



**DISTRICT OF COLUMBIA
COURT SERVICES AND OFFENDER SUPERVISION AGENCY &
PRETRIAL SERVICES AGENCY
RESEARCH REVIEW COMMITTEE**

RECOMMENDATION STATEMENT

DATE: November 19, 2007

I. RESEARCH PROPOSAL SUMMARY

Principal Researcher: Sharon A. Melzer

Title: Sentencing in the Nation’s Capitol: Effectiveness of the DC’s Sentencing Guidelines

Institution: The American University, Department of Justice, Law and Society

Description: The requester is conducting a study of sentencing practices in Washington, DC that tests the idea that the jurisdiction’s sentencing guidelines have reduced judicial disparity in factors such as decisions to impose incarceration, the length of incarceration ordered, and types of crimes receiving this sanction. The study will be based on a sample of all cases appearing in the D.C. Superior Court from 2001 to the present and will measure judicial decisions against other variables associated with possible sentencing disparity using regression modeling and other quantitative analysis. The requester does not give a specific number of cases in the data set. However, based on information from PRISM, we estimate the sample of felony cases disposed since 2001 at roughly 21,959.

This study potentially applies to both PSA and CSOSA.

Type of Data and Analysis: To support this study, the principal researcher requests from CSOSA/PSA a computerized dataset that includes the following variables for all sampled cases:

Criminal history (yes/no)	Primary language	Fine ordered
Pre-sentence detention	Marital status	Filing charges
Pretrial detention	Education level	Disposition charges
Disposition date	Number of dependents	Final disposition
Sentencing judge	Number of children	Court ordered prison sentence
Date of birth	Employment (yes/no)	Minimum prison sentence
Race	Plea (guilty/not guilty)	Maximum prison sentence

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Gender	Conviction type (trial/plea)	Length of probation
Home state/zip code	Sentence type	Prior offense data
Citizenship	Restitution ordered	

The request would require data from SMART and PRISM. However, these databases would be the original source of only demographic information—all other data would come through the systems' interface with the Superior Court's Court View MIS.

NOTE: The attached application includes a full description of the sentencing guidelines study. However, only the request for the above-noted data is relevant for RRC consideration.

Subjects: Defendants convicted of criminal charges that are potentially eligible for mandatory prison time under the sentencing guidelines.

II. RECOMMENDATION

The RRC recommendation for this study:

Support Support with Conditions **Do Not Support**

The RRC recommends not supporting this proposal because it would require significant Agency resources and has minimal benefit for the Agency. An alternative recommendation for conducting the study is offered.

III. SUPPORTING INFORMATION

Regulatory:

The proposed research shows no evidence of non-compliance with Agency policies pertaining to research. The requested data is retro-active and could be submitted without defendant or case identifiers.

Benefits to the Agency:

The request would require a significant investment of CSOSA/PSA resources. One senior CSOSA/PSA staff person would be needed to compile information from the agencies' respective data warehouses, at a projected two to three business days. Since most of the requested data are from Court View, senior staff time also would be required to validate these data against information stored in that MIS. Estimating a 10 percent sample of the felony cases resulting in a guilty disposition since 2001 (roughly 2,200 cases), this validation would require an estimated 10 to 12 business days.

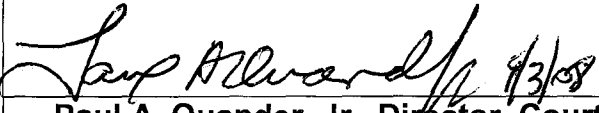
The proposed research's benefits to CSOSA/PSA are minimal and far outweighed by

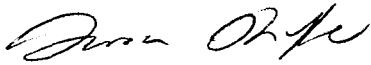
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the potential agency investment. The research would not identify future trends in probation and parole releases nor the number of pretrial arrestees eligible for detention based on probation or parole status. Quantifying the guidelines' effects on judicial behavior is an interesting research question, but does not address CSOSA/PSA's primary information needs of determining the possible changes in PSI demand, persons supervised, and length of prison terms.

Other Considerations:

Given the study's hypothesis, the D.C. Sentencing Commission and the D.C. Superior Court seem to be more appropriate audiences for this request in terms of general interest and data acquisition. Both parties have a greater interest in the guidelines' effect on judicial decision making. Moreover, the Superior Court is the primary source of nearly all the data requested. The Sentencing Commission also has criminal history and conviction data from the proposed sample period and could better assure data accuracy than CSOSA/PSA.

I ACCEPT the RRC recommendation	I DO NOT ACCEPT the RRC recommendation
 Paul A. Quander, Jr., Director, Court Services And Offender Supervision Agency	
Comments:	

I ACCEPT the RRC recommendation	I DO NOT ACCEPT the RRC recommendation
 Susan W. Shaffer, Director, D.C. Pretrial Services Agency	
Comments:	

Sentencing in the Nation's Capital: Effectiveness of the DC's Sentencing Guidelines

Request to assess data held by
Court Services and Offender Supervision Agency
Pursuant to CSOSA's Policy Statement 1201,
and reviewed by the Research Review Committee

Submitted by:
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Summary Statement:

(1 a) Primary researcher Sharon A. Melzer will be assisted in data collection and analysis by doctoral student Keri Weber Sikich and master's student Renee Nicole Souris. All researchers on the project are currently pursuing degrees in American University's Department of Justice, Law, and Society. Deirdre Golash, Chair, Department of Justice, Law and Society and Brian Forst, Professor of Justice, Law and Society at American University have advisory roles.

(1 b-c) The researchers wish to conduct a study on sentencing practices in Washington, D.C. The study, *Sentencing in the Nation's Capital: Effectiveness of the DC's Sentencing Guidelines*, will analyze the effect of District of Columbia's voluntary sentencing guidelines on sentences. Similar to other criminological studies focusing on sentencing practices, this study will test the hypotheses that the guidelines reduced disparity in the in/out decision and the length of sentencing. Specifically, we will analyze the in/out decision and the length of sentence on a judge-by-judge and crime-by-crime basis. We should note that it is of interest in this study not to examine individual, identified judges, but instead to measure the variances between anonymous judges.

hypotheses
to do w/
MSA or
CSOSA

(1 d-e) Researcher will primarily conduct the project in the Washington Metropolitan Area. In order to conduct this study, researchers will need CSOSA and Pre-trial Services to compile a joint computerized data including the variables available for study. We estimate the initial data collection process should take a few hours to a few days. The analysis, disseminations, and publications of findings in academic journals could take more than two years.

(1 f) This project is a quantitative secondary data analysis that will examine the data using summary and descriptive statistics, regression analyses, and similar methodologies. In order to conduct such research and to be inline with similar sentencing research, the researchers would need a dataset containing legally warranted variables associated with sentencing decisions as well as socio-economic and other extralegal variables. Defendant characteristic data and other variables will provide more insight into the extralegal dimension and bring this study in line with past research. Therefore, the regression models and other quantitative analyses will contain both legal and extralegal variables.

(1 g-h) The sample will be inclusive of all cases appearing in the District of Columbia's Superior Court and within COSA/PSA's data from 2001 until present. We anticipate that data collection will occur in August or September of 2007. This study will require CSOSA/PSA staff member(s) to generate a computerized dataset that combines approximately 30 different variables for all cases (for specific variables, see table in section 2).

(1 i) A study of this nature involves personal data and it is possible that participants (i.e., offenders and judges) could experience social or economic discomforts. The risk is minimal, however, since all data used in the study is secondary data and direct contact with the participants is not required. Moreover, researchers will not be provided with the defendant's name, PDID, social security number, address, or any other direct identifying information. Furthermore, we will conduct the analysis at the aggregate level to maintain anonymity upon dissemination of research findings. Researchers will conduct all research and present findings in accordance with IRB protocol.

(1 j-k)

The anticipated hypothesis of this study is that the implementation of the guidelines reduced judicial disparity in sentencing. Therefore, we suspect the analyses will provide useful insight into which variables are associated with sentencing disparities. The researchers will present their findings at academic conferences, such as American Society of Criminology (ASC) and the Academy of Criminal Justice Sciences (ACJS), and submit their work for publication in academic journals. Furthermore, if requested by the District of Columbia Sentencing Commission and/or CSOSA/PSA, researchers will present their findings to the Commission or supply a summary of findings.

(2 a) “Sentencing involves two salient decisions; first, a decision whether to incarcerate; and second, if incarceration is selected, a decision as to the length of the sentence” (Kramer & Ulmer, 1996, p. 88). Judicial discretion and sentencing disparities occur at both the in/out and length of imprisonment stage of sentencing decisions. The introduction of sentencing guidelines has piqued public interest in criminal justice sentencing policies and has spawned a variety of research opportunities to study the implementation of the guidelines. Studies have been conducted that seek to isolate key factors in sentencing procedures and to gauge the weight of these factors on the sentencing decision. Some research examined the influence of guidelines by comparing sentences before and after the adoption of a guideline system in specific jurisdictions (Clarke, 1984; Gorton & Boies, 1999; Koons-Witt 2002; Miethe & Moore, 1985). The induction of sentencing guidelines, which are intended to diminish arbitrary difference and reduce disparity in sentencing, has changed the nature of the sentencing process.

The literature on this issue identifies several key variables associated with general sentencing disparities, the in/out decision, and length/severity of punishment. These include: criminal history (prior record), severity of the crime, court characteristics, mode of conviction, race, ethnicity, gender, and age (Albonetti, 1997; Bontrager, Bales, & Chiricos, 2005; Bushway & Morrison Piehl, 2001; Engen & Gainey, 2000; Everett & Wojtkiewicz, 2002; Gorton & Boies, 1999; Kansal, 2005; Klein, Petersilia, & Turner, 1990; Kramer & Steffensmeier, 1993; Kramer & Ulmer, 1996; Steffensmeier, Ulmer, & Kramer, 1998; Wooldredge, Griffin, & Rauschenberg, 2005). Recent analyses examine the impact of contextual and judicial factors (Johnson 2005; Johnson 2006), which builds

¹ Please See Appendix A – References, for full citations for the cited literature.

upon research conducted on the effects of local and court characters on dispositional departures (Kramer and Ulmer, 1996). Kramer and Ulmer (1996) found that characteristics of the local court, including urbanization and Republican electorates, were associated with the odds of offenders sentenced in Pennsylvania receiving guideline departures. In general, a combination of county-level contextual factors, case characters, and the background of the judge all influence the sentencing decision-making process (Johnson, 2006).

Most, if not all, sentencing research concludes that criminal history and offense severity are strongly associated with sentencing decisions. Edgen and Gainey (2000) found that offense severity and criminal history have a positive relationship to the severity of the sentence imposed in Washington State. Likewise, Steffensmeier, Ulmer, and Kramer (1998) found that criminal history and offense severity “are associated most strongly with sentencing outcomes” in Pennsylvania sentencing (p. 775). Two years earlier, Kramer and Ulmer (1996) found that prior record and offense severity were associated with offenders receiving prison sentences. This study did not specifically examine all in/out decisions, but instead studied a smaller set of cases and identified those cases as “dispositional departures” (see Kramer & Ulmer, 1996). Kramer and Steffensmeier (1993) found that “offense severity and criminal history account for most of the explained variation” in their model (p.367).

Beyond legally relevant factors, or warranted disparity, researchers have identified the mode of conviction (plea agreements versus convictions by trial) as a possible variable associated with disparity in the severity of sentences. Research has shown that offenders who enter a guilty plea “are more likely to be rewarded with

dispositional departures than are those convicted by trial – especially jury trials” (Kramer & Ulmer, 1996, p. 91). In an analysis of Pennsylvania sentencing data, Johnson (2005) found that conviction via trial “decreased the odds of downward departures by a substantial 210 percent, and nearly doubles the odds of upward departure” (p.780). Bushway and Morrison Piehl (2001) also concluded, “guilty pleas are associated with a lower likelihood of prison” in Maryland (p. 752).

Steffensmeier, Ulmer, and Kramer (1998), Klein, Petersilia, and Turner (1990), Albonetti (1997), Bushway and Morrison Piehl (2001), and Kansal (2005) determined that race did have an impact on whether the offender was sentenced to prison. Klein et al. (1990) studied offenders convicted of assault, robbery, burglary, theft, forgery, or drug crimes in California during 1980. The research specifically addressed the in/out decision and sentence length. Blacks (for assault) and Latinos (for drug crimes) were the only two instances where race was related to the likelihood of being sentenced to prison while controlling for crime, prior record, and other variables. The length of the sentence was not influenced by race. Bushway and Morrison Piehl (2001) found similar results in their analysis of Maryland sentencing data: “African Americans are 5.3 percentage points more likely than whites to be sentenced to prison, while Hispanics are about 9 percentage points more likely” (Bushway & Morrison Piehl, 2001, p. 752).

Concerning the length of prison sentences, Albonetti’s (1997) study of drug convictions at the federal level found that blacks and Hispanics were more likely to receive prison sentences and longer sentences than white offenders. However, Klien, Petersilia, and Turner’s (1990) study of offenders convicted of assault, robbery, burglary, theft forgery, and drug crimes in California found “no evidence of racial discrimination in

the length of prison term imposed for any of the crimes” (p.816). And, Kramer and Steffensmeier’s (1993) analysis of sentencing in Pennsylvania found that criminal history and severity of the crime accounted for 82% of the variance in sentence length and race accounted “for less than one-tenth of one percent of the variation,” when controlling for other variables (p. 368).

When analyzing sentencing practices in Pennsylvania, Kramer and Ulmer (1996) found that race, gender, and age influenced dispositional departures. Non-blacks, females, and older offenders were more likely to receive dispositional departures. Steffensmeier et al. (1998) found that young, black males were sent to prison and had longer sentences than any other combination of age, race, and gender. When controlling for prior record and offense severity, the authors determined that gender significantly affected the in/out decision. “Females’ odds of incarceration are almost half those of males,” and females which received imprisonment, their sentences were six and a half months shorter than males (Steffensmeier, Ulmer, & Kramer, 1998, p. 776). They also concluded that age has a curvilinear relationship to the harshness of a sentence: young offenders (under 21) and old offenders (over 50) received less harsh sentences than those between the ages of 21-50 (p.777). While age, race, and gender did have significant effects on sentencing outcomes, they concluded that prior records, mode of conviction, seriousness of the crime, and characteristics of the court primarily influenced sentencing outcomes and the in/out decisions.

While not limiting his analysis to the in/out decision, Johnson (2005) found disparity in guideline departures in relation to the percentage of a given minority in the community. “Hispanic offenders were less likely to receive downward departures as the

percent Hispanic in the community increased, whereas blacks were more likely to receive upward departures as the percent black of the population increase” (Johnson, 2005, p. 786). Johnson’s study primarily focused on courtroom social contexts and other extralegal factors. His approach was unique because it not only tried to capture typical court related variables, but also county size, court size, departure rate, jail capacity, and courtroom resources. His findings concerning race were not limited to a mere snapshot of society captured in sentencing data, but instead attempted to capture the realities of the communities and cultures from which the offenders came. His research was consistent with prior research and supported the idea that “under decision-making constraints, courtroom actors may rely on stereotypical patterned responses that tie offender characteristics to courtroom assessments of dangerousness and culpability” (Johnson, 2005, p. 780).

By and large, legislatures implemented the sentencing guideline system in the 1970s and 1980s; thus, most pre/post guideline analyses use data from the 1960s through the 1980s. The District of Columbia implemented a voluntary guideline system in 2004, thus providing a unique opportunity for new research. In evaluating the effectiveness of a guideline system in meeting its intended purposes, this study will involve a pre/post test analysis of the District of Columbia’s voluntary sentencing guideline program. The District of Columbia’s court records provide, in part, data for a pre/post analysis to be conducted. In short, this research addresses the importance of studying sentencing disparities associated with the in/out decision and sentence length, assesses the effectiveness of sentencing guidelines, and examines variance between judges and across crime categories. A main objective of interest is to identify the effect of some key

variables on sentencing outcomes. The variables can be characterized as legally relevant factors (warranted disparity) and extralegal factors (unwarranted disparities). Legally relevant factors include criminal history and severity of the crime. Offender characteristics, including demographic and socioeconomic factors, as well as procedural factors such as mode of conviction are extralegal factors.

(2 b) Similar to other studies, this study will test the hypotheses that the guidelines reduced judicial disparity in the in/out decision and the length of sentences. *Specifically, this study will analyze the in/out decision and the length of sentence on an anonymous judge-by-judge and crime-by-crime basis.* Measurement of the change in variances after the guidelines for judges and crime categories will be of primary interest.

The research design consists of a statistical test of the reduction in variation in sentences associated with sentencing guidelines for various crimes. Variables can include, but are not limited to, crime-related variables, mode of conviction, pre-trial status, defendant's race, gender, home state or zip code, whether US citizen or not, marital status, educational level, number of dependents, whether employed or not, and type of sentence (see Table 1 for specific variables).

The research team will use statistical programs such as Excel, SPSS and STATA files to conduct a variety of statistical techniques (such as regression models, frequencies, variance measures, etc.) to analyze the data. We will test several hypotheses related to, but not limited to, severity of sentences, pre and post-guideline comparisons, reducing disparities, variance between judges and differences between the drug and master grids.

Table 1: List of Variables Requested from CSOSA/PSA

Criminal history (yes/no)	Plea (guilty/not guilty)
Pre-sentence detention	Mode of conviction (trial versus plea)
Pre-trial detention	Type of sentence (probation, short split, long split prison)
Disposition Date (year, month, day)	Restitution Ordered (if so how much)
Judge (code or name)	Fine Ordered (if so how much)
Defendant's Birth Date	Filing Charges
Defendant's Race	Disposition Charges
Defendant's Gender	Final Disposition (In/Out, Probation vs. Prison)
Defendant's Home State or Zip Code	Length of Prison Sentence (As ordered by court)
Defendant's Citizenship (US citizen yes/no)	Minimum Prison Sentence (As ordered by court)
Defendant's Primary Language	Maximum Prison Sentence (As ordered by court)
Defendant's Marital Status	Length of Probation (As ordered by court)
Defendant's Education Level	Prior Offense information
Defendant's Dependents (number of)	
Defendant's children (have children? Living with?)	
Defendant's employment (is the person employed? Yes/no)	

Not in
Court
View

~~Not~~
this is available thru data warehouse

(2 c) The District of Columbia's implementation of sentencing guidelines provides a unique research opportunity. Few studies examined the impact of guidelines on sentencing by comparing sentences. This literature compares sentence before and after the adoption of a guideline system in specific jurisdictions (Clarke, 1984; Gorton & Boies, 1999; Koons-Witt 2002; Miethe & Moore, 1985). Because significant societal, penal, and legal changes have occurred over the last thirty years, analyzing contemporary sentencing data will give new insight to contemporary sentencing practices and the effects of guidelines in the new century.

Beyond contributing to the sentencing and guideline research, this research will also contribute to the judicial literature. A goal of this study is to measure the variance between judges and whether the guidelines reduced disparity, focusing on a judge-by-judge analysis will provide valuable insight to the current literature. The crime-by-crime analysis will shed light on whether disparity exists between drug crime and violent crime.

(2 d) The benefits to CSOSA may not be apparent on the surface. However, sentence decisions directly affect CSOSA and the clients they serve. Since this research has the support of the Sentencing Commission and results will be forwarded to the Superior Court, it is conceivable that results from this analysis will help inform judges and the commission with future sentencing practices. This research will help make sentencing more uniform within the District and thereby indirectly serve CSOSA/PSA's clients.

(2 e) This project will have some impact on CSOSA/PSA's resources and staff. A staff member would be asked to merge the data from the two agencies, CSOSA/PSA, in order

to provide us with a comprehensive dataset. After this has been done, the data could be entrusted to us via email, mailing a CD, or the primary researcher could personally pick it up at CSOSA's offices.

(2 f) This research project utilizes the collection of variables previously collected by CSOSA staff in the course of their official capacity. It will not require researchers to come in direct contact with any of CSOSA's clients and researchers will not be able to identify the defendants (i.e., we will not have their names or identifying numbers, such as social security or PDID numbers). The data does, however, contain sensitive information such as defendants' criminal activities, socio-economic factors, sentence imposed, and which the sentencing judge. While researchers will present results at the aggregate level and subjects will not be identified, it is possible that results could reveal variance between judges, adverse effects of the guidelines, and continued disparities in sentencing practices. Results of this nature, if extreme, could bring political or public relation problems to the court. Yet there is the important benefit to judges and the public through knowledge of sentencing practices, predictors, and areas of possible disparities so they may be corrected for the future. Given that researchers have conducted studies of this nature in other jurisdictions without serious harm and given the omission of personal identifiers, it is unlikely this study will result in harm to those involved.

(2 h) Upon reporting results, the authors will not identify a judge by name or coded number and results for offenders will be presented at the aggregate level. The dataset will be limited to viewing only by faculty involved with the study and students working directly with the project. Researchers will agree not to share the data with other agencies, make the data available to the public, post the data on a webpage, such as ICPSR, or

share with students who are not directly working on the research project. They have no financial support from or agreements with other agencies to conduct this study.

The data collection procedure will be conducted by CSOSA/PSA staff and access to the resulting dataset will be limited to select master and doctoral students from American University. These students, who are aware of and bound by IRB protocol², will collect the data and respect the confidentiality of the information included in the files. The dataset will not include any identifying information or numbers that could be used to identify subjects in the study. While the dataset will not itself reveal participant identify, researchers still will not share the dataset with other researchers. Since personal identifiers will not be included in the dataset given to the researchers by CSOSA/PSA, there is no need to have a plan to remove or destroy personal identifiers.

(2 i) With the exception of the staff resources specified above, there are no anticipated effects of the research project on CSOSA/PSA's programs and operations. Since this research utilizes secondary data from administrative files and the identities of individuals are not known, it is not necessary to have individuals sign informed consent forms.

(2 j) To verify that the researchers have the appropriate credentials to conduct and monitor the proposed research, each researcher's curriculum vita or resume can be found in Appendix C.

(2 k-1) It is the expectation of the research team that this project will yield articles worthy of publication in academic journals. Prior to publication, the research team will forward a copy of the article to CSOSA. Throughout the study, researchers will present their findings at academic conferences, such as the American Society of Criminology (ASC)

² Please see Appendix B for the Application to American University's Institutional Review Board and correspondences.

and Academy of Criminal Justice Sciences (ACJS), and if requested by the District of Columbia Sentencing Commission and/or CSOSA/PSA, researchers will present their findings to the Commission. CSOSA/PSA will give the researchers the dataset; therefore, giving a copy of the dataset back to CSOSA/PSA will not be necessary.