

From: [Melissa Whatley](#)
To: [Public Affairs](#)
Subject: [External] US Sentencing Commission Attention: Public Affairs – Priorities Comment
Date: Sunday, October 16, 2022 12:56:02 PM

CAUTION: This email originated from outside the organization. DO NOT click links or open attachments unless you recognize the sender and know the content is safe.

To Whom it May Concern,

I write to submit a public comment on the proposed priorities for the US Sentencing Commission's current amendment cycle. My name is Melissa Whatley, Ph.D., and I am an Assistant Professor of International and Global Education in the School for International Training's Graduate Institute. I am a social scientist, and I work primarily in statistical analysis of equity issues, including but not limited to issues surrounding race and racial identity and socioeconomic status.

My motivation for submitting this comment draws from the US's exceptionally high incarceration rate - the highest in the world - and evidence that sentences for criminal offenses in our country are increasingly long. Incarceration means that individuals who otherwise could make meaningful contributions to our society are unable to do so, and my understanding of current evidence is that long sentences do very little to deter future recidivism when compared to shorter sentences. As a scholar of inequality, I am keenly aware that mass incarceration and unnecessarily long sentencing disproportionately impact those from underrepresented and minoritized backgrounds and those with lesser socioeconomic means. Accordingly, you will not be surprised to learn that I am a strong supporter of the First Step Act and applaud the Commission's decision to take on issues currently hampering its successful implementation.

At the same time, I hope that the Commission will support work that explores what I view as a fundamental flaw in this piece of legislation. That is, [a number of offenses](#) are disqualified from the benefits that the First Step Act currently covers. My understanding is that Congress's rationale for excluding these offenses from the First Step Act was that these are crimes with exceptionally high rates of recidivism and low levels of rehabilitation. However, these exclusions do not appear congruent with current data on recidivism. For example, in Table 5 from the US Department of Justice's [recent report](#) on state-crime recidivism suggests that the 5-year recidivism rate for individuals convicted of drug charges (which I understand to be similar to charges covered under the First Step Act) is around 70%. In contrast, the same 5-year recidivism rate for those guilty of rape/sexual assault is below 50%. Sex offenses are currently excluded from the First Step Act. While I am certainly not a proponent of rape or sexual assault, I am a strong believer in an individual's ability to rehabilitate under the necessary conditions and with adequate and appropriate support. I am hopeful that the First Step Act provides opportunities for individuals who are able to reform themselves to do so and subsequently make positive contributions to our society.

For this reason, I ask the Commission to include among its priorities preparation of a report for Congress that outlines recidivism rates for crimes included in the First Step Act compared to those not currently included in its purview. I suspect that some crimes currently excluded from the Act have lower rates of recidivism compared to those currently included. My primary

concern is that individuals with a very high likelihood of reform are not currently included in the First Step Act, which is detrimental to both those individuals and to society as a whole. More personally, as an educator, I am a firm believer in learning opportunities and second chances and I believe they should be available to everyone who would take advantage of them. We have all benefited from a second chance at some point in our lives, even if that second chance did not involve a crime.

I am grateful to the Commission for considering this comment and am hopeful for future sentencing reform that both provides justice for those who are victims of crime and affords opportunity for reform and rehabilitation for those who commit them.

Sincerely,

Melissa Whatley, Ph.D.
Athens, GA