

Minutes of the July 1, 1992  
United States Sentencing Commission Business Meeting

The meeting was called to order at 2:10 p.m. by Chairman William W. Wilkins, Jr. in the library of the Sentencing Commission. The following Commissioners, staff, and guests participated:

William W. Wilkins, Jr., Chairman  
Julie E. Carnes, Commissioner  
Michael S. Gelacak, Commissioner  
A. David Mazzone, Commissioner  
Ilene H. Nagel, Commissioner  
Carol Pavilack Getty, Ex Officio Commissioner  
Paul L. Maloney, Ex Officio Commissioner  
Phyllis J. Newton, Staff Director  
John R. Steer, General Counsel  
Winthrop Swenson, Legislative Counsel  
Pamela Montgomery, Senior Staff Attorney  
Fred Bennett, Representative, Practitioners' Advisory Group  
Tom Hutchison, Representative, Federal Public Defenders  
Paul Borman, Representative, Federal Public Defenders  
Judge Vincent Broderick, Chairman, Criminal Law Committee of the Judicial Conference  
Judge William Schwarzer, Director, Federal Judicial Center

Chairman Wilkins recognized departing staff members Elaine Wolf, Ron Everett, and Will Jetton for their service to the Commission. He then welcomed Professor Gordon Waldo, Susan Kuzma (the Commission's first judicial fellow), Deborah Dealy-Browning (AUSA, on six-month assignment to the Commission), and Tom Goldman and Mary Frances Barnes (Probation Officers on temporary assignment to the Commission).

Motion was made by Commissioner Carnes to adopt the minutes of the May 13, 1992, Commission meeting. The motion passed unanimously.

The Commission discussed priorities for the 1993-94 amendment cycles. Commissioner Nagel suggested moving the study of white-collar economic crime from the two-year list of priorities to the 1993 amendment cycle. She also suggested that an attempt be made to look to "other indicia of risk" as an alternative to quantity in drug cases. Commissioner Maloney requested that a study of criminal history be added to the two-year priority list. Commissioner Nagel questioned the appropriateness of including "prison capacity" as a formal, one-year priority and suggested that this be an ongoing staff project.

Commissioner Nagel moved that the following working groups be placed on a one-year cycle: violent crimes (including firearms and gang-related activity), white-collar/economic offenses (including tax offenses), money laundering, harmonizing drug offenses and mandatory minimums, and environmental offenses. Two-year priorities include public

corruption/computer fraud, substantial assistance departures, food and drug offenses, probation and supervised release revocation, Sentencing Reform Act issues, criminal history, and juvenile offenses. Motion passed unanimously.

Chairman Wilkins raised the possibility of forming a working group of federal judges to study the drug guidelines. The working group would be composed of at least one judge from every circuit. Commissioner Nagel supported the plan, pointing out that it might result in suggestions that would help harmonize the guidelines with mandatory minimums. Commissioner Gelacak wanted to make sure some new faces from the Judiciary were invited to participate. Commissioner Mazzone made a motion to pursue such a working group. The motion passed unanimously.

Staff Director Newton reported on a plan to form a Probation Officers' Advisory Committee. The Committee would be a permanent advisory body to the Commission consisting of at least one probation officer from each circuit. All Commissioners voiced their support for such an advisory committee.

Legislative Counsel Swenson discussed several pieces of pending legislation. First, legislation is expected to pass soon that will allow a Commissioner to remain in his/her position as Commissioner until a successor is approved by the Senate. Second, Mr. Swenson reviewed the status of legislation designed to correct ambiguities in probation and supervised release revocation. He noted that although such legislation is stalled in Congress as part of the Omnibus Crime Bill, attempts are being made to move the revocation legislation through separately. He discussed prospects for passage of the Crime Bill.

Senior Staff Attorney Montgomery summarized recent caselaw developments. The subjects covered during her presentation included the line of cases decided in the aftermath of Chapman, criminal history and case consolidation (Bachiero), and downward departures due to extraordinary family circumstances (Johnson from the Second Circuit).

Staff Director Newton described research activities at the Commission. In addition to conducting a research conference this fall, she outlined the framework of a larger research symposium (to be held in May or June of 1993). The symposium, as envisioned by Commissioner Mazzone, would address such issues as crime causation, offense severity, and the relationship between severity and deterrence. Commissioner Maloney advanced the suggestion that crime's "cost to society" be touched upon in any symposium the Commission sponsors. There was a consensus among Commissioners to have the ideas put into memorandum form by Staff Director Newton.

The formal meeting adjourned at 3:40 p.m.