



*The American Bar Association Criminal Justice Section*

*Presents*

*The 2008 Fall Conference*

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# Sentencing Advocacy, Practice and Reform Institute

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**October 24, 2008  
Washington, DC**

**The George Washington  
University  
The Marvin Center  
800 21st St. NW  
Washington, DC 20052  
(202) 994-7470**

Accreditation has been requested  
from mandatory CLE states.

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AGENDA

9:00 - 9:15 **Opening Remarks** – Anthony Joseph, Chair, ABA Criminal Justice Section

9:15 - 10:30 **The State of the Sentencing Union: Rates of Incarceration, Sentencing Trends, Racial Issues, A Brief Overview of Alternatives to Imprisonment and Recent Legislation**  
James Felman, Moderator, Kynes Markman & Felman, Tampa, FL; Gene Guerrero, Open Society Policy Institute, Washington, DC; Mathias H. Heck, Jr., Prosecuting Attorney, Montgomery County, Dayton, OH; Marc Mauer, The Sentencing Project, Washington, DC;

10:30 - 10:45 Coffee break

10:45 - 12:00 **Breakout sessions**

**A. Sentencing Mitigation and Advocacy: Crafting and Presenting a Sufficient Sentence**

Freed from a grid of mandatory sentences in most federal cases (at least), it is again possible and in fact mandatory for the defense lawyer to think creatively and advocate persuasively for the best sentence for the client. The panel will discuss potential areas of mitigation, as well as how to develop the mitigation arguments, obtain appropriate factual and expert support, and how, when and to whom to present it.

Janet Levine, Moderator, Lightfoot Vandeveld Sadowsky Crouchley Rutherford and Levine LLP, Los Angeles, CA; Gregory Gilchrist, Arnold & Porter, Washington, DC; Lisa Greenman, Maryland Federal Public Defender Organization, Baltimore, MD; Tess Lopez, Sentencing Mitigation Specialist, Novato, CA

**B. Update on Sentencing Law: Supreme Court, Appellate, Legislation**

Peter Goldberger, Moderator, Law Offices of Peter Goldberger, Ardmore, PA; Sara Sun Beale, Professor, Duke University School of Law, Durham, NC; Douglas Berman, Ohio State University College of Law, Columbus, OH; Hon. Ruben Castillo, Vice Chair, U.S. Sentencing Commission, Washington, DC; Michael Dreeben, Deputy Solicitor General, U.S. Department of Justice, Washington, DC

**C. Alternatives to Imprisonment: Mediation, Diversion, Drug Courts**

Barbara Tombs, Moderator, Senior Fellow, Vera Institute of Justice, New York, NY; Hon. Alex M. Calabrese, Red Hook Community Justice Center, Brooklyn, NY; Hon. William K. Sessions, III, Vice Chair, U.S. Sentencing Commission, Washington, DC; Thomas H. Williams, Associate Director, CSOSA, Washington, DC

12:00 - 1:30 **Lunch**

1:30 - 2:45 **Breakout sessions**

**A. Sentencing Practice and Procedure: Plea Negotiations, Charging Practices, and Charge-Based Sentencing**

The panel will discuss a number of topics related to plea and sentencing strategy. These include: the Department of Justice's policies for charging decisions and plea agreements, and the ways in which application of those policies is subject to variation from district to district; provisions in plea agreements that can be negotiated on a case-by-case basis; the impact of charge-based agreements on the ultimate sentence; and the role of *Booker*, *Rita*, *Gall*, *Kimbrough*, and other recent decisions on plea-based sentencing.

David Debold, Moderator, Gibson, Dunn & Crutcher LLP, Washington, DC; Hon. Paul L. Friedman, U.S. District Court for the District of Columbia, Washington, DC; Hon. Dabney L. Friedrich, Commissioner, U.S. Sentencing Commission, Washington, DC; James Wyda, Federal Public Defender, Baltimore, MD; Thomas Zeno, Assistant United States Attorney, Washington, DC

**B. Sentencing in White Collar Cases: Sarbanes-Oxley, A Five Year Retrospective**

Anthony Joseph, Moderator, Maynard Cooper & Gale PC, Birmingham, AL; Hon. Michael E. Horowitz, Commissioner, U.S. Sentencing Commission, Washington, DC; Hon. David Nahmias, U.S. Attorney, Northern District of Georgia, Atlanta, GA; Michael Pasano, Carlton Fields, Miami, FL; Pravin B. Rao, Perkins Coie, Chicago, IL

### C. **Sentence Reductions in Changed Circumstances**

Margaret Love, Moderator, Law Office of Margaret Love, Washington, DC; Mark Bergstrom, Executive Director, Pennsylvania Sentencing Commission, University Park, PA; Mary Price, Families Against Mandatory Minimums, Washington, DC; Hon. Patricia Wald, former Chief Judge, U.S. Court of Appeals for D.C. Circuit, Washington, DC;

2:45 - 3:00 Coffee break

3:00 - 4:15 **Breakout sessions**

### A. **The Future of White Collar Crime Sentencing Practice: What Practitioners Need to Know**

How recent Supreme Court decisions may (or may not) lead to reform and how the decisions may impact the Sentencing Guidelines, the Sentencing Commission, the Department of Justice, the federal prison population, Congress, and more. This panel will look at data on advisory guidelines and discuss the need for potential simplified guidelines legislation.

Ellen Podgor, Moderator, Professor, Stetson Law School, Gulfport, FL; Josh Hochberg, McKenna, Long & Aldridge, Washington, DC; Hon. Beryl A. Howell, Commissioner, U.S. Sentencing Commission, Washington, DC; Art Leach, Law Offices of Art Leach, Atlanta, GA; Nina Marino, Kaplan Marino, APC, Beverly Hills, CA

### B. **The Future of Federal Sentencing: Data on Advisory Guidelines and the Need for Simplified Guidelines Legislation**

Hon. Jonathan Wroblewski, Moderator, U.S. Department of Justice, Washington, DC; James Felman, Kynes Markman & Felman, Tampa, FL; Hon. Ricardo H. Hinojosa, Chair, U.S. Sentencing Commission, Washington, DC; Deborah Rhodes, U.S. Attorney & Associate Attorney General, Southern District of Alabama, Mobile, Alabama; Bobby Vassar, Rector, Norfolk State University, Hampton, VA

### C. **When Conditions of Incarceration Attract the Attention of the Media and Congress**

Alex Busansky, Moderator, Vera/Prison Commission, Washington, DC; Noah Bookbinder, Chief Counsel for Criminal Justice, Senate Judiciary Committee, Washington, DC; Michael Hamden, Attorney, Counselor at Law and Corrections Consultant, Chapel Hill, NC; Gary D. Maynard, ACA President, Towson, MD; Laura Sullivan, NPR Prison/Criminal Justice Correspondent, Washington, DC; Arthur Wallenstein, Director, Montgomery County Department of Correction and Rehabilitation, Rockville, MD;

4:15 - 5:30 **Breakout sessions**

### A. **A Report and Update from the United States Sentencing Commission**

Hon. Ricardo H. Hinojosa, Chair; Hon. Ruben Castillo, Vice Chair; Hon. William K. Sessions III, Vice Chair; Hon. Dabney L. Friedrich, Commissioner; Hon. Michael E. Horowitz, Commissioner; Hon. Beryl A. Howell, Commissioner; Hon. Edward F. Reilly, Jr., Ex-Officio Commissioner; Hon. Jonathan Wroblewski, Ex-Officio Commissioner

### B. **Victims' Roles and Rights at Sentencing**

Meg Garvin, Moderator, National Crime Victim Law Institute, Portland, OR; Amy Baron-Evans, Federal Public & Community Defenders, Boston, MA; Heather Cartwright, Office of Justice for Victims of Overseas Terrorism, National Security Division, U.S. Department of Justice, Washington, DC; Keli Luther, Crime Victim Enforcement Project, Phoenix, AZ;

### C. **The Second Chance Act and Reentry Issues: What Works to Reduce Recidivism?**

Lisa Smith, Moderator, Chair, ABA CJS Reentry Committee, Brooklyn, NY; McGregor Smyth, Bronx Defenders, Bronx, NY; Amy Solomon, Urban Institute, Washington, DC; Michael D. Thomas, Saginaw County Prosecuting Attorney, Saginaw, MI

The Section is holding a block of sleeping rooms at **The River Inn, 924 25<sup>th</sup> Street, N.W.**, a short walk to the Marvin Center at GWU, where the program will be held. Room rate is \$219 single/double and can be reserved by calling 800/424-2741. The block expires on Tuesday, September 23, 2008 at 5:00 p.m.

# Sentencing Advocacy, Practice and Reform Institute

Washington, DC, October 24, 2008

## This First-Of-Its-Kind Sentencing Institute Will Feature:

- o A broad array of sentencing and post-sentencing presentations that address the most pressing criminal justice issue of our time;
- o Three tracks of instruction, each focused on issues of concern to different segments of the criminal justice community including prosecutors, public defenders, judges, academics, sentencing consultants, mitigation specialists, corrections personnel, victim advocates, white collar criminal defense attorneys and policy experts;
- o A **White Collar Crime Track** that will focus on practice and procedure issues of particular concern to criminal defense attorneys in general and white collar practitioners in particular;
- o A **Policy Track** that will examine sentencing trends and opportunities for reform in both the federal and state courts;
- o A **Corrections Track** that will focus on conditions of confinement and sentence reduction as well as cutting edge efforts to reduce recidivism;
- o A plenary session on the state of the sentencing union covering rates of incarceration, sentencing trends, racial disparities, alternatives to incarceration and recent federal legislation.

### *Planning Committee:*

Barry Boss, Cozen O'Connor, Washington, DC; James Felman, Kynes Markman & Felman, Tampa, FL  
Anthony Joseph, Maynard Cooper & Gale PC, Birmingham, AL

## Registration Form: Sentencing Advocacy, Practice and Reform Institute

**Advance Registration Deadline:** Sept. 24, 2008

**Seating is limited – Register early!**

**Return to:** ABA Criminal Justice Section, 740 15<sup>th</sup> Street NW, Washington, DC 20005 or fax to 202-662-1501.  
For more information, contact Carol Rose at 202-662-1519, [carolrose@staff.abanet.org](mailto:carolrose@staff.abanet.org)

**Program Fee:** \$195 for Government & Nonprofit Employees and Academics; \$175 for Section Member Government & Nonprofit Employees and Academics; \$250 for those in Private Practice; \$225 for Section members in Private Practice; \$25 for Law Students.

**Amount:** \$\_\_\_\_\_

(Cancellations must be received by Oct. 10, 2008. Cancellations subject to an administrative fee of \$50.)

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