



The Defense Never Rests

Year in Review
2004

Cliff-Hanger

As we go to press, the Supreme Court is on track to end the year with a cliff-hanger. The Court has yet to rule in **United States v. Booker** and **United States v. Fanfan**, the cases in which it will decide whether **Blakely v. Washington** applies to the federal Sentencing Guidelines.

In **Blakely**, the Court struck down the State of Washington's sentencing statute because it allowed judges to increase a sentence above the guideline range on the basis of judicial fact-findings. Two years earlier, the Court had held in **Apprendi v. New Jersey** that any fact (other than a prior conviction) which increases a sentence above the statutory maximum must be found by a jury beyond a reasonable doubt. In **Blakely**, the Court said **Apprendi** applies not only facts increasing the statutory maximum but also to facts that increase a sentence above the otherwise applicable sentencing guideline range. The Court explicitly reserved the question of the validity of the federal guidelines.

Washington's sentencing guidelines took the form of statutes, unlike the federal guidelines. But in the **Booker/Fanfan** oral argument on October 4, several justices appeared to dismiss the distinction. From the point of view of the defendant, they said, what difference did it make how the guidelines came into being? Pundits came away from the oral argument predicting that the five-judge majority in **Blakely** would hold.

That prediction has not changed. Talk has turned to what happens next. Will defendants get a jury trial of facts that increase their sentence, as **Blakely** appears to promise? Or will Congress walk through the loophole created by the Supreme Court's 2002 decision in **Harris v. United States**, holding that **Apprendi** does **not** apply facts triggering mandatory minimums? If the latter, expect a set of mandatory minimums. If the former, expect more bargaining power for your clients.



New Additions to the Staff

Karen Hooper

Secretary to Federal Public Defender

Karen Hooper is the Legal Secretary to the Federal Public Defender. She previously worked as a paralegal for Internal Revenue Service - Criminal Investigation Division and as a secretary for the United States Attorney's Office in Cincinnati, Ohio. She possess extensive background knowledge of the federal judiciary system. Karen holds a Bachelors of Science in Criminal Justice with a minor in Paralegal Studies from the University of Cincinnati.

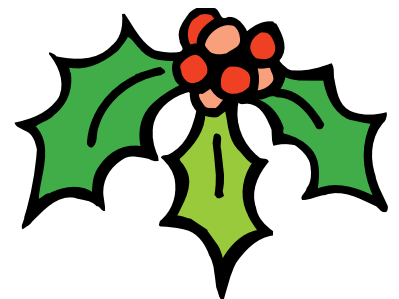


Lamont Lewis

Computer Systems Administrator

Lamont is our Computer Systems Administrator. He has over five years of experience in IT and is qualified as an A+ Certified Computer Technician and a CNA Certified NetWare Administrator (5.1). His previous experience includes Data Processing Manager for Imperial Trading Company, Computer Technician for Tulane University College and Network Administrator for Hailey McNamara Law Firm.

Some of his short term goals are to continue improving the website, developing better relationships with the CJA panel attorney, by assisting them with technical problems that may arise and developing his litigation support role with the Office of the Federal Public Defender.



New and Improved!

www.federaldefender.net

If you haven't visited www.federaldefender.net lately, then you haven't experienced the redesign of the Office of the Federal Public Defender's website. After hours of planning, designing, and coding, the new and improved website is now online. Our expectation is that the revamped design will provide visitors with the ability to find and access many new features.

In our discussions concerning the goals and directions for the use of the site, we tried to make our website more user friendly and helpful by providing information to assist CJA panel attorneys. Throughout the website planning process, it was decided that there existed a need for more content pertaining to recent issues and rulings. One possibility discussed was the creation of a secure site where information relating to panel attorneys and their cases would be accessible with login credentials only. Well those discussions have become a reality! The new website contains many areas that were previously unavailable. The additions of a forum section and a soon to be released indexed brief bank are new. We are also pleased to have added a secure CJA site that is now available to all panel attorneys. It is our hope that our informative website will assist you in representing your clients.

New Statutory Maximums!

EFFECTIVE December 8, 2004, the Criminal Justice Act raised the case compensation maximums applicable to appointed counsel. The new statutory maximums are as follows:

<u>Type</u>	<u>New</u>	<u>Old</u>
Felony	\$7000	\$5200
Misdemeanor	\$2000	\$1500
Appeal	\$5000	\$3700
*Other	\$1500	\$1200

*Grand Jury, target letter, probation, and supervised release violations.

If the new statutory are exceeded, Circuit approval is required. Without prior authorization, the maximum for providers of investigative, expert, and other services is \$500, previously \$300. An amount in excess of \$500 but not exceeding \$1600 (previously \$1000) requires District Court approval. Any amount exceeding \$1600 requires Court approval.

Yes Virginia, there is a Santa Clause...

If you have been a good CJA Attorney this year, Santa is going to bring you **Free Pacer!!**

There is a toll free number (800) 676-6856 to obtain a registration form or register on-line at **<http://pacer.psc.uscourts.gov>**. It takes about a week to receive a user name and password for use in appointed cases.

Trial Director

inData (the company that produces Trial Director) offers a \$100 price to CJA panel attorneys. Interested panel attorneys should call inData at 800-828-8292.

LSBA Winter Clothing Drive

Deliver coats and sweaters to:
U.S. District Clerk's Office
1st Floor Courthouse Bldg.
On or before January 13, 2005

CJA Representative Conference

The annual CJA Representative Conference will be held in San Antonio on Feb 14, 2005. Ron Rakosky will be attending in Herb Larson's absence as your panel representative. His telephone number is 504-528-9500 and his email address is captainjacobs@att.net. If you have specific issues you would like Ron to address on your behalf, feel free to contact him prior to the February conference.



CJA CLE

Nov. 4-5, 2004



ABOVE: The usual suspects gathered for the annual CLE program which was well attended. Evaluation comments generally indicated that the program provided “very practical” assistance for practitioners, thought provoking topics, and great materials. **ABOVE RIGHT:** Speaker and CJA Panel Member Pam Metzger provides insight on the collateral consequences of pleading guilty. **MIDDLE:** Presenters and AFPD’s Geremy Kamens and Ken Troccoli, attorneys for *Yaser Hamdi* and *Zacharias Moussaoui*, explain the challenges involved with representing enemy combatants. **BOTTOM LEFT:** Speaker and CJA Panel Member Rich Westling captures the panel’s attention as he gives his presentation on the use of government agents as experts. **BOTTOM RIGHT:** Some of the fifty attendees at this year’s CLE held at the Plimsoll Club.



On the CLE Calender for 2005...

TENTATIVE

2005 Winning Strategies Conference

March 31-April 2, 2005 - Seattle, WA

July 21-23, 2005 - Minneapolis, MN

Sept. 15-17 - Philadelphia, PA

Our Annual
CJA CLE
Nov. 4-5, 2005

2005 NACDL
Mid-Winter Seminar
Feb. 10-13, 2005

LACDL CLE Conference
April 20-23, 2005

AAFS 57th Annual Mtg.
Feb. 21-26, 2005

FBA
'Sarbanes Oxley'
White Collar
Conference
May 12-13, 2005

NLADA CLE
'Life in the Balance'
March 19-22, 2005

Next Year's CJA CLE

We have already begun preparing for the November 2005 program. If you have any suggestions for topics that would be useful, please let us know. Also, if there is a particular area of expertise that you have developed, please contact us about your availability to present at the CJA CLE 2005 conference.

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Happy Holidays
From the
Federal Public Defender's Office

