



U.S. Sentencing Commission

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NEWS RELEASE

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SENTENCING COMMISSION INCREASES PENALTIES FOR FRAUDULENT TELEMARKETING SCHEMES

Agency Also Convenes Team to Address "No Electronic Theft Act"

WASHINGTON, D.C. (September 28, 1998) — In response to the Telemarketing Fraud Prevention Act of 1998, the United States Sentencing Commission at its September 17, 1998, meeting adopted amendments to the sentencing guidelines that further increase penalties for sophisticated fraudulent schemes, including telemarketing schemes, that impact large numbers of vulnerable victims. Many of the victims of these schemes are elderly persons of limited means. The Commission has submitted these latest guideline changes to Congress for expeditious review prior to a scheduled November 1, 1998, effective date. The changes build on earlier amendments adopted by the Commission last spring. Commission research staff estimate that the combined effect of the amendments will be to increase sentences in telemarketing fraud cases from a current average of 21 months to a minimum of 33 months, an approximate 57 percent increase.

Said Judge Richard P. Conaboy, Commission Chairman, "I am pleased that the Commission has promptly responded to implement Congress's directives in the Telemarketing Act. The Commission's actions demonstrate that we share Congress's concerns about the seriousness of these kinds of offenses."

The Commission at the meeting also directed its staff director to convene a staff Policy Development Team to advise the Commission on issues raised by the No Electronic Theft Act of 1997 (the "NET Act"). In the NET Act, Congress directed the Commission to "ensure that the applicable [sentencing] guideline range for a defendant convicted of a crime against intellectual property...is sufficiently stringent to deter such a crime..." The Act also requires the Commission to "ensure that the guidelines provide for consideration of the retail value and quantity of the items with respect to which the crime against intellectual property was committed."

"I have asked the staff director to get to work immediately on this, to use the appropriate methodologies to gather the information necessary to respond to this congressional concern," said Chairman Conaboy. "Congress is reflecting to us a nation-wide concern about this new type of criminal conduct – conduct that is increasing as electronic communication technology spreads across the country. We're concerned about it, just as Congress is. We want to let the members of Congress know that we

truly respect their right to direct these matters to us and that we will respond appropriately.”

In response to the NET Act directives, the Commission, in May 1998, published three proposals for public comment. One proposal represented the Commission’s most recent work on the issue, while two others were submitted by the U.S. Department of Justice. Public comment on the proposals was analyzed by Commission staff and presented to the Commission prior to the September 17 meeting.

The Policy Development Team will: (1) assemble relevant background information for the Commission to study, (2) forecast the effects of those options, and (3) collect and present all relevant sentencing data related to those options. The team will also examine the issue of whether the Commission has emergency authority to immediately promulgate a guideline amendment that responds to the NET Act.

Said Chairman Conaboy, “Should it at some point during the process become apparent that additional input will be useful – as we have done in the past – we will hold a public hearing on the topic. The Department of Justice, among others, will be asked to testify, and we will maintain a record of the proceedings.”

Also at the meeting, the Commission voted to publish for comment issues regarding increasing penalties for: (1) nuclear, biological, and chemical weapons and (2) the cloning of wireless telephones.

The U.S. Sentencing Commission, an independent agency in the judicial branch of the federal government, was organized in 1985 to develop a national sentencing policy for the federal courts. The resulting sentencing guidelines, which went into effect November 1, 1987, structure the courts’ sentencing discretion to ensure that similar offenders who commit similar offenses receive similar sentences. The Commission has ongoing responsibility to monitor and amend the guidelines.■