UNITED STATES SENTENCING COMMISSION ANNUAL NATIONAL SEMINAR ON THE

FEDERAL SENTENCING GUIDELINES

Wednesday - Friday June 13 - 15, 2012 Hilton New Orleans Riverside New Orleans, Louisiana

WEDNESDAY JUNE 13, 2012

9:00 a.m. - 5:00 p.m.

REGISTRATION

Room: 1st Floor (Outside of the Chemin Royale)

12:30 p.m. - 4:00 p.m.

FOR BEGINNERS: A BASIC INTRODUCTION TO THE FEDERAL SENTENCING GUIDELINES

Room: Grand Ballroom A - 1st Floor

This Introduction to the Federal Sentencing Guidelines session is designed to provide an introduction to guidelines application for those with limited experience working with the federal guidelines.

• L. Russell (Rusty) Burress
Principal Training Advisor

United States Sentencing Commission

- Alan Dorhoffer, Esq.
 Deputy Director
 Office of Education & Sentencing Practice
 United States Sentencing Commission
- Honorable Ricardo Hinojosa
 Commissioner, U.S. Sentencing Commission
 Chief District Judge
 McAllen, TX

2:30 p.m. - 2:45 p.m. **BREAK**

2:45 p.m. - 4:00 p.m.

INTRODUCTION TO THE SENTENCING GUIDELINES (RESUMES)

4:15 p.m. - 5:30 p.m.

CONCURRENT SESSIONS

A. ADVANCED GUIDELINE APPLICATION ISSUES

Room: Grand Ballroom A - 1st Floor

This interactive panel will be a discussion of advanced guideline issues, including some frequently asked questions.

- L. Russell (Rusty) Burress
 Principal Training Advisor
 United States Sentencing Commission
- Alan Dorhoffer, Esq.
 Deputy Director
 Office of Education & Sentencing Practice
 United States Sentencing Commission

B. FOR BEGINNERS: A BASIC INTRODUCTION TO THE ORGANIZATIONAL GUIDELINES

Room: Grand Ballroom B - 1st Floor

This introduction to the Chapter 8 guidelines for sentencing of organizations is designed to provide an introduction to the organizational guidelines. The panel will discuss the components of an organizational sentencing, including restitution, fines, and terms and conditions of probation. The panel will also discuss how to evaluate whether an organization had an effective compliance and ethics program

• Cathy A. Battistelli

Deputy Chief Probation Officer II Concord, NH

Kathleen J. Grilli, Esq.

Deputy General Counsel United States Sentencing Commission

- * Program offered twice
- ** Hilton Exhibition Center (HEC) 2nd Floor

WEDNESDAY JUNE 13, 2012 (continued)

4:15 p.m. - 6:15 p.m.

SENTENCING ETHICS FOR DEFENSE ATTORNEYS & PROSECUTORS

Room: Grand Salon A - 1st Floor

This panel will involve a 45-minute overview of principles of legal ethics generally applicable to criminal cases (for both prosecutors and defense counsel); a 30-minute discussion of the application of such principles to federal sentencing in particular; and a 45-minute discussion (with audience participation) based on several scenarios raising ethical issues related specifically to sentencing.

• Michelle Morales, Esq.

Deputy Chief, Office of Policy & Legislation United Stated Department of Justice, Criminal Division Washington, DC

Brent E. Newton, Esq.

Deputy Staff Director
United States Sentencing Commission

H. Michael Sokolow, Esq.

First Assistant Federal Public Defender Houston, TX

^{*} Program offered twice

^{**} Hilton Exhibition Center (HEC) - 2nd Floor

THURSDAY JUNE 14, 2012

7:30 a.m. - 8:15 a.m.

LATE REGISTRATION

Room: 1st Floor (Outside of the Chemin Royale)

CONTINENTAL BREAKFAST

Room: 1st Floor (Chemin Royale)

8:15 a.m. - 8:30 a.m.

OPENING REMARKS

Room: Grand Ballroom AB - 1st Floor

• Pamela G. Montgomery, Esq.

Director & Chief Counsel of Training Office of Education & Sentencing Practice United States Sentencing Commission

8:30 a.m. - 9:45 a.m.

PLENARY SESSION:

UNITED STATES SENTENCING COMMISSION: A YEAR IN REVIEW

Room: Grand Ballroom AB - 1st Floor

The panel will review recently proposed amendments and provide an update of Commission projects and activities.

- Honorable Patti B. Saris
 Chair
- Honorable William B. Carr, Jr. Vice Chair
- Honorable Ketanji B. Jackson Vice Chair
- Honorable Ricardo H. Hinojosa Commissioner

Honorable Beryl A. Howell

Commissioner

Honorable Dabney L. Friedrich

CommissionerHonorable Isaac Fulwood

• Honorable Jonathan J. Wroblewski

Commissioner, Ex Officio

Commissioner, Ex Officio

9:45 a.m. - 10:00 a.m.

BREAK

10:00 a.m. - 11:30 a.m.

PLENARY SESSION: A VIEW FROM THE APPELLATE BENCH

Room: Grand Ballroom AB - 1st Floor

Honorable Denny Chin

Circuit Judge

Second Circuit Court of Appeals

New York, NY

• Honorable Diana Gribbon Motz

Circuit Judge

Fourth Circuit Court of Appeals

Baltimore, MD

Honorable Priscilla Richman Owen

Circuit Judge

Fifth Circuit Court of Appeals

Austin, TX

Honorable William Jay Riley

Chief Circuit Judge

Eighth Circuit Court of Appeals

Omaha, NE

Moderator:

Honorable Ricardo Hinojosa

Commissioner, U.S. Sentencing Commission Chief District Judge

McAllen, TX

11:30 a.m. - 1:00 p.m.

LUNCH BREAK

** Hilton Exhibition Center (HEC) - 2nd Floor

^{*} Program offered twice

1:00 p.m. - 2:30 p.m.

CONCURRENT SESSIONS

Α. **DRUG OFFENSES***

Room: Grand Ballroom AB - 1st Floor

The panel will discuss guideline application and case law issues relating to the drug guidelines. The panel will focus on application of base offense levels as well as frequently applied specific offense characteristics.

Honorable Robert Holmes Bell

District Judge

Grand Rapids, MI

Jacqueline A. Johnson, Esq.

First Assistant Federal Public Defender Cleveland, OH

Honorable Joyce White Vance

United States Attorney

Birmingham, AL

Honorable Reggie B. Walton

District Judge

Washington, DC

Mary Elizabeth Windham

Supervisory Probation Officer

Columbia, SC

Moderator:

Krista L. Rubin

Sr. Education & Sentencing Practice Specialist Moderator: **United States Sentencing Commission**

В. **ECONOMIC CRIMES: LOSS DETERMINATION AND OTHER ISSUES***

Room: Grand Ballroom C - 1st Floor

The panel will discuss guideline application and case law issues arising in fraud and theft offenses. A particular focus of the panel's discussion will be the calculation of actual or intended loss in certain types of cases, as well as the other specific offense characteristics in §2B1.1 that are applied most frequently.

Paul B. Bergman, Esq.

Paul B. Bergman, P.C.

New York, NY

John Buretta, Esq.

Deputy Assistant Attorney General Brooklyn, NY

Carolyn L. Darville

Supervisory Probation Officer

New Orleans, LA

Honorable John Gleeson

District Judge

Brooklyn, NY

Kathleen J. Grilli, Esq.

Deputy General Counsel

United States Sentencing Commission

Hilton Exhibition Center (HEC) - 2nd Floor

Program offered twice

1:00 p.m. - 2:30 p.m.

CONCURRENT SESSIONS continued

C. CRIMINAL HISTORY

Room: Grand Ballroom D - 1st Floor

The panel will discuss guideline application and case law issues related to the criminal history guidelines.

Richard Bohlken

Supervisory Probation Officer Albuquerque, NM

Honorable D. Brock Hornby

Senior District Judge

Portland, ME

Marjorie Meyers, Esq.

Federal Public Defender

Houston, TX

• John R. Steer, Esq.

The Law Offices of Mark H. Allenbaugh Fairfax Station, VA

Moderator:

Alan Dorhoffer, Esq.

Deputy Director
Office of Education & Sentencing Practice
United States Sentencing Commission

D. SUPERVISED RELEASE: IMPOSITION & REVOCATION

Room: **HEC - A - 2nd Floor

This panel will focus on the terms and conditions involved in imposing and revoking supervised release and will also discuss the USSC Report Federal Offenders Sentenced to Supervised Release.

Honorable Lance M. Africk

District Judge

New Orleans, LA

• Elisabeth F. Ervin

Assistant Deputy Chief Probation Officer Asheville, NC

• Laura M. Roffo

Supervisory Probation Officer Boston, MA

Moderator:

• Brent E. Newton, Esq.

Deputy Staff Director

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^{**} Hilton Exhibition Center (HEC) - 2nd Floor

1:00 p.m. - 2:30 p.m.

CONCURRENT SESSIONS continued

E. GUIDELINE DEPARTURES & VARIANCES

Room: **HEC - B - 2nd Floor

The panel will discuss current developments and case law relating to guideline departures and variances; provide practical advice on guideline departures and variances; and explore issues associated with guideline departures and variances.

• Teresa M. Brantley

Supervisory Probation Officer Los Angeles, CA

• Honorable Charles R. Breyer

Senior Judge

San Francisco, CA

Michael Dreeben, Esq.

Deputy Solicitor General

United States Department of Justice

Washington, DC

• Jon M. Sands, Esq.

Federal Public Defender

Phoenix, AZ

Moderator:

• Honorable Dabney L. Friedrich

Commissioner

United States Sentencing Commission

F. RESTITUTION AND OTHER VICTIM RIGHTS ISSUES

Room: **HEC - C - 2nd Floor

The panel will present a useful step-by-step approach determining restitution under federal law. It also will present developing legal issues under the Crime Victim Rights Act (and other statutes), recent case law, and emerging victims' rights issues.

• Catharine M. Goodwin, Esq.

Restitution Consultant

Phoenix, AZ

• Susan Smith Howley, Esq.

Director of Public Policy

National Center for Victims of Crime

Washington, DC

Moderator:

• Lisa A. Rich, Esq.

Director, Office of Legislative & Public Affairs United States Sentencing Commission

2:30 p.m. - 2:45 p.m.

BREAK

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2:45 p.m. - 4:15 p.m.

CONCURRENT SESSIONS

A. DRUG OFFENSES*

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District Judge

Grand Rapids, MI

Jacqueline A. Johnson, Esq.

First Assistant Federal Public Defender Cleveland, OH

Honorable Joyce White Vance

United States Attorney Birmingham, AL

• Honorable Reggie B. Walton

District Judge

Washington, DC

• Mary Elizabeth Windham

Supervisory Probation Officer Columbia, SC

Moderator:

Krista L. Rubin

Sr. Education & Sentencing Practice Specialist • United States Sentencing Commission

B. ECONOMIC CRIMES: LOSS DETERMINATION AND OTHER ISSUES*

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New York, NY

John Buretta, Esq.

Deputy Assistant Attorney General Brooklyn, NY

Carolyn L. Darville

Supervisory Probation Officer

New Orleans, LA

Honorable John Gleeson

District Judge

Brooklyn, NY

Moderator:

• Kathleen J. Grilli, Esq.

Deputy General Counsel

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2:45 p.m. - 4:15 p.m.

CONCURRENT SESSIONS continued

CAREER OFFENDER, ACCA, and C. **CRIME OF VIOLENCE**

Room: Grand Ballroom D - 1st Floor

The panel will discuss the operation of the Career Offender and Armed Career Criminal guidelines, with application and case law issues of several Chapter a particular focus on the cases that discuss and interpret the categorical approach in determining whether a conviction is a crime of violence or violent felony.

Richard Bohlken

Supervisory Probation Officer Albuquerque, NM

Marjorie Meyers, Esq.

Federal Public Defender

Houston, TX

John R. Steer, Esq.

The Law Offices of Mark H. Allenbaugh Fairfax Station, VA

Moderator:

Alan Dorhoffer, Esq.

Deputy Director

Office of Education & Sentencing Practice United States Sentencing Commission

D. **ROLE IN THE OFFENSE & OTHER CHAPTER THREE ADJUSTMENTS**

Room: **HEC - A - 2nd Floor

The panel will discuss issues involving the guideline Three Adjustments. Data on the frequency of the most common adjustments will also be presented.

Honorable Gustavo A. Gelpi, Jr.

District Judge

San Juan, PR

Honorable Janis Graham Jack

Senior Judge

Corpus Christi, TX

Mandy LaMotte

Probation Officer

Athens, GA

Moderator:

Kealin M. Culbreath, Esq.

Sr. Education & Sentencing Practice Specialist **United States Sentencing Commission**

Program offered twice

2:45 p.m. - 4:15 p.m.

CONCURRENT SESSIONS continued

Ε. SENTENCING FORUM: HOT TOPICS IN FEDERAL SENTENCING

Room: **HEC - B - 2nd Floor

This interactive panel will be an open forum to discuss Guideline application issues related to the multiple the latest policy issues, research, and trends in federal sentencing to include disparity, severity, and mandatory minimums.

Richard Hertling, Esq.

Chief of Staff

United States House Judiciary Committee

Matthew Miner, Esq.

White & Case LLP

Washington, DC

Honorable William Sessions III

District Judge

Burlington, VT

Bobby Vassar, Esq.

Chief Counsel to the Minority

Subcommittee on Crime, Terrorism, and

Homeland Security

United States House Judiciary Committee

Moderator:

Honorable Ketanji B. Jackson

Vice Chair

United States Sentencing Commission

F. **GROUPING OF MULTIPLE COUNTS OF CONVICTION**

Room: **HEC - C - 2nd Floor

count rules will be addressed. Panelists will focus on practical application of the grouping rules and how they affect sentencing. Discussion and scenarios will focus on the interplay between the multiple count rules, relevant conduct, and the notion of "double counting" under the guidelines.

Bobby L. Evans

Sr. Education & Sentencing Practice Specialist **United States Sentencing Commission**

Program offered twice

FRIDAY JUNE 15, 2012

7:30 a.m. - 8:30 a.m.

CONTINENTAL BREAKFAST

Room: 1st Floor (Chemin Royale)

8:30 a.m. - 9:45 a.m.

PLENARY SESSION: TIPS FROM THE DISTRICT COURT BENCH

Room: Grand Ballroom AB - 1st Floor

• Honorable Micaela Alvarez

District Judge McAllen, TX

Honorable Anna J. Brown

District Judge Portland, OR

Honorable Curtis Lynn Collier

Chief District Judge Chattanooga, TN

• Honorable Wiley Y. Daniel

Chief District Judge

Denver, CO

Moderator:

Honorable Patti B. Saris

Chair, U.S. Sentencing Commission District Judge Boston, MA

9:45 a.m. - 10:00 a.m.

BREAK

10:00 a.m. - 11:30 a.m.

CONCURRENT SESSIONS

A. CHILD PORNOGRAPHY & SEX OFFENSES*

Room: Grand Ballroom AB - 1st Floor

The session will focus on guideline application and case law issues related to child pornography and sex offenses.

Honorable John Adams

District Judge Akron, OH

• Alexandra Gelber, Esq.

Deputy Chief & Sentencing Expert Child Exploitation & Obscenity Section United States Department of Justice Washington, DC

• John Rhodes, Esq.

Assistant Federal Public Defender Missoula, MT

Moderator:

Alan Dorhoffer, Esq.

Deputy Director

Office of Education & Sentencing Practice United States Sentencing Commission

B. RELEVANT CONDUCT*

Room: Grand Ballroom C - 1st Floor

This panel will focus on relevant conduct analysis in specific areas and will reference case law.

• L. Russell (Rusty) Burress

Principal Training Advisor

^{*} Program offered twice

10:00 a.m. - 11:30 a.m.

CONCURRENT SESSIONS continued

C. IMMIGRATION OFFENSES*

Room: Grand Ballroom D - 1st Floor

This interactive panel will focus on application issues relating to the sentencing of immigration offenses, with particular emphasis on the application of §2L1.2 (Unlawfully Entering or Remaining in the United States). Panelists will discuss case law, approaches to resolving application issues, and recent developments in sentencing for immigration offenses.

• Jill Burkhardt, Esq.

Assistant United States Attorney San Diego, CA

Honorable Judith Herrera

District Judge

Albuquerque, NM

Honorable Alia Moses

District Judge Del Rio, TX

• Paul P. Poblete

Assistant Deputy Chief Probation Officer New Orleans, LA

• Jon M. Sands, Esq.

Federal Public Defender

Phoenix, AZ

Moderator:

• Krista L. Rubin

Sr. Education & Sentencing Practice Specialist United States Sentencing Commission

D. BUREAU OF PRISONS ISSUES*

Room: **HEC - A - 2nd Floor

The panel will provide an overview of Bureau of Prisons issues including the designation process, judicial recommendations, substance abuse and vocational programs, and basic sentence computations. The panelists will also discuss the significance of the presentence investigation report in determining initial security and custody classification, facility placement, and programming.

Todd A. Bussert, Esq.

Frost Bussert, LLC

New Haven, CT

• Jineen Forbes

Supervisory Probation Officer New York, NY

• Deborah Locke, Esq.

Assistant General Counsel

Designation & Sentence Computation Center

Bureau of Prisons

Grand Prairie, TX

Moderator:

Louis Reedt

Deputy Director,

Office of Research and Data

10:00 a.m. - 11:30 a.m.

CONCURRENT SESSIONS continued

E. ORGANIZATIONAL GUIDELINES Room: **HEC - B - 2nd Floor

The sentencing guidelines significantly affect white-collar defendants both individuals and organizations even those entities that are never convicted of, or even charged with, a crime. This panel will discuss the many effects of the sentencing guidelines on white-collar defendants, including the role of the guidelines in: negotiating non-prosecution and deferred prosecution agreements (NPAs and DPAs); developing and maintaining effective compliance and ethics programs; and setting conditions of probationary sentences. The panelists will also present relevant statistical data and discuss emerging case law issues frequently arising under the organizational guidelines.

• Jodi Avergun, Esq.

Cadwalader, Wickersham & Taft LLP Washington, DC

Leslie Caldwell, Esq.

Morgan Lewis

New York, NY

David Debold, Esq.

Gibson, Dunn & Crutcher LLP

Washington, DC

Jim Lang, Esq.

Chief, Criminal Division

United Stated Department of Justice

Boston, MS

Moderator:

Honorable Beryl A. Howell

Commissioner

United States Sentencing Commission

F. ALTERNATIVES TO INCARCERATION Room: **HEC - C - 2nd Floor

This session will focus on the panelists' experiences and research relating to alternative to imprisonment programs.

• Tate Chambers, Esq.

OCDETF Lead Task Force Attorney United States Department of Justice Peoria, IL

Doug Heuermann

Chief Probation Officer Peoria, IL

Christopher T. Lowenkamp

Program Administrator Administrative Office of the U.S. Courts Cleveland, OH

John Roman, PhD

Senior Fellow, Justice Policy Center Executive Director, District of Columbia Policy Institute Urban Institute Washington, DC

Moderator:

• Honorable William B. Carr, Jr.

Vice Chair

U.S. Sentencing Commission

11:30 a.m.. - 1:00 p.m.

LUNCH BREAK

^{*} Program offered twice

1:00 p.m. - 2:30 p.m.

CONCURRENT SESSIONS

A. CHILD PORNOGRAPHY & SEX OFFENSES*

Room: Grand Ballroom AB - 1st Floor

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Honorable John Adams

District Judge

Akron, OH

Alexandra Gelber, Esq.

Deputy Chief & Sentencing Expert Child Exploitation & Obscenity Section United States Department of Justice Washington, DC

John Rhodes, Esq.

Assistant Federal Public Defender Missoula, MT

Moderator:

Alan Dorhoffer, Esq.

Deputy Director
Office of Education & Sentencing Practice
United States Sentencing Commission

B. RELEVANT CONDUCT*

Room: Grand Ballroom C-1st Floor

This panel will focus on relevant conduct analysis in specific areas and will reference case law.

• L. Russell (Rusty) Burress

Principal Training Advisor United States Sentencing Commission

C. IMMIGRATION OFFENSES*

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• Jill Burkhardt, Esq.

Assistant United States Attorney San Diego, CA

• Honorable Judith Herrera

District Judge

Albuquerque, NM

Honorable Alia Moses

District Judge Del Rio, TX

• Paul P. Poblete

Assistant Deputy Chief Probation Officer New Orleans, LA

• Jon Sands, Esq.

Federal Public Defender

Phoenix, AZ

Moderator:

• Krista L. Rubin

Sr. Education & Sentencing Practice Specialist United States Sentencing Commission

^{*} Program offered twice

1:00 p.m. - 2:30 p.m.

CONCURRENT SESSIONS continued

D. BUREAU OF PRISONS ISSUES*

Room: **HEC - A - 2nd Floor

This panel will provide an overview of Bureau of
Prisons issues including the designation process,
judicial recommendations, substance abuse and
vocational programs, and basic sentence
computations. The panelists will also discuss the
significance of the presentence investigation report in
determining initial security and custody
classification, facility placement, and programming.

Todd A. Bussert, Esq.

Frost Bussert, LLC New Haven, CT

Jineen Forbes

Supervisory Probation Officer New York, NY

Deborah Locke, Esq.

Assistant General Counsel
Designation & Sentence Computation Center
Bureau of Prisons
Grand Prairie, TX

Moderator:

Louis Reedt

Deputy Director, Office of Research and Data United States Sentencing Commission

E. FIREARMS OFFENSES

Room: **HEC - B - 2nd Floor

Panelists will focus on guideline application and case law issues related to firearms offenses.

Honorable Ruben Castillo

District Judge Chicago, IL

Elizabeth Ford, Esq.

Federal Public Defender

Knoxville, TN

• Stacey Haynes, Esq.

Assistant United States Attorney Columbia, SC

Carlos Cancio Lugo, Esq.

Assistant Deputy Chief Probation Officer San Juan, PR

Moderator:

• Rachel L. Pierce

Sr. Education & Sentencing Practice Specialist United States Sentencing Commission

^{*} Program offered twice

1:00 p.m. - 2:30 p.m.

CONCURRENT SESSIONS continued

F. PLEA BARGAINING

Room: **HEC - C - 2nd Floor

Panelists will discuss issues arising in plea bargaining in a post-*Booker* landscape. Topics include DOJ policy, appeal waivers, Rule 11 (c)(1)(C) plea agreements, stipulations, substantial assistance and Early Disposition Programs.

• Professor Douglas A. Berman

Moritz College of Law, Ohio State University Columbus, OH

Honorable Tristram Coffin

United States Attorney Burlington, VT

• Lucian E. Dervan, Esq.

Assistant Professor of Law Southern Illinois University School of Law Carbondale, IL

• Jenniffer Horan, Esq.

Federal Public Defender

Little Rock, AR

• Honorable Sterling Johnson, Jr.

Senior District Judge Brooklyn, NY

Moderator:

• James E. Felman, Esq.

Kynes, Markman & Felman, P.A. Tampa, FL

2:30 p.m. - 2:45 p.m.

BREAK

^{*} Program offered twice

2:45 p.m. - 4:15 p.m.

SPECIAL INTEREST FORUMS

A. PROBATION OFFICERS

Room: Grand Ballroom AB - 1st Floor

This forum is designed to discuss issues of particular interest to probation officers. Hear the latest information on presentence reports, sentencing hearings and the role of probation officers in the post-*Booker* era.

• Cathy A. Battistelli

Deputy Chief Probation Officer II Concord, NH

• Teresa M. Brantley

Supervisory Probation Officer Los Angeles, CA

• Elisabeth F. Ervin

Assistant Deputy Chief Probation Officer Asheville, NC

B. DEFENSE ATTORNEYS

Room: Grand Ballroom D - 1st Floor

This forum is designed to focus on issues of particular interest to defense counsel. Hear the latest information on key sentencing matters that directly impact clients.

David Debold, Esq.

Gibson, Dunn & Crutcher LLP Washington, DC

Miguel A. Torres, Esq.

Attorney at Law El Paso, TX

C. PROSECUTORS

Room: **HEC - A - 2nd Floor

This forum is designed to focus on issues of particular interest to prosecutors. Hear the latest information regarding the Department of Justice sentencing policies and crime initiatives.

Honorable Tristram Coffin

United States Attorney Burlington, VT

- DOJ Representative (TBD)
- DOJ Representative (TBD)

D. CIRCUIT STAFF ATTORNEYS & LAW CLERKS

Room: **HEC - B - 2nd Floor

This forum is designed to focus on issues of particular interest to circuit staff attorneys and law clerks. Hear the latest information on sentencing matters that impact staff attorneys and law clerks in district courts.

John J. Baker, Esq.

Career Law Clerk McAllen, TX

Howard E. Goldberg, Esq.

Ninth Circuit Staff Attorney San Francisco, CA

Lorie A. Robinson, Esq.

Fifth Circuit Staff Attorney New Orleans, LA

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