

**Introductory Remarks of Circuit Judge William H. Pryor Jr.,
Acting Chair of the United States Sentencing Commission
Public Hearing on Proposed Amendments to the Federal Sentencing Guidelines:
Synthetic Drugs and First Offenders/Alternatives to Incarceration
March 14, 2018
Washington D.C.**

Welcome to the United States Sentencing Commission's public hearing on synthetic drugs, first offenders, and alternatives to incarceration. 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 Charles 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 begin the hearing, I would like to briefly update the public on some of the Commission's most recent publications and actions.

Last week, the Commission released its *2017 Annual Report and Sourcebook of Federal Sentencing Statistics* which is available on the Commission website. The *Sourcebook* is a comprehensive compilation of sentencing data on every felony and class A misdemeanor sentenced in the federal courts. In fiscal year 2017, there were 66,873 cases reported to the Commission—a decrease of 869 cases from the prior fiscal year.

On Monday, the Commission launched our web app containing a mobile-friendly version of the current Guidelines Manual. The Guidelines app is an interactive web-based application accessible through any internet browser and features new tools to assist in understanding and applying the federal sentencing guidelines. It allows users to quickly search through the Guidelines Manual by guideline or keyword and can assist in determining guideline ranges in the Sentencing Table, base offense levels in the Drug Quantity Table, and marijuana equivalences for substances referenced in the Drug Equivalency Tables. The app is accessible on a wide variety of devices, including desktops

and mobile devices, and the Commission hopes it will be a useful resource for practitioners and the public.

Tomorrow, the Commission will issue a publication analyzing mandatory minimum penalties for firearms offenses in the federal system. This is the third publication in the Commission's series on mandatory minimum penalties. Firearms offenses are the second most common offenses carrying mandatory minimum penalties in the federal system after drug offenses, which the Commission previously analyzed in a report released last October. This publication provides sentencing data on firearms offenses that carry mandatory minimum penalties and their impact on the federal prison population. This publication also highlights changes and trends regarding firearms offenses that have occurred since the Commission's 2011 Report.

Today's public hearing will focus on synthetic drugs, first offenders, and alternatives to incarceration. During the current amendment cycle, the Commission voted to publish proposed amendments to the federal sentencing guidelines to address the treatment of synthetic drugs under the guidelines and to provide adjustments in the guidelines for first-time offenders. The Commission's proposed amendment on synthetic drugs would adopt a class-based approach for synthetic cathinones and cannabinoids, two types of synthetic drugs studied by the Commission over the past few years. The proposed amendment defines the term "synthetic cannabinoid" and establishes a single marijuana equivalency for each class.

The Commission also proposed an increase to penalties for fentanyl offenses and a more exact guideline definition of the terms "fentanyl" and "fentanyl analogue". An enhancement for misrepresenting or marketing fentanyl or fentanyl analogues as another substance was also proposed.

Finally, the Commission's proposed amendment regarding first-time offenders would increase the pool of offenders eligible for alternative sentencing options. This proposed amendment is informed by the Commission's multi-year study of approaches to increase the use of alternatives to incarceration and the Commission's multi-year study of recidivism.

We look forward to hearing from our expert witnesses on the proposed amendments on the agenda today. At the end of each panel's testimony, panelists may receive questions from Commission members and I will then give Commissioner Bolitho the opportunity to ask his questions over the phone. We look forward to a thoughtful and engaging discussion.