

THE DEFENSE *NEVER* RESTS

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POSSIBLE GOVERNMENT SHUTDOWN

As you well know, a government shutdown may occur at midnight. The judiciary still has money for ten business days of operation. However, that may not be true with reference to the U.S. Attorney's Office which is funded by the Department of Justice. But for at least those ten working days we expect that there will be no court or FPD shutdown. Happily we will be at work as usual. We are hopeful that during those ten working days Congress can agree on a budget or authorize another continuing resolution. However, if there is no budget or continuing resolution agreed upon before midnight April 22nd, there will be a shutdown for all government employees.

Emails have been previously sent in reference to how these budgetary issues will affect you as a panel attorney. As you may know, we are presently operating under a continuing resolution until midnight tonight. Although panel attorney payments were previously suspended, the current continuing resolution that is funding the federal government until midnight allowed for intermittent payments of panel vouchers. Vouchers were last paid on March 30th. Panel attorneys should continue to work on their appointed cases, submit vouchers and courts should continue to process them consistent with Volume 7A, Guide to Judiciary Policy which provides that "Vouchers should not be delayed or reduced for the purpose of diminishing Defender Services program costs in response to adverse financial circumstances. "When approved we will continue entering them into the CJA payment system. Your vouchers will be paid as money becomes available. Once Congress makes additional funding available, payments will be made in the order in which they were entered into the payment system. We are sorry for the delays occasioned by this federal budgetary crisis, but are confident that when funding is available you will be paid for the excellent client representation you provide under the Criminal Justice Act.



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Judge Saris to Head the United States Sentencing Commission

This article originally appeared in the March 2011 issue of The Third Branch and is used with permission.

U.S. District Judge Patti B. Saris (D. Mass.) has been confirmed by Congress as the new chair of the U.S. Sentencing Commission. She succeeds Judge William K. Sessions III (D. Vt.).

"I am greatly honored to have been nominated by our President and confirmed by the Senate to serve as chair of the country's expert body on federal sentencing," Saris said in a statement. "The Commission plays a critical role in the development and implementation of national sentencing policy, and I look forward to working on a guidelines system that is reflective of the principles of sentencing established by Congress."

Commissioner terms run for six years and a commissioner may serve no more than two full terms.



Judge Patti B. Saris (D. Mass.)

Saris became a U.S. district court judge in 1994. Previously, she had served as an associate justice for the Massachusetts Superior Court from 1989 to 1993, and as a U.S. magistrate judge for the District of Massachusetts from 1986 to 1989. From 1982 to 1986, she was an attorney in the Civil Division of the Department of Justice, and she held the position of Chief of the Civil Division, Office of the United States Attorney for Massachusetts from 1984 to 1986. From 1970 until 1981, Saris served as staff counsel to the Senate Judiciary Committee.

The U.S. Sentencing Commission is composed of seven voting members and two non-voting ex officio members. The voting members of the Commission are Vice Chair William B. Carr, Jr. of Pennsylvania, Vice Chair Ketanji B. Jackson of Maryland, Chief Judge Ricardo H. Hinojosa (S. D. Tex.), Dabney Friedrich of Maryland, and Judge Beryl A. Howell (D. D.C.). There is one vacancy. The two non-voting Commission members are Isaac Fulwood, Jr., chairman of the U.S. Parole Commission, and Jonathan J. Wroblewski, representing the Office of the Attorney General, Department of Justice.

Two Women Nominated to Fill Vacancies in Eastern District of Louisiana

On March 2, 2011, President Obama nominated Nannette Jolivet-Brown to the United States District Court for the Eastern District of Louisiana, to fill the vacancy created by Judge Stanwood Duval, who took senior status in 2008. Ms. Jolivet-Brown has served as the New Orleans City Attorney since May 2010. Before joining Mayor Landrieu's administration, Ms. Jolivet-Brown was an environmental attorney and special partner with the Chaffe McCall law firm. If confirmed by the Senate, Ms. Jolivet-Brown would be the first African-American female on the Eastern District bench.

On March 16, 2011, President Obama also nominated Jane Margaret Triche-Milazzo to the Eastern District of Louisiana, to replace Judge Mary Ann Vial Lemmon, who took senior status earlier this year in January. Judge Triche-Milazzo is currently a state district court judge in Napoleonville, a position she has held since 2008. She is the first female ever to have been elected to the bench from the 23rd Judicial District. Prior to taking the bench, Judge Triche-Milazzo worked at the law office of Risley Triche, LLC.

No hearing date has been set yet for either nominee.



DOJ Issues Scathing Report on New Orleans Police Department

On March 16, 2011, the U.S. Department of Justice issued a scathing report detailing the findings of the Civil Rights Division's investigation of the New Orleans Police Department. The report finds that "many officers of every rank either do not understand or choose to ignore the boundaries of constitutional policing." Specifically, it identifies the rampant use of excessive force, unwarranted stops, searches, and arrests, and discriminatory policing as unconstitutional NOPD practices. It finds that a number of deficiencies have caused or contributed to this pattern of unconstitutional conduct, including inadequate written policies, an anemic recruitment program, systemic problems in training and supervision, and inadequate performance evaluations and promotions. It also criticizes NOPD's Paid Detail system, its procedures for handling misconduct complaints, its custodial interrogation practices, and officer assistance and support services. Finally, the DOJ report offers recommendations for correcting the various deficiencies it identifies. Mayor Landrieu, who requested DOJ assistance in bringing about the "complete transformation" of NOPD shortly after taking office, called the report "sobering but not surprising."

The full DOJ report is available on our website.

SUPREME COURT REVERSES FIFTH CIRCUIT'S JUDGEMENT

Our newsletter has been following the tribulations of the \$14 million jury verdict against the Orleans Parish District Attorney's Office in favor of exonerated and acquitted John Thompson. In 2007, a federal jury had determined that the DA's office was liable under 42 U.S.C. § 1983 for failing to train its lawyers about so-called *Brady* violations, a failure that led to Thompson's wrongful conviction and death sentence in 1985. A Fifth Circuit panel initially upheld the \$14 million award, and the *en banc* court split 8-8 on the case in August 2009, effectively affirming the judgment against the DA's office. On March 29, the Supreme Court finally resolved the ongoing dispute by reversing the Fifth Circuit's judgment. It held that a district attorney's office may not be held liable under §1983 for failure to train its prosecutors based on a single *Brady* violation.

FIFTH CIRCUIT HOLDS THE FSA DOES NOT APPLY RETROACTIVELY

On February 9, 2011, the Fifth Circuit held in a published opinion, *United States v. Duggins*, — F. 3d —, 2011 WL 438935, that the Fair Sentencing Act of 2010 (FSA) does not apply retroactively to cases pending on appeal. In *Duggins*, defendant was convicted and sentenced to a 20-year mandatory minimum for distribution of over fifty grams of cocaine base (approximately 60 grams), 21 U.S.C. 841(b)(1)(A). His conviction and sentence occurred prior to enactment of the FSA, which raised the threshold quantity of crack necessary to trigger the 20-year mandatory minimum to 280 grams from 50 grams. On appeal, *Duggins* argued that he should be resentenced under the new statute. However, the Fifth Circuit rejected this argument pursuant to the Savings Statute, 1 U.S.C. 109. In so holding, the Fifth Circuit joined the growing number of Circuits - including the Second, Third, Fourth, Sixth, Seventh, Eighth and Eleventh - which have recently held that the FSA does not apply retroactively.



Former Fifth Circuit Judge Dies

Judge Charles Clark, who served 23 years on the 5th Circuit Court of Appeals, including 11 years as Chief Judge, died on March 6, 2011. He was 85 years old. Judge Clark was nominated to the Fifth Circuit by President Nixon on October 7, 1969, and served as Chief Judge from 1981-1992. As Chief Judge, Judge Clark was a member of the U.S. Judicial Conference, where he chaired the budget committee and was later appointed by Chief Justice William Rehnquist as chairman of the executive committee. Judge Clark retired from the Fifth Circuit on January 15, 1992.

Judge Graves Confirmed by Senate

On February 14, 2011, the United States Senate voted unanimously to confirm the appointment of Mississippi Supreme Court Justice James Graves to the Fifth Circuit Court of Appeals. Judge Graves had initially been nominated by President Obama in June 2010, and was re-nominated in January 2011. A native of Clinton, Mississippi, Judge Graves has been a Mississippi state court judge since 1991, and has served as a Presiding Justice on the Mississippi Supreme Court for the past ten years. Judge Graves' appointment is historic, as he is only the second African-American, and the first African-American from Mississippi, to be appointed to the Fifth Circuit.

Summary of 2011 Proposed Amendments to the Sentencing Guidelines

The summary of the 2011 Proposed Amendments is prepared by National Sentencing Resource Counsel Project. The summary will soon be posted on www.fd.org and www.federaldefender.net where you can also find the full text of the proposed amendments. Sentencing Resource Counsel Project is composed of Amy Baron-Evans, Anne Blanchard, Denise Barrett, Jennifer Coffin, Paul Hofer and Laura Mate.

On April 6, 2011, the Sentencing Commission voted to promulgate amendments to the guidelines. These amendments will be submitted to Congress by May 1, 2011. Barring congressional action, they will take effect November 1, 2011. This memo contains a brief summary of the most relevant changes. Please be sure to read the actual language of the proposed amendments, which is available at www.fd.org.

Fair Sentencing Act: The Commission repromulgated the 2010 emergency amendments, with the intent to make those amendments permanent. It also added pro-government addition to Application Note 28 regarding the definition of "maintaining a premises." In this Application Note, the Commission added that "maintaining a premises" includes "storage of a controlled substance for the purpose of distribution." Lastly, the Commission will hold a hearing on June 1, 2011 to consider making the FSA crack guideline amendments have the effect of lowering guideline ranges retroactive.

Illegal Reentry: The Commission reduced, but did not eliminate, enhancements based on stale convictions or convictions that do not receive criminal history points under Chapter 4. As set forth in §2L1.2(b)(1)(A) and (B), a defendant is subject to a 16- or 12-level enhancement *if the conviction receives criminal history points under Chapter 4*, and an alternative 12- or 8- level enhancement, respectively, if it does not. The Commission also provided for an upward departure if the new 12- or 8-level enhancement "does not adequately reflect the extent or seriousness of the conduct underlying the prior conviction."

This amendment is less of a reduction than the one the Commission originally proposed, which would have provided for an 8-level enhancement for defendants with stale convictions who would otherwise have been subject to the 16-level enhancements. The reason is unclear. Commissioner Friedrich stated she did not support the original proposal, but did so now. She also expressed the view that the immigration guideline should be addressed in a more comprehensive fashion. Judge Hinojosa stated that the change brought 2L more in line with the career offender provision and other guidelines that contain offense level enhancements based upon criminal history.

You should argue that while the amendment moves in the right direction, it still unfairly counts stale convictions when they are not counted elsewhere in the guidelines. There is no empirical evidence that supports the Commission's decision to treat stale convictions under 2L1.2 differently than anywhere else in the guidelines.

Mitigating Role: The Commission voted to delete two sentences from the Application Notes to §3B1.2 (Mitigating Role), recognizing that these now-deleted sentences have had "the unintended result of discouraging courts from applying the adjustment." Proposed Amendment: Role. The Commission struck (1) from Application Note 3(C) the statement that the court "is not required to find, based solely on the defendant's bare assertion, that such a role adjustment is warranted," and (2) from Application Note 4 the statement that "It is intended that the downward adjustment for minimal participant will be used infrequently." With these changes, you can argue the Commission is signaling that a court can, and should, give an adjustment when the only evidence of role rests upon circumstantial evidence and the defendant's statement about his or her participation in the offense. The Commission is also encouraging greater use of the minimal role adjustment.

Another positive change is the Commission's addition to Application Note 3(A), providing that "a defendant who is accountable under §1B1.3 (Relevant Conduct) for a loss amount under §2B1.1 (Theft, Property Destruction, and Fraud) that greatly exceeds the defendant's personal gain from a fraud offense and who had limited knowledge of the scope of the scheme is not precluded from an adjustment under this guideline. For example, a defendant in a health care fraud scheme, whose role in the scheme was limited to serving as a nominee owner and who received little personal gain relative to the loss amount, is not precluded from consideration for an adjustment under this guideline."

Note: the first two changes to §3B1.2 are found in the proposed amendment on Role; the latter is found in the proposed amendment on Fraud.

Supervised Release: The Commission's changes to §5D1.1 also are helpful to defendants.

No supervised release for deportable aliens. In a move that will benefit deportable clients, the Commission added subsection (c) providing: "The court ordinarily should not impose a term of supervised release in a case in which supervised release is not required by statute and the defendant is a deportable alien who likely will be deported after imprisonment." In Commentary regarding this new subsection, the Commission stated: "The court should, however, consider imposing a term of supervised release on such a defendant if the court determines it would provide an added measure of deterrence and protection based on the facts and circumstances of a particular case."

Summary of 2011 Proposed Amendments to the Sentencing Guidelines

In the synopsis of this proposed amendment, the Commission acknowledges that removal is nearly automatic for a broad class of noncitizen offenders. It also observed that deported offenders “likely would face prosecution for a new offense under the federal immigration laws if they were to return illegally to the United States.”

Lesser terms of supervised release. The Commission also lowered the minimum term of supervised release under §2D1.2 from three (Class A and B felonies) and two years (Class C and D felonies) to two years and one year, respectively.

Guidance on imposing terms of supervised release. The Commissions inserted commentary into §§5D1.1 and 5D1.2 on the factors a court should consider in determining whether to impose supervised release, and for how long. In addition to the statutory factors set forth in 18 U.S.C. § 3583, the Commission specifically mentioned criminal history and substance abuse.

Early termination of supervised release. The Commission also added commentary to §5D1.2, which specifically encourages courts to consider early termination of supervised release “in appropriate cases.” The amendment provides as an example a substance abuser who successfully completes a treatment program, “thereby reducing the risk to the public from further crimes of the defendant.”

Firearms: The Commission amended both §2K2.1, and §2M5.2. These changes are not as bad as DOJ wanted them to be, but they are not good.

§2K2.1: The Commission increased penalties for straw purchasers convicted under 18 U.S.C. § 922(a)(6) or § 924(a)(1)(A) based on uncharged conduct where the defendant “committed the offense with knowledge, intent or reason to believe that the offense would result in the transfer of a firearm to a prohibited person.”

The Commission added a 4-level enhancement (and floor of 18) where a defendant “possessed any firearm or ammunition while leaving or attempting to leave the United States, or possessed or transferred any firearm or ammunition with knowledge, intent, or reason to believe that it would be transported out of the United States.”

Finally, the Commission invited a downward departure for straw purchasers convicted under 18 U.S.C. §§ 922(a)(6), 922(d), or 924(a)(1)(A) where “(A) none of the enhancements in subsection (b) apply, (B) the defendant was motivated by an intimate or familial relationship or by threats or fear to commit the offense and was otherwise unlikely to commit such an offense, and (C) the defendant received no monetary compensation from the offense.

§2M5.2: The Commission raised penalties for cases involving small arms crossing the border, increasing the base offense level from 14 to 26 in cases involving more than two (it used to be ten) non-fully automatic small arms. The Commission also specifically addressed ammunition (on which the Guidelines had previously been silent), specifying that a defendant is subject to the lower level 14 if the offense involved 500 rounds or less of ammunition for non-fully automatic small arms. Level 14 is also to be applied where the offense involved both small arms and ammunition in the quantities specified above.

Fraud: Responding to directives in recent health care legislation, the Commission made two amendments to §2B1.1 that apply where a “defendant was convicted of a Federal health care offense involving a Government health care program.” First, the Commission added tiered enhancements for loss amounts more than \$1 million. Second, the Commission added a rebuttable special prima facie evidence rule for loss amount in health care fraud cases: “the aggregate dollar amount of fraudulent bills submitted to the Government health care program shall constitute prima facie evidence of the amount of the intended loss, i.e., is evidence sufficient to establish the amount of the intended loss, if not rebutted.” The proposed amendment also defines “Federal health care offense” and “Government health care program.” The latter definition is broader than the directive may have required. For a further analysis of the issue, see the Defender Comments on the 2011 Amendments, available at fd.org.

Child Support: The Commission resolved a circuit conflict in a manner favorable to defendants. Defendants convicted under 18 U.S.C. §228 for the willful failure to pay court-ordered child support are not subject to the 2-level enhancement under §2B1.1(b)(8)(C) (which applies where the offense involves a violation of any prior order). Back in 2004 and 2005, the Eleventh and Second circuits, respectively, held the enhancement did apply, so this amendment changes the law in those circuits. (The Seventh Circuit got it right in 2010, and held the enhancement did not apply.)

Drug Disposal Act: The Commission amended Application Note 8 to §2D1.1 to expand the list of people who may be subject to an enhancement for abuse of position of trust or use of special skill. The addition states: “Likewise, an adjustment under §3B1.3 ordinarily would apply in a case in which the defendant is convicted of a drug offense resulting from the authorization of the defendant to receive scheduled substances from an ultimate user or long-term care facility.”

RECENT SUPREME COURT DEVELOPMENTS

Confrontation Clause

Michigan v. Bryant, No. 09-150, 562 U.S. ____ (Feb. 28, 2011). The Supreme Court held that a statement given to the police by a murder victim identifying the person who shot him was non-testimonial and therefore was properly admitted as evidence at the defendant's murder trial. At Bryant's trial, the Michigan trial court admitted statements made by the victim to police officers who found him lying on the ground in a gas station parking lot suffering from a gunshot wound. The victim died shortly thereafter. After a jury convicted Bryant of second-degree murder, he appealed. The Supreme Court of Michigan held that the Sixth Amendment's Confrontation Clause rendered the victim's statements inadmissible testimonial hearsay, and the court reversed Bryant's conviction. In deciding the issue, the Supreme Court held that "the circumstances of the interaction between [the victim] and the police objectively indicate that the 'primary purpose of the interrogation' was 'to enable police assistance to meet an ongoing emergency.'" Therefore, [the victim]'s identification and description of the shooter and the location of the shooting were not testimonial statements, and their admission at Bryant's trial did not violate the Confrontation Clause."

Sentencing

Pepper v. United States, No. 09-6822, 562 U.S. ____ (March 2, 2011). The Supreme Court reversed the Eighth Circuit's determination that the district had improperly considered Pepper's post-sentencing rehabilitation in granting a substantial downward variance at resentencing. The Supreme Court held: "[W]hen a defendant's sentence has been set aside on appeal, a district court at resentencing may consider evidence of the defendant's postsentencing rehabilitation and . . . such evidence may, in appropriate cases, support a downward variance from the now-advisory Federal Sentencing Guidelines range." More broadly, the Court emphasized that district courts may properly reject the Sentencing Commission's policy statements in imposing a non-guideline sentence: "[O]ur post-*Booker* decisions make clear that a district court may in appropriate cases impose a non-Guidelines sentence based on a disagreement with the Commission's views. That is particularly true where, as here, the Commission's views rest on wholly unconvincing policy rationales not reflected in the sentencing statutes Congress enacted."

Post-Conviction

Walker v. Martin, No. 09-996, 562 U.S. ____ (Feb. 23, 2011). The Supreme Court held that a California rule requiring state habeas petitions to be filed "as promptly as the circumstances allow" constitutes an independent state ground that is adequate to bar habeas relief in federal court.

Wall v. Kholi, No. 09-868, 562 U.S. ____ (March 7, 2011). In addressing the time limits for filing a habeas petition under the AEDPA, the Supreme Court held that "the phrase 'collateral review' in §2244(d)(2) means judicial review of a judgment in a proceeding that is not part of direct review. Because the parties agree that a motion to reduce sentence under Rhode Island law is not part of the direct review process, we hold that respondent's motion tolled the AEDPA limitation period and that his federal habeas petition was therefore timely."

Skinner v. Switzer, No. 09-9000, 562 U.S. ____ (March 7, 2011). The Supreme Court held that "a postconviction claim for DNA testing is properly pursued in a § 1983 action" against the prosecuting attorney and need not exclusively be brought as a petition for writ of habeas corpus.

FIFTH CIRCUIT UPDATES

Search and Seizure

United States v. Raney, No. 10-20007 (5th Cir. Feb. 9, 2011): in a rare Fourth Amendment win for the defense, the court held that there was not an objectively reasonable basis for a police officer to believe that defendant had committed the three traffic offenses asserted by the Government to justify defendant being pulled over in his vehicle and subsequently searched. In so holding, the court made two important points: first, that unless a defendant actually committed a traffic violation, there is no objective basis for the traffic stop; and second, that the good-faith exception will not salvage a stop based on an officer's subjective, but erroneous, belief that a traffic violation occurred.

Sentencing

United States v. Jacobs, No. 10-20043 (5th Cir. Mar. 15, 2011): court held that an upward-departure exception to waiver of appeal contained in a plea agreement does not authorize defendant to appeal an upward variance; the court reasoned that if the parties intended for waiver to encompass variances as well as departures, they could and should have drafted the waiver of appeal differently.

United States v. Jasso, No. 10-40203 (5th Cir. Feb. 17, 2011): court held that a defendant who is ineligible for safety valve relief because he or she has more than one criminal history point, but who receives a downward departure to category I based

FIFTH CIRCUIT UPDATES CONTINUED

on the overrepresentation of his or her criminal history, does not become safety-valve eligible as a result. The court joined the other circuits that have addressed this issue in holding that *Booker* did not render advisory the requirement of the safety valve statute (3553(f)) that a defendant not have more than one criminal history point as a prerequisite to relief.

United States v. Larry, No. 08-30368 (5th Cir. Feb. 8, 2011): court found that the district court had abused its discretion in failing to consider the 3553(a) factors in ruling on (and denying) a motion for a reduction in sentence pursuant to 3582(c)(2). The court refused to accept the Government's argument that the district court had implicitly considered the factors because the court had not allowed the parties an opportunity to present their arguments.

Habeas

Scott v. Hubert, No. 09-30543 (5th Cir. Mar. 9, 2011): court held that when a state prisoner's conviction is affirmed on direct appeal but the sentence is vacated and the case is remanded for resentencing, the judgment of conviction does not become final within the meaning of 28 U.S.C. 2244(d)(1)(A) until both the conviction and the sentence have become final by the conclusion of direct review or the expiration of the time for seeking such review.

RECOMMENDED TRAINING PROGRAMS FOR PANEL ATTORNEYS

TRIAL SKILLS ACADEMY

APRIL 25 - 30, 2011 - SAN DIEGO, CALIFORNIA

Registration is available through www.fd.org.

The skills-based Academy has been a tremendous success. This program focuses on (1) the use of a trial advocacy process to facilitate development of a persuasive, fact-based theory and supporting themes, and (2) the advocacy skills necessary to persuasively advance that theory and those themes. The program is conducted by very experienced and skilled faculty as a series of plenary sessions and workshops. The elements of effective litigation advocacy skills are presented in the plenaries and participants then engage in hands-on practice of those skills and receive feedback in small group workshops. Participation is limited to 50 attendees.

WINNING STRATEGIES SEMINAR

JUNE 9 - 11, 2011 - INDIANAPOLIS, INDIANA

Registration is available through www.fd.org.

Drawing its faculty from the ranks of federal judges, defenders, panel attorneys and other practitioners, Winning Strategies provides attorneys with an array of continuing legal education topics central to the handling of federal criminal defense cases. The seminar employs plenary and break-out sessions on "nuts and bolts" defenses to firearms, drug, child pornography and immigration prosecutions, as well as more novel areas such as mortgage fraud, identity-theft, and more. Winning Strategies also provides guidance and insights to help practitioners safely navigate the post-Booker sentencing landscape. Also included is an analysis of the Supreme Court's recent criminal law decisions and the Court's pending criminal cases.

An additional one-day program, the Fundamentals of Federal Criminal Defense (see below) will be offered during the Winning Strategies Seminar on Thursday, June 9.

FUNDAMENTALS OF FEDERAL CRIMINAL DEFENSE

JUNE 9, 2011 - INDIANAPOLIS, INDIANA

Registration is available through www.fd.org.

The Fundamentals Track is specifically designed for criminal defense attorneys who are new to the CJA panel, offering sessions on topics key to the practice of criminal law, such as pre-trial detention, the federal rules of evidence, sentencing generally, and the U.S. Sentencing Guidelines.

LAW AND TECHNOLOGY WORKSHOP SERIES: ELECTRONIC COURTROOM PRESENTATION

JULY 21 - 23, 2011 - PROVIDENCE, RHODE ISLAND

Contact: Shemiah_Schuler@ao.uscourts.gov

The Law and Technology Electronic Courtroom Presentation Workshop focuses on the use of modern technology to improve the persuasiveness of courtroom presentations. This workshop is an intensive program where participants will learn to use TrialDirector and PowerPoint products to sharpen their courtroom skills. Attendees will enhance their direct-examination, cross-examination, and opening/closing argument abilities with detailed application and use of these litigation tools. Today, many federal courtrooms are "wired" to accommodate the latest computer programs, and this technology has proven to be an effective and persuasive addition to lawyers' arsenals. Participation in the Law and Technology Workshop is particularly valuable for federal criminal defense attorneys.

MESSAGE BOARD

- We are accepting suggestions for topics to be included in our annual two day November 2011 continuing legal education program. We are especially interested in offering panel members an opportunity to present or participate on panel dealing with topics of particular interest to them. If you would like to have an active role in our program contact Barbara.
 - The Federal Bar Association will present its 19th Annual Judge Alvin B. Rubin Symposium on Thursday May 19, 2011 from 2:00 p.m. to 4:00 p.m. The program entitled Social Networking for Lawyers: Practical, Ethical and Professional Issues will provide one hour of ethics and one hour of professionalism credit. CJA Panel Member Dane S. Ciolino and Ernest Svenson are speakers. The Panelist are Judges Eldon E. Fallon and Sally Shushan, Dane Douglas and Michael Ecuyer. If you are interested in attending please contact Camille Zeller at 589 7990.
 - If you have a CJA appointed case and anticipate that your costs will approach \$30,000, you must submit a full budget. This will improve the likelihood of your receiving reimbursement for all of the time expended. CJA Form 28A is the *Attorney Services Detailed Budget Worksheet for Non-capital Representations*. It is available on our website at www.federaldefender.net. The form breaks down the categories of work into specific tasks and makes the process less onerous. The budget follows this format: 1. Discovery retrieval, organization and review; 2. Trial; 3. Motions and hearings; 4. Witness interviews and other investigations; 5. Client consultation; 6. Expert witness consultation; 7. Other meetings and consultations; 8. Case budget preparation time; 9. Travel costs; and 10. Other miscellaneous costs and expenses.
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