



November 24, 2015

The Honorable Patti B. Saris  
Chair United States Sentencing Commission  
One Columbus Circle, N.E.  
Suite 2-500, South Lobby  
Washington, DC 20002-8002

Re: Proposed Guideline Amendment - Crime of Violence

Dear Judge Saris:

On behalf of Prisology, we offer the following comments concerning the Commission's proposed crime of violence amendments.

We agree with the Commission's decision to eliminate the Guideline version of the "residual clause" in light of the Supreme Court's decision in *Johnson v. United States*, 135 S. Ct. 2551 (2015). As the Commission has noted, the various circuits interpret the residual clause of the Armed Career Criminal Act ("ACCA") the same as the Guideline's version of the residual clause. If the ACCA's residual clause is unconstitutionally vague, then the Guideline residual clause must be as well.

With regard to the proposed amendment to U.S.S.G. § 4B1.2(a)(2), we strongly urge the Commission to only include burglary of a dwelling as an enumerated offense. Generic burglary should not be included because the same kinds of harms are not at issue when someone burglarizes a business or other structure. Moreover, by limiting the enumerated offenses to burglary of a dwelling, the Commission will help courts avoid interpretive issues resulting from the Supreme Court's decision in *Descamps v. United States*, 133 S. Ct. 2276 (2013).

Finally, we respectfully urge the Commission to request the preparation of a retroactivity assessment for the crime of violence amendment, should it be adopted. The Commission's experience with retroactive amendments to the Sentencing Guidelines demonstrate the ability of federal district judges to apply such changes in a manner consistent with the safety of the public and the interests of justice.

Thank you for your consideration of our comments.

Sincerely,

A handwritten signature in black ink that reads "Brandon Sample". The signature is fluid and cursive.

Brandon Sample  
Executive Director



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