

Below is the agenda for the

MAY 2012 WINNING STRATEGIES & FUNDAMENTALS SEMINARS

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
WINNING STRATEGIES SEMINAR

Minneapolis, Minnesota
Radisson Plaza Hotel
May 10-12, 2012

FINAL AGENDA

Thursday, May 10, 2012

- 7:15-8:15 AM REGISTRATION AND CONTINENTAL BREAKFAST ~**Scandinavian Foyer**
- 8:15-8:30 AM WELCOMING REMARKS ~**Scandinavian Ballroom**
Katherian Roe, Chief Federal Public Defender, District of Minnesota
F. Clayton Tyler, CJA Panel Representative for the District Minnesota
Eric Vos, Attorney-Advisor, Office of Defender Services, Training Branch,
Washington, D.C.
- 8:30-9:30 AM [I KNOW WHO YOU ARE & I SAW WHAT YOU DID: SOCIAL NETWORKS
& THE DEATH OF PRIVACY](#) ~**Scandinavian Ballroom**
Lori Andrews, Chicago-Kent College of Law
You have updated to the newest browser, installed a host of anti-viral software, set your browser security settings to “high,” tweaked your Facebook settings to let no one see you, deleted your “browsing history,” deleted any lingering cookies and blocked their future installation, blocked any possible pop-ups, secured your home WiFi network with an impossible password, dreamt up passwords for your computer which no one may crack, created secret gmail accounts, drawn all the shades and set your computer up in Get Smart’s Dome of Silence - PRIVACY IS YOURS! Or is it? Well, it simply isn’t unless you consider an old fashion postcard private. Law enforcement, employers, marketers, etc. all have an alarming window into exactly who we are and what we are doing as we bounce around the electronic ether with our blissful misunderstandings of anonymity.
- Law Professor Lori Andrews, who the National Law Journal considers one of the 100 most influential lawyers in America, has recently written a critically acclaimed and alarming book titled I know Who You Are & I Saw What You Did. Spend an hour hearing exactly what outsiders glean from you, and your client’s, Internet escapades as we surf in a world which is far from private and where few of our safeguards may protect us.

9:30-10:30 AM DECONSTRUCTION/DESTROYING CHILD PORN GUIDELINES
~Scandinavian Ballroom
Troy Stabenow, Assistant Federal Public Defender, Western District of
Missouri

If you think you may possibly be defending a Child Pornography matter any time soon this is a must see presentation. Courts have held that where a guideline was not developed based on “empirical data and national experience,” it is not an abuse of discretion for a sentencing judge to conclude that the Guideline used “yields a sentence ‘greater than necessary’ to achieve § 3553(a)’s purposes...” This enlightening session looks closely at how empty the Child Pornography Guidelines are and how they are based neither on empirical data or national experience. A great new tool to help effectively argue for variant sentences during Child Pornography sentencing presentations.

10:30-10:45 AM BREAK

10:45-11:45 AM BREAK-OUT SESSIONS*

1. ATTACKING FINGERPRINTS WITH A VENGEANCE: SHOWING THE COURT AND THE JURY WHY THIS “JUNK SCIENCE” SHOULD NOT BE CONSIDERED!

~Norway 1

Jack Cunha, Esq., Cunha and Holcomb Attorneys at Law, Boston, MA

In the world of CSI, fingerprints are as good as a confession and better than gold. In real life, and according to many experts, fingerprints are the lesser cousin of a lie detector and shouldn't be anywhere near a courtroom. Learn what makes this evidence “junk,” learn how the National Academy of Sciences attacks “fingerprint science,” and arm yourself with the tools for addressing, attacking and presenting this otherwise deadly evidence.

2. THAT ELECTRONIC DISCOVERY YOU ARE RECEIVING: STRATEGIES FOR THE PRODUCTION OF ELECTRONICALLY STORED INFORMATION (ESI)

~Norway 2

Shazzie Naseem, Berkowitz Oliver Williams Shaw & Eisenbrandt LLP, Kansas City, MO

Russell Aoki, Coordinating Discovery Attorney, Aoki Law, Seattle, WA

Did you know there is a new recommended national protocol on how to address the production of electronically stored information (ESI)? The Joint Electronic Technology Working Group (JETWG), comprised of representatives from the Federal Defenders, CJA Panel Attorneys, Office of Defender Services and

* “Breakout Sessions” allow attendees to choose from one of a number of simultaneously offered one-hour sessions. Sessions 1-4 will be repeated twice per day allowing for attendance in two of the offered “breakout sessions” - one during the morning sessions and another during the afternoon sessions. Session 5 is a two part computer presentation which has an hour in the morning and a hour in the afternoon. This two part session is repeated on Friday, February 3rd. The two sessions are appropriate together or apart depending on the attendee's needs.

Department of Justice as well as liaisons from the U.S. Judiciary, released its Recommendations for ESI Discovery in Federal Criminal Cases in February of this year. This ESI protocol provides the first ever guidance on how to manage the challenges of dealing with electronically stored information (ESI) - DISCOVERY! - in criminal cases. This presentation will be given by two Coordinating Discovery Attorneys (CDAs) who will discuss what you need to know when discussing discovery production with the Government when it involves ESI, and how you can better take advantage of the electronic discovery that you might receive.

3. [GETTING THE MOST OUT OF COOPERATION AND NAVIGATING THE DANGERS OF A PROFFER ~Norway 3](#)

Patrick Ehlers, Assistant Federal Defender, District of Oregon

Like it or not, many of our clients intelligently decide cooperation is in their best interests. Unfortunately, too many clients make this the trickiest of areas and 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. [LITIGATING MITIGATING FACTORS: DEPARTURES, VARIANCES, AND ALTERNATIVES TO INCARCERATION ~Fjords I/II](#)

Amy Baron-Evans, National Sentencing Resource Counsel

Jennifer Coffin, National Sentencing Resource Counsel

The 2010 Guideline amendments specifically set forth sentencing possibilities which may serve as alternatives to incarceration. Alternatives such as treatment for substance abuse and mental health conditions as well as departures for age, physical condition (including substance abuse), mental and emotional conditions, and military service must be revisited and offered up to the sentencing court as appropriate alternative options to fulfill the sentencing requirements set forth in 18 U.S.C. § 3553(a). This session will explore the practical implications of the amendments and ways to advocate for options which move away from incarceration.

5. [COMPUTER CRIMES 101 - CHILD PORNOGRAPHY ISN'T THE ONLY GAME IN TOWN ~Fjords III](#)

G. Patrick Black, Chief Defender, Eastern District of Texas

Ken Hawk, Assistant Federal Public Defender, Eastern District of Texas

Computers are gifts which just seem to keep on giving when it comes to federal criminal prosecutions. With desktops, laptops, iPads, smart-phones, etc. our clients have a bevy of ways to get indicted and this trend will not be slowing down. Despite all the attention given to child pornography cases there is also a large increase in prosecutions concerning other alleged computer crimes. This session will focus on federal computer and internet crimes such as hacking, identity theft, cyber-stalking, unauthorized password use, and fraud.

NOTE

This is a two part session with [Computer Crimes 101 - Child Pornography Isn't the Only Game in Town](#) taking place during the morning and during the afternoon, there will be [Computer Crimes 202 - Defending Computer Based Child](#)

Pornography Cases. Attendees are welcomed to come to one or both sessions. The two sessions are designed to be attended either as a pair or alone depending on the attendee's needs. Both of these sessions will be repeated on Friday, February 4, 2012 in the same format - Computer Crimes 101 on Friday morning and Computer Crimes 202 on Friday afternoon.

11:45-1:00 PM LUNCH

1:00 - 2:00 PM BOOKER, GALL, KIMBROUGH & SPEARS: A VIEW FROM THE DISTRICT COURT BENCH ~Scandinavian Ballroom

Judicial Panel:

The Honorable Eduardo C. Robreno, District Court for the Eastern District of Pennsylvania

The Honorable Ann Montgomery, District Court of Minnesota

The Honorable Chief Judge John Woodcock, District Court of Maine

Moderator:

Katherian Roe, Chief Federal Public Defender, District of Minnesota

In 2005, Booker redefined the sentencing landscape – or did it? Somewhere between rarely and never do attorneys get to hear from sentencing judges as to what works, hurts and/or is effective when defense attorneys advocate for more favorable sentence. This very special panel discussion features the most important point of view - that of the District Court Sentencing Judge. Our panel of judges comes from around the country and each judge will discuss his/her individual perspective on the sentencing process post-Booker, Gall, Kimbrough and Spears.

2:00-3:00 PM DEFENDING IMMIGRATION CASES ~Scandinavian Ballroom
Jodi Linker, Assistant Federal Public Defender, Northern District of California

Immigration defense is NOT “plug and play” but rather filled with subtleties, highly effective defense tactics and possible sinkholes. A great session which explores how to get and understand critical documents in the A-file; 4th Amendment issues and current circuit split in 1326 cases; how to raise collateral attacks to deportation or removal; how to parole in a material witness matter; derivative citizenship and other alienship defenses. Learn ways of snapping back in what too many of us think are bad cases with no wiggle room.

3:00-3:15 PM BREAK

3:15-4:15 PM BREAK OUTS (Repeat of Morning Sessions 1-4)

1. ATTACKING FINGERPRINTS WITH A VENGEANCE: SHOWING THE COURT AND THE JURY HOW THIS “JUNK SCIENCE” SHOULD NOT BE CONSIDERED!
2. THAT ELECTRONIC DISCOVERY YOU ARE RECEIVING: STRATEGIES FOR THE PRODUCTION OF ELECTRONICALLY STORED INFORMATION (ESI)
3. [GETTING THE MOST OUT OF COOPERATION AND NAVIGATING THE DANGERS OF A PROFFER](#)
4. [LITIGATING MITIGATING FACTORS: DEPARTURES, VARIANCES, AND ALTERNATIVES TO INCARCERATION](#)
5. COMPUTER CRIMES 202-DEFENDING COMPUTER BASED CHILD PORNOGRAPHY CASES

G. Patrick Black, Chief Defender, Eastern District of Texas

Ken Hawk, Assistant Federal Public Defender, Eastern District of Texas

NOTE

Computer Crimes 202 is not a repeat of the morning session. This is the second half of Computer Crimes 101 from the morning. Computer Crimes 101 and 202 are designed to be attended together or alone depending on attendees' needs. Both morning and afternoon sessions of Computer Crimes will be repeated during Friday's program.

If you have ever defended a Child Porn case, or think one may be in your future, you know how quickly even first time offenders with no "hands on" offenses may be facing a shockingly long potential sentence. These cases are being filed all over the country and anyone who will be taking on federal criminal matters should consider this session. This discussion focuses on issues which often arise in connection with the defense of internet based sex crimes and other commonly charged sex offenses. The session will address the basics of computer forensics, detention issues, pretrial motions, potential defenses, and important sentencing and mitigation issues.

4:15-4:30 PM BREAK

4:30-5:30 PM [SUPREME COURT UPDATE](#) ~Scandinavian Ballroom

Paul Rashkind, Supervisory Federal Defender, Southern District of Florida

While we toil in the trenches there is a small group of people, far far away, who we must always keep well focused on - THE SUPREME COURT!! This important hour provides a critical update concerning Supreme Court decisions, trends and the possible future - all of which will undoubtedly affect our federal criminal trial practice, sentencing advocacy and possible appellate matters.

Friday, May 11, 2012

7:30-8:30 AM REGISTRATION AND CONTINENTAL BREAKFAST ~**Scandinavian Foyer**

8:30-9:45 AM [COMPLYING WITH PADILLA PURSUANT TO THE NEW SUPREME COURT HOLDING: WHAT IS EXPECTED OF ATTORNEYS WHEN REPRESENTING AND ADVISING NON-CITIZEN CLIENTS FACING FEDERAL CONVICTIONS AND WHAT DOES THE PROCESS LOOK LIKE](#) ~**Scandinavian Ballroom**

Panel Members:

Jodi Linker, Assistant Federal Defender, District of Northern California

Sarah Rose Weinman, National Immigrant Justice Center , Chicago, IL

Moderator:

Jennifer Gilg, Research & Writing Specialist, District of Nebraska

The Supreme Court's recent holding in Padilla v. The Commonwealth of Kentucky now means a lawyer for an alien charged with crime has a constitutional obligation to tell the client that a guilty plea carries a risk the client may be deported. Yet, under what circumstances does this constitutional obligation arise and to what degree must the criminal defense attorney delve into advising the client about civil immigration law? This session will help explain how attorneys can best handle not killing their client's chances of remaining in the country and to what degree a criminal defense lawyer must take on the role of immigration lawyer in accordance with this new Supreme Court holding.

9:45-10:00 AM BREAK

10:00-11:00 AM BREAK OUTS

1. HOW FEDERAL CONVICTIONS WILL IMPACT YOUR CLIENTS' IMMIGRATION STATUS ~ **Norway 1**
Mary Kramer, Esq., Law Offices of Mary Kramer, Miami, Florida
If I plea my client to the indictment what will happen to his immigration status? A question we must be prepared to answer! This session provides a careful examination of the types of convictions which lead to the deportation of your clients who are not United States citizens. This is important information to consider when negotiating options and then advising clients.
2. [SENTENCING GUIDELINES 202](#) ~**Minnesota**
Rafael Andrade, Attorney-Advisor, Office of Defender Services, Training Branch, Washington, D.C.
Robert Truitt, Assistant Federal Defender, Indiana Federal Community Defender
Current federal criminal case law requires that sentencing courts properly calculate

your client's Guideline Range and thus, we all need to remain experts in this vital area of federal criminal defense. This well designed session covers areas which are beyond the Guideline basics, and looks at the more complex issues involving the Federal Sentencing Guidelines.

3. [UNRAVELING AND "DECONSTRUCTING" THE CAREER OFFENDER GUIDELINE](#)

~Norway 2

Amy Baron-Evans, National Sentencing Resource Counsel

Jennifer Coffin, National Sentencing Resource Counsel

Sentences recommended by the career offender guideline are among the most severe and least likely to promote the stated statutory purposes of sentencing. This presentation identifies how the current Career Offender Guideline is not the result of empirical evidence, careful study, or independent expertise. Thus, this session will equip practitioners with powerful/critical arguments for advocating below-guideline sentences in Career Offender Cases.

4. BATTLING 851 NOTICES: AVOID MANDATORY MINIMUM SENTENCES OF 10 YEARS, 20 YEARS OR LIFE! ~Norway 3

Jim Skuthan, Chief Assistant Federal Public Defender, Middle District of Florida

Section 851 notices can either double your client's mandatory minimum or subject them to mandatory LIFE! There are fewer things scarier in a mandatory minimum drug case than getting one, two, or more Section 851 notices. Know how to battle back and help your client avoid unwarranted and horrific mandatory sentences. Just because the government files a §851 notice doesn't mean you have to grin and bear it. Learn how to possibly fight back!

5. COMPUTER CRIMES 101 - CHILD PORNOGRAPHY ISN'T THE ONLY GAME IN TOWN ~Fjords I/II

G. Patrick Black, Chief Defender, Eastern District of Texas

Ken Hawk, Assistant Federal Public Defender, Eastern District of Texas

Computers are gifts which just seem to keep on giving when it comes to federal criminal prosecutions. With desktops, laptops, iPads, smart-phones, etc. our clients have a bevy of ways to get indicted and this trend will not be slowing down. Despite all the attention given to child pornography cases there is also a large increase in prosecutions concerning other alleged computer crimes. This session will focus on federal computer and internet crimes such as hacking, identity theft, cyber-stalking, unauthorized password use, and fraud.

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11:00-11:15 AM BREAK

11:15-12:15 PM FACEBOOK, MYSPACE, THE JOYS/DANGERS OF INTERNET SOCIAL NETWORKS AND HOW TO USE THEM AS LITIGATION TOOLS
~Scandinavian Ballroom

Panel Members:

Lori Andrews, Chicago-Kent College of Law
Richard Kammen, Kammen Maryan & Moudy, Indianapolis, IN
Christopher Soghoian, Washington, DC based researcher activist

What is with all these people posting pictures of themselves on Facebook? Who wants to see strangers engaging in illegal activity, taking drugs, bragging about their exploits and making darn fools of themselves on social networking sites? You do!!!! There is a bevy of great material on the Internet, Twitter, Google, etc. to impeach snitches, lay witnesses, police officers and just about anyone who logged off the night before and showed up to testify against your client at trial. Importantly, the knife cuts both ways and attorneys need to know about all the data out there, who is collecting it and what your client left behind. Cell records, Twitter, blogging, Social Networking, etc. provides a bevy of biographical data and your client's electronic story may tell all. Learn how law enforcement, possibly without a warrant, can easily turn to FaceBook, Twitter, Cell Providers, Google, Bing, Yahoo, etc. and obtain a host of critical records.

An important look at the new frontier where the Internet and data aggregating resources may come into play at your next trial.

12:15-1:45 PM LUNCH

1:45-2:45 PM BREAK OUTS (Repeat of Morning Sessions 1-4)

1. HOW FEDERAL CONVICTIONS WILL IMPACT YOUR CLIENTS' IMMIGRATION STATUS
2. [SENTENCING GUIDELINES 202](#)
3. [UNRAVELING AND "DECONSTRUCTING" THE CAREER OFFENDER GUIDELINE](#)
4. BATTLING 851 NOTICES: AVOID MANDATORY MINIMUM SENTENCES OF 10 YEARS, 20 YEARS OR LIFE!
5. COMPUTER CRIMES 202-DEFENDING COMPUTER BASED CHILD PORNOGRAPHY CASES
G. Patrick Black, Chief Defender, Eastern District of Texas
Ken Hawk, Assistant Federal Public Defender, Eastern District of Texas

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2:45-3:00 PM BREAK

3:00- 4:00 PM RESOURCES FOR CJA PANEL ATTORNEYS: A PANEL DISCUSSION

~**Scandinavian Ballroom**

Mark Cedrone Esq., The Law Offices of Mark E. Cedrone P.C.,
Philadelphia, Pennsylvania

Lisa Porcari, Attorney-Advisor, Office of Defender Services, Training
Branch, Washington, D.C.

The CJA Guidelines specify how panel attorneys obtain funding for expert services and other resources to defend their clients in appointed criminal cases. This panel will help you make sense of it all. Learn some new ideas and tips on how to obtain technical and litigation-support funding and the best ways to use those funds. The panel will also explore potential roles of investigators, mitigation specialists and other experts, as well as resource available through www.fd.org and the Office of Defender Services Training Branch. Questions welcomed.

4:00-5:15 PM DEFENDING AGAINST ARMED CAREER CRIMINAL & CAREER
OFFENDER DESIGNATIONS ~**Scandinavian Ballroom**

Brenda Weksler, Assistant Federal Defender, District of Nevada

Alina M. Shell, Assistant Federal Public Defender, District of Nevada

Few areas of defense are more frustrating than dealing with this draconian fifteen year mandatory. We know the dread of seeing our client's three relevant prior convictions and yet, after that dread clears we can attack, defend and deflect the ACCA and Career Offender designations - learn how!

Saturday, May 12, 2012

7:30-8:30 AM REGISTRATION AND CONTINENTAL BREAKFAST ~**Scandinavian Foyer**

8:30-9:30AM EXPERTS: HOW TO USE THEM, ABUSE THEM AND KEEP THEM OFF THE
STAND ~**Scandinavian Ballroom**

Eric Vos, Attorney-Advisor, Office of Defender Services, Training
Branch, Washington, D.C.

"Experts win cases" and thus, attorneys must consider using experts with every theory of defense when presenting their case to the jury. There simply

are few better tools when convincing a jury than a well presented expert. In the alternative, when the government employs an expert a properly prepared defense attorney can turn the government's devastating tool into a defendant's advantage. This session will look at how best to prepare and use experts, both pretrial and during trial, including admissibility of evidence, qualifying the expert to testify and taking the government's key witness and turning him into their train wreck.

9:30 - 9:45 AM BREAK

9:45 - 10:45 AM BREAK-OUTS

1. [SENTENCING ISSUES IN IMMIGRATION CASES: UNDERSTANDING THE SUBTLETIES OF THE GUIDELINES, DOWNWARD DEPARTURE, VARIANCES AND DECONSTRUCTION ~Minnesota](#)
Kari Converse, Assistant Federal Defender, District of New Mexico
James Langell, Assistant Federal Defender, District of New Mexico
According to the re-entry Guidelines, 2L1.2, your client has a net offense level of 8, 12, 16, 20 or 24! How do you attack this sliding level? Not to mention the re-entry Guidelines are ripe for categorical attacks since they are based in little more than the Commission's desire to jack them up. This session provides important ways of taking these Guidelines apart and providing your clients with sentencing arguments which better address the offenses in question.

2. FALSE RECOLLECTIONS: MISTAKEN MEMORIES AND HOW THEY WILL IMPACT YOUR NEXT CRIMINAL CASE ~Norway 1
Shari R. Berkowitz, Ph.D., Assistant Professor of Psychology, Roosevelt Univ., Chicago, IL
If memory was a vital organ most of us would drop dead on the spot. All of us are highly susceptible to false memories based on suggestive police interviews and interrogations as well as the mere passing of time. Everyday people are called upon to identify your clients, clients provide confessions of alleged acts and witnesses take the stand to "recollect" - sometimes months, if not years, after the fact. Spend an hour hearing about important research and real-life cases to better understand memory and how memory is malleable and reconstructive, and that this is a result of the natural way memory works. It's not that memories or witnesses are "bad" per se, but instead the memories are simply false.

3. JURY INSTRUCTIONS: FRAMING THE QUESTIONS IN A WAY WHICH SUPPORTS YOUR THEORY ~Norway 2
Mark Cedrone, Esq., The Law Offices of Mark E. Cedrone, P.C., Philadelphia, PA
A discussion of how to prepare jury instructions and special verdict forms which address the issues that arise in criminal cases, including unanimity instructions, conspiracy instructions and other instructions relevant to multiple count and multiple defendant cases.

4. REOCCURRING ISSUES IN DRUG CASES: NEW WAYS OF LOOKING AT THESE IMPORTANT AND NAGGING ISSUES ~Norway 3
Timothy Watkins, Assistant Federal Defender, District of Massachusetts
Relevant conduct & 1B1.1, co-conspirators, mandatory sentences, safety valve, retroactivity, cutting deals, priors which can result in a mandatory sentence of LIFE and the list goes on...it's a drug case jungle out there and it is not getting easier. This session is an hour of explanations, caution signs and ideas on how to stay out or get out of the corner in drug cases.

5. SHREDDING THE GOVERNMENT'S FIREARM AND TOOLMARK IDENTIFICATION EVIDENCE ~Fjords I/II
Jack Cunha, Esq., Cunha and Holcomb Attorneys at Law, Boston, MA
This session will address how to effectively challenge the lack of a scientific basis of "forensic" evidence presented in cases involving firearms/toolmark identification. With the new findings in the National Academy of Sciences (NAS) Report there is much more ammunition when attacking forensics and being able to repudiate laboratory claims. No longer can we merely accept such notions as firearms produce unique markings on bullets/casings when there is a lack of standards for identifying so-called individual markings, lack of statistical basis for declarations of a match between a gun and bullet, and prejudice from unsupported "expert" testimony. Simply a great presentation for helping attorneys shred experts who come into court and use bad science.

6. THE NUTS AND BOLTS OF FEDERAL FIREARMS LAW ~Fjords III
Rafael Andrade, Assistant Federal Public Defender, District of Puerto Rico
Don't show up to your next "gun fight" with the wrong weapon! A look at common, and very uncommon, defenses when your client is charged with a firearm's offense. Common legal issues will be discussed with an additional look at defense possibilities from a gun enthusiast's intense point of view. Additionally, the presentation addresses sentencing issues pursuant to 18 U.S.C. §922(g) (1) (felon in possession statute) prosecutions and the corresponding sentencing guidelines under §2K2.1.

10:45 - 11:00 AM BREAK

11:00 - 12:00 PM BREAK OUTS (Repeat of Morning Sessions 1-6)

1. [SENTENCING ISSUES IN IMMIGRATION CASES](#)
2. FALSE RECOLLECTIONS: MISTAKEN MEMORIES AND HOW THEY IMPACT YOUR NEXT CRIMINAL CASE
3. JURY INSTRUCTIONS: FRAMING THE QUESTIONS IN A WAY WHICH SUPPORTS YOUR THEORY
4. REOCCURRING ISSUES IN DRUG CASES: NEW WAYS OF LOOKING AT THESE IMPORTANT AND NAGGING ISSUES
5. SHREDDING THE GOVERNMENT'S FIREARM AND TOOLMARK IDENTIFICATION Evidence
6. THE NUTS AND BOLTS OF FEDERAL FIREARMS LAW

12:00-12:15 PM BREAK

12:15- 1:15 PM PANEL DISCUSSION: ETHICAL ISSUES CONFRONTING CRIMINAL DEFENSE ATTORNEYS WHEN DIFFICULT CLIENTS TRY TO HIGHJACK REPRESENTATION WITH UNTENABLE DEMANDS

~Scandinavian Ballroom

Willie J. Epps, Jr., Shook, Hardy & Bacon, Kansas City, Missouri

Mark Cedrone Esq., The Law Offices of Mark E. Cedrone P.C.,

Philadelphia, Pennsylvania

Just because someone else is grabbing at the helm, what is the attorney's ethical obligations when steering the ship? An oddly fun, and funny, discussion, with invited audience participation, as to how best to deal with troublesome clients, their demands, your obligations and all while providing the most effective representation in an ethical way.

1:15 PM

CLOSING REMARKS ~Scandinavian Ballroom

Eric Vos, Attorney-Advisor, Office of Defender Services,
Training Branch, Washington, D.C.

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

FUNDAMENTALS OF FEDERAL CRIMINAL DEFENSE
TRAINING

May 10, 2012
Minneapolis, Minnesota
Radisson Plaza

FINAL AGENDA

Designed as an overview for new federal CJA practitioners, this program addresses topics which are essential to defending clients in federal criminal cases.

Minnesota Room

- 7:15 to 8:15 AM REGISTRATION AND CONTINENTAL BREAKFAST
~Scandinavian Foyer
- 8:15 to 8:25 AM WELCOMING REMARKS
Rafael Andrade, Attorney-Advisor, Office of Defender Services, Training Branch, Washington, D.C.
- 8:30 to 9:30 AM BAIL REFORM ACT
Manny Atwal, Assistant Federal Defender, District of Minnesota
- How can you maximize your chances of getting your client released under the Bail Reform Act? This session will address pretrial interviews, third party custodians, other favorable witnesses, the detention hearing, the appeal of a detention order and release pending appeal. Life and representation are so much easier when your client is free, learn how to keep them out!
- 9:30 to 10:30 AM NAVIGATING THE CLIENT INTERVIEW
Willie J. Epps, Jr., Shook, Hardy & Bacon, Kansas City, Missouri
- “What’s in a client interview?” Tons of gold, land mines, obstacles, misunderstandings and hard brick walls - that’s what! An important look at how to avoid a blow-up or running down the wrong alley and into a wall while you mine for gold and meet with a key player in your case - the client.
- 10:30 to 10:45 AM BREAK

10:45 to 12:00 PM [INTRODUCTION TO THE FEDERAL SENTENCING GUIDELINES \(SENTENCING GUIDELINES 101\)](#)

Rafael Andrade, Attorney-Advisor, Office of Defender Services, Training Branch, Washington, D.C.\
Robert Truitt, Assistant Federal Defender, Indiana Federal Community Defender

The Supreme Court still requires each sentencing court to correctly determine the appropriate Guideline Calculations and even if the Guidelines are “advisory” attorneys must still know them front to back. This session will cover the basics of applying the Federal Sentencing Guidelines while taking a close look at areas such as drug amount calculations, criminal history, and offense conduct.

12:00 to 1:15 PM LUNCH

1:15 to 2:15 PM [GETTING THE MOST OUT OF PLEA AGREEMENTS, COOPERATION AND NAVIGATING THE DANGERS OF A PROFFER](#)

Patrick Ehlers, Assistant Federal Defender, District of Oregon

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, some clients make this the trickiest of areas and 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.

2:15 to 3:15 PM CROSS-EXAMINATION

JaneAnne Murray, Murray Law, Minneapolis, MN

Cross-examination is the cornerstone of any good trial attorney’s arsenal. This highly regarded presentation explores cross-examination techniques, strategies, pitfalls and the need to fully investigate the background of the witness – including the details of government “deals” all in order to neutralize important government witnesses.

3:15 to 3:30 PM

BREAK

3:30 to 4:30 PM

DETERMINING “CRIMES OF VIOLENCE” &
“VIOLENT FELONIES”

Alina Shell, Assistant Federal Defender, District of Nevada

Brenda Weksler, Assistant Federal Public Defender,
District of Nevada

No single sentencing calculation inflicts more harm than a determination that a client’s previous conviction(s) qualifies as a “crime of violence” or “violent felony.” Such a finding exposes the client to huge guideline offense-level enhancements and/or to increased statutory minimum sentences. But recent Supreme Court jurisprudence in Johnson, James, and Begay have significantly empowered defense counsel to combat these designations. This session will teach you how to determine whether a previous conviction actually qualifies as a crime of violence or violent felony and how to defend against any such erroneous characterization.

4:30 to 5:30 PM

PUTTING THE SENTENCING SOUP TOGETHER

Eric Vos, Attorney-Advisor, Office of Defender Services Legal, Policy & Training Division, Washington, D.C.

Despite all of our excellent efforts 97% of our clients will be sentenced. Sentencing is both a science and an art where Guidelines, downward departures and variances must all come together in well written memos, letters, videos, photographs, allocation and heart-felt oral arguments. This session explores how to begin the sentencing process from the first day you meet your client and how to bring all these variables and concepts together in one highly effective sentencing proposal.

5:30 - 5:35 PM

CLOSING REMARKS AND A QUICK LOOK AT
RESOURCES AVAILABLE AT WWW.FD.ORG.

Eric Vos, Attorney-Advisor, Office of Defender Services, Training Branch, Washington, D.C.

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