

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).

#44, Page 47 -- §2P1.1

We propose a reduction from a level 13 to level 8 when the escape is from non-secure custody, to wit, a CTC half-way house, or a CCC.

We do not believe that the reduction should take into account the offense for which the defendant is confined--that will have already been factored in by his original sentence.

We believe that the 96 hour (4 day) period set forth in 2P1.1(b)(2) should be extended to one week.

We believe that failure to return from a furlough from a secure institution should be distinguished from a non-secure institution. The reduction for failure to return from a furlough should only be from a level 13 to a level 11.

STATEMENT OF

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

Item 44. The Commission asks whether distinctions should be made among defendants of different culpability convicted under the same escape statute. The answer is clearly "yes." In particular, the escape guideline should provide less punishment for the defendant who, for example, walks away from a non-secure worksite than for one who escapes from prison. Also, voluntary return should be distinguished from non-voluntary return. One distinction that appears to be irrelevant is the severity of the offense for which the defendant is serving a sentence.