

Dear Commissioners:

Thank you for the opportunity to provide thoughts and comments on federal sentencing guidelines.

I volunteer in New Jersey with the New Jersey Re-entry Corporation. In doing so, I have had the unique opportunity to work directly with, and also to learn from, formerly incarcerated members of society. It has been an educational experience.

Through this program and related seminars and conferences, I have heard directly from Federal Prosecutors, Federal judges, Wardens, Governors - past and present - and others in the criminal justice system. I have met people who have made grave mistakes in life and who are now trying to create a lawful and gratifying existence for themselves. Their climb is definitely uphill.

We need to make the changes that will benefit these people and enable them to return to society to begin or resume productive lives. Extended sentences make their challenges even more difficult.

Some thoughts on sentencing guidelines :

First, in keeping with your stated goal of reducing sentencing disparities and providing consistency in Guideline interpretation, Amendment 801, concerning the 2-point and 5-point distribution enhancements, should be added to section 1B1.10c of the Guidelines. Several circuits, such as the 2nd, 4th, 6th and 11th, understand that this was a Clarifying Amendment, making it automatically retroactive, according to Congress. However, the 1st, 3rd, 5th and 9th circuits say otherwise, stating that if the amendment is NOT listed in 1B1.10c, then the clarifying amendment cannot be challenged on a direct or habeas petition. All defendants with these enhancements should be permitted to file a claim under 3582c, regardless of when, or where, they were sentenced.

Second, in regards to the Sentencing Table, when considering Criminal History, Class One defendants should be separated into two categories: those with zero previous offenses and those with one previous offense. First time offenders, across the board, should be given the consideration of lower guideline ranges than those with a criminal history. Not all defendants become recidivists. For many, one trip through the justice system is more than sufficient to learn valuable lessons.

We, as a society, need to provide the programs and resources that will help people to live on the right path.

Thank you for your consideration,

Robyn Latman, Esq.

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