

UNITED STATES SENTENCING COMMISSION

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PUBLIC MEETING

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THURSDAY
DECEMBER 19, 2024

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The U.S. Sentencing Commission met in Suite 2-500, One Columbus Circle, N.E., Washington, D.C., at 2:00 p.m. EST, the Honorable Carlton W. Reeves, Chair, presiding.

PRESENT:

- CARLTON W. REEVES, Chair
- LUIS FELIPE RESTREPO, Vice Chair
- LAURA E. MATE, Vice Chair
- CLAIRE MURRAY, Vice Chair
- CLARIA HORN BOOM, Commissioner
- JOHN GLEESON, Commissioner
- CANDICE C. WONG, Commissioner
- SCOTT A.C. MEISLER, *Ex-Officio* Commissioner

STAFF PRESENT:

- KATHLEEN C. GRILLI, General Counsel
- KENNETH P. COHEN, Staff Director

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P-R-O-C-E-E-D-I-N-G-S

2:05 p.m.

CHAIR REEVES: Good afternoon. I am the Chair of the United States Sentencing Commission, Carlton W. Reeves, and I welcome you all to this meeting. I thank each of you for joining us, whether you're in this room or you're attending via livestream. I have the honor of opening up this meeting with my fellow Commissioners.

To my right is Vice Chair Claire Murray, and to her right is Commissioner Candice Wong, and to her right is Commissioner John Gleeson. To my left we have Vice Chair Luis Felipe Restrepo, to his left we have Vice Chair Laura Mate, to her left we have Commissioner Claria Horn Boom, and to her left we have ex-officio Scott Meisler, with the Department of Justice.

We're also joined by our commission employees, some of whom are in this room, most of

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whom are not because this agency is full of dedicated people, all of whom could not fit in this room. They are the ones who've done the research, they've drafted the proposed amendments, and they have set up this room, and they have done so much more. They have helped each of us in our statutory obligations and our duties.

So, on behalf of the Commissioners, ladies and gentlemen, those again of you who are in the room, those of you who are working outside of the rooms, and even those of you who are on annual leave or on some other type of leave, we thank each of you so very, very much.

Now, my note says that the first order of business will be to adopt the August 8, 2024, public meeting minutes. Before we do that, though, I do want to mention Jackson State University. They were the colors of the blue and white Guidelines Manual last year. So, I want to congratulate my alma mater, Jackson State University and Coach T.C. Taylor, the 2024 HBCU

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Football Division 1 National Champions.

It's not often that we get a chance to talk about Jackson State in that light, but I also want to give you something to look forward to, January 1, the Tournament of Roses Parade, Jackson State University, Sonic Boom of the South Marching Band will be representing all of Mississippi, and I'm so proud of that.

So, I took the personal privilege of departing from the script, and I will pay the price of it, but now I do turn to the first order of business. And it is a vote to adopt the August 8, 2024 public meeting minutes. Is there a motion to do so?

VICE CHAIR RESTREPO: So moved.

CHAIR REEVES: Is there a second?

VICE CHAIR MURRAY: Second.

CHAIR REEVES: Is there any discussion on the motion?

Let's vote on the motion by saying aye. Aye.

(Chorus of aye.)

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CHAIR REEVES: I hear no nays. The motion is adopted by voice vote. The next item of business is the Report of the Chair.

Each year, ladies and gentlemen, the Commission votes to adopt priorities that will guide its annual policy-making process. This summer we solicited priorities from the public asking how our agency, this agency, your agency, 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. I cannot express how thankful the Commission is for this overwhelming amount of public feedback.

From the halls of the Senate to the desk of prison libraries, countless people took the time to give us ideas about how to make our criminal justice system fairer. Those ideas are thoughtful, those ideas are well researched, and

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those ideas illuminate the path forward for this Commission. To each and every person who commented, especially the judges, who gave up so much of their precious time, I thank you, we thank you.

Today, we are voting on a number of proposals that draw on this public comment, on the public comment we received. Some of today's proposals are new. They reflect the input from the public and our stakeholders in the 1,200 pages of comments we received this summer. And some of today's proposals are new versions of concepts we've published in the past. They have been revised to reflect feedback we've received over the last few years.

What all today's proposals embrace is that consistent promise that I've made and that we've made: When you speak to the Commission you will be heard.

Of course, people have been speaking to us about issues that are not addressed in the proposals being issued today.

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For example, the commission recently held round tables to discuss drug sentencing and supervised release. Over the next month the Commission will consider whether to publish additional proposals that reflect that public comment, that stakeholder input, and the feedback from judges that we've received. Stay tuned for our meeting in January.

Before we get to our vote, though, I'd like to give a special note of thanks to some of the Commission's advisory groups, the members of those groups. These groups are so very important to this agency and to the work of the Commissioners. These groups, these members, these advisory groups do a lot of work for us. And our work cannot be done without those members who are committed to making our guidelines what I like to call more perfect.

So, when we have advisory groups, group members leave, it is important that we honor all that they have done to contribute to our work. From our Tribal Issues Advisory Group,

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we thank Tricia Tingle, Tim Purdon, and Jesse Laslovich for their years of service. From our Practitioners Advisory Group, we thank Sara Silva, Jon Sale, and Stacey Neumann. And finally, from our Victims Advisory Group, we thank Margaret Garvin, Francey Hakes, Katie Shipp, and Julie Grohovsky.

And I'd like to give a special thanks to Professor Mary Graw Leary who is ending her term on the Victims Advisory Group. Professor Leary has served so well as Chair of the group all these years. I know Professor Mary Graw Leary, I know she'll continue to do all she can to represent voices of victims and their families. We've called on her to testify on many days and we appreciate that she has commented on every proposal that impacted members of the Victims Advisory Group and victims at large.

So today we do have certificates of appreciation for all the departing members, but since Professor Mary Graw Leary is in the room, I'd like to give you your certificate personally.

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CHAIR REEVES: Now I guess, you know, after that, maybe I should've done that last, thank you though, Professor.

Our next item of business is a possible vote to publish in the Federal Register proposed guideline amendments and issues for public comment. The General Counsel, Ms. Grilli, will advise the Commission on the first possible vote concerning a proposed simplification amendment.

MS. GRILLI: The proposed simplification amendment contains two parts. Part A contains issues for comment on whether any changes should be made to the Guideline Manual relating to the three-step process set forth in §1B1.1.

Part B contains a proposed amendment that would restructure the Guideline Manual to simplify both the current three-step process and existing guidance in the Guideline Manual regarding a court's consideration of individual circumstances of the defendant, as well as

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certain offense characteristics.

A motion to publish the simplification amendment with an original public comment period closing on February 3, 2025, and a reply comment period closing on February 18, and technical and conforming amendment authority to staff would be in order at this time.

CHAIR REEVES: Is there a motion to publish the proposed amendment as suggested by the General Counsel?

VICE CHAIR MATE: So moved.

CHAIR REEVES: Is there a second?

COMMISSIONER WONG: Second.

CHAIR REEVES: Is there any discussion on the motion?

Hearing no discussion, let's vote on it. Let's vote on the motion by saying aye.

(Chorus of aye.)

CHAIR REEVES: Any nays? The motion is adopted, and let the record reflect that at least three Commissioners voted in favor of the motion to publish. The General Counsel will now

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advise the commission on a possible vote proposed amendment on the career offender guideline.

MS. GRILLI: The proposed career offender guideline would eliminate the categorical approach when determining whether an offense qualifies as a crime of violence by providing a definition of crime of violence that is based on a defendant's conduct, and a definition of controlled substance offense that is limited to specific federal drug statutes for purposes of the Guideline Manual's Chapter Four career offender guideline.

The proposed amendment also maintains the current definition of crime and violence in controlled substance that are used in other guidelines. It maintains the status quo by amending the commentary to these guidelines to incorporate the current relevant parts of §4B1.2.

A motion to publish the career offender amendment with an original public comment period closing on February 3 and a reply comment period closing on February 18, 2025, and technical and

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conforming amendment authority to staff is appropriate at this time.

CHAIR REEVES: Is there a motion to publish the proposed amendment as suggested by our General Counsel?

VICE CHAIR MURRAY: So moved.

CHAIR REEVES: Is there a second?

COMMISSIONER BOOM: Second.

CHAIR REEVES: Is there any discussion on the motion?

Hearing no discussion, let's vote on the motion by saying aye.

(Chorus of aye.)

CHAIR REEVES: Are there any nays? No nays, the motion is adopted, and let the record reflect that at least three Commissioners voted in favor of the motion to publish. The General Counsel will now advise the Commission on a possible vote concerning a proposed amendment on firearm offenses.

MS. GRILLI: The proposed firearm amendment contains two parts. Part A of the

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proposed amendment addresses the application of §2K2.1 to machine gun conversion devices which are designed to convert weapons to fully automatic firearms. Part A also includes issues for comment. Part B of the proposed amendment establishes a mens rea requirement for the enhancements under §2K2.1(b)(4) for stolen firearms and firearms with a modified serial number. An issue for comment is also provided.

A motion to publish the proposed amendment with an original comment period closing on February 3 and a reply comment period closing on February 18, 2025, and technical and conforming amendment authority to staff would be appropriate at this time.

CHAIR REEVES: Is there a motion to publish the proposed amendment as suggested by the General Counsel?

VICE CHAIR RESTREPO: So moved.

CHAIR REEVES: Is there a second?

COMMISSIONER GLEESON: Second.

CHAIR REEVES: Is there any discussion

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on the motion?

Well, hearing no discussion, let's vote on the motion by saying aye.

(Chorus of aye.)

CHAIR REEVES: Are there any nays? No nays? The motion is adopted, and let the record reflect that at least three Commissioners voted in favor of the motion to publish. The General Counsel will now advise the commission on a possible vote concerning a proposed circuit conflicts amendment.

MS. GRILLI: The proposed circuit conflict amendment addresses two circuit conflicts. Part A addresses a circuit conflict concerning whether the physically restrained enhancement in the robbery guideline §2B3.1 can be applied to situations in which a victim is restricted from moving at gun point but is not otherwise immobilized through physical measures.

Part B addresses a circuit conflict concerning whether a traffic stop is an intervening arrest for purposes of determining

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whether the multiple prior sentences should be counted separately or treated as a single sentence when assigning criminal history points.

Issues for comment are also included with this amendment.

A motion to publish the proposed circuit conflict amendment with an original comment period closing on February 3 and a reply comment period closing on February 18, 2025, and technical and conforming amendment authority to staff would be in order at this time.

CHAIR REEVES: Is there a motion to publish the proposed amendment as suggested by our General Counsel?

COMMISSIONER GLEESON: So moved.

CHAIR REEVES: Is there a second?

COMMISSIONER BOOM: Second.

CHAIR REEVES: Is there any discussion on the motion?

Now let's vote on the motion by saying aye.

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(Chorus of aye.)

CHAIR REEVES: Are there any nays? I hear no nays, the motion is adopted, and let the record reflect that at least three Commissioners voted in favor of the motion to publish. The General Counsel will now advise the Commission on a possible vote concerning an issue for comment on the criteria for selecting guideline amendments covered by §1B1.10.

MS. GRILLI: The issue for comment before you addresses the Background Commentary to §1B1.10, which provides a non-exhaustive list of the criteria that the Commission typically considers in selecting amendments to be included in §1B1.10(d) for retroactive application. The issue for comment seeks comments on whether it should provide further guidance on those existing criteria and/or add or expand those criteria.

A motion to publish with a public comment period closing on April 18, 2025, and technical and conforming amendment authority to staff is appropriate at this time.

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CHAIR REEVES: Is there a motion to publish the proposed issue for comment as suggested by our General Counsel?

COMMISSIONER GLEESON: So moved.

CHAIR REEVES: Is there a second?

COMMISSIONER WONG: Second.

CHAIR REEVES: Is there any discussion on the motion?

Hearing no discussion let's all vote by saying aye.

(Chorus of aye.)

CHAIR REEVES: Are there any nays? Hearing no nays the motion is adopted, and let the record reflect that at least three Commissioners voted in favor of the motion to publish. Is there any further business before the Commission?

Well, before I adjourn this meeting, it's the end of the year, I hope everyone has a happy holiday, those who are in the room and those who are watching us. Please be safe during this period of time and enjoy your holiday

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period. So now, is there any further business?
Hearing none, is there a motion to adjourn?

VICE CHAIR MURRAY: So moved.

CHAIR REEVES: Is there a second?

COMMISSIONER BOOM: Second.

CHAIR REEVES: Let's vote on the
motion by saying aye.

(Chorus of aye.)

CHAIR REEVES: Aye. All in favor, no
one opposed. This motion is adopted by voice
vote and this meeting is now adjourned. Thank
you.

(Whereupon, the above-entitled matter
went off the record at 2:23 p.m.)

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