

Subject: Proposed Amendments to Sentencing Guidelines

I am writing to support the proposed amendments to the Federal Sentencing Guidelines.

Randall Wilson

1. Proposed Amendment: First Offenders/Alternatives to Incarceration, Section (A) -2 Under the Guidelines Manual, offenders with a minimal or no criminal history are classified into Criminal History Category I. "First Offenders." Offenders with no criminal history, are addressed in the guidelines only by reference to Criminal History Category I. Criminal History Category I. However Criminal History I includes not only "first" offenders but also offenders with varying criminal histories, such as offenders with no criminal history points and those with one criminal history point. Accordingly,. The following offenders are classified in the same category: [1] first time offenders with no prior convictions that are not used in computing the criminal history category for reasons other than their "staleness" (i.e.) sentences resulting from foreign or tribal court convictions, minor misdemeanors convictions or infractions)" and (4) offenders with a prior conviction that received only one criminal history point. **COMMENT:** Pertaining to the proposed amendment, I am in agreement with the aforementioned changes in verbiage, procedure, and encourage the use of alternatives to incarceration whenever and wherever possible. **CRIMINAL HISTORY ISSUES, pg.55**
2. The proposed amendment would amend 4A1.2 to provide the revocations of probation, paroles, supervised release, special parole or mandatory release are not to be counted for purposes of calculating criminal history points, but may be considered under 4A1.3 (Departures based on Inadequacy of Criminal History Category (Policy Statement). The policy statement at 4A1.3 provides upward departures for cases in which reliable information indicates that the defendant's criminal/category substantially underrepresents the seriousness of the defendant's criminal history. As the proposed amendment is currently put forth, the semantics in question may be the term "reliable information" is used. The phraseology should be further explained as to what exactly is acceptable, as "reliable information is" as it could lead to an "upward departure", due to the criminal history of the defendant being higher than normally would be interpreted, were the information provided "unreliable". Guidelines must be established to ensure that information provided upon as reliable, must meet certain criteria, in order to be admissible in a court of law. Please insure that adequate explanation of exactly what "reliable information" is, per the sentencing guidelines, to preclude errors in sentencing and possible over or under sentencing by the presiding judge. This issue is being commented on, in reference to 4A1.3 (a) Standards for upward departure. Subsection (2) Types of Information Forming the basis for upward departure. There should be some type of clarification as to what exactly constitutes the "reliable information", resulting in an upward departure. The only items deemed as "reliable information", items 4A1.3 (a) (2) If this is the case, then the amendment should be prefaced with this clarification prior to annotating the proposed changes to the amendment.
3. **PROPOSED AMENDMENT:** Miscellaneous, 2A3.5. (b) (2) Commentary concerning application of subsection (b) (2) (A) in general. In order for subsection (b) (2) to apply, the defendant's voluntary attempt to register or to correct the failure to register, must have occurred prior to the time the defendant knew or reasonably should have known a jurisdiction had detected the failure to register. **COMMENTS:** Under subsection (b) (2) If the defendant voluntarily (A) corrected the failure to register; or (B) attempted to register but was prevented from registering by uncontrollable circumstances and the defendant did not contribute to the creation of those circumstances, decrease by e levels. It should be considered unjust to hold a defendant accountable for circumstances beyond their control, and still require points to be assigned

against them for charges of "Failure to Register" and decrease the points by -3, when, if in fact the defendant can prove that the defendant does in fact meet the requirements stated in Subsection (b) (2) (B) (A), then the defendant should be exonerated of the "Failure to Register" charge, and associated point assignments. This exoneration should apply if there are no Specific Offense Characteristics as listed in Subsections (b) (1) (A-C).

**PROPOSED AMENDMENT:** Technical, - All current proposed technical modifications and corrections should be submitted as documented for approval and subsequent inclusion.

**PROPOSED ADMENDMENTS:** TRIBAL ISSUES, YOUTHFUL OFFENDERS, BIPARTISAN BUDGET ACT, MIRIHUANA EQUIVALENCY, All current proposed modifications and corrections, should be submitted as documented for approval and subsequent inclusion.