UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
400 South Phillips Avenue
Sioux Falls, South Dakota 57104-6851
605-330-6640

LAWRENCE L. PIERSOL
Judge

September 30, 2014

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

Attention: Public Affairs - Tribal Issues Comment

Re: Possible Formation of Tribal Issues Advisory Group

Dear Sirs:

I was asked for my views on whether or not Native American sentencing in Federal Court should be revisited. The last analysis of which I am aware is the "Report of the Native American Advisory Group" dated November 4, 2003. This Advisory Group was formed by and reported to the United States Sentencing Commission. I was honored to serve as the Chair of that Advisory Group. My suggestion is that the topic of fairness of Native American sentencing in Federal Court be revisited. I do not know if it is as necessary to revisit specific offenses under the now advisory Sentencing Guidelines as it is to again compare Federal sentencings of Native Americans post the 2005 *Booker* decision to State Court sentences.

The information that we used for the 2003 Report was during the time that the Sentencing Guidelines were mandatory. The previous study showed significant differences in some of the sentencings that were entered in some State Courts as compared to the Federal Courts. One example was some of the sentences in New Mexico and others were from South Dakota. The State sentences in both instances were markedly less than the Federal sentences leading to a possible perception by Native Americans that they were being treated unfairly in Federal Court.

I do not know what the results of a similar analysis would be post-*Booker*. If the results have not changed, then one approach to consider would be showing the results for comparison purposes to the Federal Judges who sentence in Indian Country.

Respectfully submitted,

LAWRENCE L. PIERSOL
United States District Judge

LLP:jh