

Issues for Comment - Manslaughter

In 1997, the Commission undertook an in-depth examination of the manslaughter guidelines, §2A1.3 (Voluntary Manslaughter), and §2A1.4 (Involuntary Manslaughter), and the statutory penalties for these offenses, to determine whether the guideline and/or statutory penalties need to be adjusted. The Commission formed a staff working group to analyze data on manslaughter cases sentenced under the guidelines, to review how states have sentenced manslaughter cases, and to assess the appropriate relationship (particularly with respect to offense levels) of the manslaughter guidelines to the other homicide guidelines; *i.e.*, those for first and second degree murder, §§2A1.1 and 2A1.2. The Commission also held a public hearing on November 12, 1997, to address the issue of appropriate sentences for manslaughter offenses.

Based on the information gathered by the staff working group and at the public hearing, the Commission requests comment on the following issues:

(A) With respect to **Voluntary Manslaughter** (§2A1.3):

(1) Should the base offense level be increased and, if so, by what amount? For example, one option would be to increase the base offense level from level 25 (*i.e.*, a guideline range of 57-71 months for a defendant in criminal history category I with no adjustments) to level 28 (*i.e.*, a guideline range of 78-97 months for such a defendant) to bring voluntary manslaughter sentences to a level more commensurate with the serious nature of this intentional homicide offense.

(2) If the base offense level is increased, should the base offense level applicable to second degree murder cases be increased as well? If so, by what amount? For example, one option would be to increase the base offense level from level 33 (*i.e.*, 135-168 months for a defendant in criminal history category I with no adjustments) to level 36 (*i.e.*, 188-235 months for such a defendant) in order to maintain proportionality.

(3) Should a specific offense characteristic, or an application note inviting an upward departure, be added to account for prior violent conduct, such as a pattern of domestic abuse?

(B) With respect to **Involuntary Manslaughter** (§2A1.4):

(1) The Commission's examination of sentencing data indicate that the heartland of involuntary manslaughter is alcohol-related vehicular homicide. Currently under the guideline, a base offense level of level 14 (*i.e.*, 15-21 months for a defendant in criminal history category I with no adjustments) applies to such reckless conduct. The Commission invites comment on whether the base offense level applicable to such conduct should be increased (and, if so, by what amount) to address concerns about under-punishment in many vehicular manslaughter cases due to uncounted prior criminal conduct or in the case of multiple deaths. For example, one option would be to increase the base offense level for reckless conduct to level 17 (*i.e.*, 24-30 months for a defendant in criminal history category I with no adjustments).

(2) Should specific offense characteristics be added for (i) prior offenses for driving under the influence of alcohol that are not counted in criminal history; (ii) driving without a license (in a jurisdiction where a license is required), or driving with a revoked or suspended license; (iii) multiple deaths; (iv) causing a substantial risk of harm to innocent "bystanders"; or (v) "road rage" that proximately resulted in the vehicular homicide?

(3) In addition to, or in lieu of, proposed amendments to the Involuntary Manslaughter guideline, the Commission invites comment on alternative approaches that, arguably, may be more effective in preventing vehicular homicide offenses. For example, should steps be taken to punish more severely and/or uniformly the underlying conduct of driving under the influence of alcohol or drugs (DUI)? What actions might the Commission take that would most effectively address these contributing problems?