

*Massachusetts Department of Correction*  
Luis S. Spencer, Commissioner

# ANALYSIS OF MANDATORY SENTENCES ON GOVERNING DRUG OFFENSES

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Note: This Research Brief was published prior to changes in the mandatory minimum drug laws enacted in Massachusetts on August 2, 2012.

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## **Introduction**

As of July 9, 2012, the Massachusetts Department Correction (MA DOC) criminally sentenced jurisdiction population was comprised of 10,672 inmates with 1,569 serving a mandatory sentence on a governing drug offense.<sup>1</sup> A court cannot impose a sentence less than the minimum provided in statute (referred to as the “statutory minimum”) but this statutory minimum can normally be reduced by earning good time, shortening the parole eligibility period, or inmates may be able to receive probation, furloughs, or work release during the period of the statutory minimum. Inmates with mandatory sentences on a governing<sup>2</sup> drug offense, however, are required to serve a minimum sentence for which they cannot reduce the parole eligibility period by earning good time, nor can they receive probation, furloughs, or release for work, education, or program-related activities during this mandatory minimum. In Massachusetts, the length of sentence for a mandatory minimum governing offense is largely determined by the weight and type of drug involved. Under Massachusetts law requiring state prison sentences to contain a minimum and maximum sentence (called “indeterminate” sentences) judges may impose sentences with only a one day difference between the minimum and maximum sentence (e.g. 2 years to 2 years and one day). The common practice of imposing these particular sentence terms for mandatory governing drug offenses precludes the possibility of parole as an inmate is parole-eligible only after serving the minimum sentence, but would be released the very next day.

Of the 1,569 inmates that were identified as having a mandatory governing drug offense, nineteen (19) inmates did not receive indeterminate sentences, as they were given determinate

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<sup>1</sup> Many of these inmates are serving concurrent sentences for drug and/or non-drug offenses.

<sup>2</sup> Individuals may be incarcerated for multiple offenses. The “governing” offense is the offense that carries the longest maximum sentence.

(maximum term only) sentences as habitual offenders. Of those 19, six (6) were habitual mandatory governing drug offenders and thirteen (13) were county female mandatory governing drug offenders. These 19 were not included in the analysis due to having a maximum sentence only, making the total 1,550. This brief will illustrate and discuss the range of differences in term between the minimum and maximum sentences of inmates with a mandatory sentence on a governing drug offense as well as the range of minimum sentences imposed per specific offense.

### **Differences between Minimum<sup>3</sup> and Maximum Sentences Imposed on Mandatory Governing Drug Offenses on July 9, 2012**

**Table 1**

<b>Difference between Minimum and Maximum Sentences</b>		
	Frequency	Percent
1 DAY	767	49.5
6 MOS	42	2.7
1 YEAR	232	15
1 YEAR AND 6 MOS	21	1.4
2 YEARS	351	22.6
2 YEARS AND 6 MOS	5	0.3
3 YEARS	85	5.5
3 YEARS AND 6 MOS	1	0.1
4 YEARS	21	1.4
4 YEARS AND 6 MOS	1	0.1
5+ YEARS	24	1.5
Total	1550	100

- On July 9, 2012, the difference between the mandatory minimum and maximum sentence ranged from 1 day to 5 years or more. Approximately half (n=767; 49.5%) of this population had a difference of one day between their mandatory minimum and maximum sentence.
- Furthermore, 736 or 47.5 percent had a mandatory minimum and maximum sentence difference between 6 months and 3 years.
- 91.2 percent had a difference of 2 years or less between their minimum and maximum sentence.

### **Minimum Length of Sentence Ranges on Mandatory Governing Drug Offenses on July 9, 2012**

**Table 2**

<b>Minimum Length of Sentence Ranges</b>		
	Frequency	Percent
2 TO 4 YEARS	530	34.2
4 YEARS AND 6 MOS TO 6 YEARS	472	30.5
7 YEARS TO 10 YEARS	410	26.5
10 YEARS AND 6 MOS +	138	8.9

<sup>3</sup>Some minimum terms sentenced may exceed the mandatory minimum term required by statute.

Total	1550	100
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- As illustrated in Table 2, on July 9, 2012, five hundred and thirty (530) inmates had to serve a minimum sentence between 2 and 4 years, comprising 34.2 percent of this population.
- 472 inmates had to serve a minimum sentence between 4 years and 6 months to 6 years, comprising 30.5 percent of this population.
- 410 inmates had to serve a minimum sentence between 7 and 10 years, comprising 26.5 percent of this population.
- Lastly, 138 inmates had to serve a minimum sentence of 10 years and 6 months or longer, comprising 8.9 percent of this population

### Range of Minimum Sentences Imposed Per Specific Offense<sup>4</sup> on July 9, 2012

Table 3

OFFENSES	2 TO 4 YEARS		4 YEARS AND 6 MOS TO 6 YEARS		7 TO 10 YEARS		10 YEARS AND 6 MOS +		TOTAL	
	Frequency	Percent	Frequency	Percent	Frequency	Percent	Frequency	Percent	Frequency	Percent
CLASS A - SUBS. W/INT MANF/DIST/DISP <sup>5</sup>	0	0.00%	44	9.32%	8	1.95%	1	0.72%	53	3.42%
CLASS A - W/INT MANF/DIST/DISP TO MINOR	0	0.00%	1	0.21%	0	0.00%	0	0.00%	1	0.06%
CLASS B - SUBS. W/INT MANF/DIST/DISP	61	11.51%	16	3.39%	0	0.00%	0	0.00%	77	4.97%
CLASS B - W/INT MANF/DIST/DISP TO MINOR	1	0.19%	0	0.00%	0	0.00%	0	0.00%	1	0.06%
COCAINE TRAFFICKING 100-200 GRAMS	0	0.00%	0	0.00%	127	30.98%	22	15.94%	149	9.61%
COCAINE TRAFFICKING 14-28 GRAMS	244	46.04%	60	12.71%	17	4.15%	0	0.00%	321	20.71%
COCAINE TRAFFICKING 200 OR MORE GRAMS	0	0.00%	0	0.00%	0	0.00%	90	65.22%	90	5.81%
COCAINE TRAFFICKING 28-100 GRAMS	0	0.00%	185	39.19%	167	40.73%	8	5.80%	360	23.23%
DRUG VIOLATION SCHOOL ZONE	54	10.19%	7	1.48%	0	0.00%	0	0.00%	61	3.94%
HEROIN TRAFFICKING 100-200 GRAMS	0	0.00%	0	0.00%	12	2.93%	1	0.72%	13	0.84%
HEROIN TRAFFICKING 14-	0	0.00%	64	13.56%	9	2.20%	0	0.00%	73	4.71%

<sup>4</sup> The length of a mandatory minimum sentence is determined by a number of factors including the type of offense, severity of offense, type and weight of drug (if a drug related offense), and prior convictions against the defendant.

<sup>5</sup> With intent to manufacture, distribute and/or dispense an illicit drug.

28 GRAMS										
HEROIN TRAFFICKING 200 OR MORE GRAMS	0	0.00%	0	0.00%	0	0.00%	13	9.42%	13	0.84%
HEROIN TRAFFICKING 28- 100 GRAMS	0	0.00%	0	0.00%	47	11.46%	3	2.17%	50	3.23%
MARIJUANA TRAFFICKING 100-2,000 LBS.	2	0.38%	0	0.00%	0	0.00%	0	0.00%	2	0.13%
MARIJUANA TRAFFICKING 50- 100 LBS.	2	0.38%	0	0.00%	0	0.00%	0	0.00%	2	0.13%
SPEC. CLASS B - W/INT MANF/DIST/DISP	166	31.32%	19	4.03%	6	1.46%	0	0.00%	191	12.32%
SPEC. CLASS B- SUBS. W/INT MANF/DIST/DISP	0	0.00%	76	16.10%	17	4.15%	0	0.00%	93	6.00%
<b>TOTAL</b>	<b>530</b>	<b>100.00%</b>	<b>472</b>	<b>100.00%</b>	<b>410</b>	<b>100.00%</b>	<b>138</b>	<b>100.00%</b>	<b>1550</b>	<b>100.00%</b>

- As of July 9, 2012, almost half (n=244; 46.04%) of those serving between a 2 and 4 year mandatory minimum sentence were sentenced for trafficking between 14 and 28 grams of cocaine.
- Approximately one third (n=185; 39.19%) of those serving between a 4 year and 4 year and 6 month mandatory minimum sentence were sentenced for trafficking between 28 and 100 grams of cocaine.
- 40.73 percent (n=167) of those serving between a 7 year and 10 year mandatory minimum sentence were sentenced for trafficking between 28 and 100 grams of cocaine.
- 65.22 percent (n=90) of those serving between a 10 year or longer mandatory minimum sentence were sentenced for trafficking 200 or more grams of cocaine.