Dear U.S. Sentencing Commission,

I am very much in favor that sentencing guidelines in a "c" plea or any other sentencing should be restricted to what the accused has plead guilty to, and nothing further. Additionally, I believe the judge should have latitude for leniency if he/she deems it appropriate.

Sincerely,

[redacted]

To Whom it may Concern,

I am writing this letter as a suggestion on an important issue that should be changed in the United States Sentencing Guidelines. I believe this change would have a great impact, as well as correctly reflect the just punishment defendants deserve.

The change is to divide methamphetamine into two different drug categories.

First let me state that my experience with methamphetamine (meth) is from actual use. Between the ages of 15-17, and 19-21 I used or sold meth.

Meth is a huge problem in America. In fact it used to be an epidemic. However prescription pills and heroin are taking it's place. But let's discuss meth.

There are two different kinds of meth. I know that the government believes that there is "Ice" or actual meth, and the a substance containing a detectable amount of meth. This is incorrect.

The first type of methemphetamine is what the street's call "old school" meth. This is meth that is "cooked" or manafactured. This type usually includes multiple chemicals such as ephedrine, phosphorus, iodine, and the list goes on. But basically, to make this type of meth, certain chemicals have to be combined in a certian way, and then usually turned into a white powder substance. This type of meth can also come in a "putty" like substance that is usally brown. The street name for this is "peanut butter dope". The chemicals needed for this type of meth are fairly hard to obtain. As an example, you can no longer buy cold medicine that contains ephedrine, without signing a book and providing ID. For the purposes of this letter we are will call this "cooked meth".

The second type of meth is what the street calls "Ice". This meth usually looks like crystal shards, or crushed glass. For the purposes of this letter we will call this type "ICE". Now ice can be made a couple of different ways. The most common way is in super labs in mexico and then brought into the U.S. However it can also be made at home using certain chemicals that are really easy to obtain like Gun Blue, which is at every Wal-Mart in the country. The "real" way to make ice is as a mold. All the chemicals are placed in a tank, usually a fish tank. Then the tank is buried underground or placed in complete darkness for a period of time until the ice "grows". There are other numerous ways that ice is made, but the general difference is that it is not cooked.

Strength

The difference between these two types of meth are substantial. First

is the strength. Cooked meth is significantly stronger than ice. Regardless of what "purity" level it shows, ice will never be as strong as cooked meth. The precursors is cooked meth make for a stronger chemical than ice. When I was 16 years old, I was using cooked meth. I could purchase a "teenager" which is 1.7 grams (1/16 of an ounce) and me and three or four friends would stay awake and "tweeking" (being high on meth) for multiple days, usually three or four. When using ice, the same amount of people could stay high for about a day and a half. With cooked meth a person possessing an "eight ball" or 3.5 grams was going to be high for a week. On ice that amount might last the weekend.

The difference between ice and cooked meth is the same as the difference of cocaine to crack. One is substantially stronger then the other.

The second major difference is the substance itself. It is significantly harder to obtain the chemicals to make cooked meth, and now because it is so rare, it brings a higher street value. Plus a person can overdose easier on cooked meth. Also the side effects of cooked meth are more "intense" (for a lack of a better word). Cooked meth usually causes the more extreme side effects because you actually stay awake longer. The longest I have ever personally stayed awake on cooked meth is 22 straight days. I did not eat, and was hallucinating before I finally blacked out. On ice the longest I stayed awake was 5 day's and at that time I was smoking almost an ounce a day. On cooked meth, I was smoking maybe a half gram a day to stay awake.

It is pretty rare to get any large amount of cooked meth now. The government has done a good job of controlling the precursors. Ice is more common and is almost everywhere.

Classification

There should be two different types of classification's of meth. Not the Actual or Meth, as the USSG has listed now. There are multiple problems with the Guidelines "Actual" determination now. First is that it is using a purity test to determine actual. However a substance can easily be 100% pure and still not be that strong. This is usually the case with ice. It always reads that it is a high purity, but still does not have a strong effect when compared to cooked meth. Yet meth has a stronger Guidelines punishment than all other comparable substances. Another reason that this classification is needed, is that the Guidelines for meth were written at a time that the most common methamphetamine on the streets was cooked meth. Now the most common is ice but the Guidelines don't reflect this.

Again, it is the same as the crack to cocaine argument. An ounce of cocaine will keep a party going all night, but an ounce of crack will keep it going all week. An ounce of ice will keep a party going for a day or two, but an ounce of cooked meth will keep it going for the better part of a month.

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Again, it is the same as the crack to cocaine argument. An ounce of cocaine will keep a party going all night, but an ounce of crack will keep it going all week. An ounce of ice will keep a party going for a day or two, but an ounce of cooked meth will keep it going for the better part of a month.

For these reasons I think that the Sentencing Commission should consider the reclassification of the two different types of methamphetamine. I understand that for this to be done a actual study would have to be conducted. If I am needed to testify or better explain any of this, please contact me at the address on the cover sheet. Moreover if needed to testify to these facts, I would be glad to do so, although I do not get released for another year or so.

Thank you for taking the time to read this.

Respectfully,

Justin Jackson

July 26, 2017

United States Sentencing Commission
One Columbus Circle, NE
Suite 2-500
South Lobby
Washington, DC 20002-8002

Attention: Public Affairs – Priorities Comment

I've never done this before, but am taking this opportunity to let my voice be heard. I'm writing you today to ask the United States Sentencing Commission to reform the career offender guideline to promote proportionality and reduce sentencing disparities so that the sentences aren't so absurd. Defendants sentenced as a career offender suffer unreasonable and disproportionately lengthy sentences. The emotional and financial burden suffered by their families is crushing, which oftentimes creates more hardship where they are forced to seek financial support from government programs for housing, medical, food and child care to survive. Children grow up without a parent, causing a host of economic, educational, and social challenges. This snowball effect creates a cyclical financial impact on the government that could otherwise be used to help community and economic developments to help prevent crime. Although I don't know anyone who has been sentenced under the career offender guideline, I feel the over-sentences these people receive are unnecessarily harsh and disproportional to sentences of more severe crimes and are inconsistently delivered. Is it realistic to say a murderer can be rehabilitated and released, but not someone with a lesser crime?

Career offender sentences are monumentally worse than the offense warrants. What does our community possibly gain when we lock up people for such absurd prison terms? Does the compounding of a sentence really make us safer? Should tax payers continue to carry the weight to keep them incarcerated and pay higher medical care as they grow older? Has mass incarceration become a big business industry where there is no motivation to let anyone out of prison? Isn't the goal of our correctional institutions to rehabilitate our people so that they can assimilate back into society by becoming productive, sustainable citizens? We can't keep growing the prisons and exceeding other nations in our incarceration rates. Punishments need to be reasonable, not a lifetime without hope.

We've all heard success stories of people who've been given a chance to show they can turn their lives around and earn the respect of society. Rather than stacking and compounding more time on a defendant's sentence, we should look for ways where while incarcerated, they can complete milestones that would qualify them for reclassification. I.E. vocational and educational training, substance/mental health treatment successfully completed, mentorship and examples of model behavior, work therapy jobs, life-skills and financial education completed. A major element of the correctional mission is to provide resources and opportunities for inmates to exchange criminal conduct for a legitimate life through successful relations with others.

Because of all this and more, I am requesting the United States Sentencing Commission review the injustice of over-sentencing and over-criminalization in our country, which is unnecessarily harsh and contributes to prison overcrowding while ballooning the prison budget. I'm asking you to rectify this injustice by reforming the career offender guideline to have more realistic sentencing.

With respect, Joseph [redacted] Evans

Dear Sir's

My name is Michael [redacted] Billick. I am currently serving a 17 year sentence for possesion with intent to distribute 5 grams or more, less then 50 grams of methamphetamine. I was arrested with 13 grams. Regardless, I did have in my possision an illeagle drug. I plead guilty in U.S. fed. Ct. I was wrong.

The problem with my sentence, is I was scored as an Carreer Offender. I do have 2 prior drug feloneis. One for possesion with intent, sale of 3 grams. one with possions of percurser. Both state of Iowa charges. I was and always will be a drug addict. Meth is a very hard drug to escape from. That should be pretty evident with all the people locked up, both in State and fed. prisons.

When I was sentenced, I was 55 years old. I have both a wife and a young son, who was [redacted] years old at the time. He is now [redacted] I went from an [redacted], making $80,000 ~~or~~ a year job, to making 12¢ an hr. My wife and son are getting by on all state and fed. Wellfare. HUD, ELECT. & HEATING Ass., food stamps and any other programs they are eligible for.

I wish you to know, I believe in law & order. However this get tuff on drug war is a little out of hand. I am a drug addict, I don't need locked up for most of my life, I need a comprehencive drug treatment. I am ordered to R.D.A.P. which I will be taking 13 years later into my

sentence. Did I say I am a small time/small amount of drug seller. This law that I was sentenced under .841 A. as with .851 turned my charge from a State crime, into a Federal offense. Which turned a 5 year min/mand. into a 10 year to life, sentence. Is this what the law makers intended on, or were these laws meant for large scale drug conspiracys? This is to me like the Calif. 3 strikes law, although it fit some people, the life sentence for the man with prioer felonies, stole a pizza, got a life sentence. These extream sentences are putting more and more drug offenders away for a good part of thier lives. As I said I believe in law and order. There is a need. Wouldn't it be money better spent on better treatment? Give an repeat drug addict a year drug treatment. These two week to a month are not working for you, or the addict. Who more then likely at least ½ could be productive citizens with proper comprencive treatment.

Law is Law, and must be obeyed. But this is wrong. Shouldn't fed. prisoner's be givin the opportunity to recieve drug treatment, learn education, work skills to make an decent living. Let them work on programs to earn a parole, as most states have. These tuff stances that were made for hard line drug cartels, they are not here. What I see is low level addicts turning on other addicts to get sentence

reductions. The outcome of this, is what we have now, low levels drug offenders with extream amounts of time, which in turn has overcrowed an already ageing prison population. Just look at the last 50 years.

I am not a real smart man, but even I can see something is very wrong. There are so many drug inmates, there is not both the staff and resources to give them any kind of rehabilitation.

Is it not a good time to take the one size fits all sentence away. Put it back to where it would most work.

Drug addiction is a terrible disease. You cannot stop the flo, when the consumer can't stop. As I said, there are very few top level drug icon's that I have met or heard of in the prisons I have been to.

Please treat us, don't lock us up and our families for ever, or a good portion of our lives. My son will be 18 when I get out, for possing 13 grams of Meth.

Thank you

Sincerely

Michael Billick

c.c. Sen. Chuck Grassly
U.S. Sent. Comm.
U.S. ATT. Gen.

COMMITTED NAME: Michael Billick
[redacted]

ST PAUL MN 551

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⇔11262-029⇔ [redacted]
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Recommendation to the United States Sentencing Commission requesting that a policy statement be implemented advising that Offense Level 43'S recommendation of life without parole be reduced to 360 months – life without parole for offenders in criminal history category I AND II who are convicted of a nonviolent crime. (For Those Left Behind to Die Amendment)

RESPECTFULLY SUBMITTED ON JULY 25TH, 2016 BY:

Jason Hernandez, [redacted]

And

Corena White, [redacted]

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A. Summary of Problem and Solution to the United States Sentencing Guideline Offense Level 43

The problem presented is that the United States Sentencing Guidelines recommends life without parole for any defendant who falls into Offense Level 43. This is despite the fact a defendant could be:

(1) A non-violent offender

(2) A first time offender

(3) A juvenile; and, indeed

(4) All the above.

What makes Level 43 all the more cruel and unusual is that the sentence of life without parole is determined not by a judge or jury, but rather, what amounts to a mathematical equation? There seems to be no other sentencing process that determines when life without parole for nonviolent offenders should be implemented other than the Sentencing Guidelines.

Because the severity of life without parole, Level 43 should be amended in one of two ways:

A) Offense Level 43 CHC I and II should be changed from the current version:

LEVEL	***I***	***II***	***III***	***IV***	***V***	***VI***
43	***(0-1)***	***(2-3)***	***(4, 5, 6,)***	***(7, 8, 9)***	***(10, 11, 12)***	***(13 or more)***
	LIFE	***LIFE***	***LIFE***	***LIFE***	***LIFE***	***LIFE***

To reflect:

LEVEL	***I***	***II***	***III***	***IV***	***V***	***VI***
43	***(0-1)***	***(2-3)***	***(4, 5, 6,)***	***(7, 8, 9,)***	***(10, 11, 12)***	***(13 or more)***
	360-life	***360-life***	***LIFE***	***LIFE***	***LIFE***	***LIFE***

Or the Commission could include a policy statement or commentary advising United States District Courts of the following:

(B) ***When a court is sentencing a nonviolent offender who has attained an offense level of 43 or higher, the starting point shall not be LIFE, but rather 360 months-life. This benchmark will (1) allow a sentencing court to consider the defendant's characteristics, potential for rehabilitation, and the other factors set forth in Title 18 USC 3553(a), and (2) to impose a sentence that the Court may feel will not only sufficiently punish the defendant for his criminal conduct, but will also allow the defendant to obtain the goal of reformation and rehabilitation and once again re-enter society.***

President Obama has taken major steps in rectifying the unjust and racially disparate impact Offense Level 43 has had on nonviolent offenders by becoming the first president to ever commute the sentences of dozens of prisoners serving life without parole. It is assumed that the next president will not be as forgiving and understanding as President Obama and those serving life without parole will ultimately be left behind to die in prison.

Thus, in the interest of justice, the recommendations stated above should not only be implemented, but also made retroactive to allow District Courts the discretion to predetermine whether a previous sentence of LWOP was required to satisfy the goals set forth in Section 3553(a)

B. Why the Sentencing Commission Should amend Offense Level 43's Recommendation of LWOP for nonviolent offenders in criminal history Category I and II

(1) OFFENSE LEVEL 43 MAKES NO DISTINCTION BETWEEN OFFENDERS WITH MINIMAL TO NO CRIMINAL HISTORY FROM THOSE WHO ARE CONSIDERED HABITUAL OFFENDERS

As currently constructed offense level one through forty- two of the Guidelines Sentencing table share one or two important characteristics: For instance, each one of these offense levels gives courts a recommended sentencing range to choose from (e.g., offense level 32 CHC I recommends 121-151 months imprisonment). Second, each offense levels recommended sentencing range increases in years the more criminal history points a defendant has (e.g., offense level 34 CHC I recommends 151-180 months and offense level 34 CHC VI recommends 262-327 months: 111-170 month increase).

However, in formulating the sentences for offense level 43 the Sentencing Commission abandoned not only one, but both of these approaches. Under level 43, it makes no difference if a defendant is a first time offender or a career offender, because only one sentence is recommended - LWOP.

The Commission has published three reports on recidivism acknowledging that the criminal history rules were never based on empirical evidence. **(1)** The same reports also established that offenders with minimal to no criminal history points "have substantially lower recidivism rates than offenders who are in Criminal History Category IV, V, and VI." The Commission has also found that there is "no correlations between recidivism and the Guidelines offense level. Whether an offender has a low or high guideline offense level, recidivism rates are similar." However, despite these findings offense level 43 continues to hold offenders in all six criminal categories equally culpable.

(2) THERE IS A NATIONAL CONSENSUS AGAINST IMPRISONING NON-VIOLENT OFFENDERS WITH MINIMAL TO NO CRIMINAL HISTORY TO LIFE WITHOUT PAROLE

A review of the criminal punishments enacted within this country seems to produce only two states that mandate a sentence of life without parole for an offender with no criminal history who commits a felony that is not a "crime of violence." **(2)** However, there are several states that have recidivist statutes that do allow or mandate courts to impose life sentences on defendants for non-violent offenses.

(3) There are numerous federal criminal statutes that authorize LWOP to be imposed as the maximum sentence. Most of these statutes involve drug trafficking, racketeering, and firearms

crimes. Additionally, there are federal criminal statutes that mandate LWOP for cases such as killing a federal or government employee, piracy, repeat offenses involving drugs or weapons.

(4) The Guidelines provide for a mandatory LWOP sentence in only four types of crimes. These involve murder, treason, certain drug offenses, and certain firearms offenses that are committed by career offenders. However, under the Guidelines, any crime can be subject to a recommendation of life without parole if the defendant attains level 43 of the Sentencing Table, even if the maximum punishment for the crime set by statute does not authorize such a severe punishment these sentences are called "de facto LWOP;" wherein the sentences are ran consecutively equaling a sentence of more than 470 months. This appears to be the only sentencing scheme in the nation to do so.

Sentencing Court's across the county have spoken out against LWOP sentences for nonviolent offenders **(5)** And since the Guidelines have been rendered advisory courts are more likely to depart from Level 43's recommendation of LWOP when sentencing first time and/or nonviolent offenders. **(6) (7)**

Of the 3,281 inmates serving LWOP for a non-violent crime in the United States, more than 2,000 of these sentences are being served by federal inmates. **(8)** This is a disturbing comparison when one takes into account that of 2.2 million individuals imprisoned in the United States, 2 million of them are incarcerated in state prisons and the remaining 200,000 are housed in federal facilities. It is not known how many federal inmates are serving LWOP as a result of Offense Level 43, but a study by the Commission shows that in 2013 there were 153 defendants sentenced to LWOP and that 67 of these sentences were based on the Guidelines not a statute. **(9)** Nor is known how many of the additional 1,983 federal inmates who are serving “de facto life sentences” non-violent offenders are.

(3) THERE IS A GLOBAL CONSENSUS AGAINST IMPRISONING FIRST TIME NON VIOLENT OFFENDERS TO LIFE WITHOUT PAROLE

The United States is among the minority of countries (20%) known to researchers as having life without parole sentences. **(10)** The vast majority of countries that do allow such punishment have high restrictions on when life without parole can be issued. Such as only for murder or two or more convictions of life sentence eligible crimes. **(11)** Whereas in the United States LWOP can be recommended, under the Sentencing Guidelines for example, for a non-violent crime such as drug dealing or fraud.

(12) Currently, there are around 5,500 inmates in the Bureau of Prisons serving LWOP for violent and nonviolent crimes. **(13)** In contrast, this population dwarfs other nations that share our Anglo-American heritage, and by the leading members of the Western community. For instance, there are 59 individuals serving such sentences in Australia **(14)**, 41 in England **(15)**, and 37 in the Netherlands.

(16) The United States as party to the International Covenant on Civil and Political Rights has agreed that the essential aim of its correctional system shall be reformation and social rehabilitation. **(17)** Regional Human Rights experts have agreed that long sentences can undermine the rehabilitative purpose of corrections. As the Special Rapporteur on Prisons and Conditions in Africa has stated, "Punishments which attack the dignity and integrity of the human being, such as long-term and life imprisonment, run contrary to the essence of imprisonment. **(18)** Thus it would appear that offense level 43's recommendation of LWOP (regardless of what crime is committed) contradicts not only this country's obligation to the

International Community, but is also a sentencing practice rejected by a great majority of the civilized world. **(19)**

(4) LIFE WITHOUT PAROLE IS A CRUEL AND UNUSUAL PUNISHMENT

Life without parole is the second most severe penalty permitted by law. It is true that a death sentence is unique in its severity and irrevocability: yet LWOP sentences share some characteristics with death sentences that are shared by no other sentences. **(20)** The offender serving LWOP is not executed, but the sentence alters the offender's life by a forfeiture. It deprives the convict of the most basic liberties without giving hope of restoration. As one jurist observed, LWOP "means denial of hope; it means that good behavior and character improvement are immaterial;' it means that whatever the future might hold in store for the mind and spirit of (the convict), he will remain in prison for the rest of his days." **(21)** Indeed, some believe it to be more humane to execute an individual than "to keep them in prison until they actually die of old age or disease."

(22) Because LWOP forswears altogether the rehabilitative idea, the penalty rest on a determination that the offender has committed criminal conduct so atrocious that he is irredeemable, incapable of rehabilitation, and will be a danger to society for the rest of his life. **(23)** It is a determination primarily made by a judge or jury if certain set elements are present. The Guidelines, on the other hand, makes this same condemnation of a defendant based solely on a mathematical equation, which is calculated on a "preponderance of the evidence finding" by a sentencing court.

Furthermore, the Commission's rejection of rehabilitation for all offenders in level 43 goes beyond a mere expressive judgment. Federal inmates serving LWOP are normally required to serve the initial eight-to-twelve years in a United States Penitentiary; **(24)** prisons which are known to have "a predatory environment...engendered by gangs, racial tensions, overcrowding, weapons, violence and sexual assaults." **(25)** Because in such prisons safety and security override rehabilitation, programs are limited and without substance. And in prisons where vocational training and other rehabilitative programs are available inmates serving LWOP are not allowed to participate in them or are passed over for prisoners with release dates.

This despite offenders in Criminal History Category I and II are in most need of and receptive to rehabilitation. **(26)**

5. Federal Life Sentences without Parole and Minorities

Although the Sentencing Commission's Report does not state how many of the offenders serving LWOP for a nonviolent or violent offense are minorities, it is reasonable to concluded that at least 75%, if not more, are minorities based on the racial breakdown of the 153 LWOP sentences given in 2013: **(27)**

Blacks-45.0%

Whites-24.8%

Hispanics-24.2%

Asian, Native Americans

And others- 6.0%

As the Clemency Report stated, "The [Commission's] new report offers strong statistical proof that federal life sentences are used vigorously against minorities and mostly for nonviolent offenses. **(28)** With minorities making up one third of the United States population the Clemency Report's conclusion cannot be refuted.

C. AMEND OFFENSE LEVEL 43

In 2005, the U.S. Supreme Court ruled in *U.S. v. Booker* that the Sentencing Guidelines were no longer mandatory when sentencing a defendant. Under the approach set forth by the Supreme Court, "district courts, while not bound to apply the Guidelines, must consult those Guidelines and take them into account when sentencing, and are "subject to review by the court of appeals for "unreasonableness." The Supreme Court has continued to stress the importance of the Sentencing Guideline in following cases. See *Gall v. U.S.*, 128 S. Ct. 588 (2007) ("As a matter of administration and to secure nationwide consistency, the Guidelines should be the starting point and initial benchmark" at sentencing).

Because there is no empirical data, research, or studies that demonstrate that a first time nonviolent offender is irredeemable, incorrigible, or incapable of rehabilitation, Offense Level 43's recommendation of LWOP for all offenders must not be the benchmark and should be amended to reflect one of the following:

(A) Offense Level 43 CHC I and II should be changed from the current version:

LEVEL	I	II	III	IV	V	VI
43	(0-1)	(2-3)	(4, 5, 6,)	(7, 8, 9)	(10, 11, 12)	(13 or more)
	LIFE	LIFE	LIFE	LIFE	LIFE	LIFE

To reflect:

LEVEL	I	II	III	IV	V	VI

43	(0-1)	(2-3)	(4, 5, 6,)	(7, 8, 9,)	(10, 11, 12)	(13 or more)
	360-life	360-life	LIFE	LIFE	LIFE	LIFE

(29)

Or the Commission could include a policy statement or commentary advising district courts of the following:

When a court is sentencing a nonviolent offender who has attained an offense level of 43 or higher, the starting point shall not be LIFE, but rather 360 months-life. This benchmark will (1) allow a sentencing court to consider the defendant's characteristics, potential for rehabilitation, and the other factors set forth in Title 18 USC 3553(a), and (2) to impose a sentence that the Court may feel will not only sufficiently punish the defendant for his criminal conduct, but will also allow the defendant to obtain the goal of reformation and rehabilitation and once again re-enter society.

Then, in the interest of justice, this Amendment should be made retroactive to allow district courts the discretion to predetermine whether a previous sentence of LWOP was required to satisfy the goals set forth in 3553(a).

THEREFORE, it is prayed that the Sentencing Commission make revising offense level 43 a priority in accordance with the recommendations set forth herein.

Respectfully Submitted,

Jason Hernandez, [redacted]

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1. U.S. Sentencing Comm'n, Measuring Recidivism: The Criminal History Computation of the Federal Sentencing Guidelines (May 2004): U.S. Sentencing Comm'n Recidivism and the First Offender (May 2004): U.S. Sentencing Comm'n, A Comparison Of The Federal Sentencing Guidelines Criminal History Category and the U.S. Parole Comm'n Salient Factor Score (January 2005).

2. See Alabama Code 13A-12-231(2)(d)(provides LWOP for a first time offender who possesses 10 kilograms or more of cocaine); And Michigan's "650 Lifer Law" which made LWOP mandatory for any offender possessing more than 650 grams of cocaine or heroin.

3. See Nevada Rev. Stat. Sections 207.010(1).

4. See generally SENT., COMM'N MANDATORY MINIMUM PENALTIES IN THE FEDERAL CRIMINAL JUSTICE SYSTEM (2011) (hereinafter Mandatory Minimum Report).

5. See U.S. v. Miller, 2010 U.S. Dist. LEXIS 79763 (Dist. of Minn. 2010) ("The Court has no hesitancy in stating that a mandatory life sentence without the possibility of parole is vastly too long for this defendant. []...he accumulated a dreadful criminal record - and at an early age....but a non-discretionary sentence, assuring he will die of old age in federal prison, is too heavy a burden.").

6. See U.S. v. Faulkenberry, 759 F.Supp.2d 915 (S.D. Ohio 2010)(despite obtaining an offense level of 47 for fraud violations district judge imposes sentence of only 120 months): and U.S. v. Watt, 707 F.Supp.2d 149 (D. Mass. 2010)(despite obtaining an offense level of 43 for fraud violations district court imposes sentence of 24 months).

7. The Supreme Court stated in Roper v. Simmons, 543 U.S. 551, 563-64 (2005) that in determining whether a punishment is "cruel and unusual" a factor to be considered is the "objective indicia of society's standards, as expressed in legislative enactments and state practice."

8. See Jennifer Turner, ACLU Report, A Living Death: Life Without Parole for Nonviolent Offenses. (Nov. 13, 2013).

9. See U.S.S.C. Report, Life Sentences in the Federal System, p. 9 (2015)

10. See University of San Francisco's Report entitled Cruel and Unusual: U.S. Sentencing Practices in a Global Context, at p.8

11. Cruel and unusual, supra at p.24.

12. Under 18 USC Section 1341 a defendant cannot be sentenced to more than thirty years. Nevertheless, a defendant convicted for fraud can still attain an offense level of 43, and under such circumstances the Guidelines instruct courts that if the count carrying the highest statutory maximum is less than the total punishment, then the sentence imposed on one or more of the counts shall run consecutively..." See U.S.S.G. 5G1.2 (d); and also U.S. v. Okun, 453 Fed. Appx. 364 (4th Cir. 2011) (where defendant obtained an offense level of 43 for Ponzi Scheme district court imposed consecutive sentences equaling 1200 months to equal recommendation of LWOP); U.S. v. Lewis, 594 F.3d 1270 (10th Cir. 2010) (sentenced to 330 years as a result of obtaining offense level 43 for fraud); United States v. Robert Allen Stanford, (sentenced to 150 years for fraud under Guidelines).

13. There are 1,983 people serving de facto life sentences in the federal system. It is not known how many of these violent or non-violent offenders are

14. See Englan Vinter and Others v. United Kingdom, App. Nos. 66069189 and 3986/10 Eur.Ct.H.R., 37 (2012)

15. Vinter, supra note 12, para. 37

16. Dirk Van Zyl Smit, Outlawing Irreducible Life Sentences, Europe On The Brink? 23 Fed.Sent.R.39, 41 (2010).

17. International Covenant on Civil and Political Rights, Dec. 16, 1996, S. Treaty Doc. No. 95-20 (1992 Art. 10(3) 999 U.N.T.S. 171

18. African Commission On Human And Peoples Rights, Reports Of The Special Rapporteur On Prison Conditions In Africa.

19. See Thompson v. Oklahoma, 487 U.S. 815, 830 (1998)(In ruling that a 14-year-old convicted of murder could not be executed the Supreme Court stated, "We have previously recognized the relevance of the views of the international community in determining whether a punishment is cruel and unusual" and "by other nations that share our Anglo-American heritage...").

20. See Graham v. Florida, 176 L.Ed.2d 825, 842 (2010) (Kennedy, Justice).

21. Naovarath v. State, 105 Nev. 525, 526, 779 P.2d 944 (1989).

22. Holberg v. State, 38 S.W.3d, 140 (Tex.Crim.App. 2000); and S v. Hehemia Tjiji, April 9, 1991 (unreported) quoted in Nanibia Supreme Court Feb. 6, 1996, S v. Tcoeib, (10 SACR (MnS)(1996)("The concept of life imprisonment destroys human dignity reducing a prisoner to a number behind the walls of jail waiting only for death to set him free.")

23. Harmelin v. Michigan, 115 L.Ed. 836, 887 (1991)(Justice Stevens dissent)("Because [LWOP] does not even purport to serve a rehabilitative function, the sentence must rest on a rational

determination that the punished criminal conduct is so atrocious that society's interest in deterrence and retribution wholly outweighs any consideration of reform or rehabilitation for the perpetrator. Serious as this defendant's crime was, (drug possession) I believe it is irrational to conclude every similar offender is wholly incorrigible.")

24. See Bureau of Prisons Program Statement 5100.08(1)(Inmate Security Designation and Custody Classification)("A male inmate with more than 30 years remaining to serve (including non-parolable LIFE sentences) will be housed in a High Security Level Institution unless the [Public Safety factor] has been waived.").

25. Quoting U.S. v. Silks, 1995 U.S.App.LEXIS 35355 (9th Cir. 1995): Holt v. Bledsoe, 2011 U.S. Dist.LEXIS 73631 (Mid.Penn. 2011)("Inmate-on-inmate violence is common and uncontrollable at USP Lewisburg."); Penson v. Pacheco, 2011 U.S.Dist.LEXIS 52856 (D.Colo.2011)("...USP Victorville housed violent prison gangs and was where dozens of assaults and a murdered had occurred."): Jones v. Willingham, 248 F.Supp. 791 (Kansas 1965 (describing USP's as "powder keg[s]".): and Leah Caldwell's Article in Prison Legal News, Sept. 2005 p.10-13 entitled "USP Beaumont, Texas: Murder and Mayhem In The Thunder Dome.").

26. See Graham v. Florida, 176 L.Ed.2d at 846 ("...the absence of rehabilitative opportunities or treatment makes the disproportionality of the sentence [LWOP for juveniles], all the more evident.").

27. U.S.S.C. Report, Life Sentences in the Federal System (2015): at page .7

28. See http//clemencyreport.org/new-report-most-federal-life-sentences-given-to-minorities/

29. See U.S. v. Heath, 840 F.Supp.2d 129 (USDF (1993)(district court recommending Offense Level be reduced from LIFE to 399 months-LIFE, after observing that "the sentencing of defendant in the instant crack cocaine case caused the court to face squarely a gaping, inexplicable omission in the sentencing table of the Sentencing Guidelines.")

30. S. v. Dodo, 2001 (3) SA 382, 404 (CC) at Paragraph 38 (S. Africa)("To attempt to justify any period of penal incarceration, let alone imprisonment for life....without inquiring into the proportionality between the offenses and the period of imprisonment, is to ignore, if not to deny, that which lies at the very heart of human dignity..."); and U.S. v. Miller, 2010 U.S. Dist. LEXIS 79763 (Dist. Minn. 2010)("The Court is of the view that the Supreme Court will visit the next decade the issue of whether mandatory life sentences for nonviolent crimes committed by adults offends the prohibition against cruel and unusual punishment....However, I am reluctant to predict the outcome of such a review. Were this Court a member of the Supreme Court, this Court would follow the reasoning of Justice Kennedy in Graham v. Florida, and conclude that such a sentencing regime that resulted in the defendant's life sentence does violate the Eighth Amendment

pubaffairs@ussc.gov, Good morning Sentencing Commissioner my name is Dennis Best & right now I`m a man in the Federal Prison system that truly needs 2 be fixed in some ways and I wanted to reach out so that when u try to make changes in the 2018 cycle maybe hearing from a inmate himself with a story u will do somethings that truly is needed...Sir I have been here doing this time for the past 17yrs plus for a drug case that I only got charged for 21.8 grams of crack cocaine and at trial I was sentenced to 30 yrs in prison based on my prior cases which they claimed made my a career offender...In my past I been to prison one time and I took one plea bargain in which I had to plead guilty to three charges one being a simple drug case, one being dealing in a sawed-off shotgun, and one being a battery with a deadly weapon...I was sentenced on the same day by the same judge & the sentence was ran together and I was sentenced to one sentence..The Federal judge broke it up and made it three cases and went against my PSI and sentenced me to 30 yrs due to him saying I was a career offender..The problem with this is there was never a separate arrest for the battery with a deadly weapon case I was charged with that while being locked other case...More important is that the probation officer contacted ur office for advice on if I was or wasn`t a career nd was provided with a memorandum that stated they probation was right I did not meet what was needed to be a career offender...My reason for giving u this story is to maybe get you to understand how important it is to fix the career offender provisions and the way they go about ruling inmates as a career offender...

1)You made a ruling in what is called the 709 amendment where u stated if the person is sentenced on the same day by the same judge it count for one conviction which is what my case was but what you didn`t do was make it retroactive so that those inmates like myself thats doing time for the confusion that the judges said the guidelines was b4 you made the ruling in 709...So today yall realize that it was a big misunderstanding in the guidelines but yet those inmates like myself was not able to get resentenced the right way only cause the ruling wasn`t made retroactive...

2)The 18to1 guidelines a person that was sentenced as a career offender was unable to get the 18 to 1 cause the courts say that based on being a career offender the 18 to 1 won`t change ur sentence but yet for those who get sentenced today they`ll get the 18 to 1 then get careered but they won`t have 30 yrs but yet will have the same case as I do when I got sentenced at 100 to 1....

3)Also lately you changed in the career offender provisions that sawed-off shotgun wasn`t a crime of violence which at the time of my sentence it wasn`t in the provisions either but when you changed it again no retroactive so there was no way for a inmate like myself to be able to get some action on the new law...

My point here is that alot has been ruled wrong & fixed for the best but yet those like myself still suffer from the old laws & today I ask u to look into fixing that for those doing time..Some have been here for 20 or 30 yrs for crimes that today due to law changes a person will only get 5 or 10 years for the same crime that a p ears to life for years ago...Sir my name is Dennis Best and I would like for you to take some time pull my case what it is I`m trying to explain to you so that maybe then you will understand the help people like myself need when you make changes to better the guidelines...Thank you & have a good day

TO: United States Sentencing Commission
ATTN: Public Affairs - Priorities Comment
RE: Child Pornography – First Time Offenders
DATE: July 2017

Statement of the issue –

The USSC Guidelines do not allow sufficient relief for First Time Offenders charged with non-contact non-production Child Pornography.

Please let me give you a personal example of why this is should be a priority

My son was charged with a non-contact non-production Child Pornography offense. Despite his previously 100% clean record, he received virtually no points reductions and certainly no relief or allowance for his perfectly led life up to that point.

Here is his story
My son was Magna Cum Laude High School and Magna Cum Laude College graduate in [redacted] with two honor societies. He had 8 years of continuous employment with three promotions, created 3 patents, home owner, perfect credit score, zero previous law encounters, and was a respected community volunteer.

He is currently serving an 84-month sentence.

What is the solution

I am aware that the USSC has proposed some slight relief in the 2011 Mandatory Minimum Penalties in the Federal Criminal Justice. But more can and needs to be done.

The simplest solution would be easy -- to provide much bigger point reductions for a true clean record first offender.

And it would be possible to extend or expand the Federal First Offenders Act from just drug offenses to include non-contact non-production Child Pornography. The following shows how apparently simple this would be.

As you well know, The Federal First Offender Act, also known as FFOA, provides a special probation program for first offenders. The term "first-time offender" often refers to people who are convicted of a legal offense for the first time. This designation usually gives the accused an opportunity to fight for some leniency in the legal process.
In essence, the code specifies that in certain non-violent cases of ~~drug possession~~ (non-contact Child Pornography), first-time offenders may complete a period of probation that would allow them to have the charge dismissed without a conviction

being entered. The arrest and the case itself also may be expunged (optional). The result is that the first-time offender can truthfully deny having been convicted of the underlying criminal offense.

Avoiding a criminal record and all the penalties that can accompany a conviction is important. However, not everyone how commits a crime for the first time is eligible for the program. In order to qualify for first offender treatment under federal law, a person must show he or she:

- Has been found guilty of simple possession of a ~~controlled substance~~ (non-contact Child Pornography)
- Has not, prior to the commission of such offense, been convicted of violating a federal or state law relating to ~~controlled~~ (non-contact Child Pornography)
- Has not previously been accorded first offender treatment under any law
- The court has entered an order pursuant to a state rehabilitative statute under which the criminal proceedings have been deferred pending successful completion of probation or the proceedings have been or will be dismissed after probation

There is much more to this law, but I am sure you have better access and knowledge than I do. But this simple approach to a solution that would resolve the issue.

Thank you for your consideration of this issue.

Sincerely,

Dan Holbert

[redacted]

July 24, 2017

United States Sentencing Commission
One Columbus Circle, NE
Suite 2-500, South Lobby
Attn: Public Affairs
Washington, DC 20002-8002

Subject: Proposed Priorities for 2018

While this letter addresses a specific issue that is personal in nature, it also is a commentary on what has been happening to a segment of our population at the same time. Perhaps I am more motivated by the personal nature of the issue, but at the same time, I am just as concerned about the overall population involved. What I am seeking to address is the significant increase in the number of men incarcerated for white-collar crimes in the past 15 years. This increase is largely a result of the Federal guidelines for prosecuting and incarcerating so-called sexual offenders. The extent of the issue was not on my radar screen until my [redacted]-year old son was incarcerated for accessing (under-age) child pornography through legal bait & switch links promoted by law enforcement agencies. The investigation began in 2013 and was not made known to me until after his incarceration in April 2016. He did not want me to know because he knew how much it would hurt my feelings and the disappointment it would cause. He had hopes that the investigation would not result in prosecution, let alone incarceration. He had gone through a lengthy period of house arrest via ankle-bracelet monitoring. From what his attorneys gathered during pre-trial negotiations, the investigation revealed that some adult pornography websites have links to child pornography which, if clicked on or not, are considered evidence that child pornography has been accessed. Once you click on the link you have a track record of accessing the information and are hooked into defending yourself for violating Federal laws. Based on the advice of his attorneys, he chose to accept a plea bargain deal for the minimum sentence rather than risk losing at trial and getting a longer sentence. Now he sits rotting in confinement under a minimum 5-year sentence in Lompoc Federal Correctional Institution.

In my way of looking at things, this is a form of bait and switch activity that can easily entrap legal viewing of adult pornography into tainted evidence of illegal viewing of child pornography. This is a slippery slope into which law enforcement can focus efforts to cherry-pick huge numbers of users into easily proven cases of illegal activity. The number of convictions and no contest pleas of violators is staggering making law enforcement look like it is doing a wonderful job. Yet, what effort is put into identifying and prosecuting the producers and distributors of child pornography? What are the results of those efforts? The real culprits in this whole business of pornography are the producers and purveyors of the smut. Law enforcement agencies are even complicit in promoting the industry when posting pornographic materials to entrap viewers and not removing them afterward. Ironically, viewers of the child pornography are liable for damages to the individuals that were viewed. It totally baffles me that damages are

required/awarded to someone who had no other connection to the viewer when the producer of the images are rarely ever identified let alone prosecuted. The whole industry would not even exist if the producers and distributors were aggressively investigated, prosecuted, and incarcerated for long terms.

In pre-trial testimony from investigators, family members, and attorneys before the assigned judge, all evidence pointed to minimal accessing of under-age girls, who frequently cannot be distinguished from over-18 women. There was no evidence of any kind regarding usage of the pictures other than self-gratification. No actions were ever taken to involve any other parties, adult or child. No violations occurred while wearing the ankle-bracelet monitor. The investigation and legal proceedings lasted for two and one-half years. The judge appeared to be sympathetic to my son's plight based on witnesses who testified to his good citizenship, work record, family standing, and friendships. He bargained for serving a limited time on house-arrest with a defined probationary period. But the Federal sentencing guidelines leave little or no wiggle-room other than incarceration for minimum terms. He was advised that statistically those that peruse child pornography have a strong likelihood of sexually abusing children. Since when in this country have we come to imprisoning people for the likelihood of committing more severe crimes? Is there a 100% guaranteed leap from viewing to molesting. The ultimate, crowning blow is the required registration as a sexual offender once he is released from prison. As he remarked to his brother on the way to turning himself in, "My life now is virtually over. I will be [redacted] when I get out and who will hire me?"

My purpose in writing to you is to reach anyone who has legislative clout to instigate or otherwise support efforts to review the efficacy in administering Federal laws regarding low-level, sex-related crimes and the concomitant prosecution efforts resulting in inflexible sentencing guidelines. Has the Federal government over-reached in this area causing a negative effect on society as a whole? Is there an unanticipated negative impact on a segment of the population in regards to removing normally contributing members of the workforce and incarcerating them for terms of five years or more? They lose their employment or profession and, in addition, must register as sexual offenders permanently resulting in few chances for subsequent employment upon completion of their sentences. There needs to be a distinction made between those having a history of intentionally offending and those who were lured into the prohibited area via bait and switch operations. If it were not for the planted lure, many would not have gravitated to the prohibited sites. Consideration also needs to be addressed in regard to first time offenders who did not act upon the information accessed either by sharing the information with other parties or contacting the subject.

Any efforts on your behalf will be greatly appreciated in helping clean up some unfair and somewhat unpopular fallouts from Federal legislation that were not foreseen when originally passed. It's time for taking a serious look at the impact on society that these laws have inflicted.

Sincerely,

/s/ Duane [redacted] Jones
Duane Jones

Dear Honorable Pryor;

I am contacting you to request continuation of the USSC's work on the proposed 2017-2018 Priorities 82 FR 28381 to support the commissions studies related to child pornography offenses.

I ask that the commission consider all aspects of the sentencing on non-production child pornography, including:

1. Lifetime supervised release

2. Commission exclude 18 U.S. C. 2252 (a) from the "crime of violence" definition

Our family has experienced the personal devastation that this conviction can bring. Successful re-entry is almost impossible with this being considered a violent crime. Most people with this conviction are not allowed to take part in re-entry programs that would help them get reestablished and prove that they are not a threat to public safety. Employers and landlords refuse to even consider them for any openings due to the "violent" determination.

We ask that you consider whether having lifetime supervision and labeling them as violent criminals is really a true need for public safety or is it rather a never ending punishment for the offense. Changing these two aspects would give people the opportunity to rejoin their families and be productive members of society once again.

Sincerely,

[redacted]

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Sincerely,

[redacted]

Sharon [redacted] Armstrong
[redacted]

June 20, 2017

Hon. William H. Pryor, Jr.
Acting Chair
U.S. Sentencing Commission
One Columbus Circle, NE
Suite 2-500, South Lobby
Washington, DC, 20002-8002

I beg of you to please find it in your heart to read my letter. My son does not know I am writing to you. I need to do this to let you know what is so very wrong about this situation.

"You won't pull my hair, will you?" This was the first question my then 6-year-old son and only child asked me when I was able to obtain physical custody of him. Being divorced and financially prohibited from raising my son myself, he had been living with his father and second wife, as well as his grandparents off and on since the age of 2. Years later, I learned that my son had been treated badly by his step-mother both mentally and physically to include severe disciplinary actions such as pulling him by the ears to the bathroom if he didn't bathe well enough, tied to a chair for lengthy "time outs," and other actions that upset me too much to discuss here. In addition, when his paternal grandfather learned that I was taking my son to live with me, he was so angry that he destroyed my son's swingset and disposed of his toys; my son was devastated by this. Later, while married to my second husband and while living with us, my son became emotionally attached in every way possible to my then husband, even to the point of calling him "my dad." At the time my son was 10 years of age, I divorced again and my son went to live with his father and his third wife. Unbeknownst to me, this severely traumatized my son to lose his "dad." My son's high school years were turbulent to say the least; for example, being kicked out of his father's house at the age of 17 because he was dating a girl his father didn't approve of. My son came to stay with me, however, at that time I was involved in a bad marriage leading to drug abuse and was not much of a parent to him. I will regret this the rest of my life, and I now feel my son is paying for my sins.

In adulthood, my son married a fine woman and had 3 children by her. He had his "dream job" of working with the [redacted] that took him nearly 5 years to obtain, adored his family, and took excellent financial and loving care of his home and family. He promptly paid his taxes, never got behind in bills and had excellent credit, voted in every election, and was overall a good neighbor, friend, and valued employee. Sadly, 11 years later and after his wife lost her mother to cancer, she became unhappy and left him, taking his children with her to another nearby town. Although my son was able to see his children and continue to financially support them regularly, he fell into a deep depression and began to isolate himself. At this time, he moved in with me, paid rent for his room, and for the sake of his children continued his successful career. Behind it all and unbeknownst to me, he was suffering from deep depression, low self-esteem, no self-worth, and was too embarrassed by this to talk to me or seek any kind of professional therapeutic counseling with his psychological issues. Tragically, this situtation errupted into catastrophic proportions.

At the age of 39 my son, Ryan [redacted], became BOP Inmate [redacted]

My son was found to have 6 images and 3 videos of child pornography on his computer. Not hundreds or thousands as most offenders do. This material focused on children aged 8-12 years, the same range of age that Ryan suffered his greated emotional trauma. Child pornography is a heinous crime, I will not minimize this and neither does Ryan. My son did not seek this material for any personal or sexual pleasure. Quite the opposite, he was disgusted by the images depicted and couldn't understand why anyone would commit such acts. However, at the same time, these images gave him solice in that he could identify with the pain, cruelty, humiliation and torment that he felt coincided with his own shredded upbringing. Unfortunately, he kept the 6 images and 3 videos to himself in a shared folder, hence he was charged not only with possession of child pornography but distribution as well. He entered a plea agreement where he received 87 mos. for possession, mandatory minimum 5 years for distribution plus 27 mos., to be served concurrently. He now resides in a low security facility with a release date of October 2021.

This letter is an anguished plea to you to please, please investigate current legislation and devise appropriate judicial laws governing lengthy sentencing that recognizes the differences between violent and/or contact offenders from individuals such as Ryan. An investigative article from the New York Times by Emily Bazelon states that the penalties for men, in particular, receive a harsher penalty than need be because of society's deep-seated belief that many of them

would become a physical abuser. The U.S. Sentencing Commission indicates that the federal sentencing scheme for child pornography offenses is out of date and argues that this leads to penalties that "are too severe for some offenders and too lenient for other offenders." Was Ryan guilty of possessing illegal material? Yes. Was he guilty of distribution of illegal material? No. In all of the countless volumes of research I have done, there are so many arguments regarding this charge. No evidence was ever found or produced during my son's court hearing that distribution, by its definition, actually occurred. My son is imprisoned by a system that should not be. The U.S. Sentencing Commission issued an amendment dated Nov. 1, 2016 to more clarify and apply the correct legal meaning of the act of distribution. Unfortunately, in my son's case, it was not retroactive. In court, my son was described as a "passive" user, which he was. For individuals such as my son, the afore-mentioned amendment should have been applied to him retroactively, and the distribution charge should have been dropped altogether. Ryan never meant for anyone to know about his issues nor did he ever enter chat rooms and/or conspire with others to exchange material. He also attempted to file a 2250 appeal against the distribution charge, but became fearful of needing to hire an attorney we could not afford, a re-sentencing hearing that may have had negative consequences, or both. Therefore, he halted his attempt and made the decision to continue to take full responsibility for his actions.

Megan's Law, the Jacob Wetterling Act of 1994, and the Adam Walsh Act of 2006 were primarily designed to police and register those who commit violent acts against children. These acts include murder, rape, kidnapping, sexual assault, molestation, sex trafficking, the production and selling of pornographic images and videos, and/or with the propensity to re-commit the criminal act. Ryan and I fully support and believe in these laws. Ryan does not understand why individuals would commit these types of crimes against children for the sake of pleasure or sexual gratification and while in prison, he has separated himself from these inmates and has joined a very small group of inmates whose non-violent, no-contact criminal acts are similar to his. In my research, it is the opinion of many judicial scholars that the sex offender registry has not reduced the percentage of internet child pornography; in fact, this type of crime has increased overall because the most minimal of offenses commited (such as my son's) are being sentenced to unreasonable lengths of time and are being condemned to sex offender registries unnecessarily. We MUST recognize that the "minimal non-contact" offender deserves a second chance. Ryan has no past criminal history of any kind, no history of inappropriate conduct with his own children or others (per investigation by DCFS), is considered a first-time passive internet offender, and had no criminal or devious intent to seek this type of material. His ex-wife stated in her interview that Ryan had been a good father and excellent provider. However, in spite of it all, he chose self-help

with his depression and psychological issues of shame, guilt, emotional pain and anger through the most heinous of ways imagineable. I would have helped him in every way possible if he had come to me, but unfortuately he let embarrassment and shame prevent him from doing so. Ryan felt he didn't deserve for anything good to happen to him in his life and the 6 images and 3 videos he possessed gave him comfort in the respect that what he felt growing up was not an isolated feeling and, therefore, he didn't feel so alone in his depression.

Through its disgust and fear of violent sex offenders, society has put *every* type of offender into one category without regard or recognition that there are those such as my son who have never been, nor would ever be a danger to anyone or anything. The psychology of the human brain is so very complicated, and it seems no one is taking into consideration that an individual would seek this type of behavior such as my son did without a sexual component. The judicial system seems to not want to study and differentiate offenders on a case-by-case basis as it does not want to appear to be soft on crime. The current judicial system states it believes in second chances for non-violent and first-time offenders, however, at the same time it also condemns these individuals for the rest of their lives by removing any second chance they may have. Ryan has already lost his family, his career, his home and all of his possessions, and his father has disowned him due to the "family embarrassment" this has caused; must he also endure incarceration beyond the years he has already served, a "sex offender" label from a sex offender registry for years to come plus 10 years of supervised release, sentences preventing him from obtaining gainful employment that would result in him being able to financially support his children, all simply because he chose the most distasteful way of all in his quest for reparation of his past? If you studied all the research as I have, you will find that many law professors, district court judges, and congressional lawmakers throughout the country agree that for the type of offender my son is, incarceration is not the answer. Our tax dollars would be better spent in treatment programs, counseling and rehabilitation for first-time low-level offenders rather than being used to house, feed and clothe inmates who are being locked in a cage for an extraordinary amount of time in contradiction to their actual crime without receiving any help at all.

When a convicted sex offender commits a physical act of violence and/or sexual assault against his/her own child or someone else's child, and at the end of the day serves <u>less</u> time than my son, there is something wrong with our judicial system. To prove this, a 20-year-old ex-employee of mine sexually assaulted an 11-year-old girl, took pictures of her unclothed, and passed the photo around to his friends, one of whom reported him to law enforcement. After serving just 2 yrs. 3 mos., he was released on probation and is now living his life in another city. I

also know of another individual who repeatedly sexually assaulted an 8-year-old child and received a 3-year suspended sentence. You can see these types of cases in any newspaper in the country. In addition, there are other inmates convicted of manslaughter who have done less time than my son. Does this seem fair to anyone of you who I am writing to?

All of you that I am writing to have the power to change the law. You have the power to more accurately define and separate into further categories those offenders who are violent, those who are non-violent, and those who are first-time offenders without criminal intent. First-time offenders such as my son, who commited a non-contact cyber offense through the viewing of less than 10 images/videos not for sexual pleasure or personal gain, is seeking treatment on his own through classwork and any counseling he can find at his facility. He has been incarcerated since [redacted]2015, 2 years now, and should be allowed to come home without unreasonable restrictions and lengthy supervision. The 5-year mandatory minimum should not have applied to him and should actually be abolished altogether. Sentencing should be based on the exact nature and act of the crime committed, the history of the offender involved, and whether he is a threat to others or the community. It would be appropriate at this time to release my son to a half-way house so that he may prove to the judicial system and society that he is able to seek ongoing outpatient therapy while returning to being a productive, taxpaying citizen without being a threat to anyone; and so that he could return to support his children and create a promising future for himself and his family that he can only do if he were not condemned to an excessive amount of time incarcerated, the label of "sex offender," being on a sex offender registry, and restricting his path to success by lengthy supervision. The current sex offender registry should be more steamlined in determining who and who should not be on the list. The registry is there to protect society from sexual predators who may have the propensity to reoffend. My son does not fall into that category and is a danger to no one. At the very minimum, if the powers that be insist on even the most minimal crime being put on the sex offender register, it should at least be restricted to law enforcement only for the first-time offender whose crime parallels my son's and not be published for anyone or everyone to see, and not be a condemning tool that would prevent him from gainful employment and the ability to reside in a safe community. At the age of [redacted] I am retired with degenerative health issues. I've been told by specialists that I will most likely not live to a ripe old age. Prior to his arrest, my son provided me with much needed help and caregiving. I need my son to come home and continue to help me, and his children want and need their father terribly. I beg of you to examine and rectify the current sentencing laws in our country and to consider inmates' crimes such as my son's and to apply appropriate sentences on a case-by-case basis. Any changes for the better, such as the Nov. 1, 2016 amendment should apply retroactively

as my son has served enough time for his crime and should be allowed to come home. He is more than willing and is planning to seek therapy classes and counseling, while obtaining better vocational training in order to secure a successful job that will provide for his children. There is no advantage at this point for him to continue to be incarcerated, and this situation is only causing him to lose all hope in his future and to question the fair balance of the judicial system, all for the sake of 6 images and 3 videos. Please allow my son to come home!

Sharon [redacted] Armstrong

In plea for my son:
Ryan [redacted]

Orig: President Donald J. Trump
Hon. John Roberts, Chief Justice
Mr. Thomas R. Kane, Ph.D., Acting Director, BOP
Mr. Jeff Sessions, Attorney General
Mr. Monte Wilkinson, Director
Mr. Lawrence Kupers, Deputy Pardon Attorney
J. Patricia Wilson Smoot, Chairman
Governor Bruce Rauner, Illinois
Hon. Lloyd A. Karmeier, Chief Justice, Illinois
Hon. James E. Shadid, Chief Judge, Illinois
Ms. Lisa Madigan, Illinois Attorney General

July 29, 2017

Nancy Yard
[redacted]

United States Sentencing Commission
One Columbus Circle, N.E. Suite 2-500
Washington, D.C. 20002-8002

Attn: Public Comment on Sentencing Guidelines

Dear Honorable Judge Pryor,

I am writing to provide public comment on Sentencing Guidelines as they apply to Child Pornography Sentencing. I have firsthand experience with how the guidelines are used and how they affect the accused and their families.

My son who is a victim of molestation and developed an internet addiction which included downloading and distributing child pornography is currently serving a 100 month sentence. He has not viewed cp in over seven years and was very honest in explaining his addiction and his desire to break it. He immediately enrolled in counseling and developed a healthy lifestyle as soon as his silence on the abuse was broken.

The judge however, felt compelled to sentence him according to the guidelines even though he had at that time broken his addiction and had demonstrated that with continued counseling he was making excellent strides. He was gainfully employed in his field as a mechanical engineer and leading outdoor trips for young adults.

The sentence took him from our home and has treated him like a pedophile which he is not. He is a victim. The judge in sentencing [redacted] stated that the Federal Government made it clear that this is what they wanted and did not take into account all that he had been through and all he had done since his arrest.

This has been a very difficult road for our family and with three years to go remains so. To take a young man that has been abused and has finally broken his silence away from the support of friends and family is devastating.

The guidelines should take into account the offender's ability to change their behavior and what led them to this behavior in the first place. They should consider counseling and home support as a first consideration for those like [redacted] is listed as a violent offender when he never touched a child or offended a child. He is the victim. He was offended. None of this is taken into account with the current guidelines.

By labeling him a violent offender and placing him in jail for 100 months followed by ten years on probation and possibly life on the sex offender registry, these laws in effect are allowing the abuse he received as a child to destroy his entire life.

I would be more than willing to provide testimony demonstrating how these laws are destroying families. When [redacted] spoke of his addiction following his arrest, I asked the counselor if he needed to be placed in a residential treatment facility. The counselor made it clear that this was not necessary. That as he understood his abuse, how it led to his addiction and developed other ways to deal with the resulting stress and anxiety he would be fine.

Why is someone that is fine with counseling spending 100 months in prison? I thought prison was to protect the public from those that remained a danger. [redacted] was not a danger to children. He suffered post-traumatic stress syndrome and was if anything a danger to himself.

Please consider changing the guidelines to allow for probation as opposed to prison. Please change the guidelines so that first time offenders who download and distribute cp due to the ease of computer sharing are not listed as violent offenders. Please change the guidelines so that those that show a desire and the ability to change their behavior and live a clean lawful life do not go on a public registry.

Please change these guidelines for families like ours that truly want to help their son. Put yourself in the place of a mother who finds that her son has been molested and then finds out that due to the guidelines she cannot help him. She can just wait and watch him go to jail.

I can be reached at [redacted] If you would like to learn more about how these guidelines destroy families.

Thank you for listening,

Nancy Yard