

Minutes of the September 11, 1990, United States Sentencing Commission Business Meeting

The meeting was called to order at 2:13 P.M. by Chairman William W. Wilkins, Jr.

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

William W. Wilkins, Jr., Chairman
Julie E. Carnes, Commissioner
Helen G. Corrothers, Commissioner
Michael S. Gelacak, Commissioner
George E. MacKinnon, Commissioner
A. David Mazzone, Commissioner
Ilene H. Nagel, Commissioner
Paul L. Maloney, Ex Officio Member
Phyllis J. Newton, Staff Director
John R. Steer, General Counsel
Nolan Clark, Deputy General Counsel
Joel Garner, Research Director

Chairman Wilkins welcomed the guests and introduced Joy Taylor and Marilyn Bradly, Probation Officers on detail to the Commission and Ann Smythe, on detail from the Bureau of Prisons. He also welcomed Katherine Rosich as a Senior Research Associate with the Evaluation staff.

-- Motion made by Commissioner Corrothers to adopt the minutes of the August 28, 1990, Commission meeting; seconded by Commissioner MacKinnon. Passed unanimously.

Chairman Wilkins called for general comments on the proposed commentary change for Reckless Endangerment during Flight (§ 3C1.2). He emphasized that this amendment was drafted in response to the concern as to whether the Obstruction of Justice guideline would be applicable to reckless endangerment during flight and that the sole purpose of this change was to prevent double-counting of the same conduct.

-- Motion made by Commissioner Carnes to adopt the proposed commentary change (§ 3C1.2) with the insertion in application note 1 after "offense" of "solely;" seconded by Commissioner Corrothers. Passed unanimously.

Regarding the proposed Human Subject/Confidentiality policy, Staff Director Newton stated that the purpose of this policy was so one would be available to protect the anonymity of respondents.

-- Motion made by Commissioner MacKinnon to call this the United States Sentencing Commission Subject/Confidentiality Policy and to delete "human" throughout the text; seconded by Commissioner

Corrothers. Passed unanimously.

-- Motion made by Commissioner Nagel to delete the last sentence in II; seconded by Commissioner Mazzone. Passed unanimously.

Chairman Wilkins opened discussion on the Introduction to Violations of Probation and Supervised Release.

-- Commissioner Nagel moved Chairman Wilkins' technical clarifications concerning the last sentence of 3(a) on page 7.2; seconded by Commissioner Corrothers. Passed unanimously.

-- Motion made by Commissioner MacKinnon to delete on page 7.3, third paragraph, last sentence, "account for" and insert "address;" seconded by Commissioner Mazzone. Passed unanimously.

-- Motion made by Commissioner Corrothers to adopt the Introduction to Violations of Probation and Supervised Release, as amended; seconded by Commissioner Carnes. Passed unanimously.

Research Director Garner discussed his September 4, 1990, progress report concerning research on organizational sanctions. Chairman Wilkins requested that Garner incorporate into the facesheet the various suggestions from the Commissioners and then generate a sample run of 50 cases for next week.

-- Motion made by Commissioner Mazzone to direct the previously formed working group on Organizational sanctions to commence production of a working draft on organizational sanctions; seconded by Commissioner Corrothers. Passed unanimously.

Chairman Wilkins stated that the Sentencing Institute held in Fort Worth, Texas was successful and that the FJC did a good job in organizing the conference. Chairman Wilkins expressed an interest in continuing to play a major role in future Sentencing Institutes and would write a letter to the director expressing those sentiments.

Chairman Wilkins announced that an informal meeting on organizational sanctions has been scheduled for September 18, 1990, at 10:00 A.M. Staff Director Newton and Communications Director Martin have invited guests to speak to the Commission.

Commissioner Mazzone requested staff comments on the Sentencing Institute for internal consideration.

Commissioner Gelacak requested that Main Justice and appropriate Senate and House staff be encourage to attend the September 18, 1990, meeting.

Chairman Wilkins announced that staff would be submitting their recommendations for individual guidelines priorities on September 25, 1990.

Chairman Wilkins adjourned the meeting at 3:21 P.M.