

Michael Courlander
October 11, 2002
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prevent and detect violations involving the organization's senior officials, unless it is shown that a significant number of individuals with substantial authority to act on behalf of the organization participated in the misconduct — in other words, that the conduct was pervasive. PM questions whether it is fair, absent such circumstances, to punish an entire organization and its various stakeholders.

Question 5: Should the provision for "cooperation" at §8C2.5, comment 12, and/or the policy statement relating to downward departure for substantial assistance at §8C4.1, clarify or state that the waiver of existing legal privileges is not required in order to qualify for a reduction either in culpability score or as predicate to a substantial assistance motion by the government? Can additional incentives be provided by the Chapter Eight Guidelines in order to encourage greater self-reporting and cooperation?

PM Comment: This question is addressed as part of the response to question three above.

Question 6: Should Chapter Eight of the Sentencing Guidelines encourage organizations to foster ethical cultures to ensure compliance with the intent of regulatory schemes as opposed to technical compliance that can potentially circumvent the purpose of the law or regulation? If so, how would an organization's performance in this regard be measured or evaluated? How would that be incorporated into the structure of Chapter Eight?

PM Comment: PM believes that organizations should be encouraged to employ an ethics or a values-based approach in formulating their basic business conduct guidelines and compliance policies. PM prefers the term "values"-based to "ethics"-based, because it is a more neutral term. PM supports the view that in order for a compliance program to become part of a company's culture and embedded in its basic business processes, senior management must define a set of shared values and standards for business conduct with

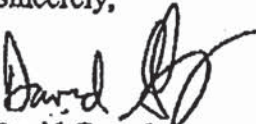
Michael Courlander
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the objective of improving employee decision-making across a broad range of practical business situations.

* * *

Philip Morris Companies Inc. appreciates the opportunity to present these comments to the Advisory Group. We hope that these comments will be useful to the Advisory Group as it prepares its report to the United States Sentencing Commission. We would be pleased to respond to any further questions you may have.

Sincerely,


David Greenberg

[92]

PROBATION OFFICERS ADVISORY GROUP
to the United States Sentencing Commission

Cathy A. Battistelli
Chair, 1st Circuit

U.S. Probation Office
Warren Rudman Courthouse
55 Pleasant St.
Concord, NH 03301

Phone # 603-225-1428
Fax # 603-225-1482

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David Wolfe, Vice Chair

Il-Beuler, 2nd Circuit
Joan Leiby, 3rd Circuit
Elisabeth F. Ervin, 4th Circuit
Barry C. Case, 5th Circuit
James T. Searcy, Sr., 6th Circuit
Rex S. Morgan, 7th Circuit
Jim P. Mitzel, 8th Circuit
Felipe A. Oriz, 9th Circuit
Ken Ramsdell, 9th Circuit
Debra J. Marshall, 10th Circuit
Raymond F. Owens, 11th Circuit
P. Douglas Mathis, Jr., 11th Circuit
Theresa Brown, DC Circuit
Cynthia Easley, FPPOA Ex-Officio
John Fitzgerald, OPPS Ex-Officio

October 15, 2002

Ms. Pam G. Montgomery
Director and Chief Counsel
Office of Education and Sentencing Practice
United States Sentencing Commission
One Columbus Circle, N.E.
Washington, D.C. 20002-8002

Dear Pam:

The Probation Officer's Advisory Group reviewed the request for additional public comment regarding organizational guidelines. POAG believes the Chapter Eight guidelines are working well at the present time, are easy to interpret, and offer few application problems to the field. That being said however, these guidelines appear to be geared to large organizations. The responses from several officers indicate that the "normal" organizational case is a small organization and sometimes already defunct. Therefore, many of the specific enhancements do not apply and they do not receive enough of a sanction. Perhaps, some changes to incorporate specific offense characteristics for small businesses (those with less than ten people) should be included in Chapter Eight.

Another comment submitted by POAG representatives, included a problem associated with U.S.S.G. § 8C2.5(c)(1)(B). It was felt that perhaps the Commission should look at the threshold requirement for prior civil adjudications. Some members believed that points should be assessed if the organization had one prior incident of similar misconduct. Currently, there is a floor of two or more separate instances of similar misconduct.

Comments from POAG members indicate a strong support for companies which have an effective detection/prevention program in place. Detention/prevention programs which foster "whistle blowers" without retribution is viewed as an effective deterrent.

Finally, POAG members noted that some of the problems associated with the organizational guidelines exist post-sentencing. These cases can be very difficult for probation officers to supervise due to our lack of expertise in the variety of conduct committed by organizations. Furthermore, few remedies exist if the organization is found in violation, especially if the CEO has not been charged as an individual. There is little incentive for an organization to remain in compliance. During the term of supervision, if the company fails to meet its financial obligation, what is the penalty? Some courts appear to impose a contempt of court action against the individual who entered a plea on behalf of the company and others do not.

While not directly on point with the questions posed by Ad Hoc Organizational Guidelines Advisors, I hope these suggestions will assist the committee. Should you have any questions or require clarification of any issue, please do not hesitate to contact us. We appreciate the opportunity to participate with the Commission in this process.

Sincerely,

Cathy A. Battistelli
Chair

Redmond, Williams & Associates

rwa2002@msn.com

Arlene Redmond	161 East 90 th Street 5A	New York, NY 10128	Telephone 212-348-2999	Fax 212-426-5853
Randy Williams	10 Spencer Place	Morristown, NJ 07960	Telephone 973-377-4937	Fax 973-377-5959

3 October 2002

United States Sentencing Commission
One Columbus Circle, N.E.
Suite 2-500
Washington, D.C. 20002-8002
Attn: Michael Courlander

Re: Response to Request for Public Comment to Advisory Group on Organizational Guidelines to the U.S. Sentencing Commission, §8A1.2, comment 3(k)(5)

We are the partners in Redmond, Williams & Associates. We are responding to Question 1f of the Request for Additional Public Comment Regarding the U.S. Sentencing Guidelines for Organizations which addresses §8A1.2, comment 3(k)(5).

We understand and appreciate the value and benefits of an Ombudsman function to an organization. We have had extensive experience as senior management in line functions including operations, service delivery, marketing, finance and other areas in a Fortune 100 financial services firm, large banks and an insurance company. Additionally, we spent 4 years as practicing Ombudsmen and led a global Ombuds team.

Today, corporations, boards and CEOs are striving to ensure that they have the safeguards to ensure legal, ethical conduct and thus protect their corporate reputation. In order to do this, senior management of a firm must have a conduit of information that apprises them of potential illegal activity within their companies. However, fear of retribution, fear of loss of job, uncertainty and lack of faith in the usual corporate issue resolution processes has resulted in employee reluctance to bring potentially damaging information forward.

In order to address these information impediments and to mitigate the risk in not obtaining critical data, a safe, confidential, neutral and independent entity must exist to permit interested parties to escalate any issue, criminal or otherwise. A proven vehicle for providing early detection of criminal activity and mitigating risk is a confidential, neutral and informal Ombudsman office where mishandling of data, accounting irregularities, employee fraud, discrimination and other wrongdoing can be reported.

An Ombudsman function is unique within in a corporation in that it:

- Guarantees anonymity to the individual while preserving the right to escalate any issue posing a serious danger to a person or serious detriment to the firm
- Serves as a confidential channel for early detection and prevention of criminal activity without the fear of retribution; it, therefore, receives and induces action on issues that constituents were afraid to escalate elsewhere in the organization

An Effective Risk Mitigation, Governance, Ethics & Change Management Program

[95]

- Has direct access to CEO and Board in providing issue trends, early warnings and information, while maintaining confidentiality of individual
- Provides independence from other internal structures such as legal, compliance, security, human resources and management and thus does not have a vested interest in the outcomes of issues brought forward
- Uses senior leader position judgment and understanding of the corporation, systems, controls and employees to uncover and raise potential criminal activity
- Provides issue trend reports to organization and proactively uses influence to effect systemic changes that lead to prevention and early detection of criminal acts
- Keeps no records and, therefore, does not create any discoverable documents
- Is neutral and therefore promotes legal, ethical and equitable outcomes.
- Coaches individuals and explores with them options for bringing issues forward, within the required bounds of confidentiality or anonymity, to the formal channels that handle them.

It is important to understand that an Ethics Officer and an Ombudsman do not function in the same way and should not be conceptually lumped together. In contrast to the above, an Ethics Officer:

- Often reports to a formal department, such as Legal and is, therefore, not independent
- Is not neutral in mission and is often responsible to a third party
- Conducts investigations and formally handles issues
- As a formal channel within the organization, cannot keep anonymity on certain issues
- Usually keeps records.

Hotlines differ from Ombudsmen in that Hotlines:


- Report within a formal entity such as human resources and, therefore, are not independent
- Lack the immediacy of reporting to the CEO and Board and need to go through chains of command to escalate information
- Are often staffed with employees who do not have extensive management experience, perspective and competencies to probe and obtain sensitive information
- Sometimes are staffed by very senior officers who are viewed as part of the problem
- By their nature, are passive call recipients and not proactive change agents
- Sometimes are outsourced and their employees lack institutional knowledge
- As faceless entities; find it difficult to build the reputation and trust required to allow employees to come forward without fear
- Are not freely used in many cultures.

In summary, we support the recommendation that §8A1.2 include either creation of an Ombudsman function for confidential reporting of potentially criminal behavior or provide an incentive for companies to create such offices by designating Ombuds offices as a factor in determining whether a company has a reporting system which allows reporting without the fear of retribution.

Thank you for the opportunity to comment and please contact us if we may provide any assistance.

Sincerely,


Arlene Redmond


Randy Williams (AR)

The Ombudsman

A S S O C I A T I O N

To: Advisory Group of U.S. Sentencing Commission

From: The Ombudsman Association (TOA)

Date: October 2, 2002

Re: Response to Request for Public Comment to Advisory Group on Organizational Guidelines to the U.S. Sentencing Commission, §8A1.2, comment 3(k)(5)

The Ad Hoc Advisory Group on Organizational Sentencing Guidelines (Group) announced in August 2002 that it was soliciting additional public comment regarding specific questions identified by the Group. The Ombudsman Association (TOA) is providing comment on Question 1 (f) that references ombudsman offices.

The existing §8A1.2, comment 3(k)(5) specifies that "The organization must take reasonable steps to achieve compliance with its standards, e.g., by utilizing monitoring and auditing systems reasonably designed to detect criminal conduct by its employees and other agents and by having in place and publicizing a reporting system whereby employees and other agents could report criminal conduct by others within the organization without fear of retaliation."

The Group has asked if §8A1.2, comment 3 (k)(5) could be more specific to encourage: (i) Whistle blowing protections; (ii) A privilege or policy for good faith self-assessment and corrective action (e.g. 15 U.S.C. § 1691(c)(1)(1998)); (iii) The creation of a neutral or ombudsman office for confidential reporting; or (iv) Some other means of encouraging reporting without fear of retaliation.

Based on the collective, extensive experience of our Corporate, Governmental and Academic ombudsmen, TOA Board of Directors recommend that the creation of an ombudsman office be specifically included in the revised §8A1.2, comment 3(k)(5). As part of an organization's corporate governance plan, the Organizational Ombudsman offers an early warning capability, a resolution capability, an option for employees who want to raise concerns without fear of retaliation, and a mitigating factor in risk and in the sentencing process.

The goal of the Sentencing Guidelines is to penalize and prevent criminal conduct. Following recent events involving a number of publicly held corporations, there is a sense of urgency to uncover and punish illegal conduct and to remedy any environment that has permitted such conduct to occur.

Our Organizational Ombudsman experience tells us that employees are reluctant to report potentially illegal and wrongful conduct either by co-workers, supervisors or managers. Barriers to coming forward include; fear of retaliation, fear of loss of relationships at work, fear of job loss, uncertainty about the facts, and lack of faith in the system. The Organizational Ombudsman provides the unique enclave to overcome these barriers.

An Organizational Ombudsman practicing to the ABA standards for ombudsmen, is a neutral, confidential conduit for information, and is the only resource that can assure the anonymity of the individual while being able to surface the issue. The absolute confidentiality of the Organizational Ombudsman fosters an increase in reporting of any illegal conduct.

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In summary, an Organizational Ombudsman:

~ Provides a confidential outlet and an avenue for early detection of illegal and criminal activity while reducing fear of retribution, and protecting anonymity of complainants where requested.

~ As a senior leader in the organization, uses business judgment, institutional knowledge and management maturity to probe and identify serious issues, such as illegal acts, so that these issues may be surfaced to and handled by the appropriate party in the corporation

~ Does not take the place of, but complements, ethics, compliance officers or 1-800 Hotlines.

~ Helps to drive the systemic change to correct patterns and practices of wrongdoing.

Therefore, we strongly support the reference to an Organizational Ombudsman in the United States Sentencing Guidelines and further recommend that §8A1.2, comment 3(k)(5) be worded in relevant part: "... the creation of an Organizational Ombudsman office for confidential reporting. . ."

I want to thank you for this opportunity to provide comments regarding §8A1.2 of the United States Sentencing Guidelines. Please feel free to contact me if there are any questions concerning these comments or if TOA can be of any further assistance.

Sincerely,



John S. Barkat, Ph. D.
President, The Ombudsman Association

Enclosure (Mary Rowe's Workplace Justice, Zero Tolerance, and Zero Barriers)

Cc: TOA Board of Directors

[98]

The
Ombudsman
A S S O C I A T I O N

To: Advisory Group of U.S. Sentencing Commission

From: The Ombudsman Association (TOA)

Date: October 2, 2002

Re: Enclosure to TOA's Response to Request for Public Comment to Advisory Group on Organizational Guidelines to the U.S. Sentencing Commission, §8A1.2, comment 3(k)(5)

We attach the Abstract of an article by Mary Rowe, for thirty years an ombudsperson and also professor of negotiation and conflict management. The article discusses the importance of providing a zero barrier office in an organization which wishes to hear, on a timely basis, about concerns of illegal and criminal behavior. Dr. Rowe discusses why it is so difficult for an organization to succeed with zero tolerance policies if it relies solely on "compliance offices." Organizations which have many compliance offices -- but no zero barrier office -- discover that many people not only fear retaliation from coming forward but also are unwilling to risk their relationships at work.

[99]

Workplace Justice, Zero Tolerance, and Zero Barriers

(Abstract)

©2002 Mary Rowe and Corinne Bendersky

If an organization wants an effective zero tolerance policy, it needs a zero barrier office within an integrated conflict management system (ICMS). This article presents reasons why an employer may decide to take a systems approach—with an organizational ombudsman—for dealing with illegal behavior like harassment, unsafe working conditions, and fraud.

No one internal dispute resolution option suits all whistleblowers, let alone all those who wish to convey a serious concern. Some individuals think mainly about their legal rights. Others think almost entirely about their interests, and especially about maintaining their relationships. ***They worry about damaging relationships with family and friends and co-workers—and with the offender.***

In addition, to concerns about their relationships, people fear loss of privacy, and potential retaliation. They wonder whether they have enough evidence. They worry that they will not be believed. They think they do not know enough about how to bring a complaint. They think bringing a complaint will take too much time and cost too much in terms of time and money and "soul." They fear losing control over the matter. Most people hate formal investigations. Many think it is pointless to complain—they suspect nothing will be done. Often people do not want to come forward if the offender will be punished. Others would only come forward if they were sure the offender would be seriously punished.

People who perceive wrongdoing are all different—they need **options** if they are to come forward. They also need their own **choice** of options.

Zero tolerance policies therefore do not work well for most people most of the time because a zero tolerance policy usually implies no options for the person with a concern. Zero tolerance policies—if accompanied by mandatory reporting, investigation and punishment—do not work well for other reasons as well. The best hope for an organization that wants to have an effective zero tolerance policy is to have at least one **zero barrier office** (an ombudsman that is not part of the compliance system, or 800 number) as part of an integrated conflict management system.

[100]

United Technologies Corporation
United Technologies Building
Hartford, CT 06101
(860) 728-6484 Fax (860) 728-7010
E-mail: gnazzopj@corphq.utc.com



Patrick J. Gnazzo
Vice President
Business Practices

August 27, 2002

United States Sentencing Commission
One Columbus Circle, N.E.
Suite 2-500
Washington, D.C. 20002-8002

Attn: Michael Courlander

Dear Mr. Courlander:

On behalf of United Technologies Corporation, I am grateful for the opportunity to provide input to the Advisory Group for Organizational Guidelines. I would like to offer recommendations in two areas included in your questions listed for comment.

Your paragraph f. relates to Chapter 8A1.2 comment, 3(k)(5). It would be helpful to have the need for guaranteed confidentiality built into point 5. The reason is that experience and surveys show that a certain percent of the work force will not report because it fears retribution or retaliation from management or co-workers. Thus without the cover of assured confidentiality, even in third-party law suits, organizations are potentially missing certain sources of information regarding suspected wrongdoing because those sources are afraid to come forward. Most recently, several articles (post Enron collapse) have pointed out the perils of the whistleblower.

Item 5 under your list of questions discusses the potential need for added incentives that might be provided by Chapter Eight Guidelines in order to encourage greater self-reporting and cooperation. While the following might not be considered an incentive, it would be helpful to those of us who promote and manage effective ethics and compliance programs to have Commission data on how the guidelines have been applied as a benefit or penalty to those organizations that chose to have or chose to ignore the seven points. We

August 27, 2002

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suggest that the Commission survey U.S. attorneys to learn how organizations found guilty of violating U.S. law had fines reduced or multiplied because of how they embraced or ignored the guidelines. Then, make the data available so that those of us who work in this area can use it to keep management informed of the judicial application of the Sentencing Guidelines.

Thank you again for this opportunity to comment. I will be sending this letter in email form as well.

Sincerely,



cc: D. Bednar
P. Fiorelli
E. Holder
C. Howard
E. Petry
W. Swenson

bcc: P. Desio
P. Robert
B. Trachsel
G. Wratney

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Advisory Group on Organizational Guidelines to the United States Sentencing Commission

Richard Bednar
Mary Beth Buchanan
Paul Fiorelli
Richard Gruner
Eric H. Holder, Jr.
Michael Horowitz
Charles Howard
Ron James

B. Todd Jones, Chair
Lisa A. Kuca
Jane Adams Nangle
Julie O'Sullivan
Edward S. Petry
Gary R. Spratling
Winthrop M. Swenson
Gregory J. Wallace

NOTICE OF PUBLIC HEARING NOVEMBER 14, 2002

As announced in its Second Request for Public Comment, the Ad Hoc Advisory Group on Organizational Guidelines is holding a public hearing on Thursday, November 14, 2002, at the Thurgood Marshall Judiciary Building, One Columbus Circle, N.E., Washington, D.C. 20002. The hearing will consider the questions raised in the previously published Request for Public Comment (<http://www.ussc.gov/orgguide.HTM>), and will consist of a plenary session from approximately 8:30 a.m. to noon and four concurrent discussion sessions in the afternoon from 1:30 to 4 p.m. (Final schedule is subject to change.)

The plenary session will cover general topics relating to effective compliance programs under the Organizational Sentencing Guidelines, and the four concurrent discussion sessions will address the following topics: 1) Accountability, Leadership, and Corporate Governance; 2) Implementation and Administration of Effective Compliance Programs; 3) Internal Reporting Systems and Confidentiality Issues; and, 4) Cooperation Under Chapter Eight and Waiver of Legal Privileges. Designated speakers and moderators will be posted on this web site in advance of the hearing.

The hearing is open to the public and the proceedings will be transcribed and made available on the Sentencing Commission's web site. No advance registration is required but attendees are required to present a photo I.D. upon entry to the Thurgood Marshall Building, and should allow sufficient time to be processed through building security screening. Additional information about the hearing will be posted on the Commission's web site as it is available and can be obtained from Michael Courlander, Office of Public Affairs, United States Sentencing Commission, One Columbus Circle, N.E., Suite 2-500, South Lobby, Washington, D.C. 20002: Tel: 202 502 4500.

**INVITED PARTICIPANTS AND ASSOCIATED ISSUES
FOR NOVEMBER 14, 2002 PUBLIC HEARING
(AS OF OCTOBER 28, 2002)**

Leaders¹

James T. Cowdery
Cowdery, Ecker & Murphy, L.L.C.
750 Main Street
Hartford, CT 06103-2703

Accepted

Plenary Session

Your perspective on Chapter Eight's impact on small and medium sized business organizations as reflected in Question 4.

James Comey
United States Attorney
Southern District of New York
1 St. Andrews Plaza
New York, NY 10007

Accepted
Available 11-3

Plenary Session
and Session IV

Your perspective on Chapter Eight generally and Questions 2, 3 and 5.

Timothy M. Donahue, CEO
NEXTEL
622 Eagle Rock Avenue
West Orange, NJ 07052-2994

Plenary Session

Your perspective on the propriety of Chapter Eight addressing corporate culture as reflected in Question 6.

Roger S. Fine
V.P., General Counsel
Johnson & Johnson
1 Johnson & Johnson Plaza
New Brunswick, NJ 08933-0002

Plenary Session

Your perspective on the need to refine Chapter Eight in any way at this juncture.

¹ Leaders: Todd Jones (Plenary), Ron James (Session I), Greg Wallance (Session II), Win Swenson (Session III), Gary Spratling (Session IV).

**Joshua Hochberg, Chief
Fraud Section
Department of Justice
10th and Constitution Avenue, NW
BOND Building, Room 4100
Washington, DC 20530**

**Plenary Session & Perhaps
Session Three
Confidentiality of
Internal Reporting**

Your perspective on Chapter Eight generally [should also include Questions 2, 3 and 5].

**Donald Langevoort, Professor
Georgetown Law School
600 New Jersey Avenue, NW
Washington, DC 20001**

Accepted

Plenary Session

Your perspective on issues underlying the monitoring of compliance programs.

**William S. Laufer
Associate Professor of Legal Studies
The Wharton School
3620 Locust Walk
Philadelphia, PA 19104-6369**

Declined, but will submit testimony

Your perspective on corporate “cooperation” in criminal investigations as reflected in your recent article at 87 Iowa L. Rev. 643 (January 2002).

**The Honorable Charles Lawson
U.S. Attorney
Northern District of Iowa
P.O. Box 74950
Cedar Rapids, IA 52407-4950
(Chair, Attorney General Advisory Group/
White Collar Crime Subcommittee)**

**Plenary Session & Perhaps
Session III or IV**

Your perspective on Chapter Eight generally, and Questions 2, 3 and 5.

**Alan R. Yuspeh
HCA, Inc.
1 Park Plaza
Nashville, TN 37203-6527**

Accepted

Plenary Session

Your perspective on principled leadership and the role it should play in designing compliance programs.

John T. Bentivoglio
Arnold & Porter
555 Twelfth Street, NW
Washington, DC 20004

[Likely]

Session One
(Accountability/Leadership and
Governance)

Your perspective on accountability, corporate leadership, and governance issues as reflected in Questions 1 and 6.

Barbara (“Bobbi”) H. Kipp
PriceWaterhouseCoopers, LLP
Global Leader, Ethics & Business Conduct
One International Place
Boston, MA 02110

Session Two
(Administration/Implementation)

Your perspective on the administration and implementation of compliance programs as reflected in Questions 1(e) through 1(h) and 3.

Joe Murphy
Compliance Systems Legal Group
30 Tanner Street
Haddonfield, NJ 08033

Accepted

Out of Country/will participate via
teleconference - Session Three
(Confidentiality/Reporting)

Your perspective on the external factors impacting effective compliance programs as reflected in Questions 1(e) through 1(h) and 3.

Eric Pressler, Director
Legal Compliance and Business Ethics
Pacific Gas & Electric
P.O. Box 770000, Mail Code B27L
San Francisco, CA 94177

Accepted

Session Two
(Administration/Implementation)

Your perspective on issues relating to the administration and implementation of compliance programs as reflected in Questions 1(e) through 1(h) and 3.

Thomas J. Warga
New York Life Insurance Co.

Declined but
Will send comments

Session Two
(Administration/Implement
ation)

51 Madison Avenue, Room 1584
New York, NY 10010

Your perspective on issues relating to the administration and implementation of compliance programs as reflected in Questions 1(e) through 1(h) and 3.

Kenneth R. Meade, Esq.
Hale and Dorr LLP
1455 Pennsylvania Avenue, NW
Washington, DC 20004

Declined

Session One
(Accountability/Leadership
and Governance)

Your perspective on the potential expansion of the sentencing guidelines to include social responsibility or ethics based compliance programs.

Mark T. Calloway
Alston & Bird LLP
Bank of America Plaza
101 S. Tryon Street, Suite 4000
Charlotte, SC 28280

Accepted

Session Four
(Privilege/Cooperation)

Your perspective on issues relating to waiver of privilege and “cooperation” as reflected in Question 5.

Terry Dworkin, Professor
Indiana University Kelly School of Business
1309 East Tenth Street
Bloomington, Indiana 47405

Declined

Session Three
(Confidentiality and Reporting)

Your perspective on the issue of “whistleblowers” in a corporate setting as reflected in Questions 1(f) and 3.

Michael Goldsmith
J. Reuben Clark Law School
Brigham Young University
438 JRCB
Provo, Utah 84602

Accepted

Session Three
(Confidentiality and Reporting)

Your perspective on the various external factors impacting effective compliance programs as reflected in Questions 1(f) and 3.

Patrick J. Gnazzo, Esq.
Chairman
Vice President, Business Practices
United Technologies Corporation
One Financial Plaza, MS 522
Hartford, CT 06101

Accepted

Session Three
(Confidentiality and Reporting)

Your perspective on the various external factors impacting effective compliance programs as reflected in Questions 1(f) and 3.

**Jeffrey M. Kaplan, of Counsel
Arkin, Kaplan & Cohen, LLP
590 Madison Avenue, 35th Floor
New York, NY 10022**

**Session Four
(Privilege/Cooperation/
Self-Reporting)**

Your perspective on waiver of privilege and “cooperation” as reflected in Question 5.

**Donald K. Stern
Bingham McCutchen
150 Federal Street
Boston, MA 02110**

Declined

**Session Four
Waiver/Confidentiality**

Your perspective on the issues underlying compliance and the waiver of privilege for “cooperation” as reflected in Question 5.

**Carole Basri, Esq. Accepted
Executive Director
American Corporate Counsel
Association of Greater New York
303 Mercer Street, Apt. B303
New York, NY 10003**

**Session Two
Administration/Implementation**

Your organization’s perspective on all the issues raised.

**Patricia Hanahan Engman
Executive Director
Business Roundtable
1615 L Street, NW, Suite 1100
Washington, DC 20036**

Unassigned

Your organization’s perspective on all the issues raised.

**Karl Groskaufmanis
Fried, Frank, Harris, Shriver & Jacobson
1001 Pennsylvania Avenue, NW
Washington, DC 20004**

**Session Two
(Administration/Implementation)**

Your perspective on the administration and implementation of compliance programs as reflected in Questions 1(e) through 1(h) and 3.

Nancy M. Higgins, Esq. **Accepted**
Vice President, Ethics and Business Conduct
Lockheed Martin Corporation
6801 Rockledge Drive, MP 211
Bethesda, MD 20817

Session Two
(Administration/Implementation)

Your perspective on the implementation and administration of effective compliance programs.

Scott Avelino **Accepted**
KPMG
2001 "M" Street, NW
Washington, DC 20036

Session Two
(Administration/Implementation)

Your perspective on the administration and implementation of compliance programs as reflected in Questions 1(e) through 1(h) and 3.

Herbert I. Zinn
Pinnacle West Capital Corporation
400 North Fifth Street, Mail Station 8695
Phoenix, AZ 85004

Session Two
(Administration/Implementation)

Your perspective on the administration and implementation of compliance programs as reflected in Questions 1(e) through 1(h) and 3.

William Lytton
VP & General Counsel (Former, now with Tyco)
International Paper Co.
2 Manhattenville Road
Purchase, NY 10577

Plenary or Session Two
(Administration/Implementation)

Your perspective on the importance of high-level corporate involvement in compliance programs as reflected in Questions 1(a) through 1(c).

Gale C. Andrews **Accepted**
VP, Ethics & Business Conduct
Boeing Company
100 North Riverside Plaza
Mail Code 50032001
Chicago, IL 60606

Session Two (?)
(Administration/Implementation)

Your perspective on the implementation and administration of compliance programs as reflected in Questions 1(e) through 1(h) and 3.

Dawn-Marie Driscoll
4909 SW 9th Place
Cape Coral, FL 33914

Declined

Session One
(Accountability/Leadership and
Governance)

Your perspective on accountability, leadership, and governance issues as reflected in Questions 1(a) through 1(d) and 6.

Gretchen A. Winter **[Likely]**
Vice President & Counsel, Business Practices
Baxter International Inc.
One Baxter Parkway
Deerfield, IL 60015

Session One
(Accountability/Leadership and
Governance)

Your perspective on accountability, leadership, and governance issues as reflected in Questions 1(a) through 1(d) and 6.

Offered to Testify in Public Comment/Assigned as Follows

Eastman Kodak Company

Session III (Confidentiality of Internal Reporting)

Debbie Cordetter/Contact
(585) 724-3483

Pharmaceutical Group

Session III (Confidentiality of Internal Reporting)

John Bentivoglio - (202) 942-5508/Contacts
Brent Saunders - (973) 236-4682

American Chemistry Council

Session I/Accountability/Leadership

Sidley Austin Brown & Wood LLP
David Buente/Contact
(202) 736-8000

Alliance For Health Care Integrity

Asked to Testify in October 25 Letter

Bob Olson, Executive Director
1035 Winthrop Drive
Corona, CA 92882-6178
Tel: 714 - 307-6400
bobolosonatahci@earthlink.net

Interested in Question 6 - Decision
Pending By Advisory Group