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Robert B. Kliesmet
President

Al Angele
Secretary-Treasurer

☒ National Headquarters • 815 16th Street, N.W., #507 • Washington, D.C. 20006 • (202) 628-2740
☐ West Coast Regional Office • 224 E. Olive Ave., #301 • Burbank, Ca. 91502 • (818) 841-5426

Statement of

ROBERT B. KLIESMET
PRESIDENT

of the

INTERNATIONAL UNION OF POLICE ASSOCIATIONS, AFL-CIO

before the

UNITED STATES SENTENCING COMMISSION

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AFFILIATED WITH THE PUBLIC EMPLOYEE DEPARTMENT, AFL-CIO

Thank you for the opportunity to submit this statement. I have testified before this Commission on two occasions, and unfortunately my schedule prevents my appearing before you in person.

On the occasions when I testified before this Commission, I brought to you the perspective of the average street cop. I believe that perspective is as valuable now as when I testified then.

The average street cop will look at these Guidelines and ask if they deter crime -- will they make his neighborhood, his community, a safer place in which to live. After studying these Guidelines, I must regretfully conclude that he will probably conclude that they do not make this country a safer place in which to live.

There are two major reasons why I believe this is so: first, the Guidelines provide base offense levels which are too low; second, coupled with the wide range of base offense levels and offender characteristic ranges, the Guidelines give judges too much discretion.

One of the greatest frustrations in a policeman's career occurs when a violent criminal is given what is essentially a slap on the hand by a lenient judge. These Guidelines give judges an immense amount of discretion, which many judges will use in order to thwart the intention of Congress. Criminals will not be deterred by this system because it is simply too lenient.

Many of the base offense levels are so low that they will not deter crime. Insider trading carries a base offense level of 8, while robbery carries a level of 6. Crimes against national security, such as treason and espionage, carry basic offense levels of 30.

These offenses, and many others have levels which are simply too low. They must be raised in order to deter criminal behavior. If our criminal justice system is to be truly effective, sentences must be meaningful. This means they must be tough and determinative.

Lenient sentences do more than just frustrate policemen. When courts release dangerous criminals, they undermine public confidence in the criminal justice system. At best, the public feels cynical; at worst, it feels helpless. Courts must recognize that criminals intentionally commit crimes and should take this into account in the sentencing process. These people should be given lengthy prison sentences so that they will not pose a threat to innocent people.

The Commission must curtail judicial discretion in sentencing. The combination of a wide variance in sentencing for a base offense, plus even wider discretion in increasing the base offense level for specific offense characteristics has resulted in sentencing ranges which are not only in violation of the Sentencing Reform Act's limit of twenty-five percent, but are bad public policy.

The Revised Draft Sentencing Guidelines give judges too much discretion. Under this system, it is inevitable that many criminals will be given unconscionably low sentences. This means that they will be back on the street sooner than they should be. It also means that many -- if not most -- of those same people will become recidivists.

Notwithstanding these criticisms, the Guidelines represent an improvement over current sentencing practices. Thus, if given the choice between the current system, and this draft, I would choose the latter.

In conclusion, while the Revised Draft Sentencing Guidelines represent an improvement over the current sentencing system, they are seriously flawed. The most blatant flaw is that they give sentencing judges too much discretion. The levels for base offenses and offense characteristics should be a single number, not a range of numbers.

If Guidelines are passed with these provisions, society will pay a heavy price. Criminals will not be deterred by these Guidelines to the extent that they would have been by the September Guidelines. Criminals will be released before they should be. When they are released, they will be more likely to become repeat offenders. In this sense, the Guidelines so the public a disservice. The final Guidelines should be both tough and determinative.

Thank you again for the opportunity to present my views to you.