



RESEARCH AND ADVOCACY FOR REFORM

## **2008 Presidential Candidates' Platforms on Criminal Justice**

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This analysis was prepared by staff of The Sentencing Project with research assistance by Diana Wong. The Sentencing Project is a national non-profit organization engaged in research and advocacy on criminal justice policy issues.

The Sentencing Project is a nonpartisan public policy organization that does not support or oppose the candidacy of any candidate for public office. This document is designed to make the public better aware of the candidates' positions on criminal justice policy, an issue that has received relatively little attention in the current political debate. Voters should learn all they can about the candidates on a range of issues and should not rely on any single source of information before making their decision.

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**2008 Leading Presidential Candidates' Platforms on Criminal Justice Policy**

	<b>Hillary Clinton</b>	<b>Barack Obama</b>	<b>John McCain</b>
<b>Mandatory minimum sentences</b>	Believes mandatory sentences for certain violent crimes are appropriate, but have been applied too broadly and in ways that are unfair to minority offenders.	Proposed abolishing mandatory minimum sentences; promises to review all minimum sentences and eliminate those that are too harsh.	Supports mandatory sentences for selling illegal drugs.
<b>"Three-strikes-and-you're-out" law</b>	Supports "three-strikes" as necessary to incapacitate violent offenders.	Has not explicitly addressed "three-strikes," but generally opposes harsh mandatory sentences.	
<b>Approach to "War on Drugs"</b>	Supports drug courts for low-level offenders. Believes focus should be on treatment.	Supports drug courts for first-time, non-violent offenders. Believes focus should be on prevention and unemployment.	Supports mandatory sentences for drug dealers, but believes that too many first-time drug offenders - not dealers - are in prison.
<b>Crack/powder cocaine disparity</b>	Previously supported decreasing disparity to 10-to-1, but is now co-sponsor of Senate equalization bill. Opposed to guideline changes being applied retroactively.	Supports eliminating disparity and applying guideline changes retroactively. Co-sponsor of Senate equalization bill.	
<b>Death penalty</b>	Supports death penalty, but advocates for competent defense counsel and DNA testing.  Lobbied for law expanding list of crimes subject to death penalty.	Initially opposed death penalty during Senate race, but now supports it for heinous crimes.  Led support for reforms to avoid wrongful convictions.	Supports death penalty.
<b>Disproportionate minority representation in criminal justice system</b>	Intends to have the Civil Rights Division in the Department of Justice protect liberties and act on reports of abuse in criminal justice system.  Supports legislation on racial profiling.	Believes disproportionality is related to poverty and unemployment among minorities.  Promoted fair defense by passing Illinois bill requiring videotaping of interrogations and confessions in capital cases.	Opposed the Racial Justice Act, which proposed enabling prisoners to demonstrate racial discrimination using sentencing statistics in death sentence appeals.
<b>Ex-offender re-entry into communities</b>	Calls for investing in re-entry partnership grants in her Youth Opportunity Agenda.  Co-sponsored Second Chance Act to provide counseling and job opportunities for ex-offenders.  Supports programs that teach non-violent offenders skills while they are in prison.	Co-sponsored Second Chance Act to provide counseling and job opportunities for ex-offenders.  Promises to create a prison-to-work incentive program to improve ex-offender employment and job retention rates.	Supports programs that provide job-related skills and job-placement assistance when prisoners are released.
<b>Felony disenfranchisement</b>	Supports re-enfranchisement. Lead sponsor of the Count Every Vote Act to restore voting rights of ex-felons after they have repaid debt to society.	Supports re-enfranchisement. Cosponsored the Count Every Vote Act.	
<b>Parole</b>			Supports "truth in sentencing" for violent offenders so that they serve full sentences with no chance of parole.

## HILLARY CLINTON

### Mandatory minimum sentences

- “I think there is a role for mandatory minimums for violent crimes, but we have applied them far too broadly and in ways that are simply unfair to minority offenders. We need to punish illegal conduct without imposing unfair penalties that are simply out of balance with the crime. That’s why the Clinton administration created a safety valve to give judges discretion for non-violent, first-time offenders. In addition to things like the safety valve, I’ve supported drug courts as a way to help non-violent offenders get back on the right path while confronting the consequences of their actions. We also need to eliminate the disparity between sentencing for crack and for powder cocaine violations.”

*NAACP 2008 Presidential Candidate Civil Rights Questionnaire*  
([http://www.naacp.org/news/press/2008-02-01/RESPONSES.Clinton\\_Obama.pdf](http://www.naacp.org/news/press/2008-02-01/RESPONSES.Clinton_Obama.pdf))

- “We have to go after mandatory minimums. You know, mandatory sentences for certain violent crimes may be appropriate, but it has been too widely used. And it is using now a discriminatory impact.”

*Democratic Primary Debate at Howard University, June 28, 2007*  
([http://www.cfr.org/publication/13699/democratic\\_debate\\_transcript\\_washington\\_dc.html](http://www.cfr.org/publication/13699/democratic_debate_transcript_washington_dc.html))

- “Clinton has also questioned Obama's proposal to scrap some of the more than 170 federal mandatory-minimum laws, which require judges to impose specified prison sentences, most commonly for drug crimes.”

*“Where candidates stand on crime, death penalty,” Bob Egelko, San Francisco Chronicle, February 10, 2008*  
(<http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2008/02/10/INU0UTBQK.DTL>)

### “Three-strikes-and-you’re-out” law

- “We need more police, we need more and tougher prison sentences for repeat offenders. The ‘three-strikes-and-you’re-out’ for violent offenders has to be part of the plan. We need more prisons to keep violent offenders for as long as it takes to keep them off the streets.”

*Annual Women in Policing, August 10, 1994*  
([http://www.issues2000.org/Domestic/Hillary\\_Clinton\\_Crime.htm](http://www.issues2000.org/Domestic/Hillary_Clinton_Crime.htm))

### Approach to War on Drugs

- “(W)e need diversion, like drug courts. Non-violent offenders should not be serving hard time in our prisons. They need to be diverted from our prison system.”

*Democratic Primary Debate at Howard University, June 28, 2007*  
([http://www.cfr.org/publication/13699/democratic\\_debate\\_transcript\\_washington\\_dc.html](http://www.cfr.org/publication/13699/democratic_debate_transcript_washington_dc.html))

- “I have spoken out on my belief that we should have drug courts that would serve as alternatives to the traditional criminal justice system for low-level offenders. If the person comes before the court, agrees to stay clean, is subjected to drug tests once a week...they are diverted from the criminal justice system. I also believe that we need more treatment. It is unfair to urge people to kick a habit, get rid of their addiction, and not have the treatment facilities when someone finally makes up their mind to go and get treatment.”

*New York Senate Debate, October 8, 2000*

(<http://transcripts.cnn.com/TRANSCRIPTS/0010/08/se.01.html>)

### **Crack/powder cocaine disparity**

- “I believe we’ve got to decrease the disparity that exists. It is really unconscionable that someone who uses five grams of crack cocaine compared to 500 grams of powder cocaine would face such disparate sentencing. And it’s further compounded because the possession of crack cocaine really is unique in the way that it leads directly to prison for so many people. So I am going to tackle the disparity. I think it definitely needs to be prospective on principle. I have problems with retroactivity. I think that it’s something that a lot of communities will be concerned about as well so let’s tackle this disparity, let’s take it on. The Sentencing Commission hasn’t come forward yet with its specific recommendation but I’m looking forward to seeing it.”

*Iowa Brown and Black Presidential Forum, December 1, 2007* (<http://www.bbpresforum.org/transcript.html>)

- “Senator Clinton responded to my question by saying the laws were ‘unfortunate compromises that really come to symbolize the disparity and treatment and unfairness within the criminal justice sentencing system. So I have been on record a number of years saying that we have to move toward eliminating that disparity.’ That sounded promising until she added, ‘As a matter of practical politics, you might not be able to get from where we are, from 100-to-1 to parity. But we...ought to be able to get to 10-to-1 or something that would move us in the right direction.’”

*“Borrowing Bill’s ‘soul,’” Derrick Jackson, Boston Globe, August 11, 2007*

([http://www.boston.com/news/globe/editorial\\_opinion/oped/articles/2007/08/11/borrowing\\_bills\\_soul/](http://www.boston.com/news/globe/editorial_opinion/oped/articles/2007/08/11/borrowing_bills_soul/))

- Co-sponsor of S.1711, legislation to equalize penalties for crack cocaine and powder cocaine.

(<http://thomas.loc.gov/cgi-bin/bdquery/z?d110:SN01711:@@@P>)

### **Death penalty**

- “I think that if the death penalty exists in our society, it is critical that we make sure that those convicted receive a full and fair defense with access to all the latest scientific technology. I have cosponsored bills that would use DNA testing to help ensure justice is served and innocent people are spared.”

*NAACP 2008 Presidential Candidate Civil Rights Questionnaire*

([http://www.naacp.org/news/press/2008-02-01/RESPONSES.Clinton\\_Obama.pdf](http://www.naacp.org/news/press/2008-02-01/RESPONSES.Clinton_Obama.pdf))

- “And yet politicians rarely live in the narrow ideological boxes we like to create for them, and Hillary Clinton was probably never as dogmatic as her most ardent critics and supporters insisted she was... (s)he strongly lobbied liberal members of Congress to support her husband's crime bill, which expanded the federal death penalty.”

*“Mrs. Triangulation,” Matt Bai, New York Times, October 2, 2005*

(<http://www.nytimes.com/2005/10/02/magazine/02hillary.html?ei=5088&en=0b3a8a88f60a41e1&ex=1285905600&partner=rssnyt&emc=rss&pagewanted=print>)

### **Disproportionate minority representation in criminal justice system**

- “Tragically, in America, unequal access to competent representation and the unequal application of prosecutorial discretion are real threats to equal justice under the law. That is why I intend to have a Civil Rights Division of the DOJ that vigorously protects the civil rights of all our citizens and thoroughly investigates and acts on reports of abuse in the criminal justice system.”

*NAACP 2008 Presidential Candidate Civil Rights Questionnaire*

([http://www.naacp.org/news/press/2008-02-01/RESPONSES.Clinton\\_Obama.pdf](http://www.naacp.org/news/press/2008-02-01/RESPONSES.Clinton_Obama.pdf))

- “In order to tackle this (disproportionate minority representation) problem, we have to do all of these things. Number one, we do have to go after racial profiling. I’ve supported legislation to try to tackle that. Number two, we have to go after mandatory minimums. You know, mandatory sentences for certain violent crimes may be appropriate, but it has been too widely used. And it is using now a discriminatory impact. Three, we need diversion, like drug courts. Non-violent offenders should not be serving hard time in our prisons. They need to be diverted from our prison system. We need to make sure that we do deal with the distinction between crack and powder cocaine. And ultimately we need an attorney general and a system of justice that truly does treat people equally, and that has not happened under this administration.”

*Democratic Primary Debate at Howard University, June 28, 2007*

([http://www.cfr.org/publication/13699/democratic\\_debate\\_transcript\\_washington\\_dc.html](http://www.cfr.org/publication/13699/democratic_debate_transcript_washington_dc.html))

### **Ex-offender re-entry into communities**

- “Right now, we offer too little support to people when they leave prison, and what is offered comes piecemeal and uncoordinated... I co-sponsored the Second Chance Act, which makes a real investment in programs to help ex-offenders return to their communities. And as part of my Youth Opportunity Agenda I’ve called for investing \$200 million in Reentry Partnership Grants to give these ex-offenders a second chance. These grants will challenge local communities to bring all stakeholders to the table – including businesses, social service providers, law enforcement, unions, educational and religious organizations – and develop comprehensive plans to address the needs of people who come out of prison. I would also support programs that teach non-violent offenders skills while they are in prison. If we can make ex-offenders productive members of the community, we will all benefit.”

*NAACP 2008 Presidential Candidate Civil Rights Questionnaire*

([http://www.naacp.org/news/press/2008-02-01/RESPONSES.Clinton\\_Obama.pdf](http://www.naacp.org/news/press/2008-02-01/RESPONSES.Clinton_Obama.pdf))

## Felony disenfranchisement

- “I have written the Count Every Vote Act, which seeks to redeem a right that is fundamental to our democracy – the right to vote. And I’m proud that one of the many provisions of the Count Every Vote Act restores voting rights for ex-felons who have repaid their debt to society.”

*NAACP 2008 Presidential Candidate Civil Rights Questionnaire*  
([http://www.naacp.org/news/press/2008-02-01/RESPONSES.Clinton\\_Obama.pdf](http://www.naacp.org/news/press/2008-02-01/RESPONSES.Clinton_Obama.pdf))

## BARACK OBAMA

### Mandatory minimum sentences

- “A RAND study found that mandatory minimum sentences are less effective than discretionary sentencing and drug treatment in reducing drug-related crime, and every leading expert body in criminal justice has opposed the use of mandatory minimum sentences... I will immediately review these sentences to see where we can be smarter on crime and reduce the ineffective warehousing of nonviolent drug offenders.”

*NAACP 2008 Presidential Candidate Civil Rights Questionnaire ([http://www.naacp.org/news/press/2008-02-01/RESPONSES.Clinton\\_Obama.pdf](http://www.naacp.org/news/press/2008-02-01/RESPONSES.Clinton_Obama.pdf))*

- “In an October 2003 NAACP debate, Mr. Obama said he would ‘vote to abolish’ mandatory minimum sentences. ‘The mandatory minimums take too much discretion away from judges,’ he said. Mr. Obama now says on his Web site, [www.barackobama.com](http://www.barackobama.com), that he would ‘immediately review sentences to see where we can be smarter on crime and reduce the ineffective warehousing of nonviolent drug offenders.’”

*“Obama ’04 at odds with Obama ’08,” Jen Haberkorn, Washington Times, February 1, 2008 (<http://www.washingtontimes.com/apps/pbcs.dll/article?AID=/20080201/NATION/43529865/1001>)*

- “Clinton has also questioned Obama's proposal to scrap some of the more than 170 federal mandatory-minimum laws, which require judges to impose specified prison sentences, most commonly for drug crimes.”

*“Where candidates stand on crime, death penalty,” Bob Egelko, San Francisco Chronicle, February 10, 2008 (<http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2008/02/10/INU0UTBQK.DTL>)*

### Approach to War on Drugs

- “Obama will give first-time, non-violent offenders a chance to serve their sentence, where appropriate, in the type of drug rehabilitation programs that have proven to work better than a prison term in changing bad behavior.”

*(<http://www.barackobama.com/issues/civilrights/#drug-courts>)*

- “We need to tackle the nexus of unemployment and crime in the inner city. The conventional wisdom is that most unemployed inner-city men could find jobs if they really wanted to work; that they inevitably prefer drug dealing, with its attendant risks but potential profits, to the low-paying jobs that their lack of skill warrants. In fact, economists who've studied the issue – and the young men whose fates are at stake – will tell you that the costs and benefits of the street life don't match the popular mythology: At the bottom or even the middle ranks of the industry, drug dealing is a minimum-wage affair. For many inner-city men, what prevents gainful employment is not simply the absence of motivation to get off the streets but the absence of a job history or any marketable skills – and, increasingly, the stigma of a prison record. We can assume that with lawful work available for young men now in the drug trade, crime in any community would drop.”

*Book, The Audacity of Hope ([www.ontheissues.org/2008/Barack\\_Obama\\_Drugs.htm](http://www.ontheissues.org/2008/Barack_Obama_Drugs.htm))*

### Crack/powder cocaine disparity

- “When the Sentencing Commission voted in November to lower sentencing guidelines for crack-related crimes, and bring them closer to sentences for powder cocaine, Obama favored applying the new terms retroactively to current prisoners... Noting that the laws mostly affect minorities and have had many critics, including the late Supreme Court Chief Justice William Rehnquist, Obama has attacked them as unfair to defendants and unduly restrictive on judges, but he has stopped short of calling for a wholesale repeal. Instead, he promises to review all mandatory minimums and try to eliminate those he considers too harsh.”

*“Where candidates stand on crime, death penalty,” Bob Egelko, San Francisco Chronicle, February 10, 2008*  
(<http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2008/02/10/INU0UTBQK.DTL>)

- “Obama believes the disparity between sentencing crack and powder-based cocaine is wrong and should be completely eliminated.”

(<http://www.barackobama.com/issues/civilrights/>)

### Death penalty

- “I led efforts to reform a broken death penalty system that sent 13 innocent people to death row because it was filled with error, questionable police tactics, racial bias, and shoddy legal work. I drafted and passed a law requiring videotaping of interrogations and confessions in capital cases to ensure that prosecutions are fair. As president, I will encourage the states to adopt similar reforms. I also support efforts to ensure that capital defendants receive quality counsel.”

*NAACP 2008 Presidential Candidate Civil Rights Questionnaire* ([http://www.naacp.org/news/press/2008-02-01/RESPONSES.Clinton\\_Obama.pdf](http://www.naacp.org/news/press/2008-02-01/RESPONSES.Clinton_Obama.pdf))

- “Obama's most significant contribution has been his legislative battles against the death penalty, and against the criminal justice system. In Illinois, it's been a series of shocking exonerations of innocent people who are on death row. He was involved very intimately in drafting and passing legislation that requires the video taping of police interrogations and confessions in all capital cases. And he also was one of the co-sponsors of this very comprehensive reform of the death penalty system in Illinois, which many people say may trigger the retreat on the death penalty in many other states.”

*“Barack Obama: A look at the 2004 DNC keynote speakers who could become one of the only black senators in U.S. history,” Democracy Now, July 15, 2004*  
([http://www.democracynow.org/2004/7/15/barack\\_obama\\_a\\_look\\_at\\_the](http://www.democracynow.org/2004/7/15/barack_obama_a_look_at_the))

- “When Barack Obama first ran for the Illinois state Senate in 1996, he said in a campaign questionnaire that he opposed capital punishment. . . . By the time Obama ran for the U.S. Senate in 2004, he was not advocating abolition of the death penalty, but was saying the system of investigating and prosecuting capital crimes was so flawed that the nation should declare a moratorium on executions, like the one imposed in Illinois by Republican Governor George Ryan. Obama has abandoned that position as a senator, accepts the death penalty for the most heinous crimes, and calls for reforms like those he championed in Illinois to guard against wrongful convictions, such as the tape-recording of all police interrogations.”

*“Where candidates stand on crime, death penalty,” Bob Egelko, San Francisco Chronicle, February 10, 2008*  
(<http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2008/02/10/INU0UTBQK.DTL>)

### **Disproportionate minority representation in criminal justice system**

- “The criminal justice system is not color blind. It does not work for all people equally, and that is why it’s critical to have a president who sends a signal that we are going to have a system of justice that is not just us, but is everybody. And – you know, this is something that I’ve got a track record working on at the state level, where a lot of the criminal justice issues come up.”

*Democratic Primary Debate at Howard University, June 28, 2007*  
([http://www.cfr.org/publication/13699/democratic\\_debate\\_transcript\\_washington\\_dc.html](http://www.cfr.org/publication/13699/democratic_debate_transcript_washington_dc.html))

- “And I also think there’s a broader issue, though, here, and this is going to be true on all the issues we talk about – the problems of poverty, lack of health care, these are – lack of educational opportunity – are all interconnected. And to some degree, the African-American community is weakened. It has a disease to its immune system. When we are impoverished, when people don’t have jobs, they are more likely to be afflicted not just with AIDS but with substance abuse problems, with guns in the streets.

*Democratic Primary Debate at Howard University, June 28, 2007*  
([http://www.cfr.org/publication/13699/democratic\\_debate\\_transcript\\_washington\\_dc.html](http://www.cfr.org/publication/13699/democratic_debate_transcript_washington_dc.html))

- “As a member of the Illinois state senate, I led efforts to reform a broken death penalty system that sent thirteen innocent people to death row because it was filled with error, questionable police tactics, racial bias, and shoddy legal work. I drafted and passed a law requiring videotaping of interrogations and confessions in capital cases to ensure that prosecutions are fair.”

*NAACP 2008 Presidential Candidate Civil Rights Questionnaire* ([http://www.naacp.org/news/press/2008-02-01/RESPONSES.Clinton\\_Obama.pdf](http://www.naacp.org/news/press/2008-02-01/RESPONSES.Clinton_Obama.pdf))

### Ex-offender re-entry into communities

- “In the U.S. Senate, I cosponsored the Second Chance Act and have worked to provide job training, substance abuse and mental health counseling, and employment opportunities to ex-offenders. I will create a prison-to-work incentive program, modeled on the Welfare-to-Work Partnership, to create ties with employers, third-party agencies that provide training and support services to ex-offenders, and to improve ex-offender employment and job retention rates. I will also reduce bureaucratic barriers at state correctional systems that prevent former inmates from finding and maintaining employment. As a state senator, I fought for and passed legislation to provide ex-offenders with expanded mental health counseling and remove barriers that prevent non-violent offenders from finding and maintaining employment.”

*NAACP 2008 Presidential Candidate Civil Rights Questionnaire ([http://www.naacp.org/news/press/2008-02-01/RESPONSES.Clinton\\_Obama.pdf](http://www.naacp.org/news/press/2008-02-01/RESPONSES.Clinton_Obama.pdf))*

### Felony disenfranchisement

- “I support restoration of voting rights for ex-offenders. I am a cosponsor of the Count Every Vote Act, and would sign that legislation into law as president.”

*NAACP 2008 Presidential Candidate Civil Rights Questionnaire ([http://www.naacp.org/news/press/2008-02-01/RESPONSES.Clinton\\_Obama.pdf](http://www.naacp.org/news/press/2008-02-01/RESPONSES.Clinton_Obama.pdf))*

## JOHN MCCAIN

### Mandatory minimum sentences

- “Indicate which principles you support (if any) to address crime.
  - Support mandatory jail sentences for selling illegal drugs.”

*Congressional Election 2004 National Political Awareness Test*  
([http://votesmart.org/npat.php?can\\_id=S0061103#623](http://votesmart.org/npat.php?can_id=S0061103#623))

### Approach to “War on Drugs”

- “Now I will agree with you to this extent, that too often we put first time drug users in prison. In my home state of Arizona we have a program that puts first time drug offenders, not dealers but first time drug offenders, that they have the eligibility on rehab programs that is associated with very significant testing procedures. And if they successfully complete that rehabilitation course, then they are allowed to move forward with their lives. We have too many first time drug offenders in prison.”

*Town hall meeting at Franklin Pierce College, November 17, 2007*  
([http://www.classicalvalues.com/archives/2007/12/leaping\\_on\\_mcca.html](http://www.classicalvalues.com/archives/2007/12/leaping_on_mcca.html))

### Death penalty

- “Indicate which principles you support (if any) to address crime.
  - Support the use of the death penalty for federal crimes.”

*Congressional Election 2004 National Political Awareness Test*  
([http://votesmart.org/npat.php?can\\_id=S0061103#623](http://votesmart.org/npat.php?can_id=S0061103#623))

### Disproportionate minority representation in criminal justice system

- Voted “Yes” on rejecting the Racial Justice Act provisions in the Omnibus Crime bill (H.R.3355), which would have enabled prisoners appealing death penalty sentences to argue racial discrimination using sentencing statistics as part of their appeal.

*Bill S1935, May 11, 1994* ([http://www.ontheissues.org/2008/John\\_McCain\\_Crime.htm](http://www.ontheissues.org/2008/John_McCain_Crime.htm))

### Ex-offender re-entry into communities

- “Indicate which principles you support (if any) to address crime.
  - Support programs to provide prison inmates with vocational and job-related skills and job-placement assistance when released.”

*Congressional Election 2004 National Political Awareness Test*  
([http://votesmart.org/npat.php?can\\_id=S0061103#623](http://votesmart.org/npat.php?can_id=S0061103#623))

**Parole**

- “Indicate which principles you support (if any) to address crime.
  - Support “truth in sentencing” for violent criminals so they serve full sentences with no chance of parole.”

*Congressional Election 2004 National Political Awareness Test*  
([http://votesmart.org/npat.php?can\\_id=S0061103#623](http://votesmart.org/npat.php?can_id=S0061103#623))



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