

Tom Rojas
Box 1000
FCI Seagoville
Seagoville, TX 75159

9/27/90

Director
U.S. Sentencing Comm.
Washington, D.C.

Re: Alterations and comments to Sentencing Guidelines.

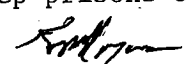
Sirs :

I have found you are requesting information and comments on proposed or changes that may be made in the Guidelines area of the work you do. As you may recognize, I am a federal prisoner at the above prison.

I mention both of the above as I have a first hand view of what your guidelines are doing to inmates and what kind of sentences people, as myself, have. Although I realize I did commit a crime, a drug crime, I don't think the judge in my case had a chance to consider any humanitarian portions of what went on and was going on. This happens in many cases, especially with drug cases. In my case, I unwittingly became addicted to the drug I sold. I had to continue to see people who would buy it and eventually was convicted for conspiracy and distribution.

What strikes home with me is that the judge had little discretion in mine and others cases. The government has chosen to take the position that I am ~~more~~ more a menace than others because of a MEDICAL PROBLEM. Putting me here for over five years, and I'll admit my record does have some blemishes on it, is foolish. I have to wait a ½ hour to shave and defecate in the morning. I can wash my cloths once a week (because there are so many others with laundry there is no room or time to do them otherwise). Sure, these are all part of prison and life isn't sposed to be "great". But you've lit a powder keg, especially with giving us 14 or 15% good time. If I disobey an order, a single time, I lose all my good time. You've made an error in sentencing so many to so much with so little to gain. I should be home with my little girls and with some treatment. But they won't see me until they're almost teenagers because I was sick. I hope you have to wait a ½ half hour someday when you're home sick just to use your own toilet and if you can't work, well then how about taking your vacation away for five yrs?

You should allow the community I came from to open new CTC's (half way houses) to allow persons like myself to share responsibilities, like earning an income and so on. Use community resources-not human beings to help keep prisons open.



Manuel H. Soto 17521-004
P.O.Box 600 Dorm 1
F.P.C., Eglin A.F.B., Fla.
32542-7606

U.S.Sentencing Commission
1331 Pennsylvania Ave. N.W.
Suite 1400
Washington,D.C. 20004

Dear Sirs,

I am writing in response to your request,in the Federal Register,for comments on the revision of the New Guidelines for Federal Sentences.

I strongly believe in eliminating supervised release which is added on top of prison time.This is not only double jepordy,but also a waste of our tax dollars.

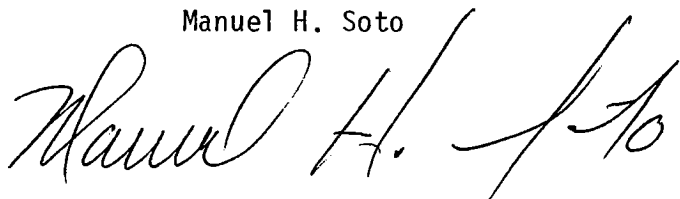
I also urge that a closer look be taken at increasing gain time for first offenders,those with a clean record.Most first offenders are just normal people,like you or I,who have been lured into committing a crime, by the temptation of making money at a time when they were desperate.These people never realized the seriousness of what they were doing,or the consequences of thier action.They get caught after one time and have to spend 5 or more years in prison.This is way too much time and is totally unnecessary. These people don't need that kind of time to learn thier lesson.There is no reason or logic behind giving out this much time to a first offender.If it does anything,it will turn this person into a hardened criminal.Let's not overdo it!

Another fault in the current law,isthat there is no allowance for Superior Achivement,House Monitoring,or any of the other standard prison policies.There should be some kind of incentive for inmates with exemplary records.

I believe that the Sentencing Guidelines are much too harsh on first offenders.I also believe that Supervised Release should be dropped entirely. Also,let's give inmates some incentive by offering Superior Achivement,House monitoring,etc.This country needs to give people who have made one mistake in thier entire life a break.They've learned thier lesson and don't need judicial overkill.

Thankyou,

Manuel H. Soto

A handwritten signature in cursive script, appearing to read "Manuel H. Soto", written in dark ink.

Jose Fernandez 08473-018
P.O.Box 600 Dorm 1
F.P.C., Eglin A.F.B., Fla.
32542-7606

U.S.Sentencing Commision
1331 Pennsylvania Ave. N.W.
Suite 1400
Washington,D.C. 20004

Dear Sirs,

In response to your request,in the Federal Register,I am submitting comments as to the revision of certain aspects of the Sentencing Guidelines.

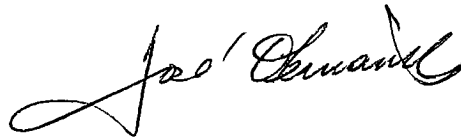
It is definitely unfair to give prison time as well as supervised release. This is double sentencing and should be eliminated.It is not only unfair, but a waste of taxpayer dollars.

Another big mistake in the guidelines is that not enough gain time is given to first offenders.These people are not hardened criminals,rather just normal folk who were down on thier luck and committed a crime without realizing how serious thier actions were.They don't need 7 or 8 years of prison to be taught a lesson.Most learn thier lesson as soon as they get the handcuffs put on them the first time.Why not give them a second chance,instead of placing them in an enviornment which will make hardened criminals out of them after 7 or 8 years?I'm not saying to turn them loose,but let's get down to more reasonable time for these first offenders.Two or three years is more than enough.Especially for someone who is not really a criminal,just a victim of poor judgement on his part.

One more item I would like to point out is that there are no provisions for superior achievement,house monitoring,or any of the programs offered to other inmates.This is a big mistake.People need incentive to give them the drive to be more productive to society.How about giving them that incentive and modifying this policy?

I strongly believe that the Sentencing Guidelines are way too harsh on the first offender.I also support the removal of supervised release and the addition of incentive programs for inmates.I believe this will not only benefit society from a moral standpoint,but also a financial one.

Thankyou Very Much,
Jose Fernandez



100-0391
9--20-90.-

U.S. Sentencing Commission
1331 Pennsylvania Ave. N.W.
suite 1400
Washington, D.C.

DIOSDADO PRADO- 02842-015

Dear Sirs:

This letter is in direct response to an memorandum request, in the Federal Register, soliciting comments and opinion concerning the proposed amendments to the sentencing Guidelines.

The sentencing guidelines, are so stringent within their framework, that it mandates to the Courts to dispense a sentence in accordance to a "BASE OFFENSE LEVEL" without allowing "INDIVIDUAL FACTORS" to be considered. Those that might otherwise be favorable to a defendant.

The elimination of "MERITORIOUS GOOD TIME" is totally illogical. A confined person needs incentives in order to obtain the highest level of achievement possible. The deprivation of liberty in itself creates such a feeling of hopelessness that without any other "incentive" this system cannot possibly believe that any individual will strive to better himself therefore risking the possibility of releasing a very hardened and embittered person back into society.

There are programs available for many cases of individuals who have satisfied a certain amount of time in confinement. These programs such as ELECTRONIC-MONITORING and HOUSE ARREST are available to those few who are currently serving their time under the "old law" that is the pre-guidelines sentencing status. This is clearly unfair, as many of us meet the same criteria, however under the current B.O.P. policies those sentenced under the new guidelines are not eligible.

Clearly there is a need for deterrence and punishment; however, when these factors have been achieved there should be allowances for those who have satisfied these factors and who have demonstrated a sincere willingness to return to our families and our communities so that once again we can become one of society's productive members. These feelings are shared, I believe, by the majority of us.

The dispensing of JUSTICE stands for equality and fairness above all else and our JUDICIARY has been founded on these cornerstones.

I thank you for your consideration of this issue and hope that they will not go unnoticed or unaddressed.

Respectfully Submitted

Diosdado Prado

DIOSDADO PRADO--02842-015

U.S. Sentencing Commission
1331 Pennsylvania Ave. N.W.
Suite 1400
Washington, D.C. 20004

7-029.1
MARIO GARCIA- 34687-004

Dear Sirs,

I am writing in response to your request, in the Federal Register, for comments on the revision of the Sentencing Guidelines.

I definitely believe that supervised release should be eliminated, especially when prison time has already been served. This will stop the double jeopardy which is currently in the sentencing guidelines.

I also feel that more gain time should be given to first offenders, who have never been in trouble before. There are too many otherwise honest, hard working, family men in prison for 5 or more years. Men who acted one time out of desperation, without realizing what they were doing was more than just a petty crime, and falling to the temptation of making money at a time when they were desperate. These type of people don't deserve to spend 5 or more years in jail, it's way to much. They have learned their lesson in a lot less than 5 years. Why overdo it?

One more problem with the Sentencing Guidelines is that there is no incentive for the prisoner. He is not eligible for Superior Achievement, House Monitoring, or any other standard programs usually offered to inmates. All this does is make a person lose his drive to be a productive member of society, instead of striving for perfection. This is a very negative situation, indeed.

I strongly believe that if you clear up these three points I have brought up, you will help out the efficiency of the prison system. It will be more economical as well as much fairer to the people of the United States. Not only will it help lower prison expenses, but it will give these people a chance to be productive members of society, instead of turning them against society, like long periods of incarceration tend to do.

Thanks you,

MARIO GARCIA



REQUEST FOR SENTENCING REFORM

To: U.S. SENTENCING COMMISSION
1331 PENNSYLVANIA AVE. N.W.
Suite #1400
Washington, D.C. 20004

From: HUMAN RIGHTS ALLIANCE
JUSTICE FOR ALL
(Founded 1988)

As tax payers, and member of "HUMAN RIGHTS ALLIANCE" we have voted on and agreed to send this petition to you the sentencing commission for your consideration.

- 1) NEW SENTENCING GUIDELINES SHOULD REVERT BACK TO PRE 1986 GUIDELINES.
- 2) PAROLE SHOULD REMAIN IN SERVICE.
- 3) MORE EMPHASIS ON DEPORTATION OF FIRST OFFENDER'S "NONE-CITIZENS" SHOULD BE MADE.
- 4) FIRST OFFENDER'S-IN NON-VIOLENT CASES SHOULD RECIEVE PAROLE, OR PROBATION AND REQUIERED TO PAR-TAKE IN COMMUNITY SERVICE'S OF HIS OR HER COMMUNITY.
- 5) SECOND OFFENDER'S-IN NON-VIOLENT CASES SHOULD RECIEVE 50% OF APPLICABLE GUIDELINES BEING ENFORCED AT TIME CRIME COMITTED.
- 6) THIRD OFFENDER'S-IN NON-VIOLENT CASES SHOULD RECIEVE 65% OF APPLICABLE GUIDELINES BEING ENFORCED AT TIME CRIME WAS COMITTED.
- 7) FOURTH OFFENDER'S-IN NON-VIOLENT CASES SHOULD BE LEFT TO THE COURT'S DISCRETION.
- 8) RULE 35-B SHOULD BE APPLICABLE TO ALL PERSON'S GIVING THE U.S. GOVERNMENT "SUBSTNACIAL ASSISTANCE" REGARDLESS OF A RECOMMENDATION HAVING TO BE MADE BY THE A.U.S.A.

REQUEST FOR SENTENCING REFORM

9) GOOD TIME, EXTRA GOOD TIME, ETC... SHOULD BE APPLICABLE
TO ALL INMATES WORKING AT ANY AND ALL INSTITUTIONS.

10) ANY AND ALL PHYSICALLY, OR MENTALLY DESABLED INMATES
SHOULD BE KEPT IN HOSPITAL FACILITIES OR UNDER HOUSE-
ARREST IN CARE OF FAMILY MEMBERS.

COMMENTS IF ANY:

I, PRESENTLY HAVE A FAMILY MEMBER OR FRIEND IN CUSTODY OF THE
U.S. GOVERNMENT. YES ☒ NO ☐

FULL NAME Amalia Chew
ADDRESS 4091 tree Valley circle
Tampa Fla 33615

PHONE No. (813) 881 1766

Amalia Chew
SIGNATURE

HUMAN RIGHTS ALLIANCE
JUSTICE FOR ALL (FOUNDED 1988)
17620 N.W. 18 AVE.
MIAMI, FLORIDA 33056
PHONE No. (305) 620-6376

September 19, 1990

Communications Director
U.S. Sentencing Commission
1331 Pennsylvania Avenue NW
Suite 400
Washington DC 20004

Re: Request for sentencing reforms from Human Rights Alliance
Justice for All

As per your request, and having voted and agreed upon, we hereby make the following requests on behalf of the prisoners and their families:

1. New sentencing guidelines should revert back to pre-1987 guidelines.
2. Parole should remain in service.
3. More emphasis should be placed on the deportation of first offenders of non citizenship.
4. First offenders of non-violent cases should receive parole or probation and be required to participate in his/her community service.
5. Second offenders in non-violent crimes should receive fifty percent of the applicable guidelines.
6. Third offenders in non-violent crimes should receive sixty-five percent of the applicable guidelines.
7. Fourth offenders in non-violent crimes should be left up to the courts discretion.
8. Rule 35B should apply to all persons giving the US government substantial assistance regardless of the recommendations made by the AUSA.
9. Good time, extra good time, etc., should apply to all inmates working at any and all institutions.
10. Any and all physically or mentally disabled inmates should be kept at hospital facilities or under house arrest under his/her family's care. Special consideration should be given to prisoners of advanced age, placing them under house arrest.

COMMENTS:

Building more prisons is not the answer. We must not become a punitive society, but we must be a REGENERATIVE society. We urge you to think of the rights of prisoners and of their families and children.

Respectfully,

Maria T. Roza
11242 SW 117 Place
Miami FL

HUMAN RIGHTS ALLIANCE

U. S. Sentencing Commission
1331 Pennsylvania Ave. N.W.
Washington, D.C. 20004

As tax payers and concern citizens we have agreed to send this petition to you for your consideration.

1. New Sentencing guide-lines should revert back to pre-1987 guide-lines. With the present guide lines there is no incentive, our facilities are over crow and each inmate is costing us \$38,000.00-\$50,000.00 per year. Based on the minimum sentencing guide-lines We are talking 10 years of which 8yrs. 4mos. will have to be serve at apprx. \$45,000.00 per year we are talking of \$375,000.00 per inmate at the end of their term.
2. Parole should remain in service. It adjust inmate back into the system and they can become productive.
3. More emphasis on interpretation of 1st offenders non-citizens should be made. If the offenders are U.S. residence & are willing to renounce their residency they should be deported immediately to their countries. This way we will be shaving millions of U.S. Dollars and our budget will not be so much on the deficit.
4. 1st offenders in non-violent cases should be eligible for parole or probation it must be required partake in community services of his/her Community. Instead of costing their Community they should be contributing to it. This should be treated with equality no matter their race, color, who they know or how popular they are within their Community. At the present Our Constitutional Rights are been violated.
5. Second offenders in non-violent cases should receive 50% of applicable guide lines been enforced at the time the crime was committed. Creating a rehabilitation program while servicing their sentences. This will create a positive attitude to a complete negative problem and it should avoid third offenders.
6. 3rd offenders in non-violent crimes should receive 65% of the guide lines.
7. 4th offenders should be left to the Courts discretion.
8. Rule 35-B should be applicable to all inmates, where no murders have been committed, who have cooperated and/or assisted the U.S. Government given the authority to the agents who they have worked with & not to their original U.S. District Attorneys involved in their sentencing. This should be the Judges decision.
9. Good Time and extra good time should be applicable to all inmates who work in and with the institution and who have taken courses to better themselves so when they complete their sentencing they will be able to adjust into their Communities and be productive citizens.
10. Any physically or mentally disabled inmate should be kept in hospital facilities or under house arrest depending the offence committed.

HUMAN RIGHTS ALLIANCE

As it presently stands all our facilities are over crowded, inmates have no incentive what so ever and we have not rehabilitation programs to prevent continues offences. If this continues within the next five years we will have due to over crowdenes riots and even murders within our prisons. After serving 10-15 years which are presently the average all our family ties with this inmates will have been destroyed and we are going to have criminals invading our streets. Our taxes will have to increase extremately to create more facilities; yet this will not create a solution it will only agrebate the problem. It will be like sweeping under the rug.

COMMENTS IF ANY:

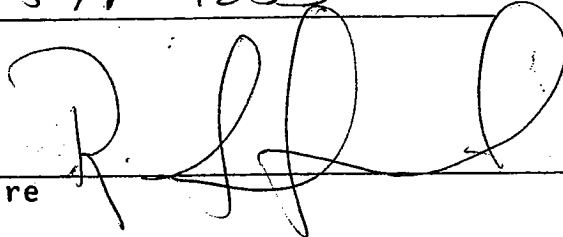
I, presently have a family member or friend in Custody of the U.S. Government.

Yes X No

Full Name: Rodney Almeida

Address: 8100 Geneva Ct 535C
Miami Fl 33166

Phone No. : (305) 594-9253

Signature 

Charles Larsen
Reg no 03616-091
FCI Englewood, UE
9595 W Quincy Ave
Littleton, CO 80123

U.S. Sentencing Commission
1331 Pennsylvania Ave NW
Suite 1400
Washington, DC 20004
September 11, 1990

Dear Sir:

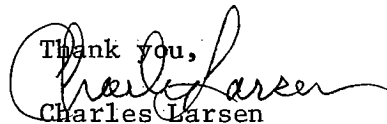
The Commission has not made a determination as to whether or not the Guidelines for quantity in cases involving a "mixture or substance" should include the weight of the carrier medium. The Courts are ruling as if you have made a decision on this matter and are including the weight of the carrier as quantity. This makes as much sense as basing punishment on the weight of the defendant. There is no rational reason to believe the carrier should be included as quantity. Senators Biden and Kennedy have introduced legislation to remedy (quote) "the unintended" disparity in the cases of LSD.

THE COMMISSION IS PROLONGING AN INEVITABLE CHANGE TO REASON AND LOGIC.

THE CARRIER EXCIPIENT SHOULD NOT BE INCLUDED AS QUANTITY FOR DRUG SENTENCING PURPOSES.

There should be a disclaimer to the mistaken assumption the Commission has decided on this issue.

This is a public comment for the September 28, 1990 deadline

Thank you,

Charles Larsen

Dear Sirs:

The attached letter to an inmate at FCI Englewood should be attached to the public comment I submitted before September 28, 1990.

Thank you,

Charles Larsen

#03616-091

FCI Englewood, 4E

9595 W Quincy Ave

Littleton CO 80123

JOSEPH R. BIDEN, JR., DELAWARE, CHAIRMAN

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ARLEN SPECTER, PENNSYLVANIA
GORDON J. HUMPHREY, NEW HAMPSHIRE

United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

RONALD A. KLAIN, CHIEF COUNSEL
DIANA HUFFMAN, STAFF DIRECTOR
JEFFREY J. PECK, GENERAL COUNSEL
TERRY L. WOOTEN, MINORITY CHIEF COUNSEL
AND STAFF DIRECTOR

October 1, 1990

Mr. John Chlumsky
04068-091, Unit UE
FCI Englewood
9595 West Quincy Avenue
Littleton, Colorado 80123

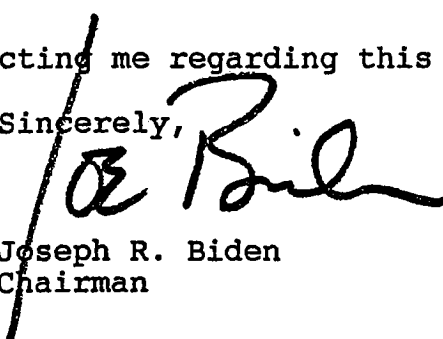
Dear Mr. Chlumsky:

Thank you for your letter regarding the issue of LSD carrier mediums. I appreciate your interest in this matter and agree that there is a fairness issue that must be considered.

S.1711, a bill to implement the President's 1989 National Drug Control Strategy, included an amendment that dealt with the issue of LSD carrier mediums, but no action was taken on the bill by the House. A similar provision was recently reported by the Senate Labor and Human Resources Committee. The Drug and Alcohol Abuse Treatment and Prevention Improvement Act of 1990, S.2649, includes a provision, Title VI, that addresses the LSD carrier issue and it has been favorably reported to the Senate.

Thank you again for contacting me regarding this matter.

Sincerely,


Joseph R. Biden
Chairman

The *Healy* court also stated that Congress could have intended the words "mixture or substance" to refer to the liquid in which the pure LSD is dissolved. *Id.* Finally, the *Healy* court relied on a Guidelines table designed to provide a sentencing court with an equivalent weight for sentencing purposes in cases in which the number of doses distributed is known but the actual weight is unknown. The table provides that a dose of LSD weighs .05 milligrams. Guidelines § 2D1.1, Commentary, Drug Equivalency Tables. This weight closely approximates the weight of one dose of LSD without blotter paper, but is not an accurate reflection of one dose with blotter paper.³

The court in *Healy* did not refer to the legislative history of the statute to support the proposition that Congress did not intend the weight of the carrier to be included in LSD cases. This is not surprising since the only reference to LSD in the debates preceding the passage of the 1986 amendments to Section 841 was a passing reference that does not address quantities or weights of drugs. 132 Cong. Rec. S14270 (daily ed. Sept. 30, 1986) (statement of Sen. Harken).

² *continued*

any carrier. 55 Fed. Reg. 19197 (May 8, 1990). A recent reference to this amendment in the BNA Criminal Practice Manual incorrectly suggests that the amendment seeks to permit an adjustment to a sentence for an LSD conviction if the combined weights of the carrier and the LSD "grossly exaggerate" the sentence. BNA Criminal Practice Manual, Vol. 4, No. 11 at 249. In spite of this apparent misapprehension by the BNA, the Commission has not, as yet, taken a position on whether the weight of the blotter paper should be included for the purpose of calculating a sentence in an LSD case.

³ For example, in *Marshall* the parties stipulated that the defendant sold 11,751 doses of LSD. As previously noted, the total weight of these doses including the blotter paper was 113,320 milligrams. Thus if the blotter paper is included the weight of one dose would be 9.64 milligrams. On the other hand the weight of the LSD without the blotter paper in *Marshall* was 670.72 milligrams, and the weight of one dose if the blotter paper is not included is .057 milligrams.

Two subsequent pieces of legislative history, however, do shed some light on this question.⁴ In a letter to Senator Joseph R. Biden, Jr., dated April 26, 1989 (Marshall Appendix at 165), the Chairman of the Sentencing Commission, William W. Wilkens, Jr., noted the ambiguity in the statute as it is currently written:

With respect to LSD, it is unclear whether Congress intended the carrier to be considered as a packaging material, or, since it is commonly consumed along with the illicit drug, as a dilutant ingredient in the drug mixture * * *. The Commission suggests that Congress may wish to further consider the LSD carrier issue in order to clarify legislative intent as to whether the weight of the carrier should or should not be considered in determining the quantity of LSD mixture for punishment purposes.

Presumably acting in response to this query, Senator Biden added to the Congressional Record for October 5, 1989, an analysis of one of a series of technical corrections to 21 U.S.C. § 841 that were under consideration by the Senate that day. This analysis states that the purpose of the particular correction at issue was to remove an unintended "inequity" from Section 841 caused by the decisions of some courts to include the weight of the blotter paper for sentencing purposes in LSD cases. According to Senator Biden, the correction "remedied" this inequity by removing the weight of the carrier from the calculation of the weight of the mixture or substance."⁵

⁴ The Supreme Court has discussed the limitations of the use of subsequent legislative history in interpreting enacted legislation, but has declined to hold that subsequent legislative history is not entitled to any weight. Compare *Sullivan v. Finkelstein*, 58 U.S.L.W. 4827, 4830 n.8 (U.S. June 8, 1990) (No. 89-504), with *id.* at 4830-4831 (Scalia, J., concurring in part).

⁵ The complete text of the relevant portions of Senator Biden's supplementary analysis of Amendment No. 976 is as follows:

September 14, 1990

Michaelene Gennaro
3636 Delmar Drive
Erie, PA 16506

Communication Director
U.S. Sentencing Commission
1331 Pennsylvania Ave. N.W.
Suite 1400
Washington D.C. 20004

Dear Sir/Madam:

This letter is written on my husbands behalf. He is currently serving a ten year term in the Federal Prison Camp on Eglin Air Force Base, Florida. In March of this year he was sentenced under the existing Federal Guidelines.

It is my understanding that you are presently reviewing these sentence guidelines. Any revision of these would most likely affect my husband. For this reason I am very interested in any changes made. At this time I would like to express a few personal comments.

First, and most important, my husband is a first time offender. He was, as many were, subjected to sentencing under these guidelines. To my knowledge these sets of guidelines do not permit any leniency towards first offenders. They only allow a limited departure, under the present wording of the law. Federal judges imposing a sentence are wary of testing the boundaries. Because of this it seems the courts are inundated with appeals for sentence reductions. Not only are the courts overtaxed but it as a well publicized fact that the prisons are critically overcrowded. Now more than ever these problems should be addressed.

No one has any quick fixes for these problems, but certainly you have other options. Couldn't first offenders have an opportunity to make ammends for their violations? Could there be a program set up to allow them to prove their sincerity to reform? After a short period of incarceration could they be eligible to earn an early parole? Presently they are to serve eighty-five percent of their sentence, with no parole.

We all realize that an offense will be met with punishment. There is no arguement over that. But for those first offenders, like my husband, couldn't there be a better way?

My husband has no prior record and is a non-violent offender. The chance of him committing another offense is highly unlikely. He has a respectable background and character references. At his sentence hearing it was my hope that the judge could take those facts into consideration. But, under the present guidelines it was impossible. The guidelines are so rigid that there is a loss of hope for anyone sentenced under them.

I pray that in the near future you will be able to ammend these guidelines. Hopefully they will be in favor of the first time offender.

Please accept my gratitude for allowing me to express my views concerning this matter.

Respectfully yours,

Michaelene Gennaro

UNITED STATES SENTENCING COMMISSION
1331 PENNSYLVANIA AVENUE, NW
SUITE 1400
WASHINGTON, D.C. 20004
(202) 626-8500
FAX (202) 662-7631

William W. Wilkins, Jr. Chairman
Julie E. Carnes
Helen G. Corrothers
Michael S. Gelacak
George E. MacKinnon
A. David Mazzone
Ilene H. Nagel
Benjamin F. Baer (ex officio)
Paul L. Maloney (ex officio)



September 24, 1990

Michaelene Gennaro
3636 Delmar Drive
Erie, PA 16506

Dear Mrs. Gennaro:

On behalf of the Commission, I thank you for your recent comments 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.

The Commission continually monitors how the guidelines are being applied across the country and will certainly examine the issue of increasing flexibility for first offenders.

Sincerely,

A handwritten signature in black ink, appearing to read "PK Martin".

Paul K. Martin
Communications Director

104-1691

H. F. Anderson
57 Peyster St.
Albany, NY 12208

9/16/90

Director
U.S. Sentencing Comm.
1331 Penn. Ave., N.W.
Washington, D.C. 20004

Re: Guideline Proposals and related Committee Action.

Dear Director,

In a discussion with my brother, an attorney, I've become aware your Commission is soliciting comments on various subjects you wish the public offer comment on. One of interest to me is the penalties section, particularly those contained in the "career criminal" section.

In a recent local case a small time drug dealer was sentenced to some 16 yrs. because he had committed two other felonies described in the career offender section. The newspaper noted that both "priors" were very small time and the man was more of a nuisance than he was a "career criminal". His total crimes amounted to, including the present conviction, to less than \$40. This was/is the extent of his crimes.

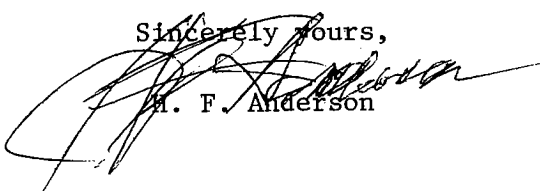
Beyond the loss of the hundreds of thousands of dollars in my taxes that will keep this man fed, clothed, etc., there is something much more fundamental wrong in this situation. This man will, for less than \$40. worth of drugs, be imprisoned for a good portion of his life, while the prisons fill with his kind the larger dealers go free because the courts are clogged with foolish cases like this one (he was eventually convicted of selling about \$20. worth of drugs).

My suggestion: when determining if a person will be sentenced as a "career criminal" that a note be added to the section which describes the definition thereof. This footnote would allow the court to determine if the person is a "career criminal" based on the profit and/or violence involved in the predicate crimes. If the person has made a living at the crimes he committed then he is a "career criminal". But a man who has been given 16 years with a burglary (at which time he'd stolen a tv) and another crime where he made no money nor was there any violence involved, then there should be something the courts may rely on in order to reduce the time to be served rather than be held to giving this same man, a small time hoodlum, an outrageous sentence.

My brother has told this has happened on several occasions. This is idiotic. This is a waste of my and your tax money. I think you should make a retroactive footnote that the defendant be evaluated in light of his actual "career" and the elements mentioned above.

Thank you for your consideration in this matter. I am and remain

Sincerely yours,


H. F. Anderson

UNITED STATES SENTENCING COMMISSION
1331 PENNSYLVANIA AVENUE, NW
SUITE 1400
WASHINGTON, D.C. 20004
(202) 626-8500
FAX (202) 662-7631

William W. Wilkins, Jr. Chairman
Julie E. Carnes
Helen G. Corrothers
Michael S. Gelacak
George E. MacKinnon
A. David Mazzone
Ilene H. Nagel
Benjamin F. Baer (ex officio)
Paul L. Maloney (ex officio)



October 5, 1990

Mr. H.F. Anderson
57 Peyster Street
Albany, NY 12208

Dear Mr. Anderson:

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.

Your observations about the career offender provision are very interesting. The guideline mirrors a statute that requires an offender who has two prior convictions for crimes of violence or drug trafficking followed by a third conviction for drugs or violence to receive a sentence at or near the statutory maximum. I would be interested in detailed information on any case in which you believe the statute was misused.

I appreciate you taking the time to write and share your thoughts.

Regards,

A handwritten signature in black ink, appearing to read "PKMA".

Paul K. Martin
Communications Director

100-1171

JAMES JAYCOX
REG NO 17501-086
FCI Englewood, UE
9595 W Quincy Ave
Littleton, CO 80123

September 18, 1990

UNITED STATES SENTENCING COMMISSION
COMMUNICATIONS DIRECTOR
1331 PENNSYLVANIA AVE., NW, Suite 1400
WASHINGTON, DC 20004

Dear Sir:

Myself and others would like to obtain the procedures for submitting a formal comment pertaining to guideline amendments. Can you send us instructions?

The amendment to Guideline 2D1.1 note 11 that is to go into effect in November if Congress doesn't take action is a bad amendment. Circuit Judge Cummings has written, "The heavy sentences that the law commands for minor traffickers in LSD are the inadvertent result of the interaction among a statutory procedure for measuring weight, adopted without understanding how LSD is sold; a decision to specify harsh mandatory minimum sentences for drug traffickers, based on the weight of the drug sold; and a decision (gratuitous and unreflective, as far as I can see) by the framers of the Guidelines to key punishment to the statutory measure of weight, thereby amplifying Congress's initial error."

It is clear to many people that this amendment just "pacifiys" the call for the Sentencing Commission to take a stand on the issue of whether the "carrier" is part of the drug "mixture or substance". The Commission is avoiding the issue and remaining ambiguous while condoning "politikally" oriented court decisions on this issue.

No action by the Sentencing Commission is prolonging disparity and causing expensive litigation. This issue could easily be resolved. The Commission could propose an amendment to exclude the carrier and see if Congress approves. All the Commission is doing now is drawing criticism from rational thinking people. Judges Cummings, Bauer, Wood, Jr., Cudahy, and Posner, ("...gratuitous and unreflective, as far as I can see). U.S. vs. Marshall, 7th Cir. 1990.

There have been two recently proposed amendments to bills in Congress to exclude the carrier from the definition of "mixture or substance". It is only rational in the first place.

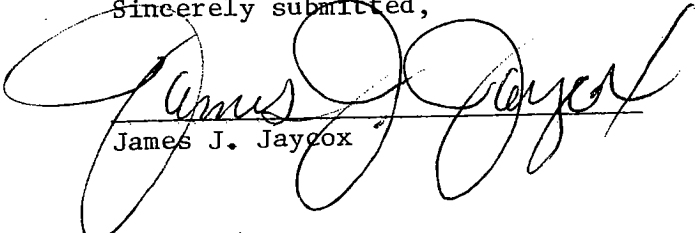
A correction by Senator Biden as part of Amendment No. 976 to S. 1711. 135 Cong. Rec. S12749 (daily ed. Oct. 5th, 1989). This bill was passed by the Senate in its entirety and is currently before the House. (see id. at S12765).

Also see the attached amendment proposed by Senator Kennedy.

(A prediction by Judge Cummings):

"... an evident failure by both Congress and the Sentencing Commission to consider how LSD is sold and an equally evident failure by the same two bodies to consider the interaction between heavy mandatory minimum sentences and the Sentencing Guidelines-will bear an interpretation that distinguishes between the carrier vehicle of the illegal drug and the substance or mixture containing a detectable amount of the drug. ..."

Sincerely submitted,


James J. Jaycox

Submitted by Senator Edward Kennedy on April 18, 1990.

Amendment no. 1716 to S.1970

SEC. _____. CLARIFICATION OF "MIXTURE OR SUBSTANCE"

Section 841(b)(1) of title 21, United States Code, is amended by inserting the following new subsection at the end thereof:

"(E) In determining the weight of a "mixture or substance" under this section, the court shall not include the weight of (i) the carrier upon which the controlled substance is placed or by which it is transported; or (ii) any substance or solution used in the manufacture of the controlled substance and then discarded."

This amendment clarifies a technical issue under the Controlled Substances Act.

Section 841 of the Act establishes a series of penalties that depend, in part, upon the weight of the "mixture or substance containing a detectable amount of" various controlled substances. The phrase "mixture or substance" is used in this section because pure controlled substances are rarely possessed or sold. Instead, substances such as heroin are often "cut" with licit substances such as quinine. With certain exceptions, the relative purity of the controlled substance sold or possessed does not alter the applicable penalty provision under section 841, although the Sentencing Commission has authority to promulgate guidelines that distinguish among defendants based upon the purity of the "mixture or substance" seized.

Some controlled substances, notably lysergic acid diethylamide (LSD), are routinely possessed and sold on a carrier, such as blotter paper or sugar cubes. As a result, courts have been called upon to determine whether the weight of the carrier is to be included in determining the weight of the "mixture or substance." A conflicting body of caselaw has emerged. Compare U.S. v. Taylor, 868 F.2d 126 (5th Cir. 1989) (weighing carrier) with U.S. v. Healy, 729 F. Supp. 140 (D.D.C. 1990) (Gesell, J.) (not weighing carrier).

This amendment clarifies Congress' intent that the weight of the carrier should not be included in this calculation. There is no rational reason for distinguishing among defendants who possess the same amount of LSD in liquid form (average weight = .05 mg. per dose), on blotter paper (average weight = 14 mg. per dose) or on a sugar cube (average weight = 2,270 mg. per dose). Just as section 841 does not contemplate that the glassine envelope in which cocaine powder is transported should be weighed, the carrier upon which LSD or similar controlled substances is transported should not be weighed.

Similarly, it makes little sense to weigh the waste material used to manufacture controlled substances such as methamphetamine. In U.S. v. Mueller, 1990 U.S. App. Lexis 8344 (May 22, 1990), the Fifth Circuit interpreted the phrase "mixture or substance" to include 8.5 gallons of an acetone solution used to "wash" a much smaller quantity of methamphetamine, and therefore imposed a 20 year sentence after applying the drug quantity table in section 2D1.1 of the sentencing guidelines. Had the controlled substance been seized a short time later, the "wash" solution would have been discarded and the defendant would have received a much different sentence. In a rational criminal justice system, a defendant's sentence should not turn so dramatically upon a fortuitous circumstance such as the point of the manufacturing process at which the controlled substance is seized.

This amendment will eliminate unwarranted sentencing disparity and obviate the need for time-consuming litigation of this technical issue.

10121-34/91
September 20, 1990

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

RE: Comments to be submitted by September 28, 1990.

Dear Director:

The Criminal Law Reporter, 4-29-90, tells that working groups within the Sentencing Commission invite comments on diverse subjects--including "prison capacity." 47 CrL 1439.

I am incarcerated at the Federal Correctional Institution in Seagoville, Texas, where my work assignment is that of a law clerk in the Inmate Law Library.

As a former charter member of the Texas Bar Legal Assistants Division (and 69 years of age), I believe that I am qualified to keep track of inquiries made by inmates from a 900-average population. The first realization is that "rumors" abound. E.g., a congressman may comment on a talk show about his concern over "prison capacity" or "overcrowding" and within hours a dozen inmates will be at our desk with the "I heard" story that either Congress or the Sentencing Commission has already increased "good time" allowances. We see at least one hundred (100) inquiries monthly (many repeating) concerned over "good time." Then, also, some inmates wonder whether they will ever see a "second chance" by way of some type "new parole plan" or "early supervised release."

It affirmatively shows the federal prison capacity at 70% over (06-21-1990 BOP census). When an inmate expresses concern for a difference of a few days per year being cut from his term of imprisonment . . . I envision that same inmate on the telephone to loved ones who are the taxpayers and voters and who surely adopt that inmate's genuine anguish and concern.

Please look extra hard at "prison capacity" for a just answer.

Respectfully yours,



Dale E. Birdsell #29260-080
Federal Correctional Institution
P. O. Box 1000 - Bldg. 12
Seagoville, Texas 75159

DEB/deb

Chuck Bauer
1833 Van Hise Ave
Madison WI 53705

March 1, 1991

US Sentencing Commission
Attn Communications Director
1331 Pennsylvania Ave NW Suite 1400
Washington DC 20004

Dear Sir or Madam,

In response to your invitation for public comment concerning proposed changes in current Federal Sentencing Guidelines for Individuals I offer the following:

I feel it is grossly unfair for all convicted Federal drug law offenders to be ineligible for parole irrespective of all other circumstances such as:

1. first time offense
2. non-violent offense
3. victimless offense
4. clear evidence and demonstration of reformed behavior
5. individual and personal circumstances

Currently a sincerely remorseful and non-violent offender is denied any avenue of constructive activity.

Moreover, manditory minimum sentences with no parole and lengthy incarceration in work camps offering no work-release privileges oblige the government to suffer the highest possible expenses.

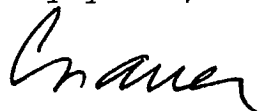
Thus, blanket guidelines punish both offender and society: the former with cruel inflexibility, the latter with wasted tax dollars. And both endure unfairness.

Society is ill-served by any law which recognizes no possibility of leniency.

Currently I believe reason and justice suffer and I hope that adjustments might be made to existing guidelines. Punishment ought to fit the criminal even as it fits the crime.

How might I obtain the minutes of your deliberations?

Very truly yours,



Chuck Bauer

PCRC-96

W-2 DICI
#82858-022
P.O. 600 Dorm 5
EGLIN AFB.

FL. 32542

U.S. SENTENCING COMMISSION
1331 PENNSYLVANIA AVE. N.W.
SUITE 1400
WASHINGTON DC. 20004

GENTLEMAN:

IN RESPONSE TO YOUR REQUEST FOR COMMENT ON

THE ISSUES AND POTENTIAL CHANGES IN THE FEDERAL SENTENCING
GUIDELINES I WOULD LIKE TO OFFER THE FOLLOWING.

ONE ISSUE I DO NOT SEE ADDRESSED IS THAT

OF SUPERIOR ACHIEVEMENT. I WONDER IF IT IS YOUR

INTENTION TO DO AWAY WITH IT ENTIRELY, SINCE

THERE IS NO PAROLE UNDER THE GUIDELINES.

THIS IS A BIG MISTAKE! MOST ALL INCENTIVES ARE

BEING RAPIDLY REMOVED, BUT IN THE CASE OF

NO RECOGNITION FOR EDUCATIONAL ACHIEVEMENT, THIS

BORDERS ON ABUSE.

SINCE MY ARRIVAL AT EGLIN AFB - F.P.C. I

HAVE COMPLETED OVER 1000 HRS OF VOCATIONAL TRAINING. I HAVE CERTIFICATES OF COMPLETION FOR FIVE INDIVIDUAL V.T. COURSES, AN INTERNATIONAL IMPORT EXPORT COURSE, AND AN ELECTRONICS COURSE. I HAVE BEEN NATIONALLY CERTIFIED THROUGH THE AUTOMOTIVE SERVICE EXCELLENCE PROGRAM IN TWO FIELDS AND I EXPECT CERTIFICATION IN TWO MORE IN NOVEMBER. I AM ENROLLED IN ~~TWO~~ TWO COLLEGE COURSES AT THE LOCAL JUNIOR COLLEGE AND WILL CONTINUE UNTILL MY RELEASE. ALL MY GRADES IN THESE COURSES HAVE BEEN OF THE "A" LEVEL. I HAVE ALSO COMPLETED NEARLY ONE-QUARTER OF NAVAL ARCHITECTURE COURSE FROM THE WESTLAWN MARINE INSTITUTE OF STAMFORD CT. THIS IS A DIPLOMA COURSE AND IS ACCEPTED

WORSE IT WILL GET. THE "GUIDELINES" HAVE STRIPPED US OF OUR INDIVIDUALITY AND ANY CONSIDERATION DUE US FOR OUR MORAL CONVICTIONS AS HUMAN BEINGS.

I AM FORTY YRS. OLD, A FIRST OFFENDER SENTENCED TO THE 51 MONTHS, TOP OF MY GUIDELINES, DENIED BAIL FOR A SIMPLE POSSESSION CHARGE INVOLVING COCAINE. THIS WAS DONE DESPITE COMMUNITY SUPPORT AND AN EXCELLENT P.S.I. YET DESPITE MY ACHIEVEMENTS I HAVE NOTHING TO LOOK FORWARD TO BUT FULL TERM INCARCERATION MINUS 54 DAYS PER YEAR. IT IS HARD TO KEEP TELLING YOURSELF YOU'RE DOING THE RIGHT THING, WHEN YOU HAVE NOTHING COMING MORE THAN THE INMATE WHO DOES NOTHING.

NATIONALLY AS A 2YR. COLLEGE DEGREE. I HAVE
DONE THIS AND STILL FULFILLED MY WORK OBLIGATION
TO EGLIN F.P.C.

GENTLEMAN I AM CONSTANTLY ASK WHY
DO I BOTHER, WHEN I WILL RECIEVE NO
CONSIDERATION FOR THIS. IN MY CASE I DO
IT TO BETTER MYSELF AS I ALWAYS HAVE.
I SPEAK OUT TO OTHERS TO TRY AND GET
THEM INTERESTED IN SCHOOL AND CAMP VOCATIONAL
TRAINING, WHICH WE ARE VERY LUCKY TO HAVE.
THE RESPONSE IS ALWAYS THE SAME, WHY SHOULD
I DO ANYTHING WHEN NO ONE WILL NOTICE?
I MIGHT AS WELL SIT ON MY BUTT AND DO
THE LEAST I CAN. THIS MENTALLITY IS
SPREADING, AND THE MORE PEOPLE IN-THE

but sit around and speak of anarchy
all day. I am afraid the time will come
when this sort of attitude will cause
the collapse of these programs.

This is but one example of the
unfairness of the "Guidelines",

These 'Guidelines' only punish and
offer nothing in return for those who
except their punishment. This situation will
continue to deteriorate without some acknowledgement
of superior achievement.

With these long sentences, no incentive to
learn or better oneself, people will
hopefully, peacefully complete their
incarceration, but will have learned nothing

but to hate, a scary thought. What incentives
do they have to better themselves — none.

Secondly, the supervised release program
is nothing but a second sentence for the
same crime. In a system where there is
no reward for achievement how can you
expect people to make it when they
have completed their sentence with
supervised release hanging over their
heads. Instead of letting them get
on with their lives you wish to remind
them of their mistake, for which their
debt has been paid, for years to come. This
gentleman is a gross injustice.

William J. Lts

To the Honorable
U.S. Senator
Wash. D.C.

Dear ~~Mr.~~ Mrs. Elaine Nagel

I am writing this letter to you in concern of a particular person who is currently incarcerated in a Federal Correction facility. That person is my father Stephen E. Usselman. I want to write and tell you personally my feelings towards the sentencing guidelines that were created for offenders that have been charged for the distribution of illegal drugs. Especially first time offenders. There is alot of evidence + and proof that putting these individuals behind bars for long periods of time doesn't solve the problem of drug addiction, but does however effectively hurt + destroys the imprisoned individuals identities and families. Believe me I can tell you personally how it can affect the entire lives of one family + I am sure many others. I am not saying what they have done is right but, there are far more crimes of a more serious matter that would call for a sentence like the ones are these guidelines have called for.

I do feel that there is no doubt there are those individuals that do need time spent for corrections. But many first time offenders learn very quickly when they have to spend time in jail away from friends + family. I know my father figured it out right away. It will not take him 8 yrs. + 8 months to realize his mistake.

In his case I am sure he just wants another chance to start over and try to rebuild his life and work off the humiliation that he has gone through & put his friends & family through by even being tied up in the mess he was created for.

I know my father has payed more than a worthy price. And he still has more than $1\frac{3}{4}$ of his left to serve.

So what it boils down to now is my father hoping for an early release and trying to make sure that he is credited with all of the good behavior time which he is entitled to.

The new guidelines do claim correct do allow more good time, and that's how you can hopefully help by making sure my father gets it.

Thank You:

Sincerely: Mike Lassefman

Charles Hopkins
#03616-091
FCI Englewood
9595 W. Quincy Ave
Littleton, CO 80123

September 24, 1996

U.S. Sentencing Commission,
1331 Pennsylvania Ave, NW
Suite 1400
Washington, DC 20004

Dear Communications Director:

I in of Public Comment due September 28, 1990 I submit that the Judiciary Committee is trying to tell the Commission something in this amendment (see attached).

The guidelines are ambiguous and irrational in 2D1.1 note 11.

Sincerely,
Charles Hopkins

S1970

136 Cong. Rec. S7069 (daily ed. May 24, 1990)

SEC. ____ CLARIFICATION OF "MIXTURE OR SUBSTANCE"

Section 841(b)(1) of title 21, United States Code, is amended by inserting the following new subsection at the end thereof:

"(E) In determining the weight of a "mixture or substance" under this section, the court shall not include the weight of (i) the carrier upon which the controlled substance is placed or by which it is transported; or (ii) any substance or solution used in the manufacture of the controlled substance and then discarded."

This amendment clarifies a technical issue under the Controlled Substances Act.

Section 841 of the Act establishes a series of penalties that depend, in part, upon the weight of the "mixture or substance containing a detectable amount of" various controlled substances. The phrase "mixture or substance" is used in this section because pure controlled substances are rarely possessed or sold. Instead, substances such as heroin are often "cut" with licit substances such as quinine. With certain exceptions, the relative purity of the controlled substance sold or possessed does not alter the applicable penalty provision under section 841, although the Sentencing Commission has authority to promulgate guidelines that distinguish among defendants based upon the purity of the "mixture or substance" seized.

Some controlled substances, notably lysergic acid diethylamide (LSD), are routinely possessed and sold on a carrier, such as blotter paper or sugar cubes. As a result, courts have been called upon to determine whether the weight of the carrier is to be included in determining the weight of the "mixture or substance." A conflicting body of caselaw has emerged. Compare U.S. v. Taylor, 868 F.2d 126 (5th Cir. 1989) (weighing carrier) with U.S. v. Healy, 729 F. Supp. 140 (D.D.C. 1990) (Gesell, J.) (not weighing carrier).

This amendment clarifies Congress' intent that the weight of the carrier should not be included in this calculation. There is no rational reason for distinguishing among defendants who possess the same amount of LSD in liquid form (average weight = .05 mg. per dose), on blotter paper (average weight = 14 mg. per dose) or on a sugar cube (average weight = 2,270 mg. per dose). Just as section 841 does not contemplate that the glassine envelope in which cocaine powder is transported should be weighed, the carrier upon which LSD or similar controlled substances is transported should not be weighed.

Similarly, it makes little sense to weigh the waste material used to manufacture controlled substances such as methamphetamine. In U.S. v. Mueller, 1990 U.S. App. Lexis 8344 (May 22, 1990), the Fifth Circuit interpreted the phrase "mixture or substance" to include 8.5 gallons of an acetone solution used to "wash" a much smaller quantity of methamphetamine, and therefore imposed a 20 year sentence after applying the drug quantity table in section 2D1.1 of the sentencing guidelines. Had the controlled substance been seized a short time later, the "wash" solution would have been discarded and the defendant would have received a much different sentence. In a rational criminal justice system, a defendant's sentence should not turn so dramatically upon a fortuitous circumstance such as the point of the manufacturing process at which the controlled substance is seized.

This amendment will eliminate unwarranted sentencing disparity and obviate the need for time-consuming litigation of this technical issue.

Amedment No. 976

S.1711.135 Cong. Rec. S12749

(daily ed. Oct. 5, 1989)

Amendment No. 1716

S. 1970.136 Cong. Rec. S7069

(daily ed. May 24, 1990)

July 12, 1990

WILLIAM W. WILKINS , JR.

CHAIRMAN

UNITED STATES SENTENCING COMMISSION

[RE.] WILLIAM W. WILKINS , JR.

Mr. Wilkins.

I am writing to you in hope that you will clarify statements made by you on June 28 , 1990 , at a Congressional Hearing before the Senate Committee.

On Congressional Record S 9012 , Chapter 7 — Sentencing, you stated under [A], paragraph (2), that....'Moreover, persons serve these sentences almost in full; as noted in chapter 3, § D, The 1984 Sentencing Reform Act "ABOLISHED PAROLE FOR CRIMES COMMITTED ' AFTER ' OCTOBER 1987 .

There seems to be quite a difference of opinions, since the Court's are saying (with a few exceptions) that the "ANTI-DRUG ABUSE ACT OF 1986", effective on October 27, 1986 , the date The President signed this Act , calls FOR MINIMUM—MANDATORY SENTENCE.....with "NO PAROLE", under the same Section , Title 21, 841 , (b) (1)(b), that you quoted in this paragraph, and "ONE YEAR EARLIER THAN THE DATE QUOTED BY YOU IN THIS RECORD".

I fully agree with you as to the date "NON - PAROLABLE SENTENCES" took effect, as being November 1, 1987 , since 'THE SUPERVISED RELEASE PROVISIONS OF SECTION 1002 OF THE ANTI - DRUG ABUSE ACT OF 1986 WAS AND IS PART OF ' THE SENTENCING REFORM ACT OF 1984, EFFECTIVE DATE, NOVEMBER—1, 1987', then if this is true, this result is in conflict with the result reached by applying the rule that, in the express provision , the date of enactment is the date of effectiveness. However, the Court concludes

that the result reached by applying the rule against a construction creating arbitrary and capricious distinctions more closely reflects the probable intent of Congress, or rather, what Congress would have intended had it contemplated the consequences spring from the interplay of the statutory provisions. (Section 1002 quoted from an Order by The Honorable Senior United States District Court Judge, GLEN M. WILLIAMS, May 31,1990, in respect to the "EFFECTIVE DATE OF THE ANTI-DRUG ABUSE ACT OF 1986. In this opinion, (attached) The Honorable Judge WILLIAMS, IN HIS CONCLUSION ,SET NOVEMBER 1,1987 AS THE EFFECTIVE DATE OF THIS ACT). In reading this decision by Judge Williams and your testimony to the Congressional Senate Committee on the date that PAROLE WAS ABOLISHED, I can only conclude that the proper 'EFFECTIVE DATE IS NOVEMBER 1,1987.

PLEASE SIR, AFTER ALMOST SIX YEARS SINCE THE SENTENCING REFORM ACT WAS FORMED , WE , AND I SPEAK NOT ONLY FOR MYSELF, BUT FOR EVERYONE CONCERNED , NEED A FIRM ANSWER TO THIS PRESSING QUESTION OF THE EFFECTIVE DATE WHEN "PAROLE WAS ABOLISHED" ?

One more question if you don't mind Sir. " Does the 'NON-PAROLABLE' Sanction under Title 21, § 846 and § 963, which is the Conspiracy Section of each of these Sections fall under the Effective Date of the Substantive offense itself. [note] Both, Title 21, § 846 and §963, was amended by Public-LAW 100— 690, November 18, 1988, and this Amendment had an Effective Date- of March 1,1989. (This Amendment substituted "shall be subject to the same penalties as those prescribed for the offense").

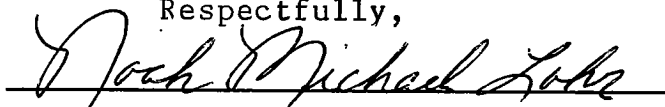
I would like to add to the above Conspiracy Question that,the Courts around the Country has established the fact that a "CONSPIRACY OFFENSE", DOES NOT CARRY A MINIMUM MANDATORY SENTENCE. Therefore, does that mean that the Conspiracy Charge "DOES NOT CARRY A NON - PAROLABLE SENTENCE"

since the Courts have established the fact that a "MINIMUM MANDATORY—
SENTENCE DOES NOT APPLY TO A CONSPIRACY CHARGE" ?

I am enclosing a copy of the MEMORANDUM OPINION AND ORDER, from the Western District Of Virginia , by The Honorable Senior District Court Judge , GLEN M. WILLIAMS . This is a well written Opinion, and hopefully will help to answer some very important questions that have been hanging around to long.

I respectfully thank you for your time and consideration in answering these troubling questions. I have tried to explain these questions to the best of my ability , and I remain.

Respectfully,

A handwritten signature in cursive script, reading "Noah Michael Lohr", written over a horizontal line.

Noah Michael Lohr
Federal Reg. No. 26726-004
Shelby Unit
P.O. Box 34550
Memphis , Tennessee 38184-0550

FILED

for Alexander
MAY 31 1990

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ABINGDON DIVISION

JOYCE F. WITT, Clerk
By: *Stacy*
Deputy Clerk

UNITED STATES OF AMERICA,

Plaintiff,

v.

SINCLAIR PRESTON and BEN JOHNSON,

Defendant.

CRIMINAL CASE NO. 87-00085

MEMORANDUM OPINION

and

ORDER

This case is before the court on a motion by the defendants to have the court reduce their sentences pursuant to Rule 35 of the Federal Rules of Criminal Procedure.

FACTUAL AND PROCEDURAL BACKGROUND

On November 18, 1987, the defendants were convicted of conspiring to distribute cocaine and aiding and abetting the distribution of cocaine. Those offenses were committed in the Spring of 1987. On January 28, 1988, the defendants were sentenced to ten years in prison, with no eligibility for parole, and five years of supervised release. The convictions were appealed to the Court of Appeals for the Fourth Circuit which affirmed them. The resulting mandate from the Court of Appeals was received by this court and filed on March 16, 1989. Mr. Johnson and Mr. Preston filed their Rule 35 motions on June 2, 1989 and June 14, 1989, respectively.

ANALYSIS

I.

Jurisdiction of the Court

Rule 35 of the Federal Rules of Criminal Procedure provides that "[a] motion to reduce a sentence may be made . . . within 120 days after receipt by the court of a mandate issued upon affirmance of the judgment The court shall determine the motion within a reasonable time." Both the defendants' motions to reduce their sentences were made within 120 days of the receipt of the mandate issued by the Fourth Circuit Court of Appeals upon its affirmance of the convictions of the defendants. Therefore, the court has jurisdiction to hear and rule upon these motions.

II.

Effective Date of Sentencing Provisions

The defendants argue that this court erroneously applied a provision of the Narcotics Penalties and Enforcement Act of 1986, Pub. L. 99-570, Tit. I, Subtit. A, 100 Stat. 3207-2 (1986) [hereinafter "Act"], to the offenses for which they were convicted. They assert that the sentencing provisions and the prohibition against probation, parole or suspension of a sentence contained in the Act do not apply to offenses which were committed before November 1, 1987. Thus, the issue is one of statutory construction - what is the effective date of these provisions?

Description of Statute

The Act is divided into nine sections, including one section which simply sets forth the title of the act. Of the remaining eight sections, four of them contain an effective date tied to the effective date of 18 U.S.C. § 3583 [hereinafter "Supervised Release Act"], and four of them contain no effective date. The defendants were sentenced under section 1002 of the Act, which amended section 401(b)(1) of the Controlled Substances Act, 21 U.S.C. 841(b)(1). Section 1002 requires that if a sentence of imprisonment is imposed, it must be for a certain minimum number of years with no parole, probation or suspension of the sentence; it contains no effective date.¹ Section 1007 of the Act allows the court limited authority to reduce prison sentences below the mandatory minimum.² Its effective date was explicitly tied to the

¹ The pertinent provisions of section 1002 are as follows: "[S]uch person shall be sentenced to a term of imprisonment which may not be less than 10 years . . . , a fine . . . , or both." . . . Any sentence under this subparagraph shall . . . impose a term of supervised release of at least 5 years in addition to such term of imprisonment Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this subparagraph. No person sentenced under this subparagraph shall be eligible for parole during the term of imprisonment imposed therein." 21 U.S.C. 841(b)(1).

² The pertinent provisions of section 1007 are as follows: "Upon motion of the Government, the court shall have the authority to impose a sentence below a level established by statute as minimum sentence so as to reflect a defendant's substantial assistance in the investigation or prosecution of another person who has committed an offense."

effective date of the Supervised Release Act, which resulted in an effective date of November 1, 1987.³

Neither the United States Supreme Court nor the Fourth Circuit has specifically addressed when the sentencing provisions of section 1002 became effective. Thus, there is no controlling authority on this issue.

Construction of a Statute

The goal of statutory construction of a federal law is to determine the intent of Congress. E.g., Alabama v. Tennessee Valley Auth., 636 F.2d 1061, 1066 (11th Cir. 1981), cert. denied, 454 U.S. 837, 102 S.Ct. 142, 70 L.Ed.2d 118 (1981). The starting point for discerning congressional intent is the language of the statute itself. Matala v. Consolidation Coal Co., 647 F.2d 427, 429 (4th Cir. 1981). However, as noted above, section 1002 does not mention when it becomes effective. Where the text fails to address an issue pertinent to decision, an ambiguity exists.⁴ United States v. Veon, 538 F. Supp. 237, 243 (E.D. Cal. 1982).

³ Act at sec. 1007, p. 3207-7; Sentencing Reform Act of 1984, Pub. L. No. 98-473, § 235, 1984 U.S. Code Cong. & Admin. News (98 Stat.) 1987, 2031, amended by Sentencing Reform Amendments Act of 1985, Pub. L. No. 99-217, § 4, 1985 U.S. Code Cong. & Admin. News (99 Stat.) 1728.

⁴ This is perhaps an oversimplification. Even if a statute is silent on a issue, but that issue is addressed by a clearly applicable rule of construction and there are no other reasonable alternative constructions, then a statute can hardly be said to be ambiguous on that issue. However, if there is more than one possible reasonable construction, as is true in the instant case, see discussion, infra, then it may be fairly concluded that ambiguity is present.

See also Busic v. United States, 446 U.S. 398, 407, 100 S.Ct. 1747, 64 L.Ed.2d 381 (1980).

Legislative history should be used as a guide to resolve an ambiguity. E.g., Blum v. Stenson, 465 U.S. 886, 104 S.Ct. 1541, 79 L.Ed.2d 891 (1984). However, there is no reported legislative history of the Act that is helpful in this regard. See 1986 U.S. Code Cong. & Admin. News 5393 (no Senate or House Report was submitted with this legislation). When a statute is ambiguous and the legislative history does not resolve the ambiguity, then a court must turn to the canons of construction for assistance.

Canons of Construction

The Government argues that the issue is resolved by the rule of construction that when a date of effectiveness is not expressly provided, the statute should become effective upon enactment.⁵ This is, indeed, a well-established canon of construction. E.g., United States v. York, 830 F.2d 885, 892 (8th Cir. 1987), cert. denied, 484 U.S. 1074, 108 S.Ct. 1047, 98 L.Ed.2d 1010 (1988).

Although the early opinions of the United States Supreme Court setting forth the rule were unclear whether it was a rule of law or a rule of construction, see, e.g., Arnold v. United States, 20 U.S. 163, 210 (1822), both the First and the Ninth Circuits have made clear that they regard the rule as a rule of construction. United States v. Ferryman, 897 F.2d 584 (1st Cir. 1990); United States v. Shaffer, 789 F.2d 682, 686 (9th Cir.

⁵ Using this rule for the provisions in question would result in an effective date of October 27, 1986, the date on which President Reagan signed the bill containing the Act.

1986). This court concludes that this is the better view and that therefore the rule may be trumped in a specific case by another rule of construction which application more closely reflects the intent of Congress.

The Fourth Circuit has addressed the issue of when another provision contained in section 1002, the supervised release requirement, see n. 1, supra, became effective. United States v. Whitehead, 849 F.2d 849, 860 (4th Cir. 1988), cert. denied, 109 S.Ct. 534, 102 L.Ed. 566 (1988). The court cited United States v. Byrd, 837 F.2d 179 (5th Cir. 1988), as support for its holding that the effective date was not the date of enactment. 849 F.2d at 860. The court in Byrd refused to apply the rule of construction that in the absence of an express date of effectiveness the provision is effective on the date of enactment. 837 F.2d 179. Instead, the court concluded, based on the relationship between the supervised release provisions in section 1002 and 1004 and the congressional history of an earlier act, that the date of effectiveness for the supervised release provisions should be that of section 1004 rather than the date of enactment.⁶ Id. at 181, n.8. It should be noted that there is no reference in section 1002 to

⁶ Section 1004 is as follows: "(a) The Controlled Substances Act and the Controlled Substances Import and Export Act are amended by striking out "special parole term" each place it appears and inserting "term of supervised release" in lieu thereof."

"(b) The amendments made by this section shall take effect on the date of the taking effect of section 3583 of title 18, United States Code."

section 1004 or vice versa. However, the court concluded that its interpretation resulted in a "more logical arrangement." Id.

A court, in construing a statutory provision, is to construe the statute as a whole. United States v. Morton, 467 U.S. 822, 828, 104 S.Ct. 2769, 81 L.Ed.2d 680 (1984). In construing the statute as a whole, it is to strive to avoid a construction producing arbitrary, capricious, or senseless distinctions, or an unequal operation of the statute. 73 Am. Jur.2d Statutes § 261 (1974). See also C.I.R. v. Asphalt Products Co., Inc., 482 U.S. 117, 121, 107 S.Ct. 2275, 96 L.Ed.2d 97 (1987)(judicial perception that a particular result would be unreasonable may enter into construction of ambiguous statutory provisions); Bechtel Const., Inc. v. United Broth. of Carpenters & Joiners of America, 812 F.2d 1220, 1225 (9th Cir. 1987)(court should avoid construction establishing illogical, unjust, or capricious statutory scheme); Evcco Leasing Corp. v. Ace Trucking Co., 828 F.2d 188, 195 (3rd Cir. 1987)(statutes must be interpreted to receive sensible construction, so as not to lead to injustice and oppression).

The rule's rationale is that the court should assume, in the absence of clear evidence to the contrary, that Congress does not intend for any statute to contain arbitrary or capricious distinctions. The Fifth Circuit in Byrd, noting the "confusing statutory draftsmanship" of the Act, avoided a construction producing the illogical result of the supervised release provisions of section 1002 becoming effective before the supervised release provisions

mandated in the other sections of the Act became effective. 837 F.2d at 181.

Government's Construction of Statute Produces Arbitrary Hardship

Under the law existing prior to the effective date of the Act, there was no requirement that a sentence of imprisonment be for a minimum number of years for the offenses committed by the defendants. See 21 U.S.C. § 841(b) (Supp. II 1984). If the date of enactment, October 27, 1986, is assumed to be the effective date for section 1002, then a window of hardship was created for the short period of time between October 27, 1986 and November 1, 1987 in which a defendant is subject to a prison term for a mandatory minimum number of years, while not enjoying the possibility of benefiting from the exception to the mandatory minimum contained in section 1007, see n. 2, supra.

It is irrelevant whether the particular defendants would have been able to take advantage of section 1007 to achieve a lower sentence. The pertinent issue is the construction of the statute, not its application to a particular defendant or defendants.

It may often occur that Congress increases the penalty for a crime and then subsequently concludes that that penalty is too harsh and therefore reduces it somewhat, thus intentionally creating an intermediate period in which the penalty is harsher than that existing either before or after that period. However, why would Congress have intended to create such a window of hardship, in advance, through the enactment of a single act? In other words, why would Congress and the President, on October 27, 1986,

have intended to punish certain persons who committed the crimes in question between October 27, 1986 and November 1, 1987 more harshly and inflexibly than if they had committed those crimes before October 27, 1986 or after November 1, 1987.

The court cannot contemplate any reason that Congress may have had for creating such a distinction between identical crimes and therefore concludes that it is arbitrary and capricious. There is no legislative history that provides evidence that Congress intended to create such a distinction.

While it appears that Congress did not intend to create this distinction, it is most likely that it did not even perceive that such a distinction would be created by the interplay of the statutory provisions if the effective date for the sentencing provisions was to be the date of enactment. The law was apparently hastily drafted and passed. See United States v. Ferryman, 897 F.2d 584 (1st Cir. 1990).

The Third Circuit, in Zambardino v. Schweiker, 668 F.2d 194 (3rd Cir. 1981), failed to give effect to the plain language of a statute because there was "little evidence in the legislative history" that Congress sought alter the status quo in a certain respect. In regard to determining the effective date of section 1002, it is not even a question of whether to give effect to the plain language of the statute, but whether to employ a rule of statutory construction which would create an arbitrary distinction in the absence of any legislative history that Congress so intended to create that distinction.

Based on the rule that a court should avoid a construction of an ambiguous statute which results in arbitrary and capricious distinctions, the court concludes that the mandatory minimum sentencing provision of section 1002 became effective at the same time that sections 1004, 1006, 1007 and the supervised release provisions of section 1002 became effective - on November 1, 1987. This result is in conflict with the result reached by applying the rule that, in the absence of an express provision, the date of enactment is the date of effectiveness. However, the court concludes that the result reached by applying the rule against a construction creating arbitrary and capricious distinctions more closely reflects the probable intent of Congress, or rather, what Congress would have intended had it contemplated the consequences springing from the interplay of the statutory provisions.

Rule of Lenity

This conclusion is further reinforced by the rule of construction known as the "rule of lenity," which requires that an ambiguity in a penal statute, if the intent of Congress is unclear, be construed in favor of lenity. United States v. Enmons, 410 U.S. 396, 411, 93 S.Ct. 1007, 35 L.Ed.2d 379 (1973); United States v. Mason, 611 F.2d 49 (4th Cir. 1979). The rule of lenity applies not only to the substantive provisions of a criminal statute, but also to the provisions providing for the penalties for violations of that statute. Bifulco v. United States, 447 U.S. 381, 387, 100 S.Ct. 2247, 65 L.Ed.2d 205 (1980).

The rule of lenity is to be employed as a last resort, when the intent of Congress is unclear even after the application of other aids to construction. Russello v. United States, 464 U.S. 16, 104 S.Ct. 296, 78 L.Ed.2d 17 (1983). Thus, even if the court had concluded that it was unclear which canon of construction should be applied in this case, the rule assuming the effective date to be the date of enactment or the rule against a construction resulting in arbitrary distinctions, the rule of lenity mandates the construction more favorable to the defendants, which is the latter rule.

Contrary Authority

The Government cites a later Fifth Circuit case which restricted the holding in Byrd to the supervised release provisions and refused to extend it to provide the same effective date for the no parole provision of section 1002. United States v. Robles-Pantoja, 887 F.2d 1250, 1259 (5th Cir. 1989). Thus, the court implied that all of section 1002, except for the supervised release provisions, became effective upon enactment.

Five other circuits have ruled that the mandatory minimum sentencing provisions of section 1002 became effective upon enactment. United States v. Levy, 865 F.2d 551, 559 n.4 (3rd Cir. 1989); United States v. Levarro, 877 F.2d 1483, 1487 (10th Cir. 1989); United States v. Padilla, 869 F.2d 372, 382 (8th Cir. 1989), cert. denied, 109 S.Ct. 3223, 106 L.Ed.2d 572 (1989); United States v. Arrieta, 855 F.2d 804, 805 (11th Cir. 1988);

United States v. Meyers, 847 F.2d 1408, 1416 (9th Cir. 1988). See also United States v. Ferryman, 897 F.2d 584 (1st Cir. 1990).

The court in Meyers based its result on the fact that the 1984 amendments to the penalty provisions of 21 U.S.C. § 841, contained in the Controlled Substances Penalties Amendments Act, Pub. L. No. 98-473, 98 Stat. 2030 (1984), were construed as not being tied to the effective date of the Sentencing Reform Act of 1984, which took effect on November 1, 1987, but were construed as becoming effective upon enactment. 847 F.2d at 1416. However, the 1984 amendments did not contain mandatory minimum sentences, id. at 1414; therefore, the arbitrary hardship which such a construction would entail in regard to the Act was not present in regard to the 1984 amendments. The courts in both Levy and Padilla relied on Meyers and its reasoning in reaching their results. 865 F.2d at 559 n.4; 869 F.2d at 382. The courts in Levarro and Arrieta reached their results with little or no discussion. 877 F.2d at 1487; 869 F.2d at 382.

The court in Robles-Pantoja based its ruling on the relationship between sections 1002 and 1004 and the fact that section 1004 involved only supervised release. 887 F.2d at 1258. This court bases its ruling on the relationship between all the sections of the Act, and in particular the relationship between sections 1002 and 1007, a relationship which was not discussed in either Robles-Pantoja or in any of the other cases noted above.

Finally, the result reached in those cases is problematic for this circuit because it would result in the piecemeal implementa-

tion of section 1002. In fact, the supervised release provision, the mandatory minimum sentencing provision, and the no parole provision are all contained in the same subparagraph of section 1002. Providing different effective dates for those provisions would be contrary to the reasonable assumption that Congress drafted that subparagraph as a unit and that it intended that the individual provisions of the subparagraph function together to create a coherent and rational change to the federal scheme of sentencing.

Two of the six circuits which have held that the mandatory minimum sentencing provisions of section 1002 were effective at the date of enactment have avoided this problem of piecemeal implementation by holding that all of section 1002, including the supervised release provisions, were effective on the date of enactment. United States v. Torres, 880 F.2d 113 (9th Cir. 1989), cert. denied, 110 S.Ct 873, 107 L.Ed.2d 956 (1990); United States v. Gozlon-Peretz, 894 F.2d 1402 (3rd Cir. 1990). However, because Whitehead is the law of this circuit, the only way for this court to avoid piecemeal implementation of section 1002 is to hold that the entire section became effective on November 1, 1987.

III.

The court notes another defect in the sentences which were imposed, although it was not raised by any of the parties in the instant case. The court, when imposing those sentences, was under the impression that if the Act were the regime under which the defendants were to be sentenced, then the court had no option but

to impose the ten year sentences. However, the language of the Act appears to allow the imposition of a fine only.

Section 1002 provides in part that a person involved in the distribution of 5 kilograms of cocaine or more:

shall be sentenced to a term of imprisonment which may not be less than 10 years or more than life and if death or serious bodily injury results from the use of such substance shall be not less than 20 years or more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of Title 18, or \$4,000,000 if the defendant is an individual or \$10,000,000 if the defendant is other than an individual, or both.

21 U.S.C. § 841(b)(1)(A) (emphasis added).

The Fourth Circuit recently interpreted another provision providing for sentencing for certain drug-related offenses, 21 U.S.C. § 844(a). United States v. Jones, No. 89-5586 (4th Cir. May 10, 1990). That provision's syntax is nearly identical to that of the above provision.⁷ The Fourth Circuit concluded that the language of the provision was plain and conferred upon the sentencing court the discretion to impose a fine rather than a prison term of at least five years. Id.

The Fourth Circuit, however, concluded that the legislative history of the statute containing the provision did not contradict the plain language of the provision; the court left open the possibility that if the legislative history did clearly indicate a legislative intent contrary to the language of the statute, then

⁷ The relevant part of the provision in section 844(a) provides that "a person convicted under this subsection . . . shall be fined under Title 18, or imprisoned not less than 5 years and not more than 20 years, or both" 21 U.S.C. § 844(a).

the statute would be construed consistent with that intent. See id., slip op. at 3-4. The provision analyzed by the Fourth Circuit in Jones was passed in an act different from the act containing section 1002 and therefore has a legislative history different from that of section 1002.⁸

The First Circuit, in interpreting a sentencing provision which has the prison term, fine, "or both" structure⁹ and which is contained in the same Act as section 1002, held that its legislative history, along with certain accompanying statutory provisions, clearly showed that the "or both" language to be a product of inadvertent draftsmanship and that Congress intended that fines were to be imposed only as an additional, and not as the sole penalty. United States v. Colon-Ortiz, 866 F.2d 6, 9 (1st Cir. 1989), cert. denied, 109 S.Ct. 1966, 104 L.Ed.2d 434 (1989). However, the court asserted that the apparent inconsistency between the language of the provision, which allows for only a fine, and certain accompanying provisions, which suggest that prison sentences are required, creates a "notice deficiency" which implicates the Due Process Clause notice requirements.¹⁰ Id.

⁸ The provision analyzed by the Fourth Circuit was passed in the Anti-Drug Abuse Act of 1988. See Pub. L. 100-690, Tit. VI, § 6371, 102 Stat. 4370 (1988).

⁹ The provision provides that the sentence shall be "a term of imprisonment which may not be less than 5 years . . . , a fine . . . , or both." 21 U.S.C. § 841(b)(1)(B).

¹⁰ The court in Colon-Ortiz noted that the following provisions suggested that prison terms were mandatory: "Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this subparagraph. No person sentenced under this subparagraph

Section 1002 has the same legislative history as the provision that the First Circuit construed and also contains certain language which suggests that prison sentences are required¹¹; thus, the conclusions the First Circuit reached in regard to the "or both" language in the provision it construed apply equally to the "or both" language in section 1002. Therefore, this court will construe section 1002 in light of the due process concerns noted by the First Circuit in Colon-Ortiz.

Due Process Notice Requirements

The Constitutional right to due process requires that a penal statute be clear on its face. 866 F.2d at 9. The United States Supreme Court has held that the Due Process Clause of the Fifth Amendment is violated by a penal statute which "fails to give a person of ordinary intelligence fair notice that his contemplated conduct is forbidden by the statute." United States v. Harriss, 347 U.S. 612, 617, 74 S.Ct. 808, 812, 98 L.Ed. 989 (1954). The court in Colon-Ortiz held that this principle also applies to the penalty provisions of a penal statute: the Due Process Clause requires that a penalty provision be drafted so that a "person of ordinary intelligence should not have to guess at [its] meaning."

shall be eligible for parole during the term of imprisonment imposed therein." 21 U.S.C. § 841(b)(1)(B).

¹¹ The language contained in section 1002 which suggests that prison terms are mandatory is as follows: "Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this subparagraph. No person sentenced under this subparagraph shall be eligible for parole during the term of imprisonment imposed therein." 21 U.S.C. § 841(b)(1)(A).

866 F.2d at 9. See also United States v. Batchelder, 442 U.S. 114, 123, 99 S.Ct. 2198, 2204, 60 L.Ed. 755 (1979) ("vague sentencing provisions may pose constitutional questions if they do not state with sufficient clarity the consequences of violating a given criminal statute.").

The court in Colon-Ortiz observed that the inconsistency in the provisions it was construing "constitutes a notice deficiency and raises serious due process concerns" and concluded that it could not "say that [the provisions] as drafted affords fair notice to individuals as to the consequences of violating the . . . liability provision." 866 F.2d at 9. The court, however, determined that the defendant in that case was not harmed by the due process deficiency in the statute because the trial judge had stated that he believed, in any case, that a term of imprisonment was appropriate for the defendant. Id. at 10-11. No such determination has been made by the court regarding the defendants in the instant case.

Finally, the court in Colon-Ortiz addressed the argument of the defendant that all of section 841(b)(1)(B) should be declared unconstitutional because of the notice deficiency created by the inconsistency between the language suggesting mandatory prison terms and the "or both" language. Id. at 11. The court rejected this argument by stating that "[t]he notice deficiency in the statute can be cured easily by striking the 'or both' language, which clarifies on the face of the statute what penalties defendants risk in violating the Section 841(a)(1) liability pro-

vision." Id. Thus, the court ruled "that the correct interpretation of the statute is to disregard the 'or both' language," thereby bringing the statute into conformity with the intent of Congress as evidenced by the context of the statute and its legislative history. Id.

This court is puzzled by what the First Circuit meant when it stated that it was curing the notice deficiency by striking out the confusing "or both" language. This court had heretofore naively believed that only Congress could delete words from a federal statute. Furthermore, the First Circuit appears to believe that its deletion of the confusing words had a retroactive effect, curing the notice deficiency in regard to events which occurred before the court had even issued its opinion. Inexplicably, the copy of the United States Code which is located in this court's library still contains the words "or both" and the court is under the strong impression that the publishers of that copy will strike out those words in a subsequent supplement only at the command of Congress.

The First Circuit appears to have lost its way in its analysis by confusing the interpretation of a statute with a determination of whether it complies with the notice requirements of the Due Process Clause. It is true that courts, when interpreting statutes, have occasionally refused to give effect to a statutory provision which was clearly the result of legislative inadvertence and is contrary to the intent of Congress, see e.g., United States v. Babcock, 530 F.2d 1051, 1053 (D.C. Cir. 1976). However, when

Congressional intent is primarily discerned from legislative history, the appropriateness of such a course of interpretation has been questioned on the principle that Congress should not be able to effect its intent "simply by talking about it [in the Congressional Record] with unmistakable clarity," when that intent is contrary to the text of the law. See Tafflin v. Levitt, -- U.S. --, 58 U.S.L.W. 4157, 4167 (1990) (Scalia, J., concurring).¹²

Regardless of the merits of such a method of interpretation, the court concludes that its use in Colon-Ortiz is not consistent with the notice requirements of the Due Process Clause. The Roman emperor Caligula holds a particularly odious place in the history of jurisprudence because of his practice of publishing laws by inscribing them in very small letters and so high on the walls of the Forum that citizens could not read them.¹³ However, the laws need not be physically hidden for citizens not to receive fair warning of them. A modern day Caligula can achieve the same result by giving the published laws hidden meanings found only in

¹² Indeed, such a course of interpretation has an Alice in Wonderland quality to it. It places the court in the role of the White Rabbit who, upon hearing the King announce that something was "very important," responded with "Unimportant, your Majesty means, of course." "Unimportant, of course, I meant," the King replied. L. Carroll, *Alice in Wonderland*.

¹³ Huddleston v. United States, 415 U.S. 814, 834, 94 S.Ct. 1262, 39 L.Ed.2d 782 (1974) (Douglas, J., dissenting) (quoting Suetonius' *The Lives of the Twelve Caesars* as follows: "When taxes of this kind had been proclaimed, but not published in writing, inasmuch as many offenses were committed through ignorance of the letter of the law, he [Caligula] at last, on the urgent demand of the people, had the law posted up, but in a very narrow place and in excessively small letters, to prevent the making of a copy."

the Congressional Record and which are contrary to the texts of the laws.

As the Fourth Circuit concluded in Jones, that the language of the "or both" provision of 21 U.S.C. § 844(a) is plain, this court concludes likewise in regard to the language of the "or both" provision in section 1002. While the court in Colon-Ortiz noted an inconsistency between the "or both" provision it analyzed and the provisions noted in n. 10, supra, the inconsistency is more apparent than real. The provisions in n. 10, supra, and the provisions in section 1002 regarding parole, probation, and suspension of the sentence, see n. 11, supra, may be reasonably construed as consistent with their respective "or both" provisions by construing them as concerning only those persons who do receive a prison term.

Because the penal statute in question may be given a reasonable construction which reconciles its apparently conflicting provisions, the court concludes that a different construction, even if it reflects the clear intent of Congress as evidenced in the legislative history of the statute, violates the Due Process Clause if such construction nullifies language in the statute and has the effect of making the statute more harsh to a defendant than if that language is given effect.

Fortunately, it is not necessary to declare section 1002 unconstitutional. The harmful consequences to a defendant of any "notice deficiency" disappear if the provision is construed as giving the trial court the option of imposing only the fine: no

defendant can be better off under the alternative construction of the provision, which requires a mandatory prison term.

Therefore, this court holds that a construction of the statutory provision which does not allow the trial court the discretion to impose a fine only is violative of the Due Process Clause of the Fifth Amendment. A court is to construe a statute so that it is not unconstitutional, if such a construction is a reasonable one. E.g., Harriss, 347 U.S. at 618. Accordingly, the court holds that the proper construction of the provision is one which provides the sentencing court the discretion to impose only a fine.

CONCLUSION

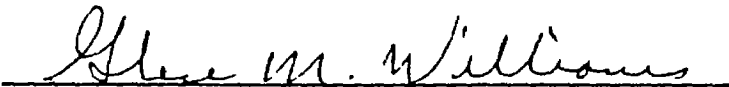
Because the court determines that the mandatory sentencing provisions of section 1002 were not in effect for offenses committed prior to November 1, 1987, it concludes that those provisions do not govern the instant case and were improperly applied to the sentencing of the defendants. However, if the mandatory sentencing provisions were effective at the date of enactment, the court concludes that the statute allows the court the discretion to impose a fine only upon the defendants for their violations of 21 U.S.C. § 841.

The court will hold a hearing to determine the proper sentences to be imposed upon the defendants. If the proper sentence for either defendant is determined to be lower than that which was imposed, the court will accordingly grant that defendant's motion to reduce his sentence pursuant to Rule 35 of the Federal Rules of

Criminal Procedure. The court will also determine the appropriate sentence under the assumption that the sentencing provisions of section 1002 were effective when the crimes in question were committed. IT IS SO ORDERED.

The Clerk is directed to send certified copies of this Memorandum Opinion to counsel of record.

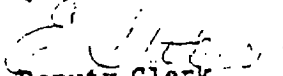
ENTER: This 31 day of May, 1990.


SENIOR UNITED STATES DISTRICT JUDGE

A TRUE COPY, TESTE:

Joyce F. Witt, Clerk

By:


Deputy Clerk

U.S. SENTENCING COMMISSION
1331 PENNSYLVAN AVE. N.W.
SUITE 1400
WASHINGTON, D.C. 20004

DEAR SIR:

THIS LETTER HAS BEEN SENT TO YOU IN ANSWER TO YOUR REQUEST FOR COMMENTS CONCERNING THE SENTENCING GUIDLINES.

AS AN INMATE OF THE FEDERAL SYSTEM, I HAVE FIRST HAND KNOWLEDGE OF THE IMPLEMENTATION OF THESE GUIDLINES, AND I KNOW THAT FEDERAL PROSECUTORS ARE IMPLEMENTING YOUR GUIDLINES IN A MANNER NOT CONSISTANT WITH YOUR INTENT, AND WOULD LIKE TO BRING TO YOUR ATTENTION SOME OF THE PROBLEMS THAT WE AS INMATES ARE ENCOUNTERING.

THE GOVERNMENT PROSECUTORS ARE CHARGING US WITH CRIMES THAT WE HAVE COMMITTED, AS WELL AS CRIMES THAT WE HAVE NOT COMMITTED IN ORDER TO GET US TO PLEAD GUILTY TO THE CRIMES THAT WE DID COMMIT. THEN THEY DROP THE B.S. CHARGES. THIS IS NOT ETHICAL, BUT IS UNDERSTOOD.

WHEN THE P.S.I. IS MADE UP, THEY THEN TAKE THESE B.S. CHARGES AND USE THEM TO ENHANCE THE SENTENCES OF THE CRIMES WE DID COMMIT. THE NET RESULT FOLLOWS:

- (1) MANY OF US ARE TAKING THESE ISSUES TO TRIAL IN ORDER TO REMOVE THE B.S.(CHARGES, WHICH OVERLOADS THE COURTS.)
- (2) MOST OF THESE B.S. CHARGES CAN BE BEAT AT TRIAL, BUT EVEN IF THEY ARE NOT BEAT, THE SENTENCES WOULD RUN CONCURRENT, BUT IF THE GOVERNMENT USES THESE B.S. CHARGES TO ENHANCE THE SENTENCES OF CRIMES COMMITTED, THEN IT RUNS CONSECUTIVE, SO WE ARE BETTER OFF BY TAKING THE ISSUES TO TRIAL, EVEN IF WE LOSE, THAN TO PLEAD GUILTY AND ALLOW THE GOVERNMENT TO ENHANCE THE SENTENCES.(AGAIN THIS CLOGGES UP THE COURTS.)
- (3) WE END UP DOING TIME FOR CRIMES NOT COMMITTED. THUS DEFEATING THE JUSTICE SYSTEM AND ADDING TO THE OVER CROWDED PRISON SYSTEM.
- (4) THIS PRATICE ALSO ALLOWS THE GOVERNMENT TO DEFEAT YOUR GUIDLINES BY CHARGING PEOPLE WITH CRIMES NOT COMMITTED AND THUS GIVING THEM MORE TIME FOR CRIMES THEY DID COMMIT THAN THE GUIDLINES PERMIT.

ANOTHER PROBLEM IS THE GOVERNMENT SAYS THAT EVERYONE (BUT THOSE THAT RAT ON OTHERS) IS A FLIGHT RISK OR A DANGER TO THE COMMUNITY, (EVEN THOSE CHARGED WITH A MISDEMEANOR.) THIS PUTS SOMEONE ON PRE-TRIAL DETENSION WHO IS CHARGED WITH A MISDEMEANOR AND ADDS TO THE OVER CROWDING CONDISHIONS. THEN PEOPLE WHO ARE FOUND GUILTY OF MISDEMEANORS ARE PUT IN PRISON, WHEN THERE ARE OTHER WAYS TO PUNISH THEM, AGAIN ADDING TO THE OVER CROWDED CONDISHIONS.

THANK YOU FOR READING THIS LONG LETTER.


R.J. BAUER
00824-64
15801 S.W. 137TH AVE.
MIAMI, FL. 33177

11/26/90

Dear *Sirs*

The enclosed newspaper article and editorial reflect my point of view regarding the Federal Sentencing Guidelines.

In practical terms, these guidelines are unfair in that they remove discretion of Federal Judges to be more lenient than the guidelines permit when circumstances warrant leniency.

I urge you to initiate a restructuring of the guidelines to permit Federal Judges to be more lenient than the guidelines now allow when circumstances suggest that this should be done.

Thank you, in advance, for your cooperation in this very important matter.

Sincerely,

John Churchill
12 Foolsage St
Rever, Ma 02157

Encs. (2)

P.S. Please Reply

Plea for sensible sentencing

A federal judge in California has made a provocative statement about himself and the unfairness of the Sentencing Reform Act of 1984 — a statement that deserves thoughtful consideration by Congress, the US Supreme Court and the nation's criminal justice system.

US District Judge J. Lawrence Irving, 55, of San Diego has announced his intention to resign from the bench at the end of the year because the strict guidelines imposed by Congress have sharply reduced a federal jurist's discretion in sentencing convicted criminals.

The Reform Act established a sentencing commission that set the new guidelines, which took effect in November 1987. The guidelines use a point system based primarily on the severity of the crime to determine sentences. A person's background, role in the crime, remorse or record cannot be factored in to reduce the sentence below the minimum guideline.

Irving, a 1982 Reagan appointee, said of his

decision: "To me the job just is used to be. The purpose of the law is to do away with discretion — just doesn't work out that way."

In a March 1988 case, he cited the guidelines as unconstitutional. He urged other federal judges in San Diego to file similar rulings. They were asked to challenge the rules by the US Supreme Court in June.

Irving makes a simple but powerful point: The guidelines are a tangle of making rigid rules and allowing for extenuating circumstances. It's the spirit, not the letter, of the law that counts.

"It used to be that a judge had discretion in sentencing. Now I can't do it. It really tugs at your heart when you sentence a first-time offender to a mandatory (sentence) or a 15-year sentence with no parole."

The Boston Globe: 10/1/90

Criticizing Sentencing Rules, U.S. Judge Resigns

Special to The New York Times

SAN DIEGO, Sept. 29 — Federal District Judge J. Lawrence Irving, who has presided over a series of highly publicized cases in San Diego, has announced that he is resigning because he believes Federal sentencing guidelines are too harsh.

"If I remain on the bench I have no choice but to follow the law," Judge Irving said Thursday, when his resignation was announced. "I just can't, in good conscience, continue to do this."

Judge Irving said he believed he was the first Federal judge in the nation to resign over sentencing guidelines. The guidelines, which went into effect on Nov. 1, 1987, require longer minimum sentences and no parole, even for first offenders. Judges are left with little or no discretion to modify sentences.

Judge Irving once ruled the Federal guidelines unconstitutional, but was overruled by higher courts. In January 1989, the Supreme Court upheld the

constitutionality of the guidelines.

"I've had a problem with mandatory sentencing in almost every case that's come before me," he said.

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As an example he cited a 19-year-old man charged with possession and intent to distribute cocaine.

"The judge, under the old law, gave him a split sentence: six months in prison with five years' probation," the judge said. "The young man understood that if he violated probation he'd go back to prison to serve out the rest of his term."

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Under mandatory sentencing guidelines, the judge said, the defendant

would have been sentenced to 20 years in prison with no possibility of parole.

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In an interview on Friday, Judge Irving said he had received dozens of calls from judges as far away as Little Rock, Ark., who support his stand.

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Judge Irving, a former civil lawyer, was named to the Federal bench in July 1982 by President Ronald Reagan.

The judge said he expected to continue doing mediation work for the courts, and might join a private law firm in San Diego. His resignation is effective on Dec. 31.

reorganization.

9-30-90

N.Y. Sunday Times

11-29-98

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

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I urge you to initiate a restructuring of the guidelines to permit Federal Judges to be more lenient than the guidelines now allow when circumstances suggest that this should be done.

Thank you, in advance, for your cooperation in this very important matter.

Sincerely,

Mr. Nicholas Trevisone
37 Blaney Ct.
Beverly, Mass 02151

Encs. (2)

Please Reply:

Plea for sensible sentencing

A federal judge in California has made a provocative statement about himself and the unfairness of the Sentencing Reform Act of 1984 — a statement that deserves thoughtful consideration by Congress, the US Supreme Court and the nation's criminal justice system.

US District Judge J. Lawrence Irving, 55, of San Diego has announced his intention to resign from the bench at the end of the year because the strict guidelines imposed by Congress have sharply reduced a federal jurist's discretion in sentencing convicted criminals.

The Reform Act established a sentencing commission that set the new guidelines, which took effect in November 1987. The guidelines use a point system based primarily on the severity of the crime to determine sentences. A person's background, role in the crime, remorse or record cannot be factored in to reduce the sentence below the minimum guideline.

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9-30-90

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11/25/90

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Mrs Mia Callahan
233 Spruce Way
Amherst, Ma 02339

Encs. (2)

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In a March 1988 case, he declared the sentencing guidelines unconstitutional, joining three other federal judges in San Diego who had issued similar rulings. They were among the first in the nation to challenge the rules, which were upheld by the US Supreme Court in January 1989.

Irving makes a simple but eloquent argument for waiving rigid rules and allowing judges the latitude of making character assessments and considering extenuating circumstances — carrying out the spirit, not the letter, of the law:

"It used to be that a judge could do some good in sentencing. Now I can't do that. I'll tell you, it really tugs at your heart when you have to sentence a first-time offender to a 10-year minimum-mandatory (sentence) or a 15-year minimum-mandatory; with no parole."

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reorganization

9-30-90

N.Y. Sunday Times

11/28/90

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Sincerely,

Caroline Chiswick
12 Coolidge St
Revere, Ma 02151

Encs. (2)

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reorganization.

9-30-90 N.Y. Sunday Times

11/27/90

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Angelina Velts
12 Coolidge St
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reorganization...

9-30-90

N.Y. Sunday Times

December 3, 1990

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Washington, DC: 20004

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Wayne A. Cose
3 Briarwood Lane
Wakefield, MA 01880

Encs. (2)

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Reorganization: _____

9-30-90

N.Y. Sunday Times

DECEMBER 3, 1990

U.S. SENTENCING COMM.

1331 PENN. AVE. N.W.

SUITE 1400

WASHINGTON, D.C. 20004

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John N. Fiumara

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165 ENDICOTT ST

BOSTON, MA 02113

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In a March 1988 case, he declared the sentencing guidelines unconstitutional, joining three other federal judges in San Diego who had issued similar rulings. They were among the first in the nation to challenge the rules, which were upheld by the US Supreme Court in January 1989.

Irving makes a simple but eloquent argument for waiving rigid rules and allowing judges the latitude of making character assessments and considering extenuating circumstances — carrying out the spirit, not the letter, of the law:

"It used to be that a judge could do some good in sentencing. Now I can't do that. I'll tell you, it really tugs at your heart when you have to sentence a first-time offender to a 10-year minimum-mandatory (sentence) or a 15-year minimum-mandatory; with no parole."

The Boston Globe: 10/1/90

Criticizing Sentencing Rules, U.S. Judge Resigns

Special to The New York Times

SAN DIEGO, Sept. 29 — Federal District Judge J. Lawrence Irving, who has presided over a series of highly publicized cases in San Diego, has announced that he is resigning because he believes Federal sentencing guidelines are too harsh.

"If I remain on the bench I have no choice but to follow the law," Judge Irving said Thursday, when his resignation was announced. "I just can't, in good conscience, continue to do this."

Judge Irving said he believed he was the first Federal judge in the nation to resign over sentencing guidelines. The guidelines, which went into effect on Nov. 1, 1987, require longer minimum sentences and no parole, even for first offenders. Judges are left with little or no discretion to modify sentences.

Judge Irving once ruled the Federal guidelines unconstitutional, but was overruled by higher courts. In January 1989, the Supreme Court upheld the

constitutionality of the guidelines.

"I've had a problem with mandatory sentencing in almost every case that's come before me," he said.

Split Sentence in Drug Case

As an example he cited a 19-year-old man charged with possession and intent to distribute cocaine.

"The judge, under the old law, gave him a split sentence: six months in prison with five years' probation," the judge said. "The young man understood that if he violated probation he'd go back to prison to serve out the rest of his term."

"He did his six months, and after that he remained free of drugs — we know this because of regular testing," the judge continued. "He completed his education, got married, had a child and became a productive, tax-paying member of society."

Under mandatory sentencing guidelines, the judge said, the defendant

would have been sentenced to 20 years in prison with no possibility of parole.

"That's heavy," he said. "And that's my problem. I just can't do it anymore."

Colleagues' Support Cited

In an interview on Friday, Judge Irving said he had received dozens of calls from judges as far away as Little Rock, Ark., who support his stand.

While mandatory sentencing was the main reason for his resignation, the judge said, security problems had also taken a toll on his family. Federal marshals have guarded him and his family while he presided over a number of drug cases involving many defendants.

Judge Irving, a former civil lawyer, was named to the Federal bench in July 1982 by President Ronald Reagan.

The judge said he expected to continue doing mediation work for the courts, and might join a private law firm in San Diego. His resignation is effective on Dec. 31.

reorganization

9-30-90

N.Y. Sunday Times

Dec. 4, 1990

United States Sentencing Com.
1331 Pennsylvania Ave., N.W.
Suite 1400
Washington D.C. 20004

Dear Gentlemen

The enclosed newspaper article and editorial reflect my point of view regarding the Federal Sentencing Guidelines.

In practical terms, these guidelines are unfair in that they remove discretion of Federal Judges to be more lenient than the guidelines permit when circumstances warrant leniency.

I urge you to initiate a restructuring of the guidelines to permit Federal Judges to be more lenient than the guidelines now allow when circumstances suggest that this should be done.

Thank you, in advance, for your cooperation in this very important matter.

Sincerely,

Jennie Ruggolo
229th St
Medford, MA 02153

Encs. (2)

Plea for sensible sentencing

A federal judge in California has made a provocative statement about himself and the unfairness of the Sentencing Reform Act of 1984 — a statement that deserves thoughtful consideration by Congress, the US Supreme Court and the nation's criminal justice system.

US District Judge J. Lawrence Irving, 55, of San Diego has announced his intention to resign from the bench at the end of the year because the strict guidelines imposed by Congress have sharply reduced a federal jurist's discretion in sentencing convicted criminals.

The Reform Act established a sentencing commission that set the new guidelines, which took effect in November 1987. The guidelines use a point system based primarily on the severity of the crime to determine sentences. A person's background, role in the crime, remorse or record cannot be factored in to reduce the sentence below the minimum guideline.

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In a March 1988 case, he cited the sentencing guidelines as unconstitutional. Other federal judges in San Diego have issued similar rulings. They were authorized by the US Supreme Court in 1987 to challenge the rules.

Irving makes a simple but powerful point for waiving rigid rules and allowing for making character assessments, considering extenuating circumstances, and using common sense, not the letter, of the law.

"It used to be that a judge had discretion in sentencing. Now I can't do that. It really tugs at your heart when you sentence a first-time offender to a mandatory (sentence) or a 15-year sentence with no parole."

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Mr. & Mrs. Joseph Di Prima
30 Chelsea St. Apt. 304
Everett Mass. 02149

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reorganization.

9-30-90

N.Y. Sunday Times

PCRI - 115191

MARILYN HARRELL
BOX A, COTTAGE 3
ALDERSON, WV 24910

January 30, 1991

United States Sentencing Commission
1331 Pennsylvania Avenue, NW..
Washington, D. C. 20004

Attention: Paul K. Martin, Communications Director

Dear Sir:

In the January 17, 1991 issue of the Federal Register it was noted that the Sentencing Commission is contemplating amendments to the Sentencing Guidelines and has asked for public comments.

Sir, I am an inmate in a Federal Prison in Alderson, West Virginia. I humbly request that I be allowed to make a comment to be presented to the Commission in this regard. I realize that my position here negates some of the credibility that I might have enjoyed, however, perhaps it is to your advantage to consider a viewpoint formed from the inside. I offer this comment with all due respect and wish only to assist in what I perceive to be a problem of significant proportion. Allow me to say that I appreciate what the Sentencing Commission is trying to do and the task must be horrendous. However, no one--even inmates--refute the value in attempting to accomplish equity in the justice system.

According to prison statistics, the Federal Bureau of Prisons is overcrowded by 61%. This figure has dropped 5½% since last quarter. The question is why? Well, at Alderson, as in many other institutions, 80% of the population is here for drug abuse and of that number 60% for Conspiracy. Using those statistics, almost half the 733 women here are here because they played a minor, mitigating role in a drug offense.

Certainly, the Commission is to be applauded for acknowledging that the amount of drug, by weight, should be considered in a conspiracy action. I have talked to women who accepted a plea agreement for far fewer years than they might have received because they just didn't trust the jury--or their defense--in being able to prove their disinvolvement. We have a woman here who has several years to serve for just that reason. She spent five weeks in a carpool and was subsequently charged with conspiracy regarding paraphernalia. She is a single mother and her children are being maintained at the expense of local government in foster care. The irony of her incarceration is that she paid the woman to allow her to ride in the vehicle that ultimately brought her to Alderson.

Page Two
January 30, 1991
Marilyn Harrell

There are many such horror stories. In addition to the cost borne by the taxpayers (\$1.68 Billion Dollars just in the Federal Prison System), local governments are absorbing the costs on the fringes by caring for minor family members. Many of these people become completely indigent in the prosecution process and upon release, they, too, look to local government for assistance.

The state governments are being forced to use any tactic they can to delay public assistance because their coffers are seriously inadequate. Recently, an article in the Metro Section of the Washington Post highlighted the severity of the problem. By arresting, charging, convicting and incarcerating an individual, we completely disintegrate any value in society that the person might have achieved. Returning to society upon release, they lack initiative to renew their past success through a broken spirit and disillusionment about their government and the system in which it functions. Becoming so institutionalized, they enjoy a brief freedom and then return to the prison where they have learned to survive.

America, great land that it is, has a higher number of persons in prison than South Africa and other countries where their domestic problems would lend themselves to higher rates of incarceration. That is a sad testimony to a great nation that was founded on the cause of "freedom".

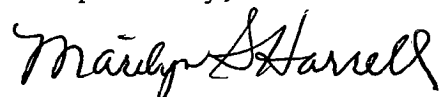
Since the guidelines have been implemented, austere judges have stepped down from a long tenure on the bench in protest of the severity of the sentences they are compelled to pronounce. The prison populations have swollen to illegal proportions and, in this economy, you may find that crimes will be committed just to get into the prison system--where you at least have a warm bed, food in your stomach and medical assistance free of charge!

A long sentence accomplishes nothing, really. A short time away from a person's loved ones has a tremendous impact upon the individual who commits a crime. If six month sentences could be given for most of the crimes committed in the lower security ranges with house arrest or other means for the remainder, you would not see the total institutionalization of the person. It is vital that enough of a person's dignity remain for them to recover. If every shred of their self-esteem is diminished, they will never again be an asset to the society to which they are eventually reintegrated.

Please, consider the human spirit in your amendments and the innocent victims--mostly children--who suffer under the severity of these judgments. Consider the taxpayers, who deserve to have their money carefully and prudently managed. And, lastly, consider the people in bondage who, if given a second chance, might become sterling citizens of this the greatest nation in the world.

I would very much appreciate having my comments entered into the record as being in favor of the amendments for the guidelines and thank you, personally, for all the good work I see that you do with the Sentencing Commission.

Respectfully,

A handwritten signature in cursive script that reads "Marilyn S. Harrell". The signature is written in dark ink and is positioned above the printed name.

Marilyn S. Harrell

1 CKI-116/91
January 28, 1991

Mr. Paul Martin
U.S. Sentencing Commission
1331 Pennsylvania Ave. NW, suite 1400
Washington, DC 20004

Dear Mr. Martin,

I read about the proposed non-prison sentences in the Atlanta Journal dated Thursday, January 10, 1991, page A-4. I am in support of the idea. I am a Native American and I once was the outside sponsor for the American Indian Brotherhood Club in the Federal Correctional Institution in Denver, CO.

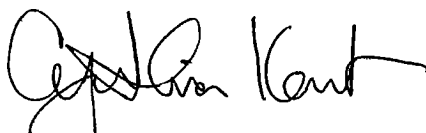
Many of the Indian men went into the prison because of crimes committed while intoxicated. I **never** asked the men why they were in prison, so I don't know the severity of the crime. What I do know is that the majority of the crimes were committed on Indian reservations and that is why a large number of Indian people go to Federal prisons. For some of the men, being in prison was their first time off the reservation.

I would recommend that while Indian people are placed in tribal jails, that funds also be provided to begin the work on reducing the recidivism rate. It will be good to have them near home, but where does the endless cycle stop? Many of the people who are in prison had been in prison before. If the men/women who are placed in tribal jails do not have programs to assist them, many will continue to travel that road back and forth from home to prison. The Federal Prison System has not done that well with reducing the numbers of returns. This maybe an opportune time to start a new strategy.

To make this new program work, I would also recommend that while working with Indian men/women, that you work closely with the Tribe. There might be an opportunity for the program to incorporate Native American traditions and values into the program. We need to start to give the people back their self-esteem. I am sure the Tribes would be supportive.

Thank you for listening to me.

Struggling for Peace,



Ms. Cynthia Kent
Advocate for incarcerated people

enclosure: newspaper article (copy)

Prison

This survey was to [unclear] that large segment of the American public were indifferent to the Holocaust or somewhat saturated after years of highly publicized televi-

that Jews and [unclear] from 1933 to 1945.

ject, p. and libera- tion camps die out.

Non-prison sentences proposed to ease bulging federal system

The Associated Press
WASHINGTON — More defendants convicted of federal crimes could perform community service or serve other non-prison sentences under a proposal being studied by the U.S. Sentencing Commission.

A spectrum of sentences, including probation, weekend in-

carceration in local jails and home detention, is contained in a proposal drafted by a task force of the commission.

The seven-member commission, which establishes the guidelines federal judges must follow when imposing sentences, last week deferred action on the recommendations.

But it ordered a full staff study of alternatives to putting non-violent federal convicts behind bars. Only people with short criminal histories who are convicted of less serious crimes would be eligible for the so-called intermediate sentences.

The proposed intermediate sentences are intended to give more sentencing flexibility to judges, who have complained bitterly that their hands are tied by current guidelines.

The federal prison population has almost tripled to more than 59,000 since 1981, and the Bureau of Prisons estimates there will be 100,000 federal prisoners in 1995.

WASHINGTON REPORT

NEW SINGER ZIG-ZAG SAVE \$335
IN-STORE WAREHOUSE SALE ONLY \$98



The machine makes button holes, sews on

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

Attn: Communications Director,

PUBLIC COMMENT:

The Cocaine problem in America is a serious and prevalent one. You are to be commended on your fight to curb it's illegal usage and proliferation through stringent drug laws and harsh sentencing.

One problem that needs to be addressed however, is the first offender who play a minor role in drug offenses. These people who have no previous criminal history and played minor roles in drug offenses are being subjected to minimum mandatory sentences without benefit of parole. These sentences are too severe and lengthy. Because of the mandatory minimum; there is often very little difference between a first offender's sentence and that of repeat offender's or major participants.

The harsh sentences are rapidly contributing to already over-crowded prison conditions and staggering cost to house and feed these men and women. Overcrowding in the federal prison system has reached 170 percent of it's rated capacity and is expected to continue unabated in the next 5 to 10 years. According to J. Michael Quinlan, Director of the Bureau of Prisons "guidelines and mandatory minimum sentences account for 85 percent of this effect."

These young men and women who fall into the category of first offender with minor participation in drug offenses should be given more consideration. While I do not suggest that they be given a "slap on the wrist" and sent home, I do recommend that the sentencing judge be given the power to use his discretion. A lengthy prison sentence should not be his only alternative.

Clearly extra gain-time, parole, and alternative sentences for first offenders who play minor roles in drug offenses would be beneficial to the federal system as well as these young men and women.

I beseech you to repeal the mandatory minimum portion of the Sentencing Reform Act of 1984.

LET'S GIVE THEM A SECOND CHANCE!

Thank you for your consideration in this matter.

Sincerely Yours:

Name, Please Print-

VERNON J. DENSON

Address,

75 Acacia St.

City and state

Mobile, Al. 36607-2600

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

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Sincerely Yours:

ROLAND SLADE

Name, Please Print-

5363 ROSETTA St.

Address:

PITTSBURGH, PA. 15224

City and state

Name: SONIA M. VILLASEÑOR 02787-089

Address: 3301 LEESTOWN Rd.

LEXINGTON, KY. 40511-8799

"Atwood Hall" Unit"

Date: March 2, 1991

Communications Director

U. S. Sentencing Commission

1331 Pennsylvania Ave., N. W.

Suite 1400

Washington, D. C. 20004

Input Into The Proposed Amendments To The Federal Sentencing Guidelines

1. Reinstate the Parole Board, for persons sentenced under the new law, immediately. This will relieve the terrible overcrowding in our jails, prisons and community treatment centers. It will return productive citizens to their families, thereby taking millions of family members off the welfare rolls, strengthening family ties and putting literally thousands of ex-offenders on the street who will be glad to tell their families and friends to, "just say no to drugs" and the reasons why.
2. After reinstating the parole board, make it retroactive, so that all persons sentenced under the guidelines, and are still in custody, may go before the board, for a review of their case.
3. Get rid of the minimum amount of time in the guidelines. Let our judges again be judging whether a person may deserve a chance on probation, if they may need just a few months in prison or whatever they may need.

4. Do not place so much emphasis on the amount of drugs involved, especially for first time offenders and less culpable persons, as is covered in 3B1.2 - Mitigating Role. It is particularly distressing to see persons who have made no profit from their crime, or are first time offenders to receive as much or more time than persons with priors and even violence in their records. Again, this would be a place in the guidelines in which a judge could hear all the evidence and base an educated decision on it.

5. Do not count felonies which "extend" into the past fifteen year period. This is unfair to persons who committed some crime in their teenage years, get married and settled down for twenty years or so, get caught on a marijuana or small amount of drug charge and then finds they are being given high sentences, due to the fact that an old sentence expired within the past 15 years. We see this happen very often, under the 1987 Sentencing Guidelines, even though it is, in effect, the person's first adult offense. Rather, amend this clause to specifically state the crime itself has to have happened within the past ten years.

6. Amend the guidelines to leave it to the judge's discretion, whether to run a sentence concurrently, particularly when the offenses are related, such as conspiracy to possess, possession, and possession with intent to deliver, etc., which are basically the same crime.

7. Do not amend the guidelines to limit the use of characteristics of the defendant, age, family ties, health, etc., in the determination of departures and where to sentence in the guidelines.

These things should be used, in determining where the defendant should be sentenced in the guidelines and for what type of institution they should do their time in, if sentenced.

OTHER INPUT:

Respectfully submitted:


Signature

United States Sentencing Commission
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Sincerely Yours:

MARIE Willman

Name, Please Print-

818 No. Adams

Address, Tacoma, Wa. 98406

City and state

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Washington, D.C. 20004

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Sincerely Yours:

Angela Ma Villegas
Name, Please Print-

Angela Ma Villegas

Address,

13715 SW. 66 St apt 205A
City and state

Miami Fla 33183

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These young men and women who fall into the category of first offender with minor participation in drug offenses should be given more consideration. While I do not suggest that they be given a "slap on the wrist" and sent home, I do recommend that the sentencing judge be given the power to use his discretion. A lengthy prison sentence should not be his only alternative.

Clearly extra gain-time, parole, and alternative sentences for first offenders who play minor roles in drug offenses would be beneficial to the federal system as well as these young men and women.

I beseech you to repeal the mandatory minimum portion of the Sentencing Reform Act of 1984.

LETS GIVE THEM A SECOND CHANCE!

Thank you for your consideration in this matter.

Sincerely Yours:

Alden Dunn

Name, Please Print-

Alden Dunn

Address,

2411 Oak Ridge

City and state

Augusta, Ga.

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

Attn: Communications Director,

PUBLIC COMMENT:

The Cocaine problem in America is a serious and prevalent one. You are to be commended on your fight to curb it's illegal usage and proliferation through stringent drug laws and harsh sentencing.

One problem that needs to be addressed however, is the first offender who play a minor role in drug offenses. These people who have no previous criminal history and played minor roles in drug offenses are being subjected to minimum mandatory sentences without benefit of parole. These sentences are too severe and lengthy. Because of the mandatory minimum, there is often very little difference between a first offender's sentence and that of repeat offender's or major participants.

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LETS GIVE THEM A SECOND CHANCE!

Thank you for your consideration in this matter.

Sincerely Yours:

Leticia B de Montano

Name, Please Print-

Leticia de Montano

Address,

13715 SW 66st apt 205A

City and state

Miami Fla 33183

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

Attn: Communications Director,

PUBLIC COMMENT:

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I beseech you to repeal the mandatory minimum portion of the Sentencing Reform Act of 1984.

LETS GIVE THEM A SECOND CHANCE!

Thank you for your consideration in this matter.

Sincerely Yours:

Betty Little

Name, Please Print-

P.O. Box 473

Address,

Blountville, In 37617

City and state

This letter is on behalf of Jake Little. My husband was sentenced to 5 years in federal Prison. He was caught with 31 kilograms of Marijuana and a gun. He was sentenced to no parole & no probation. This is the first time he's been in trouble for anything. I always thought everyone was suppose to get a second chance. If there's any way you can help him it will be greatly appreciated. I have 2 kids to raise by myself and I only make \$320.00 a month. I have a 16 year old girl and a nine year old boy and children at these ages need both parents. My little boy cries himself to sleep at night and most of the

time he wakes up, in
the middle of the night,
screaming for his
father. I have a petition
going for my husband.
The court said he was
a threat to society, these
people have known
him for many years
and they know he
could never pose a
threat to anything.
I have enclosed a
copy of the petition.
Any help or information
you could give me
would be greatly
appreciated.

Thank you,
Betty Little

My address and phone
number is:

Betty Tittle (615) 323-2512
P.O. Box 473
Blountville, Tn. 37617

My husbands mailing
address is.

Dorm
4

Jake Tittle
F.P.C. 50476-079
501 E. Renfro Rd.
Talladega, Alabama
35160-0991

This is in behalf of
Jake Little. The court
determined he was a
threat to society. These
are people who have
known him for many
years and know he
could never cause any
harm to society.

	<u>Names</u>	<u>address</u>	<u>Br. In</u>	<u>years know</u>
1	Andrea Barrett	Bill's Auto Sales Inc.		10 yrs
2	Larry Garrett	1500 W. State St.		17 yrs
3	Willie W. H. H.	1500 W. State St. Bristol		20 yrs
4	Charles H. Sotony	1500 W STATE ST, BRISTOL		5 YEARS
5	Emmett H. Dean	PO Box 395 Piney Flats TN		3 years
6	Burr H. Pond	4315 SPELKY ROAD Bluff City TN		3 years.
7	Larry Ramsey	735 Big Hollow Rd Blount TN		17 yrs
8	Leta Campbell	824 Norfolk Ave Bristol Va.		27 yrs
9	Daphnis Tichee	5445 Lee Hwy Br. Va.		18 yrs.
10	Tom Hayes	1508 Benhams Rd BR. VA		12 yrs.
11	Dale Maiden	2975-LEE HWY BR. VA		20 yrs
12	Brenda Carter	1643 Virginia Ave Bristol Tenn		19 years
13	Jack Blumis	106 Shadow Hill La. Bristol, Va		20 yrs.
14	Mary Carter	1661 Va. Ave		20 years
15	William Carter	1661 Va Ave		20 years
16	Deena K. Filler	P.O. Box 151 Blot. In		6 years
17	Vernie Potest	1660 Ark Ave. Bristol In.		10 years
18	W. C. Cate	1660 " " "		10 "
19	Mary Jane Geasong	1684 Arkansas Ave.		11 years
20	Bertha Grizzle	1644 Ark. Ave		10 years
21	Shirley Bookce	1642 Ark. Ave.		12 yrs.
22	Maady Baker	1642 ARK AVE BR. TN.		12 yrs
23	Fred Gray	1182 Volunteer Pkwy Br. In.		5 yrs.
24	Anna Cassell	1121 Volunteer Parkway		20 yr
25	Marie Monroe	549 Alabama St Bristol		10 yr
26	Willard Monroe	549 Ala. St.		10 yr

	<u>Name</u>	<u>address</u>	<u>yo. known.</u>
27.	Raymond Olin	312 Ast St	12 yrs.
28.	Mike Campbell	615 E. Valley Dr.	23 yrs
29.	Nellie Olin	312 Ash St	12 yrs.
30.	Mrs Don Miller	1240 McClean Dr	19 yrs
31.	W J Osborne	2975 Lee Hwy Bristol Va	20 yrs.
32.	Bonno Jones	45 Booker Rd. Bristol	16 yrs
33.	Vincent Good	557 Bethel Dr Bristol	20
34.	Richard Bowen	Rt. 5 Box 440 Blountville TN.	12 years
35.	Cliff	131 Lazy Acres Bristol Tenn	8 years
36.	Calvin Diskner	452 Hwy 75 Blountville Tenn	6 years
37.	Jacquie Diskner	427 Hwy 75 Blountville Tenn	6 yrs.
38.	Hugh W. Shaffer	417 Fairview School Rd, Piney Flats, Tenn.	6 yrs
39.	Jeanine B. Shaffer	417 Fairview School Rd, Piney Flats Tenn.	6 years
40.	Charles McCracken	1221 Beaver Creek Rd Bluff City Tenn	20 years
41.	Helen McCracken	1221 Beaver Creek Rd Bluff City Tenn	10 yrs
42.	W. L. L. L.	Bluff City Tenn	25-
43.	Jackie Seats	Bluff City TN	3 yrs.
44.	Marvin Seats	Bluff City TN	7 yrs.
45.	Danny Statzer	Piney Flats TN	6 yrs.
46.	Rebecca Statzer	Piney Flats Tenn	6 yrs.
47.	Barbara Gott	Piney Flats, TN.	9 yrs.
48.	John Gott	PO Box 303 Blountville, Tenn	10 yrs.
49.	Walter Brown	1211 Caroline Ave. Bristol, Tenn.	37620 20 yrs
50.	David Landrum	295 Booker Rd. Bristol, VA.	24201 12 yrs
51.	Jeff Boyeth	2 Lynn St. Bristol, Tenn.	37620 - 15 yrs.
52.	Hazel Strouth	2 Lynn St Bristol Tenn	25 yrs

	Name	Address	years. known
53	Rale Cole	4372 Hwy 126 Blountville Tenn	7 yrs
54	Dorothy Cole	4372 Hwy 126 Blountville, Tenn	7 yrs
55	Jim Cole	P.O. Box 592 Blountville, TN	7 yrs
56	Herman Meyers	4372 Hwy Blountville Tenn.	2 1/2 years
57	Wiley Wilson	281 Franklin Dr Blountville	2 years
58	Mack Glouner	381 Farmview Sch Rd Piney Flats Ln	4 yrs
59	Mary Glouner	381 Farmview Sch Rd Piney Flats Ln	4 yrs
60	Robert Cole	153 Ramey Rd Bristol, Tenn 37620	6 yrs
61	Lisa Cole	153 Ramey Rd Bristol, Tenn 37620	6 yrs
62	David Powers	374 Brown St, Bluff City, TN 37618	7 yrs
63	Myron Jones	288 Buffalo Rd Bluff City Tenn. 37618	10 yrs
64	Sam Wyatt	117 Greenway R Bristol	16 "
65	Larry Smith	100 Bluff City Hwy Bristol TN	8 yrs
66	Don Hillewag	124 Spring Valley Rd. Bristol Tenn.	15 yrs
67	Darl M. Carter	102 Skyline Dr. Bristol, Tenn.	15 yrs
68	Richard L. Children	212 - 21st Bristol, Va	25 yrs
69	Carl L. Pierce	Bluff City	20 years
70	Arnold Jenkins	Bluff City	25 years
71	Elvin Jenkins	Bluff City	25 years
72	Brenda Surcey	Bluff City	38 yrs.
73	David Surcey	Bluff City	16 yrs.
74	Michael Patterson	Bluff City	10 yrs.
75	Billy Patterson	Bluff City	10 yrs.
76	Douglas Patterson	Blountville	8 yrs.
77	Pearl Vanover	Bluff City	38 yrs.
78	Mary Feabins	Bluff City	40 yrs

	<u>Names</u>	<u>address</u>	<u>Box 2925</u>	<u>Years</u>	<u>Known</u>
79	Maggie Pierce	Rt 4 Bluff City, TN		42	
80	Adler B Rose	Bluff City, Tenn		42	
81	Walter E Rose	Bluff City, Tenn		42	
82	Raymond B. Stout	1702 Gave Bristol Tenn		20 yrs	
83	Jerry Canter	3091 Weaver Pike Bristol, Tenn		19 years	
84	Charlotte Canter	3091 Weaver Pike Bristol, Tenn		19 years	
85	Sammy Jester	3099 Weaver Pk Bristol In		15 yrs	
86	Richard Jester	3099 Weaver Pk. Bristol, Tenn		6 yrs.	
87	Charles D. Brown	367 Sinking Springs Rd Bristol In		20 yrs	
88	Charles W. Brown	8-6 th St Bristol, Tenn.		20 yrs	
89	Jim Brown	Rt. 2 Bristol		7 yrs	
90	Garry Barrett	4610 Weaver Pike Bluff City, TN		10 yrs.	
91	Charles Little	Americana apt 114 Bristol, Tenn.		41 yrs.	
92	Nancy Houser	2936 Kingmill Pike Bristol Tenn.		20 yrs	
93	Billy Houser	2936 Kingmill Pike Bristol Va.		14 years	
94	Melissa Houser	2936 Kingmill Pike Bristol Va.		14 yrs	
95	Donnie F. Miller	1240 M ^c Cleary Dr, Bristol, Tenn.		19 yrs.	
96	Rev. Jimmy R. Canter	103 Ester St. Bristol Tenn.		20 yrs	
97	Jim R. Canter Jr.	" "		15 yrs.	
98	Lucy Canter	1663 Maryland Ave Bristol Tenn		4 yrs	
99	Johnny Canter	1663 Maryland Ave Bristol Tenn		4 yrs	
100	Natasha Canter	1663 Maryland Ave Bristol Tenn		2 yrs	
101	Alvin Canter	103 Ester St. Bristol Tenn.		19 yrs	
102	Belle Lewis	620 Cherry St. Bristol, Tenn.		2 yrs.	
103	Myrtle Holman	100 Moore St Bristol Tenn.		2 years	
104	Ernie Jones	45 Booker Rd. Bristol Tenn.		16 yrs	

	<u>Name</u>	<u>address</u>	<u>Years Known</u>
105	Janie Wullen	1836 Muddy Cr Road	15 yrs.
106	Shirley Roberts	Rt 2 Box 399 Lebanon, Va.	42 yrs.
107	Robert D. Roberts	Lebanon, Va.	24 yrs.
108	Robert D. Roberts Jr.	595 State Rt. 37	22 yrs.
109	John A. Roberts	Bristol, In.	21 yrs.
110	Sammy Roberts	Blountville, In.	4 yrs.
111	James L. Campbell Jr.	Lebanon, Va.	5 yrs.
112	Deborah E. Campbell	Lebanon, Va.	26 yrs.
113	Rev. Ronald P. Sittle	Hendersonville, In.	38 yrs.
114	Kitty Sittle	Hendersonville, In.	4 yrs.
115	Kathy Leonard	Blountville In.	27 yrs.
116	Nesbitt, Cook III	52 Indiana St #100 Bristol Va.	2 yrs.
117	Bobby Lantz	R 3, Box 4956 Bldg City	19 years.
118	Mariey Carter	Rt 3 Box 956 Bluff Cr	19 years
119	Jarah Campbell	Rt. 4 Box 190 Bristol Va.	25 yrs.
120	Allen Campbell	Rt. 4 Box 190 Bristol Va.	25 yrs.
121	Clayton Booker	110 Jane Lane Bristol Va.	10 yrs.
122	Mrs. Sam Parker	Route A. Bristol Va.	12 yrs.
123	Jim Parker	Route A Bristol Va.	12 yrs.
124	Glen Conquest	1301 New Hampshire Ave.	20 yrs.
125	Terri Booker	110 Jane Lane	18 yrs.
126	Pat McCully	PO Box 107 Blountville TN	2 yrs.
127	J. S. Blakely	645 Ridge Dr	10 yrs
128	Uborah L. Blakely	645 Ridge Dr	10 yrs
129	Donnie Rhaten	649 Ridge Dr	5 yrs
130	William R. Titt	300 Boncombe Rd.	33 yrs

	<u>Names</u>	<u>address</u>	<u>years know</u>
131	Robert Mumpower	3835 Weaver Pike Bluff City TN	25 yrs.
132	Daphne Mumpower	3835 Weaver Pike Bluff City TN	30 yrs.
133	Randy Campbell	98 Winding Way Rd. Bristol Va 24201	25 yrs.
134	Neva Campbell	817 Norfolk Ave Br Va.	30 yrs.
135	Donald Wallace	1030 McI AVE 714-3475	25 yrs.
136	Jeffrey Quales	Rt 7 Box 733 Abingdon Va. 24210	18 yrs
137	Nancy C. Campbell	613 Paigner Rd Bristol VA 24201	24 yrs.
138	Bessie Parson	1643 Virginia Ave Bristol Tenn	19 years
139	Frank Parson	1643 Virginia Ave. Br. Tenn.	15 years
140	Bill Jones	101 E. State St. Br. Tenn.	21 yr.
141	Russel Jones	101 E. State St. Bristol, Tenn.	25 yr.
142	Shirley Cadde	Gladesprings, Va.	19 yr.
143	Teresa Canter	Bristol, Tr.	6 yr.
144	Jackie Canter	Bristol, Tr.	19 yr.
145	Donna Tittle	164 Green Blair Rd. Bristol, Va.	11 yrs
146	Nancy Tittle	164 Green Blair Rd Bristol Va.	37 yrs.
147	Joy Wand	RR 12 Gray TN.	5.
148	Jill Crowder	511 Coffee St. Erwin TN	8 yrs.
149	Anta Hicks	118 Hollowst Bluff City, TN -	8 yrs
150	Janice Jackson	Rt 5 Box 585 Bluff City, TN	6 yrs
151	Daphne Molkon	1953 Weaver Pike Bristol Tenn	6 yrs
152	Carolyn S. Mulleney	#8 Lake Colony Gray, TN	10
153	Harry L. Dale	P.O. Box 2052 Br. Va.	2
154	Chloe Moller	#8 Lake Colony Gray TN	10 yrs
	Marilyn Dale	640 Meadowsview Dr. Br. Tenn	25

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

Attn: Communications Director
Public Comment

The harsh sentences that are applied to first and non-violent offenders is the leading cause of prison over-crowding. This sentencing policy costs the American taxpayer approximately \$20,000 per inmate, per year, to house and feed these non-violent offenders.

When a person is sentenced to 10, 15, 20, years without parole, it not only places a heavy burden on the taxpayer but creates a new breed of criminals for the future. Spending long periods of time in prison can and will turn non-violent people into violent people who can become a threat to society.

Instead of alternative sentencing for first and non-violent offenders, America chooses to "warehouse" these people. We have become the world's leader in prison population.

One alternative for the first and non-violent offender that could help the over-crowded federal prison system, lessen the burden on the taxpayer, and also put these first and non-violent offenders back on the right track is to create new work programs such as volunteer work in the communities. There are many educated people in the federal prison system which the community can benefit in ways that would save taxpayer's money. If a person spends 10 years in prison when she or he is no threat to the public, for that period of time the cost will be approximately \$200,000. But if that same person is sentenced to some type of work program and is required to pay \$50.00 to \$100.00 a month, that would save the taxpayers money. Taxpayers should not have to pay for a first offender or non-violent person to mop the same floor for 8 hours a day for 5, 10, 15, years. The public gains nothing but new criminals for the future and their hard earned money is spent for people who could pay their debts back to society in many ways other than sitting in prison for long periods of time.

Revise the Sentencing Reform Act of 1984. Bring back parole. Institute alternative sentencing.

Thank you for your cooperation in this matter.

Ed L. Shaw 7481 SW 114 Ct. - Miami, FL 33173
Armand M. Lebron 7481 SW 114 Ct, Miami, FL 33173
Arquis M. Garcia 6870 SW 48 St, Miami, FL 33155
Felix Brancin 6870 SW 48 St Miami, FL 33155
Joe M. Murphy 8972 SW 141 Ave #2110, Miami FL 33196
Wanda E. London 10415 SW 143 Ct Miami FL 33186
Joe M. Garcia 7359 SW 92 St #3A Miami FL 33143

June 15, 1991

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

Attn: Communications Director
Public Comment

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Revise the Sentencing Reform Act of 1984. Bring back parole. Institute alternative sentencing.

Thank you for your cooperation in this matter.

Lillian Keveney
1186 Mill St.
Lincoln Park, Mi. 48146

February 21, 1991

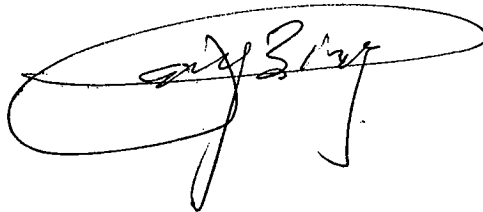
To Sentencing Commision,

I have been sentenced under the new federal guidelines and would like to see some changes made. Eighty five percent is to harsh, there are no incentives for extra good time. Please consider an incentive for good time or a drop of the minimum amount of time to be served.

Thank You,

Pang wing yuen

27286-053 -

A handwritten signature, likely of Pang Wing Yuen, enclosed within a large, hand-drawn oval. The signature is stylized and cursive.

Feb. 22, 1990

U.S. Sentencing Commission
1331 Pennsylvania Ave. N.W.
Suite 1400, Washington D.C.
20004

Dear Sir:

I am writing in reference to the Sentencing Guideline. I feel like the New Sentencing Guideline is much too severe, esp. for first offenders, in contrast to state sentences for the same crime.

For example I was arrested by state law officials, and was turned over to the federal court. Where I was subject to the federal Sentencing Guideline. I received a sentence of 70 mo. I have to spend 85% of the time incarcerated, whereby state standard I only would be required to serve 33% of the 70 mo. I feel like this is grossly wrong and should be changed to at least 65% or less for 1st. offenders.

Respectfully
Samuel J. Campbell

Dear Commission,

In reference to Guideline amendments. I purchased Marijuana from the government. My sentence was initially 5 years. However, being in jail 3 times for driving offences; 1 driving under the influence, 1 driving under Suspension and 1 finally for habitual offender Enhanced my Sentence an extra 18 months. This is absurd! What does a driving record got to do with dealing drugs. Please remove this enhancer.

I also see a lot of 1st offenders getting between 8 - 15 years. That is far too much time for a first time. Last and I know your already looking at it is doing 85% of our time. That is no incentive for inmates to work or behave properly. You have a lot of violent foreigners in here now. If you don't be careful and curb the bad ass guys you may see more lawsuits.

Non-Violent people with family and job Should be Home Monitored. Your losing taxes putting them in jail.

Sincerely

Roland Villacci 02647-036

Pembroke Station Providence

Danbury CT 06811

2/22/91

Gentleman,

It is no doubt a daunting task to develop sentencing guidelines, but the idea was over due and your first efforts have been admirable. Still, there is much work to do and I pray that you have the personal and political courage to meet the challenges ahead.

Regarding the proposed amendments published 1-17 at 56 Federal Register 1846.

I wish to offer thoughts concerning the proposed changes and their relative effects.

First I will address the reliance on drug quantity in sentencing. There have been numerous articles in the papers concerning extreme cases in which defendants in peripheral roles have recieved excessive sentences. Surely you are well aware of them and their plight.

Unfortunately, the academic and emotional arguements surrounding these issues have failed to address some "common sense" issues. For example, person X who is caught selling a kilo receives the same sanction as person Y would receive for buying a kilo. Obviously, these two individuals are at different levels in the distribution chain.

One may argue that subsequent investigation will further implicate both parties and indicate their true level of culpability. There in lies one of the greatest intricacies of the guideline system, particularly in conspiracy prosecutions.

Virtually every conspiracy trial is decided on the testimony of government informants. Let's face it, these are not God fearing, law abiding citizens doing their duty to society, but rather, they are criminals seeking leniency by testifying for the prosecution. Even the most well meaning U.S. Attys. in the course of his duty is forced to trade consideration at sentencing for testimony, to enact the prosecution of other offenders.

Informants quickly grasp their situation, and seeking to enhance their bargaining power exaggerate the importance of their co-conspirators. Having been interrogated they learn how to corroborated actual events they are then capable of convincingly manipulating evidence to corroborate grossly exaggerated and perhaps even fabricated incidents. It is in their best interests.

The Commission touched on this issue briefly when it pondered "real offense" vs. "charged offense". (pg. 1.4) By allowing Probation and Parole Officers who work daily with the U.S. Atty. performing similar law enforcement functions to prepare PSIs, determining offense behavior. Then allowing them to present their findings to the court for a decision requiring only "the preponderance of the evidence" instead of the "beyond a reasonable doubt", guaranteed by the Constitution. You have effectively placed the sentencing of the accused in the hands of the adversarial prosecution team, that has just convicted him.

The fact that a defendant can file a rule 32 is moot. The matter belongs in front of a jury. Plainly the finding of facts can result in an additional length of incarceration measured in years or perhaps a decade. Surely these facts are for a jury to decide; Using a beyond a reasonable doubt standard.

You have not placed the uniformity and proportionality of sentencing into the hands of a trained judge, or a jury, but rather, into the hands of prosecutor and his less adequately trained assistant, the Probation and Parole Officer.

In a related matter you stated in USSCGM 1990. "Most observers of the criminal law agree that the ultimate aim of the law itself, and of punishment in particular, is the control of crime." (pg. 1.3) This was a prelude to your philosophical discussion of "just desserts" vs. "crime control". Your conclusion is distressing. It appears that the only option you considered is locking defendants up and throwing away the key. (incapacitation)

Your stated goals are deterrence, incapacitation, just punishment, and rehabilitation. Hopefully you listed them in random order. Clearly deterrence and rehabilitation are the best, most cost effective solution for our burdensome crime problems. Just punishment is required to ensure the fairness of the system, but incapacitation? What is the value of incapacitating first offenders? Individuals who desire to come back to society, families, work...

Incapacitation is necessary for violent or repeat offenders, but to incapacitate white collar criminals, drug dealers, and the peripheral participants of larger schemes is a waste of finite tax dollars and limited prison space.

Concerning sentence lengths, especially for first offenders I would like to quote one of the Commission's own astute statements, taken slightly out of text.

"The Commission concluded that the definite prospect of prison, even though the term may be short, will serve as a significant deterrent." I believe that in your quest for uniformity, simplicity, and workability you missed the mark. The experience of this deterrent, especially as it concerns first time offenders negates the costly principle of incapacitation.

I think that sentences for first offenders should be made significantly shorter. If you can not see fit to change the guidelines, then perhaps, you may wish to consider the extensive use of split sentences. Allow these offenders the opportunity to pay taxes, fines, support their own families. Relieve us of the tax burden which according to our President's budget proposal will require an additional \$476 million dollar increase. To punish them harshly and then allow them to integrate back into the law abiding community is our best hope.

The carrot and the stick together provide the best solution to the prison problem. Increased good time, boot camp, or a revamping of the guidelines would allow for exactly one second chance.

Prison over crowding is more than a philosophical problem. While, "The guidelines themselves, insofar as they reflect policy decisions made by the Commission, are projected to lead to an increase in prison population that computer models, produced by the Commission and the Bureau of Prisons in 1987, estimated at approximately 10 per cent over a period of years." (pg. 1.9)

Our prisons have experienced an unrivaled population explosion, unrivaled not only in American history, but in Soviet or South African history! Still, the American people will pay for a system that works. But, tougher laws and guidelines, while increasing substantially the rate of incarcerations, expanding a costly, ineffective prison system, costing the tax payers billions, has failed to reduce crime. The hard fact is that while these sentences make good headlines, they have little deterrent value. Crime is worse now than in 1987!

In closing I would like to express to you my theory on deterrence, followed by a short parable. It is not the severity, but rather the certainty of punishment,

which is the best deterrent. Punish all of the guilty, every time. But, give the taxpayer and the offender a second chance.

There are two drunks in two separate states. Their minds are muddled by alcohol. The drunk in state A knows that five of every one-hundred drunks is arrested and go to prison. The drunk in state B knows that 50% of all drunk drivers are arrested and they ALL spend ten days in jail.

Which drunk do you think is most likely to drive home? Which state do you think spends the most on prisons? Most important of all! Which state has the fewest drunk drivers?

Grita Marie Selva

FEBRUARY 15, 1991

ATT: COMMUNICATIONS DIRECTOR
UNITED STATES SENTENCING COMMISSION
1331 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004

Dear Commissioners,

Having read the Federal Register Volume 56, Number 12, dated January 17, 1991, I'm writing in response to your request for comments. I have three specific comments concerning your mission in formulating Sentencing Guidelines.

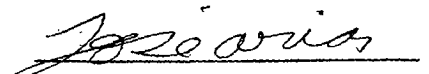
I. TIME OFF- At present a person sentenced under the new guidelines is eligible for only 54 days per year good time. Work time and "Extra Good" time have been eliminated. With the reliance of the Bureau of Prisons on work cadres and Unicor where is the incentive for inmates to do their best work. Bring back "Work Time".

II. CRIMINAL HISTORY CATEGORY- It seems to me that a case could be made for double punishment. To increase an inmates sentence based on crimes that time has already been served is to say to that inmate that his previous "Debt to Society" is still owed and he will pay for it now.

III- DRUG QUANTITY- Too many lower level drug defendants are getting extreme sentences based on conjecture of the volume of drugs handled in a drug trafficking conspiracies conviction. Sentence inmates to terms of imprisonment based upon quantities actually introduced as evidence at trial or agreed to in plea bargains.

In conclusion the Commission must make changes that will put the sentencing function back with the Judge and not the U.S. Attorney or the Probation Department as the Guidelines are now being applied.

TRULY YOURS,



FEBRUARY 15, 1991

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1331 PENNSYLVANIA AVENUE, N.W.
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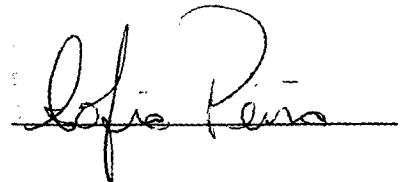
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In conclusion the Commission must make changes that will put the sentencing function back with the Judge and not the U.S. Attorney or the Probation Department as the Guidelines are now being applied.

TRULY YOURS,

A handwritten signature in dark ink, appearing to read "Rafia Rana", is written over a horizontal line.

2-25-91

Dear Mr Wilkins,

I am responding to your request for comments on the proposed sentencing guidelines.

I am currently serving a 5 year sentence at FCI Danbury for a minor role in a conspiracy to distribute marijuana. I was recruited to drive a shipment of marijuana, that was my only part in this crime. A co-conspirator of mine was going to buy 500 pound cash and distribute it. Since the crime carried a minimum mandatory sentence of 5 years we both received this sentence. My guideline range carried 41-51 months but the minimum mandatory sentence overrode the guidelines. I feel that my sentence of 5 year is not fair considering my minor role in this crime, also it is not fair in view of the light that I received 5 years for my minor role, the same sentence the principal player in this conspiracy received.

I feel that minimum mandatory sentences contradicts the guidelines and should be abolished.

I feel that the proposed amendments should be retroactive.

I feel that too much consideration is given to the quantity of drugs involved and not enough consideration

is given to the mitigating role in the crime. I feel that there is an insufficient reduction in determining offence levels that have mitigating circumstances associated with them.

I also feel that serving 85% of your sentence, which the new guidelines call for, is not conducive to good inmate correction officer interaction. A reduction in this percentage would help to improve inmate correction officer relations.

Please consider my suggestions in future amendments to the sentencing guidelines.

Sincerely
David Cston
03265-070
Pembroke Station
Dorchester Ct.
06811

12/25/91

Dear Commissioners,

Having read the Federal Register
Volume 56, number 12, dated January 17, 1991
I'm writing in response to your request
for comments. I have a couple of comments
that may help in formulating sentencing
guidelines.

1. Time off - at present a person sentenced
under the new guidelines is only eligible
for 54 days per year work time and
extra good time has been eliminated
with the reliance of the Bureau of Prison
on Work Cards and Uniscore where is the
incentive for inmates to do there best work
Being Back good time and Work time
2. No Parole there are a lot of inmates
that never committed any crime 1st offender
I don't think its fair for a first offender not
to be eligible for parole. I think for
first offenders they should be cut a little
slack this law should only be enforced

for repeated offenders. Under these new guidelines a first offender has to the same time as a repeated offender think about it someone who has never been arrested before until now should have some consideration. Bring back Parole at least for first time offenders.

3. Maybe have some type of programs that can reduce first offenders time

I think repeated offenders should go under these new guidelines. I mean if they insist on doing the same things over & over again then they deserve the new guidelines but first offenders shouldn't be treated the same way.

Thank you very much
for allowing me to voice
my opinion please consider
my suggestions

A Concerned Party

To: United States Sentencing Commission
1331 Pennsylvania Avenue, NW
Suite 1400, Washington, DC 20004

Attention: Communications Director

To the Sentencing Commission,

I am responding to your request for public comment concerning the amendments to the sentencing guidelines which are due to the Congress by May 1, 1991.

My feelings are, non-violent drug or white collar offenders should be given house arrest or community service rather than a term of imprisonment. These non-violent offenders should have their liberties suspended and be restricted to their homes except for the purpose of employment. In that way, they can support their families and themselves. This will, hopefully, prevent the further deterioration of the American Family.

The amount of statutory good time (54 Days) annually for Federal Prisoners, in my opinion, is inadequate to stimulate rehabilitation among those offenders that require a term of imprisonment. I believe we should look to rehabilitate the offender, and as quickly as possible, putting the individual back into society as a law abiding and productive citizen.

I would support these changes if adapted in the amendments to Congress to become retroactive to those offenders previously sentenced under the sentencing guidelines.

Sincerely yours, Maria Magdalena Santiago Merced.

To: United States Sentencing Commission
1331 Pennsylvania Avenue, NW
Suite 1400, Washington, DC 20004

Attention: Communications Director

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Sincerely yours,

Ivan Antonio Reyes
Call 1 Use #760
Caparra Terrace
San Juan P.R.
00921

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

Attn: Communications Director,

PUBLIC COMMENT:

The Marijuana Smuggling problem in America is a serious and prevalent one. You are to be commended on your fight to curb it's illegal usage and proliferation through stringent drug laws and harsh sentencing.

One problem that needs to be addressed however, is the first offender who play a minor role in drug offenses. These people who have no previous criminal history and played minor roles in drug offenses are being subjected to minimum mandatory sentences without parole. These sentences are too severe and lengthy. Because of the mandatory minimum, there is often very little difference between a first offender's sentence and that of repeat offender's or major participants.

The harsh sentences are rapidly contributing to already over-crowded prison conditions and staggering cost to house and feed these men and women. Over-crowding in the federal prison system has reached 170 percent of it's rated capacity and is expected to continue unabated in the next 5 to 10 years. According to J. Michael Quinlan, Director of the Bureau of Prisons "guidelines and mandatory minimum sentences account for 85 percent of this effect."

These young men and women who fall into the category of first offender with minor participation in drug offences should be given more consideration. While I do not suggest that they be given a "slap of the wrist" and sent home. Which in some cases the repeat offender's are. As of now it is 10 years to LIFE.

Clearly extra gain-time, parole and alternative sentences for first offender's would be beneficial to the federal system as well as these young men and women.

I beseech you to repeal the mandatory minimum portion of the Sentencing Reform act of 1984.

LETS GIVE THEM A SECOND CHANCE!

Thank you for your consideration in this matter.

Sincerely Yours:

Beverly J. Napier
Name, Please Print & Sign

112 W. ETTA Lemay, Mo. 63125
Address

Beverly J. Napier

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

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Thank you for your consideration in this matter.

Sincerely Yours:

Mary N Tabor (Mary N Tabor)
Name, Please Print & Sign

P.O Box 395
Address

Chokoloskee, FL 33925

March 1, 1991

U.S. Sentencing Commission
1331 Pennsylvania Avenue, Suite 1400
Washington, D.C. 20004

Attention: Communication Director

Dear Sir:

I am a concerned citizen of the United States and want my opinions and views to be heard concerning the Sentencing Guidelines. The harshness of the sentences being given for non violent, first time offenders has gone beyond the guise of justice and has served to create more problems than are being remedied. Prisons are becoming severely overcrowded and have become human warehouses. And yet with the increasing amounts of prisoners, the drug problems in the United States have not been cured. There is a better way!

Reevaluate the Sentencing Guidelines and with this provide Alternative Sentencing for nonviolent, first time offenders. Individual justice is non-existent in the courts as they are now mandated by the harsh Sentencing Guidelines. As in most cases, including drug related crimes, society is the victim. Therefore, it is the victim that should be compensated. Through Community Service, the offender can pay his/her restitution to community that has been affected.

The families of those incarcerated also suffer greatly with the loss of a mother or father. Brothers and sisters are separated and many are put in Foster Homes. Aged parents suffer the loss of those who care for them in the time of their lives when their children are most needed. Our families need to be strengthened, not weakened and forced to turn to State Social Services for support.

There are far too many drug addicts who are merely convicted and warehoused. Upon their release, nothing changes. Instead of these lengthy sentences, drug rehab is needed for the changes that the individual must make in his/her life to not be a repeat offender. The recidivism rate is too high. Why not give an offender a chance, a chance to deal with his/her problem, be it drug rehab or community service, a chance to prove that a mistake does not mean that they are hardened criminals. There are many capable individuals who are just passing years in prisons, being non productive citizens.

Changes are needed.

Sincerely,

Name: Melody Martinez #89G0006 #

Street: P.O. Box 1000 Apartment #: 112+B

City: Bedford Hills State: N.Y. Zip Code: 10507

"I'm A Inmate"

March 1, 1991

U.S. Sentencing Commission
1331 Pennsylvania Avenue, Suite 1400
Washington, D.C. 20004

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Changes are needed.

Sincerely,

Marycielo Muñoz
906 409 112-D-3.
Bedford Hills, N.Y.

P.O. Box 1910
Danbury, CT 06813
February 27, 1991

Communications Director
U.S. Sentencing Commission
1331 Pennsylvania Avenue, N.W. - Suite 1400
Washington, D.C. 20004

RE: Sentencing Guidelines

Dear Sir/Madame:

I am writing to comment on the harshness imposed on first time offenders under the Sentencing Guidelines promulgated under the Comprehensive Crime Control Act.

There are many of us who are first time offenders incarcerated for varying lengths of time, depending upon the offense level of our individual crime.

It is very unfortunate for us, our friends, families and employers, that our previous histories within our communities are not adequately considered upon sentencing. While it is true that our criminal histories do, to some extent, mitigate in our favor as to length of sentence to be served, if the offense level is greater than 12, the judge has little or no choice but to impose a sentence of imprisonment. For those of us who cannot be of any assistance to the government in prosecuting others, this means that we stay in prison longer than someone with a long criminal record and a greater offense level who is able to assist in the prosecution of others. In this way, our previously law-abiding lives work against us.

It is very common for a first time offender who has always worked hard, paid taxes, raised children, etc. to be incarcerated for a much longer period than a person who has been in and out of jail since teen-aged, engaged in offenses at a much higher level over a longer period of time and who has little or no potential for ever becoming a contributing member of our society. And this is because the long-time offender is in the position to assist the government in its pursuit and prosecution of other such offenders. And the career offender is thus rewarded.

Greater discretion should be granted to sentencing courts to consider ALL factors about a person before imposing sentences. Alternative sentences should definitely be considered for all first time offenders, taking into consideration the crime, the likelihood of future criminal conduct, and the welfare of the community.

It makes no sense to use tax dollars to lock up someone who would otherwise be paying taxes and taking care of his/her responsibilities. This assumes that the crime was not one of violence or injury to another person, of course.

Thank you for your consideration of my points.

P.S. I was convicted of obstruction of justice based solely on the testimony of two convicted, long-time felons. This should not be allowed to happen.

Very truly yours,
Carole E. Ireland
Carole E. Ireland
02830-036

U.S. Sentencing Commission
1331 Pennsylvania Avenue, N.W., Suite 1400
Washington, D.C. 20004

ATTENTION: Communication Director

I am a concerned citizen of the United States, speaking out against the new sentencing guidelines.

First-time offenders, realize that there is a penalty to pay for breaking the law. But, justice is not served when the punishment is harsher than the crime committed. Justice, is defined as upholding what is just, and fair. So, the punishment should fit the crime.

Alternative sentencing was removed from the new sentencing guidelines. The judges' stripped of their flexibility to judge and make recommendation is ludicrous. Here is a person trained and advanced in law -- reduced to overseeing the court -- keeping order, but without the power of his/her position -hum bug!!

The unfairness of the guidelines is a mockery to law and certainly a blemish upon the face of the United States. With all it's preaching to other countries about "humane treatment", what could be more dehumanizing than warehousing people and taking away their right to life?

The prisons are full of penny-anti drug dealers, who are users of their own product. The prison has only served to temporarily keep them from consuming drugs. There are no programs, no rehabilitative aspects other than the lack of access to drugs. As I see it, most or a number of the users leave prison to return to the same activities. Nine times out of ten--this person lack skills to cope with society initially and leaves prison in the same state. All of the money and drugs the Government claimed to have confiscated has not materialized into treatment centers for drug users. With all the people incarcerated for drugs the "drug war" has not stopped nor tapered off.

There is not individual justice displayed with the new sentencing guidelines. Some of the people serving long sentences are educated, skillful, God-fearing persons who made a mistake. Instead of the Government clothing, feeding and housing these person, they could do community services and support themselves. Whatever happened to probation, parole, community service, and house arrest for first time, non-violent serious crimes?

So many young men and women are incarcerated, leaving babies and small children in the care of family members. Those less-fortunate children are in foster homes and Government facilities. This is horrible and costly!

SOMETHING SHOULD BE DONE ABOUT THE NEW SENTENCING GUIDELINES!!

Hilda Aguado 27424-053.
NAME
P.O. BOX 1910.
Address
DANBURY CONN 06813.
City and State (zip)

Son address.
William H. Muller Jr.
17979-004
FBI Tallahassee
PMB 1000
Tallahassee, Fla. 32301

Feb. 28, 1991

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

Dear Communications Director:

I understand the U.S. Sentencing Commission is meeting May 1, 1991 to discuss possible changes to the sentencing guide lines for first time offenders for non-violent crimes - my son has spent 2 yrs in prison for hauling a load of marijuana in Miami, Fla. He was sentenced for 10 years by Judge Eugene Spillman.

About 2 months ago I wrote Rep. John Conyers, D-Mich. after reading William Raspberry article that the U.S.A. is #1 for incarceration of its citizens. At the time my son was in prison in Arkansas, he was transferred to Tallahassee, Fla. - no explanation given. He has not been given an opportunity to get his college degree. He had his 2 years before sentencing and I understand that was the reason he had driven the truck. His Dad and I will pay for his education.

Please consider changing the sentencing guide lines -

309 So. Crane St.
Address: Sebring, Fla. 33872

Sincerely yours
Mildred M. Muller
Phone (813) 382-6882

U.S. prisoner rate outstrips the world

WILLIAM RASPBERRY

WASHINGTON — Ten years ago, America's incarceration rate was third in the world, lower only than that of the Soviet Union and South Africa. Today we can say what football players shout into the panning TV camera: We're No. 1!

Of every 100,000 Americans today, 426 are behind bars. The comparable figures: South Africa, 333; the Soviet Union, 268; Great Britain, 97; Spain, 76; Italy, 60; the Netherlands, 40.

For black men, the numbers are even more appalling: 3,109 per 100,000, compared with the South African rate of 729 per 100,000. One black American male in four is either behind bars, on probation or on parole.

The statistics are from the latest report of the Sentencing Project, a Washington-based nonprofit agency committed to sentencing reform. But more interesting than the numbers, which by now have lost their shock value, are the policy implications.

The temptation is to believe that our increasing incarceration rates are merely a reflection of increasing criminality. But as the report's author, Marc Mauer, points out, it's not that simple.

"While there is little question that the United States has a high rate of crime," he says, "there is much evidence that the increase in the number of people behind bars in recent years is a consequence of harsher criminal-justice policies of the past decade, rather than a direct consequence of rising crime...."

"The growth of the prison populations in the past decade, for example, shows incarceration rates do not rise or fall directly with crime rates. Although the crime rate has dropped by 3.5 percent since 1980, the prison population has doubled in that period."

The reasons include an increasingly punitive public attitude that manifests itself in mandatory incarceration laws (now in effect in 46 states), tougher federal sentencing guidelines and harsher drug laws. In other words, a greater percentage of offenders are being sentenced to prison than was the case a decade ago.

This is particularly true with regard to the "war on drugs," probably the biggest single factor behind both the overall increase in incarceration rates and the disproportionate rise in black male incarceration.

"While drug arrests and prosecutions have increased each year since 1980," Mauer notes, "the number of African-Americans arrested for drug offenses has increased at an even more rapid rate than has the arrest rate for the population as a whole." Not only has the black inner city been the chief battlefield of the "war on drugs," but other aspects of the anti-drug effort have had race-specific outcomes, inadvertent or not.

Mauer calls for "a national commission on crime to explore why American incarceration rates are so high and to recommend programs to reduce the number of prisoners without affecting public safety."

But we know enough already to take the first steps to saner laws. But we know enough already to repeal the mandatory sentencing laws, begin

U.S. locks up largest share of population

WASHINGTON (AP) — With more than 1 million people behind bars, the United States imprisons a bigger share of its population than any other nation, a private group said Friday.

The high U.S. incarceration rate results from a high crime rate and increasingly harsh public attitudes toward dealing with lawbreakers, said the report by The Sentencing Project, a non-profit research organization that promotes sentencing reforms and alternatives.

More than 1 million Americans are in jail or prison, either awaiting trial or serving time, the report said. It said that 426 of every 100,000 U.S. residents are incarcerated, at an annual cost of \$16 billion. For black American men, the rate is 3,109 per 100,000.

South Africa has the world's second-highest imprisonment rate, with 333 people imprisoned per 100,000 residents, the report said. Its incarceration rate for black males is 729 per 100,000.

Incarceration rates in Europe generally range from 35 to 120 per 100,000 residents and in Asian countries from 21 to 140 per 100,000, the report said.

Marc Mauer, assistant director of The Sentencing Project, who wrote the report, said it shows that "the same policies that have helped make us a world leader in incarceration have clearly failed to make us a safer nation."

Commenting on the report, Rep. John Conyers, D-Mich. and chairman of the House Government Operations Committee, said:

"We've got to stop jailing and start rehabilitating. ... We can build all the jails we think we need and slam the doors down on thousands of people, but it won't make a bit of

Judy deArmas
829 Briarwood Avenue
Bridgeport, Connecticut 06604
February 28, 1991

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

Dear Communications Director:

As a law abiding citizen and taxpayer, I am very concerned in regard to the new drug sentencing guidelines. With the State and Government in such a deficit it would be more feasible to spend funds on rehabilitation and supervised home release programs for the non-violent drug offenders. The overcrowding, and still growing population in our prisons are of great concern. Lengthy prison sentence terms should be for violent offenders. This would reduce the costs of building new ones.

This is a growing problem and will continue to an even bigger problem unless something is done now. Building new prisons is not the answer. Our tax money should be put to better use.

Sincerely,



Judy deArmas

February 27, 1991

U.S. Sentencing Commission
1331 Pennsylvania Ave., N.W.
Suite 1400
Washington, DC 20004

Dear Sir/Madam:

Our family, having a son who was involved in drugs, can tell you firsthand just how unfair the sentencing guidelines are.

I thought the "new guidelines" were created to ensure that all drug dealers were judged the same regardless of race, sex, status, etc. This has not proven to be the case. The "big white collar dealer" is still getting off and the "little guy" is being sentenced to the worst sentence.

The judges who made the guidelines don't seem to have any concern for true justice; they seem more concerned about making a name for themselves rather than trying to help rehabilitate someone who made a wrong (and serious) choice in life.

We must try to save these people and not destroy them by giving sentences that are worse than the crime. We should try to offer rehabilitation instead of giving a sentence that will put them out of sight and cost the tax payers billions of dollars to keep them in prison. They need to be given something to hope for; many times first offenders are sincerely remorseful and eager to change. Given the opportunity, they would return to society as an asset rather than a detriment.

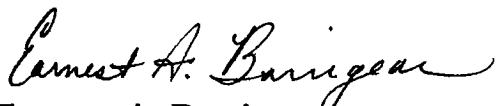
If first offenders are sentenced to lengthy, unrealistic prison terms with "hardened" criminals, how is this going to help in rehabilitation? I say it will not! What we need to do is help this first offender before he/she becomes a "hardened" criminal and while he/she is willing to respond and eager to change. Rehabilitation is the key and in the long run, will save time, money and lives by giving first offenders every opportunity to remain just that - first offenders.

The same sentence given the first offender, is also given to the family. It appears as though the guidelines are trying to pull families apart. If not, then why do murderers and rapists have the opportunity to receive time off for good behavior or only have to serve 1/3 of their sentence?

With over-crowding in our prisons, the judges should find other ways to punish first offenders. If given a chance to redeem themselves and they fail then a harsher sentence would certainly be justified but first they should be given a chance.

One thing we are finding out is that "an eye for an eye" is not working. The guidelines are obviously not working either so let's find a more human and fair way!

Respectfully yours,

A handwritten signature in cursive script that reads "Earnest A. Barrigear". The signature is fluid and elegant, with a long, sweeping underline.

Earnest A. Barrigear
7477 Westlane Avenue
Jenison, MI 49428

February 27, 1991

U.S. Sentencing Commission
1331 Pennsylvania Ave. N.W.
Suite 1400
Washington, D.C. 20004

Re: Sentencing guidelines on drugs

To whom it may concern:

While I certainly am not a proponent of drugs, in reviewing the sentencing guidelines I believe they are too rigid and do not appropriately respond to differing types of offenses or offenders. Typically in our justice system, there is a correspondence between the type of crime, the history of the offender and the punishment meted out.

As the guidelines are written now, we have mandatory sentencing that makes no distinction between the types and amounts of drugs nor the histories of the offenders.

I do not believe that marijuana should be considered in the same class as cocaine and heroin. Its potency and the potential harm created by this drug differs substantially from other drugs.

I also feel that the guidelines on mandatory sentencing based on the amount of marijuana do not allow for each case to be decided on the facts--it does not allow any consideration of the offender's record or ability to make reparations.

Placing first offenders in minimum security prisons for a mandatory five year term with no option of parole is a waste of our society's resources. I believe that the abilities and past record of the offender need to be considered in sentencing and opportunities be made available for community service. Based on the offender's performance, I also believe we should institute parole. It seems absurd to have a system that paroles rapists and murderers for "good behavior" but keeps individuals who have grown marijuana imprisoned at more than \$20,000 per year for five years with no opportunity for restitution or parole.

There needs to be a variety of sentencing and parole options for non-violent first offenders. For example, community work release programs after a briefer incarceration should be an option.

In reviewing the guidelines, I hope you will consider reinstatement of the parole system for all non-violent offenders retroactively to November 1, 1987 when the guidelines were instituted.

U.S. Sentencing Commission
February 27, 1991
Page 2

Building more prisons to house non-violent first offenders doesn't seem to me a reasonable or cost-effective use of my taxes. Again, while I abhor drugs and the effects they have had on our society, I see no purpose in the mandatory incarceration of persons who have grown marijuana. I feel my tax monies are better spent through programs, using these offenders to improve our communities and to educate people to the problems that drugs create.

Thank you for your consideration of my views.

Sincerely'

Robin E. Cooper
2534 Kendall Avenue
Madison, Wisconsin 53705

REQUEST FOR SENTENCING REFORM

To: U.S. SENTENCING COMMISSION
1331 PENNSYLVANIA AVE. N.W.
Suite #1400
Washington, D.C. 20004

From: HUMAN RIGHTS ALLIANCE
JUSTICE FOR ALL
(Founded 1988)

As tax payers, and member of "HUMAN RIGHTS ALLIANCE" we have voted on and agreed to send this petition to you, the sentencing commission, for your consideration.

- 1) NEW SENTENCING GUIDELINES SHOULD REVERT BACK TO PRE 1986 GUIDELINES.
- 2) PAROLE SHOULD REMAIN IN SERVICE.
- 3) MORE EMPHASIS ON DEPORTATION OF FIRST OFFENDER'S "NONE-CITIZENS" SHOULD BE MADE.
- 4) FIRST OFFENDER'S-IN NON-VIOLENT CASES SHOULD RECEIVE PAROLE, OR PROBATION AND REQUIRED TO PARTICIPATE IN COMMUNITY SERVICE'S OF HIS OR HER COMMUNITY.
- 5) SECOND OFFENDER'S-IN NON-VIOLENT CASES SHOULD RECEIVE 50% OF APPLICABLE GUIDELINES BEING ENFORCED AT TIME CRIME COMMITTED.
- 6) THIRD OFFENDER'S-IN NON-VIOLENT CASES SHOULD RECEIVE 65% OF APPLICABLE GUIDELINES BEING ENFORCED AT TIME CRIME WAS COMMITTED.
- 7) FOURTH OFFENDER'S-IN NON-VIOLENT CASES SHOULD BE LEFT TO THE COURT'S DISCRETION.
- 8) RULE 35-B SHOULD BE APPLICABLE TO ALL PERSON'S GIVING THE U.S. GOVERNMENT "SUBSTANTIAL ASSISTANCE" REGARDLESS OF A RECOMMENDATION HAVING TO BE MADE BY THE A.U.S.A.

REQUEST FOR SENTENCING REFORM

- 9) GOOD TIME, EXTRA GOOD TIME, ETC... SHOULD BE APPLICABLE TO ALL INMATES WORKING AT ANY AND ALL INSTITUTIONS.
- 10) ANY AND ALL PHYSICALLY, OR MENTALLY DISABLED INMATES SHOULD BE KEPT IN HOSPITAL FACILITIES OR UNDER HOUSE-ARREST IN CARE OF FAMILY MEMBERS.

COMMENTS IF ANY:

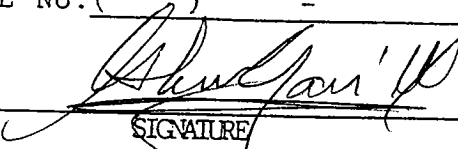
I, PRESENTLY HAVE A FAMILY MEMBER OR FRIEND IN CUSTODY OF THE U.S. GOVERNMENT. YES X NO

FULL NAME Gilberto Garcia

ADDRESS 33-39 - 89 street

Jackson Heights, N.Y. 11372

PHONE No. ()


SIGNATURE

HUMAN RIGHTS ALLIANCE
JUSTICE FOR ALL (FOUNDED 1988)
17620 N.W. 18 AVE.
MIAMI, FLORIDA 33056
PHONE No. (305) 620-6376

February 27, 1991

U.S. Sentencing Commission
1331 Pennsylvania Avenue, Suite 1400
Washington, D.C. 20004

Attention: Communication Director

Dear Sir:

I am a concerned citizen of the United States and want my opinions and views to be heard concerning the Sentencing Guidelines. The harshness of the sentences being given for non violent, first time offenders has gone beyond the guise of justice and has served to create more problems than are being remedied. Prisons are becoming severely overcrowded and have become human warehouses. And yet with the increasing amounts of prisoners, the drug problems in the United States have not been cured. There is a better way!

Reevaluate the Sentencing Guidelines and with this provide Alternative Sentencing for nonviolent, first time offenders. Individual justice is non-existent in the courts as they are now mandated by the harsh Sentencing Guidelines. As in most cases, including drug related crimes, society is the victim. Therefore, it is the victim that should be compensated. Through Community Service, the offender can pay his/her restitution to community that has been affected.

The families of those incarcerated also suffer greatly with the loss of a mother or father. Brothers and sisters are separated and many are put in Foster Homes. Aged parents suffer the loss of those who care for them in the time of their lives when their children are most needed. Our families need to be strengthened, not weakened and forced to turn to State Social Services for support.

There are far too many drug addicts who are merely convicted and warehoused. Upon their release, nothing changes. Instead of these lengthy sentences, drug rehab is needed for the changes that the individual must make in his/her life to not be a repeat offender. The recidivism rate is too high. Why not give an offender a chance. A chance to deal with his/her problem, be it drug rehab or community service. A chance to prove that a mistake does not mean that they are hardened criminals. There are many capable individuals who are just passing years in prisons, being non productive citizens.

Changes are needed.

Sincerely,

Mrs. Josephine Johnson
(sign your name & address)

3901 Loyola
Lombard, Ill.

60645

February 27, 1991

U.S. Sentencing Commission
1331 Pennsylvania Avenue, Suite 1400
Washington, D.C. 20004

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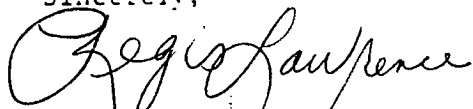
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Changes are needed.

Sincerely,



(sign your name & address)

184 Alabama Avenue
Hempstead, N.Y. 11550

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

8-2-91

Attn: Communications Director
Public Comment

The harsh sentences that are applied to first and non-violent offenders is the leading cause of prison over-crowding. This sentencing policy cost the American taxpayer approximately \$20,000 per inmate, per year, to house and feed these non-violent offenders.

When a person is sentenced to 10, 15, 20, years with out parole, it not only places a heavy burden on the taxpayer but create a new breed of criminal for the future. Spending long periods of time in prison can and will turn non-violent people into violent people who can become a threat to society.

Instead of alternative sentencing for first and non-violent offenders, America chooses to "warehouse" these people. We have become the world's leader in prison population.

One alternative for the first and non-violent offender that could help the over-crowded federal prison system, lessen the burden on the taxpayer, and also put these first and non-violent offenders back on the right track is to create new work programs such as volunteer work in the communities. There are many educated people in the federal prison system which the community can benefit in ways that would save taxpayers money. If a person spends 10 years in prison when she or he is no threat to the public, for that period of time the cost will be approximately \$200,000. But if that same person is sentenced to some type of work program and is required to pay \$50.00 to \$100.00 a month that would save the taxpayers money. Taxpayers should not have to pay for a first offender or non-violent person to mop the same floor for 8 hours a day for 5,10,15, years. The public gains nothing but new criminals for the future and their hard earned money is spent for people who could pay their debts back to society in many ways other than sitting in prison for long periods of time.

Revise the Sentencing Reform Act of 1984. Bring back parole. Institute alternative sentencing. *please*.

Thank you for your cooperation in this matter.

*My ex husband (William J. Harmony Reg. # 03865-091
PMB 1000, E unit Tallahassee Fla. 32301) is not a dangerous
criminal. He's basically a really nice guy. He made a
mistake and he didn't run away, he faced his punishment -
but no chance for parole is unthinkable.*

*Sincerely
Patricia Dalton*

US Sentencing Commission,
Chairman
1331 Pennsylvania Ave, NW
Suite 1400
Washington, DC 20004

Dear Sir,

I urge you to recommend the exclusion of LSD carrier media weights when calculating sentences in your upcoming report to Congress on your evaluation of the effectiveness of this part of the Sentencing Reform Act.

You noted the ambiguity of the statute as it is currently written in a letter to Senator Biden, dated April 26, 1989. Presumably acting in response, Sen. Biden recommended the technical correction of "remedying the unintended inequity by removing the weight of the carrier" (Amendment #976 to S.1711. 135 Cong.Rec. S12749 daily ed. Oct. 5, 1989). Senator Kennedy has sponsored two pieces of legislation that would have excluded the weight of the carrier upon which the controlled substance is placed, or by which it is transported (Amendment #1716 to S.1970, 136 Cong. Rec. S7069, daily ed. May 24, 1990). In the 101st Congress, Sen. Kennedy introduced S.2649, the Drug and Alcohol Abuse Treatment and Prevention Improvement Act, which also would have addressed the problems resulting from a weight-based sentencing scheme with respect to LSD carrier media.

It is obvious that both the Sentencing Commission and Congress realizes such a scheme is not in concert with the objectives of the Anti-Drug Abuse Act of 1986, nor with the Sentencing Guidelines, which sought to treat equally culpable individuals similarly. In this spirit, you must again recommend to Congress that legislation be passed to resolve this ongoing violation of equal protection, this propagator of unusual punishments.

Although the Supreme Court upheld this practice, it was only because they felt Congress knew what it was doing. Beyond that, there is no logic or rationale in their majority opinion to continue granting what Chief Justice Rehnquist understands to be "widely disparate sentences" that bear no relation whatsoever to the severity of the offense. The Court based its decision on the assumption that an LSD carrier is the functional equivalent of a cutting agent. The Court's determination that LSD adhered to a carrier is a "mixture" is factually incorrect. The Court's constitutional holding is based on the incorrect assumption that there is a rational relationship between the weight of an LSD carrier and the number of doses distributed. The Court utterly ignored the violation of the Eighth Amendment.

Senator Biden suggests that mechanisms built into the Sentencing Reform Act rely on evaluating reports from both the Commission and the General Accounting Office. Please address this issue appropriately, so that Congress and the Judiciary Committee may act to remedy this embarrassing discrepancy.

Thank You for Your Support,

Elaine Nip
1655 Haas St
Madison, WI 53704

July 23, 1991

United States Sentencing Guidelines
Commission
Mr. Paul Martin
1331 Pennsylvania Ave.
Washington D.C. 20004

Dear Mr. Martin,

What is wrong with our system? I feel neglect on behalf our government. I understand that the control of trafficking and drug smuggling is a main objective to the United States, but in the process of reaching this goal we are forgetting the principles of fairness. The laws are changed constantly, searching for the perfect method in controlling this war against drugs. We cannot forget that these are human lives that we are dealing with and that the laws are changed to help our country, not to use cruelty or unusual punishment. I understand that it is a complicated problem, in which case I will share my opinion with you.

First, not even the top people that control and make the laws have the right answers, in which case rules are different from state to state and each experimenting with the others rules. I am not trying to insult anyone, but I do believe that something positive must be done. People are in the middle of all this chaos and are subject to cruel and unusual punishment which is against our constitution. A balance law should take effect, such as; weighing each case separately (like done with criminal offences). Some first time offenders should not be subject to many years of imprisonment, rehabilitation might backfire with opposite effects. My suggestion is to psychologically test each case and review the life history of each person carefully. Rapist get this privilege, why not extend that privilege to better deserved cases. I am not a psychologist but a experienced professional (with a little common sense) can detect any disturbance if any and on proper punishment.

Second, the judges power of determining proper punishment has been taken from them. Their hands are tied when involving drug cases, yet they have the capability of using their expertise and knowledge in cases such as; murders, child abuse and rape. I cannot see the fairness to these

guidelines, which lets first time drug offenders with no past history of any crime be punished the same way a rapist would be. I insist that the Judge be given his job back and the flexibility and power to investigate each case individually. Fine, you break the law, you must pay the penalty, but HUMANLY.

Third, our taxes which feels that it increase every year should be spent to educate our children in the dangers of the consumption of drugs. In doing so we are minimizing the smugglers customers. Instead taxes are being used to build more jails and employment of more doctors (because of crowding, causing health hazards). Building more jails is not the answer. I rather my money go to a better cause such as; better education for our youth which should be the primary focus on the fight of drugs. A estimate of \$22,000 per inmate is spent yearly times ten years (without parole) which is the minimum sentence for drug trafficking seems like a hell of a lot a money for rehabilitation which might just backfire. Doesn't it sound more reasonable to take cases individually and evaluate accordingly? Sentencing properly will eliminate excessive amounts of prisons and personnel and by doing so it will create funds for the children education.

Overall, by educating our children and giving the judges the power to treat each case separate and balance the law accordingly, I strongly believe that this method will work. Each person is a individual, why should not each case be examined the same way? I guarantee that in the long run it is less expensive to investigate and test each person separately than imprisonment for an exaggerated amount of years. It is sad for a good person to be imprisoned for many years and then be released as a criminal! I do not call that justice. Please, help and or let me help in some way to bring justice and fareness back to the people!

Sincerely,

A handwritten signature in cursive script that reads "Rebeca Navarro".

Rebeca Navarro

Note: I have attached a letter that I sent to the Criminal Justice Policy Foundation on March 25, 1991 of a particular case which was sentenced inhumanly.

Rebeca Navarro
405 S.W. 96 Court
Miami, Florida 33174

March 25, 1991

Criminal Justice Policy Foundation
2000 L Street, NW #702
Washington, D.C. 20036

Dear Ladies and Gentleman,

I write to you for your assistance and to offer mine. Let me explain a little about myself. I came to this country with my family in 1959. The United States of America gave my family and myself the opportunity to start a new life. At fourteen years of age I started working and I have been ever since. The reason why I have briefly discussed my life is to make you realize that I am a decent and hard working person, which appreciates the opportunities the U.S.A. has given to me and I have always respected the laws.

I have known and loved a hard working man for seven years. I have seen with my own eyes how this man worked and struggled to maintain his children and raise them to be responsible and decent people. He always takes that extra step to assure his children that he will be there for them always (what now?). I have never seen or heard of such a caring father or man in my life. He went from one bad luck to another. He made a mistake and was offered the opportunity by the United States Federal Bureau of Investigations to assist them with a drug case in Chicago. I felt confident that the U.S.A. would help him and not let him down. He worked with the F.B.I. for two years in Chicago. His family including myself helped him with the expenses, at no time did he receive any financial help from the government. He knew his life was at stake, at times it was very dangerous, but he was willing to take his chances, for the sake of his children and family. Somehow, he felt that he was paying some of his dues. This is his first penalty, he has never broken a law before. This man is a good, honest human being that is always helping others. [REDACTED]

[REDACTED]

His day of sentencing was January 27, 1991 in the courts of Chicago. [REDACTED]

[REDACTED] Needless to say his family and friends have a real sour taste in their mouths with this system. It is unjust to treat a person so inhumanly.

I feel let down by our government. How can our government be so hard on a first time offender? How can third time offenders, murderers, rapist, child abusers be categorized and sentenced the same as first time drug offenders? The Judges responsibilities are to "judge" with a more flexible guideline. Let the Judge do his job!

What can I do to help? This system is not working! We are putting good people away for too long. It reminds me of a story that happened two thousand years ago in which the system sentenced a man by the name of "Jesus" to be crucified with thieves and murderers. This system did not work then and it will not work now.

Sincerely,

Note: Details of this case were not mentioned to protect all parties involved.

TO: UNITED STATES SENTENCING COMMISSION
1331 PENNSYLVANIA AVENUE, N.W.,
SUITE 1400, WASHINGTON D.C. 20004
ATTN: COMMUNICATIONS DIRECTOR

RE: AMENDMENTS TO SENTENCING GUIDELINES

DEAR COMMUNICATION DIRECTOR,

I am writing this letter to you in hope that my feelings, on the sentencing guidelines and toward the alternative to incarceration for non-violent criminal offenders, will be considered by the sentencing commission in presenting its proposed amendments to congress. My thoughts are, that the sentencing guidelines do not place enough emphasis on the individual being sentenced and therefore has resulted in cruel and harsh sentencing. I also believe that too great a reliance has been placed on the quantity of drugs that an offender is convicted of 3B1,2. It is my sincere desire to see that non-violent offenders are given terms of house arrest, are able to become good family providers, will contribute to community needs, and are able to become tax paying citizens. In my opinion it would serve the public best to make any amendments adopted retroactive that would get non-violent offenders home to support their families.

Thank you for your consideration

Charles Apple Williams
03564-032
FEDERAL PRISONER

Aug 2, 1991

I am writing you after I
read in Title 18 of this address
offering comments about Title 18.

It was sentence June 19, 1991 in
Covington, Kentucky Federal Court on
Bank Robbery charges, and I pleaded
guilty.

I was given 3 years more for
a toy gun not a real gun under the

Dangerous Weapon: Category

My contention is that Title 18
defines a Dangerous Weapon as one that
has to inflict death or serious bodily
injury. ending with a period. but then
goes on further to state. Where and
object appear to be a DANGEROUS
Weapon that as a Dangerous Weapon

How can you treat this toy gun
as a Dangerous Weapon when
Title 18 just said it has to be able
to inflict death or serious bodily injury

You as well as I know the
story I can read not as told.

And as for the history points
I am not for paying crime.

How many times does a person
have to pay for one crime

Answer all questions that concern
me.

I will await your response in
G.A. ... for I am in travel
now,

Thank You,
Charles Apple Williams

Attn: Communication Director

Re: CHANGES IN GUIDELINES FOR
INDIVIDUALS

Dear Gentlemen,

It is my understanding that the U.S. Sentencing Commission will be meeting soon in order to determine a change in the guidelines. I am writing to voice my opinion as being a wife of an inmate.

My husband was sentenced to a 10 year prison term. His charge was "Conspiracy." My husband is a non violent person and has no record of weapons. He also had letters wrote for his character. Letters from prominent people. Michael was arrested twice prior to this conviction, he was put in

prison as a "Category III." He is now imprisoned in a high security prison. Mike was moved from Fla to 3-Rivers, Texas. It would take us 20 hours to get out here to see him. Instead of the drive & having Mike out of our lives we moved out here. My children need their father. We are a very close family. But we will have to go back to Fla soon. You see there are no jobs. And we are under financial difficulty. I can't tell you the stress this has put on our family. I love my husband, he's a good man. I know justice must prevail, but does it have to be this way? It seems as if the child abusers, rapists & murderers get out faster than the more violent people do.

My husband is a very loving

+ devoted father + husband. He is a respectful son of his parents + joins I know justice must prevail - but the fact is they convicted Mike for being the manager + also helping to load a few boxes.

Violence is not a part of Michael's life. He is now at the FCI in 3 Rivers, Texas. He lived in Fla. Since he has been incarcerated he hasn't been able to see any of his family. None of his brothers, sisters or father for 8 months. I can't see how a situation like this could rehabilitate anyone.

Punishment is your department but I ask you to please consider those offenders who are non-violent + have a warm loving home waiting for them. I believe there are some offenders who can be rehabilitated if given the right

opportunity. My husband is surrounded by people the majority of whom know nothing but trouble & living with with them must influence trouble. I would think strong consideration would be taken when it comes to ordering the offender to be incarcerated at home at all times. Ok let them go find jobs & then have to be home at a certain time. And make sure they are by one of those electronic monitoring devices. Also drug treatment centers are a positive alternative to prisons.

In closing I have to tell you that I am afraid because my husband will be gone so long, but also because my husband the way I knew him will change. But may never come home due to the atmosphere that surrounds him.

Please keep in mind when considering the guidelines. There must be a better way to help the offender as well as help the community rather than causing so much pain & suffering to the family.

We have been told the guidelines were changed the first of August. But that it would not affect the inmates that were convicted under the strict guidelines. I can't see where that's fair to them or their families.

Sincerely
Sandy Spikes

To whom it may concern

IS it Justifiable to take a rehabilitatable human being out of Society in order to protect Society itself? All it is ~~not~~ is just procrastinating the solution to the problem. I know what doing or should I say Serving a Substantial amount of time does to the morality of the person.

I Served two years myself. Fortunately I recieved drug and Alcohol treatment during this period of time. I have now finished my first year of college with a 3.79 GPA, and also working as a Youth Counselor At the Francis Laver youth Shelter in mason city Iowa.

Now lets take a look at what type of person Jerry Ayers is. I have known him for ten years, he is no criminal. Yes he may have a drug problem, that can be helped! I know. Lets rehabilitate; not keep him out of society.

Lets help, not procrastinate. It is the humane thing to do.

Sincerely
John Upshaw

07-27-91

US Sentencing Commission,
Chairman
1331 Pennsylvania Ave, NW
Suite 1400
Washington, DC 20004

4303 CHAPLINE ST
WHEELING, WV 26003

Dear Sir,

I urge you to recommend the exclusion of LSD carrier media weights when calculating sentences in your upcoming report to Congress on your evaluation of the effectiveness of this part of the Sentencing Reform Act.

You noted the ambiguity of the statute as it is currently written in a letter to Senator Biden, dated April 26, 1989. Presumably acting in response, Sen. Biden recommended the technical correction of "remedying the unintended inequity by removing the weight of the carrier" (Amendment #976 to S.1711. 135 Cong.Rec. S12749 daily ed. Oct. 5, 1989). Senator Kennedy has sponsored two pieces of legislation that would have excluded the weight of the carrier upon which the controlled substance is placed, or by which it is transported (Amendment #1716 to S.1970, 136 Cong. Rec. S7069, daily ed. May 24, 1990). In the 101st Congress, Sen. Kennedy introduced S.2649, the Drug and Alcohol Abuse Treatment and Prevention Improvement Act, which also would have addressed the problems resulting from a weight-based sentencing scheme with respect to LSD carrier media.

It is obvious that both the Sentencing Commission and Congress realizes such a scheme is not in concert with the objectives of the Anti-Drug Abuse Act of 1986, nor with the Sentencing Guidelines, which sought to treat equally culpable individuals similarly. In this spirit, you must again recommend to Congress that legislation be passed to resolve this ongoing violation of equal protection, this propagator of unusual punishments.

Although the Supreme Court upheld this practice, it was only because they felt Congress knew what it was doing. Beyond that, there is no logic or rationale in their majority opinion to continue granting what Chief Justice Rehnquist understands to be "widely disparate sentences" that bear no relation whatsoever to the severity of the offense. The Court based its decision on the assumption that an LSD carrier is the functional equivalent of a cutting agent. The Court's determination that LSD adhered to a carrier is a "mixture" is factually incorrect. The Court's constitutional holding is based on the incorrect assumption that there is a rational relationship between the weight of an LSD carrier and the number of doses distributed. The Court utterly ignored the violation of the Eighth Amendment.

Senator Biden suggests that mechanisms built into the Sentencing Reform Act rely on evaluating reports from both the Commission and the General Accounting Office. Please address this issue appropriately, so that Congress and the Judiciary Committee may act to remedy this embarrassing discrepancy.

Thank You for Your Support,

Betty Brumm

Aug. 21, 91
4301 OVERLOOK DR.
BLOOMINGTON, MN 55437

US Sentencing Commission,
Chairman
1331 Pennsylvania Ave, NW
Suite 1400
Washington, DC 20004

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Thank You for Your Support,

Robert J. Biden

CATHY FOELL
1304 S. GEORGIA
MASON CITY, IA
50401

U.S. SENTENCING COMMISSION
Chairman
1331 PENNSYLVANIA AVE.
SUITE 1400
WASHINGTON DC, 20004

Dear Sir,

We, the undersigned, support the standardization of LSD sentencing. The Supreme Court's decision that the carrier medium upon which LSD is sold may be weighed in setting sentences for LSD convictions is irrational and violates the intent of the 1986 Sentencing Guidelines which sought to treat equally culpable individuals similarly. LSD is sold by the dose, and the weight of the package that carries it does not extend the weight of drug for sale. Treating carrier media as "mixtures or substances containing a detectable amount of drug" results in widely varying sentences that violate equal protection, and promulgates unusual sentences. We urge you to adopt legislation that will resolve this inequity.

name:

Cathy Foell
Steven R. Bombella
Brad Wilkin

Steven Bombella
Rhonda Best
Alvin W. Martin Jr.

Mandy Martin

Bonnie Best

Troy Tidemanson

Karen Wilkensen

John Upshaw

Kyle Peterson

Travis W. Smith

Becky Sutton

address:

1304 S Georgia Mason City IA

1209 9th S.W.

325 18th S.E.

1209 9th S.W.

1211 N. Adams

2328 20th S.W.

2328 20th S.W.

502 S. Taylor

408 1st SW

704 11th N.E.

704 11th N.E.

605 1st N.E.

1023 16th N.E.

176 N. Crescent Dr.

August 22, 1991

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

Att. Michael Courlander

Dear Commission Members:

I am addressing the issue of Federal Guidelines and the effect this has been on first time offenders. The sentencing is toolong and no consideration has been given to first time offenders.

May I suggest, as part of your study that you visit a minimum security work camp on a weekend and observe the young inmates and their families, the heartbreak of parents missing the growth and development of their children. At Eglin FPC I see father's carrying their children all day, children crying when it's time to leave, mothers attempting to keep the families together.

Most of the inmates are average good people who made a mistake and believe me after being there for six or eight months they will not risk imprisonment again! I would like to see first time offenders evaluated on past and present records at least every six months and then placed on house arrest so they can rebuild their lives.

My son is at Eglin AFB FPC and for one mistake was given five years and this was his first offense of any kind and got into this mess due to hardship and he is 40 years old! He has lost everything he had strived for and I can't begin the heartbreak it has brought to my husband and myself and the effect it has brought in our retirement years.

These sentences are not getting the hardened criminals as you will readily observe at a minimum security prison. Couldn't these prisons be better suited to the hardened criminal who is on the way to rehabilitation?

My son is not married and has no children so this is not just consideration for him but for the good men that have been put away and forgotten.

Sincerely,

Frances M. Osterhoudt

Frances M. Osterhoudt
27136 Edenbridge Ct.
Bonita Springs FL 33923

August 2, 1991

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

Att. Michael Courlander

Dear Commission Members:

We would like to address to the Commission on issues that we have concerning the Federal Sentencing Guidelines.

The current system does not allow enough of a distinction between first offenders and repeated offenders. The bottom end of a guideline for first offenders usually is much too severe and a shorter sentence with house arrest following and community service would help inmates and their families get their lives back into prospective. Federal judges are now so restricted to the current guidelines that they are unable to take into consideration the background, clean past record and personal life of a first offender.

How can current long term guidelines for non-violent offenders be justified when killers, rapists, etc. are released and out in the streets after only serving 20 to 30 percent of their time and non-violent inmates are serving longer sentences? Let's release non-violent inmates from minimum security prisons after six months who are in camps without fences and working in the community and place these individuals on house arrest back in their own homes with their families and working in their own communities and turn the minimum security prisons/work camps into a stepping stone for more violent criminals and used for rehabilitation before these persons are released back into society.

Let's concentrate on our violent offenders and stop wasting the tax payers and government money on non-violent inmates. House arrest is much more beneficial and less costly to society.

Respectfully,

Marlene Martin

Name: WANDA HEMMINGER 98/57-024

Address: F.C.I. - VERITAS UNIT

3301 LEESTOWN RD.

LEXINGTON, KENTUCKY 40511-8799

Date: MARCH 1, 1991

Communications Director

U. S. Sentencing Commission

1331 Pennsylvania Ave., N. W.

Suite 1400

Washington, D. C. 20004

Input Into The Proposed Amendments To The Federal Sentencing Guidelines

1. Reinstate the Parole Board, for persons sentenced under the new law, immediately. This will relieve the terrible overcrowding in our jails, prisons and community treatment centers. It will return productive citizens to their families, thereby taking millions of family members off the welfare rolls, strengthening family ties and putting literally thousands of ex-offenders on the street who will be glad to tell their families and friends to, "just say no to drugs" and the reasons why.
2. After reinstating the parole board, make it retroactive, so that all persons sentenced under the guidelines, and are still in custody, may go before the board, for a review of their case.
3. Get rid of the minimum amount of time in the guidelines. Let our judges again be judging whether a person may deserve a chance on probation, if they may need just a few months in prison or whatever they may need.

4. Do not place so much emphasis on the amount of drugs involved, especially for first time offenders and less culpable persons, as is covered in 3B1.2 - Mitigating Role. It is particularly distressing to see persons who have made no profit from their crime, or are first time offenders to receive as much or more time than persons with priors and even violence in their records. Again, this would be a place in the guidelines in which a judge could hear all the evidence and base an educated decision on it.
5. Do not count felonies which " extend " into the past fifteen year period. This is unfair to persons who committed some crime in their teenage years, get married and settled down for twenty years or so, get caught on a marijuana or small amount of drug charge and then finds they are being given high sentences, due to the fact that an old sentence expired within the past 15 years. We see this happen very often, under the 1987 Sentencing Guidelines, even though it is, in effect, the person's first adult offense. Rather, amend this clause to specifically state the crime itself has to have happened within the past ten years.
6. Amend the guidelines to leave it to the judge's discretion, whether to run a sentence concurrently, particularly when the offenses are related, such as conspiracy to possess, possession, and possession with intent to deliver, etc., which are basically the same crime.
7. Do not amend the guidelines to limit the use of characteristics of the defendant, age, family ties, health, etc., in the determination of departures and where to sentence in the guidelines.

These things should be used, in determining where the defendant should be sentenced in the guidelines and for what type of institution they should do their time in, if sentenced.

OTHER INPUT:

Something needs to be done, to control the apparent mass hysteria of law enforcement agents and prosecutors, in charging so many family members and casual contacts of a defendant, with Conspiracy. In many innocent people are in jail, due to Conspiracy charges. If American families keep getting torn apart, the wonderful America we've always known will fall apart.

Respectfully submitted:

x *Ma. Hemminger*

Signature

911 N.W. 57th Street
Oklahoma City, Oklahoma 73118-5908

March 5, 1991

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

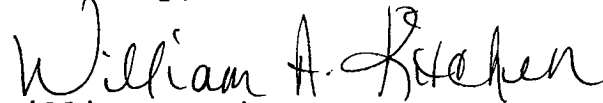
To Whom It May Concern:

It has come to my attention that your office is considering amendments to sentencing guidelines for federal offenders. The penalties for first time drug offenders are outrageous in that they are much too strict. Life without parole may be justified when violent criminal actions occur but an action of this nature cannot be compared to a first time drug offense.

I believe jail time is necessary as a deterrent, but more importantly, strong mandatory education programs and drug rehabilitation are the areas we should focus on. It is my opinion that amendments to federal sentencing guidelines are immediately necessary if for no other reason prison overcrowding, which has become a major problem afflicting our nation.

I appreciate your attention to this important issue.

Sincerely,


William A. Kitchen

February 21, 1991

United States Sentencing Commission,
1331 Pennsylvania Avenue NW
Suite 1400
Washington, DC 20004

Dear Gentlemen:

According to the National Institute of Justice, it costs taxpayers, on average, approximately \$75,000 per bed to construct a prison, and \$60 per inmate, per day, to operate it.

The number of federal inmates has almost tripled to more than 59,000 since 1981, and the Bureau of Prisons estimates there will be 100,000 prisoners by 1995, mostly due to the surge in drug arrests coupled with more mandatory minimum sentences and stricter guidelines.

Because of these stiff guidelines, many first-time, non-violent, minimum-culpability offenders are being sentenced to 10, 20 and 30 years in prison.

We, the undersigned, as taxpayers, voters, and in many cases families of these prisoners, respectfully demand that these circumstances change. We do not suggest a soft hand with drug dealers, however, first-time offender must be given the opportunity for rehabilitation. Most of these people do not present a threat to society, but when deprived of their freedom and families, they are only given the opportunity to learn new crimes, become hostile, bitter and full of resentment against society. The families will be more than willing to cooperate and to participate in the rehabilitation process.

We propose the following:

1. Mandatory minimum must be revised, and the judges must have more flexibility when sentencing.
2. Alternatives to incarceration must be implemented, such as:
 - a. Probation
 - b. Home arrest
 - c. Paying time with community services
3. The percentage of time served must be lowered from the current 85% of the sentence to one-third of the sentence for first-time, non-violent, offenders,
4. Re-instate parole and time off for good behavior, "extra good time," etc.
5. Elderly inmates should be placed in home arrest.

The obvious benefits of these alternatives are that taxpayers' money will be saved, and the first-time, non-violent, offenders will have a chance at rehabilitation.

Building more prisons will neither solve nor alleviate the problem. It is our duty to strive to be a regenerative, and not a punitive society.

We urge our lawmakers to investigate and to enact legislation that will better serve everyone.

God Bless You!

Name	Address	
<u>Ileana Pozo</u>	<u>6190 SW 44 Terr. - Miami</u>	<u>FL 33155</u>
<u>Edro 43 Pozo</u>	<u>11242 SW 117 Pl. Miami</u>	<u>FL 33186</u>
<u>Maria Pozo</u>	<u>11242 SW 117 Pl. Miami</u>	<u>FL 33186</u>
<u>Carmen Pozo</u>	<u>11242 SW 117 Pl. Miami</u>	<u>FL 33186</u>
<u>Susan Ydrovo</u>	<u>5860 W. 14 AVE MIAMI</u>	<u>FL</u>
<u>Martina Portes</u>	<u>10245 S.W. 37 Ter</u>	<u>MIA, FL</u>
<u>Rene Off</u>	<u>6741 SW. 155 ave. MIA</u>	<u>FL</u>
<u>ZNY</u>	<u>10786 N. Kendall St</u>	<u>MIA FL</u>
<u>Mary Elena</u>	<u>10786 N. Kendall St. MIA</u>	
<u>Carlin L. Celis</u>	<u>7303 S.W. 128 Place. Miami</u>	
<u>Mauro Rosales</u>	<u>10300 SW 110 St Miami</u>	<u>FL</u>
<u>Martina G. Ortega</u>	<u>6741 SW 155 ave. Miami</u>	<u>FL</u>
<u>Delora Arenas</u>	<u>13329 SW 115 PL MIAMI</u>	<u>FL 33176</u>
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<u>William Salas</u>	<u>12829 SW 54 St. MIAMI</u>	<u>FL 33175</u>
<u>Concepcion Gomez</u>	<u>5400 SW 140 ct</u>	<u>33175</u>
<u>Josef Ruiz</u>	<u>7421 SW 152 ave</u>	<u>33188</u>
<u>Gladys Orellana</u>	<u>12829 S.W. 54 St. Miami</u>	<u>FL 33175</u>
<u>ANGEL T. BLANCO</u>	<u>13333 SW 112 Pl. MIA</u>	<u>FL 33176</u>
<u>Josef Gonzalez</u>	<u>13310 S.W. 1st MIAMI</u>	<u>FL 33184</u>
<u>TONY ROSALES</u>	<u>10300 SW 110 St MIA</u>	<u>FL 33176</u>
<u>Aristides Lopez-Calleja</u>	<u>7303 SW 128 Place Miami</u>	<u>FL 33183</u>
<u>Sonia Gonzalez</u>	<u>13310 SW 1st St. Miami</u>	<u>FL 33184</u>

Jimmy

7907 NW 53 St. Miami FL 33166

Angelica Toranzo

175 Queens Ave. Elmont NY 11003

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16909 N Bay Rd. #607 North Miami Beach

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Panel weighs non-prison punishment

The Associated Press

WASHINGTON — More defendants convicted of federal crimes could perform community service or serve other non-prison punishments under a proposal being studied by the U.S. Sentencing Commission.

The spectrum of punishments that includes probation, weekend incarceration in local jails and home detention, are contained in a proposal drafted by a task force of the commission.

The seven-member commission, which made the guidelines that federal judges must follow when imposing sentences, last week deferred taking immediate action on the recommendations.

But it ordered a full staff study of alternatives to putting non-violent federal convicts behind bars. Only people with short criminal histories who are convicted of less serious crimes would be eligible for so-called intermediate punishments.

They are intended to give more

"[This] would give the judges more alternatives, particularly for first offenses."

— Vincent L. Broderick, a federal judge

flexibility at sentencing to judges, who have bitterly complained that their hands are tied by the guidelines.

Under the current system, judges are torn between "being more restrictive than they'd like to be or more lenient than they'd like to be," said Helen G. Corrothers, a sentencing commissioner who directed the task force of judges and other law enforcement officials that wrote the elaborate proposal.

The options "would give the judges more alternatives, particularly for first offenses," said Vincent L. Broderick, a federal judge from White Plains, N.Y., who served on the task force.

"There is nothing that is more disturbing to a judge than to have to give somebody a sentence that the judge thinks the person just

should not get," he said.

The sentencing guidelines mandate ranges of prison terms calculated with a formula that takes into account such factors as a defendant's past convictions and the seriousness of the crime.

A judge may depart from the guidelines only by making a specific finding that the defendant deserves a shorter or longer sentence.

Corrothers conceded there has been a "loss of faith" in community-based sentences. But she blamed inadequate financing for probation departments with large caseloads or other community treatment agencies for past failures.

The task force proposed allowing some offenders to stay at home except for authorized absence such as work.

A more restrictive version would be to order the offender stay at home at all times. Electronic monitoring bracelets worn by the defendants would enable supervision by probation officers. Such devices are currently used for some defendants awaiting trial.

Some defendants would be allowed to go to drug treatment centers for in-patient therapy as an alternative to prison.

The proposals come while officials are concerned that the surge in drug arrests coupled with mandatory minimum sentences will further overcrowd federal prisons.

The number of federal inmates has almost tripled to more than 54,000 since 1981 and the Bureau of Prisons estimates there will be 100,000 prisoners in 1995.

Home-arrest monitors make Digital a buy

Steve Halpern regularly reviews more than 400 stock newsletters, choosing what he believes to be the most interesting or informed recommendations for inclusion in this column and his own newsletter, the Dick Davis Digest.

Digital Products

Over the counter (Symbol: DIPC)

52-week range: 2 1/4-4 3/4

Friday's close: 4 1/2

"According to the National Institute of Justice, it costs taxpayers, on average, approximately \$75,000 per bed to construct a prison, and \$60 per inmate per day to operate it. Electronic monitoring home-arrest equipment, on the other hand, costs roughly \$4,500 per inmate and less than \$10 per day. And, since many offenders pay for the privilege of electronic supervision vs. being jailed, many home-arrest programs become self-supportive. Additionally, home arrest allows eligible participants to work, thus converting tax burdens into taxpayers. Consequently, as prison populations continue to explode,



**STEVE
HALPERN**

INVESTOR
DIGEST

U.S. legislative and judicial authorities have increasingly come to accept electronic home-arrest monitoring as a viable sentencing option for nonviolent offenders. First implemented just seven years ago, electronic monitoring has tripled each year since 1987. We expect the home-arrest population to continue doubling each year through 1995. We have initiated coverage of Digital Products, an emerging participant in this industry.

"Digital, based in Fort Lauderdale, is the second-largest manufacturer of electronic home arrest systems. The company currently enjoys an estimated 30 percent market share in this dynamic industry.

"Theodore Sabarese, former founder and chairman of Ultimate Corp., joined Digital in June as a consultant. Shortly thereafter, he was appointed president and chief executive. Under his leadership, Ultimate, a computer-service firm, grew in 12 years from a start-up to be a \$200 million-a-year company. Profitability at Digital appears to be reviving. The current fiscal year should see only break-even results; however, sales should expand rapidly, with earnings following in time. We project sales for fiscal 1991 to rise 47 percent to \$5 million and triple in the following year. We recommend accumulation of these shares by long-term investors."

Jyoti Aggarwala,
Ladenburg, Thalmann & Co.

THE MIAMI HERALD, MONDAY, DECEMBER 3, 1990

Prisons aren't best route to rehabilitation

Dear Ann: I'm hoping you will print my letter so lawmakers and judges will understand how we taxpayers feel. The best description is "outraged."

Recently, a friend told me that her brother was sentenced to serve five years in prison for drug involvement even though his role was minor. He was given the maximum sentence with no parole, plus a heavy fine. In prison, he earns 9 cents an hour and cleans the same floor for eight hours a day. That's his assignment.

As a taxpayer, I am furious that it costs us approximately \$20,000 a year to house and feed a prisoner. I am not in favor of going easy on drug

dealers, but I can't understand why a first-time offender, who is no threat to society, should be sentenced to prison. Also, if I'm going to pay to keep these people, I want them working at something that benefits me. Let them serve their time cleaning up our neighborhoods, removing graffiti, painting buildings and keeping our parks clean.

Another suggestion: Many first-time offenders could be permitted to stay in their homes and placed under "house arrest" since our prisons are so terribly overcrowded. I'm sure many families would be happy to cooperate. If the prisoner violated any rules, he would then have to serve his time behind bars.

Our lawmakers and judges need to wake up to the fact that prison is not the only answer, and in some cases, it is no answer at all.

— Angry in Sunrise, Fla.
I agree with you. And so did the late Dr. Karl

Menninger. In his book, *The Crime of Punishment*, written many years ago, Dr. Menninger pointed out that putting people in prison rarely rehabilitates them. It simply makes them angrier and meaner and sharpens their skills at robbing, cheating, killing or whatever crime they are in for.

Our criminal justice system is in desperate need of overhauling. Your suggestion that a great many prisoners could be put to work in ways that would benefit society is a good one. Of course, some criminals should be locked up for good, especially those who have committed violent crimes, but housing and feeding those who could work seems to me quite senseless.

Ann Landers welcomes letters from readers. Write to her in care of Living, The Miami Herald, 1 Herald Plaza, Miami, Fla. 33132. Enclose a stamped, self-addressed envelope for a personal reply.



**ANN
LANDERS**

Feb 2, 1991

U.S. Sentencing Commission
1331 Penn Ave. N.W.
Suite 1400
Washington, D.C. 20004

To whom it may concern:

I understand that a review will soon take place regarding the current Federal Sentencing Guidelines. I would like to add some input.

I am currently a federal prisoner at F.C.I. Lexington, Kentucky for women. I was found guilty to conspiracy to distribute and possession with intent to distribute cocaine and marijuana. I was sentenced, along with three co-defendants, April 21, 1989 to twelve years. On November 2, 1990 I was resentenced to nine years of parole.

I am in an over-crowded prison with many types of women,

young - old, all races, assorted charges.
Many of these women, like myself,
are mothers. We've had to leave
our children in the care of others,
some of our children are now on
the "street" finding for themselves.

Many of us made our first
truly big mistake - a mistake that
has been, will be, is, costly - not
only to ourselves and our children,
but to the Federal Government.
These mistakes are costing us
years - decades - first time offenders
of non-violent crimes. Where is
the compassion, the justice?

I understand punishment.
I can accept punishment. But I
can not comprehend accept the
severity of my sentencing.

I beg of you to reconsider
the current Federal Sentencing
Guidelines. I feel you can not,
should not lump all cases
together. Each and every
defendant has a story, circum-

stances and degrees of responsibility.
Again, I beg your re-
consideration. Sometime a second
chance goes along way!

Sincerely

Deborah Byrne

Deborah Byrne

21258-044

Fayette

3307 Leestown Rd

Lex Ky 40511-8799

To Whom it may concern:

I'm writing this letter in regards to the guidelines. These guidelines are too harsh especially for inmates who have no criminal history. I feel they should change this Law and give first offender parole.

I feel people should give others a second chance if then these people do not learn a lesson then it's different.

This new law is outrageous. It's unfair to people who with no record.

Please change this Law for the sake of the innocent men + women.

Thank You
Teresa Kierman

WE CAN MAKE CHANGES

February 27, 1991

ATTENTION! All genuinely concerned inmates and their families and supporters can make changes in the laws affecting sentencing by showing their support in the form of letters to the Sentencing Commission.

The Sentencing Commission has scheduled a public hearing on the Commission's study for changes in the Guidelines and Alternative Sentencing, in Washington, D.C. on March 5, 1991. Letters in support of these changes need to be sent to the Commission no later than March 18, 1991, in order for the Commission to evaluate society's view on these issues before a final decision can be reached at a later date.

If every concerned inmate under the New Law and the Old Law would take the time out to write to the U.S. Sentencing Commission at the address below, we can make a change. Also, reach out to your community, churches, families, friends and organizations to comment on the appropriateness of these changes, we can make changes. Points to cover in a letter can include, but are not limited to:

1. Unjust Guidelines
2. Alternative Sentencing for First Time and Non Violent offenders
3. There is no Rehabilitation for drug addicts
4. The family unit is being broken down thru lengthy sentences
5. Individual Justice no longer exists

The general public's opinions need to be heard. "Lock 'em up" thinking no longer exists. And is not proving to be successful, just costly, in many ways.

One wrong decision which led to criminal activity, does not make an individual a criminal. An offense against an individual or society can never be condoned, but the harsh and lengthy punishments being given are unjust. Let the victim be compensated through Community service and rehabilitation.

Letters should be sent to:

U.S. Sentencing Commission
1331 Pennsylvania Avenue, Suite 1400
Washington, D.C. 20004
Attention: Communication Director

For further information:
Paul Martin, Deputy Staff Director
(202) 662-8800

Sybil Smith
80228054
P.O. Box 1910
Dunbury Ct. #06813

WE CAN MAKE CHANGES
February 27, 1991

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Letters should be sent to:

U.S. Sentencing Commission
1331 Pennsylvania Avenue, Suite 1400
Washington, D.C. 20004
Attention: Communication Director

For further information:
Paul Martin, Deputy Staff Director
(202) 662-8800

Leresa Ramirez
28902-053
P.O. Box 1910
DANBURY, CT 06813

February 28, 1991

To Whom it May Concern,

I completely support a change in the 1987 Sentencing Guidelines. In theory the new law seemed a good way to punish the drug dealers. However, it isn't working. The prisons are profusely overcrowded with no turn over rate because of the lengthy sentences imposed.

The present guidelines greatly limit judicial discretion. For non-violent first offenders alternatives to warehousing of prisoners should be utilized, but judges are bound to the guidelines. House arrest, supervised release, half-way houses, community service, drug rehabilitation, work release, social and monetary restitution, counseling, and shorter incarceration should be choices judges should have available according to the individual defendant. The warehousing of prisoners is not working.

The Guidelines also take away all incentives and goal planning for prisoners because first offenders are given such severe sentences without the hope of being released earlier.

I would like to see something done soon before the problems in our prisons become worse. Judicial discretion needs to be reinstated, alternatives utilized, hope restored, individuality considered, and warehousing and overcrowding controlled.

Thank you for your consideration,

Julie Weick

March 5, 1991

William W. Bridge III
32918-060
FCI Loretto
P.O. Box 1000
Loretto, PA. 15940

Communication Director
U.S. Sentencing Commission
1331 Pennsylvania Avenue, N.W.
Suite 1400
Washington, D.C.

Dear Sir:

Please accept my comments for future consideration and/or amendments to the Sentencing Guidelines.

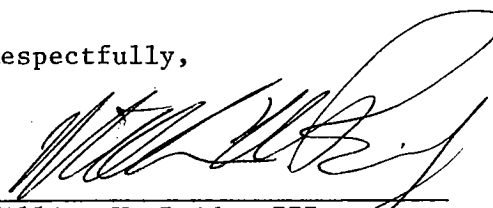
Presently I am a Federal prisoner who is sentenced under the "old law." I am serving a sentence of six years under the Parole Commission and Reorganization Act of 1976. Many other inmates are serving sentences of 10 years or greater for first offenses. The impact of such a sentence on a first offender will be a great price for our future society to pay. A person who is incarcerated for such a period of time most likely will be forgotten by family and friends. As a result when released into society he will have no support system whatsoever. I can tell you from experience if a man does not learn in 2 or 3 years incarceration, he certainly will not learn in 10 - 20 years. Most important, his anger and frustration will cause future crimes to be committed.

The Sentencing Guidelines are not fair in practice. The only persons who take unfair advantage are the prosecutors and the informants. Only large scale drug dealers get fair and equitable sentences. The small players in the drug game are the only ones who cannot cooperate sufficiently to get a sentence reduction. Large dealers who have been selling and have built substantial organizations over the years can afford high priced lawyers and tell on their associates- - go free? or serve minor sentences. Is this fair? Does this make sense?

May I suggest that for especially first offenders that the same funds be expended to force those offenders to take educational courses or suffer the confines of prison, at least in the first instance. Education in America is our most valuable asset. In the future it will be drug education that stops our children from using and selling drugs, not incarceration! No demand, no supply.

Thank you for your consideration.

Respectfully,



William W. Bridge III

ID # 26279-034
F.C.I. Fainton
P.O. Box 280
Fainton NJ 08320
MARCH 5 1991

Dear Members of the Commission,

I am writing this letter with regards to the amendments of the new guidelines. first of all I must say I don't feel Congress intends to sentence young men to become old in its prisons. non-violent crimes in the federal courts draw lengthier sentences than violent crimes in other courts of the land. how can a first time non-violent offender be sent to prison for 15 years of his life, although I am working in the prison industry (unicor), doing a lot for the war effort in the Persian gulf there is still no benefit or recompense. I think federal prisoners should be able to work hard to get some good time, it would certainly make life in the federal prisons more rewarding. murders are getting less time in the state court than say an ordinary drug offender along with less time murderers do get parole and good time. Is a life taken a lesser offence than a drug offender? what is America coming to, I do NOT want to make

This letter too long. how can prison act as a
deterrent when a young man whom the government
claims has made a mistake can be put away
for decades so that when he finally gets to go home
and start his new life there is no home or life
to go to children and wife is nowhere around.
This is my first fence at the age of sentencing I
was 36 years old I did not get a chance to
reveal myself to society that I am not what they
think I am. The result I think should be "more
uniform, fair truthful sentences. Thank you all for spending
the time to read my letter. At punishment fit the
crime.

yours truly
Inmate Errol Homan

ANDREA D. ANDERSON

March 6, 1991

Communications Director
U.S. Sentencing Commission
1331 Pennsylvania Avenue, N.W.
Suite 400
Washington, D.C. 20004

Dear Sir/Madame:

I am writing this letter to express my deep displeasure and concern with the current sentencing guidelines relative to first-time criminal offenders.

As a law-abiding, tax-paying citizen of this so-called democracy, I personally resent having to financially underwrite a penal system that is neither productive nor rehabilitative.

The system, as it exists today, is nothing more than an institution of higher learning of criminal behavior for individuals. While incarcerated, one is exposed to situations and people who entice and/or introduce them to a level of criminality that they never would have conceived of outside of the prison environment.

I hope my comments are not perceived as condoning wrong; that is not my intent. However, I feel it is my responsibility to speak out against the injustice of a first-time offender (meaning one who has no prior record or negative relationship with the law) receiving a mandatory minimum jail term of 10 years without the possibility of parole. This is a very real situation for me as it is the status of someone I am very close to.

It has been said that the predictor of future behavior is past behavior. It is incomprehensible to me how an individual who led a life of respectability and maintained morals above reproach for 30 years would be best served after paying his societal debt for 10 years.

After 10 years of incarceration and \$250,000 of tax payers' money this young man's mind will be equipped to become a repeat offender, not a productive member of society.

I hope that you within your power and discretion will give the authority back to our judges with reference to the sentencing of first-time offenders.

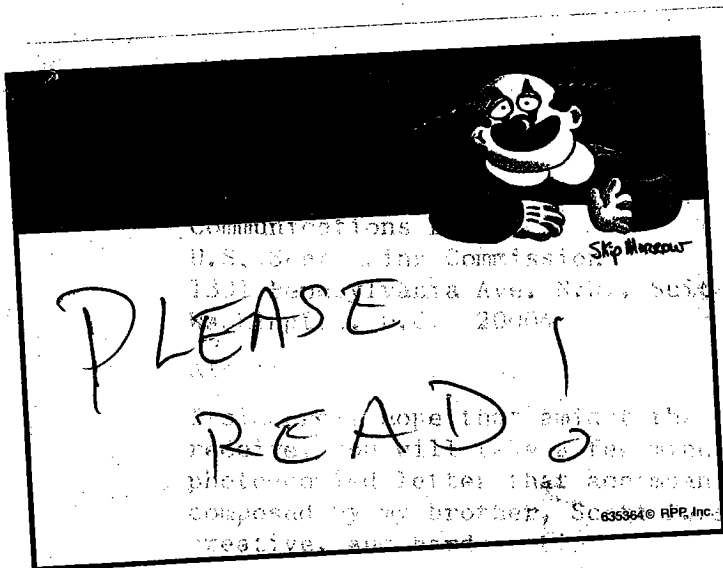
Thank you in advance for your attention and prompt action to this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "Andrea D. Anderson", with a long, sweeping horizontal stroke extending to the right.

Andrea D. Anderson

3/13/91



1400

ge volume of public comment you to read and absorb the typed, this short note. The letter was s, one of the most intelligent, ls I have ever known. But since

seventh birthday, his life has been topsy-turvy and an exercise in frustration and futility.

For many years Scott and his family had dedicated themselves to the noble endeavor of raising and marketing healthy, organic vegetables. Scott, who founded a vegetarian program at Carleton College after graduating with honors in biology, was active on the Grower's Council at the Madison (Wisconsin) Farmer's Market, which serves upwards of 10,000 each weekend. Well schooled in nutrition, Scott and his wife Ruth established a whole-grain bakery on their farm to help diversify their economic base through the winter months. However, a decade of improvements on their home and 120-acre farm has now lost all meaning, for their property was seized, and any remaining assets quickly dissipated in legal fees. My brother, once proud and strong, has been sucked into a tailspin of depression. Now, without the intervention of your commission, he faces a five year period of incarceration, with no chance for parole or consideration for a productive way to serve his community.

I believe that his case is not unique, that we must reinstate the parole system retroactive to Nov. 1, 1987, and carefully reshape the penal system in order to optimize benefit to society. In this way we may truly allow the individual to turn his negative experience into a positive force in his life. Present sentencing guidelines can only foster bitterness, alienation, and strain family ties to the breaking point.

Please search your hearts for compassion while reviewing these matters.

Aloha pumehana,
(with compassionate love),

Robert W. Parsons

Robert W. Parsons

P.O. Box # 612

Makawao, Maui, Hawaii 96768

1-(808)-572-9882

*received
Fed.
Oct*

3/13/91

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

Aloha,

I sincerely hope that amidst the large volume of public comment you receive, you will take a few minutes to read and absorb the typed, photo-copied letter that accompanies this short note. The letter was composed by my brother, Scott Parsons, one of the most intelligent, creative, and hard-working individuals I have ever known. But since federal officials stormed his property on the afternoon of his son's seventh birthday, his life has been topsy-turvy and an exercise in frustration and futility.

For many years Scott and his family had dedicated themselves to the noble endeavor of raising and marketing healthy, organic vegetables. Scott, who founded a vegetarian program at Carleton College after graduating with honors in biology, was active on the Grower's Council at the Madison (Wisconsin) Farmer's Market, which serves upwards of 10,000 each weekend. Well schooled in nutrition, Scott and his wife Ruth established a whole-grain bakery on their farm to help diversify their economic base through the winter months. However, a decade of improvements on their home and 120-acre farm has now lost all meaning, for their property was seized, and any remaining assets quickly dissipated in legal fees. My brother, once proud and strong, has been sucked into a tailspin of depression. Now, without the intervention of your commission, he faces a five year period of incarceration, with no chance for parole or consideration for a productive way to serve his community.

I believe that his case is not unique, that we must reinstate the parole system retroactive to Nov. 1, 1987, and carefully reshape the penal system in order to optimize benefit to society. In this way we may truly allow the individual to turn his negative experience into a positive force in his life. Present sentencing guidelines can only foster bitterness, alienation, and strain family ties to the breaking point.

Please search your hearts for compassion while reviewing these matters.

Aloha pumehana,
(with compassionate love),

Robert W. Parsons

Robert W. Parsons
P.O. Box # 612
Makawao, Maui, Hawaii 96768
1-(808)-572-9882

*received
Fed.
Ct*

Dear *Rory*

I am in a prison camp, serving a mandatory minimum five year sentence with no parole for having marijuana plants on my property. I have already lost my home, not just for myself, but for my wife and my son. I would like the opportunity to do something constructive for society while I am being punished for my crime, but mopping floors in prison for 11 cents an hour isn't doing much good for anyone.

The U.S. Sentencing Commission is currently meeting in Washington, D.C., to amend the existing Federal Sentencing Guidelines. The Commission has asked for public comment on the existing guidelines, and this comment is due by March 18, 1991. I urge you to take the time to write. Your opinion matters, and you may help bring about a much-needed change.

There is no doubt that crime deserves punishment. The great question is what should be the form and duration of that punishment? And the follow-up is, is there a way to derive a benefit (to both the individual to be punished and society) from that punishment?

Under the current guidelines, for "drug offenses", the quantity of the controlled substance involved in the offense is the principal determinant in computing the length of the sentence. The Judge is required to execute a sentence within a narrow range, and in many cases a mandatory minimum five year sentence with no parole is required. Furthermore, there are absolutely no considerations given to first offenders with no criminal history.

For example, under current law, someone arrested with 110 marijuana plants (of any size) in his yard might expect to have his home seized by the government. In addition, he could be charged with manufacture of 220 pounds of a schedule 1 controlled substance, marijuana.



Scott Parsons and Family

The government contends that each plant, regardless of size, equates to 2.2 pounds of marketable marijuana.

The mandatory minimum sentence for this crime, when charged in Federal Court, is five years in prison, with no parole.

Most of the lower level drug and white collar crime offenders are placed in "Level 1" prison camps, with no fences, and no guards with guns. However, the Federal Government pays out about \$20,000 in taxpayers' money each year to keep these non-violent offenders in jail. In these camps, there is no such thing as work-release privileges. The inmates work their Bureau of Prison jobs, earning as little as \$5.25 per month, on the prison camp premises. The inmate has no way to make positive and constructive reparations to society for his crime.

Most of these non-violent offenders have families. There is no care or concern for the families of inmates. Since the parole system has been abolished, it is guaranteed that many families will fall apart under the strain of separation. How many households can endure the loss of the father for five years and survive intact?

The U.S. Sentencing commission has the power to change the guidelines to ensure

more humane punishments which would allow a non-violent first offender to serve some months of prison time, followed by release to a halfway house, followed by the remainder of his time to be served under "house arrest" while in contact with a parole officer on a regular basis. Consider the difference in costs: the cost to taxpayers to keep an inmate in prison is between \$1000 and \$2000 per month; the cost while under supervision is \$90 per month.

At the current time the Federal prison system is almost entirely punitive, with little opportunity for rehabilitation, especially for those offenders who have already completed high school or college.

I believe that Americans are entitled to a Justice system which allows for a positive and rapid rehabilitation (and reintegration into society) for each non-violent law-breaker. Even if compassion does not dictate this, economics should.

Long sentences do little but destroy individuals and demoralize families. Please let your voice be heard - it will make a difference. Please write to the sentencing commission and let them know your opinion.

Thank you for your concern and help. If the Sentencing Commission makes some significant changes, especially retroactive changes, thousands of families will benefit.

Sincerely,

Scott Parsons
03168-090
Box 1085 FPC
Oxford, WI 53952

(please see other side)

Issues to Consider in Addressing the Commission

- The parole system should be reinstated for all non-violent offenders, retroactive to cover all of those sentenced for crimes committed since November 1, 1987, when the new Guidelines took effect.
- Reliance on "drug quantity" to determine a defendant's sentence is dangerous and misguided. Each case should be decided as much or more on the merits of the human being involved than the quantity of "drugs" involved. The potential of the offender to make positive reparations through community service is important.
- A greater use of community service time in conjunction with supervision and shorter prison sentences should be incorporated to maintain family ties and benefit the community.
- Should marijuana be punished on the same level as heroin and cocaine?
- Building more prisons for non-violent offenders serves no positive purpose. Warehousing people is not the answer to deterring drug-related crime. Educational programs which decrease demand for drugs work at the root of this nationwide problem affecting all socioeconomic levels.
- After a period of months (not years) in prison, any non-violent first offender should be released to a community facility with work-release privileges, then "house arrest" may follow. Any violation of the terms of release would win the individual a free trip back to prison.

March 11, 1991

Carolyn Thomas
610 SW 8 St.
Ft. Lauderdale, FL
33315

The U.S. Sentence Commission
1331 Pennsylvania Ave, N.W.
Suite 140
Washington D.C. 20004

Dear Sir:

Being a tax payer and a home owner I am of course concerned about the spending of my tax dollars. I have been told that The U.S. Sentence Commission will be voting on new Guidelines in reference to sentence length of non-violent crimes. My Brother-in-law is in jail in Pennsylvania for a non-violent crime. I don't know all the details of the case because I was in Florida when it happened. The police had been in a chase with someone else who had given my Brother-in-law's name as the source of the drugs. Their house was searched with nothing being found. He was storing a scale that was never fingerprinted and wouldn't have had any prints on it. He had no previous criminal history, this was a non-violent crime and he is in jail on a mandatory 10 year

sentence. I find that unbelievable when I see the things on the news and hear of probations being granted for much more serious crimes. Where is the justice in this country? Why are we spending thousands to keep this man in jail? I feel our guidelines are in disparate need of review.

Concerned Citizen
Carolyn Thomas.

1002 Hearn St.
Sav'h, GA 31401
March 10, 1991

U.S. Sentencing Comm.
1331 Pennsylvania Ave. Suite 1400
Washington, D.C. 20004

Dear Sir,

I am the sister of a young man that is incarcerated in Springfield, Missouri. His name is Reginald Wall (07033-021). He was sentenced to eleven years for conspiracy. Reginald (07033-021) is a first time offender. I feel and my family feels that he was treated unjustly. He has never been in any trouble. I feel that those guidelines in which he was sentenced under are too severe. As I said previously he is a first time offender. Reginald (07033-021) has a wife and three beautiful daughters ages 6 and twins that are one year old. How could another human being give another human being eleven years, eleven years that he has to stay away from his family. He was a sweet person, husband and father. His oldest daughter often cry at night wanting to know why daddy can't come home. This has affected her a great deal. He's my brother and I love him deeply. The fact of him being given eleven years was just too much.

It would be much better ~~if first~~
if first time offenders be given
probation or put in a half way
house. I just don't understand how
someone, Reginald (07033-021) be given
eleven years, and if someone kill
someone their punishment would not be
that severe. If you have any kind of
feelings or sympathy you can understand
this situation. Whoever made up
those guidelines are not from the planet
earth, I don't think because they are
unjust, a dog doesn't deserve to be
treated as such. Given someone eleven
years what do you think this does to
ones mind. You all give them all
those years and then expect after all
those years for them to get out and
lead a life. What kind of life could
one live. It's just down right dirty.
My brother was just a victim of
circumstance. I will and can not
rest until my brother is treated
fairly.

Please help correct the system
do something about those guidelines.

Sincerely,

Parthenia Wall
1002 Heann St
SAVh, GA 31401

Phone- 912-233-0881
or 233-6325

March 5, 1991

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

To Whom It May Concern:

It has come to my attention that your office is considering amendments to sentencing guidelines for federal offenders. The penalties for first time drug offenders are outrageous in that they are much too strict. Life without parole may be justified when violent criminal actions occur but an action of this nature cannot be compared to a first time drug offense.

I believe jail time is necessary as a deterrent, but more importantly, strong mandatory education programs and drug rehabilitation are the areas we should focus on. It is my opinion that amendments to federal sentencing guidelines are immediately necessary if for no other reason prison overcrowding, which has become a major problem afflicting our nation.

I appreciate your attention to this important issue.

Sherrie Wilson
Mustang OK.

Donna Rice
Yukon, OK

Mel Foster
Yukon OK.

Diane Richardson
Mustang, OK

Sharon Elliott
Mustang, OK

Ros Anderson
Ocala, Fla.

Berta Elliott

U.S. Sentencing Commission
1331 Pa Ave NW
Suite 140
Washington DC 20004

I'm writing in regard to the harsh guidelines currently in effect for first time offenders. I'm sure you have received countless letters about this issue and mine is just one more - but I feel I must voice my opinion.

My husband, Rick Canale (03450-068), is serving 10 years for a conspiracy gun charge. Even though the gun was never used, and totally hidden for my protection he was given 5 years for just having the

gun. My husband is a very religious, family-oriented man. He was never in any trouble - misdemeanor or felony - in his life. Here he is serving 10 years of his life after getting in trouble once. This seems too harsh to put a 25 year old man in jail for 10 years for a totally non-violent charge. Unbelievable.

I know that our case is just one of the thousands that exist. I feel so helpless not having a voice in my own government. I've been paying taxes for 10 years now - since I was 17. I hate to see my well-earned money being used for something as ridiculous and expensive as

jailing all these men that are non-violent, first-time offenders. Does society really feel that people like my husband need 10 years to realize their mistakes? What does 10 years of being away from your family do to someone? Make them better? - very doubtful

I'm always hearing cases on the news about rapists and bank robbers committing crimes 2 and 3 times. This is what outrages the public. There is something very wrong with our system of justice. I don't know if you can do anything and that my voice is one in a million - but please try to change this barbaric way

of thinking. Changing these
harsh guidelines could save
taxpayers a lot of precious
money!

Thank you,
Amy J. Cavallo

60 Goodale Drive
Newington, CT 06111
March 11, 1991

U. S. Sentencing Commission
1331 Pennsylvania Ave., N.W.
Suite 1400
Washington, D.C. 20004

ATT: Paul Martin, Corres. Director

Dear Sir:

I'm replying to an article in the Law Review Magazine. You are asking if sentences for 1st-time drug felons, particularly those who are addicts, are too harsh.

My view is that a 1st-time felon should get no more than 5 years, tops. It should be hard enough to punish, but, not long enough to turn him/her into a hardened criminal. Also, if the person arrested has tried to get help and was refused, for whatever reason, be it no insurance, money, space, that should be taken into consideration and the punishment should reflect this situation. After all, the system should accept some of the blame for not having available enough help for those who request help.

Another view of the whole picture is, there is too much disparity between State and Federal sentences. 1st-time felons in State courts are sentenced less severely, for the same crime or even a worse crime and serve, on an average of 10% of this sentence. The Federal system, however, passes down a sentence, at least twice as long, and 85% of the sentence must be served.

Another item that should be under consideration, is if the felon possessed all the tools of a real professional and if there were a gun or other weapon involved. If no such items were evident, this person should be given extra consideration.

Until there is equal justice regardless of political or social standing, there is NO JUSTICE.

Very truly yours,


JoAnn Grabowski

Linda L. German
02102-088, Fayette
3301 Leestown Road
Lexington, Kentucky 40511-8799

March 11, 1991

Communication Director
U. S. Sentencing Commission
1331 Pennsylvania Avenue
Suite 1400
Washington, D. C. 20004

Dear Sir:

I would like to take this opportunity to express my concerns about the New Sentencing Guidelines, which became effective in November of 1987. I don't feel that these new guidelines are the answer or solution to the problems facing individuals seeking justice for crimes against our society, nor are they fair to a large number of the individuals being sentenced under these new guidelines.

The economical situation in the United States today is not pretty. Budgets in every department are being cut in an attempt to balance the national deficit, yet more and more people are being sent to prison (an expense to the taxpayers and the government), and new prisons are being built (again, at the expense of the taxpayers and the government). I have seen studies that would indicate that community service programs, house arrest, and in some instances treatment centers would be more beneficial to the victim and to the offender. It would definitely cut costs required for the housing and care of these individuals.

I believe that prisons should be used as a punishment for serious criminals with proof of violence in their crime, and for repeat offenders who do not take advantage of the opportunity offered by community service, house arrest, or treatment centers. I don't feel that our system should be overcrowded with first-time offenders, non-violent offenders, or where some other form of punishment could be administered. The problem of overcrowding is now compounded by the new Sentencing Guidelines. Should a Judge decide that a lighter punishment would be appropriate in an individual case, under the new Sentencing Guidelines he no longer has the power to award that lighter sentence. The sentence he must go by is a sentence that has been determined by the parole officer and the Prosecuting Attorney through an investigation by their offices. This does not hardly seem fair to the judge, nor to the offender. Sentences should be an individual issue, not a category that allows for no extenuating circumstances or personal circumstances.

Linda L. German
Page Two

Under the old Sentencing Guidelines, offenders have the right to show their remorse and to present their efforts to be upstanding citizens by being afforded the opportunity of seeing a Parole Board on a regular basis. This is as it should be. Some people are quick to learn from their mistakes. The new Sentencing Guidelines have no provisions for offenders to ever see a Parole Board. This is not only discouraging, but it takes away any incentive for those incarcerated to improve themselves. The long sentences should eventually make the offender angry with the justice system and the "American Way." Every incarcerated offender should be afforded the opportunity to see a Parole Board. The offender serving under the old Sentencing Guidelines has other advantages--they have the opportunity to earn extra good time, something that is stricken from the new Sentencing Guidelines. Why should one strive to maintain an incident free record, one with good work records and good staff reports, if there is to be no reward? After all, that is what the American system is, a system of punishment and reward.

Sentencing for drug abusers and users should reflect the problems of the offender. Our society does not benefit from sending the users and abusers of drugs to prison for many years. Treatment programs for these individuals, along with community service, would better benefit these offenders, the community, and society. Our main concern should be with the drug lords, kingpins, and major suppliers and seeing to it that they are not permitted to get their drugs into the United States. Government is allowing drugs to enter the United States while their efforts are focused on the little people. If treatment programs and community service are ineffective, then maybe the answer is confinement. Other avenues should be tried, though.

These are my main concerns with the problems of the new Sentencing Guidelines. I feel that consideration should be given to these issues at the hearings of the Sentencing Commission. It is my hope that enough people express these and other concerns regarding the new Sentencing Guidelines and changes will be made to reflect these concerns.

Respectfully,

Linda L. German

Linda L. German

March 10, 1991

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

Attention: Communications Director

Dear Sir/Madan:

Enclosed you will find a petition that I drew up concereng drug sentencing, and the effects it has on the people envolved.

I went out in the community where I live and explained my case to my friends, family, and even strangers on the streets. Nine out of ten agreed with me, and I had no trouble with them signing my petition.

I have a son incarcerated in Danbury CT., on a drug charge. He is one of the persons you talk about nowadays that are being sentenced too severally for the crime he committed. First-time offenders, verse second, third, forth-time offenders, verse crimes they committed concerning drugs, are totally judged wrong. There should be guidelines for the crimes, not so severe, as they are now. There's people walking the streets now that should be behind bars, who have done crimes concerning drugs, that are much more severe that the people that are now locked up.

Anything the commission can do to change these laws and guidelines to better fit the crime will be greatly appreciated concerning all persons envolved.

From the courts on down to the prosecuting attorneys, I feel that the sentences are being abused and should be abolished, and a whole new sentencing proceedure set up, to benefit all concerned.

There is a difference between first-time offenders, and habitual offenders, my son was a first-time offender and tne law was unjust to him, and a whole lot more like him.

Iam writing in protest that the present guidelines and sentencing process be amended, and new ones set forth to help all concerned.

Thank you

Gwendolyn McClain
Mrs. Gwendolyn McClain
13445 Rawsonville Rd
Belleville, Mich 48111

THIS IS A PETITION TO TRY AND AMEND THE DRUG LAWS AND SENTENCES FOR FIRST TIME DRUG OFFENDERS.

WE THE UNDERSIGNED FEEL THAT THE PRESENT DRUG LAWS AND SENTENCES ARE TOO HARSH FOR FIRST-TIME DRUG OFFENDERS, AND FEEL THAT THEY SHOULD BE CHANGED ACCORDING TO THEIR CHARGES.

SOME SECOND AND THIRD TIME OFFENDERS DO NOT GET HALF THE TIME FIRST-TIME OFFENDERS GET, AND THEIR CHARGES WERE SOMETIMES MUCH MORE SERIOUS.

NAME AND ADDRESS	OCCUPATION	DATE
Frances Williams 47620 WEAVER	RETIRED	3-10-91
Edilton Williams 47620 WEAVER		3-10-91
Erna F. Lindell 43130 WEAVER	RETIRED	3-10-91
Margaret Cleveland 23666 John	Teacher	3-10-91
John S. — 1130 Parker #208	ALT	3-10-91
Dennie Jackson 14333 Rawsonville	Belleville	3-10-91
Judith Chapuis 6661 Grandage	Nurse	3-10-91
Gurtha Folks 27000 Martinsville		3-10-91
Trish Folks 27000 Martinsville	Kd	3-10-91
Doris P. Vindell 47100 Willow	Del. ^{major} wife	3-10-91
James F. Brannon	RETIRED	3-10-91
J. I. Salensan	RETIRED	3-10-91
Remona Mung		3-10-91
Rev. Virgil Mingas 29 Maple Dr		3-10-91
Rev. David Law 13485 Rawsonville	DRIVER ROAD	3-10-91
Essie Brannon	Retired	3-10-91
Ausie Bullax 24900 SUMPTER Rd		3-10-91
Emma Broughton 43745 Willow	Belleville, MI	

Cover letter enclosed, written for Mr. Darryl Eugene McClain, to the Drug Commission, stating our concerns in the present sentences for first-time drug offenders.

(This letter is hereby directed to whoever is concerned in changing these laws)

to fit the crimes charged, fairly.

The cover letter will also state examples of articles printed from newspapers,
concerning various crimes and their sentences.

Lorrie Long 5424 Oakville waltz
new Boston mich aid

Haller Rehander 13485 Rawsonville Belleville 3-10-91

~~Michelle~~ Michelle Law 13485 Rawsonville Belleville 3-10-91

Rochelle D. M^{rs} Clair 13445 Rawsonville Rd. Belleville, Mich.

Dorothy Rutledge 32190 Van Buren Rd. Wayne 3-10-91

Marcia L. Wyche 29444 Sumpter Rd, New Boston, 3/10/91

Kystal Griffin 305 Emmet Upsilanti 3-10-91

Hilda Griffin 305 Emmet Upsilanti 3-10-91

Bernie Foster 1567 Wellesley Dr. Jackson 3-10-91

Rev. Frank Eddenberg #8060 18077 Brinker

Georgia R. Bradford 26348 Colgate apt 3 Ink.

Gregory Simpkins 13485 Rawsonville Belleville 3-10-91

Leann J. Hallman 48611 Wren Road Belleville, Mich 48111

Laverda J. The Clair 13445 Rawsonville, Mich 48111

Emmitt M^{rs} Clair 13445 Rawsonville Rd Belleville, Mich 48111

Jandra Boudrie 1186 Jay St Upsilanti MI 48198

Mary Jones 810 Willow Milwaukee 2-11-91

ELA Smith 12730 Rawsonville 3-11-91

3/6/91

To Whom it May Concern;

I HAVE SEVERAL COMMENTS ON WHY THE NEW SENTENCING GUIDE-LINES NEEDS ADJUSTMENT?, AND WHAT THE SENTENCING COMMISSION SHOULD TAKE IN CONSIDERATION. WHEN REVIEWING THE PROVISIONS OF THE SENTENCING GUIDELINES.

THE SENTENCING COMMISSION SHOULD ABOLISH THE MINIMUM MANDATORY GUIDE-LINE(S), FOR FIRST TIME OFFENDER(S) WITH NO-VIOLENCE IN THEIR CRIME(S). THERE EXISTS A CRYING NEED TO DEVELOP A NATION WIDE OF INTERMEDIATE SANCTIONS FOR THOSE WHO ARE CONVICTED OF NON-VIOLENT FELONIES.

THE FINANCIAL WASTE INCURRED BY COMMUNITIES, CITIES, STATES AND GOVERNMENT IS UNBELIEVABLE, (DUE TO OVER-CROWDED PRISONS AND JAILS) ESPECIALLY AT A TIME WHEN THE FEDERAL BUDGET IS SUFFERING FROM A VERY LARGE DEFICIT CRISIS.

IN AN EFFORT TO FIGHT CRIME WE AIMLESSLY SET GOALS OF PUTTING MORE AND MORE PEOPLE INTO JAILS AND PRISONS, REGARDLESS OF THE CONSEQUENTIAL COST, THAT HAS BEEN PROVEN IT'S NOT THE ANSWER TO THE WAR ON DRUGS. THE RESULTING APPROACH IS ACCOMPLISHING NOTHING MORE THAN EXORBITANTLY WASTING TAX DOLLARS, CREATING A WAREHOUSE OF HUMAN DEGRADATION AND IN THE LONG RUN BREEDING SOCIETAL RESENTMENT THAT CAUSES MORE CRIME(S). WITH ALL THAT EXPENSE CRIME HAS NOT DECLINE-A BIT.

ALSO WITH THE NEW SYSTEM WHICH ABOLISHED PAROLE AND

II

sharply limits probation and time off for good behavior should be reinstate again. For with the new system there's only fifty-four days good time deducted out of each year. which also prohibits proper rehabilitation without the added incentives while in prison.

Let punishment fit the crime(s), non-violent in the Federal Courts received lengthier sentences than violent crimes in other courts of the land. It seem to me that the system is out of whack, when (an) a murderer(s) get off with five years and a kid selling crack gets life imprisonment.

The "harsh" new guide-lines for people convicted of (non-violent) crimes have come under strong criticism by judges who say, they are left with little discretion in sentencing.

These judges also assert that the new guide-lines have the effect of increasing the authority of prosecutors who know that the charges they use for indictment or plea-bargaining will dictate precise sentences.

A Federal Judge refused to impose the minimum prison term mandated by sentencing guide-lines on a defendant convicted of selling one tablet of a illegal drug. Other judges are bothered since the guidelines took effect in 1987, some judges have argued that they restrict the ability of courts to treat each defendant as an individual. A Federal Judge resign last year saying he could not continue to impose the "harsh" sentences mandated by the guide-lines.

3/6/91

I don't feel that it was Congress intent to sentence young men to such a long term in order for them to get old in its jails and prisons.

Perhaps since I myself is presently incarcerated. I might sound prejudice, but I would like to think not. By me being incarcerated I have a real view of what is happening, And what I see is not an attempt to rehabilitate this country's prisoners but to warehouse them not to educate but to vegetate them.

I am presently serving a ten year sentence at a (F.P.S) Fairton N.J. I was granted a mitigating role in this offense, recommended by the P.S.I. Report(er), but due to the guidelines minimum mandatory sentence, The judge denied my recommendation. The role attributed to me was a "look-out", I have no prior arrest, no evidence of selling, using, participating or profiting in any illegal activity. I was found guilty by a jury trial in the S. District of New York on two counts.

It's costing the tax payers almost \$20,000.00 A year to keep in prison for a crime I did not commit.

With respect to the Sentencing Commission, I hope you/ They can see the new guidelines is costly And it breeds crimes/ criminals.

Sincerely yours,
~~Wallace~~ Matura
WALLACE MATURA

March 5, 1991

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

Re: Amendments to Federal Sentencing Guidelines

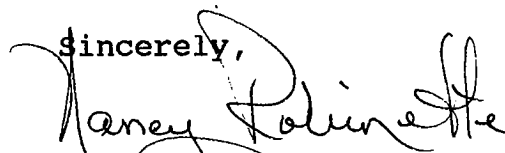
Ladies and Gentlemen:

I have been informed that your office is considering amendments to sentencing guidelines for federal offenders. It is my opinion that the penalties are too severe for first time offenders in drug related matters where no violence has occurred. A fine example is in the case of the federal government versus John Leon Robinette wherein he was sentenced to life imprisonment without parole. Mr. Robinette was a first time offender in a drug related action where no violence occurred.

I believe new federal guidelines in this area are appropriate and changes are needed for the sake of justice. I am a strong believer in strict punishment in cases of violent crimes but I do not see how life imprisonment without parole can be called justice to a first offender in a drug related matter. A first offender should at the very least be given a chance at rehabilitation which is not going to come about with a long prison sentence. It is necessary that in these cases we focus on an education for these individuals so that when faced with a new life outside of prison they have a chance at intermingling with society in a non-threatening manner. Education in prison should be mandatory for all prisoners.

My hope is that new guidelines are soon forthcoming in this regard. Thank you for your consideration of this matter.

Sincerely,

A handwritten signature in cursive script that reads "Nancy Robinette". The signature is written in dark ink and is positioned above the typed name and address.

Nancy Robinette
6411 N. Galaxie Terr.
Oklahoma City, OK 73132
(405) 721-6516

March 5th, 1991

U.S. Sentencing Commission

1331 Pennsylvania Ave

N.W. Suite 1400

Washington, D.C. 20004

Re: Sentencing guidelines

Hearings on March 5th, 1991

Dear Communication Director:

I am a federal prisoner at F.C.I. Loretto, in Loretto, PA. I understand that a public hearing is being held on March 5th, 1991 to get the public opinions about the new Sentencing Guidelines and the possible changes being made. I also understand that you must receive these letters by March 18, 1991 for it to be used in your considerations.

My opinions on these New Guidelines are;

1) the punishment for first time drug offenders are very harsh. They imprison a person for an average of 5-10 years because they got busted for the first time with drugs, where other more serious crimes free a person in 3-5 years average.

2) It puts the power of the charges of the crime and the computerized sentencing range in the hands of the prosecutors and takes that power of

decisions from our appointed judges who were put in these positions to weigh the circumstances of each case and decide the punishment.

- 3) They have increased the prison population to astronomical numbers which is number 1 in the world, at costs of 1 Billion dollars per month between State and Federal prisons.
- 4) They make our first time offenders more bitter than remorseful because of the severe punishment or breaks that other members of the conspiracy got because of there cooperation with the government and they couldn't get because of that lack of knowledge necessary to receive a departure.
- 5) The family suffers just as much because the young children grow up with out the presence of both parents there. It also causes there now single parents to work harder to make ends meet or the alternative seek relief from federal funded programs such as welfare, food stamps, etc. They also lose faith in our government system because of the long years of frustration they suffer. These are people who get caught

up in drugs who were either addicted or tempted to make a fast buck. It's not fair to punish us this badly for 1 mistake when other crimes of much more severity have prison ranges of 2-4 years.

- 6) There is no flexibility in these guidelines other than acceptance of responsibility, minimal or minor participation which would grant downward departures and even those are almost impossible to receive due to the prosecutors hungry ambition to convict people at all costs. Unless you cooperate with them, you pay the price. Many offenders truly don't know the scope of the conspiracy they were involved in but that's there disadvantage. What these guidelines suggest is that if you're going to get involved in drugs you might as well get very much involved because if you don't know the big boys you have nothing coming as far as relief.

I'm sure there are many more serious reasons I could come up with explaining why the Sentencing Guidelines are unconstitutional and deprive a person of the Due Process that we are entitled to. And I hope for the benefit of all of us that you are receiving many more letters with these opinions.

as well. More money should be spent in rehabilitation programs where the drug users or first time offenders can work on getting cured and putting their lives back together. A program which would not only offer help, but one where the family could be involved to support each other. What better way to use the bad experiences of a person to deter the young children in each of not only our families, but other families as well.

Instead of putting people in prison where the annual cost is about \$30-\$35,000 per inmate, per year, they could use that money to open more productive rehabilitation centers and more electronic monitoring programs with some strict requirements. This way the person who wants the second ~~chance~~ chance can work on it and the problem is in their life. Those who choose to repeat crimes would then be punished. Please don't let this continue.

There are many people in prison and the families as well who would be grateful for a change and a chance at freedom again. I hope I have given you some key thoughts to work with.

Yours truly
Michael Alfano

Michael Alfano Reg # 10999-050
P.O. Box 1000
Loretto, PA 15940

To: whom it may concern;

Good Day.

My name is Marlon A. Morgan; I have been sentenced on December 22nd 1989 to 121-months; I was arrest prior to that date on February 24th 1989; and have been in incarceration since; my release date according to (Dunbury F.C.I) is December 7th 1997 that 8 years & 10 months term or 106 month.

However every person I met & spoke with in the Federal Prison Systems; whom received 120 month sentence; according to their release date; they have a 8 years & 1 month sentence term or 97 months; I would like a explanation ~~from~~ ^{on} your representative behalf in this particular matter; and even a correction in term of my personal sentence 106 month out-of 121 month compared to people with 97 month out-of 120 months; I think & know I speak for my people presently ~~in~~ in my peculian predicament.

Concerning your Public Forum for comments on Proposal & amendments; I personally feel; First offender should be given; Some Kind of indication of the consequences they are facing; not say a verbal warning but not a murder-time-prison-term; ~~Also~~ Also more damage is done to innocent people caught-up for the First-time; they may tend to grasp the negative element around them in a Prison environment.

Marlon A. Morgan

March 5, 1991

Kenneth Randall
20579-034
FCI Loretto
P.O. Box 1000
Loretto, PA. 15940

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

Dear Sir:

Please consider the following:

The Sentencing Guidelines are inhumane. They do not consider the person who has committed the crime, or his past good deeds. Stiff penalties for first offenders make it too late for a person to go on with his life without a second chance. What will be left for a young man who serves 10, 15, 20 years in prison. How will society ever be able to deal with such a person.

If sentences are going to be so harsh, advertise it on TV! There is no way I or my fellow prisoners knew that the sentences were so stiff. That being the case how is this a deterrent to future others who are planning to deal drugs?

Without the possibility of parole why should a person have good behavior in prison especially when there will be nothing left of his family or friends when he gets out. I suggest many persons will not want to leave prison after such a long period of incarceration. Even though it is prison it will be the only life that person has, his other life will have passed him by.

I suggest from experience that our government permits many of the large deliveries of illegal drugs into the United States. If it were not available it could not be used by citizens. If we educate about the effects of drugs, who would want them? If there was no demand there would be no market to sell to.

Something is wrong when a free society such as ours with a Bill of Rights and a Constitution has the largest per capita incarceration rate. We cannot legislate morality, but we can educate.

Sincerely,


Kenneth Randall

NAME Kenneth Randall NUMBER 20579-034 OFFENSE Drugs SENTENCE 11½ yrs.

AGE 43 FIRST OR SECOND OFFENSE First MARRIED Divorced YEARS 10 yrs.

HOW MANY CHILDREN? 3 AGES 24,22,19

WHO SUPPORTS YOUR FAMILY NOW? No one

HOW FAR FROM HOME ARE YOU? 1400 miles HOW MANY DIFFERENT PRISONS? (4)

WHAT DO YOU THINK A FAIR SENTENCE WOULD BE? 3 years

WHAT HAVE BEEN THE IMMEDIATE EFFECTS OF YOUR INCARCERATION?(yourself) A resonable
sentence of 3 years or so is acceptable because a person is able to re-establish
his community and family ties. If a person does not learn in 3 years he won't in
10-20. After contemplating a 11 year sentence there is nothing but contempt and anger
in my heart. A sentence such as this destroys family and affects their view of the govt.

EFFECTS ON YOUR FAMILY? Same

WHAT IS YOUR HOPE FOR THE FUTURE? With a sentence of 11½ years, there is no hope.

However, if the sentence is reduced I would like to borrow 500,000.00 from the
government to pursue the vo-tech training I have been taught while in prison, that
is a barber shop.

OTHER COMMENTS Hopefully our justice system will see the mistake of long term sentences
for first time offenders.

I GIVE PERMISSION FOR THE USE OF THIS INFORMATION.

NAME

Kenneth Randall

1028 E. 223 Street
Bronx, N.Y. 10466
U.S.A

Attention Communication Director,
U.S. Sentencing Commission,
1331 Pennsylvania Ave, N.W.,
Suite 1400,
Washington, D.C. 20004

Dear Sir/ madam,

Good day, I am,
Writing to you about the proposed ammendments
to sentencing inmates.

I will strongly agree that the sentencing of
most of these inmates are to hard. Some
are sentenced for a number of years which
is just wasting money to keep them in
prison for so long when the money could
be used for something else to benefit
the country. Most of these inmates needs
treatment and counselling. If most of us
would take the time to find out why
these people commit crimes it would help.
Some of the money that is used to keep
these inmates in prison for 3, 4, 5 years
should be used to build an institution
where these inmates especially the drug uses
go daily or few days out of the week
for counselling and treatment.

The most serious problem in our country
today is drugs, selling, buying and taking
drugs is an addiction. When you send
these offenders to jail or prison for years
only makes matters worse, prison is no
place for treatment and counselling. We

will never win the war against drugs unless the right steps are taken. Many decent people are in jail or prison right now sentenced for 4, 5 or more years for drugs and most are first offenders. These people are not sentenced fairly, they should get a chance to change their life.

I have a family member in prison in Connecticut right now sentenced for 4-5 years for drug conspiracy. It was unfortunate that he was at the wrong place at the wrong time. He is a decent man first time arrested and he is taken away from his family. I have been having life so rough to take care of the children, so everyone is suffering. This is breaking him down that he feels so frustrated and worried. I am praying to God these ammendments could help to send him home to his family and to help him to change his life.

I must again say that there should be ammendments on the sentencing on the convicted inmates and I know that it will help them instead of destroying them. Thank you.

I am,

Yours Respectfully,
Doreen Reid



To whom it may concern,

3/3/91

I Annette Roderick am writing this letter to tell you how I feel and think of the new law against inmates. I strongly believe that the new law is very harsh and unfair, especially to inmates who have no criminal history. I also believe that the new law should change, at least for the inmates who have no criminal record in the past. This is why you have so many over crowded prisons. Because under the new law, there is no time off or even parole. I really think that its just unfair and very sad. I hope that some day soon this new law will change. By me and many other people who I hope are writing to you and telling how they feel and why this new law should change. I hope you will understand and can do something about it soon. Thank you.

Sincerely yours
Annette Roderick

3/5/91

Richard. T. Sandwith
13248-050
P. O. Box-902
Ray. Brook. N. Y.
12977-0300

Paul. Martin.
Deputy Staff Director

Dear Mr Martin

My name is Richard Sandwith. And I am presently incarcerated at Ray. Brook F.C.I.

I was sentenced on Oct. 4. 1990. to a ten year prison term.

This is my first offense and I was never in prison before.

I feel that I was sentenced with extream severity under the conspricy law. This long incarceration is not only a severe hardship on me but is also a hardship on my fameilly. I know that if I were given another chance to prove to the court that I am a changed person, That they would not be dissapointed in me..

I belive in and love my Country and I wish that I would have had a chance to defend my Countrys interests in the Persian Gulf. I am not bitter toward my Country for my incarceration but I do not belive in this new law.

I frimly belive that every one should be given at least one chance to prove that they made a mistake and is sorry for it.

I sincerly hope that this letter is of help toward helping people to rebuild there lives and proving that we should not just be taken from sociaty and forgotten.

Thank You

Richard. T. Sandwith

3/5/91

Thomas. Colantonio
13244-050
P.O. Box-902
F.C.I. Ray Brook
Mohawk Unit
12977-0300

Paul. Martin
Dept Stf Dir

Dear Mr Martin

I am a first time offender under the new drug law I am 27 years old and I was sentenced to serve 7 years in prison under this new law. I left behind a wife that is pregnant with our first child.

And I know that if I were given another chance I would prove Myself to be a better person.

I am not saying that I didnt need any time at all because I did have a drug problem. And that is the reason that I got into this mess.

But the time that I have been away from my wife and loved ones has made me see the light.

So I hope that this letter gives people like myself another chance in life And I pray to God above that it does.

Sincerely

Thomas. Colantonio

Dear Sir:

I would like to relate my opinion re the public hearing on the proposed amendment to sentencing guidelines, policy statements and commentary.

At the present time, I have a relation incarcerated in a Federal Prison on a conspiracy charge concerning the distribution of illegal substances. Although I don't condone her involvement and subsequent retribution ^{IS TO BE} expected, I do feel being a first time offender, her sentencing was too harsh under the existing law. Especially when it is well publicised that hardened perpetrators of the law whether due to technicalities, overcrowded conditions or monetary influence, are walking our streets free of confinement and in most cases repeating the crimes of their convictions.

As a law abiding and tax paying citizen, I implore you to consider the reduction of sentencing for first time offenders when the nature of their conviction seems appropriate. Let's give them a second chance at becoming productive members of our society.

Thank you for taking the time to review this plea for mercy to those deserving a chance to better their lives.

Sincerely,
Marylin Crowell

Michael Connarn (02635-082)
Box 903
RayBrook, N.Y. 12977

U.S. Sentencing Commission
1331 Pennsylvania Ave.
Suite 1400
Washington, D.C. 20004

To Whom It May Concern:

This request, and plea, is in response to the March, 1991 deadline for outside input prior to changes and/or amendments to the new federal guidelines. This is not an effort to plead for lesser penalties, to increase inmate goodtime, or to reinstitute the parole board, although all those have merit because of our quickly filling jail cells. My concern is in regard to a more constitutional application of the career criminal statute.

As the panel that reviews, revises, and refines the new guidelines this year, I'm asking you to consider correcting what appears to be an unconstitutional glitch in applying the 15 year time limit in the past and in the future. The narrow areas of applied injustice and equal protection guarantees or should I say- lack of guarantees- has effected only a small number of defendants and inmates at this point in time, but as the career criminal statute is applied to more of us in the future the degree of probable misapplication will become more apparent and pronounced. After the new law has been in effect more than 15 years in 2002, the present inadequacy will surface in an altered form of double jeopardy. As my own case points out my complaint concerning the past, I'll use a model fictitious one to demonstrate the error in the future.

I was sentenced to 300 months for a level 16 drug conviction in Oct. of 1989. Two priors were cited against me; the pivotal one going back to being arrested in March of 1973 for a drug offense. This present and 3rd offense, an arrest for drugs on July 15, 1988. The separation from arrest to arrest being 15 years and 4 months. The application of the instant offense rule was applied back to the date of conviction, Sept. of 1973; 14 years and 10 months apart. My separation of arrests and convictions falling within a narrow cusp, which makes that portion of the statute discriminatory and fails to provide me with the equal protection another defendant would have if he'd copped a plea or been found guilty before July 15, 1973. Defendants with identical or nearly identical arrest and conviction records as myself would face much more lenient sentences for no definable legal reason to me. This is unequal and unfair.

The difference in my case being raised from a maximum 53 month sentence to 300 months. 247 months is a fairly gross disparity of extra time to serve for committing what is in actuality identical crimes at identical times. As 2002 is approached, more and more defendants will fall into this grey area.

After October 31, 2002 a new twist of a different nature will come into account. As an example let's say that a defendant is arrested for a drug offense in Dec. of 1987. The instant offense statute is applied against the defendant for a 10 year old conviction that adds extra time and points to his/her sentence. Said defendant serves the sentence; gets out, and in 1994 is arrested again for a drug offense. The three crimes are more than 15 years apart by the present statute so the career criminal statute can't be applied. Once again after release, said defendant commits a third drug related felony. Now, in this defendant's first crime under the new law was vigorously fought in the courts for 16 months until June of 1989. This last crime was committed in Sept. of 2003. The defendant has the career criminal statute applied for this last crime. Upon conviction the instant offense rule now changes his date of guilt for the Dec. 1987 crime to June of 1989 to allow application of the enhanced sentence, so that now instead of his two instant offense dates of guilt being 15 years and 8 months apart he pays enhanced penalties for the second time on the first crime. It hardly seems likely that the justice system in our country is this hard up to discriminate against what is truly a very small portion of the total inmate population.

I respectfully petition the sentencing commission to review this problem and apply a more uniform, fair, and non-discriminating formula that can be equally applied to ALL defendants. The most obvious being to apply the instant offense rule to all crimes, past and present. Arrest dates being the hardest for an inmate to fool with or just plain applying the actual dates of offense if said defendant happens by chance to elude arrest and hides for some period of time. This approach still satisfies Congress's 15 year statute limitation, while preserving the concept that all people are entitled to equal protection in this country, even in the meting out of justice.

RESPECTFULLY

Michael Connors

2 Bartlett Road
Durham, N.H. 03824
March 5, 1991

U.S. Sentencing Commission
1331 Pennsylvania Avenue
Suite 1400
Washington, D.C. 20004

Dear Sir or Madam,

It is my understanding that the 1987 Sentencing guidelines are to be reviewed this month with possible amendments or changes to be made. In my opinion the current guidelines are unjust for several reasons. Because of the limited judicial discretion allowed, the court is unable to assess each offender on an individual basis. Regardless of the degree of involvement, multiple offenders of the same crime are treated as equally culpable.

I suggest that if greater judicial discretion was permitted, a judge could use more creative alternatives to prison for first-time offenders. These individuals being tried for non-violent crimes would benefit from this latitude. House arrest or supervised community service would relieve the over-crowded prisons and benefit the community. This would not only save the taxpayers money but would better serve to rehabilitate the individual.

Thank you for your consideration.

Yours truly,

Edith W. Wyrick

17

TO: U.S. CONGRESSMAN, HONORABLE

TO: U.S. SENATOR, HONORABLE

PETITION FOR CHANGES IN OUR CRIMINAL SENTENCING - NEW LAW - SYSTEM

We, the undersigned, respectfully petition you to nullify or seriously change the pervasiveness of the new sentencing guidelines for criminal convictions currently being imposed ~~ON~~ community and family members of your constituency.

* The longer sentences under this new sentencing guidelines along with the 85% mandatory time served provision is not constructive to the goals of incarcerating citizens that have committed crimes in our society. We have seen no reduction in crime or reduction in recidivism among ex-offenders in the past or current policies of our U.S. Department of Justice and U.S. Bureau of Prisons.

New Law sentencing under the guise of guidelines and salient factors, essentially transfers the power of sentencing to probation officers and US. Attorneys. U.S. Judges are given a narrow range of judgement by the U.S. Attorney and Probation Officer in this New Guideline Sentencing. We believe that transfer of power is being abused and is counterproductive to the fairness of the justice system we have depended on in the past.

Typically, we see offenses of crack cocaine, a minority persons crime, generally a great deal more severe, than we see bankers crimes. Last year we saw the influence of business campaign contributors strike down any seriousness to business related offenses. This is a prejudice in these guidelines that is of serious Constitutional question in the fair and even administration of justice to all on an equal basis.

The repression of our 4th Amendment rights given up to allow government officials easier access to search and seizure seems to be of no consequence when we look at the yearly figures of the pervasiveness of drugs use in America. Now we have reduced 4th Amendment rights of law enforcement intrusion into our privacy, but we still do not have much progress with the war on drugs. We have the CIA bringing drugs into the the U.S. from the exposure of the Iran-Contra/ Nicaragua Arms " drugs for guns" arrangement circumventing congressional authority, but lock up citizens for far less drug involvement. Are we harboring a double standard in our present form of government accountability to embrace the Constitution? All these events are not equal justice for all under our Constitutional form of government.

We believe sentencing guidelines should be abandoned and the fairness of justice be returned to a Judge and jury retaining their prior authority and responsibility in a criminal defendants due process.

Further, we believe community based sentences need to be expanded to reduce the severe cost of keeping those convicted of crimes separately. Costs of yearly incarceration upward from \$30,000. per year or more is excessive considering the results of releasing many angry young men back on society that are even more prepared to make more victims of society than before. Probation and Parole Departments need to be rededicated in their efforts toward a deeper involvement with community "in-custody" limited rights citizens. Today, they are only good for putting on handcuffs when someone trips in their attempts to self-reform. Psychological and job skill, self-esteem counseling, and realistic economic opportunities for these type of persons will eventually provide the alternatives for incarceration. The U.S.'s highest incarceration rate per capita is clearly the wrong direction in any reasonable philosophy of our western world culture. We are probably unleashing a terrible negativity to our form of justice in the forecast by the U.S. Dept. of Justice indicating we will have imprisoned over 1 million citizens in the next few years. We believe it will have a severe impact on the safety of citizens that will be subject to such a large number of ex-offenders that statistically show they will return to prison in great percentages.

Please use every effort at your disposal to rid our U.S. Justice System of this new sentencing guideline system in its present form. It is not a deterrent to crime. I can see no positive value for such long sentences we see being handed down by the courts since its implementation in 1988.

We look to support you with every effort in changing this "new law" guideline sentencing and look to see changes come about from the public hearing we understand will take place on it this March.

Very respectfully,

(name)
(address)

(phone)


Michael Anderson 15860-083
P.O. Box 1000
Loretto, P.A. 15940

cc. U.S. SENTENCING COMMISSION

(ADDENDUM FOR OTHERS ENDORSING THIS
PETITION FOR ACTION ON NEW SENTENCING
GUIDELINE REFORM)

March 8, 1991

U.S. Sentencing Commission
133 Pennsylvania Avenue, N.W.
Suite 1400
Washington, DC 20004

Attn: Paul Martin, Dept. Staff Director

Dear Sirs:

I am responding to an announcement I saw posted regarding the 'New Law' Sentencing Guidelines. I would like to voice my opinion regarding the same.

I have been incarcerated since September 1990 under the 'New Law'. My first offense and I received the high end of my guidelines of 21 months. I believe the law is very strict on first time offenders. We have no Camp Good time, cannot earn extra good time days, are not parole eligible, and as far as I know as of this date, are not eligible for house-arrest. There seems to me to be some error in how best to sentence first-time offenders.

I am a Mother of two small children and they are experiencing extreme hard-ships during my absence from them. The court system does not take into consideration anything concerning family background or involvement in the community. I strongly feel my time would best be served by serving my community in which I live. I committed a white-collar crime and am not a violent person. I have accepted full and complete responsibility for what I did and do believe my punishment was severe.

Please, I beg of you, check into the guidelines and see that there are some areas that need improvement. I'm praying for all the first-time offenders and for this commission as they meet.

Sincerely,



R. B. Gates
Box A
Alderson, WV

Elizabeth C. Deskins
1140 Lafayette Drive
South Elgin, Illinois 60177
March 8, 1991

U.S. Sentencing Commission
1331 Pennsylvania Avenue, NW
Suite 1400
Washington, D.C. 20004
Attention: Communications Director

Dear Sir:

Thank you for the opportunity to comment "as to whether the guidelines place too great a reliance on drug quantity in punishing drug offenders, particularly for less culpable aiders and abettors." In my opinion, too great a reliance is placed on drug quantities and not enough on other circumstances.

My husband, James Gary Deskins, Sr., is an alcoholic. He was sentenced last July to seven years in the Federal Correctional Institution at Oxford, Wl. for conspiracy to possess and distribute one kilo of cocaine. He pled guilty. Between the time he was arrested, April 21, 1988, and the time of his sentencing, July 27, 1990, he became very active in the program of Alcoholics Anonymous. He became, what I would term, seriously sober. He attended three to four AA meetings a week and a men's group at the Renz Center for Alcoholism and Drug Abuse in Elgin, Il. once a week. Together, we counseled as a couple, a family and in a couples group. We volunteered to participate in a Bridge Group and a couples panel at the Sherman Hospital Recovery Center for alcoholism and drug abuse. My husband has two AA sponsors and, until his incarceration December 10, 1990, sponsored several AA members himself. This is my husband's first offense with drugs. His only prior problems with the law are DUI convictions directly related to his alcoholism.

I have been a member of Al-Anon Family Groups for the relatives and friends of alcoholics for twenty years. We have been married for twenty-two years. My husband's complete turnaround is a miracle to me since he had been in and out of the AA program all our married life. The judge who sentenced my husband said that his recovery was very commendable but that he "could not ignore the amount of cocaine involved." This is a perfect example of how "the guidelines place too great a reliance on drug quantity in punishing drug offenders..."

Recently, a convicted DEA agent received only a six year sentence for more serious offenses including eleven pounds of cocaine. (Please see newspaper article #1 attached.)

My husband is not a hardened criminal. He is a man with the disease of alcoholism who made some very bad choices. A punishment more beneficial to society and more just for my husband would be home confinement and community service in the field of alcoholism and drug abuse. (Please see newspaper article #2 attached.)

Under 1986 guidelines, we were told he would only have to serve 28 months with time off for good behavior. Now he is being told his time will be a minimum 36-52 months. What are the guidelines for this? Where can we get more information? How can his sentence be reduced to a just punishment?

I would appreciate a response. Again, I thank you for this opportunity.

Sincerely,



suggest that only expertise acquired for professional purposes may be recognized under Rule 702," the court said. "Rather the point is that the way in which the witness acquired the experience he claims as the basis of his expertise is significant in assessing whether he is likely to have acquired accurate and reliable knowledge." The witness here "is claiming to have been an

observant person who was employed in activities that might have enabled a keen observer to learn something about the subjects at issue in this case. That is too casual a basis for this court to say, as a matter of law that [he] is 'qualified as an expert by knowledge,' within the meaning of Rule 702." (U.S. v. Carswell, CA DC, No. 89-3188, 1/15/91)

REPORTS AND PROPOSALS

SENTENCING COMMISSION PUBLISHES PROPOSED CHANGES IN GUIDELINES FOR INDIVIDUALS

Numerous changes reflect recent legislative developments.

The U.S. Sentencing Commission recently issued proposed amendments to the federal Sentencing Guidelines. Many of the proposals reflect federal legislative changes during 1990. In many instances, the proposed amendments are given in alternative forms, thereby highlighting the somewhat tentative nature of the commission's thinking.

The bulk of the changes pertain to the guidelines' longest part, Chapter II, which deals with specific offenses. Among the Chapter II provisions altered in light of recent statutory revisions are those on kidnapping, immigration offenses, and larceny, commercial bribery, and fraud. New guidelines would be provided to deal with child pornography, money laundering uncovered by "sting" operations, and the statutes requiring the submission of reports when cash crosses the national border. The guidelines covering extortion would be changed, in part by addition of an enhancement where the threat involves product tampering. The guidelines on explosives and firearms would be streamlined somewhat; in both cases, four separate guidelines would be collapsed into one. The amendments put forth alternative ways of dealing with the problem of multiple instances of perjury; both options are aimed at ensuring that the sentence is high enough, either by preventing the "grouping" of perjury counts or by recommending upward departures.

In some areas the amendments make specific requests for public input. For example, the commission has asked whether the bank robbery guidelines should be changed to make sentences harsher. Part of the problem in this area, it noted, is prosecutorial inconsistency in the application of 18 USC 924(c), which concerns the use of a weapon during a bank robbery.

In a passage likely to spawn much response, the commission has asked for comment "as to whether the guidelines place too great a reliance on drug quantity in punishing drug offenders, particularly for less culpable aiders and abettors. Comments should be addressed as to whether any over-punishment is due to an over-reliance on quantity of drugs in determining the applicable offense level or insufficient reductions in §3B1.2 (Mitigating Role)."

On other drug-related matters, the amendments set out proposals covering prosecutions under the Chemical Diversion and Trafficking Act, which concerns drug-precursor chemicals, and with 1990 legislation concerning anabolic steroids and "smokable crystal metham-

phetamine." As to the latter substance, the amendments note that Congress' directive was not crystal clear. Congress wanted higher sentences for crimes involving the kind of methamphetamine it identified; but, the amendments point out, "all methamphetamine salts . . . are smokable and crystal." Looking to the legislative history, the commission decided that Congress' target was a substance known on the street as "ice," which differs from other forms of methamphetamine by being purer and having larger crystals. These distinctions are not useful, the commission decided; however, it noted, most "ice" is an especially potent isomer, d-methamphetamine, so the commission decided to interpret Congress' directive as applying to that isomer.

Changes in other chapters of the guidelines are less numerous but more general in scope. For example, the restitution guidelines would be expanded in coverage. Also, the amendments ask for comment on whether the sentencing table should be expanded by the creation of a new, higher criminal history category. This category may be needed, the commission said, "in order to better distinguish between defendants with large numbers of criminal history points . . ." Several different options for addressing this problem are given.

The existing guidelines have drawn some criticism for the way they define which of a defendant's prior cases are "related" for purposes of computing his criminal history. The commission said it is "reexamining the 'related cases' rule as applied to prior cases that were consolidated for trial or sentencing," and the amendments set out three alternatives for dealing with this issue.

Another issue on which the guidelines have drawn criticism is the matter of concurrent versus consecutive sentences. The amendments would rework the relevant guideline provision to limit the discretion of a court to make sentences concurrent.

Finally, Part H of Chapter V, which states the commission's policy regarding specific offender characteristics such as age, education, and family ties, would be amended to eliminate what the commission called "numerous inconsistencies and ambiguities." The amendments appear generally to tighten up on the use of such characteristics in sentencing departures; on the other hand, according to the commission, the amendments would make clear that the restrictions embodied in Part H would apply only to departures and not to decisions where to sentence within the guideline range.

The amendments were published January 17 at 56 Fed. Reg. 1846. Public comment is due by March 18 and should be addressed to the U.S. Sentencing Commission, 1331 Pennsylvania Ave. N.W., Suite 1400, Washington, D.C. 20004, Attn: Communications Director.

THE NATION

MASSACHUSETTS

DEA agent sentenced for dealing

Boston

A former federal narcotics agent who admitted to transporting cocaine from Florida to Boston with plans to sell the drug was sentenced Friday to six years in prison.

Edward K. O'Brien, a former supervisory special agent for the U.S. Drug Enforcement Administration, gave an emotional plea for

leniency before being sentenced.

"Please help me. I'm sorry," O'Brien said.

O'Brien, 45, pleaded guilty earlier this year to charges he conspired to possess more than 11 pounds of cocaine with the intent to distribute. He also admitted to embezzling about \$140,000 from the DEA's Springfield office, which he supervised.

SH man knows about freedom

Probation chief cited for leadership

By Matt Baron
STAFF WRITER

Once upon a time, a certain Sleepy Hollow family owned a roaming Dalmatian. Ern, a third-grader at the time, and Matthew, in kindergarten, loved the pup. But neighbors didn't take kindly to the mutt's wandering ways. The dog, dubbed Dennis, would stray onto other folks' properties, barking all the time and raising a ruckus.

After about six months and numerous trips around the block, Dennis simply was causing too much of a ruckus and had to be given away.

"To run free," said the father, John Robinson, "it just wasn't in the cards."

Robinson, 43, knows a thing or two about curtailing freedom. It's his job.

For the past year, Robinson has seen to it that more than 2,300 non-violent adults, most of whom have been convicted of felonies, have not strayed from the rules of the Cook County Adult Probation Department's home confinement program.

The department's chief probation officer for the past three years, Robinson provides leadership in implementing the home confinement program. It's one ex-



John Robinson

ample of the deft guidance he has brought to the department.

Robinson said the home confinement program enjoyed a 91 percent success rate in its first year.

Those who break the rules must go before a judge again and risk further punishment, Robinson said. Such efficiency has helped alleviate an overcrowding jail problem in Cook County.

In January, because of this and other strides made in the past three years, the department re-

◆ See Probation on page 6

Probation

◆ From page 1

ceived accreditation from the Commission on Accreditation for Corrections and the American Correctional Association.

The department is the first county probation department in the state to receive accreditation and also is the largest in the country to be so honored.

Judge Thomas Fitzgerald, a veteran of 15 years on the bench, praised Robinson as one of the nation's best, if not the best, at his job. Fitzgerald also credited Robinson as the one individual who has provided him with the most help in his two years as the presiding judge of Cook County's criminal courts.

"He is knowledgeable without being arrogant," Fitzgerald said. "He works well with all the various agencies without being overbearing. And he shares his knowledge, he doesn't force it on people."

Michael Mahoney, executive director of the John Howard Association, a 90-year-old correctional reform agency, recommended Robinson for the job three years ago.

An attorney in Elgin at the time, Robinson was a former four-

sport high school coach who had extensive experience as a regional and state administrator for child welfare and other services over the years.

Edging out 200 applicants for the post, Robinson took over as an outsider on March 1, 1988.

The New York native has managed to pull off an impressive double-play, Mahoney said, bringing fresh, new ideas to the job while winning the loyalty of his staff.

Because at least half the adults on probation use a controlled substance of some kind, Robinson also works closely with Melody Heaps, executive director of a substance abuse services agency called Treatment Alternatives for Special Clients.

Heaps said Robinson's professionalism and creativity bolster his keen sense of what the general population and criminal justice system needs.

"He is a real visionary in this field," Heaps said.

With 33,000 Cook County adults on probation, a staff of about 700 and six major court facilities, Robinson's duties are largely administrative. He seldom comes into direct contact with "clients," as those on probation are sometimes called.

Robinson plans, formulates policy, deals in public and community

relations, works to improve defendant programs and supervises and trains staff. When all is said and done, he oversees a budget of nearly \$20 million.

Robinson emphasized that the home confinement program, which generally varies from 30 to 90 days, involves adults who commit crimes against property, not people.

In addition, each adult is subject to a legal leash of sorts. With a staff of more than 60 probation officers, Robinson assigns teams of two to pay daily face-to-face visits to clients to make sure they are home during the court-appointed time.

During the first year of the program, the department made more than 100,000 contacts overall for an average of 40-plus visits per client, Robinson said.

The department has another security measure in a computer system that makes random telephone calls during the home confinement period. The computer has a voice-print feature that makes sure the person talking on the phone is actually the client.

In addition to a hectic work schedule that includes management consulting and teaching positions with Loyola University and Chicago State University, Robinson coaches a seventh- and eighth-grade basketball team for St. Catherine of Siena Elementary School in West Dundee.

After a number of years in New York, Robinson lived in Geneva for two years and Elgin for six years before moving to Sleepy Hollow three years ago.

He, and his wife, Connie, have been married for 11 years. Robinson part of the attraction of Sleepy Hollow is its similarity to the Hudson Valley area, where he grew up.

"I love it. The people are tremendous, the services are fine. And it's an absolute great place to live," Robinson said.

Now if only a dog could roam freely in the Robinsons' neighborhood.

3/4/91 The Courier-Knox Elgin

March 7, 1991

Paul Martin
Deputy Staff Dir.
U. S. Sentencing Commission
1331 Penn. Ave. N.W.
Suite 1400
Washington, D.C. 20004

Dear Mr. Martin:

We the concerned, convicted and condemned citizens under the "New Law" ask is justice and mercy for another chance to do right.

Under the "New Law" first time offenders do not get a chance at parole, good time, community custody due to the severe length of time that is given to us and are only allowed two months half-way house.

The so call Justice System has worked this "New Law" so that the actual people that should get severe lengths of time usually due little or no time. This is due to Rule 35, where certain people testify against other people. By doing this they get less time, depending on their testimony. If it is good enough and I assure you they make it as good as they can. They do not even get any punishment. As it was with my situation.

I have worked all my life for the American Dream and have never had any trouble with the Justice System before. But due to certain circumstances I find myself incarcerated for the next six years and 4 months.

I have spent the last ten months in prison and can assure you that what ever I have done will never occur again.

But unfortunately due to the "New Law" I and thousands of other people have no one to turn to with this except to the severe lengths of time we have.

Please do your best to rectify this nightmarish "New Law". I and the thousands other plea for a revision of the "New Law"

Sincerely Yours,
Jecennise Orellana
not 00674-049
Alderson, W. V. 24910

Dear Sir

My name is Herhard S. Cooper. I am a federal prisoner at Springfield Medical Center. I have been incarcerated for a year now. I am a first time offender. I was a minor Conspirator in a conspiracy to distribute Narcotics. My involvement was that in a frame of 7 years I was placed on the crime scene. Hearing Tin foil which was use to package \$10. and \$20. dollar packages of Narcotics three times. I also had One automobile and a house in my name which I was not the owner of.

Due to the new Guidelines, I was given 10 years incarceration and 10 years supervised Release. My P.S.I. officer informed me had I been under the old Guidelines I would have probably only recieved 6 months work release.

Before this incident I was a Military Police Officer on active duty for 3 years and in the Reserves for 4 years.

I have a Common Law Wife and 3 children which moved from California to be with me. They have no other family than me. Due to my incarceration she was forced to go on Public Aide and is having a very difficult time surviving without my support.

I sincerely plead with you to

readjust the Guidelines so I can help
my children and wife to survive.

I know I was truly wrong for
the crime which I committed but I do not
believe I should have been given this much
time for a first mistake.

I also believe that given the
chance I can truly become a productive
member of society.

Being incarcerated here at Springfield
Medical Center is a waste of good time
which through other Alternatives could
be used on me working to repay my
debt to society.

Again I strongly urge you to make the
necessary changes to allow me to lead
a productive life again, instead of a burden
to society.

Sincerely

Herhard S Cooper # 99794-024
P. O. Box. 4000
Springfield M.O.

65808.

March 8, 1991

U. S. Sentencing Commission
1331 Pennsylvania Ave. N.W.
Suite 1400
Washington, DC 20004

Re: All first offenders here
at Alderson Fed. Prison Camp
Alderson, WV

Attn: Communications Director

As a first offender inmate here at Alderson Prison Camp I feel, as do all the other first offenders, that the commission should take a better look at the guidelines now in effect for first offenders. I personally have been sentenced to 1 year at Alderson on a misdemeanor charge. My sentence is for "falsification of Union document" with acceptance to make restitution in the amount of \$31,304. I had originally been charged with embezzlement of Union funds but this charge has been dropped by the U. S. Attorney's office.

I have made 1 mistake in my lifetime for which I will be repaying the rest of my life. Had I had the opportunity to receive probation, in-house detention, community service (for which I have always been actively involved), I would have been able

to gain employment and pay my debt to society.
This incarceration for 1 year will do nothing for
my mental attitude nor will it get my restitution
repaid.

By asking the judge for mercy was like
asking a blind man to direct you to a destination.
Judges have no mercy as far as I'm concerned. We
first offenders have not & will not get the chance
to right our mistakes until after we have served
time we should have never received. There are
other ways for us to pay our debt to society &
incarceration certainly is not the way.

Anything and everything the Commission can do for us
will surely be appreciated. I certainly hope it is
a decision that comes soon & will benefit all of us.
I would certainly hate to have to serve this time
and then have a new law come out - that would
upset us tremendously. Something needs to be
done NOW not later! Thank You for your concern
& I surely hope this is an emergency matter,
as we feel it is.

Yours Very Truly,
Barbara Emrich 01767-087
Box A - C11
Alderson, WV 24910

3-6-91

U. S. SENTENCING COMMISSION:

I FEEL THE NEW GUIDELINES ARE DEFINITELY TOO HARSH. I AM A FIRST TIME OFFENDER AND AFTER SPENDING A WEEKEND IN JAIL, I CAN ASSURE YOU IT WILL NEVER HAPPEN AGAIN. BUT UOOOO, THEY DON'T BELIEVE WE SHOULD GET A SECOND CHANCE. INSTEAD THEY GAVE ME A FIFTY-ONE MONTH SENTENCE. I DO AGREE I SHOULD PAY FOR MY CRIME, BUT I THINK THIS IS A BIT MUCH.

IT TRULY IS A PITY, I WAS A TAX PAYER WITH TWO JOBS. NOW THE TAX PAYERS ARE KEEPING ME! IT JUST DOESN'T MAKE SENSE. I KNOW SOMETHING NEEDS TO BE DONE WITH THE NEW GUIDELINES.

ONE MORE THING, WITH THESE NEW GUIDELINES, WHO NEEDS JUDGES! THEY HAVE NO JOB, THEIR HANDS ARE TIED.

SINCERELY,

DARLENE BILLMAN
24939-037 FPC
ALDERSON, W. VA.

MARY FERNANDEZ T.
24803-053

Reg. No.
5701 8th Street, Camp Parks
Dublin, CA 94568

I am writing this letter on behalf of thousands of women who are incarcerated in the Federal prison system. My intentions are to plead for some type of sympathy, and understanding. We need someone who can help us deal with the many obstacles that we are facing today and in the future.

Due to the stiff mandatory sentencing guidelines of the 1984 Drug Reform Act, our futures are not very promising. Most of us who are "doing time" have lengthy sentences with no hope of parole in sight. We believe that the sentencing guidelines are too harsh for first time offenders. We realize that we have committed crimes against the United States and the people of the United States. We acknowledge the fact that we must pay for these crimes.

We are paying the highest price of all. We have lost moments, hours, days, months and years out of our children's lives -- none of which can ever be recaptured. If given the opportunity, I am sure the majority of us would choose a different path. Yes, we are being punished; but the fact remains that our children are suffering most of all. Many of us are products of dysfunctional families. If we look into our children's lives and futures, are we laying the groundwork for them to follow in our footsteps?

As incarcerated mothers we no longer have any control over this. We are pleading for mercy on behalf of our children, who remain motherless (and some fatherless). We realize we should have thought about all of these things beforehand; but for a lot of different reasons we couldn't avoid our impending doom. We are not "bad people." We are human

Page two

beings; and, as such, have made mistakes and are paying dearly for those mistakes. A lot of us are victims of circumstances. Some of us just wanted better lives for our children, and thought crime was the way to achieve it.

In some ways we have imprisoned our families and children with us. We have imposed tremendous emotional and financial burdens upon them. We have placed an enormous financial burden upon our government. If given the opportunity of reduced or alternative sentencing, we could become productive taxpaying citizens.

When young women (first time offenders) are incarcerated for ten years, or even twenty or thirty years, they undoubtedly will become entrenched as hardened criminals, whereas, if they were sentenced to a short term in a prison environment they would probably re-enter society as "reformed" and useful citizens.

We are continuing to do lengthy prison terms for our crimes, while more notorious crimes such as murder and rape are being committed every day. These violent criminals are set free with merely a slap on their hands!

A lot of us are incarcerated for drug related crimes. We sit in prison, while the "Big Fish" remain free on the streets through an unequitable Plea Bargain system. Again, we admit we have done wrong; but does what we've done warrant ten to thirty years out of our lives?

We are being severely punished for drug related crimes, while alcohol remains the nation's number one killer. This legal drug is responsible for the deaths of thousands of men, women and children yet alcohol related offenders are often granted treatment rather than incarceration.

Drugs of any sort, including alcohol and tobacco, are the root of all evil. We have become victims of these roots of evil. We became users and we became greedy. Drug addiction is a disease. Is it fair to treat an addiction with incarceration?

Page three

Women who have been imprisoned for white collar crimes, who normally would have received probationary sentences, have also been caught up in the "drug war" punishment mentality. Again, these women are losing the opportunity of returning to a normal life, of becoming productive citizens, due to the severity of the sentencing guidelines.

Our lives in the Federal prison system are certainly not the pampered, carefree lives commonly portrayed to the public. As a matter of fact, we have very limited privileges as compared to most state prisoners. We would gladly trade what privileges we do have for an opportunity to visit with our families and children. As women, we are heavily discriminated against. Women have a limited number of prison facilities available to them. Lexington, Kentucky and Pleasanton, California are the only facilities available for women inmates with a security level of one to six. These institutions lie on opposite ends of the continental United States. Out of approximately fifty Federal prison facilities maintained in every region of this country, the majority of incarcerated women are limited to these two institutions. Most drug related crimes result in placement at either Lexington or Pleasanton. No matter which way we go, most of us are very far away from our homes! We never see our families, while the men are placed close to their homes. The few women's camps maintained in the various regions are inaccessible to us because of our lengthy sentences; thus, mothers and children must endure the hopelessness and inability to share even a minimal personal relationship. To separate a child from his or her mother is severely traumatic; to prevent the child from visitation with the mother due to great distance is unbearable.

I have only stated a few of our many concerns. I hope that you will read this letter with an open mind and heart, and perhaps help us enlist the cooperation of your colleagues and associates in order to alleviate our myriad problems.

Sincerely yours,

Juan C. Becerra "And" Victoria Becerra
33946-004 33843-004

Reg. No.
5701 8th Street, Camp Parks
Dublin, CA 94568

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Sincerely yours,

Liliana Cardem
35523-004

Reg. No.
5701 8th Street, Camp Parks
Dublin, CA 94568

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I have only stated a few of our many concerns. I hope that you will read this letter with an open mind and heart, and perhaps help us enlist the cooperation of your colleagues and associates in order to alleviate our myriad problems.

Sincerely yours,

Matilda Perez
3210 Ivy St.
Tampa, FL 33607

March 11, 1991

U. S. SENTENCING COMMISSION
1331 Pennsylvania Ave., N.W., Suite 1400
Washington, D.C. 20004

ATTN: PUBLIC INFORMATION SPECIALIST

My daughter is an inmate at Federal Correctional Institute in Alderson, West Virginia and this is to submit my opinion on Sentencing Guidelines.

When my daughter, Joyce, was convicted of a crime she did not commit - was tried with her husband of one month and a man she had only known a few months, and who apparently was under investigation prior to their meeting by the FBI, was quite a shock to all of us and a let down on our form of Justice. The second shock came with the sentence she was given - 60 months and 4 years probation. This we were told was the minimum sentence the Judge could give -- Another injustice.

We have an innocent person, a first offender, and due to the Sentencing Guidelines as they are, a Judge's hands are tied, should he choose or feels a lessor sentence would be in order.

My daughter is a good person, a mother of a 4 year old girl, was just short of completing her Registered Nursing and a hard worker. While attending college was working full time at a hospital. When she had to stop college, was working two part-time jobs.

I feel the Committee should weigh everything and every circumstances with all particulars, changing the "Sentencing Guidelines" and making it possible for people like my daughter to be given less time, as a first time offender and an innocent person.

I read about murderers, child abusers, rapists, etc. spending less time in jail for more severe crimes than 1st offenders and people caught in man made webs and certain circumstances.

No one, including Jurors, are perfect and there are bound to be many innocent people incarcerated. These people are human beings, tax payers, and should not be a "notch" on a prosecutors' record.

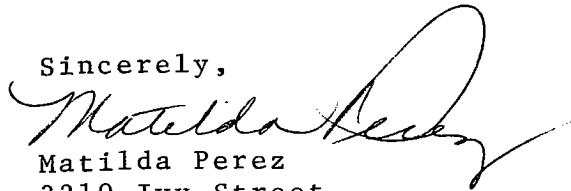
If it is the government's intention to curtail "drugs", then why are the "BIG" dealers out on the street and are used to entrap others. If these dealers are caught and incarcerated, instead of others caught in a "Web", then drugs will be reduced.

Though nothing can be changed about my daughters' situation, I would certainly welcome a lessor more fair Sentencing Guidelines for all and pray that it can also be applied to my daughter, as well as others in her same situation. She has served one (1) year one (1) month at FCI and has proven herself to be a good person and hard worker. She is continuing her studies, has taken several courses and is a sincere worker.

March 11, 1991

Any consideration to changing the Sentencing Guidelines to allow lessor time, would be greatly appreciated and if same is changed to reduce time, for all offenders, including the ones already serving time, would certainly be greatly appreciated.

Sincerely,

A handwritten signature in cursive script, appearing to read "Matilda Perez", written in dark ink.

Matilda Perez
3210 Ivy Street
Tampa, FL 33607

To whom it may concern:

I am writing regarding the Federal System. I don't know what good my letters and other's will do, but anything is worth a try. I don't understand why Federal time is 85% when state time is 30% percent.

A crime is a crime. No one should get more time when there are the same people committing the same crimes and get by doing less time. Why do first time offenders get the same amount as habitual ~~criminals~~ criminals? If a person commits a crime and serves his/her time they should not have to serve time again for it. Why does government officials who commit crimes get sent to better Federal prisons with carpet and people off the streets get sent to worse places. Like I stated before a crime is a crime and no one should get special treatment than the next person. Why does criminals testify against other criminals? That person will say anything to get him/herself out of trouble and that

is not fair. If the law will allow that then all prisoners can tell on each other and no one would be locked up. We wouldn't even need jails or prisons. I would also like to know why aren't all fifteen of the officers are not being prosecuted for the incident that happened in California last week? Three officers are only being prosecuted. There were 12 others who joined in on the beating why aren't they being prosecuted. Is it because the victim was an African-American? I would like to have all my questions answered. I am signing my name and I am leaving my phone numbers where I can be reached for your comments. I will be writing again until I have straight answers from you or the government.

Sincerely,
Karla Green

901-287-7542
901-285-1862

DATE	
PREPARED BY	

PAGE NO	
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