

**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 United States Sentencing Commission is seeking comment on possible priority policy issues for the amendment cycle ending May 1, 2014.

**DATES:** Public comment should be received on or before **July 15, 2013**.

**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:** Jeanne Doherty, Public Affairs Officer, 202-502-4502.

**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, 2014. 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 or all of its identified priorities by the statutory deadline of May 1, 2014. Accordingly, it may be necessary to continue work on any or all of these issues beyond the amendment cycle ending on May 1, 2014.

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

(1) Continuation of its work with Congress and other interested parties on statutory mandatory minimum penalties to implement the recommendations set forth in the Commission's 2011 report to Congress, titled Mandatory Minimum Penalties in the Federal Criminal Justice System, including its recommendations regarding the severity and scope of mandatory minimum penalties, consideration of expanding the “safety valve” at 18 U.S.C. § 3553(f), and elimination of the mandatory “stacking” of penalties under 18 U.S.C. § 924(c), and to develop appropriate

guideline amendments in response to any related legislation.

(2) Review, and possible amendment, of guidelines applicable to drug offenses, including possible consideration of amending the Drug Quantity Table in §2D1.1 (Unlawful Manufacturing, Importing, Exporting, or Trafficking (Including Possession with Intent to Commit These Offenses); Attempt or Conspiracy) across drug types.

(3) Continuation of its work with the congressional, executive, and judicial branches of government, and other interested parties, to implement the recommendations set forth in the Commission's December 2012 report to Congress, titled The Continuing Impact of *United States v. Booker* on Federal Sentencing, and develop appropriate guideline amendments in response to any related legislation.

(4) Continuation of its work on economic crimes, including (A) a comprehensive, multi-year study of §2B1.1 (Theft, Property Destruction, and Fraud) and related guidelines, including examination of the loss table and the definition of loss, and (B) consideration of any amendments to such guidelines that may be appropriate in light of the information obtained from such study.

(5) Continuation of its multi-year study of the statutory and guideline definitions of “crime of violence”, “aggravated felony”, “violent felony”, and “drug trafficking offense”, possibly including recommendations to Congress on any statutory changes that may be appropriate and development of guideline amendments that may be appropriate.

(6) Continuation of its comprehensive, multi-year study of recidivism, including (A) examination of circumstances that correlate with increased or reduced recidivism; (B) possible development of recommendations for using information obtained from such study to reduce costs of incarceration and overcapacity of prisons; and (C) consideration of any amendments to the Guidelines Manual that may be appropriate in light of the information obtained from such study.

(7) Undertaking a multi-year review of federal sentencing practices pertaining to violations of conditions of probation and supervised release, including possible consideration of amending the policy statements in Chapter Seven of the Guidelines Manual.

(8) Possible consideration of amending the policy statement pertaining to "compassionate release," §1B1.13 (Reduction in Term of Imprisonment as a Result of Motion by Director of Bureau of Prisons).

(9) Review, and possible amendment, of guidelines applicable to firearms offenses.

(10) Implementation of the Violence Against Women Reauthorization Act of 2013, Pub. L. 113-4, and any other crime legislation enacted during the 112th or 113th Congress warranting a Commission response.

(11) Resolution 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.

(12) Continuation of its work with Congress and other interested parties on child pornography offenses to implement the recommendations set forth in the Commission's December 2012 report to Congress, titled Federal Child Pornography Offenses, and to develop appropriate guideline amendments in response to any related legislation.

(13) Consideration of any miscellaneous guideline application issues coming to the Commission's attention from case law and other sources.

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, 2014. To the extent practicable, public comment should include the following: (1) a statement of the issue, including, where appropriate, the 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.

Pursuant to 28 U.S.C. § 994(g), the Commission also invites public comment that addresses the issue of reducing costs of incarceration and overcapacity of prisons, to the extent it is relevant to a proposed priority.

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

Patti B. Saris

Chair