

UNITED STATES SENTENCING COMMISSION

Sentencing Guidelines for United States Courts

AGENCY: United States Sentencing Commission.

ACTION: Notice of proposed priorities; request for public comment.

SUMMARY: As part of its statutory authority and responsibility to analyze sentencing issues, including operation of the federal sentencing guidelines, and in accordance with Rule 5.2 of its Rules of Practice and Procedure, the Commission is seeking comment on possible priority policy issues for the amendment cycle ending May 1, 2004.

DATES: Public comment should be received on or before August 1, 2003.

ADDRESSES: Send comments to: United States Sentencing Commission, One Columbus Circle, NE., Suite 2-500, South Lobby, Washington, DC 20002-8002, Attention: Public Affairs-Priorities Comment.

FOR FURTHER INFORMATION CONTACT: Michael Courlander, Public Affairs Officer, Telephone: (202) 502-4590.

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).

For the amendment cycle ending May 1, 2004, and possibly continuing into the amendment cycle ending May 1, 2005, the Commission has identified the following tentative priorities:

(1) Implementation of the PROTECT Act, Public Law 108-21, including guideline amendments addressing the directives to the Commission in (A) section 401 pertaining to downward departures; (B) sections 401, 504, 512, and 513 pertaining to new and existing sex offenses and offenses involving virtual pornography; and (C) section 608 pertaining to increased penalties for offenses involving the trafficking of GHB;

(2) consideration and implementation of recommendations made by the Commission's Organizational Guidelines Advisory Group;

(3) consideration and implementation of recommendations made by the

Commission's Native American Advisory Group;

(4) continuation of its work implementing the 21st Century Department of Justice Appropriations Authorization Act, Public Law 107-273, including guideline amendments pertaining to (A) assaulting or threatening federal judges or other officials described in 18 U.S.C. 111 or 115; and (B) a new offense, at 18 U.S.C. 931, prohibiting violent felons from purchasing, owning, or possessing body armor;

(5) consideration of guideline amendment proposals related to the public corruption guidelines in Chapter Two, Part C (Offenses Involving Public Officials);

(6) continuation of its work on the 15 Year Study, which is composed of a number of projects geared toward analyzing the guidelines in light of the goals of sentencing reform described in the Sentencing Reform Act and the statutory purposes of sentencing set forth in 18 U.S.C. 3553(a)(2);

(7) continuation of its policy work related to manslaughter, particularly consideration of guideline amendment proposals providing specific offense characteristics in section 2A1.4 (Involuntary Manslaughter);

(8) continuation of its policy work related to immigration offenses, including offenses under sections 2L1.1 (Smuggling, Transporting, or Harboring an Unlawful Alien) and 2L1.2 (Unlawfully Entering or Remaining in the United States);

(9) consideration of guideline amendment proposals pertaining to compassionate release programs;

(10) other miscellaneous and limited issues pertaining to the operation of the sentencing guidelines, including (A) offenses involving the unlawful sale or transportation of drug paraphernalia; and (B) offenses involving the receipt or possession of stolen mail;

(11) implementation of other crime legislation enacted during the first session of the 108th Congress warranting a Commission response;

(12) review of the limitation on the base offense level (*i.e.*, not more than level 30) provided in subsection (a)(3) of section 2D1.1 (Unlawful Manufacturing, Importing, Exporting, or Trafficking (Including Possession with Intent to Commit these Offenses); Attempt or Conspiracy); and

(13) continuation of its multiyear research, policy work, and possible guideline amendments relating to Chapter Four (Criminal History and Criminal Livelihood), which may include (A) assessment of the calculation of criminal history points for

first time offenders and offenders who are in the highest criminal history categories; (B) assessment of the criminal history rules for minor offenses, juvenile offenses, and expunged convictions; (C) assessment of the criminal history rules for related cases; and (D) consideration of other application issues relating to simplifying the operation of Chapter Four.

The Commission hereby gives notice that it is seeking comment on these tentative priorities and on any other issues that interested persons believe the Commission should address during the amendment cycle ending May 1, 2004, including short- and long-term research issues. To the extent practicable, comments submitted on such issues should include the following: (1) A statement of the issue, including scope and manner of study, particular problem areas and possible solutions, and any other matters relevant to a proposed priority; (2) citations to applicable sentencing guidelines, statutes, case law, and constitutional provisions; and (3) a direct and concise statement of why the Commission should make the issue a priority.

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

Diana E. Murphy,
Chair.

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UNITED STATES SENTENCING COMMISSION

Sentencing Guidelines for United States Courts

AGENCY: United States Sentencing Commission.

ACTION: Notice of issues for comment on PROTECT Act and request for comment.

SUMMARY: The Commission requests comment regarding how it might best implement the directive in section 401(m) of the Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today Act of 2003, Public Law 108-21 (the "PROTECT Act"). Specifically, the directive instructs the Commission to reform the existing permissible grounds of downward departures. The Commission welcomes any comments and suggestions for how the Commission might restructure or otherwise amend the guidelines to accomplish this directive.

DATES: Public comment should be received on or before August 1, 2003.