- *Disparate Effects.* A significant percentage of individuals sentenced under these laws are African Americans or Hispanics involved in street-level drug activity. The increase in the number of women who are incarcerated is attributed to the fact that females find themselves arrested for assisting their husbands or lovers who are involved in the drug trade.

In *Hutto v. Davis*, the U.S. Supreme Court upheld the constitutionality of mandatory minimum state drug laws. The Court reasoned that Hutto's forty-year prison sentence and $20,000 fine was not disproportionate to his conviction on two counts of possession with intent to distribute and the distribution of a total of nine ounces of marijuana with a street value of roughly $200. The Court held that the determination of the proper sentence for this offense was a matter that was appropriately determined by the Virginia legislature (*Hutto v. Davis,* 454 U.S. 370 [1982]).

A number of judges complain about mandatory minimum sentences. In 2012, now retired federal district court judge John Gleeson stated in *United States v. Dossie* that mandatory minimum sentences were intended to be used against high-level drug "masterminds" and "managers" and that prosecutors were abusing the law by asking judges to impose these harsh mandatory minimum sentences on low-level street dealers. Dossie was convicted as an "intermediary in four hand-to-hand crack sales, for which he made a total of about $140." Prosecutors asked for a "harsh" mandatory sentence because two of the sales were slightly beyond the twenty-eight-gram limit. Judge Gleeson explained that his "hands were tied" and that he was compelled to impose an "unjust" five-year prison term on Dossie. "Just as baseball is a game of inches," Judge Gleeson complained, "our drug-offense mandatory minimum provisions create a deadly serious game of grams" (*United States v. Dossie,* 851 F. Supp. 2d 478 [E.D.N.Y. 2012]).

President Obama indicated his concern for mandatory minimum sentences for drug offenses when in December 2013 he commuted the sentences of eight federal prisoners convicted of crack cocaine offenses. All of these individuals had served at least fifteen years in prison; six were sentenced to life imprisonment. The defendants had been sentenced under the hundred-to-one sentencing disparity between powder and crack cocaine, and President Obama noted that the inmates would have received significantly shorter sentences under current reformed drug laws and already would have completed their sentences. Clarence Aaron, for example, was sentenced to three life terms for a drug crime committed when he was twenty-two years old. Stephanie George received a life sentence in 1997 at age twenty-seven based on allowing her boyfriend to store crack in a box in her home.[54]

The Obama administration and states such as Texas, New York, Colorado, Michigan, and Arkansas have taken important steps to minimize the impact of mandatory minimum sentences on low-level, nonviolent drug offenders and on other nonviolent offenders. For example, in April 2014, Attorney General Eric Holder announced Clemency Project 2014 providing that nonviolent, low-level incarcerated felons who had served at least ten years and would have received a lesser sentence under current reformed federal laws would be considered for clemency. The primary beneficiaries are the roughly eight thousand drug offenders sentenced before Congress's 2010 reform of the punishment for crack cocaine offenses. President Obama has granted clemency to hundreds of federal offenders, most of whom were incarcerated for low-level, nonviolent narcotics offenses,[55] including a significant number in the last year of his presidency.[56]

What do you think about the argument that mandatory minimum sentences are so disproportionate and impose such hardship that jurors should refuse to convict defendants charged with quantities of narcotics carrying mandatory minimum sentences?[57]