

UNITED STATES SENTENCING COMMISSION

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PUBLIC MEETING

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FRIDAY
JANUARY 24, 2025

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The U.S. Sentencing Commission met in Suite 2-500, One Columbus Circle, N.E., Washington, D.C., at 1:00 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
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

1:03 p.m.

CHAIR REEVES: The meeting is called to order. I want to wish everyone a happy new year. It's still January, and I can do that.

As we mark the new year, we also have many losses to mourn. News cycles change at a furious pace, and our attention is diverted to various things on any given day. So I want to begin by addressing something we may have already forgotten: the wildfires in California.

We express our condolences for all those who have experienced loss, for those who have lost family members, neighbors, and friends, for those who have lost businesses, churches, schools, and houses, and for those who may not have had a house or building to call their home, but still lost their neighborhood.

And we express gratitude for all the first responders keeping people safe, including people serving out their sentences as firefighters, who often earn pennies putting

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their lives on the line for others. Our thoughts and prayers are with all those affected by this devastation.

I also want to address the passing of President Jimmy Carter. Under each of our last three Presidents -- that would be Presidents Biden, Trump, and Obama -- the prison population has decreased. But before then, the last President to preside over such a decline was President Carter, who oversaw a 34-percent drop in the number of people incarcerated in federal prisons.

And over the last two decades, we have seen appointments of federal judges that ensure our courts look like the people they serve, but it was President Carter who started the trend. In his single term, he appointed more women and more people of color to the bench than all his predecessors combined.

President Carter's life reminds us that real and lasting progress is always on the table, so long as we commit to keeping moving

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forward, no matter the circumstances.

Finally, I want to address the absence of two people from this meeting, two of our Commissioners, two of our colleagues, two of our friends, who will not be serving with us anymore. Of course, I'm speaking of Judge Claria Horn Boom and Judge John Gleeson, whose service on the Commission ended earlier this month.

First, let me talk about my friend Judge Boom, our Kentuckian, proud resident of the Bluegrass State, our swing judge, as she always reminds us, proud to serve in two districts. She was our glue, our bond, and she was proud to bring us together over dinner and to get-togethers in Lexington.

Judge Boom didn't just bring us together. She brought us together in pursuit of rational sentencing policy. She always reminded us of what sentencing looks like on the ground.

She always remembered that our policy affected real people, real judges, real probation officers, real victims, and real defendants. She

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embraces the obligations of judges to look at the whole person and the nature and the circumstances of the offenses committed.

In other words, she always pointed us to the factors laid out in Title 18, United States Code section 3553(a). And she always fought for policy tethered to reality, not slogans or ideologies or soundbites.

In a time when misinformation is rampant, Judge Boom always followed the data and the evidence. In a time when independence is disfavored, Judge Boom refused to bow to ideology or partisanship. And in a time when common sense is often uncommon, Judge Boom always fought for what is reasonable, what is rational, and what was right.

We will miss her energy, we will miss her spirit, and we will miss her leadership on this Commission each and every day.

Now, let me turn to Judge Gleeson. It's not often that you get to meet your heroes, even less often that you get to work with them,

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struggle with them, fight for justice with them, or have the immense and extraordinary honor of calling them your friend. But that's what I got to do serving alongside John Gleeson, a fellow University of Virginia Law alum, serving on this Commission with him.

For decades, Judge Gleeson has been a leader in sentencing reform. The man who started out as a prosecutor who took down the mob became the judge who took on unfairness in sentencing.

During his time on the bench, Judge Gleeson created a legacy of judicial decisions and opinions that served as a north star for any judge pursuing fairness in sentencing. During his time on the Commission, Judge Gleeson built on that legacy. And he did so by being what he always is: the conscience in the room.

Judge Gleeson is a man who refuses to hide his light under a bushel. More importantly, he is a man who inspires others to do the same, to be bold, to be just, to refuse to bend to the prejudices of the day and the influences of the

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hour. Judge Gleeson inspired us all, and that inspiration paid off.

Consider all the common sense reforms this Commission has created with Judge Boom and Judge Gleeson at the helm: making federal sentences reflect the latest brain science and psychology around youthful offenses; creating new provisions to address the harms of fentanyl and illegal gun trafficking; cutting down on terms of imprisonment not justified by recidivism data; ensuring that when sentencing courts look at federal acquittals, not guilty means not guilty.

It is important to remember what these reforms are. They are bipartisan. They are common sense. They are evidence-based. But it is just as important to remember what these policies are not. They are not the last policies that this Commission will issue.

Judge Boom and Judge Gleeson left a towering legacy behind. The best way, I believe, to honor their legacy is to build upon it, and I promise we will do so.

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So today is the first step in our making good on that promise. It is the next step in our third amendment cycle together as Commissioners. And it will not be the last step in honoring the legacy of our friends, Claria and John.

We know you are listening. We love you. And I want you to continue to do justice.

Today we will vote to propose policies that are bipartisan, policies that are common sense, policies that are evidence-based.

And we will continue to propose those kinds of policies so long as Vice Chair Claire Murray, to my left, is here, and to her left, Vice Chair Laura Mate, and to her left, Scott Meisler, the ex-officio from the Attorney General, and to my right, Vice Chair Luis Felipe Restrepo, and to his right, our only Commissioner, I guess, our only non-Vice Chair, Commissioner Candice Wong.

They sit alongside me today. And we're committed to do what we can do to fix or to

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expound upon and build upon all that we've done for the last two years.

And so long as this Commission has a quorum, we and our incredible and dedicated staff will continue to do business. We will continue to study and assess the effectiveness of our sentencing system.

We will continue to conduct research and provide data in response to requests from the judiciary, from Congress, from the Executive Branch, and even outside researchers. We will continue to solicit the views of our stakeholders and the public and the formerly and currently incarcerated.

We will solicit your comments. We will hear from you. I'm talking directly to the public. We will solicit your comments, and we will hear from you.

And we will continue to review and revise the guidelines, making sure they fulfill the purposes of sentencing and reflect advancements in human knowledge. Those are the

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missions Congress tasked us with, and we will continue to fill them in this new year.

So now, I'm through with my opening statement, if that's what you want to call it. Thank you all for joining us, whether you're in this room with us or you're joining us over the internet, over our website.

So the 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 will advise the Commission on the first possible vote concerning the proposed supervised release amendment.

MS. GRILLI: Thank you, Judge Reeves.

You have before you a proposed amendment on supervised release. The Commission's policies regarding supervised release are included in Part D of Chapter Five and Part B of Chapter Seven of the Guidelines Manual.

This proposed amendment contains two parts revising those policies. Part A would

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amend Part D of Chapter Five, which addresses the imposition of a term of supervised release and includes issues for comment.

Part B would amend Chapter Seven, which addresses the procedures for handling a violation of the terms of probation and supervised release. Issues for comment are also provided in that part. The Commission is considering whether to implement one or both of the parts as they are not mutually exclusive.

A motion to publish the proposed supervised release amendment with an original comment period closing on March 3, 2025, and a reply comment period closing on March 18, 2025, and technical and conforming amendment authority to staff is 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?

VICE CHAIR MURRAY: Second.

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CHAIR REEVES: All right. Is there any discussion on the motion?

Hearing no discussion, 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 advise the Commission on a possible vote on a proposed amendment on drug offenses.

MS. GRILLI: The drug offense amendment contains five parts, Parts A through E. The Commission is considering whether to promulgate any or all of these parts as they are not mutually exclusive.

Part A includes two subparts to address concerns that the Drug Quantity Table overly relies on drug type and quantity as a measure of offense culpability and results in sentences greater than necessary to accomplish

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the purposes of sentencing.

Subpart 1 sets forth three options for amending §2D1.1 to set the highest base offense level in the drug quantity table at a lower level than is currently set. Subpart 2 sets forth two options for amending §2D1.1 to add a new specific offense characteristic providing for a reduction relating to low-level trafficking functions. Both subparts include issues for comment.

Part B also includes two subparts. Subpart 1 would amend §2D1.1 to address offenses involving Ice. Subpart 2 sets forth two options for amending §2D1.1 to address the purity distinction in §2D1.1 between methamphetamine in actual form and methamphetamine as part of a mixture. Both subparts also include issues for comment.

Part C would amend §2D1.1 to revise the enhancement for fentanyl and fentanyl analogue misrepresentation at subsection (b)(13).

Issues for comment are provided in that part as well.

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Part D of the proposed amendment addresses the application of §2D1.1(b)(1) to machineguns, including issues for comment as well.

And finally, Part E of the proposed amendment would amend §5C1.2, Limitation on the Applicability of Statutory Minimum Sentences on Certain Cases, to address the manner by which a defendant may satisfy the requirement of providing truthful information and evidence to the government. An issue for comment is included in that part as well.

A motion to publish the drug offenses amendment with an original comment period closing on March 3, 2025, and a reply comment period closing on March 18, 2025, and technical and conforming amendment authority to staff is appropriate 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.

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CHAIR REEVES: Is there a second?

VICE CHAIR RESTREPO: 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?

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 fentanyl offenses.

MS. GRILLI: You have before you an issue for comment on fentanyl, fentanyl analogues, and other opioids.

The Commission has taken previous action addressing fentanyl offenses, but continues to receive feedback from stakeholders expressing comments about whether the guidelines appropriately account for factors specific to

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offenses involving fentanyl, fentanyl analogues, and other opioids. For example, this past year the Department of Justice identified various circumstances that were of concern.

The proposed issue for comment seeks comment on whether the Commission should consider revising §2D1.1 to address the type of conduct identified in the public comment received by the Commission.

A motion to publish this issue for comment with a public comment period closing on May 1, 2025, and technical and conforming amendments to staff would be appropriate at this time.

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

COMMISSIONER WONG: So moved.

CHAIR REEVES: Okay. Is there a second?

VICE CHAIR MATE: Second.

CHAIR REEVES: Is there any discussion

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on the motion?

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

(Chorus of aye.)

CHAIR REEVES: All right. Are there any 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?

Hearing None, is there any motion to adjourn?

VICE CHAIR RESTREPO: So moved.

CHAIR REEVES: Is there a second?

VICE CHAIR MURRAY: Second.

CHAIR REEVES: All right. Before we sign off, I encourage everyone to always tune in to www.ussc.gov.

So let's vote on the motion to adjourn by saying aye. All in favor?

(Chorus of aye.)

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CHAIR REEVES: Any opposed? None.

The motion is adopted unanimously by voice vote, and the meeting is now adjourned. Thank you.

(Whereupon, the above-entitled matter went off the record at 1:21 p.m.)

