

TO: The Public Safety Performance Project Of The Pew Charitable Trusts
FROM: The Mellman Group & Public Opinion Strategies
RE: National Survey Key Findings – Federal Sentencing & Prisons
DATE: February 10, 2016

This analysis represents the findings of a nationwide survey of 1,200 registered voters conducted by The Mellman Group and Public Opinion Strategies. Interviews were conducted by telephone January 13-19, and included both cell phones and landlines randomly selected from official voter lists. The margin of error is +/-2.8% at the 95% level of confidence. The margin of error is higher for subgroups.

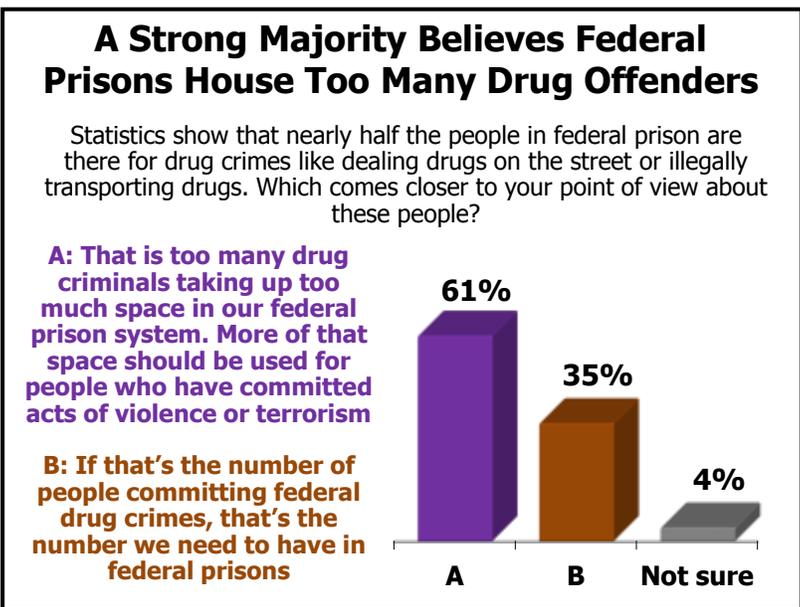
For decades, conventional wisdom has held that politicians are on safer ground asking for more punishment and longer sentences. Our new poll reveals that this conventional wisdom is outdated. Americans are ready and willing to change the way the federal justice system deals with drug offenders, phase out mandatory minimum sentences for a variety of offenses, allow people in federal prison to earn time off their prison terms by participating in programs proven to reduce recidivism, and make other reforms that would reduce a federal prison population they see as too large, too expensive, and too often incarcerating the wrong people.

Voters Believe Too Many Federal Drug Offenders Are Incarcerated

American voters clearly believe that there are too many drug offenders in federal prisons.

Told that nearly half the people in federal prison are incarcerated for drug crimes, 61% say “That is too many drug criminals taking up too much space in our federal prison system. More of that space should be used for people who have committed acts of violence or terrorism.”

Just 35% endorse the rejoinder: “If that’s the number of people committing federal drug crimes, that’s the number we need to have in federal prisons.”



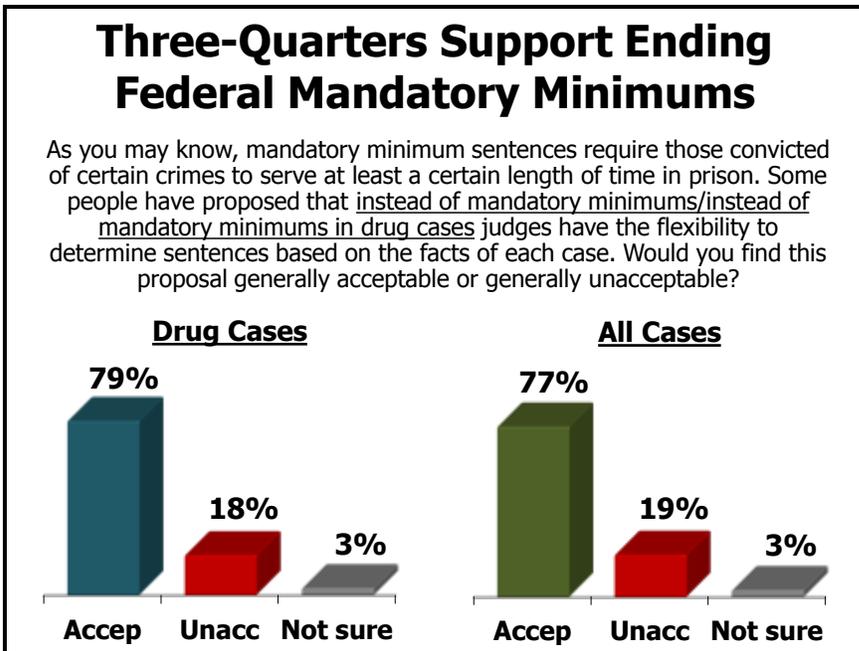
Democrats (70%-27%), independents (61%-35%), Republicans (51%-44%), men (60%-36%), women (62%-34%), voters under age 40 (67%-30%), voters aged 40-59 (62%-34%), seniors 60 or older (54%-40%), whites (57%-37%), African-Americans (70%-24%), Latinos (66%-33%), violent crime victim households (66%-30%), and even law enforcement households (57%-39%) are all more likely to believe the country

has too many drug criminals taking up too much space in its federal prisons than they are to think the number of drug criminals in federal prisons is appropriate.

There Is Broad Support For Reforming Federal Mandatory Minimum Sentences, Including Eliminating Them Altogether

Eight in ten voters (79%) support giving judges the flexibility to determine sentences based on the facts of each case when considering drug offenses, while 77% support the same policy for *all* cases. Only 18% (drug cases) and 19% (all cases) find that proposal unacceptable.

Looking at the two results combined, in order to reduce the margin of error for subgroups, there is broad agreement as large majorities of Democrats (78%), independents (83%) and Republicans (73%) join violent crime victim households (72%) and law enforcement households (68%) in expressing support for eliminating mandatory minimums in federal cases. Among no group does support fall below the two-thirds level.



Support for reforming mandatory minimums is driven by a strong preference for judicial discretion. Voters made a choice between two arguments, one making the case that Congress should allow judges to consider the individual circumstances in each case when sentencing these federal offenders and the other arguing that mandatory minimums take dangerous criminals off the street and ensure every offender is treated equally (see text in footnote).¹ Seven in ten (69%) opt for judicial discretion, dwarfing the 27% who think Congress should not make changes to the current system.

Democrats (76%) and independents (70%) are most likely to prefer judicial discretion to mandatory minimums, but even six in ten Republicans (60%) and law enforcement households (66%) agree that changes to the current system are needed.

¹ Which of the following comes closer to your point of view? [ROTATE STATEMENTS] 1. The federal prison population has grown in part because Congress has tied the hands of judges with tough mandatory minimum sentences for drug offenders. Congress should allow judges to consider the individual circumstances in each case when sentencing these offenders. OR 2. The federal prison population has grown because mandatory minimum sentences established by Congress work. They take dangerous criminals off the street and ensure every serious criminal is treated the same. Congress should not make changes to mandatory minimum sentences.

Voters Show Little Support For 10-Year Mandatory Minimums For All But the Highest Leaders And Organizers In Drug Organizations

Voters show little desire to keep current 10-year mandatory sentences for drug couriers, street-level dealers, and other low-level actors in drug organizations.

Only 20% believe a drug courier or mule who is paid to carry drugs from one location to another should get a mandatory minimum sentence of 10 years in prison.

Similarly, just a quarter (25%) think drug dealers who sell illegal drugs on

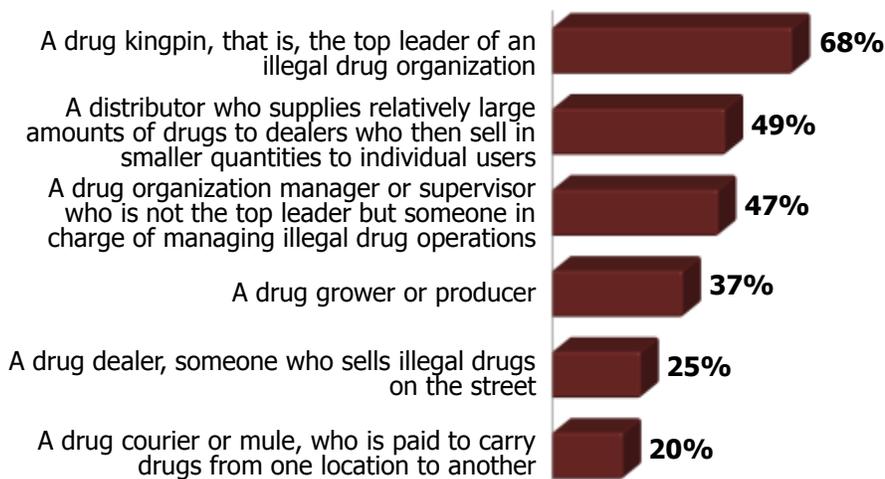
the street deserve the current mandatory minimum sentence, while 37% want drug growers or producers to receive a mandatory 10-year sentence.

By contrast, nearly seven in ten (68%) believe the leaders of illegal organizations deserve 10 or more years in federal prison. Drug organization managers (47%) and distributors (49%) fall somewhere in the middle.

Importantly, voters are supportive even after they hear additional information on both sides of the debate. As before, they heard paragraphs from supporters and opponents of the plan, with supporters arguing that serious sentences should be targeted at the most serious players in the drug trade and opponents making the case that changing the current sentencing regime would put public safety at risk (see text in footnote).² More than six in ten (62%) agree with supporters of allowing judges to decide sentences based on the facts of the case, double the number who agree with opponents (31%).

Few Want Low-Level Drug Offenders To Serve 10-Year Mandatory Minimum Sentences

% Believing Offender Should Get 10-Year Mandatory Minimum Sentence



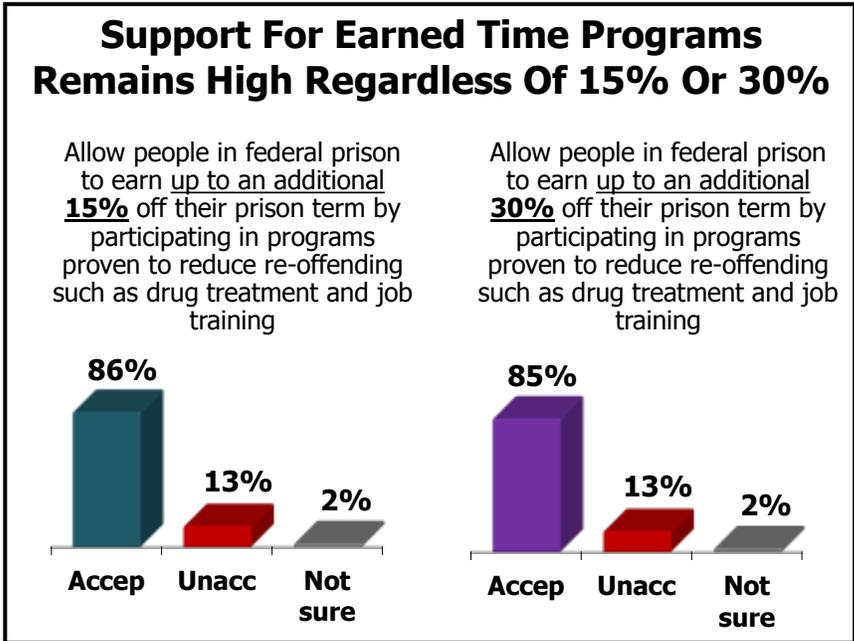
² Now I'm going to describe what supporters and opponents say about changing federal mandatory minimum sentences to account for an offender's rank in a drug trafficking organization. I will ask which you agree with more at the end. [ROTATE STATEMENTS] 1. Supporters of the plan say mandatory minimum sentences designed for top level criminals have resulted in lengthy imprisonment for street level dealers and people paid to carry drugs. Long sentences don't stop the crime because trafficking groups just pay someone else to carry or sell the drugs, and data shows that eliminating mandatory prison sentences has no impact on whether a defendant will cooperate in an investigation. Serious sentences should be targeted at the most serious players in the drug trade. OR 2. Opponents of the plan say that lower-level defendants will be less likely to cooperate with prosecutors and share information about serious drug traffickers if mandatory minimum sentences are changed. Besides, all drug crimes are inherently serious and violent crimes, leading to thousands of deaths and destroying families and communities. Anyone caught with a large quantity of illegal drugs should face a stiff, mandatory minimum sentence.

Again, Democrats (66%-28%) and independents (67%-26%) are most likely to agree with those who want to change the current system after hearing from both sides, but they are joined by majorities of Republicans (53%-41%) and law enforcement households (55%-38%).

In Addition To Ending Mandatory Minimums, Voters Are Open To Allowing Federal Offenders To Earn Time Off Their Sentences For Productive Behavior And A Broad Array Of Other Reforms That Would Reduce The Federal Prison Population

A number of other reforms to reduce the size and cost of the federal prison system receive strong support:

- 86%: Allow people in federal prison to earn up to an additional 15% off their prison term by participating in programs proven to reduce re-offending such as drug treatment and job training
- 85%: Allow people in federal prison to earn up to an additional 30% off their prison term by participating in programs proven to reduce re-offending such as drug treatment and job training
- 83%: Allow the courts to review the cases of non-violent federal offenders who are at least 60 years old to determine whether to release them from prison and place them on community supervision
- 84%: Allow the courts to review the cases of non-violent federal offenders who are terminally ill to determine whether to release them from prison and place them on community supervision



Conclusion

Voters are ready and willing to reform the criminal justice system in ways that reduce the size and cost of the federal prison system, while improving outcomes. Even after being exposed to strong opposition messaging, six in ten support phasing out mandatory minimum sentences for a variety of offenses and allowing judges to determine sentences based on the facts of each case. Even larger numbers support other reforms like ending mandatory minimum sentences for lower-level federal drug offenders, allowing courts to review the cases of elderly and terminally ill offenders, and allowing offenders to earn 15%-30% off their prison term by participating in treatment and job training programs.

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