

CRIMINAL JUSTICE PROGRAM GUIDE

I. Introduction

ACS encourages its chapters to plan programming in the spring of 2010 and beyond on any of a variety of important issues in the criminal justice arena. Reform of our criminal justice system has become an increasingly hot topic, with debates about the future of criminal justice playing out in the courts, in Congress, among advocates, in state and local governments and organizations, and in American society generally. Discussions that happen now will help to shape these reform efforts and to define the future structure of criminal justice in America. Criminal justice programs are extremely flexible, allowing for the participation of nationally-known legislators and scholars as well as local prosecutors, defense attorneys, advocates, and policymakers. We encourage our chapters to hold events on criminal justice reform generally or on any of the more specific topics listed below.

II. Program Ideas

Criminal justice is currently the subject of vibrant debate and would be ideal for programming. Below is a list of just some of the many potential issues for programming related to criminal justice.

Federal Legislation: The National Criminal Justice Commission Act and the Youth PROMISE Act

- What effect would these pieces of legislation have on the structure of the criminal justice system? What other federal actions are necessary and desirable? What are the roles of the federal government and state and local governments in reforming the criminal justice system?
- For more information on this topic, see *Reorienting Federal Criminal Justice Policy*, an ACS event featuring Senator Jim Webb and Congressman Bobby Scott, video of which is available at <http://www.acslaw.org/node/15000>; the National Criminal Justice Commission Act, S. 714; and the Youth PROMISE Act, H.R. 1064 and S. 435. Full information on both bills is available at <http://thomas.loc.gov>.

Integrative Reform

- How can reforms in education, housing, social justice, public health, and other areas work to support improvements in our criminal justice system? How can practitioners and advocates from different communities work together across disciplinary lines to enact an integrative approach to criminal justice problems?

- For more information on this topic, see *Integrative Solutions to Interrelated Issues: A Multidisciplinary Look Behind the Cycle of Incarceration*, a piece from the Harvard Law and Policy Review by Nkechi Taifa and Catherine Beane, available at http://www.hlpronline.com/Vol3_2-TaifaBeane_HLPR.pdf; and *Reorienting Federal Criminal Justice Policy*, an ACS event featuring Senator Jim Webb and Congressman Bobby Scott, video of which is available at <http://www.acslaw.org/node/15000>.

Racial Disparities and Criminal Justice

- What factors account for the criminal justice system's differential treatment of offenders based on race? What reforms could help to produce a more racially just criminal justice system?
- For more information on this topic, see *Racial Disparities in Criminal Justice: Blind Justice Requires a Blindfold*, an ACS Issue Brief by Scott Phillips, available at <http://www.acslaw.org/node/7320>; *Beyond Profiling*, a panel discussion from the 2007 ACS National Convention, video of which is available at <http://www.acslaw.org/node/5219>; and *The "Crack/Powder" Disparity: Can the International Race Convention Provide a Basis for Relief?*, an ACS Issue Brief by Nkechi Taifa, available at <http://www.acslaw.org/node/3019>.

Drug Policy Reform

- How does the war on drugs contribute to the challenges facing our criminal justice system? What sorts of drug policy reforms could simultaneously address serious issues of drug abuse, provide humane and useful treatment to drug users, and lower the burden that drug use places on our criminal justice system?
- For more information on this topic, see *Toward a Public Health Approach to Drug Policy*, an ACS Issue Brief by Alex Kreit, available at <http://www.acslaw.org/node/8394>; and *The "Crack/Powder" Disparity: Can the International Race Convention Provide a Basis for Relief?*, an ACS Issue Brief by Nkechi Taifa, available at <http://www.acslaw.org/node/3019>.

Drug Courts and Mental Health Courts

- Are drug courts, mental health courts, and other specialty courts effective as an alternative to traditional criminal prosecution? Should the use of specialty courts be expanded?

Juvenile Justice

- What is the appropriate way for the criminal justice system to treat juvenile offenders? What sorts of preventive action might deter juvenile crime? How can we lower recidivism and encourage healthy lifestyles among juvenile offenders? What is an appropriate sentencing policy for juveniles? Should juveniles be sentenced to life in prison without the possibility of parole?
- For more information on this topic, see *The Intersection of Juvenile Justice and Poverty*, a symposium put on by ACS, the Georgetown Journal of Poverty Law and Policy, the Center for Juvenile Justice Reform, Georgetown University, and the Georgetown Law Center Juvenile Justice Clinic, video of which is available at <http://www.acslaw.org/JuvenileJusticeSymposium>.

The Role of Police

- Are police oversight mechanisms effective? How can we ensure that police departments exercise their authority in an appropriate and responsible manner while also protecting officer safety and allowing officers the necessary freedom to protect public safety?
- For more information on this topic, see *Police Reform: A Job Half Done*, an ACS Issue Brief by Richard Jerome, available at <http://www.acslaw.org/node/3020>.

The Role of Prosecutors

- How do prosecutors balance the pressure to win convictions with the obligation to do justice? How pervasive are problems of overcharging, malicious prosecution, and abusive prosecutorial tactics? How can a prosecutor ensure that his or her conduct is aligned with the interests of justice?
- For more information on this topic, see *The American Prosecutor: Power, Discretion and Accountability*, a one-day conference put on by ACS and the Washington College of Law at American University, video of which is available at <http://www.acslaw.org/node/5363>.

Indigent Defense

- What are the challenges that stand in the way of the consistent provision of high-quality indigent defense services? How could indigent defense be improved? What is the role of local, state, and federal government in improving the quality of indigent defense?
- For more information on this topic, see *You Can't Build on Shaky Ground: Laying the Foundation for Indigent Defense Reform Through Values-Based Recruitment, Training,*

and Mentoring, a piece from the Harvard Law and Policy Review by Jonathan A. Rapping, available at http://www.hlpronline.com/Vol3.1/Rapping_HLPR3-1.pdf.

Plea Bargains

- What effect does the prevalence of plea bargains have on the administration of the criminal justice system? Should the use of plea bargaining be restricted or reformed?
- For more information on this topic, see *Plea Bargains and the Role of Judges*, a panel discussion from the ACS 2008 National Convention, video of which is available at <http://www.acslaw.org/node/6789>.

Ineffective Assistance of Counsel

- Do current standards for determining ineffective assistance provide adequate protection to criminal defendants? Do criminal defendants have adequate opportunity to challenge the quality of their defense? Is reform in indigent defense necessary in order to ensure that defendants are provided with effective assistance of counsel?
- For more information on this topic, see *(In)effective Assistance of Counsel for Criminal Defendants*, a panel discussion from the ACS 2008 National Convention, video of which is available at <http://www.acslaw.org/node/6784>.

Exclusionary Rule

- How have recent Supreme Court decisions affected the scope and force of the exclusionary rule? What are the arguments for maintenance of a strong exclusionary rule? What is the future of the exclusionary rule?
- For more information on this topic, see *The Roberts Court and the Future of the Exclusionary Rule*, an ACS Issue Brief by Susan Bandes, available at <http://www.acslaw.org/node/8512>.

Death Penalty

- What are the challenges facing the use of the death penalty? What is the impact of recent Supreme Court decisions barring the use of the death penalty on juveniles, the mentally retarded, or for the crime of rape of a child? What is the future of the death penalty in America?
- For more information on this topic, see *Racial Disparities in Criminal Justice: Blind Justice Requires a Blindfold*, an ACS Issue Brief by Scott Phillips, available at <http://www.acslaw.org/node/7320>; and *Panetti v. Quarterman and the Future of the*

American Death Penalty, an ACS Press Briefing, audio of which is available at <http://www.acslaw.org/node/4665>.

Sentencing

- What effect has mandatory minimum sentencing had on our prison population and society at large? Which aspects of our sentencing policy are rational and which are irrational? How could we alter our sentencing policies to better serve the interests of justice?
- For more information on this topic, see *Supporting Advisory Guidelines*, a piece from the Harvard Law and Policy Review by Judge Nancy Gertner, available at http://www.hlpronline.com/Vol3_2-Gertner_HLPR.pdf; *Reorienting Progressive Perspectives for Twenty-First Century Punishment Realities*, a piece from the Harvard Law and Policy Review by Douglas A. Berman, available online at http://www.hlpronline.com/Berman_HLPR_120808.pdf; *Reducing Mass Incarceration: Implications of the Iron Law of Prison Populations*, a piece from the Harvard Law and Policy Review by Todd R. Clear and James Austin, available at http://www.hlpronline.com/Vol3-2_ClearAustin_HLPR.pdf; and *The “Crack/Powder” Disparity: Can the International Race Convention Provide a Basis for Relief?*, an ACS Issue Brief by Nkechi Taifa, available at <http://www.acslaw.org/node/3019>.

Prison Conditions

- What steps need to be taken in order to ensure humane treatment of prisoners? How can litigation help to bring about change? How can we combat sexual violence in prisons? What are the consequences of privatizing incarceration? What is the appropriate role of solitary confinement in prison management?
- For more information on this topic, see *Improving Prison Oversight to Address Sexual Violence in Detention*, an ACS Issue Brief by Melissa Rothstein and Lovisa Stannow, available at <http://www.acslaw.org/node/13713>; *Preserving the Rule of Law in America’s Prisons: The Case for Amending the Prison Litigation Reform Act*, an ACS Issue Brief by Margo Schlanger and Giovanna Shay, available at <http://www.acslaw.org/node/4587>; *Foreword: Incarceration American-Style*, a piece from the Harvard Law and Policy Review by Sharon Dolovich, available at http://www.hlpronline.com/Vol3_2-Dolovich_HLPR.pdf; *Looking Behind the Locked Door: Prison Law Reform Proposals for the New Administration*, a piece from the Harvard Law and Policy Review by Deborah M. Golden, available at http://www.hlpronline.com/Golden_HLPR_111308.pdf; and *The Prison Litigation Reform Act – a Proposal for Closing the Loophole for Rapists*, an ACS Issue Brief by Deborah M. Golden, available at <http://www.acslaw.org/node/2928>.

Pardons and Executive Clemency

- What are appropriate standards by which the president and governors ought to make decisions on questions of pardons and clemency? Do executives tend to exercise the pardon and clemency powers in appropriate and equitable ways? How do political pressures affect the clemency decisions of executives?
- For more information on this topic, see *Reinventing the President's Pardon Power*, an ACS Issue Brief by Margaret Colgate Love, available at <http://www.acslaw.org/node/5487>.

Re-Entry and Collateral Consequences of Conviction

- How can we best integrate prisoners into society upon release? What programs and services would help reduce recidivism? What are the legal and cultural consequences of incarceration on a released prisoner's life, including employment, housing, health care and voting? How can we work to ensure that the lives of released prisoners are not unduly limited by these consequences? How can we work to ensure that these consequences will not lead a released prisoner to re-offend?

Current Supreme Court Cases

- The Supreme Court's docket contains several cases that are relevant to various aspects of criminal justice and criminal procedure. For more information on any of the following cases, see <http://www.abanet.org/publiced/preview/briefs/home.html>.
 - *Miranda Rights*
 - Florida v. Powell, Docket No. 08-1175
 - Berghuis v. Thompkins, Docket No. 08-1470
 - *Right to Counsel*
 - Maryland v. Shatzer, Docket No. 08-680
 - *Juvenile Life Without Parole*
 - Graham v. Florida, Docket No. 08-7412
 - Sullivan v. Florida, Docket No. 08-7621
 - *Ineffective Assistance of Counsel*
 - Holland v. Florida, Docket No. 09-5327
 - Wood v. Allen, Comm'r AL DOC, Docket No. 08-9156
 - Padilla v. Kentucky, Docket No. 08-651
 - Smith, Warden v. Spisak, Docket No. 08-724
 - *Honest Services Fraud*
 - Skilling v. United States, Docket No. 08-1394
 - Black v. United States, Docket No. 08-876
 - Weyhrauch v. U.S., Docket No. 08-1196

- *Confrontation Clause*
 - *Briscoe v. Virginia*, Docket No. 07-11191
- *Proper Application of DNA Evidence*
 - *McDaniel v. Brown*, Docket No. 08-559
- *Post-Prison Civil Commitment for Sexually Dangerous Persons*
 - *United States v. Comstock*, Docket No. 08-1224
- *Sentencing*
 - *Dillon v. United States*, Docket No. 09-6338

III. Program Participants

A speakers list has been circulated alongside this program guide. The speakers list contains names of a variety of criminal justice experts who may be willing to participate in events.

In addition, criminal justice events are often enhanced by the participation of local experts. ACS encourages chapters to contact the offices of local public defense agencies, district attorneys, and law schools, especially those with criminal justice clinics. Included below is a list of links that can help chapters to identify relevant local organizations that possess expertise on some important aspect of criminal justice policy.

- The National Coalition to Abolish the Death Penalty maintains a list of state-based affiliates. <http://ncadp.org/affiliateDirectory.cfm>.
- The National Association of Criminal Defense Lawyers maintains a list of local affiliates. http://www.nacdl.org/public.nsf/freeform/affiliate_map?OpenDocument.
- The National Association for Civilian Oversight of Law Enforcement maintains a list of local police oversight organizations. http://nacole.org/index.php?option=com_content&view=article&id=51&Itemid=57.
- The Office of Justice Programs at the United States Department of Justice maintains a list of state-based reentry-related activities and resources, including links to local re-entry related organizations. <http://www.reentry.gov/sar/welcome.html>.
- The Drug Policy Alliance Network maintains an index of drug policy information on a state-by-state basis. This index includes links to local drug policy organizations for some states. <http://www.drugpolicy.org/statebystate/>.
- The NAACP maintains a wide network of local units. http://www.naacp.org/unitfinder/us/with_javascript/index.htm.
- The ACLU has an affiliate organization in every state and Puerto Rico. <http://www.aclu.org/affiliates>.