

§5D1.1

Commentary

Application Notes:

1. **Individualized Assessment.**—The statutory framework of supervised release aims to “assure that [those] who will need post-release supervision will receive it” while “prevent[ing] probation system resources from being wasted on supervisory services for releasees who do not need them.” *See S. Rep. No. 225, 98th Cong., 1st Sess. 54 (1983).* To that end, 18 U.S.C. § 3583(c) requires the court to, “in determining whether to include a term of supervised release, and, if a term of supervised release is to be included, in determining the length of the term and the conditions of supervised release,” consider the following:

- (A) the nature and circumstances of the offense and the history and characteristics of the defendant (18 U.S.C. § 3553(a)(1));
- (B) the need to afford adequate deterrence to criminal conduct, to protect the public from further crimes of the defendant, and to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner (18 U.S.C. § 3553(a)(2)(B)–(D));
- (C) the kinds of sentence and the sentencing range established for the applicable category of offense committed by the applicable category of defendant as set forth in the guidelines (18 U.S.C. § 3553(a)(4));
- (D) any pertinent policy statement issued by the Sentencing Commission (18 U.S.C. § 3553(a)(5));
- (E) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct (18 U.S.C. § 3553(a)(6)); and
- (F) the need to provide restitution to any victims of the offense (18 U.S.C. § 3553(a)(7)).

See 18 U.S.C. § 3583(c).

2. **Criminal History.**—The court should give particular consideration to the defendant’s criminal history (which is one aspect of the “history and characteristics of the defendant” in Application Note 1(A) above). In general, the more serious the defendant’s criminal history, the greater the need for supervised release.

3. **Substance Abuse.**—In a case in which a defendant sentenced to imprisonment is an abuser of controlled substances or alcohol, it is highly recommended that a term of supervised release also be imposed. *See §5D1.3(b)(3)(D).*

4. **Domestic Violence.**—If the defendant is convicted for the first time of a domestic violence crime as defined in 18 U.S.C. § 3561(b), a term of supervised release is required by statute. *See 18 U.S.C. § 3583(a).* Such a defendant is also required by statute to attend an approved rehabilitation program, if available within a 50-mile radius of the legal residence of the defendant. *See 18 U.S.C. § 3583(d); §5D1.3(a)(3).* In any other case involving domestic violence or stalking in which the defendant is sentenced to imprisonment, it is highly recommended that a term of supervised release also be imposed.

5. **Mental and Emotional Conditions.**—In a case in which a defendant sentenced to imprisonment is in need of psychological or psychiatric treatment, it is recommended that the court consider imposing a condition requiring that the defendant participate in a mental health program approved by the United States Probation Office. *See §5D1.3(b)(3)(E).*