

CHAPTER FOUR

Guideline Training and Education

In 1999, the Commission continued to provide guideline application assistance, education, and public information using a variety of different means.

Internet Web Site

The Commission's award-winning Internet web site (*USSC Online*) continues to provide the public with 24-hour access to information about the agency and federal and state sentencing practices.

Users can choose from nine main informational categories that allow documents to be read on-screen before a user elects to down-load or print the material. The categories are – General Information about the Commission and its Activities, Publications, Guidelines Manuals and Amendments, Federal Sentencing Statistics by State, Reports to Congress, Guideline Training and Education, Commission Meeting Information, Hearing Transcripts and Testimony, and “What’s New.” The web site also provides information supplied by state sentencing commissions.

The home page is updated frequently to keep the public abreast of Commission meetings, hearings, legislative developments, and training and employment opportunities. During 1999, the home page was visited approximately 8,000 times per month. Users visiting the Commission's web site at <http://www.ussc.gov> can browse as well as download documents in either HTML or .PDF formats.

Public Information

In 1999, Commission staff responded to thousands of information requests from Congress, attorneys, government agencies, academics, inmates and their families, the media, and the public.

Telephone Inquiries. In 1999, Commission staff responded to more than 4,000 public information telephone calls. Some of these information requests were answered by providing callers with copies of Commission publications; in other instances, staff orally answered the callers' questions. When appropriate, callers were referred to the Commission's *HelpLine*.

Written Requests. In 1999, Commission staff responded to approximately 850 written inquiries (*i.e.*, letters, e-mails), most of which were from inmates or their families. Other written inquiries came from members of Congress, attorneys, libraries, government agencies, and the research community. While some letters requested Commission publications, others posed questions on such topics as “time off for good behavior,” new legislation, or the application of the guidelines to specific cases.

Presentations. During 1999, commission staff made numerous presentations about the guidelines to university groups, visiting foreign dignitaries, and criminal justice practitioners.

Publications and Training Materials

The Commission issues numerous publications each year in addition to its *Annual Report* and *Sourcebook of Federal Sentencing Statistics*. In 1999, work was finalized on *A Field Test of Proposed Revisions to the Definition of Loss in the Theft and Fraud Guidelines: A Report to the Commission*. This report presents the results of a survey of federal judges and probation officers about the definition of loss in the theft and fraud guidelines. Also released was *No Electronic Theft Act Policy Development Team Report*, which analyzes the legislative history of the Act, examines the literature on the topic, and presents an empirical analysis of cases sentenced under the relevant guideline. In the fall of 1999, the Commission published a revised edition of its *Guide to Publications & Resources*, which describes all available Commission publications and datasets. The Commission also continued publication of its periodic newsletter, *GuideLines*, which presents information on current Commission activities, research findings, proposed guideline amendments, training opportunities, and guideline application and legal issues.

During the year, the staff published *Case Law on Departures*, a report that reviews and analyzes post-*Koon* appellate and district court departure decisions. The agency also issued *Supreme Court Cases: Guideline Sentencing Issues*, which summarizes selected Supreme Court decisions that involve application of the guidelines. Another publication, *Probation and Supervised Release: Revocation and Other Issues*, discusses legal issues involving Chapter Seven of the sentencing guidelines.

In addition, the Commission continues to develop its collection of guideline training materials that includes –

- C guideline application scenarios on issues related to firearms, immigration, relevant conduct, the calculation of loss, and other sentencing-related matters;
- C quizzes and checklists;
- C articles on numerous guideline sentencing-related topics; and
- C case law outlines on selected topics.

Under an arrangement with the U.S. Government Printing Office (GPO), copies of all Sentencing Commission publications are made available in hard copy or on microfiche to patrons using the GPO Regional Depository Libraries across the nation. The location of the nearest Depository Library – there are 600 nationwide – can be determined in several ways: (1) by requesting a free copy of the Directory of Depository Libraries from GPO; (2) by checking with local libraries; or (3) by using the Internet at http://www.access.gpo.gov/su_docs, selecting “Library Services.” Many of these publications are available on the Commission’s web site at <http://www.ussc.gov>.

Training

Congress authorized the Commission to “devise and conduct periodic training programs of instruction in sentencing techniques for judicial and probation personnel and other persons connected with the sentencing process.” 28 U.S.C. § 995(a)(17) and (18). The Commission recognizes that an evolving guideline system, together with the steady influx of new practitioners, creates a continuing need for effective training programs and materials. In 1999, the Commission provided training on the guidelines and related sentencing issues to approximately 3,300 individuals at 48 different training programs across the country, including ongoing programs sponsored by the Federal Judicial Center and other agencies.

Participants included circuit and district court judges, probation officers, prosecuting and defense attorneys, congressional staff members, law clerks, and other government agency personnel. At the sessions, Commission faculty provided intensive training on guideline application, developing case law, guideline amendments, statutory changes, and other sentencing issues.

Training New Appointees

The Commission continued its collaborative training efforts with the Federal Judicial Center (FJC) and the Department of Justice (DOJ) to develop and refine permanent, academy-based guideline education programs. Working with the FJC and DOJ, the Commission plays an active role in training newly appointed judges, probation officers, and prosecutors. The Commission continued in 1999 to participate in the FJC’s orientation program for newly appointed district and appellate court judges, providing three days of training on guideline application and sentencing-related topics to 32 new judges.

In 1999, the Commission presented half-day workshops on guideline application training to approximately 300 newly appointed probation officers during five orientation programs at the “New Officers Training” in Washington, D.C. The half-day workshops concentrated on guideline topics including relevant conduct and multiple counts. Staff also participated in a panel discussion to help new officers better understand the functions of the key judicial agencies.

Defense Attorney Training Initiative

In 1999, commissioners and staff continued their defense bar training initiative which began in 1997. During 1999, approximately 1,100 defense attorneys attended Commission training seminars. In May 1999, the Sentencing Commission and the Federal Bar Association jointly sponsored the Eighth Annual National Seminar on the Federal Sentencing Guidelines. Topics included — basic individual guidelines training, basic organizational guidelines training, advanced guidelines issues, effective guidelines advocacy, fraud and theft guidelines, money laundering, drug issues, restitution, advanced organizational guidelines, advanced relevant conduct issues, and criminal history. In addition, the Commission continued to work with the Sentencing Guidelines Group (Washington, DC-based federal defenders) to produce training programs for defense attorneys.

While progress has been made in this area, the effort continues. The Commission encourages all courts interested in developing a training program for the defense bar to contact the Commission's Office of Education and Sentencing Practice. Although limited by staff resources, the Commission has developed a model program that includes faculty experts from the Commission, the court, probation office, U.S. attorney office and federal public defender office. The Commission recommends working with the state bar association to help with program development, promotion, and the provision of CLE credits for attendees. This collaborative model has proven effective in improving the guidelines education of the defense bar.

District-Based Guideline Education

In 1999, the Commission responded to training requests from probation officers, judges, defense attorneys, and prosecutors by conducting guideline education programs in 15 localities. To maximize resources, when a district office requested training, the Commission typically contacted other members of the court family and invited them to participate. The Commission staff also lectured widely on sentencing issues at training programs, academic seminars, judges' meetings, and professional conferences.

Organizational Guidelines Workshops

During the year, the Commission co-sponsored with the Ethics Officer Association (EOA) a four-part series of regional workshops on the implications of the organizational sentencing guidelines for business ethics and compliance. The workshops, entitled "Shaping Tomorrow's Debate: Ethics, Compliance and the Organizational Sentencing Guidelines," were hosted in Chicago, Atlanta, Boston, and San Francisco by four sponsoring partner members of the EOA. The EOA is a non-profit organization which is composed of more than 600 ethics and compliance officers who have as their mission the sharing of "best practices" for compliance.

Luncheon addresses at the sessions were delivered by a current or past commissioner or by the Commission's general counsel. Commission staff delivered several of the presentations and participated in panel discussions. Attendance at the different sessions ranged from 75 to 100.

"High-Tech" Approaches to Training

The Commission continues to explore the ways in which new technologies (*e.g.*, multi-media programs, video conferencing, satellite broadcasting, and online conferencing) can be utilized to supplement its existing training efforts. To maximize resources, this exploration is being conducted in cooperation with the Federal Judicial Center (FJC) and other federal agencies.

In 1999, the Commission continued to work with the FJC and the Administrative Office of the U.S. Courts to plan and develop education and information programming for the Federal Judicial Television Network (FJTN). For example, the widely viewed, July 1999 live broadcast on the topic of restitution featured staff from the Commission's Office of Education and Sentencing Practice and the General Counsel's Office of the Administrative Office of the U.S. Courts.

The Commission continues to participate in "Perspectives," a FJTN news magazine series for probation and pretrial services officers. The Commission is now featured in a regular segment on

the program that updates probation officers about the Commission and its activities. In a collaborative effort between the FJC and the Commission, a series of live broadcasts will air in 2000 addressing various sentencing issues.

HelpLine

The *HelpLine* – serving judges, probation officers, prosecuting and defense attorneys, and law clerks – assists callers with specific guideline application questions and promotes guideline and sentencing education. *USSC HelpLine* is open to callers Monday through Friday between 8:30 a.m. and 5:00 p.m., EST at (202) 502-4545.

In a training capacity, *HelpLine* staff assist callers in applying the sentencing guidelines. Subject to the caution given all callers that *HelpLine* advice is neither binding on the court nor to be represented as the official position of the Sentencing Commission, staff answer questions not involving subjective judgments. Those questions involving a subjective determination by the judge, such as whether a defendant should receive an adjustment for acceptance of responsibility, are addressed by reference to pertinent guidelines, commentary, or policy statements. For debatable questions or interpretations of correct application, staff assist the callers in understanding alternative approaches, emphasizing that such decisions are left to the courts.

Calls Received in 1999

Since the *HelpLine's* inception in 1987, staff have responded to more than 20,000 questions from probation officers, judges, prosecutors, defense attorneys, and law clerks. In 1999, the *HelpLine* staff continued to respond to approximately 200 questions each month. The greatest number of questions were related to application issues concerning relevant conduct and the criminal history guidelines. There were also frequent questions about drug offenses, firearm offenses, fraud/loss, and multiple counts.

In the process of responding to *HelpLine* questions, Commission training and legal staffs regularly consult with each other to ensure that questions are researched fully and answered accurately. A newly enhanced Commission database of *Helpline* calls allows staff to check whether a similar question has been asked previously, thereby speeding research efforts and enabling more consistent and accurate responses.

Temporary Assignment Programs

The Commission's temporary assignment program for assistant U.S. attorneys and assistant federal defenders continued through 1999. Four assistant federal defenders (Anne Blanchard, District of New Jersey; Cynthia Matthews, Eastern District of New York; John Butcher, District of New Mexico; Paula Biderman, District of Columbia) and two assistant U.S. attorneys (Sharon Long, Northern District of Ohio; Greg Gilmore, Northern District of Illinois) worked with the Commission during 1999. Since the visiting attorney program began in 1988, 25 assistant federal defenders and 18 assistant U.S. attorneys have participated.