

Sentence Smarter, Not Harder

Sarah Larson
Staff Writer

There is no statistic that better represents the severity of America's criminal justice system: with 5 percent of the world's population, the United States has 25 percent of the world's prisoners. Such a high number leads us to wonder if it is possible to reduce crime without imprisoning 1 in 100 Americans. A significant proportion of the increase is due to mandatory minimum sentences. Mandatory minimums strip judges of their discretion and take a "tough on crime" approach that is ineffective, expensive, and unjust.

Common law traditionally provided judges with discretion over sentencing. The individual circumstances of cases were taken into account, and punishments were designed to fit the crime.

This all began to change in the 1960s, when growing community concern about sentencing disparities fueled calls for a more standardized system. By the mid 1980s, a concerted effort by lawmakers had culminated in the Sentencing Reform Act of 1984. Combined with several other measures, this act created a standardized system of sentencing that attempted to resolve the supposed "problem" of judicial autonomy. Over time, the number of crimes subject to mandatory minimum sentencing skyrocketed. The result has been a neutering of the judiciary and an explosion in unnecessary imprisonment.

Today, the United States incarcerates 2.3 million people. That is more than any other country on both a total and per capita basis. Forty percent of these offenders have violated a statute that requires a mandatory minimum sentence longer than ten years.

Amongst the crimes specifically targeted in 1984 were drug offences, with the Armed Career Criminal Act and the Anti-Drug Abuse Act requiring mandatory sentences for crimes regardless of the circumstances. These bills have led to the conviction of many individuals who pose little or no threat to society. They are victims of the Drug War, convicted of nonviolent crimes and put behind bars because of mandatory minimums.

Mandatory minimums have perverse effects on the judicial system, coming into play at arbitrary points. In the case of cocaine possession, for example, if someone is caught with 4.9 grams, he or she receives a relatively short sentence. However, if caught with 5.0 grams, the defendant is sentenced to half a decade in federal prison. These illogical standards, coupled with the fact that 97 percent of federal convictions and 94 percent of state convictions are the result of guilty pleas, renders the expertise of the judiciary worthless.

In its place, aggressive prosecutors act with the discretion that the laws were designed to stamp out. The only role left for judges is to rubberstamp the sentence.

One egregious example of a judge having no choice but to implement a mandatory minimum sentence was in the case of Weldon Angelos. Forced to sentence the father of three to 55 years in prison for the distribution of marijuana, Judge Paul Cassell described the sentence as "unjust, cruel and even irrational."

The social and economic costs of mandatory minimums also place an undue financial burden on the taxpayer. The financial cost of imprisoning each individual amounted to \$30,000 per year in 2010. When coupled with loss of the economic productivity that a person might otherwise generate, it

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Monday, September 29

Publius Society

Discussion on ISIS

4:00 p.m. | Sadove Conference Room

seems impossible to make the case that the economic benefit of mandatory minimums exceeds the costs. Unfortunately, this is far from the most serious harm.

Even after having served their sentence, felons have significantly reduced job prospects and are excluded from many welfare benefits, public housing, and the ability to vote. As a result three-quarters of felons are rearrested within five years of their release. However, the harm extends beyond the felon. In 2000, there were an estimated 2.1 million American children with incarcerated fathers. If we are serious about reinstating family values, reforming the judicial system is a good place to start.

These policies are particularly harmful to minority communities. Despite being no more likely to use drugs than white men, young black men are far more likely to be imprisoned for drug use. This is in large part because of mandatory minimum sentences. They have helped create an incarceration rate for black Americans which Michelle Alexander, bestselling author of *The New Jim Crow*, has described as "exceed[ing] that of South Africa under Apartheid."

Restoring sentencing power to judges requires eliminating mandatory minimums for nonviolent drug offenders. Hopefully, allowing judges to appropriately sentence offenders for the crime will result in fewer long-term convictions, a lower recidivism rate, more focus on rehabilitation, and more savings of taxpayer money.

Eric Cantor & The New Revolving Door

Devin White | *Guest Contributor*

After an astonishing defeat in June's Republican primary, Eric Cantor found himself out of a job. This September, Cantor, the former House Majority Leader from Virginia's 7th District, finally landed a new gig: on Wall Street.

One of President Obama's fiercest critics, Cantor, long beheld as a dear friend to the financial industry, has found his way to the small boutique firm Moelis & Co. His new position as Vice-Chairman and Managing Director comes

with hefty compensation, something to the tune of \$3.4 million over the next year. While some view Cantor's move as "cashing in," Wall Street has a long history of attracting former Washington officials, but few have made the move to a firm like Moelis.

In the past five years big investment banks have deconstructed their trading business, causing Wall Street to see a surge in the power and influence of small boutique investment banks. Firms specializing in mergers & acquisitions attract impressive clientele with the promise of individualized attention at the highest level. As they bite off

bigger chunks of market share from big banks, these small boutiques are increasing their stature and presence at a shattering rate. One can see why Cantor chose Moelis.

Since the early 80s, Wall Street has been a premier destination for former Washington officials. Most recently, former Treasury Secretary Tim Geithner joined the less known Warburg Pincus, a private equity house that manages \$35 billion in assets. Perhaps the most infamous and successful example of this “revolving door” effect is former Senator Phil Gramm. In 1999, Gramm co-authored the Gramm-Leach-Bliley Act, overturning the Glass-Steagall Act, making it legal for commercial banks to merge with investment banks. The Swiss Bank UBS famously hired Gramm in 2003. Tasked with beefing up the bank’s lobbying presence, Gramm played an influential role during his time with the firm.

Cantor’s move to Moelis makes for an interesting insight into the newest trend in finance. Whereas hedge funds and private equity houses used to be the ex-Washington hangout, small investment banks are now regularly drawing high-profile former statesmen through their doors. It’s no secret why. In 2006, boutique M&A firms accounted for just 9% of U.S. advisory revenues. In 2013, it increased to upwards of 20%. Boutique bankers experience less regulation and serious increases in compensation. The most recent data shows that the average salary increase for a banker at a large bulge bracket firm was 3%. Bankers at boutique firms averaged 14%. With fewer employees, CEOs like Ken Moelis find it inexpensive to lock down top Washington talent, while the rewards of Cantor’s services run high.

As Vice-Chairmen and Managing Director, Cantor will

be a huge draw for new clientele. His experience on Capitol Hill and his near-youthful exuberance should fit in nicely with Moelis’s ambition. Cantor will continue to live in Virginia, opening up a new branch of Moelis in Alexandria, offering clients backstage access to DC heavyweights. His connections with politicians, lobbyists, and fundraisers on both sides of the aisle are seldom matched in the realm of boutique banking.

Although Cantor admits he has “a lot to learn,” he and his wife are no strangers to the financial services industry. Before his time in Congress, Cantor ran his family’s real estate business. Cantor’s wife, Diana, served as Managing Director of New York Private Bank & Trust, a Vice President at Goldman Sachs, and is currently a partner at Alternative Investment Management, LLC.

Looking past Moelis, there is widespread speculation that Cantor would consider a run for the Virginia governorship in 2017. While he maintains that he is “focused on the task at hand,” referring to his new gig at Moelis, it would be unsurprising if Cantor were to re-enter politics in the future. Over his thirteen-year tenure in the House, Cantor made it clear that he knew how to lead. On the one hand, his experience and confidence in the political arena make it hard to say “that’s it” for Cantor’s political career. On the other hand, there is the matter of money. As a Congressman, Cantor made about \$174,000 annually before taxes. As governor, he would more than likely make less. This author can think of 3.4 million reasons why Cantor might be on Wall Street for good.

Net Neutrality: A Case for Government Intervention

Andrew Nachemson
Staff Writer

A recent court case struck down the FCC’s authority to enforce net neutrality, renewing concerns over the future of internet access. Most of us have probably been asking ourselves, “what impact will this have on Internet freedom?” “What exactly is net neutrality?” and, of course, “as a good libertarian how do I feel about net neutrality and the recent court ruling?”

Net neutrality is the principle that Internet service providers and governments should treat all data on the Internet equally, not discriminating against certain content or charging different rates to provide different types of content. Without net neutrality, Internet providers could charge their customers more money to access particular data or slow down sites at will. Besides being inconvenient, this is especially problematic because it gives Internet providers the ability to use this power to sabotage their competitors. For example, the Internet provider Comcast could charge users an additional fee to access Netflix, making Comcast’s own streaming service, Streampix, more appealing.

For years, the FCC has mandated that Internet providers offer customers service that adheres to the principles of net neutrality. But in January 2014, during the case of *Verizon v. Federal Communications Commission*, a judge

ruled that the FCC does not have the authority to make this demand.

Initially, from a libertarian perspective, it would seem that ending government-regulated net neutrality is a good thing. Less government involvement means more freedom for corporations and businesses to provide the services consumers want. Consumers theoretically still have the right to choose which companies they do business with, and ideally these decisions will have some sort of impact on the services provided. If there is a high enough demand for an Internet provider that supplies services that stay true to the concept of net neutrality (and there certainly would be), then one of the providers would take advantage of it. The free market would solve our problem, preserving net neutrality without the need for government intervention and without awarding the FCC undue influence.

Unfortunately, this is not the reality that most consumers would face. In most areas of the country, one or two companies have a monopoly or a substantial market share in providing Internet services. Most people in America don’t actually have a choice of which company to use. The most alarming thing about this situation is the fact that Comcast’s and Time Warner’s monopolies are actually government granted and therefore aren’t disappearing any time soon.

The obvious solution would be to recognize that these monopolies are harmful enemies to the free market and stifle competition. The government can and should correct this market failure, but they probably won’t. Until consumers actually have a choice in who provides their Internet, the government has a responsibility to protect consumer interests. Essentially, we are dependent on the government to preserve net neutrality to protect us from corporations that only have excessive power because of the government.

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