U.S. Sentencing Commission

What is the Federal Sentencing Commission?

The Federal Sentencing Commission, created by the Sentencing Reform Act in 1984, authors and updates the federal sentencing guidelines based on the commission's research. Their mission is to eliminate sentencing disparities. The President of the United States appoints the seven commission members, and the Senate confirms them. The confirmation process follows three rules:

- No more than 4 out of the 7 members can be from the same political party
- At least 3 out of the 7 members have to be federal judges
- Members serve 6-year terms, which are staggered

Beyond the seven commission members, multiple advisory groups provide feedback. These include tribal members, probation officers, legal practitioners, and recipients of federal sentencing, along with others. This ensures the commission hears feedback from a variety of groups impacted by the guidelines. The commission conducts research to respond to societal differences and trends.



"Congress said the Commission's most important mission is to provide certainty and fairness in sentencing, including by avoiding unwarranted sentencing disparities."

-Judge Carlton W. Reeves,
Chair of the Federal Sentencing Commission



Federal Sentencing Guidelines

The Federal Sentencing Guidelines are designed to help federal judges determine a fair punishment for similarly situated people convicted of a federal crime. The guidelines set a range of months that should be served for any given crime. Several factors determine the amount of time sentenced, including the Criminal History Category (Criminal History Points from I to VI) and Offense Level (Ranked 1 to 43, with 43 being the most severe). Furthermore, the guidelines must fall within the statutory (legal) minimum and maximum. Even if a judge determines that the defendant does not deserve a sentence within the guidelines, they are still confined by the statutory limits but not the guideline range recommendation. The judge has discretion to calculate the sentence and consider the guideline range along with the pre-sentencing report.

These guidelines were created to reduce sentencing disparities and promote transparency. They establish a base offense level to prevent judges from imposing vastly different sentences for similarly situated defendants. They are constantly refined and adapted to address errors, meet changing needs, and create uniformity in sentencing across the United States.

The Seven Factors Considered at Sentencing

1. The nature and circumstances of the offense, as well as the defendant's history and characteristics.
2. The need for the sentence imposed to reflect the four primary purposes of sentencing: retribution, deterrence, incapacitation, rehabilitation.
3. The kinds of sentences available.
4. The sentencing range established through the sentencing guidelines application and the types of sentences available under the guidelines.
5. Any relevant "policy statements" declared by the commission.
6. The need to avoid unwarranted sentencing disparities among defendants with similar records who have been found guilty of similar conduct.
7. The need to provide restitution to any victims of the offense.

The History of Mandatory Guidelines

Before the federal sentencing guidelines existed, judges had a lot of freedom when deciding sentences. That meant that people who committed similar crimes could receive very different sentences depending on the judge. Congress wanted to make sentencing fairer and more consistent, so it passed the Sentencing Reform Act (SRA) in 1984 and created the United States Sentencing Commission (USSC).

The Commission established mandatory guidelines for judges, which took effect in 1987. Federal judges were provided a manual and were then required to sentence within the guidelines. The only permissible exception for "departure" was significant aggravating or mitigating circumstances. One important effect of the guidelines was increased penalties for "white-collar" crimes such as money laundering, embezzlement, and fraud. Congress also passed mandatory minimum laws for commonly prosecuted drug trafficking and firearms offenses.

United States v. Booker (2005)

Combined with United States v. Fanfan, United States v. Booker altered the Federal Sentencing Guidelines by making them advisory. Booker and Fanfan were both convicted of federal drug crimes. The Court determined that Booker's case directly violated the Sixth Amendment because his sentence was enhanced based on facts that only the sentencing judge found. The jury did not consider these facts or find him guilty beyond a reasonable doubt.

On appeal, the Supreme Court ruled 5-4 in favor of Booker. The Court held that any facts other than prior convictions that increase a criminal sentence beyond the statutory maximum must be proved by a jury beyond a reasonable doubt. To address this issue, the Court ruled that statutory limits must be followed, but the sentencing guidelines were to be advisory. This allowed judges to use their discretion during sentencing in most cases.

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