

Chapter One

Commission Overview

Introduction

The United States Sentencing Commission is an independent agency in the Judicial Branch of government. Its principal purposes are to (1) establish sentencing policies and practices for the federal courts, including guidelines to be consulted regarding the appropriate form and severity of punishment for offenders convicted of federal crimes; (2) advise and assist Congress, the federal judiciary, and the Executive Branch in the development of effective and efficient crime policy; and (3) 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 Commission was created by the Sentencing Reform Act (SRA) provisions of the Comprehensive Crime Control Act of 1984, Pub. L. No. 98-473, and its authority and duties are specified in chapter 58 of title 28, United States Code.

The sentencing guidelines established by the Commission are designed to take into account the purposes of sentencing: just punishment, rehabilitation, deterrence, and incapacitation. The guidelines are intended to promote fairness through the establishment of sanctions proportionate to the severity of the crime and the avoidance of unwarranted disparity by 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 its original sentencing guidelines and policy statements on April 13, 1987. 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 individuals and organizations. The guidelines became effective November 1, 1987, following the requisite period of congressional review, and apply to felonies and Class A misdemeanors committed on or after that date.

Shortly after implementation of the guidelines, defendants throughout the country challenged the constitutionality of the SRA and the Commission on the basis of improper legislative delegation and violation of the separation of powers doctrine. The Supreme Court of the United States rejected these challenges on January 18, 1989, in *Mistretta v. United States*,¹ and upheld the constitutionality of the Commission as an independent Judicial Branch agency. This decision cleared the way for nationwide implementation of the guidelines.

¹ 488 U.S. 361 (1989).

On January 12, 2005, the United States Supreme Court decided *United States v. Booker*,² and *United States v. Fanfan*,³ The Court held that the imposition of an enhanced sentence under the federal sentencing guidelines based on the sentencing judge's determination of a fact (other than a prior conviction) that was not found by the jury or admitted by the defendant violated the Sixth Amendment. To remedy the constitutional defect, the Court severed the provision of the sentencing guidelines statute that made the guidelines mandatory and a related appellate review provision, thus rendering the federal sentencing guidelines effectively advisory. The Court reaffirmed the constitutionality of the Commission and stated that "the Sentencing Commission remains in place, writing Guidelines, collecting information about actual district court sentencing decisions, undertaking research, and revising the Guidelines accordingly." Subsequent Supreme Court decisions continue to stress the importance of the federal sentencing guidelines.⁴

In keeping with the evolutionary nature of sentencing guidelines, the Commission has carefully monitored the guidelines and has amended them where necessary. Since January 1989, federal judges have sentenced more than 1,400,000 defendants under the federal sentencing guidelines.

Agency Overview

Commissioners

The Commission's seven voting members are appointed to staggered six-year terms by the President with the advice and consent of the Senate. By statute, at least three of the commissioners shall be federal judges, and no more than four may be members of the same political party. The Attorney

General, or the Attorney General's designee, is an *ex-officio* member of the Commission, as is the chair of the United States Parole Commission.

Organization

The Commission staff of approximately 100 employees is divided into the offices of the Staff Director, General Counsel, Education and Sentencing Practice, Research and Data, Legislative and Public Affairs, and Administration.

The **Office of the Staff Director** supervises and coordinates all agency functions. The director of each office reports to the staff director who in turn reports to the chair.

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 affecting the Commission's work. The legal staff provides training support in conjunction with the Office of Education and Sentencing Practice.

In addition, the office performs all drafting services for the Commission, prepares the *Guidelines Manual* for printing, formally manages and maintains all papers and exhibits received by the Commission that constitute requests for Commission action on sentencing policy development, and coordinates the Commission's policy initiatives.

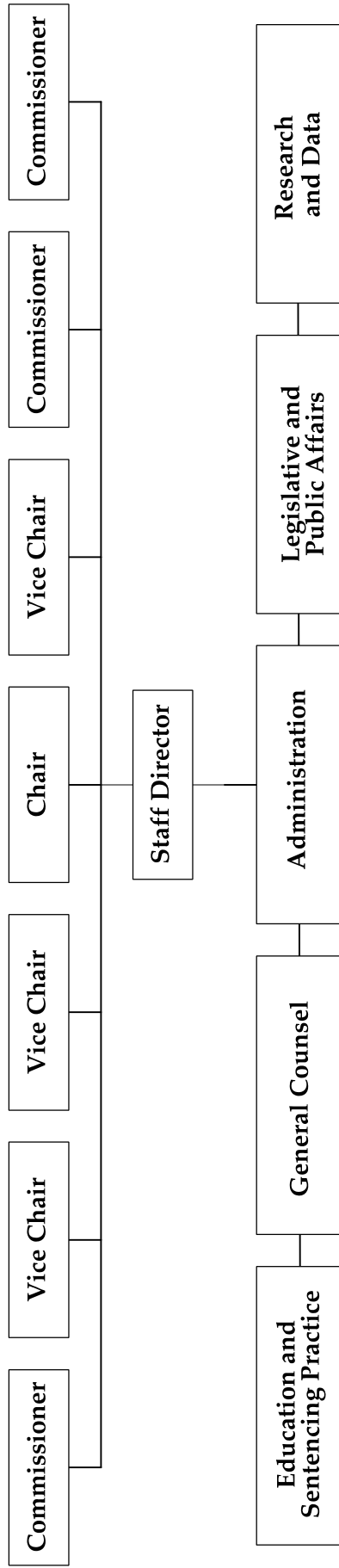
The **Office of Education and Sentencing Practice** performs the lead role in teaching guideline application to judges, probation officers, prosecuting and defense attorneys, and other criminal justice professionals. The staff develops training materials, participates in the sentencing guideline segments of training programs sponsored by other agencies, works in conjunction with the Federal Judicial Center to create broadcasts that are aired on the Federal Judicial Television Network, and helps inform the Commission about current guideline application practices. The office also operates a "HelpLine" to respond to guideline application questions from members of the court family.

² 543 U.S. 220 (2005).

³ 543 U.S. 220 (2005).

⁴ See, e.g., *Rita v. United States*, 551 U.S. 338 (2007) (holding that courts of appeal may apply a presumption of reasonableness when reviewing a sentence imposed within the guideline sentencing range); *Gall v. United States*, 128 S. Ct. 586 (2007) ("As a matter of administration and to secure nationwide consistency, the Guidelines should be the starting point and initial benchmark" at sentencing); *Kimbrough v. United States*, 128 S. Ct. 558 (2007) (After *Booker*, "[a] district judge must include the Guidelines range in the array of factors warranting consideration").

Figure A
ORGANIZATION OF THE
UNITED STATES SENTENCING COMMISSION



The **Office of Research and Data** provides the Commission with statistical and other social science research and analyses on specific sentencing issues and federal crime generally. As part of its work, the office receives documents from the federal courts concerning the sentences imposed on individual offenders, analyzes and enters information from those documents into a comprehensive computer database created and maintained by the Commission, and creates annual datafiles of sentencing information. Working with the Office of the General Counsel, the Office of Research and Data also collects information on organizations convicted of crimes and on appeals filed in individual and organizational cases.

As part of its ongoing work, the Office of Research and Data studies a wide variety of sentencing issues, including changes in the types and severity of federal crimes, changes in the demographic characteristics and criminal history of federal offenders, and sentencing trends in the federal courts. Using Commission data, the office creates periodic reports on federal sentencing practices and tracks the application of the sentencing guidelines. These reports provide data concerning the types of crimes committed, the offenders who commit those crimes, the punishments imposed, and the manner in which the sentencing guidelines were applied. The reports are distributed to the courts, Congress, the Executive Branch, and the public.

Using Commission data and other data sources, the Office of Research and Data provides short- and long-term research and analysis for the Commission as part of its work to monitor the use of the guidelines and as it considers amending them. The office also provides projections of the effect on the federal prison population of proposed legislation and proposed guideline amendments. Additionally, the office provides analyses about specific criminal justice and guideline application issues at the request of Congress and the courts.

The office creates datafiles of the Commission's annual sentencing data and makes that data available to researchers through the Inter-University Consortium for Political and Social Research at the University of Michigan. In fiscal year 2012, the office began making sentencing data available directly to

the public through the Commission's website. Also in fiscal year 2012, the office developed and the Commission launched an Interactive Sourcebook available to the public. Through this interactive website, users can view all of the data reported by the Commission in its annual *Sourcebook of Federal Sentencing Statistics* as well data from additional analyses, and can tailor all of these analyses by year, judicial district, and judicial circuit.

The **Office of Legislative and Public Affairs** serves as the Commission's liaison with Congress on sentencing and appropriations matters, monitors Congress's criminal law agenda, analyzes legislative proposals, drafts congressional testimony, and takes the lead role in responding to congressional inquiries. The office also provides services and information to other external entities, including the judiciary, Executive Branch agencies, academia, and advocacy groups. The office works closely with the Office of General Counsel on statutory interpretations and analyses.

The office is also responsible for the agency's public information functions, responding to inquiries and requests for information from the media, the public, Congress, academia, and government agencies. The office plays a primary role coordinating the production, editing, printing, and dissemination of all Commission publications, including the *Guidelines Manual* and reports to Congress. The office also plays a key role in the coordination of Commission public hearings.

The **Office of Administration** 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. This office also contains the Information Technology Unit, which maintains and services the Commission's computer hardware and software.

Staffing

During fiscal year 2012, the Commission used staff resources totaling approximately 97 workyears. About 15 percent of staff resources was devoted to the Office of General Counsel, nine percent to the Office of Education and Sentencing Practice, 46 percent to the Office of Research and Data, five

percent to the Office of Legislative and Public Affairs, 15 percent to the Office of Administration, three percent to the Office of the Staff Director, and four percent to the commissioners' offices.

Budget and Expenditures

For fiscal year 2012, the Commission received an annual appropriation of \$16,500,000 under Public Law 112-74. The Commission's fiscal year 2012 annual financial plan was a reduction of \$303,326 (1.8%) from the FY 2012 appropriation. The Commission's obligations by spending category for fiscal year 2012 at the end of the fiscal year are shown in Table 1. The Commission obligated \$16,386,000 (99.3%) of the annual budget at the close of the fiscal year. Unobligated balances are retained and available to the Commission for obligation adjustments for an additional five-year period.

Table 1
FISCAL YEAR 2012 BUDGET AUTHORITY
AND OBLIGATIONS
(dollar amounts in thousands)

Appropriation Amount	\$16,500
Spending Category	Amount
Personnel Compensation	9,554
Personnel Benefits	2,855
Other Services	2,035
Supplies and Equipment	1,358
Travel and Transportation	411
Printing and Reproduction	121
Communications, Utilities, and Other Rent	52
Total Obligated	\$16,386

The year 2012 as used in this report, refers to the fiscal year 2012 (October 1, 2011, through September 30, 2012).

