

## CHAPTER FOUR

# Guideline Training and Education

In 2001, the Commission continued to provide guideline application assistance, education, and public information using a variety of different means.

### Internet Web Site

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

Users can choose from eleven main informational categories that allow documents to be read on-screen before a user elects to download 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, Organizational Guidelines, Commission Meeting Information, Hearing Transcripts and Testimony, *Federal Register* Notices, 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, training, and employment opportunities. During 2001, the home page was visited approximately 10,000 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

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In 2001, 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 2001, Commission staff responded to more than 3,800 public information telephone calls. Staff were able to respond by providing verbal instructions, sending copies of Commission publications, or referring the caller to the Commission's *HelpLine*.

**Written Requests.** In 2001, Commission staff responded to approximately 1,000 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 2001, Commission staff made numerous presentations about the guidelines to university groups, visiting foreign dignitaries, and criminal justice practitioners (*e.g.*,

students from American University and Kent State University, State Department visitors, the Practising Law Institute, and the American Bar Association).

## **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 2001, publications included the following: *Proceedings of the Third Symposium on Crime and Punishment in the United States – Federal Sentencing Policy for Economic Crimes and New Technology Offenses*; *MDMA Drug Offenses – Exploration of Recent Guideline Amendments*; and *Nuclear, Biological, and Chemical Weapons Policy Team Report*. 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 *Departures*, a report that reviews and analyzes appellate and district court departure decisions. The agency also issued *Supreme Court Cases on Sentencing Issues*, which summarizes selected Supreme Court decisions that involve application of the guidelines.

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

- 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 “Library Services.” Many of these publications are also available on the Commission’s web site at <http://www.ussc.gov>.

## **Training**

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Congress authorized the Sentencing 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 2001, the Commission provided training on the guidelines and related sentencing issues to approximately

3,867 individuals at 46 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 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. For example, the Commission continued in 2001 to participate in the FJC's orientation program for newly appointed district and appellate court judges by providing three days of training on guideline application and sentencing-related topics to 18 new judges.

In 2001, the Commission presented half-day workshops on guideline application training to approximately 480 newly appointed probation officers during eight 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.

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

In 2001, commissioners and staff continued their defense bar training initiative which began in 1997. In May 2001, the U.S. Sentencing Commission and the Federal Bar Association jointly sponsored the Tenth Annual National Seminar on the Federal Sentencing Guidelines. Topics included — basic individual guidelines training, basic organizational guidelines training, fraud and theft guidelines, restitution, relevant conduct, drug offenses, multiple counts, pornography offenses, organizational guidelines, firearms, immigration offenses, criminal history, tax and money laundering offenses, plea bargaining, technology offenses, appellate advocacy, Chapter Three adjustments, and Bureau of Prisons issues.

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 possibly CLE credits for attendees.

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

In 2001, the Commission responded to training requests from probation officers, judges, defense attorneys, and prosecutors by conducting guideline education programs in 29 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.

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

The Commission continues to explore 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.

In 2001, the Commission continued to work closely with the FJC to plan and develop education and information programming for the Federal Judicial Television Network (FJTN). The Commission's increased involvement in programming on the FJTN affords the Commission the opportunity to expand the reach of its training efforts to the federal judiciary. The *Sentencing and Guidelines* series, produced in partnership with the FJC, featured programs on basic guidelines application, the multiple count rules, and the calculation of criminal history under the guidelines.

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. Commissioners and staff also participate in other FJC programming on the FJTN when broadcasts deal with sentencing-related 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 2001**

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 2001, it is estimated that the *HelpLine* staff responded to approximately 2,400 calls. Frequently asked questions

related to application issues concerning relevant conduct, the criminal history guidelines, drug and firearms offenses, fraud/loss, and the grouping of multiple counts of conviction.

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 2001. Two assistant federal defenders (Marianne Mariano, Northern District of New York; Callie Glanton Steele, Central District of California) and one assistant U.S. attorney (Lynn D. Rosenthal, Southern District of Florida) worked with the Commission during 2001. Since the visiting attorney program began in 1988, 28 assistant federal defenders and 20 assistant U.S. attorneys have participated.

### ***Symposium on Federal Sentencing Policy for Economic Crimes and New Technology Offenses***

On October 12-13, 2000, the United States Sentencing Commission held a national symposium on *Federal Sentencing Policy for Economic Crimes and New Technology Offenses* in Arlington, Virginia. This symposium was hosted by the George Mason University School of Law and attended by more than 200 persons. The symposium was co-sponsored by the Committee on Criminal Law of the Judicial Conference of the United States, the American Bar Association White Collar Crime Committee, and the National White Collar Crime Center. Co-chairs of the symposium were Sentencing Commission Vice Chair John R. Steer, and Commissioner Michael E. O'Neill, a law professor at George Mason University.

The Commission's first symposium – "Drugs & Violence in America" – was held in June 1993, gathering together more than 350 people to discuss various policy options for stemming the tide of drug abuse and associated violence. The second symposium – "Corporate Crime in America: Strengthening the 'Good Citizen' Corporation" – was held in September 1995 and involved more than 450 persons discussing the effects of the federal sentencing guidelines on corporate behavior.

Like its predecessors, the third symposium continued the tradition of bringing together leaders from the federal judiciary, law enforcement, the legal community, academia, and industry to discuss cutting-edge legal issues and to exchange innovative ideas regarding current federal sentencing policy. The purposes of this symposium were two-fold: first, to discuss sentencing policy for economic crimes generally; and second, to discuss the impact of new technology on investigating, prosecuting, and sentencing economic crimes. In keeping with the topic for this symposium, the proceedings were broadcast over the Internet, allowing potentially thousands of others to participate.

Norman R. Augustine, chairman of the Executive Committee at Lockheed Martin Corporation, delivered the dinner keynote address. Deputy Attorney General Eric Holder and

Michael Vatis, director of the National Infrastructure Protection Center, Federal Bureau of Investigation, were the other keynote speakers at the two-day event. Concluding remarks for the symposium were provided by Judge Diana E. Murphy, chair of the Commission.

The first day of the symposium focused on sentencing policy for economic crimes generally, while the second day's activities focused on new technology offenses (*e.g.*, Internet fraud and intellectual property theft). Discussion on the first day covered a wide variety of topics, including the contributions of social science to sentencing policy; proposals to modify punishment levels for economic offenses; and the ways in which the federal sentencing guidelines measure harm caused by economic offenses. The second day of the symposium focused on how aspects of new technology offenses (*e.g.*, data encryption, mass file-sharing, and generating e-mail viruses) alter the way traditional crimes are committed. The Commission hopes that the symposium enhanced understanding of the nature and magnitude of economic crimes and that the discussions and research generated by the proceedings will assist in the development of more appropriate and effective sentencing policies in these areas.

The proceedings have been archived for viewing at the Sentencing Commission's website (<http://www.ussc.gov>).