

# Sentencing Times

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Fall 2016

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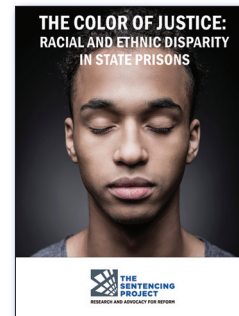
## RESEARCH

### The Color of Justice

As states around the country attempt innovative approaches to downsize prisons, one feature bears direct attention, yet is frequently omitted from reform discussions. As revealed in our report *The Color of Justice: Racial and Ethnic Disparity in State Prisons*, there are staggering racial and ethnic disparities that permeate state prisons from coast to coast. Looking at all of the states, we found an average black/white disparity ratio of 5-to-1 and a Hispanic/white disparity ratio of 1.4-to-1.

Report author Ashley Nellis noted that “an unwarranted level of incarceration that worsens racial disparities is problematic not only for the impacted group, but for society as a whole, weakening the justice system’s potential and undermining perceptions of justice.”

In this analysis, we documented the rates of incarceration for whites, African Americans, and Hispanics, providing racial and ethnic composition of the prison population as well as rates of disparity for each state. This systematic look revealed racial disparities as high as 12-to-1 in New Jersey, with the lowest disparity still reflecting that African Americans are



incarcerated at more than twice the rate of whites. In some states, the results are even more unsettling: in Oklahoma, which maintains the highest black incarceration rate in the nation, one of every 15 black men is

in state prison.

Racial disparities in incarceration can arise in a variety of ways, from a high rate of black incarceration to a low rate of white incarceration, or from varying combinations. This study noted that the states with the highest ratio of racial disparity in imprisonment were generally those in the northeast or upper Midwest, while Southern states tended to have lower ratios. The low Southern ratios were generally produced as a result of high rates of incarceration for all racial groups.

Our report found that states with the highest degree of disparity often produced these rates through a higher than average black rate

*The Color of Justice continued on page 3*

## POLICY

### Momentum Continues for Federal Reform

The changing political environment on criminal justice reform has been very evident on the national level, with significant progress this year both on Capitol Hill and within the White House.

Bipartisan sentencing reform legislation advanced in Congress this year, although not without significant challenges. Similar bills introduced in the House and the Senate had passed through each Judiciary Committee in 2015, following testimony by Marc Mauer among others in the Senate Judiciary Committee. The bills would scale back the use and severity of mandatory sentencing, apply certain reforms retroactively, and enhance rehabilitative program-

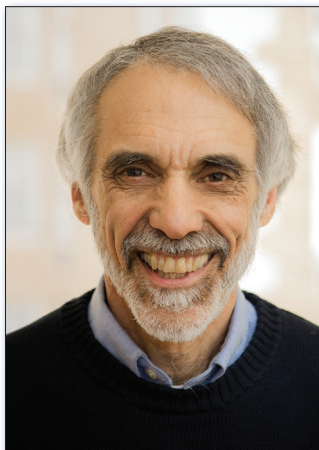
ming in federal prisons.

Opposition from a handful of Senators in early 2016 slowed progress, and resulted in elements of the Senate bill being amended, with the goal of gaining greater support. As of this writing, prospects for legislation passing in this session of Congress are not strong, but the advocacy community is determined to broaden support for the legislation and continue the campaign in the new Congress next year if necessary.

Executive action on federal reform accelerated this year, in two key areas in particular. Building on growing support for the use of executive clemency to commute decades-long federal drug sentences, President Obama had issued 673 commutations

*Momentum Continues for Federal Reform continued on page 3*

## The Sentencing Project: Then and Now



*Marc Maurer, Executive Director*

On September 8th we were delighted to gather in Washington, D.C. with more than 150 friends and colleagues to celebrate the 30th anniversary of The Sentencing Project. We were pleased to host Vanita Gupta, head of the Civil Rights Division

frame many issues, including: the United States' world-leading role in its use of incarceration; the dramatic racial disparities that mark the criminal justice system; the expanding impact of the collateral consequences of a criminal conviction; and the broad use of harsh punishments for adults and juveniles alike, including life imprisonment.

We're equally proud that we maintain strong relationships with all parties engaged in criminal justice policy. Our data analysis is widely relied upon by policymakers, practitioners, academics, and activists alike, and in our advocacy efforts both at the state and federal levels we work in collaboration with both policymakers and grassroots campaigns.

Along with many partners we're pleased that we have helped to shape the political environment away from the "tough on crime" era to the more hopeful environment of rational and compassionate policy that is emerging today. Consider some of the changes that have taken place just in the last year, developments in stark contrast to those of prior decades: President Obama commuting the long-term prison terms of hundreds of individuals in federal prison; the Department of Justice decision to phase out the use of private prisons; and the continuing impact of the Black Lives Matter movement in framing a national conversation on race and justice.

On a more sober note, we need to recognize that these advances are quite modest. The scale of mass incarceration is largely untouched and racial/ethnic divisions in American society persist in deeply troubling ways. But we do at least now have an opportunity to challenge policymakers and the general public to extend their vision of what reform looks like. That means, of course, continuing to work for day-to-day reforms that improve outcomes and make people's lives better. But it also means doing what we can to open up the conversation so that when we talk about enhancing public safety our first response becomes expanding opportunity, not expanding punishment. If we can help to shift the conversation in that direction, our next 30 years of work should be even more productive.

of the Department of Justice, as our keynote speaker to provide an overview of key civil rights issues of the day. And it was certainly a memorable evening for me in thinking about how far we've come as an organization over the past three decades.

When The Sentencing Project was founded by Malcolm Young in 1986, it looked very different than it does today. Malcolm's vision in establishing the organization was to improve the quality of sentencing for indigent defendants in the nation's courts. At that time the white collar defense bar had begun making use of sentencing consultants to aid defense attorneys by investigating the social history of defendants and preparing an individualized sentencing proposal for consideration by the judge. The driving question in the early days of our organization was whether that model could be applied to sentencing for indigent defendants as well.

The model did make sense, of course, and provided judges with sentencing options in a number of jurisdictions in which The Sentencing Project had developed programs that worked with the defense bar. And importantly, many of those programs are still in existence today.

Over time, The Sentencing Project has evolved in its orientation, and today we are largely known for our research and education on the key criminal justice issues of the day. We're proud of the documentation we've produced over the decades that has helped to

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STATES WITH THE HIGHEST BLACK/WHITE DIFFERENTIAL			
State	Black Incarceration Rate per 100,000	White Incarceration Rate per 100,000	B/W
New Jersey	1140	94	12.2
Wisconsin	2542	221	11.5
Iowa	2349	211	11.1
Minnesota	1219	111	11.0
Vermont	2357	225	10.5
Connecticut	1392	148	9.4
Pennsylvania	1810	204	8.9
Illinois	1533	174	8.8
California	1767	201	8.8
Nebraska	1680	201	8.4
<b>50-State Average</b>	<b>1408</b>	<b>275</b>	<b>5.1</b>

combined with a relatively low white rate. As seen in the table above, seven of the ten states with the greatest racial disparity also had high black incarceration rates, while all had lower than average white rates. In New Jersey, for example, blacks were incarcerated at a rate twelve times that of whites, even though the black incarceration rate was 24% below the national average. This came about through its particularly low incarceration of whites: 94 per 100,000, or one-third of the national average (275).

Criminal justice reform has become a regular component of mainstream domestic policy dis-

cussions over the last several years. States are experimenting with diversion approaches that can reduce prison populations without harms to public safety. At the same time, there is not sufficient attention to the chronic disparities that pervade state prisons, and without this acknowledgment the country is unlikely to experience the serious, sustainable reforms that are needed. Overall, the pace of criminal justice reform has been too slow as well as too modest in its goals. Accelerated reforms that deliberately incorporate the goal of racial justice will lead to a system that is both much smaller and fairer.

#### *Momentum Continues for Federal Reform continued from page 1*

by the end of the summer. Notably, in one-third of these cases the individual had been sentenced to life without parole for a drug offense. The total figures nonetheless represent only a modest proportion of qualifying cases, but the White House has indicated that the number of commutations is likely to grow significantly by the end of the President's term.

In August, the Department of Justice announced that based on an assessment in a report by the Inspector General it was moving to phase out contracting for private prisons. The report had identified significant problems in safety and security within the private sector prisons, and a variety of reports over time have concluded that any cost savings achieved are

quite modest at best. In response to these developments Marc Mauer stated: "It has been a stain on our democracy to permit profit-making entities to be handed the responsibility of making determinations of individual liberty. The Justice Department's action moves us closer to a moment when government can once again assume this important responsibility."

## Public Education

The Sentencing Project has made over 30 presentations on a range of criminal justice reform issues to many organizations and institutions in the past year, including:

AFL-CIO  
 American Justice Summit  
 American University-  
 Washington College of  
 Law  
 Ball State University  
 Blouin Creative Leadership  
 Summit  
 Boston University  
 Catholic University  
 Coalition for Public Safety  
 College of William and  
 Mary  
 Columbia University  
 Confluence Philanthropy  
 Congressional Black  
 Caucus  
 Congressional Hispanic  
 Caucus  
 District of Columbia  
 City Council  
 George Washington  
 University School of  
 Public Health  
 Goucher College  
 Law and Society  
 Conference  
 National Law Center on  
 Homelessness and  
 Poverty

*Public Education continued on page 4*

# State Reforms: Felony Disenfranchisement, Racial Disparity, Sentencing

This year, several states have addressed voting restrictions for individuals with felony convictions. Nationally, over 6 million Americans are prohibited from voting due to laws that disenfranchise citizens convicted of felony offenses. Felony disenfranchisement policies vary by state, producing a wide range of impacts.

During 2016, Virginia, Maryland, and California addressed voting restrictions for persons with felony convictions. Virginia Gov. Terry McAuliffe issued an executive order that restored voting rights to an estimated 200,000 people who had completed their felony sentence. Republican officials sued and won a court decision that determined the governor's executive order exceeded his authority under the Commonwealth's constitution when he restored voting rights en masse, rather than on an individual basis. Since the ruling, Gov. McAuliffe has individually restored voting rights to 13,000 individuals with felony convictions and announced that he will continue to do so until all 200,000 individuals have had their rights restored. In Alabama the state legislature approved a measure that eases the rights restoration process for certain individuals upon completion of sentence.

Maryland lawmakers expanded voting rights for people with felony convictions with their override of Gov. Larry Hogan's veto of House Bill 980. The action restored voting rights to an estimated 40,000 persons on felony probation or parole; there were individuals who lived in the community but were unable to vote.

California lawmakers addressed voting for individuals sentenced to local jails with Realignment offenses. California's 2011 Realignment act shifted many people convicted of low-level felonies from overcrowded state prisons to local jails. Governor Jerry Brown signed into law a measure that permits individuals serving a felony sentence in jail to vote, though not those in prison.

Throughout the year, The Sentencing Project supported many other local and state campaigns as well. In Maryland, Nicole Porter, Director of Advocacy, testified before the House

of Delegates in support of legislation to reduce racial disparities in the criminal justice system. In Mississippi, we organized a workshop titled "Successful Advocacy: Challenging Racial Disparity" at the Rethinking Mass Incarceration in the South conference. In New Jersey, we worked closely with a faith-led coalition to address mass incarceration, and in California, Missouri, South Carolina, and Wisconsin we provided technical assistance to advocates and lawmakers championing pragmatic efforts to reduce state prison populations.

The Sentencing Project also provided support to sentencing reforms in a number of states this year, including: supporting legislation in Delaware and Iowa to eliminate mandatory life sentences for certain felony offenses; consulting with incarcerated persons in Maryland and Massachusetts to advance policy solutions for life prison terms; providing technical assistance to advocates in the District of Columbia, Kentucky and Missouri on expanding expungement provisions for certain criminal convictions; and organizing national opposition to a New Mexico measure that would have expanded life prison terms for certain serious offenses.

*Public Education continued from page 3*

National Lawyers Guild  
New Bethel Baptist Church  
(MD)  
New School (NY)  
Princeton University  
RISE (PA)  
University of Illinois  
School of Law  
University of Michigan  
University of Minnesota  
U.S. General Accounting  
Office  
U.S. Senate Democratic  
Caucus  
Washington Center (DC)  
Yale University

## 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](http://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.



## Celebrating The Sentencing Project's 30th Anniversary



Marc Mauer, The Sentencing Project Executive Director, and Malcolm Young, founder of The Sentencing Project

It was standing room only at The Sentencing Project's September 8th event, as friends and colleagues celebrated three decades of The Sentencing Project's leadership in changing the way Americans think about crime and punishment. *A 30-Year March Toward Justice* began with the premiere of a short [video](#) presentation highlighting the work of The Sentencing Project and featuring commentary by a range of criminal justice advocates and scholars.

Georgetown Law Professor Paul Butler opened the video describing our criminal justice system as "profoundly sick," and called attention to our country's overuse of incarceration, underscoring its impact on marginalized communities. The Sentencing Project was "the first to start collecting the data that detailed this vast expansion in mass incarceration and this vast expansion in racial disparities," said Butler.

American University Law Professor Cynthia Jones noted that The Sentencing Project's research and advocacy over the last 30 years has pushed the conversation toward "effective and fair and race-neutral reform." As we look to the future and work to cre-

ate a more just system, "let's make sure we are smart when it comes to sentencing, not just tough, but smart," said U.S. Senator Dick Durbin. "The Sentencing Project has a continuing important role in getting this job done."

Vanita Gupta, Assistant Attorney General for the Civil Rights Division of the U.S. Department of Justice, was the featured speaker of the evening. She highlighted some of the major issues and policy goals that the Justice Department has focused on—investigating the pattern and practice of policing across the country, combating unconstitutional jail conditions and court practices that impose unreasonable fines and fees on low-income defendants, addressing mental illness in the criminal justice system, phasing out private prisons, and banning solitary confinement for youth—and how the Administration's work and accomplishments have built on years of research and advocacy by The Sentencing Project and other organizations.

She stated that President Obama has now commuted more prison sentences than the last ten presidents combined, and Deputy Attorney General Sally Yates has announced that the Justice Department will review and make a recommendation to the President on every drug petition currently submitted. However, Assistant Attorney General Gupta emphasized that "clemency is no substitute for real, substantive criminal justice reform."

Despite the progress the Administration has made, she noted, there are still major challenges ahead: [two million](#) people are behind bars and blacks are incarcerated at a rate [five times](#) that of whites, resulting in a lack of trust between communities and law enforcement. She thanked The Sentencing Project for 30 years of work, and added, "We are counting on you for 30 more years!"



Vanita Gupta, Civil Rights Division of the Department of Justice

## New Publications from The Sentencing Project

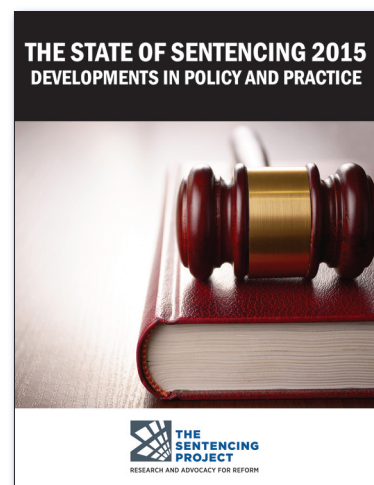
Despite remarkable reductions in the number of incarcerated youth, the racial disparities that plague the deep end of the juvenile justice system have only grown worse over the last ten years. *Racial Disparities in Youth Commitments and Arrests*, by State Advocacy Associate Josh Rovner, finds that both white youth and youth of color attained substantially lower commitment rates between 2003 and 2013 (the most recent year for which data are available). While the white youth rate fell by 51 percent (140 to 69 per 100,000) and the black youth rate fell by 43 percent (519 to 294 per 100,000), the combined effect was to increase the commitment disparity over the decade. The commitment rate for Hispanic youth fell by 52 percent (230 to 111), and the commitment rate for American Indian youth by 28 percent (354 to 254).

The report finds that growing disparities in arrests have driven the commitment disparities. Between 2003 and 2013, white youth arrest rates (already half that of black youth) fell by 49 percent while black youth arrest rates fell by 31 percent. While other levers in the juvenile justice system (such as processing in juvenile courts) are replete with disparate outcomes, most of those points of contact are no more disparate than they were 10 years ago.

While the number of people in prison in the United States has stabilized in recent years, incarceration trends among the states have varied significantly through 2014. *U.S. Prison Population Trends 1999-2014: Broad Variation Among States in Recent Years* reveals that while 39 states have experienced a decline since 1999, 11 have had continued rises in their prison populations. Twelve states have produced double-digit declines for some period since 1999, led by New Jersey (31%), New York (28%), Rhode Island (25%), and California (22%). Notably, these states have achieved substantial reductions with no adverse effect on public safety.

The overall pace of change, though, is quite modest given the scale of incarceration. Just as mass incarceration has developed primarily as a result of changes in policy, not crime rates, so too have declines reflected changes in both policy and practice. These have included such measures as drug policy sentencing reforms, reduced admissions of technical parole violators to prison, and diversion options for persons convicted of lower-level property and drug crimes.

In 2015, lawmakers in at least 30 states adopted criminal justice policies that could help reduce the prison population, improve juvenile justice outcomes, and eliminate the barriers that marginalize individuals with convictions. Highlights included mandatory sentencing reforms, voting rights restoration for individuals with felony convictions, scaling back drug-free school zone laws, and reclassifying certain felony offenses to misdemeanors. *[The State of Sentencing 2015: Developments in Policy and Practice](#)* documents these reforms and provides recommendations for stakeholders invested in addressing the scale of incarceration to consider during the 2014 legislative session.

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FACT SHEET: U.S. PRISON POPULATION TRENDS

## Change in state and federal prison populations

Percent change in population from 2000 to 2014

	2000	2010	2014	2014
Alabama	28.1%	29.6%	30.9%	2000
Alaska	1.0%	1.0%	1.0%	2000
California	18.1%	21.5%	22.7%	2000
Colorado	10.0%	10.0%	10.0%	2000
Connecticut	10.0%	10.0%	10.0%	2000
Delaware	10.0%	10.0%	10.0%	2000
Florida	10.0%	10.0%	10.0%	2000
Georgia	10.0%	10.0%	10.0%	2000
Hawaii	10.0%	10.0%	10.0%	2000
Idaho	10.0%	10.0%	10.0%	2000
Illinois	10.0%	10.0%	10.0%	2000
Indiana	10.0%	10.0%	10.0%	2000
Iowa	10.0%	10.0%	10.0%	2000
Kansas	10.0%	10.0%	10.0%	2000
Kentucky	10.0%	10.0%	10.0%	2000
Louisiana	10.0%	10.0%	10.0%	2000
Maine	10.0%	10.0%	10.0%	2000
Maryland	10.0%	10.0%	10.0%	2000
Massachusetts	10.0%	10.0%	10.0%	2000
Michigan	10.0%	10.0%	10.0%	2000
Minnesota	10.0%	10.0%	10.0%	2000
Mississippi	10.0%	10.0%	10.0%	2000
Missouri	10.0%	10.0%	10.0%	2000
Montana	10.0%	10.0%	10.0%	2000
Nebraska	10.0%	10.0%	10.0%	2000
Nevada	10.0%	10.0%	10.0%	2000
New Hampshire	10.0%	10.0%	10.0%	2000
New Jersey	10.0%	10.0%	10.0%	2000
New Mexico	10.0%	10.0%	10.0%	2000
New York	10.0%	10.0%	10.0%	2000
North Carolina	10.0%	10.0%	10.0%	2000
North Dakota	10.0%	10.0%	10.0%	2000
Ohio	10.0%	10.0%	10.0%	2000
Oklahoma	10.0%	10.0%	10.0%	2000
Oregon	10.0%	10.0%	10.0%	2000
Pennsylvania	10.0%	10.0%	10.0%	2000
Rhode Island	10.0%	10.0%	10.0%	2000
South Carolina	10.0%	10.0%	10.0%	2000
South Dakota	10.0%	10.0%	10.0%	2000
Tennessee	10.0%	10.0%	10.0%	2000
Texas	10.0%	10.0%	10.0%	2000
Utah	10.0%	10.0%	10.0%	2000
Vermont	10.0%	10.0%	10.0%	2000
Virginia	10.0%	10.0%	10.0%	2000
Washington	10.0%	10.0%	10.0%	2000
West Virginia	10.0%	10.0%	10.0%	2000
Wisconsin	10.0%	10.0%	10.0%	2000
Wyoming	10.0%	10.0%	10.0%	2000
U.S. Total	10.0%	10.0%	10.0%	2000
Alabama	28.1%	29.6%	30.9%	2000
Alaska	1.0%	1.0%	1.0%	2000
California	18.1%	21.5%	22.7%	2000
Colorado	10.0%	10.0%	10.0%	2000
Connecticut	10.0%	10.0%	10.0%	2000
Delaware	10.0%	10.0%	10.0%	2000
Florida	10.0%	10.0%	10.0%	2000
Georgia	10.0%	10.0%	10.0%	2000
Hawaii	10.0%	10.0%	10.0%	2000
Idaho	10.0%	10.0%	10.0%	2000
Illinois	10.0%	10.0%	10.0%	2000
Indiana	10.0%	10.0%	10.0%	2000
Iowa	10.0%	10.0%	10.0%	2000
Kansas	10.0%	10.0%	10.0%	2000
Kentucky	10.0%	10.0%	10.0%	2000
Louisiana	10.0%	10.0%	10.0%	2000
Maine	10.0%	10.0%	10.0%	2000
Maryland	10.0%	10.0%	10.0%	2000
Massachusetts	10.0%	10.0%	10.0%	2000
Michigan	10.0%	10.0%	10.0%	2000
Minnesota	10.0%	10.0%	10.0%	2000
Mississippi	10.0%	10.0%	10.0%	2000
Missouri	10.0%	10.0%	10.0%	2000
Montana	10.0%	10.0%	10.0%	2000
Nebraska	10.0%	10.0%	10.0%	2000
Nevada	10.0%	10.0%	10.0%	2000
New Hampshire	10.0%	10.0%	10.0%	2000
New Jersey	10.0%	10.0%	10.0%	2000
New Mexico	10.0%	10.0%	10.0%	2000
New York	10.0%	10.0%	10.0%	

# The Sentencing Project in the News

## Los Angeles Times

August 18, 2016

*Justice Department will phase out private prisons*

The Justice Department is phasing out its use of corporate-run prisons, including one near Bakersfield, after concluding its experiment in privatization failed to reduce costs and ensure the safety and security of inmates.

Deputy Atty. Gen. Sally Q. Yates said the government is "beginning the process of reducing—and ultimately ending—our use of privately operated prisons" by not renewing contracts for 14 such facilities, most of which are in Texas or elsewhere across the South.

Marc Mauer, executive director of The Sentencing Project, hailed the decision as a "major milestone in the movement away from mass incarceration."

He said the arrival of private prisons helped fuel the "unprecedented growth in incarceration."

## FRONTLINE

February 9, 2016

*Maryland Votes to Expand Felons' Voting Rights*

Maryland has become the latest state to expand the right to vote to felons who have been released from prison, in the most significant expansion of voting access for ex-offenders in recent years.

The state legislature on Tuesday voted to overturn Gov. Larry Hogan's veto of a bill granting expanded access to the ballot. Hogan, a Republican, told lawmakers that Maryland law at the time of the veto — which restored voting rights once offenders completed all aspects of their sentence, including

parole and probation — was more appropriate. Critics, including some ex-offenders, argued that approach amounted to taxation without representation. The new law restores voting rights immediately upon a prisoner's release.

**"These are people living in the community," said Nicole D. Porter, advocacy director at The Sentencing Project, a nonprofit group that works toward criminal justice reform. "They participate in other areas of the social contract. They are expected not to recidivate. They pay taxes. They want to participate in democracy and should have a role in deciding who represents them."**

## Orlando Sentinel

May 12, 2016

*Citizenship — not character — should indicate who votes*

By Marc Mauer

Virginia Gov. Terry McAuliffe recently restored the right to vote for 206,000 citizens in his state, many of whom had completed their sentences decades ago. One of them, Terry Garrett, had struggled with homelessness and drug addiction, receiving multiple felony convictions, before turning her life around. She's now sober and a grandmother, and helps people facing addiction. Told that she could now vote, she said, "Finally, someone sees past what we did."

As the 2016 presidential race heats up, it's clear that the outcome will affect the course of the nation for some time to come. Yet nearly 6 million Americans will not be at the polls this November. It's not that they don't care about the outcome of the election, but rather, they're prohibited from voting due to a current or previous felony conviction.

Disenfranchisement laws trace back to the time of the founding of the

nation, an experiment in democracy. But it was a very limited experiment, whereby white male property holders granted themselves the right to vote. Excluded from the franchise were women, African-Americans, poor people, illiterates and those with felony convictions. Over two centuries, all those other exclusions have thankfully been overturned, leaving felony disenfranchisement as the key remaining obstacle to full participation in society.

## The New York Times

May 27, 2016

*Iowa Court Rejects Life Without Parole for Juveniles*

The Iowa Supreme Court ruled in a split decision Friday that sentencing juveniles to life in prison without parole is unconstitutional because it amounts to cruel and unusual punishment.

The ruling is the latest in a national trend away from harsh sentences for juveniles. The United States Supreme Court in recent years has banned the death penalty and mandatory sentences of life without parole for juvenile cases, and 16 states prohibit life-without-parole sentences for juveniles.

**"The courts and state legislatures alike have agreed that life without any chance of parole is an inappropriate sentence for a child," said Joshua Rovner, who focuses on juvenile crime for The Sentencing Project, a Washington-based nonprofit group that lobbies for reduced sentences in juvenile and drug cases.**

**"There is a widespread understanding now, with scientific research backing up our own common sense, that juveniles are not adults, and shouldn't be treated that way," he said. "Adolescence is not a permanent condition, and the courts are recognizing this."**

*Media continued on page 8*





RESEARCH AND ADVOCACY FOR REFORM

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## THE SENTENCING PROJECT

Established in 1986, The Sentencing Project works for a fair and effective U.S. criminal justice system by promoting reforms in sentencing policy, addressing unjust racial disparities and practices, and advocating for 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](mailto:staff@sentencingproject.org)

*Media continued from page 7*



June 3, 2016

### *Time for a broad approach to clemency*

By Marc Mauer, Nancy Gertner, and Jonathan Simon

Despite growing national discussion on criminal justice reform, Weldon Angelos sits in a federal prison serving out his 55-year prison term. Angelos was convicted in 2004 for three marijuana sales to an undercover agent totaling about \$1,000 within a 72-hour period. During the course of

these transactions he possessed a gun, which he did not use nor threaten to do so. But because of federal mandatory minimum sentencing laws, the sentencing judge was obligated to impose this draconian prison term because he had committed a repeat drug offense with a firearm, all the while acknowledging that the sentence was excessive.

While President Obama has stepped up the pace of granting clemencies in drug cases, his total since taking office is only 306. With 85,000 drug offenders in federal prisons, many deserving of consideration, the pace of commutations to date is encouraging but still quite modest. With only months to go in this administration there is growing concern that the clemency initiative announced by the Department of

Justice in 2014 will fall far short of expectations. A coalition of legal groups has recruited several thousand attorneys who are meticulously researching potential applicants, but the pipeline for reviewing cases in the Justice Department has been woefully slow in considering these cases.

Sentencing reform legislation pending in Congress would help to alleviate this problem through retroactive policy changes. But if that route is not successful the President could nonetheless employ a clemency process with a much more substantial impact. Rather than considering cases on an individual basis he could apply clemency in categories of offenses instead.