

## CHAPTER FOUR

# Guideline Training and Education

In 1997, the Commission continued to provide guideline application assistance and education through a variety of different means.

### Internet Web Site

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The Commission's 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 seven 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, 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 1997, the home page was visited approximately 2,000 times per month. However, use of the web site has increased steadily, and the site is currently being accessed approximately 7,000 times each month.

Users visiting the Commission's web site at the address <http://www.ussc.gov> can browse as well as download documents in either HTML or .PDF formats. In June, the Commission's Internet site was honored with the *Legal Times's* "Legal Web Site of the Week Award."

### Public Information

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In 1997, Commission staff responded to thousands of information requests from Congress, attorneys, government agencies, academics, inmates and their families, and the public.

**Telephone Inquiries.** In 1997, Commission staff responded to more than 6,000 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*. The Commission also offers callers a telephone recording that provides general information on current topics of interest.

**Written Requests.** In 1997, Commission staff responded to approximately 700 written inquiries, most of which were from inmates or their families. Other letters 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.

**Public Comment.** During the Commission’s guideline amendment cycle, the public is invited to comment on proposed amendments. In 1997, the Commission received approximately 600 letters of public comment.

## Publications and Training Materials

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The Commission issues numerous publications each year in addition to its *Annual Report* and *Sourcebook of Federal Sentencing Statistics*. In 1997, the Commission completed work on two special reports to Congress on the topics of: (1) cocaine and federal sentencing policy, and (2) sentencing policy for money laundering offenses. The Commission released in early 1997 *Just Punishment: Public Perceptions and the Federal Sentencing Guidelines*, a national study of public opinion on federal sentencing. In April 1997, 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, *Guide Lines*, which presents information on current Commission activities, research findings, proposed guideline amendments, training opportunities, and guideline application and legal issues. In the fall, the Commission published its 1997 *Guidelines Manual*, which contains the official guidelines, policy statements, and commentary issued by the Sentencing Commission.

During the year, the Commission published *Departures*, a report that reviews and analyzes post-*Koon* appellate and district court departure decisions. The Commission also issued *Resolving Circuit Conflicts*, which presents guideline issues that have been resolved by the courts differently in different jurisdictions. Another publication, *Supreme Court Cases: Guideline Sentencing Issues*, summarizes selected Supreme Court decisions that involve application of the guidelines.

In addition, the Commission developed a collection of guideline training materials, including:

- guideline application scenarios on issues related to firearms, immigration, relevant conduct, the calculation of loss, and other sentencing-related matters;
- quizzes and checklists;
- articles on numerous guideline sentencing-related topics; and
- 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](http://www.access.gpo.gov/su_docs), selecting “Information Available for Free Public Use in Federal Depository Libraries.”

## **Training**

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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 1997, the Commission provided training on the guidelines and sentencing issues to approximately 2,536 individuals at 43 different training programs across the country.

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 1997 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 25 new judges. The Commission and the FJC also collaborated in training 173 federal judges at numerous workshops and seminars including conferences for district court judges in Santa Maria, California, and Washington, D.C.

In 1997, the Commission presented four days of guideline application training to approximately 304 newly appointed probation officers during five orientation programs at the National Probation and Pretrial Services Academy near Baltimore, Maryland. In addition to presenting the basics of guideline application, these programs included two half-day workshops and a panel discussion specifically designed for new officers. The first workshop concentrated on Chapter Seven of the *Guidelines Manual* (Violations of Probation and Supervised Release) and the second on advanced guideline topics including multiple counts and relevant conduct. Staff also participated in a panel discussion to help new officers better understand the functions of the key judicial agencies.

In conjunction with the DOJ’s Office of Legal Education, the Commission provided guideline training to approximately 170 newly appointed assistant U.S. attorneys at the Federal Practice Skills Seminars held in Washington, D.C., and Salt Lake City, Utah.

### ***Defense Attorney Training Initiative***

In the ten years the guidelines have been in effect, the Commission has consistently dedicated considerable resources to the training of those who use the guidelines. However, 1997

saw an increased emphasis on the training of defense attorneys. In part, the Commission was responding directly to input from judges about the need for increased training of the defense bar (CJA panel attorneys in particular). This need was also identified in a 1996 Federal Judicial Center study, *The United States Sentencing Guidelines: Results of the Federal Judicial Center's Survey – A Preliminary Report to the Committee on Criminal Law of the Judicial Conference of the United States*.

The Commission responded by becoming more proactive in the development and delivery of defense bar training; in 1997, the Commission trained 75 percent more defense attorneys than it did in 1996. Commissioners joined staff in this training initiative and repeatedly “went on the road” to train defense attorneys across the country.

During 1997, approximately 574 defense attorneys attended Commission training seminars. In April 1997, the Sentencing Commission and the Federal Bar Association jointly sponsored the Sixth Annual National Seminar on the Federal Sentencing Guidelines. Topics included: drug and money laundering guidelines; the “safety valve”; multiple counts; advanced relevant conduct; the calculation of loss; substantial assistance and other downward departures; and strategies and tactics of guideline advocacy. In addition, the Commission continued to work with the Sentencing Guidelines Group (Washington, D.C.-based federal defenders) to produce training programs for defense attorneys.

While progress has been made, 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 Training and Technical Assistance. Commission staff will then work with the local court, probation office, U.S. attorney office, federal public defender office, and state bar association to develop a program designed to meet local needs. This collaborative model has proven effective in improving the guidelines education of the defense bar.

### ***District-Based Guideline Education***

In 1997, the Commission responded to training requests from probation officers, judges, defense attorneys, and prosecutors by conducting guideline education programs in 24 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. In addition, the Chairman, Commissioners, and the Staff Director actively participated in panel discussions and various other speaking engagements across the country on approximately 14 occasions. The Commission staff also lectured widely on sentencing issues at training programs, academic seminars, judges’ meetings, and professional conferences.

### ***“High-Tech” Approaches to Training***

The Commission continues to explore the ways in which new technologies (*e.g.*, multi-media programs, video teleconferencing, 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.

Members of the Commission's training staff are working with the FJC and the Administrative Office of the U.S. Courts to plan and develop education and information programming for the new Federal Judicial Television Network. Programming on this satellite television network will be expanded as downlinks are installed in the federal courts. The Commission will work with the FJC to design and conduct training on the new network in 1998.

### ***HelpLine***

In early 1997, The Commission's two hotlines were merged to form a single *USSC HelpLine* in order to maximize operational efficiency. 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 5:30 p.m., EST at (202) 273-4545.

In an advisory 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 1997**

The *HelpLine* staff responded to 2,178 questions in 1997, an average of 181 questions per month. Since its inception in 1987, *HelpLine* staff have responded to more than 18,000 questions from probation officers, judges, and law clerks. The greatest number of questions were related to application issues concerning the drug guidelines (141). Inquiries relating to fraud/loss ranked second (99), followed by questions about the firearms guidelines (94), relevant conduct (81), and multiple counts (77).

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 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 1997. Three assistant federal defenders (Gustavo A. Gelpi, District of Puerto Rico; Barbara O'Connor, Central District of California; and Steve Marley, Eastern District of Pennsylvania) worked with the Commission during 1997. Since the visiting attorney program began in 1988, 19 assistant federal defenders and 15 assistant U.S. attorneys have participated.

## **Presentations**

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Throughout 1997, commissioners and staff made numerous presentations about the guidelines to university groups, visiting foreign dignitaries, and criminal justice practitioners. In July, Chairman Richard P. Conaboy spoke at the Tenth Anniversary International Conference of The Society for the Reform of Criminal Law, held in London. The conference participants included judges from Europe, Africa, Asia, and the Americas. Prior to his arrival in England, Judge Conaboy met with Ireland's Taoiseach (Prime Minister), Attorney General, and Members of the High Court, and discussed guideline sentencing in the United States.