

July 27, 2011

United States Sentencing Commission  
One Columbus Circle, N.E.,  
Suite 2-500, South Lobby  
Washington, D.C. 20002-8002  
**ATTN: Public Affairs**

Re: 2012 Proposed Priority Policy Issues

Dear Commissioners:

I am writing concerning the Commission's request for public comment on possible priority policy issues for the amendment cycle ending May 1, 2012.

I respectfully urge the Commission to address during the May 1, 2012 amendment cycle the impact that drug quantities have on a defendant's base offense level under U.S.S.G. § 2D1.1. The Sentencing Commission, federal judges, and other sentencing experts have long recognized that the Guidelines' overreliance on drug quantity, for a variety of reasons, contributes to unreliability and disparities in federal drug sentencing. See *United States v. Gall*, 374 F.Supp.2d 758, 764 n.5 (S.D. Iowa 2005), affirmed, 552 U.S. 38, 128 S.Ct. 586, 169 L.Ed.2d 445 (2007) (collecting cases) and *United States v. Rodriguez*, 406 F.3d 1261, 1288 n.11 (11th Cir. 2005) (Tjflat, J., dissenting).

I believe the Commission should reduce or eliminate the current excessive reliance on the drug quantity table in Section 2D1.1. The mandatory-minimum sentences prescribed under 21 U.S.C. § 841(b) already provide very steep penalties based on different drug amounts and type. Moreover, the multiple enhancements listed in the Fair Sentencing Act of 2010 can help ensure that drug sentences are proportional to the severity of the offense and to individual culpability and circumstances. The Fair Sentencing Act of 2010, for example, requires that a defendant's sentence be enhanced if "[t]he defendant committed the drug trafficking offense as part of a pattern of criminal conduct engaged in as a livelihood." See, Section 6 of the Fair Sentencing Act of 2010. I believe this enhancement will better serve the sentencing goals of both the Sentencing Reform Act and the Anti-Drug Abuse Act of 1986 than the current emphasis on aggregated drug quantities.

I implore the Commission to make the reduction or elimination of the current reliance on the drug quantity table a priority. Under the current sentencing system, nonviolent drug offenders today can easily face a prison term once reserved for murders, terrorists, and serial rapists.

I thank you for the opportunity to comment and hope that my input is useful.

Sincerely yours,

Kelley R. Franklin