

**Remarks of Circuit Judge William H. Pryor, Jr.,
Acting Chair of the United States Sentencing Commission
January 19, 2018 Public Meeting**

Thank you for attending this public meeting of the United States Sentencing Commission. The Commission appreciates the attendance of those joining us here as well as those watching our livestream broadcast on the Commission's website. As always, we welcome and encourage the significant public interest in federal sentencing issues and the work of the Commission.

I would like to start by introducing the other members of the Commission. First, I'll introduce Rachel Barkow. Commissioner Barkow is the Segal Family Professor of Regulatory Law and Policy at the New York University School of Law, and serves as the faculty director of the Center on the Administration of Criminal Law at the law school.

Judge Breyer is a Senior District Judge for the Northern District of California and has served as a United States District Judge since 1998.

Judge Danny Reeves is a District Court Judge for the Eastern District of Kentucky, and has served in that position since 2001.

Zachary Bolitho is the *ex officio* Commissioner from the Department of Justice. Commissioner Bolitho serves as Deputy Chief of Staff and Associate Deputy Attorney General to the Deputy Attorney General of the United States.

Finally, J. Patricia Wilson Smoot, the designated *ex officio* member of the Commission representing the United States Parole Commission. Commissioner Smoot has served on the Parole Commission since 2010 and was designated as Chair in 2015.

Before we proceed with the business of the day, I would like to update you on the Commission's work.

Last month the Commission published its fourth report in its continuing series on recidivism entitled *The Effects of Aging on Recidivism Among Federal Offenders*, which examines the impact of aging on federal offender recidivism, and once age is accounted for, the impact of other offense and offender characteristics. Last year the Commission also published eleven new reports on issues ranging from mandatory minimum penalties to an analysis of demographic differences in federal sentencing practices, and look for additional publications regarding mandatory minimums, recidivism, and other sentencing issues in the coming weeks in months.

In August the Commission voted to publish several holdover amendments from the previous amendment cycle. These proposals were not able to be fully considered previously because the Commission did not have a quorum for three critical months. In February, the Commission plans to hold a public hearing on some of these proposed amendments, including those that would implement the Bipartisan Budget Act of 2015 and recommendations from the Commission's Tribal Issues Advisory Group regarding how tribal convictions are treated under Chapter Four of the guidelines. In March, the Commission will also hold a public hearing on another proposed amendment that was published in August, the proposed amendment regarding alternatives to incarceration and first offenders. That hearing in March would also

cover any amendments we vote to publish today, in particular the proposed amendment on synthetic drugs which we will be voting to publish in a few minutes. The proposed amendment reflects the information we have learned from public comment and three public hearings we held on the synthetic cathinones, cannabinoids, fentanyl, and fentanyl analogues last year.

Before we move to the announcement of our proposed guideline amendments, the Commission would like to thank the numerous individuals and groups who submitted thoughtful comments and recommendations during our most recent public comment periods.

As we ordinarily do in January, the Commission will now vote on whether to publish proposed amendments for the 2017-2018 amendment cycle.

I would like to take a moment to briefly discuss some of the proposed amendments.

First, the Commission is publishing a proposed amendment regarding synthetic drugs, which includes synthetic cathinones (otherwise known as “bath salts”), synthetic cannabinoids (including K2 or spice), fentanyl, and fentanyl analogues. The Commission has spent the last six months publishing various issues for comment and conducting public hearings on this subject. The Commission has used the expertise gathered through this process to craft a proposal to appropriately respond to this urgent issue. The amendment proposes a class-based approach for synthetic cathinones and cannabinoids and increases penalties for offenses involving fentanyl equivalent to the higher penalties currently provided for offenses involving fentanyl analogues. The proposed amendment also provides an enhancement in cases where fentanyl or a fentanyl analogue is misrepresented or marketed as another substance.

This month, the Commission will release a public data presentation which includes Commission data for the three categories of drugs that are the focus of these amendments. Members of the public may find this information useful when preparing their public comment.

Second, the Commission will publish a proposed amendment that addresses two miscellaneous application issues relating to immigration offenses.

Finally, the Commission will publish a proposed amendment that includes technical changes to the guidelines.

As we wrap up, I would like to mention an upcoming event, the Commission’s National Seminar on the Federal Sentencing Guidelines in San Antonio, Texas, on May 30 through June 1st. These trainings provide specialized instruction to probation officers, prosecutors, and defense attorneys on the guidelines. Registration for this event will open on January 22, so please look for the registration link on the Commission’s website at that time.

The Commission’s proposed amendments and issues for comment will be on the Commission website soon. We look forward to working with all of you as we move forward to another productive year. Thank you for joining us today.