From: ~^! ALONGE, ~^!OLU VICTOR
Subject: [External] ***Request to Staff*** ALONGE, OLU, [redacted]
Date: Friday, October 14, 2022 9:49:48 AM

To: Attn: Pulic Affairs
Inmate Work Assignment: Rec

ATTENTION

Replies to this message will not be delivered.

Inmate Message Below

MOST IMPORTANT CONCERNS AFFECTING THOUSANDS OF INMATES ARE
1, First Step Act Earned Time Credit should applicable to all - Citizens and Aliens - because depreviation Earned Time Credit is a violation of Equal Protection and violation of section 1981 that affects over 40,000 inmates. Nothing in the legislation precludes aliens from earning early release.

2, FSA Application note 1(D) should include the defendant rather than the BOP director. This BOP has been irresponsible with the handling of Compassionate Release and should be completely struck out from the policy statement.

3, A service of 60% of AN ABOVE GUIDELINE SENTENCE & 75% of a WITHIN GUIDELINE SENTENCE with a combination of record of Rehabilitation should qualify as Extraordinary and Compelling Reason for a Sentence Reduction.

I hope you guys are taking this contribution seriously and this is not a show. Thank you

James Arbaugh
[redacted]
FCI Fort Dix
P.O. Box 2000
Joint Base MDL, NJ 08640

3-October-2022

United States Sentencing Commission
Attention: Public Affairs / Priorities Comment
One Columbus Circle, N.E. Suite 2-500
South Lobby
Washington, DC 20002-8002

Re: Comments on Sentencing Commission Priorities

Dear Members of the United States Sentencing Commission:

I am an inmate in federal prison, and write to express my appreciation for the work you are doing and to affirm your planned priorities. As someone with inside experience of the sentencing guidelines, I can provides a unique prospective to give helpful feedback.

I feel strongly of the importance of the following identified priorities:

(1) 1B1.13 - Reduction in Sentence.
(7) Studies on recidivism and the treatment of defendants with zero criminal history points.
(11) Simplify the guidelines while promoting the statutory purposes of sentencing.
(12) Diversion and alternatives-to-incarceration programs.
(13)(A) 3D1.2 - Grouping of Closely Related Counts.

As you consider priority eleven (11), how to simplify the guidelines and statutory purposes of sentencing, it is important to integrate the guidelines to the statutory maximum sentence allowable. Ideally, if all possible guideline enhancements for aggravating factors were applied in a given case, the guideline sentence would not exceed the statutory maximum. In some classes of crimes, particularly sex offenses, the guidelines for a typical case are at or beyond the statutory maximum.

In particular, consider cases of child exploitation, production, distribution, receipt or possession of child pornography. Most of these cases are given the following enhancements:

§ 2G2.2(b)(4) - material with sadistic or masochistic conduct
§ 2G2.2(b)(6) - use of a computer
§ 2G2.2(b)(7) - number of images involved

Because most cases receive these enhancements, they become "useless" and contribute to a guideline sentence at or above the statutory maximum. Frequently, judges do not have the backbone to give a downward variance accordingly. Those that do are scrutinized severely. Consider the confirmation hearings of Justice Ketanji Brown Jackson.

In cases of sexual abuse, there is no guideline consideration for the severity of the sexual act. 18 U.S.C. § 2246(2) describes a "sexual act" to include anything from (A) forced sodomy/intercourse to (D) simply touching the genitalia to cause sexual arousal. There is no guideline enhancement for more severe conduct.

The age of the victim becomes a primary consideration according to the guidelines sentence, particularly for a conviction under 18 U.S.C. § 2423(c). There is sentencing disparity between the guideline used, § 2G1.3(b)(5)(B) - "the offense involved a minor who had not attained the age of 12 years, increase by 8 levels", and other guidelines. The enhancement used for other sex offenses is at least half. Consider:

§ 2A3.1(b)(2) - increase by 4 levels
§ 2A3.4(b)(1) - increase by 4 levels
§ 2G2.1(b)(1)(A) - increase by 4 levels
§ 2G2.2(b)(2) - increase by 2 levels
§ 2G2.6(b)(1)(A) - increase by 4 levels

Accordingly, the § 2G1.3(b)(5)(B) enhancement should be reduced from 8 levels to 2 to 4 levels to prevent sentencing disparity.

The age issue is again double-counted under § 2G1.3(b)(2)(B) for Undue Influence because "some degree of undue influence" exists whenever an age disparity of at least ten years exists between a minor and another participant in the prohibited sexual conduct. § 2G1.3(b)(2)(B) cmt. n. 3. It would be a very rare case where there was not an age disparity, and the undue influence enhancement would not apply. The note should be modified not to apply the Undue Influence enhancement for age disparity alone.

I appreciate your work to revise and improve the sentencing guidelines which will make for more equitable sentencing.

Sincerely,

James Aldaugh

From: ~^! BROWN, ~^!LEONARD
Subject: [External] ***Request to Staff*** BROWN, LEONARD, [redacted]
Date: Thursday, October 13, 2022 7:20:15 PM

To: 2022-2023 Proposals
Inmate Work Assignment: Unicor 3

ATTENTION

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Inmate Message Below

LEONARD BROWN
[redacted]
FCI BENNETTSVILLE
P.O.BOX 52020
BENNETTSVILLE, SC 29512

TO: USSC

I am writing regarding the USSC's tentative policy priorities for the 2022-2023 amendment year. Specifically I am writing in hopes that you amend the Compassionate Release Guidelines to include COVID-19 and "Disparity of Sentence" as an extraordinary and compelling reason for compassionate release.

My name is LEONARD BROWN. I am a federal inmate serving a 32 year sentence for attempted bank robbery. Specifically I pled guilty to and was convicted on January 6, 2004 of 2 counts of 18 U.S.C. 924(C) "use of a firearm during the commission of a crime of violence. The first step act of 2018 amended 924(C) convictions so that a consecutive term of 25 years for a second or subsequent possession of a firearm in commission of a crime of violence is no longer mandated. This amendment would have greatly benefited me if It had been in effect at the time of my sentencing. Unfortunately, the new law does not apply retroactively to prisoners sentenced before 2018. I have been incarcerated since 2003. Almost 20 years.

I am writing to encourage, solicit, and beg that you take action to amend the compassionate release guidelines to include disparity of sentences like 924(c) "Stacking". Under current law two 924(c) convictions like I have carry 14 years imprisonment. My sentence is 18 years longer than if I was sentenced today. And because I was convicted in Georgia I can not benefit from Compassionate release.

I filed for compassionate release in 2021. The Honorable Judge Leigh Martin May denied my motion 5/11/2021 due to the Eleventh circuits split with every other circuit in United States v. Bryant 19-14267.

In United states v. Leonard Brown 1:03-cr-00041 Judge May writes:

"After the parties submitted their briefs, the United state Court of appeals for the eleventh circuit decided Bryant- and Bryant dictates the result in this case. Now, in this circuit, 3582 (c)(1)(A)'s requirement that sentence reductions be"Consistent with applicable policy statements issued by the sentencing commission" strictly limits courts to the reasons listed in U.S.S.G. 1b1.13. Bryant, 2021 WL 1827158 at *13 ("Courts may grant defendant-filed motions that the BOP refuses to bring, but they must apply1B1.13's definition of "extraordinary and Compelling reasons' in doing so.....Thus, while the Court recognizes that Defendant has been incarcerated for 18 years-more than the 14 years he would receive today and more than federal defendants typically receive for numerous kinds of violent crime-the Court simply cannot consider the First Step's act924(c0 reform as a basis for compassionate release. See U.S. Sent'g Comm'n, United States sentencing Commission Quarterly Data report Fiscal Year 2021-1st Quarter preliminary

Cumulative Data.
Defendant Has commendably completed dozens of courses covering various vocational and personal skills during his time in prison....Denied. Location of conviction should not determine who is eligible for compassionate release is not fair. Please amend the Compassionate release guidelines.

From: ~^! FONTANEZ, ~^!JEREMY
Subject: [External] ***Request to Staff*** FONTANEZ, JEREMY, [redacted], CUM-C-B
Date: Friday, October 14, 2022 10:19:39 AM

To: Legal
Inmate Work Assignment: Recreation

ATTENTION

Replies to this message will not be delivered.

Inmate Message Below

In Re: USSC Guidelines Amendments

My name is Jeremy Fontanez. I would like to share my views on the current review of the Guidelines for this new USSC Commission. I have been incarcerated for 20 years for Hobbs Act Robbery and 924(c) violations. I was sentenced in 2004, to 35 year (10 years for one 924(c) count and 25 years for the second 924(c) count), and since that time, many particulars of the sentencing laws surrounding the 924(c) statute have been either clarified, or outright changed. Yet, despite this fact, my sentence remains the same because nothing has been applied retroactive to those of us who have been incarcerated because these changes.

Recently Congress opened more doors to have an individual's sentenced reviewed through the 18 U.S.C. 3582 statute, dependent on "extraordinary and compelling circumstances". However, this has been a confusing situation, determining what is actually extraordinary and compelling circumstances. As all is aware. And although the USSG 1B1.13 has a "Catch All" phrase, which allows courts to enter a portal through which they may enter should the circumstances of a case not fit squarely within Application Notes (A)-(C), many courts have ignored this "Catch All Phrase," and have completely disregarded its value.

My view in this case is this system has made it virtually impossible for individuals such as myself, who have been incarcerated for so long, and who have grown and matured since the time of initial incarceration, to have our case reviewed. Despite studies showing that those incarcerated for 20 years or more, and over the age of 45 are less likely to recidivate, those of us who fit that criteria are constantly passed by by these new laws being passed. Yet, the younger crowd, who statistics show are more likely to recidivate, are always reaping the benefits of laws that they don't or can't appreciate, because they have not reach the level of experience and maturity to fully understand the impact of such changes.

In regards to the the Compassionate Release Statute, 18 USC 3582, I believe that "extraordinary and Compelling Circumstances" should reflect the commentary of the 1984 Crime Bill, where it stated that extraordinary and compelling circumstances could be reflected due to the change of laws and and an unusually long sentences. The framers of that bill understood that things could change, and that there would be instances where a sentence would no longer be valid due to the ever evolving landscape of the law, and society.

Although it would be impossible to list every single possible circumstance that would qualify under 18 USC 3582, I believe the courts should be given broad discretion, no matter what the factors, do decide if a defendant is entitled to relief. If a person has paid a life time of his or her debt to society, and the laws change such that that person's sentence cold be effected, the courts need the proper discretion and power to determine, based on the overall particulars of a case, to grant relief or not, within the bounds of abuse of discretion.

Thank you for your consideration in this matter.

From: ~^! GARDNER, ~^!DUSHAWN LEVERT
Subject: [External] ***Request to Staff*** GARDNER, DUSHAWN, [redacted], RBK-M-A
Date: Thursday, October 13, 2022 5:34:11 PM

To: U.S Sentencing Comm.
Inmate Work Assignment: Laundry

ATTENTION

Replies to this message will not be delivered.

Inmate Message Below

I been in prison for 27 years, first time offender. I am 48 years old, and I am doing life. In the 27 yrs. I have made the education dept. my home, one fighting this case and two educating myself and others. I was a GED instructor for 6 years, I have over 45 graduates, I held three classes of fifteen, two in the morning and one in the afternoon. DC prisoners are getting relief for lifers under 25 at the time of offense. The same should apply in the Feds. I haven't had a write up in over 200 months. I applied for compassionate release earlier this month. This could be the new criteria for 1b1.13. Thank you for hearing my suggestions.

From: CLAUDIA GORDON
To: Public Affairs
Subject: [External] USC Public comment-A Waste of Tax Payers Dollars
Date: Tuesday, October 11, 2022 5:31:52 PM

My name is Markwann L. Gordon, I am a 48-year-old black father of 4, grandfather of 6, and only child of Claudia Gordon. I declare today that the Federal Government is wasting Tax Payers dollars on me. Since 1999 I have been serving a 140-year sentence in Federal Prison.

In recent years it has been written and said, on the record, by numerous U.S. Government Officials to include United States Judges, Federal Bureau Of Prisons Officials, The United States Attorney's Office, and the F.B.I. Agent who originally investigated me, that "Gordon has been totally rehabilitated", "Gordon is to be lauded for his transformation", "Gordon's rehabilitation is impressive", "He is clearly a role model for all those incarcerated", "he deserves to be free", "he can contribute to society

These officials didn't attach their names to mine whimsically nor without strong evidence to support their words. Rest assured that I did not get here overnight,

Unfortunately, this change in U.S. Law was not made retroactive,

The First Step Act Of 2018 Law changes also made available "Compassionate Release" Petitions to be filed by prisoners like myself who can show "Extraordinary and Compelling Circumstances", such as sentence length, changes in Law, rehabilitation, disparity of sentences other people have received

with like charges and age at the time the crimes occurred.

A Judge would then be authorized to reduce a sentence or declare "time served".

I submitted letters of supports from 10 different Government Officials: 4 Bureau Of Prisons Officers, 1 Bureau Of Prisons Counselor, 1 Federal Bureau Of Investigation Agent, My original sentencing Judge (Now deceased), and 3 "Skills Program" Officials C. Cherry and J. Delgado Treatment Specialists and Dr. P. Benitez Psychologist, all of whom I serve under as a Live-In Mental Health Companion for Special needs inmates in the "Skills Therapeutic Living Community" Program, 1 of only 2 such programs in the country.

I submitted over 130 course completions for programs such as Victim Impact, Criminal Thinking, Microsoft Computing Fundamentals, Behavior Modification, Parenting, Breaking Barriers, and many more. I've learned to speak, read and write Spanish.

I've served as Softball League Commissioner overseeing game schedules, with a staff of 10 umpires and payroll.

Yet the District Court Judge denied my "Compassionate Release" reasoning that "rarely has the court seen as compelling a case as this for a defendants release", with that "this court's hands are tied" because Congress' NON-retroactive changes in law have been forbidden to consider in granting Compassionate Release Petitions by the Third Circuit U.S. Court Of Appeals.

The Judge also held that my relief lies with either Executive Presidential Clemency-Commutation of sentence, or Congressional legislation in making the First Step Act Retroactive, pending bills (First Step Implementation Act H.R. 3510/ S. 1014).

While the U.S. Court of Appeals for the 3rd Circuit governs cases in Pennsylvania, New Jersey, Delaware, and The Virgin Islands. The Majority of the other U.S. Courts Appeals around the country are allowing the First Step Acts NON-retroactive Law changes to be considered in Compassionate Release Petitions.

I ask for your support in any way possible, in making the First Step Implementation Act law, support for my forthcoming Clemency-Commutation of Sentence Petition to President Biden, and getting my story out to others.

U.S. v. Markwann L. Gordon, U.S. District Court For the Eastern District Of Pennsylvania Case No. 99-348-2 February 7, 2022.

Thank you and God Bless

From: ~^! GRACIN, ~^!SHAWN
Subject: [External] ***Request to Staff*** GRACIN, SHAWN, [redacted], EDG-C-D
Date: Thursday, October 13, 2022 5:49:08 PM

To:
Inmate Work Assignment: n/a

ATTENTION

Replies to this message will not be delivered.

Inmate Message Below

if one of the extraordinary and compelling reasons under 1b1.13 compassionate release be any errors during sentencing.

October 2, 2022

TO:
U.S. Sentencing Commission
ATTN: Public Affairs Priorities Comment
1 Columbus Circle NE
Suite 2-500
Washington, D.C. 20002-8002

FROM:
Daniel Heath [redacted]
FCI Fort Dix
PO Box 2000
Joint Base MDL, NJ 08640

RE: Comments on Commission Priorities

Sentencing Commission,

How refreshing to hear that we have a Sentencing Commission after a long period of abeyance. Thank you for publishing a proposed list of priorities for your upcoming session of work. I would like to personally urge your attentiveness to the following priorities:

1. A Complete Overhaul of §1B1.13

I am in total agreement with your proposed list that attention to §1B1.13 should be your utmost priority. Since passage of the First Step Act (FSA) BOP inmates, BOP administration, and US Courts have been in a quandary about which circumstances rise to the standard of "extraordinary and compelling" under 18 U.S.C. §3582.

As you address §1B1.13 I specifically ask that you heed the call of the FSA Title VI Sec 603(b) and truly help to "Increas[e] the Use and Transparency of Compassionate Release." The Commission was tasked by Congress with doing the proper amount of research to give guidance to the BOP and Federal Courts on which situations should compel them to consider a reduction in sentence for an inmate.

Specifically, I hope that you will expand the current

categories in §1B1.13 commentary, give the BOP Director and Federal Judges more free reign to consider inmates on an individual basis, and rely on case law to get a sense of situations that District Judges have found to be extraordinary and compelling.

Even more narrow, I ask that you include a provision on being a caregiver to any family member who may need assistance due to disability. Judges in at least 10 Federal Circuits have found it extraordinary and compelling that an inmate needs to be a caregiver to a parent, adult child, grandparent, or other extended family member. (See Attachment) I request that such situation is included in your revised §1B1.13.

2. Consideration of §4A1.1

In particular, I ask that you pay close attention to research regarding convicted persons with zero criminal history points, in which a criminal conviction represents truly aberrant behavior. Please consider reduced sentence guidelines for such inmates, and please make any changes retroactive.

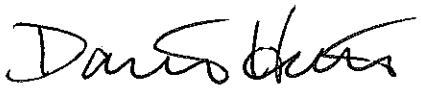
3. Changes to Guidelines Used to Calculate Range in Offenses of Sexual Nature

I am thankful that you plan to visit §2G1.3 in some way. Please take a look at changes needed for all guidelines in this sector. For instance, please consider getting rid of "computer enhancements." In an age when practically every crime in this category involves a "computer device" such behavior is no longer an aggravating factor. Please consider completely altering or dropping altogether "picture count" provisions such as in §2G2.2. With the proliferation of high speed internet it is quite impossible to infer the severity of a crime by number of images or videos downloaded.

I ask you again to use recidivism rate research for first time offenders in this category in comparison to other crimes to lower sentence ranges commiserate with other felonies.

Thank you for your time and consideration, and I am praying God's blessings on you as you go about fulfilling your duties.

Sincerely,



Daniel Heath

The following is a brief list of some cases in which a District Court Judge ruled that being a caregiver for a family member other than a spouse or minor child is considered extraordinary and compelling under §3582:

1st Circuit: United States v. Bucci, (D.Mass. Sept. 16, 2019); United States v. Daham, (D ME Jan. 27, 2021)

2nd Circuit: United States v. Lisi, (S.D.N.Y. Feb. 24, 2020); United States v. Riley, (D. VT May 12, 2020); United States v. Wooten, (D CT Oct. 16, 2020); United States v. Dragone, (D CT Feb. 1, 2021); United States v. Hasanoff, (S.D.N.Y. Oct. 27, 2020); United States v. Vargas, (S.D.N.Y. Nov. 24, 2020)

3rd Circuit: United States v. Dunich-Kolb, (D NJ Feb. 14, 2022)

4th Circuit: United States v. Hicklin, (W.D. VA Dec. 11, 2020); United States v. Vanlaar, (M.D.N.C. June 24, 2022)

6th Circuit: United States v. Walker, (N.D. OH Oct. 17, 2019)

7th Circuit: United States v. Rhodes, (D IL Mar. 3, 2021)

8th Circuit: United States v. McCauley, (W.D. MO June 23, 2021)

9th Circuit: United States v. Pickering, (W.D. WA Nov. 29, 2021); United States v. Kesoyan, (D CA Apr. 27, 2020); United States v. Mendoza, (N.D. CA May 20, 2022); United States v. Richardson, (N.D. CA July 7, 2022); United States v. Awbery, (E.D. WA May 17, 2021); United States v. Tuan Hong Tran, (W.D. WA Nov. 10, 2021); United States v. Alvarado, (S.D. CA Oct. 29, 2021)

11th Circuit: United States v. Hernandez, (S.D. FL Apr. 3, 2020); United States v. Griffin, (S.D. FL Dec. 8, 2020)

DC Circuit: United States v. Price, (D DC Oct. 6, 2020)

From: Andrel Smith
To: Public Affairs
Subject: [External] Public Comments regarding Amendments
Date: Saturday, October 8, 2022 10:54:24 PM

Dear United States Sentencing Commission:

I am responding to your request for public comments that are due by October 17, 2022 in reference to important priority amendments for the 2022-23 cycle.

The two specific priority amendments that I am concerned about are:

No. #1: The Compassionate Release Amendment. This is the top priority amendment for the amendments of the 2022-23 cycle in conjunction with the 1B1.13 policy statement which pertains to a reduction in term of imprisonment under 18 U.S.C. 3582(c)(1)(A).

Simply put, the policy statement is currently outdated and should be updated to reflect The

First Step Act's Amendment.

No. #2: The areas that are considered extraordinary and compelling circumstances are the multiple and consecutive 18 U.S.C 924(c) firearm offenses that have been applied to first time offenders of 924(c) Pre-First Step Act Law. This has created disparate relief to Pre-First Step Act Law 924(c) stacked first time offenders via Compassionate Release In Conjunction With 1B1.13, The Policy Statement.

Pre-First Step Act 924(c) stacked multiple first time offenders with a minimum of 25 additional years in prison versus a post-First Step Act First Time 924(c) Multiple Offender in light of the First Step Act.

This should not be the case because the 14th Amendment Of The United States Constitution Provides Equal Protection Under The Law.

I humbly and respectfully appreciate your valued time as well as your assistance with this truly important matter.

Humbly and sincerely,

Andrel Hill

Sent from my iPhone

Sent from the all new AOL app for iOS

TRULINCS [redacted] - JACKSON, JOSHUA WILLIAM - Unit: SPG-V-B

From: Joshua William Jackson [redacted]
MCFP Springfield
P.O. Box 4000
Springfield, MO 65801

To: The Honorable United States Sentencing Commission,

I would like to make a comment on the Sentencing Guidelines and proposed amendments as per the notice on 9.29.2022. My name is Joshua William Jackson and I am the criminal defendant in Case No.: 3:16-CR-0196-L-1, in the Northern District of Texas. During my initial case, I proceeded Pro Se, and due to confusion and complications by my Sentencing Judge, I was sentenced to more than 110 months higher than what my sentencing Guidelines would have been, had they been properly applied..

Since then I have been focused on helping others around the nation (at the facilities where I am) resolve issues regarding the Sentencing Guidelines, and other issues. I would like to make requests and speak on proposed amendments that I have both experienced and personally witnessed.

USSG 1B1.13 - Compassionate Release

The original Compassionate Release Guidelines were extremely rigid and gave very few reasons for a petitioner or the Court to consider if a petitioner has an "extraordinary or compelling circumstance". As we have noticed over the last 4 years, many reasons can be considered Extraordinary and Compelling. Some of the reasons I would like to be considered are based on Supreme Court Cases that have gone into effect since the passage of the First Step Act;

*Gall, Molina-Martinez, and Rosales-Mireles - Misapplication of the United States Sentencing Guidelines:

One issue I have seen more often than not is when a Court during the Sentencing Hearing makes a grave misapplication of the Guidelines despite clear and concise instructions from the Sentencing Commission that have led to years (sometimes decades) in additional Incarceration.

In Gall, the Supreme Court explained that a Misapplication of the United States Guidelines can affect the entire sentencing proceeding. But after the issue has been made, it is nearly impossible for some inmates to amend the issue regardless of how clear the error was. There are so many procedural hurdles that prevent adequate review that families are stuck with a human-made error that would have otherwise not been an issue. Because the 3553(a) Factors also heavily rely on the Guidelines and the Sentencing Range the fact that Guidelines were misapplied could impact the entire Judicial Proceeding.

This was confirmed further in Molina-Martinez then Rosales-Mireles which explained that when the Guideline issue is clear, it can and most often should be resentenced. As mentioned before there are a number of procedural hurdles that would prevent an issue from being raised, and if a Court decides to ignore the issue, there is no chance for appellant review.

The 18 USC 3582 would provide a window for sentences that are unconstitutionally long to be reduced and errors made at a sentencing hearing to be resolved in a positive way that would also promote respect for the law, and fairness in the Courts.

Example:

I was charged in a three count Superseding Information with violating Use of a Facility of Interstate Commerce to Aid a Racketeering Enterprise 18 USC 1952(a)(3)(A) in violation of Texas Penal Code 43.02 (Prostitution), Illegal Receipt of a Firearm by a Person Under Indictment, 18 USC 922(n) and 924(a)(1)(D) and Cyberbullying 18 USC 2261A(2) and (b+5). My underlying offense for the Aiding Racketeering charge (1952) was Tex. Pen. Co. 43.02. Which is a Class B misdemeanor.

18 USC 1952 falls under the United States Sentencing Guidelines of 2E1.2. The Second Application Note states that if underlying conduct violates state law, the Court must determine the Most Analogous Federal Offense and use the Guidelines

(See 2E1.2 cmt. n. 2). In my case the Court did not understand that 18 USC 1952 could be violated by a state law and did not understand that the Sentencing Commission had directed the Court to determine the most analogous Federal Offense to the charged underlying conduct.

Instead of my offense level being 20 bringing me a guideline range of 37-46 months, it ended up being 34 bringing my range to 168-210. That is nearly a decade of a difference in regards to the Guidelines, based on what is essentially a simple mistake.

I am not 7 years into an incorrect sentence because the Court still doesn't understand the guidelines despite the Langley Decision from 1990. (United States v. Donald Langley, 5th Cir 1990). Because of the complexity of the 2E1.2 Guidelines I have no recourse to fix an illegal sentence because the Judge still doesn't understand the clear instructions in 2E1.2 cmt. n. 2.

If the 1B1.13 Guidelines were to also consider Misapplication of the United States Sentencing Guidelines and Extraordinary and Compelling issue, then it would require Courts to consider Guidelines issues and how appropriate a sentence is for a defendant after the issue has been resolved. Numerous Courts around the nation in the last four years have decided that a Misapplication of the Guidelines does in fact require Resentencing to preserve the interest of justice, fairness, and the public reputation of the Court.

*Concepcion - Intervening Changes in law

One of the major things that affect Defendants is when a law changes in their favor after serving a 30 year sentence because it is discovered that the issue was reversible. But without it being made retroactive, The inmate would still serve a sentence they would not have to serve otherwise.

The truth is, it was once said, to even serve one day of additional time in prison then is necessary would be a violation of due process and civil liberties, I believe by allowing Courts to not only consider the Misapplication of Guidelines but amended Guidelines and Intervening Changes in law, it would allow for a fair consideration between similar defendants (3553(a)(6)) and it would give people chances to reunite with their families after the laws change.

Next, I would like to request an amendment to USSG 2E1.2(a)(2) and cmt. n. 2:

As mentioned before I was charged with 18 USC 1952(a)(3)(A) in violation of Texas Penal Code 43.02, in Count 1 of my Superseding Information. 18 USC 1952 is in the statutory appendix of 2E1.2, which is pretty straightforward. The problem came when my Court didn't understand the language in Application Note 2.

Application Note 2 states that if underlying conduct violates state law, then the Court must determine the most analogous Federal Offense and use the guidelines (a)(2).

While the reading is clear the understanding was not for my Judge Sam A. Lindsay. It lead to an increase of more than 110 months in my federal guidelines and forced my 3 five year sentences to be run consecutively.

Texas Penal Code 43.02 is Prostitution in the State of Texas, a Class C Misdemeanor at best. But the Court stated that it "did not deal with state charges" despite the Guidelines stating specifically, "to find an Analogous Federal Offense to the underlying state conduct."

I believe if the Guidelines were a bit more clear, it would prevent issues like this in the future. I would propose something similar to;

Application Note 2: If the charged underlying conduct violates State Law,(ie a State Penal Code) the Court must first Determine the Most Analagous Federal Offense to the charged Underlying State Code, and use the applicable Federal Guidelines. If the charged underlying conduct violates Federal Law, the Court is to use the Federal Guidelines for the charged conduct.

This would stop the confusion with District Courts, and Appellant Courts (like in United States v. Langley {5th Cir. 1990} and my own case United States v. Jackson {N.D.Tex. 2016}) It would also reduce the risk of inappropriate sentences based on the misapplication of the United States Guidelines and errors in Sentencings.

Also by clarifying the Application Note, it would reduce the chance of Gall, Molina-Martinez, and Rosales-Mireles issues at the District Court Level. It would also allow more comfort in Guilty Pleas and confidence in the Sentencing Procedure. Even though the Guidelines are merely "advisory", the Court is still required to accurately calculate the Guidelines for the 3553(a) Factors.

The chances of inflated sentences are drastically reduced when there is clear instruction that can not be misconstrued.

If this is made retroactive as well, I would finally fix a sentence that is currently 4 years past it's prime.

I believe by showing an example of what 18 USC 1952(a)(3)(A) looks like and then explaining how to find the most analogous Federal Offense to any given state offense, would also help judges who are confused by the statutes or guidelines instructions. Other Guidelines show examples of how to apply the application notes. I believe 2E1.2 also needs to have explanations or examples because 18 USC 1952 is considered a complex charge due to its dual statute nature, and how it can be violated by both Federal and State laws in the same statute or multiple underlying offenses. (2E1.2 cmt. n. 1)

USSG 2X5.2 - Class A Misdemeanors:

While I was in COurt with United States Distict Judge Sam A. Lindsay, he could not understand that Class A Misdmeanors not listed in the statutory appendex of 2X5.2 still fell under 2X5.2 if it was not listed in another Federal Guideline.

I believe there are a number of Judges who have made a similar mistake and it can lead to potentially decades of additional prison time for defendants based on an issue ultimately caused by a Courts failure to understand the law.

I would like to request that 18 USC 1384 - Prostitution on or Near a Military Base or Establishment be added to the statutory appendix of USSG 2X5.2, as it is a Class A Misdemeanor but could accidentally fall under another statutory appendix if left unchecked, unclear, or decided.

The issue affected me directly because of Tex. Pen. Co. 43.02 and 18 USC 1384 are nearly identical with the exception of the Federalizing Element. If 18 USC 1384 was listed in the Guidelines of 2X5.2 it would have greatly reduced the risk of the Guidelines being misapplied in my case and my sentence being enhanced by 110+ months.

USSG 3E1.1 - Acceptance of Responsibility

I would like to also address the issue of the Government withholding Acceptance of Responsibility based on objections to the PSR based on a misapplication of the Guidelines.

Many federal inmates feel as if they are conned into pleading guilty with the bait of a lesser offense only to be enhanced based on "irrelevant conduct" that had been dismissed or never charged at all. Then if the defendant practices his rights to object, the Government withholds the acceptance of responsibility. It makes a mockery of the justice system because it shows that the Government does not have to honor a plea agreement it crafted, and then most of the time Inmates can not even withdraw the plea based on the duplicity they feel during their sentence that Justice was not served.

Acquitted Conduct:

I would also like to request not only Acquitted but uncharged conduct and conduct outside of the offense of conviction be removed from "relevant conduct".

Joshua William Jackson [redacted]
MCFP Springfield
P.O. Box 4000
Springfield, MO 65801-4000

From: J.R.M
To: Public Affairs
Subject: [External] Family issues with sentencing
Date: Thursday, October 13, 2022 11:44:04 AM

To Whom this May Concern,
I am writing you in regards to my cousin whom is a Belizean citizen incarcerated under the name Lamont Justin Williams [redacted]. His Birth name is Leon Moreira and he qualifies for a treaty transfer to his birth country of Belize. He has served over fifty percent of his 20 year sentence and has applied for this type of transfer numerous times only to be denied every single time without cause. He most recently applied for compassionate release and was denied under the guise of him being a "threat to the community" which is false because after a dozen years, I know the change in the man that he is now, compared to those many years ago. Also, he cannot be a "threat" to a community, or better yet country, that he would be deported from, as he no longer wishes to be in America. Please assist us in your ballot vote of 2023. Thank you for your time.

From: [redacted]
To: Public Affairs
Subject: [External] Proposed Priorities for Amendment Cycle - Request for public comment
Date: Friday, October 7, 2022 7:34:09 PM

To whom it may concern:

I agree with adding non-retroactive changes to the law to the list of extraordinary and compelling circumstances for Compassionate Release. If changes are made to the law and those changes provide sentences that are adequate for people sentenced today, those changes should at least be considered when deciding Compassionate Release motions. I have a lifelong friend who is serving a sentence that would be 25-30 years shorter if he were sentenced today. It is unfair to keep him in prison for such a lengthy period of time when people sentenced in other Circuits are being released on Compassionate Release motions for identical conduct. He is being held in prison simply because he was sentenced in the wrong Circuit. The law should be applied equally to everyone and 1B1.13 should be amended to provide guidance and clarity to the District and Circuit Courts.

Thank you for your consideration,
Lonnie Lenaburg
[redacted]

From: ~^! MORENO, ~^!FERNANDO
Subject: [External] ***Request to Staff*** MORENO, FERNANDO, [redacted], HER-S-B
Date: Friday, October 14, 2022 10:34:52 AM

To: Public Affairs
Inmate Work Assignment: A&O Complete

ATTENTION

Replies to this message will not be delivered.

Inmate Message Below

To Whom It May Concern:
This email is in regards to the policy statement found in section 1B1.13 of the U.S Sentencing Guidelines. I feel that the conditions of confinement should be grounds for a finding of extraordinary and compelling circumstances warranting a sentence reduction. For example, at FCI Herlong, the cells contain black mold, we have to breathe toxic smoke from wildfires, there are few jobs or classes so we are stuck in the units all day, and medical care is terrible. A Judge should be able to consider this type of situation.
I thank you in advance for taking the time to read this email.

TRULINCS [redacted] - MURRAY, AARON MICHAEL - Unit: COL-B-D

~~FROM: [redacted]~~
~~TO: Health Services LOW~~
~~SUBJECT: ***Request to Staff*** MURRAY, AARON, [redacted], COL-B-D~~
~~DATE: 10/02/2022 01:05:14 PM~~

~~To: Delete~~
~~Inmate Work Assignment: N/A~~

October 1, 2022

United States Sentencing Commission
ATTN: Public Affairs-Priorities Comment
1 Columbus Circle, NE, Suite 2500, South Lobby
Washington, DC 20002-8002

RE: Public Comment on Proposed Priorities for
Amendment Cycle Ending May 1, 2023

Dear Sentencing Commission,

My name is Aaron Murray and I am a federal prisoner at the Federal Correction Complex- Coleman Low in Coleman, Florida. During my incarceration, I received my paralegal certification and have held a position as the Legal Clerk in the prison's Law Library. Over the last several years, I have been in contact with Carrie Wilson of this Commission and I am aware that you periodically review comments and recommendations from inmates regarding potential changes to the sentencing guidelines. Therefore, I am offering several comments on possible policy priorities for the amendment cycle ending May 1, 2023.

My comments to the proposed priorities for the amendment cycle, that were enumerated by this Commission, are as follows:

(1) Consideration of possible amendments to 1B1.13 (Reduction in Term of Imprisonment under 18 U.S.C. 3582(c)(1)(A) (Policy Statement)).

-The First Step Act plainly intended that federal judges be allowed an independent and individualized consideration on whether to grant a sentence reduction or compassionate release. Despite the Eleventh Circuit's erroneous conclusion in UNITED STATES V. BRYANT, 996 F.3d 1243 (11th Cir. May 7, 2021), every other Circuit has concluded that U.S.S.G. 1B1.13 is not an applicable policy statement for defendant filed motions. While 1B1.13 needs to be updated, it is important to remember that the Guidelines are advisory and that, even absent a policy statement, federal judges have authority to adjudicate whether a defendant has offered "extraordinary and compelling reasons" warranting relief. The 3582 statute merely requires that courts' decisions on sentence reductions and compassionate releases be "consistent with" any applicable policy statement. 18 U.S.C. 3582(c)(1)(A). As the Seventh Circuit put it, "'Consistent with' differs from 'authorized by.'" UNITED STATES V. GUNN,, 980 F.3d at 1180 (7th Cir. Nov. 20, 2020). Congress delegated the authority to determine the meaning of "extraordinary and compelling reasons" to this Commission. See 28 U.S.C. 944(t). While this Commission "shall DESCRIBE what should be considered extraordinary and compelling reasons for sentence reduction, including the criteria to be applied and a list of specific examples," (944(t)), you do not have the authority to "define" what can be considered "extraordinary and compelling." Therefore, district courts, directly authorized by Congress, have the inherent equitable power to grant a reduction in sentence or compassionate release for any reason beside rehabilitation alone. See 28 U.S.C. 994(t). Thus this Commission must update the 1B1.13 Guideline to include defendant filed motions while providing guidance to district courts on what can be considered "extraordinary and compelling."

TRULINCS [redacted] - MURRAY, AARON MICHAEL - Unit: COL-B-D

~~FROM: [redacted]~~
~~TO: Health Services LOW~~
~~SUBJECT: **Request to Staff** MURRAY, AARON, [redacted] COL-B-D~~
~~DATE: 10/02/2022 01:28:55 PM~~

~~To: Delete~~
~~Inmate Work Assignment: N/A~~

(7) Consideration of possible amendments to the Guidelines Manual relating to criminal history to address the treatment of defendants with zero criminal history points.

-This Commission has performed numerous studies on how an offender's background and age effect recidivism. However, despite having zero criminal history points, many criminal defendants receive similar or greater sentences than those who have a much worse criminal history. With statutory minimums and maximums, the way most courts calculate guideline ranges do not account for defendants with zero criminal history points and who have no or low risk of recidivism. I propose that a first-time offender "safety-valve" guideline be created and that the Probation Office's Pre-Sentencing Report include a defendant's recidivism risk level prior to sentencing.

As this commission is aware, some first-time offenders are eligible for safety-valve relief under 18 U.S.C. 3553(f). However, most defendants do not meet the criteria for this reduction. Although district courts cannot sentence a defendant under the mandatory minimum, a new Guideline should be created to standardize how courts treat defendants with zero criminal history points. Just like U.S.S.G. 5K1.1, a court should be authorized to grant a downward departure for first-time offenders with zero criminal history points. In the Federal Sentencing Guidelines Manual, this new Guideline an be added under Chapter Five, Part K-Departures.

As far as including a defendant's risk of recidivism in the Probation Officer's PSR, this information would assist district courts with imposing an appropriate sentence. A defendant's risk or recidivism is currently not being considered at sentencing, despite being related to multiple factors under 3553(a)(2). The Department of Justice has already released a risk assessment tool, known as PATTERN, as required by 18 U.S.C. 3553(a)(2). Among other things, PATTERN was designed to evaluate "the recidivism risk or each prisoner as part of the intake process, and classify each prisoner as having minimum, low, medium, or high risk for recidivism." 19 U.S.C. 3632(a)(1). Therefore, it is reasonable to conclude that the Probation Office, the Department of Justice, and the Bureau of Prisons could work together to calculate a defendant's recidivism risk level prior to the district court's sentencing.

(9) Consideration of possible amendments to the Guidelines Manual to prohibit the use of acquitted conduct in applying the guidelines.

-Using acquitted conduct at sentencing is anathema to Due Process and the fundamental fairness of justice embodied in the Constitution. District courts should not have the authority to use conduct that the jury found a defendant innocent of to increase a sentence. However, while not using acquitted conduct is important, there are several other types of conduct that deserve this Commission's scrutiny.

Uncharged conduct, especially conduct that is in-and-of-itself a separate charge, should not be considered at sentencing. This uncharged conduct never appeared before a grand jury and criminal defendants never received fair notice. Prosecutors have full discretion to present this conduct to a grand jury to receive an indictment or superseding indictment. it is unfair to add uncharged conduct into a PSR for enhancement purposes and, besides objections to the PSR at sentencing, defendants have no way to defend themselves against this conduct.

Not only does uncharged conduct fly in the face of the legal axiom that criminal defendants are innocent until proven guilty, but so does using dismissed conduct to enhance a sentence. There are many reasons prosecutors choose to dismiss charges. Whether is is the result of a plea deal or lack of evidence to bring that charge to trial, defendants should not receive enhanced sentences for charges that were dismissed.

District courts use both uncharged conduct and dismissed conduct at sentencing through the "preponderance of evidence" standard, instead of the stricter "beyond reasonable doubt" standard that is required for a jury to convict. Thus, any conduct not admitted to in a plea agreement or found by jury at trial should not be used at sentencing. Therefore, this Commission should ensure that the Constitution and Bill or Rights is upheld to guide courts in not utilizing acquitted, dismissed, and uncharged conduct at sentencing.

TRULINCS [redacted] - MURRAY, AARON MICHAEL - Unit: COL-B-D

~~FROM: [redacted]~~
~~TO: Health Services LOW~~
~~SUBJECT: ***Request to Staff*** MURRAY, AARON, [redacted] COL-B-D~~
~~DATE: 10/02/2022 01:56:17 PM~~

~~To Delete~~
~~Inmate Work Assignment: N/A~~

(12) Multiyear study of court-sponsored diversion and alternatives-to-incarceration programs (e.g., Pretrial Opportunity Program, CASA Program, SOS Program), including consideration of possible amendments to the Guidelines Manual that might be appropriate.

-The federal prison system is full of first-time, nonviolent offenders who have a very low risk of recidivism. In light of the COVID-19 pandemic and the CARES Act of 2020, this fact became perfectly clear. The Attorney General was granted permission by Congress to place federal prisoners on home confinement. Thousands of prisoners were granted home confinement placement and all indicators so far show that this program has been a success. In addition, many criminal defendants are granted bond and placed on Pretrial Services monitoring pending trial, proving that they are capable of following the law while on court monitoring without incarceration. Alternatives-to-incarceration programs will not only assist with the current overpopulation problem federal prisons are currently experiencing, especially now that private prisons have been shutdown, but it will also save the taxpayers the cost of incarcerating nonviolent and low risk criminals. Therefore, the federal criminal justice system needs more rehabilitation programs in lieu of prison sentences. Anything this Commission can do to help increase alternatives-to-incarceration programs would benefit not only criminal defendants, but society as a whole.

(13) Consideration of other miscellaneous issues, including possible amendments to (A) 3D1.2 (Grouping of Closely Related Counts) to address the interactions between 2G1.3 and 3D1.2(d).

-In many cases, the U.S. Sentencing Guidelines sentencing range will roughly approximate a sentence that would achieve the objectives of 18 U.S.C. 3553(a). These ranges are typically the product of this Commission's careful study, and are based on extensive empirical evidence derived from the review of thousands of individual sentencing decisions. But not all Guidelines possess this pedigree. And where a Guideline does not reflect the careful study of this Commission, it is likely not a reliable indicator of this Commission's perspective on a fair sentence. As numerous courts and commentators have explained, the child pornography Guidelines are by and large not the result of this Commission's expertise, nor based on careful study and empirical data. See HENDERSON, 649 F,3d at 960-63; UNITED STATES V. DORVEE, 616 F.3d 174, 184-86 (2nd Cir. 2010). Instead, 2G2.2 is the result of two decades' worth of Congressional directives-at times actively opposed by this Commission-that have continually ratcheted up penalties and piled on enhancements. HENDERSON, 649 F.3d at 960-63; DORVEE, 616 F.3d at 184-86; see also generally Troy Stabenow, Deconstructing the Myth of Careful Study: A Primer on the Flawed Progression of the Child Pornography Guidelines (2009).

Of course, Congress' active role in shaping 2G2.2 is not in and of itself reason to question the Guideline's wisdom or efficacy. The real problem, as courts across the country have recognized, is that 2G2.2 simply does not work. GROBER, 624 F.3d at 607-10; HENDERSON, 649 F.3d at 960-63; DORVEE, 616 F.3d at 184-86; UNITED STATES V. DIAZ, 720 F. Supp. 2d 1039, 1041-42 (E.D. Wis. 2010)(collecting cases). Rather than carefully differentiating between offenders based on their culpability and dangerousness, 2G2.2 consists of a hodgepodge of outdated enhancements than apply in nearly every case. DORVEE, 616 F.3d at 186. As a result, this Guideline routinely results in sentencing ranges near or exceeding the statutory maximum, even in run-of-the-mill cases involving first-time offenders. Id.

This broken Guideline has not escaped this Commission's attention. Following several years of research, you issued a comprehensive report on 2G2.2. United States Sentencing Commission, Report to Congress: Federal Child Pornography Offenses (Dec. 2012). However, while this Commission recommended major revisions to the Guideline, you left it to the discretion of Congress because of its extensive involvement in crafting that Guideline. However, Congress has shown, time and time again, that politics prevents it from correcting this Guideline. The Senate's Confirmation Hearing for Justice Ketanji Brown Jackson made it perfectly clear that Congress will NEVER act to correct this problem. Thus, this Commission has an independent duty to correct 2G2.2 and the child pornography Guidelines.

Respectfully Submitted,
Aaron Murray

Aaron Murray
[redacted] [redacted]
FCC Coleman Low
P.O. Box 1031
Coleman, FL 33521-1031

From: [redacted]
To: Public Affairs
Subject: [External] comments
Date: Thursday, October 13, 2022 12:33:43 PM

The Honorable Carlton W. Reeves, Chair
United States Sentencing Commission
One Columbus Circle, NE
Suite 2-500, South Lobby
Washington, DC 20002

Dear Judge Reeves,

My name is Arthur Payton and I am a federal prison inmate offering my congratulations to you and your new collegues on your confirmation to the United States Sentencing Commission. As a person who has been directly impacted by the criminal justice system, I am thrilled that the Commission once again has a quorum. The Commission has a critical role in the administration of justice, and I hope that you will remember that real lives are impacted by your policy decisions. One key policy decision before you that has a huge impact on me and my loved ones in "Compassionate Release" whereupon the COVID pandemic keeps me in constant danger of being at high risk for serious illness and possible death to my compromised immune system related to a myriad of health factors. I am currently awaiting a favorable ruling from the District Court on my compassionate release motion after my case was remanded on September 23, 2021 by the Sixth Circuit Court of Appeals. An additional factor I ask that you consider and weigh in on is the re-instituting of federal parole. Your Honor, a great many ideas and possible future policies are circulating in reference to sentence reductions for federal prisoners . But most however limit relief to non-violent first time offenders. With the re-instituting of parole nothing will be freely given. Prisoners will have to earn their parole by maintaining clear conduct, utilizing educational programming and work skill opportunities. The possibility of earning parole will provide a great incentive for all federal prisoners to choose rehabilitation over the daily hopelessness, miserable, depressive, and chaotic lives that warehoused federal prisoners lead every single day during incarceration. Parole will reduce violent behavior of inmate on inmate and staff assaults by inmates. Inmate drug use will greatly decline because many inmates will not want to risk damaging their chances for parole approval. Parole will also reduce the prison population substantially which means less congressional spending on prisons. All I ask is that you consider these factors in addition to the rest of your agenda. Thankyou for your consideration!

Yours truly,

Arthur Payton
[redacted]
Federal Correctional Institution, Hazelton
P.O. Box 5000
Bruceton Mills, 26525

From: ~^! ROBERTSON, ~^!JAMES PATTON
Subject: [External] ***Request to Staff*** ROBERTSON, JAMES, [redacted], CLP-J-A
Date: Thursday, October 13, 2022 6:50:19 PM

To: pubaffairs@ussc.gov
Inmate Work Assignment: VT Tutor

ATTENTION

Replies to this message will not be delivered.

Inmate Message Below

As regards the 1B1.13 policy statement related to compassionate release:

There are three main things I would like to point out. First is youthful offenders. In 2017 the USSC published the first study on Youthful Offenders in the Federal System highling that brain development takes longer than anticipated and that people, young men particularly, do not finish neurological development until age twenty-five on average.

The second issue is trauma. Studies have shown more and more that adolescent trauma fuels offense conduct in youth. See United States v. Johnson, 2021 WL 5037679 (N.D. California, 2021) for a detailed analysis of trauma and its role in criminal behavior.

The third issue is rehabilitation. It is clear that rehabilitation alone cannot be considered, however it is also clear that rehabilitation reinforces the importance of the two previous grounds. People who commit crimes that are truly dependent variables of youth and trauma, have pronounced rehabilitation because as they age, "their deficiencies are reformed." (Miller v. Alabama, 567 U.S. 460, 472 (2012)).

Also, in all but one Circuit, discretion for determining whether a ground qualifies as extraordinary and compelling has, for the part, been given to the district judges, a power originally held by the BOP director (see current 1B1.13 policy statement). Allowing the district Courts to retain this discretion fully transfers the responsibility originally given to the BOP Director in line with the FSA's intent of removing discretion from the BOP who failed in their role as gatekeeper and provides it to the district Courts who are best equipped to make these decisions.

In short, if the USSC decides to limit the discretion of the district Courts, then I believe it would be beneficial to include youthfulness, trauma, and rehabilitation (in conjuction with the first two) as grounds for compassionate release. However, it is my opinion that allowing the district Courts to retain the discretion they have been afforded by the Circuit courts throughout the United States with the exception of the 11th Circuit. Thank you for your time and attention.

From: Michael Smith
To: Public Affairs
Subject: [External] Compassionate Release
Date: Saturday, October 1, 2022 1:13:44 PM

I think for Compassionate Release guidance, the commission should follow most courts. That a judge can consider anything he please as extraordinary and compelling circumstances. This will give inmates a way to fight injustice without the AEDPA blocking the challenge. But it will still be up to the judges full discretion to determine if worthy, because he's familiar with the case.

Thank you

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

Date: Oct. 2, 2022

From: Zachary Stinson [redacted]
FCI Oakdale
PO Box 5000
Oakdale, LA 71463

Re: Comments on proposed ammendments to sentencing guidelines.

I would like to submit comments on the following proposed amendments to the guidelines:

1B1.13 Application note 1(D) should be amended to move the discretion to determine "other reasons" from the director of the BOP to the district court for inmate filed motions pursuant to the First Step Act amendment to 3582(c)(1)(A). It does not make much sense at all for the director of the BOP to be determining the extraordinary and compelling reasons for a motion that is not being filed on an inmate's behalf by the BOP, and that discretion lies more properly with the district court.

Also, Application note 1 should be amended to specifically allow a provision for situations in which the conditions of a defendant's confinement have changed in a significant way beyond what the sentencing court could possibly have forseen and contemplated when sentencing a defendant. This would allow District courts to have the discretion to resentence defendants when the punitive effect of their incarceration has increased, which renders their sentence to be more harsh than the sentencing court had originally intended. The significant changes to BOP procedures during the covid-19 pandemic are an example of a situation that may warrant relief. The conditions in the BOP changed drastically and turned many inmates' sentences into solitary confinement when they were not sentenced to such a harsh term of imprisonment.

Another appropriate reason for a sentence reduction that should be added to Application note 1 of the guideline is to correct a sentence disparity. 3553(a)(6) provides that a sentencing court should consider the need to avoid sentence disparities. However, without the ability to correct a sentence disparity that arises outside of a change in the guidelines, that particular 3553(a) factor is rendered moot as the disparity must remain. Allowing district courts to use sentence disparity to reduce a sentence will allow review of a guideline calculation when courts, over time, modify their interpretation of guidelines and allow those changing interpretations to benefit defendants who did not have the luxury of the changed view of the guidelines at the time of their sentencing. This will also allow unreasonable sentences to be corrected outside of the window of time available for appeal.

Defendants with zero criminal history points. The sentencing table in the guidelines should be amended to move defendants with 1 criminal history point into catagory II, leaving catagory I only for defendants with zero points. The sentencing ranges in catagory I should also be lowered by one. This would give first time offenders a more leniant sentence range than repeat offenders by leaving the sentencing range of 0-6 months until offense level 9. It would also remove the mandatory life sentencing for first time offenders and replace it with the range of 360 months -life for defendants scored at level 43. Life sentences would still be available if the statutory maximum allowed it, but the guideline range would leave district courts more discretion.

Proposed amendment to prohibit acquitted conduct consideration.

I wholeheartedly agree that both acquitted conduct and (in the case of plea agreements) uncharged conduct that is not relevant conduct to the charged count of conviction should be prohibited from guideline calculations. Considering either of these factors in determining a sentence seriously undermines the perception of fairness in judicial proceedings. It is actually quite surprising that, in a country where citizens are presumed innocent until proven guilty, any discussion needs to be had about whether to sentence a defendant for aquitted and uncharged conduct. It is a bedrock principle of justice that individuals should only face penalties for crimes that they actually committed, and that clearly and obviously precludes acquitted conduct from a defendant's sentencing.

Also, defendants often accept plea agreements specifically to reduce their sentencing exposure, and the use of uncharged conduct in sentencing undermines the plea bargaining process. Courts frequently use "pseudo counts" that are not relevant conduct as defined in 1B1.3 to any charged count of conviction to enhance defendants' sentences with the multiple count provisions of 3D1.1. While the commentary of 3D1.1 clearly indicates that the provision only applies to counts that are included in an indictment or information, that doesnt stop the use of uncharged "pseudo counts" against defendants. The willingness of district courts to adopt the phrase "pseudo counts" is in itself quite troubling. Webster's New World College Dictionary, Fourth Edition (2002) defines the word pseudo as "Sham; false; spurious; pretended; counterfeit." Nothing about that definition strikes a chord of legitimacy. The flagrant use of such a term erodes the public confidence and perception of fairness and integrity of judicial proceedings. Use of "sham" counts also does absolutely nothing to advance the 3553(a)(2)(A) factor of promoting respect for the law and providing just punishment.

Recently, Russia held a refferendum on the anexation of territory in Ukraine which the government of the United States decried as a "sham". Why, then, do district courts in the United States regularly sentence defendants with enhancements based upon a synonymous term?

The use of "pseudo counts" also creates sentence disparities that are to be avoided according to 3553(a)(6) by allowing sone district courts to sentence some defendants for uncharged conduct while other courts do not. Once again, a fundamental principle of fairness is that defendants should only face penalties for crimes for which they were actually charged and convicted.

This short circuiting of the basic ideas of legitimacy, fairness, and integrity of judicial proceedings needs to be stopped to restore public trust in the institution.

Thank you for your time.

Zachary Stinson

From: Charisma Taveras
To: Public Affairs
Subject: [External] SENTENCING PROPOSED PRIORITIES
Date: Tuesday, October 11, 2022 10:28:56 PM

October 11 2022

The Honorable Carlton W. Reeves, Chair

United States Sentencing Commission

One Columbus Circle, NE

Suite 2-500, South Lobby

Washington, DC 20002

Dear Judge Reeves:

Congratulations to you and your new colleagues on your confirmation to the United States Sentencing Commission. My name is Charisma Taveras As a person who has been directly impacted by the criminal justice system, I am thrilled that the Commission once again has a quorum. The Commission has a critical role in the administration of justice, and I hope that you will remember that real lives are impacted by your policy decision.

One key policy decision before you that is likely to have a huge impact on me and my loved ones is compassionate release. For over three years, and through the course of a deadly pandemic, the Commission has been unable to align the compassionate release guideline with the changes in the First Step Act. During this period, many judges have been able to use their discretion to determine what constitute extraordinary and compelling reasons, beyond the examples outlined in the guidelines. As you embark on the process of updating this important guideline, I hope you remember my story.

My Step Father was denied compassionate release because he has not served enough of his time even though he has many medical conditions including heart issues. It is important for Judges to be able to make decisions on Compassionate release. Not everyones case is the same so Judges should be able to use their judgement especially when the person is sickly and Non Violent.

I would like to see Ghost Dope on the Proposed Priority List. These high guidelines that's Ghost Dope has very much impact's our loved ones at sentencing. It can increase a persons sentence by many years unfortunatly I know because my family has been affected by it.

I appreciate the opportunity to comment and provide insight into this matter.

Respectfully submitted,

Charisma Taveras