

Sessions: Federal Prosecutors Will Seek the Harshest Punishments Possible

Attorney General Jeff Sessions has directed all 96 U.S. attorneys to take a tougher stand on crime.

In his memorandum establishing new charging and sentencing policies for the Department of Justice, he effectively reversed the Obama administration's policy of leniency in sentencing for federal offenses. He issued a very brief statement about the new policy:

"This policy was formulated after extensive consultation with assistant U.S. attorneys at both the trial and appellate level, as well as U.S. attorneys and main Department of Justice attorneys. It ensures that the Department enforces the law fairly and consistently, advances public safety and promotes respect for our legal system."

Sessions was expected to give more in-depth comments about the new policy later in the day. The memorandum sent to federal prosecutors states:

Our responsibility is to fulfill our role in a way that accords with the law, advances public safety and promotes respect for our legal system. It is of the utmost importance to enforce the law fairly and consistently. Charging and sentencing recommendations are crucial responsibilities for any federal prosecutor. The directives I am setting forth below are simple but important. They place great confidence in our prosecutors and supervisors to apply them in a thoughtful and disciplined manner, with the goal of achieving just and consistent results in federal cases.

First, it is a core principle that prosecutors should charge

and pursue the most serious, readily provable offense. This policy affirms our responsibility to enforce the law, is moral and just, and produces consistency. This policy fully utilizes the tools Congress has given us. By definition, the most serious offenses are those that carry the most substantial guidelines sentence, including mandatory minimum sentences.

There will be circumstances in which good judgment would lead a prosecutor to conclude that a strict application of the above charging policy is not warranted. In that case, prosecutors should carefully consider whether an exception may be justified. Consistent with longstanding Department of Justice policy, any decision to vary from the policy must be approved by a United States attorney or assistant attorney general, or a supervisor designated by the United States attorney or assistant attorney general, and the reasons must be documented in the file.

Second, prosecutors must disclose to the sentencing court all facts that impact the sentencing guidelines or mandatory minimum sentences, and should in all cases seek a reasonable sentence under the factors in 18 U.S.C. § 3553. In most cases, recommending a sentence within the advisory guideline range will be appropriate. Recommendations for sentencing departures or variances require supervisory approval, and the reasoning must be documented in the file.

Any inconsistent previous policy of the Department of Justice relating to these matters is rescinded, effective today.

Each United States attorney and assistant attorney general is responsible for ensuring that this policy is followed, and that any deviations from the core principle are justified by unusual facts.

I have directed the deputy attorney general to oversee

implementation of this policy and to issue any clarification and guidance he deems appropriate for its just and consistent application.

Working with integrity and professionalism, attorneys who implement this policy will meet the high standards required of the Department of Justice for charging and sentencing.

Effectively, the new policy curtails prosecutorial discretion when it comes to recommending sentencing. This tougher stance on crime, however, will come at a price—literally—for taxpayers.

It would logically suggest federal incarcerations will be more frequent and for longer duration. It also suggests there will be more cases that litigated, rather than plea-bargained, since prosecutors will have less discretion to do so. {eoa}