

# TWENTY-EIGHTH ANNUAL NATIONAL SEMINAR ON FEDERAL SENTENCING

proudly presented by

The Tampa Bay Chapter of the Federal Bar Association,  
The National Association of Criminal Defense Lawyers,  
The Criminal Law Section of the Federal Bar Association,  
and  
The Criminal Justice Section of The American Bar Association

**Wednesday - Friday  
August 28-30, 2019**

**Tradewinds Island Resort  
St. Petersburg Beach, Florida**

**WEDNESDAY  
AUGUST 28, 2019**

2:00 - 5:00 p.m.

**BASIC GUIDELINES TRAINING  
(Optional Session)  
TARPON/SAWYER KEY ROOMS**

The Basic Federal Sentencing Guidelines Training is designed to provide an introduction to the Federal Sentencing Guidelines for those with limited federal sentencing experience. This session may be taken alone or in connection with the remainder of the seminar.

- **Cathy A. Battistelli**  
*Former Deputy Chief United States Probation Officer  
District of New Hampshire  
Concord, New Hampshire*
- **Elisabeth F. Ervin**  
*Former Deputy Chief United States Probation Officer  
Western District of North Carolina  
Asheville, North Carolina*

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ATTORNEYS AT LAW

**KEVIN J.  
NAPPER P.A.**



**ZUCKERMAN  
SPAEDER**

 **COZEN  
O'CONNOR**

**KYNES MARKMAN & FELMAN**  
ATTORNEYS AT LAW



**Linda Friedman Ramirez, Esq.**

**THURSDAY**  
**AUGUST 29, 2019**

7:30-8:15 a.m.

**REGISTRATION & CONTINENTAL BREAKFAST**  
(GRAND PALM COLONNADE)

8:15 a.m.

**WELCOMING REMARKS**  
(TARPON/SAWYER KEY ROOMS)

8:30-9:45 a.m.

**A VIEW FROM THE BENCH PLENARY SESSION**  
(TARPON/SAWYER KEY ROOMS)

Federal judges will discuss their personal views on federal sentencing policy and procedure. The panel will also discuss current events and topics in federal sentencing law.

- **The Honorable Karon Bowdre**  
*Chief Judge, United States District Court  
Northern District of Alabama*
- **The Honorable J. Michelle Childs**  
*United States District Court  
District of South Carolina*
- **The Honorable Carlos Mendoza**  
*United States District Court  
Middle District of Florida*
- **The Honorable Eleanor L. Ross**  
*United States District Court  
Northern District of Georgia*
- **The Honorable Edmund Sargus**  
*Chief Judge, United States District Court  
Southern District of Ohio*

Moderator:

- **Morris "Sandy" Weinberg, Jr., Esq.**  
*Zuckerman Spaeder, LLP  
Tampa, FL*

9:45-10:00 a.m.

**BREAK**

10:00-11:15 a.m.

**UPDATE ON FEDERAL SENTENCING LAW AND POLICY PLENARY SESSION**  
(TARPON/SAWYER KEY ROOMS)

This session will provide information regarding legislative developments in the criminal justice system. Panelists will discuss federal sentencing law and policy, including new precedent, changes in policies and procedures, and their personal opinions on sentencing issues.

- **Milagros Cisneros, Esq.**  
*Assistant Federal Public Defender on  
Special Assignment  
with the U.S. House Judiciary Crime Subcommittee*
- **Mary Price**  
*Families Against Mandatory Minimums  
Washington, DC*
- **Norman Reimer, Esq.**  
*Executive Director  
National Association of Criminal Defense Lawyers*
- **Jonathan Wroblewski, Esq.**  
*Director of the Office of Policy and Legislation  
Criminal Division, Department of Justice*

Moderator:

- **James E. Felman, Esq.**  
*Kynes, Markman & Felman, PA  
Tampa, FL*

**THURSDAY (continued)**  
**AUGUST 29, 2019**

11:15-12:45 p.m.

**LUNCH ON YOUR OWN**

12:45-1:45 p.m.

**CONCURRENT SESSIONS**

**DEFENSE SENTENCING ADVOCACY**  
**(TARPON KEY ROOM)**

The panel will walk attendees through the process of preparing a strong, persuasive sentencing memorandum and sentencing presentation to the court.

- **Barry Boss, Esq.**  
*Cozen O'Connor*  
*Washington, DC*
- **Kevin Napper, Esq.**  
*Kevin J. Napper, P.A.*  
*Tampa, FL*
- **Marcia Shein, Esq.**  
*Shein & Brandenburg*  
*Atlanta, GA*

Moderator:

- **Harry Sandick, Esq.**  
*Patterson Belknap Webb & Tyler LLP*  
*New York, NY*

**ECONOMIC CRIMES**  
**(SAWYER KEY ROOM)**

This panel will address recent changes to the Sentencing Guidelines and their implications, as well as practical considerations for loss calculation, determining actual versus intended loss, and valuing benefits the government received. The panelists' diverse background and experience will allow a discussion across many substantive areas, including health care, tax and securities cases.

- **Benjamin B. Au, Esq.**  
*Durie Tangri*  
*Los Angeles, CA*
- **Jean-Jacques Cabou ("J"), Esq.**  
*Perkins Coie, LLP*  
*Phoenix, AZ*
- **David Debold, Esq.**  
*Gibson, Dunn & Crutcher, LLP*  
*Washington, DC*
- **Marissel Descalzo, Esq.**  
*Tache Bronis Christianson & Descalzo, P.A.*  
*Miami, FL*

Moderator:

- **Mark Rankin, Esq.**  
*Shutts & Bowen*  
*Tampa, FL*

# THURSDAY (continued)

## AUGUST 29, 2019

1:50-2:50 p.m.

### CONCURRENT SESSIONS

#### SEXUAL & CHILD PORNOGRAPHY OFFENSES (SAWYER KEY ROOM)

This panel will discuss federal sex crimes, with a focus on child pornography offenses and section 2G2.2 of the federal sentencing guidelines. Section 2G2.2 has been the focus on intense criticism during the past 15 years and has one of the lowest within-range rates of any sentencing guideline. The panel will address recurring legal issues concerning that guideline and common bases for variances from the guideline. The panel also will discuss how defense attorneys can work productively with probation officers in the presentence interview while protecting their clients' rights.

- **Odessa Baker**  
*United States Probation Officer  
Middle District of North Carolina*
- **Kathleen Gleason, Esq.**  
*Assistant Federal Defender  
Middle District of North Carolina*
- **Brent Newton, Esq.**  
*Former Deputy Director, U.S. Sentencing Commission  
Of Counsel, Gerger Khalil & Hennessy  
Houston, TX*

#### THE FIRST STEP ACT: IMPLEMENTATION AND TOOLS FOR SUCCESS (TARPON KEY ROOM)

This panel will discuss the recent relevant cases since the implementation of this law. The panel will also give first-hand experience in interpreting the law. Training materials/packets will be provided containing relevant caselaw and sample documents.

- **Adeel Bashir, Esq.**  
*Assistant Federal Defender  
Middle District of Florida*
- **Donna Elm, Esq.**  
*Federal Defender  
Middle District of Florida*
- **Mary Price**  
*Families Against Mandatory Minimums  
Washington, DC*

#### Moderator:

- **James E. Felman, Esq.**  
*Kynes, Markman & Felman, PA  
Tampa, FL*

2:50- 3:05 p.m.

### COFFEE BREAK

3:05- 4:05 p.m.

### CONCURRENT SESSIONS

#### COOPERATION (TARPON KEY ROOM)

This panel focuses on common issues regarding cooperating defendants, including 5K1.1, Rule 35, and the benefits and drawbacks of cooperation

- **Michael Bagge-Hernandez, Esq.**  
*Assistant United States Attorney  
Middle District of Florida*
- **Gus Centrone, Esq.**  
*Centrone & Shrader  
Tampa, FL*

#### THE CATEGORICAL APPROACH (SAWYER KEY ROOM)

This session will address the application of the categorical approach in the real world. Using scenarios, this session will address issues of divisibility, the use of Shepard-approved documents, and common missteps that may arise when applying the approach in practice.

- **Jayme L. Feldman, Esq.**  
*Federal Defender Sentencing Resource Counsel  
Washington, DC*
- **Laura Mate, Esq.**  
*Federal Defender Sentencing Resource Counsel  
Des Moines, IA*

**THURSDAY (continued)**  
**AUGUST 29, 2019**

4:10 - 5:10 p.m.

**CONCURRENT SESSIONS**

**ALLOCUTION**  
(TARPON KEY ROOM)

- **The Honorable Mark W. Bennett**  
*(Ret. U.S. District Judge), Director  
Institute for Justice Reform & Innovation  
Drake University Law School  
Des Moines, IA*
  - **David C. Waterman, Esq.**  
*Assistant United States Attorney  
Middle District of Florida*
  - **The Honorable Kathleen Williams**  
*United States District Court  
Southern District of Florida*
- Moderator:
- **Katherine Earle Yanes, Esq.**  
*Kynes, Markman & Felman, PA  
Tampa, FL*

**DRUG OFFENSES**  
(SAWYER KEY ROOM)

Panelists will discuss strategies and case law regarding sentencing in cases involving drug offenses, as well as the Sentencing Commission's continued work in the area of drug offenses.

- **Michael Maddux, Esq.**  
*Michael P. Maddux, P.A.  
Tampa, FL*
  - **The Honorable Thomas Palermo**  
*Hillsborough County Circuit Court  
Former Assistant United States Attorney*
- Kelly Primrose**  
*United States Probation Officer  
Middle District of Florida*
- Moderator:
- **Kevin Beck, Esq.**  
*Kevin Beck & Associates  
St. Petersburg, FL*

5:30-7:15 p.m.

**COCKTAIL RECEPTION**  
(SOUTH LAWN/BANYAN BREEZEWAY)

**FRIDAY  
AUGUST 30, 2019**

7:30-8:30 a.m.

**CONTINENTAL BREAKFAST  
(GRAND PALM COLONNADE)**

8:30-9:45 a.m.

**DECONSTRUCTING THE GUIDELINES, POLICY DISAGREEMENTS WITH THE GUIDELINES  
& VARIANCE ADVOCACY PLENARY SESSION  
(TARPON/SWAYER KEY ROOMS)**

Recently retired U.S. district judge Mark W. Bennett will discuss and analyze the process of “deconstructing” the federal sentencing guidelines. He will expose the myth that most guidelines are empirically based and suggest methodologies and provide concrete examples for arguing “policy disagreements” with the guidelines in attempts to achieve a below guideline sentence for offenders.

- **The Honorable Mark W. Bennett**  
*(Ret. U.S. District Judge), Director  
Institute for Justice Reform & Innovation  
Drake University Law School  
Des Moines, IA*

9:45-10:00 a.m.

**COFFEE BREAK**

10:00 - 11:00 a.m.

**CONCURRENT SESSIONS**

**IMMIGRATION OFFENSES  
(TARPON KEY ROOM)**

This presentation will cover a general overview of the types of immigration offenses, recent sentencing changes impacting these offenses, and will include an update on the border situation.

- **Alan Doorasamy, Sr., Esq.**  
*Law Offices of Alan Doorasamy, Sr.  
Winston-Salem, NC*
- **Mary Kramer, Esq.**  
*Law Offices of Mary Kramer, P.A.  
Miami, FL*
- **Randi Martorano**  
*Supervising United States Probation Officer  
District of New Jersey*
- **Kathy Nester, Esq.**  
*Executive Director  
Federal Defenders of San Diego, Inc.*

**PLEA BARGAINING  
(SAWYER KEY ROOM)**

Panelists will discuss issues arising in plea bargaining, including DOJ policy, appeal waivers, Rule 11(c)(1)(C) plea agreements, stipulations, substantial assistance and Early Disposition Programs.

- **Simon Gaugush, Esq.**  
*Assistant United States Attorney  
Chief, General Crimes Section  
Middle District of Florida*
  - **Matthew Mueller, Esq.**  
*Wiand Guerra King  
Tampa, FL*
  - **Marjorie Peerce, Esq.**  
*Ballard Spahr  
New York, NY*
- Moderator:
- **Brian Shrader, Esq.**  
*Centrone & Shrader  
Tampa, FL*

**FRIDAY (continued)  
AUGUST 30, 2019**

11:05 a.m. - 12:05 p.m.

**CONCURRENT SESSIONS**

**THE PRESENTENCING PROCESS  
(TARPON KEY ROOM)**

This presentation will cover the presentence process, mandatory and district rules that probation officers are bound to follow, opportunities where defense counsel can assist probation and their client for a better, more balanced report, and great things that defense counsel can do which is valuable to probation.

- **Shavaughn Chapman**  
*United States Probation Officer  
District of New Jersey*
- **The Honorable Robert Kugler**  
*United States District Court  
District of New Jersey*
- **Maryellyn Muller**  
*Deputy Chief United States Probation Officer  
District of New Jersey*

**THE *BRADY* PUNCH:  
HARNESSING *BRADY* AT SENTENCING  
(SAWYER KEY ROOM)**

We all fight for *Brady* material at the beginning of the case and at trial, but what about sentencing? People often forget that *Brady* was actually a sentencing case. Even with a plea agreement, or a stipulated sentencing guideline, *Brady* can open all sorts of discovery and litigation avenues in the sentencing context to support the development of guideline challenges and to assist in fleshing out mitigation arguments. Join this session to discuss how *Brady* can be a positive force at your sentencing hearings.

- **JaneAnne Murray, Esq.**  
*Professor of Practice  
University of Minnesota Law School  
Murray Law LLC  
Minneapolis, MN*

**ADJOURNMENT**

**CLE Information**

Alabama (approved for 12.8 hours)	Pennsylvania
Arkansas (approved for 12.75 hours)	Puerto Rico (approved for 12.75 hours)
Florida (approved for 11.5 hours)	Tennessee (approved)
Georgia (approved for 12.8 hours)	Texas (approved for 12.75 hours)
Kentucky (approved for 12.75 hours)]	Utah (approved for 12.5 hours)
New Jersey	Virginia
New Mexico (approved for 12.7 hours)	
North Carolina	
Ohio	

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