

Similarly, the court should accept a recommended sentence or a plea agreement requiring imposition of a specific sentence only if the court is satisfied either that such sentence is an appropriate sentence within the applicable guideline range or, if not, that the sentence is outside the applicable guideline range for justifiable reasons and those reasons are set forth with specificity in the statement of reasons form. *See* 18 U.S.C. § 3553(c).

A defendant who enters a plea of guilty in a timely manner will enhance the likelihood of his receiving a reduction in offense level under §3E1.1 (Acceptance of Responsibility). Further reduction in offense level (or sentence) due to a plea agreement will tend to undermine the sentencing guidelines.

The second paragraph of subsection (a) provides that a plea agreement that includes the dismissal of a charge, or a plea agreement not to pursue a potential charge, shall not prevent the conduct underlying that charge from being considered under the provisions of §1B1.3 (Relevant Conduct) in connection with the count(s) of which the defendant is convicted. This paragraph prevents a plea agreement from restricting consideration of conduct that is within the scope of §1B1.3 (Relevant Conduct) in respect to the count(s) of which the defendant is convicted; it does not in any way expand or modify the scope of §1B1.3 (Relevant Conduct).

The Commission encourages the prosecuting attorney prior to the entry of a plea of guilty or *nolo contendere* under Rule 11 of the Federal Rules of Criminal Procedure to disclose to the defendant the facts and circumstances of the offense and offender characteristics, then known to the prosecuting attorney, that are relevant to the application of the sentencing guidelines. This recommendation, however, shall not be construed to confer upon the defendant any right not otherwise recognized in law.

Historical Note

Effective November 1, 1987. Amended effective November 1, 1989 (amendment 295); November 1, 1992 (amendment 467); November 1, 1993 (amendment 495); November 1, 2000 (amendment 604); October 27, 2003 (amendment 651); November 1, 2011 (amendment 757); November 1, 2025 (amendment 836).

§6B1.3. Procedure Upon Rejection of a Plea Agreement (Policy Statement)

If the court rejects a plea agreement containing provisions of the type specified in Rule 11(c)(1)(A) or (C), the court must do the following on the record and in open court (or, for good cause, in camera)—

- (a) inform the parties that the court rejects the plea agreement;
- (b) advise the defendant personally that the court is not required to follow the plea agreement and give the defendant an opportunity to withdraw the plea; and
- (c) advise the defendant personally that if the plea is not withdrawn, the court may dispose of the case less favorably toward the defendant than the plea agreement contemplated.

Rule 11(c)(5), Fed. R. Crim. P.