

Minutes of the July 24 and 25, 1990, United States Sentencing Commission Business Meeting

The meeting was called to order at 2:02 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
Julie E. Carnes, Commissioner
Helen G. Corrothers, Commissioner
Michael S. Gelacak, Commissioner
George E. MacKinnon, Commissioner
A. David Mazzone, Commissioner
Ilene H. Nagel, Commissioner
Paul Maloney, Ex Officio Member
Phyllis Newton, Staff Director
John R. Steer, General Counsel
Sharon Henegan, Director of Training And Technical Assistance
Peter Hoffman, Principal Technical Advisor
Andy Purdy, Chief Deputy General Counsel
Melissa Selick, Training Specialist
Win Swenson, Deputy General Counsel
Alan Chaset, Practitioners' Advisory Group
Maggie Jensen, Probation Division Representative
Roger Pauley, Criminal Division, DOJ

Chairman Wilkins welcomed Commissioners Carnes and Mazzone and reiterated the Commission's enthusiasm for proceeding with a full complement. On behalf of the Commission, the Chairman offered support to the new Commissioners.

Chairman Wilkins introduced Daniel Capodanno, U.S. probation officer on detail from the Northern District of California.

Motion made by Commissioner Corrothers to adopt the minutes of the July 10, 1990, Commission meeting; seconded by Commissioner Nagel. Passed unanimously.

Sharon Henegan and Melissa Selick discussed the Case Review Project report prepared by the Technical Assistance Service staff. The Case Review Project involves an in-depth analysis of randomly-selected case files sentenced under the guidelines between August 1, 1989, and July 31, 1990, for the purposes of determining if guidelines are being applied by the probation officers consistent with the Commission's intent and identifying areas of guideline application that appear problematic. The project's purpose is to fulfill the statutory responsibility to monitor the performance of probation officers. At this time, approximately 410 of an anticipated 1100 cases have been analyzed. A discussion ensued.

Chairman Wilkins reported that comments concerning the Hot Line were overwhelmingly favorable.

Chairman Wilkins announced that the 1989 Annual Report was at the printer and would be available for distribution in the near future. In order to make the distribution of the annual report as timely as possible, Commissioners agreed that future annual reports should be limited to fiscal year information (i.e., activity and data available as of September 30 each year).

General Counsel Steer discussed a legislative proposal on supervised release revocation. DOJ had no objection to the proposal, although Commissioner Maloney advised that some objection might be raised on Capitol Hill to the portion of the proposal that deletes the one-third mandatory minimum provision on drug offense revocations as an amendment to 18 U.S.C. 3583(g). A discussion ensued.

-- Commissioner MacKinnon moved Chairman Wilkins' suggestion to submit the proposal to Congress with the recommendation that it be enacted as soon as possible, with the § 3583(g) provision being submitted separately but simultaneously; seconded by Commissioner Mazzone. Passed unanimously.

General Counsel Steer discussed the relevant provisions of the Senate crime bill. Chairman Wilkins reiterated the Commission's position of not supporting enactment of mandatory minimum sentences but recommending that Congress allow the Commission to act on Congressional intent by amending the guidelines. Commissioner Maloney commented that, in order to have an opportunity to effect the desired outcome, the Commission must continue to emphasize its position on not legislating mandatory minimums.

Sharon Henegan reported on the current version of the proposed Probation and Supervised Release Revocation policy statements. A discussion ensued. Mr. Chaset stated that the Practitioners' Advisory Group believes that a technical violation should be differentiated from a minor violation that is actually a violation of Grades A-D. Chairman Wilkins directed Sharon Henegan and Peter Hoffman to fix the problems identified, incorporate the changes approved by general consensus and submit the revision to the Commission for further discussion.

Chairman Wilkins recessed the meeting at 4:05 P.M. until July 25 at 9:00 A.M.

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Chairman Wilkins reconvened the meeting.

Consideration of the current version of the proposed Probation and Supervised Release Revocation policy statements continued. General Counsel Steer will review the issue of supervised release on a foreign sentence under the Transfer Treaty Provision. Chairman Wilkins stated that the polished version of the revocation policy statements would be submitted to the Commission with a cover letter explaining the policy statements for final approval at the next Commission meeting. Staff Director Newton suggested that staff submit at the next meeting a list of tasks, in terms of plans for training, worksheet preparation and monitoring of court decisions, that need to be finished before sending the policy statements to the field.

Chairman Wilkins scheduled the next Commission meeting for August 21, 1990.

There was general consensus that Chairman Wilkins would draft a letter to be distributed to district court judges requesting suggestions for guideline amendments.

Commissioner MacKinnon requested that the Bureau of Prisons' report on prison capacity be placed in the record.

Chairman Wilkins adjourned the meeting at 10:13 A.M.