



Name of Policy: Mandatory Minimum Sentences

Revised Policy Adoption Date: *SLSC Annual General Meeting, Ottawa, ON, June 17, 2017.*

Historical Policy Adoption Date: *SLSC Annual General Meeting, May 29, 1999.*

Mission and Mandate: St. Leonard's Society of Canada is a membership-based, charitable organization dedicated to community safety. The mission of SLSC is to promote a humane and informed justice policy and responsible leadership to foster safe communities. It:

- a. Endorses evidence-based approaches to criminal and social justice;
- b. Conducts research and develops policy;
- c. Supports its member affiliates; and
- d. Advances collaborative relationships and communication among individuals and organizations dedicated to social justice.

Purpose of SLSC Policies: Policies of SLSC are developed in collaboration with affiliate agencies, SLSC's Board of Directors and members, and are ratified at the Annual General Meeting with the express purposes of:

- Identifying criminal justice and related issues relevant to its membership;
- Reflecting SLSC organizational values and social justice goals;
- Articulating SLSC approaches, practices and standards to achieve these goals; and
- Ensuring the good governance of SLSC on matters of legal, administrative and organizational relevance.

Background:

A mandatory minimum sentence assigns a fixed minimum penalty to a given offense. Canadian law uses mandatory minimum sentences (MMS) in a variety of ways; spanning from mandatory loss of driving privileges for breaches of provincial traffic laws to mandatory periods of imprisonment for criminal offenses. The intention of MMS is to express a high level of social disapproval for the associated action, and to achieve deterrence through certainty and severity of the penalty. However, research has not supported the deterrent effect of MMS, and has in fact demonstrated that MMS can contribute to justice system delays by increasing the likelihood of not-guilty pleas and appeals. MMS also contribute to the growing remand population in Canada.

The trend in recent years, particularly from 2004-2015, has been toward the imposition of new MMS or the increased severity of existing MMS. The 2016 mandate letter issued by the Prime Minister to the Minister of Justice, however, identified the need to examine changes made to the Criminal Justice System over the past decade. Both the Justice Minister and the Senate have indicated that a review of MMS will be part of addressing delays in the justice system.

Issues/Scope:

Mandatory minimum sentences have a direct impact on all those whose charges are associated with MMS, including clients of SLSC affiliates. They also have an indirect impact on all SLS clients and others as they contribute to delays and inefficiencies in the criminal justice system. Further, MMS impact all

Canadians as they fail to uphold the principles of sentencing outlined in the *Criminal Code of Canada* of deterrence, rehabilitation, protection of the public, reparation, and responsibility; focusing only on the principle of denunciation. MMS in fact oppose achievement of the principles of rehabilitation, reparation, and responsibility, which require individual assessments and judicial responses based on the unique characteristics of the case.

Resolutions:

Be it resolved that St. Leonard's Society of Canada supports the use of judicial discretion in sentencing. Mandatory minimum sentences do not allow for individual responses to crime and do not deter criminal activity; therefore, SLSC calls on Canadian legislators at all levels of government to use alternate sentencing mechanisms and to remove mandatory minimum sentencing provisions from our laws.

Additional Information

SLSC Reports/Publications:

- St. Leonard's Society of Canada. (1998). *Mandatory Minimum Sentencing for Canadian Criminal Offences: A Legal Research Paper*. Ottawa, ON: St. Leonard's Society of Canada.
- St. Leonard's Society of Canada. (2002). *Mandatory Minimum Sanctions: An Overview*. Ottawa, ON: St. Leonard's Society of Canada.
- St. Leonard's Society of Canada. (2011). [Brief to The Standing Committee on Justice and Human Rights, House of Commons 41st Parliament, 1st session on The Safe Streets & Communities Act: Bill C-10](#). Ottawa, ON: St. Leonard's Society of Canada.
- St. Leonard's Society of Canada. (2014). [Legislative Update on Mandatory Minimum Sentences in Canada](#). Ottawa, ON: St. Leonard's Society of Canada.

External Reports/Publications:

- [Bill C-669, An Act to Amend the Criminal Code \(independence of the judiciary\), 2nd Session, 41st Parliament, 2015.](#)
- Crutcher, N. (2001). The Legislative History of Mandatory Minimum Penalties of Imprisonment in Canada. *Osgoode Hall Law Journal*, 39(2), 273-285. Retrieved from <http://digitalcommons.osgoode.yorku.ca/ohlj/vol39/iss2/2>.
- Jones, M. & Kirkby, C. (2011). Sentencing in Canada: Recent Developments in 41st Parliament: Current and Emerging Issues, 26-27. Retrieved from [http://sclaimswp.bryan-schwartz.com/wp-content/uploads/images/stories/specific_claims_docs/05-Fed Govt Docs INAC etc/Govdocs 2008-2011/41st Parliament Current and Emerging Issues 2011.pdf](http://sclaimswp.bryan-schwartz.com/wp-content/uploads/images/stories/specific_claims_docs/05-Fed_Govt_Docs_INAC_etc/Govdocs_2008-2011/41st_Parliament_Current_and_Emerging_Issues_2011.pdf).
- Mallea, P. (2010). The Fear Factor: Stephen Harper's "Tough on Crime" Agenda. Canadian Centre for Policy Alternatives, 1-56. Retrieved from <http://www.policyalternatives.ca/>.