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## NAAUSA Criticizes Sentencing Commission for Partisan Decision to Undermine Progressive Sentencing Regime with Retroactivity Amendments

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WASHINGTON, DC– Steven Wasserman, President of the National Association of Assistant U.S. Attorneys (NAAUSA) – representing the interests of Assistant U.S. Attorneys (AUSAs) working in the 94 U.S. Attorney Offices – issued the following statement regarding the Sentencing Commission’s Thursday, August 24, 2023, vote to make retroactive the Commission’s amendments applicable to “status points” and “zero-point offenders”:

“The Sentencing Commission continues working in a partisan manner to impose unfunded mandates on federal law enforcement that undermine its progressive sentencing regime, the will of Congress, and ultimately, public safety. The amendments passed this week are dangerous to the public and unfair to both federal law enforcement and victims, as the vast majority of stakeholders who provided input emphasized. The Supreme Court, Congress, and past Commissions have made clear that retroactive resentencing should be used sparingly and where the public safety impact is minimal. The Commission’s expansion of retroactivity today goes far beyond past practice and will lead to the immediate release of thousands of known recidivists. We encourage Congress to exercise its authority to check the Commission’s actions and rectify this injustice,” NAAUSA President Steve Wasserman said.

“The Sentencing Commission has historically worked in a bipartisan manner to enact amendments that provide clarity in sentencing and foster trust in the justice system. These amendments do the opposite. Once again, the Commission voted along partisan lines to impose an administrative form of sentencing reform that undermines the progressive sentencing regime identified by the Sentencing Guidelines as a pillar of the Guidelines purpose. Status point offenders are by definition recidivist, and these amendments ignore the gravity of these offenders’ continued criminal activity,” Wasserman continued.

“The decision to make these amendments retroactive will allow 11,495 status point offenders and 12,574 zero-point offenders to seek a sentencing adjustment. This comes a mere four months after the Commission passed a historic expansion of compassionate release eligibility—also along partisan lines—that will impose profound burdens on U.S. Attorney Offices handling these requests. The Commission is acting without regard for the burden it is placing on the federal criminal justice system, an issue raised by the Committee on Criminal Law of the Judicial Conference of the United States and several federal judges who provided

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testimony at the public hearing. Ultimately, overburdening the federal justice system with cases it lacks the resources and personnel to process efficiently will delay justice for new victims, lead to mistakes that jeopardize public safety, and further deplete the federal legal talent pool when overworked and underpaid attorneys leave federal practice. We are disappointed that the Commission continues taking a partisan approach to enacting structural changes to our nation's established sentencing regime without congressional approval. Given the significant impact these amendments will have on public safety and the administration of justice, we encourage Congress use its authority to override these decisions, as it has previously done when the Commission acts beyond their authority along ideological lines," Wasserman furthered.

Read NAAUSA's full testimony to the Commission on the retroactivity amendments here: [Written Statement for July 2023 Public Hearing Before the U.S. Sentencing Commission \(ussc.gov\)](https://www.uscourts.gov/uscsc/2023-07-27-testimony)