

Minutes of the June 18, 1991, United States Sentencing Commission
Business Meeting

The meeting was called to order at 10:11 a.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 Commissioner
Carol Pavilack Getty, Ex Officio Commissioner
Phyllis J. Newton, Staff Director
Paul K. Martin, Deputy Staff Director
John R. Steer, General Counsel
Pamela Montgomery, Staff Attorney
Win Swenson, Legislative Counsel

Chairman Wilkins introduced Assistant Public Defender Andrea Wilson, Probation Officers Wendy White (D.UT), John Skozilas (D. MD), and Timothy McTighe (W.D.WA), all on temporary assignment to the Commission, Jeff Bechtel, a law clerk on Legal staff and Krista Murray, a summer intern for the Office of Training and Technical Assistance.

-- Motion made by Commissioner Corrothers to adopt the minutes of the May 14, 1991, Commission meeting; seconded by Commissioner MacKinnon. Passed unanimously.

Commissioner Corrothers reported on her recent activities, bringing greetings from Judge Patrick F. Kelly of the Kansas District. She brought personal greetings to the Chairman from (Judge) Sheriff Principal Gordon Nicholson of Edinburgh, Scotland, a fellow panelist at the Symposium of the Society for the Reform of Criminal Law held in Ottawa, Canada, June 10-14, 1991. Also reported was that she and key staff represented the U.S. Sentencing Commission at the recent memorial service for ex-officio member Benjamin Baer, who was also Chairman of the U.S. Parole Commission.

Chairman Wilkins announced that Commission meetings have been scheduled for July 23, August 6, and September 10, 1991.

A discussion ensued regarding fiscal year 1992 priorities as outlined in the Planning Conference report. Commissioner Nagel requested that a study on departures consistent with the suggestion from the Judicial Conference Committee be included as a priority item. She also suggested deletion of the last sentence in priority item #8 (Criminal History). Other Commissioners were generally in

agreement with these changes. Commissioner Gelacak recommended deferring environmental offenses as a priority item until after the organizational guidelines become effective and data from them become available. Other Commissioners generally agreed that environmental offenses should remain a priority.

-- Motion made by Commissioner Nagel to adopt the priorities as outlined by the Planning Committee with the changes discussed by the Commission; seconded by Commissioner Carnes. Passed unanimously.

Win Swenson briefed the Commission on the Supplementary Report for Organizational Sanctions. He outlined the general approach of the report and stated that a draft should be available for Commission review in a month.

General Counsel Steer and Legislative Counsel Swenson briefed the Commission concerning legislative items of interest. Mr. Steer stated that the House passed the Departments of Commerce, Justice, and State, the Judiciary, and related Agencies appropriations bill, which included virtually the entire amount from the Commission's FY 1992 budget request. He also stated that the Senate passed the Commission's revocation of supervised release and probation bill, which will be introduced in the House as a free-standing measure and as a rider to the crime bill. Win Swenson reported that Senator Biden had introduced a revised bill that included relevant provisions from S. 618 (Violent Crime Control Act), S. 635 (the Administration's crime bill), and the Commission's penalty review proposals, with the exception of the Travel Act proposal. Mr. Swenson also mentioned that hearings on organizational sanctions would probably not be held before the summer recess.

Pamela Montgomery briefed the Commission on case law concerning issues in Supreme Court and Second Circuit cases such as weight of the carrier medium, Rule 32, stipulations, downward departures based on less than minimal role, and the issue of sentencing bargaining. Chairman Wilkins commended Montgomery for her instructive and informative presentations.

Chairman Wilkins requested that Staff Director Newton provide for regular oral reports on working group progress at Commission meetings and issue a Federal Register notice concerning the Commission's fiscal year 1992 priorities before the end of June.

Chairman Wilkins adjourned the meeting into Executive Session at 10:56 a.m.