

work on any or all of its identified priorities by the statutory deadline of May 1, 2010. Accordingly, it may be necessary to continue work on any or all of these issues beyond the amendment cycle ending on May 1, 2010.

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

(1) Continuation of its efforts, in light of recent Supreme Court jurisprudence and pursuant to the Commission's ongoing authority and responsibility under 28 U.S.C. 995(a)(21), to solicit information regarding Federal sentencing practices, including through ongoing regional public hearings. The Commission has held regional public hearings in Atlanta, GA (February 10–11, 2009), Palo Alto, CA (May 27–28, 2009), and New York, NY (July 9–10, 2009), and intends to hold additional regional public hearings in Chicago, IL (September 9–10, 2009), Denver, CO (October 20–21, 2009), Austin, TX (November 19–20, 2009), and Phoenix, AZ (January 20–21, 2010). The Commission is soliciting information at these regional public hearings on topics that include the manner in which *United States v. Booker* and subsequent Supreme Court decisions have affected Federal sentencing practices and appellate review of those practices, the role of the Federal sentencing guidelines, and recommendations, if any, for appropriate revisions to Federal sentencing policy. The Commission anticipates that it will compile and publish the information and testimony received at these regional public hearings and issue a report with respect to its findings.

(2) Continuation of its work on Federal sentencing policy with the congressional, executive, and judicial branches of the government, and other interested parties, in light of *United States v. Booker* and subsequent Supreme Court decisions, possibly including (A) an evaluation of the impact of those decisions on the Federal sentencing guideline system; (B) development of amendments to the Federal sentencing guidelines; (C) development of recommendations for legislation regarding Federal sentencing policy; (D) a study of, and possible report to Congress on, statutory mandatory minimum penalties, including a review of the operation of the "safety valve" provision at 18 U.S.C. 3553(e); and (E) a study and report on the appellate standard of review applicable to post-*Booker* Federal sentencing decisions.

(3) A review of departures within the guidelines, including (A) a review of the extent to which pertinent statutory provisions prohibit, discourage, or

encourage certain factors as forming the basis for departure from the guideline sentence; and (B) possible revisions to the departure provisions in the *Guidelines Manual*, including in Chapter Two and in Parts H and K of Chapter Five, in light of that review and any other information coming to the Commission's attention, as well as potential technical and conforming amendments to the *Guidelines Manual* to facilitate ease of use.

(4) Continued study of, and a possible report on, alternatives to incarceration, including (A) a study of sentencing alternatives that may be appropriate at the time of the original sentencing; and (B) consideration of any potential changes to the zones incorporated in the Sentencing Table in Chapter Five and/or other changes to the guidelines that might be appropriate in light of the information obtained from that study.

(5) Continuation of its work with Congress and other interested parties on cocaine sentencing policy to implement the recommendations set forth in the Commission's 2002 and 2007 reports to Congress, both entitled *Cocaine and Federal Sentencing Policy*, and to develop appropriate guideline amendments in response to any related legislation.

(6) Continuation of its multi-year study of the statutory and guideline definitions of *crime of violence*, *aggravated felony*, *violent felony*, and *drug trafficking crime*, including an examination of relevant circuit conflicts regarding whether any offense is categorically a *crime of violence*, *aggravated felony*, *violent felony*, or *drug trafficking crime* for purposes of triggering an enhanced sentence under certain Federal statutes and guidelines. This study may culminate in guideline amendments and/or a report to Congress recommending statutory changes.

(7) Resolution 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.

(8) Multi-year review of the guidelines and their application to human rights offenses, including genocide under 18 U.S.C. 1091, war crimes under 18 U.S.C. 2441, torture and maiming to commit torture under 18 U.S.C. 2340A and 114, respectively, and child soldier offenses under 18 U.S.C. 2442, and possible promulgation of guidelines or guideline amendments with respect to these offenses.

(9) Review of child pornography offenses, and possible promulgation of guideline amendments and/or a report to Congress as a result of such review. It is anticipated that any such report would include (A) a review of the incidence of, and reasons for, departures and variances from the guideline sentence; (B) a compilation of studies on, and analysis of, recidivism by child pornography offenders; and (C) recommendations to Congress on any statutory changes that may be appropriate.

(10) Consideration of miscellaneous guideline application issues including (A) clarification of the extent to which restitution is mandatory or discretionary in various circumstances; (B) examination of, and possible guideline amendments relating to, the computation of criminal history points under § 4A1.1(e); and (C) other miscellaneous issues coming to the Commission's attention from case law and other sources.

(11) Implementation of crime legislation enacted during the 111th Congress warranting a Commission response.

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

Ricardo H. Hinojosa,
Acting Chair.

[FR Doc. E9–21720 Filed 9–8–09; 8:45 am]

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UNITED STATES SENTENCING COMMISSION

Sentencing Guidelines for United States Courts

AGENCY: United States Sentencing Commission.

ACTION: Notice of final action regarding technical and conforming amendments to Federal sentencing guidelines effective November 1, 2009.

SUMMARY: On May 1, 2009, the Commission submitted to Congress amendments to the Federal sentencing guidelines and published these amendments in the **Federal Register** on May 8, 2009. See 74 FR 21750. The Commission has made technical and conforming amendments, set forth in this notice, to commentary provisions related to those amendments.

DATES: The Commission has specified an effective date of November 1, 2009, for the amendments set forth in this notice.

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

SUPPLEMENTARY INFORMATION: The United States Sentencing Commission, an independent commission in the judicial branch of the United States government, is authorized by 28 U.S.C. 994(a) to promulgate sentencing guidelines and policy statements for Federal courts. Section 994 also directs the Commission to review and revise periodically promulgated guidelines and authorizes it to submit guideline amendments to Congress not later than the first day of May each year. *See* 28 U.S.C. 994(o), (p). Absent an affirmative disapproval by Congress within 180 days after the Commission submits its amendments, the amendments become effective on the date specified by the Commission (typically November 1 of the same calendar year). *See* 28 U.S.C. 994(p).

Unlike amendments made to sentencing guidelines, amendments to commentary may be made at any time and are not subject to congressional review. To the extent practicable, the Commission endeavors to include amendments to commentary in any submission of guideline amendments to Congress. Occasionally, however, the Commission determines that technical and conforming changes to commentary are necessary. This notice sets forth technical and conforming amendments to commentary that will become effective on November 1, 2009.

Authority: USSC Rules of Practice and Procedure 4.1.

Ricardo H. Hinojosa,

Acting Chair, Technical and Conforming Amendments.

1. *Amendment:* The Commentary to § 2A6.2 captioned "Application Notes" is amended in Note 4 in the second paragraph by striking "2" after "Note" and inserting "3".

The Commentary to § 2B1.1 captioned "Application Notes", as amended by Amendment 1 submitted to Congress on May 1, 2009 (74 FR 21750), is further amended in Note 1, in the paragraph that begins "Personal information" means", by striking "(i)" and inserting "(A)"; by striking "(ii)" and inserting "(B)"; by striking "(iii)" and inserting "(C)"; by striking "(iv)" and inserting "(D)"; by striking "(v)" and inserting "(E)"; by striking "(vi)" and inserting "(F)"; and by striking "(vii)" and inserting "(G)".

The Commentary to § 2B1.1 captioned "Application Notes" is amended in Note 3(F)(iii) by striking "276a" and inserting "3142".

The Commentary to § 2B1.1 captioned "Application Notes" is amended in Note 4(C)(iii) by striking "his" and inserting "the addressee's".

The Commentary to § 2B1.1 captioned "Application Notes" is amended in Note 7(E) by striking "enhancements" and inserting "Chapter Three Adjustments".

The Commentary to § 2B1.1 captioned "Application Notes" is amended in Note 8(C) by striking "Enhancement" and inserting "Chapter Three Adjustment".

The Commentary to § 2B1.1 captioned "Application Notes" is amended in Note 9 by striking the paragraph that begins "'Telecommunications service' has the meaning"; and by inserting after the paragraph that begins "'Produce' includes manufacture" the following:

"'Telecommunications service' has the meaning given that term in 18 U.S.C. 1029(e)(9)."

The Commentary to § 2B1.1 captioned "Application Notes", as amended by Amendment 1 submitted to Congress on May 1, 2009 (74 FR 21750), is further amended in Note 14(A) by striking "this subsection" and inserting "subsection (b)(17)"; in the paragraph that begins "'Commodities law'" by striking "Commodities" before "Exchange" and inserting "Commodity"; by striking "Commodities" before "Futures" and inserting "Commodity";

In the paragraph that begins "'Commodity pool operator'" by striking "(4)" and inserting "(5)" each place it appears; by striking "Commodities" and inserting "Commodity";

In the paragraph that begins "'Commodity trading advisor'" by striking "(5)" and inserting "(6)" each place it appears; by striking "Commodities" and inserting "Commodity";

In the paragraph that begins "'Futures commission merchant'" by striking "Commodities" and inserting "Commodity";

In the paragraph that begins "'Introducing broker'" by striking "Commodities" and inserting "Commodity";

In the paragraph that begins "'Investment adviser'" by inserting "(a)(11)" after "202";

In the paragraph that begins "'Person associated with a broker or dealer'" by striking "(48)" and inserting "(18)"; and in the paragraph that begins "'Person associated with an investment adviser'" by inserting "(a)(17)" after "202".

The Commentary to § 2D1.6 captioned "Application Notes" is amended in Note 1 by inserting "a minimum offense level of 8 where the offense involves flunitrazepam (§ 2D1.1(c)(16));" after "(\$ 2D1.1(c)(14));".

The Commentary to § 2G1.1 captioned "Application Notes" is amended in Note 1 in the paragraph that begins "Commercial sex act" by striking "(c)(1)" and inserting "(e)(3)".

The Commentary to § 2G1.3 captioned "Application Notes" is amended in Note 1 in the paragraph that begins "Commercial sex act" by striking "(c)(1)" and inserting "(e)(3)".

The Commentary to § 2G2.1 captioned "Statutory Provisions" is amended by striking "(b)" and inserting "(a)".

The Commentary to § 2H3.1 captioned "Application Notes", as amended by Amendment 1 submitted to Congress on May 1, 2009 (74 FR 21750), is further amended in Note 4, in the paragraph that begins "Personal information" means", by striking "(i)" and inserting "(A)"; by striking "(ii)" and inserting "(B)"; by striking "(iii)" and inserting "(C)"; by striking "(iv)" and inserting "(D)"; by striking "(v)" and inserting "(E)"; by striking "(vi)" and inserting "(F)"; and by striking "(vii)" and inserting "(G)".

The Commentary to § 2H3.1 captioned "Application Notes" is amended in Note 5 by striking "(i)" and inserting "(A)"; and by striking "(ii)" and inserting "(B)".

The Commentary to § 2J1.5 captioned "Statutory Provisions" is amended by striking "Provision" and inserting "Provisions"; and by striking "(2)" and inserting "(1)(B)".

The Commentary to § 2J1.5 captioned "Application Notes" is amended in Note 2 by striking "this offense" and inserting "an offense under 18 U.S.C. 3146(b)(1)(B)".

The Commentary to § 2J1.5 captioned "Background" is amended by striking "This offense covered by this section" and inserting "The offense under 18 U.S.C. 3146(b)(1)(B)".

The Commentary to § 3B1.2 captioned "Application Notes" is amended in Note 6 by striking "(3)" and inserting "(5)".

The Commentary following § 3D1.5 captioned "Illustrations of the Operation of the Multiple-Count Rules" is amended in example 3 by striking "he" and inserting "the defendant"; and by striking "(8)" and inserting "(9)".

Appendix A (Statutory Index), as amended by Amendment 8 submitted to Congress on May 1, 2009 (74 FR 21750), is further amended by striking the line that begins "50 U.S.C. App. § 527(e)"; and by inserting after the line that begins "50 U.S.C. App. § 462" the following: "50 U.S.C. App. § 527(e)2X5.2".

Reason for Amendment: This amendment makes certain technical and conforming changes to commentary.

First, it updates obsolete statutory and guideline references in §§ 2A6.2 (Stalking or Domestic Violence), Application Note 4; 2B1.1 (Theft, Property Destruction, and Fraud), Application Notes 3(F)(iii) and 14(A); 2G1.1 (Promoting a Commercial Sex Act or Prohibited Sexual Conduct with an Individual Other than a Minor), Application Note 1; 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), Application Note 1; 2G2.1 (Sexually Exploiting a Minor by Production of Sexually Explicit Visual or Printed Material; Custodian Permitting Minor to Engage in Sexually Explicit Conduct; Advertisement for Minors to Engage in Production), Statutory Provisions; 2J1.5 (Failure to Appear by Material Witness), Statutory Provisions; 3B1.2 (Mitigating Role), Application Note 6; and the Illustrations following 3D1.5 (Determining the Total Punishment).

Second, it makes clerical and stylistic changes to the Commentary to § 2B1.1; the Commentary to § 2H3.1 (Interception of Communications; Eavesdropping; Disclosure of Certain Private or Protected Information); and the Illustrations following § 3D1.5.

Third, it amends § 2D1.6 (Use of Communication Facility in Committing Drug Offense; Attempt or Conspiracy), Application Note 1, to ensure that its description of the various minimum offense levels that apply to controlled substances under § 2D1.1 (Unlawful Manufacturing, Importing, Exporting, or Trafficking (Including Possession with Intent to Commit These Offenses); Attempt or Conspiracy) is more comprehensive (*i.e.*, by including in that description the minimum offense level that applies to flunitrazepam).

Finally, it amends Appendix A (Statutory Index) to ensure that the line reference to 50 U.S.C. App. § 527(e) is placed in the appropriate order.

[FR Doc. E9-21721 Filed 9-8-09; 8:45 am]

BILLING CODE 2211-01-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0319]

Agency Information Collection (Fiduciary Agreement) Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501-3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 9, 2009.

ADDRESSES: Submit written comments on the collection of information through <http://www.Regulations.gov> or to VA's OMB Desk Officer, Office of Information and Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395-7316. Please refer to "OMB Control No. 2900-0319" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461-7485, FAX (202) 273-0443 or e-mail denise.mclamb@va.gov. Please refer to "OMB Control No. 2900-0319."

SUPPLEMENTARY INFORMATION:

Titles: Fiduciary Agreement, VA Form 21-4703.

OMB Control Number: 2900-0319.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21-4703 is a legal binding contract between VA and Federally appointed fiduciaries receiving VA funds on behalf of beneficiaries who were determined to be incompetent or under legal disability by reason of minority or court action. The form outlines the fiduciary's responsibility regarding the use of VA funds.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection

of information was published on June 29, 2009, at page 31112.

Affected Public: Individuals or households.

Estimated Annual Burden: 1,467 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 17,600.

Dated: September 2, 2009.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. E9-21567 Filed 9-8-09; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-New (VR&E Outcome)]

Agency Information Collection (VR&E Program National Outcome Follow-Up With Employment Based Rehabilitated Veterans Survey) Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501-3521), this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATE: Comments must be submitted on or before October 9, 2009.

ADDRESSES: Submit written comments on the collection of information through www.Regulations.gov or to VA's OMB Desk Officer, Office of Information and Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395-7316. Please refer to "OMB Control No. 2900-New (VR&E Outcome)" in any correspondence.

FOR FURTHER INFORMATION CONTACT:

Denise McLamb, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461-7485, FAX (202) 273-0443 or e-mail denise.mclamb@va.gov. Please refer to