

# KEY POINTS

## New Guidelines for Federal Sentencing Now in Effect (and on Westlaw®)

The United States Sentencing Commission is an independent agency within the federal judiciary. The commission, which recommends appropriate sentences in federal convictions, approved new guidelines in May. The 180-day period has passed for Congress to overrule the commission's suggested federal sentencing guidelines; as a result on November 1, 2007, new sentencing guidelines became effective.

Among the most anticipated changes are the shorter prison sentences for crack cocaine offenders, bringing sentences for crack cocaine and powder cocaine into closer parity. The commission estimated the new guidelines would reduce the federal prison population by 3,800 over 15 years according to an article in the *New York Times*.

### Federal Sentencing Guidelines

You have quick and easy access to the federal sentencing guidelines on Westlaw. The U.S. Sentencing Guidelines as derived from the U.S. Sentencing Commission Federal Sentencing Guidelines Manual are available in the Federal Criminal Justice–Federal Sentencing Guidelines database (FCJ-FSG). Coverage includes the original guidelines that became effective November 1, 1987, and subsequent amendments. Contents also include introductory material, commentaries, and appendices.

**Search tip:** To search for guidelines relating to a particular subject matter, such as the drug Ecstasy, access FCJ-FSG and type a Terms and Connectors query like the following

**ecstasy**

In addition to the guidelines, you also have access to the Federal Judicial Center's *Guideline Sentencing: An Outline of Appellate Case Law on Selected Issues* in the Guideline Sentencing: An Outline of Appellate Case Law on Selected Issues database (GUIDESENT).

**Search tip:** To search for sections related to your topic, access GUIDESENT and formulate a Terms and Connectors query using terms from your topic, e.g.,  
**mandatory /3 minimum**

Volume 9, Number 9  
November/December 2007

Eileen Gonyeau, J.D., Editor  
Thomson West  
610 Opperman Dr.  
Eagan, MN 55123-1396  
(651) 687-5497  
e-mail: eileen.gonyeau@thomson.com

For search assistance,  
call the West Reference Attorneys at  
1-800-REF-ATTY (1-800-733-2889)

## Commission News

At its November meeting, the commission planned to consider whether to make its crack cocaine recommendations retroactive. You can find current news about this and other legal issues in the ALM News Publications database (ALMNEWS). This database contains articles from the *National Law Journal*, *American Lawyer*, *Legal Times*, and other prestigious publications from ALM Properties Inc. (formerly American Lawyer Media Inc.)

**Search tip:** To retrieve articles related to this issue, access ALMNEWS and formulate a Terms and Connectors query like the following:

**sentencing /3 commission /p retroactive /p crack**

## Federal Statutes

In addition to the sentencing guidelines, sentencing requirements such as mandatory minimum sentences may be set forth in federal criminal statutes. For your research, you may want to retrieve a specific congressional act, such as the Victims of Trafficking and Violence Protection Act of 2000.

**Search tip:** When all you know is the popular name of an act, access the USCA Popular Name Table database (USCA-POP). Click **USCA Popular Name Index**, and then click the letter with which your act begins. Scroll through the list until you reach that act. Click the name of the act. A document is displayed containing the name of the act, the enacting credit, and a list of sections in the *United States Code Annotated*<sup>®</sup> (USCA<sup>®</sup>) to which the act is codified.

**Search tip:** Alternatively, access the United States Code Annotated database (USCA) and search for your terms in the prelim (pr) and caption (ca) fields. For example, to retrieve sentencing guidelines in the chapter related to trafficking victims, formulate a Terms and Connectors search like the following:

**pr,ca(trafficking /p victim) & sentencing /s guideline**

**Editor's note:** Each statutory document in USCA contains a *Current through* line at the top of the document to make it easy for you to determine just how up to date the document is.

## Expert Advice

Looking for another slant? You will find expert advice in the 2007 edition of the popular treatise *Federal Sentencing Law and Practice* by Thomas W. Hutchison, Sigmund G. Popko, Peter B. Hoffman, and Deborah Young.

**Search tip:** To learn more about concepts and principles of general application, such as the so-called *one-book rule*, access the Federal Sentencing Law and Practice database (FSLP) and formulate a Terms and Connectors query like the following:

**one-book /s rule**

You can find more expert opinion and useful information in the Federal Sentencing Reporter database (FCJ-FSR), which contains federal court decisions, commentary, and other materials from the *Federal Sentencing Reporter*, published by the Vera Institute of Justice.

**Search tip:** To retrieve recent materials discussing deviating from the guidelines, such as *How to Vary from the Federal Sentencing Guidelines Without Being Reversed*, access FCJ-FSR and formulate a Terms and Connectors query like the following:

**vary variation deviat! /s guideline & da(2007)**

## Case Law

To focus your search result and reduce the time you spend browsing unrelated documents, access the topical case law database Federal Criminal Justice—Cases (FCJ-CS), which contains documents from various federal courts relating to criminal acts, prosecution, and punishment (including application of the federal sentencing guidelines).

**Search tip:** To further focus your result, search for your terms in the editorially created synopsis (sy) and digest (di) fields. West's attorney-editors often add general legal terms that do not appear in the judicial opinions; this editorial material can help you retrieve additional cases on point. Restricting your search to these fields also helps retrieve only cases that contain a substantial discussion of the issue your terms define.

**Search Tip:** To retrieve cases that contain discussion of the effect on sentencing of a defendant's substantial assistance to the government, access FCJ-CS and

formulate a Terms and Connectors query like the following:

sy,di(substantial! /s assist! /p sentenc!)

## Selected Federal Criminal Justice Materials

Database name	Database identifier	Contents
Federal Criminal Justice– Federal Sentencing Guidelines	FCJ-FSG	The United States Sentencing Guidelines that became effective November 1, 1987, through November 1, 2006, plus the commentaries to the guidelines and Appendix C that contains all amendments to the guidelines since 1988. (Amendments that became effective November 1, 2007, will be added soon.)
Guideline Sentencing: An Outline of Appellate Case Law on Selected Issues	GUIDESENT	Full text of the Federal Judicial Center's <i>Guideline Sentencing: An Outline of Appellate Case Law</i> on Selected Issues, published in 2002. Material contains an overview of selected issues.
Federal Criminal Justice–Rules	FCJ-RULES	The most recent versions of the Federal Rules of Criminal Procedure, Rules for the Trial of Misdemeanors Before U.S. Magistrates, rules of habeas corpus applications under 28 U.S.C.A. § 2254, and rules of habeas corpus motions under 28 U.S.C.A. § 2255.
Federal Rules of Practice and Procedure Advisory Committee Minutes	US-RULESCOMM	Documents released by the five advisory committees to the Judicial Conference of the United States, including the Advisory Committee on Practice and Procedure.
Federal Criminal Justice– Federal Sentencing Reporter	FCJ-FSR	Materials from the <i>Federal Sentencing Reporter</i> , published by the Vera Institute of Justice, beginning with 1 Fed. Sent'g. Rep. (June 1988).
Federal Criminal Justice–Cases	FCJ-CS	Documents pertaining to criminal acts and the investigation, prosecution, and punishment of crime from the U.S. Supreme Court, courts of appeals, district courts, bankruptcy court, and other federal courts. Coverage begins with 1789.
Federal Sentencing Law and Practice	FSLP	Full text of the treatise <i>Federal Sentencing Law and Practice</i> , 2007 edition, published in January 2007.

## ADVANCED SEARCH TIP

### But Is it Constitutional?

West Codenotes appear between the West headnotes and the text of an opinion in cases that affect the validity of a statute.

The West-codenotes field (wcn) is a searchable field that is not listed on a database Search page. It provides an efficient way to find cases that have held statutes unconstitutional.

For example, if you want to look at recent federal cases involving sentencing in which courts have also found statutes unconstitutional, access the Federal Criminal Justice–Cases database (FCJ-CS) and type  
**wcn(unconst!) & sy,di(sentenc!) & da(aft 2006)**

Or, if you are looking for cases in which courts have found state laws to be preempted by ERISA, access ALLCASES and type

**wcn(pre-empt!) & sy,di(e.r.i.s.a. “employee retirement income security act”)**

Because West Codenotes is a relatively recent feature, older cases won't contain this editorial enhancement.

### Need More Copies of the KEY POINTS Newsletter?

Please send me \_\_\_\_\_ additional FREE copies of the KEY POINTS newsletter.

Name \_\_\_\_\_

Agency \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_

State \_\_\_\_\_ Zip \_\_\_\_\_

You can also receive KEY POINTS electronically. Just complete the subscription form found at [west.thomson.com/newsletters/4.asp](http://west.thomson.com/newsletters/4.asp).

