

Minutes of the July 11, 1989 United States Sentencing Commission
Business Meeting

The meeting was called to order at 10:09 A.M. by Chairman William W. Wilkins, Jr.

The meeting was held in the library at the United States Sentencing Commission. The following Commissioners, staff members and guests participated:

William W. Wilkins, Jr., Chairman
Michael K. Block, Commissioner
Stephen G. Breyer, Commissioner
Helen G. Corrothers, Commissioner
George E. MacKinnon, Commissioner
Ilene H. Nagel, Commissioner
Stephen Saltzburg, Ex Officio Member
Winston S. Moore, Staff Director
John R. Steer, General Counsel
Julie Carnes, Special Counsel
Joseph Aronica, AUSA - E.D.Va.
Tim Belone, Tax Division, DOJ
Joe Brown, Chairman, Attorney General Advisory Committee
Howard Cox, Deputy Inspector General, DOD
William Hendricks, Chief, Fraud Section, Criminal Division
Ray Mushal, Lands Division, DOJ
Vicki Portney, Criminal Division, DOJ
Tom Ruebreak, Chief, White Collar Crime, FBI
Eugene M. Thirolf, Civil Division, DOJ

The Department of Justice gave a presentation on corporate sentencing and the problems of prosecuting corporate defendants. Various issues concerned with detection, investigation and sentencing were discussed. Commissioner Block requested that DOD make examples of victim-impact statements available to the Commission. Chairman Wilkins thanked the group for the informative and interesting presentation.

Chairman Wilkins recessed the meeting for a break at 12:01 P.M. and reconvened the meeting at 12:26 P.M.

Chairman Wilkins questioned John Steer on the Commission's emergency authority. Steer stated that he believed the emergency authority to be broad enough to include conforming changes to existing guidelines that were reasonably related to amendments necessary to implement statutory changes and that such amendments were not inconsistent with the intent of Section 21 of the Sentencing Reform Act of 1987. Steer, however, advised the Commission to limit its scope concerning these amendments (crack and pornography) since broad action would likely result in extensive litigation that could result in adverse rulings.

Chairman Wilkins stated for the record, on behalf of Commissioner Breyer who was absent during this discussion, that Commissioner Breyer believed the Commission should address the emergency amendments in the normal amendment process next year.

A discussion ensued pursuant to a motion to promulgate an enhanced penalty for crack. The legal staff was directed to work with Peter Hoffman to prepare proposal(s) to be circulated for a vote at the next Commission meeting.

Commission Corrothers urged Commission response to the resolution of the Committee on Criminal Law and Probation Administration concerning mandatory minimum sentences. Chairman Wilkins stated that this will be placed on the agenda for the next meeting.

Commissioner Block requested an updated memorandum on the July 10, 1989, discussion on the plea agreement project. Commissioner Nagel replied that, to her knowledge, the question of David Rauma's evaluation study was the only remaining issue from that discussion and clarified, for the record, that David Rauma's study was to be nationwide rather than limited to the ten jurisdictions discussed.

Chairman Wilkins informed the Commission that the Corporate Sanctions working group will circulate an in-depth draft on Thursday.

Chairman Wilkins scheduled Commission meetings on July 19 and July 25, 1989.

Chairman Wilkins adjourned the Commission meeting at 12:56 P.M.