

Chapter Four

Guideline Training and Education

In 2008, the Commission continued to provide guideline application assistance, education, and public information using a variety of different means.

Internet Website

The Commission's Internet website (www.ussc.gov) provides information to the public about the agency and federal and state sentencing practices.

Users can read and 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 educational 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 fiscal year 2008, the home page was visited approximately 1,000,000 times per month. Users visiting the Commission's website 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 fiscal year 2008, Commission staff responded to approximately 12,000 information requests from Congress, attorneys, government agencies, academics, inmates and their families, the media, and the public.

Telephone Inquiries. In 2008, Commission staff responded to approximately 10,000 public information telephone calls. Staff were able to respond by providing verbal information, sending the caller Commission publications, or referring the caller to the Commission's *HelpLine*.

Written Requests. In 2008, Commission staff responded to approximately 2,000 written inquiries (*i.e.*, letters, e-mails), the majority 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 2008, commissioners and 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 2008, publications included the following: *2008 United States Sentencing Commission Guidelines Manual; Report to the Congress: Amendments to the Federal Sentencing Guidelines in Response to the Emergency Disaster Assistance Fraud Penalty Enhancement Act of 2007; Supplement to the 2007 Guidelines Manual (Effective March 3, 2008); Proceedings from the Symposium on Alternatives to Incarceration (July 14-15, 2008); Supplement to the 2007 Guidelines Manual (Effective May 1, 2008); and Analysis of the Impact of the Crack Cocaine Amendment if Made Retroactive.*

The agency also published several editions of *Selected Guideline Application Decisions by Circuit*, which summarize selected court decisions that involve application of the guidelines.

In addition, the Commission continued in 2008 to develop its collection of guideline training materials on new guideline amendments and on guideline sentencing issues such as the crack cocaine amendment retroactivity.

These materials and publications and numerous others are frequently disseminated at guideline training sessions across the country and are available on the Commission's web site at www.ussc.gov.

Training

In 28 U.S.C. § 995(a)(17) and (18), 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.” 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 2008, the Commission provided training on the guidelines and related sentencing issues to more than 8,000 individuals at 149 different training programs across the United States, including ongoing programs sponsored by the Federal Judicial Center (“FJC”) 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, commissioners and staff provided training on guideline application, developing case law, guideline amendments, statutory changes, and other sentencing issues.

Working with the FJC and the Administrative Office of the United States Courts (“AOUSC”), the Commission plays an active role in training newly appointed judges and probation officers. For

example, the Commission continued in 2008 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 approximately 30 newly appointed judges at two orientation programs.

In 2008, the Commission continued to present workshops on guideline application training to approximately 286 newly appointed probation officers during ten orientation programs at the Federal Law Enforcement Training Center (“FLETC”) in Charleston, SC. The workshops concentrated on guideline topics, including introduction to the guidelines, relevant conduct, and criminal history.

The Commission also works with the Department of Justice and the federal defenders to provide training to federal prosecutors and defense attorneys.

Crack Cocaine Retroactivity Training

On March 3, 2008, the amendment providing retroactive effect to the crack cocaine amendment and the clarifications to policy statement §1B1.10 (Reduction in Term of Imprisonment as a Result of Amended Guideline Range) became effective, at which time courts could consider sentencing reductions under 18 U.S.C. § 3582(c)(2). This amendment modifies the drug quantity thresholds in the Drug Quantity Table for crack cocaine offenses. The amendment reduced the base offense levels for crack cocaine offenses by two levels, but the corresponding guideline ranges maintain consistency with the statutory minimum penalties.

Accordingly, under the amendment, a first-time trafficking offense involving five grams of crack cocaine will receive a guideline sentencing range of 51 to 63 months, and a first-time trafficking offense involving 50 grams or more of crack cocaine will receive a guideline sentencing range of 97 to 121 months, before accounting for other relevant factors under the guidelines. Under the statutory mandatory minimum penalties, however, a five- and ten-year sentence will still be required, respectively.

To facilitate the implementation of this new amendment, the Commission focused its training efforts on providing information to the courts regarding the operation of this amendment. On January 17, 2008, the Commission participated in the AOUSC's "Crack Summit" where commissioners and staff conducted training on the crack cocaine amendment and retroactivity to approximately 250 people. On January 24, 2008, the Commission participated in the second "crack summit" sponsored by the AOUSC. Commissioners and staff provided similar training to approximately 470 members of the court family in attendance. In addition, the Commission traveled to more than 20 districts to provide additional training to district court judges, probation officers, prosecuting and defense attorneys, and law clerks on retroactivity of the crack cocaine amendment.

Seventeenth Annual National Seminar on Federal Sentencing Guidelines

In May 2008, the Commission and the Federal Bar Association – Tampa Bay Chapter jointly sponsored the Seventeenth Annual National Seminar on the Federal Sentencing Guidelines in Orlando, Florida. Topics included basic individual guidelines training, the evolving role and work of the Sentencing Commission, fraud and theft offenses, relevant conduct, drug offenses, sexual offenses, firearms, immigration offenses, criminal history, plea bargaining in the post-*Booker* era, a view from the bench, departures and variances under section 3553(a), sentencing appeals in the post-*Booker* era, supervised release: conditions and revocations, advanced guideline issues, federal sentencing from a research perspective, and Bureau of Prisons issues. The seminar was attended by approximately 800 registrants consisting of federal judges, probation officers, prosecutors, defense attorneys, and other professionals from across the United States.

Organizational Guidelines Training

Throughout 2008, the commissioners and staff participated in a variety of symposia and programs on compliance and business ethics. In seven seminars, with approximately 1,000 participants, the commissioners and staff discussed the operation of

and amendments to Chapter Eight of the sentencing guidelines and the significance of their application to corporations and other organizations.

High-Tech Approaches to Training

The Commission continues to explore ways in which technologies such as multi-media programs, video conferencing, satellite broadcasting, and online conferencing can be utilized to supplement its existing training efforts. For example, in 2008 the Commission worked in collaboration with the FJC to develop a broadcast on the 2008 amendments. 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.

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 from Monday through Friday between 8:30 a.m. and 5:00 p.m., EST at (202) 502-4545.

Calls Received in 2008

Since the *HelpLine's* inception in 1987, the Commission staff has responded to more than 25,000 questions from probation officers, judges, prosecutors, defense attorneys and law clerks. It is estimated that in 2008, the *HelpLine* staff responded to approximately 1,200 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, the Commission's training and legal staffs regularly consult with each other to ensure that questions are researched fully and answered accurately.

Temporary Assignment Programs

The Commission's temporary assignment program for assistant federal defenders and assistant U.S. attorneys continued through 2008. Two assistant

federal defenders and one assistant U.S. attorney worked with the Commission during 2008. The Commission also continued its temporary assignment program for U.S. probation officers. In 2008, four U.S. probation officers participated in the program.