

**UNITED STATES SENTENCING COMMISSION**

**Sentencing Guidelines for United States Courts**

**AGENCY:** United States Sentencing Commission.

**ACTION:** Notice of proposed priorities. Request for public comment.

**SUMMARY:** As part of its statutory authority and responsibility to analyze sentencing issues, including operation of the federal sentencing guidelines, and in accordance with Rule 5.2 of its Rules of Practice and Procedure, the Commission is seeking comment on possible priority policy issues for the amendment cycle ending May 1, 2007.

**DATE:** Public comment should be received on or before September 1, 2006.

**ADDRESS:** Send comments to: United States Sentencing Commission, One Columbus Circle, NE, Suite 2-500, South Lobby, Washington, DC 20002-8002, Attention: Public Affairs-Priorities Comment.

**FOR FURTHER INFORMATION CONTACT:** Michael Courlander, Public Affairs Officer,  
Telephone: (202) 502-4590.

**SUPPLEMENTARY INFORMATION:** The United States Sentencing Commission is an independent agency in the judicial branch of the United States Government. The Commission promulgates sentencing guidelines and policy statements for federal sentencing courts pursuant to 28 U.S.C. § 994(a). The Commission also periodically reviews and revises previously promulgated guidelines pursuant to 28 U.S.C. § 994(o) and submits guideline amendments to the Congress not later than the first day of May each year pursuant to 28 U.S.C. § 994(p).

The Commission provides this notice to identify tentative priorities for the amendment cycle ending May 1, 2007. The Commission recognizes, however, that other factors, such as the enactment of any legislation requiring Commission action, may affect the Commission's ability to complete work on any of the tentative priorities by the statutory deadline of May 1, 2007. Accordingly, it may be necessary to continue work on some of these issues beyond the amendment cycle ending on May 1, 2007.

As so prefaced, the Commission has identified the following tentative priorities:

(1) implementation of crime legislation enacted during the 109<sup>th</sup> Congresses warranting a Commission response, including (A) the Stop Counterfeiting in Manufactured Goods Act, Pub. L. 109-181; (B) the USA PATRIOT Improvement and Reauthorization Act of 2005, Pub. L.

109–177; (C) the Violence Against Women and Department of Justice Reauthorization Act of 2005, Pub. L. 109–162; (D) the Trafficking Victims Protection Reauthorization of 2005, Pub. L. 109–164; (E) the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, Pub. L. 109–59; and (F) other legislation authorizing statutory penalties, creating new offenses, or pertaining to victims, that requires incorporation into the guidelines;

(2) continuation of its work with the congressional, executive, and judicial branches of the government and other interested parties on appropriate responses to United States v. Booker, including any appropriate guideline changes in light of the Commission’s 2006 report to Congress, Final Report on the Impact of United States v. Booker on Federal Sentencing, as well as its continued analysis of post-Booker data, case law, and other feedback, including reasons for departures and variances stated by sentencing courts;

(3) continuation of its policy work regarding immigration offenses, specifically, offenses sentenced under §§2L1.1 (Smuggling, Transporting, or Harboring an Unlawful Alien) and 2L1.2 (Unlawfully Entering or Remaining in the United States) and implementation of any immigration legislation that may be enacted;

(4) continuation of its work with the congressional, executive, and judicial branches of the government and other interested parties on cocaine sentencing policy, to possibly include a hearing on this issue and a reevaluation of the Commission’s 2002 report to Congress, Cocaine and Federal Sentencing Policy;

(5) consideration and possible development of guideline simplification options that might improve the operation of the sentencing guidelines;

(6) continuation of its policy work, in light of the Commission's prior research on criminal history, to develop and consider possible options that might improve the operation of Chapter Four (Criminal History);

(7) continuation of its policy work to implement 28 U.S.C. § 994(t), specifically regarding the development of further commentary to §1B1.13 (Reduction in Term of Imprisonment as a Result of Motion by Director of Bureau of Prisons); and

(8) resolution of a number of circuit conflicts, pursuant to the Commission's continuing authority and responsibility, under 28 U.S.C. § 991(b)(1)(B) and Braxton v. United States, 500 U.S. 344 (1991), to resolve conflicting interpretations of the guidelines by the federal courts.

The Commission hereby gives notice that it is seeking comment on these tentative priorities and on any other issues that interested persons believe the Commission should address during the amendment cycle ending May 1, 2007, including short- and long-term research issues. To the extent practicable, comments submitted on such issues should include the following: (1) a statement of the issue, including scope and manner of study, particular problem areas and possible solutions, and any other matters relevant to a proposed priority; (2) citations to

applicable sentencing guidelines, statutes, case law, and constitutional provisions; and (3) a direct and concise statement of why the Commission should make the issue a priority.

**AUTHORITY:** 28 U.S.C. § 994(a), (o); USSC Rules of Practice and Procedure 5.2.

Ricardo H. Hinojosa,

Chair