

## UNITED STATES SENTENCING COMMISSION

### Sentencing Guidelines for United States Courts

**AGENCY:** United States Sentencing Commission.

**ACTION:** Notice of period during which individuals may apply to be appointed to the membership of the Victims Advisory Group; request for applications.

**SUMMARY:** The Victims Advisory Group of the United States Sentencing Commission is a standing advisory group of the United States Sentencing Commission pursuant to 28 U.S.C. 995 and Rule 5.4 of the Commission's Rules of Practice and Procedure. Under the charter for the Victims Advisory Group, the purpose of the advisory group is (1) to assist the Commission in carrying out its statutory responsibilities under 28 U.S.C. 994(o); (2) to provide to the Commission its views on the Commission's activities and work, including proposed priorities and amendments, as they relate to victims of crime; (3) to disseminate information regarding sentencing issues to organizations represented by the Victims Advisory Group and to other victims of crime and victims advocacy groups, as appropriate; and (4) to perform any other functions related to victims of crime as the Commission requests. Under the charter, the advisory group consists of not more than nine members, each of whom may serve not more than two consecutive three-year terms. Each member is appointed by the Commission. In view of vacancies in the membership of the advisory group, the Commission hereby invites any individual who has knowledge, expertise, and/or experience in the area of federal crime victimization to apply to be appointed to the membership of the Victims Advisory Group. Applications should be received by the Commission not later than August 10, 2009. Applications may be sent to Michael Courlander at the address listed below.

**DATES:** Applications for membership of the Victims Advisory Group should be received not later than August 10, 2009.

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

**FOR FURTHER INFORMATION CONTACT:** Michael Courlander, Public Affairs Officer, Telephone: (202) 502-4597.

**SUPPLEMENTARY INFORMATION:** Section 995(a)(1) of title 28, United States Code, authorizes the United States Sentencing Commission to establish general policies and promulgate rules and regulations as necessary for the Commission to carry out the purposes of the Sentencing Reform Act of 1984. The Victims Advisory Group is a standing advisory group of the Commission. The Commission invites any individual who has knowledge, expertise, and/or experience in the area of federal crime victimization to apply to be appointed to the membership of the Victims Advisory Group.

**Authority:** 28 U.S.C. 994(a), (o), (p), 995; USSC Rules of Practice and Procedure 5.2, 5.4.

**Ricardo H. Hinojosa,**

*Acting Chair.*

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## UNITED STATES SENTENCING COMMISSION

### Sentencing Guidelines for United States Courts

**AGENCY:** United States Sentencing Commission.

**ACTION:** Request for public comment.

**SUMMARY:** On May 1, 2009, the Commission submitted to the Congress amendments to the sentencing guidelines and official commentary, which become effective on November 1, 2009, unless Congress acts to the contrary. Such amendments and the reasons for amendment subsequently were published in the **Federal Register**, 74 FR 21750 (May 8, 2009). One of the amendments, specifically Amendment 7 pertaining to the undue influence enhancement at subsection (b)(2)(B)(ii) of § 2A3.2 (Criminal Sexual Abuse of a Minor Under the Age of Sixteen Years (Statutory Rape) or Attempt to Commit Such Acts) and at subsection (b)(2)(B) of § 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), has the effect of lowering guideline ranges. The Commission requests comment regarding whether that amendment should be included in subsection (c) of

§ 1B1.10 (Reduction in Term of Imprisonment as a Result of Amended Guideline Range (Policy Statement)) as an amendment that may be applied retroactively to previously sentenced defendants.

**DATES:** Public comment should be received on or before August 10, 2009.

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

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

**SUPPLEMENTARY INFORMATION:** Section 3582(c)(2) of title 18, United States Code, provides that "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."

The Commission lists in § 1B1.10(c) the specific guideline amendments that the court may apply retroactively under 18 U.S.C. 3582(c)(2). The background commentary to § 1B1.10 lists 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 § 1B1.10(b) as among the factors the Commission considers in selecting the amendments included in § 1B1.10(c). To the extent practicable, public comment should address each of these factors.

The text of the amendments referenced in this notice also may be accessed through the Commission's Web site at [www.uscc.gov](http://www.uscc.gov).

**Authority:** 28 U.S.C. 994(a), (o), (u); USSC Rules of Practice and Procedure 4.1, 4.3.

**Ricardo H. Hinojosa,**

*Acting Chair.*

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