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February 6, 1992

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Mr. William W. Wilkins, Jr., Chairman
U. S. Sentencing Commission
1331 Pennsylvania Avenue, Suite 1400
Washington, D.C. 20004

Re: Proposed Amendments:
New Criminal History Category
Split Sentencing

Dear Chairman Wilkins:

This letter is to comment on a couple of the proposed amendments that appeared in the January 2, 1992, Federal Register, 57 Fed. Reg. 1, 90 (1992).

A new Criminal History Category of 0 would separate offenders with no known criminal history from other offenders that have at least one criminal history point. I suggest this new category be defined as an offender that does not have any convictions under guidelines 4A1.1(a), (b), or (c) or 4A1.2(c)(1) regardless of the applicable time period (except in the case of juvenile adjudications). A person in this category may then receive a reduction in the offense level by as much as two points, for example. This will allow the current Sentencing Table to remain intact while giving defendants who have no criminal history a reduction in their offense level and sentencing range.

At the other end of the grid, a number of defendants have criminal history points beyond the thirteen points needed to establish a criminal history category of VI. This table appears to be sufficient to handle those cases by sentencing at the top of the range or departing upward. To establish a new Criminal History Category of VII would unnecessarily upset the Sentencing Table that is already in place.

The split sentencing alternatives is a third point to consider. The cutoff for offenders eligible for split sentencing should have an offense level high enough that would catch a wide spectrum of offenses. A rule of thumb for eligibility may be for those offenders who have a minimum guideline range of up to 24 months and no criminal history as defined above.

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All three of these proposed changes would allow a possible "benefit" to those defendants who have no criminal history and have no substantial assistance to offer.

I hope these comments are of help to the Commission in considering the proposed amendments to the sentencing guidelines.

Respectfully submitted:


Christopher R. Buckman
U. S. Probation Officer

CRB:smc

cc: Honorable Vincent L. Broderick, c/o Research Division, Federal
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