

Magnolia News

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Two arrests made in mail-theft case; others suspected

By Russ Zabel

Two people were arrested March 5 in connection with thefts of mail from Postal Service relay and collection boxes on Capitol Hill. But thefts of mail have also plagued Queen Anne and Magnolia.

More reports of mail thefts are still coming in, but according to police reports and reader calls, letters were stolen from a collection box on Sixth Ave. West and West Galer St. in January, and checks that had been mailed from there were altered and cashed. Mail was also stolen from a collection box on West Lynn St. in Magnolia Village February 28.

The two people arrested in the case — 28-year-old William C. Bridwell and 27-year-old Kelly L. Whitaker — allegedly used forged keys to take mail from not only collection and relay boxes, but also from apartment house mailboxes. Outgoing checks from collection and relay boxes were allegedly taken and altered by the pair, and incoming checks and credit cards were allegedly stolen by the two from apartment house mailboxes.

According to a March 5 news release from the Post Office, 159 stolen checks were successfully negotiated for a total loss in excess of \$30,000 to area banks. There is no mention of credit card losses.

Postal Inspector in Charge Gerald Miera, in announcing the arrests of the two suspects, indicated they probably were not acting alone. "We believe other persons are involved in this scheme," he said. The Postal Inspection Service is the law-enforcement arm of the Postal Service.

Postal Inspector James Bordenet confirmed Miera's statement. "We are actively looking at several other (suspects)," he said. Bordenet also stressed that information in the case came from the public, although some information only substantiated facts already known by the Postal Service.

Bordenet said the Postal Service still needs the public's help. "We want to make sure that people who are picked up at work by mail carriers have lost checks report to us," he said. Bordenet said they also need original documents and the names of the banks where altered checks were cashed.

The number to call is 442-6300, said Bordenet, adding that a \$1,000 reward is being offered to anyone who has information that will lead to the arrest and conviction of anyone stealing the mail. The penalty for mail theft is up to five years in jail and/or a \$250,000 fine for each count, according to the Post Office press release.

In the meantime, Bordenet suggests people either mail letters inside their local Post Office or have them picked up at work by mail carriers.

SEATTLE DIVISION

DATE: 3-24-73

PUBLICATION: Magnolia News

CITY & ST: Seattle, WA

CASE INSPECTOR: BREWALT

[210]

Altered check possibly stolen from post office collection box

By Tim St. Clair
STAFF WRITER

A Beach Drive woman got a call from a Seafirst Bank in Kent March 6. Two men were at the drive-up window trying to cash a \$350 check on her account.

The men got nervous and drove off while the teller was calling the woman to confirm the transaction. The check, which turned out to be one the woman wrote a month before to pay her \$60 phone bill, was confiscated by the bank.

The check likely was stolen from one of the collection boxes at the West Seattle Post Office.

U.S. Postal Inspectors don't know if the incident is related to the arrests March 5 of a man and woman from Renton for investigation of mail theft.

The pair allegedly had keys to mail boxes on Capitol Hill and might have been working with others.

According to the U.S. Postal Inspection Service, the pair is

suspected of chemically washing all handwriting off the stolen checks and rewriting them to a new payee with a new, and usually larger, amount.

The service suspects the pair stole 159 checks and cashed them for more than \$30,000.

More arrests are anticipated as investigators pursue other mail thieves active in the Seattle area, said Postal Inspector Jim Bordenet.

The victim said she didn't notice that the drive-up collection box at the West Seattle Post Office was full before she dropped her payment envelope into it. Then she didn't know which envelope was hers and she felt uncomfortable pulling mail out of the collection box. So she left it where it was, she said.

"Those boxes are very busy," said Louise Stafford, station manager. "Even though we pull them five times a day."

Sometimes people push

packages into the collection boxes that clog them up, Stafford said. Both she and Bordenet recommend mailing inside the post office whenever the outdoor collection boxes appear to be full.

Bordenet also recommends people not raise the flags on their mailboxes at home to alert the letter carrier of mail to be picked up.

"That red flag is a red flag for thieves," Bordenet said. "It can attract everything from juvenile vandalism to professional check thieves."

A stolen check provides a person's name, bank, bank account number, address and phone number, the postal inspector said.

The U.S. Postal Inspection Service is offering a reward of up to \$1,000 for information that leads to the arrest and conviction of anyone stealing mail. Call 442-6300.

SEATTLE DIVISION
DATE: 3-17-93
PUBLICATION: West Seattle Herald
CITY & ST: Seattle, WA
CASE INSPECTOR: Breault

Two charged in Capitol Hill mail-theft scam

Plot involved using stolen bank checks

By Angelo Bruscas
P-I Reporter

Two people have been arrested and charged in federal court in connection with a mail-theft and stolen-check scam that targeted the Capitol Hill area, U.S. Postal Inspection Service and U.S. Attorney's office authorities said.

In a seven-count criminal complaint filed Feb. 24 in U.S. District Court in Seattle, William C. Bridwell, 28, and Kelly L. Whitaker, 27, both of Renton, were charged with obtaining counterfeit keys to Postal Service street collection boxes in the Capitol Hill area.

According to the complaint, Bridwell and Whitaker also used counterfeit keys to enter apartments and condominiums in the Capitol Hill and Broadway areas, and to get into residents' mailboxes inside the buildings.

The scheme involved stealing credit cards and boxes of blank checks sent by check-printing companies to residents. Outgoing checks left by customers for pickup by the Postal Service also were stolen, the complaint said.

The checks were chemically washed of all handwriting, rewritten to a new payee with a new amount and then cashed at banks throughout the greater Seattle area, said Postal Inspector in Charge Gerald A. Miera.

The stolen checks on one ac-

count were made payable to a second victim and then deposited into that victim's account with a portion of the deposit being taken as cash back, a Postal Service press release said.

"We believe other persons are involved in this scheme, and we ask the public's continued help in bringing them to justice," Miera said.

The Postal Inspection Service is offering a reward of up to \$1,000 for information leading to the arrest and conviction of anyone

stealing mail. People with information should call the Seattle Postal Inspectors at 206-442-6300.

Bridwell and Whitaker appeared yesterday before U.S. Magistrate Judge David E. Wilson. Bridwell was released on his own recognizance. Whitaker was released after her mother posted \$80,000 personal property as a surety bond.

If convicted, they each face a maximum penalty of up to five years in prison and a \$250,000 fine for each count.

SEATTLE DIVISION

DATE: 3-9-93

PUBLICATION: Post-Intelligencer

CITY & ST: Seattle, WA

CASE INSPECTOR: Gerald A. Miera

Uranigan

Stelzer

SEATTLE DIVISION
DATE: 3-9-93
PUBLICATION: Seattle Times
CITY & ST:
CASE INSPECTOR: BREWALT
VRANIZAN
STELZER

□ D 2 The Seattle Times Tuesday, March 9, 1993

Renton pair charged in Capitol Hill mail-theft scheme

Counterfeit keys used to open boxes, steal checks

by Sally Macdonald
Times staff reporter

Two Renton residents have been charged in federal court in connection with the theft of mail from private residences and Postal Service boxes on Capitol Hill in Seattle.

William Bridwell, 28, and Kelly Whitaker, 27, were arraigned yesterday after a months-long investigation into a scheme that involved using counterfeit keys to steal checks and credit cards. Eleven other people were arrested earlier

on state charges, said James Bordenet, a Postal Service inspector and spokesman for the Seattle office.

Bridwell was released on his own recognizance, and Whitaker was released after her mother posted \$80,000 bail.

A hearing has been set for March 29 before U.S. Magistrate David E. Wilson.

Bordenet said there may be more arrests.

Bridwell and Whitaker "are not the top people but they are main players. It's still developing," he

to enter apartment buildings and condominiums and open the banks of mailboxes inside.

The thieves stole credit cards, outgoing mail containing signed checks and boxes of blank checks sent to bank customers by checking firms.

In some cases, the ring members used a chemical to alter checks and re-write them to a new payee with a new amount.

In other cases blank checks from one victim were made payable to another victim.

The checks then were deposited into the second account with a portion of the deposit being taken as cash back.

Miera said 159 stolen checks were negotiated in that way, costing area banks more than \$30,000.

Capitol Hill residents complained last fall that the public collection boxes and the relay boxes used by carriers were easy targets because of their simple locks and a key common to all the boxes in the Seattle area.

In January, the Postal Service put extra padlocks on boxes on Capitol Hill and in North Seattle.

Those charged earlier in thefts are Crystal Ann Baker, 24, and Kim Tarnay Thomas, 23, both of Kent, and Garret Lance Evans, 28; Kenneth Allen Lowe, 28; Anthony Bert McDonald, 24; Rosalie Joy

Hardenbrook, 31; Arthur Allen Shockley, 57; Lexi Kayleen Brunette, 35; Anthony Wayne Knapp, 28; Norman Joseph Forrest, 23, and Stephan Copeland, 21, all of Seattle.

Anyone convicted of stealing or possessing stolen mail faces up to five years in prison and a \$250,000 fine for each count.

Miera said Capitol Hill residents helped investigators by reporting suspicious activity around the boxes.

"We believe other persons are involved in this scheme, and we ask the public's continued help in bringing them to justice," Miera said.

2-3

Outgoing mail taken from Queen Anne drop box

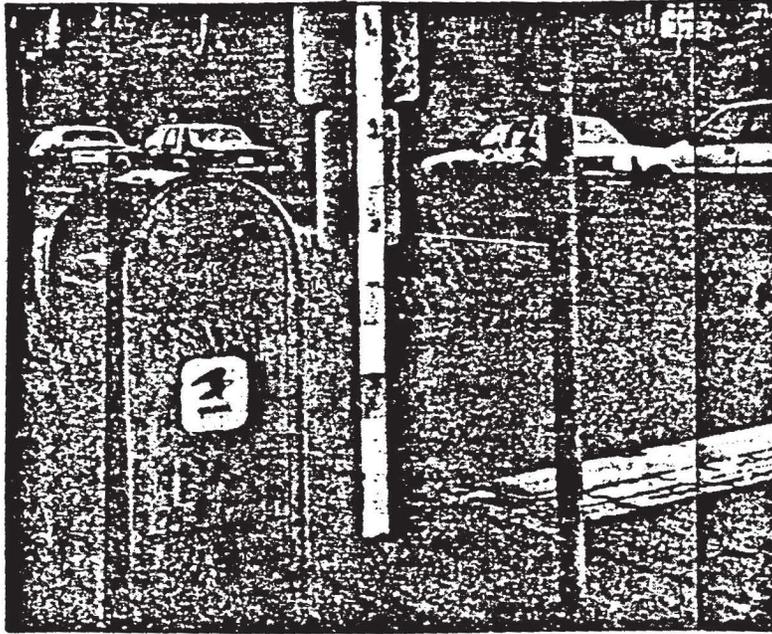
148
by Russ Zabel

Capitol Hill isn't the only neighborhood that is having a problem with thefts from mailboxes. According to two police reports, outgoing mail was taken from a mailbox on the corner of 6th Ave. West and West Galer St. the first few days of January.

In one case, a woman dropped a letter in that mailbox that contained a check for \$18.88 for four jars of jam from an Oregon firm. But she got a call from her bank January 3 informing her that a man — whose name is listed in the police report — was trying to cash that check. But the check had been altered so that it was made out to a different party, and the amount had been changed to \$425 as payment for some tires.

The bank didn't cash the check for the man, and the woman told police she didn't even know anyone by the name listed, and she certainly hadn't written him a check for tires.

In a second case involving the same mailbox, on January 4, a postal carrier asked a woman who lives in the 600 block of West Galer whether she had seen anyone tampering with the box. She said she hadn't, but



An unknown amount of mail was recently stolen from this mailbox on the corner of West Galer St. and 6th Ave. West. (Photo by Russ Zabel)

then asked the carrier to check and see if five letters she had mailed were in the bunch he had just picked up. They weren't. The letters were bill payments to US West, Visa, BP Oil, Discover and Frederick and Nelson.

It is unknown how mail was taken from the box on West Galer St., but police have discovered that keys were used in the thefts from Capitol

Hill mailboxes — which contained mail to be delivered. According to published reports, 11 people have been arrested so far for the Capitol Hill thefts.

Jim Bordenet, a postal inspector and public information officer for the Post Office, said that they are finding the thefts are drug-driven. "Mail is an attractive target, unfortunately," said Bordenet.

He said postal inspectors will be checking into the matter. Bordenet also said the Post Office is offering rewards of up to \$1,000 for the arrest and conviction of anyone stealing mail. The number to call with such information is 442-6300, and the caller's identity will be kept confidential, he said.

Bordenet also suggested that if anyone sees anything suspicious to call the police at 911. In most cases, postal workers picking up mail will be in uniform. There are instances, however, when postal workers will be wearing street clothes, but they will be using Post Office vehicles.

In the meantime, Bordenet suggested that people take their outgoing mail to the post office or have it picked up where they work.

SEATTLE DIVISION

DATE: 1-13-93

PUBLICATION: Queen Anne News

CITY & ST: Seattle, WA

CASE INSPECTOR: Dave Breault

Inside Seattle

Rash of mail thefts on Capitol Hill

Thieves used counterfeit keys to open boxes

Sally Macdonald
Times staff reporter

At least 11 people have been charged and 10 others are being investigated in connection with a rash of mail thefts throughout the city since October.

Postal inspectors say in most cases counterfeit keys were used to open the olive green boxes used to stash mail until carriers pick it up for delivery. In a few cases, thieves looking for cash, checks or credit cards pried open locked postal boxes or banks of mail boxes in apartments.

Residents of Capitol Hill, which has been particularly hard-hit by the mail thieves, say the boxes were easy pickings because they had simple locks and a key that is common to all the boxes in the Seattle area.

Postal inspectors have since put padlocks on all the Capitol Hill relay boxes and are adding them to boxes all over Seattle's north end.

"This is particularly frustrating because the postal service was warned a year ago that this was a growing problem," said Robert Bowlin, a Capitol Hill resident who hid the relay box behind his condominium complex was hit three times since October. "Somebody got a key and just copied it. These crooks have access to all our mail."

Thefts from the relay boxes are a growing problem, said James Bordenet, a postal inspector and spokesman for the Seattle office. In the last reporting year ending Sept. 30, 91 people were arrested in this area for mail theft, mostly from private mail boxes or street-corner collection boxes.

If arrests continue at the same pace, this year's total will be much higher, Bordenet said.

Bordenet said those charged in the thefts since Oct. 15 are Crystal Ann Baker, 24, and Kim Tarnay Thomas, 23, both of Kent, and Garret Lance Evans, 28; Kenneth Allen Lowe, 28; Anthony Bert McDonald, 24; Rosalie Joy Hardenbrook, 31; Arthur Allen Shockley, 57; Lexi Kayleen Brunette, 35; Anthony Wayne Knapp, 28; Norman Joseph Forrest, 23, and Stephan T. Copeland, 21, all of Seattle.

The suspects have been arrested on charges resulting from an investigation by the postal service and local law enforcement agencies, Bordenet said. Federal mail theft charges may be filed in the future.

Bordenet said none of the suspects are connected to the postal service. But they may be part of a ring. "We believe there is some element of organization, although there may be some freelancers."

Bowlin said he and his neighbors called the Broadway branch



Letter carrier Kelvin Phillips closes one of the relay boxes he uses on his mail route on Capitol Hill.

Mike Siegel / Seattle Times



To help eliminate theft, an extra lock has been added on postal relay boxes.

Mike Siegel / Seattle Times

said. "We've had people tell us they wrote a letter or something and we had no way of knowing."

Tips for residents

There's not much residents can do to protect themselves from a thief with a key, Bordenet said.

But he did give some tips:

■ Apartment or condominium residents should put their mail boxes in locked areas.

■ People with rural-type mailboxes should never put mail in them to be picked up. "That red flag telling the carrier there's mail in there is just a red flag to the thief, too. And that's the best mail of all, checks with your signature on them, mail that can tell them a lot about you," Bordenet said. "Take your mail to the post office or a collection box."

■ Never mail cash.

Bordenet said the boxes are usually opened by uniformed carriers, although occasionally a temporary carrier might be dressed in civilian clothing. They usually drive marked cars or trucks.

The postal service has a standing \$1,000 reward for information leading to the arrest and conviction of mail thieves, Bordenet said. Anyone who has information should call 442-6300. Callers' identities are kept confidential.

post office last October when they first noticed there'd been no regular mail delivery.

Later, after the mail was stolen again, a merchant in the area reported seeing a blond woman drive up to the box, open it with a key and empty the mail into her car. The theft took only seconds.

According to Bordenet, mail thieves usually are looking for "cash or anything they can turn into cash." Blank checks from the bank or credit cards are particular-

ly desirable.

'Lots of credit cards'

Why has Capitol Hill been such a target?

"It's an affluent area, with mail that's attractive to them, lots of credit cards," said Bordenet.

Bowlin criticized the postal service for not acting sooner on the neighbors' complaints.

But Bordenet said the 24 investigators in the Seattle office went

to work on the case right away and have put secondary locks on most of the boxes on Capitol Hill.

Banks or businesses are the ultimate victims of checks or credit cards sent through the mail, Bordenet said. "But it's a terrible hassle for the resident, too. It takes several weeks for them to find out anything's wrong. And of course they feel awful that someone's stolen all their mail."

"You have no way of knowing what's really missing," Bowlin

Mail thieves deliver headaches

By **Wody Culverwell**
STAFF

If the Christmas check or credit card you've been expecting to appear in your mailbox hasn't arrived, get nervous.

Federal Way, along with Kent and Auburn, is in the midst of a mail-theft rash and thieves are after anything they can spend.

That includes credit cards and checks and cash stashed into holiday greeting cards. Account numbers from statements and bills can be misused too.

The Auburn Post Office, which oversees the two postal stations in Federal Way, has collected thousands of ripped-open pieces of mail. The thieves grab mail from residential boxes, rip it open and then discard the remains along roadsides or in other mailboxes.

On a table in the Auburn stationmaster's office, hundreds of pieces are spread on display.

"We see theft every year, but this is by far the worst I've ever seen," said Mike Hooves, manager of the Auburn office.

Some of the ripped-open envelopes contain bills. Others hold bank statements and mailings from doctors, which sometimes contain refund checks. Even Christmas cards get opened. Thieves know they may find cash inside.

Linda Eastman, delivery supervisor for the Auburn area, said the rash of thefts started about eight weeks ago. The Auburn West Hill, Star Lake and Twin Lakes areas have been particularly hard-hit.

Inspector Jim Bordenet, public information officer for the U.S. Postal Service in Seattle, asks for the public's help in catching the thieves. He suspects two kinds of circles are at work — professionals looking for credit cards and kids looking for cash.

HE DECLINED to disclose how he can tell the two apart.

So far, the thieves have targeted mail in residential mail boxes. Anyone who sees suspicious activity near mail boxes is asked to report descriptions and license plate numbers to police. After that, Bordenet says that you call the postal inspector's office, 442-6300.

Postal patrons should also take steps to protect themselves



John Froschauer/staff

Linda Eastman, delivery supervisor for the Auburn area, sifts through mail that has been taken from patrons' boxes, opened and dumped. A wave of mail theft is hitting Auburn and surrounding communities, including Federal Way.

as long as the thieves are active, Bordenet said.

"Minimize opportunities for the thieves to steal," he said.

That means collecting your mail as soon as it arrives. If you're not home during the day, ask a trusted neighbor to bring in your mail for you.

IF YOU'RE going away, the

than from an unsecured residential mail box.

Tampering with the U.S. Mail is, of course, a felony offense. For each piece tampered with, the maximum penalty is a \$2,000 fine and/or five years in prison.

Eastman advises customers to be especially wary about an-

SEATTLE DIVISION

DATE: 12-14-92

PUBLICATION: F. WAY News

CITY & ST: Federal Way, WA

CASE INSPECTOR:

DAVE BREANT

2167

25 cents

Bringing the neighborhood to your home

Wednesday, December 16, 1992

Capitol Hill

Mail thieves hit Capitol Hill

Officials report at least 10 thefts from relay boxes.

By Rebecca Jones
News Editor

Neither snow nor sleet nor dead of night may keep postal workers from making their appointed rounds, but some thieves with counterfeit keys are preventing them from getting the mail to some Capitol Hill residents.

According to Postal Inspector Jim Bordenet, the U.S. Postal Service is looking at a number of suspects who have counterfeit keys to the large, olive green relay boxes — the local depositories where carriers pick up their mail for delivery. Capitol Hill has seen a dramatic increase in the number of these thefts, with at least 10 incidents occurring in the last two months.

"The reality is that the vast majority of these thefts are drug-related," he said. "We know some of the players and we know they're involved in drugs."

The thieves are generally looking for "negotiable" items or items they can make negotiable, Bordenet said. The list includes things such as cash, checks, credit cards, financial statements, automatic teller machine cards or valuables that can be sold for cash. It is a particularly distressing phenomenon, especially with the holidays just around the corner.

Bob Bowlin, who lives in a condominium in the 300 block of Melrose Avenue East, said his building has been hit three times since Nov. 9.

"Within a week (after the first

incident), it happened again," he said.

The most recent theft of the condominium's mail occurred on Dec. 5. Bowlin said he is frustrated because it appears that the Postal Service doesn't seem to care.

"What is particularly galling is that the postal authorities are simply indifferent to the problem," he said. "They seem to be taking this very nonchalantly."

Although Bowlin has received a sympathetic ear at the field office, he believes the Postal Service should have acted quicker and should be doing more to secure the relay boxes.

"They've endangered, or put at risk, the security of people and of the mail," he said.

However, Bordenet said, inspectors have taken additional security steps to curb what he deemed a severe problem. Solving these kinds of cases takes a combination of things, he said. Most of it involves good, hard police work, but some of it comes down to luck and timing.

"We have to find these people (suspects) to talk to them," he said. "And it's not like they're out there identifying themselves."

Bordenet said the Postal Service is asking for the public's help and is offering a reward of up to \$1,000 for information leading to the arrest and conviction of the thieves.

Mail theft is a federal offense that carries a maximum penalty of

five years in jail and a \$5,000 fine for each letter. Thieves could also be subject to prosecution under state and local laws for offenses such as fraud and possession of stolen property.

How to protect yourself

Postal Inspector Jim Bordenet said it's hard for residents to protect themselves against relay box thefts. However, there are a couple of common-sense precautions that can minimize the chances that someone will tamper with your mail.

- Never mail cash. Despite years of warnings against this activity, Bordenet said many people still send money through the mail.

- Don't use your mailbox for outgoing mail, especially the rural-style "red flag" type.

"Unfortunately, it winds up being a red flag to thieves," he explained.

Even the trusty blue mailboxes on the corner aren't as safe as taking your mail directly to the post office or mailing it from your workplace, he said.

"I don't want to alarm people, but things have come to that point," he said. "There are thieves that are looking to steal mail."

SATURDAY, DECEMBER 12, 1992

NORTHWEST

THE SEATTLE TIMES A 1

Post office: Capitol Hill theft, fraud cases nearly solved

by Kate Shatzkin
Times staff reporter

The Postal Service says it is close to solving a string of mail thefts in which numerous checks, credit cards and holiday messages were taken from Capitol Hill mailboxes in recent months.

Incoming mail for hundreds of residents of the Broadway Post Office district has been stolen, and banks and merchants have lost \$20,000 to fraudulent transactions as a result of the thefts, said Jim Bordenet, spokesman for Postal Service inspectors in

Seattle.

Since the beginning of October, 15 adults in the Seattle area have been arrested for investigation of forgery and check fraud believed to be connected to mail theft, Bordenet said. Some of those people are suspects in the Broadway thefts.

The mail has been stolen from relay boxes, so named because carriers use them to store large volumes of mail as they make deliveries in a neighborhood. Thieves have been able to fashion keys to some of the boxes to get inside. There they stole payroll and blank checks and credit-card numbers

to finance drug purchases, Bordenet said.

The practice is on the rise in Seattle and around the country. Last year, the Postal Service broke up a ring of suspects who were using checks stolen from outgoing blue mailboxes from Mountlake Terrace to Tacoma.

Some residents complain the Postal Service has been slow to act in the recent cases, and not always efficiently.

For example, postal inspectors installed a second lock on one relay box in Capitol Hill to prevent recurring thefts. But, Bordenet confirmed, last Saturday a carrier forgot a

key to the second lock and left mail in another nearby relay box - which was his that day.

Bordenet said inspectors now have employed "extra security measures" to protect relay boxes in the Broadway district, which he would not describe.

The Postal Service is offering a reward of up to \$1,000 for information leading to the arrest and conviction of suspects in the Capitol Hill thefts.

Information can be relayed at any time by calling 442-6300, and will be kept confidential.

SEATTLE DIVISION

DATE: 12-12-92

PUBLICATION: Seattle Times

CITY & ST: Seattle, WA

CASE INSPECTOR: D. BROWN

NEWS OF RECORD

Thieves heist thousands of pieces of mail

By CHERYL MURFIN
Valley Daily News

AUBURN - That \$20 you planned to send your grandchild for Christmas? Not a good idea, say local post office officials.

Mail raiders hit South King County over Thanksgiving weekend, stealing thousands of pieces of mail from boxes in Auburn, Federal Way, Pacific and Albona.

"This is the worst we've seen," Mike Hoover, postmaster for the victimized cities, said. "I've been around 21 years and I've never seen it this bad."

On Tuesday hundreds of pieces of soggy, soiled mail were still sitting on Hoover's desk. The mail was found strewn across lawns and streets, after envelopes were opened and rifled through.

The bandits were apparently looking for checks, credit cards or hard

and tossed on the ground, teens are the likely culprits.
"Cash is the key," Hoover said. "They are walking past mail boxes to and from school, looking for it in Christmas cards."
The post office suggests residents take several precautionary measures.
■ Never put hard currency in the mail.
■ Put out-going mail, especially Christmas cards, in a locked mail box or send them from work.
■ Retrieve mail from the box as soon as it is delivered. If you are home late, have a trusted neighbor pick it up for you.
■ Report stolen mail immediately to police and the post office.
Mail theft is a felony, Bordenet warned. Thieves face fines up to \$2,000 per piece of stolen mail and or five years in jail per piece.
"It's a federal crime, it's wrong

Mike Hoover, postmaster

currency, Hoover said.
"All the bank statements were opened, all the Christmas cards were thoroughly gone through," he said.
U.S. Postal Inspector Jim Bordenet said the thefts were likely done by both professional thieves and teenage vandals.
"Professionals will usually check through things more carefully, may be take them somewhere and go through them," Bordenet said.
Where mail was simply ripped open

and it's disruptive to neighbors and the post office," he said. "With one stolen credit card you could have losses of thousands of dollars." One recent series of check thefts in Seattle resulted in a \$50,000 loss for banks, he said.
"Guess who pays for it? We do," Bordenet said. "Each time our yearly credit card rate goes up, we pay for it."
"Parents need to get the message out to their young children and older children," Hoover said. "We will prosecute."
The postal service is offering a \$1,000 reward for information that leads to the arrest of mail thieves.
"We're asking for public help to stop this," Bordenet said. "If someone sees a license plate or anything they should call the police."
To report information, call postal investigators at 442-6300.

This is the worst we've seen. I've been around 21 years and I've never seen it this bad.

SEATTLE DIVISION
DATE: 12-2-92
PUBLICATION: Valley Daily News
CITY & ST: Auburn, WA
CASE INSPECTOR: Division PIO

219J

Theives target your checks

By Marc Stiles
STAFF WRITER

Des Moines resident Sandy Mott was snared in a web-of crime that was spun just outside her home last month.

On Sept. 19, Mott wrote \$150 worth of checks to creditors and sent them — or so she thought — from her residential mailbox.

Six days later a First Interstate Bank employee notified her that someone had swiped the checks, which were cashed at a Federal Way branch after being chemically altered.

Although they have no current statistics, postal inspectors and King County police say there has been a marked increase of mail thefts that result in washed checks.

Crooks equipped with counterfeit keys are even breaking into U.S. Postal Service collection and relay boxes. "I hate to admit it," postal Inspector Steve Schneringer said, "but it's true."

No mail has been stolen from collection boxes in Burien or Des Moines, added another inspector, Jim Bordenet. That typically happens in more urban areas.

"There's an increase (in mail thefts) all over this region," said Sgt. Steve Davis of the county's Fraud Unit. He added incidents have been reported from Snohomish to Pierce counties.

Some arrests have been made, but the crimes continue throughout the Puget Sound region.

"It's really everywhere," said Detective Laura Hoffenacker of the county's Fraud Unit. "It depends on what area these people are working, and they move around a lot."

Bordenet said there has been a series of recent thefts of outgoing mail in the Des Moines area.

Mott reported that a neighbor had checks totaling \$4,000 stolen from her mailbox. The victim, who was unavailable for comment, lives four blocks away from Mott's

residence near Parkside Elementary School.

With the public's help, authorities say they can stop mail thefts.

"We are warning people not to use their mail boxes, especially their rural mailboxes, as a receptacle for outgoing mail," Bordenet said. "That red flag is a red flag for thieves."

Incoming mail should be retrieved from the box as soon as possible. If there will be a delay, have a neighbor or friend get the mail, Bordenet advised.

Anyone who sees a mail theft in progress should call 9-1-1. Citizens with less timely information can telephone the postal inspector's Seattle office at 442-6300.

County police are urging merchants to use caution when cashing checks. Cashiers should be suspicious if the check seems brittle, has more than one color of ink or inconsistent penmanship.

Marguerite Lynde, a public relations officer for First Interstate Bank, cautioned people not to write checks with felt-tip pens because the ink is easier to remove. She added people should check their account statements each month.

"The bank absorbs the loss so it's something we are taking real seriously," Lynde said.

Even though Mott didn't have to pay for her thief's debit-writing spree, she lost plenty of time straightening out her financial affairs.

The crime continues to affect her life, Mott said, since now she is now compelled "to closely watch my mailbox."

SEATTLE DIVISION

DATE: 11-1-92

PUBLICATION: Highline Times

CITY & ST: Burien, WA

CASE INSPECTOR: Brian Vranizan / David Stelzer

(220)

BURIEN BURTON SEATTLE MCKEN HEIGHTS SPOKANE

The Highline Times

November 1, 1992

Vol. 49 No. 132

SUNDAY

50 cents

WEST SOUND

THE SUN ■ SERVING WEST SOUND ■ MONDAY, OCTOBER 5, 1992 ■ A5

KITSAP COUNTY

Theft of checks in mail nets prison term

SEATTLE — Two people have been sentenced to prison for stealing tens of thousands of dollars worth of checks from the mail in five counties, including Kitsap.

Earl L. McCoy, 31, of White Salmon, and Belinda S. Ruffcorn, 29, of Seattle, pleaded guilty in late July to bank fraud charges.

On Friday in U.S. District Court, McCoy was sentenced to 2½ years in prison followed by five years supervised release. He was also ordered to make \$15,185 restitution.

Ruffcorn was sentenced to 16 months in prison followed by five years supervised release. She was ordered to make restitution of \$10,206.

A federal grand jury on June 3 indicted the two on a total of 50 counts of possession of stolen mail and bank fraud charges. The thefts occurred in 1990 and 1991 in King, Pierce, Snohomish, Thurston and Kitsap counties.

The two were accused of stealing bulk mailing packets of blank checks sent by check printing companies to residences from Everett to Olympia. They also stole letters containing completed checks that people had placed in mailboxes for pickup by the U.S. Postal Service, the charges alleged.

U.S. marshals arrested McCoy and Ruffcorn on June 23 at a motel near Seattle-Tacoma International Airport. Additional checks recently stolen from residences in Bremerton and Olympia were found in the couple's car, authorities said.

James Bordenet of the Postal Inspection Service said many of the checks were cashed in other jurisdictions so it's impossible to sort out the loss for Kitsap County alone, but area banks lost a total of \$32,000 from the fraud.

Pierce McIntosh, inspector in charge, said the pair would make the blank checks payable to themselves and forge the name of account holders. They would also alter checks that had been signed to include themselves as alternate payees, McIntosh said.

Bordenet said 20 years ago it was safe to mail letters from individual homes, "but it's just not safe anymore because of people like this. Letters should be mailed in post offices and letter collection boxes for the citizen's own protection."

SEATTLE DIVISION

DATE: 10-5-92

PUBLICATION: Bremerton Sun

CITY & ST: Bremerton, WA

CASE INSPECTOR: Stan Pilkey

[221]

2 sentenced for stealing checks from mail

The Associated Press

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SEATTLE DIVISION
DATE: 10-4-92
PUBLICATION: News Tribune
CITY & ST: Tacoma, WA
CASE INSPECTOR: Stan Pilkey

B 2 Sunday, October 4, 1992

Northwest

BRIEFLY

Two sentenced for stealing checks in mail

■ SEATTLE

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SEATTLE DIVISION
DATE: 10-4-92
PUBLICATION: Seattle Times
CITY & ST: Seattle, WA
CASE INSPECTOR: STAN PILKEY

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BRIEF

CASE NO. 466-1032191-FC(1)

SUBJECTS: FRANK A. TRAINOR
JEFFREY R. SPAKOWSKI
REGGIE P. STEINMARK

POSTAL INSPECTORS CONDUCTED A JOINT INVESTIGATION WITH INTERNAL REVENUE AGENTS RELATED TO MULTICORP, INC., AKA W.S. DISTRIBUTORS AND WIRELESS SECURITY SYSTEMS. REGGIE P. STEINMARK AND JEFFREY R. SPAKOWSKI WERE TELEPHONE SOLICITORS FOR THE NOW DEFUNCT MULTICORP IN 1989. FRANK A. TRAINOR WAS AN INDEPENDENT BUSINESS OWNER WHO ILLEGALLY PROCESSED CREDIT CARD TRANSACTION FOR MULTICORP BECAUSE THE FIRM DID NOT HAVE ACCOUNTS TO DO SO ITSELF. AS PART OF THE SCHEME, PEOPLE ACROSS THE COUNTRY WERE MAILED POST CARDS NOTIFYING THEM THAT THEY HAD WON ONE OF FIVE PRIZES AND URGING THEM TO CALL A TOLL-FREE TELEPHONE NUMBER FOR MULTICORP IN FORT WORTH, TEXAS. RESPONDENTS TO THE POST CARD SOLICITATION WERE INFORMED THEY HAD TO PURCHASE A WATER PURIFICATION UNIT OR HOME SECURITY SYSTEM AT PRICES RANGING FROM \$387.00 TO \$487.00, OR PAY A \$12.95 FEE BEFORE BECOMING ELIGIBLE TO RECEIVE A PRIZE. PURCHASERS WERE ENCOURAGED TO PAY BY CREDIT CARD. FACTORS WERE USED BY MULTICORP OWNERS TO LAUNDER CREDIT CARD CHARGES THROUGH MERCHANT ACCOUNTS THAT HAD BEEN OBTAINED UNDER FRAUDULENT PRETENSES. A FEDERAL GRAND JURY CHARGED THE SUBJECTS WITH MAIL, WIRE, AND BANK FRAUD; MONEY LAUNDERING; AND CONSPIRACY.

DUE TO THIS TELEMARKETING SCHEME, OVER 50,000 INDIVIDUALS WERE DEFRAUDED OF \$9 MILLION BETWEEN APRIL, 1989 AND FEBRUARY, 1990.

THE SUBJECTS WERE CONVICTED WITH GUILTY VERDICTS ON JANUARY 20, 1993, AND RECEIVED SENTENCES AS FOLLOWS:

FRANK A. TRAINOR, JR. - EIGHT YEARS AND ONE MONTH CUSTODY, THREE YEARS PROBATION, \$150 SPECIAL ASSESSMENT FOR GUILTY VERDICT ON ONE COUNT OF CONSPIRACY, BANK FRAUD, AND MONEY LAUNDERING

REGGIE P. STEINMARK - FIVE YEARS CUSTODY, THREE YEARS PROBATION, \$400 SPECIAL ASSESSMENT FOR GUILTY VERDICT ON ONE COUNT OF CONSPIRACY, BANK FRAUD, AND MONEY LAUNDERING

JEFFREY R. SPAKOWSKI - THREE YEARS AND TEN MONTHS CUSTODY, THREE YEARS PROBATION, \$450 SPECIAL ASSESSMENT FOR GUILTY VERDICT ON ONE COUNT CONSPIRACY AND EIGHT COUNTS WIRE FRAUD

BRIEF

CASE NO. 539-1049844-FC(1)

SUBJECT: JOHN ARCHER

THE POSTAL INSPECTION SERVICE INVESTIGATED A TELEMARKETING SCHEME THAT INVOLVED SOLICITING CUSTOMERS THROUGH THE MAILS. ON DECEMBER 20, 1991, JOHN ARCHER SURRENDERED TO U.S. MARSHALS IN CLEVELAND OHIO. A WARRANT FOR JOHN ARCHER HAD PREVIOUSLY BEEN ISSUED ON NOVEMBER 22, 1991, BASED ON A COMPLAINT FILED CHARGING ARCHER WITH CONSPIRACY TO COMMIT FRAUD BY MAIL, WIRE FRAUD AND CAUSING THE UNAUTHORIZED USE OF ACCESS DEVICES (CREDIT CARDS) IN A SCHEME TO DEFRAUD CONSUMERS AND FEDERALLY INSURED FINANCIAL INSTITUTIONS. JOHN ARCHER OWNED AND OPERATED UNITED MARKETING GROUP, INC., INDEPENDENCE, OH. UNITED MARKETING GROUP, INC., WAS A FRAUDULENT TELEMARKETING ROOM THAT SOLICITED CUSTOMERS VIA THE U.S. MAILS AND BY TELEPHONE OFFERING FOUR PRIZES. CUSTOMERS WERE REQUIRED TO PURCHASE A "BAHAMA VACATION PACKAGE" FOR \$329.00 TO \$379.00 IN ORDER TO RECEIVE ONE OF THE FOUR PRIZES. VARIOUS MISREPRESENTATIONS WERE MADE TO CUSTOMERS CONCERNING THE VACATION PACKAGES.

JOHN ARCHER AND HIS CO-CONSPIRATORS OPERATING UNITED MARKETING GROUP, INC., NATIONAL CREDIT SERVICE AND AMERICAN FAMILY PROTECTION SERVICES WERE RESPONSIBLE FOR 17 MILLION DOLLARS IN SALES OF FRAUDULENT TRAVEL AND CREDIT CARD PROTECTION PACKAGES THAT GENERATED LOSSES TO 14 FINANCIAL INSTITUTIONS OF MORE THAN \$4 MILLION. THOUSANDS OF CONSUMERS WERE VICTIMIZED BY THIS SCHEME.

JOHN ARCHER WAS CONVICTED OF CONSPIRACY, BANK FRAUD, WIRE AND MAIL FRAUD, MONEY LAUNDERING, AND STRUCTURAL CURRENCY TRANSACTIONS IN CONNECTION WITH THE TELEMARKETING SCHEME. ARCHER WAS SENTENCED TO 30 MONTHS IMPRISONMENT, FOLLOWED BY 3 YEARS SUPERVISED PROBATION. ARCHER WAS ALSO FINED \$400.00.

BRIEF

CASE NO. 648-1025999-FG(1)

SUBJECTS: LARRY H. MASTERS
RICHARD GARZA

THE POSTAL INSPECTION SERVICE CONDUCTED AN INVESTIGATION CONCERNING FRAUDULENT MEDICARE CLAIMS. ON OCTOBER 13, 1989, A CRIMINAL INFORMATION WAS FILED IN THE SOUTHERN DISTRICT OF TEXAS, CHARGING ALTERNATIVE HEALTH CARE SERVICES, INC., SPRING, TX, ALONG WITH LARRY H. MASTERS AND RICHARD GARZA, WITH CONSPIRACY TO DEFRAUD THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES THROUGH THE SUBMISSION OF FRAUDULENT MEDICARE CLAIMS FOR PAYMENTS.

THE INVESTIGATION DETERMINED THAT APPROXIMATELY \$3.3 MILLION IN FRAUDULENT CLAIMS HAD BEEN FILED.

ON MARCH 2, 1990, LARRY H. MASTERS AND RICHARD GARZA WERE SENTENCED BY U. S. DISTRICT COURT JUDGE NORMAN BLACK. EACH OF THE DEFENDANTS WERE SENTENCED TO FIVE YEARS PROBATION AND EACH WAS JOINTLY AND SEPARATELY ORDERED TO PAY RESTITUTION OF \$826,000 AND FINES OF \$250,000.

BRIEF

CASE NO. 647-1083239-FG(1)

SUBJECT: STEVEN DAVID WYMER

ON DECEMBER 12, 1991, THE U.S. ATTORNEY'S OFFICE, LOS ANGELES, REQUESTED A POSTAL INSPECTION SERVICE INVESTIGATION AS A RESULT OF A SECURITIES AND EXCHANGE COMMISSION REFERRAL INVOLVING STEVEN DAVID WYMER, OWNER/OPERATOR, INSTITUTIONAL TREASURY MANAGEMENT, INC., FORMERLY J. A. DENMAN COMPANY, NEWPORT BEACH, CA. WYMER, WHO WAS MANAGING MONEY FOR CITIES, COUNTIES, INDIVIDUALS, AND OTHER COMPANIES THROUGHOUT THE COUNTRY, WAS DISCOVERED MAKING IRREGULAR AND/OR ILLEGAL TRADES IN ADVISORY CLIENTS' ACCOUNTS, WHICH HE PERSONALLY HANDLED, BY SECURITY AND EXCHANGE COMMISSION EXAMINERS. STEVEN D. WYMER WAS CAUGHT BY THE SECURITY AND EXCHANGE COMMISSION CONDUCTING NUMEROUS IRREGULAR AND/OR ILLEGAL TRADES IN AN APPARENT ATTEMPT TO COVER UP THE FACT THAT IN EXCESS OF \$65 MILLION OF ADVISORY CLIENTS' FUNDS WERE MISSING. ON DECEMBER 17, 1991, POSTAL INSPECTORS ARRESTED STEVEN DAVID WYMER ON A CRIMINAL COMPLAINT ISSUED BY U.S. MAGISTRATE VENETTA TASSOPULOS.

STEVEN DAVID WYMER DEFRAUDED APPROXIMATELY 17 OF HIS 61 MUNICIPAL/GOVERNMENT UNIT CLIENTS OUT OF APPROXIMATELY \$117 MILLION.

ON SEPTEMBER 29, 1992, DAVID WYMER PLED GUILTY TO A NINE-COUNT INFORMATION. ON MAY 11, 1993, WYMER WAS SENTENCED TO SERVE 14 YEARS, 2 MONTHS IN PRISON. HE WAS ALSO ORDERED TO PAY RESTITUTION OF \$92,732,000.

BRIEF

CASE NO. 592-1053008-FB(1)

SUBJECT: THOMAS J. BARDEL

THE POSTAL INSPECTION SERVICE RECEIVED COMPLAINTS THAT GENERAL DATA LIMITED, LARGO, FLORIDA, AND ITS OPERATOR, THOMAS J. BARDEL, ENGAGED IN A SCHEME TO OBTAIN MONEY THROUGH THE MAIL BASED ON FALSE REPRESENTATIONS. COURT PAPERS ALLEGED THAT GENERAL DATA LIMITED IS A TELEMARKETING OPERATION THAT VICTIMIZED BUSINESSES NATIONWIDE. TELEMARKETERS CALLED BUSINESSES TO OBTAIN AUTHORIZATION TO SHIP COMPUTER PRINTER RIBBONS USING DECEPTIVE TACTICS. SHORTLY FOLLOWING THE SHIPMENT OF THE RIBBONS, INVOICES WERE MAILED TO THESE BUSINESSES REQUESTING PAYMENTS BY RETURN MAIL IN AMOUNTS UP TO FIVE TIMES THE PREVAILING MARKET PRICES. THOMAS J. BARDEL HAD PREVIOUSLY ENTERED A GUILTY PLEA TO TWO COUNTS OF MAIL FRAUD ON MAY 26, 1993.

DURING THE 18 MONTHS THIS FIRM OPERATED (JUNE 1989 TO DECEMBER 1990), OVER 4,200 COMPANIES RECEIVED INVOICES FOR COMPUTER PRINTER RIBBONS WHICH THEY DID NOT KNOWINGLY ORDER AND WHICH HAD AN AGGREGATE FACE VALUE OF OVER \$2.9 MILLION. PAYMENTS WERE MADE BY DEFRAUDED COMPANIES TO GENERAL DATA LIMITED AND THOMAS J. BARDEL TOTALING IN EXCESS OF \$1.465 MILLION.

THOMAS J. BARDEL WAS SENTENCED IN UNITED STATES DISTRICT COURT, TAMPA, FLORIDA, ON OCTOBER 29, 1993. BARDEL RECEIVED A SENTENCE OF 37 MONTHS IMPRISONMENT FOLLOWED BY THREE YEARS PROBATION. ONE OF THE TERMS OF PROBATION WAS A BAR AGAINST INVOLVEMENT IN TELEMARKETING. UNITED STATES DISTRICT JUDGE STEVEN MERRDAY PRESIDED AT THE SENTENCING HEARING. ONE OF THE CONSIDERATIONS IN LEVYING THIS SENTENCE WAS THOMAS J. BARDEL'S OBSTRUCTION OF JUSTICE ACTIVITIES DURING THE INVESTIGATION WHICH CONSISTED OF ATTEMPTING TO INFLUENCE THE TESTIMONY OF WITNESSES AND CONCEALING EVIDENCE.

BRIEF

CASE NO. 600-1003095-FB(1)

SUBJECT: ROBERT BRUCE BURKE

THE POSTAL INSPECTION SERVICE ARRESTED ROBERT BRUCE BURKE ON MAY 7, 1990. A FEDERAL WARRANT WAS ISSUED CHARGING HIM WITH EIGHT ACTS OF OBSTRUCTION OF JUSTICE REGARDING A MAIL FRAUD INVESTIGATION CONDUCTED BY A FEDERAL GRAND JURY FOR THE EASTERN DISTRICT OF PENNSYLVANIA. SINCE 1984, PERSONAL INJURY ATTORNEY ROBERT B. BURKE WAS OPERATING AN EXTENSIVE INSURANCE FRAUD SCHEME BY STAGING AUTOMOBILE ACCIDENTS AND BY SUBMITTING FRAUDULENT MEDICAL CLAIMS THROUGH COOPERATING PHYSICIANS. THE CRIMINAL COMPLAINT CHARGED BURKE WITH ATTEMPTING TO PERSUADE INDIVIDUALS TO PROVIDE FALSE TESTIMONY TO THE FEDERAL GRAND JURY. ONE OF THE COUNTS ALLEGED, CONCERNED DONNA WILLARD. WILLARD WAS MURDERED ON MARCH 6, 1990, PRIOR TO HER SCHEDULED GRAND JURY APPEARANCE RELATING TO THE INSURANCE FRAUD INVESTIGATION. THE CRIMINAL COMPLAINT ALSO ALLEGED THAT BURKE MADE THREATS TO FORMER CLIENTS WHO HAD BEEN SUBPOENAED TO TESTIFY BEFORE THE GRAND JURY INVESTIGATING MAIL FRAUD. BURKE WAS ALSO CHARGED WITH NINE ADDITIONAL COUNTS OF MAIL FRAUD, FOUR ADDITIONAL COUNTS OF OBSTRUCTION OF JUSTICE AND EIGHT COUNTS OF MONEY LAUNDERING. ROBERT B. BURKE APPEARED IN U.S. DISTRICT COURT ON AUGUST 30, 1990 AND ENTERED INTO GUILTY PLEAS TO ALL BUT FIVE COUNTS OF A 106-COUNT FEDERAL INDICTMENT.

DURING THE PERIOD THAT ROBERT B. BURKE OPERATED THIS SCHEME, 53 INSURANCE COMPANIES WERE DEFRAUDED OF APPROXIMATELY \$1 MILLION.

ON AUGUST 26, 1993, U.S. DISTRICT COURT, PHILADELPHIA, PA, FORMER PHILADELPHIA ATTORNEY ROBERT B. BURKE WAS CONVICTED OF RACKETEERING, RICO FORFEITURE, ARSON, MURDER OF A FEDERAL WITNESS, CONSPIRACY TO MURDER FEDERAL WITNESSES AND USE OF INTERSTATE COMMERCE IN THE COMMISSION OF MURDER-FOR-HIRE. BURKE WAS CONVICTED IN AUGUST 1990, ON 97 COUNTS OF MAIL FRAUD, OBSTRUCTION OF JUSTICE, AND CONSPIRACY. HE WAS SENTENCED TO FIVE YEARS FOR THOSE CHARGES. THOMAS BURKE WAS ALSO SENTENCED TO THREE YEARS SUPERVISED PROBATION AFTER RELEASE FROM PRISON AND \$4,400.00 PENALTY ASSESSMENT. HE WAS FINED \$50,000.00, COURT ORDERED RESTITUTION OF \$262,846.00 AND VOLUNTARY RESTITUTION OF \$8,000.00.

VIDEO CLIPS OF NEWS ACCOUNTS OF VOLUME MAIL THEFTS

<u>VIDEO NUMBER</u>	<u>HEADER</u>	<u>LENGTH (MIN'S/SEC'S)</u>
1	12-30-93 HOUSTON, TX TIME LAPSE VIDEO OF VOLUME MAIL THEFT FROM APARTMENT HOUSE LETTER BOXES	14:15
2	02-92 PHOENIX, AZ ELEMENTS OF ORGANIZED SCHEME TO STEAL MAIL AS DESCRIBED BY NEWSCASTER	4:10
3	02-92 PHOENIX, AZ INTERVIEW OF MAIL THEFT VICTIM VICTIM	2:50
4	04-09-93 NATIONAL NEWS TOM BROKAW - AMERICA CLOSE UP VOLUME MAIL THEFTS INVOLVING CREDIT CARD FRAUD	3:25
5	04-02-93 LOS ANGELES, CA DAVID HOROWITZ - "FIGHT BACK" VOLUME MAIL THEFTS FROM POSTAL VEHICLES	3:10
6	10-05-93 LOS ANGELES, CA VOLUME MAIL THEFTS FROM POSTAL VEHICLES AND ROBBERY OF LETTER CARRIERS	1:35
7	04-26-93 DALLAS, TX VOLUME MAIL THEFTS INVOLVING TREASURY CHECKS	1:30
8	03-30-93 FRESNO, CA VOLUME MAIL THEFTS FROM POSTAL VEHICLES	1:30
9	06-28-93 PITTSBURGH, PA CREDIT CARD THEFT	:40
10	09-01-93 PHILADELPHIA, PA VOLUME THEFTS INVOLVING MULTI-AGENCY TASK FORCE	2:15

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AMENDMENT

SUPPORT

RATE

DISTRICTS

26	yes	93%	28
27	yes	68%	56
28 #1	yes	79%	58
#2	yes	89%	55
28 #3	yes	94%	54
29	yes	57%	54
30 #1	yes	93%	56
#2	no	36%	55
#3	no	44%	55
#4	yes	66%	56
31	yes	78%	55
32	no	13%	56
(A)	no	25%	55
33 (B) #1	yes	52%	50
#2	yes	60%	50
34 (A)	yes	70%	56
35		84%	50

11	yes		
23	yes		

AMENDMENT

SUPPORT

RATE

DISTRICTS

AMENDMENT	SUPPORT	RATE	DISTRICTS	
3	Fran	yes	54%	46
4(A)	Fran	yes	72%	60
4(B)	Fran	yes	87%	53
<u>5(A)</u>	Fran	yes	<u>98%</u>	49
5(B)	#1 "	no	46%	46
	#2 "	no	41%	49
	#3 "	no	39%	49
	#4 "	yes	52%	48
	#5 "	no	48%	40
8(A)	Jerry	no	43%	56
<u>8(B)</u>	#1 "	yes	<u>91%</u>	56
	#2 "	no	32%	31
	#3 "	no	49%	53
8(C)		yes	67%	55
8(D)		no	48%	64
<u>12(B)</u>		yes	<u>100%</u>	56
12(C)	#1	yes	75%	53
	#2	no	44%	32
13(C)	#1	yes	56%	50
	#2	no	37%	51
16		no	33%	54
<u>17(B)</u>	org. glues	yes	<u>100%</u>	51
17(Q)	#1	yes	79%	52
	#2	no	48%	39
18	#1	no	40%	48
	#2	yes	53%	49
20(B)		no	45%	55

DISTRICT QUESTIONNAIRE

AMENDMENT NO.
PAGE NO.

ISSUE

#3 (Pg.6)

The Commission requests comment on whether the offense levels for the public corruption guidelines and other guidelines concerning bribes and gratuities appropriately account for the seriousness of these offenses. These are 2C1.1; 2C1.2; 2C1.6; 2C1.7; 2B3.3; 2B4.1; and 2E5.1.

Do you think the Public Corruption guidelines should be changed?

Yes _____ No _____

If yes, should they be: higher _____ lower _____

#4(A), (Pg.6)

Under 2C1.1 (Offering, Giving, Soliciting, or Receiving a Bribe; Extortion Under Official Color of Right) and 2C1.2 (Offering, Giving, Soliciting, or Receiving a Gratuity) there is an adjustment for more than one bribe gratuity, etc. The Commission has found that the majority of cases involved more than one such incident.

There are two options listed on page 7 that may result in easier application. Option I retains the enhancement for more than one bribe and makes the commentary and guideline language for 2C1.1 and 2C1.2 more consistent.

Do you support Option I? Yes _____ No _____

Option II eliminates the two-level enhancement for more than one bribe.

Do you support Option II? Yes _____ No _____

Comment:

#4(B), (Pg.8)

Should the discussion of the adjustments for multiple payments in the commentary to 2C1.1 and 2C1.2 be amended to facilitate more consistent application of these adjustments?

Yes _____ No _____

Comment:

#5(A), (Pg.8)

This amendment makes adjustments for value of payment and high level official cumulative under 2C1.1; 2C1.2; 2C1.7. Currently, they are alternative. This amendment would increase offense levels where you have both high value of payment or benefit and high level officials involved.

Do you support this amendment? Yes _____ No _____

Comment:

#5(B), (Pg.10)

The Commission has reason to believe that there may be some confusion as to the application of high level official in 2C1.1; 2C1.2; and 2C1.7.

Which of any of the following would result in easier and fairer application? Should the adjustment for high level official in 2C1.2 be reduced by 2 to 6 levels to limit the frequency by which the adjustment results in sentences at the statutory maximum?

Yes _____ No _____

Should the adjustment for high level official in 2C1.1; 2C1.2; and 2C1.7 be modified to provide different adjustments (2 - 12 levels) to account for the differences in level of authority, responsibility, salary, etc?

Yes _____ No _____

Should the adjustment be reduced to moderate its impact which is relatively large compared to other guideline adjustments?

Yes _____ No _____

Should the high level official adjustment in 2C1.1; 2C1.2; and 2C1.7 remain as is and an additional adjustment be created, increasing the adjustment to 12 levels for elected or very high level officials (a legislator, department or agency head, judge, etc.)?

Yes _____

No _____

Instead of modifying the current adjustment for high level officials, should the commentary be amended to authorized departure in certain cases either up or down for very low or high level officials?

Yes _____

No _____

Comment:

#8(A), (Pg.13)

Should the drug quantity table be adjusted to reflect mandatory minimums at lower levels, 30 and 24, instead of 32 and 26, with an upper level limit of 38? This would leave the higher levels above 38 for those who possess weapons and have aggravating roles.

I agree with this amendment. Yes _____

No _____

#8(B), (Pg.21)

This amendment proposes two options for the drug guideline, 2D1.1. Option I provides enhancements for discharge of firearm and serious bodily injury. Option II creates a cross reference to attempted murder and aggravated assault.

I agree with Option I. Yes _____

No _____

I agree with Option II. Yes _____

No _____

Should the weapon enhancement be amended to differentiate the dangerousness of certain weapons (e.g., assault weapons, machine guns, and sawed off shotguns) and the number of weapons involved?

Yes _____

No _____

Comment:

#8(C), (Pg.22)

Is your district in favor of placing a ceiling on the offense level for mitigating role defendants in 2D1.1, the drug guideline? Levels 32 and 30 are suggested.

Yes _____ No _____

Comment:

#8(D), (Pg.23)

Should the drug quantity range be broadened to de-emphasize the impact of drug quantity and instead increase the emphasis on weapons or violence?

Yes _____ No _____

Comment:

#12(B), (Pg.36)

This amendment raises the base offense level in 2B1.1, (Larceny, Embezzlement, etc.) from level 4 to level 6, the same as 2F1.1 (Fraud and Deceit) and conform the loss table in 2B1.1 to that in 2F1.1. This would allow defendants who stole a check of \$1,000 or less to have the same base offense level as defendants who forged the check.

I support this amendment. Yes _____ No _____

#12(C), (Pg.38)

This amendment revises the loss tables at 2B1.1 (Larceny, Embezzlement, etc.); 2F1.1 (Fraud and Deceit); and 2T4.1 (Tax Table) to provide for a more uniform slope from small to large offenses (Option I) or revised to provide for two-level increases with a more uniform slope from small to large offenses (Option II).

I agree with Option I. Yes _____ No _____

I agree with Option II. Yes _____ No _____

Comment:

#13(C), (Pg.45)

This amendment makes 4B1.1 (Career Offender) more of a true recidivist provision by providing that the offense that resulted in the two qualifying prior convictions must be separated by an intervening arrest for one of the offenses.

Option I provides that an intervening arrest must separate the two prior convictions.

I agree with this amendment. Yes _____ No _____

Option II provides that an intervening arrest must have taken place and that any prior conviction for carrying or possessing a weapon during a drug trafficking offense is to be counted separately from the underlying drug offense.

I agree with this amendment. Yes _____ No _____

Comment:

#16, (Pg.62)

Should the Commission amend guidelines, policy statements or recommend statutory changes to provide greater sentencing flexibility or authorization for modification of a previously imposed sentence of imprisonment in the case of older and infirm defendants who do not pose a risk to public safety?

Yes _____ No _____

Comment:

#17(B), (Pg.63)

Amends organizational guidelines by making conforming changes to the interaction of Chapter 2 and Chapter 8. Also modifies 2R1.1 (Bid-Rigging, Price-Fixing, etc.) by moving the test for determining an organization's volume of commerce in a bid-rigging case in which the organization submitted one or more complementary bids to subsection (b), where it logically fits; extending to individual defendants the same standard for determining the volume of commerce in a bid-rigging case involving complementary bids as is now used for organization defendants; deleting language from the original guidelines manual that has been made obsolete by the provisions of 1B1.3(a)(2) and can now be misread to inappropriately narrow the scope of relevant conduct; revising the last

paragraph of subsection (b)(2) to address a bid-rigging conspiracy in which the defendant agrees not to bid rather than affirmatively submitting a complementary bid; and deleting Application Note 6, as no longer necessary because a complementary bid now would be included directly in determining the offense level. Also, this amendment revises the language in 8C2.5 (Culpability Score) to conform to changes in language of 3E1.1 (Acceptance of Responsibility) made in 1992 (Amendment 459).

I agree with the amendment. Yes _____ No _____

Comment:

#17(Q), (Pg.79)

Provides application instructions for revocation guidelines when a probationer or supervised releasee gives a false statement to a probation officer. Also simplifies commentary of 7B1.1.

Option I treats false statements to probation officers made during supervision as Grade C violations.

Do you support Option I? Yes _____ No _____

Option II treats false statements to probation officers as Grade B (Felony) violations.

Do you support Option II? Yes _____ No _____

Comment:

#18, (Pg.80)

Should conduct of which the defendant has been acquitted after trial be used in determining the guideline range or should it be used only as a basis for departure if found to be factual by a preponderance of evidence?

Should be used in determining the guideline range. Yes _____ No _____

Should be used only for departure purposes. Yes _____ No _____

#20(B), (Pg.82)

Should a loss under 2B1.1 be conformed to 2F1.1 by stating that loss should be reduced to reflect the amount the victim has recovered prior to discovery of the offense or the amount which the victim expects to recover from any assets originally pledged by the defendant?

I support this amendment. Yes _____ No _____

Comment:

#26, (Pg.88)

Provides for a base level of 12 in 2H2.1 (Obstructing an Election or Registration) in all cases where the defendant corrupts the registration or votes of others while the alternative base level of 6 applies where the defendant corrupts only his or her own registration or ballot.

I support this amendment. Yes _____ No _____

Comment:

#27, (Pg.89)

Provides for an enhancement under 2K2.1 (Unlawful Receipt, Possession, or Transportation of Firearms or Ammunition, etc.) and 2K2.5 (Possession of Firearm or Dangerous Weapon in Federal Facility, etc.) of 4 levels if the defendant committed the offense in association with a criminal gang. Defines gang.

I support this amendment. Yes _____ No _____

Comment:

#28, (Pg.90)

Issue for comment. Should 2K2.5 (Possession of Firearm or Dangerous Weapon in Federal Facility, etc.) be amended to include enhancements if the firearm was discharged or loaded or if the defendant possessed both a firearm and ammunition in a school zone?

Yes _____ No _____

Comment:

Should enhancement currently found in 2K2.1 (Unlawful Receipt, Possession, or Transportation of Firearms or Ammunition, etc.) be included in 2K2.5 (e.g. an enhancement for possessing multiple weapons in a school zone)?

Yes _____

No _____

Comment:

Should 2K2.1 (Unlawful Receipt, Possession, or Transportation of Firearms or Ammunition, etc.) be amended to increase the base offense level from 12 to 14 for persons who sell firearms with knowledge or reason to believe that the recipient is a felon or other prohibited person or an underage person?

Yes _____

No _____

Comment:

#29, (Pg.90)

Should an enhancement in Chapter 3 (Adjustments) be applicable to members of criminal organizations who expressly agree or require others to agree to commit a crime of violence as a formal condition of membership in that organization (such act of violence may be required to be committed prior to approval of membership in the organization or the promise of such act in the future may be required)?

Yes _____

No _____

Comment:

If yes, how many levels should be given to such an enhancement?

Do you think that this circumstance is likely to arise often enough to warrant a new Chapter 3 adjustment or whether it instead should be addressed as an upward departure consideration in Chapter 5?

Warrants new adjustment _____

Should be upward departure consideration _____

#30, (Pg.90)

Should all prior sentences of imprisonment of more than one year and one month continue to receive 3 criminal history points or should distinctions be made for longer periods of imprisonment for specific types of offenses?

3 point conviction should be counted as they have been _____
Distinction should be made for longer sentences _____

Should distinctions be made where the prior offense and instant offense are similar?

Yes _____ No _____

Should a separate criminal history category be created for defendants with a clean record (no arrests or convictions)?

Yes _____ No _____

Should an additional criminal history category be created for defendants with substantially more than 13 criminal history points?

Yes _____ No _____

Comment:

#31, (Pg.90)

If a defendant is serving a sentence of imprisonment and the guideline range applicable to the defendant has subsequently been lowered as result of an amendment to the guidelines expressly listed in 1B1.10(d), the court may consider a reduction in the defendant's term of imprisonment. In determining whether a reduction is warranted and the extent of any reduction, the court is directed to consider the amended guideline range. Under 1B1.10(b), the amended guideline range is determined by applying the revised guidelines manual in its entirety, thereby making all other amendments retroactive as well. The Commission invites comment on whether 1B1.10(b) should be retained as written or whether it should be modified so that the amended guideline range is determined by using only those amendments that have been expressly designated for retroactive application; such amendments would be applied in conjunction with the guidelines manual used at the defendant's original sentencing.

1B1.10(b) should be retained as written. Yes _____ No _____
1B1.10(b) should be modified as stated. Yes _____ No _____

Comment:

#32, (Pg.90)

Should an additional guideline in Chapter 3, Part E (Acceptance of Responsibility) be promulgated to provide an additional 1 level decrease for a defendant who goes to trial but avoids actions that unreasonably delay or burden the proceedings or place an undue burden on the Government?

Yes _____

No _____

Comment:

#33(A), (Pg.90)

Should the 100 to 1 ratio of punishment of crack cocaine to powder continue to be used for guideline purposes or should another ratio such as 1 to 1, 2 to 1, 5 to 1, or 10 to 1 better reflect the relative seriousness of these offenses for guideline purposes? Please check the one that you most agree with.

Leave 100 to 1 ratio as is. _____

The following ratio would better reflect the seriousness of crack cocaine offenses. _____

#33(B), (Pg.91)

Currently 1 kilogram per marijuana plant for 50 or more plants is the punishment ratio in the drug table. For fewer than 50 plants, a ratio of 100 grams of marijuana per plant is used. Should these ratios be maintained or should an equivalency of 100 grams of marijuana per plant be adopted for guideline purposes in all cases?

I agree with the current punishment ratio for marijuana.

Yes _____

No _____

I would support a ratio of 100 grams per marijuana plant in all cases.

Yes _____

No _____

I would suggest an alternative punishment ratio as follows:

Comment:

#34(A), (Pg.92)

Should a new adjustment in Chapter 3, Part A, to address the harm caused when there is more than one victim, be added? This would be done by creating a table showing a 2 to 8 level enhancement for the number of victims with an addition of 8 levels if there are 650 or more victims involved.

I agree with the proposed amendment. Yes _____ No _____

Comment:

I have a better idea as follows:

Comment:

#35, (Pg.92)

This amendment provides a minimum offense level of 14 for an organized scheme to steal mail.

I agree with this amendment. Yes _____ No _____

Comment:

During the 1993 amendment cycle, probation officers as a rule supported consolidation of guidelines and clarification amendments that made guideline application easier. These amendments are generally in the form of changes to application notes and frequently definitions and examples are added. The following proposed amendments for 1994 fall into this category. Please review them and note any that you disagree with.

<u>AMENDMENT #</u>	<u>PAGE #</u>	<u>PROPOSED AMENDMENT</u>
1	1	Theft, Property Damage, Fraud (Chapter 2, Parts B & F) - adds an application note to address harms in computer related cases that may not be adequately addressed by the loss table.
2(A)	2	Public Corruption (Chapter 2, Part C) - consolidates 2C1.3 and 2C1.4.
2(B)	4	Consolidates 2C1.2 and 2C1.6. Removes an inconsistency between the two guidelines and adds an application note to clarify the treatment of a gratuity in the form of a loan.
2(C)	5	Comment is invited on whether 2C1.1 (Offering, Giving, Soliciting, or Receiving a Bribe, Extortion Under A Color of Official Right) and 2C1.2 (Offering, Giving, Soliciting, or Receiving a Gratuity) should be consolidated. Comment is also invited on whether such a consolidation should also include 2C1.7 (Fraud Involving Deprivation of the Intangible Right to the Honest Services of Public Officials, etc.).
6(A)	11	Clarifies that the term "payment" in 2C1.1 and 2C1.7 refers to anything of value and need not be monetary. Also clarifies other definitions and terms.
6(B)	12	Comment invited on whether Application Note 2 and 2C1.1, defining "benefit received" should be clarified to address varying approaches among the circuits as to the extent in which the defendant is to be held accountable for relevant conduct of others.
6(C)	11	Adds an application note to 2C1.1 and 2C1.7 authorizing an upward departure where the offense involves ongoing harm or a risk or ongoing harm to a government entity or program.
9	23	Clarifies the definition of "participant" and clarifies the interaction between 3B1.1 and 3B1.2.

- 10 25 Revises the introductory commentary of Chapter 3, Part B (Role in the Offense); Section 3B1.2 (Mitigating Role); and the commentary to 3B1.2 to provide clear definitions of the defendants who merit a mitigating role reduction.
- 12(A) 32 Revises that the specific offense characteristic "more than minimal planning" to distinguish better those defendants whose culpability warrants an enhancement for this factor.
- 13(A) 44 Adds additional background commentary explaining the Commission's rationale and authority for 4B1.1 (Career Offender). Also responds to a recent court decision.
- 13(B) 44 Revises 4B1.1 (Career Offender) by defining the term "offense statutory maximum".
- 13(D) 46 Clarifies the operation of 4B1.2 (Definitions of Terms Used in Section 4B1.1) and addresses an inter-circuit conflict.
- 13(E) 46 Revises 4B1.2 (Definitions of Terms Used in Section 4B1.1) to narrow the portion of the definition of crimes of violence that "otherwise involved conduct that presents a serious risk of physical injury" to offenses that are in some respect similar to the offenses expressly listed. Clarifies the definition of "crime of violence" with respect to burglary and deletes surplus language; narrows the definition of "otherwise involved conduct that presents a serious risk of physical injury".
- 14 49 Departures (Chapter 5, Parts H & K). Clarifies the consideration of a departure for offender characteristics or circumstances not ordinarily relevant for departures.
- 15 50 Consolidates 2A2.3 and 2A2.4; 2B1.1 and 2B1.3; 2D1.1 and 2D2.2; 2A1.5 and 2E1.4; 2G1.1 and 2G1.2; 2F1.1 and 2N3.1; 2T1.1 and 2T2.2; deletes 3B1.4 and revises the introductory commentary to Chapter 3, Part B.
- 17(A) 62 Clarifies the operation of 1B1.3 (Relevant Conduct) in respect to the liability of a defendant for actions of conspirators prior to the defendant's joining the conspiracy. Addresses a split among the circuits.

- 17(C) 66 Clarifies the operation of 2B5.1 (Offenses Involving Counterfeit Bearer Obligations of the United States) in two respects to address issues raised in litigation.
- 17(D) 67 Adds definitions of hashish and hashish oil to subsection (c) of the drug guideline. Specifies that marijuana should be in usable form, not wet, in applying the weight of the drug to the drug table.
- 17(E) 67 Clarifies that 3B1.1 (Aggravating Role) is to be applied independently of 2D1.2 (Drug Offense Occurring Near Protected Locations or Involving Underage or Pregnant Individuals).
- 17(F) 68 Clarifies the operation of 2D1.6 (Use of Communication Facility in Committing Drug Offense; Attempt or Conspiracy), 2E1.1; 2E1.2; 2E1.3; (Racketeering Guidelines) and 2E1.4 (Use of Interstate Commerce Facilities in the Commission of Murder-For-Hire) in a manner consistent with the operation of 1B1.2 (Applicable Guidelines) governing the selection of the offense guideline section. Deletes unnecessary application note.
- 17(G) 70 Revises Application Note 13 in the Commentary to 2F1.1 (Fraud and Deceit, etc.). Instructs one to apply more specific guidelines when appropriate.
- 17(H) 71 Clarifies the interaction of subsection (c)(1) of 2J1.2 (Obstruction of Justice and subsection (c)(1) of 2J1.3 (Perjury, etc.) with 2X3.1 (Accessory After the Fact). Also clarifies application of 2X3.1 (Accessory After the Fact) when these guidelines are used as a cross-reference.
- 17(I) 72 Clarifying amendment which resolves inter-circuit conflict where a defendant possessed a firearm in connection with a RICO drug operation. The amendment also adds definition of 26 USC 5845 firearms for ease of application.
- 17(J) 73 Revises commentary to 2K2.4 (Use of Firearm, Armor-Piercing Ammunition, or Explosive During or in Relation to Certain Crimes) by expanding the list of examples to which Application Note 2 applies to facilitate application of this provision. Further clarification is provided as the result of recent court decisions.
- 17(K) 74 Corrects a technical error in 2L2.1 (Trafficking in a Document Relating to Naturalization, Citizenship, or Legal Resident Status, etc.) prior to trafficking thereto.

- 17(L) 75 Clarifies operation of Chapter 3, Part D (Multiple Counts) and 5G1.2 (Sentencing on Multiple Counts of Conviction) in respect to statutes that require consecutive sentences of imprisonment.
- 17(M) 76 Makes the listing of offense guidelines in section (d) of 3D1.2 (Groups of Closely Related Counts) more comprehensive. Expressly listing these additional sections will simplify the application of this guideline.
- 17(N) 77 Clarifies that Application Note 7 in the commentary to 4A1.2 (Definitions and Instructions for Computing Criminal History) does not impose an additional limitation on the counting of sentences committed prior to age 18. Will result in reduced litigation.
- 17(O) 77 Adds an additional paragraph to the commentary to 5G1.1 (Sentencing on a Single Court of Conviction) to clarify that where the guideline sentence is determined by the statutory authorized maximum sentence under 5G1.1(a) or the statutory minimum sentence under 5G1.1(b), the guideline range from Chapter 5, Part A remains the applicable guideline range for other purposes such as determining eligibility for retroactive application of an amended guideline range under 1B1.10, determining whether alternatives to imprisonment are authorized under 5B1.1 or 5C1.1 or determining the appropriateness of a departure from the guideline range under 4A1.3.
- 17(P) 78 Adds a policy statement to Chapter 5, Part K (Departures) providing expressly that a downward departure may be warranted where the defendant may complete or substantially complete restitution prior to the discovery of the offense or the defendant's participation in the offense, except in cases of a crime of violence.
- 20(A) 81 Revises commentary regarding loss in 2F1.1 to conform to 2B1.1.
- 20(C) 82 Comment invited as to whether interest should never be counted as loss in offenses involving property, Chapter 2, Part B (Offenses Involving Property) and Part F (Offenses Involving Fraud and Deceit).
- 21 82 Clarifies the intended coverage of 2X1.1 (Attempt, Solicitation, or Conspiracy). Simplifies the currently complex structure of this guideline by merging subsections (b)(1), (2), (3).
- 22 84 5K2.13 (Diminished Capacity) resolves an inter-circuit conflict concerning the meaning "non-violent offense".
- 24 86 2D1.1 (Drug Trafficking), clarifies definition of "negotiated amount".

25 87 2P1.1 (Escape), conforms definition of "non-secure custody" in subsection (b)(3) to that used in (b)(2).

Please comment as necessary on the above amendment proposals in the space provided below.

Amendment #11, Page 28, pertaining to money laundering (2S1.1, 2S1.2) received widespread support from the probation officers during last year's amendment cycle. It did not pass and is being reintroduced again this year.

Also, Amendment #23, Page 85, Multiple Sentences (5G1.3) which allows the court to impose a concurrent or consecutive sentence in cases involving an undischarged term of imprisonment is being sponsored by the Probation Officers Advisory Group this year.

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**PROBATION OFFICERS ADVISORY GROUP
to the United States Sentencing Commission**

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- Barbara Roembke, 7th Circuit
- Jay Meyer, 8th Circuit
- Nancy I. Reims, 9th Circuit
- Joshua M. Wyne, 9th Circuit
- Robert W. Jacobs, 10th Circuit
- James B. Bishop, 11th Circuit
- Robert C. Hughes, Jr., 11th Circuit
- Gennine Hagar, DC Circuit
- Magdeline E. Jensen, Probation Div. Ex officio
- John S. Koonce, III, FPOA Rep. Ex officio

March 15, 1994

The Honorable William W. Wilkins, Jr.
Chairman
United States Sentencing Commission
Federal Judiciary Building
One Columbus Circle, NE
Suite 2-500, South Lobby
Washington, DC 20002-8002

RE: 1994 Amendment Proposals

Dear Chairman Wilkins:

This letter is for the purpose of documenting recommendations of the United States Probation Officers Advisory Group pertaining to the 1994 proposed amendments.

As you know, we are most concerned about the issue of sentencing concurrently and consecutively where a defendant is already serving an undischarged term of imprisonment in a case unrelated to the federal case at hand (5G1.3(c)). We feel that the changes proposed in Amendment #23 would be better than what we have now. However, after testifying before the Commission and discussing the matter further, we suggest that even a better approach would be to eliminate all reference to the grouping rules at Application Note 3 of 5G1.3(c). This would avoid all confusion as to the application of the multi-count rule to state offenses and the issue of 5G1.3(c) would be permanently settled. The argument that one may advance against such a proposal would be that judges, given the option of sentencing concurrently or consecutively, would not proceed similarly, creating unwarranted disparity. That argument would have some reliable basis if sentences currently being imposed as a result of the application of 5G1.3(c) were

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not disparate anyhow. Given the confusion of applying 5G1.3(c), we currently have many districts incorrectly applying this guideline, while at the same time relying on state sentences that in most cases have little relation to the actual time served. Our recommendations to the judges, where this issue is involved, are generally not based upon reliable information. I would be surprised if giving judges total discretion within the provisions of 18 USC 3553 and 3584(a) would result in an increased and unwarranted disparity. Further, if this guideline was changed as we propose, the hours saved in probation officer, defense attorney and judges time would be immeasurable. Therefore, the Probation Officers Advisory Group recommends the following in place of the current guideline.

5G1.3 Imposition of a Sentence on a Defendant Subject to an Undischarged Term of Imprisonment

- (c) in any other case, the sentence for the instant offense may run concurrently or consecutively to the prior undischarged term of imprisonment, except to the extent otherwise required by law.

* * * *

Commentary

Application Notes:

* * * *

3. Where the defendant is subject to an undischarged term of imprisonment in circumstances other than those set forth in subsection (a) or (b), subsection (c) applies. In imposing sentences under this section, the factors listed in 18 USC 3553(a) should be considered along with the statutory authority of the imposition of concurrent and consecutive terms under 18 USC 3584(a).

Using the district response survey, a copy of which was provided to each Commissioner prior to our testimony on February 24, 1994, the Probation Officers Advisory Group identified seven (7) proposed amendments and/or issues that received almost unanimous support (90% or better) for this year's amendment cycle. They are listed as follows and are identified as they appear in the document, Proposed Guideline Amendments for Public Comment published by the Commission.

<u>AMENDMENT</u>	<u>PAGE</u>	<u>ISSUE</u>
5A	8	This amendment makes adjustments for value of payment and high level official cumulative under 2C1.1; 2C1.2; and 2C1.7. Currently they are alternative. This amendment would increase offense levels where both high value of payment or benefit and high level officials are involved. Ninety-six percent (96%) of the districts that responded to our survey favored the passage of this amendment.
8B	21	Option I of this amendment provides an enhancement for discharge of firearm and serious bodily injury under the drug trafficking guideline, 2D1.1. Ninety-one percent (91%) of the districts that responded chose this option over Option 2, which creates a cross-reference to attempted murder and aggravated assault. The question came up at the Commission meeting as to whether the probation officers wanted either option. Our survey does not address that question. However, during last year's amendment cycle, probation officers were not enthusiastic about adding additional specific offense characteristics and in fact, changes in this area of the drug guidelines were not proposed by the probation officers. Therefore, if the Commission is inclined to place less emphasis on weight of drugs in guideline calculations, probation officers support by a wide margin the addition of specific offense characteristics involving weapon use and bodily injury.
11	28	This amendment revises the money laundering guideline. During last year's amendment cycle, the probation officers by greater than a two-thirds (2/3) majority recommended changes to the money laundering guideline. The money laundering guideline as currently written is rigid and as a result may be used as a tool for manipulation by prosecutors. If the guideline had more basis in the underlying offense as proposed Amendment #11 provides, the ultimate sentence would be more reflective of the defendant's actual criminal conduct and you still have a

monetary table for which a sentence can be based for the professional money launderers.

- 12B 36 This amendment raises the base offense level in 2B1.1 from level 4 to level 6, the same as 2F1.1 and it conforms the loss table in 2B1.1 to that in 2F1.1. All of the districts that responded to our survey support this change. The amendment essentially makes theft and fraud the same and results in the same sentence for low guideline exposure defendants charged under either 2B1.1 or 2F1.1.
- 26 88 This amendment provides for a base level of 12 in 2H2.1 in all cases where the defendant corrupts the registration or votes of others while the alternative base level of 6 applies where the defendant corrupts only his or her own registration or ballot. Ninety-six percent (96%) of the districts responding to our survey support this amendment.
- 28 90 This is an issue for comment as to whether 2K2.5 be amended to include enhancements if the firearm was discharged or loaded or if the defendant possessed both a firearm and ammunition in a school zone. Ninety-four percent (94%) of the districts were in favor of increasing the base offense level from 12 to 14 for persons who sell firearms with knowledge or reason to believe the recipient is a felon or other prohibited person or an underage person. Although responses from the field did not include extensive written comments, it seems reasonable to conclude that this amendment was favored because it equalizes the base offense level of the person who sells to a prohibited individual with a base offense level now assigned to the prohibited person who possesses, receives, or transports the firearm.
- 30 90 This is an issue for comment pertaining to changing 4A1.1 (Criminal History Category) and Chapter 5, Part A (Sentencing Table). Comment was invited as to whether or not 3-point convictions should be counted as they have been or should distinctions be made for longer sentences. The question is also raised as to whether a distinction should be

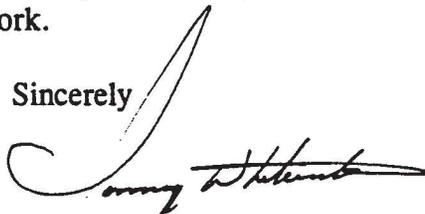
made where the prior offense and instant offense are similar. Further inquiry was made as to whether or not new criminal history categories should be created on both the low end (no record) and on the high end where defendants have significantly more criminal history points than 13. Of all the options listed, the probation officers favored only one, and that was to leave the counting of 3-point convictions as is. This received favor from ninety-three percent (93%) of the districts that responded to our survey.

Although we did not poll the probation officers on their feelings about consolidation and clarifying amendments, it is our position based upon last year's work that probation officers generally support any amendments that clarify, define and/or consolidate guidelines. Changes to the commentary that make application of guidelines clearer pay many dividends. Not only do they provide for more consistent application across the board thereby narrowing the possibility for disparate sentences, they cut down on the hours that we spend debating the intent of the guideline.

Also, as an addition to this letter I am attaching a separate letter addressed to you from Robert Hughes, Deputy Chief Probation Officer, Middle District of Georgia and member of the Advisory Group, which best advances our position on the retroactivity amendments. Robert testified as to this issue before the Commission on February 24 and his letter best reflects the feelings of the probation officers on the retroactivity issue.

Again, let me on behalf of the Probation Officers Advisory Group take this opportunity to thank the Commissioners for the attention that they have given to our concerns about changes in the guidelines. The probation officers are enthusiastic about providing input because they know that the Commission is genuinely interested in their work.

Sincerely



Thomas N. Whiteside
Chairman
Probation Officers Advisory Group

TNW/jsd
Enclosures

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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
PROBATION OFFICE

THOMAS J. WEADOCK, JR.
CHIEF PROBATION OFFICER

945 POST OFFICE & COURTHOUSE
BOSTON 02109-4561

March 17, 1994

Judge William W. Wilkins, Jr.
Chairman, U.S. Sentencing Commission
One Columbus Circle, NE
Suite 2-500, South Lobby
Washington, DC 20002-8002

Dear Chairman Wilkins,

It was again a great pleasure to present the Commission with Probation Officers' views on the guidelines and proposed amendments and we continue to be very grateful for the opportunity to do so. As always, we on the Advisory Group feel an enormous responsibility in representing the field, especially so because the Commission is so positively disposed to our input.

While I am aware that you have already received a written report on the Advisory Group's recommendations regarding proposed amendments, there is one additional comment which the Group discussed and I made comment on at the Hearing. Tommy Whiteside, Chairman of the Advisory Group suggested I send this letter as a supplement to his general report. The comment regards clarification amendments and one in particular:

Amend. 17 (Pg 62) Miscellaneous Substantive, Clarifying and Conforming Amendments

Clarification amendments are always worth passing because they result in no litigation, but may forestall any misunderstanding that might have occurred and also clear up any that have already occurred. The Commission staff is applauded for fine tuning the language of the guidelines to better communicate Commission intent and provide a clearer, efficient, more uniform application process. As in the past, the Probation Officers Advisory Group encourages the adoption of all clarifying amendments.

In particular, **Amend 17F** on Page 68 referencing §§ 2D1.6 (Use of Communication Facility in Committing Drug Offense; Attempt

or Conspiracy), 2E1.1 (RICO), 2E1.2 (Travel in Aid of Racketeering), 2E1.3 (Violent Crimes in aid of Racketeering), and 2E1.4 (Use of Interstate Facilities in Murder for Hire) clarifies what is meant by "underlying offense" by making reference to § 1B1.2 application note 5. Whereas most other guidelines that refer to "underlying offense" make it clear that the "underlying offense" must be charged or be the offense of conviction (e.g. § 2X3.1 Accessory After the Fact Application Note 1. "Underlying Offense" means the offense as to which the defendant is convicted of being an accessory), the above referenced guidelines have left open a measure of ambiguity which could give rise to misinterpreting the Commission's intent.

This amendment would serve a vital need by making clear that offense guideline is selected on the basis of offense of conviction under §1B1.2 . Because it is a complicated issue, it is believed that the amendment could be made even stronger by inserting a parenthetical at end of the first sentence of application note 1. of §§ 2E1.1, 2E1.2, 2E1.3 and 2E1.4 that expressly reference that this determination is made on the basis of the conduct for which the defendant was convicted. Discussion with commission staff indicate that they concur with this suggestion.

Thank you for considering this supplement along with the other recommendations made by the Advisory Group.

With my very warmest regards, I remain

Very Truly Yours,



Francesca D. Bowman
Deputy Chief USPO

cc: Tommy Whiteside, Chairman
Probation Officers Advisory Group

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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
PROBATION OFFICE

March 3, 1994

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REPLY TO MACON

Judge William W. Wilkins, Jr., Chairman
United States Sentencing Commission
One Columbus Circle, N.E.
Suite 2-500, South Lobby
Washington, D.C. 20002-8002

Dear Judge Wilkins:

I write to summarize the Probation Officer Advisory Group's response to Amendments 19 and 31 as published in the United States Sentencing Commission December 1993, Proposed Guideline Amendments for Public Comment. As you will recall, we discussed our responses with the Commission during the public hearing on February 24, 1994.

Amendment 19 makes a number of minor revisions to clarify the operation of §1B1.10 (Retroactivity of Amended Guideline Range). This particular amendment was not included in the Probation Officer Advisory Group Survey, however, the amendment was discussed at length by the Advisory Group during our working session. It is noted that the amendment does, in fact, make several minor revisions which do clarify the operation of this policy statement. For example, it will eliminate any question about the policy statements applicability when it states that if an amendment is not listed in §(d), a sentence reduction is not authorized versus not consistent with this policy statement. It also makes it very clear that the court is to apply the Guideline Manual currently in effect to determine the amended sentence.

It appears, however, that the amendment broadens the court's discretion as to the amount of sentence reduction. The amendment deletes current §1B1.0(c) which is, in essence, a "cap" on the amount of time the court can reduce a defendant's sentence. In addition, this broader discretion is of some concern as we feel it may serve to increase disparity throughout the system. Certainly, there was some rationale for the original "cap" inclusion in the guidelines and to remove this boundary raises a question. Also, we

are not convinced that there presently exist a problem to the degree that significant change to the policy statement is warranted.

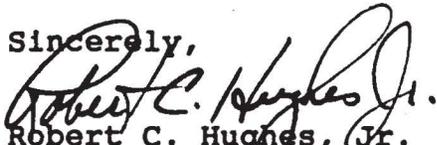
Amendment No. 31 was included in the Probation Officer Advisory Group Survey. We received fifty-five (55) responses to this amendment, 78% of which stated that the guideline should remain as written. We examined and discussed this amendment in our working group and concluded that the amendment does, in fact, offer some positive change. As we analyzed the written comments in our survey, we theorized that responding U. S. Probation Officers were, in fact, asking the Commission for stability and consistency in the area of guidelines and policy statement modification. Again, it does not appear that Probation Officers perceive a problem significant enough to warrant formal change in this area.

As mentioned, the working group had somewhat of a different view. One of the issues in this change concerns the "whole book concept" versus the "retroactive amendment concept". In essence, when the court modifies a sentence under this policy statement, the court presently applies the entire set of guidelines. Under the proposed amendment, the court would apply only the retroactive amendment within the set of guidelines under which the defendant was originally sentenced. The argument here is that the current method, "the whole book method", makes every guideline in the new guideline set retroactive "en masse" generating complications and disparity.

There have been some problems in resentencing LSD cases. For example, a defendant in an LSD case being resentenced may receive consideration for a possible application of the third level of "acceptance" effective November 1992, in the current guidelines even though other codefendants are denied retroactive consideration. Also, new factual issues can arise whenever it is necessary to determine new guidelines. This may serve to complicate the resentencing process. It may require an evidentiary hearing to determine the new facts to determine the guidelines which did not exist or were different at the time of sentence.

In summary, although we recognize there are some problems with the application of §1B1.10, we are of the opinion that these problems do not warrant significant change to the policy statement at this time.

Sincerely,


Robert C. Hughes, Jr.

Deputy Chief U. S. Probation Officer

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The Honorable William W. Wilkins, Jr.
Chairman, United States Sentencing Commission
1 Columbus, N.E.
Suite 2500, South Lobby
Washington, D.C. 2002-8002

Dear Judge Wilkins:

Pursuant to our recent conversation concerning the 1994 proposed amendments to the Sentencing Guidelines, specifically proposed Amendment 12(C), the following information concerning the Internal Revenue Service's position thereto is provided for your consideration. As a result of our conversation, it is my understanding that you concur with our opposition to Amendment 12(C) and, accordingly, feel it will be unnecessary for the Service to provide oral testimony at the Commission's scheduled hearing. Therefore, this written submission is in lieu of our giving oral testimony.

I would like to extend my appreciation to the Commission and its Staff for its previous support provided to the Internal Revenue Service in fostering voluntary compliance with our Nation's tax laws. Last year, when concerns were raised regarding the disproportionate relationship between the Tax Table and the Sentencing Table, the IRS and the Tax Division, Department of Justice worked closely with you and your Staff to help resolve the problem. In addition, we were able to consolidate several existing tax guidelines thereby creating a clearer definition of "tax loss," and ensuring that the guidelines applicable to tax offenses could be more easily understood and applied.

As I stated in my testimony last year, the Internal Revenue Service is involved in a new program designed to help us with the problems of non-compliance, called Compliance 2000. Although Compliance 2000 includes assistance and outreach efforts to taxpayers, some segments of the population will still fail to voluntarily comply with the tax laws. Accordingly, our compliance efforts still depend on the effectiveness of our tax law enforcement efforts. By effectively identifying and dealing with the segment of intentional non-compliance that justifies criminal prosecution, we send a strong message to every American that there are serious consequences for failing to voluntarily comply with the tax laws of our Nation.