

Aggravating & Mitigating Factors

An Assessment of the Availability of Computerized and File-Based Aggravating & Mitigating Factors

June 4, 2002
Juvenile Justice Subcommittee,
Utah Sentencing Commission

Background & Methodology

The Racial and Ethnic Fairness Commission requested the Utah Sentencing Commission to conduct an analysis of racial disparity in both adult and juvenile sentencing. The Commission requested the research use sentencing guidelines to assess disparity and aggravating and mitigating factors to assess the reasons for disparity.

The Utah Sentencing Commission proposed beginning this research effort in the juvenile justice system. During the previous Juvenile Justice Subcommittee meeting, it was proposed that the Research Unit evaluate the availability of aggravating and mitigating circumstances either in juvenile's case files or in computerized files. The following outlines the steps taken by the Research Unit to fulfill this request:

Objective 1. Travel to three Juvenile Courts to examine case files. This examination was not to collect data, but to assess the ease or difficulty in extracting aggravating and/or mitigating circumstances from the files.

Objective 2. Download the computerized file to assess the duration in which sentencing information was collected and assess the completeness of the sentencing data available.

Objective 1: Analysis of Case Files

Ten to fifteen case files were reviewed each from Davis County, Salt Lake County, and Utah County. Case files were requested to come from different probation officers, so researchers could get an understanding for how information is collected and summarized.

Researchers were interested in the consistency and clarity of the information, because that would have an impact on the success of a broader research effort that could employ interns to systematically extract the information.

The basic question we were trying to answer was whether we could successfully extract aggravating and mitigating (A&M) circumstances from case files if the computerized data was deemed unusable.

Davis County

A&M factors were located in a consistent location within each case file. In only one case was this information missing. Probation officers either coded the factors using “A01” notation or using the precise title from the guideline manual. No record is in the case file regarding A&M factors used in sentencing.

Salt Lake County

A&M factors were located in a consistent location within each case file. Two to three cases were missing the factors. When the data was coded, probation officers used the “A01” notation or used a title that closely matched the title in the guideline manual. Again, A&M factors used in sentencing are not in the files.

Utah County

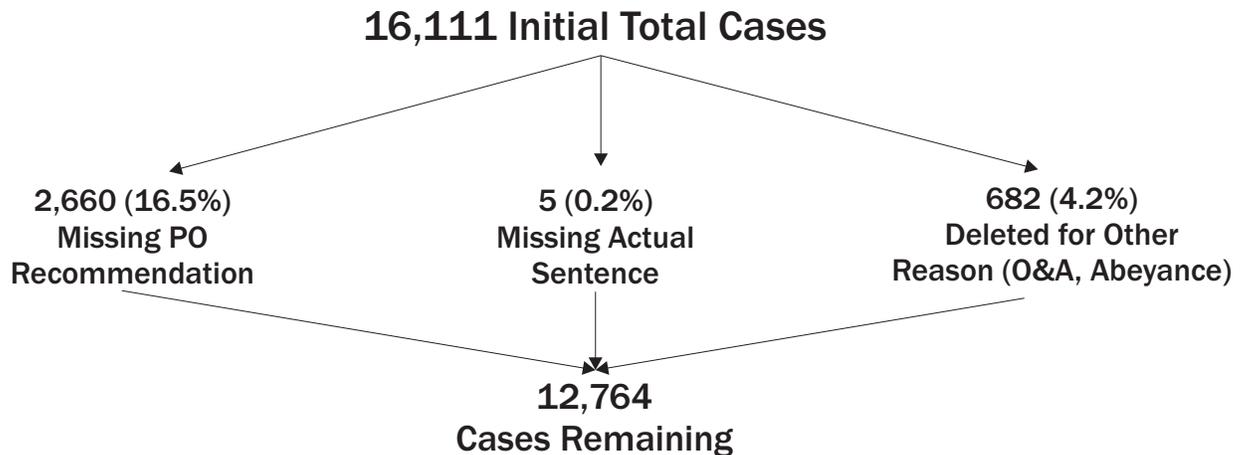
No notation was found in the case files for A&M factors used either by the probation officer or during sentencing.

SUMMARY

Based on the review of individual case files, it is not recommended that an intern-based research effort be conducted. A&M factors need to be specifically itemized in locations statewide in order to conduct research regarding racial disparity in sentencing. We do not want to engage in a research effort that has interns attempting to extrapolate factors from minutes or narrative. Missing A&M factors from sentencing decisions is not as problematic, in that we can, in most cases, assume Judges used some of the same criteria identified by probation officers.

Objective 2: Analysis of Computerized Files

Complete sentencing data was available for
January 1, 1999 through December 31, 2000



Probation Recommendation Analysis

3,762	29.5%	Cases where PO recommendation is incongruent with guideline
181	4.8%	Incongruent cases missing aggravating or mitigating factors
1,709	45.4%	Incongruent cases aggravated upwards
2,053	54.6%	Incongruent cases mitigated downwards

Sentence Analysis

5,380	42.1%	Cases where sentence is incongruent with guidelines
598	11.1%	Incongruent cases missing aggravating or mitigating factors
163	3.0%	Incongruent cases missing agg & mit from both PO and Sentence
2,216	41.2%	Incongruent cases aggravated upwards
3,164	58.8%	Incongruent cases mitigated downwards

2,088	16.4%	Cases where PO recommendation and sentence were incongruent
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- Only 4.8% of probation recommendations were missing A&M factors, and 11.1% of the sentences were missing A&M factors
- Only 3.0% of incongruent cases were missing A&M factors from both the probation officer and from the sentencing recommendation.
- The computerized file contains full year 1999 and 2000 data, and it is fairly complete. Therefore, it appears we can use the data for racial disparity analysis.