

Minutes of the September 25, 1990, United States Sentencing
Commission Business Meeting

The meeting was called to order at 2:13 p.m. by Chairman William W. Wilkins, Jr.

The meeting was held in the library of the U.S. Sentencing Commission. The following Commissioners and staff 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 L. Maloney, Ex Officio Member
Phyllis J. Newton, Staff Director
John R. Steer, General Counsel
Candace Johnson, Director of Monitoring
Paul Martin, Communications Director

Chairman Wilkins welcomed the guests and introduced Jeanneine Gabriel from the District of New Jersey, a Probation Officer on detail to the Commission. He announced that Charles Harrison joined the Monitoring Unit as a Research Assistant, Linda Belote accepted a position as secretary to Commissioner Gelacak and Steven Greber joined the legal staff as a law clerk.

-- Motion made by Commissioner Corrothers to adopt the minutes of the September 11, 1990, Commission meeting; seconded by Commissioner MacKinnon. Passed unanimously.

Chairman Wilkins announced that an outreach session would be held with judges, probation officers, prosecutors and defense attorneys in the federal courthouse in Alexandria on September 26, 1990. Paul Martin discussed the logistics.

Chairman Wilkins announced that a Commission meeting would be held at 2:00 p.m. on October 9, 1990.

Chairman Wilkins requested names of judges to serve on the Working Group for Organizational Sanctions.

Staff Director Newton summarized the Bureau of Justice Assistance meeting she and Linda Clemons attended on September 14, 1990, in Washington, D.C., with the directors of various state sentencing commissions. She stated that their goal was to devise reasonable means of communication among states with ongoing sentencing commissions and those interested in establishing a guidelines system. Staff Director Newton stated that BJA might be interested in assisting the Commission with its mandated clearinghouse function.

General Counsel Steer reported on the Criminal Law and Probation Administration Guidelines Coordinating Committee meeting held on September 17, 1990, in Washington, D.C. He highlighted various aspects of the meeting and reported that the Committee would formally submit amendment suggestions to the Commission. Chairman Wilkins stated that the Commission would continue to work closely with the Committee.

Chairman Wilkins called for general comments on setting priorities for guidelines issues and amendments. Chairman Wilkins proposed the following schedule: (1) organizational sanctions; (2) recommendations from the Judicial Conference Committee on Criminal Law and Probation Administration; (3) robbery, extortion, and tampering guidelines (emphasis placed on whether these guidelines adequately reflect the criminal conduct identified within the guideline itself); (4) criminal history (treatment of related cases, desirability of having a category for a first offender, extension of categories to category VII); (5) firearms and explosives; (6) aliens; (7) career offender; (8) fraud and money laundering; (9) perjury; (10) concurrent and consecutive sentences; (11) public corruption; (12) drugs (steroids, precursors). Commissioner Nagel requested that Staff Director Newton look at the robbery data and address the issue of multiple indictments for multiple robberies in which the offender pleads to fewer robberies, and examine whether the career offender net is over-inclusive, bringing in offenders with minimal criminal history, as well as the use of adequacy of criminal history in that context. Staff Director Newton pointed out the major staff commitment should the crime bill become law.

-- Motion made by Commissioner MacKinnon to adopt Chairman Wilkins' proposed schedule as tentative amendment work plan; seconded by Commissioner Corrothers. Passed unanimously.

Commissioner Corrothers commended Commissioner Gelacak for his suggestion to hold an informal organizational sanctions meeting consisting of people with opposing ideas and suggested that the Commission adopt that format for like meetings in the future. Commissioner Nagel suggested possible panel names and issues for a future meeting.

A discussion ensued concerning the Commission's use of the term compliance rate to describe within guideline sentences and departures. It was the consensus of the Commission that the term compliance rate was not intended to convey an impression that departures were necessarily not in compliance with the Sentencing Reform Act. The Chairman asked the staff to give consideration to alternative means of describing the rate at which courts sentence within the guideline range or depart from that range.

Chairman Wilkins adjourned the meeting at 3:02 p.m.