

On March 13, 2006, the Sentencing Commission released on its website an electronic version of its report on the impact of *United States v. Booker* on Federal sentencing. This report endeavors to provide sentencing data in a format relevant and meaningful to post-*Booker* analysis and therefore reports data outside of the Commission's customary fiscal year reporting practices. In the process of finalizing the report for printing, three programming errors were identified that required correction of certain data.

First, as described in footnote 242, the post-PROTECT Act time period used for purposes of this analysis is the period from May 1, 2003 (the date after the enactment of the PROTECT Act) through June 24, 2004 (the day of issuance of the *Blakely* decision by the Supreme Court). Accordingly, the post-PROTECT Act datafile consists of an aggregation of portions of the Commission's fiscal year 2003 and fiscal year 2004 datafiles, consisting of the 81,206 offenders sentenced from May 1, 2003, through June 24, 2004. In aggregating the relevant portions of the fiscal year 2003 and fiscal year 2004 datafiles, a programming error inadvertently omitted the cases sentenced within the applicable sentencing guideline range and cases sentenced above the applicable guideline range in the relevant portion of the fiscal year 2003 datafile. As a result, for the post-PROTECT Act time period, the preliminary report understated the percent of cases sentenced within and above the applicable guideline sentencing range, and overstated the percentage of cases sentenced below the applicable guideline sentencing range. *See, e.g.*, Tables 16, 20, Appendix E-1.

Second, when conducting guideline-specific analyses, cases typically are sorted based on the Guidelines Manual used at sentencing. Accordingly, the analysis of theft/fraud offenses sentenced under §2B1.1 for the pre-PROTECT Act time period (cases sentenced from October 1, 2002, through April 30, 2003) was intended to be limited to cases sentenced under a Guidelines Manual (or Supplement) issued November 1, 2001, or later. A programming error, however, inadvertently included cases sentenced during the pre-PROTECT Act time period using Guidelines Manuals issued prior to November 1, 2001. As a result, the preliminary report did not properly limit the theft/fraud cases to be analyzed for the pre-PROTECT Act time period. *See* Appendix E-1. Similarly, in order to fully capture cases sentenced for crack cocaine offenses, cases sentenced under §2D1.1 (Unlawful Manufacturing, Importing, Exporting, Trafficking) and §2D1.2 (Drug Offenses Occurring Near Protected Locations or Involving Underage or Pregnant Individuals) were combined for purposes of this report. For the pre-PROTECT Act time period, however, a programming error inadvertently omitted cases sentenced under §2D1.2. *See, e.g.*, Tables 20, 21, Appendix E-1.

Third, sentences typically are capped at 470 months and life sentences are assigned a value of 470 months when computing average sentence lengths. For the pre-PROTECT Act and post-PROTECT Act time periods, a programming error inadvertently failed to assign these values. As a result, the average sentences in the career offender analyses for these time periods were overstated. *See*, Table 28.

These errors, in addition to certain transcription and technical typographical errors, have been corrected in this Final Report on the Impact of *United States v. Booker* on Federal Sentencing.