

Minutes of the January 23, 1990 United States Sentencing Commission
Business Meeting

The meeting was called to order at 9:36 A.M. by Chairman William W. Wilkins, Jr.

The meeting was held in the library of the U.S. Sentencing Commission. The following Commissioners, staff, and guests participated:

William W. Wilkins, Jr., Chairman
Helen G. Corrothers, Commissioner
George E. MacKinnon, Commissioner
Ilene H. Nagel, Commissioner
Stephen Saltzburg, Ex Officio Member
Phyllis Newton, Staff Director
John R. Steer, General Counsel
David Anderson, Deputy General Counsel
Peter Hoffman, Principal Technical Advisor
Ronnie M. Scotkin, Guideline Development Analyst
Jeffrey Standen, Deputy General Counsel
Dean Stowers, Staff Attorney
Maggie Jensen, Probation Division Representative
Roger Pauley, Criminal Division, DOJ
Vicki Portney, Criminal Division, DOJ

-- Motion made by Commissioner Corrothers to approve the minutes of January 16, 1990; seconded by Commissioner MacKinnon. Passed unanimously.

Amendments

Item 1: §2G1.2 Transportation for the Purpose of Prostitution
or Prohibited Sexual Conduct

Motion made by Commissioner Corrothers to modify commentary; seconded by Commissioner MacKinnon. Passed unanimously.

-- General consensus to publish application note 6.

Item 2: §2G1.2 Transportation of a Minor for the Purpose of
Prostitution or Prohibited Sexual Conduct

Motion made by Commissioner Corrothers to tentatively approve for publication with changes approved in commentary for Item 1; seconded by Commissioner Nagel. Passed unanimously.

Item 3: §2G2.1 Sexually Exploiting a Minor by Production of Sexually Explicit Visual or Printed Material, Custodian Permitting Minor to Engage in Sexually Explicit Conduct, Advertisement for Minors to Engage in Production

Motion made by Commissioner Nagel to tentatively approve with changes; seconded by Commissioner Corrothers. Passed unanimously.

Item 4: §2G2.2 Transporting, Distributing, Receiving, Possessing with Intent to Sell, or Advertising to Receive Material Involving the Sexual Exploitation of a Minor

Deferred for further staff consideration.

Item 5: §2G3.1 Importing, Mailing, or Transporting Obscene Materials Involving Adults

Deferred for further staff consideration.

Item 6: §2H1.1 Conspiracy to Interfere with Civil Rights: Going in Disguise to Deprive of Rights

Motion made by Commissioner Corrothers to tentatively approve option #1 with base offense level (15) and clarifying language; seconded by Commissioner Nagel. Passed. Commissioner MacKinnon voted "no."

Item 7: §3A1.4 Victim Due to Race, Color, Religion, Alienage, or National Origin or on Account of Exercise of Federal Rights

Motion made by Commissioner Corrothers to tentatively approve the staff proposal (without the alternative option) with language changes; seconded by Commissioner Nagel. Passed unanimously.

Item 8: Chapter Two, Part H, Subpart 1, Civil Rights

Commissioner Corrothers accepted Chairman Wilkins' suggestion that item #8 be considered at the next meeting following staff review of the memorandum dated January 22, 1990. Commissioner Corrothers so moved, seconded by Commissioner Nagel. Passed unanimously.

Item 9: §2A2.1 Assault with Intent to Commit Murder; Conspiracy or Solicitation to Commit Murder; Attempted Murder

Motion made by Commissioner Nagel to make (28) the base offense level of (a)(1), make (22) the base offense level of (a)(2), delete (b)(1)(a), and make (b)(2) (6) levels; seconded by Commissioner MacKinnon. Passed unanimously.

-- Motion made by Commissioner MacKinnon to conform all relevant amendments; seconded by Commissioner Nagel. Passed unanimously.

Item 10: §2K3.2 Feloniously Mailing Injurious Articles

Motion made by Commissioner MacKinnon to tentatively approve for publication with language changes; seconded by Commissioners Nagel and Corrothers. Passed unanimously.

Item 11: Commentary to §2D1.1 (Application Note 10)

Motion made by Commissioner Corrothers to tentatively approve publication of proposal with a question regarding an option without caps; seconded by Commissioner MacKinnon. Passed unanimously.

Item 12: Commentary to §2D1.1 (Application Note 11)

Motion made by Commissioner Corrothers to tentatively approve for publication; seconded by Commissioner Nagel. Passed unanimously.

Commissioner Nagel asked that a staff work group be appointed to look into computer fraud/virus issues.

Jeff Standen updated the Commission on the Penalties Review Project. He distributed the project staff's report to the Commission for recommendations.

Chairman Wilkins requested the Commissioners to review the Federal Public Defenders' proposals under the same reviewing procedure that is used on proposals submitted by other agencies.

Chairman Wilkins announced that the next Commission meeting was scheduled for January 30, 1990, at 9:00 A.M.

Chairman Wilkins adjourned the meeting into Executive Session at 12:30 P.M.