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March 11, 1994

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United States Sentencing Commission
One Columbus Circle, Northeast
Suite 2-500, South Lobby
Washington, D.C. 20002-8002

Re: Proposed Changes to Federal Sentencing Guidelines

Gentlemen:

For the past several years, I have become increasingly concerned about the unreasonably harsh guidelines in drug cases, particularly those relating to marijuana. The sentences imposed and actually served are so dramatically different under the Federal Sentencing Guidelines that State law enforcement agencies actively forum shop in order to seek prosecution in Federal Court. While I feel that it is pointless, at this time, for me to address the enforcement of drug laws in general, there is one particular area that is so grossly unfair that I believe your attention is appropriate.

Specifically, your attention is directed to that provision in Section 2D 1.1 in which it provides that in the event of possession of fifty or more marijuana plants, each plant shall be deemed to be the equivalent of one kilogram; that in the case of possession of fewer than fifty marijuana plants, each plant shall be treated as the equivalent of one hundred grams of marijuana. This provision establishes nothing more than a presumption; it is clearly not based on any factual considerations. For a person in possession of fifty marijuana plants to be punished at a rate ten times that of a person who had one plant fewer is ludicrous.

I recently handled a marijuana case involving the possession of approximately one hundred marijuana plants. Under the Guidelines, this individual was held responsible for the equivalent of more than two hundred twenty pounds of marijuana. In truth, the marijuana actually weighed forty-seven pounds.

If truth in sentencing is indeed the goal of the Sentencing Guidelines, then we should agree that this provision is not factually accurate.

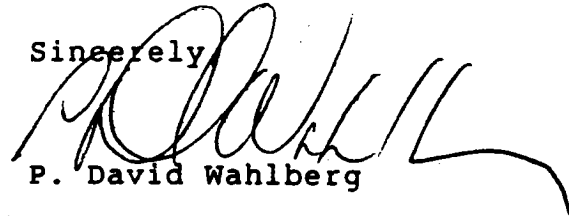
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It is my suggestion that this provision be deleted and that the punishment for possession of marijuana plants should be based on the actual weight of the marijuana involved (excluding dirt, roots, stalks, and stems, because they are generally not consumed).

Sincerely,

A handwritten signature in black ink, appearing to read "P. David Wahlberg", written over the word "Sincerely,".

P. David Wahlberg

PDW/rbp

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