

UNITED STATES SENTENCING COMMISSION

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PUBLIC MEETING

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WEDNESDAY  
AUGUST 6, 2025

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The Commission met in the Commissioners' Conference Room in the Thurgood Marshall Federal Judiciary Building, One Columbus Circle NE, Washington, D.C. at 3:00 p.m., Carlton W. Reeves, Chair, presiding.

PRESENT

CARLTON W. REEVES, Chair  
LAURA E. MATE, Vice Chair  
CLAIRE MURRAY, Vice Chair  
LUIS FELIPE RESTREPO, Vice Chair  
CANDICE C. WONG, Commissioner  
SCOTT A.C. MEISLER, Ex Officio, Office of the  
Attorney General

ALSO PRESENT

KATHLEEN C. GRILLI, General Counsel

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

2 (3:11 P.M.)

3 CHAIR REEVES: The meeting is called  
4 to order. Good afternoon. I am the Chair of the  
5 United States Sentencing Commission, Carlton W.  
6 Reeves, and I welcome you all to this meeting. I  
7 thank each of you for joining us today, whether  
8 you're in this room with us, or attending by  
9 livestream. I have the honor of being here today  
10 with my fellow Commissioners, your public  
11 servants.

12 To my left, we have Vice Chair Claire  
13 Murray. To her left, Vice Chair Laura Mate and  
14 ex officio Scott Meisler. To my right, we have  
15 Vice Chair Luis Felipe Restrepo and Commissioner  
16 Candice Wong.

17 We are also joined by Commission  
18 employees, some of whom, again, are in this room,  
19 most of whom are not. They are doing the work of  
20 the business of this Commission. They've done  
21 the research that we'll be talking about today.  
22 They've drafted the priorities. They've set up

1 this room on behalf of the Commissioners and the  
2 public. We thank all of our agency staff for the  
3 amazing work that you do every single day.

4 The first of business is a vote to  
5 adopt the April 11, 2025 public meeting minutes.  
6 Is there a motion to do so?

7 PARTICIPANT: So moved.

8 CHAIR REEVES: Is there a second?

9 VICE CHAIR RESTREPO: Second.

10 CHAIR REEVES: Is there any  
11 discussion on this motion? Hearing no further  
12 discussion, vote for the motion by saying aye.

13 (Chorus of aye.)

14 CHAIR REEVES: Any nays?

15 No nays. The motion is adopted by  
16 the Board's vote.

17 The next item of business is the  
18 report of the chair. Today, ladies and  
19 gentlemen, we will be holding a series of votes  
20 involving the final priorities for the coming  
21 amendment cycle and retroactivity regarding our  
22 last amendment cycle. We will conclude with some

1 remarks from myself and my colleagues.

2 So the next item of business is a  
3 vote on the final policy priorities for the  
4 2025-2026 amendment cycle.

5 The general counsel, Ms. Grilli, will  
6 now advise the Commission on that matter.

7 MS. GRILLI: You have before you a  
8 notice of final priorities for consideration.  
9 You published a notice of possible policy  
10 priorities in the Federal Register on June 11,  
11 2025, and the Commission received and reviewed  
12 public comment pursuant to that notice and made  
13 changes to the tentative priorities. The motion  
14 to adopt and publish in the Federal Register the  
15 final notice of policy priorities for the  
16 Commission's 2025-2026 amendment cycle would be  
17 in order at this time.

18 CHAIR REEVES: Is there a motion to  
19 adopt and publish in the Federal Register the  
20 final notice of policy priorities for the  
21 Commission's 2025-2026 amendment cycle as  
22 suggested by our general counsel?

1 COMMISSIONER WONG: So moved.

2 CHAIR REEVES: Is there a second?

3 VICE CHAIR RESTREPO: Second.

4 CHAIR REEVES: Is there any  
5 discussion on the motion? Hearing no further  
6 discussion, you may vote on it by saying aye.

7 (Chorus of aye.)

8 CHAIR REEVES: Any nays?

9 Hearing no nays, the motion is  
10 adopted, and let the record reflect that at least  
11 three Commissioners voted in favor of the motion.

12 The next item of business is a  
13 possible vote on the retroactive application of  
14 Amendment 832 and subpart 2 of Part A of  
15 Amendment 833. The general counsel will now  
16 advise the Commission on that matter.

17 MS. GRILLI: The Commission is  
18 considering whether to add Amendment 832, which  
19 was the amendment resolving two circuit  
20 conflicts, and subpart 2 of part A of Amendment  
21 833, which addressed drug offenses, to the list  
22 of amendments in 1B1.10 that may be applied

1 retroactively.

2 In accordance with your Rules of  
3 Practice and Procedure, Rule 4.1A, the Commission  
4 solicited public comment on the issue, instructed  
5 staff to prepare a retroactivity impact analysis  
6 report, which was released to the public during  
7 the comment period, and held a public hearing on  
8 the issue. A motion to promulgate the proposed  
9 amendment to 1B1.10 with an effective date of  
10 November 1st, 2025 and technical and conforming  
11 amendment authority to staff is appropriate at  
12 this time.

13 CHAIR REEVES: The next item of  
14 business -- okay, I'm sorry.

15 Is there a motion -- no problem. Is  
16 there a motion to promulgate the proposed  
17 amendment as suggested by our general counsel?

18 There is no motion. So I'm not going  
19 to ask for a second. Okay. Thank you.

20 MS. GRILLI: Your next item of  
21 business is at the bottom of page 4.

22 CHAIR REEVES: Okay. The next item

1 of business is a possible vote on the retroactive  
2 application of subpart 1 of part A of Amendment  
3 833. The general counsel will now advise the  
4 Commission on that matter.

5 MS. GRILLI: The Commission is  
6 considering whether to adopt -- whether subpart 1  
7 of part A of Amendment 833 which amended the  
8 mitigating role cap should be included in the  
9 list of amendments in 1B1.10 that may be applied  
10 retroactively.

11 In accordance with Rule 4.1A of the  
12 Commission's Rules of Practice and Procedure, the  
13 Commission solicited public comment on the issue,  
14 instructed staff to prepare a retroactivity  
15 impact report, which was released to the public  
16 during the comment period, and held a public  
17 hearing on the issue. A motion to promulgate the  
18 proposed amendment to 1B1.10 with an effective  
19 date of November 1st, 2025 and with technical and  
20 conforming amendment authority to staff is  
21 appropriate at this time.

22 CHAIR REEVES: Is there a motion to

1 promulgate the proposed amendment as suggested by  
2 our general counsel?

3 VICE CHAIR MATE: So moved.

4 CHAIR REEVES: Is there a second?

5 VICE CHAIR RESTREPO: Second.

6 CHAIR REEVES: Is there any  
7 discussion on this motion before we take it up  
8 for a vote? There is.

9 The Commission, ladies and gentlemen,  
10 is committed to two things above all else -- in  
11 other words, I'm starting first.

12 (Laughter.)

13 CHAIR REEVES: I'm sorry. Data and  
14 democracy. Our commitment to data means making  
15 decisions based on the best available evidence  
16 and research and our commitment to democracy  
17 means interpreting that evidence and research  
18 through deliberative process, one that aims to  
19 reflect the voices, the views, and the values of  
20 all the people and what I always refer to as we,  
21 the people. Sometimes our deliberations result  
22 in unanimous agreement about the single best

1 policy, about what the single best policy is.  
2 Other times, our deliberations lead to a slate of  
3 policies that together we agree is worthwhile.

4           Unfortunately, there are times our  
5 deliberations end in disagreements we cannot  
6 fully resolve. Today is one of those times.  
7 When it comes to retroactivity, we commissioners  
8 have a wide range of deeply-held and  
9 well-reasoned views about what the right path  
10 forward is. And while we disagree on that path,  
11 we, as I said from the very first day (audio  
12 interference), we will never be disagreeable.

13           I'm so proud to serve alongside my  
14 colleagues. Each has given their all to our  
15 deliberative process, to living out our  
16 commitments to data and democracy. To further  
17 those commitments, we will all shed some light on  
18 our individual views about retroactivity.  
19 Speaking for myself, I would have voted to make  
20 many of our recent amendments retroactive,  
21 including the one we're voting on today. I think  
22 the benefits of retroactivity often outweigh the

1 perceived costs. And I think we tend to overlook  
2 those benefits because of how we approach the  
3 underlying data.

4           The Commission policy statement on  
5 retroactivity says we must consider, among other  
6 factors, the, quote, difficulty of applying the  
7 amendment retroactively, closed quote. When we  
8 talk about that specific factor, we often use the  
9 term administrability. And that term often ends  
10 up being shorthand for the administrative impact  
11 of retroactivity on the justice system. That  
12 impact is usually described in terms of work  
13 added to the courts' dockets. Of course, that  
14 work can take a significant amount of time to  
15 complete and that work can be annoying. It can  
16 be frustrating and it can even feel frivolous.  
17 It can even delay other important judicial  
18 business, but it's not enough to simply recognize  
19 the cost of administrative annoyance and delay of  
20 retroactivity. Those costs need to be calculated  
21 clearly, I believe. And they must be weighed  
22 against all other administrative costs, including

1 the cost of administering imprisonment. Today,  
2 those costs stand at \$51,711 and rising for the  
3 work performed by BOP, the Bureau of Prisons, and  
4 paid for by the taxpayers. \$51,711 to  
5 incarcerate a single person for a year.

6 For the amendment we are discussing  
7 today, the relief of retroactivity to the Bureau  
8 of Prisons and taxpayers easily runs in the many  
9 millions of dollars. I believe that a full  
10 consideration of all of the administrative costs  
11 standing on their own would weigh in favor of  
12 retroactivity. Moving forward, I believe the  
13 Commission should avoid weighing abstract claims  
14 about administrability that only discuss costs on  
15 one side of the government's financial ledger.

16 Of course, the Commission should take  
17 less quantifiable costs and benefits into  
18 account, but even there, I think our calculus is  
19 a little off. That's because it's easier to  
20 estimate the costs we felt personally. We know  
21 the cost of doing extra lawyering. We were and  
22 have been lawyers. The cost of addressing the

1 merits of a motion. Some of us have been judges.  
2 The cost of crime caused by recidivism. We're  
3 all citizens in this country. But there's one  
4 cost few of us have ever paid, the price of  
5 spending one day more than necessary in prison.  
6 That cost is often immense.

7 I certainly believe that is the case  
8 for the amendment we're voting on today. Here,  
9 retroactivity would have ended hundreds of years  
10 of imprisonment. The struggle across the justice  
11 system to recognize the true cost of imprisonment  
12 is a problem. It is a problem rooted in the  
13 absence of all the people and we, the people from  
14 the halls of government. It is a problem of  
15 democracy and it is a problem the Commission is  
16 working to fix.

17 Just months ago, the Commission  
18 created a Sentence Impact Advisory Group. It is  
19 a committee of formerly incarcerated people and  
20 their family members. Their work will be  
21 essential in helping ensure that all our decision  
22 making including that of retroactivity fully

1 accounts for the cost of incarceration.

2           So to all of you who have been tuning  
3 into our meetings and hoping that we will make  
4 our past amendments from this last cycle  
5 retroactive, your hopes may not be realized  
6 today, but I promise no matter who you are,  
7 whether you're someone who has suffered a loss of  
8 a loved one to a crime or suffered a loss of a  
9 loved one to incarceration, your voices have been  
10 heard and your voices will be heard. That's my  
11 comment on this -- that this is my statement with  
12 respect to the vote we're about to give and I  
13 turn to anyone who wishes to make a statement  
14 now.

15           Vice Chair Mate.

16           VICE CHAIR MATE: Thank you, Chair  
17 Reeves. I share your gratitude for each and  
18 every one of my colleagues, commissioners, and  
19 staff, and our ability to work conscientiously  
20 and collaboratively on important issues. I also  
21 share your thoughts that many of our recent  
22 amendments would be appropriate for

1 retroactivity, most clearly our amendment to the  
2 mitigating role cap and the drug guidelines. The  
3 factors we've looked to in the past, purpose,  
4 magnitude, and the ease of applying the amendment  
5 retroactively all support retroactive  
6 application.

7 This amendment makes clear that when  
8 assessing appropriate punishment, an individual's  
9 role in the offense matters. It recalibrates the  
10 relative weight the guidelines recommend courts  
11 give to role and drug quantity. Our impact  
12 analysis estimates an average reduction of 12  
13 months, a full year. That is a meaningful  
14 reduction for any person serving any length of  
15 sentence.

16 To be sure, any retroactive amendment  
17 requires time and resources from judges,  
18 probation officers, prosecutors, and defense  
19 counsel, so I know there would be work. That  
20 work must be weighed against the liberty  
21 interests of the individuals, who if sentenced  
22 today, would have a lower guideline range.

1           The testimony I heard last month  
2 confirmed that this amendment would pose a lower  
3 administrative burden than most. Eligibility for  
4 this amendment would generally be clear from the  
5 papers and most districts already have processes  
6 in place to efficiently screen, file, and resolve  
7 these motions.

8           Importantly, retroactive application  
9 of this amendment is also consistent with the  
10 Commission's duties and purposes set forth in our  
11 organic statute. For example, it would ensure  
12 similarly situated individuals whether they were  
13 sentenced last year, today, or are sentenced  
14 after November 1st are not treated dissimilarly  
15 and are sentenced pursuant to uniform guidelines.

16           And Commission data on recidivism  
17 related to the retroactive application of the  
18 Drugs Minus Two Amendment assures me that the  
19 retroactive application of this mitigating rule  
20 cap would not undermine public safety.

21           The Commission was designed to create  
22 guidelines that evolve over time, to regularly

1 amend these guidelines based on new information,  
2 research and data, and to make those amendments  
3 retroactive when appropriate.

4 Last, I want to briefly express my  
5 concerns about fundamental fairness as a limiting  
6 principle. What appears to have started as a  
7 justification in support of retroactive  
8 application of our crack cocaine amendment has  
9 sometimes been treated as a prerequisite to  
10 retroactive application of guideline amendments.  
11 Congress has never required and the Commission  
12 has never adopted a threshold requirement for  
13 retroactivity that the purpose of an amendment be  
14 to address an issue of fundamental fairness. Nor  
15 has either Congress or the Commission defined  
16 what fundamental fairness might mean in this  
17 context.

18 To be sure, fundamental fairness may  
19 weigh in favor of retroactivity as it did with  
20 crack. But to limit retroactive amendments to  
21 only those with a purpose of addressing an issue  
22 of fundamental fairness, however that term is

1 defined, would be inconsistent with past  
2 practice, as well as our statutory purposes and  
3 duties.

4 To deny someone sentenced yesterday  
5 with the benefit afforded someone sentenced today  
6 is always unfair. And I worry that the  
7 discussions of fundamental fairness obscure our  
8 need to grapple with that fact when making  
9 decisions about retroactivity.

10 CHAIR REEVES: Vice Chair Restrepo.

11 VICE CHAIR RESTREPO: Thank you,  
12 Chair Reeves. I favor retroactivity as a general  
13 principle and I join the views expressed by Chair  
14 Reeves and Vice Chair Mate, as well as the  
15 gratitude for the thoughtful work of my fellow  
16 Commissioners and the staff at the United States  
17 Sentencing Commission. I would vote in favor of  
18 retroactivity for the mitigating role cap which  
19 in my view fully satisfies the Commission's  
20 established criteria for retroactive application.  
21 It advances the purposes of sentencing  
22 articulated in Title 18, Section 3553(a),

1 produces meaningful impacts for a broad group of  
2 defendants, and presents a limited administrative  
3 burden.

4 Eligible defendants serving time  
5 above the amended mitigated role cap are serving  
6 sentences the Commission no longer considers  
7 proportionate. Sentencing is not a stagnant  
8 exercise and retroactivity is a recognition that  
9 the guidelines can and should evolve, consistent  
10 with data supporting amendments to the  
11 guidelines. Whenever we amend the guidelines to  
12 correct unwarranted severity, to reduce  
13 disparities, or to better align with the  
14 statutory purpose of sentencing, we implicitly  
15 acknowledge that our previous analysis is no  
16 longer supported by the data.

17 The date of sentences imposed should  
18 not dictate the length of that sentence, nor  
19 should it reinforce disparity between two  
20 similarly-situated defendants, to leave earlier  
21 sentences intact, to make timing, rather than  
22 culpability the decisive factor. Instead, we

1 should continue to promote uniformity,  
2 consistency and fairness, core parts of our  
3 mission as a Commission.

4 A sentence we would not impose  
5 tomorrow is one we should not preserve today.  
6 Thank you very much.

7 CHAIR REEVES: Thank you.  
8 Commissioner Wong.

9 COMMISSIONER WONG: Thank you, Chair,  
10 and thank you to my colleagues for your  
11 statements.

12 The subpart of an amendment we are  
13 debating is a fine tuning of the offense level  
14 cap applicable to certain high quantity drug  
15 traffickers whom a court nonetheless has found to  
16 have played a mitigating role in the context of  
17 their offenses. Vice Chair Murray and I agree to  
18 support these adjustments as part of our package  
19 to Congress, part of our continued efforts to  
20 making each year's guidelines manual an  
21 improvement on the last.

22 But we also do not believe these

1 adjustments merit reopening long closed,  
2 otherwise final criminal cases, and we take  
3 seriously the concerns forcefully expressed by  
4 the Criminal Law Committee of the United States  
5 Judicial Conference, the Probation Officers  
6 Advisory Group, and the Victims Advisory Group,  
7 as well as the U.S. Department of Justice, all of  
8 whom opposed retroactive application here.

9           The Commission's own rules of  
10 practice and procedures state unequivocally that  
11 generally promulgated amendments will be given  
12 prospective application only. That principle  
13 inheres in the fabric of our justice system.  
14 Finality is essential to our system of  
15 determinant, predictable sentencing. Finality  
16 undergirds public trust in our justice system.  
17 It safeguards the right to victims including  
18 victims of drug trafficking offenses and  
19 conversely, frequent retroactive application of  
20 amendments to reopen and often reduce sentences  
21 will erode deterrence and strain the finite  
22 resources of our judges and probation officers.

1 For these reasons, the Commission has always  
2 treated retroactivity as the rare exception, not  
3 the rule.

4 Our mitigating role cap adjustments  
5 are not the rare exception to the rule. When we  
6 examine their purpose, the magnitude of change  
7 they affect, and the difficulties of retroactive  
8 application, the balance of consideration does  
9 not overcome that presumption against  
10 retroactivity.

11 First, purpose. As stated, the  
12 purpose of the mitigating role cap adjustments  
13 was to refine. In a presumptive, perceptive  
14 regime, it is clear that mere guidelines offenses  
15 pre- and post-amendments do not themselves  
16 justify retroactivity. Rather, retroactivity has  
17 been reserved for measures regarded by the  
18 requisite commission majority astounding in  
19 fundamental fairness.

20 As then Commissioner, now Judge  
21 Howell, explained in 2010, deeming the  
22 Commission's elimination of recency points

1 inappropriate for retroactive treatment, that  
2 amendment's purpose was not to correct a  
3 perceived fundamental unfairness. Then  
4 Commissioner, now Justice Jackson, echoed her  
5 emphasis on fairness-type concerns.

6 Here, our work fine tuning the  
7 mitigating role caps was intended to hew more  
8 closely to sentencing data on the ground which  
9 showed frequent variances by judges in sentencing  
10 this slice of defendants on account of their  
11 mitigating roles. This was not redress of  
12 fundamental injustice, albeit a worthy refinement  
13 of our guidelines to promote greater guidelines'  
14 utility and consistency in sentencing.

15 Next, magnitude of change. Here, we  
16 are told that a relatively modest number, 650  
17 defendants, could be eligible for reductions and  
18 by relatively modest levels. About 95 percent  
19 would see lower base offense levels by merely one  
20 or two levels with over 60 percent receiving a  
21 reduction of one year or less. And any  
22 assessment of the magnitude of change must

1 further factor in our driving consideration that  
2 judges were already taking seriously and  
3 carefully factoring in the mitigating roles  
4 played by this slice of defendants even pre  
5 amendment.

6 Finally, the difficulties of  
7 application. Even for the 650 eligible  
8 defendants, the difficulties should not be  
9 understated. It may be challenging for judges to  
10 reconstruct and disentangle the extent to which  
11 the then existing caps anchored, if at all, their  
12 original sentence in a manner not already  
13 accounted for. And administrability, of course,  
14 does not simply come down the 650 or so eligible  
15 defendants. It is about balancing the potential  
16 benefits and burdens on the justice system to be  
17 yielded from the many multiples of that figure  
18 who will seek relief through motions that will  
19 inevitably, as they should, command extraordinary  
20 and prompt attention and care by judges and  
21 probation officers.

22 That far larger universe is

1 particularly difficult to quantify here for  
2 discerning who is and is not eligible is no  
3 straight-forward matter, where the caps in  
4 question are found in a multi-tiered provision  
5 which itself is triggered by a separately defined  
6 mitigating role adjustment, which itself has seen  
7 its parameters just amended by the same  
8 Commission and yet whose amended parameters are  
9 not being made retroactive.

10 Under these circumstances, it is the  
11 view of Vice Chair Murray and I that retroactive  
12 application would be inconsistent with the  
13 presumption against retroactivity, the  
14 Commission's practice and precedents, and the  
15 weight of commentary from our stakeholders.

16 CHAIR REEVES: Thank you.  
17 Commissioner Wong.

18 Vice Chair Murray?

19 VICE CHAIR MURRAY: Thank you, Chair,  
20 last, but not least. I appreciate the  
21 opportunity to explain my vote. To the public  
22 and all of you, I wanted to start by saying that

1 I'm so thankful for you and for all of our  
2 colleagues. It is an honor to serve on a body  
3 that takes so seriously our weighty  
4 responsibility to advance the cause of justice  
5 and to keep always in mind the important impact  
6 that all of our actions can have on our fellow  
7 citizens, both in and out of prison.

8 I do agree with Commissioner Wong and  
9 I will be voting against retroactive application  
10 of this amendment. The reason I'm voting in that  
11 way is three-fold. First, as Commissioner Wong  
12 said, under our rules of practice and procedure,  
13 there is a presumption against applying our  
14 amendments retroactively. To my mind, that  
15 presumption is not overcome here. When I voted  
16 for this amendment, I thought as a refinement of  
17 the existing regime that was made to track  
18 sentences and trends, not as a fundamental  
19 change. And I think our precedents provide some  
20 support for that view.

21 In 2002, the Commission first amended  
22 the guidelines to establish the mitigating role

1 cap. That was, I think, a more fundamental  
2 change than this amendment which merely treats  
3 the existing cap, but the Commission nonetheless  
4 chose not to make that amendment retroactive. I  
5 am unable to come up with a reason why this  
6 amendment would overcome the presumption if that  
7 one did not.

8           Second, I'm persuaded by the  
9 testimony of our Article 3 stakeholders in  
10 particular, so by that I mean the Criminal Law  
11 Committee of the Judicial Conference which  
12 represents the judges and our Probation Officers  
13 Advisory Group, both of whom have a history of  
14 supporting retroactivity in other contexts. Both  
15 the CLC and POAG have asked us not to make this  
16 amendment retroactive. They have pointed to the  
17 significant number of motions filed by ineligible  
18 defendants when we made our status and zero point  
19 amendments retroactive. The numbers on that I  
20 think are striking. Fully 78 percent of zero  
21 point applicants and 70 percent of status point  
22 applicants were completely ineligible under the

1 retroactive amendment even before application of  
2 the 3553(a) factors.

3 Over the past two years, we have  
4 heard from many judges, probation officers, and  
5 prosecutors, both formally and informally, that  
6 third motions consume scarce resources and  
7 crowded out other vital functions that keep our  
8 communities safe and support the administration  
9 of justice. That's not to say that they didn't  
10 have benefit of course, but there's also a cost  
11 to those motions and more than monetary cost in  
12 some cases.

13 Finally, I'm persuaded by the  
14 comments of judges who asked us not to make  
15 amendments retroactive where they, quote, address  
16 matters that I would routinely consider anyway.  
17 To my mind, this is an example of that kind of  
18 amendment. Some of our past amendments  
19 implemented surprising or counterintuitive  
20 research that a judge wouldn't have been able to  
21 know about and take into account at a defendant's  
22 initial sentencing.

1           Our status points amendment, I think  
2 you could say, was such an amendment. We largely  
3 eliminated the status point enhancement because  
4 of new research showing that committing a crime  
5 while on probation or supervision does not  
6 correlate with a higher risk of recidivism. That  
7 research was sufficiently counterintuitive, at  
8 least to me, that before it emerged judges could  
9 not have been expected to take it into account  
10 when sentencing defendants to sideline  
11 calculations incorporated status points.

12           This amendment, I think, is the  
13 opposite. A defendant's role in the offense of  
14 something every judge already considers when  
15 applying the 3553(a) factors in every case  
16 necessarily. To quote one of our recent judicial  
17 commenters, I gave the sentence that I thought  
18 was fair and just based on the facts and  
19 circumstances of the offense and the personal  
20 characteristics of the defendant and considering  
21 the 3553(a) factors. The retroactive change  
22 leads to very little rebuke to the offender and

1 creates tremendous work for the probation  
2 officers and the courts. For that reason, I  
3 agree with the CLC that, quote, the data shows  
4 that judges are already addressing, at least in  
5 part, any perceived unfairness issues by varying  
6 downward as appropriate in individual cases.

7           And I don't mean to persevere on  
8 this, but I've been thinking about this  
9 particular point quite a bit. We already know  
10 with respect to this particular amendment that 60  
11 percent of those whose base offense levels would  
12 be changed by this amendment are ineligible for  
13 relief because -- under the new amendment,  
14 because their original sentencing -- the original  
15 sentence already fell below what their new  
16 amended guidelines range would be. Those people  
17 that are already not included in our  
18 retroactivity impact analysis.

19           But even of the remaining 650  
20 defendants who could potentially be impacted by  
21 retroactive application of this amendment if we  
22 were to make it retroactive, so these are either

1 people that our retroactivity impact analysis  
2 assumes may receive relief, an additional 52  
3 percent, that's 337 out of 650, had already  
4 received a smaller variance of sentence at their  
5 initial sentencing, such that their initial  
6 sentence was already within their amended, the  
7 new, what would be their new amended guidelines  
8 range. We don't for sure know why that happened,  
9 but I think it's very likely that at least in  
10 some cases that was because their original  
11 sentencing judge took into account their minor or  
12 minimal role on bearing downward. At any rate,  
13 it does limit the amount of a further adjustment  
14 that they would be eligible for.

15           This is not something I took likely.  
16 I spent a lot of time thinking about it. I  
17 appreciate the process that our Commission went  
18 through, but for those reasons, I'm convinced  
19 that a faithful application of our precedents and  
20 of the principles guiding our retroactivity  
21 decisions militate against retroactivity in this  
22 case. Thank you.

1 CHAIR REEVES: Thank you, Vice Chair  
2 Murray.

3 Is there any further discussion on  
4 the motion? Hearing no further discussion, let's  
5 vote on the motion by saying aye.

6 (Chorus of aye.)

7 CHAIR REEVES: Any nays?

8 (Chorus of nay.)

9 CHAIR REEVES: The motion fails. Let  
10 the record reflect that fewer than four  
11 Commissioners voted in favor of the motion.

12 Is there any further business before  
13 the Commission? There probably is not, but I  
14 will tell you to keep up with the work that our  
15 staff does every day and asking the public and  
16 asking the practitioners and the stakeholders and  
17 everyone. I'm asking you to keep up with  
18 [www.ussc.gov](http://www.ussc.gov). There is a treasure trove of  
19 information there.

20 Those are my closing remarks. No  
21 more further business before the Commission.  
22 I've heard none, so is there a motion to adjourn?

1 VICE CHAIR MURRAY: So moved.

2 CHAIR REEVES: Is there a second?

3 VICE CHAIR RESTREPO: Second.

4 CHAIR REEVES: All in favor say aye.

5 (Chorus of aye.)

6 CHAIR REEVES: Hearing no nays, we  
7 are now adjourned. Thank you.

8 (Whereupon, the above-entitled matter  
9 went off the record at 3:45 p.m.)

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