

Sentencing Times

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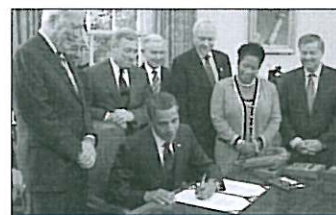
ADVOCACY

Major Victory for Cocaine Sentencing Reform

On August 3rd 2010, President Obama signed an historic piece of bi-partisan legislation that narrows the dramatic differences between sentences meted out for low-level crack and powder cocaine offenses. In addition, *The Fair Sentencing Act of 2010* eliminates the mandatory minimum sentence that accompanies simple crack cocaine possession. According to estimates from the U.S. Sentencing Commission, *The Fair Sentencing Act* will impact nearly 3,000 defendants a year.

It has been a long road to victory. For more than two decades, The Sentencing Project's research, advocacy and public education have been at the forefront of efforts to eliminate the excessive and harsh penalties imposed on crack cocaine defendants, 80% of whom are African American.

The new law raises the minimum quantity of crack cocaine that triggers a 5-year mandatory minimum sentence from 5 grams to 28 grams and lifts the threshold that leads to a mandatory 10-year sentence from 50 grams to 280 grams. The amount of powder cocaine required to trigger the 5- and 10-year mandatory minimums remains the same, at 500 grams and 5 kilograms



President Obama signs *The Fair Sentencing Act of 2010*.



At a reception after the signing of the Act, Marc Mauer (right), is joined by Attorney General Eric Holder and Jennifer Bellamy, ACLU.

respectively. As a result, the quantity disparity between crack and powder cocaine moves from 100 to 1 to 18 to 1.

The long road to reform.

Crack cocaine became prevalent in the 1980s and received extensive media attention, due in part to its exponential growth in the drug market. The popularity of crack was associated with its cheap price, which, for the first time, made cocaine available to a wider economic class.

Major victory continued on page 3

RESEARCH

Momentum Building for Eliminating Life without Parole for Juveniles

On May 17, 2010 the U.S. Supreme Court moved the country one step closer to eliminating sentences of juvenile life without parole (JLWOP). In *Graham v. Florida*, the court's majority ruled that sentencing a juvenile to life

without parole (JLWOP) for a non-homicide offense violates the 8th Amendment's ban on cruel and unusual punishment.

In its decision, the Court referred to the amicus brief that The Sentencing

2,000 individuals are currently serving JLWOP sentences in the U.S.



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EXECUTIVE DIRECTOR'S MESSAGE

Learning from Success



Marc Mauer, Executive Director

At The Sentencing Project our primary goal is to change criminal justice policy in ways that will produce better public safety outcomes and greater fairness in the justice system. While we're proud of our many accomplishments in research, public education, and advocacy, the truth is that achieving significant policy change is very hard and doesn't come along all that often. That's why we're particularly delighted with the remarkable ways in which criminal and juvenile justice reform has come about this past year.

As many of you know, in May the U.S. Supreme Court declared unconstitutional the practice of sentencing juveniles to life without parole for non-homicide offenses. In the case of *Graham v. Florida*, the Court followed on its reasoning in the 2005 decision banning the juvenile death penalty in finding that juveniles lacked the maturity of adults and therefore should not be subject to such harsh punishments. The decision came after years of advocacy by a broad range of organizations around the country. The Sentencing Project was proud to be part of that effort, and we were pleased that the Supreme Court cited our amicus brief in its decision.

Then in July came the historic vote in Congress to dramatically reduce the disparity in federal sentencing between crack cocaine and powder cocaine. Strong bipartisan support succeeded in reducing the notorious 100 to 1 drug quantity disparity between the two forms of the drug to 18 to 1. The legislation is expected to affect about 3,000 defendants a year, who on average will receive two years less imprisonment than previously.

I imagine that over time, scholars will attempt to dissect the political dynamics that produced these historic changes, but let me offer some initial thoughts on how these campaigns succeeded.

First, a key lesson is that persistence pays off. Both of these victories represented the culmination of two decades of litigation, legislative advocacy,

grassroots organizing, and public education by a remarkable collection of individuals and organizations who never lost sight of their ultimate goal.

Second, a diverse range of voices and messages was critical to success. On the juvenile lifer issue, a compelling argument for change incorporated the perspectives of legal scholars, psychologists, juvenile corrections administrators, and human rights advocates. The crack cocaine legislation gained bipartisan support by not only having civil rights and civil liberties groups on board, but also the input of law enforcement organizations and prominent conservative leadership.

Third, telling the stories of people affected by these excessively punitive policies was key as well. Terrance Graham, the plaintiff in the Supreme Court case, was born to parents addicted to drugs, began using alcohol at the age of nine, and suffered from attention deficit disorder. And on crack cocaine, high profile cases included those of Kemba Smith, sentenced to a mandatory 24-year prison term for a first offense resulting from a boyfriend's drug ring, and Dorothy Gaines, a mother of three sentenced to 19 years for a drug conspiracy despite the fact that it was never demonstrated that she possessed or sold drugs herself.

Finally, these policy changes also demonstrate that campaigns for racial justice can be successful. While there are some commentators who suggest that arguments about racial fairness should be subjugated because they are too provocative, in these two campaigns calls for racial justice proved compelling both in the organizing strategy and in gaining public support.

These victories reaffirm our commitment to justice and fairness. Our task now is to build on these successes and to take advantage of renewed opportunities for reform. I sincerely believe that we at The Sentencing Project have played a significant role in making these changes happen. But we are also very cognizant that this was only possible due to the efforts of a remarkable array of individuals and organizations that have struggled over many years. Thanks to all, and we hope to report on more good news in the near future.



Harvard Law School professor, Charles Ogletree and The Sentencing Project's Director of Advocacy, Kara Gotsch participate in a forum to discuss the next steps in implementing the Fair Sentencing Act.

Public concern about crack cocaine spread quickly, fueled by exaggerated media claims about the addictive nature of the drug, its association with violent crime and its effects on the drug user. Most notable was the death of Len Bias, a college basketball star who overdosed on powder cocaine soon after he was drafted by the Boston Celtics. At the time it was reported that he had died from using crack cocaine. The political hysteria that ensued led Congress to pass the Anti-Drug Abuse Act of 1986.

Despite compelling scientific arguments to the contrary, these myths seemed impossible to dispel. From 1986 through 2007 every Congressional effort – Republican, Democrat or bi-partisan – to modify the cocaine sentencing disparity failed. As for the Executive branch, the Clinton Administration opposed serious attempts in the mid-1990s to reduce the disparity, while during its two terms in office, the Bush Administration flatly ruled out any move to change the law.

Perseverance.

Nonetheless, a handful of advocacy groups, including The Sentencing Project in a leadership role, were dogged in their efforts to educate the public and policymakers about the real nature of the problem and alternative solutions to those mandated by the 1986 law. Over the past decade, these efforts began to pay off. Federal judges began to speak out to say that it was time to address the injustice of sentencing drug offenders differently for virtually the same crime. They also became more vocal in criticizing mandatory sentences that eliminated their discretion in imposing penalties.

In 2007 the U.S. Sentencing Commission itself lowered the sentencing guidelines for crack cocaine offenses and recommended yet again that Congress finally address the lengthy mandatory minimum sentences for low-level crack cocaine offenses. The Commission's decision has resulted in an average sentence reduction of two years for 16,000 persons in prison.

That same year, the U.S. Supreme Court ruled that judges may consider the excessive nature of penalties for crack cocaine offenses for purposes of sentencing defendants below the recommended sentencing guidelines. Years of aggressive media outreach by The Sentencing Project and others also began to bear fruit as news coverage of cases where the injustice caused by sentencing disparities was especially egregious began to increase dramatically.

Momentum was growing in Congress as well. On the legislative front, seven crack cocaine sentencing reform bills were introduced during the 110th Congress that would have equalized penalties for crack and powder cocaine offenses without increasing mandatory sentences. In 2009, President Obama declared that "the disparity between sentencing crack and powder-based cocaine is wrong and should be completely eliminated."

Unfinished business.

The *Fair Sentencing Act* is truly a major victory – but it has several glaring defects that The Sentencing Project is already at work to rectify. First, the dramatic reduction in sentence disparities between crack and powder cocaine falls short of what we have and will continue to advocate for: *comparable sentences for comparable crimes*, whether the offense involves crack or powder cocaine.

Second, *The Fair Sentencing Act* does nothing to impact the fate of people currently serving time for low-level crack cocaine offenses. We have already begun urging Congress, the U.S. Sentencing Commission and the President to apply the mandated sentencing adjustments retroactively.

Third, the new law, though it raises the threshold for their imposition, retains mandatory minimum sentences, prohibiting judges from assessing each case individually.

As those of you who stand with us for reforming U.S. sentencing policy know well, change in the criminal justice system never comes easily or quickly. We know that many of you responded regularly over the years to The Sentencing Project's action alerts asking you to make your voices heard on the issue of cocaine sentencing reform. Your contributions made a real difference. To subscribe to future alerts or to download The Sentencing Project's reports, briefings and educational materials, please go to www.sentencingproject.org.

Public Education

The Sentencing Project has made presentations to the following organizations and institutions in 2010:

Speaking Engagements

American Anthropological Association
American Correctional Association
Applied Research Center
Center for American Progress
Georgetown University Law School
Harvard Law School
International Community Corrections Association
Johns Hopkins University School of Public Policy
Kentucky Bar Association
Maryland Criminal Defense Lawyers Association
Mississippi Criminal Justice Conference
National Committee on Community Corrections
National Consortium on Racial and Ethnic Fairness
National Network for Youth Symposium
Nixon Library
Ohio State University
Kirwan Institute
Philadelphia Bar Association
Princeton University
Woodrow Wilson School of Public Policy
United Methodist Women
University of Michigan
University of Pittsburgh Center on Race and Social Problems

Legislative

Testimony/Briefings

Congressional Black Caucus
U.S. House Judiciary Committee
Subcommittee on Crime, Terrorism, & Homeland Security
U.S. Sentencing Commission

Eliminating life without parole continued from page 1

Project submitted. Our brief argued that the cases raised similar issues to those in the Court's 2005 decision that determined that the death penalty is unconstitutional for juveniles due to the reduced culpability that accompanies their cognitive and psychological development, and their unique capacity for reform.

Following the *Graham v. Florida* decision, The Sentencing Project was invited to comment on the case in major media. Marc Mauer participated in a *New York Times* online forum, contributing an essay entitled, "Juveniles Are Different" and discussed the issues on National Public Radio's "Talk of the Nation." Meanwhile, Ashley Nellis, one of our research analysts, was featured on Fox News' DC affiliate, as well as in many news articles.

The Supreme Court victory is only a part of a comprehensive strategy to address the problem of juvenile delinquency. There are more effective ways to deter juvenile crime and increase community safety than the continued use of long prison sentences for youth, a politically-driven approach that emerged during the "tough on crime" era of the 1980s.

We have to build greater support for proven prevention programs and evidence-based rehabilitation services that prepare incarcerated youth for release, and see to it that programs that promote successful re-entry are available and accessible. For more than two decades The Sentencing Project's widely-cited research, policy analysis, legislative testimony, and ability to capture media attention has been successfully doing just that.

In just the past year, The Sentencing Project released a national study on the use of life imprisonment for both adults and juveniles – *No Exit: the Expanding Use of Life Sentences in America*. The report was widely disseminated and received extensive media coverage in the *New York Times*, *USA Today*, *Philadelphia Inquirer*, *Miami Herald* and *Dallas Morning News*.

Advocacy at the Federal and State Levels

During the same period we collaborated with a Florida State University researcher to document the number of juveniles serving life sentences nationally for non-homicide offenses. Once again, the conclusions drawn from the study were widely cited by the media, as well as by attorneys and justices during oral arguments in the *Graham* case.

Much of the Sentencing Project's advocacy on JLWOP takes place at the federal level,

where we have provided Congressional testimony and applied our research to developing advocacy strategies for national coalitions committed to juvenile justice reform. For example, as co-chair of the Youth Re-Entry Task Force of the National Juvenile Justice and Delinquency Prevention Coalition, Ashley Nellis of The Sentencing Project organized a November 2009 Capitol Hill briefing on issues impacting youth, and produced a policy brief, *Back on Track: Supporting Youth Reentry from Out-of-Home Placement to the Community*. The briefing drew more than 100 Hill staff members, advocates, and practitioners.

The Sentencing Project is also active in educating policymakers at the state level. In August, Ashley Nellis testified before the Pennsylvania House Judiciary Committee in association with House Bill 1999, which would eliminate JLWOP in the state. Pennsylvania has more juveniles serving life sentences (450) than any other state. In addition to eliminating JLWOP the bill would allow the opportunity for a parole hearing after serving 15 years in prison.

Despite this positive news, 2,000 people are currently serving JLWOP sentences in the U.S., the only country that imposes such sentences. All other nations have devised strategies to hold youth accountable for serious crimes, promote public safety, and prioritize rehabilitation to limit recidivism without resorting to this extreme punishment. We believe the U.S. should and will soon do so as well.

In seeking the elimination of JLWOP, The Sentencing Project does not advocate automatic release for youth offenders, only that a parole hearing be granted so that they have an opportunity to demonstrate progress within the system and at reforming their lives.

To that end, we are currently monitoring developments regarding JLWOP in all 50 states to provide a fact-base for public education and media campaigns for ending the practice. Our Web site's Juvenile Justice section is a "go-to" source of reliable information that youth service agencies and professionals continue to use as they plan prevention, rehabilitation and re-entry programs.

In the News

Media outlets that cited The Sentencing Project's work in 2010 include:

Birmingham News
Charleston Gazette
Chicago Sun-Times
Dallas Morning News
Detroit Free Press
Forbes
Georgia Public Radio
Grand Rapids Press
Houston Chronicle
Huffington Post
Los Angeles Times
Miami Herald
Michael Eric Dyson Show
Mississippi Public Broadcasting
National Public Radio
New York Times
Newark Star Ledger
North Country Gazette
Oregon Public Radio
Philadelphia Daily News
Philadelphia Inquirer
Pittsburgh Tribune-Review
Richmond Times-Dispatch
San Francisco Chronicle
San Francisco Examiner
Sirius Satellite Radio
Tulsa World
USA Today
Wall Street Journal
Washington Post

Facts You Should Know:

U.S. Prisons and Prisoners

- The number of people in state and federal prisons has increased 700% from 1970 to 2009.
- 2.3 million Americans are currently in jail or prison.
- As of 2008, one of every 134 Americans was incarcerated.

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Facts continued from page 4

- The U.S. rate of incarceration is the world's highest: 748 inmates per 100,000 population.
- 39% of persons in prison or jail in 2009 were black, and 22% were Hispanic.
- The chance of a US male serving time in prison: black-32%; Hispanic-17%; white-6%.
- 201,200 U.S. women were in jail or prison in 2009.

Source: Bureau of Justice Statistics.

Your Support Makes A Difference

Support our efforts to promote fair and effective criminal justice policies and alternatives to incarceration by sending a contribution today.

Contribute online at www.sentencingproject.org, or send a check to: The Sentencing Project, 1705 DeSales St, NW, 8th floor, Washington, DC 20036.

Make a long-term investment in sentencing reform

For information about how you can make a bequest or a stock gift to The Sentencing Project, please contact Marc Levin at (202) 628-0871

POLICY

Incarceration and Re-Entry: It Might as Well be a Life Sentence

Many people know that if you are convicted of a felony you may well lose your right to vote – in many cases for the rest of your life. Today, 5.3 million Americans find themselves disenfranchised.

Few people know that a criminal record frequently triggers broad and sweeping restrictions on employment, housing, education, access to economic assistance and food stamps, driver's licenses, child custody, voting and jury service. For people leaving prison, these obstacles can make a successful re-adjustment to community life virtually impossible.

Current estimates suggest that about 13 million Americans are either serving a felony sentence or have had a felony conviction in the past. In addition, 47 million people have a criminal record on file. Since even an arrest that does not lead to conviction can influence hiring decisions, the collateral consequences of a criminal record now affect a substantial proportion of the adult population.

Moreover, given the racial dynamics of the criminal justice system, communities of color experience the effects of collateral consequences more than others. This can be seen most dramatically for African-American males, with one of every six having served time in prison, and even greater numbers having a felony conviction.

This is not to say that all collateral consequences work against the public interest. Few people would object to restrictions on convicted pedophiles being able to work in a day care center. In this instance, the objective of the restriction is clearly public safety, and the person's past criminal behavior is directly linked to that objective. But in many other instances, this is not the case.

Collateral sanctions are problematic along multiple dimensions:

Many restrictions on employment are irrational and counterproductive. In Florida, for example, there are at least 71 occupational groups which subject potential employees to background checks and cover as many as one-third of the 7.9 million jobs in the Florida economy. They range from working at a dog track, as a physical therapist or funeral embalmer, or in the field of asbestos abatement.

Drug-related collateral consequences are particularly unfair. Among the little-noticed provisions of the 1996 federal welfare reform legislation was a

permanent prohibition on the receipt of economic assistance and food stamps by anyone with a felony drug conviction. Curiously, the ban does not apply to far more serious crimes such as murder or armed robbery.

The ban on receipt of grants for higher education in prison is counterproductive. As an element of the 1994 federal crime bill, prisoners who seek to enroll in higher education are now denied access to Pell grant funds. A wealth of research over time demonstrates that education helps to reduce recidivism, so this ban, in fact, runs counter to promoting public safety.

Collateral consequences are rarely acknowledged during the trial or sentencing process. Many defense attorneys fail to fully inform their clients about them during plea negotiations. Sentencing judges rarely say anything regarding the collateral sanctions that are imposed upon conviction. In many cases this is due to the judge being unaware of the range of restrictions that are triggered by the conviction.

What The Sentencing Project is doing.

The Sentencing Project is taking a multi-pronged approach to reform.

1. *Generating solutions at the federal level.* We have been helping to lead a coalition building broad support for the restoration of voting rights to those formerly incarcerated. Those efforts contributed significantly this past year to the re-introduction in both chambers of Congress of the *Democracy Restoration Act*, which would restore those rights to millions of Americans. Our work with Congressional offices in 2010 led to Rep. John Conyers sponsoring the first legislative hearing on this issue in more than a decade.
2. *Increasing coverage of and public interest in collateral consequences.* Our disenfranchisement Web page and bi-weekly disenfranchisement email newsletter provide easy access to up-to-date and comparative data on research, legal and policy developments, advocacy activities and news coverage at the state and national level.
3. *Supporting state-level campaigns for reform.* The Sentencing Project has been providing data analysis, communications strategy, media outreach and legislative testimony on behalf

Incarceration and re-entry continued on page 7

States Re-think Prison Growth

As states grapple with the effects of the economic recession on their budgets, many are beginning to question the money they spend on prisons. Over the past 25 years the four-fold rise in the prison population to 2.3 million has caused corrections expenditures to escalate dramatically. These increased costs now compete directly with higher education and other vital services within a climate of declining state revenues.

This past year, The Sentencing Project, in partnership with Justice Strategies looked closely at four states that have already achieved significant declines: Kansas (5% from 2003-2009); Michigan (12% from 2006-2009); New Jersey (19% from 1999-2009); and New York (20% from 1999-2009). What we found were cases of necessity being the mother of invention.

Kansas amended its sentencing guidelines to divert people convicted of drug possession to mandatory treatment rather than prison, and eliminated its policy of adding additional prison time for offenses committed by persons with prior convictions for drug possession.

The state also adopted a strategy to reduce parole and probation violations by providing funding to counties for programs that emphasize neighborhood revitalization, substance abuse and mental health treatment, and housing services.

Michigan reformed its "650 Lifer Law" that had previously imposed life sentences for 650 gram drug offenses, even for first-time offenders. It also eliminated most mandatory minimum sentences for drug offenses and increased judicial discretion in applying sentencing guidelines to individual cases. The state also instituted policies to identify lower-risk cases for prison release and designated two "reentry prisons" to assist in planning for release. Michigan adopted a Prisoner Reentry Initiative as well, which centers on the delivery of locally planned services in housing, employment, substance abuse, and other areas designed to increase prospects for successful reentry.

New Jersey revised its plea negotiation guidelines to give judges greater discretion in sentencing people convicted of committing lower level offenses in drug-free zone cases, and expanded its drug court

model statewide to promote treatment rather than prison. Like Michigan, New Jersey adopted risk assessment instruments to aid its parole board and established Regional Assessment Centers to provide input to parole boards in determining if parole violators should be allowed to continue on parole supervision.

New York scaled back the Rockefeller Drug Laws substantially to reduce the scope of long mandatory sentences and, to speed parole consideration, implemented "merit time" credits and other incentives for participation in education and vocational training, treatment and other services. It also acted to reduce the use of incarceration overall by instituting a drug treatment alternative in prosecutors' offices across the state to divert prison-bound defendants into treatment programs.

The report, *Downscaling Prisons*, is available on our Web site. It is providing policy-makers with practical, evidence-based information on how to lower prison populations, reduce recidivism and institute cost-effective approaches to public safety.

MEDIA:

The Sentencing Project in the News

THE WALL STREET JOURNAL

July 29, 2010

House Eases Crack-Cocaine Sentences

WASHINGTON – The House approved a bill Wednesday that lightens federal sentences for crack-cocaine defendants, sending it to President Barack Obama for his signature ...

... Passage of the legislation was marked by bipartisanship not regularly seen on Capitol Hill these days. Kara Gotsch, of the Sentencing Project, another advocacy group, said it has been a long time coming since 2001, when Republican Sens. Jeff Sessions of Alabama and Orrin Hatch of Utah introduced a bill to narrow the disparity.

Los Angeles Times

July 28, 2010

Congress Approves Crack Cocaine Sentencing Changes

"...the legislation does not go far enough because it still treats crack and powder cocaine differently.

"It ultimately came down to politics as opposed to research on what would work best," said Marc Mauer, executive director of The Sentencing Project. "And many organizations and many members of Congress had been pushing for a 1 to 1 ratio, but that was just not going to happen this year."

The Washington Post

August 20, 2010

Class Action Suit Accuses Census Bureau in Job Screening

Precious Daniels was upset with Blue Cross Blue Shield of Michigan for its stance on health-care legislation last year, so she decided to demonstrate her anger with a peaceful protest.

She blocked the doorway of the company's Detroit headquarters and got arrested for her trouble. Her husband paid the \$50 bail, then she was released and told to appear for a court date on a disorderly conduct charge.

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If it is Broken, Fix it.

In July 2010, the U.S. House of Representatives passed the National Criminal Justice Commission Act (NCJCA) on a bipartisan vote. The legislation would create an independent body of experts to conduct an 18-month, top-to-bottom review of the nation's entire criminal justice system and offer concrete recommendations for reform. The scope of the commission's investigation would include sentencing policy, rates of incarceration, law enforcement, crime prevention, substance abuse and reentry.



Senator Webb with Marc Mauer (far right) at a press conference on the National Criminal Justice Commission Act.

The legislation, commonly referred to as the "Webb Commission," was originally introduced in the Senate by Sen. Jim Webb (D-VA). Writing in *Parade* magazine about the U.S. position as the world leader in incarceration, Sen. Webb stated: "With so many of our citizens in prison compared with the rest of the world, there are only two possibilities: Either we are home to the most evil people on earth or we are doing something different – and vastly counter-productive. Obviously, the answer is the latter."

The NCJCA legislation has gained support from local and national organizations across the political spectrum. In the Senate, in a rare display of bi-partisanship, over one-third of the members have signed on as co-sponsors.

The Sentencing Project has played a key role in advancing support for the NCJCA bill. Our Director of Advocacy, Kara Gotsch, serves as co-chair of a large coalition that has engaged in public education and advocacy to build national support for the legislation. This has resulted in supportive commentary from major media, including a *New York Times* editorial noting that "It is a rare cause in Washington that has the backing of the Fraternal Order of Police, the International Association of Chiefs of Police, the ACLU and the Marijuana Policy Project."

The Sentencing Project believes that this bill can be the first step towards creating a system that not only corrects but also prevents crime, while simultaneously cutting costs to taxpayers and ensuring them a higher level of safety in their community. If implemented as planned, the Commission could be the most ambitious attempt to re-examine and reform the criminal justice system since the 1960s.

America

July 5, 2010

In the news continued from page 6

When she did, the misdemeanor was dropped. But the arrest means much more to the Census Bureau. After Daniels applied to help Uncle Sam count his people, he said no.

"We like to think that you are innocent until proven guilty in our system, but using an arrest record turns that around on its head," said Marc Mauer, executive director of the Sentencing Project, an organization that promotes criminal-justice reforms.

Advocates for children were understandably heartened by the U.S. Supreme Court's ruling on May 17 that sentencing a juvenile to life without parole for a nonhomicide offense violates the Eighth Amendment's ban on cruel and unusual punishment.

As Ashley Nellis, a research analyst at The Sentencing Project, a nonprofit organization in Washington, D.C., has put it, "We can apply appropriate punishment as well as protect public safety without locking up these children and simply throwing away the key."

Incarceration and re-entry continued from page 5

of disenfranchisement reform. We won a major victory in Virginia this year. Governor Bob McDonnell was about to make the state's rights restoration process even more burdensome by requiring applicants to submit a letter explaining why they seek to regain their voting rights. Working with the ACLU and the Brennan Center for Justice, we convinced the Governor to replace his proposal with a plan that actually expedites the rights restoration process. Since that decision, more than 500 formerly incarcerated people have successfully regained the right to vote.

The Sentencing Project also builds the capacity of local advocates whose campaigns have led to:

- 23 states enacting reforms to their disenfranchisement policies since 1997, extending the right to vote to an estimated 800,000 people.
- 42 states choosing to opt out, either in whole or in part, of the welfare benefits and food stamp bans.
- State and local activists coming together on a regular basis by conference call to examine what is contributing to successful legislative strategies and advocacy campaigns.



June 21, 2010

Unlikely Mentors give Felons Hope

GRAND RAPIDS, Mich. — James Churchill was nearing the end of a 10-year prison term for armed robbery last year when he struck an unusual bargain with an unlikely partner. If Churchill could stay out of trouble during his first months of freedom, police Lt. Ralph Mason pledged to help find him a job.

The collaboration between cop and criminal is remarkable and so far, successful. Providing help to prisoners returning to communities is still "very new," says Marc Mauer of the Sentencing Project, which promotes alternatives to incarceration.

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ADDRESS SERVICE REQUESTED

THE SENTENCING PROJECT

works for a fair and effective criminal justice system by promoting reforms in sentencing law and practice, and alternatives to incarceration.

To these ends, it seeks to recast the public debate on crime and punishment.

To receive news and updates from The Sentencing Project electronically, send an email to: staff@sentencingproject.org

PROFILE

Fighting for the Right to Vote

Eileen Janis is a suicide prevention counselor on the Pine Ridge Indian Reservation in South Dakota where she grew up and where she registered to vote for the first time in 1984.

Several years ago Janis was convicted of a felony and sentenced to five years probation, but no jail time. Since South Dakota law on disenfranchisement does not extend to persons on probation, she went to her polling place in 2008 as she always did on Election Day, fully expecting to cast her ballot without incident.

"I always vote because my mom told me to," said Janis. "I went with my son who had just turned 18." As she tried to vote an election official stopped her. "It was embarrassing because the woman blurted out 'you're a felon!'"

"I was upset, I was embarrassed, and I was angry. I had a nephew running for state legislature and I wanted to vote for him. They took that away from me."

The election officials were in error in applying

the law. They also had never notified Janis that they had taken away her right to vote – a common occurrence.

The ACLU filed a lawsuit in 2009 on Janis's behalf, arguing that she was illegally disenfranchised because South Dakota's law applies only to those who are imprisoned, and not, as in Janis's case, to those sentenced to probation.

The case was settled earlier this year and Janis has since returned to the polls and cast her vote. "I was afraid to go back there (to the polling place) but my name was on the rolls," she said.

This is an important legal victory, particularly because felony disenfranchisement laws in South Dakota have a disproportionate effect on Native Americans who represent the majority of those convicted of Federal offenses in the state.

It also is another step toward extending voting rights to all people with felony convictions.