

HANDOUT 3: Debate on Mandatory Minimum Sentences

Sentencing Policy Reflections on Mandatory Minimum Sentences

Bill C-15, introduced by the federal government in 2009, is designed to create a series of escalating mandatory minimum sentences for drug-related offences. Presently, very few mandatory minimum sentences exist in the *Criminal Code*. There is a mandatory life sentence for murder with ineligibility for parole for a minimum of ten years (see *R. v. Latimer*). Also there are mandatory minimum sentences for things like second and third convictions for impaired driving.



The proposed legislation would introduce a wide range of minimum sentences for the production, possession and distribution (trafficking) of illegal narcotics and for the use of firearms in the commission of a crime. The government has stated these changes are necessary to 'get tough on crime' as our American neighbours have in the past decade. From the perspective of sentencing principles, the mandatory minimum is directed at deterrence, punishment and the protection of the public, not restoring justice, rehabilitating offenders or making individuals in society free of drug abuse.

In this activity you will take part in a formal debate on the issue of mandatory minimum sentences. This type of debate is very structured and specific time limits and guidelines will be part of the process. Below are some starting points for the two perspectives on mandatory sentences and you may use these as part of your arsenal of arguments for the debate but you will also need to conduct your own research. You will choose a side (alternatively your teacher will assign you to an argument), prepare your argument and present the argument during formal debate.

Debate Process

A formal debate uses the following assigned roles: 1st proposition constructive, 1st opposition constructive, 2nd proposition constructive, 2nd opposition constructive, opposition rebuttal and proposition rebuttal. Each role has assigned responsibilities and time limits for the debate.

Proposition arguments (1st and 2nd) are in support of the debate resolution but must present different argument - these speaking roles have a 5-minute maximum. The 1st and 2nd opposition have the same timed maximums but focus on arguing against the debate resolution. During the rebuttal phase each side has a chance to attack and critique the specific arguments made during the first and second round of speeches. The rebuttal does not bring in new arguments and must only focus on critiquing the arguments raised in earlier speeches. The order of speaking is as follows:

1st Proposition Constructive, 1st Opposition Constructive, 2nd Proposition Constructive, 2nd Opposition Constructive, Opposition Rebuttal, Proposition Rebuttal.

Debate Resolution

“Be it resolved that the *Criminal Code* be amended to include mandatory minimum sentences for drug-related and firearms related offences.”

Suggested Con-arguments

- They do not advance the goal of deterrence.
- They do not target the most egregious or dangerous offenders.
- They have a disproportionate impact on those minority groups who already suffer from poverty and deprivation.
- They subvert important aspects of Canada’s sentencing regime, including principles of proportionality and individualization and reliance on judges to impose a just sentence after hearing all the facts in the individual case.

Suggested Pro-arguments

- Drug crimes and the violence associated with them are out of control. Mandatory sentences will prevent repeat offences and send a strong message to deter criminals.
- Firearms offences are growing in number and increasing the risk and danger to our police agencies. Such incidents should be treated harshly lest we have a gun control problem like the USA.
- Judges have the freedom to impose tougher sentences but will not do so consistently. Therefore the laws need to impose tougher sentences for them.
- Numerous research studies have shown that mandatory sentences have an impact on crime rates.

NB. You may have a written copy of your speech with you while presenting your argument but rehearse the speech and make as much eye contact with the audience as possible to increase the effectiveness of your speaking.

Notes or Comments
