



NLADA

National Alliance of Sentencing
Advocates & Mitigation Specialists

A Brief Overview of Defense-Based Sentencing Advocacy

Sentencing advocacy, as practiced by members of the National Alliance Sentencing Advocates & Mitigation Specialists (NASAMS), has historical antecedents in the work of Boston shoemaker, John Augustus. In the mid-19th Century, Augustus innovated a practice of intervening with courts to advocate for release from jail on humanitarian and common-sense grounds. His work provided the impetus for probation services, which were established by law in every state of the union by the end of the 19th Century.

A more recent stimulus to sentencing advocacy was the U.S. Supreme Court's historic decision in *Gideon v. Wainwright* in 1963, which guaranteed legal counsel to indigent criminal defendants. Subsequent important court decisions, the American Bar Association's recognition of the ethical obligation of defense counsel to prepare sentencing plans for their clients, and the establishment of special programs to provide sentencing-related services in some of the new state and local public defender offices created to fulfill the *Gideon* mandate, lay groundwork and built experience in practice for defense-based sentencing advocacy.

In the 1970s two pioneers, G. Thomas Gitchoff and Jerome Miller, a founder of the National Center on Institutions and Alternatives (NCIA), separately wrote about their successes in developing individualized sentencing plans for criminal courts. Miller's group formalized their approach to sentencing advocacy with a service called "Client Specific Planning," and trained many practitioners in its methodology.

In the 1980s sentencing advocacy grew as a profession with support from the Edna McConnell Clark Foundation through grants to NCIA and predecessor offices of The Sentencing Project, under the direction of Malcolm Young. Early programs, such as Offender Rehabilitation Services in the Washington, D.C. public defender office, and the Portland, Oregon public defender office that assigned a team of a social worker, investigator, and attorney to every felony defendant, were evaluated. Results showed that sentencing advocacy contributed to an increase in the use of alternatives, reducing the reliance on jail and prison. With The Sentencing Project's assistance, a number of states including New Mexico, Connecticut, and North Carolina funded defense-based sentencing advocacy programs as a means of reducing jail and prison use.

In 1989, the first National Conference on Sentencing Advocacy was held in Washington, DC. The Conference garnered a remarkable turnout and media interest, prompting a group of 15 sentencing professionals from around the United States to come together to make recommendations about the future of sentencing advocacy as an emerging profession. In 1991, a concept paper, entitled [*An Emerging Profession: White Paper on Sentencing Advocacy*](#), was authored. While the paper was a "work in progress" and asked more questions than it answered, it recognized the existence of a growing profession and called for the creation of a professional

association to support its development. Since the formation of a professional association would need support and legitimacy, the authors of the White Paper turned to The Sentencing Project for a home for this new association.

In 1992, NASAMS was founded as the National Association of Sentencing Advocates (NASA) under the organizational umbrella of The Sentencing Project. In 2005, NASA joined the National Legal Aid & Defender Association as a section in its Defender Division and adopted its title, the National Alliance of Sentencing Advocates & Mitigation Specialists (NASAMS).

NASAMS and the field of sentencing advocacy has continued to thrive and expand over the past two decades. In their daily work, NASAMS members explore personal and social histories of criminal defendants, and in the process come to know their life stories very well. On that basis, they develop individualized sentencing plans for their clients who face conviction and the prospect of incarceration. The individualized sentencing plans are used by defense attorneys to offer prosecutors during plea negotiations, or courts at sentencing, alternatives to lengthy incarceration. Typically, the focus of their sentencing proposals is on substance abuse or and/or mental health treatment, victim restitution, community supervision, avoidance of future misconduct, and appropriate and constructive consequences designed to foster offender accountability and responsible behavior. This approach offers courts a cost-effective way to sentence selected offenders to community-based programs, while reserving prison and jail space for offenders who must be incapacitated for the safety of the community.

NASAMS members also include mitigation specialists, who work to save the lives of clients facing death sentences. The role of a mitigation specialist is to explain crimes that are often terrible and to speak for the dignity and value of those who have committed even the worst criminal acts. By helping juries that decide sentences in death penalty cases to understand their clients' life stories, mitigation specialists advocate, often successfully, for lifelong prison terms in secure settings in lieu of death. They help save lives.