

U.S. SENTENCING COMMISSION

YEAR IN REVIEW

— Fiscal Year 2001 —

October 2000

On October 12 and 13, 2000, the Sentencing Commission held a national symposium on Federal Sentencing Policy for Economic Crimes and New Technology Offenses in Arlington, Virginia. The symposium and subsequent proceedings book focused on potential guideline changes for white collar offenses involving high-dollar losses and for offenses involving new technology such as electronic copyright infringement. The symposium was hosted by George Mason University School of Law and was attended by more than 200 participants.

Commission Chair Diana E. Murphy and Vice Chair John R. Steer testified on October 13, 2000, before the Criminal Justice Oversight Subcommittee of the Senate Committee on the Judiciary about the ongoing work of the Commission and the operation of the sentencing guidelines.

On October 16, 2000, the Sentencing Commission's *Guidelines Manual* incorporating amendments effective November 1, 2000, was published.

On October 30 and 31, 2000, the Commission met in Washington, D.C., and received staff briefings on money laundering; immigration offenses; circuit conflicts involving aggravated assault, mitigating role, stipulations, and fraudulent misrepresentation; and new legislative directives passed by Congress relating to human trafficking, manufacturing of methamphetamine and amphetamine, and ecstasy trafficking. The Commission also held a public meeting and voted to publish in the *Federal Register* a notice soliciting comment on proposed amendments addressing several offenses relating to unlawful disclosure and/or inspection of tax return information, unlawful supplementation of the salary of various federal employees, counterfeiting, and the four circuit conflicts listed above.

November 2000

On November 1, 2000, guideline amendments that were submitted to Congress on May 1, 2000, went into effect. Many of the newly enacted guideline provisions were in response to congressional concerns and addressed such serious crimes as the improper use of new technology in copyright and trademark violations, sexual offenses against children, methamphetamine trafficking, identity theft, cell phone cloning, telemarketing fraud, and firearms offenses.

On November 20 and 21, 2000, the Commission met in Washington, D.C., and received a staff briefing on the economic crimes package which focuses on fraud offenses including high-dollar losses and reviewed relevant materials submitted by the Committee on Criminal Law of the Judicial Conference of the United States. The Commission also received staff briefings on money laundering, firearms offenses, the safety valve, and responses to several congressional directives. Specifically, the Commission received briefings on implementation of the Protection of Children

from Sexual Predators Act of 1998, the Methamphetamine and Club Drug Anti-Proliferation Act of 2000, and the Victims of Trafficking and Violence Protection Act of 2000. The Commission also held a public meeting at which it passed an emergency amendment to be effective December 16, 2000, relating to methamphetamine offenses and amphetamine offenses and voted to publish a notice soliciting comment on proposed amendments relating to the safety valve and firearms offenses.

The proposed amendments that the Commission voted to publish for comment in October 2000 were published in the *Federal Register* on November 7, 2000, with public comment due by January 8, 2001.

On November 16, 2000, in New York City, the Commission and the Ethics Officers Association jointly sponsored a conference on ethics, compliance, and the organizational sentencing guidelines.

December 2000

The Commission met in Washington, D.C., on December 11, 2000, and received staff briefings on the economic crimes package, money laundering, methamphetamine and amphetamine manufacturing, ecstasy trafficking, human trafficking, stalking, and sexual predators. The Commission's staff also issued a report on nuclear, biological, and chemical weapons offenses. This report, submitted for Commission consideration, addressed the statutes and guidelines for nuclear, biological, and chemical weapons importation and exportation offenses and outlined possible responses to a sense of the Congress that the relevant guideline required modification. The Commission also received a staff briefing on the Hillory J. Farias and Samantha Reid Date-Rape Drug Prohibition Act of 2000 relating to GHB offenses.

The Commission also held a public meeting on December 12, 2000, at which it voted to publish in the *Federal Register* a notice soliciting comment on proposed amendments relating to anhydrous ammonia; methamphetamine and amphetamine offenses; stalking; money laundering; and nuclear, biological, and chemical weapons offenses. The Commission also voted to publish for comment proposed temporary, emergency amendments relating to ecstasy trafficking and human trafficking.

In early December 2000, the Commission issued a *Supplement to the 2000 Guidelines Manual*, incorporating temporary, emergency amendments regarding methamphetamine and amphetamine manufacturing that endangers human life or harms the environment. These amendments took effect December 16, 2000. The Commission also voted to publish in the *Federal Register* a proposal to make this amendment permanent.

January 2001

On January 8 and 9, 2001, members of the Sentencing Commission attended a meeting of the Committee on Criminal Law of the Judicial Conference of the United States in Fort Myers, Florida. The Commission chair, Judge Diana E. Murphy, reported to the Committee on matters pending before the Sentencing Commission and received input from the Committee.

On January 8, 2001, the Commission received staff briefings on sexual predators, GHB, and

List I chemical offenses, economic crimes, money laundering, and immigration offenses. The Commission also held a public meeting on January 9, 2001, at which it voted to publish in the *Federal Register* a notice soliciting comment on trafficking in List I chemicals; GHB offenses; sexual predators; economic crimes; immigration; and nuclear, biological, and chemical weapons offenses. The notices for comment approved by the Commission in December and January were published in the *Federal Register* on January 26, 2001, with the comment periods ending February 5, 2001, and March 26, 2001, for the proposed temporary and permanent amendments, respectively.

February 2001

At its February 13, 2001, meeting, the Commission welcomed Michael E. Horowitz as the Commission's new *ex-officio* commissioner, representing the Department of Justice and replacing Laird C. Kirkpatrick. The Commission also received a briefing from representatives of the Drug Enforcement Administration and the National Institute on Drug Abuse on amphetamine and ecstasy as well as staff briefings on pending policy issues. At its public meeting, the Commission voted to adopt temporary, emergency guideline amendments relating to amphetamine offenses and human trafficking and permanent amendments in the areas of counterfeiting, unauthorized compensation, tax privacy, and a number of circuit conflicts.

March 2001

On March 14, 2001, the Commission chair, Judge Diana E. Murphy, appeared before the Judicial Conference of the United States and reported on matters pending before the U.S. Sentencing Commission.

On March 19, 2001, the Commission held a public hearing in Washington, D.C., and heard testimony on proposed temporary and permanent amendments to the sentencing guidelines. In particular, several expert witnesses addressed the proposed amendment regarding ecstasy trafficking.

Following staff briefings on the various pending policy matters, the Commission held a public meeting on March 20, 2001, at which it voted to adopt temporary emergency amendments relating to List I chemicals and ecstasy trafficking.

On March 21, 2001, Chair Diana E. Murphy testified before the Senate Caucus on International Narcotics Control about the Commission's response to the Methamphetamine and Club Drug Anti-Proliferation Act of 2000 and, specifically, ecstasy trafficking.

April 2001

After receiving final staff briefings on pending proposed amendments, the Commission held a public meeting in Washington, D.C., on April 6, 2001, and voted to promulgate a package of permanent amendments covering 26 areas. Among the areas addressed by the Commission were fraud and theft offenses involving high-dollar losses; money laundering; immigration; sexual predators; methamphetamine and amphetamine manufacturing; ecstasy trafficking; offenses involving nuclear, biological, and chemical weapons; human trafficking; stalking; firearms offenses; GHB and List I chemical offenses; the safety valve; and several circuit conflicts. The Commission

set an effective date of November 1, 2001, after expiration of the statutory 180-day congressional review period.

In mid-April 2001, the Commission's *Supplement to the 2000 Guidelines Manual* incorporating temporary, emergency amendments effective May 1, 2001, was published. The temporary, emergency amendments were promulgated in the areas of trafficking in ecstasy, amphetamine, and certain List I chemicals used in the manufacture of methamphetamine; and offenses involving peonage and human trafficking.

On April 27, 2001, the Commission published its symposium proceedings book, *Symposium on Federal Sentencing Policy for Economic Crimes and New Technology Offenses*.

May 2001

On May 1, 2001, the Commission submitted to Congress its package of guideline amendments passed at its April public meeting. The package of amendments completed one of the more ambitious agendas in the recent history of the Commission and covered more than twice as many substantive areas as the previous amendment cycle.

More than 400 federal judges, U.S. probation officers, and attorneys attended the Tenth Annual National Seminar on the Federal Sentencing Guidelines. The seminar, co-sponsored by the U.S. Sentencing Commission and the Federal Bar Association, was held May 16-18, 2001, in Palm Springs, California.

Commissioners held a planning session in Savannah, Georgia, on May 23, 2001, to assess the 2001 amendment cycle and to begin planning for the 2002 amendment cycle. The Commission agreed to issue a solicitation for public comment regarding priorities for the 2002 amendment cycle.

On May 24, 2001, members of the Commission attended a meeting of the Committee on Criminal Law of the Judicial Conference of the United States in Savannah, Georgia. The Commission chair, Judge Diana E. Murphy, reported to the Committee on matters pending before the Commission.

On May 31, 2001, Edward F. Reilly, Jr. became the new *ex-officio* commissioner, representing the U.S. Parole Commission and replacing Michael J. Gaines.

June 2001

On June 6, 2001, the Commission published in the *Federal Register* notice of promulgation of the permanent amendments adopted in April and effective November 1, 2001, and temporary emergency amendments effective May 1, 2001.

On June 19, 2001, the Commission held a public hearing in Rapid City, South Dakota, in response to the March 2000 Report of the South Dakota Advisory Committee to the U.S. Commission on Civil Rights. The Commission heard testimony from several witnesses on the impact of the federal sentencing guidelines on Native Americans. Also in Rapid City, the Commission held another planning session to continue to plan for the 2002 amendment cycle.

On June 21, 2001, in Columbus, Ohio, the Commission and the Ethics Officers Association jointly sponsored a conference on ethics, compliance, and the organizational sentencing guidelines.

July 2001

On July 3, 2001, the Commission published in the *Federal Register* a notice requesting comment on proposed priorities for the amendment cycle ending May 1, 2002, with a public comment due date of August 3, 2001. Possible priorities included a 15-year study composed of projects designed to analyze guidelines in light of the goals of sentencing reform; an assessment of drug and criminal history guidelines; miscellaneous and discrete issues such as offenses involving damage to cultural heritage resources; and the resolution of any conflicts among the circuits related to the operation of the guidelines in the areas identified above.

August 2001

On August 28, 2001, the Commission published its *2000 Annual Report* and *2000 Sourcebook of Federal Sentencing Statistics*.

On August 28, 2001, the Commission met in Washington, D.C. John P. Elwood was introduced as a new *ex-officio* commissioner, representing the Department of Justice and replacing Michael E. Horowitz. The Commission also received staff briefings on possible changes to the Commission's Rules of Practice and Procedure to provide greater public access to the Commission's amendment process and on public comment received regarding the Rapid City hearing on Native American issues. Tentative policy priorities for the 2002 amendment cycle were also discussed.

September 2001

On September 5, 2001, the Sentencing Commission published in the *Federal Register* a notice and request for comment (with a due date of October 5, 2001) on proposed amendments to its Rules of Practice and Procedure to allow greater public access to the Commission amendment process.

U.S. Sentencing Commission Chair Diana E. Murphy received the 19th Annual Edward J. Devitt Distinguished Service to Justice Award on September 10, 2001. This award recognizes an Article III judge who has achieved an exemplary career and has made significant contributions to the administration of justice, the advancement of the rule of law, and the improvement of society as a whole.

At its September 2001 meeting, the Commission approved a list of policy priorities for the amendment cycle ending May 1, 2002.

On September 19, 2001, the Commission gave notice of its priorities for the 2002 amendment cycle in the *Federal Register* and requested comment (with a due date of November 6, 2002) on the possible formation of ad hoc advisory groups on guidelines for organizational and corporate crime to coincide with the 10th anniversary of their enactment and on issues related to the impact of the sentencing guidelines on Native Americans in Indian Country.

On September 20, 2001, the Sentencing Commission's *Guideline Manual* incorporating amendments effective November 1, 2001, went to press.

Throughout the Year

In fiscal year 2001, the Commission received documentation on approximately 60,000 cases sentenced under the guidelines. The Commission coded and assimilated the information from these sentencings into its comprehensive, computerized data collection system.

The Commission's training staff continued to provide guideline application and sentencing-related training to judges, probation officers, prosecutors, defense attorneys, and others. During fiscal year 2001, Commission staff trained 3,867 individuals at 46 training sessions (including ongoing programs sponsored by the Federal Judicial Center and other agencies).

During the year, the Commission's "HelpLine" provided guideline application assistance to approximately 200 callers each month. The Commission continues to rely on its popular Internet site (www.ussc.gov) as a means of providing information about the agency and its work. The Commission continues to develop its online collection of guideline training materials.

During 2001, Commission staff also received and responded to thousands of information requests from Congress, attorneys, government agencies, researchers, inmates and their families, and the public.