

APPENDIX D: Involved Law

18 U.S. Code § 3582

§ 1B1.10. Reduction in Term of Imprisonment as a Result of Amended
Guideline Range (Policy Statement)

18 U.S. Code § 3582 - Imposition of a sentence of imprisonment

U.S. Code Notes Authorities (CFR)

(a)FACTORS TO BE CONSIDERED IN IMPOSING A TERM OF IMPRISONMENT.—

The court, in determining whether to impose a term of imprisonment, and, if a term of imprisonment is to be imposed, in determining the length of the term, shall consider the factors set forth in [section 3553\(a\)](#) to the extent that they are applicable, recognizing that imprisonment is not an appropriate means of promoting correction and rehabilitation. In determining whether to make a recommendation concerning the type of prison facility appropriate for the defendant, the court shall consider any pertinent policy statements issued by the Sentencing Commission pursuant to [28 U.S.C. 994\(a\)\(2\)](#).

(b)EFFECT OF FINALITY OF JUDGMENT.—Notwithstanding the fact that a sentence to imprisonment can subsequently be—

- (1)**modified pursuant to the provisions of subsection (c);
- (2)**corrected pursuant to the provisions of rule 35 of the Federal Rules of Criminal Procedure and section 3742; or
- (3)**appealed and modified, if outside the guideline range, pursuant to the provisions of section 3742;

a judgment of conviction that includes such a sentence constitutes a final judgment for all other purposes.

(c)MODIFICATION OF AN IMPOSED TERM OF IMPRISONMENT.—The court may not modify a term of imprisonment once it has been imposed except that—

- (1)**in any case—

(A)the court, upon motion of the Director of the Bureau of Prisons, or upon motion of the defendant after the defendant has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant's behalf or the lapse of 30 days from the receipt of such a request by the warden of the defendant's facility, whichever is earlier, may reduce the term of imprisonment (and may impose a term of probation

or supervised release with or without conditions that does not exceed the unserved portion of the original term of imprisonment), after considering the factors set forth in [section 3553\(a\)](#) to the extent that they are applicable, if it finds that—

(i) extraordinary and compelling reasons warrant such a reduction; or

(ii) the defendant is at least 70 years of age, has served at least 30 years in prison, pursuant to a sentence imposed under section 3559(c), for the offense or offenses for which the defendant is currently imprisoned, and a determination has been made by the Director of the Bureau of Prisons that the defendant is not a danger to the safety of any other person or the community, as provided under section 3142(g);

and that such a reduction is consistent with applicable policy statements issued by the Sentencing Commission; and

(B) the court may modify an imposed term of imprisonment to the extent otherwise expressly permitted by statute or by Rule 35 of the Federal Rules of Criminal Procedure; and

(2) in the case of a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission pursuant to [28 U.S.C. 994\(o\)](#), upon motion of the defendant or the Director of the Bureau of Prisons, or on its own motion, the court may reduce the term of imprisonment, after considering the factors set forth in section 3553(a) to the extent that they are applicable, if such a reduction is consistent with applicable policy statements issued by the Sentencing Commission.

(d) NOTIFICATION REQUIREMENTS.—

(1) TERMINAL ILLNESS DEFINED.—

In this subsection, the term “[terminal illness](#)” means a disease or condition with an end-of-life trajectory.

(2) NOTIFICATION.—The Bureau of Prisons shall, subject to any applicable confidentiality requirements—

(A) in the case of a defendant diagnosed with a [terminal illness](#)—

(i) not later than 72 hours after the diagnosis notify the defendant’s attorney, partner, and family members of the defendant’s condition and inform the defendant’s attorney, partner, and family members that they may prepare and submit on the defendant’s behalf a request for a sentence reduction pursuant to subsection (c)(1)(A);

(ii) not later than 7 days after the date of the diagnosis, provide the defendant's partner and family members (including extended family) with an opportunity to visit the defendant in person;

(iii) upon request from the defendant or his attorney, partner, or a family member, ensure that Bureau of Prisons employees assist the defendant in the preparation, drafting, and submission of a request for a sentence reduction pursuant to subsection (c)(1)(A); and

(iv) not later than 14 days of receipt of a request for a sentence reduction submitted on the defendant's behalf by the defendant or the defendant's attorney, partner, or family member, process the request;

(B) in the case of a defendant who is physically or mentally unable to submit a request for a sentence reduction pursuant to subsection (c)(1)(A)—

(i) inform the defendant's attorney, partner, and family members that they may prepare and submit on the defendant's behalf a request for a sentence reduction pursuant to subsection (c)(1)(A);

(ii) accept and process a request for sentence reduction that has been prepared and submitted on the defendant's behalf by the defendant's attorney, partner, or family member under clause (i); and

(iii) upon request from the defendant or his attorney, partner, or family member, ensure that Bureau of Prisons employees assist the defendant in the preparation, drafting, and submission of a request for a sentence reduction pursuant to subsection (c)(1)(A); and

(C) ensure that all Bureau of Prisons facilities regularly and visibly post, including in prisoner handbooks, staff training materials, and facility law libraries and medical and hospice facilities, and make available to prisoners upon demand, notice of—

(i) a defendant's ability to request a sentence reduction pursuant to subsection (c)(1)(A);

(ii) the procedures and timelines for initiating and resolving requests described in clause (i); and

(iii) the right to appeal a denial of a request described in clause (i) after all administrative rights to appeal within the Bureau of Prisons have been exhausted.

(3) ANNUAL REPORT.—Not later than 1 year after December 21, 2018, and once every year thereafter, the Director of the Bureau of Prisons shall submit to the

Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on requests for sentence reductions pursuant to subsection (c)(1)(A), which shall include a description of, for the previous year—

- (A)**the number of prisoners granted and denied sentence reductions, categorized by the criteria relied on as the grounds for a reduction in sentence;
- (B)**the number of requests initiated by or on behalf of prisoners, categorized by the criteria relied on as the grounds for a reduction in sentence;
- (C)**the number of requests that Bureau of Prisons employees assisted prisoners in drafting, preparing, or submitting, categorized by the criteria relied on as the grounds for a reduction in sentence, and the final decision made in each request;
- (D)**the number of requests that attorneys, partners, or family members submitted on a defendant's behalf, categorized by the criteria relied on as the grounds for a reduction in sentence, and the final decision made in each request;
- (E)**the number of requests approved by the Director of the Bureau of Prisons, categorized by the criteria relied on as the grounds for a reduction in sentence;
- (F)**the number of requests denied by the Director of the Bureau of Prisons and the reasons given for each denial, categorized by the criteria relied on as the grounds for a reduction in sentence;
- (G)**for each request, the time elapsed between the date the request was received by the warden and the final decision, categorized by the criteria relied on as the grounds for a reduction in sentence;
- (H)**for each request, the number of prisoners who died while their request was pending and, for each, the amount of time that had elapsed between the date the request was received by the Bureau of Prisons, categorized by the criteria relied on as the grounds for a reduction in sentence;
- (I)**the number of Bureau of Prisons notifications to attorneys, partners, and family members of their right to visit a terminally ill defendant as required under paragraph (2)(A)(ii) and, for each, whether a visit occurred and how much time elapsed between the notification and the visit;
- (J)**the number of visits to terminally ill prisoners that were denied by the Bureau of Prisons due to security or other concerns, and the reasons given for each denial; and

(K)the number of motions filed by defendants with the court after all administrative rights to appeal a denial of a sentence reduction had been exhausted, the outcome of each motion, and the time that had elapsed between the date the request was first received by the Bureau of Prisons and the date the defendant filed the motion with the court.

(e)INCLUSION OF AN ORDER TO LIMIT CRIMINAL ASSOCIATION OF ORGANIZED CRIME AND DRUG OFFENDERS.—

The court, in imposing a sentence to a term of imprisonment upon a defendant convicted of a felony set forth in [chapter 95](#) (racketeering) or 96 (racketeer influenced and corrupt organizations) of this title or in the [Comprehensive Drug Abuse Prevention and Control Act of 1970](#) (21 U.S.C. 801 et seq.), or at any time thereafter upon motion by the Director of the Bureau of Prisons or a United States attorney, may include as a part of the sentence an order that requires that the defendant not associate or communicate with a specified person, other than his attorney, upon a showing of probable cause to believe that association or communication with such person is for the purpose of enabling the defendant to control, manage, direct, finance, or otherwise participate in an illegal enterprise.

(Added [Pub. L. 98-473, title II, § 212\(a\)\(2\)](#), Oct. 12, 1984, [98 Stat. 1998](#); amended [Pub. L. 100-690, title VII, § 7107](#), Nov. 18, 1988, [102 Stat. 4418](#); [Pub. L. 101-647, title XXXV, § 3588](#), Nov. 29, 1990, [104 Stat. 4930](#); [Pub. L. 103-322, title VII, § 70002](#), Sept. 13, 1994, [108 Stat. 1984](#); [Pub. L. 104-294, title VI, § 604\(b\)\(3\)](#), Oct. 11, 1996, [110 Stat. 3506](#); [Pub. L. 107-273, div. B, title III, § 3006](#), Nov. 2, 2002, [116 Stat. 1806](#); [Pub. L. 115-391, title VI, § 603\(b\)](#), Dec. 21, 2018, [132 Stat. 5239](#).)

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Current through Public Law 119-73, approved January 23, 2026, with a gap of Public Law 119-70.

United States Code Service > TITLE 18. CRIMES AND CRIMINAL PROCEDURE (§§ 1 — 6005) > 18 USCS appendix > SENTENCING GUIDELINES FOR THE UNITED STATES COURTS > CHAPTER ONE. Authority and General Application Principles > Part B. General Application Principles

§ 1B1.10. Reduction in Term of Imprisonment as a Result of Amended Guideline Range (Policy Statement)

(a) Authority.

(1) In general. In a case in which a defendant is serving a term of imprisonment, and the guideline range applicable to that defendant has subsequently been lowered as a result of an amendment to the Guidelines Manual listed in subsection (d) below, the court may reduce the defendant's term of imprisonment as provided by [18 U.S.C. § 3582\(c\)\(2\)](#). As required by [18 U.S.C. § 3582\(c\)\(2\)](#), any such reduction in the defendant's term of imprisonment shall be consistent with this policy statement.

(2) Exclusions. A reduction in the defendant's term of imprisonment is not consistent with this policy statement and therefore is not authorized under [18 U.S.C. § 3582\(c\)\(2\)](#) if—

(A) None of the amendments listed in subsection (d) is applicable to the defendant; or

(B) An amendment listed in subsection (d) does not have the effect of lowering the defendant's applicable guideline range.

(3) Limitation. Consistent with subsection (b), proceedings under [18 U.S.C. § 3582\(c\)\(2\)](#) and this policy statement do not constitute a full resentencing of the defendant.

(b) Determination of reduction in term of imprisonment.

(1) In general. In determining whether, and to what extent, a reduction in the defendant's term of imprisonment under [18 U.S.C. § 3582\(c\)\(2\)](#) and this policy statement is warranted, the court shall determine the amended guideline range that would have been applicable to the defendant if the amendment(s) to the guidelines listed in subsection (d) had been in effect at the time the defendant was sentenced. In making such determination, the court shall substitute only the

amendments listed in subsection (d) for the corresponding guideline provisions that were applied when the defendant was sentenced and shall leave all other guideline application decisions unaffected.

(2) Limitation and prohibition on extent of reduction.

(A) Limitation. Except as provided in subdivision (B), the court shall not reduce the defendant's term of imprisonment under [18 U.S.C. § 3582\(c\)\(2\)](#) and this policy statement to a term that is less than the minimum of the amended guideline range determined under subdivision (1) of this subsection.

(B) Exception for Substantial Assistance. If the term of imprisonment imposed was less than the term of imprisonment provided by the guideline range applicable to the defendant at the time of sentencing pursuant to a government motion to reflect the defendant's substantial assistance to authorities, a reduction comparably less than the amended guideline range determined under subdivision (1) of this subsection may be appropriate.

(C) Prohibition. In no event may the reduced term of imprisonment be less than the term of imprisonment the defendant has already served.

(c) Cases involving mandatory minimum sentences and substantial assistance.

If the case involves a statutorily required minimum sentence and the court had the authority to impose a sentence below the statutorily required minimum sentence pursuant to a government motion to reflect the defendant's substantial assistance to authorities, then for purposes of this policy statement the amended guideline range shall be determined without regard to the operation of § 5G1.1 (Sentencing on a Single Count of Conviction) and § 5G1.2 (Sentencing on Multiple Counts of Conviction).

(d) Covered amendments. Amendments covered by this policy statement are listed in Appendix C as follows: 126, 130, 156, 176, 269, 329, 341, 371, 379, 380, 433, 454, 461, 484, 488, 490, 499, 505, 506, 516, 591, 599, 606, 657, 702, 706 as amended by 711, 715, 750 (parts A and C only), and 782 (subject to subsection (e)(1)).

(e) Special instruction.

(1)

The court shall not order a reduced term of imprisonment based on Amendment 782 unless the effective date of the court's order is November 1, 2015, or later.

Commentary

Application Notes:

1. Application of subsection (a).

(A) Eligibility. Eligibility for consideration under [18 U.S.C. § 3582\(c\)\(2\)](#) is triggered only by an amendment listed in subsection (d) that lowers the applicable guideline range “(i.e., the guideline range that corresponds to the offense level and criminal history category determined pursuant to §1B1.1(a)(1)–(7), which is determined before consideration of Part K of Chapter Five and §1B1.1(b)). Accordingly, a reduction in the defendant’s term of imprisonment is not authorized under [18 U.S.C. § 3582\(c\)\(2\)](#) and is not consistent with this policy statement if: (i) none of the amendments listed in subsection (d) is applicable to the defendant; or (ii) an amendment listed in subsection (d) is applicable to the defendant but the amendment does not have the effect of lowering the defendant’s applicable guideline range because of the operation of another guideline or statutory provision (e.g., a statutory mandatory minimum term of imprisonment).

(B) Factors for consideration.

(i) In General. Consistent with [18 U.S.C. § 3582\(c\)\(2\)](#), the court shall consider the factors set forth in [18 U.S.C. § 3553\(a\)](#) in determining: (I) whether a reduction in the defendant’s term of imprisonment is warranted; and (II) the extent of such reduction, but only within the limits described in subsection (b).

(ii) Public Safety Consideration. The court shall consider the nature and seriousness of the danger to any person or the community that may be posed by a reduction in the defendant’s term of imprisonment in determining: (I) Whether such a reduction is warranted; and (II) the extent of such reduction, but only within the limits described in subsection (b).

(iii) Post-Sentencing Conduct. The court may consider post-sentencing conduct of the defendant that occurred after imposition of the term of imprisonment in determining: (I) Whether a reduction in the defendant’s term of imprisonment is warranted; and (II) the extent of such reduction, but only within the limits described in subsection (b).

2. Application of subsection (b)(1). In determining the amended guideline range under subsection (b)(1), the court shall substitute only the amendments listed in subsection (d) for the corresponding guideline provisions that were applied when the defendant was sentenced. All other guideline application decisions remain unaffected.

3. Application of subsection (b)(2). Under subsection (b)(2), the amended guideline range determined under subsection (b)(1) and the term of imprisonment already

served by the defendant limit the extent to which the court may reduce the defendant's term of imprisonment under [18 U.S.C. § 3582\(c\)\(2\)](#) and this policy statement. Specifically, as provided in subsection (b)(2)(A), if the term of imprisonment imposed was within the guideline range applicable to the defendant at the time of sentencing, the court may reduce the defendant's term of imprisonment to a term that is no less than the minimum term of imprisonment provided by the amended guideline range determined under subsection (b)(1). For example, in a case in which: (A) the guideline range applicable to the defendant at the time of sentencing was 70 to 87 months; (B) the term of imprisonment imposed was 70 months; and (C) the amended guideline range determined under subsection (b)(1) is 51 to 63 months, the court may reduce the defendant's term of imprisonment, but shall not reduce it to a term less than 51 months.

If the term of imprisonment imposed was outside the guideline range applicable to the defendant at the time of sentencing, the limitation in subsection (b)(2)(A) also applies. Thus, if the term of imprisonment imposed in the example provided above was not a sentence of 70 months (within the guidelines range) but instead was a sentence of 56 months (constituting a sentence that is below the otherwise applicable guideline range), the court likewise may reduce the defendant's term of imprisonment, but shall not reduce it to a term less than 51 months.

Subsection (b)(2)(B) provides an exception to this limitation, which applies if the term of imprisonment imposed was less than the term of imprisonment provided by the guideline range applicable to the defendant at the time of sentencing pursuant to a government motion to reflect the defendant's substantial assistance to authorities. In such a case, the court may reduce the defendant's term, but the reduction is not limited by subsection (b)(2)(A) to the minimum of the amended guideline range. Instead, as provided in subsection (b)(2)(B), the court may, if appropriate, provide a reduction comparably less than the amended guideline range. Thus, if the term of imprisonment imposed in the example provided above was 56 months pursuant to a government motion to reflect the defendant's substantial assistance to authorities (representing a reduction of 20 percent below the minimum term of imprisonment provided by the guideline range applicable to the defendant at the time of sentencing), a reduction to a term of imprisonment of 41 months (representing a reduction of approximately 20 percent below the minimum term of imprisonment provided by the amended guideline range) would amount to a comparable reduction and may be appropriate.

The provisions authorizing such a government motion are § 5K1.1 (Substantial Assistance to Authorities) (authorizing the court, upon government motion, to impose a sentence that is below the otherwise applicable guideline range based on the defendant's substantial assistance); [18 U.S.C. § 3553\(e\)](#) (authorizing the court,

upon government motion, to impose a sentence below a statutory minimum to reflect the defendant's substantial assistance); and [Fed. R. Crim. P. 35\(b\)](#) (authorizing the court, upon government motion, to reduce a sentence to reflect the defendant's substantial assistance).

In no case, however, shall the term of imprisonment be reduced below time served. See subsection (b)(2)(C). Subject to these limitations, the sentencing court has the discretion to determine whether, and to what extent, to reduce a term of imprisonment under this section.

4. Application of subsection (c). As stated in subsection (c), if the case involves a statutorily required minimum sentence and the court had the authority to impose a sentence below the statutorily required minimum sentence pursuant to a government motion to reflect the defendant's substantial assistance to authorities, then for purposes of this policy statement the amended guideline range shall be determined without regard to the operation of § 5G1.1 (Sentencing on a Single Count of Conviction) and § 5G1.2 (Sentencing on Multiple Counts of Conviction). For example:

(A) Defendant A is subject to a mandatory minimum term of imprisonment of 120 months. The original guideline range at the time of sentencing was 135 to 168 months, which is entirely above the mandatory minimum, and the court imposed a sentence of 101 months pursuant to a government motion to reflect the defendant's substantial assistance to authorities. The court determines that the amended guideline range as calculated on the Sentencing Table is 108 to 135 months. Ordinarily, § 5G1.1 would operate to restrict the amended guideline range to 120 to 135 months, to reflect the mandatory minimum term of imprisonment. For purposes of this policy statement, however, the amended guideline range remains 108 to 135 months.

To the extent the court considers it appropriate to provide a reduction comparably less than the amended guideline range pursuant to subsection (b)(2)(B), Defendant A's original sentence of 101 months amounted to a reduction of approximately 25 percent below the minimum of the original guideline range of 135 months. Therefore, an amended sentence of 81 months (representing a reduction of approximately 25 percent below the minimum of the amended guideline range of 108 months) would amount to a comparable reduction and may be appropriate.

(B) Defendant B is subject to a mandatory minimum term of imprisonment of 120 months. The original guideline range at the time of sentencing (as calculated on the Sentencing Table) was 108 to 135 months, which was restricted by operation of § 5G1.1 to a range of 120 to 135 months. See § 5G1.1(c)(2). The

court imposed a sentence of 90 months pursuant to a government motion to reflect the defendant's substantial assistance to authorities. The court determines that the amended guideline range as calculated on the Sentencing Table is 87 to 108 months. Ordinarily, § 5G1.1 would operate to restrict the amended guideline range to precisely 120 months, to reflect the mandatory minimum term of imprisonment. See § 5G1.1(b). For purposes of this policy statement, however, the amended guideline range is considered to be 87 to 108 months (i.e., unrestricted by operation of § 5G1.1 and the statutory minimum of 120 months).

To the extent the court considers it appropriate to provide a reduction comparably less than the amended guideline range pursuant to subsection (b)(2)(B), Defendant B's original sentence of 90 months amounted to a reduction of approximately 25 percent below the original guideline range of 120 months. Therefore, an amended sentence of 65 months (representing a reduction of approximately 25 percent below the minimum of the amended guideline range of 87 months) would amount to a comparable reduction and may be appropriate.

5. Application to Amendment 750 (Parts A and C only). As specified in subsection (d), the parts of Amendment 750 that are covered by this policy statement are Parts A and C only. Part A amended the Drug Quantity Table in § 2D1.1 for crack cocaine and made related revisions to the Drug Equivalency Tables (currently called Drug Conversion Tables) in the Commentary to § 2D1.1 (see § 2D1.1, comment. (n.8)). Part C deleted the cross reference in § 2D2.1(b) under which an offender who possessed more than 5 grams of crack cocaine was sentenced under § 2D1.1.

6. Application to Amendment 782. As specified in subsection (d) and (e)(1), Amendment 782 (generally revising the Drug Quantity Table and chemical quantity tables across drug and chemical types) is covered by this policy statement only in cases in which the order reducing the defendant's term of imprisonment has an effective date of November 1, 2015, or later.

A reduction based on retroactive application of Amendment 782 that does not comply with the requirement that the order take effect on November 1, 2015, or later is not consistent with this policy statement and therefore is not authorized under [18 U.S.C. § 3582\(c\)\(2\)](#).

Subsection (e)(1) does not preclude the court from conducting sentence reduction proceedings and entering orders under [18 U.S.C. § 3582\(c\)\(2\)](#) and this policy statement before November 1, 2015, provided that any order reducing the defendant's term of imprisonment has an effective date of November 1, 2015, or later.

7. Application to Amendment 821 (Parts A and B, Subpart 1 Only). As specified in subsection (d), the parts of Amendment 821 that are covered by this policy statement

are Parts A and B, Subpart 1 only, subject to the special instruction at subsection (e)(2). Part A amended §4A1.1 (Criminal History Category) to limit the overall criminal history impact of “status points” (*i.e.*, the additional criminal history points given to defendants for the fact of having committed the instant offense while under a criminal justice sentence, including probation, parole, supervised release, imprisonment, work release, or escape status). Part B, Subpart 1 created a new Chapter Four guideline at §4C1.1 (Adjustment for Certain Zero-Point Offenders) to provide a decrease of two levels from the offense level determined under Chapters Two and Three for defendants who did not receive any criminal history points under Chapter Four, Part A and whose instant offense did not involve specified aggravating factors.

The special instruction at subsection (e)(2) delays the effective date of orders reducing a defendant’s term of imprisonment to a date no earlier than February 1, 2024. A reduction based on the retroactive application of Part A or Part B, Subpart 1 of Amendment 821 that does not comply with the requirement that the order take effect no earlier than February 1, 2024, is not consistent with this policy statement and therefore is not authorized under [18 U.S.C. § 3582\(c\)\(2\)](#). Subsection (e)(2), however, does not preclude the court from conducting sentence reduction proceedings and entering orders under [18 U.S.C. § 3582\(c\)\(2\)](#) and this policy statement before February 1, 2024, provided that any order reducing the defendant’s term of imprisonment has an effective date of February 1, 2024, or later.

8. Supervised release.

(A) Exclusion relating to revocation. Only a term of imprisonment imposed as part of the original sentence is authorized to be reduced under this section. This section does not authorize a reduction in the term of imprisonment imposed upon revocation of supervised release.

(B) Modification relating to early termination. If the prohibition in subsection (b)(2)(C) relating to time already served precludes a reduction in the term of imprisonment to the extent the court determines otherwise would have been appropriate as a result of the amended guideline range determined under subsection (b)(1), the court may consider any such reduction that it was unable to grant in connection with any motion for early termination of a term of supervised release under [18 U.S.C. § 3583\(e\)\(1\)](#). *See* §5D1.4 (Modification, Early Termination, and Extension of Supervised Release (Policy Statement)). However, the fact that a defendant may have served a longer term of imprisonment than the court determines would have been appropriate in view of the amended guideline range determined under subsection (b)(1) shall not, without more, provide a basis for early termination of supervised release. Rather,

the court should take into account the totality of circumstances relevant to a decision to terminate supervised release, including the term of supervised release that would have been appropriate in connection with a sentence under the amended guideline range determined under subsection (b)(1).

9. Use of policy statement in effect on date of reduction. Consistent with subsection (a) of § 1B1.11 (Use of Guidelines Manual in Effect on Date of Sentencing), the court shall use the version of this policy statement that is in effect on the date on which the court reduces the defendant's term of imprisonment as provided by [18 U.S.C. § 3582\(c\)\(2\)](#).

Background: [Section 3582\(c\)\(2\) of title 18, United States Code](#), provides: “[I]n the case of a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission pursuant to [28 U.S.C. § 994\(o\)](#), upon motion of the defendant or the Director of the Bureau of Prisons, or on its own motion, the court may reduce the term of imprisonment, after considering the factors set forth in section 3553(a) to the extent that they are applicable, if such a reduction is consistent with applicable policy statements issued by the Sentencing Commission.”

This policy statement provides guidance and limitations for a court when considering a motion under [18 U.S.C. § 3582\(c\)\(2\)](#) and implements [28 U.S.C. § 994\(u\)](#), which provides: “If the Commission reduces the term of imprisonment recommended in the guidelines applicable to a particular offense or category of offenses, it shall specify in what circumstances and by what amount the sentences of prisoners serving terms of imprisonment for the offense may be reduced.” The Supreme Court has concluded that proceedings under section 3582(c)(2) are not governed by [United States v. Booker, 543 U.S. 220 \(2005\)](#), and this policy statement remains binding on courts in such proceedings. See [Dillon v. United States, 560 U.S. 817 \(2010\)](#).

Among the factors considered by the Commission in selecting the amendments included in subsection (d) were the purpose of the amendment, the magnitude of the change in the guideline range made by the amendment, and the difficulty of applying the amendment retroactively to determine an amended guideline range under subsection (b)(1).

The listing of an amendment in subsection (d) reflects policy determinations by the Commission that a reduced guideline range is sufficient to achieve the purposes of sentencing and that, in the sound discretion of the court, a reduction in the term of imprisonment may be appropriate for previously sentenced, qualified defendants. The authorization of such a discretionary reduction does not otherwise affect the lawfulness of a previously imposed sentence, does not authorize a reduction in any

other component of the sentence, and does not entitle a defendant to a reduced term of imprisonment as a matter of right. The Commission has not included in this policy statement amendments that generally reduce the maximum of the guideline range by less than six months. This criterion is in accord with the legislative history of [28 U.S.C. § 994\(u\)](#) (formerly section 994(t)), which states: “It should be noted that the Committee does not expect that the Commission will recommend adjusting existing sentences under the provision when guidelines are simply refined in a way that might cause isolated instances of existing sentences falling above the old guidelines* or when there is only a minor downward adjustment in the guidelines. The Committee does not believe the courts should be burdened with adjustments in these cases.” S. Rep. 225, 98th Cong., 1st Sess. 180 (1983).

*So in original. Probably should be “to fall above the amended guidelines”.

History

HISTORY:

Effective November 1, 1989 (see Appendix C, amendment 306). Amended effective November 1, 1990 (see Appendix C, amendment 360); November 1, 1991 (see Appendix C, amendment 423); November 1, 1992 (see Appendix C, amendment 469); November 1, 1993 (see Appendix C, amendment 502); November 1, 1994 (see Appendix C, amendment 504); November 1, 1995 (see Appendix C, amendment 536); November 1, 1997 (see Appendix C, amendment 548); November 1, 2000 (see Appendix C, amendment 607); November 5, 2003 (see Appendix C, amendment 662); November 1, 2007 (see Appendix C, amendment 710); March 3, 2008 (see Appendix C, amendments 712 and 713); May 1, 2008 (see Appendix C, amendment 716); November 1, 2011 (see Appendix C, amendment 759); November 1, 2012 (see Appendix C, amendment 770); November 1, 2014 (see Appendix C, amendments 780, 788 and 789); November 1, 2018 (see Appendix C, amendment 808); November 1, 2023 (see Appendix C, amendments 824 and 825); November 1, 2025 (see Appendix C, amendments 835 and 836).

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