

§ 2D1.2, should instead be made specific offense characteristics under § 2D1.1.

Inclusion in § 2D1.1 would make these enhancements applicable to all drug defendants whose relevant conduct involved juveniles or pregnant individuals, regardless of whether the defendant was convicted of the particular statutes now indexed to § 2D1.2 (21 U.S.C. 859, 860, and 861). The circuits appear to be split regarding whether conviction under one of these statutes is a prerequisite for application of the § 2D1.2 enhancements. (Compare *United States v. Oppedahl*, 998 F.2d 584 (8th Cir. 1993), with *United States v. Locklear*, 24 F.3d 641 (4th Cir. 1994), cert. denied, 115 S. Ct. 278, 457 (1994).)

4. Synopsis of Proposed Amendment

This amendment inserts additional background commentary explaining the Commission's rationale and authority for § 4B1.1 (Career Offender). The amendment responds to a decision by the United States Court of Appeals for the District of Columbia Circuit in *United States v. Price*, 990 F.2d 1367 (D.C. Cir. 1993). In *Price*, the court invalidated application of the career offender guideline to a defendant convicted of a drug conspiracy because 28 U.S.C. 994(h), which the Commission cites as the mandating authority for the career offender guideline, does not expressly refer to inchoate offenses. The court indicated that it did not foreclose Commission authority to include conspiracy offenses under the career offender guideline by drawing upon its broader guideline promulgation authority in 28 U.S.C. 994(a). See also *United States v. Mendoza-Figueroa*, 28 F.3d 766 (8th Cir. 1994), vacated (Sept. 2, 1994); *United States v. Bellazerius*, 24 F.3d 698 (5th Cir.) cert. denied, 115 S. Ct. 375 (1994). Other circuits have rejected the *Price* analysis and upheld the Commission's definition of "controlled substance offense." The Ninth Circuit considered the legislative history to section 994(h) and determined that the Senate Report clearly indicated that section 994(h) was not the sole enabling statute for the career offender guidelines. *United States v. Heim*, 15 F.3d 830 (9th Cir.) cert. denied, 115 S. Ct. 445 (1994). See also *United States v. Hightower*, 25 F.3d 182 (3d Cir.), cert. denied, 115 S. Ct. 370 (1994). *United States v. Damerville*, 27 F.3d 254 (7th Cir.), cert. denied, 115 S. Ct. 55 (1994).

Proposed Amendment

Application Note 1 of the Commentary to § 4B1.2 is repromulgated without change.

The Commentary to § 4B1.1 captioned "Background" is amended to read as follows:

Background

28 U.S.C. 994(h) mandates that the Commission assure that certain "career" offenders receive a sentence of imprisonment "at or near the maximum term authorized." Section 4B1.1 implements this directive, with the definition of a career offender tracking in large part the criteria set forth in 28 U.S.C. 994(h). However, in accord with its general guideline promulgation authority under 28 U.S.C. 994(a)-(f) and its amendment authority under 28 U.S.C. 994(o) and (p), the Commission has modified this definition in several respects to focus more precisely on the class of recidivist offenders for whom a lengthy term of imprisonment is appropriate and avoid "unwarranted sentencing disparities among defendants with similar records who have been found guilty of similar criminal conduct * * * ." 28 U.S.C. 991(b)(1)(B). The Commission's refinement of this definition over time is consistent with Congress's choice of a directive to the Commission rather than a mandatory minimum sentencing statute ("The [Senate Judiciary] Committee believes that such a directive to the Commission will be more effective; the guidelines development process can assure consistent and rational implementation for the Committee's view that substantial prison terms should be imposed on repeat violent offenders and repeat drug traffickers." S. Rep. No. 225, 98th Cong., 1st Sess. 175 (1983)).

The legislative history of this provision suggests that the phrase "maximum term authorized" should be construed as the maximum term authorized by statute. See S. Rep. No. 225, 98th Cong., 1st Sess. 175 (1983), 128 Cong. Rec. 26,511-12 (1982) (text of "Career Criminals" amendment by Senator Kennedy), id. at 26,515 (brief summary of amendment), id. at 26,517-18 (statement of Senator Kennedy)."

Additional Issue for Comment

The Commission invites comment on whether, as an alternative to, or in addition to, the proposed amendment to § 4B1.1, Chapter I, Part A of the Guidelines Manual should be amended to state that in its promulgation of specific guidelines, the Commission intends in all cases to rely on its general authority under 28 U.S.C. 994(a) as well

as any other more specific grant of statutory authority.

[FR Doc. 95-6330 Filed 3-14-95; 8:45 am]

BILLING CODE 2210-40-P

DEPARTMENT OF VETERANS AFFAIRS

Information Collection Under OMB Review: VA MATIC Change, VA Form 29-0165

AGENCY: Department of Veterans Affairs.
ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Trish Fineran, Veterans Benefits Administration (20M30), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 273-6886.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, Room 10102, Washington, DC 20503, (202) 395-7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before April 14, 1995.

Dated: March 8, 1995.

By direction of the Secretary.

Donald L. Neilson,
Director, Information Management Service.

Reinstatement

1. VA MATIC Change, VA Form 29-0165
2. The form is used by the insured to request VA to change the account number and/or financial institution from which a VA MATIC deduction was previously authorized.
3. Individuals or households
4. 1,250 hours
5. 15 minutes

6. On occasion
7. 5,000 respondents.

[FR Doc. 95-6365 Filed 3-14-95; 8:45 am]

BILLING CODE 8320-01-M

Privacy Act of 1974; Report of Amended Matching Program

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

Notice is hereby given that the Department of Veterans Affairs (VA) intends to conduct a recurring computer matching program matching Social Security Administration (SSA) benefit recipient records with VA pension and parents' dependency and indemnity compensation records.

The goal of this match is to compare income status as reported to VA with benefit records maintained by SSA.

The Department of Veterans Affairs (VA) plans to match records of veterans and surviving spouses and children who receive pension and parents who receive dependency and indemnity compensation (DIC) from VA with Social Security Administration benefit records maintained by SSA. The match with SSA will provide VA with data from the SSA Master Beneficiary Record. VA will use the data to update the master records of VA beneficiaries receiving income dependent benefits

and to adjust VA benefit payments as prescribed by law. Otherwise, information about a VA beneficiary's receipt of SSA benefits is obtained from reporting by the beneficiary. The proposed matching program will enable VA to ensure accurate reporting of income.

RECORDS TO BE MATCHED: The VA records involved in the match are the VA system of records, Compensation, Pension, Education and Rehabilitation Records—VA (58 VA 21/22) contained in the Privacy Act Issuances, 1991 compilation, Volume II, pages 967-971 as amended. The SSA records consist of information from the SSA Master Beneficiary Record 09-60-0090 published at 58 FR 35302, June 30, 1993.

In accordance with Title 5 U.S.C. subsection 552a(o)(2) and (r), copies of the agreement are being sent to both Houses of Congress and to the Office of Management and Budget.

This notice is provided in accordance with the provisions of the Privacy Act of 1974 as amended by Public Law 100-503.

The match is estimated to start April 1, 1995, but will start no sooner than 40 days after publication of this Notice in the **Federal Register**, or 40 days after copies of this Notice and the agreement of the parties are submitted to Congress

and the Office of Management and Budget, whichever is later, and end not more than 18 months after the agreement is properly implemented by the parties. The involved agencies' Data Integrity Boards (DIB) may extend this match for 12 months provided the agencies certify to their DIBs, within three months of the ending date of the original match, that the matching program will be conducted without change and that the matching program has been conducted in compliance with the original matching program.

ADDRESSES: Interested individuals may comment on the proposed matches by writing to the Director, Compensation and Pension Service (21), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420.

FOR FURTHER INFORMATION CONTACT: David G. Spivey (213B), (202) 273-7258.

SUPPLEMENTARY INFORMATION: This information is required by Title 5 U.S.C. subsection 552a(e)(12), the Privacy Act of 1974. A copy of this notice has been provided to both Houses of Congress and the Office of Management and Budget.

Approved: March 2, 1995.

Jesse Brown,

Secretary of Veterans Affairs.

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BILLING CODE 8320-01-M