

PCI-108/91

UNITED STATES DISTRICT COURT

POST OFFICE AND COURTHOUSE BUILDING

BOSTON, MASSACHUSETTS 02109

CHAMBERS OF
WALTER JAY SKINNER
DISTRICT JUDGE

November 9, 1990

United States Sentencing Commission
1331 Pennsylvania Avenue, N.W.
Suite 1400
Washington, D. C. 20004

Attention: Communications Director

Dear Mesdames and Gentlemen:

In response to your request dated October 1, 1990, I have the following suggestions to make with respect to the sentencing guidelines:

1. There should be no increment in the offense level for the use of firearms where there is a statute imposing a mandatory add-on for the use of firearms in connection with the same specific offense.
2. The offense level for people found to be in possession of child pornography should be adjusted to permit probation in those cases where the defendant has not been himself involved in the exploitation of children. For most of these people, who are otherwise harmless and productive citizens, the conviction is sufficiently traumatic to prevent recurrence. The jail sentence is unnecessary and harmful and consumes scarce prison facilities to no good purpose.
3. Presently, sentencing in drug cases turns on the weight of material which the defendant is found to have been distributing. Instead of counting the weight of the drug, plus the dilutants, sentencing should depend upon the weight of the drug itself. For instance, a defendant carrying 501 grams of a compound containing 10% cocaine is more severely punished than a defendant carrying 100 grams of a compound which is 85% cocaine. The latter-described defendant is more apt to be a significant distributor, while the former is likely to be a "mule."

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4. The definition of violent crime, prior conviction of which requires a defendant to be sentenced as a career criminal, is much too broad. There are many crimes which are included such as burglary in which, although there is a potential for violence, no violence usually occurs. In many of the cases that I have seen, an essentially non-violent defendant has been unfairly tagged as a career criminal.

If the above suggestions have merit in your view, I would be glad to try my hand at a redrafting effort.

Very truly yours,

A handwritten signature in cursive script, reading "Walter Jay Skinner". The signature is written in dark ink and is positioned below the typed name "Walter Jay Skinner".