

PROBATION OFFICERS ADVISORY GROUP

An Advisory Group of the United States Sentencing Commission

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March 2, 2026

The Honorable Carlton W. Reeves
United States Sentencing Commission
Thurgood Marshall Building
One Columbus Circle, N.E.
Suite 2-500, South Lobby
Washington, D.C. 20002-8002

Dear Judge Reeves,

The Probation Officers Advisory Group (POAG) submits the following written testimony to the United States Sentencing Commission (the Commission) regarding the proposed amendments issued on January 30, 2026.

Sentencing Options

(A) Changes to Part A of Chapter Five

POAG does not take a position about the inclusion of the proposed addition of the introductory commentary or the new language at USSG §5A1.1. While the sections may be useful for those who are new to the Guidelines, by providing more explanation of the sentencing zones, the language is largely duplicative. There is some concern that the information could result in confusion. Further, opposition was expressed to the inclusion of §5A1.1(d), as the sentencing factors have already been outlined in the changes made last year to the introductory commentary to Chapter 1 and USSG §1B1.1, and variances are widely known and used.

POAG generally observes the sentencing zones to be somewhat complicated and not often adhered to, in favor of variances. In lieu of the zones, members of POAG believe that the in/out decision, whereby there are factors for the court to consider when determining if a defendant should receive a custodial sentence (in) or a non-custodial sentence (out), which was previously detailed by some commenters to the proposed priorities for the 2025-2026 cycle, could be preferable.

(B) Expansion of Zones B and C of the Sentencing Table

POAG was unanimously opposed to Part B, which increases sentencing Zones B and C. POAG believes that an adoption of Part B may lead to the unintended consequences of increasing recidivism amongst low-risk defendants and possible moderate risk defendants. POAG also believes that there could be unintended interaction with First Step Act provisions. We are concerned about creating a generalized approach to sentencing rather than keeping the focus on individual assessments. Further, we are concerned about resource availability and appropriate distribution of the currently available resources.

POAG is concerned this proposed amendment may create unintended increases in recidivism amongst the low-risk defendants and likely amongst the moderate risk defendants. There has been a substantial amount of evidence-based research on the amount of supervision necessary for individuals who are low risk, and it has repeatedly shown that over supervising low-risk offenders (who typically fall into criminal history category I), can increase their risk of recidivism.¹ Placing these lower risk offenders in home detention programs or community confinement would result in over supervision because of the amount of supervision contacts necessary to facilitate those programs. The over supervision of these cases can result in higher rates of recidivism for lower risk offenders. There is an added concern for low-risk offenders in community confinement programs. That concern is that individuals with low levels of criminogenic thinking will develop negative social bonds as they befriend and associate with those who have higher criminogenic thinking while they share a residence with them in community confinement.²

Additionally, the proposed change could also result in an unintentional interaction with incremental reintroduction to society that the First Step Act provisions create. An individual in custody will often be released to community confinement while still under the Bureau of Prisons. After a time, that defendant will then be transitioned to home detention. It could be that the defendant ends up in community confinement and home detention for much longer than the Judge articulated at the time of sentencing. The interactions between the zones and the First Step Act could cause frustrating outcomes for defendants.

POAG would prefer that home and community confinement be generally reserved for intermediate sanctions when there is an issue of compliance on probation or supervised release. POAG observed that lengthy periods of home detention appear to experience diminished returns after six months

¹ See, Cohen T. H., Cook, D., & Lowenkamp, C. T. (2016). The Supervision of Low-Risk Federal Offenders: How the Low-risk Policy Has Changed Federal Supervision Practices without Compromising Community Safety. *Federal Probation*, 80(1), 3-11; Duru, H., Lovins, L. B., & Lovins, B. (2020). Does Reducing Supervision for Low-risk Probationers Jeopardize Community Safety? *Federal Probation*, 84(1), 21-27; Lowenkamp, C. T., Latessa, E. J., & Holsinger, A.M. (2006). The Risk Principle in Action: What Have We Learned from 13,676 Offenders and 97 Correctional Programs? *Crime & Delinquency*, 51(1), 1-17

² See, Klein-Saffran, J. (1995). Electronic Monitoring vs. Halfway Houses: A Study of Federal Offenders. *Alternatives to Incarceration*, Fall Issue, 24-28

and substantial diminishing returns after twelve months. Further, when a defendant spends the majority of their term of supervised release on home detention, there are not many graduated sanctions left to use beyond community confinement or imprisonment, both of which could reduce some of the progress the defendant has made in other areas of their rehabilitation. It also does not provide a lot of options to help them acclimate to societal living, as both home detention and community confinement have a very high degree of control and reduced individual autonomy. Rehabilitation necessitates the defendant have opportunities to exercise good decision making. If they are curtailed throughout most of their term of supervised release from fully exercising this discretion, it will likely cause problems in their appropriate use of the discretion.

Members of POAG also observed that the expansion of the zones as proposed seems to generalize criminal sentencing, versus the recent tendency to conduct individualized assessments of the appropriate components of the sentence. Another observation was that the expansion gives preferential treatment to criminal history category I defendants, who may also have benefitted from other reductions, such as zero-point offender and safety valve, while excluding offenders in higher criminal history categories (who sometimes have just one more criminal history point), even if the advisory range within the sentencing table cell is the same or similar. Again, correctional research would suggest that those in the higher criminal history categories, and who tend to be higher-risk offenders, would be better served by those higher levels of supervision and resources. While it may seem counterintuitive, POAG wonders if it would not make more sense to give defendants at criminal history category V and VI more opportunities for Zone B or C sentences. They are already likely moderately high risk or high risk, and for them to have resulted in a Zone B or C sentencing range (or slightly above), they likely had a relatively low total offense level. They would also not be negatively impacted by frequent supervision-based interactions.

Finally, POAG cautions that there may not be the infrastructure or resources to effectuate these expanded Zone B and C sentences. Community confinement centers are frequently at capacity, particularly with the expansion of their use with the First Step Act and the Bureau of Prison's overlapping needs to use these resources. Community confinement centers are also used for sanctions and in circumstances in which an offender would otherwise be homeless. Bedspace is already very scarce and waiting lists expand into weeks and months. In addition, POAG observes that it is difficult to staff and retain Location Monitoring Specialists, as that is a very demanding position that requires around-the-clock attention and response, and each probation office has different staffing structures to cover the increased need for Location Monitoring Specialists. More of these positions would need to be created and filled, along with potentially purchasing additional location monitoring equipment. All with the goal of moving resources towards the defendants who need them the least and will likely be hindered by them. Overall, POAG believes that the limited resources should be reserved for those who most need them. We caution against making a change that could inadvertently increase defendant recidivism.