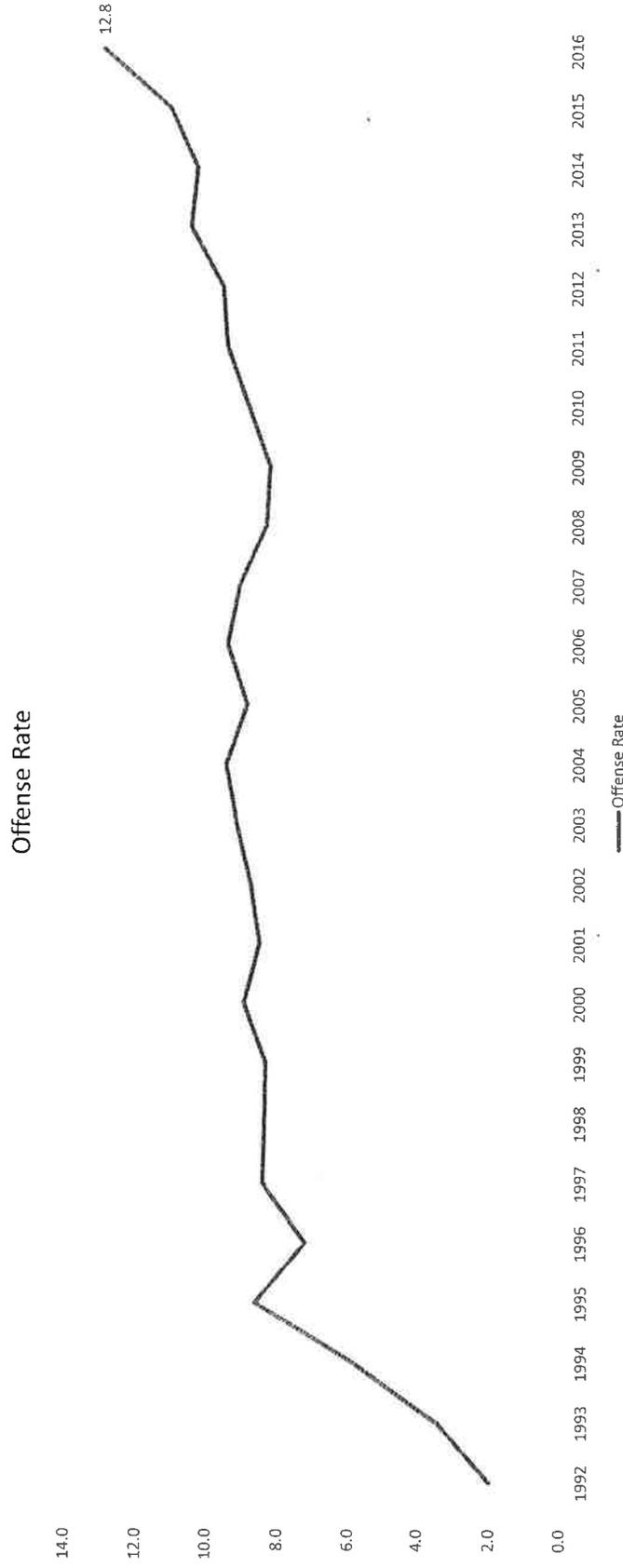


Crimes with Discretionary vs. Mandatory Sentencing

Crimes with mandatory minimums >90 days	Examples of Crimes with discretionary sentencing
First Degree Murder Repeated sexual abuse of a child Aggravated DUI causing grievous bodily harm Drug Trafficking	Arson Aggravated Battery Aggravated Assault Aircraft Hijacking Assault with Intent to Commit Murder Cannibalism Child Enticement Counterfeiting Domestic Battery Assault or Battery Against Law Enforcement Burglary Grand Theft False Imprisonment Forcible Sexual Penetration by Use of Foreign Object Forgery Indecent Exposure Injury to Child Insurance Fraud Human Trafficking Kidnapping Lewd and Lascivious Contact with Minor Child Malicious Harassment Malicious Injury to Property Manslaughter – Voluntary, Involuntary, Vehicular Mayhem Money Laundering Perjury Poisoning Possession of Sexually Exploitive Material Prostitution Racketeering Rape Rioting Robbery Receiving Stolen Property Second Degree Murder Sexual Abuse of Minor Child – first offense Stalking Terrorism Threats Against State Officials Unlawful Use of a Destructive Device

Idaho Rate for Drug Violation and Equipment Offenses: 1992-2016



Source: Idaho State Police, Crime in Idaho report.
Note: * rates for 1992 and 1993 are just partial years.

Since the early 1990s, the offense rates for drug crimes have increased 640%. Since 2008, the drug crime rate has increased by 60%.

Why warehouse low-risk drug offenders?

By Jim Jones

I'll be the first to admit that it was a mistake to support mandatory minimum sentences for drug traffickers during my tenure as Idaho Attorney General in the 1980s. Most observers have come to realize that long mandatory sentences are not appropriate for every offender. Legislatively mandated sentences tie the hands of judges who are best positioned to tailor the appropriate punishment for the crimes committed by a particular defendant. And, while they do not reduce recidivism, they do needlessly inflict damage on the families of low-risk offenders. In 2014, Idaho adopted the Justice Reinvestment Act to provide for earlier release of low-level offenders, to ensure their success by providing them greater supervision, to reduce the number of repeat offenders, and to reduce the cost of Idaho's prison program. The legislation had broad-based support and holds out great promise for success.

Throughout the 1980s, there was a perception that judges were not being tough enough on high-volume drug traffickers. It was thought that requiring judges to impose mandatory minimum sentences would keep these big fish off of the streets and reduce the drug problem. In 1992, the Legislature enacted legislation to require minimum sentences for persons in possession of certain quantities of illicit drugs, with longer sentences for larger amounts. The mandatory sentences were based solely on the quantity of drugs the person had. It has not worked so well. The drug problem has gotten worse and many people who were simply users, and not a substantial danger to society, have taken up prison space and taxpayer dollars for no good purpose. The longer such people stay in prison, the harder it is to keep them from re-offending.

Having observed the judicial system from the inside for twelve years, I believe that our trial court judges have a good feel for who deserves to be incarcerated for a long stretch and who shows promise for staying out of further trouble. Our judges take into account who is before them and whether they pose a societal risk, rather than just the weight of the drugs they had in their control. That is how justice is served. It is not served by a one-size-fits-all system of sentencing where a set of scales determines the length of the prison term.

The court system has worked hard to educate judges as to the correct balance between incarceration and rehabilitation. Judges share information about sentencing for various offenses throughout the state to bring about a certain amount of uniformity. The judicial system has developed drug courts to help lower-level offenders get free of drugs and put their lives back on track. These are the measures that can reduce recidivism,

salvage those who can be rehabilitated, and keep families together. Mandatory sentences do not. My 1980s mindset was wrong, as was the 1992 legislation.

Last year, Representatives Ilana Rubel and Christy Perry introduced legislation to eliminate the mandatory minimum sentences in the 1992 statute. Their bill retained the maximum sentences for drug trafficking but left the length of the sentence up to the judge, who can set a minimum prison term of his or her choosing. That legislation will come up again this year and people should urge their legislators to support it.

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR COUNTY OF BANNOCK

--000--

STATE OF IDAHO,

Plaintiff,

vs.

LOGAN FINN JOYCE,

Defendant.

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|
|
| Case No.
| CR-2016-4600-EE
|
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|

The above-entitled matter came on for hearing on
the dates and times indicated herein at the Bannock
County Courthouse, Pocatello, Idaho.

ESTORE: The Honorable ROBERT C. NAYTE, Presiding

APPEARANCES:

For the Plaintiff:

STEPHEN E. HERZOG
BANNOCK COUNTY PROSECUTOR
EACHARY PARRIS
Chief Deputy Prosecutor
P.O. Box 8
Pocatello, Idaho 83205

For the Defendant:

BENCHAWK LAW OFFICES
Attorneys at Law
PAUL BENCHAWK
P.O. Box 6119
Pocatello, Idaho 83205-6119

WILLIS LAW OFFICE
Cofounder Public Defender
R. BRADLEY WILLIS
1402 S. First Avenue
Pocatello, Idaho 83205

1 reason I shouldn't proceed to sentencing.

2 THE DEFENDANT: No, Your Honor.

3 THE COURT: Well, all, this is

4 a binding Rule 11 agreement, but I still have
5 to tell you, you have forty-two days in which to
6 appeal any sentence the Court imposes here.

7 I have carefully reviewed the
8 presentence investigation report, the binding
9 nature of the Rule 11 agreement, and your prior
10 criminal record and the facts and circumstances
11 of this case, and, certainly, had to consider
12 protection of society, punishment, deterrence,
13 and rehabilitation in your case.

14 So I guess for a couple of minutes here
15 I get to get up on my soapbox and tell you what
16 I think about all of this and give you my
17 impressions. Doesn't mean I'm not going to go
18 along with the Rule 11 agreement, but I'm just
19 like to make a record of this, okay?

20 So I'm signing off on this Rule 11
21 agreement. It's not because I think it's fair
22 and not because I think this is an equitable
23 result. I'm doing it because I know your
24 attorneys and Ms. Price worked very hard with
25 Judge Diaz to reach an agreement that would keep

1 you from having to spend twice the amount of time
2 incarcerated.

3 I'm not a fan of mandatory sentences.
4 As Mr. Eshchak has pointed out, I know you would
5 have faced a far greater mandatory minimum if you
6 had gone to trial and lost in this case. I really
7 do think you're an example of why mandatory
8 sentences should be abolished by the legislature
9 and sentencing discretion be placed back in the
10 hands of the judge.

11 This is not a one-sentence-fits-all
12 world. It requires the common sense of judges
13 who can carefully weigh the mitigating and
14 aggravating factors to impose sentences that best
15 protect society, punish, deter, and
16 rehabilitate, but until that changes, this is
17 what we're left with.

18 So I'm going to go ahead and go along
19 with this Rule 11 agreement as it has been stated
20 by counsel here. So in case number 2016-6931,
21 that's the Conspiracy to Violate the Uniform
22 Controlled Substances Act, I'm going to follow
23 the Rule 11 agreement and impose a five-year
24 fixed sentence.

25 It will run concurrently with

1 case number 2016-5600. I will give you credit
2 for ninety-six days.

3 I'm going to impose restitution of
4 \$4,250. I'm going to impose additional restitution
5 of \$300 for Forensic Services, and \$122.50 for the
6 costs of prosecution -- the remaining \$903.07.
7 I'm taking into consideration that I have to
8 impose an additional mandatory fine in the next
9 case, so I'm not going to order any additional
10 restitution for the investigation.

11 I am going to require that you pay
12 court costs in this case, and reimburse Danneek
13 County \$750 for partial cost of your attorney
14 for Mr. Willis.

15 So in case number 2016-5600, that's
16 the Trafficking in Heroin, I'm going to, again,
17 go along with the mandatory Rule 11 agreement
18 here. I'm going to impose a fixed sentence of
19 seven years, that will be followed by an
20 indeterminate sentence of six years, and, again,
21 it will run concurrent with case number
22 2016-6931.

23 The restitution has already been
24 indicated. It will be ordered. I am going to
25 require that you pay court costs in this matter.

1 and the Court has to impose a mandatory minimum
2 \$10,000 fine. Again, I'm going give you
3 ninety-six days of credit for time served.

4 So, Mr. Joyce, I appreciate your
5 request to be able to not report until Wednesday.
6 I gave you the opportunity to spend some quality
7 time especially with your father over spring break
8 period.

9 You have done well, but, unfortunately,
10 it's just time to go ahead and start the
11 sentence.

12 Move forward and get this behind you.
13 I think you'll be very successful in life. I know
14 your parents, and your own particularly, have
15 some concerns about your prospects when you get
16 out, but you're a very intelligent young man.
17 You have the ability to do a lot with your life.
18 I know this can sometimes be a weight around
19 your neck, but I think you, of all people, can
20 overcome that and be able to move on with life
21 and be successful. I truly believe in my
22 heart that you can do that.

23 But for mandatory sentences, this would
24 have been a different outcome. All right. I'll
25 just let you know that right now, but I think we

1 need to go ahead and just move forward and let
2 you start your sentence and get this over with
3 okay?

4 So I'm going to remind you to the
5 custody of the Sheriff, to be delivered to the
6 Department of Corrections to serve the sentence,
7 and I do wish you the very best of luck. I hope
8 that it's not just serving time for you. I hope
9 you can be productive and find some meaning to all
10 of this and reason, okay?

11 So good luck to you. You'll need to
12 go with the deputy later, okay?

13 THE DEFENDANT: Thank you, Your Honor.

14 THE COURT: Anything else, gentlemen?

15 MR. FERGUSON: No, Your Honor.

16 MR. WILLIS: No, Your Honor.

17 THE COURT: Anything else, Mr. Farris?

18 MR. FARRIS: No, thank you, Your Honor.

19 THE COURT: All right. Thank you very
20 much, sir.

21 All right. Gentlemen, you can be
22 excused.

23 Do you have a question?

24 MR. WILLIS: He was just wondering if
25 he could say goodbye to his family?

1 IN THE DISTRICT COURT OF THE FIRST
 2 JUDICIAL DISTRICT OF THE STATE OF IDAHO
 IN AND FOR THE COUNTY OF BONNER
 3 BEFORE THE HONORABLE STEVE VERBY, DISTRICT JUDGE

4 STATE OF IDAHO,)
)
 5 PLAINTIFF,)
)
 VS.)
 6)
 7 WILFRED DECHEPPE,)
)
 DEFENDANT.)
 8 _____)

CASE NO. CR-2011-2809

ORIGINAL

11 REPORTER'S TRANSCRIPT OF PROCEEDINGS

12 FEBRUARY 2, 2012

13 SENTENCING

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1 THE COURT: Any rebuttal, Mr. Powell?

2 MR. POWELL: No, your Honor.

3 THE COURT: Mr. Dechenne, is there
4 anything you'd like to say on your own behalf?

5 THE DEFENDANT: Um, your Honor, I would
6 like to say in the court of law and my family,
7 I'm extremely sorry for putting myself in this
8 position, to leave you guys and leave you where
9 you are going to be without me.

10 I apologize from the bottom of my heart.
11 I apologize to the State and County of Idaho,
12 Bonner County, for breaking the law and
13 being -- just breaking the law. I am truly
14 sorry. That's all.

15 THE COURT: On one occasion, I had the son
16 of a state legislator who was in court charged
17 with the same offense that you are. He came to
18 the witness stand and testified and talked
19 about what a good person his son was and how
20 the punishment should be reduced.

21 I was surprised that he, as a state
22 legislator, who I'm fairly certain voted for
23 mandatory minimums for drug offenses, did not
24 understand the consequences of a mandatory
25 minimum.

1 So, Mr. Dechenne, for your information, as
2 I'm sure your attorney has explained to you,
3 and for the benefit of your family, I don't
4 have any choice. The legislature has said,
5 regardless of what kind of a person that
6 individual is, regardless of their good works,
7 regardless of what should be done under the
8 circumstances, regardless of the fact that use
9 of certain illicit drugs becomes an addiction
10 of which the person is powerless to control,
11 regardless of the fact that there are other
12 methods of dealing with this type of addiction,
13 the legislature has said, Judge, thou shalt put
14 people in prison, regardless of what you want
15 to do and regardless of what should be done.
16 And I have no control. I cannot give you less
17 than two years mandatory minimum.

18 THE DEFENDANT: I understand.

19 THE COURT: In this case, I am going to
20 order court costs in the amount of \$265.50, a
21 mandatory minimum fine in the amount of
22 \$10,000. I have ordered restitution and signed
23 the order of restitution.

24 The next question is -- first, I do have
25 to ask Mr. Powell a question on your behalf.

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IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT
IN AND FOR THE STATE OF IDAHO

STATE OF IDAHO,)	
)	
Plaintiff,)	
)	Case No.
vs.)	CR-2016-5673-PE
)	
)	
SHARON BERNAL-VALADEZ,)	
)	
Defendant.)	

The above-entitled matter came on for hearing on the dates and times indicated herein at the BANNOCK COUNTY COURTHOUSE, Pocatello, Idaho.

BEFORE: The Honorable STEPHEN S. DUNN, SIXTH JUDICIAL DISTRICT JUDGE, Presiding.

A P P E A R A N C E S

For the Plaintiff:

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For the Defendant:

CRAIG W. PARRISH
PARRISH LAW FIRM
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Pocatello, Idaho 83205

REPORTED BY: SHERI L. NOTHELPHIM, RPR, CSR NO. 995

1 strange that he didn't accept his charges, because he
2 knew we didn't have any money. And i thought it was
3 messed up to me, because I really loved him.

4 And I lost my job. I have a lot of debt. And
5 because everything that we would get, he would put it
6 under my name because I had papers. And, well, now I'm
7 here. And that's it.

8 THE COURT: All right.

9 Ms. Valadez, I have no reason -- I have no
10 knowledge that would cause me not to accept as true the
11 statements that have been made by the attorneys today
12 and the statements that are included in the presentence
13 report.

14 The reality here is that you do not have a
15 criminal history. There's no prior crime of any kind in
16 your record. Your LSI is very low. But it's also a
17 reality that you got caught up in a situation that is
18 very difficult and hard and criminal. We're talking
19 about a quantity of heroin over 126 grams of heroin.
20 That's a lot of heroin. And you got caught up in that.

21 And I don't doubt what I'm being told about the
22 abusive relationship and the coercion that may have been
23 involved in that. But your attorney's right in the
24 sense that if you had gone to trial instead, because of
25 the quantity that was on your person, I don't know

1 whether a jury would have accepted that as an excuse or
2 not. There's no way anyone could really predict that.
3 I just don't know.

4 They might have said no, we're not buying that.
5 And if they found you guilty, you'd be going to prison
6 for 15 years. And so I understand the reasons that led
7 to you entering this plea.

8 If you were not pleading -- and I'm not
9 challenging anybody's decision in terms of the
10 negotiations here. But if you were not pleading, to a
11 trafficking charge that carries a minimum sentence, I
12 would put you on probation. I want you to understand
13 that. Under these circumstances I would do that, even
14 in this particular situation.

15 The other co-defendant, whose case I mediated,
16 has agreed to a mandatory minimum for seven years. He's
17 going to go to prison for at least seven years, and he's

18 only 24 years old. You're only 20.

19 These are difficult and troubling
20 circumstances, and I understand that. But I have to
21 sentence the case that I have. And I have to sentence
22 you on the charge that you've pled guilty to. And I
23 understand why you did what you did. I get that. But
24 it is the case that I have to sentence. Do you
25 understand me?