

**UNITED STATES SENTENCING COMMISSION**

**Sentencing Guidelines for United States Courts**

**AGENCY:** United States Sentencing Commission.

**ACTION:** Notice of Public Hearing.

**SUMMARY:** The Commission has scheduled a public hearing regarding whether Amendment 9 pertaining to offenses involving cocaine base ("crack") and Amendment 12 pertaining to certain criminal history rules, see 72 FR 28558 (May 21, 2007); 72 FR 51882 (September 11, 2007), should be applied retroactively to previously sentenced defendants.

**DATE:** The Commission has scheduled a public hearing for November 13, 2007. Requests to testify should be received by the Commission not later than October 29, 2007. Written testimony for the public hearing must be received by the Commission not later than November 5, 2007. The Commission requests that, to the extent practicable, written testimony be submitted electronically to [PubAffairs@ussc.gov](mailto:PubAffairs@ussc.gov) with a subject of "Public Hearing Testimony". The hearing will be held at Georgetown University Law Center, Gerwirz Student Center, Twelfth Floor Conference Room, 120 F Street, NW, Washington, DC at 9:30 a.m.

**ADDRESS:** Send testimony via electronic mail to: PubAffairs@ussc.gov, with a subject of “Public Hearing Testimony”. Testimony may also be sent 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) 502-4590.

**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, written testimony should address each of these factors. Data relating to possible retroactivity maybe accessed through the

Commission's website at [www.ussc.gov](http://www.ussc.gov).

**AUTHORITY:** 28 U.S.C. § 994(x); USSC Rules of Practice and Procedure, Rule 4.5.

Ricardo H. Hinojosa,

Chair