



## Crime Bill Generates Proposed Amendments

Comprehensive analysis of the 85 sentencing-related provisions in the 1994 crime bill provided the catalyst for the bulk of proposed guideline amendments and issues for comment published by the Sentencing Commission in early January.

The Commission also seeks comment on two alternative approaches to revising the drug trafficking guideline and a comprehensive revision to the money laundering guidelines.

Publication of the proposals in the January 9, 1995, edition of The Federal Register opens the comment period for this amendment cycle. Written public comment on any of the proposals should be received by the Commission no later than March 7, 1995. Commissioners will take testimony on the proposals during a public hearing March 14 and will decide in April which amendments to submit to Congress by the statutory deadline of May 1. If the Congress takes no action during its subsequent 180-day review period, the amendments become effective November 1, 1995.

A "reader-friendly" version of the proposed amendments can be obtained by calling the Commission at (202) 273-4590. ■

*Sentencing Commission members (seated left to right): Julie E. Carnes, Richard P. Conaboy (Chairman), Deanell R. Tacha; (standing) Michael S. Gelacak, Wayne A. Budd, A. David Mazzone, and Michael Goldsmith.*

## Newly Constituted Commission Charts Ambitious Course

Operating at full strength for the first time in more than three years, the Sentencing Commission outlined an ambitious agenda during its first public meeting of the new year. Among the many projects and issues slated by the Commission in 1995 are promulgation of guideline amendments to enact numerous crime bill provisions, submission of a special report to Congress on cocaine and federal sentencing policy, sponsorship of a national symposium on the impact of the organizational guidelines, and reexamination of the drug trafficking guideline.

In addition, the Commission plans to further its sentencing-related research by completing studies on such diverse topics as substantial assistance departures and public attitudes toward the type and severity of punishment for federal crimes.

At the January 10 meeting, new Commission Chairman Richard P. Conaboy and the Commissioners outlined a series of projects and activities aimed at advancing the agency's statutory mandate. "In this new year, the Commission will continue to offer

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### **Message from the Chairman**

*Guide Lines*, a new publication from the U.S. Sentencing Commission, is an effort to enhance communication with those who use or are affected by the federal sentencing guidelines. It will appear from time to time with information on current Commission activities, research findings, proposed guideline amendments, training opportunities, and guideline application and legal issues.

Up until now, the Commission's primary focus has been the development of comprehensive sentencing guidelines for the federal courts. I commend the commissioners who have served before me for the many contributions they have made toward meeting that monumental goal. With the appointment of four new members, I see the Commission entering an era of refinement and revision founded on more than five years of experience with nationwide application of the guidelines. Together with my colleagues, I solicit your input in this effort.

# 1995 Crime Legislation

Congress is again considering omnibus crime legislation. In the House of Representatives, the leadership has divided a comprehensive crime bill introduced early in the session (H.R.3) into six smaller bills for separate consideration. These six bills cover prison funding, the exclusionary rule, alien deportation, *habeas corpus*, block grants for local governments, and mandatory restitution. The House Subcommittee on Crime held hearings on H.R.3 in mid-January; the full Judiciary Committee conducted markups of the six bills later that month. In early February, the House passed the bills mandating restitution for all federal offenses and relaxing the exclusionary rule.

The original version of H.R.3 contained a new mandatory minimum penalty (to be served consecutive to the underlying offense) for carrying, using, or discharging a firearm or destructive device during a state or federal crime of violence or serious drug offense. This proposal is not included in the

six bills now under consideration, but is expected to be taken up in separate legislation later in the session.

The Senate, meanwhile, has introduced two crime bills, S. 38, the Violent Crime Control and Law Enforcement Act of 1995, and S. 3, the Violent Crime Control and Law Enforcement Improvement Act of 1995. Both create or increase mandatory minimum penalties for using minors in drug trafficking activities, distribution or manufacturing of drugs in drug-free zones, and using, carrying, or discharging a firearm during a federal crime of violence or serious drug offense. Furthermore, both bills would narrow the "safety-valve" provision enacted in the September 1994 crime legislation. Senator Orrin Hatch of Utah, Chairman of the Senate Judiciary Committee, expects to hold hearings on various crime-related issues beginning in mid-February.

The Commission is analyzing proposed crime legislation in anticipation of congressional action and is responding to requests from members of Congress for data and analysis on specific sentencing issues.

## Sentencing-Related Highlights of 1994 Crime Bill

### Commission Reports to Congress:

- Federal sentencing practices related to crack and powder cocaine (to be submitted by March 1, 1995)
- Victim-related adjustments for fraud offenses against the elderly
- Analysis of sentencing in federal rape cases
- Willful exposure to HIV (latter three reports to be submitted by March 13, 1995)

### Other Commission Directives:

(to study issue or amend guidelines)

- "Safety valve"
- Illegal drug use in federal prison; smuggling drugs into prison
- Drug dealing in "drug-free" zones
- Repeat sex crimes offenders
- Violent crimes against the elderly
- Use of semiautomatic firearm during violent or drug trafficking crimes
- Second offense using an explosive to commit a felony
- Using firearms in commission of counterfeiting/forgery
- Firearm possession by violent felons and serious drug offenders
- Use of a minor in a crime
- Hate crimes
- Terrorism

The Commission is required to consult with the Attorney General to pro-

vide prison impact assessments for any proposed legislation submitted by the Judicial and Executive branches that could increase the federal prison population. More importantly, it must annually assess the cumulative effect of all relevant statutory changes implemented during the preceding year.

During debate on the 1994 crime bill, the Commission played an active role as a resource to policymakers. Typically, this assistance takes three forms:

- Providing empirical information from the Commission's extensive database of more than 200,000 guideline cases regarding current sentencing practices or the projected impact of a proposed legislative change;
- Assisting in the development of legislative proposals that emphasize flexible guideline approaches to sentencing policy and less reliance on mandatory minimum penalties; and
- Providing technical drafting assistance to help Congress fashion sentencing laws that work best within the statutory structure.

Commission members testified at congressional hearings on the "three-

strikes" and "safety valve" proposals. Two legislative proposals sponsored by the Commission were adopted as part of the crime bill: 1) clarification of the law pertaining to revocation of probation and supervised release; and 2) increased statutory penalties for involuntary manslaughter, several civil rights violations, and Travel Act offenses, permitting guidelines to operate unimpeded by previously low statutory maximum penalties. ■

### Guide Lines

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# "Safety Valve" Guideline Takes Effect

One provision of the recent crime bill that has received widespread attention is the so-called "safety valve" amendment. Under this provision, certain non-violent drug defendants with little or no criminal history can receive the full benefit of applicable mitigating adjustments under the guidelines and sentences below mandatory minimum penalty levels.

In response to a statutory directive to implement the "safety valve," the Sentencing Commission promulgated a new guideline, §5C1.2 (Limitation on Applicability of Statutory Minimum Sentences in Certain Cases), which took effect September 23, 1994, and applies to defendants sentenced on or after that date.

Guideline 5C1.2, tracking the language of 18 U.S.C. § 3553(f), sets out the criteria a defendant must meet to be eligible for the "safety valve" provision:

- no more than one criminal history point;
- no violence or weapons in connection with the

- offense;
- no death or serious bodily injury;
- not an organizer or leader; and
- shared with the government all known information about the offense.

The amended statute and the new guideline provide the government an opportunity to make a recommendation prior to a court finding that the "safety valve" applies (*see* 18 U.S.C. § 3553(f) and §5C1.2, Application Note 8). However, the court is not bound by the government's recommendation. In effect, the "safety valve" eliminates the mandatory minimum penalties (imprisonment and supervised release); the court acts as if it were sentencing a non-mandatory minimum defendant.

The Commission projects that 155 defendants will definitely qualify under the provision, while another 752 defendants could possibly be affected. ■

Implementation of the "safety valve" provision has generated a number of calls to the Commission's guideline application assistance hotlines. A few of these questions and their answers follow:

**Q:** Does the safety valve provision replace the five-year mandatory minimum penalty with a two-year mandatory minimum penalty?

**A:** No. When the court finds that the defendant meets the criteria listed in the statute and in §5C1.2, mandatory minimum penalties for the listed drug offenses are no longer applicable. The Violent Crime Control and Law Enforcement Act of 1994 directed the Sentencing Commission (Section 80001(b)(1)(B)) to establish a "guideline range in which the lowest term of imprisonment is at least 24 months" for a defendant who would otherwise be subject to a mandatory minimum sentence of five years. However, this instruction to the Commission does not indicate a mandatory minimum sentence that binds the court. Typically, the least culpable defendant (*i.e.*, one who has a minimal role and fully accepts responsibility) who is otherwise subject to a five-year mandatory minimum will have a guideline range of 30-37 months. Consequently, the Commission be-

lieves the current drug guideline adequately complies with this directive.

**Q:** Does §5C1.2 apply to both five- and ten-year mandatory minimum penalties?

**A:** Yes. Mandatory minimum penalties for applicable offenses no longer apply for cases in which the court finds that the criteria listed at §5C1.2 are met.

**Q:** If §5C1.2 is applied, can the court depart from the applicable guideline range?

**A:** Yes. Just as in other cases in which no mandatory minimum penalty applies, the court may depart if it finds an aggravating or mitigating circumstance not adequately considered by the Commission (*see* §5K2.0, 18 U.S.C. § 3553(b)).

**Q:** If the court finds that the defendant meets the criteria for §5C1.2, do the mandatory minimum terms of supervised release (listed at 21 U.S.C. § 841) apply?

**A:** No. If the safety valve is applied, there are no mandatory minimum terms of imprisonment or supervised release. (*Note:* the court is required to impose the guideline term of supervised release pursuant to

§5D1.2(b) unless there is reason to depart.)

**Q:** Will the safety valve be available to defendants who are "resentenced" upon remand?

**A:** Probably. Whether the provisions of 18 U.S.C. § 3553(f) apply to a defendant who is being "resentenced" after either an appeal or another successful challenge to a prior sentence is a legal question for the court. The Commission believes, however, that courts are most likely to conclude that the plain language of the Act (§80001(c)), which states that the provision shall apply to "all sentences imposed" on or after September 23, 1994, evidences a congressional intent that the safety valve apply to resentencing proceedings. For a case in which the previously imposed sentence, or the imprisonment component of that sentence, has been or becomes vacated or voided, section 3553(f) would appear to apply to an otherwise qualified defendant when that defendant is again before the district court for imposition of a new sentence (*i.e.*, resentencing). The precise language of an appellate court's remand order may need to be scrutinized carefully to determine whether the district court has sufficient latitude to apply the new statutory provision. ■

# Update

## Research

Among the Commission's continuing research projects, three in particular illustrate the agency's effort to examine issues affecting sentencing policy and practice in the criminal justice system.

The **Just Punishment** project responds to the congressional mandate that the Commission examine the four statutory purposes of sentencing. To explore the first purpose, the Commission surveyed the public about the levels of punishment appropriate for more than 20 federal crimes. The study employed a series of crime "vignettes" incorporating relevant offense and offender characteristics (e.g., a drug trafficking crime specified by the type and amount of drug involved, the presence of a weapon, and the offender's criminal history). Interviewers presented these vignettes in 1,737 personal interviews, asking respondents what they considered to be a "just" and appropriate punishment in each case. Analysis of the results, to be completed in 1995, will provide the Commission and Congress with the public's view of punishment appropriate for the various dimensions of federal crimes and offender characteristics.

A second research project, **The Changing Composition of Offenses and Offenders**, examines possible reasons behind the rapid growth of the federal prison population. The central research hypothesis tests whether this growth results from an increasingly serious mix of crimes and criminals or from more punitive sentences imposed on a stable composition of offenders and offenses. Researchers defined crime seriousness for select offense types by using factors such as the amount and type of drugs involved, the dollar loss in white collar crimes, the presence and use of weapons and/or violence, and the type of victim. Offender seriousness was measured by examining criminal history.

The study examines ten years of empirical data from a variety of sources, including Commission monitoring files, the Administrative Office of the U.S. Courts, the U.S. Parole Commission, and the Federal Bureau of Prisons. Content analysis of newspaper crime coverage, a historical examination of federalization of state crimes, and a review of pertinent government reports provided interpretive context for the data analysis. A final report is expected by Spring of 1995.

As part of its general mandate to study plea practices in the federal court system, the Commission is examining policies and practices regarding guideline departures for **Substantial Assistance**. This research initiative was prompted by the steadily increasing rate of substantial assistance motions, wide-ranging departure rates among districts, and significant variations in the degree of departure for defendants sentenced following a substantial assistance motion.

The study focuses on the types of assistance provided by defendants, prosecutorial policies and practices in filing substantial assistance motions, sentences recommended and imposed pursuant to a motion, and co-defendants within the same criminal conspiracy. Empirical information for the study stems from analyses of Commission case files, a survey of U.S. Attorneys, site visits to selected districts, and telephone interviews with prosecutors regarding a random sample of substantial assistance cases. A final report is expected by Summer of 1995. ■

## Symposium: Focus on Corporate Crime

In 1993, the Sentencing Commission sponsored its inaugural Crime and Punishment symposium focusing on drugs and violence in America. This event attracted several hundred prominent criminal justice practitioners, policymakers, and other experts.

In a second symposium scheduled for September 7-8, 1995 in Washington, D.C., the Sentencing Commission will turn its attention to corporate crime. This symposium will place particular emphasis on new law enforcement approaches — especially the Commission's organizational sentencing guidelines — that encourage businesses to develop their own internal crime-controlling practices.

The Commission promulgated the organizational sentencing guidelines in 1991 after more than five years of study and public debate. These guidelines create "carrot and stick" incentives for companies to adopt crime-controlling policies by providing the possibility of reduced penalties. For example, reduced fines may apply to a corporate defendant that had in place a rigorous compliance program, voluntarily disclosed the offense, and cooperated in the investigation.

Because these guidelines reflect a new approach to organizational sentencing, they have generated substantial public discussion about the ways in which companies can best meet the standards for penalty mitigation. The symposium is designed to shed light on how companies, industry associations, prosecutors, and others view these guideline standards.

Anyone interested in receiving registration materials as they become available should contact the Commission's Communication's Office at (202) 273-4590. ■

## The Custis Decision's Impact on Guideline Sentencing

For the past few years, appellate courts have been divided over the issue of a defendant's right to collaterally attack a prior conviction used to enhance the defendant's sentence. The issue has arisen in the context of both the Armed Career Criminal Act (18 U.S.C. § 924(e)) and the sentencing guidelines.

In the guidelines context, the Ninth Circuit determined that the right to challenge a prior conviction was constitutionally based. U.S. v. Vea-Gonzales, 999 F.2d 1326 (9th Cir. 1993). The Third Circuit agreed, at least for cases in which proof was readily available and dispositive. U.S. v. Brown, 991 F.2d 1162 (3d Cir. 1993). The majority of the circuits, however, allowed a collateral attack at the sentencing hearing only if the conviction was "presumptively void." *See, e.g.*, U.S. v. Byrd, 995 F.2d 536 (4th Cir. 1993); U.S. v. McGlocklin, 8 F.3d 1037 (6th Cir. 1993); U.S. v. Elliott, 992 F.2d 853 (8th Cir. 1993).

In the context of the Armed Career Criminal Act, the First Circuit determined that the sentencing court was statutorily required to examine prior convictions before using them to enhance a defendant's sentence. U.S. v. Paleo, 9 F.3d 988 (1st Cir. 1992). In contrast, the Eleventh Circuit ruled that the sentencing court had no discretion to review a prior conviction unless it was presumptively void. U.S. v. Owens, 15 F.3d 995 (11th Cir. 1994).

The Supreme Court's May 1994 decision in Custis v. United States, 114 S. Ct. 1732 (1994) held that a defendant has neither a statutory right under the Armed Career Criminal Act nor a constitutional right to challenge a prior conviction used to

enhance a sentence, unless the right to counsel was denied. The defendant in Custis had argued that his previous convictions were invalid because: 1) assistance of counsel was ineffective, 2) the guilty plea was not knowing and intelligent, and 3) the defendant had not been advised adequately of his rights in opting for a "stipulated facts" trial.

The Court decided that "[n]one of these alleged constitutional violations rises to the level of a jurisdictional defect resulting from the failure to appoint counsel at all." *Id.* at p. 1738. The Court refused to extend the constitutional right to collaterally attack a prior conviction used for sentencing enhancement beyond the right to counsel established in Gideon v. Wainwright, 372 U.S. 335 (1963).

As noted by the Court, this rule promotes ease of administration. Often, failure to appoint counsel is apparent from an order or from the judgment of conviction. Other claims, such as ineffective assistance of counsel or whether the plea was voluntary, "would require sentencing courts to rummage through frequently nonexistent or difficult to obtain state court transcripts or records that may date from another era, and may come from any one of the 50 states." 114 S. Ct. at pp. 1738-1739.

In the context of the Armed Career Criminal Act, the Custis decision has resolved intercircuit differences about the right to collaterally attack a prior conviction used for sentencing enhancement. Its implications, however, are much broader and likely will impact the way district courts handle collateral attacks on prior convictions at sentencing hearings whenever there is no express authority for such a challenge.

## Legal

For example, the Second Circuit in U.S. v. Jones, 27 F.3d 50 (2d Cir. 1994), in its review of a challenge to the inclusion of a prior conviction obtained in violation of the due process clause, noted that the Supreme Court's "independent constitutional ruling [in Custis] applies whether sentence enhancement is imposed pursuant to the Armed Career Criminal Act, the Sentencing Guidelines, or any other statutory scheme providing for sentence enhancement on the basis of prior felony convictions." *Id.* at p. 52. *See also*, U.S. v. Munoz, 36 F.3d 1229 (1st Cir. 1994); U.S. v. Jones, 28 F.3d 69 (8th Cir. 1994).

These appellate courts have extended the Custis holding generally to bar collateral attack on the use of prior convictions for sentence enhancement purposes under the sentencing guidelines for two reasons. First, the constitutional considerations are the same. Consequently, unless the prior conviction was obtained in violation of the right to counsel, there would be no basis under the Constitution for collaterally attacking the later use of that conviction for guideline enhancement purposes. Second, neither the Sentencing Reform Act nor the guidelines themselves grant a right of collateral attack at sentencing. To the contrary, the Commission in USSG §4A1.2, comment. (n.6) states that the guidelines do not confer any statutory right to challenge prior convictions.

While not all appellate courts have spoken on the implications of Custis within the guideline context, there is every reason to expect that the Supreme Court's pronouncement has tightly limited the circumstances under which a defendant can mount a collateral challenge to a prior conviction used for sentencing enhancement. ■

Forum

# New Commission Members

The appointment of a new Chairman and three new Commissioners marks the beginning of a new era at the Sentencing Commission, which for the first time is composed entirely of members who were not original drafters of the federal sentencing guidelines.

U.S. District Court Judge Richard P. Conaboy, of Scranton, PA, new Commission Chairman, and Wayne A. Budd, Esquire, of Boston, MA, Professor Michael Goldsmith of Salt Lake City, UT, and Judge Deanell R. Tacha of Lawrence, KS, join continuing members Judge Julie E. Carnes of Atlanta, GA, Michael S. Gelacak of Centreville, VA, and Judge A. David Mazzone of Boston, MA. In late October, President Clinton named Commissioner Gelacak and Judge Mazzone Vice Chairs of the Commission.

**Chairman Conaboy** serves as United States District Judge for the Middle District of Pennsylvania. Appointed by President Carter in 1979, he became Chief Judge in 1989 and took senior status in 1992. Pertinent to his new role, Judge Conaboy chaired the Pennsylvania Commission on Sentencing from 1977 to 1980. He also served as Chairman of the Pennsylvania Joint Council on Criminal Justice, Chairman of the Pennsylvania Conference of State Trial Judges, and Vice Chairman of the Pennsylvania Governor's Justice Commission. For 17 years preceding his nomination to the U.S. District Court, Judge Conaboy served as judge on the Lackawanna County Court of Common Pleas, for the final year as presiding judge.

**Commissioner Budd**, a practicing attorney with Goodwin, Procter & Hoar in Boston, formerly was Associate Attorney General of the United States as well as United States Attorney for the District of Massachusetts, Chairman of the Joint Bar Committee on Judicial Appointments for the Commonwealth of Massachusetts, President of the Massachusetts Bar Association, and a member of the Commonwealth of Massachusetts Commission on Judicial Conduct.

**Commissioner Goldsmith**, Professor of Law at Brigham Young University, previously was Assistant Professor of Law at Vanderbilt Law School, Counsel to the New York State Organized Crime Task Force, Assistant U.S. Attorney for the Eastern District of Pennsylvania, Senior Staff Counsel to the House Select Committee on Assassinations, and Deputy State's Attorney for Chittenden County, Vermont. He has written numerous articles on a wide range of criminal law topics, including sentencing and the federal guidelines.

**Commissioner Tacha**, nominated by President Reagan in 1985 as United States Circuit Judge for the Tenth Circuit, has completed a term as Chair of the Judicial Conference Committee on the Judicial Branch. At the University of Kansas she was Vice Chancellor for Academic Affairs, Associate Dean at the University's School of Law, and Professor of Law. Judge Tacha previously served in an advisory capacity as a member of the Sentencing Commission's Judicial Working

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its services to Congress, the Judiciary, and the Executive as an expert, independent agency dedicated to improving sentencing practices in this country," Judge Conaboy said.

Staff briefed Commissioners during the meeting on the status of three reports being prepared for Congress as directed by the recent crime bill. The studies, focusing on fraud against the elderly, penalties for federal rape cases, and willful exposure to HIV, are due March 13, 1995. Also, staff reported on the progress of two other research projects:

- *Just Punishment Study:* In an effort

to address one of the statutory purposes of sentencing, the Commission is investigating public perceptions about appropriate levels of punishment for various federal crimes. A final report that includes analysis of 1,737 interviews with randomly selected members of the public will be published in 1995.

- *Substantial Assistance Study:* Staff recently completed site visits to eight judicial districts as part of its study of substantial assistance departures. Interviews with judges, prosecutors, defense attorneys, and probation officers, together with extensive empirical analysis of the

variation in rate and degree of departure among districts, will be part of a report to be issued in late summer.

At the meeting, commissioners summarized special projects they are spearheading:

*Environmental/Food and Drug Guidelines:* Commissioners A. David Mazzone and Deanell R. Tacha said that they hoped to build on the concepts and structure in Chapter Eight of the Guidelines Manual in expanding guideline provisions for fines to encompass environmental and food and drug offenses committed by organizations. [continued on page 7]

# Update

## Drugs → Violence Task Force

As a follow-up to its June 1993 Symposium on Drugs and Violence in America, the Sentencing Commission has established a task force to examine the complex relationship between drugs and violence. The 20-member panel is composed of federal agency representatives, criminal justice professionals, policymakers, and academicians working in criminology and criminal justice, sociology, psychology, law, economics, biology, public health, and nursing.

Additionally, Attorney General Janet Reno, Senator Edward M. Kennedy of Massachusetts, Representative Robert C. Scott of Virginia, President H. Talbot "Sandy" D'Alemberté of Florida State University, Judge A. David Mazzone of the Sentencing Commission, Dr. Lee P. Brown (Director of the Office of National Drug Control Policy), Mr. Peter B. Edelman (Counselor to the Secretary of the Department of Health and Human Services), and New Jersey Governor Christine Todd Whitman serve as *ex-officio* members of the panel.

"Despite extensive efforts and resources already devoted to this problem, drugs and violence continue to shadow our society," said Judge Mazzone at the task force's opening meeting in June 1994. "While many explanations have been offered and solutions proposed, the reality is that we know very little about the relationship between drugs and violence."

In fulfillment of its statutory mandate to critically

examine important criminal justice issues, the Commission is sponsoring the task force in collaboration with the School of Criminology and Criminal Justice at Florida State University. According to Dr. Gordon Waldo, Professor of Criminology and Criminal Justice at Florida State and Chair of the group, "Myths and misunderstandings about the relationship between drugs and violence permeate the public, policymaking groups, and the media. The task force's purpose is to acquire a better understanding of this relationship and to dissipate some of the misconceptions that pose as truths."

In its first three meetings, task force members heard presentations by experts on the psychopharmacology of drugs and violence, violence associated with illegal drug markets, the effectiveness of drugs and violence prevention and treatment programs, and the availability of federal data that permit the examination of the drugs and violence relationship. In addition, the task force has funded three small-scale research projects dealing with:

- patterns of drug use and violence in a cross-cultural comparison,
- spatial and temporal variations in alcohol consumption patterns, and
- examination of the drugs and violence relationship using secondary data sources.

The final report of the task force, to be issued in early 1996, will include a summary and critique of existing research in this area. It will also provide information from several original research projects and various papers prepared by leading experts in the field. ■

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Both Judge Mazzone and Judge Tacha commented on the large volume of helpful public comment received by the Commission on these topics to date, and encouraged interested groups and individuals to continue to participate in the process.

*Symposium on Organizational Guidelines:* Commissioners Wayne A. Budd and Michael Goldsmith are helping to coordinate the Commission's second symposium in its series on Crime and Punishment in the United States. Scheduled for

September 7-8, 1995, the symposium will focus on changes in corporate and business culture since sentencing guidelines for organizational offenders became effective in 1991. (See story on p.4.)

*Guideline Simplification:* Commissioner Julie E. Carnes, noting general comments from various observers that the guidelines are too complicated, outlined her ideas for a long-term, comprehensive examination of ways to simplify guideline application. In addition to examining the Commission's substantial empirical resources in this effort, Judge

Carnes said she expects to solicit extensive public input.

*Drug Guidelines and Cocaine Report:* Commissioner Michael S. Gelacak indicated that the Commission's comprehensive examination of cocaine and federal sentencing policy is nearing completion and that the report will be submitted to Congress by March 1. Commissioner Gelacak also reported that the Commission anticipates substantial feedback from its Federal Register request for comment on options for revising the drug trafficking guidelines. ■

# ASSYSTance with Guideline Application

After a comprehensive two-year redesign, the Sentencing Commission has released a new version of its computer software program that leads users step-by-step through the guideline application process. The ASSYST Version 2.0 (Applied Sentencing SYS-Tem) incorporates improvements suggested by users across the country, especially the 77 Chief U.S. Probation Officers who responded to a survey regarding their experiences with ASSYST.

Highlights of ASSYST 2.0 include:

- multi-user access on a local area network;
- graphic user interface that runs under DOS but has the look and feel of Windows;

- ability to view completed worksheets as user enters information;
- unlimited flexibility to move through the guideline application process;
- individualized presentence report shell in any WordPerfect format;
  - standard reports on guideline application activity at the touch of a button;
- on-line access to guideline amendments;
- access to case law from several points in the program; and
- self-tutorial and written training manual.

To facilitate introduction of the new software, the Commission sponsored one-day training sessions in late November and early December at the

computer lab in the Federal Judiciary Building in Washington, D.C. One probation officer from each district, along with representatives from the American Bar Association, the Internal Revenue Service, the Executive Office for U.S. Attorneys, and the Federal Public Defenders were invited to participate and subsequently serve as the ASSYST training and resource representative for their district or agency. The Commission provided copies of the new software to each representative at the conclusion of the session.

Anyone interested in obtaining a copy of the ASSYST program should contact the Commission at (202) 273-4590.

## Guide Lines

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### SENTENCING COMMISSION MEETING SCHEDULE

Generally, the Commission meets in public session the second Monday of each month

2/21/95	Commission Meeting
3/13/95	Commission Meeting
3/14/95	Public Hearing

(all at Thurgood Marshall  
Federal Judiciary Building)