

---

# UNITED STATES SENTENCING COMMISSION

---



**TRANSCRIPT**

---

**PUBLIC HEARING**

**MARCH 11, 1996**

# TRANSCRIPT OF PROCEEDINGS

UNITED STATES SENTENCING COMMISSION

----- X  
:  
PUBLIC HEARING ON PROPOSED :  
GUIDELINE AMENDMENTS :  
:  
----- X

Pages 1 thru 70

Washington, D.C.  
March 11, 1996

MILLER REPORTING COMPANY, INC.

507 C Street, N.E.  
Washington, D.C. 20002  
(202) 546-6666

UNITED STATES SENTENCING COMMISSION

- - - - - x  
 :  
 PUBLIC HEARING ON :  
 PROPOSED GUIDELINE :  
 AMENDMENTS :  
 :  
 - - - - - x

Monday, March 11, 1996

Training Rooms A, B & C  
 Thurgood Marshall Building  
 One Columbus Circle  
 Washington, D.C.

The hearing came to order, pursuant to  
 notice, at 1:16 p.m.

BEFORE:

- HON. RICHARD P. CONABOY, Chairman
- MICHAEL S. GELACAK, ESQ. Vice Chairman
- HON. A. DAVID MAZZONE, Vice Chairman
- WAYNE A. BUDD, ESQ.
- HON. JULIE E. CARNES
- MICHAEL GOLDSMITH, ESQ.
- HON. DEANELL R. TACHA
- MARY FRANCES HARKENRIDER, ESQ.
- EDWARD F. REILLY

I N D E X

<u>ITEM</u>	<u>PAGE</u>
Opening Remarks - Chairman Conaboy	3
Mary Lou Soller, American Bar Association	9
Alan Chaset, National Association of Criminal Defense Lawyers	13
David Wikstrom, New York Council of Defense Lawyers	24
Julie Stewart, Families Against Mandatory Minimums	38
Judith Hall	44
Atlee W. Wampler, III, Wampler, Buchanan & Breen	57
Lisa Campanella	63

P R O C E E D I N G S

CHAIRMAN CONABOY: Commissioner Goldsmith will be here presently, but in fairness to everyone, we will try to get the meeting started, and I welcome all of you here today and particularly welcome those of you who have submitted some written commentary that you wish to explore with us a little bit today.

We are grateful for any suggestions or help that comes our way as a sentencing commission because we all acknowledge that there is perhaps no more difficult job than trying to pass judgment on your fellow human beings and no more difficult job that judges in particular have than trying to determine what are appropriate sentences for particular defendants under specific circumstances. There is also not much more of a difficult job as a commission than trying to develop procedures and methodologies that are, in turn, to be used by all of the judges in the United States District Courts across this country.

We try not to act in a way that would

indicate that we feel we are smarter or have better knowledge or information than the judges who are imposing individual sentences, and by the same token, we try to be ever-aware of our obligations under the legislation that was passed to try to develop a system that will end or at least lessen disparity and try to bring about more honesty in sentencing and try to be as sure as we can that like sentences are imposed on like defendants under like circumstances.

It is not an easy task. It is a huge country, and there are broad differences of all kinds of concepts about conduct all over this country, and so you can imagine, I am sure, that as we go around the country, we hear different responses from different people on various aspects of the sentencing guidelines. I have a perception that maybe everybody doesn't agree with, but I think it is almost a miracle that we are able to get any kind of a system such as this to work as well as it has been working. In spite of all of the problems with it and in spite of all of the

complaints that we get, when you realize how diverse this country is and how big it is, it is miraculous and I think very much to the compliment of those who work in this system, it is marvelous how well it does work as a general statement and generally speaking.

It is true that we can make things better. This commission is committed to trying everything we can and to listening as closely to everything we can here to make the system better. The concept of having an outline or a guideline that a judge uses in trying to determine what is the best sentence to impose in a given case is one that is truly needed, because it is a very difficult task, and any help that a judge can get in arriving at the best sentence to impose or the proper sentence to impose is a very important thing.

So we want to make this system work. We want it at the same time to be as fair as possible to all those who are caught up in the system and as responsive as possible to the citizens of this country who look to agencies like ours to try to

maintain the peace and harmony that allows us to enjoy the other phases of our citizenship.

So to those of you who take the time to look at the guidelines and to consider ways that we can improve them, we express our deep thanks. We hope that all of you will understand that we may not agree with all of you, and it is required of all of us to listen to many, many voices before we can take action. One of the most difficult parts of the job for me after being a judge for 30-some years is the time it takes to get anything done in a job like this. I am used to considering a case and hearing both sides and making a decision and going on to the next piece of business.

You cannot do that in a democracy like ours in a job like we have here. We have to listen to so many people and hear so many different opinions on everything we go to do; we have to publish things and allow for criticism and comment on everything we are going to do. And when we decide what we think is the right thing to do, that many times is just the beginning of what we have to



do to bring it to fruition. We have to go to the legislature, and we have to work with the judges, and we have to work with dozens and dozens of people and groups to try to bring about any change or any betterment of this program.

So I guess what I am asking you in that vein is to be patient with us and not to give up trying to convince us of what you feel would be change or amendment to these guidelines that would be better.

We have about seven people, it appears, who have at least preliminarily told us that they want to talk to us today, and from each of you, we have written statements. So we would ask when you are testifying or when you are speaking with us this afternoon to try to remember that there are others whom we want to hear from and to stay within the constraints that we have talked with you about, either in writing or through the staff. We would tell you that we do not think it is necessary for each of you to read word-for-word the matters that you have already submitted. We have all seen your

written submissions and tried to digest them, and some of us, indeed, may have questions that we want to ask of you based upon the written submissions.

And with that, we are ready to begin hearing those who are here. I have been told that there has been a request that Alan Chaset and Mary Lou Soller testify at the same time, and we have no objection to that; it might be of help. So can we ask you two to come here?

Mary Lou Soller is here as chairman of the American Bar Association's Criminal Justice Section's Committee on the Federal Sentencing Guidelines, and we welcome you, Mary Lou. Alan Chaset--they tell me a lot of people up here know who you are, so we welcome you again--Alan is chairman of the Post-Conviction and Sentencing Committee of the National Association of Criminal Defense Lawyers.

Mary Lou, you were listed as number one. I always tell people I have seven daughters, so I am very deferential to any woman who comes before me. I am used to being overrun by them. But Mary

Lou, if you will, please, if you want to proceed.

MS. SOLLER: Thank you, Chairman. I am here today on behalf of the ABA's Criminal Justice Section Committee on the Sentencing Guidelines and appear at the request of ABA President Roberta Cooper Ramo. The reason we had asked that Mr. Chaset speak at the same time is that he is the incoming chair of this section next year. We do have comments on the specific amendments and have provided them, Chairman Conaboy, as you mentioned, on all four of the proposals that are up this year but would only speak briefly about the two on which you have requested oral testimony.

In the money laundering area, we continue to support the proposal that the Commission made last year and which we supported last year, which is the Commission's proposal. And the reason we do is based primarily on the Commission's money laundering working group report, which we agree with, and the conclusion of that report is where the defendant committed the underlying offense, and the conduct comprising the underlying offense is

essentially the same as that comprising the money laundering offense, the sentences should be the same for both. That is the position we have agreed with in the past and the one we continue to agree with and urge the Commission to adopt that proposal.

We have read the Justice Department proposal and have considered that, and we would note that that proposal has not yet been supported by any empirical evidence. We are aware that the Department of Justice will be preparing a report that will come out on May 1, which happens to be the same date that the Commission must make its recommendations to Congress, and do not believe that even if that report were to come out slightly early that it would be in such a way that anybody from the community, not with the Department of Justice, could consider it and respond to allow the Commission to consider it.

If the Commission were to decide that it is interested in the Department of Justice proposal, we would urge the Commission--as we have

in the past when there have been proposals that have not been supported by empirical evidence--to wait until the next cycle to consider it with that evidence rather than move forward and adopt a proposal that has so far been unsupported.

In the area of the child sex offense guidelines that were published later, we cannot, based on our mandate, take a position about any specific numerical offense. However, we would note that we do understand that the Commission's prior determinations were based on well-considered study and believe that those were comported as well as possible with the position that is in the ABA Standards, which is that the punishment should be sufficient but not greater than necessary to fit any crime. We therefore would ask the Commission that if it is going to adopt any increase that it be the lowest point possible.

I would also like to take this opportunity--and I will not go through it in detail--to renew our continuing yearly request that the Commission--particularly in view of the fact

that it is looking forward next year to an examination of the guideline system itself--to also at that time consider adopting procedural processes and implementing those formally. I understand that there is a staff group that is looking at that now and would like to offer to the Commission whatever support we can provide that you might find helpful in that direction.

I also would like to mention to the Commission that at the ABA's annual meeting in August, we are hoping to make available to the Commission in whatever form you would like it an opportunity for a public forum for any members of the Commission who would like to to hear the comments specifically directed from practitioners around the country who normally cannot come to D.C. to offer specific comments about specific guidelines, about the simplification process. And I have made this informally to some of the staff members. We will be making it formally when we know the exact hours and date. But I wanted to let you know now that the ABA continues to try and make

itself available to serve in any way possible to provide the Commission with the input from the community that you might ordinarily not hear.

CHAIRMAN CONABOY: What was that? I didn't catch the beginning of that one when you said that there was a meeting.

MS. SOLLER: The ABA's annual meeting is in Orlando, Florida--no comments about Disney World and lawyers--the first weekend in August, and we are hoping to make a space and a time available on the agenda of the Criminal Justice Section for the Commission to listen to the comments of practitioners from around the country who would be attending that meeting about the guidelines, about the simplification process. And we would be happy to work with you if you would like to narrow this or direct us better. But I wanted to urge that we do stand ready at any time to assist the Commission in this way if we can.

MR. CHASET: Let me just proceed onward with this last point. As Vice-Chairman Gelacak will inform you, we are attempting both through the

American Bar Association and NACDL at every occasion we have, whether it be a seminar or a meeting or some other CLE, to inform our members of the simplification process and to urge them either through us or directly to the Commission to provide the input, the stories of the problems, et cetera, that will help you with this process. We have urged you--I believe the ABA has urged you--to have public hearings. We are hoping that you do. We are obviously going to offer you that forum in Orlando, but on our own, we are urging our membership to do as much as they may be able to to provide you with this kind of input.

When it gets to the specific issues in front of you today, our written comments are strangely very similar to those put out by the ABA. I have nothing in addition to add except for the fact that several of my colleagues had hoped to have some more detailed information for you in the children sex crime area. We will be putting that together in written form by your deadline and submitting it. And unless there are any written



questions, I really have nothing additional to add to what Mary Lou has said.

CHAIRMAN CONABOY: Can I just ask--and maybe either of you could respond to this--we do have some people working on our own internal procedures, rules, and regulations and trying to address that concern. Is there something in particular, though, that you are concerned about our present method of operating? I realize we do not have a formal booklet on our procedures, et cetera, but we do try, I think, to be as open as we can, and our meetings are all well-publicized, and our methods that we use to try to acquire input I think are pretty widespread. But is there anything specific that worries you or that you are concerned about because we don't have it formalized? That may be an unfair question.

MS. SOLLER: Well, let me make several comments on that. I think one of the problems when it is not formalized is that petitioners whom the Commission recognizes from day to day know how the process works. For those in the community, for

individuals who find themselves in the system unexpectedly, for those who are not lodged in D.C., it is very difficult for them to determine what the process is for having input, for understanding what the Commission has done. And so the lack of something formalized or in writing, I think, has a greater impact than, say, it does on Alan and I.

However, I think that those who have looked at the Commission have made several proposals in the past which we have included in the written comments that we have made, beginning on page 9, of specific points. Some of those are that we would urge the Commission to adopt a statement of more detailed reasons of the basis and purpose of a decision; that we are aware that the Commission often has private meetings and then brings to the public meetings the benefit of long discussion and would urge the Commission to consider having those full and frank discussions in the public meetings. Those are two that I can think of offhand.

The ABA at its last meeting through the

House of Delegates adopted a resolution that I have quoted in the comments. Behind that resolution was a document explaining to the House of Delegates what the position of the ABA was, and I would be happy to make that formal document available to the Commission this week.

CHAIRMAN CONABOY: That would be fine.

MS. SOLLER: And I think that sets out in more technical detail not only the recommendations but the basis for it as well. We are not asking the Commission to go through an elaborate process. And I know last year, Chairman Conaboy, that happened to be the day that the Governor of Florida brought out his ton of regulations. And we are not asking for that. We don't think that this would involve elaborate codifications of any depth that Florida had last year. We are asking for the codification or the formalization of some rules of procedure that would provide due process for those who come in contact with this process and with the results.

MR. CHASET: If I may, just one point, and

the Chairman will remember one of the first comments he made at his first meeting was gee, when I came here, I was surprised that there were no rules of procedure. And I think one of the first issues that the Commission faced that first amendment cycle was how many votes does it take to have something published? There used to be a one-vote rule; then, I think it was moved to a majority. And again, for the outsider, for the person who does not spend his or her time sharing with the Commission, we don't know. And I think it would just help both sides of this table to have an outline, to have some written rules and procedures.

MS. SOLLER: And it is in part concern that we think the Commission has not necessarily heard the full views of the stories in the field that we wanted to make the opportunity available-- as Alan said--whenever possible. And the next such opportunity would be in August for the ABA to bring some of these points forward. In our comments, for instance, on money laundering, I have mentioned in general, things we have heard. I would note to the

Commission that there was an article published in the spring of 1992 in the ABA's Criminal Justice Magazine that set out, flushed out some of those in more detail. We would hope that from those involved, the Commission could hear these again in August as well and would urge the Commission to continue to reach out into the field and go out into the field to get a full understanding of what some of the proposals, such as the Department of Justice proposal versus the Sentencing Commission proposal on money laundering means.

CHAIRMAN CONABOY: Sometimes I think we should all go to Disney World more often so that we can know there is a real world out there besides what we live in.

Are there any other questions?  
Commissioner Goldsmith?

COMMISSIONER GOLDSMITH: Thank you.

First, I would like to comment that this is probably the first time in the history of the Commission that witnesses appearing at a public hearing actually complied with the time

limitations.

CHAIRMAN CONABOY: Don't spoil that now, Mike.

[Laughter.]

COMMISSIONER GOLDSMITH: Thanks, Judge.

I've got two questions. First, I would note on page 2 of your testimony, Ms. Soller, that you make reference to the ABA House of Delegates resolution in August of 1995 concerning the crack cocaine issue. Given the likelihood that 1-to-1 as a ratio will never be acceptable in this political climate and possibly for some substantive policy reasons as well, what ratio would the ABA endorse other than 1-to-1? 1.5-to-1?

MS. SOLLER: I can't tell you. I am under some constraints speaking for the ABA--

COMMISSIONER GOLDSMITH: Sure.

MS. SOLLER: --that we must be consistent with the policy that has been adopted. The resolution was that it endorsed in principle what the Sentencing Commission proposed. My understanding of that is that considering the 1-to-

1 provision, the ABA endorsed that in principle; that if it were to go beyond that because of the constraints that you mentioned, it is my personal belief that what that resolution means is something as close to that as possible. There was no discussion about well, if it can't be 1-to-1, is 2-to-1 okay? Is 10-to-1 too much? I can't speak to that.

COMMISSIONER GOLDSMITH: Fair enough.

Mr. Chaset, I would like to ask you a question based upon a statement made in--

MR. CHASET: By the way, I would love to answer that question.

COMMISSIONER GOLDSMITH: Fire away.

MR. CHASET: The proper ratio is 1-to-1, and NACDL does not believe that there is a basis for any other ratio. We are concerned that if we were to say, oh, we will be happy with 5-to-1 or 3-to-1 then some compromise to the right of that would therefore be put on the table. Our position is that 1-to-1 is the only appropriate ratio.

COMMISSIONER GOLDSMITH: Thank you.

I would like to ask you a question based upon a statement made by Ms. Soller in her written testimony on page 10 with reference to the administrative procedures. Ms. Soller says: "We do not intend that these procedures would alter or expand any rights of review that may currently exist." That is in the middle of the page. And I am not by any means intending to cross-examine you. I just wonder whether you would agree with that statement, that the NACDL, for example, would not intend that any procedures to be adopted by the Commission for the sake of responding to the concerns identified by Ms. Soller would alter or expand any rights of review that may currently exist.

MR. CHASET: Yes.

COMMISSIONER GOLDSMITH: Great. Thank you.

MS. SOLLER: Commissioner Goldsmith, if I might just mention one thing, I think that one thing that the ABA did consider was whether or not there would be any push in trying to deal with



crack versus powder cocaine to make things equal at the powder level. The ABA would not support that position. Our position is based on believing that the punishment should be no greater than that necessary. And any change like that, I think, would be seen as in violation of that.

I think that the ABA continues to want to make individual positions available. We are concerned that the racial disparity that appeared in the Commission's report and which the ABA read with great care be addressed in some way.

COMMISSIONER GOLDSMITH: Thank you.

COMMISSIONER TACHA: Can I just add that I agreed to submit myself in Orlando again, and there may be other commissioners. So the only thing I would ask is that I have a terribly tight schedule in Orlando too, so if we can--

MS. SOLLER: I will call you this week.

COMMISSIONER TACHA: Okay, thank you.

CHAIRMAN CONABOY: Does anyone else have any questions?

[No response.]

CHAIRMAN CONABOY: Thank you both very much.

MS. SOLLER: Thank you.

CHAIRMAN CONABOY: We appreciate your appearing.

The next person listed on our agenda is David Wikstrom. David is with the New York Council of Defense Lawyers, and we have your written statement also, David. We appreciate your being here today. You can proceed if you would.

MR. WIKSTROM: Thank you; good afternoon. My name is David Wikstrom; I am an attorney in private practice in New York City. I specialize in criminal defense litigation, and I am a member of the New York Council of Defense Lawyers, and I am testifying here today on behalf of that organization.

The council is an organization of more than 150 members whose principal practice is in defense of criminal cases in Federal court. Many of its members are former assistant United States attorneys, including, at this time, 10 former

chiefs of the criminal divisions in the Southern and Eastern Districts of New York. Our written comments were submitted in advance of today, and since I drafted those that applied to money laundering, you are already familiar with my position as well as that of our organization.

My experience in connection with money laundering cases is not simply a recitation of the collective experience of our members, and it is not entirely anecdotal. I have personally been involved in numerous money laundering investigations and prosecutions. Indeed, last Thursday, I completed a 4-week money laundering trial before a senior judge in the District of New Jersey, and my adversary from that case and assistant US attorney in the criminal tax division is present here today. And I should add that, on the theory that it is never too soon to begin ingratiating oneself with the prosecutor in these cases that he prevailed on every count, including the money laundering counts.

I am grateful for the opportunity to

address you today concerning the proposed amendments to the money laundering guidelines, and as in prior years in which these amendments were proposed, the council strongly supports the efforts to modify section 2.S of the guidelines, and we respect your decision to resubmit the proposed amendments, even after legislation disapproving them was enacted last year.

The process, of course, requires the Commission to consider modifications and propose them when warranted. It is not the position of my organization, and it has never been its position, that money laundering merits some across-the-board reduction in sentencing level. Money laundering is a serious problem, and prosecution of money laundering cases is extremely valuable. Serious punishment of money launderers is warranted both by considerations of proportionality given the offense conduct and because of the purely investigatory and prosecutorial clout provided by severe sentences.

The difficulty is and in our view always has been the fact that the broad language of

section 1956, correspondingly broad interpretations of it and the widespread use of 1956 prosecutions by United States attorneys' offices nationwide has produced results and will continue to produce results in the future that are unwarranted. I think that this is a fact that everyone here will acknowledge. And even in its written submissions last year, the Department of Justice recognized that the current structure of 2.S.1 was problematic when applied to situations not involving aggravated money laundering.

And there are so many of them. Every financial crime will involve a financial transaction of some kind falling within the ambit of the money laundering statute; every person who commits such a crime will try to cover his tracks and not leave clues; will try in some way to convert the proceeds into a form in which they can be used to realize without risk of apprehension. Most of these offenses are not the activity of a professional money launderer for a cartel or criminal organization, and most of the transactions

I describe are rudimentary at best. And yet, all of them come within 1956 and are thus punishable under 2.S.1, and this situation results in a number--I would say a very great number--of cases in which level 6 conduct or level 12 conduct which produces the money in the first place is punishable, by virtue of the high floors of 2.S.1, at levels 20 and up.

It has been suggested to you that the array of cases involving problematic application of 2.S.1 is quite small or comprised of relatively few anomalous cases, and I submit, based on not just the collective evidence I have but on my own experience that that is simply not true. I am aware that the Department of Justice is compiling its own statistics to be delivered in May regarding money laundering, and I am anxious to study them as well, but I would like to say in advance and ask you to consider in advance the fact that statistics on this issue may be subject to the flaws created by the very problem they seek to address. And what I mean by this is that the statistics are

undoubtedly affected by the plea bargaining practices of the Government and defendants and by the individual defense decisions.

Many defendants, in the face of the prospect of lengthy incarceration on money laundering charges, will accept a plea to the underlying fraud or embezzlement or whatever other charges underlie the offense or to a disposition to certain charges at the investigatory stage long before a 1956 prosecution is ever authorized or sought, let alone commenced. Given the broad interpretation of Section 1956, few defendants will muster the fortitude to challenge the application of 2.S.1 in court. These cases--and I personally have had this experience--these cases do not become money laundering statistics because they don't become money laundering cases in the first place. And so the statistical view that disproportionate punishment occurs in relatively few cases is, I believe, unfair and to some extent misleading.

In short, the tendency of 2.S.1 to overpunish routine, commonplace, rudimentary

financial transactions attendant to financial crimes is and continues to be a chronic malady, one that affects the criminal justice system at every level, and it is no answer to simply say to you well, look how few people develop symptoms.

And so we support the effort to modify 2.S.1, primarily by tying those levels more closely to the underlying offense levels, and we believe that the proposal sensibly addresses the problematic cases while preserving significant punishment for professional money launderers or money laundering committed as an essential component of narcotics trafficking.

I have three additional comments which I would ask you to accept and consider in the nature of fine-tuning. The first is that under one subdivision of the proposed amendment, the money laundering level is tied to that of the underlying offense if the defendant either committed it or would be otherwise accountable under 1.B.1.3, and that, I think, has the unfortunate potential to lead to a sentence on money laundering that is more



severe than that imposed on the person who commits the underlying offense in the first place. I provided one example in the footnote on page 7, where someone who launders drug proceeds, because of other enhancements attendant to the money laundering guidelines, gets a much longer sentence than the owner of the drugs himself or herself.

COMMISSIONER GOLDSMITH: I have a question in connection with that example. It struck me that given the example itself, your principal defendant A would also have been liable for money laundering, so that the example itself was not really a good example of the point that you have in mind, because they would likewise under your example get convicted, I think of money laundering and would therefore be exposed to the money laundering guidelines and therefore, your defendant B would really not get a greater penalty than A; they would get a comparable penalty.

MR. WIKSTROM: I agree that if they prosecuted A for money laundering. It is somewhat ironic, I think, that one who purchases, imports,

and tries to distribute heroin in my example is sentenced less severely than someone who simply writes a check on one account or another and tries to launder proceeds. You are right that the narcotics trafficker, if he foresees money laundering involvement, could be punished for money laundering and receive the same sentence as the money launderer. The irony that I was trying to point out is that were he simply prosecuted for the narcotics activity himself, it would be a lower sentence than that for simply a friendly bank officer writing a check to an offshore account, and I didn't even go into the other kind of adjustments downward that the narcotics defendant might get under the safety valve provisions and so on.

So, I mean, I think you are right. If they prosecuted narcotics traffickers for money laundering--

COMMISSIONER GOLDSMITH: Which they do. I mean, that is not at all uncommon.

MR. WIKSTROM: It is in my experience. It is certainly in the Eastern District of New York

where I practice, which is primarily plagued by importation cases and local distribution conspiracies. The point of apprehension is ordinarily the distribution level, and prosecutions tend to focus on the distribution conspiracies themselves, not on the money. But you are right: when they actually prosecute it from the back end, from the money end, under the proposed amendment, the drug dealer would get more time for the money.

COMMISSIONER CARNES: Well, an answer too would be that the present scenario, the present system allows a prosecutor to choose which way it will go, and that is not really a great way to run a system that tries cases fairly.

MR. WIKSTROM: Right, and that sort of gets back to what I mentioned a few minutes ago, that the threat of money laundering charges on garden-variety fraud and embezzlement cases produces guilty pleas to fraud and embezzlement without ever resulting in someone who has the inner will to test 2.S.1 before the court; in my own experience, when dispositions don't work out,

resort to the departure powers had and in many cases successfully, precisely because of the structure of 2.S.1.

My second observation was that the additional two points for more than minimal planning is simply so universally applicable that it is not any longer a useful barometer. Although it appears to refer to an exceptional case, it is a rule-swallowing exception, and it could be abandoned, or simply, we could call it straight and put everyone at level 8. And finally, the DOJ proposal which, I think, artificially pegs money laundering at 12 plus the section F monetary levels appears arbitrary. I know that someone who testified here last year suggested that one who embezzles money and sticks it under a mattress is not all that less severe an offender than someone who puts it into his wife's or into her husband's bank account, and yet, the former would be a level 6, presumably, and the latter a level 12. And, in fact, in terms of which is easier to detect, the person who puts a money into a bank account even

under a pseudonym is probably creating a better paper trail and is more likely to be caught than someone who simply keeps cash.

In conclusion, I wish again to express the strong support of the New York Council of Defense Lawyers for your continuing efforts to improve 2.S.1, and I thank you again for the opportunity to address you personally.

CHAIRMAN CONABOY: Thank you, Mr. Wikstrom.

Does anyone else have any other questions of Mr. Wikstrom?

COMMISSIONER GOLDSMITH: I'm afraid I do, Judge; I'm sorry.

CHAIRMAN CONABOY: All right.

COMMISSIONER GOLDSMITH: On page 3 of your statement, you say that you anticipate that the two-level enhancement will apply virtually across the board in all 1956 prosecutions, and you take issue with that. But my understanding is that that was done with the purpose of punishing 1956 prosecutions or violations more seriously than

Section 1957. In other words, this was designed as a way to remedy the situation where the pure receipt and deposit cases oftentimes get the same penalty as a more serious Section 1956 type of violation. And so, this particular provision was an effort to provide a way to reduce the penalty for Section 1957 and maintain an appropriately severe penalty for Section 1956 convictions. Yet, your comment seems to take issue with that.

MR. WIKSTROM: That is not how I read the proposal. I read the proposal to add the two points on, hypothesizing a financial crime at level 6 and money laundering, an additional financial step thereafter, would merit the two-level increase under 2.F.1, and we would peg it at eight. But the eight would apply both to 1956 and 1957 defendants, where the other requirements were met. And I simply wanted to point out that since I don't have any personal experience of any financial crime where the two points did not apply, and I am not aware of any, I think almost every financial crime is going to require planning that meets the more

than minimal standard. It is a rule-swallowing exception, and the way I read the amendment, it applies to both 56 and 57 prosecutions.

COMMISSIONER GOLDSMITH: I will review that. Thank you very much.

MR. WIKSTROM: Thank you.

CHAIRMAN CONABOY: Anything else?

[No response.]

CHAIRMAN CONABOY: Thank you, Mr. Wikstrom.

There are some seats up in the front area here if any of you standing would like to take them. We have the same problem as in church, I guess.

[Laughter.]

CHAIRMAN CONABOY: The next person on the agenda for today is Julie Stewart. Julie is here. Julie is the founder and the president of Families Against Mandatory Minimums. Some of our people were just at your conference over the weekend, Julie.

MS. STEWART: That's right.

CHAIRMAN CONABOY: We are glad to have you here again. You can proceed.

MS. STEWART: Well, I would feel like something was amiss if I didn't come before you at least once a year--

CHAIRMAN CONABOY: We would miss you, Julie.

MS. STEWART: --whether I need to or not. This is the fifth year I have testified before you, and I certainly don't pretend to be an expert on money laundering. That is really not my area of expertise. But I am beginning to see more and more letters coming into our office of people who are, indeed, being charged with money laundering offenses on top of the other offense, and I did include in my testimony to you, which was brief, as you noticed--my written testimony--a couple of cases, one in particular of a 23-year-old who was actually charged with interstate commerce; that was the underlying offense. And then, he would steal the goods in one state and put the money into his own bank account and then withdraw the money



through the ATM machine. That was his sophisticated money laundering scheme, and he got 70 months for it.

I know that there are some other family members here today talking about how this has affected them, so, of course, our issue, our point is to try to make it human for you and to see the people, the faces of the people who are being affected. And I know that the Commission itself is doing research on the kinds of application of the money laundering guidelines, so I look forward to whatever report you at some point publish on that.

I simply guess I would like to urge the Commission to stick to their guns and to go back to Congress with the money laundering amendment that you sent last year with as few modifications as possible. I think that we all know that its attachment to the crack cocaine amendment made it very difficult for it to get through. The hearings in the Senate didn't mention money laundering at all; the hearings in the House were not on money laundering; they were on the crack amendment. And

I remember one member of Congress saying, well, what do we know about this money laundering amendment? And someone else said nothing, but DOJ opposes it, and so that was the total discussion on money laundering in the House.

I know that at the end of it, it did seem as if members of Congress were beginning to move toward your position, so I urge you to persevere, and don't let them scare you, because I do know that you are the experts, and you have done so much research on this; it is not something whimsical that you have just come up with quickly and easily. So I hope that you will just stick to your guns and go back.

Totally unrelated--and I know we are not supposed to testify on crack, so I'm not saying much.

CHAIRMAN CONABOY: No, that is all right. No, we are open to hear whatever you want to say.

MS. STEWART: I would just like to say that I hope you defer anything to do with crack until 1997. That is FAMM's position on that.

CHAIRMAN CONABOY: It sounds like you think you know something about the coming elections.

[Laughter.]

CHAIRMAN CONABOY: Is it something that you could reveal to all of us just quietly here?

MS. STEWART: I know this is a tough year.

COMMISSIONER MAZZONE: They take place in 1996.

MS. STEWART: That's right.

So I just want you to know that we are not going to be barking at you to do something this year. That's it.

COMMISSIONER MAZZONE: Why should we do something about money laundering, then?

MS. STEWART: Because I think money laundering has a better chance. I think there is more understanding of it. I think there is rational thought on money laundering on the Hill, and there is irrational thought on crack cocaine.

COMMISSIONER MAZZONE: But we sent money laundering up to them once.

MS. STEWART: With crack cocaine attached.

COMMISSIONER MAZZONE: Well--

MS. STEWART: Well, that was a big well,  
Commissioner.

COMMISSIONER MAZZONE: But they were two  
separate, discrete amendments.

MS. STEWART: But there was no hearing on  
money laundering.

COMMISSIONER MAZZONE: But they rejected  
it.

MS. STEWART: With crack cocaine.

COMMISSIONER MAZZONE: Well, well again.

MS. STEWART: Well, they didn't separate  
them, and I think on its own, it has a better  
chance.

COMMISSIONER MAZZONE: I just wondered why  
you thought we might have better luck with money  
laundering, having submitted the same amendment.

MS. STEWART: I think that from what I am  
hearing--and I know very little about it, but the  
legislator in California who has recently been  
charged with money laundering has made this somehow

become a very real issue.

COMMISSIONER BUDD: What's his name? Do you know?

MS. STEWART: You know, I don't know. Does anyone? I have just learned about it. But anyway, it is something that I think is an anecdote that they can relate to. They can't relate to the anecdotes that we bring forward too often, mostly because their children are prosecuted at the state level, not Federal. But this seems to be an anecdote they can relate to, so I think they will be more receptive.

CHAIRMAN CONABOY: Any other questions of Ms. Stewart?

MS. STEWART: And I kept my testimony within 15 minutes.

CHAIRMAN CONABOY: Thank you very much.

MS. STEWART: Thank you.

CHAIRMAN CONABOY: Next, a person listed as a Judith Hall.

Ms. Hall? Ms. Hall is one of the people who has written to us about family members who are

involved in money laundering charges.

Ms. Hall, you can proceed, if you would, with your testimony.

MS. HALL: Yes, thank you.

I have written you a letter I think you have, and also, I am here today on behalf of my brother and sister, and they have also written letters. I hope that you got them. They are in prison, and I told them they had to have them postmarked by the 5th, so I am not sure that you got them. But I am here because my brother and sister are in Federal prison after being convicted last year of conspiracy to commit mail fraud and money laundering, and my brother received a 12-year sentence and my sister a 6-year sentence.

While I feel very strongly in their innocence, even if they were guilty as charged, I believe the crime is certainly not proportionate to the punishment. After a 4-year investigation, an 8-week trial, a 3-month presentence investigation and an 8-hour sentencing hearing, we are still reeling from the shock of going through the system

and trying to live with the catastrophic consequences.

I know that your studies have concluded-- the little that I know about them--that money laundering is frequently used to increase the sentence for the underlying offense which results in a harsher punishment, and that is exactly what happened in this case. The Government made a quantum leap to call my brother and sister's business activities money laundering and mail fraud, and even worse, my sister was acquitted of all charges of money laundering, yet she was held accountable for the loss, even though she had nothing to do with the money, and that raised her sentence from 6 months to 6 years. And basically, in our case, money laundering was used to increase the sentence that created disproportionately to the crime.

In both the presentencing investigation and in the sentencing hearing itself, the sentencing guidelines, which I know are supposed to equalize punishment, were used instead to increase

the sentence to a level that was higher than would have been produced had they used the underlying offense. The guidelines really became a way to avoid acknowledging that human lives were at stake. And in the formula, there is a number to apply, it seems to me, for every bad action, but there is no consideration for making distinctions between human beings. There was really no human factor to the process.

Naively believing that the presentencing investigation and the guideline application was more than an exercise in futility, we worked very hard. My sister wrote her autobiography; she had extensive psychological testing, and both my brother and sister worked very hard to put together alternate sentencing proposals that were sophisticated and had leading members of the community behind them. Both of them had many letters written on their behalf by friends and relatives describing them as loving family people and hard-working individuals who had not one single, solitary blemish on their lives, their



careers, or their names.

Well, they might well have saved their energy, and they should have used their last 3 months of freedom relishing every precious moment, because it didn't make any difference. The guidelines were fixed and rigidly applied; the judge agreed with the Government's recommendation and never once considered any alternative.

I urge you please, from the bottom of my heart, to try to convince Congress again this year, to look over and make the recommendation again that you made last year. I've talked to some people this morning, in fact, in the legislature, and I have found that there is some serious concern and sympathy for this issue that may not have existed last year. And in our case specifically, a close examination would show that so-called money laundering--and I really emphasize so-called money laundering--was not a significant part of the alleged crime, and it did not significantly affect the outcome at all.

Please use this case for additional

support to convince Congress that guidelines are not just getting the bad guys but they are unduly applied to nonviolent, white collar crimes to get good guys like my brother and my sister. My brother had a successful business career for 30 years. He was at the top of his professional and hired hundreds of people to work for him. He was very well respected in our community. He gave freely of himself and his money to many, many good causes. He is a devoted husband and father to four children, and at age 54, he feels like a 12-year sentence pretty much makes his life over.

My sister worked very hard to work her way up into my brother's business. She worked for him for 25 years. She juggled her career as a wife and mother, and she is very devoted to her two teenaged boys, aged 13 and 17. My sister is literally a soccer mom, and she has spent the last 12 years every weekend going to soccer games, and I thought it was very amusing that in the presentencing investigation, one of her fellow soccer moms sent a letter on her behalf trying to give her credit to

the judge, and she said Candy Cooper does not even yell at the referees and the coaches. And that is the kind of person that she is.

My brother and sister, like millions of other Americans, worked hard to capture their piece of the American dream. Instead, they lost everything, and our family is drowning in despair over this nightmare that we live every day. Please help us and those others that have been affected by these laws and continue our efforts to convince Congress to accept our recommendations to correct the disparity in the way the money laundering guidelines are applied, including making them retroactive to undo the injustice that has already been done.

I also urge you to make provisions to give credit to those things that make a difference and account for the differences in people, things like first-time offenders who have impeccable backgrounds, like my brother and sister, or an idea to give credit for a downward departure to people who are over 50 who are really not repeat

offenders. In addition, please encourage judges to consider meaningful, viable alternate sentencing proposals, because it is good for everyone.

I certainly appreciate the time today and your consideration, and I would be glad to answer any questions.

CHAIRMAN CONABOY: Thank you very much, Ms. Hall.

Commissioner Mazzone?

COMMISSIONER MAZZONE: You may not know this, Ms. Hall, but--and I don't remember myself exactly from the letters that we have received--but do you know--perhaps Julie Stewart knows--what would the 12-year sentence have been under our proposed amendment? Did you work that out for this case?

MS. STEWART: I don't think we worked that out.

MS. HALL: I don't know either.

COMMISSIONER MAZZONE: It was \$9½ million, as I recall, wasn't it?

MS. HALL: Yes, sir.

COMMISSIONER CARNES: Well, I suspect from reading the letter it might still have been pretty hefty, because the loss was great under any guideline if that occurred.

COMMISSIONER GOLDSMITH: It could have been 6 years.

COMMISSIONER MAZZONE: No, one was a 12-year sentence, and the other was 6.

MS. HALL: Yes; my sister got 6; my brother had 12.

COMMISSIONER GOLDSMITH: And that may reflect the fact that the sister was acquitted of money laundering.

MS. HALL: Right.

COMMISSIONER GOLDSMITH: But the brother was convicted, so he got the higher term.

MS. HALL: Right.

COMMISSIONER MAZZONE: Did you work it out, Mike?

COMMISSIONER GOLDSMITH: I haven't got enough facts to work it out.

MS. HALL: But that is correct. I know we

were waiting in November for something to happen last year after the trial, and we knew that his sentence would be reduced if that amendment had been passed.

COMMISSIONER MAZZONE: It would be?

MS. HALL: It would have been reduced.

COMMISSIONER CARNES: That is what we will have to look for. What was she convicted of if it was not money laundering?

MS. HALL: Mail fraud.

COMMISSIONER CARNES: See, I think the \$9.5 million--I thought probably the biggest problem for them was the loss figure more than the guideline.

From your letter, I couldn't tell exactly what was it they did that caused the Government to get so bothered? I can tell it has something to do with an insurance company.

MS. HALL: I don't know. I have been through it for 4 years, and I don't know that I can really explain it except to say that my brother owned an insurance company, and from the get-go, he

had problems with the regulators in North Carolina, because that is where the company was domiciled. And they went back and forth for literally years trying to satisfy the regulatory requirements for an insurance company, and they subsequently took the company over in liquidation and liquidated it. And they were the force that kept on telling the Government this guy is a crook, and they had their whole story, and they fed it to the Government for a significant period of time until they finally got an indictment, and actually, in reality, we have been struggling with trying to figure out how these mail fraud charges, for example, can be applied to business activities that my sister did for years. She did nothing different during this alleged crime than she did for the 6 years prior to that or 25 years prior to that just doing business through the mail.

But it seems that the Government has a tremendous amount of leeway in saying, well, you used the mails, so we are going to call it mail fraud. And then, we are going to get a couple of

people to say that you all had a little conspiratorial meeting and decided to do something wrong, which wasn't true.

COMMISSIONER CARNES: Well, didn't the people pay premiums, were they not reimbursed later on when they had an accident?

MS. HALL: No, no, everybody who paid their premium got a policy. I still have my insurance with this company, even though it has been taken over by the State of North Carolina. No one lost a dime. No policyholder lost any money.

COMMISSIONER CARNES: It sounds like your problem is broader even than guidelines. You suspect that your brother and sister were convicted of doing something that from your description--

MS. HALL: That they didn't do.

COMMISSIONER CARNES: --that it doesn't sound like there was any wrongdoing.

MS. HALL: They had a regulatory dispute that got criminalized is what happened, and so yes, we had a lot of problems, this being one of them. But we do know just in a very narrow focus for what



I know you can do here, because we are appealing the case, is that the money laundering, even for my sister to be charged with money laundering was ludicrous.

CHAIRMAN CONABOY: The case is still under appeal?

MS. HALL: We haven't even filed it yet. I mean, we have filed a motion to appeal.

CHAIRMAN CONABOY: Yes.

MS. HALL: But we haven't gotten the transcript yet, so it hasn't started.

MS. STEWART: Could I ask Judith to mention her discussion with Representative McCollum's office this morning? It might be of interest.

CHAIRMAN CONABOY: Is that one of the legislators you say you talked to, one of the offices?

MS. HALL: Actually, I met with the Crime Commission, Dan Bryant, and I talked to him at length about this case and about the situation, and he told me himself that Chairman McCollum has come

out publicly that he is very interested in changing the money laundering statutes or at least looking at them, because they are aware of what is happening, that it is simply a tool to add on to an underlying offense to bump up the harsh sentence. And I even said to him, I said, well, if the Sentencing Commission doesn't come back this year with another proposal like they did last year, does that mean that it is a dead deal? And he said not necessarily, because Chairman McCollum is interested in this.

CHAIRMAN CONABOY: All right, thank you.

Does anyone have any other questions?

[No response.]

MS. HALL: Thank you.

CHAIRMAN CONABOY: Thank you, Ms. Hall, very much.

Next, we have Atlee Wampler. Mr. Wampler is a former United States attorney in the Southern District of Florida is it, Mr. Wampler?

MR. WAMPLER: Yes, sir.

CHAIRMAN CONABOY: And a private defense

attorney now in Miami, Florida. And Mr. Wampler, we have your written submission, and we are happy to have you here.

MR. WAMPLER: Thank you very much.

I am in the private practice of law in Miami, Florida, and have had some experience with the money laundering statute and have had some experience in prosecuting cases, some 12 years with the Justice Department, and I would urge that the Commission once again propose an amendment similar to amendment 18 and its commentary and policy statements. I have some client-specific information, and then I have an observation as to what happened to amendment 18.

The client-specific information is that I represented a client on appeal who pled guilty to a money laundering charge basically in order that his wife not be prosecuted who was also charged, and she was allowed to plead guilty to an income tax false statement charge and got probation, and his son was dismissed from the case. The other three individuals were officers in a corporation that he

was found to be an undisclosed principal in. They had all gotten a Rule 20 plea to the Eastern District of New York from the Northern District of Florida and allowed to plead to one count of a mail fraud charge, and all three of them got probation. My client, whose name is Anthony Garino, on his guilty plea ended up with a sentence of 96 months, and it involved a charge of money laundering with the specified unlawful activity of mail fraud.

The mail fraud was basically the defrauding of the New York City Housing Authority and the participation by the Department of Housing and Urban Development from the Federal funds aspect from their right to control who got bids in the plumbing business for the redoing of plumbing fixtures in large apartment buildings. The plumbing services that were provided were satisfactory; the loss was determined by the judge to be zero. They were the lowest bidders on the project in a competitive bidding project that was bonded with real, live bonds. So there was no monetary loss whatsoever, yet he received a

sentence which is the same sentence of a money launderer who was a narcotics trafficker would receive, assuming he would get the same enhancements that he got, under an amendment 18 type of a change in the sentencing guidelines, he received 76 more months than he would have gotten. He would have gotten 21 months had amendment 18 been passed, because there was no loss to the victim whatsoever.

That was the client-specific information. My observation regarding what happened to amendment 18 was that the Justice Department basically said that voting for amendment 18 was being soft on crime, particularly narcotics traffickers, because if you figured out the sentence on a narcotics trafficker who was a money launderer or someone who money laundered narcotics trafficking dollars, you get less time under amendment 18 than you would under the current guidelines. And I sat down with my pen and pencil and tried to figure out how that was so, and I can't figure out how it is so, because I took the same examples that the Justice

Department had in their letter, and the conclusion that I draw is that they did not follow the amendment. They did not use the greater of the alternatives between the three alternatives. They did not use the greater sentence; they used the middle sentence. They used the one that had 12 levels and added from 12 levels.

And I have worked those figures numerous times, and whether you are either sentenced under a 1956 A(1)(a) or a 1956 A(1)(b), you still come out with a higher sentence for a money launderer who is involved in narcotics trafficking under amendment 18 than you do under the current guidelines. I would be glad to send you 12 to 13 computations, but I think there was a mistake that was made in that computation, and amendment 18 got a false rap regarding its proposals on narcotics trafficking.

But as far as the rap--if it was a rap--that it was going to cause lesser sentences for financial crimes, that was the intent of the amendment, of course, that there be some proportionality in sentencing, because as we all

know, the specified unlawful activities run a gamut from the most horrendous offenses of terrorism and kidnapping with death all the way down to making false statements on an income tax return and failing to file appropriate waste disposal records under the RCRA Resource Recovery Act. And there is no way that a Government such as ours should sentence all of those people on the same level as narcotics traffickers with a base level of 20 or 23.

CHAIRMAN CONABOY: Thank you, Mr. Wampler. Does anyone have any questions?

COMMISSIONER GOLDSMITH: I would be interested in getting your computations if possible.

MR. WAMPLER: I have got the results in the letter that is in the attachments you have there.

COMMISSIONER GOLDSMITH: Yes, I saw that.

MR. WAMPLER: But I have the rest of the mathematical calculations here. I could meet with you later, or I will send them up in a compendium.

That is your choice.

COMMISSIONER GOLDSMITH: Thanks a lot.

COMMISSIONER CARNES: I found your letter very helpful; thank you.

MR. WAMPLER: Thank you.

CHAIRMAN CONABOY: Anyone else have any questions?

[No response.]

CHAIRMAN CONABOY: Thanks very much.

VICE-CHAIRMAN GELACAK: I have just one suggestion. You were in Miami for a long time. You must know Janet Reno.

MR. WAMPLER: Oh, yes, yes.

VICE-CHAIRMAN GELACAK: I would suggest that you send those computations and a copy of your letter directly on to the Attorney General as well.

MR. WAMPLER: Very well, sir. I would be glad to.

CHAIRMAN CONABOY: Thank you, Mr. Wampler.

The next person is Ms. Lisa Campanella. Ms. Campanella, I believe, is a family member who became involved in these matters also about which



you testify and give us your observations. You can proceed if you will, please.

MS. CAMPANELLA: Thank you; good afternoon.

I am appearing before you today as a wife and mother. My husband, the father of our four young children, is incarcerated. He is serving a 71-month sentence for money laundering. He fits the category of a nonviolent, first-time offender, and he is convicted of a crime that is extremely complex in nature and frequently misunderstood, I believe.

He was a successful businessman who worked very hard, sometimes 16 hours a day to provide for and build a future for his family. He has never bought, sold, or used illegal drugs and had never contemplated breaking the law with his financial transactions. So how did he end up in a Federal correctional institution for laundering drug money? I believe money laundering is a ubiquitous term used to cover many kinds of possibly illegal transactions, and it is this ambiguity that is

confusing to many legitimate businesspersons. It becomes very easy for Government agents to target high-profile, affluent people, those with many assets to forfeit, catch them at a vulnerable point or critical situation and then maneuver them so that over a period of time, they end up breaking a law they might never even have known existed.

In my husband's case, he was approached by Federal agents, possibly motivated by personal gain and advancement. They expressed interest in investing in a restaurant he was planning to open. They subsequently offered him a loan instead. After much manipulation and deception on their part, a loan in cash was accepted. These men had presented themselves as owning legitimate businesses, and my husband thought the transactions through carefully and decided that there was really no cause for concern; cash is legal tender, after all.

After many transactions and several months, the agents let slip little-by-little that perhaps some of the money had been stored in a

pocket near drugs or had some residue on it, and my husband, not being of that world--or underworld, as it were--again was not overly concerned. He realizes now that this was a mistake. We also now know that he had been under investigation for the previous 2 years, but since there were no offenses being committed, the Government had to justify the time and money that had been spent, and so they created a crime. It was conceived, manufactured and implemented to convict a person who, left to his own devices, would never have been afoul of the law. There was no victim. No money laundering ring was eradicated, because there was none to begin with. No narcotics trafficking ceased because there was none to begin with. Are these the type of money launderers that the Government needs to apprehend and punish so severely?

Is ours an isolated case? I doubt it. I believe it is only the tip of the iceberg. I do not deny that money laundering is a serious offense that essentially goes hand-in-hand with narcotics trafficking, but I think there has to be a very

clear distinction made between the penalties for criminals who are actually buying and selling drugs and need to launder their own profits--these people obviously know they are committing a crime--and the actions of a legitimate businessperson who may become entrapped and misconstrue his actions.

Money launderers are often first-time, nonviolent offenders. They are punished by draconian sentences without the possibility of parole, without the possibility of reward for immediate rehabilitation. Over the past 3½ years, I have come to learn that there are many loving fathers of intact and supportive families who are nonviolent, first-time offenders, and their children, who play with our children at the visiting hours, are also serving the long sentences waiting for their dads to come home, and this is occurring when family values are so often proclaimed as the cornerstone of our society.

The base level for money laundering is too high. Revision is needed to make the penalties correlate with the severity of the offense. And

please, we are desperately hoping for a vote for retroactivity so that we might add some right to the wrong and a little hope to the despair. Money launderers often serve more time than rapists, some murderers, and even people who sexually assault children. My husband, who has never even spanked his children, has another 2 years until he returns to his family. He will not see his baby--who was 9 weeks old at the time of his arrest--go off to kindergarten, unless, of course, the base level points for money laundering are reduced.

We are still together as a family, and we will get through this tragedy, and we will go on with our lives, albeit with a touch of sadness for the time we have lost. There are many things that we have to teach our children as we grow older. My husband and I will now be able to teach them what money laundering is. We didn't know, and now we do.

Thank you.

CHAIRMAN CONABOY: Thank you, Mrs. Campanella. Is there anyone who has any questions

of Mrs. Campanella?

COMMISSIONER CARNES: Do you know how much less of a sentence your husband would have received if our new guideline had been approved by Congress?

MS. CAMPANELLA: I'm not exactly sure. I do know that if it is passed with retroactivity, that he would be home in June, worst case. If it had passed last year, he would be home now. But I am not exactly sure of the points, no.

COMMISSIONER CARNES: Did the Government forfeit the restaurant or whatever business your husband had?

MS. CAMPANELLA: Everything.

COMMISSIONER CARNES: They took everything?

MS. CAMPANELLA: They took everything. I was left with 67 cents that day. Everything was frozen.

COMMISSIONER CARNES: What had they been looking at him for for the 2 years?

MS. CAMPANELLA: Apparently money laundering. He had a company that was in

commercial construction. He imported marble, and they were under the impression that all sorts of things were happening of that they had absolutely no evidence of because they weren't happening. I lived the life; I knew it. I've been with my husband for 20 years. We live and breathe together. And there was just no basis for the investigation as far as I am concerned, and they had to find somebody. And I feel now that it is the whole family that is suffering, and we would just like to cut our losses. We are in it now. We have lost, as I say, 3½ years already. So we hope that something happens to maybe improve the situation a little bit.

CHAIRMAN CONABOY: Was he convicted at a trial?

MS. CAMPANELLA: No, he pled guilty.

CHAIRMAN CONABOY: He entered a plea of guilty?

MS. CAMPANELLA: Yes, he did.

CHAIRMAN CONABOY: Anyone else have any questions?

[No response.]

CHAIRMAN CONABOY: Thank you very much,  
Mrs. Campanella.

MS. CAMPANELLA: Thank you.

CHAIRMAN CONABOY: That is the complete  
list of those who had written or sent in a notice  
that they wished to testify. Is there anyone else  
here today who wishes to offer any testimony or any  
statement?

[No response.]

CHAIRMAN CONABOY: If not, we want to  
thank you all again for coming, and unless any of  
the commissioners have any other comment, we can  
conclude this part of our session this afternoon.

[Whereupon, at 2:29 p.m., the meeting was  
concluded.]

- - -