



SENTENCING COMMISSIONS AND GUIDELINES

Most Canadians feel that sentencing guidelines are the best way to ensure a fair sentence and they believe that sentencing would be more consistent with such guidelines. Many Canadians also believe that Canada should consider having a sentencing commission, and that the most important activity of this body would be to give judges guidelines for sentencing decisions.

What we also found

- Seven in ten (71%) Canadians indicated that the best approach to sentencing is to provide guidelines while still allowing for a judge’s discretion.
- More than eight in ten (83%) thought that guidelines for sentencing would help make sentencing more consistent (only 4% did not believe that this would be the case) and that Canada should consider having set sentencing guidelines (81%).
- Almost three-quarters (74%) of Canadians believed that a sentencing commission would help make sentencing more consistent and almost as many (69%) believed that an independent organization such as a sentencing commission should be considered for Canada (a further 15% expressed moderate belief that this should be considered).
- When asked to choose the activities of a sentencing commission that seemed most important, 73% of Canadians preferred giving judges/courts guidelines to follow when deciding sentences and 65% approved of researching effective sentencing practices – those were the two most frequently chosen activities.

In more depth

Sentencing guidelines were described as a prescribed range of sentences for each offence, which judges would use in deciding on an appropriate sentence. Judges would consider why and how each offence was committed. If a case were unusual in some way, the judge could go outside the prescribed range and would be required to provide an explanation.

A sentencing commission was described as an independent organization comprised of judges, criminal justice professionals, advocates of victims of crime, and academics, who undertake various activities related to research (e.g., effective sentencing practices) and communication (e.g., public education) about sentencing.

Respondents were asked which aspects of a sentencing commission were most important. All of the four suggested activities were viewed as important by at least half (59% to 73%) of respondents. Aside from the activities noted in the section above, 60% indicated that the commission should recommend sentencing reform options and 59% indicated that providing information to both the public and victims of crime regarding current practices and research was important.





Women (85% vs. 78% men) and older Canadians (85% of those aged 55 years and over vs. 75% aged 18-24) were most likely to believe that set guidelines for sentencing should be considered for Canada.

Women (86% versus 80% men), older Canadians (87% of those aged 55-64 years versus 76% of those aged 18-24) and those with higher incomes (89% of individuals with income \$60,000-\$80,000, compared to 77% with income less than \$40,000) were more likely to believe that sentencing guidelines would make sentencing more consistent.

Women (78% compared to 70% of men), as well as those aged 45-54 (75%) and 55-64 (76%) were most likely to believe that a sentencing commission would help make sentencing more consistent.

Method

The Department of Justice conducted National Justice Surveys (NJS) in both 2016 and 2017. Each NJS included several public opinion research projects with Canadians 18 and over from across Canada. The 2016 NJS included two surveys (surveys 1 and 2), six in-person focus groups and three online discussions. The 2017 NJS included two surveys (surveys 1 and 2), twelve in-person focus groups and twenty one-on-one telephone interviews. Survey samples were drawn randomly and the surveys were completed online or via paper. The data were weighted for age, gender, geographic region and education to match the Canadian population.

NJS 2017: The first survey (N=2,019) focussed on discretion, sentencing and mandatory minimum penalties (MMPs). This survey included information (e.g., statistics and definitions of concepts such as sentencing guidelines) and three scenarios depicting offences that carry MMPs in order to provide context for responses. The second survey (N=2,027) focussed on specific criminal justice system topics including restorative justice, problem-solving justice, administration of justice offences, diversion, performance measurement, and confidence in the criminal justice system. Focus groups discussed the issues covered in the two surveys in more depth. Questions on sentencing guidelines and commissions focussed on the extent to which guidelines for sentencing would help make sentencing more consistent, whether sentencing guidelines should be considered for Canada, whether a sentencing commission would help make sentencing more consistent, if an independent organization should be considered for Canada, and what aspects of the commission would be most important.

For further information on the findings and/or surveys mentioned in this document please contact the Department of Justice Canada Research and Statistics Division (rsd.drs@justice.gc.ca)

