

**Erik Stegman Testimony to U.S. Sentencing Commission in behalf of
Pat Sekaquaptewa, member, Victims Advisory Group**

Members of the U.S. Sentencing Commission, thank you for giving me the opportunity to appear before you to discuss the proposed changes to the Sentencing Guidelines. There are three proposed amendments in the 2009 "Proposed Amendments to the Sentencing Guidelines" that will have significant impacts in Indian Country - all three are related to the Court Security Improvement Act of 2007: (1) the provisions governing an increase in the maximum sentence for involuntary manslaughter from 6 to 8 years - which would affect sentencing in Indian Country DUI cases (18 U.S.C. §1112); (2) the provisions governing increases in the maximum sentences for witness/victim tampering and retaliation - which would have a significant impact in Indian Country domestic violence and child abuse cases (18 U.S.C. §1512 & §1513); and (3) the provisions governing an increase in the maximum sentence for influencing, impeding, or retaliating against federal officials - which would affect conduct against BIA police officers (18 U.S.C. §115).

We were able to review the work of the Native American Advisory Group in 2003 and the 2003 testimony of Paul Charlton before the U.S. Sentencing Commission. The conclusions of the advisory group and the testimony of Mr. Charlton bring out two persisting concerns: (1) a concern that Native American defendants are treated more harshly by the federal sentencing system, than they would be if they were prosecuted by their respective states; and (2) in states with higher sentences than in the federal system, the perception that the real injustice is suffered by many Indian and non-Indian victims where the defendant gets a much lower sentence than if he or she were prosecuted in the state system.

While we were able to contact and speak with the US Attorney and victims advocates in Arizona - where they conveyed full support for these proposed amendments on behalf of their victim population - we feel that it is important to have more time to contact and get feedback from the following: (1) the U.S. Attorneys and the victim advocates in other states with large Native populations; (2) tribal prosecutors and public defenders; (3) tribal domestic violence and child welfare programs; (4) the Native MADD chapters; (5) the Native victim advocacy groups; (6) the legal academic community working on Indian Country issues; and (7) Native legal aid organizations. The Indian Country entities that we were able to contact report that they would like more time to analyze the proposed amendments and comparative laws, and to review available statistics. We understand that the notice and comment period will remain open until March 30th. However, we also expect that it may be necessary to roll consideration of these amendments into the next cycle. Presently there are two members of the Victim Advisory Committee, Monte Deer and Pat Sekaquaptewa that will commit to following up with these entities.

Thank you for your time.