A SHIFT IN POLICY: THE RELEASE OF JUDGE-SPECIFIC SENTENCING DATA IN PENNSYLVANIA

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Pennsylvania's Constitution provides: "All courts shall be open," Const. Art. 1, §11, and "The printing press shall be free to every person who may undertake to examine the proceedings of the Legislature or any branch of government and no law shall ever be made to restrain the right thereof," Const. Art. 1, §7. Based on these guarantees, the Pennsylvania Supreme Court has held that "public trials include public records," *Com. v. French*, 531 Pa. 42, 611 A.2d 175 (1992), and has established a rule that requires "a verbatim account of the entire sentencing proceeding" be made and preserved. Pa.R.Crim.P. Rule 1405 C (4)(b). By law and by practice, any individual may observe a sentencing proceeding and view the record of a criminal proceeding maintained by the Clerk of the Courts.

Since 1982, the Pennsylvania Commission on Sentencing, a legislative agency, has been collecting relevant information on sentences imposed as reported by criminal court judges. Reporting is mandated by statute. 42 Pa.C.S. §2153(a)(14). While it does not contain 'a verbatim account of the entire sentencing proceeding,' the information collected by the Commission includes demographic data, offense of conviction, record of previous convictions, application of sentencing enhancements and/or mandatories, type of disposition (e.g., negotiated plea, jury trial, etc.), guideline recommendation, sentence imposed and reasons for sentence and/or departure from the guideline recommendation. Until recently, the Commission has had no written policy controlling the release of information, but generally excluded judge and offender identifier from public release.

Much like Pennsylvania, a number of jurisdictions with sentencing guidelines have developed informal policies over the years to address requests for sentencing data. A survey conducted by Commission staff in 1997 of six jurisdictions found that none had a written policy and the unwritten practices varied greatly. See Table 1. Comparison of Release of Information Policies. Most states reported few major problems with their respective practices, and infrequent or no requests for 'raw' data on disk. Minnesota, the state that first established presumptive sentencing guidelines, had an extremely open approach and indicated that, for the most part, staff had not encountered problems. Washington similarly permitted broad release of sentencing information, but took a piecemeal approach to responding to data requests, dependent upon whether doing the request was cost-effective and a good use of taxpayer money. Virginia indicated that they only released information that was initiated and published by the Commission, and never released data on disk. All other requests for information required Commission approval.

Due to an increasing number of requests for judge-specific sentencing data, the Pennsylvania Commission recently adopted a written policy that permits the release of judge-specific data beginning in the fall of 1999. This policy has generated substantial discussion. A number of judges and Bar Associations question the authority of the Commission to release judge-specific information, and express concern about the accuracy of the data, the lack of context when considering the appropriateness of sentences imposed, and a further politicization of the sentencing process. However, others cite the public nature of sentencing decisions, the appropriateness of releasing individual and aggregate sentencing information collected and analyzed by Commission staff, and the inappropriateness of using public

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funds to fight the release of sentencing information. This article documents the pioneering effort in Pennsylvania to develop and implement a responsible written policy for the public release of case-specific and aggregate sentencing information.

Commission Policies and Practices

Statutory Authority

The Pennsylvania Commission on Sentencing was established on November 26, 1978, P.L. 1316, No. 319, 11/26/78, for the primary purpose of creating a consistent and rational statewide sentencing policy that would increase sentencing severity for serious crimes and promote fairer and more uniform sentencing practices. The legislation required the Commission to adopt sentencing guidelines that would be "...considered by the sentencing court in determining the appropriate sentence for defendants who plead guilty or nolo contendere to, or who were found guilty of, felonies and misdemeanors." 42 Pa.C.S. §2154. Since 1986, the Commission has been designated a legislative agency, P.L. 135, No. 41, 5/1/86. The first guidelines were adopted in July 1982 and several revisions have been promulgated since then.

The Commission's enabling legislation also delegated additional powers and duties, including: to collect, publish, and disseminate information relating to Commonwealth sentencing practices; to make recommendations to the General Assembly which the Commission finds to be necessary and advisable to carry out an effective, humane and rational sentencing policy; and to systematically monitor compliance with the guidelines and with mandatory sentencing laws. 42 Pa.C.S. §2153.

Data Collection and Monitoring

Judges are required by statute, 42 Pa.C.S. §2153(a)(14)(ii), to submit a sentencing guideline form for each sentence imposed, but the Commission has no enforcement powers. In recent years, the Commission expressed concern about a perceived under-reporting of guideline sentence forms. A number of steps have been taken to address this concern. The Commission conducted an audit in 1996 in an attempt to identify gaps in reporting. The results of the audit were shared with the President Judge of each county, and in a number of cases new procedures were adopted to remedy problems. At the same time, the Commission worked to standardize the procedures for submitting completed forms, by providing postage-paid business reply envelopes to counties and developing a tracking mechanism to verify receipt of forms mailed. The Commission also sought the support of the courts and the General Assembly in promoting the use of the form. The Criminal Procedural Rules Committee recommended and the Pennsylvania Supreme Court approved a revised Comment in P.R.Crim.P. Rule 1405 containing the requirement to complete and submit a guideline form to the Commission. And while statute already required the court to submit a completed copy of the guideline form to the Commission, 42 Pa.C.S. §2153(a)(14)(ii), recently enacted legislation requires the court to submit a copy of the guideline form to a correctional facility when committing an offender. P.L. 640, No. 84, 6/18/98.

To further improve the collection and monitoring of sentencing data, as well as to increase the accuracy of guideline calculations and the level of reporting, the Commission has recently released its sentencing guideline software application. This version of the software assists users by determining the correct guideline recommendations and printing a prepared facsimile of the sentencing guideline form for use by the court. The next version of the software will allow for electronic submission of all sentencing information to the Commission.

Dissemination of Information

The Commission has published an *Annual Report* each year that includes aggregate data by county, offense and other groupings. However, the Commission has also received numerous requests for more specific sentencing information. While the Commission did not have a formal policy on releasing information, Commission staff complied with requests in two ways: (1) giving access to paper files containing copies of the sentencing guideline forms, a practice subsequently terminated due to potential release of confidential information; and (2) conducting computer 'runs' specific to the requests. Occasionally, the Commission received requests for the complete data set on disk, generally from researchers or reporters, so that persons requesting the information could conduct independent analysis.

Commission staff had refused to publicly release raw data in an automated format for several reasons. First, staff was concerned that analysis by someone not trained in research methods or unfamiliar with the data set would result in incorrect assumptions and inaccurate conclusions. Second, staff was concerned that such a release might violate other acts that govern the release of offender information, such as the Criminal History Records Information Act. P.L. 116, No. 47, 1/1/80. Since the information reported to the Commission on the sentencing guideline form is collected by a third party, only minimal verification of accuracy is possible. Additionally, some of the information contained on the form, particularly under departure reasons, may be based upon a pre-sentence investigation report, which is confidential and not open to public inspection. Pa.R.Crim.P Rule 1404.

A third reason for refusing to release the entire data set was that it contained judge identifier. During the initial implementation of the sentencing guidelines in 1982, judges were assured that judge-specific sentencing data would not be released to the public. Such a promise was necessary because judges in Pennsylvania are elected officials, and they were concerned at the time that sentencing data would be used as a 'scorecard' during retention elections. Additionally, and perhaps just as importantly, the Commission made this promise as an attempt to engender good will with the judiciary, since judges were required by statute to submit a sentencing guideline form for each sentence imposed but the Commission had no enforcement powers.

Policy Development & Implementation

Critical Events

Three critical events contributed to the Commission's decision to develop a formal release of information policy: a request from Philadelphia Newspapers, Inc., publisher of *The Philadelphia Inquirer*, for access to computer records of the Commission; a request from a trial court judge from Pittsburgh (Allegheny County) seeking sentencing data to defend himself on charges alleging violation of the Code of Judicial Conduct; and an initial request from a trial court judge from Philadelphia who was nominated for a federal judicial appointment and subsequent request from the U.S. Senate Judiciary Committee seeking sentencing data as part of a confirmation process.

In early 1997, the Commission received a request from a *Philadelphia Inquirer* reporter under the Right to Know Act, P.L. 390, 6/21/57, for access to all sentencing data, including judge identifier and other data not previously released. The Right to Know Act provides that every public record of an agency shall, at reasonable times, be open for examination and inspection by any citizen of the Commonwealth. 65 P.S. §66.1 et seq. While the Philadelphia Inquirer request focused on the nature of the records maintained by the Commission, the genesis of the Commission removes it from the otherwise sweeping mandate of the act. Specifically, an "agency", for purposes of the Right to Know Act, is:

> Any department, board or commission of the *executive branch* of the Commonwealth... created by or pursuant to a statute that declares in substance that such organization performs or has for its purpose the performance of an essential government function. 65 P.S. § 66.1 (Emphasis provided)

Since this definition limits the purview of the Right to Know Act to the executive branch, the Pennsylvania Commission on Sentencing is not subject to any of the Act's provisions. The Commission was created by and operates under the authority of the General Assembly. 42 Pa.C.S. § 2151 et seq.; See also *Commonwealth v. Sessoms*, 516 Pa. 365, 532 A.2d 775 (1987).

Legislative counsel, whose opinions were sought regarding the *Philadelphia Inquirer's* request, embraced the above-cited provisions in determining that the Right to Know Act did not apply to the Commission, since it is an agency of the General Assembly and the Act applied only to Executive Branch agencies. Further, counsel noted that "in order for an individual to assert a right to disclosure of information from an agency, the individual must prove: 1) that the information was generated by the agency..." Since the sentencing information is generated by the courts and forwarded to the Commission, counsel argued that the request should be directed to the courts.

While the opinion of legislative counsel provided the basis for a judge identifier "no release" policy, the Commission did not want to enter into litigation threatened by the newspaper wishing to compel the release of sentencing data. To do so would put the Commission in the uncomfortable position of resisting release of sentencing information, information collected and compiled using public funds, by a state agency that has a responsibility under its enabling legislation to disseminate sentencing data. 42 Pa. C.S. § 2153 (a) (7)(i), (10) and (11). Additionally, if a court ultimately determined that some or all of the data in the possession of the Commission are public records or in some other way subject to the Right to Know Act, there was a risk that everyone could have access to the raw data, regardless of Commission concerns regarding accuracy, confidentiality or manipulation.

On another front, in June of 1997, the Commission received a request from a Judge of the Court of Common Pleas of Allegheny County (Pittsburgh) seeking information and data on sentences he imposed in criminal matters during the previous nine years. In response to charges before the Court of Judicial Conduct that he uttered racial slurs in a public and a private social setting, the judge was seeking statistical support to establish a defense that his sentencing pattern does not differ on the basis of race, thus exonerating him from accusation of racial bias or prejudice in the performance of his judicial duties. While the judge requested specific data on sentences he imposed, he also requested a comparison of his sentences to those of the state trial bench as a whole.

The Commission rejected the judge's request due to potential conflict with the Criminal History Records Information Act (CHRIA). CHRIA controls and protects the dissemination of information collected by criminal justice agencies concerning individuals and arising from the initiation of criminal proceedings and any dispositions therefrom. 18 Pa. C.S. §9101 et seq. Subsequently, the judge reiterated his request, arguing that the information was critical to his defense, that all pertinent information is in fact a matter of public record, and that he was satisfied that the information did not violate any statute, including CHRIA. Following a second rejection by the Commission, the judge subpoenaed the information, which the Commission provided.

By disseminating the information only in response to a subpoena, the Commission responded to a request where it was demonstrated that the Commission data was relevant evidence in a pending proceeding. Such an approach did not extend the release of such information beyond those who were party to a legal proceeding

in which the data was relevant evidence. As an incremental expansion beyond a "no release" policy, the Commission agreed to disseminate previously unreleased sentencing information, such as judge identifier and departure reasons, only to persons who demonstrate that the information they request is relevant evidence in a legal proceeding.

In September of 1997, the Commission received a request from a Philadelphia County Common Pleas Court Judge seeking information and data on sentences she imposed during the eight years that she sat in criminal court. The judge was nominated to serve on the U.S. District Court for the Eastern District of Pennsylvania, and if confirmed would be the district's first female African American federal judge. During the confirmation process, a growing number of prosecutors, including the executive committee of the Pennsylvania District Attorneys Association, sought to block her confirmation, alleging that she was anti-police and anti-prosecution.

The United States Senate Judiciary Committee requested a complete record of criminal sentences rendered by the judge during her tenure on the criminal bench, and an analysis of how her sentencing practices compared to the sentencing guidelines. The Committee had made an inquiry to the United States Sentencing Commission to determine how similar requests were handled for federal judges. It was the Committee's understanding that the U.S. Sentencing Commission would release sentencing data to the individual judge if a request were made.

Despite several requests from the judge and the Senate Judiciary Committee, the Commission refused to release judge-specific information or any of the raw sentencing data via disk or guideline form. However, as the criticism and media coverage increased, the Senate Judiciary Committee informed the judge and the Commission that it would not move forward on the nomination unless the sentencing information was provided. Due to the circumstances, the Commission decided to release the requested information to the judge. She in turn provided the information to the Committee. Although her guideline conformity rate for sentencing was similar to that of other judges in Philadelphia, and she was eventually recommended by the Senate Judiciary Committee, the judge ultimately withdrew her nomination prior to a vote by the Senate. The decision in this case lead to another expansion in the Commission's policy regarding the release of sentencing information. Upon request, the Commission would release sentencing information to a judge, with the understanding that the sentencing information would then be publicly available.

Public Hearing

While sentencing data were released in the cases involving the two judges, and it was determined that the Right to Know statute did not apply to a legislative agency, the Commission felt it necessary to continue with the development of a comprehensive written policy for the release of sentencing information. Absent such a move, the Commission would continue to be faced with the choice of inviting lawsuits and subpoenas for specific releases of data, or resisting the release of data generally viewed as public information. The Commission set about developing a policy that would provide a framework for the dissemination of sentencing information in a complete and accurate manner while recognizing the limited resources available to staff.

An initial draft of a Release of Information Policy was adopted for public comment on April 22, 1998. The policy created two categories of information: Entire Data Set and Specific Information. The Entire Data Set would be publicly accessible though the Inter-University Consortium for Political and Social Research [ICPSR] upon completion of data entry, cleaning (e.g., verification) and documentation, although confidential offender information would be removed. By contract, the Commission could provide the complete data set to an agency or individual conducting research on behalf of the Commission. Specific Information included four standard reports (i.e., Type of Sentence, Conformity of Sentence, Mandatory Sentences Imposed, and Place of

Confinement) that could be generated using statewide data, county data, or judge data. A copy of any judge-specific report would be sent to the judge and include the identity of the requesting party. Any other specific information requests would be considered a custom report, and would have to be approved by the Commission.

On June 24, 1998, the Commission adopted the policy, effective November 1, 1998, and scheduled a Public Hearing for October 27, 1998 to receive testimony on the policy. During the interim, and based on written comments received, Commission staff prepared an additional standard report, offense-specific information, in order to provide non-aggregated case information on each sentence imposed and include other information such as type of plea, application of a mandatory minimum, and departure reasons.

The Hearing included testimony from twelve individuals, including five judges and representatives of the Pennsylvania and Philadelphia Bar Associations, citizens groups, and the media. Most of those testifying were from Philadelphia and were opposed to the release of judge-specific sentencing information. For the most part, the comments against release fell into three categories: judge-specific release of sentencing information is outside of the scope of the Commission's enabling legislation; the sentencing information collected and analyzed by the Commission is neither accurate nor complete; and release will contribute to the further politicization of the sentencing process. Comments in support of release were offered by representatives of the media and a First Amendment interest group, encouraged the Commission to continue on its present course. All who testified offered to work with the Commission to improve the quality of reporting and to develop contextual information that could accompany the release of any sentencing information. They further encouraged the Commission to review the final release policy regularly to determine its impact and any unintended consequences if judge-specific information is included.

Opponents argued that the Commission's enabling legislation envisioned the use of sentencing data for general policy development, not for specific reporting on judges. They referred to promises made by Commission staff during the implementation of the first guidelines in 1982 that judge-specific data would not be released. They suggested that publishing judge-specific sentencing data would change the nature of the sentencing guidelines from 'recommendations' to 'edicts,' an infringement on the independence of the judiciary.

Opponents also expressed concern regarding the accuracy of the sentencing data. They suggested that the guideline form was not designed to capture all of the information relied upon by the court at the time of sentencing; that judges have not had an opportunity to review and, if necessary, correct information submitted; that under-reporting or selective reporting of sentences could skew the data; that offense-specific data was incomplete since it did not provide the necessary contextual information; and that aggregate data was misleading due to the differing procedures and programs between as well as within counties. The retroactive application of the policy did not take into account that judges were preparing guideline forms for a different audience in the past than would be prudent under the new policy (i.e., the Commission vs. the public). They recommended a one-year delay in implementing the policy and suggested that the Commission provide additional training for judges.

The third concern raised was the further politicization of the sentencing process with release of judge-specific sentencing information. Many testifying described the articles printed almost daily in a local tabloid criticizing the courts, often based on misinformation or partial information. They saw the Commission's policies as fanning the flames. Aggregate data would be reduced to political scorecards and offense-specific data was incomplete and would be taken out of context. Since judges in Pennsylvania are elected to ten-year terms and then stand for retention, sentencing data could be used as political ammunition, especially by special interest groups.

Under the Code of Judicial Conduct, a sitting judge is at a disadvantage since the ability to respond to any charge is restricted.[2] They argued that being present in the courtroom for a sentencing hearing or reviewing the entire public record provided a context for the sentence imposed not available through the Commission

Commission Response

In responding to the testimony, several members argued that the Commission had both the authority and an obligation to release judge-specific information, that doing so was consistent with the original goals of the Commission, and that it had an obligation to do so in a fair and responsible manner. For a majority of members, the question was no longer whether the Commission should release judge-specific information, but rather how such information should be released. Members argued that the Commission's enabling legislation authorizes the release of all information collected,[3] including judge-specific information. Further, since public funds are used to support Commission operations, and the Commission is a legislative agency, the presumption should be that any information collected and/or analyzed should be released, unless specifically barred by statute. Using this analysis, judge identifier is not barred from release, and the Commission should not use public funds to fight the release of sentencing information.

One of the purposes of the guidelines is to promote sentencing conformity[4], and release of judge-specific sentencing information may further that purpose. Guidelines were a compromise on the road to more mandatories. Under the guidelines, judges retain broad discretion and may easily depart from the recommendations, as long as they provide a reason on the record and include it on the guideline form. Special case-processing programs and other contextual information may be included as such reasons.

Members generally viewed under-reporting of sentences or failure to provide departure reasons to be the result of judges not complying with statute. Those criticizing the policy or advocating for additional training have not taken advantage of many public opportunities to comment and work for system changes over past 20 years. Commission meetings are held quarterly, are publicized in advance, and are open to the public. During the past year alone, the Commission provided 19 sentencing guideline training sessions and 16 training sessions relating to the use of the sentencing guideline software application. Although judges are responsible for the quality and completeness of sentencing information reported, the Commission recognized its responsibility to make every attempt to report sentencing data, and particularly judge-specific sentencing data, in a fair and informed manner.

The Commission did recognize the difficulties of applying the new policy retroactively to previous sentencing years, both in terms of the concerns raised by judges and the drain on staff resources. The Commission voted in favor

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[2] "The faithful and proper performance of his duties if elected being material, a candidate may discuss his qualifications and the qualifications of his opponent. He may pledge the faithful and proper performance of his duties, but should make no other promises of conduct in office. *He should not state his views on disputed legal or political issues... Thus, a candidate should not indicate what his decision would be should a particular case or type of case come before him, or what sentence he would pass on a defendant charged with a particular crime*. 207 Pa.Code §39.2(b). (Emphasis provided)

[3] "General rule.—The commission, pursuant to rules and regulations, shall have the power to:...
(10) Collect systematically and disseminate information concerning sentences actually imposed.
(11) Collect systematically and disseminate information concerning effectiveness of sentences imposed." 42 Pa.C.S. §2153(a).

[4] "The purpose of the amendment is to make criminal sentences more rational and consistent, to eliminate unwarranted disparity in sentencing, and to restrict the unfettered discretion we give to sentencing judges." *Pennsylvania House Journal*, 3130, 9/21/78.

of a compromise policy that made the judge-specific release prospective beginning with 1998 sentencing data, the year the Commission gave notice to judges of the policy change. However, as part of this policy, staff would be permitted to release judge-specific data for any sentencing year upon request of the judge or in response to a subpoena. In both cases, the reports generated would be available to the public.

Regarding politicization of the sentencing process, members cited the practice of releasing county-specific data in the Commission's Annual Report since 1984, which is in fact judge-specific sentencing information in one-judge counties. The concerns raised in the testimony regarding judge-specific release were not substantiated by the experiences in one-judge counties. Members encouraged judges to report to the Commission on any abuses of the policy, and pledged to revisit the policy regularly. The Commission welcomed the assistance offered by the judges, the Bar Associations and other interested parties in refining the policy and developing contextual information. To this end, the Commission established a committee on the Release of Information Policy, and charged it with the responsibility of meeting with interested parties to address implementation issues.

Over the course of several meetings, the committee modified the Release Policy to limit the scope of the ICPSR data set, discussed staff priorities and fee structures relating to the reports generated, approved a verification report for use when providing case-specific data to judges for review and related procedures, recommended changes to the sentencing guideline form that should be in place by January 1, 2000, and identified information necessary for state and county contextual information. Contributing to the success of the committee were a number of activities outside of the committee meetings, including a meeting with the President Judges to solicit support of county contextual information, and the preparation of a document by a joint committee of the Pennsylvania Bar Association, Philadelphia Bar Association and the Pennsylvania Conference of State Trial Judges that identified key concerns and provided formal recommendations.

Conclusion

Although the Commission's *Release of Information Policy (2/24/99)* will not reach its full effect until the release of the 1998 sentencing data this fall, some of the benefits of a formal structure and written policy are already being realized. The Commission recently received a subpoena requesting data of a sentencing judge related to sentences imposed following guilty pleas vs. jury convictions. The policy created clear procedures under which staff could quickly and confidently respond.

The participation of the State Trial Judges Conference and the Bar Associations in discussions of sentencing information has increased substantially as a result of this policy. This expanded dialogue has produced concrete results, such as suggestions regarding changes to the guideline form that will both expand the type of information collected and make the form more practical to use. Additionally, one of the recommendations from their committee was the development of a one-day educational conference for the media. The Commission adopted this recommendation and is planning a workshop that will be held in the fall in conjunction with the release of the 1998 sentencing data. The workshop will include presentations on the criminal justice system, plea negotiations, sentencing provisions, interpretation of sentencing data, ethics and responsibilities, and discussion of resources available to the media to improve the accuracy of reporting.

The controversy and public discussion of the release of sentencing information has sensitized judges to the need to report accurately on all sentences, and has raised the awareness of the general public to the availability of sentencing information. The public availability of sentencing information may have two unintended but welcomed results: an increase in the level of reporting, and more detailed explanations of reasons for sentences and/or departures from the guidelines. The efforts of the past several years to develop a formal release policy are resulting in a more open, fair and consistent management of sentencing information in Pennsylvania.

Table 1. Comparison of Release of Information Policies

STATE	Guidelines Effective Date	Branch of Govt.	Written Policy	Unwritten Policy	Charge
Kansas	1992	Legislative.	None	-do not release information identifying judge or offender -never had a request for raw data	No
Minnesota	1980	Independent agency	None	-will release raw data to anyone [have provided to press] - remove judge identification -unless pressed -remove offender identification identifiers	No
N. Carolina	1994	Judiciary	None	-do not get forms; piggyback on cts.who are very open --will release raw data [have to researchers; no requests from press] -do not get judge info. -do not release offender identification -do not do special runs for media	No
Virginia	1991	Judiciary	None	-do not release info. on disk -only release info. that they have published -any specific requests must be approved by commission	No
Washington	1984	Executive	None	-will release judge identification -will release offender identification -only researchers have asked for raw data -make piecemeal decisions in doing data requeststo copy	To Copy
Federal	1987	Independent within Judiciary	None	-data is obtained via ICPSR at U of M. -do not release information identifying judge or offender	No

PENNSYLVANIA COMMISSION ON SENTENCING
RELEASE OF INFORMATION POLICY
(Adopted 2/24/99)

[1] Entire Data Set

[A] General Release -- The Commission will provide data for each sentencing year to the Inter-University Consortium for Political and Social Research (ICPSR), a national clearinghouse based at the University of Michigan. These data sets will be provided upon completion of data entry, verification and documentation. Data verification is the process of preparing data for analysis, and involves removing or correcting invalid variables, obtaining missing information regarding the sentence imposed, and providing the sentencing judge with an opportunity to review the data for completeness and accuracy. Name, social security number and judge name will be removed from the general release of sentencing data sets. The data sets provided to ICPSR will be publicly accessible for those requesting an entire data set.

[B] Contracted Release -- By contract, the Commission may provide data for any sentencing year to an agency or individual conducting research on behalf of the Commission, when such research is determined by the Commission to be necessary and beneficial to the enumerated duties of the Commission (42 Pa.C.S. §2153). These data sets will be provided upon completion of data entry, verification and documentation. Name, social security number and judge name may be included in any sentencing data sets. Due to the confidential nature of the information, the recipient of this data will be prohibited from releasing the data or any identifying information to any third party.

[2] Specific Information

[A] Standard Reports -- The Commission has established a menu of standard reports that are available to the general public. Standard reports are available for each sentencing year, but only if data entry, verification and documentation of all sentencing year data have been completed. All standard reports are available in a county-specific and statewide format. The information available and included in the standard reports varies depending on sentencing year. For 1997 and prior sentencing years, reports are based on the most serious offense of each transaction reported. Judge-specific reports may only be prepared at the request of the sentencing judge, but any such report will be made available to the public. For the 1998 sentencing year, reports are based on the most serious offense of each transaction reported. Judge-specific reports may be prepared upon request of any party, but a copy of the report and identity of the requesting party will be provided to the judge. For 1999 and subsequent sentencing years, reports are based on all offenses reported. Judge-specific reports may be prepared upon request of any party, but a copy of the report and identity of the requesting party will be provided to the judge. Due to the notification requirement, all judge-specific reports must be generated by Commission staff. The following standard reports are available:

[i] Type of Sentence

This report will provide information on sentences reported, indicating the type of sentence imposed (probation, IP, jail, prison) and mean sentence for each, and restitution orders. Data will be presented as follows:

- by offense category (Report SR-1A)
- by offense category with OGS/PRS (Report SR-1B)

[ii] Conformity of Sentence

This report will provide information on sentences reported, indicating the guideline conformity (standard, aggravated, mitigated, departure above, departure below). Data will be presented as follows:

- by offense category (Report SR-2A)
- by offense category with OGS/PRS (Report SR-2B)

[iii] Mandatory Sentences Imposed

This report will provide a table of sentences reported which included a mandatory minimum. Data will be presented by offense category as follows:

- non-DUI mandatories (Report SR-3A)
- DUI mandatories (Report SR-3B)

[iv] Place of Confinement

This report will provide a table of sentences reported with a maximum period of incarceration between two and five years, with an indication of whether the sentence was served in a county or state facility. Data will be presented by offense category.

- (Report SR-4)

[v] Offense-specific information

This report will provide relevant offense-specific information on sentences reported, including the OGS/PRS, type of conviction (i.e., negotiated vs. non-negotiated plea), mandatory provisions, standard guideline range, sentence imposed, conformity and reasons provided for sentence.

- (Report SR-5)

[B] Custom Reports -- Any requests not available through the menu of standard reports are considered custom reports. As an agency of the General Assembly, the Commission may respond to requests from members of the General Assembly for custom reports relating to population projections and/or legislation. The Commission may respond to similar requests from Commonwealth Executive Branch agencies and the Administrative Office of Pennsylvania Courts. However, all other requests for custom reports must be approved by the Commission.

[C] Staff Priorities and Fees for Services – In responding to Specific Information requests, the Commission reserves the right to establish priorities based on staff resources and the statutory goals of the Commission. The Commission further reserves the right to establish a fee for any reports prepared by staff.