



2025 AMENDMENTS IN BRIEF

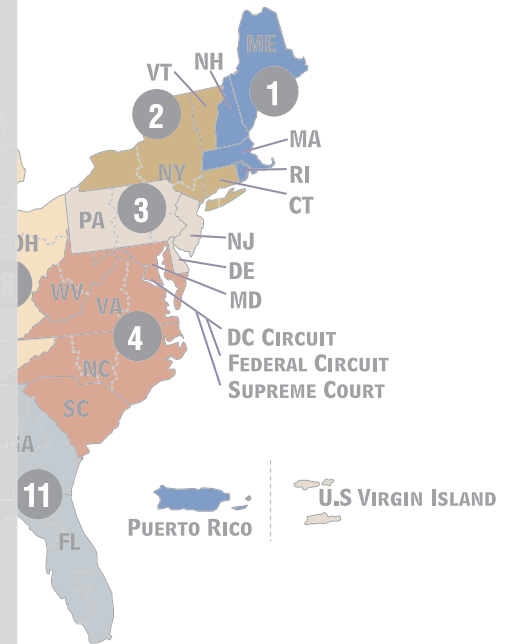
In April 2025, the U.S. Sentencing Commission approved amendments to the federal sentencing guidelines. For a more detailed discussion of the policy determinations made by the Commission, please refer to the *Reason for Amendment* in the “Reader-Friendly” and Official Text (link in QR code).

2025 Amendment Circuit Conflicts

The Commission approved a two-part amendment addressing circuit conflicts.

Part A of the amendment responds to a circuit conflict over whether §2B3.1(b)(4)(B)—which provides for a 2-level increase “if any person was physically restrained to facilitate commission of the offense or to facilitate escape”—applies where a robbery victim is restricted from moving at gunpoint but is not otherwise immobilized through measures like those in the definition of “physically restrained” in Application Note 1 to §1B1.1 (Application Instructions) (i.e., “by being tied, bound, or locked up”).

Part B of the amendment addresses a circuit conflict over whether a traffic stop is an “intervening arrest” for purposes of determining whether multiple prior sentences should be “counted separately or treated as a single sentence” when assigning criminal history points under §4A1.2(a)(2).



THE ISSUE

Uniform Guideline Application

Recently, circuit courts have inconsistently applied certain provisions of the robbery and criminal history guidelines.



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Amendment.

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BACKGROUND & RATIONALE

Part A – Circuit Conflict Concerning “Physically Restrained” Enhancements

§2B3.1

Prior to amendment, the robbery guideline (§2B3.1) included a 2-level increase at §2B3.1(b)(4)(B) that applied “if any person was physically restrained to facilitate commission of the offense or to facilitate escape.” The enhancement used the definition of “physically restrained” from Application Note 1(L) to §1B1.1: “the forcible restraint of the victim such as by being tied, bound, or locked up.” The circuits disagreed on whether a restraint must be “physical” for the enhancement to apply or whether restricting a victim’s movement at gunpoint was sufficient. Public comment and testimony also indicated that the conduct at issue in the circuit split (pointing a gun at a victim during a robbery) is treated differently not only under §2B3.1(b)(4)(B) but also under the separate §2B3.1(b)(2) enhancement for threats and weapons use in a robbery.

The combination of differing applications of the “physically restrained” enhancement and firearms enhancement has led to total resulting enhancements ranging from five to eight levels for pointing a gun at a victim during a robbery.

To promote uniformity and consistency in guideline application, Part A of the amendment **revises §2B3.1(b)(4)(B) so that it does not apply solely based on the coercion of using a firearm to restrict a victim’s movement.** Rather, the increase applies only “if any person’s freedom of movement was restricted through physical contact or confinement, such as by being tied, bound, or locked up, to facilitate commission of the offense or to facilitate escape.”

Part A of the amendment also **revises §2B3.1(b)(2) to ensure that use of a firearm during a robbery is accounted for under this enhancement with more uniformity.** It amends §2B3.1(b)(2)(B) to state that the 6-level increase applies “if a firearm was used to convey a specific (not general) threat of harm (e.g., pointing the firearm at a specific victim or victims; directing the movement of a specific victim or victims with the firearm) or to make physical contact with a victim (e.g., pistol whip; firearm placed against victim’s body).”

To further promote consistency in application of offense guidelines with similar specific offense characteristics, **the amendment makes parallel changes to two Chapter Two guidelines with “physically restrained” and “otherwise used” enhancements: §§2B3.2 and 2E2.1.**

Part B – Circuit Conflict Concerning Meaning of “Intervening Arrest” in §4A1.2(a)(2)

§4A1.2(a)(2)

Under the “single-sentence rule” in §4A1.2(a)(2), multiple prior sentences should be “counted separately if the sentences were imposed for offenses that were separated by an intervening arrest (i.e., the defendant is arrested for the first offense prior to committing the second offense).” If “there is no intervening arrest, prior sentences are counted separately unless (A) the sentences resulted from offenses contained in the same charging instrument; or (B) the sentences were imposed on the same day.” The circuits differed on whether a traffic stop is an “intervening arrest” for purposes of the single-sentence rule.

After reviewing public comment and testimony, the Commission **determined that a traffic stop should not be considered an “intervening arrest” for purposes of the single-sentence rule.** The amendment revises §4A1.2(a)(2) to include that clarification.

The 3rd, 6th, 9th, and 11th Circuits have held that a formal, custodial request is required and that a citation or summary following a traffic stop does not qualify. The 7th Circuit adopted a broader view, holding that a traffic stop amounts to an intervening arrest.