

VICTIMS ADVISORY GROUP

To the United States Sentencing Commission

T. Michael Andrews, Chair



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October 27, 2015

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

RE: Victim Advisory Group (VAG) Proposed Amendment for the Amendment Cycle ending May 1, 2016 (Crime of Violence).

Chairman Saris and Members of the Commission:

The Victims Advisory Group (VAG) recommends to the Commission the matters referenced below during the amendment cycle ending May 1, 2016. Victims are an integral part of the criminal proceedings and have the right to be treated with respect and fairness. *See* 18 U.S.C. § 3771. The VAG supports the following recommendation for the Commission to consider.

I. Crime of Violence Definition

The VAG recommends that the Commission simplify and standardize the definition of the term “crime of violence.” Currently there are three different definitions when applying the sentencing guidelines. First, there is a statutory definition at 18 U.S.C § 16; second, there is a definition in the Guidelines specific to immigration offenses in U.S.S.G § 2L1.2 and third, there is another Guidelines definition relating to firearms offenses and criminal history calculation in U.S.S.G §4B1.2. Moreover, the term of “crime of violence” is also included in the definition of an aggravated felony under the Immigration Code at 8 U.S.C § 1101 (a) (43). The multiplicity of definitions serves only to cloud legal analysis and create potential for disparate treatment.

The VAG suggests using the definition under Section 4B1.1(a)(1), which provides:

“The term ‘crime of violence’ means any offense under federal or state law, punishable by imprisonment for a term exceeding one year that,

- 1) Has as an element the use, attempted use, or threatened use of physical force against the person of another.”

This would eliminate the list of enumerated offenses under Section 4B1.1(a)(2) as well as the problematic clause that was highlighted in the *Johnson v US*, 676 U.S. ___ (2015). Finally, by adopting a uniform approach for the definition of “crime of violence,” it will reduce the potential for sentencing disparity between similarly situated defendants and similarly impacted victims.

Conclusion

We respectfully request that the Commission consider this issue for the amendment cycle ending in May 2016. We look forward to working with the Commission to insure that the needs and concerns of crime victims are fully reflected in the sentencing guidelines.

Should you have any further questions or require any clarification regarding the suggestions, please feel free to contact us.

Respectfully,

Victims Advisory Group
October 2015