

Below is the agenda for the

2012 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 no written materials are available for that session.

Draft Agenda, 5/24/12
National Seminar for Federal Defenders
May 30-June 1, 2012
Atlanta, Georgia

Wednesday, May 30

8:45 a.m. **Welcome and Opening Remarks (Plenary)**

Hon. Julie Carnes, Chief Judge, United States District Court (N.D. Ga.)
Stephanie Kearns, Federal Defender (N.D. Ga.)
Chuck Arberg, Education Division, FJC

9:15 a.m. **Keynote (Plenary)**

Douglas Peters, Esq., Atlanta, Georgia
Robert Rubin, Esq., Atlanta, Georgia

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

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

(1) [Hot Topics in Non-Capital Habeas Cases](#)

John Lambrose, Assistant Federal Defender (D. Nev.)

(2) **Impeaching Testifying Witnesses**

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

(3) [Litigating Supervised Release Penalties and Conditions](#)

Keith Donoghue, Federal Defender Research and Writing Attorney (E.D. Pa.)
Christy Unger, Federal Defender Research and Writing Attorney (E.D. Pa.)

(4) [Enticers and Travelers – Law and Strategy for Fighting “Child](#)

[Sex” Cases](#): This session will focus on law and strategy issues in cases brought under the “enticer and traveler” statutes, e.g., §§ 2422, 2423, and 2241(c). In addition to dissecting the various legal approaches to these statutes among the Circuits (including the multiple Circuit splits on § 2422(b)), this presentation will also focus on hot trial strategy issues, including possible defenses such as fantasy and entrapment; how to get your own expert admitted under Rules 701 and 702; and Rule 404(b) issues involving child pornography.

Jonathan Jeffress, Assistant Federal Defender (D.D.C.)
Rosanna Taormina, Assistant Federal Defender (D.D.C.)

- (5) [Defending Illegal Reentry Cases](#): This presentation focuses on hot issues that arise in 1326 cases. For example, can we challenge the previous deportation? Should my client enter into a plea agreement? Should he accept a fast-track negotiation (does he even qualify?). As for sentencing matters, can we challenge prior predicate convictions for enhancement purposes? Are there any mitigating issues?

Raquel Lazo, Assistant Federal Defender (D. Nev.)
Brenda Weksler, Assistant Federal Defender (D. Nev.)

- (6) **Reentry Court Roundtable Discussion**: This session will provide a facilitated exchange of ideas and discussion of ongoing issues for attorneys in districts that have established re-entry courts. There will also be discussion regarding the development and implementation of front end diversionary programs being initiated in some jurisdictions which are founded on the evidence based practices used in the Re-Entry Court model.

Patrick Ehlers, Assistant Federal Defender (D. Ore.) Hilary
Potashner, First Assistant Federal Defender (C.D. Cal.)

- (7) **Battling 851 Notices – Avoid Mandatory Minimum Sentences of 10 Years, 20 Years, or Life**: § 851 notices can either double your clients' mandatory minimum or subject them to mandatory LIFE! There are few things scarier in a mandatory minimum drug case than getting one, two, or more § 851 notices. Help your client avoid unwarranted and horrific mandatory sentences. Just because the government files a § 851 notice does not mean you have to grin and bear it. Learn how to fight back.

Jim Skuthan, First Assistant Federal Defender (M.D. Fla.)

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

1:15 p.m. [Creative Uses of the Federal Rules of Evidence \(Plenary\)](#)

Prof. Barbara Bergman, University of New Mexico School of Law

2:30 p.m. **Break**

2:45 p.m. **Concurrent Sessions II (choose one)**

- (1) [Defending Illegal Reentry Cases](#): This presentation focuses on hot issues that arise in 1326 cases. For example, can we challenge the previous deportation? Should my client enter into a plea agreement? Should he accept a fast-track negotiation (does he even qualify?). As for sentencing matters, can we challenge prior predicate convictions for enhancement purposes? Are there any mitigating issues?

Raquel Lazo, Assistant Federal Defender (D. Nev.)
Brenda Weksler, Assistant Federal Defender (D. Nev.)

- (2) [Electronic Surveillance – Jones and Beyond](#): Learn how the government is building its case against your client with cell phone records, tracking devices, signal interception, and other surveillance techniques; then find out how to fight back. The Fourth Amendment depends on you!

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

(3) Voir Dire

Denise de La Rue, Adjunct Faculty, Georgia State University College of Law

- (4) [Assessing Individuals Charged with Sex Crimes involving Child Pornography](#)

Prof. Melissa Lane, School of Justice, Community College of Baltimore County

- (5) [Fighting Fiction with Fact to Attain Lower Sentences – Ten Myths You Can Debunk with Current Research](#)

Anne Blanchard, National Sentencing Resource Counsel (D.N.J.)
Laura Mate, Sentencing Resource Counsel Project (S.D. Iowa)

(6) Impeaching Testifying Witnesses

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

4:00 p.m. **Break**

4:15 p.m. **Electronic Discovery and Strategies for Navigating the Digital World (Plenary):** We live in a world where most information exists digitally and people's daily communications are often captured in electronic form. This session will provide practical strategies to assist in dealing with our rapidly evolving technological reality whether you are a proud early adopter of technology or a Luddite

who only wants to use paper. Presenters will discuss the development with the Department of Justice of a national protocol on the exchange in discovery of electronically stored information (ESI), the procurement of Summation as an evidence review platform for managing large volumes of discovery and/or ESI, the availability of Coordinating Discovery Attorneys to assist with managing voluminous or complex discovery when working with the CJA panel, and the availability of litigation support software and hands-on training.

Sean Broderick, National Litigation Support Administrator (A.O.)
John Paul Reichmuth, Assistant Federal Defender (N.D. Cal.)

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

Thursday, May 31

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.)

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

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

**(1) Themes and Trends in First and Fourth Amendments
Jurisprudence**

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

(2) [Enticers and Travelers – Law and Strategy for Fighting “Child Sex” Cases](#): This session will focus on law and strategy in cases brought under the “enticer and traveler” statutes, e.g., §§ 2422, 2423, and 2241(c). In addition to dissecting the various legal approaches to these statutes among the Circuits (including the multiple Circuit splits on § 2422(b)), this presentation will also focus on hot trial strategy issues, including possible defenses such as fantasy and entrapment; how to get your own expert admitted under Rules 701 and 702; and Rule 404(b) issues involving child pornography.

Jonathan Jeffress, Assistant Federal Defender (D.D.C.)
Rosanna Taormina, Assistant Federal Defender (D.D.C.)

(3) [Hey, What Are You?--Batson Issues in the Modern Courtroom](#)

Matt Dodge, Assistant Federal Defender (N.D. GA.)
Leigh Finlayson, Esq., Atlanta, Georgia

- (4) The Role of Defense Counsel in the Representation of the Sovereign Citizen:** The Southern Poverty Law Center estimates that more than 300,000 people presently identify themselves as members of the Sovereign Citizen movement. The SPLC 2012 Intelligence Report proclaims The „Patriot“ Movement Explodes. Individuals involved in the movement refuse to recognize the jurisdiction of the courts over them and subscribe to an ideology that includes the belief that criminal laws cannot be applied to them. Given the explosion in the recent popularity of this movement there is a good chance that one of these individuals is coming to a courtroom near you and that you will be faced with the prospect of representing them in court. This session will focus on the unique challenges presented by these cases and discuss the potential roles defense counsel may fulfill on behalf of these individuals.

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

- (5) Understanding Addiction in Drug Abuse – the Brain and Behavior**

Jonathan Lipman, Neuropharmacologist, Unicoi, Tennessee

- (6) Probation's Post-Conviction Risk Assessment – What You Don't Know Can Hurt You (or at Least Your Client)**

Anne Blanchard, National Sentencing Resource Counsel (D.N.J.)
Laura Mate, Sentencing Resource Counsel Project (S.D. Iowa)

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

1:15 p.m. **New Developments in the Sixth Amendment (Plenary)**

Prof. Jeff Fisher, Stanford Law School

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

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

- (1) Character Evidence – Part I**

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

(2) [Hey, What Are You?--Batson Issues in the Modern Courtroom](#)

Matt Dodge, Assistant Federal Defender (N.D. Ga.)
Leigh Finlayson, Esq., Atlanta, Georgia

(3) **The Ever Expanding Duties of Effective Assistance of Counsel:** What you need to know to serve your clients past, present, and future after *Padilla*, *Lafler*, and *Setser*.

Donna Elm, Federal Defender (M.D. Fla.)
Lisa Freeland, Federal Defender (W.D. Pa.)
Jason Hawkins, First Assistant Federal Defender (N.D. Tex.)

(4) [Studies on the Dangerousness of Child Pornography Offenders – Debunking the Myths](#)

Prof. Melissa Hamilton, University of Houston Law Center

(5) [Sentencing Film Festival:](#) 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. Lawyers across the country understand that in the right case, "moving pictures" are the most effective tool to help the judge connect with and understand your client. This session will showcase incredible sentencing videos prepared by different federal defender offices. We will see the films in their entirety and collectively choose a winner. In the process, we will explore various ways to incorporate powerful and persuasive images into our sentencing presentations.

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

(6) [Preparing for the Afterlife--Current BOP Issues From the Sentencing Hearing to Release](#)

John Badalamenti, Assistant Federal Defender (M.D. Fla.)

(7) **Open Forum with Guidelines Committee and Sentencing Resource Counsel:** Fraud and criminal history are among the Commission's likely priorities for next cycle. This session will focus on what passed this year, what was held over for next cycle, and a broader discussion as to what defenders would like the Commission to address.

Margy Meyers, Federal Defender (S.D. Tex.)

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

(1) Character Evidence – Part II

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

- (2) **Managing the Fraud Mega Case One Step at a Time:** Getting a fraud mega case on your duty day will turn your world upside down. The presenters will discuss lessons learned from their own mega cases and what they would do differently having gone through it. This session will provide a practical framework for you to follow that will enable you to be proactive, vigorously defend your client, and get you and your caseload back in balance.

Richard Boulware, Assistant Federal Defender (D. Nev.)
Sean Broderick, National Litigation Support Administrator (A.O.)
William Carrico, Assistant Federal Defender (D. Nev.)

- (3) **Sentencing Film Festival:** 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. Lawyers across the country understand that in the right case, “moving pictures” are the most effective tool to help the judge connect with and understand your client. This session will showcase incredible sentencing videos prepared by different federal defender offices. We will see the films in their entirety and collectively choose a winner. In the process, we will explore various ways to incorporate powerful and persuasive images into our sentencing presentations.

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

- (4) **Nuts, Bolts, and Strategy of Defending National Security Cases:** This panel presentation and brainstorming session will cover the legal and logistical issues in handling a national security case, including FISA, CIPA, pre-trial motions, trial, post-trial motions, publicity, locating and working with experts, and sentencing strategies.

Ahmed Ghappour, Dir., Nat’l Security Defense Project, U. Texas Law School
Michael Nachmanoff, Federal Defender (E.D. Va.)
Steve Wax, Federal Defender (D. Ore.)
Jennifer Wellman, Assistant Federal Defender (W.D. Wash.)

(5) Grass Roots Justice – A Practitioner’s Advice on Transforming Our Clients’ Lives

Douglas Ammar, Executive Director, Georgia Justice Project

(6) Legal Challenges at Sentencing – Developing Arguments for Immediate Results and for Use on Appeal

Amy Baron-Evans, National Sentencing Resource Counsel (D. Mass.)
Jennifer Coffin, Sentencing Resource Counsel Project (M.D. Tenn.)

(7) Sentencing Strategies in Child Sex Cases

Jim Skuthan, First Assistant Federal Defender (M.D. Fla.)

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

Friday, June 1

8:30 a.m. **“Slavery by Another Name: The Re-Enslavement of Black Americans from the Civil War to World War II” (Plenary)**

Douglas Blackmon
Chair, Miller Center of Public Affairs Forum, University of Virginia
Contributor, The Washington Post

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

9:45 a.m. **Ethics Issues Arising in Federal Criminal Practice (Plenary)**

Michael Sokolow, First Assistant Federal Defender (S.D. Tex.), Moderator
Kathy Nester, Federal Defender (D. Utah)
Cynthia Roseberry, Federal Defender (M.D. Ga.)
René Valladares, Federal Defender (D. Nev.)

11:15 a.m. **Closing Remarks, Completion of Evaluations, and Adjournment**