

NYSACDL

New York State Association of Criminal Defense Lawyers
An Affiliate of the National Association of Criminal Defense Lawyers

"Not for the few, but for the rights of All"

**NEW YORK STATE ASSOCIATION OF CRIMINAL DEFENSE LAWYERS
PRESENTS
FEDERAL PRACTICE SEMINAR
FEATURING
4 CLE CREDIT HOURS OF SKILLS
MONDAY SEPTEMBER 20, 2010
HON. CHARLES L. BRIEANT, JR. CONFERENCE CENTER, 8TH FLOOR
DANIEL PATRICK MOYNIHAN UNITED STATES COURTHOUSE
500 PEARL STREET
NEW YORK, NEW YORK**

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NEW YORK STATE ASSOCIATION OF CRIMINAL DEFENSE LAWYERS
Presents
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PROGRAM AGENDA

- 12:30 p.m. REGISTRATION
- 1:00-2:50 The Right to Present a Defense, Mark Mahoney, Esq.
- 2:50-3:10 BREAK
- 3:10-4:00 Deconstructing the Guidelines – Constructing a Purpose Driven Sentence, Amy Barron – Evans, Esq.
- 4:10-5:00 Jury Instructions in a Federal Criminal Case, Susan Walsh, Esq.

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Materials

Mark J. Mahoney, Esq. – The Right to Present A Defense

The Right to Present a Defense

Amy Barron – Evans, Esq. – Deconstructing the Guidelines – Constructing a Purpose Driven Sentence

Federal Sentencing Resource Website

Sentencing By The Statute

Sentencing Memo: Fraud Example

Sentencing Memo: 2K2.1

Susan Walsh, Esq. – Jury Instructions in a Federal Criminal Case

Jury Instructions – An Outline

Exhibits – 1) Case Law; 2) Request to Charge Letter Brief; 3) Objection to *Allen*
Charge Letter Brief

PROGRAM FACULTY

Amy Baron-Evans, Esq. is Sentencing Resource Counsel for the Federal Public and Community Defenders. She represents the Defenders' interests on sentencing policy, provides litigation support, and teaches sentencing advocacy. She has authored numerous articles, papers and briefs on federal sentencing issues, and other criminal law issues. She is a *cum laude* graduate of Harvard Law School, clerked for the Honorable Hugh H. Bownes on the First Circuit Court of Appeals, and was a partner at Dwyer & Collora LLP before joining the Defenders as Sentencing Resource Counsel in 2005. Ms. Baron-Evans is a former Co-Chair of the Federal Sentencing Guidelines Committee of the National Association of Criminal Defense Lawyers, and of the United States Sentencing Commission's Practitioners' Advisory Group.

Mark Mahoney, with the firm of HARRINGTON & MAHONEY in Buffalo, NY, is a past president of the New York State Association of Criminal Defense Lawyers, and currently an NACDL Board Member. He has always been a criminal defense lawyer, handling trials and appeals and post-conviction matters. He is a recipient of the "Outstanding Practitioner" award from both the Criminal Justice Section of the New York State Bar Association and the New York State Association of Criminal Defense Lawyers. Among his several publications are the highly influential "Whole Motion Catalog" and "The Right to Present a Defense," the latter having been widely circulated within the defense bar, and updated continuously, since 1980. Many of his early courtroom successes involved the admission of what was novel defense evidence at the time, such as scientific evidence of the suggestiveness of lineups (1977), first use of "the battered child syndrome" as a *defense* – acquittal of murder (1979), digitally enhanced audio – acquittal of attempted murder of police officer (1990), first use of a computer simulation (simulation of tractor-trailer rollover) – acquittal of homicide and all other charges (1989), "battered spouse syndrome" – first complete acquittal in New York (1988). More recently Mark's client was the only defendant acquitted in *USA v. Rigas, et al.*, the 6-month long multi-billion-dollar "Adelphia" corporate fraud trial, in Manhattan, in 2004.

SUSAN WALSH, Esq. is a career criminal defense attorney and currently a partner in the law firm of Moskowitz Book & Walsh, LLP in Manhattan. From 1996 to 2007, she was a partner in Gould Reimer Walsh Goffin & Cohn. Admitted in New York, New Jersey and Colorado, Susan's practice has concentrated in criminal trials, appeals, collateral attacks and habeas corpus petitions in state and federal jurisdictions. Susan has tried dozens of jury trials to verdict and been lead or co-counsel on several published appellate decisions. Susan was lead counsel on two recent *amicus* briefs written in support of the Appellant's and on behalf of several associations including the NYSACDL, NACDL, and others: *People v. Weaver*, 12 NY3d 433 (2009) successfully challenging the constitutionality of warrantless, unlimited surveillance by law enforcement utilizing a GPS device and in *Hurrell- Harring vs. New York, et. al.*, successfully challenging the erroneous dismissal of a class action law suit on behalf of indigent defendants on justiciability grounds. Susan is an officer and serves as a Director of the New York County Lawyers' Association, a former Chair of its Criminal Justice Section and the former chair of its Task Force on Criminal Courts. She is an adjunct professor of law at the New York Law School in trial advocacy and was a member of the adjunct faculty at Cardozo Law School's intensive

January Term Trial Advocacy program. In addition, Susan has taught on the national level to attorneys representing indigent defendants in federal criminal trials.