

U.S. Attorney's Report to the District

Over the last three decades, the federal prison population has grown by 800%. Federal prisons are currently operating at 40% above capacity. The cost of incarcerating inmates, which is relatively fixed and difficult to cut, is consuming an increasing proportion of the budget of the U.S. Department of Justice each year, crowding out funding for other law enforcement needs. In an era of budgetary constraints, finding ways to reduce those costs makes sense.

Beyond budgetary considerations, however, it is right to ask whether all of those person-years of incarceration are actually promoting fairness and public safety. A significant percentage of federal inmates are serving long prison sentences for non-violent drug offenses, a product of mandatory minimum sentencing laws which require sentences of at least five or ten years in prison depending on the amount of narcotics involved in the offense of conviction, even for relatively low-level actors.

Last month, after a Department of Justice review intended to identify ways to more fairly and cost-effectively enforce federal criminal laws, Attorney General Eric Holder announced a set of reforms called the "Smart on Crime" initiative. Components of the initiative include directives to U.S. Attorneys to focus on the enforcement of federal enforcement priorities, particularly violent crimes; national efforts to reduce recidivism by former inmates; and an expansion of the Bureau of Prisons' authority to seek court orders granting early release on compassionate grounds for certain prisoners, such as elderly or seriously ill inmates who do not pose a danger to others. The initiative also included a new policy that would allow prosecutors to seek less lengthy sentences for certain low-level, non-violent narcotics defendants.

The new policy, which permits federal prosecutors not to trigger mandatory minimum sentences based on drug quantities as to certain defendants, does not apply to defendants who use violence or possess firearms, who supervise others within a criminal organization, who have significant ties to gangs or large-scale drug trafficking organizations, or who have significant criminal histories. As to those low-level defendants who are within the scope of the new policy, prosecutors will have more discretion in making appropriate sentencing recommendations, and judges will have more discretion in sentencing. Those sentenced to prison will still be required by law to serve at least 85% of their time in custody.

We welcome the new policy on declining to charge low-level, non-violent narcotics defendants with mandatory minimum sentences. In some cases, for example those involving drug couriers without serious criminal histories, it will lead to fairer results based on the facts and circumstances of the individual defendants. Because we prosecute relatively few low-level narcotics defendants in this district, however, the new policy is likely to affect only a small percentage of our defendants. Most of the trafficking in large quantities of methamphetamine, cocaine, marijuana, and heroin in the Eastern District of California is controlled by violent gangs and drug trafficking organizations, many with ties to Mexican crime groups. Accordingly, we devote our limited resources primarily to the prosecution of more significant drug traffickers. For those defendants, public safety requires lengthy incarceration.

If you would like to communicate with our office, contact the main number in Sacramento, or submit a suggestion by clicking on the button below. Thank you.

United States Attorney

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