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**AMENDMENT TO H.R. 1104, AS REPORTED  
OFFERED BY MR. FEENEY OF FLORIDA**

At the end of title I (page \_\_\_\_, after line \_\_\_\_),  
insert the following:

1 **SEC. \_\_\_\_. SENTENCING REFORM.**

2 (a) REQUIREMENT TO SPECIFY IN THE GUIDELINES  
3 THE GROUNDS UPON WHICH DOWNWARD DEPARTURES  
4 MAY BE GRANTED.—Section 3553(b) of title 18, United  
5 States Code, is amended to read as follows:

6 “(b) APPLICATION OF GUIDELINES IN IMPOSING A  
7 SENTENCE.—The court shall impose a sentence of the  
8 kind, and within the range, referred to in subsection (a)(4)  
9 unless the court finds that—

10 “(1) there exists an aggravating circumstance  
11 of a kind, or to a degree, not adequately taken into  
12 consideration by the Sentencing Commission in for-  
13 mulating the guidelines that should result in a sen-  
14 tence different from that described; or

15 “(2) there exists a mitigating circumstance of a  
16 kind, or to a degree, that—

17 “(A) has been affirmatively and specifically  
18 identified as a permissible ground of downward  
19 departure in the sentencing guidelines or policy  
20 statements issued under section 994(a) of title



1           28, United States Code, taking account of any  
2           amendments to such sentencing guidelines or  
3           policy statements by act of Congress;

4           “(B) has not adequately been taken into  
5           consideration by the Sentencing Commission in  
6           formulating the guidelines; and

7           “(C) should result in a sentence different  
8           from that described.

9 In determining whether a circumstance was adequately  
10 taken into consideration, the court shall consider only the  
11 sentencing guidelines, policy statements, and official com-  
12 mentary of the Sentencing Commission, together with any  
13 amendments thereto by act of Congress. In the absence  
14 of an applicable sentencing guideline, the court shall im-  
15 pose an appropriate sentence, having due regard for the  
16 purposes set forth in subsection (a)(2). In the absence of  
17 an applicable sentencing guideline in the case of an offense  
18 other than a petty offense, the court shall also have due  
19 regard for the relationship of the sentence imposed to sen-  
20 tences prescribed by guidelines applicable to similar of-  
21 fenses and offenders, and to the applicable policy state-  
22 ments of the Sentencing Commission, together with any  
23 amendments to such guidelines or policy statements by act  
24 of Congress.”.



1 (b) REFORM OF EXISTING PERMISSIBLE GROUNDS  
2 OF DOWNWARD DEPARTURES.—Subject to subsection (j),  
3 the Guidelines Manual promulgated by the Sentencing  
4 Commission pursuant to section 994(a) of title 28, United  
5 States Code, is amended as follows:

6 (1) Section 5K2.0 is amended as follows:

7 (A) Strike the first and second paragraphs  
8 of the Commentary to section 5K2.0 in their  
9 entireties.

10 (B) Strike “departure” every place it ap-  
11 pears and insert “upward departure”.

12 (C) Strike “depart” every place it appears  
13 and insert “depart upward”.

14 (D) In the first sentence of section  
15 5K2.0—

16 (i) strike “outside” and insert  
17 “above”;

18 (ii) strike “or mitigating”; and

19 (iii) strike “Under” and insert:

20 “(a) UPWARD DEPARTURES.—

21 Under”.

22 (E) In the last sentence of the first para-  
23 graph of section 5K2.0, strike “or excessive”.

24 (F) Immediately before the Commentary to  
25 section 5K2.0, insert the following:



1           “(b) DOWNWARD DEPARTURES.—

2           “Under 18 U.S.C. § 3553(b)(2), the sentencing court may  
3 impose a sentence below the range established by the ap-  
4 plicable guidelines only if the court finds that there exists  
5 a mitigating circumstance of a kind, or to a degree, that—

6           “(1) has been affirmatively and specifically identified  
7 as a permissible ground of downward departure in  
8 the sentencing guidelines or policy statements issued  
9 under section 994(a) of title 28, United States Code,  
10 taking account of any amendments to such sen-  
11 tencing guidelines or policy statements by act of  
12 Congress;

13           “(2) has not adequately been taken into consider-  
14 ation by the Sentencing Commission in formulating  
15 the guidelines; and

16           “(C) should result in a sentence different from that  
17 described.

18           “The grounds enumerated in this Part K of chapter 5 are  
19 the sole grounds that have been affirmatively and specifi-  
20 cally identified as a permissible ground of downward de-  
21 parture in these sentencing guidelines and policy state-  
22 ments. Thus, notwithstanding any other reference to au-  
23 thority to depart downward elsewhere in this Sentencing  
24 Manual, a ground of downward departure has not been  
25 affirmatively and specifically identified as a permissible



1 ground of downward departure within the meaning of sec-  
2 tion 3553(b)(2) unless it is expressly enumerated in this  
3 Part K as a ground upon which a downward departure  
4 may be granted.”.

5 (2) At the end of part K of chapter 5, add the  
6 following new sections:

7 **“§ 5K2.22 Specific Offender Characteristics as**  
8 **Grounds for Downward Departure (Pol-**  
9 **icy Statement)**

10 “Age may be a reason to impose a sentence below the ap-  
11 plicable guideline range only if and to the extent permitted  
12 by § 5H1.1.

13 “An extraordinary physical impairment may be a reason  
14 to impose a sentence below the applicable guideline range  
15 only if and to the extent permitted by § 5H1.4. Drug, alco-  
16 hol, or gambling dependence or abuse is not a reason for  
17 imposing a sentence below the guidelines.

18 **“§ 5K2.23 Early Disposition Programs as a Ground for**  
19 **Downward Departure (Policy Statement)**

20 “Upon motion of the government stating that:

21 “(1) due to extraordinary resource constraints, not  
22 typical of most districts, associated with the dis-  
23 proportionately high incidence of illegal reentry or  
24 other specific offenses within a particular district,  
25 the Attorney General has formally certified that the



1 district is authorized to implement an early disposi-  
2 tion program with respect to those specific cat-  
3 egories of offenses;

4 “(2) pursuant to such specific authorization, the  
5 United States Attorney for the district has imple-  
6 mented such an early disposition program with re-  
7 spect to the category of offense for which the de-  
8 fendant has been convicted;

9 “(3) pursuant to such an early disposition program,  
10 the defendant, within 30 days of his or her first ap-  
11 pearance before a judicial officer in connection with  
12 such a charge, entered into a plea agreement where-  
13 by he or she agrees, inter alia—

14 “(A) not to file any of the motions described in  
15 Federal Rule of Criminal Procedure 12(b)(3);

16 “(B) to waive appeal;

17 “(C) to waive the opportunity to pursue collat-  
18 eral relief under 28 U.S.C. §§ 2254 and 2555,  
19 including ineffective assistance of counsel  
20 claims; and

21 “(D) if an alien, to submit to uncontested re-  
22 moval from the United States upon completion  
23 of any sentence of imprisonment;

24 “(4) the plea agreement contemplates that the gov-  
25 ernment will move for a downward departure based



1 on the defendant's prompt agreement to enter into  
2 such an early disposition plea agreement; and  
3 "(5) the defendant has fully satisfied the conditions  
4 of such plea agreement,  
5 then, if the court finds that these conditions have been  
6 met and also finds that the defendant has received the  
7 maximum adjustment for which he is eligible (given his  
8 offense level) under § 3E1.1, the court may depart down-  
9 ward from the guidelines under this section only to the  
10 extent agreed to by the parties in the plea agreement,  
11 which in no event shall exceed 4 levels.

12 "Commentary

13 "Several districts, particularly on the southwest bor-  
14 der, have early disposition programs that allow them to  
15 process very large numbers of cases with relatively limited  
16 resources. Such programs are based on the premise that  
17 a defendant who promptly agrees to participate in such  
18 a program has saved the government significant and  
19 scarce resources that can be used in prosecuting other de-  
20 fendants and has demonstrated an acceptance of responsi-  
21 bility above and beyond what is already taken into account  
22 by the adjustments contained in § 3E1.1. This section pre-  
23 serves the authority to grant limited departures pursuant  
24 to such programs. In order to avoid unwarranted sen-  
25 tencing disparities within a given district, any departure



1 under this section must be pursuant to a formal program  
2 that is approved by the United States Attorney and that  
3 applies generally to a specified class of offenders. Author-  
4 ization for the district to establish an early disposition pro-  
5 gram must also have been specifically conferred by the At-  
6 torney General, and may be granted only with respect to  
7 those particular classes of offenses (such as illegal reentry)  
8 whose high incidence within the district has imposed an  
9 extraordinary strain on the resources of that district as  
10 compared to other districts. To be eligible for the depart-  
11 ure, the plea agreement under the program must reflect  
12 that the defendant has agreed to an expeditious plea, as  
13 described. A defendant who has not received any adjust-  
14 ment for acceptance of responsibility under § 3E1.1 can-  
15 not receive a departure under this provision. A defendant  
16 whose offense level makes him eligible for the additional  
17 adjustment under § 3E1.1(b), but who fails to satisfy the  
18 requirements for such an adjustment, is likewise ineligible  
19 for a departure under this provision. This section does not  
20 confer authority to depart downward on an ad hoc basis  
21 in individual cases. Moreover, because the Government's  
22 affirmative acquiescence is essential to the fair and effi-  
23 cient operation of an early disposition program, a depart-  
24 ure under this section may only be granted upon a formal  
25 motion by the Government at the time of sentencing.



1 Nothing in this section authorizes a sentence below a stat-  
2 utory mandatory minimum.”.

3 (3) Section 5K2.20 is deleted.

4 (4) Section 5H1.6 and section 5H1.11 are each  
5 amended by striking “ordinarily” every place it ap-  
6 pears.

7 (5) Section 5K2.13 is amended by—

8 (A) striking “or” before “(3)”; and

9 (B) replacing “public” with “public; or (4)  
10 the defendant has been convicted of an offense  
11 under chapter 71, 109A, 110, or 117 of title  
12 18, United States Code.”.

13 (c) STATEMENT OF REASONS FOR IMPOSING A SEN-  
14 TENCE.—Section 3553(c) of title 18, United States Code,  
15 is amended—

16 (1) by striking “described.” and inserting “de-  
17 scribed, which reasons must also be stated with  
18 specificity in the written order of judgment and com-  
19 mitment, except to the extent that the court relies  
20 upon statements received in camera in accordance  
21 with Federal Rule of Criminal Procedure 32. In the  
22 event that the court relies upon statements received  
23 in camera in accordance with Federal Rule of Crimi-  
24 nal Procedure 32 the court shall state that such



1 statements were so received and that it relied upon  
2 the content of such statements.”;

3 (2) by inserting “, together with the order of  
4 judgment and commitment,” after “the court’s  
5 statement of reasons”; and

6 (3) by inserting “and to the Sentencing Com-  
7 mission,” after “to the Probation System”.

8 (d) REVIEW OF A SENTENCE.—

9 (1) REVIEW OF DEPARTURES.—Section  
10 3742(e)(3) of title 18, United States Code, is  
11 amended to read as follows:

12 “(3) is outside the applicable guideline range,  
13 and

14 “(A) the district court failed to provide the  
15 written statement of reasons required by section  
16 3553(c);

17 “(B) the sentence departs from the appli-  
18 cable guideline range based on a factor that—

19 “(i) does not advance the objectives  
20 set forth in section 3553(a)(2); or

21 “(ii) is not authorized under section  
22 3553(b); or

23 “(iii) is not justified by the facts of  
24 the case; or



1           “(C) the sentence departs to an unreason-  
2           able degree from the applicable guidelines  
3           range, having regard for the factors to be con-  
4           sidered in imposing a sentence, as set forth in  
5           section 3553(a) of this title and the reasons for  
6           the imposition of the particular sentence, as  
7           stated by the district court pursuant to the pro-  
8           visions of section 3553(e); or”.

9           (2) STANDARD OF REVIEW.—The last para-  
10          graph of section 3742(e) of title 18, United States  
11          Code, is amended by striking “shall give due def-  
12          erence to the district court’s application of the  
13          guidelines to the facts” and inserting “, except with  
14          respect to determinations under subsection (3)(A) or  
15          (3)(B), shall give due deference to the district  
16          court’s application of the guidelines to the facts.  
17          With respect to determinations under subsection  
18          (3)(A) or (3)(B), the court of appeals shall review  
19          de novo the district court’s application of the guide-  
20          lines to the facts”.

21          (3) DECISION AND DISPOSITION.—

22                  (A) The first paragraph of section 3742(f)  
23          of title 18, United States Code, is amended by  
24          striking “the sentence”;



1 (B) Section 3742(f)(1) of title 18, United  
2 States Code, is amended by inserting “the sen-  
3 tence” before “was imposed”;

4 (C) Section 3742(f)(2) of title 18, United  
5 States Code, is amended to read as follows:

6 “(2) the sentence is outside the applicable  
7 guideline range and the district court failed to pro-  
8 vide the required statement of reasons in the order  
9 of judgment and commitment, or the departure is  
10 based on an impermissible factor, or is to an unrea-  
11 sonable degree, or the sentence was imposed for an  
12 offense for which there is no applicable sentencing  
13 guideline and is plainly unreasonable, it shall state  
14 specific reasons for its conclusions and—

15 “(A) if it determines that the sentence is  
16 too high and the appeal has been filed under  
17 subsection (a), it shall set aside the sentence  
18 and remand the case for further sentencing pro-  
19 ceedings with such instructions as the court  
20 considers appropriate, subject to subsection (g);

21 “(B) if it determines that the sentence is  
22 too low and the appeal has been filed under  
23 subsection (b), it shall set aside the sentence  
24 and remand the case for further sentencing pro-  
25 ceedings with such instructions as the court



1           considers appropriate, subject to subsection  
2           (g);” and

3                   (D) Section 3742(f)(3) of title 18, United  
4           States Code, is amended by inserting “the sen-  
5           tence” before “is not described”.

6           (e) IMPOSITION OF SENTENCE UPON REMAND.—

7           Section 3742 of title 18, United States Code, is  
8           amended by redesignating subsections (g) and (h) as sub-  
9           sections (h) and (i) and by inserting the following after  
10          subsection (f):

11          “(g) SENTENCING UPON REMAND.—A district court  
12          to which a case is remanded pursuant to subsection (f)(1)  
13          or (f)(2) shall resentence a defendant in accordance with  
14          section 3553 and with such instructions as may have been  
15          given by the court of appeals, except that—

16                  “(1) In determining the range referred to in  
17          subsection 3553(a)(4), the court shall apply the  
18          guidelines issued by the Sentencing Commission pur-  
19          suant to section 994(a)(1) of title 28, United States  
20          Code, and that were in effect on the date of the pre-  
21          vious sentencing of the defendant prior to the ap-  
22          peal, together with any amendments thereto by any  
23          act of Congress that was in effect on such date; and



1           “(2) The court shall not impose a sentence out-  
2           side the applicable guidelines range except upon a  
3           ground that—

4                   “(A) was specifically and affirmatively in-  
5                   cluded in the written statement of reasons re-  
6                   quired by section 3553(e) in connection with  
7                   the previous sentencing of the defendant prior  
8                   to the appeal; and

9                   “(B) was held by the court of appeals, in  
10                  remanding the case, to be a permissible ground  
11                  of departure.”.

12          (f) DEFINITIONS.—Section 3742 of title 18, United  
13          States Code, as amended by subsection (e), is further  
14          amended by adding at the end the following:

15          “(j) DEFINITIONS.—For purposes of this section—

16                  “(1) a factor is a ‘permissible’ ground of depar-  
17                  ture if it—

18                          “(A) advances the objectives set forth in  
19                          section 3553(a)(2); and

20                          “(B) is authorized under section 3553(b);  
21                          and

22                          “(C) is justified by the facts of the case;  
23                          and



1           “(2) a factor is an ‘impermissible’ ground of de-  
2           parture if it is not a permissible factor within the  
3           meaning of subsection (j)(1).”.

4           (g) REFORM OF GUIDELINES GOVERNING ACCEPT-  
5           ANCE OF RESPONSIBILITY.—Subject to subsection (j), the  
6           Guidelines Manual promulgated by the Sentencing Com-  
7           mission pursuant to section 994(a) of title 28, United  
8           States Code, is amended—

9           (1) in section 3E1.1(b)—

10           (A) by inserting “upon motion of the gov-  
11           ernment stating that” immediately before “the  
12           defendant has assisted authorities”; and

13           (B) by striking “taking one or more” and  
14           all that follows through and including “addi-  
15           tional level” and insert “timely notifying au-  
16           thorities of his intention to enter a plea of  
17           guilty, thereby permitting the government to  
18           avoid preparing for trial and permitting the  
19           government and the court to allocate their re-  
20           sources efficiently, decrease the offense level by  
21           1 additional level”;

22           (2) in the Application Notes to the Commentary  
23           to section 3E1.1, by amending Application Note 6—

24           (A) by striking “one or both of”; and



1 (B) by adding the following new sentence  
2 at the end: “Because the Government is in the  
3 best position to determine whether the defend-  
4 ant has assisted authorities in a manner that  
5 avoids preparing for trial, an adjustment under  
6 subsection (b)(2) may only be granted upon a  
7 formal motion by the Government at the time  
8 of sentencing.”; and

9 (3) in the Background to section 3E1.1, by  
10 striking “one or more of”.

11 (h) IMPROVED DATA COLLECTION.—Section 994(w)  
12 of title 28, United States Code, is amended to read as  
13 follows:

14 “(w)(1)The Chief Judge of each district court shall  
15 ensure that, within 30 days following entry of judgment  
16 in every criminal case, the sentencing court submits to the  
17 Commission a written report of the sentence, the offense  
18 for which it is imposed, the age, race, sex of the offender,  
19 and information regarding factors made relevant by the  
20 guidelines. The report shall also include—

21 “(A) the judgment and commitment order;

22 “(B) the statement of reasons for the sentence  
23 imposed (which shall include the reason for any de-  
24 parture from the otherwise applicable guideline  
25 range);



1           “(C) any plea agreement;

2           “(D) the indictment or other charging docu-  
3           ment;

4           “(E) the presentence report; and

5           “(F) any other information as the Commission  
6           finds appropriate.

7           “(2) The Commission shall, upon request, make  
8           available to the House and Senate Committees on  
9           the Judiciary, the written reports and all underlying  
10          records accompanying those reports described in this  
11          section, as well as other records received from  
12          courts.

13          “(3) The Commission shall submit to Congress  
14          at least annually an analysis of these documents,  
15          any recommendations for legislation that the Com-  
16          mission concludes is warranted by that analysis, and  
17          an accounting of those districts that the Commission  
18          believes have not submitted the appropriate informa-  
19          tion and documents required by this section.”.

20          (i) SENTENCING GUIDELINES AMENDMENTS.—(1)  
21          Subject to subsection (j), the Guidelines Manual promul-  
22          gated by the Sentencing Commission pursuant to section  
23          994(a) of title 28, United States Code, is amended as fol-  
24          lows:



1 (A) Application Note 4(b)(i) to section 4B1.5 is  
2 amended to read as follows:

3 “(i) IN GENERAL.—For purposes of  
4 subsection (b), the defendant engaged in a  
5 pattern of activity involving prohibited sex-  
6 ual conduct if on at least two separate oc-  
7 casions, the defendant engaged in prohib-  
8 ited sexual conduct with a minor.”.

9 (B) Section 2G2.4(b) is amended by adding at  
10 the end the following:

11 “(4) If the offense involved material that por-  
12 trays sadistic or masochistic conduct or other depic-  
13 tions of violence, increase by 4 levels.

14 “(5) If the offense involved—

15 “(A) at least 10 images, but fewer than  
16 150, increase by 2 levels;

17 “(B) at least 150 images, but fewer than  
18 300, increase by 3 levels;

19 “(C) at least 300 images, but fewer than  
20 600, increase by 4 levels; and

21 “(D) 600 or more images, increase by 5  
22 levels.”.

23 (C) Section 2G2.2(b) is amended by adding at  
24 the end the following:

25 “(6) If the offense involved—



1                   “(A) at least 10 images, but fewer than  
2                   150, increase by 2 levels;

3                   “(B) at least 150 images, but fewer than  
4                   300, increase by 3 levels;

5                   “(C) at least 300 images, but fewer than  
6                   600, increase by 4 levels; and

7                   “(D) 600 or more images, increase by 5  
8                   levels.”.

9           (2) The Sentencing Commission shall amend the Sen-  
10   tencing Guidelines to ensure that the Guidelines ade-  
11   quately reflect the seriousness of the offenses under sec-  
12   tions 2243(b), 2244(a)(4), and 2244(b) of title 18, United  
13   States Code.

14           (j) CONFORMING AMENDMENTS.—

15           (1) Upon enactment of this Act, the Sentencing  
16   Commission shall forthwith distribute to all courts of  
17   the United States and to the United States Probation  
18   System the amendments made by subsections  
19   (b), (g), and (i) of this section to the sentencing  
20   guidelines, policy statements, and official com-  
21   mentary of the Sentencing Commission. These  
22   amendments shall take effect upon the date of en-  
23   actment of this Act, in accordance with paragraph  
24   (5).



1           (2) On or before May 1, 2005, the Sentencing  
2 Commission shall not promulgate any amendment to  
3 the sentencing guidelines, policy statements, or offi-  
4 cial commentary of the Sentencing Commission that  
5 is inconsistent with any amendment made by sub-  
6 section (b) or that adds any new grounds of down-  
7 ward departure to Part K of chapter 5. At no time  
8 may the Commission promulgate any amendment  
9 that would alter or repeal section 5K2.23 of the  
10 Federal Sentencing Guidelines Manual, as added by  
11 subsection (b).

12           (3) With respect to cases covered by the amend-  
13 ments made by subsection (i) of this section, the  
14 Sentencing Commission may make further amend-  
15 ments to the sentencing guidelines, policy state-  
16 ments, or official commentary of the Sentencing  
17 Commission, except the Commission shall not pro-  
18 mulgate any amendments that, with respect to such  
19 cases, would result in sentencing ranges that are  
20 lower than those that would have applied under such  
21 subsections.

22           (4) At no time may the Commission promulgate  
23 any amendment that would alter or repeal the  
24 amendments made by subsection (g) of this section.



1 (5) Section 3553(a) of title 18, United States  
2 Code, is amended—

3 (A) by amending paragraph (4)(A) to read  
4 as follows:

5 “(A) the applicable category of offense  
6 committed by the applicable category of defend-  
7 ant as set forth in the guidelines—

8 “(i) issued by the Sentencing Commis-  
9 sion pursuant to section 994(a)(1) of title  
10 28, United States Code, subject to any  
11 amendments made to such guidelines by  
12 act of Congress (regardless of whether  
13 such amendments have yet to be incor-  
14 porated by the Sentencing Commission  
15 into amendments issued under section  
16 994(p) of title 28); and

17 “(ii) that, except as provided in sec-  
18 tion 3742(g), are in effect on the date the  
19 defendant is sentenced; or”;

20 (B) in paragraph (4)(B), by inserting “,  
21 taking into account any amendments made to  
22 such guidelines or policy statements by act of  
23 Congress (regardless of whether such amend-  
24 ments have yet to be incorporated by the Sen-



1 tencing Commission into amendments issued  
2 under section 994(p) of title 28)” after “Code”;

3 (C) by amending paragraph (5) to read as  
4 follows:

5 “(5) any pertinent policy statement—

6 “(A) issued by the Sentencing Commission  
7 pursuant to section 994(a)(1) of title 28,  
8 United States Code, subject to any amendments  
9 made to such policy statement by act of Con-  
10 gress (regardless of whether such amendments  
11 have yet to be incorporated by the Sentencing  
12 Commission into amendments issued under sec-  
13 tion 994(p) of title 28); and

14 “(B) that, except as provided in section  
15 3742(g), is in effect on the date the defendant  
16 is sentenced.”.

17 (k) COMPLIANCE WITH STATUTE.—Section 994(a) of  
18 title 28, United States Code, is amended by striking “con-  
19 sistent with all provisions of this title and title 18, United  
20 States Code,” and inserting “consistent with all pertinent  
21 provisions of any Federal statute”.

22 (l) REPORT BY THE ATTORNEY GENERAL.—

23 (1) Not later than 15 days after a district  
24 court’s grant of a downward departure in any case,  
25 other than a case involving a downward departure



1 for substantial assistance to authorities pursuant to  
2 section 5K1.1 of the Sentencing Guidelines, the At-  
3 torney General shall report to the House and Senate  
4 Committees on the Judiciary, setting forth the case,  
5 the facts involved, the identity of the district court  
6 judge, the district court's stated reasons, whether or  
7 not the court provided the United States with ad-  
8 vance notice of its intention to depart, the position  
9 of the parties with respect to the downward depart-  
10 ure, whether or not the United States has filed, or  
11 intends to file, a motion for reconsideration; whether  
12 or not the defendant has filed a notice of appeal con-  
13 cerning any aspect of the case, and whether or not  
14 the United States has filed, or intends to file, a no-  
15 tice of appeal of the departure pursuant to section  
16 3742 of the title 18, United States Code.

17 (2) In any such case, the Attorney General  
18 shall thereafter report to the House and Senate  
19 Committees on the Judiciary not later than 5 days  
20 after a decision by the Solicitor General whether or  
21 not to authorize an appeal of the departure, inform-  
22 ing the committees of the decision and the basis for  
23 it.

