

**TESTIMONY OF THE UNITED METHODIST CHURCH, GENERAL BOARD OF  
CHURCH AND SOCIETY**

**SUBMITTED TO THE TASK FORCE ON FEDERAL CORRECTIONS**

**MARCH 3, 2015**

As United Methodists, we understand from the Bible (Micah 6:8) what the Lord requires of us: “to do justice, embrace faithful love, and walk humbly with your God.” A response to this call for justice is reflected in the over two centuries of Methodist heritage committed to ministry among people confined in prisons and jails. Consistent with that tradition we submit today’s comments reflecting our concerns with the current overcrowding crisis within the federal Bureau of Prisons (BOP) and the overly punitive sentencing policies that have contributed to exponential growth and significant racial disparity in the prison population.

Since 1980, the federal prison population has increased nearly 800% and now hovers around 210,000. According to data from the U.S. Sentencing Commission, half of the federal prison population was sentenced to more than 10 years in prison and 25% was sentenced to between 5 and 10 years in prison.<sup>1</sup> At the same time, about half of federal prisoners are serving sentences for drug offenses and another 26% are serving sentences for violent offenses.<sup>2</sup> Commission research also indicates that nearly one-third of federal prisoners have little or no criminal history.<sup>3</sup> We believe what these numbers reveal is troubling. The federal criminal justice system hands out long prison terms for offenses that are primarily nonviolent.

Fortunately, in recent years public attention has focused on the plight of the nearly 100,000 people confined in the federal prison system for drug offenses and the mandatory minimum sentences that have impacted many of them. Congress finally took some action in

2010 with the passage of the Fair Sentencing Act which sought to reduce the quantity-based sentencing disparity between crack and powder cocaine. Its passage resulted in reduced sentences for the lowest level offenses involving crack cocaine, but kept mandatory minimums unaltered, except in the case of simple possession of crack cocaine which was eliminated. The General Board of Church and Society advocated for that legislation, but we remain committed to advancing much broader sentencing reforms. While we applaud the progress recently announced by Attorney General Eric Holder that prosecutors are bringing fewer cases for low-level drug offenses and subjecting a smaller proportion of cases to mandatory minimums, Congress must enact transformational changes to the federal criminal justice system that incorporate significant reductions in sentences, particularly for low-level drug crimes, and address the troubling racial disparity inherent in mandatory minimum sentencing for drugs. Executive action alone cannot solve this crisis.

According to Commission data analyzing the 22,000 drug trafficking cases sentenced in federal courts during fiscal year 2013, approximately half had little or no prior criminal history.<sup>4</sup> Moreover, U.S. Sentencing Commission analysis concludes that drug mandatory minimum penalties “often apply more broadly than to just the high-level drug offenders that it appears Congress intended to target.”<sup>5</sup> Indeed, the Sentencing Commission’s 2011 report on mandatory minimum penalties concluded “certain mandatory minimum provisions apply too broadly, are set too high, or both, to warrant the prescribed minimum penalty.... This has led to inconsistencies in application of certain mandatory minimum penalties....”<sup>6</sup>

The Commission has also found that Black and Hispanic defendants constitute the majority of people subject to mandatory minimum sentences and existing opportunities for relief from them are less often available to African American defendants. In 2011, the U.S. Sentencing

Commission found black defendants were more likely to receive mandatory minimum penalties, in 60.6% of drug cases carrying such a penalty. Hispanic defendants were sentenced to a mandatory minimum in 41% of such cases and whites in 36.3%.<sup>7</sup>

This intensive pursuit, prosecution and incarceration of low-level drug cases has burdened the federal criminal justice system and produced increasing costs that are unsustainable. With a prison population of approximately 25,000 people in 1980, the Bureau of Prisons received an appropriation of \$330 million. By fiscal year 2014 the population had grown to 216,000 and received an appropriation of \$6.874 billion. The overall per capita cost of incarcerating an individual in the federal system is \$29,000.<sup>8</sup>

Despite the substantial annual increases in federal prison funding, the Bureau of Prisons has been unable to keep pace with the growth and needs of the prison population. During fiscal year 2013, the federal prison system was 36% over its rated capacity. For high and medium security male facilities, capacity exceeded 50% and 45%, respectively. This overcrowding creates a dangerous environment for prisoners and staff because of an increase in misconduct caused by the strain of the deteriorating prison conditions. Prisoners now face triple or quadruple bunking in cells and recreational areas have transitioned into dormitory space.<sup>9</sup>

Today, the Bureau of Prisons consumes over 25% of the Department of Justice's budget and this proportion will continue to grow if significant reforms designed to curtail growth and ultimately reduce the prison population are not enacted. At a time of significant government belt tightening the high cost of prison limits allocations for other important justice programs, like services for victims, crime prevention, and re-entry programs.

## **RECOMMENDATIONS**

The United Methodist Church, General Board of Church and Society is deeply troubled by the United States' costly investment in mass incarceration. The current federal criminal justice system disproportionately incarcerates defendants in nonviolent cases and for low-level offenses. The crowded conditions that prisoners encounter once incarcerated counteract rehabilitation efforts when such programming is even available. We support policy changes that fix this prison crisis:

- **Eliminate mandatory minimum sentences, particularly for low-level drug offenses.** Prosecutors' choices about whom to charge and what offense to charge a defendant with will generally dictate the fate of a defendant facing a mandatory minimum sentence. Judges have limited discretion in sentencing regardless of the circumstances of an individual case. Moreover, mandatory minimum sentences crafted by Congress are generally too long given the level of culpability of the average defendant. Unfortunately, judges' hands are tied to adjust the sentences accordingly.
- **Expand time credits off a prisoner's sentence for good behavior and participation in rehabilitation programming.** The average federal prisoner is 40 years old and has long ago aged out of his or her most crime prone years. Prisoners who have demonstrated good behavior and participated in productive programming deserve credit and should be given that opportunity to reduce the length of their time in prison. Research indicates that it is the certainty of punishment, not its severity that deters crime. In many circumstance long prison sentences serve little public safety purpose and should be revisited.
- **Invest in rehabilitation programming in prisons and for those exiting prison.** Warehousing prisoners in overcrowded facilities with limited opportunities to gain skills or earn a higher education is a wasted opportunity to reduce rates of recidivism among

those leaving incarceration. The overcrowding and budget priorities of the federal prison system have led to long waiting lists to join important programming and result in limited options.

- **End reliance on privately managed for-profit prisons for the federal system’s lowest security prisoners.** CAR prisons are a recent phenomena within the federal prison system. Recent investigations by the American Civil Liberties Union have uncovered inhumane living conditions and an absence of productive rehabilitative programming.<sup>10</sup> Administration officials see private prisons as a cheap alternative for incarcerating primarily non-citizens who present almost no threat to public safety. This practice must end. Individuals who are not a public safety risk are better severed by alternative punishments to incarceration.

---

<sup>1</sup> See [http://www.uscc.gov/sites/default/files/pdf/research-and-publications/quick-facts/Quick-Facts\\_BOP.pdf](http://www.uscc.gov/sites/default/files/pdf/research-and-publications/quick-facts/Quick-Facts_BOP.pdf)

<sup>2</sup> See [http://www.bop.gov/about/statistics/statistics\\_inmate\\_offenses.jsp](http://www.bop.gov/about/statistics/statistics_inmate_offenses.jsp)

<sup>3</sup> See *supra* note 1.

<sup>4</sup> See [http://www.uscc.gov/sites/default/files/pdf/research-and-publications/quick-facts/Quick\\_Facts\\_Drug\\_Trafficking\\_2013.pdf](http://www.uscc.gov/sites/default/files/pdf/research-and-publications/quick-facts/Quick_Facts_Drug_Trafficking_2013.pdf)

<sup>5</sup> Comments of Judge Patti B. Saris, Chair of the U.S. Sentencing Commission, in a November, 2013 letter to the Senate Judiciary Committee.

<sup>6</sup> U.S. Sentencing Commission, *Report to the Congress: Mandatory Minimum Penalties in the Federal Criminal Justice System*, October 2011, see <http://www.uscc.gov/news/congressional-testimony-and-reports/mandatory-minimum-penalties/report-congress-mandatory-minimum-penalties-federal-criminal-justice-system>

<sup>7</sup> *Id.*

<sup>8</sup> Nathan James, *The Federal Prison Population Buildup: Overview, Policy Changes, Issues, and Options*, Congressional Research Service: April 2014. See <https://fas.org/sgp/crs/misc/R42937.pdf>

<sup>9</sup> *Id.*

<sup>10</sup> See [https://www.themarshallproject.org/2015/02/24/a-most-unsurprising-riot?utm\\_medium=social&utm\\_campaign=share-tools&utm\\_source=facebook&utm\\_content=post-top](https://www.themarshallproject.org/2015/02/24/a-most-unsurprising-riot?utm_medium=social&utm_campaign=share-tools&utm_source=facebook&utm_content=post-top)