

UNITED STATES SENTENCING COMMISSION

Sentencing Guidelines for United States Courts

AGENCY: United States Sentencing Commission.

ACTION: Notice of final priorities.

SUMMARY: In August 2006, the Commission published a notice of possible policy priorities for the amendment cycle ending May 1, 2007. See 77 FR 44344 (August 4, 2006). 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.

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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).

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, 2007, and possibly continuing into the amendment cycle ending May 1, 2008. 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, 2007. Accordingly, it may be necessary to continue work on any or all of these issues beyond the amendment cycle ending on May 1, 2007.

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

(1) implementation of crime legislation enacted during the 109th Congress warranting a Commission response, including (A) the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. 109-248; (B) the Stop Counterfeiting in Manufactured Goods Act, Pub. L. 109-181; (C) the USA PATRIOT Improvement and Reauthorization Act of 2005, Pub. L. 109-177; (D) the Trafficking Victims Protection Reauthorization of 2005, Pub. L. 109-164; (E) the Violence Against Women and Department of Justice Reauthorization Act of 2005, Pub. L. 109-162; (F)

the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, Pub. L. 109–59; and (G) other legislation authorizing statutory penalties, creating new offenses, or pertaining to victims, that requires incorporation into the guidelines;

(2) continuation of its work with the congressional, executive, and judicial branches of the government and other interested parties on appropriate responses to United States v. Booker, including any appropriate guideline changes in light of the Commission’s 2006 report to Congress, Final Report on the Impact of United States v. Booker on Federal Sentencing, and continuation of its analysis of post-Booker data, case law, and other feedback, including reasons for departures and variances stated by sentencing courts;

(3) continuation of its policy work regarding immigration offenses, specifically, offenses sentenced under §§2L1.1 (Smuggling, Transporting, or Harboring an Unlawful Alien) and 2L1.2 (Unlawfully Entering or Remaining in the United States) and implementation of any immigration legislation that may be enacted;

(4) continuation of its work with the congressional, executive, and judicial branches of the government and other interested parties on cocaine sentencing policy, including holding a hearing on this issue and reevaluating the Commission’s 2002 report to Congress, Cocaine and Federal Sentencing Policy;

(5) beginning of a guideline simplification effort to develop and consider possible options

that might improve the overall effectiveness of the sentencing guidelines;

(6) continuation of its policy work, in light of the Commission's prior research on criminal history, to develop and consider possible options that might improve the operation of Chapter Four (Criminal History);

(7) continuation of its policy work to implement 28 U.S.C. § 994(t), specifically regarding the development of further commentary to §1B1.13 (Reduction in Term of Imprisonment as a Result of Motion by Director of Bureau of Prisons); and

(8) resolution of a number 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.

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

Ricardo H. Hinojosa,

Chair