

UNITED STATES SENTENCING COMMISSION

Final Priorities for Amendment Cycle

AGENCY: United States Sentencing Commission.

ACTION: Notice of final priorities.

SUMMARY: In June 2023, the Commission published a notice of proposed policy priorities for the amendment cycle ending May 1, 2024. After reviewing public comment received pursuant to the notice of proposed priorities, the Commission has identified its policy priorities for the upcoming amendment cycle and hereby gives notice of these policy priorities.

FOR FURTHER INFORMATION CONTACT: Jennifer Dukes, Senior Public Affairs Specialist, (202) 502-4597.

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 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 Congress not later than the first day of May each year pursuant to 28 U.S.C. 994(p).

As part of its statutory authority and responsibility to analyze sentencing issues, including operation of the federal sentencing guidelines, the Commission has identified its policy priorities for the amendment cycle ending May 1, 2024. While continuing to address legislation or other matters requiring more immediate action, the Commission has decided to limit its consideration of specific guideline amendments for this amendment cycle. Instead, in light of the 40th anniversary of the Sentencing Reform Act, the Commission anticipates focusing on a number of projects examining the degree to which current sentencing, penal, and correctional practices are effective in meeting the purposes of sentencing as set forth in the Sentencing Reform Act. *See* 28 U.S.C. 991(b)(2). The Commission expects to continue work on many of these priorities beyond the upcoming amendment cycle. The Commission previously published a notice of proposed policy priorities for the amendment cycle ending May 1, 2024. *See* 88 FR 39907 (June 20, 2023).

Pursuant to 28 U.S.C. 994(g), the Commission intends to consider the issue of reducing costs of incarceration and overcapacity of prisons, to the extent it is relevant to any identified priority.

The Commission has identified the following priorities for the amendment cycle ending May 1, 2024:

(1) Assessing the degree to which certain practices of the Bureau of Prisons are effective in meeting the purposes of sentencing as set forth in 18 U.S.C. 3553(a)(2) and considering any appropriate responses including possible consideration of recommendations or amendments.

(2) Compilation and dissemination of information on court-sponsored programs relating to diversion, alternatives-to-incarceration, and reentry (*e.g.*, Pretrial Opportunity Program, Conviction And Sentence Alternatives (CASA) Program, Special Options Services (SOS) Program, Supervision to Aid Re-entry (STAR) Program) through the Commission's website and possible workshops and seminars sharing best practices for developing, implementing, and assessing such programs.

(3) Examination of the *Guidelines Manual*, including exploration of ways to simplify the guidelines and possible consideration of amendments that might be appropriate.

(4) Continuation of its multiyear study of the *Guidelines Manual* to address case law concerning the validity and enforceability of guideline commentary, and possible consideration of amendments that might be appropriate.

(5) Continued examination of the career offender guidelines, including (A) updating the data analyses and statutory recommendations set forth in the Commission’s 2016 report to Congress, titled *Career Offender Sentencing Enhancements*; (B) devising and conducting workshops to discuss the scope and impact of the career offender guidelines, including discussion of possible alternative approaches to the “categorical approach” in determining whether an offense is a “crime of violence” or a “controlled substance offense”; and (C) possible consideration of amendments that might be appropriate.

(6) Examination of the treatment of youthful offenders and offenses involving youths under the *Guidelines Manual*, including possible consideration of amendments that might be appropriate.

(7) Consideration of possible amendments to the *Guidelines Manual* to prohibit the use of acquitted conduct in applying the guidelines.

(8) Further examination of federal sentencing practices on a variety of issues, possibly including: (A) the prevalence and nature of drug trafficking offenses involving methamphetamine; (B) drug trafficking offenses resulting in death or serious bodily injury; (C) comparison of sentences imposed in cases disposed of through trial versus plea; (D) continuation of the Commission’s studies regarding recidivism; and (E) other areas of federal sentencing in need of additional research.

(9) Implementation of any legislation warranting Commission action.

(10) Resolution of circuit conflicts as warranted, pursuant to the Commission's authority under 28 U.S.C. 991(b)(1)(B) and *Braxton v. United States*, 500 U.S. 344 (1991).

(11) Consideration of other miscellaneous issues coming to the Commission's attention.

AUTHORITY: 28 U.S.C. 994(a), (o); USSC Rules of Practice and Procedure 2.2, 5.2.

Carlton W. Reeves,

Chair.