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Janice L. Peters,

*Designated Official.*

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## UNITED STATES SENTENCING COMMISSION

### Sentencing Guidelines for United States Courts

**AGENCY:** United States Sentencing Commission.

**ACTION:** Notice of priority areas for Commission research and amendment study. Request for public comment.

**SUMMARY:** As part of its statutory continuing responsibility to analyze sentencing issues, including the operation of the federal sentencing guidelines, the Commission has identified certain priorities as the principal focus of its work in the coming year and, in some cases, beyond. Following the practice of past years, the Commission invites comment on identified priorities (including the scope and manner of study, particular problem areas and possible solutions, and any other matters relevant to an identified priority). The Commission also invites comment on any other aspect of guideline application that it should address during the coming year.

**DATES:** Public comment should be received not later than October 31, 1995, to be considered by the Commission in shaping its work during the next year.

**ADDRESSES:** Send comments to: United States Sentencing Commission, One Columbus Circle, N.E., Suite 2-500 South, Washington, D.C. 20002-8002, Attention: Public Information—Priorities Comment.

**FOR FURTHER INFORMATION CONTACT:** Michael Courlander, Public Information Specialist, Telephone: (202) 273-4590.

**SUPPLEMENTARY INFORMATION:** The United States Sentencing Commission, an independent agency in the judicial branch of the United States Government, is empowered by 28 U.S.C. § 994(a) to promulgate sentencing guidelines and policy statements for federal sentencing courts. The statute further directs the Commission to periodically review and revise guidelines previously promulgated and authorizes it to submit guideline amendments to the Congress no later than the first day of May each year. See 28 U.S.C. § 994(o), (p).

As in previous years, the Commission uses this announcement to solicit formal

and informal comment regarding certain areas upon which the Commission expects to concentrate its attention during the coming year. This notice provides interested persons with an opportunity to inform the Commission of legal, operational, or policy concerns within the identified areas relating to the guidelines and to suggest specific solutions and alternative approaches.

Following are the priority areas for amendment study, research, or other planned actions identified by the Commission. Where possible, a general timeframe for the initiative is indicated. These timeframes should be considered subject to change as the Commission deems necessary.

- **Measuring the Success of the Guidelines:** A staff working group, under the direction of an outside consultant, has undertaken a number of projects that will measure the success of the guidelines in meeting the goals set forth in the Sentencing Reform Act. Projects related to just punishment, recidivism, and selective incapacitation are well underway. Other projects will examine offense seriousness, real-offense sentencing, judicial discretion, criminal history, alternatives to incarceration, and disparity.

- **Guideline Simplification and Modification:** A staff working group, under the direction of an outside consultant, will focus on simplifying and improving the guidelines. This effort will be informed substantially by the work, discussed above, measuring the success of the guidelines. In accordance with 28 U.S.C. § 994 (o), (p), and (x), the Commission intends that this process will involve consultation with a wide variety of interested groups and individuals. The Commission has prepared the following purpose statement for this working group:

Working Group on Guideline Simplification: Purpose Statement

#### I. Introduction

The Sentencing Commission, at its May meeting, identified comprehensive review of the federal guidelines system as a top agency priority. The Commission is well positioned to undertake this task, given the vast amounts of information available from the more than 225,000 cases sentenced under the guidelines during the past eight years, numerous appellate opinions issued on various guidelines issues, the growing body of academic literature and public comment, and the extensive empirical analysis of the guidelines conducted to date.

This purpose statement outlines the working group's proposed scope of inquiry and methodology.

#### II. Working Group Mandate

The objective of the working group's comprehensive review of the guidelines is twofold: 1) to reduce the complexity of guideline application ("simplification"); and 2) to improve federal sentencing by working closely with the judiciary and others to refine the guidelines (revisiting the balance of judicial flexibility/discretion and the availability of alternative punishments). The group will comprehensively and aggressively assess each major section of the guidelines, critique application complexities, and develop options for Commission consideration. Complexity is viewed as the source of confusion and frustration in guideline application. Moreover, this confusion results in unreliable application and judicial resistance—two outcomes that undermine the effectiveness of the guidelines.

Guideline complexity derives, in part, from fundamental decisions made by the original Commission in its effort to meet the Sentencing Reform Act's twin goals of: 1) assuring that the purposes of sentencing are met (i.e., just punishment, deterrence, incapacitation, and rehabilitation); and 2) providing certainty and fairness in meeting the purposes of sentencing while avoiding unwarranted disparities between similarly situated defendants (see 28 U.S.C. § 991(b)(1)). To ensure that the ramifications of all options for change are clear, the group will highlight the broader policy implications of its proposals (e.g., its effect on proportionality or a judge's ability to individualize sentences).

#### III. Methodology

The working group proposes the following strategy to assist commissioners in their deliberations on how they might simplify and improve the guidelines system. The group will prepare *concise* issue papers on major guideline topics to provide a foundation for Commission consideration of relevant issues and possible sentencing models. Each paper will:

- Review the history behind the original policy decision so as to ensure that the Commission is sensitive to the underlying principles and the impact of any revisions on these principles;
- Assess how the particular guideline is working (e.g., application complexities; frequency of use identified through monitoring data);
- Summarize information needs that might reasonably assist the

Commission's decision making on the topic; and

- Outline broad options for refinement.

These papers will provide sound bases for commissioners, staff, and the public to understand the current guidelines and assess any proposals for change.

The group is currently drafting issue papers on the following topics:

1. Sentencing Reform Act (and subsequent sentencing legislation)
2. Drafting process used by initial Commission; major changes since that time
3. Real offense sentencing (Relevant Conduct)
4. Criminal history
5. Level of detail (specific offense characteristics)
6. Chapter Three adjustments
7. Departures/offender characteristics
8. Sentencing table/sentencing ranges
9. Availability of probation/split sentences (alternatives)
10. Multiple counts

This methodology will enable staff to provide the Commission the full range of options for reviewing and revising the guidelines. In its review, the working group will examine how state guideline systems have addressed issues that judges and practitioners have found particularly complex in the federal system. In addition, the group will consult closely with judges and practitioners and solicit a wide variety of public comment from the Criminal Law Committee of the Judicial Conference, Practitioners' and Probation Officers' Advisory Groups, Department of Justice, Federal and Community Defenders, and others. Finally, the working group will analyze all responsible suggestions for guideline reform from outside individuals and groups.

The simplification process should be developmental and done with caution because significant changes may result in unforeseen anomalies. Therefore, it is important that as the simplification working group develops proposals it ensures that the proposals: 1) be consistent with the Sentencing Reform Act; 2) be sensitive to case law; and 3) be aware of the underlying premises that the previous Commission used in developing the guidelines. This caution will ensure that the guidelines are an evolving set of standards that change as information and experience buttresses the need for change.

- Evaluation of Commission Staff Resources: The Commission has begun a program to measure the use of staff resources as presently allocated and to

explore changes to the current staff resource allocation. This review is examining present procedures and processes to improve efficiency and determine strengths and weaknesses in various Commission functional components.

- Organizational Guidelines for Environmental Offenses: Development of fine guidelines for organizational defendants convicted of environmental offenses remains under consideration; however, the Commission expects that the guideline assessment and simplification efforts set forth above will receive priority attention.
- Substantial Assistance Working Group: This ongoing working group has recently completed the data collection portion of its study effort. The group is expecting to issue a report this fall.

- Implementation of Crime-related Legislation: The Congress is now considering legislation concerning terrorism, firearms, and other crime-related issues. The Commission will move promptly to implement any enacted legislation affecting criminal penalties through the promulgation of necessary guideline amendments or other actions as appropriate.

- Miscellaneous Issues: The Commission expects to propose for comment amendments to the food and drug guidelines. Amendments addressing some of the more important guideline application issues involving conflicting court interpretations also may be considered.

The Commission welcomes comments on the aforementioned priorities as well as any other aspect of guideline application or implementation of the Sentencing Reform Act.

Authority: 28 U.S.C. §994 (a), (o), (p).  
Richard P. Conaboy,  
*Chairman.*

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## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

### Defense Policy Advisory Committee for Trade; Notice of Meeting

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice of closed meeting. The September 14, 1995 meeting of the Defense Policy Advisory Committee for Trade was closed to the public.

**SUMMARY:** The meeting included a review and discussion of current issues which influence U.S. trade policy. Pursuant to Section 2155(f)(2) of Title

19 of the United States Code, I determined that the meeting concerned matters the disclosure of which would seriously compromise the development by the United States Government of trade policy, priorities, negotiating objectives or bargaining positions with respect to any trade agreement the operation of any trade agreement and other matters arising in connection with the development, implementation and administration of the trade policy of the United States.

**DATES:** The meeting was held on September 14, 1995.

**ADDRESSES:** The meeting was held at the Pentagon, Arlington, Virginia.

**FOR FURTHER INFORMATION CONTACT:** Clayton Parker, Director of Intergovernmental Affairs, Office of the United States Trade Representative, Executive Office of the President (202) 395-6120.

Michael Kantor,

*Office of the United States Trade Representative.*

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## Third Country-by-Country Reallocation of the Tariff-rate Quota for Sugar

**AGENCY:** Office of the United States Representative, 600 17th Street, NW., Washington, DC 20508.

**ACTION:** Notice.

**SUMMARY:** The Office of the United States Trade Representative (USTR) is providing notice of a country-by-country reallocation of part of the in-quota quantity of the tariff-rate quota for imported sugar for the period that ends September 30, 1995.

**EFFECTIVE DATE:** October 1, 1995.

**ADDRESSES:** Inquiries may be mailed or delivered to Tom Perkins, Senior Economist, Office of Agricultural Affairs (Room 421), Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508.

**FOR FURTHER INFORMATION CONTACT:** Tom Perkins, Office of Agricultural Affairs, 202-395-6127.

**SUPPLEMENTARY INFORMATION:** On September 14, 1995, the United States Trade Representative determined and announced that countries to which an allocation had been made of the in-quota quantity under the sugar tariff-rate quota (TRQ) provided for in Additional U.S. Note 5 to chapter 17 of the Harmonized Tariff Schedule of the United States (HTS) would not be filing their allocations and that the amount of this shortfall would be reallocated to other supplying countries or areas. This