Appendix B: Congressional Directives to the United States Sentencing Commission Subsequent to Enactment of the Sentencing Reform Act

Date	P. L. No.	Crime Type	Brief Description of Directive	Amend. No.
1/18/1988	100--690	Drug Crimes	Increase of at least 2 offense levels, minimum offense level of 26 for importation of controlled substances by aircraft or other vessel	134
1/18/1988	100--690	Drug Crimes	Increase of at least 2 offense levels, minimum offense level of 26 for drug offenses involving minors	135
1/18/1988	100--690	Drug Crimes	Increase of at least 2 offense levels, minimum offense level of 26 for drug offenses within federal prisons	203
1/18/1988	100--690	Drug Crimes	Promulgate a minimum offense level of 26 for common carrier operation under influence of alcohol or drugs if death results; minimum level of 21 if serious bodily injury results	141
1/19/1988	100--700	Economic Crimes	Promulgate appropriate penalty increases in fraud guidelines for conduct resulting in conscious or reckless risk of serious personal injury; Sentencing Commission to consider appropriateness of minimum 2-level enhancement of offense level for such conduct	156
8/9/1989	101--73	Economic Crimes	Promulgate a provision for substantial period of incarceration for violation of any of several bank fraud, bribery, and embezzlement statutes if conduct substantially jeopardizes the safety and soundness of a federally insured financial institution	317
8/9/1989	101--73	Economic Crimes	Ensure substantial period of incarceration for violation of any of several bank fraud, bribery, and embezzlement statutes if conduct substantially jeopardizes the safety and soundness of a federally insured financial institution	317
1/29/1990	101--647	Economic Crimes	Promulgate a minimum offense level of 24 for bank fraud if defendant derives more than $1,000,000 in gross receipts	364
1/29/1990	101--647	Drug Crimes	Promulgate an increase of at least 2 offense levels for offenses involving "ice" methamphetamine	370
1/29/1990	101--647	Violent Crimes	Promulgate a minimum increase in kidnapping guideline for certain offenses involving child victims of 4 levels if victim intentionally maltreated, 3 levels if victim sexually exploited, 3 levels if for money or other consideration victim placed in care of person who does not have legal right to such custody, 2 levels if defendant allowed child victim to be subjected to any of above-specified conduct	363
1/29/1990	101--647	All Crimes	Report on mandatory minimum provisions in federal law; address 7 enumerated issues and any other information that would contribute to a thorough assessment	

Date	P. L. No.	Crime Type	Brief Description of Directive	Amend. No.
1/29/1990	101--647	Sex Crimes	Study and amendment of guidelines for sexual crimes against children to provide more substantial penalties if Sentencing Commission determines current penalties are inadequate	372
0/28/1991	102--141	Other Crimes	Promulgate a minimum base offense level of 10 in 2G3.1	437
0/28/1991	102--141	Sex Crimes	Promulgate a minimum base offense level of 13 in 2G2.4 plus minimum 2-level increase for possession of 10 or more items depicting sexual exploitation of minor	436
0/28/1991	102--141	Sex Crimes	Promulgate a minimum base offense level of 15 in 2G2.2 and at least 5 level increase for pattern of activity involving sexual abuse or exploitation of minor; extension of 2G2.2 to receipt or trafficking; limit 2G2.2 to simple possession	435
9/13/1994	103--322	Gun Crimes	Promulgate an appropriate enhancement of sentence for crime of violence or drug trafficking crime involving a semi-automatic firearm	531
9/13/1994	103--322	All Crimes	Promulgate an appropriate enhancement for any felony, committed inside or outside U.S., that involves or is intended to promote international terrorism	526
9/13/1994	103--322	Drug Crimes	Promulgate an appropriate enhancement for offenders who violate section 409 of Controlled Substances Act (drug free truck stops and safety rest areas)	534
9/13/1994	103--322	All Crimes	Promulgate an appropriate sentence enhancement if an offender over 21 years old involved a minor in commission of the offense; consider (1) severity of the crime, (2) number of minors involved, (3) proximity in age between offender and the minor(s), and (4) the fact that involving minors in crimes of violence is frequently more serious than involving minors in drug trafficking offenses	528
9/13/1994	103--322	Violent Crimes	Ensure penalties for crimes of violence against elderly victims are sufficiently stringent to deter such crimes, protect the public against additional crimes of such defendants, and reflect the heinous nature of such offenses; penalties must reflect (1) degree of physical harm caused to elderly victim and (2) vulnerability of victim; guidelines must provide enhanced punishment for offenders previously convicted of crimes of violence against the elderly	521
9/13/1994	103--322	Sex Crimes	Review and amend, where necessary, aggravated sexual abuse guidelines as follows if appropriate: (1) enhance penalties in offenses with more than one offender, (2) reduce unwarranted disparities between sentences for offenders known to the victim and offenders unknown to the victim, (3) render federal penalties commensurate with penalties for similar state offenses, (4) account for recidivism in sex offenses, the severity of sex offenses, and the devastating effects of sex offenses on survivors; report within 180 days on: (1) known versus unknown offenders, (2) federal sentences compared to state sentences, and (3) effect of rape sentences on populations residing in federal territory relative to other offenses	511

Date	P. L. No.	Crime Type	Brief Description of Directive	Amend. No.
9/13/1994	103--322	Gun Crimes	Promulgate an appropriate enhancement for offenders convicted under 18 U.S.C. 922(g) who have one or two prior convictions for violent felonies or serious drug offenses	522
9/13/1994	103--322	Other Crimes	Promulgate an appropriate enhancement for violating 18 U.S.C. 844(h) more than once	
9/13/1994	103--322	Economic Crimes	Promulgate an appropriate enhancement if the defendant used or carried a firearm during and in relation to a felony offense defined in chapter 25 of title 18 (counterfeiting and forgery)	513
9/13/1994	103--322	Drug Crimes	Promulgate appropriate enhancements for simple possession or distribution of drugs in a federal prison and for smuggling drugs into a federal prison; probation prohibited for such offenders	514
9/13/1994	103--322	Drug Crimes	Promulgate appropriate guidelines and amendments regarding the limitation on applicability of mandatory minimum penalties in certain drug cases; mandates a minimum 24-month low-end guideline sentence for offenders who qualify for a 5-year statutory mandatory minimum sentence	515
9/13/1994	103--322	Other Crimes	Study and report concerning recommendations for guideline amendments that relate to offenses in which an HIV infected individual engages in sexual activity with knowledge of HIV status and with intent to expose another to HIV	
9/13/1994	103--322	Sex Crimes	Promulgate appropriate amendments pertaining to repeat sexual offenders	511
9/13/1994	103--322	Drug Crimes	Promulgate an appropriate enhancement for a defendant convicted of violating 21 U.S.C. 860 (drug-dealing in drug-free zones)	
9/13/1994	103--322	Other Crimes	Defines "hate crime"; minimum enhancement of 3 offense levels for offenses the finder of fact at trial determines beyond a reasonable doubt to be hate crimes; Commission to ensure reasonable consistency with other guidelines, avoid duplicative punishments for substantially the same offense, and take into account any mitigating circumstances that might justify exceptions	521
9/13/1994	103--322	Economic Crimes	Review and amend guidelines to ensure adequacy of victim related adjustments for fraud offenses against victims over age 55; report to Congress in 180 days	521
0/30/1995	104--38	Drug Crimes	Submit to Congress recommendations regarding changes to statutes and guidelines governing sentences for crack and powder cocaine offenses; report should reflect 14 enumerated considerations; propose revision of drug quantity ratio of crack to powder cocaine; comment upon Dept of Justice report on charging and plea practices in money laundering cases	
2/23/1995	104--71	Sex Crimes	Report to Congress in 180 days concerning offenses involving child pornography and other sex offenses against children; address 5 enumerated areas in report	

Date	P. L. No.	Crime Type	Brief Description of Directive	Amend. No.
2/23/1995	104--71	Sex Crimes	Increase base offense level by at least 2 levels for 18 U.S.C. 2251(c)(1)(A) or 2252(a) offenses	537
2/23/1995	104--71	Sex Crimes	Increase base offense level for violation of 18 U.S.C. 2423(a) (transportation of children with intent to engage in criminal sexual activity)) by at least 3 levels	538
4/24/1996	104--132	All Crimes	Promulgate or amend guidelines to reflect changes made in Mandatory Victims Restitution Act of 1996	571
4/24/1996	104--132	Other Crimes	Amend forthwith chapter 3 adjustment relating to international terrorism so that it applies more broadly to federal crimes of terrorism as defined in 18 U.S.C. 2332b(g)	539
4/24/1996	104--132	Economic Crimes	Promulgate an appropriate enhancement for defendant convicted of 18 U.S.C. 470 (counterfeit acts committed outside U.S.)	554
4/24/1996	104--132	Other Crimes	Promulgate a minimum 6-month prison term for persons convicted of violating 18 U.S.C. 1030(a) (terrorist activity damaging a federal interest computer)	551
9/23/1996	104--201	Other Crimes	Sense of Congress is that sentences for offenses involving importation and exportation of nuclear, biological, and chemical weapons are too low; urges Commission to raise penalties	633
9/23/1996	104--208	Other Crimes	Promulgate appropriate increases in base offense level for failure to depart, illegal reentry, and passport and visa fraud	563
9/23/1996	104--208	Other Crimes	Promulgate appropriate increases in base offense level for failure to depart, illegal reentry, and passport and visa fraud	562
9/30/1996	104--208	Drug Crimes	Review guideline penalties for conspiring with or assisting an alien to commit an offense under the Controlled Substances Import and Export Act and ensure appropriately stringent sentences	
9/30/1996	104--208	Other Crimes	Amend guidelines to eliminate disparities between sentences for peonage, involuntary servitude, and slave trade offenses and kidnapping and alien smuggling offenses; ensure that guidelines for peonage, involuntary servitude or slave trade offenses are enhanced for a large number of victims, the use or threatened use of a dangerous weapon, or a prolonged period of peonage or involuntary servitude	542
9/30/1996	104--208	Other Crimes	Raise base offense level for fraudulent use of government-issued documents by 2 levels; review number of documents enhancement and raise by 50%; impose enhancement for prior similar conviction in addition to the criminal history points given for such prior conviction; impose an additional enhancement for 2 similar prior convictions in addition to the criminal history points given for such prior convictions; consider aggravating/mitigating factors for upward/downward departures	544

Date	P. L. No.	Crime Type	Brief Description of Directive	Amend. No.
9/30/1996	104--208	Other Crimes	Raise base offense level in alien smuggling offenses by 3; increase enhancement for number of aliens by 50%; impose enhancements for having 1 or 2 prior similar convictions in addition to criminal history points; impose enhancement for bodily injury or death, firearm use or brandishment, or consciously or recklessly placing another in serious danger of death or bodily injury; consider downward adjustment if first offense involving smuggling of spouse or child; consider aggravating/mitigating factors for departure	543
10/3/1996	104--237	Drug Crimes	Amend guidelines to ensure the manufacture of methamphetamine is treated as a significant violation	558
10/3/1996	104--237	Drug Crimes	Determine whether sentences for dangerous handling of controlled substances are adequate and, if not, amend	555
10/3/1996	104--237	Drug Crimes	Increase penalties for methamphetamine offenses that reflect the rapidly growing incidence of such offenses, the high risk of addiction, the increased risk of violence, and the recent increase in importation of meth and its precursor chemicals	555
10/3/1996	104--237	Drug Crimes	Promulgate minimum 2 level increase of base offense level for certain list I chemicals; ensure that quantity is calculated on the basis of quantity that could reasonably have been manufactured in a clandestine setting using the quantity of list I chemical possessed, distributed, imported or exported	557
0/11/1996	104--294	All Crimes	Compile and analyze information relating to the use of encryption or scrambling technology to facilitate or conceal criminal conduct; annually report to Congress on nature and extent of such conduct	
0/13/1996	104--305	Drug Crimes	Review sentences for flunitrazepam offenses and amend as appropriate; submit a summary of review to Congress and explanation for any amendments made; ensure guidelines reflect serious nature of offenses	556
1/19/1997	105--101	Other Crimes	Promulgate a minimum 2 level enhancement for any offense against the property of a national cemetery	576
2/16/1997	105--147	Economic Crimes	Ensure guidelines for intellectual property crimes are sufficient to deter such crimes and provide for consideration of the retail value and quantity of the items with respect to which the crime against intellectual property was committed	590
4/24/1998	105--172	Economic Crimes	Provide an appropriate penalty for offenses involving the cloning of wireless telephones taking into consideration 7 enumerated factors and any additional factors the Commission deems appropriate	596
6/23/1998	105--184	Economic Crimes	Substantially increase penalties for telemarketing fraud; provide a sophisticated means enhancement, including but not limited to sophisticated concealment such as perpetrating the offense from outside the United States; provide enhancement for cases involving a large number of vulnerable victims	587

Date	P. L. No.	Crime Type	Brief Description of Directive	Amend. No.
0/30/1998	105--314	Sex Crimes	Promulgate an appropriate enhancement if defendant knowingly misrepresented the actual identity of the defendant with the intent to persuade, induce, entice, coerce, or facilitate the transport of a child to engage in a prohibited sexual activity	592
0/30/1998	105--314	Sex Crimes	Review guidelines relating to sexual exploitation and abuse of children and clarify that "distribution of pornography" applies to the distribution of pornography for monetary remuneration and for a nonpecuniary interest	592
0/30/1998	105--314	Sex Crimes	Promulgate an appropriate enhancement for offenses involving the transportation of minors for illegal sexual activity	592
0/30/1998	105--314	All Crimes	Ensure consistency between Federal Sentencing Guidelines and avoid duplicative punishment under the Federal Sentencing Guidelines	
0/30/1998	105--314	Sex Crimes	Promulgate amendments to ensure an appropriate enhancement if the defendant used a computer in the sexual abuse or exploitation of a child	
0/30/1998	105--314	Sex Crimes	Increase sentences for offenses in which the defendant engaged in a pattern of activity involving the sexual exploitation or abuse of a minor	615
0/30/1998	105--318	Economic Crimes	Review and amend, as appropriate, to provide an appropriate penalty for each offense under 18 U.S.C. 1028 (identity fraud) after considering 7 enumerated factors plus any additional factors the Commission deems appropriate	596
12/9/1999	106--160	Economic Crimes	Implement emergency guideline amendments to implement section 2(g) of No Electronic Theft Act	590
0/12/2000	106--310	Drug Crimes	Amend guidelines for offenses involving manufacturing of amphetamine and methamphetamine; if offense created substantial risk of harm to human life or the environment, increase base offense level by 3 levels and to a minimum level 27; if offense involved substantial risk of harm to the life of a minor or incompetent, increase by 6 levels and to a minimum level 30	608
0/14/2000	106--310	Drug Crimes	Use emergency amendment authority to increase sentences for importation, exportation, manufacture or trafficking of Ecstasy; increase base offense level for any substance marketed as Ecstasy	609
0/17/2000	106--310	Drug Crimes	Amend guidelines for offenses involving list I chemicals; increase penalties for ephedrine, phenylpropanolamine, and pseudoephedrine such that those penalties correspond to the quantity of controlled substance that could reasonably have been manufactured using the quantity of ephedrine, phenylpropanolamine, or pseudoephedrine possessed or distributed; Commission must create table of manufacturing conversion ratios based on scientific, law enforcement, and other data the Commission deems appropriate; also increase penalties for other list I chemicals taking into account enumerated factors	611

Date	P. L. No.	Crime Type	Brief Description of Directive	Amend. No.
0/17/2000	106--310	Drug Crimes	Increase penalties for amphetamine offenses such that those penalties are comparable to the base offense level for methamphetamine offenses and reflect enumerated congressional concerns	610
0/17/2000	106--310	Drug Crimes	Review and amend guidelines to provide for increased penalties for Ecstasy such that the penalties reflect the seriousness of such offenses and need to deter them; ensure that new penalties reflect 6 enumerated factors and any other factor the Commission deems appropriate; sense of Congress that base offense levels for Ecstasy are too low and should be increased to be comparable with other drug offenses; base offense levels for importing and trafficking Ecstasy should be increased; within 60 days prepare a report describing factors Commission considered in promulgating Ecstasy amendments	609
0/28/2000	106--386	Other Crimes	Broaden scope of interstate stalking guidelines to include new statutory amendments	616
0/28/2000	106--386	Other Crimes	Amend, if appropriate, guidelines applicable to human trafficking offenses; consider enumerated grounds for sentence enhancements; consider conforming human trafficking guidelines to guidelines applicable to peonage, slave trade, and involuntary servitude offenses	627
11/1/2000	106--420	Economic Crimes	Enhance penalties for fraud or misrepresentation in connection with obtaining or providing, or furnishing of information to a consumer on, scholarships, grants, loans, tuition, discounts, awards, or other financial assistance for purposes of financing higher education; make those penalties comparable to penalties for misrepresentation that defendant was acting on behalf of a charitable, educational, religious, or political organization or a government agency	617
0/26/2001	107--56	Economic Crimes	Ensure individuals convicted of a violation of 18 U.S.C. 1030 can be subjected to appropriate penalties without regard to any mandatory minimum prison term	637
3/27/2002	107--155	Public Integrity Cri	Promulgate appropriate penalties for violations of the Federal Election Campaign Act of 1971 and report back to Congress.	648
7/30/2002	107--204	Economic Crimes	Review and amend guidelines to provide an enhancement for officers of publicly traded corporations who commit fraud	647
7/30/2002	107--204	Public Integrity Cri	Review and amend guideline penalties for obstruction of justice to ensure they are sufficient to deter and punish that activity.	647
7/30/2002	107--273	Other Crimes	Review and amend, as appropriate, in order to provide enhanced punishment for offenses involving the use of body armor.	659
11/2/2002	107--273	Other Crimes	Review and amend, as appropriate, guidelines to provide an enhancement for offenses involving assaults or threats on judges and certain other federal officers.	663

Date	P. L. No.	Crime Type	Brief Description of Directive	Amend. No.
11/2/2002	107--296	Other Crimes	Review and, if appropriate, amend guidelines relating to computer crimes in light of: (1) potential and actual harm; (2) level of sophistication; (3) intent to profit; (4) malicious intent; (5) privacy violations; (6) involved computer used for national defense, security, or administration of justice; (7) interfered with critical infrastructure; (8) threat to public health or safety.	654
4/30/2003	108--21	Violent Crimes	Increase base offense level for kidnapping from level 24 to 32, to delete specific offense characteristic decrease of two levels for release of victim within 24 hours, and to increase specific offense characteristic for sexual exploitation of victim from three to six levels.	651
4/30/2003	108--21	Sex Crimes	Adds several SOCs to 2G2.2 and 2G2.4 enhancing penalties if offenses involve between 10 and 150 (plus 2), 150 and 300 (plus 3), 300 and 600 (plus 4), if offense involves material depicting sadism or masochism (plus 4), and defines "pattern of activity" as "prohibited sexual conduct on at least two separate occasions." Directs Commission to ensure that penalties for sex offenses "adequately reflect the seriousness of the offense."	649
4/30/2003	108--21	All Crimes	Within 180 days Commission must: (1) review grounds for downward departure; (2)(a) ensure a substantial reduction in the incidence of downward departures; (2)(b) authorize a downward departure of no more than 4 levels for Government approved early disposition programs; (2)(c) limit enumerated grounds for downward departure in the area of sexual offenses	651
4/30/2003	108--21	Sex Crimes	Guidelines Manual amended by Congress to prohibit departures in certain child crimes and sex offenses for any reason not affirmatively and specifically identified as a permissble ground for departure in Chapter 5, Part K	649
4/30/2003	108--21	All Crimes	Distribute amendments, policy statements, and official commentary to U.S. Courts and Probation Offices incorporating provisions of the PROTECT Act; prohibits Commission from promulgating any amendments on or before May 1, 2005, that are inconsistent with amendments made pursuant to the Act or to add any new grounds for downward departures, or promulgate any amendments that would result in sentencing ranges that are lower than those that were established by the amendments to guidelines regarding sex offenses; and at no time promulgate any amendments that would alter or repeal the amendments made by the Act to the acceptance of responsibility guideline.	
4/30/2003	108--21	Sex Crimes	Applicable category of offense to be used for determining sentencing guidelines for persons convicted of crimes involving the obscene visual representation of the sexual abuse of children in violation of 18 U.S.C. § 1466A shall be the category of offenses described in § 2G2.2 of the Guidelines; Commission may promulgate guidelines specifically governing offenses under 18 U.S.C. § 1466A if such guidelines do not result in sentencing ranges that are lower than those that would have applied under § 2G2.2 of the Guidelines.	

Date	P. L. No.	Crime Type	Brief Description of Directive	Amend. No.
4/30/2003	108--21	Sex Crimes	Review, and if appropriate, amend the Guidelines and policy statements to ensure that penalties are adequate in cases involving interstate travel with the intent to engage in a sexual act with a juvenile, in violation of 18 U.S.C. § 2423.	664
4/30/2003	108--21	Sex Crimes	Review and, as appropriate, amend the Guidelines and policy statements to ensure that the guidelines are adequate to punish and deter conduct involving violations of 18 U.S.C. § 2252A(a) (child pornography). With respect to guidelines for section 2252A(a)(3)(B) (depictions of minors engaging in sexual conduct), the Commission was directed to consider the "relative culpability of promoting, presenting, describing or distributing material" as compared with solicitation of such material	664
4/30/2003	108--21	Drug Crimes	Review the guidelines with respect to offenses involving the drug GHB and to consider amending the guidelines to provide for increased penalties that reflect the seriousness of offenses involving GHB	667
4/30/2003	108--21	Other Crimes	Ensure 3rd acceptance of responsibility point to be given only upon formal motion of the government	649
2/16/2003	108--187	Other Crimes	Directive in the CAN-SPAM Act (Controlling the Assault of Non-Solicited Pornography and Marketing) to provide penalties for violations of law prohibiting transmission of certain commercial electronic messages containing "sexually oriented material," and other offenses that may be facilitated by the sending of large quantities of unsolicited electronic mail. The Act also requires that the Commission consider providing sentencing enhancements for several factors, including obtaining electronic mail addresses through improper means	665
6/22/2004	108--237	Economic Crimes	Legislative history for the Antitrust Criminal Penalty Enhancement Act contains a directive to the Commission to revise the existing antitrust sentencing guidelines to increase terms of imprisonment for antitrust violations to reflect the new statutory maximum for these offenses, which was raised from three years to ten years. The legislative history states that no revisions are needed with regard to the fine provisions	
7/15/2004	108--275	Other Crimes	Amend the Abuse of Trust/Special Skill guideline at § 3B1.3 to include a defendant who exceeds or abuses the authority of his position to obtain unlawfully or use without authority any means of identification, and general directive to review and amend guidelines and policy statements to ensure that guidelines appropriately punish identify theft offenses involving an abuse of trust	