

## New U.S. drug policy emphasizes treatment over incarceration

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After several decades of taking a "tough on crime" approach to drug policy, U.S. Attorney General Eric Holder recently announced that federal prosecutors will now operate under a new system of "Smart on Crime."

The announcement marked a major shift in policy away from mandatory minimum sentencing guidelines in favor of an individualized approach to prosecution and sentencing of low-level drug offenses. By emphasizing treatment and rehabilitation of people convicted of low-level drug offenses, Holder explained, the new policy will help break the "vicious cycle of poverty, criminality and incarceration," while freeing up resources to address high-level offenders, the Boston Globe reported.

### Massachusetts minimum sentencing laws

Despite the recent shift in federal policy, however, Massachusetts drug sentencing laws still impose harsh minimum sentences for many relatively low-level drug crimes. This means that people convicted of drug crimes in Massachusetts must receive sentences that meet or exceed a predetermined, fixed minimum, even if the judge believes that a less severe sentence would be more appropriate under the specific circumstances of the case.

In contrast, Massachusetts sentencing laws for most other crimes generally establish maximum rather than minimum penalties. This allows judges greater discretion to impose lighter sentences when the facts of the case suggest that it would be appropriate to do so.

### Drug crime sentencing in Massachusetts

Under current Massachusetts law, people convicted of drug crimes often receive lengthy prison

sentences that may seem out of proportion with the specific circumstances of the offense. These sentences typically rely on only a few factors, such as the type and quantity of drugs involved or where the offense took place, without regard to other considerations such as the presence of chemical dependency or addiction issues.

Prison overpopulation has been a persistent and growing problem in Massachusetts for many years. According to the Boston Globe, the percentage of Massachusetts residents in custody has tripled since 1980, fueled in part by mandatory minimum sentencing laws. Since 2004, the prison population has grown by 15 percent, and experts predict that the trend will continue.

Small shifts in policy could signal more ahead

In 2012, Massachusetts lawmakers relaxed the state's drug laws for the first time since the 1980s by reducing the mandatory sentences for certain non-violent drug offenses. That change, while limited in its impact, has been characterized as an important step toward new drug laws that focus more on treatment than on punishment for low-level drug offenses.

For the time being, however, many mandatory sentencing laws remain in effect in Massachusetts, and the penalties for conviction can be severe. To help improve the chances of an optimal outcome when charged with a drug offense in Massachusetts, contact an experienced criminal defense lawyer for help.