



National Association of Community and Restorative Justice

February 18, 2014

Office of Public Affairs
U.S. Sentencing Commission,
One Columbus Circle, N.E., Suite 2-500,
Washington, DC., 20002-8002

To Whom It May Concern:

Thank you for the opportunity to comment on the Proposed Amendments to the United States Sentencing Guidelines as they relate to the Violence Against Women Reauthorization Act of 2013. We are responding at the invitation of the United States Sentencing Commission's Victim Advisory Group. *We strongly recommend that the Sentencing Guidelines include a menu of evidence-based alternative sentencing measures. These alternative measures should include victim-centered/sensitive practices of restorative justice which have been proven, by research, to produce more positive results (i.e., decreased recidivism, increased participant satisfaction, decreased court and correctional costs) than conventional approaches which have been proven to be counter-productive.*

It is unfortunate to us that this rich opportunity for public dialogue and meaningful change appears to have been co-opted by the traditional policy orientation that calls for stronger and tougher penalties in the name of crime prevention, victim safety, and community well-being. Indeed, the amendment document begins with the statement: "...provided new and expanded criminal offenses and increased penalties for certain crimes involving assault, sexual abuse, stalking, domestic violence, harassment, and human trafficking."

As President of the National Association of Community and Restorative Justice, I lead an organization made up of academics, researchers, practitioners and others concerned with restorative and community justice. The vision of this 300-member association is to employ principles of social and restorative justice seeking transformation in the ways justice questions are addressed. We are disappointed by a proposal that fails to reflect any evidence-based sentencing practices such as the recommendations made by Michael O'Hear published in the December 2006 *Federal Sentencing Reporter* calling for victim based reforms that move beyond legalistic responses to crime. Among proven measures not under consideration are restorative justice practices like victim / offender mediated dialogue, which has been found to lower Post-Traumatic Stress Syndrome (PTSS) scores for victim survivors both initially and at six months following participation. Such programs are offered at the state level in 23 states. The sentencing guidelines under consideration do not reduce recidivism and may, in fact, increase recidivism. They neither meet victim needs nor offender needs in any meaningful sense — they only provide victims with one outlet for their pain, which is to advocate for enhancements and more time to be served. Even as federal justice entities are demanding evidence-based practices, what's being

proposed simply replicates what we've been doing that we already know does not provide us with the outcomes we desire.

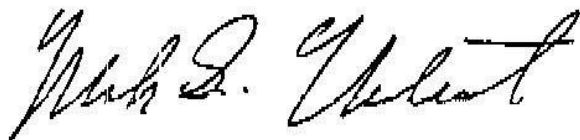
The downsides to this proposal are virtually ensured. Any sentencing policy that largely impacts the poor, people of color and youth assures the continued removal of men from communities of color and makes certain that intergenerational poverty will be perpetuated. These guidelines not only trap already marginalized communities, but society as a whole. In addition to the long-term financial impact, the more immediate financial realities of expanded offenses and increased sentences threaten what's available for other needs within our communities. The guidelines expand an already untenable system that releases about 700,000 people each year into communities unprepared to absorb these numbers and without mechanisms in place to realistically incorporate them back into the community.

The recommendations stand at odds with the direction being taken by most central European countries, including England, all Scandinavian countries, Turkey, several Mexican states, Australia and New Zealand, which legislate more restorative processes at different points within their respective justice systems.

It is difficult to offer these points without being labeled pro-defendant and anti-victim or being branded, unfortunately, as somehow "soft on crime." However, when the only lens proposed is an adversarial one with more serious charges, more incarceration, and greater restitution from the offender become the only options for reacting to crime; restorative and community justice initiatives are *smart on crime* and have far greater potential for reducing recidivism and protecting society, for reducing the financial and social impact of incarceration, and for meeting the needs of victims than those that are being proposed.

I may be contacted for further information and discussion by email at mumbreit@umn.edu or by phone at either 612-624-4923 (office) or at 651-226-9525 (cell).

Sincerely,



Mark S. Umbreit, Ph. D.
President, National Association of Community and Restorative Justice
and,
Director, Center for Restorative Justice and Peacemaking
University of Minnesota

Cc: Regina Ashmon, Criminal Justice Committee Specialist, American Bar Association
NACRJ Executive Committee
NACRJ Board of Directors
NACRJ Advisory Council