

COMMISSION MEETING

NOVEMBER 18, 1987

The following persons attended the U.S. Sentencing Commission Meeting on Wednesday, November 18, 1987.

Commissioners

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

Staff

Suzanne Conlon, Executive Director
John Steer
Gary Peters
Paul Martin
Alan Chaset
Camille Williams
Michael Zoeller
Donna Triptow
David Lombardero
Joseph Corradino
Charles Betsey
Alta Cook
William Rhodes

Guest

Ashby Dickerson

Chairman Wilkins called the meeting to order. He called on Suzanne Conlon to introduce the new staff: Donna Triptow and Gary Peters, both Assistant U.S. Attorneys assigned temporarily to the Commission.

The meeting then continued with Chairman Wilkins discussing the Commission's Technical Report. Judge Breyer made a motion to authorize Bill Rhodes (Research Director) to release the Commission's Technical Report to be marked "Draft". The motion was seconded by Commissioner Nagel and was approved by a vote of 6-0. Commissioner Robinson was not present for the vote.

Chairman Wilkins then initiated a discussion of the "Expert System" and the working agreement with the Federal Judicial Center. Commissioners Block and Nagel and various Commission staff had recently met with F.J.C. Director John Godbold and members of his staff. Commissioner's Block and Nagel stated that at this meeting they had agreed to try to cooperate on producing a single expert system, but that the Commission would remain in charge of its own project. After an extensive discussion of the opportunities and difficulties involved in cooperative development, Judge Wilkins stated that he would reply in writing to the suggestions of the Federal Judicial Center for cooperative development, stressing the need for a prompt response. A motion was made by Commissioner Nagel, seconded by Commissioner Corrothers, that the Commission begin to make plans for distribution of the expert system to 15 districts for testing and evaluation. The motion passed by a vote of 6-0.

Commissioner Robinson and Judge Breyer discussed the Commission's authority to retain and compensate outside counsel. Judge Breyer made a motion, seconded by Judge MacKinnon, that John Steer prepare a memorandum on the subject. The motion passed unanimously.

Chairman Wilkins stated that the Commission has continued to experience problems with the telephone system. Paul Martin and Linda Clemons investigated other systems and have suggested switching to Rolm equipment. Linda Clemons demonstrated the Rolm phone and answered questions from the Commissioners. Commissioner Nagel proposed that we try the new system on an experimental basis for just Commissioners and their secretaries for a period of one month.

Chairman Wilkins called for a discussion on the monitoring program. It was generally agreed that the Commission needs to receive the following items:

- 1) Guidelines Worksheets
- 2) Presentence Reports
- 3) Judgment and Commitment Orders
- 4) Written Plea Agreements
- 5) Sentencing Transcripts
- 6) Statistical data from the FPSIS System.

Commissioner Corrothers indicated that it would be better to overestimate the budget for the monitoring program rather than to underestimate. In response to a question from Judge MacKinnon, Bill Rhodes stated that the Commission would retain much of the information (presentence reports, etc.) on microfiche. There was a discussion of the expense and effort involved in processing the data: collecting, reviewing and data entry. Chairman Wilkins stated that John Steer projected that the Commission had adequate funds to cover this project.

David Lombardero reported that the drafting staff was working on preliminary drafts of emergency guideline amendments, and he expects to distribute them to the Commission by the end of next month. He also indicated that he and other staff are working on the supplementary illustrations that had previously been distributed to the Commissioners. Judge Wilkins requested the Commissioners to forward their comments on these illustrations to the drafting staff so that the document could be distributed to the field as soon as possible.

Commissioner Nagel indicated that the Bureau of Prisons was to provide the Commission with data on the cost of imprisonment and the cost of probation. She also asked that the Commission have Bill Rhodes assign someone on his staff to pursue this information from the Bureau. Commissioner Corrothers stressed that the cost for a minimum security facility was less than cost for those having medium and maximum security. It was important for the Commission, along with the Bureau, to be able to give the Congress realistic estimates of the anticipated costs of facilities. This topic would be discussed in greater detail at the next Commission meeting.

Commissioner Nagel also urged that John Steer assign staff attorneys to prepare draft briefs, etc. on anticipated litigation issues: challenges to the Commission's constitutionality and other expected challenges. She urged that the Commission not rely solely on the efforts of outside counsel. A discussion ensued concerning the amount of effort that should be devoted to preparing for possible litigation challenges. The Commission agreed that the General Counsel designate staff to monitor the litigation. Additionally, at the request of Commissioner Block the General Counsel was instructed to prepare a memo on the Commission's legal authority to require court personnel to furnish information for the Commission's monitoring efforts.

There followed brief discussion of the Commission's budget.

Chairman Wilkins stated that the next Commission Meeting would be on Wednesday, December 16, 1987, at 1:00 p.m.

Thereafter the meeting was adjourned.