UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

GENERAL ORDER 08-1
MARCH 4, 2008

STANDING PROCEDURAL ORDER
RE: MOTIONS FOR REDUCTION IN TERM OF IMPRISONMENT AS A RESULT OF AMENDED GUIDELINE RANGE (POLICY STATEMENT) U.S.S.G. §1B1.10, AS AMENDED EFFECTIVE MARCH 3, 2008

This Standing Procedural Order governs Motions for Reduction of Sentence pursuant to 18 U.S.C. §3582(c)(2) and U.S.S.G. §1B1.10, as amended, effective March 3, 2008. This Order deals with the retroactive amendments to the Sentencing Guidelines for crack offenses.

1. Within five (5) days of the filing of a motion to reduce sentence, or at such other time as ordered by the Court, the Clerk shall appoint counsel for each defendant who had court-appointed counsel for the sentencing hearing. No additional affidavit of indigency (CJA-23) shall be required unless the defendant had retained counsel earlier. If former counsel is still on the Criminal Justice Act panel or was with the Federal Defenders' Office, and agrees to continue to represent defendant, he shall be re-appointed except for good cause.

2. The Clerk shall also notify the Probation Office and the Office of the United States Attorney as soon as a motion to reduce sentence has been filed or counsel has been appointed.

3. Within twenty (20) days of the filing of the motion to reduce sentence, the parties shall confer with each other and the Probation Department and file a joint status report outlining the parties' positions, including but not limited to:

(a) Defendant's eligibility for reduction of sentence in accordance with 18 U.S.C. §3582;

(b) A revised Guideline Calculation;

(c) Recommendation(s) for sentencing;

(d) Whether a hearing is necessary and whether the defendant seeks to appear in person or via video conference;

(e) The earliest projected release date based on the low end of the revised guideline calculation;

(f) A briefing schedule for any contested issues, taking into account the earliest projected release date;

(g) Whether a transcript is needed;

(h) A copy of any plea agreement.

4. The Probation Department shall provide counsel with the Presentence Report within five days of appointment of counsel, upon request, or of notification under paragraph 2, whichever is sooner. Probation shall also provide counsel with a summary of the SENTRY Bureau of Prisons records, including the name and contact number of the caseworker, no later than two weeks from the notification required under paragraph 2. Within ten (10) days after the filing of the joint status report, the Probation Department shall submit to the court and serve on the parties, an addendum to the Presentence Report. The addendum shall include:

(a) Whether the Probation Department agrees with the parties concerning eligibility;

(b) A revised Guideline Calculation and the Probation Department's sentencing recommendation;

(c) A report regarding post-conviction conduct in the Bureau of Prisons, including any significant disciplinary reports; rehabilitation programs attended or completed; and any relevant information provided by the caseworker.

If the parties and the Probation Department agree that a defendant is not eligible for a reduction of sentence, the Probation Department need not provide the information required by sub-paragraph 4(b) and 4(c).

BY THE COURT,

Mark L. Wolf
Mark L. Wolf
Chief Judge

Rya W. Zobel
Rya W. Zobel
United States District Judge

Douglas P. Woodlock
Douglas P. Woodlock
United States District Judge

Richard G. Stearns
Richard G. Stearns
United States District Judge

Patti B. Saris
Patti B. Saris
United States District Judge

Michael A Ponsor
Michael A Ponsor
United States District Judge

F. Dennis Saylor IV
F. Dennis Saylor IV
United States District Judge

Morris E. Lasker
Morris E. Lasker
Senior United States District Judge

Joseph L. Tauro
Joseph L. Tauro
United States District Judge

William G. Young
William G. Young
United States District Judge

Nathaniel M. Gorton
Nathaniel M. Gorton
United States District Judge

Reginald C. Lindsay
Reginald C. Lindsay
United States District Judge

Nancy Gertner
Nancy Gertner
United States District Judge

George A. O'Toole
George A. O'Toole
United States District Judge

Edward F.Harrington
Edward F. Harrington
Senior United States District Judge