

COMMISSION MEETING

MARCH 10, 1987

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Commission Meeting Minutes

The following Commissioners were in attendance:

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

The following Staff were in attendance:

Suzanne Conlon, Executive Director  
Alan Chaset  
Di Horvath  
Deborah Lister  
David Lombardero  
Paul Martin  
Phyllis Newton  
John Shadegg  
John Steer  
Camille William

A number of representatives of interested groups, members of the news media, and other members of the public were also present.

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Chairman Wilkins called the meeting to order at approximately 10:00 a.m., Tuesday, March 10, 1987, in the Conference Room of the Commission's offices.

The Chairman noted that Commissioner Baer was necessarily out of town and that Commissioner Gainer was necessarily absent due to a conflict with another meeting.

1. The agenda of witnesses for the public hearings March 11 and 12 was distributed.

2. The Commission received a report from Commissioner Block concerning the prison impact study. Commissioner Block distributed and discussed a summary of his March 5 testimony before the House Judiciary Subcommittee on Courts, Civil Liberties and the Administration of Justice, chaired by Representative Kastenmeier.

3. The Chairman temporarily bypassed the next agenda item and the Commission proceeded to discuss the third agenda item pertaining to the proposed deletion from the Guidelines Document of guidelines for certain infrequently prosecuted offenses.

Commissioner Corrothers asked that the Minutes reflect her objection to deleting a number of the proposed guidelines,

regardless of the infrequency of prosecution, and proceeded to name them: A252 (Interference with Flight Crew or Flight Attendant); K215 (Unlawfully Possessing An Explosive in a Government Building); M212 (Misprision of Treason); M222 (Production of Defective War Materials, Premises or Utilities); and N232 (Unsafe Consumer Product).

4. The Commission returned to the agenda item pertaining to capital punishment guidelines. (A verbatim (as near as possible) transcript of this portion of the meeting is attached as an Addendum).

Commissioner Block moved that the Commission draft and consider (on or about March 20) publishing for public comment guidelines providing for the imposition of capital punishment for murder by a federal inmate serving the practical equivalent of a life sentence, with the understanding that such guidelines would be submitted to Congress separately from the main body of sentencing guidelines. (Commissioner Nagel later seconded the motion). Commissioner Block discussed a memorandum previously circulated to Commissioners (copy attached) which outlined

his proposal and the justification for it.

Judge MacKinnon then moved that the Commission postpone to some later time after the guidelines have been presented to Congress and acted upon further consideration of the death penalty sentence and that the Commission spend all its time preparing the sentencing guidelines for submission to Congress (in April). Commissioner Corrothers seconded the motion.

After further discussion and statement of positions by each Commissioner, the Chairman called for a vote on the motions in the order they were made.

Motion by Commissioner Block (i.e., draft and submit separate death penalty guidelines for murder by inmate serving equivalent of life sentence):

3 AYE (Commissioners Block, Nagel, Robinson)

4 NAY (Commissioners Corrothers, Breyer, MacKinnon, Wilkins)

Motion by Judge MacKinnon (i.e., not address death penalty in the April submission of the guidelines):

4 AYE (Commissioners Corrothers, MacKinnon, Breyer, Wilkins)

3 NAY (Commissioners Block, Nagel, Robinson)

5. The Commission received a report from Suzanne Conlon and discussed the process and results of clinical testing of the Revised Draft guidelines.

6. Several Commissioners at this point clarified their previously stated positions concerning proposed deletion from the working document of infrequently prosecuted offenses. It was generally decided that the Commission would revisit this issue on Thursday afternoon, March 12.

7. The process and timetable for revising and finalizing the guidelines was discussed, with reference to an agenda proposed by Suzanne Conlon. It was generally decided to postpone consideration of certain parts of Chapter Three, namely Criminal History and Offender Characteristics, until Friday, March 20. In lieu of these items, on March 19 the Commission would have preliminary discussions of the General Provisions and Role in the Offense sections.

The meeting was then adjourned.