

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).

#28, Page 34 -- §2K1.4

We object to this proposal which removes the element of "knowingly" creating a substantial risk. "Knowingly" should be a critical element in raising the BOL. We also object to raising the offense levels.

The "Reason for Amendment" is boilerplate -- "does not adequately reflect the seriousness of the offenses."

Where are the statistics? Where's the data? "Where's the meat?"

STATEMENT OF

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

Item 28. This amendment would result in increased sentences without sufficient explanation. Proposed specific offense characteristic (b)(1) seems especially unclear and unnecessary.

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

28. NACDL opposes the proposed amendment to USSG §2K1.4. In particular, since scienter is a measurement of culpability, subsection (a)(1)(A) should relate to a Defendant who has knowingly "created a substantial risk..."