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National Alliance of Sentencing
Advocates & Mitigation Specialists

NASAMS Code of Ethics and Professional Standards

June 1997

DEFINITIONS

- Shall: mandatory
- Should: advisory
- May: permissive

Sentencing Advocacy - The professional field which applies biopsychosocial principles, methods and procedures in the assessment and evaluation of a person charged with or convicted of a criminal offense for the purpose of obtaining a disposition.

Sentencing Advocate - A person who engages in sentencing advocacy.

Capital Mitigation Specialist - A person who provides analysis and assessment for the purpose of identifying areas of mitigation in capital cases.

Defense-Based Specialist - A person who engages in sentencing advocacy on behalf of the defense.

Court-Based Specialist - A person who engages in sentencing advocacy at the request of the court.

Client - Any individual for whom the sentencing advocate has an explicit agreement to provide advocacy services.

Collateral Information - Accompanying, supporting, ancillary or parallel information that supplements data or facts in sentencing reports or memoranda.

Gross negligence - The performance of professional service or services that have a significant relationship to the protection of the interests of a client in a manner evidencing an indifference to or disregard of the accepted standard of practice for performance of that service or services.

Negligence - The failure to exercise the care that a prudent professional usually exercises.

Collateral interviews may include, but are not limited to, family members, friends, associates, employers, co-workers, classmates, school personnel and other agency professionals. The purpose of collateral interviewing is to confirm and corroborate information, to generate



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additional information and to document support for sentencing and other dispositional proposals.

Alternatives include, but are not limited to, various conditions of community supervision, public service, home confinement, residential, treatment, vocational and educational programs and victim restitution.

CODE OF ETHICS

A. Sentencing Advocate's Ethical Responsibility to the Profession

1. A sentencing advocate shall maintain high standards of personal and professional conduct and shall uphold the integrity and ethics of the profession as guided by this code of ethics and practice standards.
2. A sentencing advocate shall strive to become and remain proficient in professional practice through study, training, education and research.

B. Sentencing Advocate's Ethical Responsibility to Clients

1. A sentencing advocate shall respect the privacy of clients and hold in confidence all information obtained in the course of professional service, except as authorized by the client or required by law. In addition, defense-based specialists shall conduct all contacts, interviews, information gathering and report writing in accordance with the law on attorney work product and attorney-client privilege in the jurisdiction in which the service is provided.
2. A sentencing advocate should make every reasonable effort to be familiar with and protect the legal rights of clients. When in doubt about the rights of clients, the sentencing advocate should consult the attorney of record or responsible court official.
3. A sentencing advocate should respect the decisions of clients.
4. A sentencing advocate shall keep clients informed of the progress of their cases and respond in a timely manner to requests by clients.
5. When a fee for service is appropriate or required, a sentencing advocate shall ensure it is fair and reasonable, and consistent with a client's ability to pay.
6. Upon referral, the sentencing advocate shall act with reasonable diligence and promptness in determining whether a client is appropriate for services. When working on



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behalf of a client, a sentencing advocate shall proceed in a reasonably prompt and diligent fashion.

C. Sentencing Advocate's Ethical Responsibility to the Legal Profession

1. A sentencing advocate shall not give legal advice unless he or she is an attorney licensed to practice law in the jurisdiction in which the service is being provided and only with the knowledge and consent of the client's attorney of record. In any setting in which a client has or is entitled to legal representation, a sentencing advocate may provide non-legal advice based on his or her full range of experience and knowledge, but in no case shall the sentencing advocate offer legal advice.
2. Whenever a sentencing advocate has a doubt about a professional obligation which the client's attorney may have to the client, the sentencing advocate should consult with that attorney.
3. A defense-based specialist's conduct shall be compatible with the professional obligations of the attorney. If in doubt, the defense-based specialist shall seek clarification from an informed source.

STANDARDS OF PRACTICE

1. As soon as practical, a sentencing advocate should conduct in-person interviews with clients.
2. A sentencing advocate should conduct interviews in an environment which respects and protects the confidential nature of the information disclosed.
3. Client signed release forms should specify information requested and the person or agency releasing the information.
4. A sentencing advocate shall conduct collateral interviews whenever necessary and feasible.
5. When seeking to communicate with the victim, a defense-based specialist should first obtain consent from defense counsel. When interacting with a victim or a victim representative, a sentencing advocate should identify himself or herself and his or her role and act with sensitivity and compassion.



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6. A sentencing advocate should make every reasonable effort possible to consult with experts outside of his or her area of expertise to obtain assessments or other information relative to the case.
7. A sentencing advocate should become familiar with all statutorily permissible alternatives to incarceration and should explore community resources to ensure appropriate programming and to elicit support.
8. Sentencing proposals should seek to achieve the least restrictive sentencing alternative which can reasonably be obtained based on the facts and circumstances of the offense, the defendant's background, the applicable sentencing provisions, and other information pertinent to the sentencing decision.
9. When testifying or presenting information to the court, sentencing advocates should be adequately prepared.
10. A sentencing advocate should not carry a caseload of such size that it interferes with quality of work provided to each client.
11. A sentencing advocate should provide sufficient information to clients so they are reasonably able to make informed decisions about their cases.
12. When an ethical conflict arises in which the sentencing advocate is uncertain about how to proceed, the sentencing advocate shall seek the advice and counsel of colleagues and supervisors and consult with the attorney of record unless the ethical conflict directly involves the attorney of record.

EXAMPLES OF UNPROFESSIONAL CONDUCT

The practice of sentencing advocacy is complex and varied and therefore requires a broad range of professional activities and conduct. The following acts are examples of unprofessional conduct defined by NASAMS:

1. Performing or offering to perform services for which the sentencing advocate is not qualified by education, training or experience.
2. Providing distorted, false or misleading information or making false statements in the sentencing advocate's professional practice.
3. Applying for membership or accreditation using misstatement, fraud or deception.



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4. Using false, fraudulent, misleading or deceptive advertising or billing practices.
5. Discriminating on the basis of age, race, color, gender, religion, creed, national origin, ancestry, marital status, political belief, disability or sexual orientation in providing services or conducting business.
6. Practicing while mentally incompetent or impaired when these impairments result in detriment to the interests of a client.
7. Revealing facts, data, information, records or communication received from a client in a professional capacity without the informed consent of the client except as required by law. This standard does not prohibit a sentencing advocate from using case history material for teaching or research purposes or from providing information for consultation purposes provided that proper precautions are taken to conceal and protect the identity of the client. If it is not possible to conceal the identity of the client, a written release of information shall be obtained from the client.
8. Engaging in sexual contact or any other behavior with a client which is sexual, seductive or provocative in nature or violates the professional boundaries. For this purpose, a person shall be identified as a client for two years after the termination of professional services.
9. Failing to inform the client of financial interests which are not obvious and which might accrue to the sentencing advocate from referral or from any use of a service, product or publication.
10. Failing to notify the association that a license, certificate or registration for the practice of any profession previously issued to the professional member has been revoked, suspended, limited, denied or has been subject to any other disciplinary action.
11. Failing to make reasonable efforts to notify a client when professional services will be interrupted or terminated by the sentencing advocate.
12. Engaging in gross negligence in practice in a single instance or negligence in practice in more than one instance.
13. Acting in a manner which violates the civil, legal or human rights of clients.
14. Assuming professional responsibility in a similar capacity for a client of another agency or colleague without advising that agency or colleague.



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15. Refusing to respond in a timely manner to a request made during an authorized investigation of a complaint, except where a non-frivolous, good faith legal basis for the refusal exists.