



NEWS RELEASE

January 9, 2015

**U.S. SENTENCING COMMISSION SEEKS COMMENT ON REVISIONS TO FRAUD
GUIDELINES, INCREASE IN HYDROCODONE SENTENCES**
Requests Feedback on Proposed Amendments for 2014–15 Amendment Cycle

WASHINGTON, D.C. (January 9, 2015)— The United States Sentencing Commission voted today to publish proposed guideline amendments, including revisions to the sentencing guideline governing fraud. Another proposed amendment increases the guideline level applicable to drug offenses involving hydrocodone in response to the Drug Enforcement Administration’s rescheduling of that drug last year.

The bipartisan Commission voted to seek comment on a proposed amendment to revise guideline §2B1.1 governing fraud offenses by clarifying the definition of “intended loss,” which contributes to the degree of punishment, and the enhancement for the use of sophisticated means in a fraud offense. The proposed amendment also revises the guideline to better consider the degree of harm to victims, rather than just the number of victims, and includes a modified, simpler approach to “fraud on the market” offenses which involve manipulation of the value of stocks.

The proposed revisions to the fraud guidelines come after a multi-year study, which included a detailed examination of sentencing data, outreach to experts and stakeholders, and a September 2013 symposium at John Jay College of Criminal Justice in New York.

“We have heard criticism from some judges and members of the bar that the fraud guideline may be fundamentally broken, particularly for fraud on the market cases,” said Judge Patti B. Saris, Chair of the Commission. “Based on our extensive examination of data, we have not seen a basis for finding the guideline to be broken for most forms of fraud, like identity theft, mortgage fraud, or healthcare fraud, but this review has helped us to identify some problem areas where changes may be necessary.”

“We believe our proposed amendment will help make the guideline clearer, more reflective of practical and legal realities, and more useful for courts and litigants,” Judge Saris said.

The amendments also included a proposed revision to the guideline penalty structure affecting the drug hydrocodone, a prescription opioid painkiller that is also the subject of a growing

number of federal drug trafficking cases. The proposed change, which increases guideline sentences to be proportionate with those for oxycodone, a similar drug, responds to the Drug Enforcement Administration's rescheduling of the substance.

"Our proposed amendment puts forward changes that reflect the rescheduling of hydrocodone as we seek to address the growing and serious problem of abuse of prescription opioids," Judge Saris said.

Consistent with the Commission's mission to make the guidelines more efficient and more effective, the Commission also voted today to clarify the provisions allowing for sentence reductions for offenders with mitigating roles in the offense and the provisions governing jointly undertaken criminal activity. The Commission similarly proposed adjusting the tables based on amounts of money for inflation in an attempt to keep the guidelines current and follow the approach generally mandated by statute for most civil monetary penalties.

Judge Saris emphasized the Commission's continued interest in the goal of reducing the costs of federal incarceration and the overcapacity of prisons and continued commitment to working with Congress on that issue following the Commission's unanimous decision last year to reduce the guidelines governing most federal drug offenses.

"Only Congress can fully address the issue of excessive federal prison populations and costs, as well as the many problems the Commission has documented with existing statutory mandatory minimum penalties, particularly in the drug context," Judge Saris said.

The proposed amendments and issues for comment will be subject to a public comment period running through March 18. A public hearing on the proposed amendments will be scheduled in Washington, D.C., on March 12. More information about these hearings, as well as a data presentation on today's proposed fraud amendment and other relevant data, will be available on the Commission's web site at www.ussc.gov.

The proposed amendments are drawn from the final policy priorities the Commission unanimously approved in August 2014. A "reader-friendly" version of the proposed changes to the sentencing guidelines and issues for comment is available on the Commission's web site, and the official text will be published in a forthcoming edition of the *Federal Register*.

The United States Sentencing Commission, a bipartisan independent agency in the judicial branch of the federal government, was organized in 1985 to develop a national sentencing policy for the federal courts. The resulting sentencing guidelines structure the courts' sentencing discretion to help ensure that similar offenders who commit similar offenses receive similar sentences.

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