



## U.S. Sentencing Commission

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# NEWS RELEASE

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### **SENTENCING COMMISSION ISSUES COMPREHENSIVE REPORT ON THE CONTINUING IMPACT OF *UNITED STATES V. BOOKER* ON FEDERAL SENTENCING**

*Reiterates Recommendations to Congress for Statutory Changes to Strengthen the Guideline System*

WASHINGTON, DC—Today the United States Sentencing Commission submitted to Congress its report assessing the continuing impact on the federal sentencing system of the Supreme Court’s 2005 opinion in *United States v. Booker*, which rendered the sentencing guidelines advisory.

Judge Patti B. Saris, chair of the Commission, stated: “The sentencing guidelines remain the essential starting point for determining all federal sentences and continue to exert significant influence on federal sentencing trends over time. Four out of five sentences imposed are either within the guideline range or below the guideline range at the request of the government. However, there are certain trends the Commission finds troubling, including increased regional and demographic differences.”

The Commission undertook statistical analyses of federal sentencing data spanning a broad time frame, from October 1995 through September 2011, and focused on offenses that comprise over 80 percent of the federal criminal docket (drug trafficking, immigration, fraud, firearms, child pornography, and career offenders). The study shows that sentences for drug trafficking, immigration, and firearms offenses continue to track the guidelines closely, but in recent years sentences for fraud and child pornography offenses have increasingly diverged from the guidelines.

The rate at which courts impose sentences within the applicable guideline range has decreased over the four time periods studied, from a high of 70.1 percent to 53.9 percent during the most recent time period studied. Much of this decrease is attributable to a corresponding increase in below range sentences not requested by the government, from a low of 5.7 percent to 17.4 percent during the most recent time period. These trends were consistent across all offense types studied, but to different degrees depending on the offense. Sentencing data from the last two fiscal years indicates that the rate of below range sentences has plateaued.

The study also reveals increased differences in rates of below range sentences across the nation, ranging from less than ten percent in some districts to more than 40 percent in others during the most recent time period studied. Furthermore, judges within the same district increasingly vary from the guidelines at different rates.

The study shows that prosecutorial practices also contribute to differences in sentencing. For example, certain charging practices vary and prosecutors in more districts are making motions for below range variances from the guidelines.

Judge Saris commented, “The Commission continues to believe that a strong and effective guideline system best serves the purposes of sentencing established by the Sentencing Reform Act of 1984. We look forward to continuing to work with Congress to ensure fair sentences for all federal defendants.” To this end, the Commission reiterated the recommendations it made in October of 2011 to the Committee on the Judiciary of the House of Representatives, suggesting that Congress strengthen appellate review, address the

proper consideration of offender characteristics such as family ties and employment record, and clarify sentencing procedures, including the weight to be given to the sentencing guidelines.

As part of its regular review of the guidelines and in response to feedback from stakeholders in the criminal justice community, the Commission is examining guidelines with high variance rates, such as the child pornography and fraud guidelines, to ensure that the guidelines for those offenses provide proportional and fair sentences.

Congress enacted the Sentencing Reform Act of 1984 ("SRA") to enhance the ability of the criminal justice system to combat crime through an effective, fair sentencing system. The SRA established the Commission as a bipartisan independent agency in the judicial branch of government and directed it to establish sentencing policies and practices for the federal criminal justice system, principally through the promulgation of federal sentencing guidelines. As directed by the SRA, the sentencing guidelines are designed to promote the purposes of sentencing (i.e., just punishment, deterrence, incapacitation, and rehabilitation); provide certainty and fairness in meeting the purposes of sentencing by avoiding unwarranted disparity among offenders with similar characteristics convicted of similar criminal conduct, while permitting sufficient judicial flexibility to take into account relevant aggravating and mitigating factors; and reflect, to the extent practicable, advancement in the knowledge of human behavior as it relates to the criminal justice process.

In addition to the printed portion of the report, the Commission will soon be making extensive data and information available online.

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