

U.S. Attorney's Report to the District

Sentencing Reform

Sentencing reform is an issue that has gathered bipartisan momentum in recent years. Our country incarcerates people at a rate much higher than most other industrialized countries. This should not be surprising, since levels of violent crime are generally higher here. But sentences for narcotics-related offenses in the United States have traditionally been particularly severe. As a result, large numbers of young men, particularly men of color, are serving long sentences in state and federal prisons for nonviolent narcotics offenses. In the federal system, mandatory minimum sentences, which applied to most defendants in drug cases unless they had no criminal history or agreed to cooperate with authorities, led to steady growth in the federal prison population. The higher costs associated with more prisoners, increasing skepticism that long drug sentences result in measurably greater public safety, and more attention to issues of disparity and fairness, have all contributed to the gathering impetus for reform. There have been recent legislative reforms, including the Fair Sentencing Act of 2010, which reduced federal sentences in crack cocaine cases. Other sentencing reform legislation has been proposed.

The U.S. Department of Justice, under former Attorney General Eric Holder and current Attorney General Loretta Lynch, has been in the forefront of efforts to increase fairness and efficiency in the sentencing of federal narcotics cases. In 2010, Attorney General Holder replaced prior Department charging policy, which directed prosecutors to charge crimes with the most severe sentences, with a policy calling for an individualized assessment of each defendant. In 2013, he launched the Smart on Crime initiative, which directed prosecutors not to charge or seek minimum mandatory sentences for low-level, non-violent defendants in narcotics cases. The Department also supported the U.S. Sentencing Commission's across-the-board reduction of advisory sentences in narcotics cases, and is implementing the President's Clemency Initiative to reduce sentences for those eligible non-violent offenders who have served over ten years in prison pursuant to federal charging policies which are no longer in effect. Last year, for the first time in memory, the federal prison population declined.

These policy changes have a direct impact on how we handle cases in the Eastern District of California. In prior years, when Congress, the Courts and the Department demanded aggressive prosecution of all federal drug cases, we fulfilled that mission. Now that there is a consensus for a more nuanced, individualized approach, it is our prosecutors who are implementing change. In charging each new narcotics case, we first determine if it should be prosecuted federally, and then evaluate the history and circumstances of each defendant to determine whether we should allege an offense that carries a mandatory minimum sentence. For narcotics cases sentenced in earlier years, two of our most experienced narcotics prosecutors, Jason Hitt and Kathy Servatius, are spending much of their time evaluating defendants to see if they are eligible for retroactive sentence reductions under the recent amendments to the sentencing guidelines in federal drug cases. Since those amendments were announced

by the sentencing commission last year, we have already stipulated to reduce the sentences of over 220 convicted narcotics offenders.

Of course, many defendants convicted in federal narcotics cases are not non-violent. Indeed, because there are very few federal criminal statutes addressing murder, assault, rape and robbery, the broad federal narcotics laws are often used as an effective proxy by federal prosecutors to target violent criminal organizations. A narcotics case generally does not depend on the testimony of a frightened, injured or uncooperative victim. Many of the narcotics defendants charged in this district have long histories of violent behavior, or are associated with gangs and drug trafficking enterprises that thrive on violence and intimidation. Prosecutors in this office, for example, have recently sent over 60 members of the hyper-violent Nuestra Familia criminal enterprise off to long prison sentences, almost all of them on narcotics charges.

The national conversation about sentencing reform in drug cases is an important one. While the Department of Justice has already taken significant steps towards a fairer and more effective system of federal narcotics enforcement, additional reforms are likely, and we stand ready to implement them. But we should not lose sight of the fact that many persons behind bars on federal narcotics charges are there not just because of their drug activity, but because their violent conduct threatened lives in their communities. Protecting public safety remains our highest priority.

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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