A. Ethical Considerations—Pleas

Defense bar knowledge about collateral consequences of pleas is a due process issue. Regular meetings with defense lawyers and prosecutors could give the judge an opportunity, as an administration of justice issue, to discuss collateral consequences.

Ask police in your community to determine what is the rate of dual arrests. The BWJP is looking at a yard stick for a dual arrest rate, possibly at 3%, but this has not been determined. Each community should determine what’s going on in this area.

Collateral Consequences
a. State and federal firearms, ammunition prohibitions; purchase, possess, transfer, conceal, obtain license
b. Potential loss of employment resulting from firearms prohibition
c. Professional licensure loss/preclusion
d. Employment prohibitions
e. Bonding exclusion
f. Potential employer reluctance re: conviction
g. Enhanced penalties
h. Potential loss of eligibility for public benefits
i. Adverse impact on immigration
j. Negative inferences in family law/PO cases
k. Rebuttable presumption ag. spousal support for dependant offender
l. Possible loss of voting, other civil rights
m. Potential loss of public/assisted housing
n. Potential exclusion from tribal lands
o. Loss of right to travel/relocate
p. Exclusion from financial support for education
q. Adverse inference drawn against you across the board
r. Other consequences that may be retroactive
4. In Conclusion…
   a. CRITICAL THAT DEFENDANTS ARE REPRESENTED – Exercise caution when taking a plea from an unrepresented defendant.
   b. Encourage defense bar to become fully informed about domestic violence.
   c. Invite defense bar to identify and discuss collateral consequences. Encourage defense bar to develop a CC checklist; amend periodically.
   d. Act to promote the fair and impartial administration of justice.

B. Ethical Considerations—Responding to the Media

1. Assure that the public receives complete and accurate information while maintaining your judicial independence.
   a. Anticipate the community’s concerns by preparing a written statement and release a copy of the proceedings transcript;
   b. Before high profile cases arrive, take the lead and make sure that you work harder to know your journalist and understand each others roles in order to minimize tensions; and
   c. Establish a press-bar commission where problems can be discussed.

2. Train the press (reporters).
   a. Provide information to the press through a public information officer;
   b. Invite journalist to meet with all of the judges in the state annual judicial conference with training sessions on specific topics or roundtable discussions;
   c. Get to know your press and discuss specific issues of mutual interest; and
   d. Educate the press (reporters) on the process (how the system works and why it works) and the judge’s boundaries of their roles as information providers.

3. Improve public access to the courts in your jurisdiction.
   a. Develop a web site which provides circuit court case information and court calendars;
b. Organize seminars/meetings in your community where the public can ask questions of the judges about the court process (instead of just getting their information from TV Court/Court entertainment); and

c. Enlist the assistance of the press in informing the public and enhancing public trust and confidence in the courts.

4. Comply with the “Code of Judicial Conduct”. A judge
   a. Shall uphold the integrity and independence of the Judiciary. (Canon 1)

   b. Shall perform the duties of judicial office fairly and impartially (Canon 3)

   c. Shall be faithful to the law and maintain professional competence in it. A judge shall not be swayed by partisan interests, public clamor, or fear of criticism. (Canon 3, Rule 2)

   d. Shall not, while a proceeding is pending or impending in any court, make any public comment that might reasonably be expected to affect its outcome or impair its fairness or make any nonpublic comment that might substantially interfere with a fair trial or hearing. (Canon 3, Rule 9)

In an on going case, it may be better to recruit your local Bar Association to defend/explain your decision(s). Faculty should refer to the *ABA Model Response to Judicial Criticism* as a reference resource.