



The American Bar Association Criminal Justice Section

Presents

## The 2011 Fall Conference

# Fourth Annual Sentencing & Reentry Institute and Criminal Justice Legal Educators Colloquium

October 27-28, 2011  
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 \$239 per night. :  
Reservation ID: CJSFM1

Deadline to get discount:  
Oct. 7 at 5 pm Eastern

Accreditation has been requested  
from mandatory CLE states.



#### Cosponsors:

Association of American Law Schools  
Section on Criminal Justice;  
ABA Section of Individual Rights &  
Responsibilities;  
American Correctional Association  
Federal Defenders, Inc.;;  
National Association of Attorneys General;  
The Sentencing Project

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### Thursday, Oct. 27

#### 2:00 - 4:30 pm: Criminal Justice Legal Educators Colloquium: Round Table Work-shopping

(Please RSVP to Carol Rose at 202-662-1519 or carol.rose@americanbar.org)

A roundtable workshop at which scholars will present works-in-progress or current work to small groups of discussants. Papers focus on legislative efforts to reduce reliance on incarceration, alternatives to incarceration, and specific reforms for reducing incarceration rates (e.g., reform of pretrial detention).

#### 4:00 - 5:30 pm: Town Hall Meeting on The State of White Collar Crime: Current Topics in Securities Enforcement

(Please RSVP to Carol Rose at 202-662-1519 or carol.rose@americanbar.org)

Panelists will discuss the role of the judiciary in approving SEC settlements. Should judges “rubber stamp” the SEC settlements presented to them or do they have a duty to enquire into and evaluate the proposed settlement, as Judge Rakoff did in Bank of America and Judge Huvelle did in the Citigroup subprime disclosure settlements? What function do settlements serve where the defendants “neither admit nor deny” responsibility? What are the present key priorities for the Department of Justice (and the SEC)? What is the impact of Dodd Frank on securities enforcement? What are the challenges for the defense bar in litigating in administrative courts rather than federal district courts and also litigating and conducting internal investigations under the new whistleblower rules?

*Pamela Rogers Chepiga, Allen & Overy, National Vice Chair of the ABA-CJS White Collar Crime Committee (moderator); Judge Jed Rakoff, U.S. District Judge for the Southern District of New York; Denis J. McNerney, Chief of the Frauds Section of the Department of Justice, Washington, DC; Gordon Greenberg, McDermott Will & Emory, Los Angeles, CA*

**Ticketed Reception follows**

## Friday, Oct. 28

8:30 - 8:45 **Welcoming Remarks** – Janet Levine, Chair, ABA Criminal Justice Section

8:45 - 9:15 **Opening Address**  
**Award Ceremony** - The Norm Maleng Minister of Justice Award, Craig Watkins, Dallas District Attorney

9:15 – 10:45 **Plenary: Cost-Savings Success in State Corrections- Models for Others**

Panelists will argue that the budget crisis calls for a new criminal justice policy due to the exorbitant cost of incarcerating individuals compared with properly supervising them. Given the economic climate, these are costs states can ill afford to bear. The ABA Criminal Justice Section, as part of its “Save States Money” State Policy Implementation Project, has collected information on programs that have saved states money while reducing recidivism and this information will be provided to participants. Panelists will also outline the efforts of the ABA’s Diversion Task Force and describe national pretrial diversion programs. *Christopher Slobogin, Professor, Vanderbilt University Law School, Nashville, TN (moderator); Todd Clear, Dean, School of Criminal Justice, Rutgers University, Newark, NJ; Walter Dickey, Professor, Wisconsin Law School, Madison, WI; Mary Fan, Professor, University of Washington, Seattle, WA; Spurgeon Kennedy, Pretrial Services Agency, Washington, DC*

10:45 - 11:00 **Coffee Break**

11:00 - 12:15 **Breakout Sessions I**

### **A. Update on Federal Sentencing Policy**

This panel will address recent developments in Federal Sentencing Policy from the perspective of Congress, the Sentencing Commission, the Department of Justice, and the Federal Defenders, as well as potential policy issues to be addressed in the near future from each of these perspectives.

*James E. Felman, Kynes, Markman & Felman, Tampa, FL (moderator); Hon. William Carr, U.S. Sentencing Commissioner, Washington, DC; Tom Hillier, Federal Defender, Seattle, WA; Bobby Vassar, House Judiciary Committee, Washington, DC; Hon. Jonathan Wroblewski, U.S. Department of Justice & Ex Officio Member, U.S. Sentencing Commission, Washington, DC*

### **B. Judge’s Decision-Making in Criminal Justice**

Many lawyers and scholars alike have wondered how judges make decisions in criminal cases. Do they base decisions on a gut feeling - common sense? Or do they use statistical data or cost-benefit analysis? This distinguished panel of experienced judges and academics will discuss their perspectives on this age-old question.

*Shima Baradaran, Professor, Brigham Young Law School, Provo, UT (moderator); Hon. Leonie Brinkema, Federal Judge, District of Eastern Virginia; Steven Chanenson, Associate Dean and Professor, Villanova Law School; Hon. Nancy Gertner, Federal Judge (District of Massachusetts) and Professor of Practice, Harvard Law School*

### **C. Juvenile Reentry: Breaking the Cycle for Youth**

This panel will explore the latest developments in the area of juvenile reentry. While much focus has been given to adult reentry, many jurisdictions are just beginning to focus on the reentry needs of juveniles. Panelists will discuss a myriad of issues facing juveniles, including education, access to juvenile records, and community based collaborations.

*April Frazier, Community Reentry Coordinator, Public Defender Service, Washington, DC (moderator); Chris Gowen, Staff Attorney, ABA Criminal Justice Section; Marie Morilus-Black, Licensed Social Worker, D.C. Department of Mental Health, Washington, DC; Jamie Rodriguez, Juvenile Services Coordinator at Public Defender Service, Washington, DC; Penelope Spain, Executive Director, Mentoring Today, Washington, DC*

### **D. Parallel Proceedings**

The panel, composed of current and former government officials and defense counsel, will review the history of and discuss current developments in the area of parallel proceedings by criminal and civil agencies. Emerging risks for prosecutors and defense attorneys who confront investigations by more than one government agency will be discussed. Other topics will include best practices, and the work of the ABA Task Force on Parallel Proceedings.

*David Seide, Director of Special Projects at the Federal Housing Finance Agency Office of Inspector General, Washington, DC (moderator); Jeffrey Eglash, Senior Counsel, General Electric, Fairfield, CT; Michael W. Emmick, Sheppard Mullin, Los Angeles, CA; Steven F. Reich, Associate Deputy Attorney General, U.S. Department of Justice, Washington, DC; Kevin M. McCall, Assistant General Counsel, Northrop Grumman Corporation; Thomas O. Gorman, Partner, Dorsey & Whitney LLP, Washington DC (co-chair of ABA parallel proceedings task force)*

12:15 - 1:45 **Luncheon Plenary Session – Senator Jim Webb (D-VA)**

**A. Update on Federal Sentencing Law**

This panel will focus on recent amendments to the Federal Sentencing Guidelines by the Sentencing Commission and recent decisions in the Supreme Court and the lower courts regarding federal sentencing practice in the post-*Booker* era as well as important issues still unresolved by the Commission and the courts.

*Sara Sun Beale, Professor, Duke University School of Law, Durham, NC (moderator); Michael Dreeben, Deputy Solicitor General, Washington, DC; Amy Baron Evans, Federal Defender Resource Counsel, Boston, MA; Hon. Ketanji Jackson, U.S. Sentencing Commissioner, Washington, DC; Stephen Saltzburg, Professor, George Washington University Law School, Washington, DC*

**B. State Legislative Initiatives to Reduce Reliance on Incarceration**

Prompted by concerns over the rising cost of incarceration, states around the country have passed legislation designed to ameliorate growth in the prison population. Panelists will discuss legislative developments and the practical and theoretical implications of these changes in penal policy.

*Cecelia Klingele, Professor, University of Wisconsin, Madison, WI (moderator); Roger Fairfax, Professor, George Washington University Law School, Washington, DC; Louis Michael Seidman, Carmack Waterhouse Professor of Constitutional Law, Georgetown University Law Center, Washington, DC; Alison Shames, Vera Institute of Justice, New York, NY*

**C. The Intersection of Public Health and Reentry: How Access to Health Care Increasing Successful Reintegration within the Community**

The incarcerated population has an extremely high incidence of physical impairment and serious health problems. When released, these individuals bring a complicated set of health problems back into their communities. This panel will explore the public health consequences of institutional medical care and the unique reentry challenges of individuals with medical problems.

*Caroline Hsu, Legal Aid Society, New York, NY (Moderator); Nancy Ware, Court Services and Offender Supervision Agency, Washington, DC; Gretchen Rohr, Director, DC Jail Advocacy Project, Washington, DC; Brian Roberts, Prison Legal Services, Public Defender Office, Washington, DC*

*Continued on the next page.*

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## Registration Form: **Fourth Annual Sentencing & Reentry Institute**

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

Contact Carol Rose at 202-662-1519, [carol.rose@americanbar.org](mailto:carol.rose@americanbar.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 reception;  Plus \$20 to add discounted CJS membership for ABA members

\$75 for Thursday's ticketed event (Reception) ONLY. RSVP on Thursday events:  WCC Town Hall  Legal Educators Workshop (Cancellations must be received by Oct. 5, 2011. 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

Name \_\_\_\_\_ Organization \_\_\_\_\_

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## **D. Erosion of Criminal Intent (Healthcare, Environmental)**

Many environmental, food, drug, safety, health and welfare statutory schemes allow for prosecutions based on lowered intent requirements. Many newer felony statutes tend to require proof only of a general intent. Many misdemeanor prosecutions are based on strict liability. Prosecutors increasingly are employing these statutes, leading to a clamor in the defense bar and a general debate about whether unintentional conduct is over-criminalized. This panel will explore how prosecutorial discretion is being exercised in these areas, and focus on recent FDA prosecutions where this issue has been highlighted.

*Gary S. Lincenberg, Bird, Marella, Boxer, Nessim, Dooks & Lincenberg, PC, Los Angeles, CA (moderator); Thomas H. Bienert, Jr., Bienert, Miller & Katzman PLC, San Clemente, CA; Adam S. Hoffinger, Morrison & Foerster, Washington, DC; Theodore V. Wells, Jr., Paul Weiss Wharton & Garrison LLP, New York, NY*

2:45 - 3:00      **Coffee Break**

3:00 - 4:15      **Breakout Sessions III**

## **A. Sentencing Advocacy In The 21<sup>st</sup> Century**

The panel will explore cutting edge tactics in sentencing advocacy including how you can use technology to enhance your sentencing presentation.

*Barry Boss, Cozen O'Connor, Washington, DC (moderator); Nina Marino, Kaplan Marino, PC, Beverly Hills, CA; Jeff Ifrah, IfrahLaw, Washington, DC; Tess Lopez, Tess Lopez Sentencing Consulting, Novato, CA; Hon. Robert Wilkins, United States District Court for the District of Columbia*

## **B. Alternatives to Incarceration that Work – Streamlining Resources**

This panel of judges, academics, and criminal justice professionals will explore alternatives to incarceration: innovative projects, sharing resources, restorative justice, mediation, and problem solving courts.

*Lisa Smith, Professor, Brooklyn Law School, Brooklyn NY (moderator); Hon. Matthew J. D'Emic, Supreme Court of New York, Kings County, Brooklyn, NY; Susan Herman, Professor, Pace University, New York, NY; Michele Kirschbaum, Director, New York Peace Institute, New York, NY; John Chisholm, District Attorney of Milwaukee County, WI*

## **C. Latest National Developments in Reentry: A Survey of Federal and Local Successful Reentry Models**

People with conviction histories face a number of barriers in the area of housing, employment and other critical services. This panel will discuss the work taking place on the federal, state and local levels, including best practices from around the country.

*Lance Ogiste, Kings County District Attorney's Office, Brooklyn, NY (moderator); John Chaney, Kings County District Attorney's Office, Brooklyn, NY; John Collins, Co-Chair, Nevada Statewide Reentry Coalition, Carson City, NV; Wendy Polhaus, U.S. Attorney's Office, Washington, DC*

## **D. Indictment of Attorneys**

Panelists will explore the recent GlaxoSmithKline associate general counsel prosecution and other prosecutions where attorneys have been indicted as a result of rendering legal advice. In particular, panelists will examine the challenges of serving as an in-house general counsel in a justice system with so many criminal statutes and regulations.

*Morris "Sandy" Weinberg, Zuckerman Spaeder, Tampa, FL (moderator); Reid Weingarten, Steptoe & Johnson, Washington, DC; Sara Bloom, Asst. U.S. Attorney, Boston, MA; Judge Roger W. Titus, U. S. District Court, Greenbelt, MD; Carl Liggio, former general counsel for Ernst & Young, Washington, DC*

## **Reception follows, 4:30 - 6:30 pm**

(Jones Day, 51 Louisiana Avenue, NW, Washington, DC. R.S.V.P. to Carol Rose, Carol.Rose@americanbar.org, 202-662-1519.)