

UNITED STATES SENTENCING COMMISSION

Final Priorities for Amendment Cycle

AGENCY: United States Sentencing Commission.

ACTION: Notice of final priorities.

SUMMARY: In June 2014, the Commission published a notice of possible policy priorities for the amendment cycle ending May 1, 2015. See 79 FR 31409 (June 2, 2014). 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: Jeanne Doherty, Public Affairs Officer, 202-502-4502, jdoherthy@ussc.gov.

SUPPLEMENTARY INFORMATION: The United States Sentencing Commission is an independent commission 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).

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.

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, 2015. 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, 2015. Accordingly, it may be necessary to continue work on any or all of these issues beyond the amendment cycle ending on May 1, 2015.

As so prefaced, the Commission has identified the following 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) 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, the definition of loss, and role in the offense; (B) a study of offenses involving fraud on the market; and (C) consideration of any amendments to such guidelines that may be appropriate in light of the information obtained from such studies.

(3) Continuation of its multi-year study of statutory and guideline definitions relating to the nature of a defendant’s prior conviction (e.g., “crime of violence,” “aggravated felony,” “violent felony,” “drug trafficking offense,” and “felony drug offense”) and the impact of such definitions on the relevant statutory and guideline provisions (e.g., career offender, illegal reentry, and armed career criminal), possibly including recommendations to Congress on any statutory changes that may be appropriate and development of guideline amendments that may be appropriate.

(4) Implementation of the directive to the Commission in section 10 of the Fair Sentencing Act of 2010, Pub. L. 111–220 (enacted August 3, 2010) (requiring the Commission, not later than 5 years after enactment, to “study and submit to Congress a report regarding the

impact of the changes in Federal sentencing law under this Act and the amendments made by this Act”).

(5) Study of the operation of §3B1.2 (Mitigating Role) and related provisions in the Guidelines Manual (e.g., the “mitigating role cap” in §2D1.1(a)(5)), and consideration of any amendments to the Guidelines Manual that may be appropriate in light of the information obtained from such study.

(6) Study of the guidelines applicable to immigration offenses and related criminal history rules, and consideration of any amendments to such guidelines that may be appropriate in light of the information obtained from such study.

(7) 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. The Commission also intends to study risk assessment tools and their various uses, possibly including development of recommendations about the proper role of these tools.

(8) Continuation of its multi-year review of federal sentencing practices pertaining to imposition and violations of conditions of probation and supervised release, including possible

consideration of amending the relevant provisions in Chapters Five and Seven of the Guidelines Manual.

(9) Continuation of its work with the legislative, executive, and judicial branches of government, and other interested parties, with respect to the Commission's December 2012 report to Congress, titled The Continuing Impact of United States v. Booker on Federal Sentencing, and development of appropriate guideline amendments in response to any related legislation.

(10) Beginning a multi-year effort to simplify the operation of the guidelines, including an examination of (A) the overall structure of the guidelines post-Booker, (B) cross references in the Guidelines Manual, (C) the use of relevant conduct in offenses involving multiple participants, (D) the use of acquitted conduct in applying the guidelines, and (E) the use of departures.

(11) 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.

(12) Study of the availability of alternatives to incarceration.

(13) Implementation of any crime legislation enacted during the 113th Congress

warranting a Commission response.

(14) 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.

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

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

Patti B. Saris

Chair