

Year In Review

United States Sentencing Commission – Fiscal Year 2013

Reports to Congress

During fiscal year 2013, the Commission released two major reports to Congress on the continuing impact on federal sentencing of the Supreme Court's decision in *United States v. Booker*, which made the sentencing guidelines advisory, and child pornography offenses. The *Booker* report provided the most up-to-date analysis of sentencing trends in the wake of the *Booker* decision by major offense type, by circuit and district, and by individual judge. The *Booker* report also examined the correlation between demographic characteristics and sentencing outcomes. The child pornography report found that significant technological changes and resulting changes in offenders' conduct have occurred since the federal penal statutes and sentencing guidelines for child pornography offenses were last amended comprehensively a decade ago. These comprehensive reports provided relevant and important sentencing information and data, as well as the most up-to-date social science research and developing case law. They also included recommendations to Congress for legislative changes to help the guidelines work more effectively.

Sentencing Policy Development

During the 2012–2013 amendment cycle, the Commission held public hearings on sentencing issues that included economic espionage; counterfeit drugs and the safety of pre-retail medical supplies; and calculations of loss associated with tax crimes. The Commission engaged the criminal justice community, including probation officers, the Federal Public Defenders, and the Department of Justice, by publishing proposed amendments and seeking public comment. The Commission used the information it gained from these hearings, comments, sentencing data, legislative history, case law analysis, and other relevant information in the promulgation of amendments to the federal sentencing guidelines that became effective November 1, 2013.

The amendments implemented legislation to add new sentencing enhancements for theft of pre-retail medical products and for trafficking in counterfeit drugs, both of which can result in grave threats to public health. The Commission also voted for new sentencing amendments to ensure proper accountability for those who traffic in counterfeit military parts and those who steal trade secrets, threats that Congress has emphasized in recent legislation. The Commission addressed circuit conflicts governing the calculation of tax loss in tax fraud cases, the circumstances under which defendants may receive full sentence reductions for acceptance of responsibility, and the availability of concurrent sentences with expected state terms of imprisonment.

During the 2012–2013 amendment cycle, the Commission continued its work on economic crimes. In September 2013, the Commission held an Economic Crimes Symposium in New York, hosting 125 experts on economic crimes, including prosecutors, policy makers, victims' advocates, judges, probation officers, academics, and defense counsel. Also in 2013, the Commission began work on a multi-year study on recidivism of federal offenders, in which the Commission expects to closely coordinate with the Office of Probation and Pretrial Services of the Administrative Office of the U.S. Courts and researchers at the Federal Judicial Center. The Commission began the recidivism study with an expert roundtable featuring academics, researchers, and practitioners.

Outreach and Training

In fiscal year 2013, Commissioners and Commission staff conducted training programs in all twelve circuits and most of the 94 judicial districts providing instruction and guidance to more than 5,900 judges, probation officers, prosecutors, defense attorneys, and others throughout the year. Instead of holding a single national training program as in years past, the Commission held seven regional trainings

for more than 600 people, designed to limit financial burden on probation offices and others and train as many people as cost effectively as possible. The Commission is committed to providing a national forum for sentencing discussions, and the national training program will resume in September 2014. The Commission also continued to provide guideline application assistance to more than 100 callers to its HelpLine each month.

reports and responded to frequent requests for data, analysis, and policy assistance as Congress began consideration of significant sentencing legislation.

Research and Data

The Commission's data collection, analysis, and reporting requirements are impacted by the high volume of cases sentenced in the federal system annually. The Commission will receive documentation on more than 81,000 sentencings for fiscal year 2013. As of October 2013, the Commission has also collected data on more than 12,360 cases in which a modification of the sentence imposed was sought under retroactive application of the 2011 guideline amendment implementing the Fair Sentencing Act of 2010.

The Commission continued to expand its research offerings and, in fiscal year 2013, introduced the "Quick Facts" publication series with the goal of making more of its data and analyses available to judges, practitioners, policymakers, and others in a readily usable format. The Quick Facts give readers basic facts about a single area of federal crime in an easy-to-read, two-page format. All Quick Facts are available on the Commission's website.

Assistance to Congress

The Commission continued to work with Congress to implement recommendations from its 2011 report to Congress on statutory mandatory minimum penalties and their role in the federal sentencing system. On September 18, 2013, the Commission submitted a written statement to the Senate Judiciary Committee at a hearing on the effectiveness of federal mandatory minimum sentences. The Commission in its written statement recommended legislative reforms including reduction of statutory mandatory minimum penalties for drug trafficking.

The Commission also briefed Congress extensively on its *Booker* and child pornography