

## **BACKGROUND ON MANDATORY MINIMUM POLICY IN CERTAIN DRUG CASES**

Today, the Department of Justice refined its charging policies regarding mandatory minimums for certain nonviolent, low-level drug offenses. The policy changes are part of the Department of Justice’s “Smart on Crime” initiative, a comprehensive review of the criminal justice system aimed at ensuring federal laws are enforced more fairly, and federal resources are used more efficiently, by focusing on top law enforcement priorities.

Until 2010, federal prosecutors were required to pursue the most serious, readily-provable charges in every case and for every defendant. Recognizing that equal justice depends on individualized justice, Attorney General Holder rescinded that policy in 2010 and now requires prosecutors to make charging decisions in the context of an individualized assessment of the specific circumstances of the case. These assessments take into account numerous factors, such as the defendant’s conduct and criminal history and the circumstances relating to the commission of the offense, the needs of the communities we serve, and federal resources and priorities.

It is with full consideration of these factors that the Attorney General further refined DOJ’s charging policy for certain low-level non-violent drug offenses. The Attorney General has instructed prosecutors to (1) decline to pursue charges that would trigger a mandatory minimum sentence in the case of certain low-level, non-violent drug offenses; (2) in these cases, consider recommending a below-guidelines sentence to the court; and (3) decline to charge an enhancement that would double the sentences of certain second-time drug offenses unless the defendant is involved in conduct that makes the case appropriate for severe cases.

With this policy, DOJ seeks to ensure that the most severe mandatory minimum penalties are reserved for serious, high-level, or violent drug traffickers. In some cases, mandatory minimum and recidivist enhancement statutes have resulted in unduly harsh sentences and perceived or actual disparities that do not reflect the Department’s Principles of Federal Prosecution. Long sentences for low-level, non-violent drug offenses do not promote public safety, deterrence, and rehabilitation. Moreover, rising prison costs have resulted in reduced spending on criminal justice initiatives, including spending on law enforcement agents, prosecutors, and prevention and intervention programs. These reductions in public safety spending require us to make our public safety expenditures smarter and more productive.