

Prison and Sentencing Impact Assessments for 2023 Guideline Amendments to the Federal Sentencing Guidelines

For a complete description of the 2023 amendments, please visit https://www.ussc.gov/sites/default/files/pdf/amendment-process/reader-friendly-amendments/202305_RF.pdf.

1) First Step Act – Reduction in Term of Imprisonment Under 18 U.S.C. § 3582(c)(1)(A)

The amendment revises the policy statement at §1B1.13(a) which provides guidance to the courts when considering motions for a reduction in sentence pursuant to 18 U.S.C. § 3582(c)(1)(A). That statute authorizes a court to reduce a defendant’s term of imprisonment if “extraordinary and compelling reasons” warrant a reduction and “such a reduction is consistent with applicable policy statements issued by the Sentencing Commission.”

Congress directed the Commission to “describe what should be considered extraordinary and compelling reasons for sentence reduction, including the criteria to be applied and a list of specific examples.” Sentencing Reform Act of 1984 (“SRA”), Pub. L. No. 98–473, 98 Stat. 1987, 2023 (codified at 28 U.S.C. § 994(t)). Congress also directed the Commission to promulgate general policy statements regarding the appropriate use of section 3582(c). 28 U.S.C. § 994(a)(2)(C).

The amendment revises §1B1.13(a) to reflect that a defendant is now authorized to file a motion under section 3582(c)(1)(A), making the policy statement applicable to both defendant-filed and BOP-filed motions. As such, the amendment responds to, among other things, the First Step Act of 2018 (“First Step Act”), Pub. L. No. 115-391, § 603(b), 132 Stat. 5194, 5239, which amended section 3582(c)(1)(A) to authorize courts to grant a motion for a sentence reduction upon a defendant’s own motion. Previously, a court was authorized to do so only upon the motion of the Director of the Bureau of Prisons (“BOP”).

The amendment also expands the list of specified extraordinary and compelling reasons and retains the “other reasons” basis for a sentence reduction to better account for and reflect the plain language of section 3582(c)(1)(A), its legislative history, and decisions by courts made in the absence of a binding policy statement.

The Commission cannot estimate the number of persons who might seek such relief each year. However, in the fiscal year before the amendment became effective, which was after passage of the First Step Act of 2019, 636 persons received a sentence reduction under this statute. Because the courts have complete discretion as to whether to grant a motion filed under section 3582(c)(1)(A), the Commission cannot estimate how the courts might apply the expanded criteria of section 1B1.13 and, therefore, cannot estimate any reduction in the size of the Bureau of prisons population that would result from persons serving shorter sentences of incarceration.

2) Crime Legislation

This multi-part amendment responds to recently enacted legislation. The Commission cannot estimate impact of newly-enacted statutes because it has no data on which to estimate the number of persons who may be sentenced under those statutes or the sentences that may be imposed.

3) Sexual Abuse Offenses

This amendment makes three changes to the *Guidelines Manual*.

First, the amendment amends Appendix A (Statutory Appendix) to reference the new offense created at 18 U.S.C. § 250 (Penalties for civil rights offenses involving sexual misconduct) to §2H1.1 (Offenses Involving Individual Rights). Second, the amendment amends Appendix A to reference new subsection (c) at 18 U.S.C. § 2243 (Sexual abuse of a minor, a ward, or an individual in Federal custody) to §2A3.3 and makes a conforming change to §2A3.3's title.

The Commission cannot estimate impact of these newly-enacted statutes because it has no data on which to estimate the number of offenders who may be sentenced under that statute. There were no offenders convicted of violating section 250 and sentenced from the date. There were no offenders convicted of violating 18 U.S.C. § 2243(c) and sentenced from the date the Act was passed in March 2022 through fiscal year 2022 the Act was passed in March 2022 through fiscal year 2022.

Second, the amendment increases the base offense level at §2A3.3 from 14 to 18 for offenses involving the sexual abuse of a ward or an individual in federal custody. This amendment would apply to offenses under both 18 U.S.C. § 2243(b) for the sexual abuse of a ward and a new crime at 18 U.S.C. § 2243(c) for the sexual abuse of an individual in federal custody.

The Commission identified 22 offenders sentenced under §2A3.3 for the criminal sexual abuse of a ward in fiscal years 2018 through 2022 and who would be affected by the amendment. The current average sentence imposed on these offenders in fiscal years 2018 through 2022 was 35 months (median 15 months). The estimated new average sentence for these offenders would be 39 months, an increase of 4 months, or 11.4 percent (median would be 24 months, an increase of 9 months, or 60.0%).

Any change in sentencing for this small number of offenders (approximately five each year) would have a negligible impact on the BOP population. There is insufficient data to estimate how many of these offenders might be cross-referenced to §2A3.1, as provided for in the amendment. However, due to the very small number of offenders who are sentenced under §2A3.3, the impact on the BOP population from the cross-reference would also be negligible.

4) First Step Act – Drug Offenses

This two-part amendment revises §5C1.2 (Limitation on Applicability of Statutory Minimum Sentences in Certain Cases) and subsections (a)(1) and (a)(3) of §2D1.1 (Unlawful Manufacturing, Importing, Exporting, or Trafficking (Including Possession with Intent to Commit These Offenses); Attempt or Conspiracy) in response to the First Step Act of 2018, Pub. L. 115–391 (Dec. 21, 2018) (“First Step Act”). The First Step Act amended the eligibility criteria of the “safety valve” provision at 18 U.S.C. § 3553(f) and the enhanced penalty provisions for certain drug trafficking defendants at 21 U.S.C. §§ 841(b) and 960(b). The amendment primarily revises §5C1.2 to conform it to the statutory safety valve, as amended by the First Step Act. In addition, the amendment revises subsections (a)(1) and (a)(3) of §2D1.1 to make the guideline’s reference to the type of prior offenses that trigger enhanced mandatory minimum penalties consistent with the amended statutory provisions.

Using fiscal year 2021 data, Commission analysis estimated that 11,866 of 17,520 drug trafficking offenders meet the non-criminal history requirements of the safety valve (18 U.S.C. § 3553(f)(2)–(5)). Of those 11,866 offenders, 5,768 offenders have no more than one criminal history point and would be eligible under the unamended pre-First Step Act criminal history requirement. Accordingly, the remaining 6,098 offenders who meet the non-criminal history safety valve criteria had more than one criminal history point.

This is a split among the circuits as to the correct interpretation of the word “and” connecting subsections (A) through (C) in section 3553(f)(1), as Congress expanded it in the First Step Act of 2018. The Fifth, Sixth, Seventh, and Eighth Circuits have held that section 3553(f)(1) should be read to exclude a defendant who meets any single disqualifying condition listed in subsections (A) through (C) (the “disjunctive approach”).¹ In contrast, the Fourth, Ninth, and Eleventh Circuits have held that the “and” connecting subparagraphs (A), (B), and (C) of section 3553(f)(1) is “conjunctive,” joining the enumerated characteristics in those provisions such that a defendant is eligible for safety valve relief unless all three conditions are met (the “conjunctive approach”).²

Of the 6,098 otherwise eligible offenders with more than one criminal history point, 1,987 offenders would become eligible under a disjunctive interpretation of the expanded criminal history provision. Of these 1,987 offenders, 1,313 (66.1%) were convicted of an offense carrying a mandatory minimum penalty, and so are eligible to be sentenced without regard to that penalty and are eligible for a two-level reduction in the guideline range that applies in the cases; the additional 674 offenders (33.9%) are eligible only for the 2-level guidelines range reduction.

In comparison, of the same 6,098 offenders, 5,768 offenders (including the 1,987 eligible under the disjunctive approach) would become eligible under the Ninth Circuit’s conjunctive

¹ See *United States v. Palomares*, 52 F.4th 640, 642 (5th Cir. 2022); *United States v. Haynes*, 55 F.4th 1075 (6th Cir. 2022); *United States v. Pace*, 48 F.4th 741, 756 (7th Cir. 2022); *United States v. Pulsifer*, 39 F.4th 1018, 1022 (8th Cir. 2022).

² *United States v. Jones*, 60 F.4th 230 (4th Cir. 2023); *United States v. Lopez*, 998 F.3d 431 (9th Cir. 2021); *United States v. Garcon*, 54 F.4th 1274 (11th Cir. 2022) (en banc).

interpretation of the expanded criminal history provision. Of the 5,768 offenders with no more than one criminal history point, 4,358 (75.6%) were convicted of an offense carrying a mandatory minimum penalty and so are eligible to be sentenced without regard to that penalty and are eligible for a two-level reduction in the guideline range that applies in the case; the additional 1,410 offenders (24.4%) are eligible only for the 2-level guidelines range reduction.

The Commission conducted a sentencing and prison impact only for the disjunctive approach.³ Of the 1,987 sentenced individuals who would meet the eligibility requirements under the “disjunctive” interpretation of the amendment, the Commission had complete sentencing information for 1,982 of those persons. Of them:

- 984 (49.7%) received a variance reflecting the guideline safety valve reduction and would not be eligible for an additional decrease in the guideline computation.

- 326 (16.4%) did not receive relief from the drug mandatory minimum penalty and so were deemed to not be eligible for an additional decrease in the guideline computation.

The remaining 672 (33.9%) individuals either received statutory safety valve relief at sentencing (n=177) or were not convicted of an offense carrying a statutory minimum penalty and are eligible for guideline relief only (n=495). The Commission estimates that the sentence in 539 of the 672 cases (80.2%) would be affected by amendment. The current average sentence imposed in these cases was 39 months. Had the amendment been in effect at the time these individuals were sentenced, the estimated average sentence would be 32 months, a decrease of seven months, or 17.9 percent. This sentencing impact would result in a decrease to the Federal Bureau of Prison (BOP) population.

5) Fake Pills

This amendment revises subsection (b)(13) of §2D1.1 (Unlawful Manufacturing, Importing, Exporting, or Trafficking (Including Possession with Intent to Commit These Offenses); Attempt or Conspiracy) to add a new subparagraph (B) with an alternative 2-level enhancement for offenses where the defendant represented or marketed as a legitimately manufactured drug another mixture or substance containing fentanyl or a fentanyl analogue, and acted with willful blindness or conscious avoidance of knowledge that such mixture or substance was not the legitimately manufactured drug.

The Commission does not collect data on whether a drug trafficking offense involves “fake pills,” but does collect data on offenses involving fentanyl, fentanyl analogues, and other controlled substances. Because fentanyl and fentanyl analogues are, according to the DEA, frequently found in the majority of fake pills, data on fentanyl and fentanyl analogues offenses may be informative. Since 2017, the Commission has witnessed a substantial increase in the number of fentanyl and fentanyl analogue cases, with 2,511 cases in fiscal year 2022. The number of individuals sentenced for distributing fentanyl or a fentanyl analogue has increased in each fiscal year since fiscal year 2017 for a total of 6,385 persons sentenced for a fentanyl

³ The Supreme Court held that the disjunctive approach was the correction interpretation of section 3553(f)(1). *Pulsifer v. United States*, 601 U.S. ____ (2024)

offense and 583 persons sentenced for a fentanyl analogue offense (a combined total of 6,968 persons sentenced for all fentanyl and fentanyl analogue offenses) since fiscal year 2017.

6) Firearms

This multi-part amendment responds to the directive in section 12004(a)(5) of the Bipartisan Safer Communities Act, Pub. L. No. 117-159 (the “Act”), addresses new offenses and other changes in law made by the Act, and revises the primary firearms guideline, §2K2.1 (Unlawful Receipt, Possession, or Transportation of Firearms or Ammunition; Prohibited Transactions Involving Firearms or Ammunition), to account for firearms that are not marked with a serial number.

The amendment makes two changes to account for the new offenses at 18 U.S.C. §§ 932 and 933 established by the Act. First, the amendment amends Appendix A (Statutory Index) to reference the new offenses to §2K2.1. Second, the amendment revises §2K2.1 to set the base offense level for defendants convicted of these crimes at level 14, or level 20 if the offense involved either a semiautomatic firearm that is capable of accepting a large capacity magazine or a firearm described in 26 U.S.C. § 5845(a).

The Commission cannot estimate impact of this part of the amendment because the Commission does not yet have any data on offenders who have been prosecuted and sentenced under the new offenses.

The amendment next revises §2K2.1 to respond to section 12004(a)(5) of the Act, which directs the Commission to provide increased penalties for defendants convicted under 18 U.S.C. § 932, 18 U.S.C. § 933, or “other offenses applicable to the straw purchases and trafficking of firearms.” First, the amendment creates a new subsection, §2K2.1(b)(5)(A), which provides a 2-level enhancement for defendants convicted of illegally receiving a firearm under 18 U.S.C. § 933(a)(2) (the trafficking receipt provision) or § 933(a)(3) (attempting/conspiring to violate section 933). Second, the amendment creates a new subsection, §2K2.1(b)(5)(B), which provides a 2-level enhancement for any defendant engaged in straw purchasing or trafficking. Third, the amendment revises the criteria previously set forth in Application Notes 13(A) and (B) and incorporates the criteria into subsection (b)(5)(C) and increases the prior enhancement from four levels to five levels to ensure straw purchasers and firearms traffickers meeting these criteria receive increased penalties as required by the directive.

The Commission can provide only a partial estimate impact of this part of the amendment because the Commission does not yet have data on offenders who have been prosecuted and sentenced under the new offenses. The other individuals impacted by the amendment are those who previously received the 4-level trafficking enhancement at subsection (b)(5) or who were sentenced as a straw purchaser for violating section 922(d) or one of the false statement statutes (18 U.S.C. § 922(a)(6) or 18 U.S.C. § 924(a)(1)(A)) with reason to believe the firearm or ammunition would be transferred to a prohibited person. Taken together, 383 (5.2%) of the

7,373 individuals sentenced under §2K2.1 in fiscal year 2021 would have received an increase under the amendment.⁴ Of these individuals:

- 255 individuals (3.5% of all those sentenced under §2K2.1) received the 4-level trafficking enhancement at subsection (b)(5). Under the amendment, these individuals would have received a 5-level increase. The average guideline minimum in these 255 cases in fiscal year 2021 was 71 months. If sentenced under the amendment, the average guideline minimum would increase to 77 months.

- an additional 128 individuals (1.7% of all those sentenced under §2K2.1) were convicted of a straw purchase offense but did not receive the 4-level trafficking enhancement. Under the amendment, these individuals would have received a 2-level increase. The average guideline minimum in these 128 cases in fiscal year 2021 was 40 months. If sentenced under the amendment, the average guideline minimum would increase to 47 months.

These 383 individuals represent a floor because, as noted above, other persons may be prosecuted under the new statutes or newly-qualify for the enhancement with the criteria from Application Note 13 removed. Regardless, this portion of the amendment would increase the size of the Bureau of Prisons population.

The amendment next amends §2K2.1 to respond to section 12004(a)(5) of the Act, which directs the Commission to increase penalties for defendants convicted under 18 U.S.C. § 932 or § 933 who are affiliated with organized crime. The Commission estimates that approximately 100 firearms defendants annually might be affected by this provision. However, because information on affiliation with organized crime is not regularly reported in the sentencing documents provided to the Commission, this estimate should be used with caution.

The amendment next amends §2K2.1 to respond to section 12004(a)(5) of the Act, which directs the Commission to consider an amendment accounting for straw purchasers with certain mitigating circumstances. The amendment implements this portion of the directive by creating a new specific offense characteristic at §2K2.1(b)(9) providing a 2-level reduction available to defendants who receive an increase at subsection (b)(5) and satisfy other eligibility criteria, including no more than one criminal history point. The Commission does not regularly collect information on mitigating factors present in a case but which were not cited by the court as a reason for a sentence below the guideline range. Therefore, the Commission cannot estimate what portion of the approximately 125 persons sentenced as straw purchasers in Criminal history Category I annually who might be eligible for this part of the amendment.

Finally, the amendment amends §2K2.1 to account for privately made firearms not marked with a serial number, commonly referred to as “ghost guns.” The amendment provides a 4-level enhancement if the defendant knew that the offense involved a firearm not marked with a serial number, or the defendant was willfully blind or consciously avoided knowing this fact. The

⁴ Of the 7,735 individuals sentenced under §2K2.1 in fiscal year 2021, 40 were excluded from the analysis due to missing information. An additional 322 were excluded because the individual was sentenced under the career offender guideline, Armed Career Criminal Act, or the individual was convicted solely of a misdemeanor offense.

Commission has not collected data on ghost guns and, therefore, cannot estimate the number of additional cases in which this enhancement would apply.

7) Circuit conflicts

This amendment responds to circuit conflicts over whether a reduction under subsection (b) of §3E1.1 (Acceptance of Responsibility), which requires a motion from the government, may be withheld or denied if a defendant moves to suppress evidence or raises sentencing challenges. The amendment addresses the circuit conflicts by, among other things, providing a definition of the term “preparing for trial.”

The Commission cannot estimate the number of defendants potentially affected by this amendment with precision. Although Commission data does include information on how often the government made a motion under §3E1.1(b) and whether the government sought the third point authorized under that section, the court documents provided to the Commission do not regularly explain why the government did not seek the third point in cases where only two points were awarded under §3E1.1(b).

Between fiscal years 2017 and 2021, there were 188,157 individuals sentenced who pled guilty and as to whom the court determined the offense level was at least 16. In the vast majority of those cases (97.0%), the court awarded a 3-level decrease under §3E1.1(b), while 1.4 percent received a 2-level decrease. The Commission reviewed the sentencing documentation for a twenty percent sample (n=523) of individual sentenced in fiscal year 2021 who had an offense level of 16 or greater but who did not receive the additional one-level reduction under §3E1.1(b). The sentencing documentation included information sufficient to determine why the government did not make a §3E1.1(b) motion in approximately forty percent of those cases (40.3%; n=211). For 143 (67.7%) of those 211 defendants, the sentencing documentation noted lack of timeliness, which caused the government to prepare for trial, as the reason the additional reduction was not applied. The Commission identified only nine cases where the reduction was withheld due to a suppression motion. In two additional cases, the motion was withheld due to sentencing objections.

8) Criminal History

There are three parts to this amendment.

Part A - Status Points

This part of the amendment addresses “status points” for offenders; namely, the additional criminal history points given to offenders for the fact of having committed the instant offense while under a criminal justice sentence. The amendment reduced the number of status points assessed at §4A1.1(e) from two one for individuals with seven or more criminal history points under subsections (a) through (d) of that section who also were under a criminal justice sentence at the time of the instant offense. The amendment eliminates the assessment of status points for persons with less than seven criminal history points under subsections (a) through (d).

In fiscal year 2021, 15,087 sentenced individuals received status points as part of their criminal history score, which accounts for 28.1 percent of all persons sentenced that year and 41.6 percent of cases in which the individual had at least one criminal history point. Of those 15,087 cases, in 9,585 (63.5%) cases seven or more criminal history points were assessed. The amendment would lower the criminal history score in all 15,087 cases; however, the Commission estimates that the Criminal History Category (CHC) would change in 6,794 of these cases (45.0%). The average sentence imposed in the cases where the CHC would be lower due to the amendment was 51 months. Under the amendment, the Commission estimates that the new average sentence in these cases would be 44 months, a reduction of 13.7 percent. This estimated change in sentence for 6,794 persons annually would reduce the size of the Federal Bureau of Prisons (BOP) population by 1,832 in five years.

Part B - Zero points

Subpart 1 of Part B of the amendment creates a new Chapter Four guideline at §4C1.1 (Adjustment for Certain Zero-Point Offenders). New §4C1.1 provides a decrease of two levels from the offense level determined under Chapters Two and Three for individuals who did not receive any criminal history points under Chapter Four, Part A and whose instant offense did not involve specified aggravating factors.

Roughly one-third (32.6%; n=17,523) of the persons sentenced in fiscal year 2021 received no criminal history points under Chapter Four of the *Guidelines Manual*. Of the 17,523 sentenced individual who received zero criminal history points, 12,347 (70.5%) had no prior convictions while 5,176 (29.5%) had prior convictions that did not score under the Chapter Four rules for various reasons.

In fiscal year 2021, there were 11,864 sentenced individuals with zero criminal history points who met the other eligibility in the new section 4C1.1. While all 11,864 of these individuals would be eligible for the reduction, some would not be affected, such as those whose current guideline minimum was zero months or who were sentenced at the statutory minimum. The Commission estimates that 6,436 (54.2%) of the 11,864 eligible zero-point individuals would have been affected by the revised proposed amendment if it had been in effect at the time they were sentenced. The average sentence imposed for these 6,436 persons was 37 months, with a median sentence of 27 months. The estimated new average sentence for these persons would be 29 months, with a median sentence of 22 months. This is a decrease in the average sentence of eight months, or 21.6 percent, and a decrease in the median sentence of five months, or 18.5 percent. This estimated change in sentencing for the 6,436 individuals would reduce the size of the BOP population.

Subpart 2 of Part B of the amendment revises the Commentary to §5C1.1 (Imposition of a Term of Imprisonment) that addresses “nonviolent first offenders.” New Application Note 10(A) provides that if the defendant received an adjustment under new §4C1.1 and the defendant’s applicable guideline range is in Zone A or B of the Sentencing Table, a sentence other than a sentence of imprisonment, in accordance with subsection (b) or (c)(3), is generally appropriate. New Application Note 10(B) adds a corresponding departure provision providing that a departure, including a departure to a sentence other than a

sentence of imprisonment, may be appropriate if the offender received an adjustment under new §4C1.1 and the applicable guideline range overstates the gravity of the offense because the offense of conviction is not a crime of violence or an otherwise serious offense. Because sentences under these provision are given at the court's discretion, the Commission cannot estimate how many individuals may be impacted by this part of the amendment each year.

Part C – Simple possession of marihuana

Part C of the amendment revises the Commentary to §4A1.3 (Departures Based on Inadequacy of Criminal History Category (Policy Statement)) to include sentences resulting from possession of marihuana offenses as an example of when a downward departure from the defendant's criminal history may be warranted. Because departures are given at the court's discretion, the Commission cannot estimate how many individuals may be impacted by this part of the amendment each year.

9) Career Offender

The amendment makes several changes to address a circuit conflict regarding the authoritative weight afforded to certain commentary to §4B1.1 by moving, without change, the commentary including certain inchoate and accessory offenses in the definitions of "crime of violence" and "controlled substance offense" to the text of the guideline. The amendment amends §4B1.2 to add to the new subsection (e) a definition of "robbery" that mirrors the "robbery" definition at 18 U.S.C. § 1951(b)(1) and makes a conforming change to §2L1.2 (Illegal Reentry). Finally, the amendment revises the definition of "controlled substance offense" in §4B1.2(b) to include "an offense described in 46 U.S.C. § 70503(a) or § 70506(b)."

The Commission cannot estimate the impact of the inchoate and accessory offense portion of the amendment.

In fiscal year 2021, 804 offenders were convicted of at least one count of Hobbs Act robbery as part of their instant offense of conviction. Of these 804 offenders, 205 offenders (25.5%) had at least two prior convictions for a violent crime and/or drug trafficking (as categorized in the Commission's criminal history data) that received criminal history points and, therefore, were potentially eligible for career offender status.

The Commission cannot determine how many of the 205 offenders would qualify as career offenders as a result of the amendment. However, some estimate of the increase in the sentences imposed in these cases is possible. The average final offense level in the 205 cases was 27 and the average sentence imposed was 148 months. If the career offender guideline applied in these cases as a result of the amendment, the offense level would be 32. If all of the offenders received an acceptance of responsibility adjustment under §3E1.1, the final offense level in these cases would be 29, which results in a guideline minimum of 151 months at Criminal History Category VI.

In fiscal year 2021, five offenders were convicted of at least one count of 46 U.S.C. § 70503(a)(2) or (3). None of these five offenders had at least two prior convictions for a violent

crime and/or drug trafficking that received criminal history points and, therefore, none would become eligible for career offender status.

10) Miscellaneous

This two-part amendment responds to miscellaneous guideline application issues.

First, the amendment revises subsection (d) of §3D1.2 (Grouping of Closely Related Counts) to provide that multiple counts involving more than one victim sentenced under §2G1.3 (Promoting a Commercial Sex Act or Prohibited Sexual Conduct with a Minor; Transportation of Minors to Engage in a Commercial Sex Act or Prohibited Sexual Conduct; Travel to Engage in Commercial Sex Act or Prohibited Sexual Conduct with a Minor; Sex Trafficking of Children; Use of Interstate Facilities to Transport Information about a Minor) are explicitly excluded from grouping under §3D1.2(d).

In fiscal year 2022, §2G1.3 was applied as the primary sentencing guidelines in 475 cases. In 119 of those cases (25.1%), there were multiple counts of conviction. The Commission cannot determine with precision the portion of these cases in which the final offense level might be increased through application of the provision at §3D1.3 and §3D1.4 as a result of the amendment. The guideline minimum in these cases was 284 months and the average sentence was 214 months. In some of these cases, however, the sentences will increase as a result of the amendment.

Second, the amendment updates the Commentary to §5F1.7 (Shock Incarceration Program (Policy Statement)) to reflect that the Bureau of Prisons (BOP) no longer operates a shock incarceration program. This portion of the amendment will have no impact on sentencing or the Bureau of Prisons population.

11) Technical

This amendment makes technical, stylistic, and other nonsubstantive changes to the *Guidelines Manual*. The Commission estimates that these amendments will have no impact on sentencing or the Bureau of Prisons population.