

Minutes of the April 16, 1991, United States Sentencing Commission Business Meeting

The meeting was called to order at 2:10 p.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
Julie E. Carnes, Commissioner
Helen G. Corrothers, Commissioner
Michael S. Gelacak, Commissioner
George E. MacKinnon, Commissioner
A. David Mazzone, Commissioner
Paul L. Maloney, Ex Officio Commissioner
Paul K. Martin, Deputy Staff Director
John R. Steer, General Counsel
Nolan Clark, Deputy General Counsel
Joel Garner, Director, Research Studies
Sharon Henegan, Director, Training and Technical Assistance
Peter Hoffman, Principal Technical Advisor
Win Swenson, Deputy General Counsel

Commissioner Nagel and Staff Director Newton were unable to attend the meeting.

Chairman Wilkins, on behalf of the Commission, offered condolences to Commissioner Baer's family and colleagues upon his unexpected death. Chairman Wilkins stated that Commissioner Baer was a forceful advocate for the Parole Commission and will be missed by all.

Chairman Wilkins introduced Probation Officers Stephen E. Ward, District of Nevada, and Gary Yazalina, Northern District of California, both on temporary assignment to the Commission.

-- Motion made by Commissioner MacKinnon to adopt the minutes of the April 2, 1991, Commission meeting; seconded by Commissioner Corrothers. Passed.

Amendments

§2A4.1(b)(7) Kidnapping, Abduction, or Unlawful Restraint;
§2C1.1(b)(1) Offering, Giving, Soliciting, or Receiving a Bribe;
Extortion Under Color of Official Right; §2C1.7(b)(1) Fraud
Involving Deprivation of the Intangible Right to the Honest
Services of Public Officials; Conspiracy to Defraud by Interference
with Governmental Functions

Motion made by Commissioner MacKinnon to adopt the proposed amendment to U.S.S.G. §2C1.1(b)(1) to read "(1) If the offense involved more than one bribe or extortion, increase by 2 levels";

seconded by Commissioner Corrothers. Passed unanimously.

#16(A): §2D1.11 Unlawful Distribution, Import, Export or Possession of Listed Chemicals

Chairman Wilkins moved to adopt the proposed revised amendment; seconded by Commissioner Corrothers. Passed unanimously. Commissioner Nagel previously indicated her support for this amendment.

#16(B-D): §2D1.12 Unlawful Possession, Manufacture, Distribution, or Importation of Prohibited Flask or Equipment; §2D1.13 Structuring Chemical Transactions or Creating a Chemical Mixture to Evade Reporting or Recordkeeping Requirements; Presenting False or Fraudulent Identification to Obtain a Listed Chemical; §2D3.5 Violation of Recordkeeping or Reporting Requirements for Listed Chemicals and Certain Machines

Motion made by Commissioner Mazzone to adopt the proposed substitute amendments to U.S.S.G. §2D1.13(a)(3) as Base Offense Level 6; seconded by Commissioner Corrothers. Passed unanimously.

#3, 21, 22: §2K2.1 Unlawful Receipt, Possession, or Transportation of Firearms or Ammunition: Prohibited Transactions Involving Firearms or Ammunition; §2K2.5 Possession of Firearms and Dangerous Weapons in Federal Facilities: Possession and Discharge of Firearms in School Zones; §2K1.3 Unlawful Receipt, Possession, or Transportation of Explosive Materials; Prohibited Transactions Involving Explosive Materials

Motion made by Commissioner Carnes to adopt the proposed substitute amendment with appropriate application notes and conforming commentary to be inserted; seconded by Commissioner Mazzone. Passed unanimously. Commissioner Nagel previously indicated her support for this amendment. Commissioner Maloney expressed concern over the inclusion of the decay factor in this amendment.

Joel Garner summarized the methodology used, and reported on projections of the prison impact for the 1991 proposed amendments.

The Commission discussed and approved various wording changes in the April 12 draft on organizational sanctions. Win Swenson and Nolan Clark will incorporate these changes before the Commission meets on April 17.

Sharon Henegan raised the issue of a possible discrepancy between fines imposed on individuals and those for organizations in the same case because of differences in the basis for fines in Chapter Five and proposed Chapter Eight. The Commission requested that staff present this issue for review on April 17. Chairman Wilkins announced that the final vote on the proposed organizational sanctions guidelines is scheduled for April 26.

Chairman Wilkins adjourned the meeting at 4:09 p.m.