

AEJI Conference
“Riding the Wave of Litigation Following a ‘Bombshell’ Change in the Law” Panel Discussion
November 3, 2017 - 11:30 a.m.-12:30 p.m.

Participants

Moderator and panelist, Leah M Litman, *University of California Irvine, School of Law*

Panelist, Lisa B. Fitzgerald, *Ninth Circuit Court of Appeals Staff Attorneys’ Office*

Panelist, Heidi Rummel, *USC Gould School of Law*

Learning Objectives

The panelists will provide an up-to-date summary of decisional and statutory law governing (1) federal resentencings in light of the Supreme Court’s decision in *Johnson v. United States*; (2) and federal and state resentencings in light of the Supreme Court’s decision in *Miller v. Alabama*. They will examine how the law changed in these areas, the volume of cases affected, and the different tactics that have been adopted to process the volume of cases that were affected by these decisions. The responses of legislatures, clerks, courts, prison officials, public defenders’ officers, and other groups will be discussed. The panel will discuss the legal and practical impacts of these changes, and what tactics may be applied to address future “bombshell” changes in the law.

Topical Outline

- I. Background on *Johnson v. United States*.
- II. What kinds of cases were affected by *Johnson*? What did courts, staff attorneys, and public offenders do to sort through cases that might be affected by *Johnson*?
 - Easy to identify group of prisoners possibly affected; harder to identify which sentences depended on provision invalidated in *Johnson*
 - Difficulty of releasing data to prisoners; delegating sourcing to public defenders offices or prison officials
 - Difficulty of relying on courts and staff attorneys offices
- III. Background on *Miller v. Alabama*.
- IV. How are legislatures addressing this decision? Is this good? What are the implications of these legislative responses? Is any response better than the others?
- V. How are courts and prosecutors addressing *Miller* in states that have not responded legislatively?
- VI. What’s next?