

COMMISSION MEETING

MAY 26, 1987

The following persons attended the U.S. Sentencing Commission Meeting on May 26, 1987.

COMMISSIONERS

William W. Wilkins, Jr., Chairman
Benjamin F. Baer
Michael K. Block
Helen G. Corrothers
George E. MacKinnon
Ilene H. Nagel
Paul H. Robinson

Staff

Suzanne Conlon, Executive Director
Charles Betsey
Russell Burress
Alan Chaset
Peter Hoffman
David Lombardero
Paul Martin
Phyllis Newton
William Rhodes
John Steer
Sharon Turner
Camille Williams

Commission Meeting Minutes - May 26, 1987

Chairman Wilkins called the meeting to order at 2:15 p.m., on Tuesday, May 26, 1987.

The Chairman mentioned that the staff is working on guideline worksheets for distribution. Judge Wilkins requested that Russell Burress, Charles Betsey, Peter Hoffman, and David Lombardero give the Commission a status report on the worksheets.

Peter Hoffman submitted to the Commissioners copies of draft guideline worksheets and sample completed worksheets which he, Rusty Burress and others had jointly developed.

Commissioner Corrothers inquired as to the ease of application and amount of additional work involved in completing the worksheets, emphasizing that her principal concern was the ease of application and, secondarily, the additional work.

Peter Hoffman stated that the probation officers (now and in the future) must write a PSI and do it in great detail. Eventually, for operational use, the judge is going to have to make findings of fact. The probation officer will make proposed findings or tentative findings. This means consolidating and intergrating the worksheets in some fashion with the PSI report, as they are not duplicate documents. For the present purposes, because of the desire to distribute worksheets that the probation officer could apply, and which we could use in field testing, the staff had tried to design a simple form that had the essentials

and that could be tested by using this form with a copy of the PSI.

Judge Wilkins raised the question of whether the worksheet will accomplish the two goals of walking a probation officer (and others) through the guidelines and data collection, or is the purpose only the former?

Commissioner Nagel stated that it should primarily be the former. The Commission will have their first meeting on June 9, 1987, with an outside consultant to plan the data collection effort. Meetings have been held to plan the testing, given the short amount of time. Given the need to get the worksheets out, the Commission should not wait for the testing research design to be formulated.

Commissioner Nagel suggested that a cover letter accompany the worksheets to explain that the Commission may later change the worksheet to accommodate data collection efforts, but was issuing draft worksheets now to aid in applying the guidelines.

Judge Wilkins asked the Commissioners if all agreed on the concept and purpose of these worksheets. There appeared to be a consensus.

In response to concerns stated by Commissioner Block and others, Judge Wilkins mentioned that the Commission should state in the cover letter that there are preliminary worksheets designed to assist in applying the guidelines. The Commission encourages the use of these materials as a supplement to the instructions within the guidelines. Also, if users have suggestions for improvement, the Commission would appreciate receiving them.

In response to a question from Judge MacKinnon, Judge Wilkins stated that the distribution of the worksheets would be the same as for the guidelines.

Judge Wilkins called upon John Steer to give a brief summary of the different sections of the report on which the staff is working.

Judge Wilkins ask Mr. Steer to list the sections that the report will contain. Mr. Steer stated that the report will have a brief introduction and perhaps an executive summary that (John Shadegg will be working on). There will be a section on history of sentencing reform authored by Steer; Paul Martin's section on the Commission's procedure for guidelines development; and David Lombardero's overview, general approach and description of how the Commission developed the guidelines using the research data; Peter Hoffman's section on criminal history; and sections on

prison impact and disparity. There is also a section on chapter 6, pertaining to plea agreements and sentencing procedures.

Commissioner Corrothers inquired about the procedure for circulating and revising sections of the report. In response, Judge Wilkins stated that sections of the report should be circulated to all the Commissioners with a memo from the staff member as soon as they are in reasonably finished form. If there are conflicting recommendations from the Commissioners, then the staff member must bring the matter to the Commission's attention for resolution.

Judge MacKinnon commented on the term "fact findings" and stressed that the statute speaks of judges having to give reasons for their decision, which reasons will be the basis for appeals. Judge MacKinnon also reported comments from two judges in the D.C. Circuit who had successfully applied the guidelines to complicated cases and obtained results in line with their actual sentences.

Judge Wilkins reminded the Commission that on Monday, June 8, there will be a meeting with Judge Mazzone to discuss training.

Judge MacKinnon suggested that the Commission proceed with drafting guidelines for the remaining offenses that have not been completed.

The Commission discussed plans for in-house clinical testing by staff, bringing various groups into the Commission's offices for testing of the guidelines, and testing in the "field."

The meeting was adjourned by the Chairman.