received input thus far from two Philadelphia judges, a public defender from Allegheny County, representatives from the Department of Correction and the Board of Probation and Parole, and representatives from the Harrisburg City Police Department and the Office of Attorney General Drug Strike Force.

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# *The Pennsylvania Commission on Sentencing*

## *The Frequency of Mandatory Sentencing*

*Report to the HR 12 Advisory Committee*

*February 2008*

### Executive Summary

HR 12 of 2007 directed the Sentencing Commission to “conduct a study on the use and impact of mandatory minimum sentences.” In response to the directives of HR 12, the Commission outlined a research strategy that included examining: 1) the frequency of mandatory sentencing, 2) the processing of mandatory sentencing cases across the state, and 3) the effectiveness of the mandatory minimum statutes.

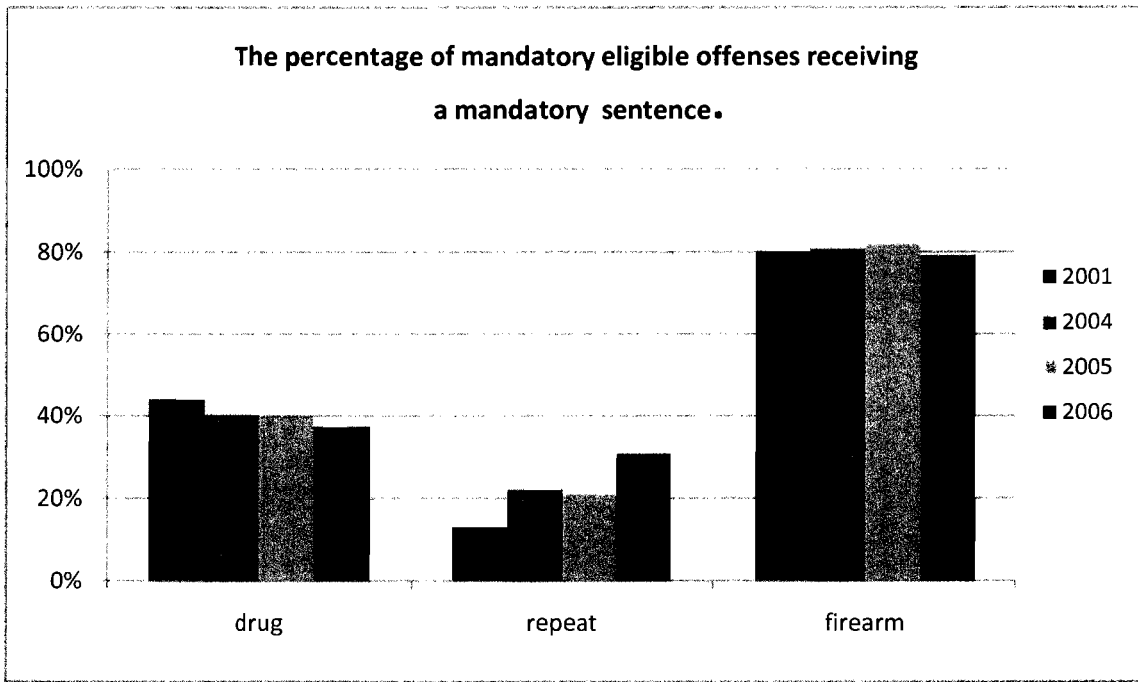
For the first phase of this project, the frequency of mandatory sentencing, we examined the extent to which mandatory minimum sentences were imposed for three major types of offenses [drug trafficking, repeat violent offenses, and violent offenses committed with a firearm] during 2001, 2004, 2005, and 2006.

The major findings were as follows:

- ◆ Overall, about 45% of the mandatory eligible offenses received a mandatory sentence. However, there was quite a bit of variation depending upon the type of mandatory. Firearms offenses were most likely to receive a mandatory sentence, followed by drug offenders and repeat violent offenders [79%, 41%, and 30%, respectively during 2006].
- ◆ The percentage of mandatory sentences imposed remained fairly stable for drug and firearms offenses from 2001 to 2006, though there was an increase in the percentage of mandatory sentences imposed for repeat, violent offenses during 2006. However, the smaller number of offenses in the repeat, violent offense category makes that category more sensitive to any type of change in the number of mandatory sentences imposed.
- ◆ First time drug offenders were more likely to receive a mandatory sentence than offenders with subsequent drug convictions, though this difference was less apparent over time.
- ◆ Cocaine was the most prevalent drug involved in drug mandatory cases, representing over 80% of the drug trafficking offenses. Over 60% of the cocaine offenses involved quantities of 2 to < 10 grams.
- ◆ Robbery, murder 3, and attempted murder were the most prevalent offenses receiving a mandatory sentence under the repeat violent offender statute. While offenders were more likely to receive a mandatory sentence upon second conviction [23%] than for a third/subsequent [10%] conviction, the number of offenders in the third/subsequent category is too small to draw meaningful conclusions.

**Table 1. The number and percentage of mandatory eligible offenses that received a mandatory minimum sentence**  
 [Most Serious Offense in Incident: 2001, 2004, 2005, 2006].

Type of Mandatory	2001		2004		2005		2006	
	<i>Number</i>	<i>%</i>	<i>Number</i>	<i>%</i>	<i>Number</i>	<i>%</i>	<i>Number</i>	<i>%</i>
drug	401	44%	541	42%	1072	42%	1356	41%
repeat	27	13%	43	19%	41	17%	70	30%
firearm	353	80%	394	81%	396	84%	390	79%



**HR 12 Mandatory Sentencing Project**  
Project Update

SURVEYS

Judge, District Attorney, Public Defender Surveys [processing of mandatory eligible cases]

- Mailed out June 30, 2008, follow-up reminder sent July 30, 2008
- Response rate: Judges [24%], District Attorneys [45%], Public Defenders [34%]
- Surveys have been entered into database- preliminary analysis underway

Public Knowledge Poll [can the public name an offense that carries a mandatory sentence?]

- Submitted 2 questions to Penn State's Center for Survey Research; Poll conducted in the fall, receive results in December.

Legislative Survey [purposes behind the various mandatory statutes]

- The surveys were sent to legislative members on Sept. 2 and they were asked to return the survey by September, 26. Response rate: 5%

Offender Survey [offenders' knowledge of mandatory sentencing]

- Received approval from the DOC in August to administer the survey at the Diagnostic and Classification phase at Camp Hill. This survey required a full review by Penn State's Institutional Review Board. We met with the Board on September 16, 2008, awaiting final approval.

RECIDIVISM STUDY [do mandatory sentences deter crime?]

Drug Trafficking Sample

- Includes mandatory eligible cocaine, heroin, marijuana cases sentenced during 2000 with a focus on the cocaine cases involving the categories of 2-10 grams and 10-100 grams. Received necessary data from the state police [July] and the DOC [September].

School Zone Sample

- Includes mandatory eligible cases sentenced during 1999-2002. In September, we finished looking up SIDs on JNET prior to sending to the State Police and DOC for the necessary data to conduct the recidivism analysis. A staff person with the Philadelphia Court System is providing us with the SIDs for the Philadelphia offenders, using PPID.

Violent, Firearm, Sex Offender Sample

- Includes mandatory eligible cases sentenced during 1990-1994. In September, we finished looking up SIDs on JNET for this sample as well. A staff person with the Philadelphia Court System is providing us with the SIDs for the Philadelphia offenders, using PPID.

DRUG USE AMONG DRUG DEALERS – [extent of substance abuse among offenders convicted of selling drugs]

- Sample – mandatory eligible drug offenders sentenced during 2006 [n=1423] The DOC provided information on the various assessment tools used, including the TCU drug assessment score. Note: SIP offenders not yet included, we will be receiving this information from the DOC.
- Nationwide studies: In a review of studies by a Villanova law/graduate student—most drug dealers use illegal drugs, most provide their labor in exchange for drugs. Effective traffickers insulate themselves from virtually everyone.

GPS - mapping of school zones

Staff met with the director of the GIA core [geographic information analysis] at Penn State's Population Research Institute to discuss mapping of school boundaries.

- Statewide mapping of schools
- Centre and Dauphin counties- more detailed information on school property, bus stops, playgrounds, etc. that are covered under the school zone law.