

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General



May 18, 2017

Attorney General Jefferson B. Sessions III
United States Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

Dear Attorney General Sessions:

We, the undersigned Attorneys General, write to express our deep concern regarding last week's announcement, in which you directed federal prosecutors to charge all defendants with the most serious criminal offenses that carry the severest penalties. 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. One-size-fits-all sentencing has, at best, a questionable deterrent effect. Moreover, there is ample data demonstrating that “zero-tolerance” charging policies have led to mass incarceration and bloated government budgets.

By contrast, smart, data-driven approaches to criminal justice policy – including well-considered sentencing practices and rehabilitation programs for low-level offenders – have worked in several states. For example, in Georgia this year, Gov. Nathan Deal reported that in the last five years the state had simultaneously improved overall efficiency while enhancing public safety, saving tens of millions of dollars and reducing the state's prison population. Similarly, in Texas between 2007 and 2015, the rate of incarceration in state prisons fell 17 percent and the state closed three correctional facilities – all while the crime rate dropped 27 percent. Policies like this enhance public safety and fiscal responsibility at the same time.

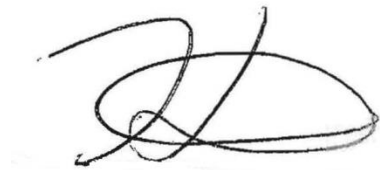
Beyond being unsound, policies that fail to provide individualized sentencing are also unjust and unfair in application. Mass incarceration produced by such policies has imposed massive social costs on communities and families, and that cost has fallen disproportionately on people of color. The federal prison population has increased by a third in the last decade alone. Further, the racial and ethnic composition of inmates incarcerated in the Federal Bureau of Prisons reflects the disproportionate impact of mandatory sentences. Of the nearly 200,000 inmates incarcerated within the federal Bureau of Prisons, 33% are Hispanic and 38% are

African American. Indeed, the United States Sentencing Commission, statutorily a bipartisan body, has unanimously agreed that the federal mandatory minimum sentencing scheme “led to unintended results,” including “unwarranted disparity in sentencing,” and “the current crisis in the federal prison population.”¹

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. Moreover, your announcement comes right as the Trump administration has proposed to cut funding for substance use treatment and for the High Intensity Drug Trafficking Areas program – a critical tool for many localities in targeting drug cartels and reducing drug trafficking. None of this will help keep our communities safe.

For these and other reasons, we hope you will rescind your instructions to federal prosecutors. We request a meeting with you and your deputies to present more evidence and discuss further why we feel it is in everyone’s best interest to be smart and fair about crime.

-Sincerely,

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Karl A. Racine
Attorney General for the District of Columbia

A handwritten signature in blue ink, appearing to be 'Xavier Becerra', written in a cursive style.

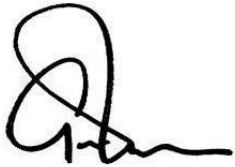
Xavier Becerra, California Attorney General

¹Statement of Judge Patti B. Saris, Chair, United States Sentencing Commission, For the Hearing on “Reevaluating the Effectiveness of Federal Mandatory Minimum Sentences” Before the Committee on the Judiciary, United States Senate (September 18, 2013), available at http://www.ussc.gov/sites/default/files/pdf/news/congressional-testimony-and-reports/submissions/20130918_SJC_Mandatory_Minimums.pdf.

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George Jepsen, Connecticut Attorney General



Douglas Chin, Hawaii Attorney General



Lisa Madigan, Illinois Attorney General



Tom Miller, Iowa Attorney General



Janet T. Mills, Maine Attorney General



Brian E. Frosh, Maryland Attorney General



Maura Healey, Massachusetts Attorney General



Hector Balderas, New Mexico Attorney General

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Eric T. Schneiderman, New York Attorney General

Handwritten signature of Josh Stein in black ink.

Josh Stein, North Carolina Attorney General

Handwritten signature of Ellen F. Rosenblum in blue ink.

Ellen F. Rosenblum, Oregon Attorney General

Handwritten signature of T.J. Donovan in black ink.

T.J. Donovan, Vermont Attorney General

Handwritten signature of Bob Ferguson in blue ink.

Bob Ferguson, Washington State Attorney General