



July 27, 2015

The Honorable Patti B. Saris,
Chair United States Sentencing Commission
One Columbus Circle, N.E.
Suite 2-500, South Lobby
Washington, DC 20002-8002

Re: Guideline Amendment Priorities for 2015-2016

Dear Judge Saris:

On behalf of Prisology, we submit the following comments regarding the Commission's priorities for the 2015-16 Guideline amendment cycle.

Compassionate Release:

The Commission should expand the criteria for compassionate release currently in U.S.S.G. § 1B1.13. Additional criteria is necessary to better implement the provisions of 18 U.S.C. § 3582(c)(1). Clarity would lead to consistency and a better understanding of when to appropriately grant or deny compassionate release. An increase in the number of prisoners who are granted compassionate release would help address the continuing issue of overpopulation in federal prisons.¹ Although non-medical circumstances are to be considered as a basis for compassionate release, the BOP routinely rejects such requests.² A recidivism rate of 3.5 percent has been found amongst inmates released on compassionate release grounds compared to the general recidivism rate which has been estimated as high as 41 percent.³ An OIG study found that aging inmates are more costly to incarcerate due to increased medical needs. Aging inmates also have a lower rate of re-arrest once released.⁴ Aging inmates are viable candidates for early release but BOP policy sets the bar very high for a successful release.⁵ A catch-all provision exists within § 1B1.13 but it is unclear what circumstances must exist in order for an appropriate reduction in term of imprisonment. The Commission should provide more detailed criteria so that § 3582(c)(1) may be better implemented to relieve financial and population pressures on the prison system, as well as benefit prisoners who may be eligible for release under the program.

¹ U.S. DEPT OF JUSTICE, OFFICE OF INSPECTOR GENERAL, *The Federal Bureau of Prisons' Compassionate Release Program (April 2013) (OIG Report)*, available at: <https://oig.justice.gov/reports/2013/e1306.pdf>.

² OIG Report at ii.

³ OIG Report at iv.

⁴ U.S. DEPT OF JUSTICE, OFFICE OF INSPECTOR GENERAL, *The Impact of an Aging Inmate Population on the Federal Bureau of Prisons (May 2015) (OIG Report)*, "Aging inmates on average cost 8 percent more per inmate to incarcerate than inmates age 49 and younger." available at: <https://oig.justice.gov/reports/2015/e1505.pdf#page=2>.

⁵ "aging inmates could be viable candidates for early release, resulting in significant cost savings; but BOP policy strictly limits those who can be considered and, as a result, few have been released." OIG Report at iii.



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Early Termination of Supervised Release:

The Commission should create U.S.S.G. § 5D1.4, Early Termination of Supervised Release. District courts need a comprehensive guideline provision so there are clear standards governing early termination. Early termination of supervised release is currently only briefly mentioned in an application note. A dedicated Guideline provision would allow courts to more effectively consider requests for early termination by low-risk offenders. Despite the large number of offenders on “low-intensity supervision” very few receive early termination. Only 13.3 percent of all supervision cases successfully closed in 2013 were the result of early terminations.⁶ On average, offenders whose supervised release terms were terminated early served more than 60 percent of the original supervision term imposed.⁷ Additionally, early-term offenders presented a lower risk of recidivism than their full-term counterparts.⁸ There is a constant concern over the amount of money spent on incarceration. More grants of early termination would allow tax dollars to be better spent on reducing recidivism by higher risk persons on supervised release. Approximately 40 percent of all supervision cases in 2012 were classified as low-intensity.⁹ Granting early termination to offenders that are “likely to remain crime free, to appear in court, and to comply with all other conditions without further interventions by the officer” would be beneficial for the system and the offender.¹⁰ Providing district courts with a clear standard would allow those with very low risks of recidivating to return to society while allocating tax dollars to the supervision needs of higher risk offenders.

Thank you for your consideration of our comments.

Sincerely,

A handwritten signature in black ink that reads "Brandon Sample". The signature is written in a cursive, flowing style.

Brandon Sample
Executive Director

⁶ <http://www.uscourts.gov/uscourts/Statistics/JudicialBusiness/2013/appendices/E7ASep13.pdf>.

⁷ *Id.*

⁸ Johnson, Early Terminated Offenders, at 1.

⁹ <http://news.uscourts.gov/new-national-supervision-policy-redirects-resources>.

¹⁰ Supervision of Federal Defendants, Monograph 111 § 525.