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To	US Sentencing	Comm From
Co.	One Columbus Circle	Co.
Dept.	South Lobby Ste. 3-500	Phone #
Fax #	(202) 273-4529	Fax #

3134 Woods Circle
Davis, California 95616
March 6, 1995

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

Re: Amendment #37

Commissioners:

I am writing in support of proposed Sentencing Guidelines Amendment #37. This amendment calls for the Commission to adopt a standard marijuana plant weight of 100 grams per plant, regardless of the number of plants involved in a case. The most notable benefit of this amendment is that it addresses the major sentencing inequity that exists between a person convicted of distributing a certain amount of bulk marijuana (i.e., 100 kilos) and one convicted of growing the same number (100) of marijuana plants. Under the existing guidelines, these two offenders receive the same sentence, even though it is impossible for 100 marijuana plants to produce anywhere near 100 kilos of "finished product". The current law obviously leads to a patently unfair result. Adoption of this amendment would also eliminate the huge increase in sentence that occurs between 49 and 50 plants. This arbitrary increase serves no legitimate sentencing purpose.

I also support two provisions being considered under Amendment #42. The first, which calls for approximating the dry weight of wet marijuana for sentencing purposes, is simply a matter of consistency and fairness. If the weight of a drug is to be the determining factor in sentencing, every effort must be made to ensure that the method of weighing a particular substance is consistent in every case. To allow wet marijuana to be used in one case and dry marijuana in another would lead to inconsistent sentences for the same offense. This is not only unfair, but it undermines the most important policy consideration underlying the Guidelines, which is consistency in sentencing in every case in the Federal Court system.

The second provision I support under Amendment 42 is the proposed definition of a marijuana plant. This definition, requiring, among other things, that plants have roots, is consistent with the holdings of at least four United States Circuit Courts. Adopting this definition will give guidance to courts in determining the correct number of "plants" to support sentencing calculations. Again, it will help lead to more consistent systemwide sentencing results.

Thank you for your consideration of these suggestions.

Sincerely,

Martha J. Hanna
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