

March 19, 1987

Commission Meeting Minutes

The following Commissioners were in attendance:

William W. Wilkins, Jr., Chairman
Michael K. Block
Stephen G. Breyer
Helen G. Corrothers
George K. MacKinnon
Ilene H. Nagel
Paul H. Robinson

The following staff were in attendance:

Suzanne Conlon, Executive Director
Alan Chaset
Russell Ghent
Peter Hoffman
Deborah Lister
David Lombardero
John Steer
Camille Williams

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Chairman Wilkins called the meeting to order at approximately 2:00 p.m., March 19, 1987, in the Commissioner's Conference Room.

Commissioner Corrothers was congratulated on her birthday.

The Chairman discussed a request by Commissioner Baer that the Sentencing Commission inform the Senate and House Judiciary Committee Leadership of the Commission's support for a Parole Commission legislative proposal pertaining to setting release dates for certain offenders. Without objection, the Commission agreed to have the Chairman write the appropriate letters of support.

The Commission resumed discussion of a proposal to defer guideline drafting on certain offenses, considering a revised list of recommended deferrals prepared by the Chairman after consultation with staff (see attachment). Commissioner Block moved that the Commission adopt the recommendation to defer drafting of guidelines for those offenses indicated by an "O" (for omit) on the list. The motion was seconded by Commissioner Nagel. The motion also incorporated a suggestion by Commissioner Corrothers that, as soon as practicable after the initial set of guidelines were submitted, the Commission should prioritize offenses on the deferral list and prepare guidelines for them in order of importance, giving emphasis first to those deferrals in

the national security area, then to those pertaining to individual rights (peonage, involuntary servitude, and slave trade), etc. The motion further incorporated the Chairman's suggestion that any Commissioner who felt strongly about including in the initial submission any of the guidelines on the deferred list, could draft and submit to the Commission guidelines for that offense or offenses. The motion was approved by all Commissioners except Commissioner Robinson, who abstained.

Part 2 - Role in the Offense - was discussed extensively by the Commission, considering three revised proposals. On motion by Commissioner Nagel, the Commission unanimously referred the matter back to staff for drafting of a proposal along the lines described by the Commission.

A revised proposal on Acceptance of Responsibility was discussed. On motion by Commissioner Corrothers, seconded by Commissioner Nagel, the revised proposal was approved by the Commission (Commissioner Robinson abstaining), after incorporating a commentary modification by Judge Breyer.

A revised proposal on Obstruction of Justice (§C311) was considered. Without objection, a proposal by the Chairman for modification of the commentary, as suggested by the Probation Committee, was approved. On motion by Commissioner Corrothers, seconded by Commissioner Nagel, the proposal was adopted (Commissioner Robinson voting no), with the understanding that the commentary would be rewritten in the "guided departure" format recommended by Judge Breyer.

The preparation of a list of statutory offenses not included in the guidelines was discussed. It was generally agreed that an earlier list prepared by staff, although recognized as incomplete, would be circulated to Commissioners who desired to have it.

The Chairman briefly introduced the agenda for the meeting the next morning pertaining to Criminal History and the revised Sentencing Table.

The Commission then went into executive session to consider certain business, following which the meeting was adjourned.