

SUPREME COURT OF DELAWARE

ANDREW D. CHRISTIE
CHIEF JUSTICE

THE ELBERT N. CARVEL
DELAWARE STATE BUILDING
820 NORTH FRENCH STREET
P. O. Box 1997
WILMINGTON, DELAWARE 19899

ADMINISTRATIVE DIRECTIVE NUMBER SEVENTY-SIX

This 15th day of September, 1987.

It Appearing that:

The Sentencing Accountability Commission (hereinafter referred to as the Commission) was established by the enactment into law of Senate Bill No. 434, as amended by Senate Amendment No. 2, on July 18, 1984, (64 Del. Laws ch. 402); and

The Commission has been charged with developing "sentencing guidelines consistent with the overall goals of ensuring certainty and consistency of punishment commensurate with the seriousness of the offense and with due regard for resource availability and cost," (11 Del.C. § 6580(c)); and

The Commission, pursuant to its mandate, has developed and approved sentencing standards as set forth in its Master Plan for Effective Sentencing Reform in Delaware, dated May 1, 1986, the primary thrust of which was the development of a five level scheme of punishment designated as Accountability Levels I through V; and

The recommendations of the Commission could not be implemented in the Court's view before legislation was enacted providing for such a scheme of punishment; and

The necessary legislation, Senate Bill No. 71, as amended by Senate Amendment No. 1, was signed into law by the Governor on July 10, 1987, effective, by its provisions, 90 days after its enactment (66 Del. Laws ch. 134); and

The Court is satisfied that it is in the best interests of the administration of justice to encourage Delaware's trial courts to implement, insofar as possible, the Commission's sentencing standards.

NOW, THEREFORE, IT IS DIRECTED, with the approval of the members of the Supreme Court (Del. Const. art. IV, § 13) that such implementation be effected under the following conditions:

1. Commencing on October 10, 1987, all trial courts of this State shall, insofar as possible, sentence adult defendants appearing before the courts in accordance with the sentencing standards recommended by the Commission. A report of each sentence imposed by the trial judge shall be transmitted to the Commission on the forms provided by the Commission.

2. Any judge who finds a particular sentencing standard inappropriate in a particular case because of the presence of aggravating or mitigating or other relevant factors need not impose a sentence in accordance with the standards but such judge shall set forth with particularity the reasons for the deviation using the forms provided by the Commission.

3. The sentencing standards are considered voluntary and nonbinding; thus, no party to a criminal case has any legal or constitutional right to appeal to any court a statutorily authorized sentence which does not conform to the sentencing standards.

4. The Commission or designated staff personnel thereof shall, before October 10, 1987, meet with the judges and appropriate court personnel of each court subject to this Directive for orientation and training on the procedures necessary for the proper implementation and utilization of the proposed sentencing standards.

5. The Commission shall analyze the data compiled as a result of the implementation of this Directive and shall submit its findings and recommended revisions to the sentencing standards to the Delaware Supreme Court on or before July 1, 1988 and annually thereafter unless otherwise directed by that Court.

6. This Directive shall be in effect until otherwise ordered by the Delaware Supreme Court.

Andrew D. Christia
Chief Justice

ADC/emr

cc: Judicial Conference
Sentencing Accountability Commission
Administrative Office of the Courts
Court Administrators
Clerk of the Delaware Supreme Court
Anthony G. Flynn, Esquire