

Below is the agenda for the

JULY 2010 SENTENCING ADVOCACY WORKSHOP

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.

ADMINISTRATIVE OFFICE OF THE U.S. COURTS  
OFFICE OF DEFENDER SERVICES TRAINING BRANCH

“SENTENCING ADVOCACY WORKSHOP:  
THINKING OUTSIDE THE GUIDELINE BOX”

SAN FRANCISCO RITZ-  
CARLTON HOTEL JULY  
29-31, 2010

AGENDA

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Thursday, July 29

- 8:00 a.m. Registration-Continental Breakfast **\*\*Terrace Room Foyer, 2<sup>nd</sup> Floor**
- 9:00 a.m. Welcoming Remarks **\*\*Terrace Room**  
Barry Portman, Federal Public Defender, N.D. California
- 9:10 a.m. Introduction to Workshop **\*\*Terrace Room**  
Andrea Taylor, Deputy Branch Chief, Office of Defender Services Training Branch,  
Administrative Office of the U.S. Courts, Washington, D.C.
- 9:15 a.m. [Using 3553\(a\)'s Spears: Fighting For and Winning Lower Sentences](#)  
**\*\*Terrace Room**  
Alison Siegler, Assistant Professor of Law, University of Chicago Law School,  
Chicago, Illinois
- This session will focus on using 18 U.S.C. §3553(a) and recent sentencing rulings from the Supreme Court and lower courts to advocate for and achieve below guidelines sentences.
- 10:20 a.m. Break
- 10:30 a.m. [Judging at Sentencing](#) **\*\*Terrace Room**  
Moderator, Marilyn Bednarski, Partner, Kaye, McLane & Bednarski, Pasadena, California  
Honorable Charles R. Breyer, U.S. District Court, San Francisco  
Honorable Robert Pratt, U.S. District Court, Des Moines, Iowa
- A panel of federal judges will give their perspective on how federal criminal defense lawyers can be more persuasive in their sentencing advocacy now that Booker and Gall have allowed them the discretion to consider more factors at sentencing.

11:30 a.m. [Getting to Know Your Client](#) **\*\*Terrace Room**  
Jim Tibensky, Mitigation Specialist, Federal Defender Program, Chicago, Illinois

Just who is it that I am representing? How is her case different than the other hundred that I have represented? How do I uncover and develop the mitigating factors that will allow me to tell his story in a persuasive manner? This session will focus on developing an effective relationship with your client and demonstrate interviewing techniques which will allow you to obtain mitigating information from the client and other key figures.

12:30 p.m. Meet Sam Bradshaw - A Client's Perspective on Sentencing Advocacy  
**\*\*Terrace Room**  
"Sam Bradshaw", Former Federal Defender Client, Chicago, Illinois

1:00p.m. Lunch - On Your Own

2:15 p.m. [Brainstorming the Facts of the Case](#) **\*\*Terrace Room**  
Joseph Ross, Assistant Federal Public Defender, Raleigh, North Carolina

This session will explain the elements of brainstorming and use the facts of the mock case to demonstrate techniques for discussing and understanding the facts of a case in a manner which will maximize the potential of developing those facts into a persuasive sentencing theory.

3:00 p.m. Break

3:10 p.m. Small Group Sessions –Brainstorm Facts of Own Case  
**Room names and group assignments posted at the registration desk**  
Participants will break into small groups led by a facilitator and brainstorm the facts of their own cases.

Marilyn Bednarski, Partner, Kaye, McLane & Bednarski, Pasadena, California  
Anne Berton, Assistant Federal Public Defender, El Paso, Texas  
Michelle Engert, Assistant Federal Public Defender, Baltimore, Maryland  
Denise Hines, Paralegal Specialist, Office of the Federal Public Defender, Reno, Nevada  
Janet Hinton, Paralegal, Office of the Federal Public Defender, St. Louis, Missouri  
Tina Hunt, Assistant Federal Defender, Macon, Georgia  
Steve Jacobson, Assistant Federal Public Defender, Portland, Oregon  
Vionnette Johnson, Assistant Federal Defender, Atlanta, Georgia  
Alonzo Padilla, Assistant Federal Public Defender, Albuquerque, New Mexico  
Jay Rorty, Director, ACLU Drug Reform Project, Santa Cruz, California  
Fredilyn Sison, Assistant Federal Public Defender, Asheville, North Carolina  
Callie Steele, Third Level Supervisory Assistant Federal Public Defender, Los Angeles, California  
Jim Tibensky, Mitigation Specialist, Federal Defender Program, Chicago, Illinois  
Ron Tyler, Assistant Federal Public Defender, San Francisco, California  
Carlos Williams, Executive Director, Southern Federal Defender Program, Mobile, Alabama

5:10 p.m.      [Developing Persuasive Theories and Themes](#) **\*\*Terrace Room**  
Fredilyn Sison, Assistant Federal Public Defender, Asheville, North Carolina

Having a theory for sentencing and supporting themes is critical to your organization of the case and forms the basis of your sentencing story. This session will define a theory and theme and will address how to develop theories and themes and weave them into your story of mitigation for sentencing.

6:00 p.m.      Adjourn for the Day

### Friday, July 30

8:00 a.m.      Registration-Continental Breakfast **\*\*Terrace Room Foyer**

8:30 a.m.      [Storytelling at Sentencing](#) **\*\*Terrace Room**  
Tina Hunt, Assistant Federal Defender, Macon, Georgia

The story is what moves us. It is what captures us and draws us in. This session will discuss the elements and techniques of persuasive storytelling and explain how to incorporate them into your sentencing advocacy.

9:20 a.m.      Small Group Sessions - Theories and Themes / Storytelling  
**Room names and group assignments posted at the registration desk**  
Participants will break into small groups led by a facilitator and apply theories, themes, and storytelling techniques to the facts of their own cases.

Marilyn Bednarski, Partner, Kaye, McLane & Bednarski, Pasadena, California  
Anne Berton, Assistant Federal Public Defender, El Paso, Texas  
Michelle Engert, Assistant Federal Public Defender, Baltimore, Maryland  
Denise Hines, Paralegal Specialist, Office of the Federal Public Defender, Reno, Nevada  
Janet Hinton, Paralegal, Office of the Federal Public Defender, St. Louis, Missouri  
Tina Hunt, Assistant Federal Defender, Macon, Georgia  
Steve Jacobson, Assistant Federal Public Defender, Portland, Oregon  
Vionnette Johnson, Assistant Federal Defender, Atlanta, Georgia  
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Fredilyn Sison, Assistant Federal Public Defender, Asheville, North Carolina  
Callie Steele, Third Level Supervisory Assistant Federal Public Defender, Los Angeles, California  
Jim Tibensky, Mitigation Specialist, Federal Defender Program, Chicago, Illinois  
Ron Tyler, Assistant Federal Public Defender, San Francisco, California  
Carlos Williams, Executive Director, Southern Federal Defender Program, Mobile, Alabama

- 11:00 a.m. Break
- 11:10 a.m. [Uncovering and Developing Effective Mitigation Evidence](#) **\*\*Terrace Room**  
Martin Richey, Third Level Supervisory Assistant Federal Defender, Boston, Massachusetts
- What is mitigation evidence? How do we uncover it? How do we develop it? This session will provide a framework for understanding how to think about mitigating factors and how to uncover and develop them for sentencing. It will use the facts of the mock case to demonstrate how to gain critical information from records, develop social histories and work with experts to support your theory and theme.
- 12:00 p.m. [Persuasive Writing](#) **\*\*Terrace Room**  
Ron Tyler, Assistant Federal Public Defender, San Francisco, California
- This session will provide persuasive writing techniques to advance the sentencing theory using the facts of the mock case
- 1:15 p.m. Lunch - On Your Own
- 2:30 p.m. Small Group Sessions - Persuasive Writing  
**Room names and group assignments posted at registration desk**  
Participants will break into small groups led by a facilitator and apply storytelling and persuasive writing techniques to the facts of their own cases. Each participant will write the first two to three paragraphs of their sentencing memorandum or downward departure motion in a persuasive fact-based manner. Participants will receive feedback on the writing and rewrite it focusing on the feedback.
- Marilyn Bednarski, Partner, Kaye, McLane & Bednarski, Pasadena, California  
Anne Berton, Assistant Federal Public Defender, El Paso, Texas  
Michelle Engert, Assistant Federal Public Defender, Baltimore, Maryland  
Denise Hines, Paralegal Specialist, Office of the Federal Public Defender, Reno, Nevada  
Janet Hinton, Paralegal, Office of the Federal Public Defender, St. Louis, Missouri  
Tina Hunt, Assistant Federal Defender, Macon, Georgia  
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Callie Steele, Third Level Supervisory Assistant Federal Public Defender, Los Angeles, California  
Jim Tibensky, Mitigation Specialist, Federal Defender Program, Chicago, Illinois  
Ron Tyler, Assistant Federal Public Defender, San Francisco, California  
Carlos Williams, Executive Director, Southern Federal Defender Program, Mobile, Alabama

- 3:30 p.m. Break
- 3:40 p.m. Small Group Workshops - Persuasive Writing (cont.)
- 5:30 p.m. Adjourn
- 6:00 p.m. Cocktail Reception **\*\*Third Floor Foyer**  
Join us for light fare and the good company of your fellow workshop participants.  
Informal attire. Cash Bar.

### Saturday, July 31

- 8:00 a.m. Registration - Continental Breakfast **\*\*Terrace Room Foyer**
- 8:30 a.m. Small Group Sessions - Sam Bradshaw Sentencing Memo  
**Room and group assignments posted at registration desk**  
Participants will break into small groups and discuss the Sam Bradshaw sentencing memo which they prepared.
- Marilyn Bednarski, Partner, Kaye, McLane & Bednarski, Pasadena, California  
Anne Berton, Assistant Federal Public Defender, El Paso, Texas  
Michelle Engert, Assistant Federal Public Defender, Baltimore, Maryland  
Denise Hines, Paralegal Specialist, Office of the Federal Public Defender, Reno, Nevada  
Janet Hinton, Paralegal, Office of the Federal Public Defender, St. Louis, Missouri  
Tina Hunt, Assistant Federal Defender, Macon, Georgia  
Steve Jacobson, Assistant Federal Public Defender, Portland, Oregon  
Vionnette Johnson, Assistant Federal Defender, Atlanta, Georgia  
Alonzo Padilla, Assistant Federal Public Defender, Albuquerque, New Mexico  
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Jim Tibensky, Mitigation Specialist, Federal Defender Program, Chicago, Illinois  
Ron Tyler, Assistant Federal Public Defender, San Francisco, California  
Carlos Williams, Executive Director, Southern Federal Defender Program, Mobile, Alabama
- 10:00 a.m. [Using “Moving Pictures” to Persuade](#) **\*\*Terrace Room**  
Doug Passon, Assistant Federal Public Defender, Phoenix, Arizona

At sentencing, a picture is worth at least a thousand words, and will often add layers of credibility and emotion to your client’s mitigation story. Moving pictures help the judge connect with and understand your client. This session will discuss how to incorporate powerful and persuasive images into your sentencing practice, ranging from inclusion of still photos in sentencing memoranda to the creation of mini-documentary films.

- 11:00 a.m.     [Working With Probation](#) **\*\*Terrace Room**  
Doug Burris, Chief U.S. Probation Officer, St. Louis, Missouri  
Jan Good, Assistant Federal Public Defender, St. Louis, Missouri

The probation officer plays a critical role at sentencing which often influences the judge's opinion. This session will discuss how to work with the probation officer in order to persuade them to adopt (or not oppose) your theory of sentencing.

- 12:00 p.m.     [Practical Tips if Your Client Faces Incarceration in a Federal Prison](#)  
**\*\*Terrace Room**  
Anne Berton, Assistant Federal Public Defender, El Paso, Texas

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 possible facility and receive the earliest feasible release date.

- 12:50 p.m.     Closing Remarks **\*\*Terrace Room**  
Andrea Taylor, Deputy Training Branch Chief, Office of Defender Services,  
Administrative Office of the U.S. Courts, Washington, D.C.

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