

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

FUNDAMENTALS OF FEDERAL CRIMINAL DEFENSE

**January 12-13, 2017
Hilton Long Beach
Long Beach, California**

Thursday, January 12, 2017

7:30 to 8:30 a.m. Registration & Continental Breakfast

8:30 to 8:45 a.m. INTRODUCTIONS & WELCOMING REMARKS

Hilary Potashner, Federal Public Defender, Central District of California, Los Angeles, California

Anthony Solis, Panel Representative, Central District of California, Los Angeles, California

Juval O. Scott, Attorney Advisor, Defender Services Office Training Division, Washington, DC

8:50 to 10:00 a.m. THE MYTH OF COLORBLIND JUSTICE

L. Song Richardson, Professor of Law, University of California, Irvine School of Law, Irvine, California

This session will discuss how implicit (i.e. unconscious) biases can influence decision-making and judgments in ways that are consequential to criminal justice system outcomes. The talk will address how these biases are formed, how they affect behaviors and perceptions, and how to safeguard against their influence.

10:00 to 10:15 a.m. Break

10:15 to 11:30 a.m. THE ESSENTIAL ROLE OF INVESTIGATION IN CJA CASES

Sharon Samek, Attorney Advisor, Defender Services Office Legal & Policy Division, Washington, D.C.

Kevin Murphy, Investigator, Philadelphia, Pennsylvania

As cases continue to grow complex with more discovery and information regarding the guilt phase as well as the sentencing phase, the services of a trained and dedicated investigator can be

invaluable. Hear from a long time indigent defense investigator about the road map towards a successful investigation in all phases of a CJA case. An attorney will join the discussion of how the investigator can assist throughout the life cycle of a case, including quickly locating and interviewing witnesses, obtaining information from digital and paper records and seeking out information that can be important factors for the court to consider at sentencing. The discussion will include information about how to obtain funding for investigative and other expert services.

11:30 to 11:35 a.m. Break

11:35 to 12:35 p.m. THE BAIL REFORM ACT

Francisco Morales, Assistant Federal Defender, Southern District of Texas, Corpus Christi, Texas

Your performance at the bail hearing will be your first strut for your client. Win or lose, your ability to fight goes a long way. In this session, you will learn to maximize your chances of getting your client released on bond under the Bail Reform Act. This session will address pretrial interviews, third party custodians, favorable witnesses, good pre-discovery discovery, ethics issues, the detention hearing, the appeal of a detention order, and release pending appeal.

**12:30 to
1:45 p.m. Lunch**

1:45 to 3:00 p.m. PRETRIAL MOTIONS: STUFF TO KNOW TO GET THE DISCOVERY YOU NEED

David Anthony, Assistant Federal Defender, Nevada Federal Public Defender, Las Vegas, Nevada

Tired of simply begging the federal prosecutor for the discovery and materials you need? This session will explore the advantages to taking a proactive, rather than a passive, approach to using multiple pretrial motions in combination with third party subpoenas to get more of the discovery and evidence you need. Learn from the combined perspective of a trial lawyer and a death penalty post-conviction attorney about other avenues, in addition to Rule 16, to obtain discoverable evidence that might be helpful if considered while mounting a defense to any federal criminal prosecution.

3:00 to 3:05 p.m. Break

3:05 to 4:05 p.m. GETTING THE MOST OUT OF PLEA AGREEMENTS, COOPERATION, AND NAVIGATING THE DANGERS OF A PROFFER

Callie Glanton Steele, Senior Litigator, California Central Federal Public Defender, Los Angeles, California

With an overwhelming percentage of clients entering pleas, this session will take a hard look at how to get the most out of deals with the government. Additionally, like it or not, many of our clients intelligently decide cooperation is in their best interests. Unfortunately, proffer sessions can quickly devolve into train wrecks with clients getting no benefit and all the added risk we lose sleep over. This session explores common benefits and dangers associated with cooperation while addressing the many land mines just waiting for your client in the proffer room.

4:05 to 4:15 p.m. Break

4:15 to 5:30 p.m. CONSPIRACY CASES – HOW TO HANDLE AND WIN THEM

This session will address the big issues that arise when a client is charged with being part of a conspiracy. The panelists will discuss pretrial challenges, trial tactics, and sentencing issues.

5:30 p.m. Adjournment

Friday, January 13, 2017

7:30 to 8:30 a.m. Continental Breakfast

8:30 to 9:30 a.m. SUPREME COURT UPDATE

Paul Rashkind, Supervisory Assistant Federal Public Defender and Chief of the Appellate Division of the Federal Public Defender, Southern District of Florida, Miami, Florida

This session provides an update on recent Supreme Court decisions affecting federal criminal practice, and reviews issues currently under consideration.

9:30 to 9:40 a.m. Break

9:40 to 10:40 a.m. INTRODUCTION TO THE FEDERAL SENTENCING GUIDELINES

Daniel Stiller, *DStillerLLC, Milwaukee, Wisconsin*

This uncomplicated session will cover the basics of applying the federal sentencing guidelines. Offense conduct, drug amount calculations, criminal history, and safety valve criteria are some of the topics included in this presentation. All federal criminal defense practitioners are invited to participate, but depending on one's individual level of federal experience, this session may be rudimentary.

10:40 to 10:45 a.m. Break

10:45 to 11:45 a.m. SENTENCING 201 - SENTENCING SCENARIOS

Daniel Stiller, *DStillerLLC, Milwaukee, Wisconsin*

Current federal criminal law requires sentencing courts to properly calculate a client's advisory guideline range, and to evaluate various other considerations before imposing judgment. As a result, practitioners need to maintain expertise in this critical aspect of federal criminal defense. This session will cover applications of the advisory guidelines previously discussed in Introduction to the Federal Sentencing Guidelines, and it will look at common issues involving them by working through sample sentencing scenarios.

11:45 a.m. Adjournment (Winning Strategies Seminar resumes at 1:00 p.m.)