

TESTIMONY BY PAUL D. BORMAN, CHIEF FEDERAL DEFENDER, LEGAL AID AND DEFENDER ASSOCIATION OF DETROIT, ON BEHALF OF THE FEDERAL DEFENDERS, TO THE U.S. SENTENCING COMMISSION, MARCH 15, 1990, RE PROPOSED GUIDELINE AMENDMENTS (THE POSITION PAPER IN FINAL FORM WILL BE SUBMITTED BY MARCH 30, 1990).

#11, Page 20 -- §2B3.2

We object to raising the extortion BOL to that of robbery. There are significant differences between the two offenses; robbery is more serious as the Commission recognized in raising

that BOL in 1989. The "Reason for Amendment" provided by the staff, to conform it to robbery, is not a valid justification.

STATEMENT OF

SAMUEL J. BUFFONE, CHAIRPERSON
U.S. SENTENCING COMMISSION COMMITTEE
CRIMINAL JUSTICE SECTION

Item 11. This amendment conforms the base offense level for extortion to the higher base offense level for robbery. Faced with a choice between increasing or decreasing offense levels to smooth out unintended disparity, the Commission should be guided by the rule of lenity that governs courts in other areas of the criminal law. This amendment appears based on a rule of severity: when in doubt, increase punishment.

4

STATEMENT OF
BENSON WEINTRAUB
ON BEHALF OF THE
NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS

11. NACDL opposes the two level increase. See comment 5,
supra.