



Cal AG, Others Push Back against DOJ's Harsh New Sentencing Guidelines

David Greenwald

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This week California Attorney General Xavier Becerra joined District of Columbia Attorney General Karl A. Racine and attorneys general from 13 other states in calling for U.S. Attorney General Jeff Sessions to rescind harsh new instructions for Department of Justice (DOJ) prosecutors.

The AGs believe these policies “would make our communities less safe.” The AGs also requested a meeting with Mr. Sessions to discuss smarter, data-driven approaches to criminal justice policy.

“I am deeply troubled by Attorney General Sessions’ decision to pursue ‘the most serious’ penalties in all cases,” said Attorney General Becerra. “We’ve been down that rigid path before and know it doesn’t make sense. In fact, we’ve seen the damage it can do, especially to young men of color, who are locked up at disproportionate rates. I will work hard with law enforcement leaders in California to ensure that we employ proven policies and the best practices to keep our people safe. Californians deserve to know that we’ve got their backs.”

“There is simply no evidence to support the notion that these kinds of tough-on-crime guidelines are effective at anything other than ballooning prison populations and budgets,” DC Attorney General Karl Racine said. “We are urging Attorney General Sessions not to turn back the clock, but rather to look to a bipartisan consensus in support of smart policies associated with reductions in prison populations, declining crime rates, and lower costs to government.”

Last week, Attorney General Jeff Sessions sent a memorandum to all federal prosecutors calling on them to “charge and pursue the most serious, readily provable offense” and follow “mandatory minimum sentences.”

Thirty current and former state and local prosecutors have called the Attorney General’s directive “an unnecessary and unfortunate return to past ‘tough on crime’ practices that we now know simply don’t enhance or promote the safety of our communities.”

They write, “There is no empirical evidence to suggest that increases in sentences, particularly for low-level offenses, decrease the crime rate. Instead, we know that in many instances contact with the justice system exacerbates the likelihood of future criminal conduct and that the deterrent effect of long-term prison sentences is questionable at best.

“Although there are no certain benefits to the newly announced policy, there are definitive and significant costs,” they write. “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,” they continue.

In essence, they write, “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.”

In the letter that Xavier Becerra signed onto, they write, “While this policy may seem on the surface to be tough on crime, there is strong data suggesting that it is neither smart on crime nor fair on justice.

“A broad, bipartisan consensus exists that ‘tough-on-crime’ approaches like mandatory minimum sentences for non-violent, low-level offenses have not made our nation or our cities safer. 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,” they write.

Instead, they push for smart, data-driven approaches to law enforcement which include sentencing practices and rehabilitation programs for low-level offenders that “have worked in several states.”

The AGs write, “Beyond being unsound, policies that fail to provide individualized sentencing are also unjust and unfair in application. Mass incarceration produced by such policies has imposed massive social costs on communities and families, and that cost has fallen disproportionately on people of color. The federal prison population has increased by a third in the last decade alone.”

They conclude, “There is a strong and bipartisan national consensus that undifferentiated sentencing practices, like those reflected in the new DOJ policy announced last week, do not increase public safety and that they run contrary to basic principles of equal justice and sound fiscal policy.”

The ACLU says Attorney General Jeff Sessions is “repeating a failed experiment” by encouraging prosecutors to pursue tougher charges against most suspects.

Udi Ofer, director of the organization’s Campaign for Smart Justice, said, “Jeff Sessions is pushing federal prosecutors to reverse progress and repeat a failed experiment — the War on

Drugs — that has devastated the lives and rights of millions of Americans, ripping apart families and communities and setting millions, particularly Black people and other people of color, on a vicious cycle of incarceration.

“With overall crime rates at historic lows, it is clear that this type of one-dimensional criminal justice system that directs prosecutors to give unnecessarily long and unfairly harsh sentences to people whose behavior does not call for it did not work. It failed for 40 years, and from the halls of state legislatures to the ballot box, the American people have said with a clear voice that they want commonsense reforms to sentencing policy, and not a return to the draconian policies that have already cost us too much.”