

DA: Mandatory minimum sentences are working – and fair



COMMENTARY

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In response to the commentary, “Sessions wrong to request mandatory minimum sentences” by Nancy Gertner and Chiraag Bains (May 16), it should be noted that Massachusetts is not in an incarceration crisis. In fact, a recent study by the Pew Center shows that Massachusetts has the second lowest rate of incarceration in the United States, and that the Massachusetts prison population is steadily declining.

Gertner and Bains’ opinion that mandatory minimum sentences “have caused untold misery” and “have not made us safer” is not the same assessment I find as district attorney in Plymouth County. Twenty years ago, be-

fore mandatory minimums and truth in sentencing, there was no uniformity or consistency in certain drug-trafficking sentences. Judge shopping was rampant and some judges refused to hold dealers accountable.

By enacting mandatory minimum sentences, the Legislature placed the charging discretion in the hands of the elected district attorney, who in conjunction with law enforcement, work to protect public safety. Mandatory minimum state prison sentences were meant to limit judicial discretion and leniency and are reserved for the small percentage of offenders who commit homicides, certain gun crimes, sex crimes against children and drug trafficking. We are now in the throes of an opioid epidemic, and make no mistake about it, drug dealers and traffickers are a part of those fueling this scourge.

In 2014, the state district attorneys reviewed the criminal records of the then-1,462 offenders incarcerated in the Department of Correction and serving a sentence for a governing drug offense. Our findings showed

that the great majority of offenders subject to mandatory minimum sentences were convicted of multiple drug offenses that had resulted in their current commitments. Twenty percent of the offenders had accompanying charges that involved violence or firearms and 74 percent of the offenders had a history of violence or firearms. These inmates, moreover, had a total of 58,654 arraignments on their record or an average of approximately 40 arraignments per offender. It is a continuing myth that non-violent drug offenders are in jail or prison. Incarceration occurs only after a person demonstrates a lengthy history of recidivism and violence. Massachusetts is incarcerating the right offenders – the violent recidivist and drug trafficker.

In Massachusetts, our drug sentences have been reformed – mandatory sentences were reduced while the weights of drugs needed to trigger a mandatory minimum sentence were increased. The distance involving school zone violations, which carry enhanced penalties, have been dramat-

ically reduced. District attorneys have implemented drug courts and developed diversion programs so that we can get those suffering from substance abuse disorder treatment versus punishment, when appropriate.

Part of our job involves partnering with federal investigators and prosecutors on cases because drug conspirators do not concern themselves with county, state or even national borders. The U.S. Department of Justice’s updated charging and sentencing guidelines reserve the harshest punishments for those committing the most serious offenses and prosecutors are instructed to seek the most serious charge they can prove. At the same time, however, the directive allows them to deviate from the federal sentencing structure, should circumstances in a case warrant a lesser sentence. That flexibility incorporates the reality that every case is unique. Prosecutors, both state and federal, must continue to go after the criminals who are directly causing harm to our communities while using discretion to recognize lesser players in cases that warrant less severe pun-

ishment.

In Brockton, we are seeing this coordination with our state, local and federal law enforcement partners pay off. In 2016, Brockton had two homicides, both domestic violence cases. There were no street violence homicides in 2016 and firearm-related incidents were down 23 percent in the city last year. Collaboration among law enforcement has been key to driving down firearm and drug-fueled crime to one of the lowest levels this city has seen.

Mandatory minimum sentencing is part of this equation. Successful prosecutions have taken some of the most violent offenders in Plymouth County off the street for years and in some cases, for life, and have sent a strong deterrent message. It is now our challenge to do everything we can to sustain this. Mandatory minimum sentences are reserved for the small percentage of offenders who commit horrific crimes and, in my opinion, are a necessary tool to help law enforcement ensure the safety of all citizens.

Timothy J. Cruz is Plymouth County district attorney.