

CHAPTER ONE

Commission Overview

Introduction

The United States Sentencing Commission is an independent agency in the judicial branch of government. Its principal purposes are: (1) to establish sentencing policies and practices for the federal courts, including guidelines prescribing the appropriate form and severity of punishment for offenders convicted of federal crimes; (2) to advise and assist Congress and the executive branch in the development of effective and efficient crime policy; and (3) to collect, analyze, research, and distribute a broad array of information on federal crime and sentencing issues, serving as an information resource for Congress, the executive branch, the courts, criminal justice practitioners, the academic community, and the public.

The Sentencing Commission was created by the Sentencing Reform Act (SRA) provisions of the Comprehensive Crime Control Act of 1984, and its authority and duties are specified in chapter 58 of title 28, United States Code. Procedures for implementing guideline sentencing are prescribed in chapter 227 of title 18.

The sentencing guidelines established by the Commission are designed to take into account the classic purposes of sentencing: just punishment, rehabilitation, deterrence, and incapacitation. Moreover, the guidelines provide certainty through the truth in sentencing provisions of the SRA and through the mandatory nature of the guidelines. Fairness, which is the establishment of sanctions proportionate to the severity of the crime and the avoidance of unwarranted disparity, is established by the guidelines' setting similar penalties for similarly situated offenders. At the same time, the guidelines permit judicial flexibility to account for relevant aggravating and mitigating factors. The guidelines are constructed to reflect, to the extent practicable, advancement in the knowledge of human behavior as it relates to the criminal justice process.

A Brief History of Federal Sentencing Reform

Disparity in sentencing has long been a concern for Congress, the criminal justice community, and the public. After decades of research and debate, Congress created the Commission as a permanent agency charged with formulating national sentencing standards to guide federal trial judges in their sentencing decisions.

Organized in October 1985, the Commission submitted to Congress on April 13, 1987, its original sentencing guidelines and policy statements. Prior to this submission, the Commission held 13 public hearings, published two drafts for public comment, and received more than 1,000 letters and position papers from hundreds of individuals and organizations. The guidelines became effective November 1, 1987, following the requisite period of congressional review, and apply to all offenses committed on or after that date.

Shortly after implementation of the guidelines, defendants throughout the country challenged the constitutionality of the Sentencing Reform Act and the Commission on the basis of improper legislative delegation and violation of the separation of powers doctrine. The U.S.

Supreme Court rejected these challenges January 18, 1989, in *Mistretta v. United States*, and upheld the constitutionality of the Commission as an independent judicial branch agency. This decision cleared the way for nationwide implementation of the guidelines. In keeping with the evolutionary notion of sentencing guidelines, the Commission has carefully monitored the guidelines and has amended them where necessary. Since January 1989, federal judges have sentenced approximately 350,000 defendants under the guidelines.

Agency Overview

Commissioners

The Sentencing Commission's seven voting members are appointed to staggered six-year terms by the President with the advice and consent of the Senate. At least three of the commissioners must be federal judges, and no more than four can be members of the same political party. By statute, the chair and vice chairs hold full-time positions, while other commissioners have part-time status.

Judge Richard P. Conaboy of Scranton, Pennsylvania, was sworn in as Commission Chairman on October 11, 1994. In addition to his duties as Chairman, he serves as a United States District Judge for the Middle District of Pennsylvania. The Commission's Vice Chairmen during 1997 were **Commissioner Michael S. Gelacak** of Centreville, Virginia, and **Commissioner Michael Goldsmith** of Salt Lake City, Utah. Prior to his appointment as Commissioner, Vice Chairman Gelacak was a practicing attorney in Washington, D.C., and Buffalo, New York. Vice Chairman Goldsmith is a Professor of Law at Brigham Young University.

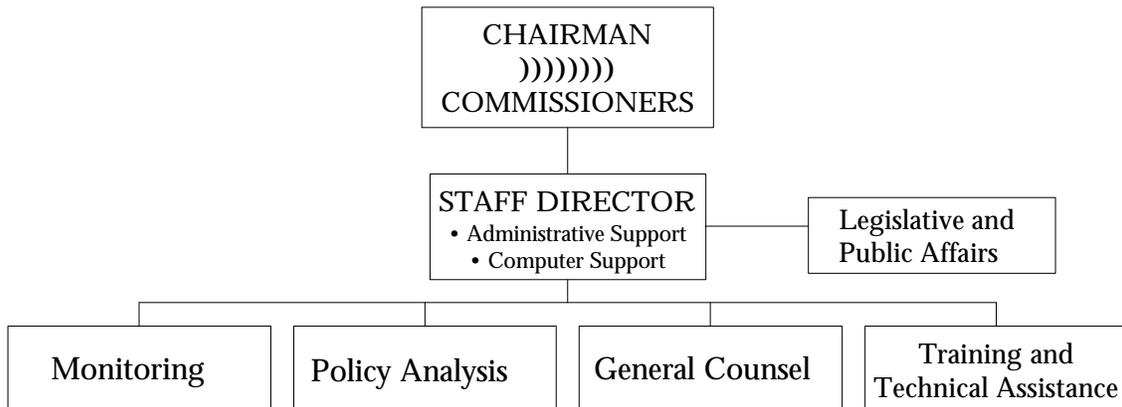
Other Commission members serving during 1997 were **Commissioner Wayne A. Budd** and **Judge Deanell R. Tacha**. Commissioner Budd of Boston, Massachusetts, is Senior Vice President of NYNEX; and Judge Tacha of Lawrence, Kansas, is a United States Circuit Judge for the Tenth Circuit. Commissioner Budd resigned from the Commission May 1, 1997, to devote more time to his position at NYNEX.

Ex-officio members during 1997 were **Commissioner Mary Frances Harkenrider**, Counsel to the Assistant Attorney General for the Criminal Division, U.S. Department of Justice, and **Commissioner Michael J. Gaines**, Chairman of the U.S. Parole Commission.

Organization

The Commission staff of approximately 100 employees is divided into four primary offices with the director of each office reporting to the Staff Director who in turn reports to the Chairman. The four offices are: General Counsel, Monitoring, Training and Technical Assistance, and Policy Analysis. The Staff Director's Office, in addition, houses the Office of Legislative and Public Affairs, the Administrative Unit, and the Information Services Unit (see organizational chart, Figure A). The **Office of the Staff Director** supervises, supports, and coordinates all agency functions. The Office of Legislative and Public Affairs: (1) serves as the Commission's liaison with Congress, monitors Congress's criminal law agenda, and analyzes legislative proposals; and (2) coordinates all public information matters as well as the principal editing, graphic design, and

Figure A
ORGANIZATION OF THE
UNITED STATES SENTENCING COMMISSION



printing for published Commission materials. The Administrative Unit provides general administrative support to commissioners and staff regarding budget and finance, contracting, personnel management, library reference services, facilities, and a variety of other office activities. The Information Services Unit maintains and services the Commission's computer hardware and software.

The **Office of General Counsel** provides support to the Commission on a variety of legal issues, including the formulation and application of guidelines and guideline amendments, legislative proposals, and statutory interpretations. Legal staff members monitor district and circuit court application and interpretation of the guidelines and advise commissioners about statutes and legislation affecting the Commission's work. The legal staff provides training support in conjunction with the Office of Training and Technical Assistance.

The **Office of Monitoring** maintains a comprehensive computerized data collection system to report on federal sentencing practices and to track application of the guidelines for individual cases. The staff receives and enters case data and produces periodic reports about guideline application, providing significant information for Commission review as it monitors the national implementation process or considers amending individual guidelines. In addition to information related to individual offenders, the Commission collects data on appeals, indictments, and organizational guideline sentences. The office maintains a master file of guideline sentencing data, available to the public through the Inter-University Consortium for Political and Social Research at the University of Michigan.

The **Office of Policy Analysis**, working with the Commission's comprehensive sentencing database and other data sources, provides short- and long-term guideline and sentencing-related research and analyses. The office studies a variety of research topics including just punishment, sentencing disparity, substantial assistance to authorities, projections of the effect of proposed guideline amendments on the federal prison population, sentencing practices related to organizational defendants, and appeals. In addition, the office provides data and analyses on specific criminal justice issues at the request of Congress, the courts, and others as time permits.

The **Office of Training and Technical Assistance** teaches guideline application to judges, probation officers, prosecuting and defense attorneys, and other criminal justice professionals. The staff develops training materials, participates in the sentencing guideline segments of training programs sponsored by other agencies, and informs the Commission of current guideline application practices. The office also operates a "HelpLine" to respond to guideline application questions from members of the court family.

Staffing

During fiscal year 1997, the Commission used staff resources totaling 98 workyears. Approximately 30 percent of staff resources was devoted to the Commission's Office of Monitoring, 13 percent to the Office of Policy Analysis, ten percent to the Office of Training and Technical Assistance, 18 percent to the Office of General Counsel, eight percent to the commissioners' offices, and 21 percent to the Office of the Staff Director.

Budget and Expenditures

For fiscal year 1997, Public Law 104-208 provided an appropriation of \$8,490,000 for the Commission's salaries and expenses. For fiscal year 1998, Public Law 105-119 granted the Commission an appropriation of \$9,240,000 (see Table 1).

Table 1
BUDGET AUTHORITY AND OBLIGATIONS
(dollar amounts in thousands)

Appropriation Amount	<u>FY 1997</u> \$8,490	<u>FY 1998</u> \$9,240
Personnel Compensation	\$5,476	\$6,014
Personnel Benefits	1,252	1,356
Travel and Transportation	271	365
Communications, Utilities and Other Rent	135	140
Printing and Reproduction	180	150
Other Services	1,122	1,384
Supplies and Equipment	<u>354</u>	<u>357</u>
Total Obligations*	\$8,790	\$ 9,766

*Total obligation amounts include funds carried forward from previous "no-year" appropriations.

