FAMMilies In Action: Advocating at the United States Sentencing Commission

1. Background

This is the first time in more than three years that we have an active Sentencing Commission. Why does this matter? The Commission is the federal agency that writes and amends the Sentencing Guidelines, which are used by every judge in the country to help arrive at a sentence.

Every year, the Commission decides a list of priorities to work on. Before it can do so, it has to give the public an opportunity to weigh in on what should be the Commission's priorities. It publishes a list of proposed priorities and invites comments on the list. That is why we are writing to you.

On September 29, the Commission released their list of proposed priorities. These priorities are not final, but rather, are a list of sentencing-related issues that the Commission is considering amending in the coming year. You can find the list of the Commission's proposed priorities here.

You have the opportunity to weigh in on this list of proposed priorities. And your voice really matters. It is crucially important for the Commission to hear how their decisions about the sentencing guidelines directly impact real people.

We want to highlight for you one very important topic that the Commission has proposed to prioritize: compassionate release. You may write about this topic alone, or any of the other topics that have been proposed by the Commission. Or you can suggest a priority that the Commission did not include in its proposal. A form to do so is included below.

We know that the Commission must make it a priority to update the guideline provision that judges use when considering compassionate release motions, because the current policy statement about compassionate release is way out of date. The pandemic taught us that no guideline can predict every event that might warrant a reduction in sentence for extraordinary and compelling reasons. The current, outdated, policy statement, gives BOP discretion to identify additional grounds for compassionate release that are not listed in the policy statement. The policy statement does not give judges the same discretion. FAMM thinks that must change.

Furthermore, the BOP does not even use its authority. During the height of the pandemic, the BOP brought only 1% of the more than 4,000 motions for compassionate release that courts granted. People died waiting for BOP to answer their compassionate release requests. Judges, however, have been judiciously granting compassionate release motions filed by people whose circumstances are truly extraordinary and compelling. This is why we believe that the Commission should afford judges the same discretion as BOP currently has.

FAMM wrote to the new Commission a few weeks ago to suggest a few topics we think it should put on its proposed priority list. You can find that letter here. We will also write another letter in

response to the proposed priorities. But your stories about compassionate release and other sentencing-related issues raised in the list of proposed priorities help our efforts by illustrating the human impact of the Commission's decisions. We are grateful for your advocacy.

2. Instructions for submitting your letter to the Sentencing Commission

A. Fill out the form provided by FAMM.
   I. Be sure to include details on your story that you are *comfortable sharing*.
   II. The best approach is to share your story. It is usually not helpful to criticize or blame judges or the Department of Justice for what happened. Rather, use your story as an example of how compassionate release has made a difference in your life.

B. Submitting your comment
   I. Email
      i. Attach your comment to an email that is addressed to: pubaffairs@ussc.gov
   II. Regular mail
      i. Mail your comment to: United States Sentencing Commission, One Columbus Circle, NE, Suite 2 500, South Lobby, Washington, DC 20002, Attention: Public Affairs – Priorities Comment.

C. Due date
   I. All comments must be received by **October 17**

3. Form letter on following page

On the following page, you will find a form letter that FAMM has created for you. You can use this to guide your letter to the Sentencing Commission. The highlighted areas are all customizable to your specific circumstances.

October 17, 2022

The Honorable Carlton W. Reeves, Chair
United States Sentencing Commission
One Columbus Circle, NE
Suite 2-500, South Lobby
Washington, DC 20002

Dear Judge Reeves:

Congratulations to you and your new colleagues on your confirmation to the United States Sentencing Commission. My name is [insert name]. As a person who has been directly impacted by the criminal justice system, I am thrilled that the Commission once again has a quorum. The Commission has a critical role in the administration of justice, and I hope that you will remember that real lives are impacted by your policy decisions.

One key policy decision before you that [has/is likely to have] a huge impact on me and my loved ones is compassionate release. For over three years, and through the course of a deadly pandemic, the Commission has been unable to align the compassionate release guideline with the changes in the First Step Act. During this period, many judges have been able to use their discretion to determine what constitute extraordinary and compelling reasons, beyond the examples outlined in the guidelines. [if true: my sentencing judge's ability to use his/her discretion is the reason I am free today.] As you embark on the process of updating this important guideline, I hope you remember my story.

[insert CR story. Please include details such as:

- Your or your loved one's basis for seeking compassionate release
- Details about why your judge decided to release you/your loved one
- What you/your loved one have been able to accomplish or do since returning home
- OR if you/your loved one was denied compassionate release because the judge found that there was not an "extraordinary and compelling reason" to release you/your loved one, feel free to talk about that as well]

[if you want to comment on any other aspect of the proposed priority list, feel free to do so here]

I appreciate the opportunity to comment and provide insight into this matter.

Respectfully submitted,
[Insert name]