

Below is the agenda for the

2010 NATIONAL SEMINAR FOR FEDERAL DEFENDERS

To view written materials produced in conjunction with a particular session at the seminar, click on the [blue link](#) to that agenda item.

Please note that the absence of a link for a specific session indicates that the presenter did not provide any written materials for that session.

National Seminar for Federal Defenders
June 2-4, 2010
Seattle, Washington

Wednesday, June 2

8:30 a.m. **Welcome and Opening Remarks (Plenary)**

Hon. Robert S. Lasnik, Chief Judge, U. S. District Court (W.D. Wash.)
Chuck Arberg, Education Division, FJC
Tom Hillier, Federal Defender (W.D. Wash.)

9:00 a.m. **Keynote**

Blue Scholars

9:15 a.m. **Isms and Schisms—How the Decisions We Make Impact Our Client's Case (Plenary):** One's exercise of professional strategy is influenced by his or her experience. This session will explore how, when representing clients, our decision-making is impacted by our subconscious minds. In so doing, the presentation will encourage participants to think about how they represent people whose backgrounds differ from their own. It will challenge the defense team to be aware of—and to evaluate how—personal experiences influence defense decisions.

Cynthia Roseberry, Federal Defender (M.D. Ga.)

10:15 a.m. **Break**

10:30 a.m. **Concurrent Sessions I (choose one)**

(1) Cops, Lies, and Videotape: Success stories from the trenches. How discovery and investigation can uncover the lie in the government's case and what to do with it.

Lisa Hay, Assistant Federal Defender (D. Ore.)

(2) The Labors of Hercules—Overcoming Common Challenges on Appeal: Emerging issues, crafting arguments aimed at the standard of review, coping with plain error review, and facing *Anders*.

Tim Crooks, Assistant Federal Defender (S.D. Tex.)
Beverly Dyer, Assistant Federal Defender (D.D.C.)
Judith Mizner, Assistant Federal Defender (D. Mass.)

- (3) ***Padilla* and Our Practice—What to Say, What Not to Say, and How to Avoid Ineffective Assistance Claims:** This session will cover the implications of the recent *Padilla* case on our practice. When and what should we tell our immigration-sensitive clients? What are the absolute must-tells and the implications of various federal law violations on immigration status. How can we take the offense with *Padilla* in the illegal re-entry context (i.e., how can we get relief for clients who sustained convictions after no or bad immigration advice).

Frank Morales, Assistant Federal Defender (S.D. Tex.)

- (4) **Educating Courts about Invisible Punishments—Collateral Consequences of Conviction and Imprisonment as Mitigating Factors:** This session will explore the ramifications of incarceration on defendants, families, and communities, including disenfranchisement, disqualification from public housing, exposure to disease, residency restrictions for sex-offenders, loss of welfare or food stamps, disintegration of family ties, barriers to reentry, and deportation. Such sanctions should be part of the judge's consideration of the 3553(a) factors and may be offered as reasons to mitigate the length of incarceration or conditions of probation and supervised release.

Denise Barrett, National Sentencing Resource Counsel (D. De.)

Sara Silva, Sentencing Resource Counsel Project (D. Mass.)

- (5) **The Incredible Shrinking Crime of Violence Definition**

Shereen Charlick, Chief Assistant Federal Defender (S.D. Cal.)

Michael Caruso, Chief Assistant Federal Defender (S.D. Fla.)

Donna Coltharp, Assistant Federal Defender (W.D. Tex.)

- (6) **Sentencing Mitigation and the Social Atom:** The social atom is the smallest unit of society and is composed of a network of people a person is connected to, negatively or positively. It is the social world of the individual. This session discusses how you can discover and explore your client's social atom and use the information you acquire to present mitigation evidence to the sentencing court. Emphasis is placed on story-telling techniques.

Fredilyn Sison, Assistant Federal Defender (W.D.N.C.)

- (7) **Computer Crimes**

Ken Hawk, Assistant Federal Defender (E.D. Tex.)

11:45 a.m. **Lunch Break**

1:00 p.m. **The N.A.S. Report on Forensic Science as Catalyst—Where We Go From Here (Plenary)**

Mark Stolorow, Director, Office of Law Enforcement Standards, National Institute of Standards and Technology

Co-Chair, White House Subcommittee on Strengthening Forensic Science

Robert Epstein, Assistant Federal Defender (E.D. Pa.)

2:00 p.m. **Office of Defender Services Update (Plenary)**

Joseph Downey, Office of Defender Services (A.O.)

2:30 p.m. **Recognition Awards (Plenary)**

2:45 p.m. **Break**

3:00 p.m. **Concurrent Sessions II (choose one)**

(1) Sixth Amendment Challenges to Mandatory Minimums and Guideline Enhancements

Amy Baron-Evans, National Sentencing Resource Counsel (D. Mass.)

Jennifer Coffin, Sentencing Resource Counsel Project (M.D. Tenn.)

(2) Forensic Science—Shaken Baby Cases

Jane McClellan, Assistant Federal Defender (D. Ariz.)

(3) Writing Tips—A Devil’s Advocate Approach to Brainstorming: Ten unconventional ideas that will help you write a better brief.

Caryll Alpert, Assistant Federal Defender (M.D. Tenn.)

Alan DuBois, Assistant Federal Defender (E.D.N.C.)

(4) Sentencing Mitigation and the Social Atom: The social atom is the smallest unit of society and is composed of a network of people a person is connected to, negatively or positively. It is the social world of the individual. This session discusses how you can discover and explore your client’s social atom and use the information you acquire to present mitigation evidence to the sentencing court. Emphasis is placed on story-telling techniques.

Fredilyn Sison, Assistant Federal Defender (W.D.N.C.)

(5) Computer Crimes

Ken Hawk, Assistant Federal Defender (E.D. Tex.)

(6) Post-Conviction Challenges

George Couture, Assistant Federal Defender (M.D. Fla.)

Lisa Freeland, Federal Defender (W.D. Pa.)

(7) Recognizing, Investigating, and Using Evidence of Mental Impairment

Kasha Castillo, Assistant Federal Defender (S.D. Cal.)

4:15 p.m. **Break**

4:30 p.m. **Circuit Breakouts:** Attorneys from each circuit will meet separately to discuss issues of mutual concern.

Circuit Discussion Leaders

D.C.—Gregg Spencer (D.D.C.)

First—Victor Gonzalez (D.P.R.) and Judy Mizner (D. Mass.)

Second—Alison Arms (D. Vt.) and Bob Smith (W.D.N.Y.)

Third—Linda Foster (D.N.J.) and Eleni Kousoulis (D. De.)

Fourth—Emily Marroquin (W.D.N.C.) and Paresh Patel (D. Md.)

Fifth—William Biggs (N.D. Tex.) and Carol Whitehurst (W.D. La.)

Sixth—Mary Ellen Coleman (E.D. Tenn.) and Carlos Warner (N.D. Ohio)

Seventh—Melissa Day (S.D. Ill.) and Jerry Flynn (N.D. Ind.)

Eighth—Kevin Curran (E.D. Mo.) and Jane Kelly (S. & N.D. Iowa)

Ninth—Colin Fieman (W.D. Wash.), Lisa Hay (D. Ore.), and Michael Tanaka (C.D. Cal.)

Tenth—Jill Wichlens (D. Colo.) and Dick Winterbottom (D.N.M.)

Eleventh—Alec Hall (M.D. Fla.) and Nicole Kaplan (N.D. Ga.)

5:30 p.m. **Adjourn for the Day**

Thursday, June 3

8:30 a.m. **Supreme Court and Other Significant Cases Update (Plenary)**

Dean Erwin Chemerinsky, University of California, Irvine School of Law

Professor Susan Herman, Brooklyn Law School

Paul Rashkind, Chief, App. Div., Office of the Federal Defender (S. D. Fla.)

10:00 a.m. **Break**

10:15 a.m. **Concurrent Sessions III (choose one)**

- (1) **Sentencing Film Festival:** Exploring the power and persuasiveness of film to humanize your clients and effectively advocate for them. Participants will choose the festival winning film.

Doug Passon, Assistant Federal Defender (D. Ariz.)

- (2) **E-Discovery—The Coming Storm:** The world has shifted from being paper-based to digital. Electronically stored information (or ESI) is the form in which most information is now created. Discovery in criminal cases is not immune to this change, and much of the relevant discovery we need to defend our clients is in ESI format. This session will discuss the practical implications of this shift for federal defenders, and the challenges that come with this shift. We will discuss lessons learned from current criminal cases involving native file discovery and important ESI legal decisions which will be relevant for defenders in future cases.

Honorable Laurel D. Beeler (N.D. Cal.)

Sean Broderick, National Litigation Support Administrator (N.D. Cal.)

- (3) **Strategies Underlying Obtaining Supreme Court Review**

Professor Jeff Fisher, Stanford Law School

- (4) **Capital Prosecutions**

Gerald Zerkin, Federal Death Penalty Resource Counsel (E.D. Va.)

- (5) **Psychosexual Evaluations Soup to Nuts:** Understanding the basics as well as the pros and cons.

William Fick, Assistant Federal Defender (D. Mass.)

Page Kelley, Assistant Federal Defender (D. Mass.)

- (6) **The Incredible Shrinking Crime of Violence Definition**

Shereen Charlick, Chief Assistant Federal Defender (S.D. Cal.)

Michael Caruso, Chief Assistant Federal Defender (S.D. Fla.)

Donna Coltharp, Assistant Federal Defender (W.D. Tex.)

- (7) **Alternatives to Incarceration—Recent Guideline Amendments and (Way) Beyond:** The 2010 amendments to the guidelines includes a provision that allows for treatment alternatives for

substance and mental health conditions as well as revised departure provisions for age, physical condition (including substance abuse), mental and emotional conditions, and military service. This session will explore these amendments as they relate to non-prison sentences, including how to identify candidates for alternative sentencing options, their treatment and rehabilitative needs, and how to advocate for options both within and outside the guidelines framework.

Jennifer Coffin, Sentencing Resource Counsel Project (M.D. Tenn.)
Paul Hofer, Sentencing Resource Counsel Project (D.D.C.)

11:30 a.m. **Lunch Break**

1:00 p.m. **Key Strategies for Representing Your Most Difficult Clients
(Plenary)**

Troy Stabenow, Assistant Federal Defender (W.D. Mo.)

2:15 p.m. **Break**

2:30 p.m. **Concurrent Sessions IV (choose one)**

(1) Impeachment—Truthfulness

Terry MacCarthy, Defender Emeritus (N.D. Ill.)

(2) Re-Entry Courts—The New Frontier: A discussion that will explore the move toward re-entry courts in the federal system and the new opportunities and challenges presented to those involved, especially to clients and defenders.

Patrick Ehlers, Assistant Federal Defender (D. Ore.)

Gail Ivens, Assistant Federal Defender (C.D. Cal.)

Sharon Turek, First Assistant Federal Defender (W.D. Mich.)

(3) Re-examining Proffers, i.e., Sleeping with the Enemy—An Update on the Latest in Prophylactics, Their Effective Use and Respective Benefits

Victor Gonzalez, Assistant Federal Defender (D.P.R.)

Maurice Grant, Assistant Federal Defender (M.D. Fla.)

Patrick McMahon, Assistant Federal Defender (D.N.J.)

(4) What's Left of the Sixth Amendment Right to Jury Trial after *Booker*

Professor Jeff Fisher, Stanford Law School

**(5) Better the Devil You Know than the Devil You Don't—
Identifying and Investigating Your Jurors Before Trial:** Using the Jury Selection and Service Act to obtain juror names and information in advance of trial.

Cathy Henry, Assistant Federal Defender (E.D. Pa.)

Melissa Gomez, Jury Consultant, Philadelphia, Pa.

Jennifer Herman, Staff Attorney, Office of the Federal Defender (E.D. Pa.)

Mark Wilson, Assistant Federal Defender (E.D. Pa.)

(6) *Padilla* and Our Practice—What to Say, What Not to Say, and How to Avoid Ineffective Assistance Claims: This session will cover the implications of the recent *Padilla* case on our practice. When and what should we tell our immigration-sensitive clients? What are the absolute must-tells and the implications of various federal law violations on immigration status. How can we take the offense with *Padilla* in the illegal re-entry context (i.e., how can we get relief for clients who sustained convictions after no or bad immigration advice).

Frank Morales, Assistant Federal Defender (S.D. Tex.)

(7) A Supplemental Strategy for Obtaining Exculpatory Information:

Irwin Schwartz, Esq., Seattle, Washington

3:45 p.m. **Break**

4:00 p.m. **Concurrent Sessions V (choose one)**

(1) Impeachment—Convictions, Capacity, Experts

Terry MacCarthy, Defender Emeritus (N.D. Ill.)

(2) Appellate Advocacy—A View from the Bench

Honorable Betty Fletcher (9th Cir.)

(3) Next Cycle's Priorities—Which Guideline Provision(s) Should Be Our Next Target? Discussion with Guidelines Committee and Sentencing Resource Counsel.

Anne Blanchard, National Sentencing Resource Counsel (D.N.J.)

(4) Sentencing Film Festival: Exploring the power and persuasiveness of film to humanize your clients and effectively advocate for them. Participants will choose the festival winning film.

Doug Passon, Assistant Federal Defender (D. Ariz.)

(5) Mortgage Fraud

Angela Parrott, First Assistant Federal Defender (W.D.N.C.)
Kevin Tate, Assistant Federal Defender (W.D.N.C.)

(6) Vicarious Trauma: This session will cover the sensitivity and recognition of post secondary stress in the workplace, where employees are subject to exposure of evidence, particularly in the area of child pornography, which is likely to adversely impact all of us. Discussion will focus on how to identify and treat these predictable reactions while maintaining our commitment to zealously represent our clients

Leigh Skipper, Federal Defender (E.D. Pa.)

(7) Defending Firearms Cases

John Paul Reichmuth, Assistant Federal Defender (N.D. Cal.)

5:15 p.m. **Adjourn for the Day**

Friday, June 4

8:30 a.m. **Prosecutorial Misconduct (Plenary)**

Honorable Laurel D. Beeler (N.D. Cal.)
Geoffrey Hansen, Chief Assistant Federal Defender (N.D. Cal.)
Jodi Linker, Assistant Federal Defender (N.D. Cal.)

9:30 a.m. **Break**

9:45 a.m. **Top Five 2010 Guideline Amendments (with a Bona Fide Number One)**

Anne Blanchard, National Sentencing Resource Counsel (D.N.J.)
Sara Silva, Sentencing Resource Counsel Project (D. Mass.)

10:15 a.m. **Ethics Issues Arising in Federal Criminal Practice (Plenary)**

Michael Sokolow, First Assistant Federal Defender (S.D. Tex.), Moderator
Jose Gonzalez-Falla, Assistant Federal Defender (W.D. Tex.)
Ron Small, Assistant Federal Defender (M.D. Tenn.)
Myra Sun, Assistant Federal Defender (C.D. Cal.)

11:30 a.m. **Closing Remarks, Completion of Evaluations, and Adjournment**