Honorable William H. Pryor, Jr.

Acting Chair
United States Sentencing Commission
One Columbus Circle, N.E., Suite 2-500
Washington, D.C. 2002-8002
Attention: Public Affairs

Re: Public Comment, Proposed 2017 Holdover Amendments: (3) First Offenders/Alternatives to to Incarceration, and (4) Acceptance of Responsibility

Dear Judge Pryor,

I wish to express my support of the entirety (Part A and Part B) of Proposed Amendment 3 (First Offenders/Alternatives to Incarceration) and Proposed Amendment 4 (Acceptance of Responsibility) to the U.S.S.C.

Proposed Amendment 3 (First Offenders/Alternatives to Incarceration) Part A & Part B:

In the interest of furthering the goals of the Sentencing Reform Act of 1984, specifically, consistency between offenses and sentence, I support the addition of a category of literal "first offenders." As it stands currently, the forceful conflation of those who have no prior convictions with those who do leads to an imbalance in sentencing; that is, it over-penalizes those who are truly people with no criminal history and those who generally pose the lowest risk of recidivism (per the USSC's 2016 Report on Recidivism).

Part A. Issues for Comment:

1. Under Part A of 4C1.1 Definition of "First Offender"; I support Option 1: (a) A defendant is a first offender if the defendant did not receive any criminal history points from Chapter Four, Part A.
2. While under Part A of 4C1.1 Decrease in Offense Level for First Offenders; Option 2 improves the fairness of first offender sentencing, I support Option 2, preferable would be the larger decrease by 2 Levels for those first offenders if the offense level determined under Chapters Two and Three is Level 16 or greater. In other words, (b) If the defendant is determined to be a first offender under subsection (a), decrease the offense level determined under Chapters Two and Three by 2 levels.

   A larger reduction in level for those with relatively lower risk of recidivism better and more thoughtfully furthers the idea of fairness in sentencing, protects the public, and reduces the population of the Federal Bureau of Prisons. There should be no limitations to the applicability of the adjustment based upon crime or number of levels as offense levels already served to reconcile sentencing with severity of offense.
3. The Amendment of 5C1.1 under the new 4C1.1 should **not** be further limited beyond "a crime of violence." I support amendment of 5C1.1 under 4C1.1 as proposed.

Retroactivity: Crucially, I support making Part A of Proposed Amendment 3 (First Offenders/Alternatives to Incarceration) retroactive and included in 1B1.10(d) in order that the

court may apply it retroactively under 18 U.S.C. 3582(c) (2). Sentencing Guidelines must apply evenly across the board, to future offenders and those currently serving time, as a matter of equity. The courts showed an amazing ability and capability in retroactive application of Amendment 782 to the Drug Quantity Table under 2D1.1 (commonly known as "Drugs minus 2"), while this "to be numbered" proposed amendment will generally be easier to determine to whom it applies, it will also affect a significantly smaller percentage of the current FBOP population thus alleviating the difficulty of applying the amendment retroactively to determine an amended guideline range under 1B1.10(b).

Part B Issues for Comment:

Part B's consolidation of Zones reflects a conceptual step forward; discretionary probation in place of extended imprisonment is often the better choice for offenders, particularly those with offense levels as low as those in Zone B and Zone C. I fully support eliminating Zone C by folding it into Zone B and thereby allowing Zone B's probation substitution to be applied to offenders who would have fallen into Zone C. I would support, as the Issues for Comment consider, a Zone B that applies to all offenses, without additional categorization, because the further breakdown would be redundant. Offense levels already serve to reconcile sentencing with severity of offense; singling out offenses (such as white-collar offenders, to adhere to the example provided in the Issues) expressly works against the goal of consistency.

I also support making Part B retroactive for the same reasons stated above in Part A Retroactivity.

Proposed Amendment 4 (Acceptance of Responsibility)

I support the commission's **REMOVAL** from 3E1.1 all references to relevant conduct for which the defendant is accountable under 1B1.3, and reference only the elements of the offense of conviction; instead of adopting either Option 1 or Option 2. I further support listing Proposed Amendment 4 (Acceptance of Responsibility) in 1B1.10 (d) to be retroactively applicable under 18 U.S.C. 3582 (c) (2), as a matter of equity.

Thank you for proposing the 2017 Holdover Amendments to the Sentencing Guidelines so quickly in this cycle and bringing forward all previous data, research, and public comment collected this past winter and spring. I look forward to the promulgating of these amendments to Congress as quickly as possible. The anticipated benefits of Amendment 3 (First Offenders/Alternatives to Incarceration) are vast for currently incarcerated first and low-level offenders (Proposed Zones A & B), offenders awaiting sentencing, and future first and low-level offenders, and their families. Speedy implementation is imperative.

I look forward to your continued work and future corrections and updates to the U.S.S.G.

Respectfully,

Allen August Basso