

*Testimony of Mario J. Scalora, Ph.D.
Associate Professor of Psychology
to the United States Sentencing Commission
related to Court Security*

Members of the Commission:

I am testifying given my role in researching targeted threat and violence directed toward governmental officials. As a consulting psychologist to the United States Capitol Police, I have had the privilege of collaborating with personnel from the U.S. Marshals and the U.S. Supreme Court Police related to threat assessment and management issues. Many of the threat cases I have researched as a consultant have also involved harassing or threatening activity toward the judiciary.

Please allow me to clarify that I am neither representing nor speaking on behalf of the University of Nebraska, the United States Capitol Police, nor the United States Congress.

While I recognize that sentencing guidelines and judgments must address various value and legal considerations in addition to public safety concerns, I will restrict my comments strictly to the scientific issues pertinent to public safety.

Congress has directed the Commission to determine whether an adjustment is warranted when threats (to a federal official, judge or law-enforcement officer and members of their immediate families) are made in violation of 18 U.S.C. § 115. It is my understanding that Congress specified that the Commission should review those threats made in violation of section 115 "that occur over the Internet," and "determine whether and by how much that circumstance should aggravate the punishment pursuant to section 994 of title 28, United States Code." Section 209 further directed the Commission to "take into consideration the number of such threats made, the intended number of recipients of such threats, and whether the initial senders of such threats were acting in an individual capacity or as part of a larger group."

Concerning the nature of threats, I am well aware that such threats are not victimless crimes that may cause great anguish to government officials and their families regardless of their eventual outcome. The effect of directed harassment and threat behavior not only can cause significant distress to those concerned, but can also distract and hinder the duties of the public officials and their staffs. In addition, threats toward government officials demand significant resources from protective and law enforcement agencies.

Given the proliferation of various network based communications, electronic correspondence (threatening or otherwise) to government officials has increased

dramatically. While internet-based harassing and threatening communications has the impact of impacting multiple targets simultaneously, such threats, per se, are not more indicative of violence compared to other threatening activity. A review of the available research indicates individuals are more likely to be less inhibited and make threatening statements electronically via the internet or email when compared to other communication methods. Individuals who display an intensity of effort with their threatening and harassing behavior, including utilizing multiple methods of communication (electronic or otherwise), contacting multiple targets, as well as making multiple contacts (threatening or otherwise), are more likely to display violent or other troubling behavior (e.g., appearing with weapon, attempted violence). As a result, I strongly support enhancements as proposed for the nature and extent of threatening behavior, but not for use of the internet in and of itself. In addition, providing heightened punishment for internet-based threats may be disproportionately used toward younger defendants who tend to be more internet savvy.

Congress also directed the Commission to consider whether there should also be an adjustment if the sender of such threats was acting in an individual capacity or part of a larger group. Many terroristic, hate and other extremist groups have utilized the internet to indirectly recruit and incite persons who may share an affinity for their principles. Persons can potentially share an affinity for an extremist or violent group without having to formally meet with a “larger group.” As a result, a determination of whether someone acted in concert with a group may become more difficult as the groups in question continued to become more adept at decentralized recruitment and outreach.

Thank you for the opportunity to speak concerning these issues. I am happy to be of further assistance in the future.