

CHAPTER FOUR

Guideline Training and Education

In 2002, the Commission continued to provide guideline application assistance, education, and public information using a variety of different means.

Internet Website

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

Users can elect to read or download documents from numerous categories, including general information about the Commission and its activities, publications and reports to Congress, *Guidelines Manuals* and amendments, federal sentencing statistics, guideline training and education materials, organizational guidelines, Commission meeting information, hearing transcripts and testimony, and *Federal Register* notices. The website 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 2002, the home page was visited approximately 15,000 times per month. Users visiting the Commission's website at *www.ussc.gov* can browse as well as download many of the documents in either .HTML or .PDF formats. The Commission uses its USSC Listserve e-mail service to alert subscribers to new postings on its website.

Public Information

In 2002, 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 2002, Commission staff responded to more than 3,900 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 2002, 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 2002, Commission staff made numerous presentations about the guidelines to university groups, visiting foreign dignitaries, and criminal justice practitioners (e.g., students from American University, the University of Delaware, and Kent State University; State Department visitors; the Practising Law Institute; and the American Bar Association).

Publications and Training Materials

The Commission issues numerous publications each year in addition to its *Annual Report* and *Sourcebook of Federal Sentencing Statistics*. In 2002, publications included the following: *2002 United States Sentencing Commission Guidelines Manual*; *United States Sentencing Commission Publications and Resource Guide 2002-2003*; and *Report to the Congress: Cocaine and Federal Sentencing Policy*. 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.

The agency also issued *Supreme Court Cases on Sentencing Issues* and *Selected Guideline Application Decisions by Circuit*, which summarize selected 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.gpoaccess.gov/libraries.html>. Many of these publications are also available on the Commission's web site at <http://www.ussc.gov>.

Training

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 2002,

the Commission provided training on the guidelines and related sentencing issues to approximately 4,823 individuals at 74 different training programs across the country, including ongoing programs sponsored by the Federal Judicial Center (FJC) and other agencies. Compared to 2001, this represents approximately a 25-percent increase in individuals trained and a 61-percent increase in the total number of training programs.

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, commissioners and staff provided training on guideline application, developing case law, guideline amendments, statutory changes, and other sentencing issues.

In June, the Commission participated in the 2002 National Sentencing Policy Institute, a collaborative effort with the Federal Judicial Center, the Judicial Conference's Committee on Criminal Law, the Administrative Office of the U.S. Courts, the Federal Bureau of Prisons, and the Sentencing Commission. Sentencing commissioners and staff participated with federal judges, U.S. attorneys, members of the bar, and others in a discussion of guideline issues and related sentencing practices.

Training New Appointees

The Commission continued its collaborative training efforts with the 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 2002 to participate in the FJC's orientation program for newly appointed district and appellate court judges by providing training on guideline application and sentencing-related topics to 61 new judges at four orientation programs.

In 2002, the Commission presented workshops on guideline application training to approximately 420 newly appointed probation officers during seven orientation programs at the "New Officers Training" in Washington, D.C. The workshops concentrated on guideline topics including relevant conduct, multiple counts, and criminal history.

Defense Attorney Training Initiative

In 2002, commissioners and staff continued their defense bar training initiative which began in 1997. In May 2002, the U.S. Sentencing Commission and the Federal Bar Association jointly sponsored the Eleventh 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, sexual offenses, organizational guidelines, firearms, immigration offenses, criminal history, tax offenses, money laundering offenses, sentencing practice and procedure, plea bargaining, technology offenses, Chapter Three adjustments, and Bureau of Prisons issues.

The Commission and the South Dakota Federal Defender's Office co-sponsored sentencing guideline training for Criminal Justice Act defense attorneys. During the week of October 29, 2001, three daylong programs were held in Rapid City, Pierre, and Sioux Falls. The purpose of the training was to improve the defense attorney's knowledge of the sentencing guidelines and related sentencing 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 2002, the Commission responded to training requests from probation officers, judges, defense attorneys, and prosecutors by conducting guideline education programs in 26 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) two regional workshops on the implications of the organizational sentencing guidelines for business ethics and compliance. The EOA is a nonprofit organization which comprises more than 800 ethics and compliance officers who have as their designated mission the sharing of "best practices" for compliance and ethics within organizations.

The two daylong events featured keynote luncheon addresses by commissioners on the role of the organizational sentencing guidelines in influencing corporate conduct and governance. Commission staff delivered several presentations and participated in panel discussions (with representatives from the Department of Justice and the private business sector) on effective strategies for compliance, the regulatory response to the organizational sentencing guidelines, and the roles of internal auditors and boards of directors in shaping corporate compliance. Between 75 and 100 participants attended each session.

Workshops on Cultural Heritage Resources Guideline

At the invitation of the Bureau of Indian Affairs, National Park Service, and Department of Justice, the Commission provided training at seven programs related to the newly-promulgated sentencing guideline for cultural heritage resource crimes (guideline 2B1.5),

which became effective on November 1, 2002. This new guideline addresses a wide range of crimes against the nation's cultural heritage (e.g., stealing a Native American ceremonial mask from tribal property damaging archaeological sites on federal land). Approximately 325 persons attended these training programs held in Alaska, Arizona, California, and Connecticut.

“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. 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 involvement in programming on the FJTN affords the Commission the opportunity to expand the reach of its training efforts to the federal judiciary. In November 2001, the *Sentencing and Guidelines* series, produced in partnership with the FJC, featured a program on new amendments to the sentencing guidelines. Commissioners and staff also participate in other FJC programming on the FJTN when broadcasts address 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 2002

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 2002, 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, theft/fraud, immigration offenses, 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 2002. Two assistant federal defenders (Maria Jankowski, District of the District of Columbia, and John Rhodes, District of Montana) and one assistant U.S. attorney (Monte Richardson, Middle District of Florida) worked with the Commission during 2002. Since the visiting attorney program began in 1988, 30 assistant federal defenders and 21 assistant U.S. attorneys have participated.