

U.S. House Of Representatives Committee On The Judiciary: Over-Criminalization Task Force

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Regardless of what one may think about Congressional committees, or even Congress itself, the bipartisan Over-Criminalization Task Force may be worth keeping an eye on. The Task Force was initiated in May 2013 and was re-authorized to continue its work in February of this year. When the Task Force was re-authorized, Bob Goodlatte (R-Va.), Chair of the House Judiciary Committee, said “Over the past few decades, the federal criminal code has expanded dramatically, creating an ever-increasing labyrinth of federal statutes and regulations, many of which impose criminal penalties without requiring that criminal intent be shown to establish guilt. We need to make sure our laws and regulations protect freedom, work as efficiently and fairly as possible, and do not duplicate state efforts. This Task Force is taking a detailed look at our criminal code, seeking input from recognized experts in the field, and intends to examine many issues this year.” The Task Force is led by Representative Jim Sensenbrenner (R-Wisc.), Chairman of the House’s Crime, Terrorism, Homeland Security, and Investigations Subcommittee, and Ranking Member Bobby Scott (D-Va.). In February, Sensenbrenner commented that “[t]he criminal code is muddled and outdated” and that the Task Force’s “goal remains to codify and modernize the criminal code.” Since February, the Task Force has held hearings on over-federalization, identifying the scope of the problem of regulatory crime, penalties and collateral consequences. In July, the Task Force received testimony on the perspectives of various agencies. At the July hearing, Chief Judge Patti Saris, Chair of the United States Sentencing Commission, spoke on various topics including recent changes, and possible future changes, in federal drug Sentencing Guidelines. Chief Judge Saris also noted that the Task Force “has given significant consideration to issues of regulatory crime, *mens rea*, and criminal code reform” and has also considered “whether there has been excessive federalization of crime.” The Task Force has also looked into alternatives to incarceration and Chief Judge Saris noted that the Sentencing Commission has “included in its proposed priorities for the next amendment cycle a study of the availability of alternatives to incarceration in the federal system.” When re-authorized in February, the Task Force was scheduled to conclude its work in early August 2014, which is just around the corner. If the life of the Task Force is not extended, it will be interesting to see what findings or conclusions it reaches, and the recommendations it makes, if any, on some fairly significant topics. This could be especially interesting if it leads to the Sentencing Commission recommending alternatives to incarceration above and beyond those currently available under the Sentencing Guidelines.

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