

UNITED STATES SENTENCING COMMISSION

Proposed Priorities for Amendment Cycle

AGENCY: United States Sentencing Commission.

ACTION: Notice; Request for comment.

SUMMARY: As part of its statutory authority and responsibility to analyze sentencing issues, including operation of the federal sentencing guidelines, and in accordance with its Rules of Practice and Procedure, the United States Sentencing Commission is seeking comment on possible policy priorities for the amendment cycle ending May 1, 2025.

DATES: Public comment should be received by the Commission on or before **July 15, 2024**. Any public comment received after the close of the comment period may not be considered.

ADDRESSES: There are two methods for submitting public comment.

Electronic Submission of Comments. Comments may be submitted electronically via the Commission’s Public Comment Submission Portal at <https://comment.ussc.gov>. Follow the online instructions for submitting comments.

Submission of Comments by Mail. Comments may be submitted by mail to the following address: United States Sentencing Commission, One Columbus Circle, N.E., Suite 2-500, Washington, D.C. 20002-8002, Attention: Public Affairs – Priorities Comment.

FOR FURTHER INFORMATION CONTACT: Jennifer Dukes, Senior Public Affairs Specialist, (202) 502-4597.

SUPPLEMENTARY INFORMATION: The United States Sentencing Commission is an independent agency in the judicial branch of the United States Government. The Commission promulgates sentencing guidelines and policy statements for federal courts pursuant to 28 U.S.C. 994(a). The Commission also periodically reviews and revises previously promulgated guidelines pursuant to 28 U.S.C. 994(o) and submits guideline amendments to the Congress not later than the first day of May each year pursuant to 28 U.S.C. 994(p). The Commission provides this notice identifying the possible policy priorities that the Commission expects to focus on during the amendment cycle ending May 1, 2025.

In light of the 40th anniversary of the Sentencing Reform Act of 1984, Pub. L. 98–473, 98 Stat. 1987 (1984), the Commission intends to focus on furthering the

Commission’s statutory purposes and missions as set forth in the Sentencing Reform Act, including:

(1) Establishing “sentencing policies and practices for the Federal criminal justice system that . . . assure the meeting of the purposes of sentencing”—namely, rehabilitation, deterrence, just punishment, and incapacitation. 28 U.S.C. 991(b)(1)(A).

(2) Establishing “sentencing policies and practices for the Federal criminal justice system that . . . provide certainty and fairness in meeting the purposes of sentencing, avoiding unwarranted sentencing disparities.” 28 U.S.C. 991(b)(1)(B).

(3) Establishing “sentencing policies and practices for the Federal criminal justice system that . . . reflect, to the extent practicable, advancement of knowledge of human behavior as it relates to the criminal justice process.” 28 U.S.C. 991(b)(1)(C).

(4) “[M]easuring the degree to which the sentencing, penal, and correctional practices are effective in meeting the purposes of sentencing.” 28 U.S.C. 991 (b)(2).

(5) Establishing “general policies and promulgat[ing] such rules and regulations for the Commission as are necessary to carry out” the Commission’s statutory missions. 28 U.S.C. 995(a)(1).

(6) Requesting “such information, data, and reports from any Federal agency or judicial officer as the Commission may from time to time require and as may be produced consistent with other law.” 28 U.S.C. 995(a)(8).

(7) “[S]erving as a clearinghouse and information center for the collection, preparation, and dissemination of information on Federal sentencing practices.” 28 U.S.C. 995(a)(12)(A).

(8) Devising and conducting “seminars and workshops providing continuing studies for persons engaged in the sentencing field” and “training programs of instruction in sentencing techniques for judicial and probation personnel and other persons connected with the sentencing process.” 28 U.S.C. 995(a)(17)–(18).

(9) Making “recommendations to Congress concerning modification or enactment of statutes relating to sentencing, penal, and correctional matters that the Commission finds to be necessary and advisable to carry out an effective, humane and rational sentencing policy.” 28 U.S.C. 995(a)(20).

(10) Holding “hearings and call[ing] witnesses that might assist the Commission in the exercise of its powers or duties.” 28 U.S.C. 995(a)(21).

(11) Performing “such other functions as are required to permit Federal courts to meet their responsibilities under section 3553(a) of title 18, United States Code, and to

permit others involved in the Federal criminal justice system to meet their related responsibilities.” 28 U.S.C. 995(a)(22).

The Commission seeks public comment on what work it should prioritize during the amendment cycle ending May 1, 2025. In particular, the Commission invites the public to recommend specific avenues of research or policymaking that would allow the Commission to fulfill the statutory goals cited above. Commenters are encouraged to provide text of proposed amendments, policy statements, or research agendas that might address the relevant priority. Commenters are welcome to propose lines of work that could be completed in the upcoming amendment cycle, as well as priorities that might require multi-year efforts to complete.

The Commission also seeks comment on the following, more specific proposed priorities:

(1) Continuation of ongoing priorities from prior amendment cycles and possible consideration of amendments that might be appropriate, including continued examination of the career offender guidelines (and alternative approaches to the “categorical approach” in determining whether an offense is a “crime of violence” or a “controlled substance offense”) as well as exploration of ways to simplify the guidelines (including continuation of its work from last amendment cycle on possible amendments to the *Guidelines Manual* to address the three-step process set forth in §1B1.1 (Application

Instructions) and the use of departures and policy statements relating to specific personal characteristics).

(2) Implementation of any legislation warranting Commission action.

(3) Resolution of circuit conflicts as warranted, pursuant to the Commission's authority under 28 U.S.C. 991(b)(1)(B) and *Braxton v. United States*, 500 U.S. 344 (1991).

(4) Consideration of other miscellaneous issues coming to the Commission's attention.

The Commission also welcomes comment on any additional priorities commenters believe the Commission should consider in the upcoming amendment cycle and beyond.

Pursuant to 28 U.S.C. 994(g), the Commission intends to consider the issue of reducing costs of incarceration and overcapacity of prisons, to the extent it is relevant to any identified priority.

Public comment should be sent to the Commission as indicated in the ADDRESSES section above.

AUTHORITY: 28 U.S.C. 994(a), (o); USSC Rules of Practice and Procedure 2.2, 5.2.

Carlton W. Reeves,

Chair.