



U.S. Sentencing Commission

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NEWS RELEASE

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U.S. SENTENCING COMMISSION SEEKS COMMENT ON REVISIONS TO DEFINITION OF CRIME OF VIOLENCE

Commission Also Sets Other Priorities for the 2015-2016 Amendment Cycle

WASHINGTON, D.C. (August 7, 2015) — The United States Sentencing Commission voted today to seek comment on proposed changes to the existing guideline definitions of a “crime of violence.” The proposed changes are primarily intended to make the guideline consistent with the Supreme Court’s recent decision in *Johnson v. United States*, __ U.S. __, 135 S. Ct. 2551 (2015).

In *Johnson*, the Supreme Court struck down as unconstitutionally vague a portion of the statutory definition of “violent felony” used in a similar penalty provision in the Armed Career Criminal Act (ACCA). While the Supreme Court in *Johnson* did not consider or address sentencing guidelines, the statutory language the Court found unconstitutionally vague, often referred to as the “residual clause,” is identical to language contained in the “career offender” sentencing guideline, and other guidelines which enhance sentences based on prior convictions for a crime of violence.

Consistent with *Johnson*, the proposal would eliminate from the guideline definition of “crime of violence” the residual clause, which provides that a “crime of violence” includes a felony offense that “otherwise involves conduct that presents a serious potential risk of physical injury to another. In addition, the proposal would provide definitions for several enumerated crimes of violence.

“We already see litigation over the impact of *Johnson* on the sentencing guidelines,” said Judge Patti B. Saris, Chair of the Commission. “In light of uncertainty resulting from the *Johnson* decision, we feel that it is prudent to begin considering whether, as a matter of policy, the guidelines should also eliminate the residual clause. We want to begin the process of seeking public comment so that the Commission could vote on a guideline amendment as early as possible, perhaps as soon as January 2016. However, this proposal is only preliminary and we look forward to public comment further informing us on this complex topic. We also intend to continue to study recidivist enhancements including those based on prior drug convictions in

the guidelines throughout the upcoming amendment cycle.”

The Commission also unanimously approved its list of priorities for the coming year. Among its top priorities again is continuing to work with Congress to reduce the severity and scope of certain mandatory minimum penalties and to consider expanding the “safety valve” statute that exempts certain low-level non-violent offenders from mandatory minimum penalties.

“The Commission has taken some steps on its own to reduce federal drug sentences and relieve some of the overpopulation in the federal prisons, but only Congress can make the more fundamental changes needed to address the severity and disparity problems associated with certain mandatory minimum penalties,” said Judge Saris. “We look forward to continuing to work with Congress on this vital issue.”

The Commission will continue to work on several multi-year projects, including an examination of the overall structure of the advisory guideline system, a comprehensive recidivism study, and a review of federal practices relating to the imposition and violations of conditions of probation and supervised release and immigration.

The Commission also set out its intent to implement criminal provisions contained in the USA Freedom Act and to address animal fighting offenses. “A number of congresspeople, judges, and others have asked us to review penalties for animal fighting offenses,” Saris said. “This is an important issue, and we look forward to hearing more this year from experts on these issues and deciding whether amendments are needed in light of legislative changes and the evolving nature of these offenses.”

The Commission annually identifies policy priorities in accordance with its statutory authority and responsibility to periodically review, analyze, and revise federal sentencing guidelines. The Commission published tentative priorities and invited public comment in June and received thousands of letters of public comment in response.

In accordance with its stated priorities, the Commission will review current criminal justice research and federal sentencing statistics and conduct hearings and solicit comment to gather feedback from a wide variety of sources. It will then promulgate proposed amendments to the United States Sentencing Guidelines, which will be sent to Congress no later than May 1, 2016.

A complete list of final priorities may be found on the Commission’s website www.ussc.gov and in an upcoming edition of the *Federal Register*.

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The United States Sentencing Commission, an 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 provide structure for the courts’ sentencing discretion to help ensure that similar offenders who commit similar offenses receive similar sentences.