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Assistant U.S. Attorneys

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June 8, 2023

Chairman Jim Jordan

Ranking Member Jerry Nadler

House Judiciary Committee
2138 Rayburn House Office Bldg
Washington, DC 20515

Re: NAAUSA Concerns Regarding U.S. Sentencing Commission Amendments

Dear Chairman Jordan, Ranking Member Nadler, and Members of the Committee:

On behalf of the National Association of Assistant United States Attorneys (NAAUSA), representing the interests of over 6,000 Assistant U.S. Attorneys working in the 94 U.S. Attorney Offices, I write regarding the U.S. Sentencing Commission's amendments to the U.S. Sentencing Guidelines (USSG) and to request a meeting to discuss the amendments.

Federal prosecutors have great respect for the work of the Sentencing Commission and appreciate the stability and consistency the USSG's provide. Unfortunately, the amendments the Commission recently submitted to Congress go beyond the lawful authority of the Commission and make a "[seismic structural change to our criminal justice system without congressional authorization or direction.](#)"

Specifically, on a partisan basis, the Commission seeks to make retroactive various provisions of the First Step Act that Congress specifically *rejected* making retroactive in direct contradiction with norms repeatedly identified by the Supreme Court. The Commission also expands the substantive criteria for compassionate release well beyond the text and legislative history of the First Step Act, and beyond any of the historically recognized categories for early release.

Given the significant impact these USSG amendments are likely to have on public safety, such decisions ought to be made by Congress with the benefit of the deliberative and thorough legislative process, not by the Commission.

It is important to note that even if individual members of Congress today agree with the Sentencing Commission's amendments, Congress should be concerned about the precedent set by allowing the Commission to usurp the legislative process. Any subsequent Commission will be emboldened to take actions beyond its lawful authority to achieve via amendments what Congress chose not to do via the law.

NAAUSA requests a meeting to discuss specific amendments proposed by the Commission that Congress should reconsider before the amendments go into effect on November 1, 2023. Please reach out to our Washington representative Natalia Castro (ncastro@shawbransford.com) regarding this matter.

Respectfully,

Steven Wasserman
NAAUSA President

Executive Director
Chad Hooper

Washington Reps.
Jason Briefel
Natalia Castro

Counsel
Debra Roth