

Year In Review

United States Sentencing Commission – Fiscal Year 2012

Reports to Congress

During fiscal year 2012, the Commission focused significant effort on three comprehensive reports to Congress. In response to a congressional directive, in October 2011 the Commission submitted to Congress a report assessing the impact of mandatory minimum penalties on federal sentencing. The extensive report contains the most up-to-date data and findings on federal sentencing and the application of mandatory minimums since the Commission's 1991 report on the subject. The Commission recommends that Congress consider a number of specific statutory changes, among them a marginal expansion of the statutory "safety valve" to include drug offenders who receive two, or perhaps three, criminal history points, and the elimination of the mandatory "stacking" of multiple convictions under 18 U.S.C. § 924(c).

The Commission also continued working on a report to Congress on federal child pornography offenses. The Commission has received feedback from many, including the Criminal Law Committee of the Judicial Conference, the Department of Justice, and the Federal Public Defenders, particularly since the last major revision to the child pornography guidelines occurred almost a decade ago. On February 15, 2012, the Commission held a public hearing and heard testimony from expert witnesses on the use of technology, victim impact, recidivism, and research on outcomes in offender treatment. The Commission issued the report in early 2013.

In addition, the Commission continued its multi-year study of the state of federal sentencing post-*Booker*. On February 16, 2012, the Commission held a public hearing on federal sentencing options after *Booker* and heard the perspectives of the Executive branch, the federal judiciary, federal public defenders, practitioners, researchers, and advocacy groups. The Commission issued a comprehensive report with recommendations to Congress in early 2013.

2011–2012 Amendment Cycle

The Commission published for comment in January 2012 proposed amendments to the guidelines which, among other things, responded to directives in the Dodd-Frank Wall Street Reform and Consumer Protection Act regarding securities, mortgage, and bank fraud, addressed serious human rights offenses, and added the stimulant BZP to the Drug Equivalency Table in USSG §2D1.1. In addition, the proposed amendments included an expansion of the 2-level reduction for meeting the "safety valve" criteria to the guideline covering listed chemicals, USSG §2D1.11. In March 2012, the Commission held a public hearing to gather testimony from stakeholders in the federal criminal justice system on the proposed amendments. The Commission promulgated the package of amendments on April 13, 2012, and submitted to Congress for review on April 30, 2012. The amendments took effect November 1, 2012.

Outreach and Training

The Commission's annual National Seminar on the Federal Sentencing Guidelines was held in New Orleans, Louisiana, from June 13–15, 2012. Hundreds of federal judges, probation officers, prosecutors, defense attorneys, and other professionals from across the country attended the event. During fiscal year 2012 Commission staff trained more than 8,000 judges, probation officers, prosecutors, defense attorneys, and others at more than 100 training sessions across the country (including ongoing programs sponsored by the Federal Judicial Center and other agencies). The Commission continued to provide guideline application assistance to more than 100 callers to its HelpLine each month. The Commission also added offense-type primers to its website, www.ussc.gov.

Research and Data

The Commission received sentencing documentation on 84,173 cases in fiscal year 2012. As

of October 2012, the Commission has also collected data on more than 9,500 cases in which a modification of the sentence imposed was sought under the 2011 crack cocaine guideline amendment.

The Commission continued to expand its website, *www.ussc.gov*, and in July 2012 introduced its Interactive Sourcebook, which allows users to re-create and customize the tables and figures presented in the Commission's printed *Sourcebooks of Federal Sentencing Statistics*, and contains additional viewing options and tables. In addition, the Commission made available on its website individual offender datafiles from fiscal years 2002 through 2011 as well as certain prison and sentencing impact analyses it has conducted as part of its work on federal sentencing.

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

Assistance to Congress

On October 12, 2011, Chair Patti B. Saris testified on behalf of the Commission at an oversight hearing before the House Judiciary Committee's Subcommittee on Crime, Terrorism, and Homeland Security, regarding the state of federal sentencing post-*Booker*. The Chair testified that the Commission believes a strong and effective sentencing guideline system best achieves the purposes of the Sentencing Reform Act and outlined certain statutory recommendation to help strengthen the guidelines system.

On August 7, 2012, the Commission submitted a letter for inclusion in the record of the August 1, 2012, Senate Judiciary Committee's hearing, "Rising Prison Costs: Restricting Budgets and Crime Prevention Options." The letter provided information regarding the growth of the federal prison population and discussed some of the factors that have contributed to the increase. The letter also reiterated the recommendations contained in its October 2011 report to Congress on mandatory minimum penalties.