**REPRESENTING YOUR DETAINED CLIENT**

**DURING A PANDEMIC**

Videoconference

Thursday, April 9, 2020

1:00 p.m. – 1:50 p.m.

SPONSORED BY: PUBLIC DEFENDER SERVICES

PRESENTER: RONNI M. SHEETS, CHIEF PUBLIC DEFENDER,

PUBLIC DEFENDER CORPORATION FOR

THIRTEENTH JUDICIAL CIRCUIT

1. RULES OF PROFESSIONAL CONDUCT

* 1. Rule 1.1. Competence
  2. Rule 1.3. Diligence
  3. Rule 1.4. Communication
  4. Rule 3.7. Expediting Litigation

1. WEST VIRGINIA INDIGENT DEFENSE STANDARDS:

**Standard 3.2 Seeking a Detained Client’s Release from Custody, or Reduction in Custodial Conditions**

1. In every case where the client is detained, defense counsel should discuss with the client, as promptly as possible, the client’s custodial or release status and determine whether release, a change in release conditions, or less restrictive custodial conditions should be sought. Defense counsel should be aware of applicable statutes and rules and all alternatives less restrictive than full institutional detention. Defense counsel should investigate community and family resources that might be available to assist in implementing such alternatives.
2. Defense counsel should investigate the factual predicate that has been advanced to support detention and custodial conditions, and not assume its accuracy.
3. Once defense counsel has sufficient command of the facts, defense counsel should approach the prosecutor to see if agreement to release or a change in release or custodial conditions can be negotiated and submitted for approval by the court.
4. If the prosecutor does not agree, defense counsel should submit to the court a statement of facts, legal argument, and proposed conditions if necessary to support the client’s release or a reduction in release or custodial conditions.
5. If a court orders release, defense counsel should fully explain all conditions of release to the client, as well as the consequences of violation of the conditions. Defense counsel should assist the client and others acting for the client in properly implementing the release conditions.
6. If defense counsel is unable to secure the client’s release, defense counsel should, after discussion with the client and with due regard to any relevant confidentiality concerns, alert the court and institutional personnel to any special medical, psychiatric, religious, dietary, or security needs of the client while in government custody and request that the court order the appropriate officials to take steps to meet such special needs.
7. Defense counsel should reevaluate the client’s eligibility for release, or for reduced release or custodial conditions, at all significant stages of a criminal matter and when there is any relevant change in facts or circumstances. Defense counsel should request reconsideration of detention or modification of conditions whenever it is in the client’s best interests.
8. RECENT DEVELOPMENTS IN LAW AND PROCEDURE:
   1. HOUSE BILL 2419, effective June 5, 2020: *Relating to the authorization to release a defendant or a person arrested upon his or her own recognizance.*
   2. SENATE BILL 620, effective May 19, 2020: *Authorizing Division of Corrections and Rehabilitation approve home plans for inmates.*
   3. SUPREME COURT ORDERS
9. FACTS ABOUT THE CORONAVIRUS.

1. MOVING FOR RELEASE OF DETAINED CLIENTS:
   1. PRETRIAL DETAINEE: Moving for Release on Recognizance

* 1. PRETRIAL DETAINEE: Moving for Reduced Bail
  2. PRETIAL DETAINEE: Changing Conditions of Confinement
  3. CONVICTED: Early Release on Parole
  4. CONVICTED: Compassionate Release
  5. CONVICTED: Extending Work Release Furloughs
  6. PAROLED: Bond for Violators awaiting revocation hearing
  7. GENERAL CONSIDERATIONS IF CLIENT CONTRACTS VIRUS

1. RESOURCES:
   1. Form Motion – [www.pds.wv.gov](http://www.pds.wv.gov)

* 1. Public Defender Services Criminal Law Research Center, (304) 558-3905
  2. ACLU