



UNITED STATES SENTENCING COMMISSION
Comment on Proposed Amendments to the Rules of Practice and Procedure
Rule 5.4 — Advisory Groups / Part H — Further Revisions

Submitted by More Than Our Crimes

More Than Our Crimes (MTOC) respectfully submits this comment in response to the United States Sentencing Commission’s proposed amendments to its Rules of Practice and Procedure, particularly the proposed amendment to Rule 5.4 formally recognizing the Sentence Impact Advisory Group (SIAG) as a standing advisory group and the Commission’s invitation in Part H for recommendations for additional reforms.

MTOC strongly supports the Commission’s creation of the Sentence Impact Advisory Group. Establishing SIAG was an important recognition that people directly affected by federal sentencing possess knowledge and perspectives that cannot be fully supplied by judges, attorneys, probation officers, researchers, victims, or other participants in the federal criminal justice system.

We write to recommend an additional step: **the Commission should provide for direct representation on SIAG by people who are currently serving federal sentences of imprisonment.**

Specifically, MTOC recommends that at least two SIAG positions be reserved for currently incarcerated people; that at least one of those individuals be housed in a United States Penitentiary (USP) at the time of appointment; and that the Commission take affirmative steps to ensure that currently incarcerated women are regularly represented.

The perspective SIAG was created to provide remains incomplete

In announcing the creation of SIAG in August 2025, Commission Chair Carlton W. Reeves explained the need for the new advisory body in unusually direct terms:

“But none of us have experienced a single day in prison.”

Chair Reeves identified an important limitation in traditional policymaking about incarceration: expertise *about* imprisonment is not a complete substitute for experience *of* imprisonment. The creation of SIAG was a significant response to that gap.

The current SIAG includes individuals with substantial firsthand experience of federal incarceration. At least five of its nine members are formerly incarcerated, including people who served lengthy federal sentences. Their expertise is indispensable, and MTOC’s proposal should not be understood to diminish it.



But former incarceration and current incarceration provide different and complementary forms of expertise.

A person who has returned to the community can speak with perspective about sentencing, incarceration, reentry, and the long-term consequences of a federal sentence. A person currently incarcerated can tell the Commission how federal sentencing policy is being experienced **right now**.

That distinction matters because the federal prison system and the implementation of federal sentences continually change. People serving sentences today confront policies and practices involving First Step Act earned-time credits, programming availability, prerelease custody, institutional staffing and lockdowns, electronic communications, medical and mental-health care, disciplinary practices, family contact, and other circumstances affecting how a sentence imposed by a federal court is actually experienced.

Among current SIAG members whose incarceration dates can be publicly established, some left federal custody many years ago. Even those with relatively recent experience cannot provide firsthand knowledge of every significant change that has occurred since their release.

The point is not that their experience has become less valuable. It is that **current lived experience is a distinct form of expertise that is presently absent from SIAG.**

The SIAG Charter already contemplates representation of sentenced individuals

Direct participation by a currently incarcerated person would not require the Commission to redefine SIAG's mission.

The existing SIAG Charter provides that a member must be either:

“(1) an individual sentenced for a federal offense, or (2) a family member of an individual sentenced for a federal offense.”

The Charter does not state that an individual must have completed that sentence or have been released from custody.

It further provides that the Commission intends to solicit applications from “sentenced individuals and their families” and that membership should “reflect the many perspectives within the federally sentenced population.”

A person presently serving a federal prison sentence is therefore not outside the population contemplated by the Charter. That person is at its very center.



Indeed, there is a notable difference between the Charter’s broad language and the way SIAG has subsequently been described. The Commission’s FY2025 Annual Report characterized SIAG as consisting of “formerly incarcerated individuals and their families.” That composition provides important lived experience, but it leaves absent the perspective of anyone currently experiencing federal imprisonment.

The Commission’s proposed expansion of direct stakeholder participation makes current-incarcerated representation especially appropriate

The Commission’s own proposed amendments recognize that meaningful stakeholder participation can require more than the opportunity to submit written comments or appear at an occasional public hearing.

Part C would substantially expand the direct role of representatives of the Committee on Criminal Law of the Judicial Conference and the Federal Public and Community Defenders in Commission policymaking. Under the proposals, these representatives could receive policymaking materials, attend specified Commission meetings, engage in deliberations with commissioners, request information and documents, present information, and participate alongside commissioners in questioning witnesses at public hearings, subject to limitations concerning voting, motions, confidential matters, and other Commission business.

MTOC supports the Commission’s effort to obtain informed and sustained input from stakeholders with distinctive knowledge of the federal sentencing system. But the principle underlying Part C also reinforces the need for direct participation by people currently serving federal prison sentences.

Judges and defenders possess expertise that cannot be fully replicated by other participants in the system. **The same is true of people currently incarcerated.**

If the Commission concludes that its policymaking benefits when particular constituencies have continuing opportunities for direct participation rather than being limited to traditional public-comment mechanisms, that principle should extend to the people experiencing federal imprisonment firsthand.

Indeed, the case is particularly strong in the context of SIAG because the Commission created that advisory group specifically to bring the perspectives of sentenced people into its work. Without currently incarcerated representation, the Commission would be expanding direct policymaking participation for institutional actors within the federal criminal justice system while still lacking direct participation by anyone currently experiencing the imprisonment that its Guidelines help determine.



MTOC does not suggest that incarcerated representatives must receive precisely the same access contemplated for the representatives addressed in Part C. Security, confidentiality, technology, and institutional considerations may require different arrangements.

The underlying principle, however, should be the same: **when a stakeholder possesses distinct and relevant knowledge that cannot adequately be supplied by others, the policymaking process benefits from providing that stakeholder a meaningful and continuing avenue for direct participation.**

SIAG provides an existing and appropriate structure through which the Commission can apply that principle to people currently serving federal sentences.

Federal imprisonment is not a uniform experience

Simply appointing one or two currently incarcerated people, however, would not necessarily solve the representation problem.

Conditions under which a federal sentence is served vary dramatically according to security level. Movement, housing, programming, recreation, lockdowns, communications, visitation, institutional safety, staffing, access to outside opportunities, and preparation for release can look very different in a minimum-security camp than in a high-security United States Penitentiary.

Moreover, opportunities for incarcerated people to participate in advisory bodies, public-policy initiatives, educational programs, and other forms of outside engagement can disproportionately reach people confined in lower-security institutions, where communication and movement may be less restricted.

If the Commission relies only upon the people for whom participation is easiest to arrange, it risks systematically excluding the perspectives of individuals serving sentences under the most restrictive conditions.

That perspective is especially important to the work of a body called the **Sentence Impact Advisory Group**. People confined in USPs experience federal sentences in the Bureau of Prisons' highest-security environments and frequently include people serving very long sentences. Their experience of programming, institutional movement, lockdowns, communications, family contact, safety, and the cumulative effects of lengthy incarceration may differ markedly from the experience of individuals confined at lower security levels.

MTOC therefore recommends that **at least one of the two positions reserved for currently incarcerated members be filled by an individual housed in a United States Penitentiary at the time of appointment.**



This is not a judgment that the experiences of people at other security levels are less important. It is a safeguard against inadvertently hearing only from incarcerated people whose circumstances make participation easiest.

Women’s experiences should not disappear because they constitute a smaller share of the federal prison population

The Commission should also pay particular attention to gender in selecting incarcerated representatives.

Women constitute a relatively small proportion of the federal prison population, but their experience of federal incarceration is not simply a smaller-scale version of men’s incarceration. Family separation and caregiving responsibilities, healthcare, histories of trauma and abuse, institutional programming, facility placement, distance from family, and reentry can affect incarcerated women in distinctive ways.

Their smaller numbers make intentional inclusion more important, not less. A selection system based solely on proportional representation could result in incarcerated women rarely, if ever, having a direct voice on SIAG.

At the same time, MTOC does not recommend permanently designating one of only two incarcerated positions as a women’s seat. Doing so, combined with the proposed USP requirement, would effectively predetermine both positions and leave the Commission too little flexibility to consider other important dimensions of federal incarceration.

Instead, MTOC recommends that the Commission **regularly include a currently incarcerated woman among SIAG’s incarcerated representatives and expressly consider gender diversity when making appointments and reappointments.**

More broadly, selection should seek diversity over time in security level, gender, age, sentence length, time already served, disability and health status, offense type, geographic location, and other characteristics relevant to the experience of federal sentencing.

No two incarcerated individuals can represent the entire federal prison population. The objective should instead be to ensure that, over time, the Commission hears directly from people experiencing materially different forms of federal incarceration.

Participation by incarcerated members is administratively feasible

MTOC recognizes that appointing currently incarcerated people will present logistical considerations not encountered with other SIAG members. Those considerations should be addressed rather than treated as grounds for exclusion.



The SIAG Charter already provides that members may participate in meetings remotely through electronic means, including telephone and video conference.

The Commission could work with the Bureau of Prisons to establish procedures allowing incarcerated members to receive relevant materials, participate in scheduled meetings by telephone or video, submit written recommendations, review proposals, and communicate with Commission staff and fellow SIAG members.

Special procedures may be necessary for a representative housed in a USP. The fact that participation is more difficult to arrange in a high-security institution, however, is precisely why the Commission should ensure that administrative convenience does not determine whose experience it hears.

BOP will necessarily play a role in facilitating communications. It should **not**, however, control the selection of the incarcerated representatives.

Members should be selected by the Commission through an independent process that permits applications or nominations from incarcerated people themselves and, where appropriate, from attorneys, family members, advocacy organizations, reentry organizations, and other entities familiar with their experience.

Selection should not depend upon BOP determining which incarcerated individuals it regards as suitable representatives. Nor should candid criticism of BOP policies or institutional conditions disqualify an individual from consideration.

The Commission should also establish protections designed to ensure that incarcerated members can participate candidly without retaliation or loss of privileges because of views expressed in carrying out their SIAG responsibilities.

Meaningful participation must be more than symbolic.

Recommended changes

MTOC recommends that **at least two positions on SIAG be reserved for individuals currently serving federal sentences of imprisonment**, with at least one representative housed in a United States Penitentiary at the time of appointment.

We propose that Section 2(a) of the SIAG Charter be amended substantially as follows:



Section 2(a) — Membership

The SIAG shall consist of not more than 9 members. A member of the SIAG must be (1) an individual sentenced for a federal offense, or (2) a family member of an individual sentenced for a federal offense.

At least two positions shall be designated for individuals who, at the time of appointment, are currently serving sentences of imprisonment for federal offenses. At least one such individual shall be housed in a United States Penitentiary at the time of appointment. In making appointments and reappointments to these positions, the Commission shall seek to ensure that currently incarcerated women are regularly represented and shall consider diversity in the circumstances under which federal sentences are being served.

The Commission shall establish reasonable procedures to facilitate the meaningful and independent participation of incarcerated members in the work of the SIAG.

All members of the SIAG shall be appointed by the Commission.

The Commission could also incorporate the principle of direct representation into Rule 5.4 itself. MTOC suggests consideration of language such as:

In constituting advisory groups, the Commission shall seek direct representation from persons whose perspectives an advisory group is established to provide. The Sentence Impact Advisory Group shall include meaningful representation from individuals currently serving federal sentences of imprisonment.

This approach would establish the principle in the Commission's Rules while leaving detailed requirements concerning number, selection, diversity, and participation to the SIAG Charter.

The Commission should provide for continuity of current-incarceration representation

Because incarcerated members may complete their sentences or obtain release during their terms, the Commission should also establish a procedure ensuring that current-incarceration representation does not disappear when that occurs.

Release should not be treated as a negative event or suggest that the individual's experience suddenly ceases to be valuable. The Commission could permit an incarcerated representative who is released during a term to continue serving for an appropriate transition period while appointing another currently incarcerated representative to the designated position.



The governing principle should be simple: **SIAG should include the voices of people experiencing federal imprisonment now, not merely people who were incarcerated at the time they were originally appointed.**

The Commission can determine the administrative mechanism that best accomplishes that objective without unnecessarily disrupting the work or service of a member who obtains release.

Alternatives if full membership proves impracticable

If the commission concludes that full membership by currently incarcerated individuals presents obstacles that cannot immediately be resolved, those obstacles should not become a reason to exclude their voices altogether.

As alternatives, the commission could establish incarcerated representatives as additional nonvoting SIAG members or create a permanent **Incarcerated Persons Council or Subcommittee** affiliated with SIAG.

Any such body should have a formal right to receive relevant commission and SIAG materials, submit recommendations directly to SIAG and the commission, and participate periodically and meaningfully in SIAG discussions.

It should also be structured to include people serving sentences under significantly different conditions, including at least one person confined in a USP, and should regularly include the direct perspective of an incarcerated woman.

MTOC nevertheless believes that **full SIAG membership should be the commission's starting point**, not its fallback. The existing charter appears to permit such membership already. Administrative inconvenience alone should not determine whose lived experience warrants a seat at the table.

The current rules review presents an unusual opportunity

The commission describes the addition of SIAG to Rule 5.4 as a technical and clerical amendment. But Part H expressly invites the public to recommend “additional or different amendments,” “overarching structural reforms,” and “actionable measures” to foster public engagement and improve commission processes.

This is an appropriate moment to complete what the Commission began when it created SIAG.



The Commission's advisory structure recognizes that meaningful policymaking requires direct input from people occupying distinct positions within the federal sentencing system. Probation officers provide the perspective of probation officers. Defense practitioners provide the perspective of practicing defense attorneys. Victims provide perspectives arising from their direct experiences. And under the amendments now proposed in Part C, representatives of the Judicial Conference and federal defenders would receive even greater opportunities for continuing, direct participation in Commission policymaking.

People currently living under the prison sentences shaped by the Commission's Guidelines should also have an opportunity to speak for themselves.

More Than Our Crimes communicates regularly with more than 1,000 people incarcerated in federal Bureau of Prisons facilities across the country. Through that work, we repeatedly see the difference between understanding prison policy from outside an institution and understanding how that policy operates in the daily lives of the people subject to it.

MTOC would welcome the opportunity to assist the Commission in developing practical procedures for soliciting applications and nominations from currently incarcerated people, obtaining perspectives from people in institutions of different security levels, and facilitating meaningful participation without allowing the logistical challenges of incarceration to determine who is heard.

The commission created the Sentence Impact Advisory Group because it recognized that lived experience can make federal sentencing policy better informed.

We urge the Commission to carry that principle one necessary step further: **include current lived experience.**

People presently serving the sentences that the Commission helps shape should have a direct and meaningful voice in the Sentence Impact Advisory Group.

Respectfully submitted,

Pam Bailey
Managing Director
More Than Our Crimes