



CITIZENS FOR
RESPONSIBILITY &
ETHICS IN WASHINGTON

July 27, 2026

United States Sentencing Commission
One Columbus Circle, N.E., Suite 2-500
Washington, D.C. 20002-8002
Attention: Public Affairs – Priorities Comment
(submitted via portal on Commission website)

Re: Comment on Proposed 2026-2027 Priorities

Citizens for Responsibility and Ethics in Washington (CREW) is a non-partisan non-profit organization dedicated to protecting our democratic institutions; promoting ethics, transparency, and accountability in government; and upholding the rule of law. We write to support the United States Sentencing Commission's proposal to review its Rules of Practice and Procedure with the goal of ensuring that the agency's work best serves its statutory mission, including by ensuring that the public can fully and appropriately engage with it.

CREW's interest in the Commission's Proposed Priorities

CREW has deep and longstanding expertise in government transparency and accountability. We have years of expertise in open records laws, as a frequent FOIA requester and litigator. CREW uses the Freedom of Information Act to request and receive government records that can shed light on how federal agencies and government individuals made key decisions and approached issues relevant to government accountability. By investigating and releasing these records publicly, CREW is able to foster better transparency and receive answers to pressing questions. In cases where the government fails to respond or provide documents in response to FOIA requests, CREW files lawsuits to obtain the records.

Prior to working at CREW, I previously served in the Office of General Counsel at the United States Sentencing Commission ("Commission"). I submit this comment on behalf of CREW in response to the Commission's proposed priority number 2 in its Proposed 2026-2027 Priorities.

The role of public engagement in the work of the Commission

Engaging with the public is crucial to the Commission's work. As the Commission notes in its guide for commenters: "Public comment submissions are vital to the amendment process. The Commission reads all submissions from the public to gauge interest in particular topics and uses that information to select which policy areas are prioritized and shape how the federal sentencing guidelines are amended."

This input is important to the work of the Commission because the Commission's organic statute, 28 U.S.C. 991, provides that "the purposes of the United States Sentencing Commission are to (1) establish sentencing policies and practices for the Federal criminal justice system that- (A) assure the meeting of the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code; (B) provide certainty and fairness in meeting the purposes of sentencing, avoiding unwarranted sentencing disparities among defendants with similar records who have been found guilty of similar criminal conduct while maintaining sufficient flexibility to permit individualized sentences when warranted by mitigating or aggravating factors not taken into account in the establishment of general sentencing practices; and (C) reflect, to the extent practicable, advancement in knowledge of human behavior as it relates to the criminal justice process; and (2) develop means of measuring the degree to which the sentencing, penal, and correctional practices are effective in meeting the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code."

The purposes of sentencing that this statute requires the Commission to address include factors that inevitably require consideration of the public, and thus its input. In particular, 18 U.S.C. 3553(a)(2) requires federal sentences:

- (A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;
- (B) to afford adequate deterrence to criminal conduct;
- (C) to protect the public from further crimes of the defendant; and
- (D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner.

Promoting respect for the law, ascertaining what is just punishment, protecting the public, deterring criminal conduct, and providing effective programming all require consideration of the effect of the sentence on the public. While these effects may not always be easy to discern, no good faith effort to do so can proceed without public input.

Further, Congress clearly recognized the importance of public engagement to the Commission's work. In the agency's organic statute, Congress provided that the public notice and comment provisions of the Administrative Procedure Act - the primary way that executive branch agencies incorporate public input into their rulemaking processes - apply to the Commission's guideline promulgation, notwithstanding the agency's location outside the executive branch.

The Commission's history of public engagement

The Commission has a long history of taking serious steps to engage with the public, both as part of its policymaking process and otherwise. In addition to the statutorily-required notice and comment periods, the Commission holds open meetings and symposia, publishes on its website detailed and substantial data and research on federal sentences nationwide, and creates public-facing educational information that helps the public understand both the Commission's work and the broader federal sentencing system. Indeed, the Commission has actively worked to improve its public engagement over time, adding products like the Interactive Data Analyzer and virtual trainings to its work. As this history demonstrates, the

Commission has long understood that the process of providing transparency and opportunities for public engagement requires ongoing adaptation and improvement - as the public changes, so must the Commission's work to engage it.

Modernizing affirmative transparency and public engagement, particularly around rulemaking

CREW urges the Commission to continue its forward momentum on transparency and engagement in the current amendment cycle. While the Commission has made great strides in recent years in educating the public on its data and research and expanding access to its training materials, transparency around its rulemaking process has remained largely unchanged. The Commission should remedy this.

That transparency around the Commission's rulemaking process has fallen behind is, in some ways, understandable; unlike executive branch agencies, which Congress has subjected to various transparency provisions like the Freedom of Information Act, the Commission's location in the Judicial Branch exempts it from these laws and their associated procedures. However, this is all the more reason for the Commission to give due consideration to affirmative disclosure of relevant material beyond what currently exists in the Statement of Reasons and other associated publications. In addition to public comment, for example, the Commission receives expert research and legal analysis from its staff and informal input from its *ex officio* Commissioners; in some cases, this information is crucial to the Commission's decision-making. The public deserves to know.

Conclusion

CREW urges the Commission to take the opportunity to continue to improve its transparency and public engagement. Particularly in a post-*Booker* world, the Commission should make it as easy as possible for the public - not to mention the judges who must consider the Commission's guideline recommendations - to understand why it is making the decisions it is making.

Sincerely,

/s/ Jennifer Ahearn
Senior Advisor