

memorandum

DATE: September 12, 1990

REPLY TO
ATTN OF: G. Wray Ware, CUSPO
WD/VA

SUBJECT: Request for Comment

to: Phyllis J. Newton
Staff Director

Reference is made to your request for comments dated August 9, 1990.

Your request was turned over to our resident guideline expert for comment. Attached is United States Probation Officer Ross' memo addressing your request of August 9, 1990.

If we can be of further assistance, please contact me at 804/792-6397.

memorandum

DATE: August 31, 1990

REPLY TO
ATTN OF: William P. Ross III, USPO

SUBJECT: Comments on Sentencing Guidelines

TO: G. Wray Ware, Chief USPO

For the majority of cases within the district, I would conclude that the application of the Sentencing Guidelines has become a smooth and functional process. The officers have an increased understanding of the guidelines and all of the reference material.

The areas creating some problems are in the application of Chapters Three and Four of the guidelines. One problem identified is the acceptance of responsibility. This part of the guidelines is most difficult and generates many objections to the report. This problem is compounded by the plea negotiations between the government and the defendant. Often the agreement stipulates whether or not the reduction is applied prior to the defendant's guilty plea and any interviews with the probation officer. Also, many historical cases include vague information about the extent of the defendant's involvement, and no individual can accurately assess the defendant's acceptance of responsibility. I understand the Sentencing Commission has approved a staff working group to address acceptance of responsibility, and this should be a priority.

Several matters within Chapter Four have generated comments. Many officers have voiced concern for the need to add another criminal history category to adequately reflect an offender's behavior with more than 13 criminal history points. I understand an amendment is being considered to implement such a change, and its approval would be suitable. Additionally, most officers have expressed the need for the Commission to provide a more definitive guide for related cases, particularly cases consolidated for court.

Otherwise, the memorandum dated August 9, 1990, from the U.S. Sentencing Commission mentioned that working groups will begin working on several matters that address most of the issues frequently discussed within this district.

Thank you for the opportunity to comment on this matter.

WPR/ajw

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September 21, 1990

Mr. G. Wray Ware
Chief U.S. Probation Officer
273 Poff Federal Building
210 Franklin Road
Roanoke, VA 24011

Dear Chief Ware:

On behalf of the Commission, I thank you for your office's recent comments on proposed areas of study for the next guideline amendment cycle. Your submission has been copied and distributed to the Chairman, Commissioners, and members of the legal and drafting staffs.

We appreciate your interest in our work and look forward to your continued assistance as we strive to further improve the guidelines.

Regards,

A handwritten signature in black ink, appearing to be "PK" or "P. K. Martin".

Paul K. Martin
Communications Director