

Breakout Session: The Role of Guidelines in Delivering Procedural Justice
Monday, August 8, 2016 @ 1:30 p.m.

This panel will discuss the concept of procedural justice generally and then dialog whether the use of guidelines assist or hinder the actual delivery of procedural justice. In particular, this panel will dialogue the question of whether the existence of guidelines create uniformity, consistency, and basic expectations for sentencing; or whether guidelines are formulaic, rigid, and encourage less individualized sentencing? Various jurisdictions' guidelines and their practical impact in court proceedings will be discussed from different perspectives within the criminal justice system.

Esteemed Panelists Include:

Jacey Skinner (moderator), General Counsel for Governor Gary Herbert of the State of Utah. She was appointed to that position in 2013. Prior to her appointment as General Counsel, she served as the Director of the Utah Sentencing Commission from 2009 to 2013 as well as the President of the National Association Sentencing Commissions from 2012 to 2014. As General Counsel to the Governor, she is the legal advisor to the Governor, his staff, and his Cabinet. In addition to her role as General Counsel, she is also the Legislative Director for Governor Herbert. In this role she oversees the legislative coordination of the Governor's Office and his Cabinet as well as the Governor's bill review and signing process. She is a member of the Utah Supreme Court's Advisory Committee on the Rules of Evidence and the Utah Office of Guardian Ad Litem's Advisory Committee. Prior to working with the Utah Sentencing Commission she was an Assistant District Attorney with the Salt Lake County District Attorney's Office. Jacey received her Bachelor's degree from Utah State University and her Juris Doctor degree from the J. Reuben Clark Law School at Brigham Young University. In her spare time Jacey enjoys photography, gardening, and building furniture.

Paul Cassell, Ronald N. Boyce Presidential Professor of Criminal Law and Distinguished University Professor of Law at the S.J. Quinney College of Law at the University of Utah. Professor Cassell received a B.A. from Stanford University in 1981. He then graduated Order of the Coif from Stanford Law School in 1984, serving as President of the *Stanford Law Review*. In 1984-85, he clerked for then-Judge Antonin Scalia when Scalia was on the U.S. Court of Appeals for the D.C. Circuit and the following year for Chief Justice Warren E. Burger on the U.S. Supreme Court. From 1986 to 1988, Professor Cassell served as an Associate Deputy Attorney General in the U.S. Department of Justice. From 1988 to 1991, he served as an Assistant U.S. Attorney in the Eastern District of Virginia, prosecuting many felony criminal cases. In 1992, Professor Cassell began teaching at the S.J. Quinney College of Law, publishing widely in leading academic journals on crime justice issues. He has filed briefs and orally argued on behalf of crime victims and criminal justice reform and allied organizations in the United States Supreme Court and other federal and state courts around the country. In 2002, Professor Cassell was confirmed by the U.S. Senate to serve as a U.S. District Court Judge for the District of Utah. While on the District Court, Professor Cassell wrote many opinions that attracted significant attention, including the first opinion in the country finding the federal sentencing guidelines unconstitutional for their failure to protect jury trial rights. In 2007, Cassell resigned his judgeship to return to law teaching. Professor Cassell currently teaches criminal procedure, criminal law, and other courses at the College of Law at the University of Utah. He has published numerous articles on sentencing, including articles in the *Stanford Law Review* and the *Federal Sentencing Reporter*.

Judge Michael D. DiReda, Second District Court Judge, appointed by Gov. Jon M. Huntsman, Jr., in December 2008. He serves Davis, Morgan, and Weber counties. Judge DiReda received a Bachelor's of Arts degree in Psychology from Pepperdine University in 1990 and a Juris Doctor degree from Pepperdine University in 1993. He worked as a judicial law clerk in the Second District Court from 1994 through 1995 before joining the Davis County Attorney's

Office as a Deputy County Attorney where he worked as a prosecutor, serving as the lead attorney over domestic violence, juvenile and adult drug courts, as section chief over the Narcotics Division and as the litigation section chief over the criminal and juvenile divisions. He is a former Centerville City Prosecutor and Clinton City Prosecutor. He also works as an Adjunct Professor of Law at the S.J. Quinney School of Law at the University of Utah in the Trial Advocacy Department. He is a member of the National Association of Drug Court Professionals, a member and past chairman of the Disproportionate Minority Contact Subcommittee of the Utah Board of Juvenile Justice, and a past Executive Board member of the Utah Board of Juvenile Justice. Judge DiReda currently serves on the Standing Committee for Self-represented Parties.

Richard S. Frase, Benjamin N. Berger Professor of Criminal Law at the University of Minnesota Law School. He teaches criminal law, criminal procedure, and the federal defense clinic. He has also taught the Misdemeanor and the Federal Prosecution clinics. His seminars include comparative criminal procedure, sentencing guidelines, and sentencing policy. He was the Julius E. Davis Professor of Law for 1988-89 and became the Benjamin N. Berger Professor of Criminal Law in 1991. His scholarship examines Minnesota and other state sentencing guidelines, punishment and proportionality theories, criminal procedure in the U.S. and abroad, and comparison of sentencing law and practice in the United States and in other nations. He is the author or co-author of eight books and over seventy articles and essays on these topics. Professor Frase graduated Phi Beta Kappa from Haverford College. He received his J.D. degree from the University of Chicago.

Rich Mauro, Utah Sentencing Commission, Utah State Bar Representative. Rich graduated from the University of Utah College of Law in 1988. After law school, he served as a law clerk at the Utah Court of Appeals. He then accepted a position as a trial attorney with the Salt Lake Legal Defender Association. While at the Legal Defender Office, he was the misdemeanor chief for two years, which consisted of supervising the misdemeanor lawyers, coordinating new lawyer training, and conducting yearly attorney evaluations. He was also a felony trial attorney and handled a number of serious cases including minimum mandatory sex cases, violent felonies, and homicides. In 1997, he left the Legal Defender Office to open a private law practice. He handles criminal defense cases in both state and federal court. He is qualified to represent persons charged with capital murder pursuant to Utah Rule of Criminal Procedure 8, and has been appointed to several capital cases in state and federal court. He taught trial advocacy at the University of Utah College of Law for ten years, and served as a founding member on the Indigent Defense Fund Board, which oversees the appointment, payment, and coordination of capital defenders appointed by the state courts. Most recently, he served on the Utah Supreme Court Task Force on Indigent Defense Services which was charged with evaluating and making recommendations for improvements to Utah's indigent defense system. He also serves as the Utah State Bar representative on the Utah Sentencing Commission.

The panelists welcome your questions!

The following links would be helpful to review in advance:

- www.utcourts.gov/resources/reports/statejudiciary/2014-StateOfTheJudiciary.pdf
- *Too Severe?: A Defense of the Federal Sentencing Guidelines (And a Critique of Federal Mandatory Minimums)* Paul G. Cassell, *Stanford Law Review* *Stanford Law Review*, Vol. 56, p. 1017, 2004 http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1885078
- www.postcrescent.com/story/news/investigations/2015/12/14/6-steps-better-justice-system/77099760/
- www.throwingstarfish.com/2016/07/aiming-for-superfluous/