

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA**

*In the matter of*

DISTRICT PROTOCOL FOR  
PROCESSING APPLICATIONS UNDER  
GUIDELINES AMENDMENT 821

MISCELLANEOUS  
GENERAL ORDER  
NO. 23-07

The U.S. Sentencing Commission has recommended retroactive application of Parts A and B, Subpart 1, of Amendment 821. See U.S.S.G. App. C., amend. No. 825; U.S.S.G. § 1B1.10, p.s. (effective Nov. 1, 2023 and operative Feb. 1, 2024). As the Commission estimates that dozens of already-sentenced defendants in this District may qualify for a reduced sentence under the retroactive changes, standard procedures are necessary for processing the expected large number of applications for resentencing under 18 U.S.C. § 3582(c) and U.S.S.G. § 1B1.10. Following consultation among the Court, the U.S. Attorney, U.S. Probation, the defense bar, and the Clerk of Court, the Court adopts the following protocol for implementing Amendment 821.

1. Intake and Identification of Candidates for Reduction. The Court appoints the Federal Public Defender for the District of Alaska (FPD) to represent initially all potentially eligible candidates sentenced in the District of Alaska. FPD will maintain a central, master-list database of potential candidates derived from multiple source lists, defendants that file pro se motions with

the court, and of defendants who have individually contacted the Court, the U.S. Attorney, U.S. Probation, FPD, or CJA panel members inquiring about eligibility for this reduction. FPD will review the master list for facially ineligible cases and then contact the remaining candidates to inform them of the Amendment 821 process in the District and to solicit additional information to conduct initial screening. The intake packet to be returned by defendants will include an advisal and waiver of conflict with FPD for the limited purposes of conducting a screening for eligibility and possibly entering into a joint recommendation for a reduction. If, at any point, FPD believes an unwaivable conflict prevents further representation, FPD will obtain alternative counsel from CJA panel members who volunteer for this purpose.

2. Initial Screening of Candidates. FPD will use information provided by the candidates in their intake packets and materials provided by Probation to conduct an initial screening for eligibility. Probation, as a centralized source, will provide FPD and U.S. Attorney representatives, upon request, sealed copies of the presentence reports, criminal history reports, addendums, the parties' sentencing summary charts, and the Statement of Reasons from sentencing for requested cases. The Clerk of Court is also authorized to provide sentencing documents and docket reports to FPD and U.S. Attorney representatives, upon request, so that they may conduct the initial screening process. In cases involving substantial assistance where FPD did not

represent the defendant, and FPD believes a review of the substance of the assistance is necessary, FPD will consult with the USAO. If there is disagreement as to whether the conflict prevents further representation, the issue will be raised with the original sentencing judge and sealed materials will not be accessed without the Court's approval. FPD will process first those individuals whose scheduled and revised release dates place them closest to the operative date of February 1, 2024, so that qualifying candidates obtain the full reduction due. FPD will notify those on the master list it determines are ineligible and advise those for whom a reduction would be disadvantageous overall.

3. Consultation and Review by the U.S. Attorney. On a periodic basis, to be determined by the representatives of each agency, FPD will transmit to the designated representatives of the U.S. Attorney a list of candidates it has determined to be eligible for retroactive reduction, and pro se motions regardless of eligibility. The representatives of the U.S. Attorney will review the candidates and pro se motions and classify them into three categories: (a) cases approved for joint recommendation for reduction, (b) cases that are contested and, (c) individuals who do not qualify for appointed counsel or have an unwaivable conflict with FPD.
4. Processing of Cases After Consultation and Review. All cases – joint recommendations and contested cases – will be assigned to the original sentencing judge for calendaring in due course. For those in the third

category, FPD will contact the individuals and inform them of their options to proceed pro se, obtain alternative counsel (including CJA panel members who volunteer for this purpose or to take conflict cases), or rely on a suggestion from the U.S. Attorney or sua sponte action of the Court in cases that would otherwise be jointly recommended for reduction. These cases will then be assigned and calendared accordingly. FPD will also contact individuals who have filed pro se motions to inform them whether their case qualifies for a joint motion or will be contested by the government, and options to proceed pro se or obtain counsel.

- (a) Cases qualifying for a joint recommendation after consultation and review will have a standard joint motion filed after notices of appearance have been filed in those cases. The standard motion must set out the information required to enter a reduced sentence, including the original sentence and Guidelines range, the basis for qualification under Amendment 821, and the new Guidelines calculation and sentence to be entered by application of the two-level reduction or reduction of Criminal History Category.
- (b) Cases that have been placed on the contested track will be calendared for briefing and hearings as required to dispose of the matter. FPD will continue to represent candidates in contested cases, unless the case involves an unwaivable conflict, financial ineligibility requires FPD to withdraw from the case, or FPD determines that the

Court can decide a pro se motion on the existing record without further assistance of counsel.

5. Disposition of Motions for Reduction. The assigned judge may summarily grant the joint motion. If the matter is contested, or the Court is inclined not to grant the joint motion, the Court will order further briefing and may set a hearing. If a motion for reduction is granted, the judge will enter a new judgment and commitment order in that case using form AO 247 and indicating the effective date of the order as February 1, 2024, if that date is later than the date of the entry of the order.
6. Timeline. The representatives will endeavor to complete screening, review, and filing of motions by the February 1, 2024, operative date. For cases where the projected new release date falls later than the operative date, the representatives will prioritize cases with earlier release dates for processing, presenting them to the Court at appropriate intervals to permit entry of new judgments in all identified cases in due course.
7. The Presentence Reports and Statement of Reasons forms provided to counsel, and any materials reviewed pursuant to the enhanced electronic access provided in paragraph 2, may not be disclosed to anyone, or used for any purpose other than investigating and handling motions for reduction of sentence under 18 U.S.C. § 3582(c) and U.S.S.G. § 1B1.10.

IT IS SO ORDERED.

DATED this 1st day of December, 2023, at Anchorage Alaska.

/s/ Sharon L. Gleason  
SHARON L. GLEASON  
CHIEF UNITED STATES DISTRICT JUDGE  
DISTRICT OF ALASKA

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