

Alternative Sentencing-Do White Collar Criminals Have to go to Prison?

Courts are now considering alternative sentencing more than ever. High costs of incarceration, prison overcrowding, and the lack of rehabilitation are all mitigating factors. White collar offenders now have an alternative to prison. Do you qualify?

Jan. 12, 2010 - [PRLog](#) -- The 1984 Sentencing Reform Act (SRA) and the sentencing guidelines derived from it generated the most dramatic change in sentencing law and practice in our Nation's history. The federal guidelines' approach to sentencing has received much criticism and has been a topic of calls for massive change. Critics have argued that the guidelines do not encourage the use of intermediate sanctions in appropriate cases (first time, non-violent offenders), control prison crowding (the prison population is growing seemingly unchecked), or achieve other sentencing reform goals (a sentencing option in direct proportion to the crime committed). Federal judges have recommended an amendment to the guidelines to permit the use of alternatives in a wider variety of cases. The Sentencing Commission itself has assembled several working groups to study this issue. These groups include an advisory panel of criminal justice professionals, scholars, and judges, as well as study groups. In 1992, the Sentencing Commission amended the guidelines to expand the number of offenders for whom options are available.

Congress set forth two overshadowing constraints during the creation of the guidelines. The Commission was instructed, for each category of offense involving each category of defendant, to establish a sentencing range that is consistent with all pertinent provisions of title 18, United States Code, Crimes and Criminal Procedure. Secondly, if a sentence specified by the guidelines includes a term of imprisonment, the maximum of the range established for such a term shall not exceed the minimum of that range by more than the greater of 25 percent or 6 months, whichever is greater, except that, if the minimum term of the range is 30 years or more, the maximum may be life imprisonment. They called this the 25% Rule.

Certain factors (Offender Characteristics) were to be considered by the judge when he handed down the sentence. These factors include age, education, vocational skills, mental and emotional condition, physical condition including drug dependence, employment record, family and community ties, criminal history, role in the offense, seriousness of the offense and several others. These factors would come into play at sentencing and help to determine the length and scope of the sentence. They would also come into play to determine if there was an alternative to incarceration. Those alternatives could be halfway house confinement, probation, house arrest, supervised release, residential treatment, and outpatient programs. In addition the court has the authority to impose staggered sentences, split sentences, and intermittent sentences, rather than just a lengthy period of incarceration in a federal prison. The possibility of split sentencing includes, a period of time in a halfway house, a period of time on home confinement, or a period of time in a federal prison.

*“Alternative sentencing is not an option for everyone”, says **Robin Stover, Federal Prison Consultant for the Prison Consulting Group**, “but it is a viable option and should be explored by all first time, non-violent offenders. Why would anyone want to spend time in a federal prison when he or she may be eligible for an alternative sentencing option.” **Prison Consulting Group** can evaluate a defendant, prior to sentencing, to determine the eligibility for alternative sentencing and if eligible prepare an Alternative Sentencing and Mitigation Report for the defendant.*

On January 12, 2005, the United States Supreme Court ruled that the United States Sentencing Guidelines are advisory rather than mandatory. This opened up a whole host of personal and offense characteristics that can be considered by the courts in imposing a sentence. Since the Guidelines have become advisory only, there have been many situations in which the courts have varied significantly from the Guidelines. A federal offender can now receive a downward departure or a discretionary sentence for a multitude of reasons other than providing 5K1.1 "substantial assistance" to the government. **Stover** said, "*Factors which may contribute to a downward departure are physical disabilities, family circumstances, age, coercion, duress, and mental incapacity.*" The judge, by granting these downward departures, may totally eliminate a prison sentence or significantly reduce the defendant's time of incarceration.

The **Prison Consulting Group** will do a complete and accurate background history as well as an evaluation of the circumstances surrounding the defendant's crime. The resultant Alternative Sentencing and Mitigation Report may provide the sentencing judge with the basis for a substantial downward departure from the initial Federal Sentencing Guideline level.

Stover stated that the **Prison Consulting Group** works closely with the defendant, his attorney, his family, and associated medical and other professionals to construct a comprehensive presentation for the defendant. In this time of longer and more severe sentences for white collar defendants, it is good to have someone knowledgeable in alternative sentencing and sentence mitigation on your side.

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Robin Stover is a nationally recognized Federal Prison Consultant and founder of the Prison Consulting Group (PCG). As a Federal Prison Consultant with PCG, Robin is recognized as an authority in pre-and post-conviction strategy, positioning, preparation, and education. Robin is knowledgeable in all facets of federal prison life and with the Bureau of Prisons' (BOP) rules, regulations, and program statements.

PCG prepares clients for admission to the 500-Hour Residential Drug Abuse Program which offers up to a 12 month sentence reduction and a 6 month halfway house designation. We also provide assistance with designations, judicial recommendations, transfers, furloughs, A R Appeals, Second Chance Act submissions, MINT program requests, restitution, ICE issues, and the BOP's Compassionate Release and Commutation of Sentence Program.

Prison Consulting Group offers the prison preparation course titled, "How to Survive Federal Prison", go to <http://prisonconsultinggroup.com>.

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Source	Robin Stover, Federal Prison Consultant
City/Town	Largo
State/Province	Florida
Zip	33778
Country	United States
Industry	Legal , Criminal law, Prison consultant
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