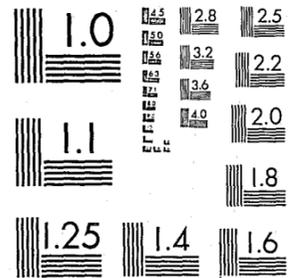


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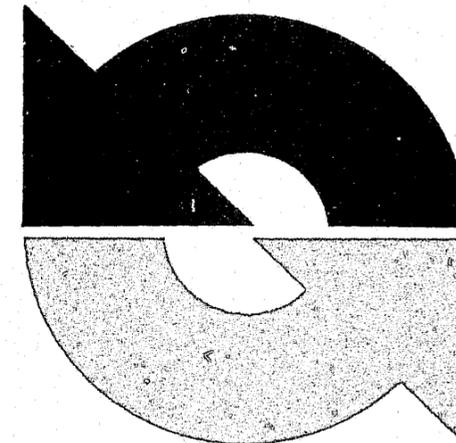
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Judicial Reactions to Sentencing Guidelines

FJRP-81/005

by John Bartolomeo



May 1981

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JUDICIAL REACTIONS TO SENTENCING GUIDELINES

FINAL REPORT

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FJRP-81/005

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JUDICIAL REACTIONS TO SENTENCING GUIDELINESI. Introduction

The reaction of federal judges to sentencing guidelines is likely to be a key ingredient in the guidelines' success. An unsupportive judiciary may manifest its opposition--intentionally or unintentionally--in ways that impair the efficacy of the guidelines. Thus, pragmatism alone would require that the judiciary be consulted about the desirability of sentencing guidelines. However, pragmatism is not the primary motive for gathering judicial opinions. Federal judges have developed a unique perspective on the sentencing process through years of experience, qualifying them as essential sources of sound advice on the design and implementation of guidelines.

Prompted by these considerations, the survey of federal judges elicited their reactions to sentencing guidelines. The discussion begins with federal judges' overall evaluation of current sentencing and their perceptions of the degree to which unwarranted sentence disparity constitutes a problem for the criminal justice system. This furnishes the attitudinal framework for the next section, which treats federal judges' evaluation of four guideline proposals, each one differing in regard to the latitude of sentence prescription and degree of enforcement. Next, we

discuss the perceived impact of guidelines on sentence disparity and on the influence of judges, prosecutors and probation officers. We then indicate the offense and offender attributes that judges believe should be incorporated into guidelines. The paper concludes with a discussion of the implications of these findings for guideline reform.

II. Overall Evaluation of Current Sentencing and Perceptions of Unwarranted Sentence Disparity

While federal judges hardly offer wholesale endorsements of current federal sentencing practices, relatively few express serious criticism of the current process. More than one-third (38%) believe that the current process is either "ideal" or "about the best that can be achieved." Another third (35%) regard it as "adequate," while about one-quarter (23%) take the negative view that the sentencing process "falls short of what it should be" or is "very unsatisfactory." It is instructive to compare these assessments with the more negative evaluations offered by U.S. Attorneys/Assistant U.S. Attorneys and defense attorneys who practice in the federal courts. Sixty-four percent of U.S. Attorneys/Assistant U.S. Attorneys and 57% of defense attorneys (as contrasted with 23% of the judiciary) find fault with current sentencing practices (Table 1). The relatively favorable attitude of judges toward the sentencing process is further reflected in the degree to which they do not perceive unwarranted disparity as a serious, recurring problem. Respondents were asked to indicate the perceived frequency of occurrence of disparity in their own jurisdiction and in the federal system as a whole, and their assessment of how serious a problem unwarranted disparity is whenever it does occur (Tables 2, 3 and 4).

Again, judges are less likely than prosecutors and defense attorneys to perceive unwarranted disparity as a recurring problem. Moreover, whenever disparity does occur, judges tend to view it as a less vexing problem for the criminal justice system than do prosecuting or defense attorneys. For example, 31% of the judiciary regard unwarranted disparity as a very serious or serious problem as contrasted with 67% of federal prosecutors and 59% of defense attorneys. When one combines both the perceived seriousness and frequency of occurrence of disparity in the federal system into a single measure, only 8% of the judiciary emerge as highly critical of sentencing, characterizing disparity as a very serious/serious problem that occurs all/most of the time (Table 5).

Thus, the judiciary views sentence disparity with relative equanimity and is generally not inclined to regard reform as necessary. Of course, their perceptions may or may not be accurate; determining their accuracy is beyond the scope and purpose of this paper. It is important, however, to assess the relationship between judges' evaluations to current sentencing practices and their reaction to guidelines. As will become clear, the belief that there is little need to structure judicial discretion through guidelines is (predictably) a barrier to their acceptance by the judiciary. However, it is but one of a number of barriers, for judges also anticipate negative consequences resulting from the implementation of guidelines. Indeed, they are quite resistant to the very concept of guidelines.

III. Reactions To Four Guideline Proposals

To determine judicial reaction to two key components of guidelines--range of prescribed sentence and degree of enforcement--judges were asked to indicate how satisfied they would be with four guideline proposals. Each proposal had a different mix of the sentence range prescriptions and the degree of enforcement, with the first proposal the most stringent and the last proposal the least so:

Proposal 1:

Sentence Prescription: The maximum sentence would equal the minimum; there would be no range.

Degree of Enforcement: Guidelines would be strictly enforced through appellate review.

Proposal 2:

Sentence Prescription: The maximum sentence would equal the minimum; there would be no range.

Degree of Enforcement: Guidelines would be completely voluntary.

Proposal 3:

Sentence Prescription: The maximum sentence would be at least twice as large as the minimum.

Degree of Enforcement: Guidelines would be strictly enforced through appellate review.

Proposal 4

Sentence Prescription: The maximum sentence would be at least twice as large as the minimum.

Degree of Enforcement: Guidelines would be completely voluntary.

There is widespread resistance to the first three proposals, which either restrict sentence range or impose appellate review, with the restriction of sentence range summoning a slightly more negative reaction than appellate review (Table 6):

...Seventy-eight percent would be "not at all satisfied" with guidelines with no sentence ranges and with appellate review.

...More than half (56%) voice extreme dissatisfaction with voluntary guidelines that afforded no range in sentences.

...Forty-four percent say they would be "not at all satisfied" with guidelines that had appellate review even if they also had wide sentence ranges.

Judges express greater receptivity to the least stringent proposal of voluntary guidelines with wide sentence ranges, but even here reaction is mixed with a substantial body of negative opinion.

One-quarter of the judiciary claim they would be either extremely or very satisfied with this guideline structure, with an approximately equal segment (22%) voicing extreme dissatisfaction. The fact that strong negative reaction persists even when guidelines afford judges wide latitude suggests that judges feel there is something onerous about the very concept of guidelines.

What accounts for judicial displeasure with these guideline proposals? Five possible answers suggest themselves. The first is that judges doubt the ability of guidelines to remedy the problem of unwarranted sentence disparity. The second possible answer is that the relative lack of concern about sentence disparity leads judges to conclude that there is no compelling need for guidelines. The third possibility is that judges perceive guidelines as an encroachment on their discretion and, thus, on their influence and authority. The fourth possible explanation is that judges fear the decomposition of the complex process that frames each sentencing decision, namely the interplay among themselves, probation officers, prosecutors and other salient actors. There is a certain resemblance between the third and the fourth explanations, in that judicial discretion is the key component of the process that frames each sentence decision. However, the third explanation focuses more narrowly on the judge's attitude toward his/her role in sentencing, while the fourth places the judge in a broader context of a decision-making process that involves multiple individuals, with the judge as the pivotal actor.

Finally, it is possible that judges are concerned that the factors about the defendant and the case that should be incorporated into a sentence decision are too complex to be captured in the guidelines and; thus, that guideliness would result in a deterioration in the quality and thoughtfulness, as it were, of sentence decisions.

The survey data do not permit exhaustive and definitive tests of these, and related, hypotheses about the sources of judicial reaction to guidelines. However, the data are ample to shed considerable light on the validity of each of these propositions. As the discussions in the following pages indicate, the first proposition of the perceived inefficacy of guidelines has relatively little merit. Secondly, the data indicate that lack of concern about sentence disparity plays a modest role in the rejection of guidelines, but that this leaves all too much unexplained. Finally, it would appear that the third, fourth and fifth explanations--fear of erosion of judicial power, concern about upsetting the balance of influence among judges, prosecutors and probation officers, and concern about the internal complexity of guidelines--also influence judicial evaluations.

IV. The Perceived Efficacy of Guidelines and the Role of Lack of Concern About Disparity

Judges were asked to forecast the probable impact that each of the four guideline proposals would have on sentence disparity. Not surprisingly, there is a strong perception that the more stringent the guidelines, the greater their capacity to reduce disparity (Table 7). However, Table 7 also reveals substantial skepticism about the efficacy (defined as a reduction in sentence disparity) of guidelines. Nearly a quarter of the judiciary is uncertain about the effect of guidelines, and significant segments (ranging from 11% for the most stringent proposal to 37% for the least stringent) believe they will have no effect on disparity. A few feel that disparity will actually increase under guidelines. Thus, while the perception of efficacy dominates for all but the fourth proposal (wide sentence range/voluntary), this perception is by no means universal and is accompanied by uncertainty or doubt that guidelines will achieve their manifest goal.

It is particularly instructive to inspect the relationships between satisfaction with each guideline proposal and perceptions of the efficacy of the proposals (Tables 8 through 11), for they suggest that judges regard the reduction of disparity as a somewhat inappropriate criterion for evaluating the success of

guidelines. For the most stringent proposal (no sentence range/strict enforcement) there is virtually no relationship between the perceived efficacy of guidelines and satisfaction with the proposal (Table 8). This guideline model is so objectionable that the reduction of disparity is seen as a benefit that is purchased at too high a price. However, even more interesting are Tables 9 and 10, which report the relationships between satisfaction and the perceived efficacy of the second and third proposals, respectively. Negative appraisal of the proposal is related to both an anticipated increase or decrease in sentence disparity. This anomalous finding furnishes a clue to judicial attitudes toward disparity itself, suggesting that at least a few judges may perceive latent benefits to disparity, and are unwilling to evaluate guidelines primarily on the basis of their capacity to diminish disparity. One could speculate that judges believe that disparity is an occasional, unfortunate, but necessary consequence of thoughtful sentencing decisions, which take into account the myriad attributes of cases. Of course, one should be cautious about carrying this speculation to extremes. The patterns reported in Tables 9 and 10 are noteworthy, but not at all powerful. Moreover, we lack data on the perceived latent functions of sentence disparities.

The essential point is that judges seem to regard the reduction of disparity as a deceptively simple criterion for evaluating the success of sentencing guidelines--and certainly do not see it as the sole evaluative criterion. This interpretation is reinforced by

the fact that judges' satisfaction with each of the four proposals is generally unrelated to their level of concern about sentence disparity (Tables 12 through 15). More specifically:

...The most stringent guideline proposal (no sentence range/strict enforcement) appears to impose such severe restrictions on judicial discretion that it eclipses almost all concerns about sentence disparity. This proposal elicits disapproval from more than three-quarters of the judiciary regardless of the perceived seriousness/frequency of sentence disparity (Table 12).

...Reactions to the second and third proposals (no sentence range/voluntary and wide sentence range/strict enforcement, respectively) bear a modest relationship to concern about sentence disparity, particularly the third proposal. However, these modest relationships should not obscure the fact that many judges who are concerned about sentence disparity, disapprove of both proposals (Tables 13 and 14).

...The least stringent guideline proposal (wide sentence range/voluntary) elicits less negative reaction than the other three (Table 15). However, there is a modest inverse relationship between evaluation of the proposal and concern about sentence disparity. A number of factors might account for this inverse relationship. One

plausible hypothesis is that those who are critical of current practices and who endorse the guideline proposal see it as at least a partial remedy for sentence disparity, while those who are unconcerned about sentence disparity and favor the proposal are merely expressing tolerance for guidelines that they believe could not do serious harm, given the latitude of sentence range and the relative laxness of enforcement.

Taken collectively, these findings indicate how difficult it will be to persuade the judiciary of the value of guidelines. Disapproval generally does not stem from the belief that guidelines will fail to achieve their stated goal. Rather, some judges seem to question the merits of the goal itself--and others, who are troubled by sentence disparities, tend to withhold endorsement of guidelines. The lack of a strong relationship between concern about disparity and evaluation of guidelines indicates that there is no "natural constituency" for guidelines among the judges who would use the:

What does the judiciary see as the price that guidelines might extract? The available evidence suggests that the anticipated cost of guidelines includes the erosion of judicial sentencing discretion, and the conversion of a complex decision into a simple one--both in terms of the context in which decisions are made and the factors about the defendant and the case that are taken into account.

V. The Context of Sentencing Decisions:
The Balance of Influence Among Judges,
Prosecutors and Probation Officers

Sentencing decisions are not made in a vacuum. Nor is the judge the sole decision-maker. A sentencing decision is the culmination of a process that involves several actors--primarily the judge, the prosecutor and the probation officer--each with variable influence at different points in the process. Scholars and practitioners have hypothesized that this balance of influence tends to diminish disparity since the improperly exercised discretion of one participant will be offset by other participants.^{1/} Assessing the accuracy of this claim is well beyond the scope of this paper. However, the hypothesis of countervailing influence is relevant to our purposes to the degree that judges subscribe to it and evaluate guidelines accordingly. Again, the data in this area are not as complete as desirable. Nevertheless, it would appear that one of the factors contributing to disapproval of guidelines is the perception that the balance of influence will be upset and that the sentencing process will be robbed

^{1/} See, for example, Albert Alschaler, "Sentencing Reform Prosecutorial Power: A Critique of Recent Proposals for 'Fixed' and Presumptive' Sentencing," University of Pennsylvania Law Review, vol. 126 (1978); Franklin Zimring, "Making the Punishment Fit the Crime," Hastings Center Report, vol. 6 (1976); and Stephen J. Schulhofer, Prosecutorial Discretion and Federal Sentencing Reform, 2 vols., Federal Judicial Center (1979).

of the complexities and self-correcting mechanisms implicit in the current balance.

Many judges are uncertain about the impact of guidelines on their own influence and the influence of probation officers and prosecutors. However, among those that do forecast outcomes, the following patterns emerge (Tables 16 through 19):

- ...The more stringent the guideline proposal, the more widespread is the perception that it will diminish the influence of judges and probation officers, particularly the former.
- ...The same basic pattern also holds for prosecutors--that is, judges tend to expect the prosecutor's influence on sentences to be reduced, under each of the four guideline structures. However, there are two significant amendments to this finding. First, the perceived decrement in prosecutorial influence is far less pronounced than it is for either judges or probation officers. Second, many judges believe the prosecutorial influence will be enhanced by guidelines. For each of the first three proposals, 22% believe that prosecutorial influence will increase either substantially or moderately. Still more revealing is the fact that 15% believe that the first proposal, which yields the greatest anticipated decline in judges' and probation officers' influence, will result in a substantial increase in prosecutors' influence on sentencing.

These perceptions, in turn, affect evaluations of the four guideline proposals. It is probably not surprising that a perceived decrement in judicial sentencing discretion is consistently related to dissatisfaction with each proposal (Tables 20, 23, 26 and 29). However, a self-interested defense of judicial discretion is only part of the story. Disapproval of guidelines appears also to be related to an expected decline in the importance of probation officers (Tables 21, 24, 27 and 30) and to a perception that prosecutorial influence will either increase or decrease (Tables 22, 25, 28 and 31). In a word, there is a tendency for judges to foresee at least some "spillover effect" on the context in which sentencing decisions are made, whereby either all key actors would tend to lose influence or judges and probation officers would sacrifice some of their influence to prosecutors. Either of these expectations makes it more difficult for judges to embrace guidelines.

Desired Content of Guidelines

To conclude, we turn to the content of the guidelines, namely, the attributes of the defendant and the case that judges believe should be incorporated into guidelines.^{1/} It would seem that judges prefer that guidelines be complex, incorporating several factors. Thirteen factors are mentioned by more than half the judiciary as desirable guideline components (Table 32). Interestingly, there is virtual consensus among judges, prosecutors and defense attorneys on the factors which they believe ought to be included in guidelines. The most important of these (i.e., cited by 80% or more of the judges) are: (1) offender's prior record of convictions (93%); (2) use of weapon (92%); (3) specification of the offender's role in the crime (91%); (4) the offender's intent and degree of planning the offense (90%); (5) injuries that were caused by the offense (89%); (6) the offender's participation in a criminal organization (89%); (7) the age of the offender (88%); and (8) the offender's cooperation with the authorities (81%).^{2/}

^{1/} It is not possible to test the relationship between satisfaction with guidelines and internal complexity of the guidelines based on the data collected in the survey.

^{2/} This inventory suggests the relative importance of each factor in a judge's sentencing decision. Compare with Yankelovich, Skelly and White, Inc., "Sentence Decision-Making: The Logic of Sentence Decisions and the Extent and Nature of Sentence Disparity."

VII. Implications

The survey results reported in this essay suggest that a Sentencing Commission will encounter substantial judicial resistance to guidelines, no matter how flexible they may be in either sentence prescription or enforcement procedure. Opposition to guidelines is apt to be both widespread and intense. Moreover, the guidelines do not have a "natural constituency" among judges, as concern about disparity does not readily translate into an endorsement of guidelines.

However, the analysis also furnishes guidance for the development of strategies for dealing with the judiciary's reservations. First, guideline reform should be presented to the judiciary as an important, yet cautious and undramatic advance over current practices. Making elaborate claims for guidelines will, at best, strain credulity and, at worst, provoke opposition--the former because judges generally do not believe that sentencing is much in need of reform, the latter because elaborate claims will suggest that equally elaborate alterations of sentencing decisions themselves are an implicit entailment of guidelines. Second, guideline implementation should be accompanied by fairly extensive communications efforts that sought to persuade judges

of the need for guidelines to address their apprehensions and to acquaint them with their use. Third, it would seem that the most promising guideline model would prescribe a wide sentence range and would be strictly enforced through appellate review or some other similar mechanism. This model has the double advantage of stirring relatively less opposition and conveying a perception of its ability to reduce disparity. Fourth, and most importantly, the guidelines should have a complex structure and this complexity should be visible to the judiciary. Guidelines should take into account several attributes of the case and the defendant and should, if possible, also take into account the fact the judge is not the sole decision-maker. If these, and related, complexities are built into guidelines, and if the judiciary can be persuaded that guidelines preserve the complexity of current decision-making without the disadvantage of disparity, then the task of implementing guidelines becomes manageable, even if it does not become easy.

TABLE 1

OVERALL EVALUATION OF CURRENT SENTENCEDECISION-MAKING PROCESS

	<u>Federal Judges</u>	<u>U.S. Attorneys/ Assistant U.S. Attorneys</u>	<u>Defense Attorneys</u>
(Number in Group)	(264)	(103)	(111)
	%	%	%
<u>Total</u>	<u>100</u>	<u>100</u>	<u>100</u>
<u>Current Decision-Making Process is:</u>			
Ideal	1	1	-
About the best that can be achieved	37	12	5
Adequate to the task	35	22	34
Falls short of what I think it should be	20	46	42
Very unsatisfactory	3	18	15
Don't know/no answer	4	1	4

TABLE 2

PERCEIVED FREQUENCY OF UNWARRANTED SENTENCE DISPARITY
IN ONE'S OWN JURISDICTION

	Federal Judges	U.S. Attorneys/ Assistant U.S. Attorneys	Defense Attorneys
(Number in group)	(264)	(103)	(111)
	%	%	%
<u>Total</u>	<u>100</u>	<u>100</u>	<u>100</u>
<u>Unwarranted Sentence Disparity Occurs in One's Own Jurisdiction:</u>			
All of the time/virtually all of the time	-	3	5
Most of the time	2	16	14
Some of the time	25	45	44
Every once in a while	50	29	23
Never/virtually never	14	5	10
Don't know/no answer	9	2	4

TABLE 3

PERCEIVED FREQUENCY OF UNWARRANTED SENTENCE DISPARITY
IN FEDERAL COURT SYSTEM AS A WHOLE

	Federal Judges	U.S. Attorneys/ Assistant U.S. Attorneys	Defense Attorneys
(Number in group)	(264)	(103)	(111)
	%	%	%
<u>Total</u>	<u>100</u>	<u>100</u>	<u>100</u>
<u>Unwarranted Sentence Disparity Occurs in the Federal Court System:</u>			
All of the time/virtually all of the time	1	9	4
Most of the time	8	25	30
Some of the time	41	53	50
Every once in a while	32	9	10
Never/virtually never	2	-	1
Don't know/no answer	16	4	5

TABLE 4

PERCEIVED SERIOUSNESS OF UNWARRANTED SENTENCE DISPARITY
FOR THE CRIMINAL JUSTICE SYSTEM

	Federal Judges	U.S. Attorneys/ Assistant U.S. Attorneys	Defense Attorneys
(Number in group)	(264)	(99)	(105)
	%	%	%
<u>Total</u>	<u>100</u>	<u>100</u>	<u>100</u>
<u>When Unwarranted Sentence Disparity occurs, it is:</u>			
A very serious problem	6	26	30
A serious problem	25	41	29
A moderate problem	36	28	28
A small problem	19	4	10
No problem at all	5	1	3
Don't know/no answer	9	-	-

TABLE 5

PERCEIVED SERIOUSNESS AND FREQUENCY OF UNWARRANTED
SENTENCE DISPARITY IN THE FEDERAL COURT
SYSTEM AS A WHOLE
- Federal Judges -

	(Number in Group)	Total
	(264)	%
<u>Seriousness and Frequency</u>	<u>Total</u>	<u>100</u>
Very serious/serious problem that occurs all/ most of the time	8	29
Very serious/serious problem that occurs some of the time	18	
Moderate problem that occurs all/most of the time	3	9
Very serious/serious problem that occurs every once in a while/never	9	
Moderate problem that occurs some of the time	22	40
Moderate problem that occurs every once in a while/never	14	
Small/no problem that occurs some of the time	9	17
Small/no problem that occurs every once in a while/never	17	

TABLE 6

SATISFACTION WITH ALTERNATIVE GUIDELINE PROPOSALS

- Federal Judges -

	(Number in Group)	Guideline Proposal			
		No Sentence Range and Strict Enforcement	No Sentence Range and Voluntary	Wide Sentence Range and Strict Enforcement	Wide Sentence Range and Voluntary
	(264)	(264)	(264)	(264)	(264)
	%	%	%	%	%
<u>Total</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>
<u>Evaluation</u>					
Extremely satisfied	-	2	-	3	
Very satisfied	3	6	8	22	
Moderately satisfied	6	14	22	27	
Slightly satisfied	7	14	19	18	
Not at all satisfied	78	56	44	22	
Don't know/no answer	6	8	7	8	

TABLE 7.

ANTICIPATED IMPACT OF ALTERNATIVE GUIDELINE

PROPOSALS ON SENTENCE DISPARITY

- Federal Judges -

	(Number in Group)	Guideline Proposal			
		No Sentence Range and Strict Enforcement	No Sentence Range and Voluntary	Wide Sentence Range and Strict Enforcement	Wide Sentence Range and Voluntary
	(128)	(128)	(128)	(128)	(128)
	%	%	%	%	%
<u>Total</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>
<u>Anticipated Impact on Sentence Disparity</u>					
Reduce substantially	43	15	14	5	
Reduce moderately	14	28	36	27	
Probably no impact	11	24	23	36	
Increase moderately	2	5	3	8	
Increase substantially	7	4	2	1	
Don't know/no answer	23	24	22	23	

TABLE 8

SATISFACTION WITH GUIDELINES THAT HAVE NO SENTENCE

RANGE AND STRICT ENFORCEMENT

(By anticipated impact on sentence disparity)

- Federal Judges -

	<u>Anticipated Impact On Sentence Disparity</u>			
	<u>Reduce Substan- tially</u>	<u>Reduce Moderately</u>	<u>Probably No Impact</u>	<u>Increase Moderately/ Substan- tially</u>
(Number in Group)	(55)	(18)	(14)	(12)
	%	%	%	%
<u>Total</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>
<u>Satisfaction with Guidelines</u>				
Extremely satisfied	-	-	-	-
Very satisfied	4	6	-	-
Moderately satisfied	2	6	7	3
Slightly satisfied	5	22	7	-
Not at all satisfied	89	66	36	90
Don't know, no answer	-	-	-	-

TABLE 9

SATISFACTION WITH GUIDELINES THAT HAVE NO SENTENCE

RANGE AND ARE VOLUNTARY

(By anticipated impact on sentence disparity)

- Federal Judges -

	<u>Anticipated Impact On Sentence Disparity</u>			
	<u>Reduce Substan- tially</u>	<u>Reduce Moderately</u>	<u>Probably No Impact</u>	<u>Increase Moderately/ Substan- tially</u>
(Number in Group)	(19)	(36)	(31)	(11)
	%	%	%	%
<u>Total</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>
<u>Satisfaction with Guidelines</u>				
Extremely satisfied	-	-	3	-
Very satisfied	5	8	6	18
Moderately satisfied	5	3	32	-
Slightly satisfied	16	25	10	9
Not at all satisfied	74	64	49	73
Don't know, no answer	-	-	-	-

TABLE 10

SATISFACTION WITH GUIDELINES THAT HAVE WIDE SENTENCERANGE AND STRICT ENFORCEMENT

(By anticipated impact on sentence disparity)

- Federal Judges -

	<u>Anticipated Impact On Sentence Disparity</u>			
	<u>Reduce Substantially</u>	<u>Reduce Moderately</u>	<u>Probably No Impact</u>	<u>Increase Moderately/Substantially</u>
(Number in Group)	(16)	(45)	(30)	(7)
	%	%	%	%
<u>Total</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>
<u>Satisfaction with Guidelines</u>				
Extremely satisfied	-	-	-	-
Very satisfied	6	9	3	-
Moderately satisfied	17	33	23	14
Slightly satisfied	11	22	27	14
Not at all satisfied	66	36	47	72
Don't know no answer	-	-	-	-

TABLE 11

SATISFACTION WITH GUIDELINES THAT HAVE WIDE SENTENCERANGE AND ARE VOLUNTARY

(By anticipated impact on sentence disparity)

- Federal Judges -

	<u>Anticipated Impact On Sentence Disparity</u>			
	<u>Reduce Substantially</u>	<u>Reduce Moderately</u>	<u>Probably No Impact</u>	<u>Increase Moderately/Substantially</u>
(Number in Group)	(7)	(34)	(47)	(11)
	%	%	%	%
<u>Total</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>
<u>Satisfaction with Guidelines</u>				
Extremely satisfied	14	-	2	-
Very satisfied	-	24	30	27
Moderately satisfied	14	24	32	37
Slightly satisfied	-	25	13	27
Not at all satisfied	72	24	23	-
Don't know no answer	-	3	-	9

TABLE 12

SATISFACTION WITH GUIDELINES THAT HAVE NO SENTENCE

RANGE AND STRICT ENFORCEMENT

(By composite index of seriousness/frequency of unwarranted sentence disparity)

- Federal Judges -

	Composite Index of Seriousness/ Frequency of Disparity			
	Very Serious/ Moderate Problem That Occurs All/Most/ Some of the Time	Very Serious/ Serious Problem That Occurs Every Once in a While/ Never	Moderate/ Small/No Problem That Occurs Some of the Time/ Every Once in a While/ Never	Moderate/ Small/No Problem That Occurs Some of the Time/ Every Once in a While/ Never
(Number in Group)	(63)	(19)	(48)	(85)
	%	%	%	%
<u>Total</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>
<u>Satisfaction With Guidelines</u>				
Extremely satisfied	-	-	-	-
Very satisfied	3 13	-	4 12	6 12
Moderately satisfied	10	-	8	6
Slightly satisfied	8	11	8	6
Not at all satisfied	76	89	78	82
Don't know/no answer	3	-	2	-

TABLE 13

SATISFACTION WITH GUIDELINES THAT HAVE NO SENTENCE

RANGE AND ARE VOLUNTARY

(By composite index of seriousness/frequency of unwarranted sentence disparity)

- Federal Judges -

	Composite Index of Seriousness/ Frequency of Disparity			
	Very Serious/ Moderate Problem That Occurs All/Most/ Some of the Time	Very Serious/ Serious Problem That Occurs Every Once in a While/ Never	Moderate/ Small/No Problem That Occurs Some of the Time/ Every Once in a While/ Never	Moderate/ Small/No Problem That Occurs Some of the Time/ Every Once in a While/ Never
(Number in Group)	(63)	(19)	(48)	(85)
	%	%	%	%
<u>Total</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>
<u>Satisfaction With Guidelines</u>				
Extremely satisfied	2	-	2	1
Very satisfied	10 23	-	8 30	5 25
Moderately satisfied	11	11	20	19
Slightly satisfied	15	5	17	15
Not at all satisfied	62	84	53	60
Don't know/no answer	-	-	-	-

TABLE 14

SATISFACTION WITH GUIDELINES THAT HAVE WIDE SENTENCE -

RANGE AND STRICT ENFORCEMENT

(By composite index of seriousness/frequency of unwarranted sentence disparity)

- Federal Judges -

	Composite Index of Seriousness/ Frequency of Disparity			
	Very Serious/ Serious/ Moderate Problem That Occurs All/Most/ Some of the Time	Very Serious/ Serious Problem That Occurs Every Once in a While/ Never	Moderate Problem That Occurs Some of the Time/ Every Once in a While/ Never	Moderate/ Small/No Problem That Occurs Some of the Time/ Every Once in a While/ Never
(Number in Group)	(63)	(19)	(48)	(85)
	%	%	%	%
<u>Total</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>
<u>Satisfaction With Guidelines</u>				
Extremely satisfied	0	0	0	1
Very satisfied	14 41	11 27	4 29	6 29
Moderately satisfied	27	16	25	21
Slightly satisfied	10	26	23	22
Not at all satisfied	41	47	46	49
Don't know/no answer	2	-	2	-

TABLE 15

SATISFACTION WITH GUIDELINES THAT HAVE WIDE SENTENCE

RANGE AND ARE VOLUNTARY

(By composite index of seriousness/frequency of unwarranted sentence disparity)

- Federal Judges -

	Composite Index of Seriousness/ Frequency of Disparity			
	Very Serious/ Serious/ Moderate Problem That Occurs All/Most/ Some of the Time	Very Serious/ Serious Problem That Occurs Every Once in a While/ Never	Moderate Problem That Occurs Some of the Time/ Every Once in a While/ Never	Moderate/ Small/No Problem That Occurs Some of the Time/ Every Once in a While/ Never
(Number in Group)	(63)	(19)	(48)	(85)
	%	%	%	%
<u>Total</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>
<u>Satisfaction With Guidelines</u>				
Extremely satisfied	2	-	2	5
Very satisfied	24 50	21 42	27 66	21 57
Moderately satisfied	24	21	37	31
Slightly satisfied	31	16	17	14
Not at all satisfied	16	42	15	28
Don't know/no answer	3	-	2	1

TABLE 16

ANTICIPATED IMPACT OF GUIDELINES THAT HAVE NO RANGE AND ARE STRICTLY ENFORCED

- Federal Judges -

	(Number in Group)	Impact on		
		Judicial Sentencing Discretion	Prosecutor's Influence on Sentencing	Probation Officer's Role in Sentencing Decisions
	(128)	(128)	(128)	
	%	%	%	
<u>Total</u>	<u>100</u>	<u>100</u>	<u>100</u>	
<u>Anticipated Impact</u>				
Reduce substantially	67	28	42	
Reduce moderately	6	6	13	
Probably no impact	5	22	19	
Increase moderately	3	7	4	
Increase substantially	2	15	2	
-Don't know/no answer	17	22	20	

TABLE 17

ANTICIPATED IMPACT OF GUIDELINES THAT HAVE NO RANGE AND ARE VOLUNTARY

- Federal Judges -

	(Number in Group)	Impact on		
		Judicial Sentencing Discretion	Prosecutor's Influence on Sentencing	Probation Officer's Role in Sentencing Decisions
	(128)	(128)	(128)	
	%	%	%	
<u>Total</u>	<u>100</u>	<u>100</u>	<u>100</u>	
<u>Anticipated Impact</u>				
Reduce substantially	28	15	18	
Reduce moderately	25	11	22	
Probably no impact	18	29	26	
Increase moderately	6	17	9	
Increase substantially	2	5	2	
-Don't know/no answer	21	23	23	

TABLE 18

ANTICIPATED IMPACT OF GUIDELINES THAT HAVE WIDE RANGE AND ARE STRICTLY ENFORCED

- Federal Judges -

	Impact on		
	Judicial Sentencing Discretion	Prosecutor's Influence on Sentencing	Probation Officer's Role in Sentencing Decisions
(Number in Group)	(128)	(128)	(128)
	%	%	%
<u>Total</u>	<u>100</u>	<u>100</u>	<u>100</u>
<u>Anticipated Impact</u>			
Reduce substantially	24 58	10 25	11 40
Reduce moderately	34	15	29
Probably no impact	16	30	33
Increase moderately	3	16 22	4
Increase substantially	2	6	2
-Don't know/no answer	21	23	21

TABLE 19

ANTICIPATED IMPACT OF GUIDELINES THAT HAVE WIDE RANGE AND ARE VOLUNTARY

- Federal Judges -

	Impact on		
	Judicial Sentencing Discretion	Prosecutor's Influence on Sentencing	Probation Officer's Role in Sentencing Decisions
(Number in Group)	(128)	(128)	(128)
	%	%	%
<u>Total</u>	<u>100</u>	<u>100</u>	<u>100</u>
<u>Anticipated Impact</u>			
Reduce substantially	8 35	4 15	4 27
Reduce moderately	27	11	23
Probably no impact	33	46	40
Increase moderately	6	11 14	8
Increase substantially	4	3	2
-Don't know/no answer	22	25	23

TABLE 20

SATISFACTION WITH GUIDELINES THAT HAVE NO RANGE AND STRICT ENFORCEMENT

(By anticipated impact on judicial discretion in sentencing)

- Federal Judges -

	Anticipated Impact On Judicial Discretion in Sentencing			
	Reduce Substantially	Reduce Moderately	Probably No Impact	Increase Moderately/Substantially
(Number in Group)	(85)	(8)	(7)	(7)
	%	%	%	%
<u>Total</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>
<u>Satisfaction with Guidelines</u>				
Extremely satisfied	-	-	-	-
Very satisfied	4	-	-	-
Moderately satisfied	2	25	-	14
Slightly satisfied	2	13	43	14
Not at all satisfied	<u>91</u>	64	57	72
Don't know/no answer	1	-	-	-

TABLE 21

SATISFACTION WITH GUIDELINES THAT HAVE NO SENTENCE

RANGE AND STRICT ENFORCEMENT

(By anticipated impact on prosecutorial influence on sentencing decision)

- Federal Judges -

	Anticipated Impact On Prosecutorial Influence on Sentencing Decision				
	Reduce Substantially	Reduce Moderately	Probably No Impact	Increase Moderately	Increase Substantially
(Number in Group)	(36)	(8)	(28)	(9)	(19)
	%	%	%	%	%
<u>Total</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>
<u>Satisfaction with Guidelines</u>					
Extremely satisfied	-	-	-	-	-
Very satisfied	3	-	7	-	-
Moderately satisfied	3	-	11	-	-
Slightly satisfied	-	25	7	22	5
Not at all satisfied	<u>94</u>	75	75	78	<u>95</u>
Don't know/no answer	-	-	-	-	-

TABLE 22

SATISFACTION WITH GUIDELINES THAT HAVE NO SENTENCE

RANGE AND STRICT ENFORCEMENT

(By anticipated impact on probation officer's role in sentencing decision)

- Federal Judges -

	Anticipated Impact On Probation Officer's Role in Sentencing Decision			
	Reduce Substantially	Reduce Moderately	Probably No Impact	Increase Moderately/Substantially
(Number in Group)	(53)	(17)	(24)	(8)
	%	%	%	%
<u>Total</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>
<u>Satisfaction with Guidelines</u>				
Extremely satisfied	-	-	-	-
Very satisfied	-	6	8	-
Moderately satisfied	-	6	8	13
Slightly satisfied	2	12	17	13
Not at all satisfied	98	76	67	74
Don't know/no answer	-	-	-	-

TABLE 23

SATISFACTION WITH GUIDELINES THAT HAVE NO SENTENCE RANGE AND ARE VOLUNTARY

(By anticipated impact on judicial discretion in sentencing)

- Federal Judges -

	Anticipated Impact On Judicial Discretion in Sentencing			
	Reduce Substantially	Reduce Moderately	Probably No Impact	Increase Moderately/Substantially
(Number in Group)	(36)	(32)	(23)	(10)
	%	%	%	%
<u>Total</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>
<u>Satisfaction with Guidelines</u>				
Extremely satisfied	-	-	4	-
Very satisfied	3	6	17	10
Moderately satisfied	3	6	35	20
Slightly satisfied	11	25	4	20
Not at all satisfied	83	57	40	50
Don't know/no answer	-	6	-	-

TABLE 24

SATISFACTION WITH GUIDELINES THAT HAVE NO SENTENCE

RANGE AND ARE VOLUNTARY

(By anticipated impact on prosecutorial influence on sentencing decision)

- Federal Judges -

Anticipated Impact On Prosecutorial Influence On Sentencing Decision

	<u>Reduce Substantially</u>	<u>Reduce Moderately</u>	<u>Probably No Impact</u>	<u>Increase Moderately/Substantially</u>
(Number in Group)	(19)	(14)	(38)	(28)
	%	%	%	%
<u>Total</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>

Satisfaction with Guidelines

Extremely satisfied	-	-	3	-
Very satisfied	-	14	8	11
Moderately satisfied	16	7	21	11
Slightly satisfied	16	21	16	14
Not at all satisfied	68	58	52	64
Don't know/no answer	-	-	-	-

TABLE 25

SATISFACTION WITH GUIDELINES THAT HAVE NO SENTENCE

RANGE AND ARE VOLUNTARY

(By anticipated impact on probation officer's role in sentencing decisions)

- Federal Judges -

Anticipated Impact On Probation Officer's Role in Sentencing Decisions

	<u>Reduce Substantially</u>	<u>Reduce Moderately</u>	<u>Probably No Impact</u>	<u>Increase Moderately/Substantially</u>
(Number in Group)	(23)	(28)	(34)	(14)
	%	%	%	%
<u>Total</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>

Satisfaction with Guidelines

Extremely satisfied	-	-	3	-
Very satisfied	-	7	12	14
Moderately satisfied	-	7	21	29
Slightly satisfied	17	25	15	-
Not at all satisfied	83	61	49	57
Don't know/no answer	-	-	-	-

TABLE 26

SATISFACTION WITH GUIDELINES THAT HAVE WIDE SENTENCE

RANGE AND STRICT ENFORCEMENT

(By anticipated impact on judicial discretion in sentencing)

- Federal Judges -

	Anticipated Impact On Judicial Discretion in Sentencing			
	Reduce Substantially	Reduce Moderately	Probably No Impact	Increase Moderately/Substantially
(Number in Group)	(31)	(43)	(20)	(7)
	%	%	%	%
<u>Total</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>
<u>Satisfaction with Guidelines</u>				
Extremely satisfied	-	-	-	-
Very satisfied	-	7	15	-
Moderately satisfied	3	37	35	29
Slightly satisfied	10	26	35	-
Not at all satisfied	24	30	15	71
Don't know/no answer	3	-	-	-

TABLE 27

SATISFACTION WITH GUIDELINES THAT HAVE WIDE SENTENCE

RANGE AND STRICT ENFORCEMENT

(By anticipated impact on prosecutorial influence on sentencing decision)

- Federal Judges -

	Anticipated Impact On Prosecutorial Influence On Sentencing Decision				
	Reduce Substantially	Reduce Moderately	Probably No Impact	Increase Moderately	Increase Substantially
(Number in Group)	(13)	(19)	(39)	(20)	(8)
	%	%	%	%	%
<u>Total</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>
<u>Satisfaction with Guidelines</u>					
Extremely satisfied	-	-	-	-	-
Very satisfied	-	5	13	-	-
Moderately satisfied	8	32	23	40	25
Slightly satisfied	15	11	28	25	-
Not at all satisfied	77	47	36	35	75
Don't know/no answer	-	5	-	-	-

TABLE 28

SATISFACTION WITH GUIDELINES THAT HAVE WIDE SENTENCERANGE AND STRICT ENFORCEMENT(By anticipated impact on probation officer's
role in sentencing decisions)

- Federal Judges -

	Anticipated Impact On Probation Officer's Role in Sentencing Decisions			
	Reduce Substan- tially	Reduce Moderately	Probably No Impact	Increase Moderately/ Substan- tially
(Number in Group)	(14)	(37)	(43)	(7)
	%	%	%	%
<u>Total</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>
<u>Satisfaction with Guidelines</u>				
Extremely satisfied	-	-	-	-
Very satisfied	-	3	12	-
Moderately satisfied	-	27	28	57
Slightly satisfied	7	19	28	14
Not at all satisfied	93	51	30	29
Don't know/no answer	-	-	2	-

TABLE 29

SATISFACTION WITH GUIDELINES THAT HAVE WIDE SENTENCERANGE AND ARE VOLUNTARY(By anticipated impact on judicial
discretion in sentencing)

- Federal Judges -

	Anticipated Impact on Judicial Discretion in Sentencing			
	Reduce Substan- tially	Reduce Moderately	Probably No Impact	Increase Moderately/ Substan- tially
(Number in Group)	(10)	(35)	(42)	(13)
	%	%	%	%
<u>Total</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>
<u>Satisfaction with Guidelines</u>				
Extremely satisfied	-	3	2	-
Very satisfied	10	9	31	62
Moderately satisfied	-	29	36	23
Slightly satisfied	10	30	10	15
Not at all satisfied	80	26	19	-
Don't know/no answer	-	3	2	-

TABLE 30

SATISFACTION WITH GUIDELINES THAT HAVE WIDE SENTENCERANGE AND ARE VOLUNTARY(By anticipated impact on prosecutorial
influence on sentencing decision)

- Federal Judges -

	Anticipated Impact On Prosecutorial Influence On Sentencing Decision			
	Reduce Substan- tially	Reduce Moderately	Probably No Impact	Increase Moderately/ Substan- tially
(Number in Group)	(5)	(14)	(59)	(18)
	%	%	%	%
<u>Total</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>
<u>Satisfaction with Guidelines</u>				
Extremely satisfied	-	7	2	-
Very satisfied	-	14	31	28
Moderately satisfied	20	14	33	11
Slightly satisfied	20	21	17	28
Not at all satisfied	60	44	17	28
Don't know/no answer	-	-	-	5

TABLE 31

SATISFACTION WITH GUIDELINES THAT HAVE WIDE SENTENCERANGE AND ARE VOLUNTARY(By anticipated impact on probation officer's
role in sentencing decisions)

- Federal Judges -

	Anticipated Impact On Probation Officer's Role in Sentencing Decisions			
	Reduce Substan- tially	Reduce Moderately	Probably No Impact	Increase Moderately/ Substan- tially
(Number in Group)	(5)	(30)	(50)	(13)
	%	%	%	%
<u>Total</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>
<u>Satisfaction with Guidelines</u>				
Extremely satisfied	-	3	2	-
Very satisfied	-	17	32	31
Moderately satisfied	-	27	28	31
Slightly satisfied	-	23	20	7
Not at all satisfied	100	30	18	24
Don't know/no answer	-	-	-	7

TABLE 32

CASE AND DEFENDANT FACTORS PERCEIVED TO BE PERTINENT TO GUIDELINES

(Aided)

	<u>Judges</u>	<u>Prose- cuting Attorneys</u>	<u>Defense Attorneys</u>	
				(Number in Group)
	%	%	%	
<u>Factors</u>	<u>Total</u>	<u>100*</u>	<u>100*</u>	<u>100*</u>
Offender's prior record of convictions	93	94	95	
Use of weapon	92	97	95	
Offender's role	91	96	96	
Offender's intent/planning	90	94	94	
Injuries caused	89	94	92	
Criminal organization	89	89	85	
Age of offender	88	83	90	
Cooperation with authorities	81	91	75	
Dollar damage	70	85	63	
Age of victim	65	**	**	
Offender's prior arrests	64	**	**	
Offender's socioeconomic status	59	50	55	
Characteristics of victim	52	60	55	
Offender's sex	40	25	26	
Other	22	17	17	
Don't know/no answer	5	2	1	

* Multiple responses.

** Not asked of this group.

END