

UNITED STATES SENTENCING COMMISSION
ONE COLUMBUS CIRCLE, NE
SUITE 2-500, SOUTH LOBBY
WASHINGTON, DC 20002-8002
(202) 502-4500
FAX (202) 502-4699



September 16, 2008

To all recipients of the *Guidelines Manual*:

As Chair of the United States Sentencing Commission, I am pleased to transmit this edition of the *Guidelines Manual*, which incorporates new guidelines and amendments effective November 1, 2008. The 2008 amendments include some substantive, clarifying, and technical revisions to guidelines, policy statements, and commentary.

Appendix B, which sets forth the principal statutory provisions governing sentencing, is now contained in a separate volume. That volume also is enclosed.

A supplement to Appendix C setting forth guideline amendments effective November 1, 2004, through November 1, 2008, and the reasons for those amendments, also is enclosed. You should already have the existing two-volume set of Appendix C, which chronicles guideline amendments effective November 1, 1987, through November 5, 2003, and the reasons for those amendments.

As always, the Commission encourages judges, probation officers, prosecuting and defense attorneys, and other interested individuals to submit suggestions for improving the guidelines. Please send comments to: United States Sentencing Commission, Thurgood Marshall Federal Judiciary Building, One Columbus Circle, N.E., Washington, D.C. 20002-8002, Attention: Office of Public Affairs.

Sincerely,

Ricardo H. Hinojosa

UNITED
STATES
SENTENCING
COMMISSION
GUIDELINES MANUAL

RICARDO H. HINOJOSA
Chair

RUBEN CASTILLO
Vice Chair

WILLIAM K. SESSIONS III
Vice Chair

DABNEY L. FRIEDRICH
Commissioner

MICHAEL E. HOROWITZ
Commissioner

BERYL A. HOWELL
Commissioner

KELLI FERRY
Commissioner, Ex-officio

EDWARD F. REILLY, JR.
Commissioner, Ex-officio

This document contains the text of the *Guidelines Manual* incorporating amendments effective January 15, 1988; June 15, 1988; October 15, 1988; November 1, 1989; November 1, 1990; November 1, 1991; November 27, 1991; November 1, 1992; November 1, 1993; September 23, 1994; November 1, 1994; November 1, 1995; November 1, 1996; May 1, 1997; November 1, 1997; November 1, 1998; May 1, 2000; November 1, 2000; December 16, 2000; May 1, 2001; November 1, 2001; November 1, 2002; January 25, 2003; April 30, 2003; October 27, 2003; November 1, 2003; November 5, 2003; November 1, 2004; October 24, 2005; November 1, 2005; March 27, 2006; September 12, 2006; November 1, 2006; May 1, 2007; November 1, 2007; February 6, 2008; March 3, 2008; May 1, 2008; and November 1, 2008.

RECOMMENDED CITATION FORM

United States Sentencing Commission Guidelines, Policy Statements, and Commentary may be cited as follows:

I. Full citation form

United States Sentencing Commission, Guidelines Manual, §3E1.1 (Nov. 2008)

II. Abbreviated citation form

[using USSG as the designated short form for United States Sentencing Guidelines]

- a guideline —
USSG §2D1.1
- a policy statement —
USSG §6A1.1, p.s.
- commentary designated as an application note —
USSG §2B1.1, comment. (n.1)
- commentary designated as background —
USSG §2B1.1, comment. (backg'd.)
- commentary designated as an introduction —
USSG Ch.3, Pt.D, intro. comment.
- an appendix to the Guidelines Manual —
USSG App. C

TABLE OF CONTENTS

	Page
CHAPTER ONE -Introduction, Authority, and General Application Principles	1
Part A-Introduction and Authority	1
Part B-General Application Principles	16
 CHAPTER TWO - Offense Conduct	 47
Part A-Offenses Against the Person	48
1. Homicide	48
2. Assault	51
3. Criminal Sexual Abuse and Offenses Related to Registration as a Sex Offender	57
4. Kidnapping, Abduction, or Unlawful Restraint	70
5. Air Piracy and Offenses Against Mass Transportation Systems	73
6. Threatening or Harassing Communications, Hoaxes, Stalking, and Domestic Violence	75
Part B-Basic Economic Offenses	80
1. Theft, Embezzlement, Receipt of Stolen Property, Property Destruction, and Offenses Involving Fraud or Deceit	80
2. Burglary and Trespass	107
3. Robbery, Extortion, and Blackmail	111
4. Commercial Bribery and Kickbacks	117
5. Counterfeiting and Infringement of Copyright or Trademark	120
6. Motor Vehicle Identification Numbers	126
Part C-Offenses Involving Public Officials and Violations of Federal Election Campaign Laws	127
Part D-Offenses Involving Drugs And Narco-Terrorism	138
1. Unlawful Manufacturing, Importing, Exporting, Trafficking, or Possession; Continuing Criminal Enterprise	138
2. Unlawful Possession	184
3. Regulatory Violations	186
Part E-Offenses Involving Criminal Enterprises and Racketeering	188
1. Racketeering	188
2. Extortionate Extension of Credit	191
3. Gambling	192
4. Trafficking in Contraband Cigarettes and Smokeless Tobacco	194
5. Labor Racketeering	194
Part F-[Deleted]	198
Part G-Offenses Involving Commercial Sex Acts, Sexual Exploitation of Minors, and Obscenity	199
1. Promoting A Commercial Sex Act or Prohibited Sexual Conduct	199
2. Sexual Exploitation of a Minor	206
3. Obscenity	216
Part H-Offenses Involving Individual Rights	220
1. Civil Rights	220
2. Political Rights	222
3. Privacy and Eavesdropping	223
4. Peonage, Involuntary Servitude, and Slave Trade	225
Part I-[Not Used]	

Part J-Offenses Involving the Administration of Justice	228
Part K-Offenses Involving Public Safety	237
1. Explosives and Arson	237
2. Firearms	244
3. Mailing Injurious Articles	257
Part L-Offenses Involving Immigration, Naturalization, and Passports	258
1. Immigration	258
2. Naturalization and Passports	265
Part M-Offenses Involving National Defense and Weapons of Mass Destruction	269
1. Treason	269
2. Sabotage	269
3. Espionage and Related Offenses	270
4. Evasion of Military Service	275
5. Prohibited Financial Transactions and Exports, and Providing Material Support to Designated Foreign Terrorist Organizations	275
6. Nuclear, Biological, and Chemical Weapons and Materials, and Other Weapons of Mass Destruction	279
Part N-Offenses Involving Food, Drugs, Agricultural Products, and Odometer Laws	283
1. Tampering with Consumer Products	283
2. Food, Drugs, and Agricultural Products	285
3. Odometer Laws and Regulations	286
Part O-[Not Used]	
Part P-Offenses Involving Prisons and Correctional Facilities	288
Part Q-Offenses Involving the Environment	292
1. Environment	292
2. Conservation and Wildlife	299
Part R-Antitrust Offenses	302
Part S-Money Laundering and Monetary Transaction Reporting	306
Part T-Offenses Involving Taxation	312
1. Income Taxes, Employment Taxes, Estate Taxes, Gift Taxes, and Excise Taxes (Other Than Alcohol, Tobacco, and Customs Taxes)	312
2. Alcohol and Tobacco Taxes	321
3. Customs Taxes	322
4. Tax Table	324
Part U-[Not Used]	
Part V-[Not Used]	
Part W-[Not Used]	
Part X-Other Offenses	325
1. Conspiracies, Attempts, Solicitations	325
2. Aiding and Abetting	328
3. Accessory After the Fact	328
4. Misprision of Felony	330
5. All Other Felony Offenses and Class A Misdemeanors	330
6. Offenses Involving Use of a Minor in a Crime of Violence	332
7. Offenses Involving Border Tunnels	333

Part Y-[Not Used]	
Part Z-[Not Used]	
CHAPTER THREE - Adjustments	334
Part A-Victim-Related Adjustments	334
Part B-Role in the Offense	340
Part C-Obstruction and Related Adjustments	347
Part D-Multiple Counts	352
Part E-Acceptance of Responsibility	365
CHAPTER FOUR - Criminal History and Criminal Livelihood	368
Part A-Criminal History	368
Part B-Career Offenders and Criminal Livelihood	384
CHAPTER FIVE - Determining the Sentence	395
Part A-Sentencing Table	396
Part B-Probation	398
Part C-Imprisonment	407
Part D-Supervised Release	413
Part E-Restitution, Fines, Assessments, Forfeitures	422
Part F-Sentencing Options	430
Part G-Implementing the Total Sentence of Imprisonment	436
Part H-Specific Offender Characteristics	444
Part I-[Not Used]	
Part J-Relief From Disability	449
Part K-Departures	450
1. Substantial Assistance to Authorities	450
2. Other Grounds for Departure	451
3. Early Disposition Programs	468
CHAPTER SIX - Sentencing Procedures, Plea Agreements, and Crime Victims' Rights	469
Part A-Sentencing Procedures	469
Part B-Plea Agreements	473
CHAPTER SEVEN - Violations of Probation and Supervised Release	478
Part A-Introduction to Chapter Seven	478
1. Authority	478
2. Background	478
3. Resolution of Major Issues	479
4. The Basic Approach	481
5. A Concluding Note	481

Part B-Probation and Supervised Release Violations	483
CHAPTER EIGHT - Sentencing of Organizations	491
Part A-General Application Principles	492
Part B-Remedying Harm from Criminal Conduct, and Effective Compliance and Ethics Program	496
1. Remedying Harm from Criminal Conduct	496
2. Effective Compliance and Ethics Program	499
Part C-Fines	505
1. Determining the Fine - Criminal Purpose Organizations	505
2. Determining the Fine - Other Organizations	505
3. Implementing the Sentence of a Fine	521
4. Departures from the Guideline Fine Range	524
Part D-Organizational Probation	528
Part E-Special Assessments, Forfeitures, and Costs	533
Part F-Violations of Probation - Organizations	535
APPENDIX A - Statutory Index	536
INDEX TO GUIDELINES MANUAL	559
SUPPLEMENTARY VOLUMES	
APPENDIX B - Selected Sentencing Statutes	1
APPENDIX C (Volume I) - Amendments to the Guidelines Manual	1
(effective November 1, 1997, and earlier)	
APPENDIX C (Volume II) - Amendments to the Guidelines Manual	1
(effective November 1, 1998, through November 5, 2003)	
SUPPLEMENT to APPENDIX C - Amendments to the Guidelines Manual	1
(effective November 1, 2004, through November 1, 2008)	