**U.S. Department of Justice Orders Tougher Prison Sentences**

**In the News**

The U.S. Department of Justice issued a new criminal charging and sentencing policy on May 12, directing federal prosecutors to pursue the most serious, provable offenses against defendants. According to the guidelines, "serious" crimes are determined by which offenses carry the longest sentences.

The memorandum says it is "a core principle that prosecutors should charge and pursue the most serious, readily provable offense. This policy affirms our responsibility to enforce the law, is moral and just, and produces consistency."

This memorandum rescinds the policy put in place in 2013 that directed prosecutors to avoid bringing drug charges that would carry longer mandatory minimum sentences against certain defendants. Under the former policy, those drug offenders who met a set of criteria including not belonging to a large-scale drug trafficking organization, qualified for lesser charges -- and thus less prison time.

The new directive says there can be exceptions when a prosecutor's "good judgment" determines so, but those exceptions need to be approved by a United States Attorney or Assistant Attorney General and laid out in writing.

Supporters of the directive say it will help reduce crime and drugs in our neighborhoods. One supporter, Georgetown law professor and former U.S. attorney William Otis, said that the memo "amounts to telling prosecutors to charge what the defendant actually did."

Otis predicted that the move "will be attacked by [some] as likely to produce longer sentences." He responded, "That's probably so. However, there is a ready mechanism by which such sentences can be avoided: Mr. Nicey might consider quitting the smack business and getting a normal job like everybody else. I'm just not a partisan of the notion that it's always the public that has to change. Instead, in both practical and moral senses, we'll be better off when we insist that it's the criminal who has to change. We don't need less serious charging. We need less crime."

The directive has the effect of reducing the power of the federal executive branch (President) compared to the legislative branch (Congress) regarding deciding the relative seriousness of illegal actions. Congress is charged by the Constitution with that responsibility. Constitutionally, the executive branch -- including the Justice Department -- is to enforce those laws, not change them.

Previously, the executive branch had essentially changed the relative seriousness of some crimes -- a legislative function -- rather than enforcing them as written, though many people believe it was the right thing to do. While almost everyone recognizes that proper application of the law must take into account the specifics of each individual case, the previous directive established a generalchange independent of individual specifics. This sort of "executive overreach" is a long-standing criticism of the executive branch.

Sen. Rand Paul (R-Ky.), opposes the new directive and labeled it "unfortunate." He, along with other opponents, argues that the policy has already been proven not to reduce crime. They say the resulting long prison sentences for low-level, nonviolent offenders ruin lives and devastate families.

Paul also points out another problem: "Mandatory minimum sentences have unfairly and disproportionately incarcerated too many minorities for too long. [The] new policy will accentuate that injustice. Instead, we should treat our nation's drug epidemic as a health crisis and less as a 'lock 'em up and throw away the key' problem."

Paul maintains that, while surveys indicate that blacks and whites use drugs at similar rates, blacks are four to five times likelier to be convicted for drug possession. Writing on CNN Paul said, "The majority of illegal drug users and dealers nationwide are white, but three-fourths of all people in prison for drug offenses are African-American or Latino."

Paul is the author of a bipartisan bill with Sen. Patrick Leahy (D-Vt.) to change the law on this matter. That legislation would grant judges authority to impose a sentence below a statutory mandatory minimum.

If such a law were passed, then the new directive should have the effect of enforcing the changed laws.

As it stands at present, the directive fits into the larger framework of the DOJ’s promise to crack down on drugs and the Executive Branch’s calls to be tough on crime.

**Mandatory minimums have bipartisan support and opposition, as many struggle with questions of justice and mercy. How can we balance our desire for justice with our Christian obligation to show mercy?**

More on this story can be found at these links:

[AG Sessions Orders Tougher Prison Sentences as the 'Right and Moral Thing to Do.' ABCNews](http://abcnews.go.com/Politics/ag-sessions-orders-tougher-prison-sentences-moral-thing/story?id=47371598" \t "_blank)[Reactions to Sessions' Call for Tougher Sentencing. The Washington Post](https://www.washingtonpost.com/news/the-watch/wp/2017/05/12/reactions-to-sessionss-call-for-tougher-sentencing/?utm_term=.001b28dfcf6c" \t "_blank)[Rand Paul: Sessions' Sentencing Plan Would Ruin Lives. CNN](http://www.cnn.com/2017/05/15/opinions/sessions-is-wrong-rand-paul-opinion/index.html%22%20%5Ct%20%22_blank)

Here are some Bible verses to guide your discussion:

**Leviticus 19:15**
You shall not render an unjust judgment; you shall not be partial to the poor or defer to the great: with justice you shall judge your neighbor. (For context, read 19:1-18.)

Leviticus 19 contains a lengthy list of instructions from God about how to live a holy life, and they are anchored by God's declaration in verse 2: "You shall be holy, for I the LORD your God am holy." Verse 15 above, about judging others without partiality, applies both to relations between neighbors and to the practices of Israel's justice system. Note that God wants no partiality toward the "great," but he also wants no partiality toward the "poor." Indeed, no partiality, period.

**Questions:** Can we justify the dichotomous impartiality of our laws and actions that treat all crimes the same, but disproportionately cause certain groups to be incarcerated?

**James 2:9, 13**
But if you show partiality, you commit sin and are convicted by the law as transgressors. … For judgment will be without mercy to anyone who has shown no mercy; mercy triumphs over judgment. (For context, read 1:1-13.)

The entire context passage for this verse is about the importance to the life of faith of not showing partiality in judgment.

**Questions:** Where does mercy belong, if at all, in our legal system and sentencing guidelines? What about in the unwritten rules of how we practice our faith?

**John 7:24**Do not judge by appearances, but judge with right judgment. (For context, read 7:19-24.)

Jesus made this statement to a crowd in the temple, where the discussion seems aimed at absolutist applications of the law. In calling for right judgment, Jesus is telling his audience to consider the entire circumstances of the one being judged.

**Questions:** What does Jesus' response in verse 24 suggest about our judgment of others?

**Prayer for Courts of Justice (BCP p. 821)**

Almighty God, who sitsin the throne judging right: We
humbly beseech youto bless the courts of justice and the
magistrates in all this land; and give unto them the spirit of
wisdom and understanding, that they may discern the truth,
and impartially administer the law in the fear of you alone;
through him who shall come to be our Judge, your Son our
Savior Jesus Christ. *Amen.*