

DEAN SHELDON SERWIN

ATTORNEY-AT-LAW
mail@deanserwin.com

1680 N. VINE STREET, SUITE 1115
HOLLYWOOD, CALIFORNIA 90028-8837

TEL. 323.465.1735
FAX. 323.465.1763

March 13, 2001

Office of Public Affairs,
U.S. Sentencing Commission,
One Columbus Circle,
Suite 2-500, N.E.,
Washington, DC., 20002-8002
Attn: Michael Courlander

Re: **Proposed increase in MDMA penalty**

Dear Mr. Courlander,

I generally do not get involved in matters such as this or respond to Internet prompts and calls to action. This time I felt compelled to voice my opinion. I do so because for once I feel I have enough information to do so intelligently.

A few years back I reviewed, prior to publication, a journal article on Federal Mandatory Minimums in drug offenses. The clear evidence was that they did not act as a deterrent and unfairly imposed sentences of a length that often ruined the lives of first time offenders.

I believe that our penal system should be used for rehabilitation purposes whenever possible and drug offenders are certainly a prime example of when this is most important. Putting kids in jail and prison where they still have easy access to drugs will not rehabilitate them. It will only indoctrinate them into a life of crime.

Please understand that I by no means advocate drug usage among young people or anyone else. However, it is an age old fact that some people choose to use "illegal drugs" (I will not comment here on the rampant usage among adults of so-called therapeutic prescription drugs for recreational purposes).

Congress must face the fact that the War on Drugs has failed horribly. Drug use is up; drugs are cheaper and easier to find. Going after the user has quite simply failed as a deterrent.

Treatment programs work. Jail does not. Increasing the penalties for drug use, especially amongst youth, will only crowd our already overcrowded jails and prisons, and build life-long criminals, not good citizens.

Thank you for your time and thought on this matter.

Very truly yours,

[305]



Dean Sheldon Serwin

TO: U.S Sentencing Commission

FROM: Dustianne North
MSW/Ph.D Candidate, UCLA
3909 Cumberland Ave.
Los Angeles, CA 90027

Francis Dellavecchia
Los Angeles Mayoral Candidate
5850 W. 3rd St. #336
Los Angeles, CA 90036

RE: Proposed Increase of MDMA Penalties

DATE: March 8, 2001

Sent via facsimile
(202) 502-4699
ATTN: Michael Courlander

To whom it may concern:

We are writing to comment on the proposed increases of penalties for MDMA. We are extremely concerned about these proposed increases, and we believe strongly that cracking down on MDMA usage by increasing penalties is not reasonable, sensible, or appropriate; we also believe it does little to address the problem of drug abuse.

We are both members of the dance community, and so we are very familiar with some of the populations who use MDMA. As people concerned about the dance movement, it is important to us that both adults and children enjoy the dance experience safely. And as two people who have chosen politics and social work as our chosen fields of work, we are both concerned about the problem of drug abuse in our society. But we are more concerned about the devastating effects that the War on Drugs has already had on this country; we believe strongly that tough sentencing guidelines will not address the problem of MDMA abuse and in fact will do further harm to our community and its members who use MDMA.

We realize that one of the big fears about MDMA is that teens are doing it. And we agree that steps need to be taken to educate and prepare youth to make good decisions regarding its use. However, we ask that it be known that many adults—well-adjusted, professional, productive citizens—use ecstasy. Some use it for therapeutic purposes; others use it recreationally. In our experience, MDMA does not appear to be addictive, nor does it lead to drug-related crime. Under these proposed increases, these people would be vulnerable to heavy and destructive prosecution—even persecution—though they have hurt no one. Further, there is a large contingent of the treatment community that believes MDMA should be tested more thoroughly for its therapeutic uses. It just does not seem to make sense that a drug such as this should have oppressive consequences from a government that has not sufficiently studied its properties.

We also ask that thought be given to the fact that incarceration rarely rehabilitates. If it is teens we are worried about, how will it benefit them to lock them up for all of their early adult years because they took a pill? How will this benefit society? We would like it known that those truly concerned about the dance movement are as concerned about youth as is the rest of the nation, and we agree that the problem of unsafe MDMA use among teens needs to be addressed. We recommend that effort be made by government and non-profit agencies concerned about ecstasy use to become more educated about the drug itself, the lifestyles that go along with its use, and the reasons people choose to do it. Then it will be possible to construct a sensible and fair policy regarding its use.

Finally, we oppose crackdowns like this because we feel they are likely to be used as ammunition against our community and way of life. Those in favor of the Drug War and the media have demonized dance and rave culture since its inception. What they do not realize is that the dance movement is an important and meaningful force among youth. It allows people of all ages and

[307]

backgrounds to come together peaceably and enjoy good music. Some dance events are commercial; others are community-based or have a more spiritual focus. In many cases, communities have developed in which people assist each other in their professional and personal lives. People who like to dance to electronic music are as diverse as can be, and some use drugs while many do not. But what is shared by many is a belief in the kind of community that promotes art and expression, supports the individual and allows freedom of thought, and builds strong collectivity that benefits all members and the larger world. Events are done that raise awareness and funds for critical social and environmental issues, and large numbers of people worldwide enjoy the music, dancing, and experience of dance gatherings without any negative consequences whatsoever.

While we do not argue that there are events that are unsafe, problems with drug abuse, and unscrupulous forces that prey on us, the core dance movement is a positive thing for many, many youth and adults. Youth dance because they want to connect with other people and enjoy good music. So do adults. It is not about drugs, and the dance community has expressed and shown willingness to work with authorities and other community members to reduce the harm sometimes associated with dance culture; however, we feel instead that we are villainized and treated as the enemy. Parents are led to believe that their children are only interested in raves because of drugs; law enforcement becomes emboldened to crack down on any place where people dance. And, because MDMA is perceived as a "club drug," these sentencing increases are likely to be used to justify violation of our first amendment right to our kind of music and expression.

Indeed—public fear about ecstasy has already been used against members of our community in extremely inappropriate ways. Right now, a rave promoter and two club managers are standing trial under the 1986 Crackhouse Law. These promoters were not found to have any ties with the drug trade whatsoever, and were even found to have taken security measures at their events like any rock concert. But because of the style of music played at their events, they are labelled crackhouse operators. These men face 25 years in prison and \$500,000 in fines. We are deeply grateful to them for their decision to fight these charges in spite of the rather lenient plea bargains they were offered. We think it likely that if MDMA penalties are increased, that examples of law enforcement harassment like this one will become all too common.

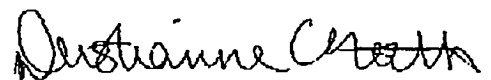
We realize that Congress has instructed this Commission to increase the penalties, but we ask that you consider our voice as well. Congress is meant to represent us, and we disagree with its mandate to you. We are told that the Commission has already recognized that the increased sentences for crack cocaine—a much more damaging, addictive and crime-related drug than MDMA—have not helped that situation, and have instead been used differentially along race and class lines. In that case, a well-intended measure to reduce drug abuse problems in inner-city neighborhoods is likely to have actually exacerbated the situation for those communities. We feel that the same thing could only happen with MDMA if this penalty increase is too harsh. We ask that the Commission move to lessen the harm being done by the War on Drugs to our nation's people, not make things worse.

We thank you for your time and your careful consideration of this matter.

Sincerely,



Francis DellaVecchia
Los Angeles Mayoral Candidate



Dustianne North
M.S.W./Ph.D Candidate



U.S. Department of Justice
Immigration and Naturalization Service
Central Region, Helena District
Boise, ID Sub-Office

Officer in Charge

(208) 334-1822

4620 Overland Rd., Suite 8
Boise, ID 83705

Office of Public Affairs
US Sentencing Commission
One Columbus Circle, NE
Washington, D.C. 20002-8002

Dear Sir;

I am writing this out of concern for the proposed changes in sentencing guidelines by the US Sentencing Commission which will lower the term of imprisonment for Aggravated Felons who re-enter the United States after deportation. This will not deter them from re-entering and committing more crimes, it will just promulgate their desire to return to the United States to do so.

Please reconsider Amendment 18 and keep the sentencing guidelines as they are.

Thank You,
Karen Smith
Karen Smith
Deportation Clerk

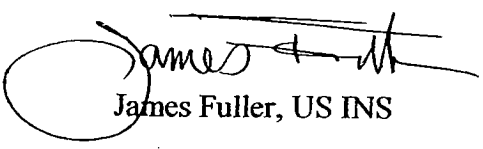
[310]

Office of Public Affairs
Elected Representatives
US Sentencing Commission
One Columbus Circle, NE
Washington DC 20002-8002

RE: Sentencing Guidelines USC 1326, Amendment #18

To Whom It May Concern:

I am currently serving as an Immigration Enforcement Agent with the Newark District Office of Investigations. I am assigned to the Institutional Removal Program (IRP), which is the program that encounters incarcerated felons and processes them for immigration hearings. I can tell you from first hand experiences that the current sentencing guidelines are the only deterrent to these convicted felons. If these guidelines are relaxed the US Attorney will not accept prosecution in this district and once again the American people will be victimized. Many of these are career criminals with violent felonies that include sexual assault, child abuse, multiple drug convictions and even aggravated manslaughter. The current prison system recognizes this effective deterrent and paroles these felons early, into INS custody, to remove them from the US with a lasting effect. If these guidelines are relaxed this will force the current state system to keep these felons longer, imposing a greater strain on this already over-burdened system. In conclusion I wish to reiterate the harm and possible damage that will be done by those who return, unrehabilitated, to further victimize the American people. These guidelines were created for a specific purpose and have served us well. Please don't silence the American people and remove this safeguard. Thank you for your consideration.


James Fuller, US INS

[311]

[312]

MICHAEL T. GANNON

700 East Carson Street
Unit 6
Long Beach, CA 90807
562-424-9896
562-988-6866 (fax)
mtgannon@earthlink.net

March 3, 2001

United States Sentencing Commission
One Columbus Circle N.E. Suite 2-500
Washington, D.C. 20002-8002
Attention: Public Information

Dear Sir or Madam:

I am writing in regard to a proposed change in the U.S. Sentencing Guidelines being proposed by the U.S. Sentencing Commission. This change will effect the term of imprisonment for conviction under 8 USC 1326 (reentry after deportation).

As an Inspector employed by the U.S. Immigration and Naturalization Service I am very familiar with these types of cases and am extremely concerned how these proposed lowered sentences will affect the American public. I would like this letter to be included as part of the written public comment in regards to this proposed amendment.

Under current Federal Sentencing Guidelines an alien deported from the U.S. after conviction of any crime designated as an aggravated felony is a base level 24 on the current sentencing table and faces a minimum sentence of 51 to 63 months.

Under the proposed amendment to the guidelines the defendant would actually have had to serve a period of at least 10 years imprisonment as a result of their aggravated felony conviction, or the conviction would have to have involved a death, serious bodily injury, the use of a weapon or been a serious drug trafficking offense in order to reach a base level of 24 on the sentencing table. (The definition of a serious drug trafficking offense is not included. However it appears that selling a vial of "crack cocaine" to a 15 year old would not be considered a "serious drug trafficking offense" under the proposed amendments.)

Many aliens convicted of crimes in the U.S. get reduced sentences or are released from prison early on the condition that they are to be deported from the U.S. What good is this if they only return to the U.S. a short time later to victimize the U.S. public once again. Many of the persons convicted under this statute are found in a U.S. prison after having illegally entered the U.S. after their deportation and are then convicted of committing a new crime.

In the Eastern District of New York the United States Attorney's office will not accept a case for prosecution if the base level on the sentencing table is under a 24. This proposed change will result in almost no one being prosecuted for attempting to reenter the U.S. after deportation. 8 USC 1326 might as well be repealed, as enactment of this proposed sentencing amendment will result in no effective deterrent to stop a criminal alien from attempting to illegally enter the U.S. again and again until successful.

The current sentences are a very strong deterrent to keep criminal aliens from attempting to or reentering the U.S. after their deportations, and as a result, in my experience the recidivism rate for persons convicted of this offense is miniscule.

[313]

There are many examples I could provide where aliens were deported based upon very serious convictions for violations of U.S. law and under the proposed amendments would more then likely not be prosecuted for this offense or if prosecuted face only a relatively minor sentence in comparison to their past criminal behavior.

In closing, I urge that the proposed amendments under section 2L1.2. not be enacted and the current guidelines in respect to this section remain intact as a successful deterrent and appropriate punishment for conviction of this crime.

If you have any questions or feel there is anyway I can be of assistance to you in this matter, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Gannon". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Michael Gannon
Journeyman, Immigration Inspector
Los Angeles District

William R. Jones
4405 Hornbeam Drive
Rockville, Maryland 20853

February 25, 2001

Office of Public Affairs
US Sentencing Commission
One Columbus Circle, NE
Washington, DC 20002-8002

Dear Sir:

I read the proposed Amendment #18, concerning reduced sentences for Aggravated Felons who illegally reenter the United States, and found myself horrified! As a career Immigration & Naturalization Officer (Service), having served as a Deportation Officer, Criminal Investigator, and Supervisory Detention and Deportation Officer, I feel well qualified and obligated to respond on this matter. This proposal is absurd!

I have witnessed the enforcement mission of the Service continuously degraded by benefits granted to illegal aliens and a lack of commitment of high-ranking Service managers. Now I read proposal #18. Currently, States frequently reduce sentences and/or parole aggravated felons to Service custody because they believe the illegal aliens are a Federal problem, in fact- they are correct. The Service removes the aliens, many of whom are aggravated felons as expeditiously as possible to their countries of citizenship. These aliens are all provided warning letters explaining their rights regarding future entry into the US. Aggravated felons are informed they may not return and if they do, they will face stiff penalties. This is a deterrent. I have witnessed the current sentencing guideline effects in numerous cases, when debriefing aggravated felons who have returned and been convicted of violation of 8 USC 1326(a) and other crimes.

Currently, the Service cannot control the borders and has a more limited ability to enforce the Immigration and Nationality Act in the interior. Although most reentry after deportation cases are never apprehended or charged, the current sentencing guidelines deter some recidivism. A reduction in the sentencing guidelines will eliminate any deterrent presently keeping the most dangerous illegal alien group, the aggravated felons, from returning to the US.

This is the most ill advised change and I hope it is rejected!

Sincerely,


William Jones

[315]

February 26, 2001

Office of Public Affairs
Attorney General John Ashcroft
Your Elected Reps
US Sentencing Commission
10th & Constitution
One Columbus Circle, NE
Washington D.C. 20036

Dear Mr. Ashcroft:

I am writing this letter to express my opinion regarding the U.S. Sentencing Commission's proposal to reduce the sentencing guidelines for foreign-born Aggravated Felons that illegally reenter into the United States. As a citizen, and a Special Agent with the Immigration Service, I am outraged. As with other crimes, this one needs a deterrent. In order for us to effectively keep these individuals from returning the United States, the punishment must fit the crime. If these guidelines are dropped from 41-51 months incarceration, to 12-18months, this WILL NOT deter Aggravated Felons from returning, in fact, it will actually promulgate their desire to return to the United States.

The crimes that are being committed by these individuals are not the same crimes that they were ten years ago. The Aggravated Felons of today are committing serious crimes, ie: drug trafficking, murder, rape, sexual assault, and various other crimes of violence. It's bad enough that we have our own citizens committing crimes, so why should we encourage individuals from other countries to come here and commit these crimes? If the majority of these people committed these same crimes in their native countries, they would be put to death, or incarcerated for the rest of their lives.

Furthermore, there is an increase in the cooperation between the State's Attorney's offices and the U.S. Attorney's offices throughout the United States regarding foreign-born defendants. Often times, these defendants are being given suspended sentences or, as part of their sentencing agreements, are stipulating to being deported. Some of these people are even paroled out early into INS custody for the purposes of deportation. If we just simply send these people back to their countries, without any sanctions (or minimal sanctions as is being proposed), what deterrent will the INS have to keep these people from returning, and committing these crimes again?

Anyone having any knowledge about the crime statistics in the United States can tell you the recidivism rates among criminals has continued to increase over the years, and probably will continue to do so if we don't impose tougher sanctions against those committing the crimes. As an Agent with INS, I see on a daily basis, the number of criminal aliens that are reentering into the United States, some as many as seven or eight times. If these individuals are apprehended by INS, and essentially given time served (after the time for prosecution), is it really feasible to think that they won't do it again?

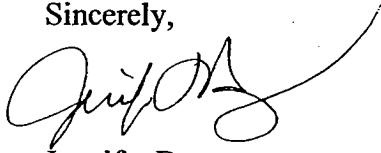
[316]

Please take what I have said under careful consideration. Law enforcement agencies across the United States (local, state, and federal) are working together to combat the criminal alien problem. We need tougher sentencing guidelines to spread the word that we will not tolerate Aggravated Felons who have previously been deported reentering the United States.

Please feel free to contact me I can be of further assistance.

Jennifer L Duey
334 Bunker Hill Cir
Aurora, Illinois 60504
(630) 851-8799

Sincerely,

A handwritten signature in black ink, appearing to read 'Jennifer Duey', with a long, sweeping flourish extending to the right.

Jennifer Duey

William T Malone
124 Udall Road
West Islip, NY 11795
(631) 321-6239

March 2, 2001

United States Sentencing Commission
One Columbus Circle N.E. Suite 2-500
Washington, D.C. 20002-8002
Attention: Public Information

Dear Sir or Madam:

I am writing in regard to a proposed change in the U.S. Sentencing Guidelines being proposed by the U.S. Sentencing Commission. This change will effect the term of imprisonment for conviction under 8 USC 1326 (reentry after deportation).

As a Senior Inspector employed by the U.S. Immigration and Naturalization Service I am very familiar with these types of cases and am extremely concerned how these proposed lowered sentences will affect the American public. I would like this letter to be included as part of the written public comment in regards to this proposed amendment.

Under current Federal Sentencing Guidelines an alien deported from the U.S. after conviction of any crime designated as an aggravated felony is a base level 24 on the current sentencing table and faces a minimum sentence of 51 to 63 months.

Under the proposed amendment to the guidelines the defendant would actually have had to serve a period of at least 10 years imprisonment as a result of their aggravated felony conviction, or the conviction would have to have involved a death, serious bodily injury, the use of a weapon or been a serious drug trafficking offense in order to reach a base level of 24 on the sentencing table. (The definition of a serious drug trafficking offense is not included. However it appears that selling a vial of "crack cocaine" to a 15 year old would not be considered a "serious drug trafficking offense" under the proposed amendments.)

Many aliens convicted of crimes in the U.S. get reduced sentences or are released from prison early on the condition that they are to be deported from the U.S. What good is this if they only return to the U.S. a short time later to victimize the U.S. public once again. Many of the persons convicted under this statute are found in a U.S. prison after having illegally entered the U.S. after their deportation and are then convicted of committing a new crime.

In the Eastern District of New York the United States Attorney's office will not accept a case for prosecution if the base level on the sentencing table is under a 24. This proposed change will result in almost no one being prosecuted for attempting to reenter the U.S. after deportation. 8 USC 1326 might as well be repealed, as enactment of this proposed sentencing amendment will result in no effective deterrent to stop a criminal alien from attempting to illegally enter the U.S. again and again until successful.

The current sentences are a very strong deterrent to keep criminal aliens from attempting to or reentering the U.S. after their deportations, and as a result, in my experience the recidivism rate for persons convicted of this offense is miniscule.

There are many examples I could provide where aliens were deported based upon very serious convictions for violations of U.S. law and under the proposed amendments would more than likely not

[319]

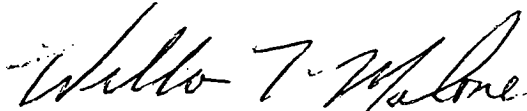
March 2, 2001

be prosecuted for this offense or if prosecuted face only a relatively minor sentence in comparison to their past criminal behavior.

In closing, I urge that the proposed amendments under section 2L1.2. not be enacted and the current guidelines in respect to this section remain intact as a successful deterrent and appropriate punishment for conviction of this crime.

If you have any questions or feel there is anyway I can be of assistance to you in this matter, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "William T. Malone". The signature is fluid and cursive, with a large, stylized "M" at the end.

William T Malone
Senior Immigration Inspector

[320]

February 26, 2001

Office of Public Affairs
United States Sentencing Commission
One Columbus Circle, NE
Washington, D.C. 20002-8002

Edward A. Tomlinson
2908 Coldspring Way #321
Crofton, Maryland 21114

Gentlemen:

It was with great dismay that I learned that the United States Sentencing Commission (USSC) has proposed lowering the sentencing guideline ranges on "aggravated felons" whom re-enter the United States after Deportation in violation of Title 8 United States Code 1326 (b)(2).

I strongly oppose any lowering of the sentencing guidelines relating to aggravated felon re-entrants. These guidelines are a very strong deterrent to the most violent of alien criminals whom re-enter the United States with disregard for Immigration and Nationality Law. Many of those violators have suffered no criminal action for illegally entering the United States initially in violation of Title 8 United States Code 1325. Defendants prosecuted in the United States for Re-entry After Deportation (8USC1326) by the United States Attorney's Office have been convicted of crimes such as, Rape, Murder, Sexual Abuse of a Child, Trafficking of Controlled Substance, Trafficking of Firearms, Money Laundering, Crimes of Violence, Ransom, Child Pornography, Racketeering, Sabotage, etc. Many of these offenders find that after conviction, or a guilty plea, they will only be deported from the United States and unfortunately, frequently avoid a typical sentence for their crime in lieu of deportation.

It is imperative that after criminal conviction, for such serious offenses, which were the basis for their removal from the United States, we should not send the message that we will tolerate the convict's illegal return to this society without a severe penalty for this offense. The Immigration and Naturalization Laws of the United States allow many avenues for foreign nationals to visit, immigrate and remain in the United States and impose slight or insignificant penalties for those who violate the law. Those persons whom are not citizens of the United States, who commit heinous and violent crimes should be afforded immediate removal from the United States with a warning not to return. We should not allow serious and violent criminals to re-enter the United States without severe penalty after having been afforded due process and found guilty. The United States struggles with an ever increasing crime problem from within, permitting, or giving the appearance of condoning an alien threat to the public is not permissible.

[321]

As a long time member of the United States Department of Justice assigned to the Organized Crime Drug Enforcement Task Force (OCDETF) it is apparent that a significant percentage of organized crime investigations involve alien organized crime groups. Investigations of those organizations are unusually difficult due to the unique problems they pose such as, language, ethnic values and overseas bases of operation. One of the more recent and effective tools in combating these groups has been the sure enforcement of the aggravated felon provisions included in Title 8 United States Code 1326.

Sincerely,

A handwritten signature in cursive script, reading "Edward A. Johnson". The signature is written in dark ink and is positioned below the word "Sincerely,".