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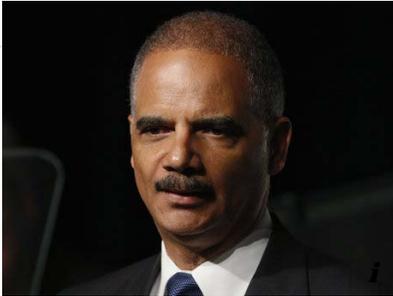
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Report: Threat Of Mandatory Minimums Used To Coerce Guilty Pleas

by CARRIE JOHNSON

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Stephen Lam/Reuters /Landov

A new report says the Justice Department regularly coerces defendants in federal drug cases to plead guilty by threatening them with steep prison sentences or stacking charges to increase their time behind bars.

And for the first time, the study by Human Rights Watch finds that defendants who take their fate to a judge or jury face prison sentences on average 11 years longer than those who plead guilty.

In all, a whopping 97 percent of defendants plead guilty — no surprise, says author Jamie Fellner, given the enormous and essentially unchecked power that federal prosecutors wield.

"As long as there are mandatory minimums, prosecutors dictate the sentences by the charges they bring," Fellner told NPR in an interview.

The issue matters because about half of the people in costly and overcrowded U.S. prisons got there after being charged with and convicted of drug offenses. Even though many of those inmates worked on the ground floor of drug operations, they still serve long prison sentences because of five- and 10-year mandatory terms that Congress breathed into life during the heart of the crack cocaine scare in the 1980s. Prosecutors have the option of adding more charges based on a person's prior offenses, including low-level drug possession cases.

Fellner's interviews with prosecutors, judges and public defenders and her review of sentencing data uncovered dozens of cases where defendants got sent to prison for nearly a half-century for first-time drug offenses.

home	In one such case, the Human Rights Watch report said, Mary Beth Looney refused a plea deal that would have sent her to prison for 17 years for dealing methamphetamines and having guns in her house.
topics	Prosecutors added more charges against her. Ultimately, after trial and conviction, she was sentenced to more than 45 years behind bars. As a federal appeals court noted, mandatory minimum sentences left the trial judge with little discretion but to impose
programs	"effectively a life sentence" on the 53-year-old Texas woman who
donate	had no prior convictions.
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npr shop	For others with a history of small-time drug possession raps, the ability of the Justice Department to stack on those old histories adds up, too. One judge wrote that he was dismayed by the life sentence that prosecutors tried to impose on a defendant for carrying such a small amount of drugs over the course of his criminal history that the substance "would rattle around in a matchbox." But too often, Fellner wrote, judges find their hands are tied by the mandatory sentencing system.
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"To have a judge and a jury relegated to essentially museum pieces, it's not healthy," Fellner said. "It doesn't lead to trust in the results. When you have innocent people tempted and also maybe pleading guilty just to avoid the possibility of a really long sentence, that doesn't give you a whole lot of faith in the integrity of the system."

Updated at 9:30 a.m. ET: DOJ Responds:

Justice Department spokeswoman Ellen Canale said in an email to NPR that "it is critical to ensure the criminal justice system operates fairly in every case, and the Department's charging policies reflect that goal."

She added: "Under the Department's policy, prosecutors are instructed not to file sentencing enhancements unless the defendant is involved in conduct that makes the case appropriate for severe sanctions. This seeks to ensure that these enhancements are reserved for serious, high-level, or violent drug traffickers. The Department agrees that the enhancements should not be used to coerce defendants."

Our original post continues:

In August, Attorney General Eric Holder told federal prosecutors not to hit low-level drug offenders with charges that carry mandatory

home	minimum sentences, part of an effort to reduce U.S. incarceration levels, to reorient the criminal justice system toward violent
topics	criminals, and to become more "smart" on crime. Human Rights Watch says it's too early to say how prosecutors around the country will interpret that broad guidance. There's no apparent remedy if
programs	prosecutors refuse to follow the directive. And Fellner said she already has found some cases where the Justice Department
donate	appeared to do just that.
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npr shop	Fellner said Congress needs to restore discretion to federal judges, by getting rid of mandatory minimums or giving judges more power
sign in / register	to depart from sentencing guidelines based on the facts in an individual case. The Senate Judiciary Committee, led by Chairman Patrick Leahy, D-Vt., will consider some of these options when the Senate returns from recess next week. Fellner said Holder, in the meantime, should bar prosecutors from threatening longer sentences because defendants in drug cases refuse to plead guilty.

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