

**United States Sentencing Commission Public Meeting Minutes
August 8, 2024**

Chair Carlton W. Reeves called the meeting to order at 3:02 p.m. in the Federal Judicial Conference Classroom, One Columbus Circle, N.E., Washington, D.C., 20002.

The following Commissioners were present:

- Carlton W. Reeves, Chair
- Laura E. Mate, Vice Chair
- Claire Murray, Vice Chair
- Luis Felipe Restrepo, Vice Chair
- Claria Horn Boom, Commissioner
- Candice C. Wong, Commissioner
- Scott A.C. Meisler, Commissioner Ex Officio

The following Commissioners were not present:

- John Gleeson, Commissioner
- Patricia K. Cushwa, Commissioner Ex Officio

The following staff participated in the meeting:

- Kenneth P. Cohen, Staff Director
- Kathleen Grilli, General Counsel

Chair Reeves welcomed the public who were watching via the Commission's livestream broadcast to the Commission's public meeting.

Chair Reeves introduced his fellow commissioners. Sitting to his left were Vice Chair Claire Murray, Vice Chair Laura Mate, and Commissioner Candice Wong. Sitting to his right were, Vice Chair Luis Felipe Restrepo, Commissioner Claria Horn Boom, and ex-officio Commissioner Scott A.C. Meisler.

Chair Reeves stated that members of Commission staff were also attending, some of whom were in the room and many of whom who are not. He stated that staff did the research, drafted the priorities, and set up the meeting room. The Chair advised the meeting attendees that there was a flood in the Thurgood Marshal Federal Judiciary Building that caused damage to the Commission's offices and throughout the building. He noted that the Commission's dedicated staff made sure that the meeting could go forward, that the Commission's work could continue, and that the commissioners came to town, did their jobs, and they were present to have this meeting.

Chair Reeves apologized to the public because typically it can attend the public meetings in person, but because of the flood, the commissioners decided it would be best if the meeting was

only livestreamed for the public. Chair Reeves noted that staff worked hard to make sure that the livestream could be done, and he expressed the Commission's appreciation for their work.

Chair Reeves announced that the first item of business was a motion to adopt the April 17, 2024, public meeting minutes. Vice Chair Restrepo moved to adopt the minutes, with Vice Chair Murray seconding. Chair Reeves called for discussion on the motion. Hearing no discussion, Chair Reeves called for a vote, and the motion was adopted by voice vote.

Chair Reeves announced that the next item of business was the Report of the Chair. He noted that each year the Commission votes to adopt priorities that will guide its annual policymaking process. This summer the Commission solicited priorities from the public asking how the Commission could improve federal sentencing.

In response, the Commission received more than 1,200 pages of insightful comments from judges, members of Congress, executive branch officials, probation officers, advisory groups, attorneys, professors, advocates, organizations, incarcerated individuals, and others.

Chair Reeves stated that he could not express how thankful the Commission was for the overwhelming amount of public feedback. From the halls of the Senate to the desks of prison libraries, he continued, countless people took the time to give the commissioners ideas about how to make our criminal justice system fairer. The ideas are thoughtful, well researched, and illuminate the path forward for the Commission. Chair Reeves thanked every person who commented.

Chair Reeves expressed a special note of thanks to his colleagues – judges – who found the time in their very busy schedules to follow the Commission's work and take the extra step of offering their comments. The Chair stated that our justice system and criminal sentencing system works best when people make these sacrifices.

Chair Reeves noted that members of Congress have significant numbers of staff to assist them. However, judges only have a few law clerks and perhaps a judicial assistant. To use their limited resources and take time away from their dockets to provide input was admirable.

Chair Reeves reported that there were several clear themes that emerged from the public comment. The public said: simplify the sentencing guidelines and clarify their role in sentencing; reduce the costs of unnecessary incarceration; promote public safety; improve community supervision; expand the Commission's use of expertise, evidence, and best practices; and promote evidence-based approaches to offense and individual characteristics. Chair Reeves noted that these were just some of the themes the Commissions heard in the comments it received.

Chair Reeves explained that the priorities that the Commission would vote on prove at least one thing: When you speak to the Commission, you will be heard. The priorities will allow the Commission to give each public comment the attention it deserves, and this is the first step in translating the public's priorities into policies that improve federal sentencing. As the

Commission moves forward, the Chair said, it will continue to seek out and obtain guidance from the public and stakeholders across the criminal justice system.

Chair Reeves stated that the next item of business was a vote on the final policy priorities for the 2024-2025 amendment cycle. He called on the General Counsel, Kathleen Grilli, to advise the Commission on that matter.

Ms. Grilli stated that a notice of possible policy priorities was published by the Commission in the Federal Register on June 4, 2024, and that the Commission received and reviewed the public comment pursuant to that notice.

Ms. Grilli noted that a motion to adopt and publish in the Federal Register the final notice of policy priorities for the Commission's 2024-2025 amendment cycle would be appropriate.

Chair Reeves called for a motion to adopt and publish in the Federal Register the final notice of policy priorities for the Commission's 2024-2025 amendment cycle as suggested by the General Counsel. Vice Chair Murray moved to adopt and publish in the Federal Register the final notice of policy priorities, with Vice Chair Mate seconding. The Chair called for discussion on the motion. Hearing no discussion, Chair Reeves called for a voice vote. Chair Reeves, Vice Chairs Mate, Murray, and Restrepo, and Commissioners Boom and Wong voted in favor of adopting the motion. The motion was adopted.

Chair Reeves called on the General Counsel to advise the Commission on a possible vote on the retroactivity of recently promulgated amendments on acquitted conduct, circuit conflicts, and Part D of the miscellaneous amendment.¹

Ms. Grilli stated that the Commission was considering whether to add the acquitted conduct amendment, the circuit conflict amendment, and Part D of the miscellaneous amendment to the list of amendments in §1B1.10 (Reduction in Term of Imprisonment as a Result of Amended Guideline Range (Policy Statement)) that may be applied retroactively.

In accordance with Rule 4.1(a) of the Commission's Rules of Practice and Procedure, the Commission solicited public comment on the issue, instructed staff to prepare a retroactivity impact report, which was released to the public during the comment period, and held a public hearing on the issue.

Ms. Grilli noted that a motion to promulgate the proposed amendment to §1B1.10, with an effective date of November 1, 2024, and with technical and conforming amendment authority to staff, would be appropriate.

Chair Reeves called for a motion as suggested by Ms. Grilli. Hearing no response, the Chair announced that the matter failed for lack of a motion.

¹ See U.S. Sent'g Comm'n, Guidelines Manual, App. C, amend. 826, 828, and 830 (effective Nov. 1, 2024), respectively.

Chair Reeves stated that the public attended today to hear not only about the Commission's final priorities but also its decision about retroactivity. The final priorities make clear that the commissioners are listening closely to the public's recommendations about how to do our work. Many commenters called for the Commission to identify clear principles that will guide its approach to retroactivity. After deep deliberation, the Commission decided to heed those calls. For that reason, it would not vote on retroactivity today.

Chair Reeves thanked all of those who submitted comments and testimony regarding retroactivity for the amendments. He stated that the commentors' input had been heard and would continue to be heard as the Commission moves forward.

Chair Reeves asked if there was any further business before the Commission and hearing none, asked if there was a motion to adjourn the meeting. Vice Chair Restrepo moved to adjourn, with Commissioner Boom seconding. The Chair called for a vote on the motion, and the motion was adopted by voice vote. The meeting was adjourned at 3:13 p.m.