



OFFICE OF THE INSPECTOR GENERAL

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DOJ OIG Releases Report on the DOJ's Implementation of Prosecution and Sentencing Reform Principles Under the *Smart on Crime* Initiative

The Department of Justice (DOJ) Office of the Inspector General (OIG) announced today the release of a report assessing the DOJ's implementation of the prosecution and sentencing reform principles under the *Smart on Crime* initiative, as well as the initiative's impact on federal charging policies and practices. Announced in August 2013 by then-Attorney General Eric Holder, the *Smart on Crime* initiative highlighted five principles to reform the federal criminal justice system. The first two principles required the development of district-specific prosecution guidelines; refined the DOJ's charging policies regarding drug quantities that trigger mandatory minimum sentences for certain non-violent, low-level drug offenders; and provided guidance to federal prosecutors on the filing of recidivist sentencing enhancements in drug cases.

In today's report, the DOJ OIG concludes that the DOJ made significant progress implementing these two *Smart on Crime* principles, but also identified several shortcomings in its implementation efforts.

The specific findings in today's report include:

- The DOJ did not revise the U.S. Attorney's Manual, which is the primary guidance document for federal prosecutors, until January 2017, more than 3 years after *Smart on Crime* was launched.
- U.S. Attorney's Offices in 20 districts either provided incomplete information to the OIG as to whether they had updated their local prosecution guidelines or policies in response to *Smart on Crime*, or had district policies that appeared to be inconsistent with then-Attorney General Holder's memoranda on the *Smart on Crime* policy changes. In some districts, the OIG also found a lack of communication between the U.S. Attorney's Office, DOJ law enforcement components, and their local law enforcement partners regarding the *Smart on Crime* policies.
- The DOJ's ability to measure the impact of the first two *Smart on Crime* principles, or any charging policy it seeks to implement, is limited because it does not consistently collect data on charging decisions.

- Based on U.S. Sentencing Commission (USSC) sentencing data from 2010 through 2015, the OIG determined that sentencing outcomes in federal drug cases had shifted in a manner that was consistent with the first two principles of *Smart on Crime*. This was reflected by significantly fewer mandatory minimum sentences and recidivist enhancements being imposed in drug cases nationwide, with a few regional exceptions. However, using USSC data had its limitations because the USSC does not receive or collect data from prosecutors about their charging decisions. This prevented the OIG from assessing charges that prosecutors could have brought, but chose not to bring.

On May 10, 2017, Attorney General Jeff Sessions issued new federal charging policies that rescinded those outlined in the *Smart on Crime* initiative. However, the OIG believes that the lessons learned regarding the DOJ's implementation of this initiative, and the challenges faced in assessing its impact, can be of assistance to the DOJ when seeking to implement future charging policies and practices.

Today's report makes three recommendations to ensure that all federal prosecutors have clear and consistent guidance regarding DOJ charging policies and to enable the DOJ to more accurately measure the effectiveness of its charging policy and practices. The DOJ concurred with two recommendations, but did not expressly concur with the third.

Report: Today's report is available under "Recent Reports" on the OIG's website and at the following link: <https://oig.justice.gov/reports/2017/e1704.pdf>.

Podcast: To accompany today's report, the OIG has released a 6-minute podcast featuring a member of the review team discussing the report's findings. The podcast and a downloadable transcript are available at the following link: <https://oig.justice.gov/multimedia/podcast-06-20-17.htm#top>.