



NATIONAL FRATERNAL ORDER OF POLICE®

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PATRICK YOES
NATIONAL PRESIDENT

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EXECUTIVE DIRECTOR

18 March 2025

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

Dear Judge Reeves,

I am writing on behalf of the members of the National Fraternal Order of Police (FOP), our nation's oldest and largest law enforcement labor organization which represents more than 377,000 members from every region of our country, to share our perspective on the amendments proposed by the United States Sentencing Commission (USSC) to the Federal sentencing guidelines relating to drug offenses and supervised release.

I want to start by thanking the Commission for their work and for inviting the FOP to comment on the proposed amendments. As law enforcement officers, my members are on the front lines, and they know first-hand just how devastating this drug epidemic is in our communities. Our officers are not only working to keep drugs out of our neighborhoods, but they are also actively pursuing the dealers of these drugs both on our streets and online by ensuring their swift arrest and prosecution. As such, the FOP has a vested interest in making sure that sentencing guidelines for fentanyl related crimes are fairly and justly applied.

Fentanyl is one of the most dangerous drugs available on the black market today. In 2021, more than 100,000 Americans died from a drug overdose—65% of which are attributable to fentanyl. The National Institute on Drug Abuse recently found that fentanyl and fentanyl analogs are “the main driver of drug overdose deaths.” Overdose deaths have increased by 7.5 times from 2015 to 2021. The U.S. drug overdose death toll for 2022 is nearly 110,000, primarily from synthetic opioids like fentanyl, making them the leading cause of death for Americans ages 18-49.

The FOP has concerns about the proposed amendments offered by the USSC, specifically regarding the amendments that would lower trafficking offenses. In the midst of the current opioid epidemic, the FOP feels that reducing the base offense levels for “low level trafficking” sends the wrong message to our officers and the public. They work hard every day to find and arrest traffickers of fentanyl and trust that the courts will decide on appropriate sentences that keep drug dealers off the streets.

The FOP believes that the proposed sentencing guidelines are inconsistent with Congressional intent, specifically regarding how they interact with the Controlled Substances Act. The changes, if needed, need to be enacted by Congress, not the USSC.

Secondly, the FOP feels that eliminating the higher offense levels for those found with high quantities of drugs, such as major traffickers or cartel leaders, runs the risk of lessening sentences for those most responsible for the current drug epidemic. The drug quantities that are required to be sentenced at the current level are already quite high, requiring more than 36 kilograms, which could contain over 18 million potentially lethal doses. As such, it is highly unlikely that a person who was not a high-level trafficker would be found with this amount of fentanyl, thereby reducing the need for lowering potential guidelines.

Thirdly, for lower-level defendants caught with higher quantities, the existing statute already provides relief and reduced sentencing in appropriate cases. Notably, the statutory safety valve does not take quantity into account. In designing the safety valve, Congress recognized—and addressed—concerns that a scheme based on drug type and quantity could result in higher sentences for some lower-level participants caught with significant quantities than for the actual leaders. Congress again addressed additional concerns by expanding this eligibility under the historic First Step Act, which the FOP played a key role in getting through Congress, well beyond those with little or no criminal history.

With respect to the proposed amendment focused on enhancing sentencing for “fake pills,” or pills that include fentanyl that are knowingly misrepresented by a defendant, the FOP agrees that there must be additional considerations when sentencing based on this fact. The FOP agrees with the proposed amendment offered by the U.S. Department of Justice, which would increase the sentencing level by four levels should it be determined that a defendant knowingly sold a drug laced with fentanyl or fentanyl analogues. Doing so would properly apply justice in these cases and hopefully help curb the fake pill markets that have led to the deaths of so many Americans.

Let us be clear—fentanyl is a deadly drug and is the cause of death for hundreds of thousands of Americans. The idea of basing sentencing on the amount of drug that is possessed or sold is at variance with common sense in that the drug is fatal even in very small doses. Whether the offender sold one gram or 40 grams doesn't matter to the victims that die of a fentanyl overdose. They provided these victims a lethal drug, and whether they knew they were dealing in fentanyl or not is also immaterial, only intent should be a factor. These are the factors that Congress considered when amending the Controlled Substances Act and Congress is where these sentencing changes should be debated, not the USSC.

On behalf of the 377,000 members of the FOP, we urge the USSC to reject the potential amendments related to the sentencing guidelines as described above. If I can be of any help or provide additional information on the FOP's views on this matter, please do not hesitate to contact me or Executive Director Jim Pasco in our Washington, D.C. office.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick Yoes", with a large, stylized flourish extending to the right.

Patrick Yoes
National President