

CBCF ALC Judiciary Issue Forum
Thursday, September 24, 2009
1:00 pm – 2:50 pm

Importance of the Civil Rights Community in Getting Bills Passed
Barbara R. Arnwine, Lawyers' Committee for Civil Rights

1. First, we thank Congresswoman Waters, who the Lawyers' Committee honored with an award in August at the National bar Association's Annual Convention, and Congressman Robert Scott for sponsoring these bills and committing to these very important issues. I am honored to be here with all these distinguished panelists.

2. This year represents the 25th Anniversary of legislation, which created mandatory minimum sentences and established a 100-to-1 sentencing disparity between crack and powder cocaine. This issue is critical to Civil Rights Organizations and the fight for racial justice. It has become obvious that these overbroad and punitive policies represent a serious threat, if not a significant reversal, of the civil rights gains and progress of the 60's and 70's. Its impact is far reaching to housing, employment and education issues, while tearing apart children and families at a time when we should be bringing them closer.

3. It is important that we are in an age of a new Administration, but it must produce real change and it won't happen without us. Attorney General Holder commented to the National Association of Black Prosecutors in July that "we all know that this egregious difference in punishment is simply wrong...but we must discharge this duty in a way that protects our communities as well as the public's confidence in the justice system." Since the Attorney

General has testified in Congress in favor of H.R. 3245, Civil Rights groups have to be active in advocating with the White House and Congress for prioritizing these Acts and similar legislation.

[Disproportionate Impact]:

4. **DOJ Reports - 82 percent of people convicted of federal crack cocaine offenses were African-American**, and only 9 percent were white.

5. We must prioritize criminal justice reform – the Lawyers’ Committee is reworking our agenda to highlight these issues, including reentry. We expect that the best thing would be to continue to work with your offices and others in finding increasingly strategic ways to advocate on their behalf. We will continue to use testimony and distribute reports at hearings to get our message across.

6. We should change the terms of the debate – from punishment to prevention and treatment. Ironically, the economy has become an ally, as states like California are being forced to change their structure because of fiscal constraints. We aim to tell the personal stories (the brother, the daughter, the friend) so that the message resonates with those who can do something to change it and thereby dismantling structural inopportunity and racism.

7. Every group should have a letter and advocacy program. It is important that we be precise in advocating for a reduction in sentencing for crack offenses rather than an increase for powder-cocaine. We should do this by dispelling the myth that crack is inherently more dangerous or involves more violent drug offenders. Crack has the same physiological and psychoactive effects as powder-cocaine.

[Burden on prisons and taxpayers]

8. The crack cocaine sentencing policy puts too many in prison for too long a time. As Adam Gelb, head of the Pew center on the States' Public Safety Performance Project was quoted in the LA Times - "we can't build our way to public safety."

9. In fact, overcrowded prisons lead to increased safety issues – As Mark Early, Prison Fellowship President states: If you cram prisoners into a small space and give them nothing productive to do, you will breed violence. It also has the potential to breed hate groups like the Aryan Nation, which may spark race riots and increased hatred. Or if you release prisoners back into the community not having provided them with the skills and training so that they may live as law-abiding citizens, you will soon see them return to prison.

10. Even more important to prioritize in the recession era. Encourage neighborhood stabilization, green development in communities of color, jobs and infrastructure. We must dismiss notion that we can build our way to safety. We must, instead, build our way to prosperity.

11. Organizations such as the Lawyers' Committee have been at the forefront of advocating for mortgage fraud prevention, payday lending reform, consumer financial protection and others which encourage smart economic reinvestment and protection rather than the ineffective status quo. We should continue to sign support letters, engage in litigation and be a part of community coalitions which fight these issues. By publicizing these issues more, including their real world impact, we can increase the funding and partnerships necessary to address these issues.

[Education is Key]

12. The impact isn't only present but detrimental long-term as nearly 80 percent of individuals in prison do not have high school diploma (Office of Juvenile Justice and Delinquency Prevention)

13. Between 1985 and 2000 the increase in state spending on corrections was nearly double that of the increase to higher education (From Cellblocks or Classrooms – justice Policy Institute, 2003)

14. The Civil Rights community should be at the forefront of redirecting the message toward real concerns in education reform. Through panels, issue forums articles and workshops, it has become increasingly important that we find effective ways of promoting quality

education and integration and school diversity programs in the wake of unfriendly Court decisions.

15. We should promote parental empowerment through active engagement with parents and community leaders as a means of resolving issues such as school discipline and the dropout rate, which has disproportionately plagued communities of color.

16. We should pay careful watch, whether through litigation or advocacy, to continue to make sure our schools of higher education are equal to those predominantly white institutions. We can't let federal prisons become the new Historically Black Institutions, while our black colleges crumble at the seams.

17. Barrier reduction: Several grant and scholarship programs administered through the states are prohibited to those who have minor drug convictions. Their punishment continues unnecessarily much beyond their prison term.

[Judges dislike mandatory sentencing]

18. As Judge Hatter mentioned earlier, judges really dislike mandatory sentences – less just in an era when we need more justice

19. As one judge remarked: **'The people who drew up these guidelines never sat in a court and had to look a defendant in the eye while imposing some of these sentences.'**

20. Safety valves allow courts – in very narrow circumstances – to sentence a person below the mandatory minimum if the mandatory minimum is too lengthy or doesn't fit the offender or the crime.
21. We should continue to do, as the Lawyers Committee has in disseminating reports, such as our Judicial Diversity report, which advocates for increased diversity. Judges of color, as Justice Sotomayor said, have unique perspectives. These experiences are an important caveat that should not be legislated away by mandatory minimums. Again, the Civil Rights community should redirect the message to what really matters – recruitment of good, diverse judges who are empowered to make reasoned, legally-sound decisions.

[Rehabilitation Issues] – Drug Law Reform

22. 52% of those serving time in the U.S. federal prison system are committed for drug offenses. Yet, less than 15% of drug dependent offenders receive drug treatment in prison. – Federal Bureau of Prisons and National Institute on Drug Abuse
23. Minor drug convictions can lead to a lifetime of obstacles post-release including access to meaningful employment, the ability to earn a living, loss of parental rights, denial of public assistance including food stamps and housing, and the right to vote.

24. The civil rights community should continue to advocate on behalf of these disenfranchised citizens. We should provide testimony before Congress, editorialize and coalesce about the importance of preventative outreach rather than ineffective institutional punishment for these low-level crimes
25. 63% of Americans view drug abuse as a medical problem that should be addressed through treatment and not the prison system. (Peter D. Hart Research Associates). Bills such as California's Prop 36 have effectively diverted non-violent drug offenders into drug treatment instead of prison. We must continue to advocate for legislation like this which gets to the heart of rather than exacerbates the problem. Participation in events like CBC's panels helps strengthen our message and take it public.
26. **In sum:** there is a lot that the civil rights community can do as forceful advocates. The policies, as they stand, are unfair in stature and consequence given its impact on the civil rights concerns. It targets the wrong sources while missing the boat on drug kingpins and prescription meds that have a bigger influence. As a consequence, it misappropriates money to incarceration rather than education which creates a long-term adverse cycle of negative reinforcement. We must engage the community by publicizing these issues through our coalition of civil rights organizations and our advocates on the Hill. Bills such as H.R. 3245, 3327 and 1466 help bring these concerns to light. Equal crimes must be punished equally!