

## CHAPTER ONE

# INTRODUCTION, AUTHORITY, AND GENERAL APPLICATION PRINCIPLES

## PART A – INTRODUCTION AND AUTHORITY

### Introductory Commentary

The United States Sentencing Commission (“Commission”) is an independent agency in the judicial branch composed of seven voting and two non-voting, *ex officio* members. Congress directed the Commission to establish sentencing policies and practices for the federal criminal justice system and develop guidelines that further the purposes of sentencing. This part provides the statutory authority and mission of the Commission to promulgate federal sentencing guidelines, policy statements, and commentary.

The guidelines and policy statements promulgated by the Commission are issued pursuant to Section 994(a) of Title 28, United States Code, and are set forth in this Guidelines Manual.

The Guidelines Manual is structured to reflect the advisory sentencing scheme established following the Supreme Court’s decision in *United States v. Booker*, 543 U.S. 220 (2005), recognizing both essential steps of the court’s inquiry in imposing a sentence “sufficient, but not greater than necessary.” See 18 U.S.C. § 3553(a). The guidelines and policy statements set forth throughout the Guidelines Manual represent the first step in the sentencing process and are one of multiple factors judges must consider under 18 U.S.C. § 3553(a).

Originally, consistent with the pre-*Booker* sentencing system, the Guidelines Manual included an additional step for determining a sentence by providing for a number of “departures,” which were provisions that allowed the court to impose a sentence outside the applicable guideline range or otherwise different from the guideline sentence before the court’s consideration of the additional sentencing factors set forth in 18 U.S.C. § 3553(a). The departure provisions were set forth throughout the Guidelines Manual as part of the commentary to numerous guidelines and in policy statements contained in Chapter Four, Part A, and Chapter Five, Parts H and K.

Following *Booker*, courts are permitted to impose sentences outside the applicable guideline range as “variances,” both for reasons related to the operation of the applicable guideline provisions and in light of individual characteristics unrelated to guideline provisions. In the years after *Booker*, courts used departures with much less frequency in favor of variances.

In 2025, the Commission amended the Guidelines Manual to remove departures and policy statements relating to specific personal characteristics. (See USSG App. C, amendment 836). The Commission sought to make these changes to better align the requirements placed on the court and acknowledge the growing shift away from the use of departures provided for within the Guidelines Manual in the wake of *Booker* and subsequent decisions. The Commission envisioned and framed this 2025 amendment to be outcome neutral, intending that judges who would have relied upon facts previously identified as a basis for a departure would continue to have the authority to rely upon such facts to impose a sentence outside of the applicable guideline range as a variance under 18 U.S.C. § 3553(a). The removal of departures from the Guidelines Manual does not limit the information courts may consider in imposing a sentence nor does it reflect a view from the Commission that such facts