United States Sentencing Commission Meeting
July 17-18, 2000

Monday, July 17

The Chair called the meeting to order at 1:30 p.m. Chair Murphy reviewed the efforts that she and other commissioners were making to secure the Commission's budget request.

Commissioner O'Neill reported on the meeting he and Vice Chair Steer had with Senator Sessions. Senator Sessions would like to see more criminals prosecuted but sentenced to shorter prison terms. The Senator suggests that the Commission look at factors other than quantity to determine prison terms. The Senator is in favor of mandatory minimum sentences. Senator Sessions is supportive of the 15-year study.

Judge Johnson reported that Representative Conyers would like to meet with the members of the Commission. He is against mandatory minimums.

The discussion turned to the criteria for determining which circuit conflicts to consider. The commissioners discussed the proposals submitted by Vice Chairs Castillo and Steer. Concern was raised that any rule should not be so strict that the Commission could be open to criticism for not following it. Vice Chair Castillo moved, and Commissioner O'Neill seconded, a motion to adapt Vice Chair Castillo's proposal as drafted with Vice Chair Steer's commentary, allowing Vice Chair Steer to edit the combined document for consistency. The document would be proposed for comment, not as a binding rule, but as a policy statement. The motion passed unanimously.

With regard to which conflicts to address this amendment cycle, the Commission reviewed the Criminal Law Committee's list, and agreed with eight of that Committee's top ten choices. The commissioners decided not to address the conflict concerning marijuana plants or sentencing under section 5G1.3 and application note 6. In addition to the eight on the CLC's list, the Commission will consider the conflict of grouping of child pornography cases and two deportable alien conflicts. The conflicts will be listed in the Notice of Final Action, which will be considered at the August meeting. Commissioner O'Neill requested that staff send out copies of the cases relating to each conflict.

The Commission next addressed the issues of retroactivity of certain amendments that were sent to Congress on May 1. The Commission did not receive comment from the Criminal Law Committee or the Department of Justice. Staff recommended that amendments 1 (drugs in protected locations) and 9 (gun in underlying felony) should be given retroactive effect, and that amendments 7 (bankruptcy fraud), 8 (924c and minimum term)), and 10 (924c and instant offense) should not be retroactive.

At the Commission's request, Acting General Counsel Andy Purdy and his staff, had prepared a proposed policy for employees' participation in political activities. Commissioners

agreed that the policy should be as liberal as possible without compromising the Commission. The commissioners decided that senior employees should be subject to stricter restraints. Vice Chair Castillo moved, and the Commission unanimously voted, to direct the Staff Director to implement the political activity policy as outlined. The Commission voted unanimously to exclude the non-judge commissioners from the policy at this time.

Chair Murphy adjourned the meeting at 4:40 p.m.

Tuesday, July 18

The Chair called the meeting to order at 9:00 a.m.

The commissioners heard from representatives of the Practitioners Advisory Group, the Public Defenders, and the Probation Officers Advisory Group on suggestions for priorities for the 2001 amendment cycle.

Kevin Blackwell and Paula Desio made a presentation on money laundering. The commissioners asked staff to make a list of issues and note where the Department of Justice and the Commission agree or disagree.

Acting General Counsel Andy Purdy made a presentation on economic crimes. Vice Chair Castillo requested that staff develop a loss table that reflected shorter sentences at the lower end of the table and longer sentences at the upper end of the table. He also asked staff to clarify why departure rates at the upper end of the table are so frequent.