

055-94



OFFICE OF THE CHIEF POSTAL INSPECTOR
Washington, DC 20260-2100

April 8, 1994

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

Attention: Judge William W. Wilkens
Chairman

Based on discussions with my staff, the following proposed guideline commentary is submitted as an alternative to our two proposed guidelines (Amendments 34 and 35). We believe this commentary better fits into the current guideline framework and more directly addresses our concerns which were raised in the two proposed amendments. The commentary will be added to Application Note 6 of § 2B1.1 to determine the dollar loss in volume mail theft crimes.

Commentary

Application Notes:

6. "Undelivered United States Mail" means mail that has not actually been received by the addressee or his agent (e.g., it includes mail that is in the addressee's mail box). "Sealed mail" includes First-Class Mail, Express Mail, international letter mail, and Mailgram messages.

In the case of the theft of undelivered United States Mail, loss is to be treated as equal to the greater of (1) the estimated number of pieces of sealed mail stolen valued at \$25 each; or (2) the total actual loss from the offense determined under Application Notes 2 - 4 above.

For the purpose of estimating the number of pieces of sealed mail stolen -

- a. if the theft is from a Postal Service relay box, the number of pieces of sealed mail shall be determined to be 1000, unless sufficient information is available to make a more accurate determination;
- b. if the theft is from a Postal Service collection box or delivery vehicle, the number of pieces of sealed mail shall be determined to be 400, unless sufficient information is available to make a more accurate determination;
- c. if the theft is from a Postal Service satchel or cart, the number of pieces of sealed mail shall be determined to be 50, unless sufficient information is available to make a more accurate determination;

[2727]

- d. if the theft is from an individual mailbox, the number of pieces of sealed mail shall be determined to be five, unless sufficient information is available to make a more accurate determination.

Background:

Because of the inherent difficulty in establishing the actual amount and value of mail taken, loss proxies for the various forms of mail theft have been included.

K M Hearst

**K. M. Hearst
Deputy Chief Inspector
Office of Criminal Investigations**