

**ADMINISTRATIVE OFFICE OF THE U.S. COURTS
DEFENDER SERVICES OFFICE, TRAINING DIVISION**

FEDERAL DEFENDER INVESTIGATOR AND PARALEGAL SEMINAR

Hilton Long Beach
Long Beach, CA
May 2-4, 2017

DRAFT AGENDA (2/14/17)

Tuesday, May 2, 2017

7:30 – 8:30 a.m.

Registration

8:30 – 9:00 a.m.

Welcome and Opening Remarks

Hilary Potashner, Federal Public Defender, Office of the Federal Public Defender, Los Angeles, CA

Lisa Porcari, Attorney Advisor, Defender Services Office, Training Division, Washington DC

9:00 – 10:15 a.m.

Plenary: Decades of Governmental Concealment -- Lessons from the Orange County Informant Scandal

Scott Sanders, Deputy Public Defender, Orange County, CA

This plenary will examine the discoveries of systematic concealment of critical records managed by the Orange County District Attorney's Office and Sheriff's Department. It will explore the lessons learned from this process and the implications for cases in any jurisdiction. In 2014, a court permitted extensive hearings regarding the use of a jailhouse informant in the capital murder case of *People v. Scott Dekraai*. The litigation revealed that both the sheriff's department hid a database of jail records for a quarter century, and the district attorney's office regularly withheld evidence since the 1980s from its own informant index. Another set of documents came to light in May of 2016 —five years of notes created by the jail unit that works directly with informants—during post-trial litigation in the death penalty case of *People v. Wozniak*. To date, approximately fifteen murder, attempted murder and assault defendants have been given new trials or received substantially reduced sentences, based upon information uncovered during the scandal.

10:15 – 10:30 a.m.

Break

10:30 – 11:45 a.m.

Concurrent Sessions

1. **Online Investigation: Software, Searches and Social Media**
Victor Gomez, Investigator, Office of the Federal Public Defender, Santa Ana, CA
The presenter will review various online sources that can provide information relevant to criminal defense investigations. In addition, participants will learn how to find information on popular social media sites, and how to access free or low-cost software to aid in their investigations.

2. **Redemption Songs: Social Histories That Sing To You!**
Foongy Lee, Trial Investigator, Office of the Federal Public Defender, Los Angeles, CA
Callie Glanton Steele, Senior Litigator, Office of the Federal Public Defender, Los Angeles, CA
This session will show participants how to uncover the essential facts of the client's story through comprehensive investigation, identify key elements and shape them into a compelling narrative of a path to redemption that truly sings to the judge.

3. **Dog Sniff Detection (with live K-9 Demo): What Public Defenders Need to Know**
Andy Falco Jimenez, Falco K-9 Academy, Yorba Linda, CA
Learn the good, the bad and the ugly of narcotics detection dogs from a former police officer and K-9 handler. This presentation will discuss what to ask for in discovery and how to decide if the K-9 search in your case is worth challenging. The talk will include a live demonstration with a police narcotics detection dog.

4. **All About Drugs: How We Assess, Treat and Represent Clients with Substance Abuse Issues.**
Mary Veral, MSW, Social Worker and Investigator, Office of the Federal Public Defender, Los Angeles, CA
Our clients' use and abuse substances for a variety of reasons: because of a dependence on prescription pain medication, as a way to cope with trauma and PTSD, because it's normalized in their families or communities, and a combination of many reasons. This session will use case examples and cover the following topics: (1) how to recognize symptoms of substance abuse; (2) co-occurring disorders; (3) techniques for talking with clients about their addiction; (4) experts and evidence-based practices for treating substance abuse; and (5) how to present substance abuse issues and treatment in the courtroom.

5. **Interpreter Session #1: Meet & Greet**

Moderators: Yolanda France, Chief Interpreter, Federal Defenders of San Diego, Inc., San Diego, CA

Marcia Resler, Interpreter, Office of the Federal Public Defender, Phoenix, AZ

Alí Salcedo, Interpreter, Office of the Federal Public Defender, Phoenix, AZ

Come introduce yourself and meet other colleagues in the Defender world. In this session we'll find out more about the practices and policies regarding bilingual personnel in our respective offices.

11:45 a.m. – 1:15 p.m.

Lunch

1:15 – 2:30 p.m.

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5. **Interpreter Session #2: Are All Interpreters Created Equal?**

Panel Presentation: Yolanda France, Chief Interpreter, Federal Defenders of San Diego, Inc., San Diego, CA

Marcia Resler, Interpreter, Office of the Federal Public Defender, Phoenix, AZ;

Alí Salcedo, Interpreter, Office of the Federal Public Defender, Phoenix, AZ

Are all defender interpreters part of the defense team? Are they neutral interpreters that can be called by the AUSAs or court to help? Do we have the same mission? What's the best way to locate OTS interpreters outside of our offices? This session will answer those questions and more as we hear from our presenters and attendees.

****1:15-4:00 p.m.**

Trial Presentation Hands-On Concurrent Session, Session 1

Kalei Achiu, National Litigation Support Paralegal, Defender Services Office, Training Division, Oakland, CA

Alex Roberts, National Litigation Support Paralegal, Defender Services Office, Training Division, Oakland, CA

Kelly Scribner, Assistant National Litigation Support Administrator, Defender Services Office, Training Division, Oakland, CA

In this hands-on session participants will learn how the courtroom presentation tool, TrialDirector, enables defense teams to present documents with flare and capture the attention of the jury. The facilitators will provide an overview of how to most effectively link various file formats, and best leverage the various presentation options available in TrialDirector. You will also learn useful tips and tricks for how to use the program throughout a case, from initial discovery review and organization to the eve of trial. Selection of the participants will be determined prior to the program. All participants must bring their own laptops.

2:30 – 2:45 p.m.

Break

2:45 – 4:00 p.m.

Concurrent Sessions

1. **Analyzing Police Documents**

John Conroy, Senior Investigator, Roderick and Solange MacArthur Justice Center, Northwestern University Pritzker School of Law, Chicago, IL

In his previous career as an award-winning investigative reporter, Conroy exposed police torture and two police shootings where the evidence contradicted the official version of events. Using CPD documents you'll learn rules to live by in deconstructing police reports and uncovering evidence that can help your case.

2. **The Story of Participatory Defense and the Art of Social Biography Videos**

Raj Jayadev, Trainer and Organizer, Albert Cobarrubias Justice Project, San Jose, CA

Raj Jayadev is a community organizer who has been on the forefront of the "participatory defense" movement -- a community organizing model for people facing charges, their families, and communities to impact the outcome of cases and transform the landscape of power in the court system. Raj is also a pioneer in the movement for creating and submitting sentencing videos (also known as social biography videos), and has specific suggestions for us as we move forward with this area of our practice.

3. **The Science of False Recollection**

Dr. Shari R. Berkowitz, Ph.D., CSU Dominguez Hills, CA

It is estimated that each year approximately 75,000 prosecutions rely on an eyewitness' testimony. We know from both real-life cases and scientific research that eyewitness testimony is often convincing to a jury. Yet, we also know from real-life cases that mistaken eyewitness testimony is the leading cause of wrongful convictions. Why is it that eyewitnesses make mistakes? Are there ways to prevent these mistaken memories? How can the defense team uncover and prevent these memory errors from entering the courtroom? This training will answer these questions and more, and provide an overview of the following: the malleable and reconstructive nature of human memory, the factors that can affect and impair an eyewitness' memory, and the interviewing and identification procedures that can reduce the possibility of mistaken memories. Relying on both scientific research and real-life cases, this training will include lecture, demonstrations, videos, and Q & A.

4. **TBD**

5. **Interpreter Session #3: To Translate or Not to Translate . . . That Is the Question**

Panel Presentation: Yolanda France, Chief Interpreter, Federal Defenders of San Diego, Inc., San Diego, CA

Marcia Resler, Interpreter, Office of the Federal Public Defender, Phoenix, AZ

Alí Salcedo, Interpreter, Office of the Federal Public Defender, Phoenix, AZ

"Solo me pega cuando se emborracha." Are we helping or hindering the clients' defense with our translations? As is or with adaptations? This interactive session will offer specific examples and solutions.

4:00-4:15 p.m.

Break

4:15-5:30 p.m.

Plenary: TBD

5:30 p.m.

Adjourn

Wednesday, May 3, 2017

8:45 – 10:15 a.m.

Plenary: Childhood Trauma and its Effects

Richard Dudley, Jr., M.D., New York, New York

In this session there will be a discussion of how repeated exposure to violent trauma during childhood impacts on the growth and development of children; and how the availability of or the absence of the type of parental protection, nurture and support that might mitigate the impact of such exposure is an additional determinant of outcome. The impact of such resultant developmental difficulties on an individual's ability to function, even as an adult, will also be discussed, as well as the importance of recognizing and understanding such impaired functioning when representing an individual facing criminal charges. In addition, the use of mental health experts to help obtain this understanding, and the various ways that consultation with a mental health expert might be helpful to a defense team, the ultimate decision-maker, and the client will be discussed.

10:15 – 10:30 a.m.

Break

10:30 – 11:45 a.m.

Concurrent Sessions

1. **Police Misconduct Investigations**

John Conroy, Senior Investigator, Roderick and Solange MacArthur Justice Center, Northwestern University Pritzker School of Law, Chicago, IL

Based on more than two decades as an investigative reporter and criminal defense investigator in Chicago, Mr. Conroy will discuss techniques used in cases involving excessive force, police lab misconduct, informants, false confessions, and rigged lineups.

2. **Handling White Collar Cases**

Pamela Bishop, Principal, Commonwealth Litigation Support Services, Inc., Ashland, VA

Session description is being developed.

3. **Supreme Court Update**

Paul Rashkind, Chief of the Appellate Division, Office of the Federal Public Defender, Miami, FL

This session provides an update on recent developments in the Supreme Court and its decisions affecting federal criminal practice, as well as issues currently under consideration. Always enlightening and entertaining, this session's content is tailored to the needs and interests of paralegals and investigators.

4. **Current Illegal Reentry Defense Strategies: Thawing the Ice-Storm**

Raul Ayala, Assistant Federal Public Defender, Office of the Federal Public Defender, Los Angeles, CA

The prosecution of the reentry of deported aliens (Title 8 U.S.C. Section 1326) has been second only to drug offenses in all federal criminal charges for the past several years. In Fiscal Year 2014, for example, the United States Sentencing Commission reported that 29.3% of all federal criminal cases were immigration-related, or more than 22,000 cases. Section 1326(d) limits the collateral attack on underlying deportation orders unless the defendant can show that all administrative remedies have been exhausted, the deportation proceedings deprived the alien the opportunity for judicial review, and that the entry of the order was fundamentally unfair. This session will review the elements of the offense, outline diligent trial preparation and discovery strategies, and examine current examples of effective 1326(d) challenges to prior deportation orders that have led to dismissal of charges or other favorable outcomes for the non-citizen defendant.

11:45 a.m. – 1:15 p.m.

Lunch

1:15 – 2:30 p.m.

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5. **Interpreter Session #4: Normalization of Legal Terminology and Coined Phrases**

Néstor Wagner, Southern California School of Interpretation

Mr. Wagner will discuss eliminating interferences to make the “original” sound more natural in the target language (The Judge violated the defendant!), using a plea agreement, letters, and frequently used coined phrases.

****1:15-4:00 p.m.**

Trial Presentation Hands-On Concurrent Session, Session 2

Kalei Achiu, National Litigation Support Paralegal, Defender Services Office, Training Division, Oakland, CA

Alex Roberts, National Litigation Support Paralegal, Defender Services Office, Training Division, Oakland, CA

Kelly Scribner, Assistant National Litigation Support Administrator, Defender Services Office, Training Division, Oakland, CA

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2:30 – 2:45 p.m.

Break

2:45 – 4:00 p.m.

Concurrent Sessions

1. **Gang Investigation**
Gregorio Estevane, PI, JD, Trial Expert Witness Criminal Street Gangs, Trial Defense Private Investigator, CJ Professor, ASTIS Consulting, Los Angeles, CA
Through the use of a case study involving the defense of a Mexican National client and cartel against cartel allegations, this session will show you how to obtain documents and witnesses from Mexico for trial investigation and mitigation facts.
2. **The Anatomy of a Case**
Nora Steele, Paralegal, Office of the Federal Public Defender, Phoenix, AZ; TBD
This panel discussion will address with participants how to analyze and work-up a case – from what to do when you first receive discovery, to taking the case to trial, and everything in between. In addition, the session will give you tips on what tools you can use to help manage your cases.
3. **Gun Cases and the Art of War (Felon in Possession Cases)**
Dumaka Shabazz, Assistant Federal Public Defender, Office of the Federal Public Defender, Nashville, TN
Across the nation, we are seeing a rise in firearms prosecutions. This session will explore various strategies and practical tips for defending a firearms case. We will discuss issues ranging from initial investigations, knowledge of firearms, pretrial strategies, and trial defenses. For illustrative purposes, we will analyze different fact patterns and discuss how to proceed at each stage of representation.
4. **Self-Care: Defenses to Burn Out**
Raul Ayala, Assistant Federal Public Defender, Office of the Federal Public Defender, Los Angeles, CA
Session description being developed.

5. **Interpreter Session #5: Today and Tomorrow**
Moderators: Yolanda France, Chief Interpreter, Federal Defenders of San Diego, Inc., San Diego, CA
Marcia Resler, Interpreter, Office of the Federal Public Defender, Phoenix, AZ
Alí Salcedo, Interpreter, Office of the Federal Public Defender, Phoenix, AZ
Join this session for a brief review as we conclude the first ever interpreter track at FDIPS and we open the floor to talk about tomorrow: a defender interpreter conference in the near future.

4:00 – 4:15 p.m.

Break

4:15 – 5:30 p.m.

Plenary: The Use of Interpreters for Clients Who Do Not Speak English – *Voir Dire* and Other Issues

The Honorable L. Felipe Restrepo, Circuit Judge, United States Court of Appeals for the Third Circuit, Philadelphia, PA

Judge Restrepo will offer his suggestions for defense team members who are dealing with the ever increasing number of clients who either do not speak English at all or have a limited working knowledge of English.

5:30 p.m.

Adjourn

Thursday, May 4, 2017

8:45 – 10:00 a.m.

Concurrent Sessions

1. **Risk Assessments**
Laura Mate, National Sentencing Resource Counsel Project, Boise, ID
Have you encountered the use of pre-trial risk assessments in any of your cases? Learn more about these tools, how they are being used, and what can be done to prevent their misapplication to your clients.
2. **Litigation Support for Paralegals**
Kelly Scribner, Assistant National Litigation Support Administrator, Defender Services Office, Training Division, Oakland, CA
Session description is being developed.
3. **Terrorism Cases**
Manny Atwal, Assistant Federal Public Defender, Office of the Federal Public Defender, Minneapolis, MN
This session will discuss how to build a defense to a terrorism case, avenues for sentencing mitigation, and the impact of disengagement and deradicalization in sentencing.
4. **Evidence for Investigators & Paralegals**
Heidi Ojeda, Assistant Federal Public Defender, Office of the Federal Public Defender, Las Vegas, NV
Do you ever wonder why the attorney does not or cannot use a piece of evidence you just spent weeks tracking down? This session will discuss the basic rules of evidence including relevance, hearsay, authentication, impeachment, and character evidence. It will assist the investigator and paralegal in understanding what documents or evidence they need to gather to support the authentication/admissibility of evidence or testimony.

10:00 – 10:15 a.m.

Break

10:15 – 11:30 a.m.

Concurrent Sessions

1. **Put a PH.D on It: Using Social Science at Sentencing**
Laura Mate, National Sentencing Resource Counsel Project, Boise, ID
Recent research in criminology and other related social and behavioral sciences provides empirical evidence relevant to the purposes of sentencing. This session will review some of this research, show where to find more of it, and provide ideas on how to use it to obtain lower sentences for clients.

2. **Social History Records**

Deborah Crawford, CHU Chief Investigator, Office of the Federal Public Defender, Los Angeles, CA

NOTE: Session description being developed.

3. **Bureau of Prisons Update: Practical Tips if Your Client Faces Incarceration in Federal Prison**

David Merchant, Assistant Federal Defender, Federal Defenders of Montana, Billings, MT (Invited)

This session will provide practical tips if your client faces federal imprisonment. It will include factors to consider for your client to obtain a federal sentence at the least restrictive facility as possible and receive the earliest feasible release date. In addition, the session will give an overview of BOP programs and eligibility requirements.

4. **Theory and Themes for Investigators and Paralegals**

Heidi Ojeda, Assistant Federal Public Defender, Office of the Federal Public Defender, Las Vegas, NV

This session will focus on the importance of conducting a focused investigation to advance the themes and theories of the case. We will discuss the basics of understanding the elements of the charged offense, and the necessary intent (general vs. specific intent) to prove guilt, helping to shape the themes and theories of the legal team. This knowledge can then be applied to conducting focused witness interviews and investigation that advance the theme. This session will also touch upon best practices of working effectively together with attorneys, report writing and bringing creativity into the investigative process.

11:30 – 11:45 a.m.

Break

11:45 a.m. – 1:00 p.m.

Plenary: Towards Equity, Diversity and Inclusion

Devon Carbado, The Hon. Harry Pregerson Professor of Law, UCLA School of Law

Over the past decade, scholars, lawyers, policy makers, and business leaders have turned to implicit bias to explain the persistence of inequality across multiple sectors of American life, including the workplace. This plenary session will explain the relevance of implicit bias for the organization, structure, and workplace culture of the Federal Public Defenders. Implicit bias training helps individuals and institutions recognize how genuine diversity may be compromised and frequently undermined by cognitive processes that are often unconscious and difficult to monitor. This awareness can trigger conscious practices to offset the likelihood that unconscious biases are shaping opportunity structures in organizations and in social interactions elsewhere. Yet, it would be a mistake for an institution to place all of its remedial efforts in the implicit bias basket. Because implicit bias is but one of several forms of bias that create workplace hierarchies in which they are predictable "winners" and "losers," it is critical that institutions understand that implicit bias training and awareness are necessary but insufficient foundations for realizing equity, diversity, and inclusion.

1:00 p.m.

Closing Remarks

Lisa Porcari, Attorney Advisor, Defender Services Office, Training Division, Washington DC