



## Prosecutors say Sessions' severe penalties order "unnecessary and unfortunate"

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A week after U.S. Attorney General Jeff Sessions told federal prosecutors to "charge and pursue the most serious, readily provable offense" and follow mandatory minimum sentencing guidelines, a bipartisan group of prosecutors at the state and local level is expressing concern.

Thirty current and former state and local prosecutors have signed an open letter, which was released Friday by the nonprofit Fair and Just Prosecution. The prosecutors say that even though they do not have to answer Sessions' call, the U.S. Attorney General's directive "marks an unnecessary and unfortunate return to past 'tough on crime' practices" that will do more harm than good in their communities.

"What you're seeing in this letter is a different wind of change that's blowing through the criminal justice field," said Miriam Krinsky, a former federal prosecutor and executive director of Fair and Just Prosecution, a national network working with newly elected prosecutors.

"There does seem at the federal level to be a return to the tough-on-crime, seek-the-maximum-sentence, charge-and-pursue-whatever-you-can-prove approach," Krinsky said. But, she added, at a local level, some believe "there are costs that flow from prosecuting and sentencing and incarcerating anyone and everyone who crosses the line of the law, and we need to be more selective and smarter in how we promote both the safety and the health of our communities."

Signers of the letter include Los Angeles City Attorney Mike Feuer, Manhattan District Attorney Cyrus R. Vance Jr., and Karl Racine, attorney general of the District of Columbia.

The prosecutors say that there are no real benefits to Sessions' May 10 directive, but they noted "significant costs."

The letter states:

"The increased use of mandatory minimum sentences will necessarily expand the federal prison population and inflate federal spending on incarceration. There is a human cost as well. Instead of providing people who commit low-level drug offenses or who are struggling with mental illness with treatment, support and rehabilitation programs, the policy will subject them to decades of incarceration. In essence, the Attorney General has reinvigorated the failed 'war on drugs,' which is why groups ranging from the American Civil Liberties Union to the Cato Institute to Right on Crime have all criticized the newly announced policy."

“It’s an interesting issue because the attorney general of the United States has no power over local prosecutors, so his directive doesn’t impact my work,” Deschutes County, Ore., District Attorney John Hummel said in an interview. “I thought it was important to tell the people in Deschutes County that this policy doesn’t bind me but I still disagree with it.”

Hummel, who is not affiliated with a political party, said the directive still will have an impact on his community, in that there are people in his jurisdiction who will be charged with federal crimes and prosecuted by the United States Attorney’s Office for the District of Oregon.

“If the United States Attorney for the District of Oregon is now going to be seeking a sentence that is as tough as possible with incarceration as opposed to seeking a sentence that is most likely to result in this person not committing a new crime, well that person is going to be more likely to commit a new crime in Deschutes County when he comes home,” Hummel said. “So this policy is going to make Deschutes County less safe under the guise of ‘tough on crime.’ So when I see that happening, it is relevant to Deschutes County.”

The signers say the purpose of the letter is to make it clear not all those in the justice system share Sessions’ view.

“It’s a national message because all of us signed it. But I wanted to say, ‘Hey, that’s not how we do things in King County,’ ” Daniel Satterberg, prosecuting attorney in King County, Wash., said about the letter. Satterberg said he is now nonpartisan but that he has been elected three times as a Republican. “We consider the facts of the case and the law, and come up with what I think is a pretty thoughtful approximation of justice . . . and it doesn’t always mean seeking the maximum charge and the maximum length of time.”

Racine, D, the attorney general of D.C., said Sessions’ policy is “a return to the nonsensical days of tough-on-crime rhetoric as opposed to evidence-based policy.”

Racine and 14 other attorneys general signed another open letter Thursday, urging Sessions to rescind the order calling for mandatory minimums from federal prosecutors.

“A broad, bipartisan consensus exists that ‘tough-on-crime’ approaches like mandatory minimum sentences for nonviolent, low-level offenses have not made our nation or our cities safer,” they wrote. “Simultaneously, there is strong evidence that contact with the justice system exacerbates the likelihood that a low-level offender will go on to commit more serious crimes. One-size-fits-all sentencing has, at best, a questionable deterrent effect.”

Larry Leiser, president of the National Association of Assistant United States Attorneys, which supports Sessions’ order, said the tough sentencing practice, which was put in place in the 1980s and reaffirmed by U.S. attorneys general several times since, establishes consistency among all federal prosecutors. “Consistency is the hallmark of justice,” Leiser said.

In 2013, then-Attorney General Eric Holder put an end to the longtime approach, saying such penalties should be reserved for “serious, high-level, or violent drug traffickers.”

“So what you have here is Sessions really going back to the long-standing practice of the Department of Justice,” Leiser said. “I think the vast majority of around the country are glad we’re back to the practice that served us so very well for so many years starting in 1981.”

But John Chisholm, D, district attorney in Milwaukee County, Wis., said certain approaches, such as mandatory minimums, did not accomplish what they intended.

“I’m just a firm believer in people using judgment and discretion in every case and that includes judges,” he said. “The approach has not been demonstrated to be particularly effective and I don’t think it enhances public safety – and in some ways, it takes us backwards instead of moving us forward.”