



July 15, 2025

United States Sentencing Commission  
One Columbus Circle NE, Suite 2-500  
Washington, DC 20002-8002  
Attention: Public Affairs—Proposed Amendments.

Re: Potential Priorities, 2025-2026 Amendment Cycle, Sentencing Guidelines for United States Courts, U.S. Sentencing Commission

Dear Chairman Reeves:

The Sentencing Project appreciates this opportunity to comment on potential priorities for the amendment cycle ending May 1, 2026. The Sentencing Project advocates for effective and humane responses to crime that minimize imprisonment and criminalization of youth and adults by promoting racial, ethnic, economic, and gender justice. We are eager to be a resource as you work to create just, equitable sentencing policies.

Significant guideline revisions are particularly urgent given the crisis unfolding within the Bureau of Prisons. Federal prisons are plagued by disrepair, abuse, and corruption.<sup>1</sup> In 1980, federal prisons held 25,000 people, now they hold nearly 143,000.<sup>2</sup> The staffing crisis has worsened due to the current hiring freeze and pay cuts.<sup>3</sup> The federal prison population urgently needs to be reduced. By lowering base offense levels wherever possible the Commission can preserve scarce funds for infrastructure repairs, salaries, and effective public safety interventions.

We applaud the Commission's work thus far to improve federal sentencing practices and we urge you to continue to build on that progress.

### **Promote community-based sentences and alternatives to incarceration**

With regard to proposed priority one, "examination of how the guidelines can provide courts with additional guidance on selecting the appropriate sentencing option," The Sentencing Project encourages the Commission to prioritize decarceration and instruct courts to impose the least carceral sentence necessary to maintain public safety. Research shows "a very weak relationship

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<sup>1</sup> See DOJ Office of the Inspector General (2024). [Inspection of the Federal Bureau of Prisons' Federal Correctional Institution Sheridan](#); Levin, S. (April 15, 2024). [US federal women's prison plagued by rampant staff sexual abuse to close](#). The Guardian.

<sup>2</sup> Bureau of Prisons (2025). [Population Statistics](#).

<sup>3</sup> See Quandt, K. (2025). [A surprise target of Trump's cutbacks is devastating one specific population](#). Slate; Sisak, M. (2025). [Cash-strapped Bureau of Prisons freezes some hiring to 'avoid more extreme measures,' director says](#). AP.

between higher incarceration rates and lower crime rates.”<sup>4</sup> The toll of mass incarcerations on communities, however, is clear. It tears apart families, creates lasting trauma, harms the health of individuals and communities, and deepens poverty.<sup>5</sup> And those harms are disproportionately borne by Black, Latino, and Native American communities.

18 U.S.C. 3553(a) instructs sentencing judges to impose sentences that are sufficient but not greater than necessary to comply with the purposes of sentencing under 18 U.S.C. 3553(a)(2). We urge the Commission to clarify this mandate and establish a rebuttable presumption that community-based sentences are appropriate where statutorily permissible. As the Vera Institute has urged,<sup>6</sup> a presumption that a community-based sentence is appropriate, unless proven otherwise by clear and convincing evidence, would reduce racial disparities and honor fundamental liberty interests.<sup>7</sup> Studies have also found that community supervision produces better public safety outcomes than shorter terms of imprisonment.<sup>8</sup>

### **Revise the drug trafficking and methamphetamine guidelines to reflect actual culpability**

During the last amendment cycle, the Commission considered amendments designed to cure unwarranted methamphetamine sentencing disparities by fixing the meth-actual and “Ice” offense levels. As The Sentencing Project previously commented, we urge the Commission to not only adopt these methamphetamine amendments, but to delink the drug quantity table at §2D1.1 from statutory mandatory minimums.<sup>9</sup> We refer to the Commission to that letter in connection with proposed priority two for a more detailed response to last amendment cycle’s proposed revisions.

### **Base economic crime sentences on culpability not loss**

We urge the Commission to base §2B1.1, the economic crimes loss guideline, on individual culpability, rather than actual or imaginary loss. Section 2B1.1’s loss table, including its instruction to use “the greater of” actual or intended loss, yields extreme sentencing ranges that bear little relation to actual harm or individual culpability. Scholars, judges, and the defense bar have long criticized the economic crimes guideline and the extraordinarily long sentences it imposes on individuals convicted of low-level involvement in economic crimes.<sup>10</sup> The high rate

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<sup>4</sup> Stemen, D. (2017). *The Prison Paradox: More Incarceration Will Not Make Us Safer*. Vera Inst. of Justice; National Research Council. (2014). The growth of incarceration in the United States: Exploring causes and consequences. The National Academies Press. <https://doi.org/10.17226/18613>.

<sup>5</sup> Travis, J., Western, B., & Redburn, S. (2014). *The growth of incarceration in the United States*. National Academy of Sciences.

<sup>6</sup> Nelson, M. et al (2023). *A new paradigm for sentencing in the United States*. Vera Inst. of Justice.

<sup>7</sup> *Id.*

<sup>8</sup> Petrich, D. M., Pratt, T. C., Jonson, C. L., & Cullen, F. T. (2021). Custodial sanctions and reoffending: A meta-analytic review. *Crime and Justice*, 50(1), 353–424. <https://doi.org/10.1086/715100>; Loeffler, C. E., & Nagin, D. S. (2022). The impact of incarceration on recidivism. *Annual Review of Criminology*, 5(1), 133–152. <https://doi.org/10.1146/annurev-criminol-030920-112506>.

<sup>9</sup> The Sentencing Project (2024). *Potential priorities, 2024-2025 amendment cycle, sentencing guidelines for United States Courts, U.S. Sentencing Commission*.

<sup>10</sup> See Dena, D. (2024). *Statement on behalf of Defenders to the USSC on 2024 economic crimes proposed amendments*; Felman, J. (2015). *Statement on behalf of the American Bar Association to USSC on proposed amendments to the Federal Sentencing Guidelines regarding economic crimes*; American Bar Association

of downward departures in cases sentenced under §2B1.1 – in FY2024, 44% after excluding cases that received substantial assistance or fast track departures – reflects the disproportionality of the guideline ranges.<sup>11</sup> The Commission should adopt proposed priority three and overhaul §2B1.1 to ensure that sentences reflect an individual’s actual role in an offense and real world harms, rather than fictitious losses.

### **Overhaul the career offender guideline**

As The Sentencing Project previously commented, the career offender guideline deepens racial disparities and yields unnecessarily long sentences.<sup>12</sup> We urge the Commission to return to this critical topic with proposed priority four. Stakeholders, including The Sentencing Project, have offered extensive feedback on potential changes to the career offender guideline over the past decade. For example, in our March 14, 2023 letter on prior proposed amendments to the career offender guideline, we expressed strong concerns regarding the potential elimination of the categorical approach to defining crimes of violence, which, without other significant changes to the career offender guideline, would have expanded the reach of the career offender guideline and likely deepened racial disparities.<sup>13</sup> In our February 3, 2025 comment we applauded the Commission’s proposed robust revision of the career offender guideline as it again considered the elimination of the categorical approach – particularly the potential exclusion of state drug offenses.<sup>14</sup> We refer to the Commission to that letter for a more detailed response to last amendment cycle’s proposed revisions.

### **Examine the 18 U.S.C. 3553(a)(2) sentencing factors**

In *Booker*, the Supreme Court held that sentencing judges must consider Guidelines ranges but may also “tailor the sentence in light of other statutory concerns as well,” such as the §3553(a) sentencing factors.<sup>15</sup> These factors include the need for the sentence imposed “provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner.” Given the deteriorating conditions within the Bureau of Prisons, added scrutiny of whether the Bureau is meeting judicial expectations of education and vocational training and medical care is merited. We urge the Commission to adopt proposed

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(2014). [A report on behalf of the American Bar Association Criminal Justice Section Task Force on the reform of federal sentencing for economic crimes](#); *United States v. Corsey*, 723 F.3d 366, 377 (2d Cir. 2013) (Underhill, J., concurring) (explaining that “the loss guideline is fundamentally flawed,” and “those flaws are magnified where . . . the entire loss amount consists of intended loss.”).

<sup>11</sup> See Federal Defenders (2025). [Annual letter to the US Sentencing Commission regarding proposed priorities for the 2025–2026 amendment cycle](#) (citing US Sentencing Commission, 2024 Sourcebook of Federal Sentencing Statistics, at 133 tbl. E-7.).

<sup>12</sup> The Sentencing Project (2025). [Comment on “Career Offender” guideline](#).

<sup>13</sup> Comment from FAMM, the American Civil Liberties Union, Bend the Arc: Jewish Action, Equal Justice USA, the Japanese American Citizens League, Juvenile Law Center, The Leadership Conference on Civil and Human Rights, NAACP Legal Defense and Educational Fund, Inc., the National Association of Criminal Defense Lawyers, the National Center for Transgender Equality, the National Council of Churches, and The Sentencing Project (2023). [Proposed amendments to the career offender and criminal history guidelines](#).

<sup>14</sup> The Sentencing Project (2025). [Comment on “Career Offender” guideline](#).

<sup>15</sup> *United States v. Booker*, 543 U.S. 220 (2005).

priority seven. Additionally, as we commented during the 2024-2025 amendment cycle, we urge the Commission to explore the impact of each §3553(a) sentencing factor on sentences.<sup>16</sup>

The weight the sentencing judges accord to each factor, not simply §3553(a)(2)(D), is particularly deserving of examination given evolving evidence. For example, what weight do sentencing courts give to factor §3553(a)(2)(B), the need for the sentence to afford “adequate deterrence to criminal conduct,” and is that weight consistent with existing evidence on the impact that sentence lengths have on deterrence? Or to what extent do judges consider the need to “provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner” under §3553(a)(2)(C) and is that consideration consistent with actually available care and programming in the Bureau of Prisons? We particularly urge the Commission to study the extent to which these factors influence the most extreme sentences of 20+ years, 40+ years, and life. A greater understanding of the effect of the §3553(a) factors on federal sentencing, established via a judicial survey or other means, will shed valuable light on opportunities for evidence-based reform.

### **Revisit the impact of youthful offenses on criminal history scores**

We urge the Commission to return to the issue of the impact of youthful offenses on criminal history scores. The Commission should amend §4A1.2(d), which assigns criminal history points for certain offenses committed prior to age 18. In December 2023, the Commission proposed a two-part amendment related to the guidelines’ treatment of youthful individuals (“2023 Youthful Individuals Amendment”). Part A, which it did not adopt, would have changed the criminal history computation rules for offenses committed prior to age 18, limiting or eliminating the impact of these youthful offenses on a person’s guidelines range.

As The Sentencing Project discussed in greater detail in our March 2024 joint comment with the Juvenile Law Center, The Gault Center, the National Youth Justice Network, and Citizens for Juvenile Justice, the consideration of offenses committed under 18 years of age in criminal history scores injects substantial arbitrariness and opportunity for bias into federal sentencing, contrary to the purpose of the Guidelines.<sup>17</sup> We urge the Commission to exclude consideration of all offenses committed prior to age 18 from criminal history scores to advance equity and consistency in sentencing.

### **Reduce life sentences**

Additionally, as we have recommended in prior comments, we urge the Commission to amend the guidelines with regard to Base Level 43 offenses, especially for those with little or no criminal history.<sup>18</sup> Under the Commission’s sentencing table an individual’s recommended

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<sup>16</sup> The Sentencing Project (2024). [Potential priorities, 2024-2025 amendment cycle, sentencing guidelines for United States Courts, U.S. Sentencing Commission.](#)

<sup>17</sup> Juvenile Law Center, et al. (2024). [Comments of Juvenile Law Center, The Sentencing Project, The Gault Center, National Youth Justice Network, & Citizens For Juvenile Justice to U.S. Sentencing Commission proposed amendment 2 regarding youthful individuals.](#)

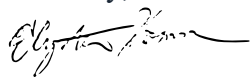
<sup>18</sup> The Sentencing Project (2024). [Potential priorities, 2024-2025 amendment cycle, sentencing guidelines for United States Courts, U.S. Sentencing Commission.](#) See also Hernandez, J. (2018). [Comment to the U.S. Sentencing Commission that a policy statement be implemented advising that offense level 43’s recommendation of life without](#)

sentence is determined – in most circumstances – by calculating the offense’s “base offense level” based on its severity and the individual’s criminal history category. With one exception, for each base offense level the recommended sentencing range rises with an individual’s criminal history category. For offenses with a base level of 43, however, a life sentence is recommended regardless of whether an individual has a criminal history. Base level 43 offenses can include a wide array of conduct. §2A1.1 (First Degree Murder), §2D1.1(a)(1) (Unlawful Manufacturing, Importing, Exporting or Trafficking), and §2M1.1(a)(1) (Treason) all specifically establish a base offense level of 43. Other offenses, including nonviolent drug offenses, may be aggravated to a base level of 43 based on an individual’s perceived role in the offense and other factors.

Recommending life imprisonment for all base level 43 offenses is inconsistent with a wealth of evidence that makes clear that extreme sentences – including sentences to life and death – are not necessary to protect public safety.<sup>19</sup> The vast majority of individuals age out of crime.<sup>20</sup> Individuals with little or no criminal history are also less likely to recidivate.<sup>21</sup> As such, we recommend that the Commission amend the guidelines to remove the recommendation that all offenses with a base level of 43 result in life sentences and institute sentencing ranges for such offenses, especially for those with little to no criminal history.

Thank you for this opportunity to speak and we look forward to opportunities for continued feedback and collaboration. Please reach out to Liz Komar, Sentencing Reform Counsel, at [lkomar@sentencingproject.org](mailto:lkomar@sentencingproject.org) with any questions.

Sincerely,



Liz Komar  
Sentencing Reform Counsel  
The Sentencing Project

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[parole be reduced to 360 months - life without parole for offenders with a criminal history category I and II who are convicted of a nonviolent crime.](#)

<sup>19</sup> Nellis, A. & Barry, C (2025). [A matter of life: The scope and impact of life and long term imprisonment in the United States.](#) The Sentencing Project.

<sup>20</sup> Farrington, D. (1986). “Age and crime.” In Michael Tonry and Norval Morris (eds.), *Crime and Justice: An Annual Review of Research*. Vol. 7. Chicago, Ill.: University of Chicago Press; Piquero, A., Jennings, W., and Barnes, J. (2012). Violence in criminal careers: A review of the literature from a developmental life course perspective. *Aggression and Violent Behavior*. Vol 17 (3): 171-179.

<sup>21</sup> U.S. Sentencing Commission (2016). [Recidivism among federal offenders: A comprehensive overview.](#)