

FEDERAL SENTENCING REPORTER
Volume 29, Numbers 2–3 • December 2016–February 2017



EDITORS

Douglas A. Berman
Frank O. Bowman, III
Steven L. Chanenson
Nora V. Demleitner
Jelani Jefferson Exum
Judge Nancy Gertner (Ret.)
Mark D. Harris
Paul J. Hofer
Michael M. O’Hear

EDITORS EMERITI

Marc Miller
Aaron Rappaport

FOUNDING EDITORS

Daniel J. Freed
Marc Miller

ADVISORY BOARD

Albert W. Alschuler
Andrew Ashworth
Judy Clarke
Richard S. Frase
Roger W. Haines Jr.
Thomas W. Hillier II
Magdeline E. Jensen
Marc Mauer
Linda Drazga Maxfield
Barbara Meierhoefer
Jon O. Newman
Charles J. Ogletree
Dale G. Parent
Kevin R. Reitz
Jon M. Sands
Michael E. Smith
Kate Stith
Michael Tonry
Ronald F. Wright
Kimba M. Wood
Franklin E. Zimring

EDITOR’S NOTES

Among Yogi Berra’s many reported quips is the statement that “it’s tough to make predictions, especially about the future.” The November 2016 election confirmed as much for the many pundits and prognosticators who confidently predicted that Hillary Clinton would become the next President and that Democrats would take control of one or even both houses of Congress. With the Fall 2016 voting resulting instead in the election of Donald Trump as President and the GOP still firmly in control of both houses of Congress, the editors of *Federal Sentencing Reporter* thought to create a special issue providing an opportunity for judges, sentencing practitioners, legal academics, sentencing researchers, and others to share their advice for the new Administration and the new Congress. This special issue ultimately morphed into the current double-issue in part thanks to *FSR* having the opportunity to reprint Judge William Pryor’s major sentencing reform speech first delivered to the American Law Institute, and to reprint new reports and primary materials from the U.S. Sentencing Commission and advocacy groups. These speeches, reports, and other materials also, in their own ways via various institutional voices, share important information and perspectives for federal lawmakers considering past, present, and future federal sentencing reforms.

The *FSR* editors hope and expect that this double-issue can and will provide policymakers and practitioners with timely information, thoughtful ideas, and potent proposals as they consider how best to tackle old and new challenges in the federal sentencing system. In the pages that follow, commentaries discuss both big structural issues and smaller technical concerns, covering a range of topics that should interest and engage anyone who closely follows modern federal sentencing policy and practice.



Please send articles and editorial correspondence to:

Publication Manager
Federal Sentencing Reporter
E-mail: berman.43@osu.edu

Federal Sentencing Reporter (ISSN 1053-9867, e-ISSN 1533-8363) is published five times a year (February, April, June, October, December) by University of California Press, 155 Grand Avenue, Suite 400, Oakland, CA 94612-3764 for the Vera Institute of Justice. Periodicals postage paid at Oakland, CA, and additional mailing offices. POSTMASTER: Send address changes to Federal Sentencing Reporter, University of California Press, 155 Grand Avenue, Suite 400, Oakland, CA 94612-3764. E-mail: customerservice@ucpress.edu.

See <http://fsr.ucpress.edu/content/subscriptions-and-single-issues> for single issue and subscription orders, and claims information. Domestic claims for nonreceipt of issues should be made within 90 days of the mail date; overseas claims within 180 days. Mail dates can be checked at <http://www.ucpress.edu/journals.php?p=release>. University of California Press does not begin accepting claims for an issue until thirty (30) days after the mail date.

For complete abstracting and indexing coverage for the journal, please visit <http://fsr.ucpress.edu>. All other inquiries can be directed to customerservice@ucpress.edu.

Copying and permissions notice: Authorization to copy article content beyond fair use (as specified in Sections 107 and 108 of the U.S. Copyright Law) for internal or personal use, or the internal or personal use of specific clients, is granted by The Regents of the University of California on behalf of the Vera Institute of Justice for libraries and other users, provided that they are registered with and pay the specified fee through the Copyright Clearance Center (CCC), www.copyright.com. To reach the CCC's Customer Service Department, call (978) 750-8400 or write to info@copyright.com. For permission to distribute electronically, republish, resell, or repurpose material, and to purchase article offprints, use the CCC's Rightslink service, available at <http://fsr.ucpress.edu>. Submit all other permissions and licensing inquiries through the University of California Press's Reprints and Permissions web page, <http://www.ucpress.edu/journals.php?p=reprints> or via email: jpermissions@ucpress.edu.

Printed by The Sheridan Press, Hanover, PA.
© 2017 Vera Institute of Justice. All rights reserved.

Federal Sentencing Reporter Directory

Volume 23 (October 2010–June 2011)

- No. 1 *Life Without Parole*
- No. 2 *Criminal Justice Policy Two Years After the Change Election*
- No. 3 *The Fair Sentencing Act and Its Legal Aftermath*
- No. 4 *Advice for the U.S. Sentencing Commissioners*
- No. 5 *Sentencing and Social Science*

Volume 24 (October 2011–June 2012)

- No. 1 *Sentencing Within Sentencing*
- No. 2 *Federal Child Pornography Sentencing*
- No. 3 *Considering Costs and Other Data*
- No. 4 *Prisoner Rights and Habeas Corpus: Assessing the Impact of the 1996 Reforms*
- No. 5 *The Post-Booker Advisory Guidelines: Problem or Solution?*

Volume 25 (October 2012–June 2013)

- No. 1 *Tracking TRAC's New Sentencing Data*
- No. 2 *Right to Assistance of Counsel: New Developments, Open Questions*
- No. 3 *Risk, Sentencing & Reform*
- No. 4 *Realigning California Corrections*
- No. 5 *Examining the U.S. Sentencing Commission's Latest Federal Sentencing Reports*

Volume 26 (October 2013–June 2014)

- No. 1 *White-Collar Sentencing*
- No. 2 *New Momentum for Federal Sentencing Reform*

- No. 3 *Critical Issues in the Use of Risk Assessments, Prior Record Enhancements, and Probation/Parole Revocation*
- No. 4 *Is the Drug War Ending or Retrenching?*
- No. 5 *Gauging the Enduring Impact of Sentencing Reforms*

Volume 27 (October 2014–June 2015)

- No. 1 *Doing the Right Thing: The Evolving Role of Human Dignity in American Sentencing and Corrections*
- No. 2 *Military Sentencing: Another Federal Sentencing System (Part 1)*
- No. 3 *Military Sentencing: Another Federal Sentencing System (Part 2)*
- No. 4 *The Risk Assessment Era: An Overdue Debate*
- No. 5 *Assessing USSC Amendments to Economic Crime Guidelines*

Volume 28 (October 2015–June 2016)

- No. 1 *Sentencing Reform Distinctly Paced by Congress and the Supreme Court*
- No. 2 *Parole in America & the Status of Federal Sentencing Reform Legislation*
- No. 3 *Sentencing a Decade after Booker*
- No. 4 *Supervision: A Path to Successful Reentry or a Ticket to Prison?*
- No. 5 *Changing Punitiveness*

Volume 29 (October 2016–June 2017)

- No. 1 *Justice Reinvestments*