

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
PROBATION OFFICE

RAYMOND L. FRANK, JR.
CHIEF PROBATION OFFICER

January 24, 1991

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REPLY TO:

FLINT

Mr. Paul Martin
Communications Director
U. S. Sentencing Commission
1331 Pennsylvania Ave., N.W., Suite 1400
Washington, D.C. 20004

RE: 5K1.1 Departures

Dear Mr. Martin,

While compiling statistics for the 1990 Flint Office Annual Report, I monitored the number of 5K1.1 departures. I thought that you might be interested in the results, especially if this is occurring nationwide. We realize that the Flint, Michigan office is too small a sample to detect any trends.

The Flint office completed 62 guideline presentence reports during 1990. 28 of those cases had 5K1.1 departures. That equates to a 45%, 5K1.1 departure rate.

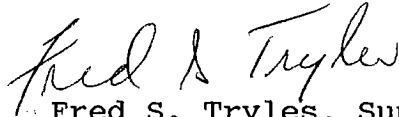
A further breakdown shows that 38 of the 62 cases were drug related violations. 10 of the 38 were convicted by trial. 28 were convicted by plea. Of those 28 plea convictions, 25 received 5K1.1 departures. That means that 89% of the drug cases convicted by plea got a 5K1.1 departure.

Many of these departures have been substantial. We have seen 50% to 66% reductions from the computed minimum of the guideline range. The amount and degree of the reduction seems to be wholly dependent upon the individual prosecutor. It would appear that our prosecutors are using the 5K1.1 departure as a plea motivation. It would also appear that great disparity in sentencing could occur as a result of such a system.

Does the commission have any other indicators of this occurring in other areas? Is the commission considering some means of regulating or capping reductions of sentence caused by 5K1.1 departures?

Mr. Paul Martin
Communications Director
RE: 5K1.1 Departures
January 24, 1991
Page 2

Sincerely,

A handwritten signature in cursive script, reading "Fred S. Tryles". The signature is written in dark ink and is positioned above the printed name.

Fred S. Tryles, Supervising
U. S. Probation Officer

FST:dms