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February 7, 1994

U. S. Sentencing Commission
One Columbus Circle, NE, Suite 2-500
Washington, D.C. 20002-8002

Attention: Public Information

Re: MARIJUANA AMENDMENT

Dear Chairman:

I am writing to express support for a change in the Sentencing Guidelines for the manufacture of marijuana. It is my understanding that the guidelines were established to provide uniform and impartial sentencing. For marijuana, however, the guidelines impose an additional penalty for cultivation which is over and above that given for the possession of even large quantities of harvested marijuana. This has caused an inconsistency in sentencing that should be rectified in the interest of justice.

The U. S. Sentencing Commission has recognized that the equivalency of 100 grams of marijuana per plant used in offenses involving fewer than fifty plants is related to the actual yield of marijuana plants grown under a variety of conditions. Congress, however, has arbitrarily assigned a one kilogram weight per plant for over forty-nine plants regardless of the actual weight of the marijuana plant. A person with 100 marijuana plants, only several inches in height, receives the same mandatory five-year sentence as a person who possesses 100 kilograms of dried marijuana for distribution, even if it has been smuggled into the country. This disparity is obviously counter to any equity in sentencing.

The current guideline of one kilogram per plant should be changed to 100 grams per plant for the following reasons:

- a ten-fold increase in weight per plant from plausible yield is arbitrary and excessively punitive;

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-a marijuana cultivator is no more culpable than a person who possesses marijuana on a regular basis for sale or distribution;

-even with an adjusted weight of 100 grams per plant, the guidelines would ensure that growers with large numbers of plants would be sentenced to longer terms.

I would also request that the U. S. Sentencing Commission strongly consider marking this change retroactive. This would not only help provide needed prison space for hardened or violent criminals, but would ensure complete and impartial parity, which is the premise of our democratic government.

Your consideration and recommendation of this important change in the Sentencing Guidelines would be greatly appreciated.

Sincerely,



NORMAN ELLIOTT KENT, P.A.

NEK:pb