



**Office of the Attorney General**  
**Washington, D. C. 20530**

Honorable Diana E. Murphy  
Chair, U.S. Sentencing Commission  
One Columbus Circle, N.E.  
Suite 2-500, South Lobby  
Washington, D.C. 20002-8002

Dear Judge Murphy:

I write to advise that the President this week signed into law the Sarbanes-Oxley Act of 2002. This law, which was supported both by the Administration and large bipartisan majorities in Congress, is intended to bring about a new ethic of responsibility in America's business community. The Act addresses the critical need to expose and punish acts of corruption, move corporate accounting out of the shadows, and protect small investors and pension holders.

The U.S. Sentencing Commission will play a critical role in implementing the Sarbanes-Oxley Act and in helping to restore confidence in corporate America and America's financial markets. The Act directs the Commission to review and amend, as appropriate, the federal sentencing guidelines for securities and accounting fraud, obstruction of justice, and other "white collar" crimes, within 180 days of today.

There is therefore much work to do in reviewing the existing guidelines and implementing the many changes to the guidelines required by the Act. Given the broad directives in the Act, we think it important to prioritize the key provisions in the Act so that the Commission can focus its limited resources on tackling the issues that the Congress and this Administration have identified in the Act as most pressing. Specifically, the Act directs the Commission to review the existing guidelines, and consider amendments, in the following areas:

the fraud loss table and other guidelines to reflect increases in, or the establishment of, statutory maximum penalties for wire fraud, mail fraud, securities fraud, accounting fraud, and pension fraud (Sarbanes-Oxley Act Sec. 905);

the applicable guidelines for obstruction of justice, including enhancements for extensive destruction of evidence and widespread and/or sophisticated violations (Sec. 805);

offense level enhancements for fraud/theft cases that endanger the solvency of individuals, pension funds, and institutions (Sec. 805);

offense level enhancements for officers, directors, and other high-level fiduciaries who abuse their position of trust and for corporate officers who falsely certify misleading financial reports (Sec. 1104); and

revisions to discrete aspects of the organizational guidelines, including issuing guidance regarding internal investigations, voluntary corporate self-disclosure and other compliance measures that will enhance the incentives for corporations to police themselves effectively, and to bolster the effectiveness of audit committees and other independent oversight personnel (Sec. 805).

As you know, the Department of Justice is committed to enforcing the law and imposing appropriate and just sanctions to deter, prevent, and punish crimes. I believe that the Commission shares those goals. I have directed Department staff to work closely with the Commission in effectuating these amendments in a way that will hold white collar criminals accountable and impose tough, consistent penalties for those who would threaten the integrity of our financial markets.

I also recognize that the Commission has addressed some of these issues in previous years, implementing broad changes to the fraud guidelines last November, and more recently appointing a working group to undertake a broad review of the organizational guidelines. This work will serve the Commission well as a springboard for further needed action.

I thank you in advance for the Commission's attention to this matter. We look forward to working with the Commission to develop sentencing guidelines to implement this vitally important legislation.

Sincerely,

John Ashcroft  
Attorney General