JUSTICE DEPARTMENT

Harsher sentences could result from guidance weighed by U.S.

By Sadie Gurman and Eric Tucker Associated Press

COVERING BOTH SIDES Obama administration:

Contended that mandatory minimum sentences resulted in thousands of low-level drug offenders crowding federal prisons and driving up costs.

Prosecutors: Say Obama-era guidance weakening mandatory minimums makes it harder to use the threat of lengthy sentences to hammer out plea bargains and ensure the cooperation of drug offenders in winning convictions against top-level dealers.

WASHINGTON — Justice Department officials have been weighing new guidance that could revive harsh mandatory minimum sentences, a reversal of Obama-era policies that aimed to reduce the federal prison population and show more leniency to lower-level drug offenders.

The guidance being considered under Attorney General Jeff Sessions is taking shape in the form of a memo that ultimately will be shared with the nation’s federal prosecutors, but the time-frame for release is unclear. Drafts of the memo have been circulating for weeks and have undergone revisions, so the final language is not yet certain.

A person involved in the discussions, who spoke on condition of anonymity, described a version that, as outlined, would encourage prosecutors to charge people with the most serious, provable offenses — something more likely to trigger the 1990s-era mandatory minimum sentences. Those rules limit a judge’s discretion and are typically dictated, for example, by the quantity of drugs involved in a crime.

Such a policy shift has been expected since Sessions was appointed and is in keeping with his tough-on-crime public posture and repeated statements about running a Justice Department that enforces laws as they’re written. In 2003, Attorney General John
Ashcroft enacted a similar policy that directed prosecutors to “pursue the most serious, readily provable offense in all federal prosecutions.”

Department spokeswoman Sarah Isgur Flores said Sessions has called for a review of all department policies “to focus on keeping Americans safe and will be issuing further guidance and support to our prosecutors executing this priority — including an updated memorandum on charging for all criminal cases.”