

Year In Review

U.S. Sentencing Commission – Fiscal Year 2008

On November 13, 2007, the Commission held a public hearing at the Georgetown University Law Center about whether its 2007 crack cocaine and criminal history amendments should be applied retroactively. The Commission heard testimony from the judicial and executive branches of government, community interest groups, and the academic community. After receiving more than 33,000 public comment letters, on December 11, 2007, the Commission voted unanimously to give retroactive effect to the crack cocaine amendment. The Commission also voted to amend §1B1.10 [Reduction in Term of Imprisonment as a Result of Amended Guideline Range (Policy Statement)] to provide clarification regarding when, and to what extent, sentencing reductions are consistent with the policy statement and therefore authorized under 18 U.S.C. § 3582(c)(2).

In February 2008, the United States Sentencing Commission (the “Commission”) published its *2007 Annual Report* and *2007 Sourcebook of Federal Sentencing Statistics* and posted the volumes on its website at <http://www.usc.gov/annrpts.htm>. Throughout the year, the Commission continued processing real-time data and publishing quarterly reports of its sentencing data on its website. The Commission also has been collecting, analyzing, and reporting data to determine the ways in which the decisions of *Gall v. United States*, 128 S. Ct. 586 (2007), and *Kimbrough v. United States*, 128 S. Ct. 558 (2007), may affect sentencing practices.

In response to the Emergency Disaster Assistance Fraud Penalty Enhancement Act of 2007, Pub. L. No. 110–179, the Commission promulgated an emergency amendment to the sentencing guidelines (effective February 6, 2008) that increased penalties for persons convicted of fraud or theft offenses in connection with a major disaster declaration or an emergency declaration. The Commission’s *Report to the Congress:*

Amendments to the Federal Sentencing Guidelines in Response to the Emergency Disaster Assistance Fraud Penalty Enhancement Act of 2007 was issued in September 2008.

On February 12, 2008, Chair Ricardo H. Hinojosa, testified before the Senate Judiciary Committee’s Crime and Drugs Subcommittee regarding federal cocaine sentencing policy.

On March 3, 2008, the amendment providing retroactive effect to the crack cocaine amendment and the clarifications to policy statement §1B1.10 became effective, at which time courts could consider sentencing reductions under 18 U.S.C. § 3582(c)(2). The Commission has been issuing periodic reports regarding retroactive application of its 2007 crack cocaine amendment.

On March 13, 2008, the Commission held a public hearing on proposed amendments to the sentencing guidelines and policy statements, and heard testimony from the executive and judicial branches of government and defense practitioners.

At its March and September meetings in 2008, Chair Ricardo H. Hinojosa addressed the Judicial Conference of the United States, updating the Conference on the activities of the Commission.

On April 16, 2008, the Commission announced the formation of the Victims Advisory Group, a standing advisory group assembled to provide the Commission advice on the operation of the federal sentencing guidelines from the perspective of victims of federal crime.

On May 1, 2008, after a public hearing in March 2008, the Commission sent to Congress a package of guideline amendments that addressed, among other things, court security, emergency and disaster

assistance fraud, immigration, animal fighting, and the Honest Leadership and Open Government Act. The amendments went into effect November 1, 2008.

On May 1, 2008, Jonathan J. Wroblewski was designated an *ex-officio* member of the United States Sentencing Commission, representing the Office of the Attorney General, United States Department of Justice. Mr. Wroblewski serves as director of the Office of Policy and Legislation in the Criminal Division of the United States Department of Justice.

On May 21–23, 2008, more than 800 attendees participated in the 17th Annual National Seminar on the Federal Sentencing Guidelines. The seminar, co-sponsored by the Commission and the Tampa Bay Chapter of the Federal Bar Association, was held in Orlando, Florida.

On June 25–27, 2008, Commission members and staff participated at the National Sentencing Policy Institute in Long Beach, California. The Institute included panel discussion on several sentencing issues, including post-*Rita/Kimbrough/Gall*, crime victim rights, and the Second Chance Act.

On July 14–15, 2008, the Commission held a national symposium on alternatives to incarceration, hearing from federal judges, key congressional staff, academics, practitioners, prosecutors, public defenders, and probation officers about alternative sentencing issues. Approximately 250 criminal justice professionals attended the symposium in Washington, D.C.

As of October 2008, all 94 federal districts were participating in the Commission's Electronic Submission System ("ESS") which enables districts to submit electronically sentencing documents to the Commission across the courts' network, thereby improving efficiencies and avoiding delays in the mailing process.

The Commission received documentation on more than 76,000 cases sentenced and 14,000 cases resentenced under the guidelines in fiscal year 2008.

During fiscal year 2008, Commission staff trained thousands of judges, probation officers, prosecutors, defense attorneys, and others at approximately 150 training sessions across the country (including ongoing programs sponsored by the Federal Judicial Center and other agencies).

The Commission's "HelpLine" provides guideline application assistance to more than 150 callers each month. The Commission continues to rely on its popular Internet site (www.ussc.gov) as a means of providing information about the agency and its work.