

Fall Conference Focus Is on Sentencing

BY KYO SUH

On October 24, 2008, the Section hosted a major conference on sentencing and post-sentencing issues, with a particular emphasis on sentencing practice in white-collar cases at the George Washington University in Washington, D.C. *Sentencing Advocacy, Practice and Reform Institute* featured all of the United States Sentencing commissioners and examined sentencing trends and opportunities for reform in both the federal and state courts. The program began with a plenary session on the state of the sentencing union, including rates of incarceration, sentencing trends, racial disparity, alternatives to incarceration, and recent federal legislation.

There were three tracks of instruction, each focused on issues of concern to different segments of the criminal justice community, including white collar crime defense attorneys, prosecutors, academics, public defenders, judges, sentencing consultants, mitigation specialists, corrections personnel, victim advocates, and policy experts. One track focused on practice and procedure issues of particular concern to criminal defense attorneys in general and white collar practitioners in particular. More details on the Fall Conference, Section meetings, and upcoming Section-sponsored events can be found at www.abanet.org/crimjust/calendar.

2008 Annual Meeting Highlights

Policy adoptions on a variety of issues, CLE programs, council and committee meetings, and acknowledging individuals who have made great contributions to the field of criminal law made for an outstanding Criminal Justice Section Annual Meeting in New York City, held from August 7 to 10, during the ABA Annual Meeting proceedings.

Policy: Working with both in-house and outside entities, the Section had the following policies adopted during deliberations of the ABA House of Delegates:

- **104A** Recommends that Rule 32 of the

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Federal Rules of Criminal Procedure be amended by the addition of subsections (c)(3) and (c)(4) that would call for availability of information received from parties and nonparties to ensure that both the government and the defense have an opportunity to review information to be considered by the sentencing court in determining the appropriate punishment.

- **104B** Urges federal, state, tribal, local, and territorial governments to develop comprehensive plans to ensure that the public is informed about conditions in correctional and detention facilities for adults and juveniles and that there is greater accountability to the public in the operation of those facilities, and adopts the “Key Requirements for the Effective Monitoring of Correctional and Detention Facilities,” dated August 2008.
- **104C** Urges federal, state, local and territorial governments to enact effective legislation, policies, and procedures to ban law enforcement’s use of racial or ethnic characteristics not justified by specific and articulable facts suggesting that an individual may be engaged in criminal behavior.
- **104D** Urges federal, state, local, and territorial trial judges to give a cross-racial identification jury instruction where appropriate to guard against the enhanced risk of eyewitness misidentification. (For details on these recommendations, see www.abanet.org/crimjust/policy.)

CLE Programs: The Section presented programs focusing on issues involving the following: the most recent research on Miranda warnings and waivers, and the latest scientific findings on how Miranda is delivered and understood; the use of private contractors in Iraq, Afghanistan, and elsewhere, and the challenges of appropriately applying and enforcing the rule of law in foreign lands to both governmental officers and private entities and individuals; criminal law cases that came before the Supreme Court during the past term; the criminal justice system’s treatment of adult and juvenile females who appear as offenders or as domestic violence and child abuse victims; preventing seniors from becoming victims of financial exploitation, and prosecuting such cases in the criminal justice arena; and the way technology has changed how judges handle their courtrooms.

Awards: The ABA also recognized three individuals for their outstanding contributions to criminal

law field at the Annual Meeting. **Charles Joseph Hynes** and the King County District Attorney's Office received the prestigious *ABA Dispute Resolution Section Lawyer as Problem Solver Award* for innovative programs in diversion and reentry during a joint reception held by the Criminal Justice Section and the Section of Dispute Resolution. **Gary Walker**, prosecuting attorney, Marquette, Michigan, was the recipient of *The Criminal Justice Section Minister of Justice Award*; and **Michael Pasano**, Miami, Florida, former chair of the Section, received *The Charles R. English Award*. See www.abanet.org/crimjust for additional resources from the Annual Meeting.

The Race to 10K Lawyers a Success

Thanks to the CJS leadership, members and the staff, *The Race to 10K Lawyers*, the Section campaign that sought to bring 10,000 lawyers into the Criminal Justice Section by August 31, 2008, has exceeded its goal. On August 18, the lawyer member number reached 10,286. Greater lawyer membership numbers for the ABA Criminal Justice Section will assist the Section to more effectively serve as the unified voice on criminal justice matters.

New Publications and Resources

Vouching: A Defense Attorney's Guide to Witness Credibility, Law and Strategy supplies all one needs to know about this sometimes misunderstood concept. In 15 chapters, one will find the topic of vouching covered from every angle, backed up with relevant case citations whenever applicable. One will discover when it's permissible, and when it's prohibited. For information on this and other books published by the Section, please see www.abanet.org/crimjust/pubs.

New resources available online at the Section Web site, www.abanet.org/crimjust, include: *Criminal Justice Section Annual Report, 2007-2008*; *CJS Leadership Directory, 2008-2009*; *White Collar Crime Newsletter* (Aug. 2008); *Re-Entry and Collateral Consequences Committee Newsletter* (Aug. 2008).

Staff Changes

Christopher Gowen has joined the CJS staff as the Section staff attorney. He will focus on juvenile justice issues and other important legal concerns for the Section. He practiced for two years as a public defender in Dade County where he represented a number of juveniles. ■