

1 CLK-12891

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF PENNSYLVANIA

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JOSEPH P. DONOHUE
CHIEF PROBATION OFFICER

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September 27, 1990

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MEMORANDUM

TO: Communications Director
U.S. Sentencing Commission

FROM: Joseph P. Donohue 
Chief U.S. Probation Officer

I am responding to Staff Director Phyllis J. Newton's recent memo soliciting our views on Guideline Sentencing issues:

INTERMITTENT/COMMUNITY CONFINEMENT (SECTION 5.C)

The Guidelines are overly restrictive. The Court should have greater discretion with reference to the use of intermittent/community confinement. This has particular application to non-violent first offenders. Intermittent/community confinement reduces prison overcrowding and costs and allows an offender to be productive while serving the sentence.

MANDATORY MINIMUM PRISON TERMS (SECTION 5G1.1)

We endorse the Sentencing Commission's position in urging Congress to refrain from enacting additional mandatory minimum prison terms. We feel that such terms are generally too severe and too broad in restricting judicial discretion.

ACCEPTANCE OF RESPONSIBILITY (SECTION 3E1.1)

OBSTRUCTION OF JUSTICE (SECTION 3C1.1)

These sections have been troublesome particularly in cases which have gone to trial. It is proposed that the Sentencing Commission refine the language of these Guidelines and related commentary along with furnishing case examples.

DEPARTURES -- PART K

The Sentencing Commission should consider expanding the grounds for departure. We note the significant authority extended to the Government in being allowed to move for a downward departure based solely on cooperation. There is concern that major offenders may be treated more leniently than minor offenders due to the fact that they have extensive knowledge of criminal activities.

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RULE 20 PROCEEDINGS

The Guidelines are open to manipulation in connection with Rule 20 transfers. A defendant whose attorney is successful in consolidating several offenses committed in various districts is able to avoid the assessment of criminal history points.

PERSONAL COMPUTERS -- ASSYST

It is proposed that the Sentencing Commission develop a system for communicating with Probation Officers through the use of personal computers. This would allow for the transmission of updated case law and other material pertinent to our computation of the Sentencing Guidelines. The Assyst Program has the potential to be an excellent resource but needs to be updated.

TRAINING

We recommend that the Sentencing Commission resume formal training programs. It is suggested that the training be expanded to include line officers engaged in the preparation of Guideline Presentence Investigation Reports.

Thank you for providing us with an opportunity to share our views.

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October 4, 1990

Mr. Joseph P. Donohue
Chief U.S. Probation Officer
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Dear Joe:

On behalf of the Commission, I thank you for your 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 you taking the time to write and share your insightful comments.

Regards,

A handwritten signature in black ink, appearing to be "PKM", written over the word "Regards".

Paul K. Martin
Communications Director