



Federal Prosecutors, Judges Depart Slightly From Sentencing Guidelines

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New [data](#) just out from the U.S. Sentencing Commission seems to show a small but steady trend in federal criminal sentences away from the automatic imposition of the sentence recommended by the U.S. Sentencing Guidelines.

The Commission provides preliminary data on a quarterly basis. In the second quarter of fiscal year 2010 (which ended March 31, 2010), the Commission's report indicated that in 54.7 percent of cases, the sentence was within the Guidelines range. In 26.5 percent of cases, the prosecution requested and obtained a below-range sentence, and in another 17 percent, the judge imposed a below-range sentence without a prosecutor's request.

Just two years ago, at the very end of the Bush administration, in the second quarter of fiscal 2008, 58.9 percent of cases involved a Guidelines-range sentence, while prosecutors sought a below-range sentence in 25.5 percent, and another 13.9 percent had a below-range sentence without prosecutorial input.

Clearly, as Professor Douglas Berman [suggests](#) on his sentencing blog, there is a small but steady trend under President Obama's judges and prosecutors towards lower sentences. After nearly a year and a half under the current administration, this trend seems fairly clear.

Defense attorneys need to be aware of this slow but interesting movement.

Crime in the Suites is authored by the [Ifrah Law Firm](#), a Washington DC-based law firm specializing in the defense of government investigations and litigation. Our client base spans many regulated industries, particularly e-business, e-commerce, government contracts, gaming and healthcare.

The commentary and cases included in this blog are contributed by Jeff Ifrah and firm associates Rachel Hirsch, Jeff Hamlin, Steven Eichorn and Sarah Coffey. These posts are edited by Jeff Ifrah and Jonathan Groner, the former managing editor of the Legal Times. We look forward to hearing your thoughts and comments!