

Response of Charles R. Breyer
Nominee to be a Member of the United States Sentencing Commission
to the Written Questions of Senator Amy Klobuchar

Part of your role on the Sentencing Commission would be serving as a resource of information for all branches of government, criminal justice practitioners, the academic community, and the public.

What would you do to ensure that critical new research and updated information is getting to each of these different groups? How will you incorporate input from these parties into the Commission's policies?

Response: As to your first question, as you know, the Commission has in place an Office of Research and Data, which actively collects information and both reports on sentencing practices and tracks how the guidelines are actually applied. The Office also does research and analysis on various criminal justice issues, at the request not only of the Commission but of Congress, the courts and others. They produce a myriad of research publications, many of which are available to the public through the Commission's website. Of course, important research comes from many different sources, and as a member of the Commission, I would continue to gather such information and engage with the broader research community.

I think it is critically important to the Commission's mission that it serve as the nation's clearinghouse on sentencing data, policy and discussion for the groups you've mentioned. That mission dovetails with my longstanding commitment to public engagement on these issues. I frequently welcome academics, public servants, and ordinary citizens to my courtroom and chambers. I attend conferences, speak on panels, and track developments in the law through a variety of legal publications. The value of such engagements is sharing my perspective as a judge, and having the opportunity to listen and learn about how sentencing law generally, and the guidelines in particular, are affecting different constituencies on the ground.

As to your second question, 28 U.S.C. § 994(o) provides that the Commission "shall consult" with prosecutors, defense attorneys, probation officers, judges, the Federal Bureau of Prisons and others to review federal sentencing policy and revisions to that policy. The Commission's practice is also to seek out public input on proposed amendments to the guidelines. It is essential to the Commission's purpose that it not be isolated from this real world feedback, but open to it. As a judge I have daily contact with many of these stakeholders, and hear firsthand – sometimes at great volume – their thoughts on the present system. As a member of the Commission, I would work closely with the other members to see that these different perspectives are heard, thoughtfully analyzed, and central to the Commission's decision-making process.