

GENERAL ORDER No. 66

PROCEDURE FOR POST-JUDGMENT REVIEW OF SENTENCES IN CRACK
COCAINE CASES PURSUANT TO UNITED STATES SENTENCING COMMISSION'S
AMENDMENT TO POLICY STATEMENT § 1B1.10

On June 30, 2011, the United States Sentencing Commission ("USSG") promulgated an amendment to Policy Statement § 1B1.10 authorizing retroactive changes to sentences imposed for certain crack cocaine convictions. Absent contrary Congressional action, the amendment will go into effect on November 1, 2011. There are a number of defendants sentenced in the Northern District of California who, due to this amendment, may be eligible under 18 U.S.C. § 3582(c)(2) to seek reductions in sentences imposed on them for crack cocaine offenses. To recognize the potential for resolution of the matter by stipulation and to expedite appointment of counsel, disclosure of information relevant to sentencing and to conserve judicial resources, this General Order sets forth the procedures that shall apply to any defendant who contends that, pursuant to the June 30, 2011 amendment to USSG § 1B1.10, ("Applicable Case"), he or she is eligible for a change in sentence.

1. Upon the filing of a proposed stipulation, motion, application or request for a change in sentence in an Applicable Case, the Clerk of Court shall docket the matter under the case number of the underlying case and assign it to the Judge who presided over the underlying case for disposition pursuant to Criminal Local Rule 47-1 (Motion in Criminal Case) or 47-3 (Ex Parte Motion in Criminal Case) or 47-4 (Stipulation), respectively. If the originally assigned Judge is unavailable, the case shall be reassigned pursuant to General Order 44.D.
2. Unless the assigned Judge orders otherwise, the Federal Public Defender's Office is reappointed to represent any defendant in an Applicable Case whom it originally represented with respect to the underlying offense.
3. Unless the assigned Judge orders otherwise, the CJA panel attorney is reappointed to represent the defendant in an Applicable Case, whom he or she originally represented in the underlying case. If the original CJA panel attorney is unavailable or is otherwise unable to accept or declines the appointment, a new CJA panel attorney shall be appointed according to the regular procedures of our District for the appointment of a CJA panel attorney.

4. If a proposed stipulation, motion or application is filed by a defendant *pro se*, the Clerk of Court shall notify the Federal Public Defender's Office and the United States Attorney's Office of the filing.
5. No new financial affidavit will be required for a defendant in an Applicable Case who was previously represented by the Federal Public Defender's Office or by a CJA panel attorney.
6. In accordance with Criminal Local Rule 44-2(a), counsel may inform the Court of his or her appearance on behalf of the defendant by filing a notice of appearance electronically. No separate court appearance for identification of counsel is required.
7. Criminal Local Rule 32-7(b) governs the disclosure of presentence reports. Upon notice to it by the defense attorney or by counsel for the government that a defendant might be eligible for a change of sentence, without further order of the Court, the Probation Office is authorized to disclose the original presentence report and statement of reasons and any related documents to: (1) the Federal Public Defender's Office and other counsel for the defendant who is appointed pursuant to this General Order or who is subsequently appointed or retained; and (2) the United States Attorney's Office.

ADOPTED: October 11, 2011

FOR THE COURT:



JAMES WARE
Chief Judge