

Subsequently, in *Spears v. United States*,¹²⁰ the Court, emphasizing that the Guidelines “are advisory only,” clarified “that district courts are entitled to reject and vary categorically from the . . . Guidelines based on a policy disagreement with those Guidelines.”¹²¹ In *Spears*, a district court had given a defendant a sentence significantly below the Guidelines for distribution of crack cocaine, noting that the Guidelines required 100 times more powder cocaine than crack cocaine to trigger a particular sentencing range. The Supreme Court held that, if a sentencing court believes “that the 100-to-1 ratio embodied in the sentencing guidelines for the treatment of crack cocaine versus powder cocaine creates ‘an unwarranted disparity within the meaning of [18 U.S.C.] § 3553(a),’” then it may vary downward from the Guidelines even when the particular defendant “presents no special mitigating circumstances” to justify a lower sentence.¹²²

The *Booker* line of cases addresses the role of the Sentencing Guidelines in imposing and reviewing individual sentences. *Booker*, however, did not overturn the Sentencing Reform Act in its entirety, nor did it abolish the Guidelines themselves. One set of provisions left intact directed the Sentencing Commission to review the Guidelines periodically, authorized it to reduce the Guidelines range for individual offenses and make the reduced ranges retroactive, but also generally foreclosed a court from then reducing a sentence previously imposed to one less than the minimum contained in the amended Guideline range. In *Dillon v. United States*,¹²³ the Court distinguished this sentence modification process from a sentencing or resentencing, and upheld mandatory limits on judicial reductions of sentences under it.

Impartial Jury

The requirement of an impartial jury is secured not only by the Sixth Amendment, which is as applicable to the states as to the Federal Government,¹²⁴ but also by the Due Process and Equal Pro-

the allocation of the authority to decide issues of substantive sentencing policy, an issue on which the Sixth Amendment says absolutely nothing. The yawning gap between the Sixth Amendment and the Court’s opinion should be enough to show that the *Blakely-Booker* line of cases has gone astray.” *Id.* at 605 (Alito, J., dissenting).

¹²⁰ 129 S. Ct. 840 (2009) (per curiam).

¹²¹ 129 S. Ct. at 842, 843–44.

¹²² 129 S. Ct. at 842.

¹²³ *Dillon v. United States*, 560 U.S. ___, No. 09–6338, slip op. (2010).

¹²⁴ *Irvin v. Dowd*, 366 U.S. 717 (1961); *Turner v. Louisiana*, 379 U.S. 466 (1965); *Parker v. Gladden*, 385 U.S. 363 (1966); *Witherspoon v. Illinois*, 391 U.S. 510 (1968); *Gonzales v. Beto*, 405 U.S. 1052 (1972).