



The American Bar Association Criminal Justice Section

Presents

The 2010 Fall Conference



Third Annual Sentencing & Reentry Institute and Criminal Justice Legal Educators Colloquium

**November 4-5, 2010
Washington, DC**

The Liaison Capitol Hill Hotel
415 New Jersey Avenue, NW
Washington, DC 20001
(866) 233-4642 or (202) 638-1616

The Section has reserved a block of rooms at the rate of \$199 per night. Deadline to get discount: Mon., Oct. 4 at 5 pm Eastern

Accreditation has been requested from mandatory CLE states.

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Town Hall Meeting on The State of White Collar Crime (Ticketed Event): **Thursday, Nov. 4**

4:00 -5:30 p.m. **Town Hall Meeting on The State Of White Collar Crime**

Come hear U. S. District Judge Emmet G. Sullivan talk about Brady Compliance, a White Collar crime issue he helped make red hot. White Collar Crime Committee Co-Chair Brian Hennigan, Irell and Manella LLP, will lead the discussion in which Robert M Cary, Williams & Connolly LLP, will participate along with a representative of DOJ (invited). The panel will discuss what steps need to be taken by prosecutors and defense lawyers for the identification and production, in a timely manner, of exculpatory materials to defendants in state and federal criminal prosecutions. Noah Bookbinder, Chief Counsel for Criminal Justice to the Senate Judiciary Committee which is considering new "Honest Services" legislation and Matt Axelrod of the US DOJ will highlight the second panel that will focus on honest services mail fraud. The panel will be led by White Collar Crime Committee Co-Chair Nicholas C. Harbist, Blank Rome LLP, and Janet Levine, Crowell & Moring LLP, will round out the presentation. The Town Hall Meeting will place a heavy emphasis on audience participation. This is your chance to be heard and to ask questions of White Collar Crime experts on these and other timely topics. This event is the kick off presentation for the ABA Criminal Justice Section Fall Conference.

5:30 – 7:00 p.m. **Reception** (Catered by Food Network Channel Chef Art Smith.)

*New This Year: **The Legal Educators Colloquium.** The colloquium is for academics working in the criminal justice field. The colloquium includes three panel discussions designed specifically for academics – Technology & the 4th Amendment, Substantive Law & Technology, and Updating the Criminal Justice Teaching Canon. The colloquium will feature a separate luncheon for academics. Participants will be provided opportunities to interact with colleagues from around the country.*

Check www.abanet.org/crimjust for updates to the agenda.

Friday, November 5

8:45 - 9:00 **Welcoming Remarks** – Bruce Green, Chair, ABA Criminal Justice Section

Presentation of the Charles English Award to Irwin Schwartz

9:00- 10:30 **White Collar Sentencing**

This panel will explore the emerging trends in the sentencing of white collar offenders under the advisory federal sentencing guidelines, including the reasons some courts impose sentences that are substantially below the advisory guidelines, and whether this indicates a healthy state of affairs, a need for changes to the advisory guidelines, or other structural changes.

Sara Sun Beale, Duke University Law School, Durham, NC (Moderator); Hon. Jed Rakoff, U.S. District Court, New York, NY; Hon. Jonathan Wroblewski, U.S. Department of Justice, Washington, DC; James Felman, Kynes Markman & Felman, Tampa, FL

10:30 - 11:00 **Opening Address** – Neal Katyal, Acting Solicitor General, Washington, DC

11:00 - 11:15 Coffee Break

11:15 - 12:30 **Breakout Sessions I**

A. Update on Sentencing Law: Supreme Court, Appellate, Legislation

This panel will focus on the recent decisions in the Supreme Court regarding federal sentencing practice in the post-*Booker* era. It will also address significant cases and trends in the courts of appeals interpreting these Supreme Court cases and other important issues left unresolved by the Court. The panel will also include an update on recent legislative activity, including the latest information regarding the reduction in the disparity in punishments for crack and powder cocaine, and the prospects for retroactivity.

James Felman, Kynes Markman & Felman, Tampa, FL (Moderator); Hon. Ketanji Jackson Brown, Vice Chair, U.S. Sentencing Commission, Washington, DC; Michael Dreeben, Deputy Solicitor General, Washington, DC; Bobby Vassar, House Judiciary Committee, Washington, DC; Hannibal Kemerer, Senate Judiciary Committee, Washington, DC; Amy Baron-Evans, Federal Defender Sentencing Resource Counsel, Boston, MA

B. Updating Messages and Methods: How Should We Teach Criminal Law in the 21st Century?

This panel will address questions of pedagogical innovation, including how the criminal justice teaching canon might be updated, and how technology can best be utilized to advance learning in and outside the classroom.

Doug Berman, Ohio State University Moritz College of Law, Columbus, OH (Moderator); Roscoe Howard, Andrews Kurth, LLP, Washington, DC; Julie O'Sullivan, Georgetown University Law Center, Washington, DC; John Pfaff, Fordham University Law School, New York, NY

C. Sentencing Advocacy for the 21st Century

As the mandatory guidelines drift towards a distant, and to some, unpleasant memory, there are more opportunities to achieve tailored, and thus more appropriate sentences for defendants. In fact, the recent advisory Guideline amendments which will take effect on November 1st expressly increase the availability of alternative, non-prison sentences. The panel will discuss what approaches have worked in this new landscape, and what the future may hold.

Janet Levine, Crowell & Moring LLP, Los Angeles, CA (Moderator); Nina Marino, Kaplan Marino, PC, Beverly Hills, CA; Joel Levin, Perkins Coie, Chicago, IL; Tess Lopez, Sentencing Mitigation Specialist, Novato, CA; Hon. James E. Boasberg, D.C. Superior Court, Washington, DC

D. Promoting Reentry Success: Housing & Sobriety

A panel of experienced reentry service providers specializing in housing and substance abuse treatment will lead a discussion that examines affordable, sober living quarters as a vital transitional resource for substance abusers recently released from prison, and its impact upon one's ability and willingness to internalize therapeutic tools that will enhance the attainment of a drug free and crime free lifestyle.

Caroline Hsu, Legal Aid Society Prisoners' Rights Project, New York, NY (Moderator); Gary Dennis, Department of Justice, Washington, DC; Ryan Moser, Corporation for Supportive Housing, New York, NY; Divine Pryor, Center for NuLeadership on Urban Solutions, Brooklyn, NY; John Megaw, Harlem Community Justice Center, New York, NY

12:30 - 2:00 **(Lunch) Report and Update from the United States Sentencing Commission**

The members of the Sentencing Commission will provide an update on the Commission's activities during the past year. *Hon. William Sessions III, Chair; Hon. Ruben Castillo, Vice Chair; Hon. William B. Carr, Jr., Vice Chair; Hon. Ketanji Brown Jackson, Vice Chair; Hon. Ricardo Hinojosa, Commissioner; Hon. Beryl A. Howell, Commissioner; Hon. Dabney L. Friedrich, Commissioner; Hon. Issac Fulwood, Jr., ex officio Commissioner; Hon. Jonathan Wroblewski, ex officio Commissioner;*

2:00 - 3:15 **Breakout Sessions II**

A. White Collar Sentencing: Calculation of Loss and Other Issues Under the Federal Guidelines for Economic Offenses

Although the federal guidelines are advisory rather than binding, they are frequently a decisive consideration in the sentencing of white collar offenders. This panel will focus on the critical and often complex legal issues surrounding the calculation of loss and other significant issues presented by the guidelines for white collar offenses.

David Debold, Gibson Dunn, Washington, DC (Moderator); Hon. Alice M. Batchelder, Chief Judge, U. S. Court of Appeals for the Sixth Circuit; Michael Horowitz, Cadwalader Wickersham & Taft, Washington, DC; Eric Jaso, Stone & Magnanini LLP, Short Hills, NJ; Hon. Neil MacBride, U.S. Attorney, Eastern District of Virginia, Richmond, VA

B. Substantive Law & Technology

For decades, technological developments have spurred changes in the substantive criminal law. Panelists will address a variety of issues related to cyber crimes, including changes in the laws relating to the protection of established property interests and the technology itself, such as the federal Computer Fraud and Abuse Act; ways in which technology has increased opportunities for the victimization of children, whether by cyber predators or through the growing phenomenon of "sexting"; and new punishment questions related to forfeiture of real property as a consequence of downloading prohibited material from the internet.

Sandra Guerra Thompson, University of Houston Law Center, Houston, TX (Moderator); Susan W. Brenner, University of Dayton School of Law, Dayton, OH; Geraldine Szott Moohr, University of Houston Law Center, Houston, TX; Kevin O'Donnell, King's County District Attorney's Office, Brooklyn, NY

C. Plea Bargaining After the Holder Memorandum.

This panel will include a focused discussion on plea bargaining within the federal system. The participants will discuss the legal and practical issues arising in negotiations between the prosecution and the defense. In addition, the panel will discuss current DOJ charging practices and how the new Holder Memorandum may change the playing field for plea bargaining.

Barry Boss, Cozen O'Connor, Washington, DC (Moderator); Hon. Paul L. Friedman, U.S. District Court, Washington, DC; Steven Bunnell, O'Melvney & Myers, Washington, DC; Thomas Zeno, Assistant U.S. Attorney, Washington, DC

D. Research Report on Effective Reentry Programs and Practices

Panelists will discuss the role families and communities play in developing successful reentry support systems. Some of the top researchers from around the nation will discuss their latest findings in the area of family, and in particular child homelessness, and suggest ways jurisdictions can incorporate these findings into program models.

Lance Ogiste, Kings County District Attorney's Office, Brooklyn, NY (Moderator); Harry Holzer, Georgetown University Law School, Washington, DC; Nancy LaVigne, Urban Institute, Washington, DC; Christopher Wildeman, Yale University, Department of Sociology, New Haven, CT

3:15 - 3:30 Coffee Break

3:30 - 4:45 **Breakout Sessions III**

A. Collateral Consequences

The ABA Criminal Justice Section was awarded a three year grant from the National Institute of Justice to produce the first ever comprehensive list of collateral consequences on a state by state basis. The project recently completed its first year in which the project team successfully gathered all of the statutes and codes that contain collateral consequences of criminal convictions. This panel will discuss the results of the research by highlighting the types of consequences found and providing state to state comparisons. The panel will also discuss what types of solutions can be created to address the various types of collateral consequences the project has uncovered.

Jack Hanna, Director, ABA Criminal Justice Section, Washington, DC (Moderator); Richard Cassidy, Hoff Curtis, Burlington, VT; Christopher Gowen, Staff Counsel, ABA Criminal Justice Section, Washington, DC; Timothy Hedeem, Kennesaw State University, Kennesaw, GA; Hon. Theodore McKee, U.S. Court of Appeals, Philadelphia, PA

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Registration Form: Third Annual Sentencing & Reentry Institute

Return to: ABA Criminal Justice Section, 740 15th Street NW, Washington, DC 20005 or fax to 202-662-1501.

Contact Carol Rose at 202-662-1519, carolrose@staff.abanet.org I will require ADA assistance: Audio Mobile Visual

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

Plus \$50 for Thursday's ticketed event (WCC Town Hall/Reception); Plus \$20 for discounted CJS membership for ABA members \$75 for Thursday's ticketed event (WCC Town Hall/Reception) ONLY.

(Cancellations must be received by Oct. 5, 2010. Substitutions are allowed. Cancellations subject to an administrative fee of \$50, except for law students.) Total Amount Paid: \$ _____

Please circle which breakout sessions you'll be attending – Session I: A B C D Session II: A B C D Session III: A B C D

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Agenda, continued.

B. Developing Technologies and The Fourth Amendment

As governments, companies, and individuals increasingly rely on developing technologies, questions such as what constitutes a search or seizure and how (if at all) the Fourth Amendment should accommodate technological advances have become more difficult to answer. Our panel of experts will examine the intersection between new technologies and the protections of the Fourth Amendment.

Wayne Logan, Florida State University College of Law, Tallahassee, FL (Moderator); David Harris, University of Pittsburgh School of Law, Pittsburgh, PA; Orin Kerr, George Washington University Law School, Washington, DC; Erin Murphy, New York University School of Law, New York, NY; Marc Zwillinger, Zwillinger & Genetski, Washington D.C.

C. The Padilla Decision: It's About More Than Just Immigration

The panel's discussion will focus not only on the specific impact of this decision in requiring defendant to be advised of immigration consequences but also the extent to which the decision requires judges, defense lawyers and even prosecutors to make sure that defendants are informed of all "collateral" consequences from a plea of guilty.

Stephen Saltzburg, George Washington University School of Law, Washington, DC (Moderator); Gabriel "Jack" Chin, University of Arizona James E. Rogers College of Law, Tucson, AZ; Sara Dill, Law Offices of Sara Elizabeth Dill, Chicago, IL; Jason Linder, Asst. U.S. Attorney, Ft. Lauderdale, FL; Margaret Colgate Love, Law Office of Margaret Love, Washington, DC; Robert Okun, Asst. U.S. Attorney, Washington, DC

D. Overview of Successful Reentry Programs: What Works?

States across the country recognize that successful reentry programs improve communities by reducing crime and allowing persons with criminal histories to rebuild their lives and contribute again to society. This session will highlight various nationally-recognized reentry programs, including D.C. Fathering Court, Brooklyn Veterans Reentry Initiative and the Federal Veterans Work-Rehabilitative Programs. The panelist will discuss how these programs were shaped into effective models and why other jurisdictions should implement them.

April Frazier, Public Defender Service, Washington, DC (Moderator); Anne Swern, Kings County DA Office, Brooklyn, NY; Coniece Washington, Veterans Rehabilitative Work Reentry Program, Washington, DC; Judge Milton Lee, DC Fathering Court, Washington, DC; Judy Whiting, Community Service Society, New York, NY

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