

Mandatory minimums: three good reasons why jail alone is a bad idea

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Public discussion of illicit drugs typically relies on simplistic and false distinctions between drug users and evil drug dealers, or victims and victimizers. The reality is not that simple.

The move to invoke mandatory minimum sentences for drug-related offences – part of Bill C-15 currently before Parliament – is rooted in a polarized understanding of those involved in illicit drug use. The evidence suggests that mandatory minimum sentences have the potential to make people who are already in poor health even sicker, without making the rest of us safer. They should therefore be reconsidered.

People who suffer and hurt others around them as a result of their drug use are often recognized as victims of genetic predisposition, life circumstance and unfortunate behaviour. Use and abuse of legal and illegal substances is hardly uncommon in Canadian society, and so most of us feel some empathy for these people. We all know someone – a brother, sister, parent or friend – who has suffered from their overuse of drugs or alcohol.

But we have less connection to the victimizers – the more visible "villains" in this picture. They may be biker gangs, or international drug cartels, or sophisticated grow operators – who we know don't deserve our sympathy. How well can we distinguish those in need of support and treatment from those who deserve punishment? What are the consequences of getting it wrong?

A study in Vancouver found that 20 per cent of the substance users surveyed also dealt drugs to support their own use, or to pay off debts incurred from using drugs. Those further up the trafficking chain are able to distance themselves from street-level activity, where most arrests are made. Therefore in practical terms, mandatory minimum sentences are more likely to target those whose trafficking relates directly to their own drug problem.

So why should we care if these people go to jail? Are they not committing a criminal act that ought to receive punishment? Here are three good reasons why sending more people with drug problems to jail is a bad idea.

First, prisons are a bad place to try to kick a drug habit. All evidence tells us that prison is a really good place to continue – or even acquire – a drug problem. A study in Ireland showed that 20 per cent of people who use injection drugs began injecting in prison. Furthermore, our own Correctional Service of Canada found that almost 40 per cent of inmates in federal prisons have used drugs in their current institution.

Second, people in prison are at higher risk of contracting communicable diseases. When they are released, the evidence tells us that the infections and communicable diseases they acquire in prison constitute a serious public health problem. The number of known cases of HIV in prisons is on the rise, (up 35 per cent in five years) within a population that already has 10 times the HIV rate of the general public. Once individuals are released, these infections become a concern not only for their own health, but for the entire community.

Third, prison is expensive. Mandatory minimum sentences for drug offences in the United States (admittedly far more punitive than those in our government's proposed legislation), caused a 925 per cent increase in federal spending on corrections over 20 years. Can we justify devoting such enormous public investment to locking up drug offenders when we spend so little on preventing and treating substance use problems in the first place?

There's simply no compelling evidence – anywhere – that mandatory minimum sentences are an effective public policy instrument. So why would we accept them as key part of our national approach to illicit drugs?

Perhaps we are relieved that a problem as difficult and complex as illicit drug use and drug addiction can be simplified to victims and villains. Addiction is unnervingly complicated - a mixture of neuroscience, social factors and personal circumstance. We must also remember that there's a wide range of substance use and abuse – legal and illegal – in our society that cannot be divorced from a comprehensive approach to illicit drug use.

Laws that neatly distinguish between victims and villains won't help us deal with a problem as multifaceted as the individuals who use illicit drugs. Such legislation is too simple and inflexible for so complex a problem.

Our public policy on drug use should recognize addiction in all its complexity. As a society we should ask the hard questions about the connections of drug use to trauma, poverty and social exclusion. We should look at what the evidence and experience of other jurisdictions tell us. That should direct public spending – and law-making – to addressing the roots of the problem, rather than on misguided incarceration long after drug problems have begun.

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