

United States District Court
DISTRICT OF CONNECTICUT
UNITED STATES COURTHOUSE
915 LAFAYETTE BOULEVARD
BRIDGEPORT, CONN. 06604

T.F. GILROY DALY
DISTRICT JUDGE

October 11, 1990

Dear Judge Wilkins:

I have your letter of September 12, 1990 and I am listing herein certain matters which I think may be responsive. They are some of the areas where I think the guidelines need considerable clarification.

1. Acceptance of Responsibility - Section 3E1.1

The question of acceptance of responsibility has become a virtual Pandora's box. Initially it appeared to some that the Commission expected this to be interpreted so as to benefit the defendant. It seems, however, within the past two years the scope of its application has narrowed considerably. It continues to be a judgment call, depending a great deal on the philosophy of the one deciding. In addition, the application of the guideline after trial appears to create a possible constitutional conflict. A defendant who, having exercised his right to trial, continues to maintain his innocence after conviction is effectively punished by the guideline. This may be unfair as well as unjust.

2. Guideline Range Regarding Firearms and Other Weapons-Section 2K

The Guideline for firearms is, in my judgment, manifestly low in relation to other offenses the Commission has rated. It ought to be, if everything else is to remain in place, increased significantly.

3. Substantial Assistance - Section 5K

This area needs to be reviewed with an eye to reinstating something along the lines of the old Rule 35 procedure. The Government has too much control under present circumstances with an obvious interest in how things are reported to the Court, if they are reported at all, and thus there is often considerable agency drive of the judicial process. The situation appears somewhat out of balance.

4. Drug Offenses - Section 2D

It makes little sense to me that a person who steals or commits a fraud of over \$80,000,000 is at precisely the same guideline level, other things being equal, as a person who possess a kilogram of cocaine.

5. Criminal History - Section 4A

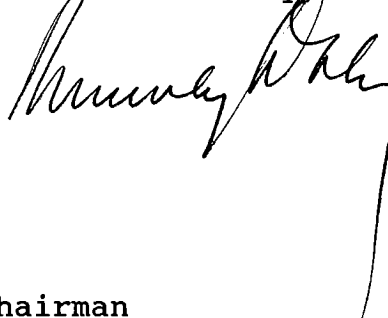
As presently written the section is skewed against most inner-city inhabitants since by definition they are more likely to be arrested than a person in a different (higher) socio-economic level and thus is unfair.

6. Corporation Guidelines

The corporate guidelines obviously need work. My own view is that the previous method of sentencing corporations was preferable and the use of the old presentence report in that regard made more sense.

I realize that I have gone beyond the limit of the three matters that you asked me to comment upon. I hope the above is of some help.

Yours sincerely,



/efm

The Honorable William W. Wilkins, Jr. Chairman
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