

The Cost of Incarceration - The Curse of Mandatory Minimums

By Patrice Gaines
NNPA Contributing Writer

"The Cost of Incarceration" is an eight-part occasional series written by Patrice Gaines, former Washington Post reporter; author and co-founder of The Brown Angel Center, a program in Charlotte, N.C. that helps formerly incarcerated women become financially independent. Gaines received a 2009 Soros Justice Media Fellowship from the Open Society Institute to research and write articles on the impact of mass incarceration on the Black community. The National Newspaper Publishers Association News Service has agreed to make this exclusive series available to its membership of more than 200 Black-owned newspapers.

(NNPA) - Hamedah Hasan was pregnant with her third child when she stood in front of a judge awaiting sentencing for conspiracy to distribute powder and crack cocaine. She had no prior criminal record. The hardest evidence against her was the testimony of three co-defendants looking for sweet deals from police. They said she headed a crack cocaine ring. Before sentencing, the judge noted, "Had I the discretion, I would have imposed a sentence of between 10 and 15 years".

But Judge Richard Kopf was forced to follow federal sentencing guidelines and give Hasan, then 24, life in prison. It was 1993. In an email from prison, Hasan, 41, wrote: "At the beginning of the trial I never thought I'd receive the time I did. Up until the judge actually sentenced me, I didn't believe it."

"I began to focus as much as possible on having a healthy baby," she said. That baby, Hasan's third daughter, has never seen her mother outside of prison. This is the legacy created by harsh federal sentencing guidelines and mandatory sentencing laws, which have helped make the United States home to the largest prison population in the world. Mandatory sentences don't allow judges to use their discretion and take into consideration the circumstances of

a case. The result is thousands of offenders serving lengthy terms in prison for low-level drug crimes. Laws that are harsher for crack cocaine than powder cocaine have added significantly to the disproportionate number of Blacks imprisoned.

But times are changing. For the first time in decades there are bills in Congress that offer significant reforms of mandatory sentencing.

"I feel the possibility for reform is greater than ever, considering comments Obama made during his campaign and my conversations with people on Capitol Hill," said Julie Stewart, President of Families Against Mandatory Minimums (FAMM).

Hamedah Hasan

To escape an abusive relationship, Hasan moved to Nebraska to live with a cousin who was selling drugs. Though Hasan knew about the drug dealing, she never sold or used drugs.

When a man police arrested identified her cousin as leader of a drug ring, Hasan was implicated. Based on testimony of co-defendants, Hasan was sentenced to life in prison. One co-defendant received 10 years and two others were not prosecuted in exchange for their testimony against her. In March 1999, Judge Kopf, the judge who had reluctantly sentenced Hasan according to the federal sentencing guidelines, resented her to 12 years, citing new changes in the guidelines and Hasan's "extraordinary rehabilitation."

The decision would have freed her much sooner. The government appealed and initially lost, but appealed again and won. Hasan was resented to 27 years.

Her oldest daughter, Kasaundra, was 9 when Hasan went to prison. She said her mother's incarceration affected each sister differently. "It made me numb. Things that made other people happy, I was nonchalant about," said Kasaundra, now 25 and living in Portland.

Growing up, the girls saw their mother once every

couple of years. In spite of the separation, Kasaundra, who is studying to become a pharmacy technician and has a 3-year-old daughter, said she has never felt motherless. "She'd call all the time. She's very supportive. I look at the positive - she's still alive."

DeJarion Echols

DeJarion Echols was living in Waco, Texas, engaged, and raising two children. He couldn't find a job and his college scholarship did not cover the full cost of his education. So he decided to sell crack cocaine. Six months later Echols, 23, got caught. Officers discovered \$5,700, 44 grams of crack cocaine and an unloaded rifle under his bed. They held him accountable for approximately 500 grams of crack, estimating the money came from an additional 450 grams. Echols admitted the drugs were his and that he had sold crack in the past, but denied that the unloaded gun was used in relation to his drug activity.

Nevertheless, in 2006 Echols was sentenced to a mandatory minimum of 20 years. When sentencing him Judge Walter S. Smith said, "This is one of those situations where I'd like to see a Congressman sitting before me." "I couldn't believe it," said D'Juana Echols, Echols's mother, who still lives in Waco. "I'm not condoning what he did; it was wrong. But you have people who murder and molest children and get less time than what my son was sentenced to."

Meanwhile Echols' fiancée, Crystal Garcia, waits for the day when they will be together again. "One thing that keeps me going is focusing on our future and how we will survive financially," said Garcia, a nurse in an intensive care unit of a hospital.

"DJ will be 40 when he comes back. What is he going to do? Our baby Faith will have graduated from high school and not know her father free. She is at the age where she cries, 'I want my daddy. I want to talk to daddy.'" It's heartbreaking. Everyone makes bad choices. Just because you make one bad choice doesn't mean you should be locked up for 20 years.

Jason Stavers, the San Francisco lawyer working on Echols' commutation, said he was drawn to the case by the ordinariness of his client's life.

"He could be my brother, your son, my father or a nephew. He went to school, got good grades, played on a football team, was a responsible parent. He made one egregious mistake.

"DeJarion was not a big enough criminal to get out of jail. He had nothing to leverage. If he had been more deeply involved and had been willing, he could have



DeJarion Echols, serving 20 years for a crack conviction; is pictured here with his fiancée Crystal Garcia and his daughters, Faith, 3 and Charity, 10

squealed and gotten good deal."

Righting Wrongs

In 2007 supporters of federal sentencing reform got encouraging news. The U.S. Sentencing Commission, which maintains federal sentencing guidelines created by Congress, lowered the sentencing ranges for crack cocaine offenses by two levels. The change affects 70 percent of crack cocaine cases sentenced in federal courts, reducing sentences by an average of 15 months. The Commission also made the law retroactive, which meant release for some people in prison at the time.

Those fighting for changes in mandatory minimums hope the 2007 change proves to Congress it can make laws retroactive without political fallout. Said Stewart of FAMM, "There are a number of bills in the works, including legislation that would fix the crack disparity, as well as a broader

bill that would give judges increased discretion to avoid the mandatory minimum".

Among the most important pieces of drug-related legislation is a House bill that will abolish the disparity in sentencing between crack and powder cocaine. For the first time in decades, legislation could make drug laws fairer.

FAMM is fighting for any change to be retroactive, so it could affect people like Hasan and Echols. But so far Congress has not taken a position on the issue. Without mandatory minimums, both Hasan and Echols probably would have paid for their mistakes by now and would be ordinary citizens taking care of their families.

Both have continued their education in prison and have exemplary records while incarcerated. But unless sentencing laws change or Hasan and Echols receives presidential clemency, they will sit in

prison for many more years. "As a nation we should not incarcerate people beyond what is necessary..." said Steward, president of FAMM. "We are a nation that believes in second chances and forgiveness, but those qualities seem to be overlooked when we talk about the incarcerated."

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A young Alex McDuffie is selling subscriptions for The Carolina Times. He is helped in this endeavor by his grandfather and "number 2" James McDuffie. The elder McDuffie is using Alex's business to introduce him to the benefits of becoming an entrepreneur.

You may see him out in his neighborhood and surrounding areas. Young Alex does not drive, we're told he has a "chauffeur" named James McDuffie.

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