



# Homeland Security

March 30, 2009

The Honorable Ricardo H. Hinojosa, Chair  
United States Sentencing Commission  
One Columbus Circle, N.E.  
Suite 2-500, South Lobby  
Washington, D.C. 20002-8002

Dear Judge Hinojosa:

The use of self-propelled semi-submersible (SPSS) vessels by transnational criminal organizations for the purpose of transporting cocaine and other illicit cargo to the United States was, for several years, a steadily increasing threat to national security and to the safety of navigation generally. With passage of the Drug Trafficking Vessel Interdiction Act of 2008 (DTVIA), we have already seen a positive effect in reducing this threat.

I thank the Commission and its staff for its swift and thoughtful work immediately following the passage of the DTVIA to develop a proposed guideline for this new law. I strongly support the present recommendation to set a base offense level for DTVIA offense at 34. A base offense level of 34 will result in sentences that properly reflect the criminality of the conduct and remain within prescribed statutory limits. A base offense level lower than 34 may have the unfortunate effect of encouraging criminal organizations to perpetuate, or even expand, their use of these dangerous SPSS vehicles. An offense level lower than 34 will result the imposition of sentences under the DTVIA that are significantly lower than those faced by cooperating defendants charged under the Maritime Drug Law Enforcement Act. If facilitated by a lower base offense level, criminal organizations may simply continue to replace other conveyances for illicit cargo with SPSS vessels to ensure their ability to destroy evidence whenever detected by law enforcement and secure the lightest possible sentence.

I urge the Commission to adopt a sentencing guideline that properly reflects the very serious national security threat that Congress addressed in the DTVIA. The proposed base offense level of 34 meets that critical sentencing objective.

Yours very truly,

A handwritten signature in black ink, appearing to read "Janet Napolitano", with a long horizontal flourish extending to the right.

Janet Napolitano