



Highlights of [GAO-04-105](#), a report to congressional requesters

FEDERAL DRUG OFFENSES

Departures from Sentencing Guidelines and Mandatory Minimum Sentences, Fiscal Years 1999-2001

Why GAO Did This Study

Created in 1984, the United States Sentencing Commission (USSC) was charged with developing the federal sentencing guidelines to limit disparities in sentencing among offenders with similar criminal backgrounds found guilty of similar crimes. Judges determine a specific sentence based on an applicable sentencing guideline range, such as 57 to 71 months, provided in the guidelines. Judges may impose sentences that fall anywhere within the range, above it (upward departures), or below it (downward departures). For some offenses, Congress established mandatory minimum sentences. Judges may also sentence below the minimum in certain circumstances.

We examined the differences in drug offense departures from sentencing guidelines and mandatory minimum sentences among federal courts and the documents the USSC used to record and analyze sentences.

What GAO Recommends

We recommend that USSC and the Administrative Office of the U.S. Courts (AOUSC) continue to collaborate on education programs to encourage judges and other court officials to use AOUSC's standard statement of reasons form (SOR), to complete the SOR more effectively; and to revise the standard SOR to better meet the data collection needs of the USSC.

www.gao.gov/cgi-bin/getrpt?GAO-04-105.

To view the full product, including the scope and methodology, click on the link above. For more information, contact William O. Jenkins at (202) 512-8757 or jenkinswo@gao.gov.

What GAO Found

Generally, downward departures are defined as (1) substantial assistance departures, made at the prosecutor's request because the offender provided substantial assistance to the government; and (2) other downward departures made for other reasons, such as a plea agreement, a judge's consideration of mitigating factors, or early disposition, i.e., "fast track" programs initiated by prosecutors for low-level drug trafficking offenses.

Of federal sentences for drug-related offenses in fiscal years 1999-2001, the majority (56 percent) was within applicable guideline ranges. Downward sentencing departures were more frequently due to prosecutors' substantial assistance motions (28 percent) than for any other reasons (16 percent).

For federal drug sentences that carried a mandatory minimum term of imprisonment, more than half of the drug sentences imposed fell below a mandatory minimum. Of these, half fell below a minimum due to prosecutors' substantial assistance motions and half due to other reasons.

After adjusting for differences in offense and offender characteristics among judicial circuits and districts, our analysis showed variations among certain circuits and districts in the likelihood an offender received a substantial assistance departure, other downward departure, or a sentence falling below a mandatory minimum. However, these variations did not necessarily indicate unwarranted sentencing departures or misapplication of the guidelines because data were not available to fully compare the offenders and offenses for which they were convicted.

For drug sentences nationally, USSC receives 96 percent or more of the three key documents, including the statement of reasons (SOR), used to record sentence length and departures. For a small percentage of drug cases in USSC's database, information is missing, incomplete, or too difficult for USSC to interpret, principally affecting sentencing analyses in districts where the missing or incomplete data are most prevalent.

Downward Departures for Federal Drug Sentences Imposed in FY 1999-2001

	All criminal sentences		All drug sentences	
	Number	Percent	Number	Percent
Sentences imposed	175,245		72,283	
Sentences with complete sentencing information	162,090	100%	69,279	100%
Sentences within guidelines	104,389	64%	39,138	56%
Downward departures				
Substantial assistance	29,247	18%	19,107	28%
Other reasons	27,474	17%	10,891	16%

Source: GAO analysis of USSC data.