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TESTIMONY BEFORE SENATE JUDICIARY COMMITTEE
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If I told you that one out of three African American males is forbidden by law from voting, you might think I was talking about Jim Crow 50 years ago.

One-out-of-three African-American males are forbidden from voting because of the War on Drugs.

The War on Drugs has disproportionately affected young black males. The ACLU reports that blacks are 4-5 times more likely to be convicted for drug possession although surveys indicate that blacks and whites use drugs at similar rates. The majority of illegal drug users and dealers nationwide are white, three-fourths of all people in prison for drug offenses have been African American or Latino. ¹

Why are the arrest rates so lopsided? Because it is easier to go into urban areas and make arrests than suburban areas.

Because we literally subsidize the arrest and incarceration of people. Federal grant money is based on convictions. It doesn't take much imagination to understand that it's easier to round up, arrest and convict poor kids than it is to convict rich kids. If law enforcement is expected, or pressured, to meet some quota due to the federal dollars their department might receive, they are more likely to go looking in urban areas than the suburbs.

The *San Jose Mercury News* reviewed 700,000 criminal cases that were matched by crime and criminal history of the defendant. The analysis revealed that similarly situated whites were far more successful than African Americans and Latinos in the plea bargaining process; in fact, "at virtually every stage of pretrial negotiation, whites are more successful than non-whites."²

I know a guy about my age in Kentucky, who grew marijuana plants in his apartment closet in college. 30 years later, he still can't vote, can't own a gun, and when he looks for work he must check the box, the box that basically says: "I'm a convicted felon and I guess I'll always be one."

He hasn't been arrested or convicted for 30 years—but still can't vote or have his 2nd Amendment rights. Getting a job is very difficult for him.

Today, I'm here to ask you to create a comprehensive sentencing safety valve for all federal mandatory minimums, which have been a major culprit in our unbalanced and often unjust drug laws.

Mandatory sentencing is the automatic imposition of a minimum number of years in prison for specific crimes — usually related to drugs. By design, mandatory sentencing laws take discretion away from prosecutors and judges so as to impose harsh sentences, regardless of circumstances.

¹ Human Rights Watch, *Punishment and Prejudice: Racial Disparities in the War on Drugs*, HRW Reports, vol.12, no. 2 (May 2000)

² Christopher Schmitt, "Plea Bargaining Favors Whites, as Blacks, Hispanics Pay Price," *San Jose Mercury News*, Dec. 8, 1991

Since mandatory sentencing began, America's prison population has quadrupled, to 2.4 million. America now jails a higher percentage of its citizens than any other country, at the staggering cost of \$80 billion a year.

Chairman Leahy and I introduced the Justice Safety Valve Act of 2013. We have been joined by Senators Levin, King, and Gillibrand.

The legislation is short and simple. It amends current law to provide “authority to impose a sentence below a statutory mandatory minimum.” In other words, we are not repealing mandatory minimums on the books – we are merely allowing a judge to sentence below a mandatory minimum if certain requirements are met.

There is an existing safety valve in current law, yet it is very limited. It has a strict 5 part test and only about 23% of all drug offenders qualified for the safety valve.

The injustice of mandatory minimum sentences is impossible to ignore when you hear the stories of the victims:

John Horner was a 46-year-old father of three when he sold some of his prescription painkillers to a friend. He had been prescribed painkillers for years after losing his eye in an accident, and agreed to sell his friend four unused bottles.

After the pills exchanged hands, Horner discovered that his friend was in fact a police informant, and he was charged with dealing drugs. Horner pleaded guilty, and was later sentenced to the mandatory minimum of **25 years in jail**.

The informant, who turned out to have a long history of drug offenses, was more fortunate— he received a reduced sentence of just 18 months after informing on Horner, and is now free.

Edward Clay was an 18 year old and first time offender when he was caught with less than 2 ounces of cocaine. He received 10 years in jail from a mandatory minimum sentence.

Weldon Angelos was a 24 year old who was sentenced to life in prison for 3 marijuana sales.

Federal Judge Timothy Lewis recalls a case where he had to send a 19-year-old to prison for 10 years for conspiracy. What was the “conspiracy?” This young man had been in a car where drugs were found. I don’t know where many of you in this chamber went to high school, but I’m pretty sure one of us might have been in a car in our youth where someone might’ve had drugs.

As this young man was sentenced to a decade behind bars, he turned and screamed for his mother as he was escorted away. Before the arrest, this young man was going to be the first in his family to go to college.

Each case should be judged on its own merits. Mandatory minimums prevent this from happening. Mandatory minimum sentencing has done little to address the very real problem of drug abuse while also doing great damage by destroying so many lives.

I'm here today to ask you to let judges start doing their jobs. I'm here to ask that we repeal mandatory minimum sentencing.