

Minutes of the June 25, 1990, 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
Helen G. Corrothers, Commissioner
George E. MacKinnon, Commissioner
Ilene H. Nagel, Commissioner
Paul L. Maloney, Ex Officio Member
Phyllis Newton, Staff Director
Paul Martin, Communications Director
Joel Garner, Research Director
Vicky Portney, Department of Justice
Julie Samuels, Department of Justice

Chairman Wilkins introduced Steven Susser, who will serve as law clerk for Commissioner Nagel.

Chairman Wilkins moved to approve the minutes of the June 18, 1990, Commission meeting; seconded by Commissioner MacKinnon and Commissioner Corrothers. Passed unanimously.

Chairman Wilkins asked for a report on the Judicial Conference Committee on Criminal Law and Probation Administration meeting that was conducted last week. Commissioner Nagel reported that there were four presentations given by Commission staff at the meeting: Commissioner Corrothers gave a presentation on Alternatives to Imprisonment, Phyllis Newton spoke about the Commission's monitoring plan, John Steer talked about legal issues, and Commissioner Nagel talked about the Commission's evaluation efforts. Commissioner Nagel reported that there was also a lengthy discussion about the Federal Courts Study Committee's proposal for creation of a separate Sentencing Commission oversight committee. The Committee eventually decided not to support the suggestion, arguing that the new oversight committee would result in duplication of efforts. The Committee commended the Commission's practice of keeping it informed and citing the recent revocation guidelines as an excellent example. In addition, there was a discussion on ways to increase flexibility in the guidelines. Four areas of flexibility were proposed: sentencing options with increases in those eligible for probation with conditions, increases in those eligible for straight probation and changes in offense seriousness for two levels; acceptance of responsibility; relevant conduct; and offender characteristics. Commission members were not present for the final vote regarding these proposals as requested.

Commissioner MacKinnon reported on the recent Federal Bureau of Prisons Wardens Conference that he and Chairman Wilkins attended in Minnesota. Commissioner MacKinnon reported that the meeting was very informative and well-organized and included a discussion on home confinement that was relevant to the Commission's work. He reported that Chairman Wilkins provided an informative speech to the wardens on behalf of the Commission.

Chairman Wilkins opened the discussion on the proposed evaluation plan and asked for suggestions, changes, or comments. Commissioner MacKinnon offered several minor editorial changes and suggested the plan make a distinction between justified and unjustified departures from the guidelines. Chairman Wilkins asked if it would be possible to break down the departures into those identified by the guidelines as potential departure factors and those departure factors that judges create. Joel Garner indicated that with the help of the legal staff, this information could be captured. Commissioner MacKinnon provided written editorial comments for consideration. Chairman Wilkins made a motion that the evaluation plan be approved pending the amendments discussed; Commissioners Corrothers and Nagel seconded. Passed unanimously. Commissioner Nagel complimented the Research Staff for proposing a superb plan. Chairman Wilkins said that after the amendments are incorporated in the evaluation plan, he will send a copy to Congressman Schumer.

Chairman Wilkins commented on the recent letter from Congressman Schumer concerning organizational sanctions. Chairman Wilkins asked that each Commissioner respond to question number two and furnish their letters to him in order to be included in the complete package that will be sent to Congressman Schumer. Vicky Portney, commented that prior to Stephen Saltzburg being appointed ex-officio member, the Department of Justice did not require employees to clear meetings with the ex-officio member. While this policy allowed for a free exchange of information between the Commission and the Department of Justice, it will present difficulties for Commissioners attempting to respond to Congressman Schumer's questions.

Chairman Wilkins stated that planning has begun for a swearing in ceremony for the new Commissioners.

The Commission will next meet on July 10.

The meeting was adjourned at 3:12 p.m.