

UNITED STATES SENTENCING COMMISSION

Sentencing Guidelines for United States Courts

AGENCY: United States Sentencing Commission.

ACTION: Notice of final action regarding technical and conforming amendments to federal sentencing guidelines effective November 1, 2014.

SUMMARY: On April 30, 2014, the Commission submitted to the Congress amendments to the sentencing guidelines and official commentary, which become effective on November 1, 2014, unless Congress acts to the contrary. Such amendments and the reasons for amendment subsequently were published in the Federal Register. 79 FR 25996 (May 6, 2014). The Commission has made technical and conforming amendments, set forth in this notice, to commentary provisions and policy statements related to those amendments.

DATES: The Commission has specified an effective date of November 1, 2014, for the amendments set forth in this notice.

FOR FURTHER INFORMATION CONTACT: Jeanne Doherty, Public Affairs Officer,
(202) 502-4502, jdoherty@ussc.gov.

SUPPLEMENTARY INFORMATION: The United States Sentencing Commission, an independent commission in the judicial branch of the United States government, is authorized by 28 U.S.C. § 994(a) to promulgate sentencing guidelines and policy statements for federal courts. Section 994 also directs the Commission to review and revise periodically promulgated guidelines and authorizes it to submit guideline amendments to Congress not later than the first day of May each year. See 28 U.S.C. § 994(o), (p). Absent an affirmative disapproval by Congress within 180 days after the Commission submits its amendments, the amendments become effective on the date specified by the Commission (typically November 1 of the same calendar year). See 28 U.S.C. § 994(p).

Unlike amendments made to sentencing guidelines, amendments to commentary and policy statements may be made at any time and are not subject to congressional review. To the extent practicable, the Commission endeavors to include amendments to commentary and policy statements in any submission of guideline amendments to Congress. Occasionally, however, the Commission determines that technical and conforming changes to commentary and policy statements are necessary. This notice sets forth technical and conforming amendments to commentary and policy statements that will become effective on November 1, 2014.

AUTHORITY: USSC Rules of Practice and Procedure 4.1.

Patti B. Saris,

Chair

1. Amendment:

Chapter One, Part A, Subpart 2 (Continuing Evolution and Role of the Guidelines) is amended by striking “127 S. Ct. 2456” and inserting “551 U.S. 338”; by striking “2463” and inserting “347-48”; by striking “wholesale, id.,” and inserting “wholesale[,]’ id. at 348”; by striking “2464” and inserting “350”; by striking “127 S. Ct. at 2465” both places such term appears and inserting “551 U.S. at 351”; by striking “128 S. Ct. 586, 596” and inserting “552 U.S. 38, 49”; by striking “128 S. Ct. at 597” and inserting “552 U.S. at 51”; by striking “Id. at 2464” and inserting “Rita, 551 U.S. at 350”; by striking “128 S. Ct. at 594” and inserting “552 U.S. at 46”; by striking “128 S. Ct. 558” and inserting “552 U.S. 85”; and by striking “571” and inserting “103”.

The Commentary to §1B1.1 captioned “Background” is amended by striking “128 S. Ct. 2198, 2200-03” and inserting “553 U.S. 708, 709-16”.

The Commentary to §1B1.10 captioned “Background” is amended by striking “130 S. Ct. 2683” and inserting “560 U.S. 817”.

The Commentary to §2M3.1 captioned “Application Notes” is amended by striking “50 U.S.C. § 435 note” and inserting “50 U.S.C. § 3161 note”.

The Commentary to §5G1.3 captioned “Application Notes” is amended in Note 2(A) by striking “subsection (c)” and inserting “subsection (d)”.

Reason for Amendment:

This proposed amendment makes certain technical changes to the Introduction and the Commentary in the Guidelines Manual.

First, the proposed amendment makes clerical changes to provide U.S. Reports citations for certain Supreme Court cases. The changes are made to—

- (1) Subpart 2 of Part A of Chapter One (Introduction, Authority, and General Application Principles);
- (2) the Background Commentary to §1B1.1 (Application Instructions); and
- (3) the Background Commentary to §1B1.10 (Reduction in Term of Imprisonment as a Result of Amended Guideline Range (Policy Statement)).

Second, the proposed amendment makes a clerical change to Application Note 1 to §2M3.1 (Gathering or Transmitting National Defense Information to Aid a Foreign Government) to reflect the editorial reclassification of a section in the United States

Code.

Finally, the proposed amendment makes a technical and conforming change to Application Note 2(A) to §5G1.3 (Imposition of a Sentence on a Defendant Subject to an Undischarged Term of Imprisonment) to reflect that subsection (c) was redesignated as subsection (d) by Amendment 8 of the amendments submitted by the Commission to Congress on April 30, 2014, 79 FR 25996 (May 6, 2014).