Commission instead add a specific offense characteristic for bodily injury or a specific offense characteristic if the defendant is convicted of a violation of 18 U.S.C. § 113(a)(7)? Should § 2A2.3 be amended by providing a cross reference to § 2A2.2 (Aggravated Assault) to account for cases in which the underlying conduct involves serious bodily injury or use of a weapon with intent to cause bodily harm although the offense of conviction does not qualify as

aggravated assault? 3. Issue for Comment: Section 320102 of the Violent Crime Control and Law Enforcement Act of 1994 increases the maximum imprisonment penalty for involuntary manslaughter from three years to six years. The proposed amendment responds to the Commission's recommendation that Congress raise the penalty in order to achieve parity with the sentencing practices of the majority of the states and to allow the guideline sentence for this offense to operate without undue constraint. Guideline 2A1.4 (Involuntary Manslaughter) applies a base offense level of level 10 (if the conduct was criminally negligent) or level 14 (if the conduct was reckless) to offenses under 18 U.S.C. § 1112. These offense levels may have reflected, in part, the previous relatively low maximum term of imprisonment authorized for this offense. The Commission invites comment on whether the base offense levels under § 2A1.4 (Involuntary Manslaughter) provide adequate punishment and, if not, to what extent they should be

4. Synopsis of Proposed Amendment: The International Parental Kidnapping Crime Act of 1993 (Public Law 103-73, codified at 18 U.S.C. § 1204) makes it unlawful to remove a child from the United States with intent to obstruct the lawful exercise of parental rights. The statutorily authorized maximum term of imprisonment for this offense is three years. In contrast, other kidnapping offenses (e.g., 18 U.S.C. § 1201) have a statutory maximum sentence of life or death. Two options are shown. Option 1 references this statute to §2A4.1 (Kidnapping, Abduction, Unlawful Restraint) with a separate base offense level for a conviction under this statute. Option 2 references this statute to § 2J1.2 (Obstruction of Justice) because the underlying conduct involves interference with a court's child-custody

increased.

Proposed Amendment: [Option 1: Section § 2A4.1(a) is amended by deleting "24" and inserting in lieu thereof:

"(1) 24, except as provided below;

(2) 12, if the defendant was convicted under 18 U.S.C. § 1204."; and by inserting the following additional subsection:

"(d) Special Instruction

(1) If the base offense level is determined under subsection (a)(2), do not apply subsection (b)(4).".

Appendix A (Statutory Index) is amended by inserting the following at the appropriate place by title and section:

"18 U.S.C. § 1204 2A4.1".]

[Option 2: Appendix A (Statutory Index) is amended by inserting the following at the appropriate place by title and section:

"18 U.S.C. § 1204 2J1.2".]

5. Issue for Comment: Section 40112 of the Violent Crime Control and Law Enforcement Act of 1994 directs the Commission to conduct a study and consider appropriate amendments to §§ 2A3.1 (Aggravated Sexual Abuse) and 2A3.2 (Sexual Abuse) to address four concerns: (1) enhancing the sentence if more than one defendant is involved in the offense; (2) reducing unwarranted disparity between defendants who are known by the victim and those who are unknown by the victim; (3) making federal penalties commensurate with state penalties; and (4) considering the general problem of recidivism, severity of the offense, and devastating effects on survivors. The provision also requires the preparation of a report to Congress analyzing federal rape sentences and obtaining comment from independent experts on: (1) comparative federal sentences between assailants who were known vs. unknown to their victims; (2) comparative federal sentences with those of states; and (3) the effect of rape sentences on Native American and U.S. military populations relative to the impact of sentences for other federal offenses on these populations. This report is to be submitted to Congress by March 13, 1995.

The Commission invites comment on any aspect of this directive or any amendment to the guidelines appropriate to address this directive. Specifically, comment is requested on whether § 2A3.1 (Criminal Sexual Abuse) should be amended to include an enhancement for more than one assailant. If such a factor is added, comment is requested as to the weight to be given to that factor and how its inclusion should affect the application of an adjustment for the defendant's role in the offense under Chapter Three, Part B. Comment is further invited as to whether the guidelines adequately account for the seriousness of the sexual abuse offense (including the effects on

the victim of sexual abuse) and how any suggested changes should be applied. Currently, through specific offense characteristics and other instructions in § 2A3.1, the guidelines consider the degree of bodily injury, age of victim, sexual abuse of a person held within a correctional facility, use of a dangerous weapon, circumstances in which the defendant holds a supervisory or custodial role, circumstances in which the victim was abducted, and death of the victim. The Commission invites comment on additional factors that might appropriately be considered and the weights such factors should be given.

Chapter Two, Parts A (Offenses Against the Person); G (Offenses Involving Prostitution, Sexual Exploitation of Minors, and Obscenity); J (Offenses Involving the Administration of Justice); and L (Offenses Involving Immigration, Naturalization, and Passports)

6. Synopsis of Proposed Amendment: Sections 60010, 60011, 60016, 60017, and 60024 of the Violent Crime Control and Law Enforcement Act of 1994 increase the penalty for various offenses resulting in the death of a victim. It is not clear whether imposition of the penalties in the new law will require proof of the conduct by a preponderance of the evidence or beyond a reasonable doubt. For example, the "beyond a reasonable doubt standard" contemplated in some instances by McMillan v. United States, 477 U.S. 79 (1986), might be triggered by section 60010, which increases the six-month maximum imprisonment penalty for abusive sexual contact of a ward to a maximum sentence of death or imprisonment for any term of years or life if death results from that contact.

Two options are shown. Option 1 amends the Statutory Index to reference the new provisions to guidelines in Chapter Two, Part A, when death results from the underlying offense. Under § 1B1.2 (Applicable Guidelines), this reference will apply only if it is found beyond a reasonable doubt that death resulted from the offense. Option 2 amends the guidelines for the underlying offenses to include a cross reference to Chapter Two, Part A, if death results from the offense. Under Option 2, it need only be found by a preponderance of the evidence that death resulted from the offense for the cross reference to apply, consistent with § 1B1.3 (Relevant Conduct).

Proposed Amendment: [Option 1: Appendix A (Statutory Index) is amended in the line referenced to 8 U.S.C. § 1324(a) by inserting "2A1.1,