

National Seminar for Federal Defenders

Program Description

This seminar is held annually and is designed for assistant federal defenders who have been practicing criminal law a minimum of three years. It includes a mix of topics on substantive federal criminal law, trial tactics, evidence, computer technology, ethics, and sentencing issues. The topics are presented in both plenary and breakout sessions.

Wednesday, May 27, 2015

Welcome and Opening Remarks (Plenary)

8:45 am - 9:15 am

Grand Central Ballroom

Presenters:

Laurie Smith Camp, Cait Clarke, David Stickman, Charles S. Arberg

Keynote—Race, Poverty, and the Struggle for Justice (Plenary)

9:15 am - 10:15 am

Grand Central Ballroom

Presenter:

Dumaka Shabazz

10:15 am - 10:30 am

Break

10:30 am - 11:45 am

Concurrent Sessions I (choose one)

Option #1 [Writing Motions--With Style](#) - Grand Central Ballroom A

10:30 am - 11:45 am

Good lawyering depends on good communicating, and good communicating depends on good writing. The goal for this session is to give you several, easy-to-implement tips that will immediately improve your writing, which will lead to better communicating, which will result in better lawyering.

Option #2: [Getting Your Client the Lowest Sentence Possible](#) - Blackstone Ballroom B

10:30 am - 11:45 am

News you can use from the Courts, Congress, DOJ, the Sentencing Commission, and policy analysts. Discussion will include constitutional challenges to mandatory minimums, how to use USSC data, and deterrence research.

Presenters:

Amy Baron-Evans, Jennifer Coffin

Option #3: [Challenging Assumptions about Reasonableness in Police Stops in Minority Communities](#) - Grand Central Ballroom B

10:30 am - 11:45 am

Litigation over New York City's stop and frisk practices and the killing of unarmed minorities by police officers has placed a new focus on the reasonableness of law enforcement stops of minorities. This session will address how previous assumptions about their reasonableness may be challenged.

Presenter:

Juval Scott

Option #4: Storytelling - St. Nicholas A

10:30 am - 11:45 am

Making a persuasive case for your client at all stages of the proceeding, from pretrial through appeal.

Presenters:

Anthony J. Natale, Sarah Gannett

Option #5: Understanding New Surveillance Tools—Cell Phone Tracking, Stingrays, Hemisphere and More - Blackstone Ballroom A

10:30 am - 11:45 am

Technological advances have given law enforcement powerful new tools to conduct surveillance. While techniques like cell site tracking are widely known to the defense community, newer technologies like IMSI catchers or “stingrays” and databases like Hemisphere and the DEA’s bulk call records collection program have only recently come to light after being shrouded in government secrecy. This presentation will review these technologies, steps investigators and attorneys can take to discover whether they’ve been used in their cases, and legal challenges that can be made

Presenter:

Hanni Fakhoury, Esq.

Option #6: Habeas for Everyday Practice: - St. Nicholas B

10:30 am - 11:45 am

How to be prepared when new decisions create opportunities to challenge old sentences.

Presenters:

Ann Hester, Paresh Patel

11:45 am - 1:15 pm

Lunch Break

Clemency Project 2014—Working Brown Bag Lunch

12:00 pm - 1:15 pm

Practice tips for efficient screening, gathering of necessary documents, and analyzing the criteria. Bring your cases and questions.

Presenters:

Amy Baron-Evans, Jennifer Coffin

Combatting Racial and Ethnic Injustice in the Criminal Justice System - Grand Central Ballroom

1:15 pm - 2:30 pm

What Defenders can do, both institutionally and in individual cases.

Presenters:

Lisa Freeland, MiAngel Cody, Rene Valladares

2:30 pm - 2:45 pm

Break

2:45 pm - 4:00 pm

Concurrent Sessions II (choose one)

Option #1: Practical Tips for Your Client Facing Federal Incarceration - Grand Central Ballroom B

2:45 pm - 4:00 pm

This session 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.

Presenter:

David Merchant

2:45 pm - 4:00 pm

Option #2: Crafting a Story for Your Client at Sentencing - St. Nicholas A

Presenter:

Carlos Williams

Option #3: A Methodical Approach to Recognizing Mental Disorders and Cognitive Deficits in Our Clients - Grand Central Ballroom A

Many of our clients have intellectual disabilities or other mental disabilities which impact their cases and your representation of them in numerous ways. This presentation offers a basic yet comprehensive three-step approach to identifying mental disorders and, in particular, intellectual disabilities that your client may have. We also will examine potential information sources, unpack the IQ test, and discuss ethical obligations to our clients with mental disabilities.

Presenters:

Caryll Alpert, Dr. Lyn McRainey

2:45 pm - 4:00 pm

Option #4: Challenging Prior Convictions - Blackstone Ballroom B

An array of new and emerging ways to challenge prior convictions. Discussion includes California's Proposition 47, convictions under Florida's guideline system before 1998, convictions under the Oregon guidelines, state drug "trafficking" offenses that are not really "trafficking" offenses, recent cases applying *Descamps v. United States*, and more.

Presenters:

Amy Baron-Evans, Jennifer Coffin

2:45 pm - 4:00 pm

Option #5: Understanding New Surveillance Tools—Cell Phone Tracking, Stingrays, Hemisphere and More - Blackstone Ballroom A

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Presenter:

Hanni Fakhoury, Esq.

2:45 pm - 4:00 pm

Option #6 Avoiding Immigration Consequences - St. Nicholas B

To many clients, the potential immigration consequences are far greater punishment than the time they face in prison. In this session, we will examine how our clients' convictions affect deportability and potential relief from removal. We'll discuss what alternative dispositions might give your client some hope in the immigration case.

Presenter:

Norma Aguilar

2:45 pm - 4:00 pm

4:00 pm - 4:15 pm

Break

Circuit Breakouts: Attorneys from each circuit will meet separately to discuss issues of mutual concern.

Circuit Discussion Leaders

Jon Jeffress - Fontenelle Room

First—Judy Mizner (D. Mass.) and Eric Vos- Washington City Room

Second—Marianne Mariano (W.D.N.Y.) and David Patton (E.&S.D.N.Y.) - Cozzens Room

Third—Lisa Freeland (W.D. Pa.) and Leigh Skipper (E.D. Pa.) - Merchants Room

4:15 pm - 5:30 pm

Fourth—Jeremy Kamens (E.D. Va.) and Ross Richardson (W.D.N.C.) - St. Nicholas A

Fifth—Tim Crooks (S.D. Tex.) and Judy Madewell (W.D. Tex.) - Blackstone Ballroom A

Sixth—Sumter Camp (M.D. Tenn.) and Miriam Siefer (E.D. Mich.) - St. Nicholas B

Seventh—Monica Foster (S.D. Ind.) and George Taseff (C.D. Ill.) - Paxton Room

Eighth—Laine Cardarella (W.D. Mo.) and Lee Lawless (E.D. Mo.) - Murray Room

Ninth—Geoff Hansen (N.D. Cal.) and Brenda Weksler (D. Nev.) - Grand Central Ballrooms
A & B

Tenth—Dan Hansmeier (D. Kan.) and Julie O’Connell (E.&N.D. Okla.) - Prague Room

Nicole Kaplan (N.D. Ga.) and Randy Murrell (N.D. Fla.) - Blackstone Ballroom B

5:30 pm

Adjourn for the Day

Thursday, May 28, 2015

**Supreme Court and Other Significant Cases Update (Plenary) - Grand Central
Ballroom**

8:30 am - 10:15 am

Presenters:

Erwin Chemerinsky, Paul Rashkind

10:15 am - 10:30 am

Break

10:30 am - 11:45 am

Concurrent Sessions III (choose one)

**Option #1: The Supreme Court and the Rights of Criminal Defendants - Blackstone
Ballroom A**

10:30 am - 11:45 am

Dean Chemerinsky examines key decisions and discusses issues from his new book *The
Case Against the Supreme Court*.

Presenter:

Erwin Chemerinsky

Option #2: Pretrial and Probation Practices - Grand Central Ballroom A

Their practices affect ours. We’ll discuss the latest, how they may affect our clients, and
steps we can take to reap any benefit and limit the damage. The practices we’ll discuss
include: risk assessments (pre-trial and post-conviction), supervision techniques (including
the new sex offender questionnaire), STARR training, and the “offender self-assessment”

10:30 am - 11:45 am

a.k.a. Psychological Inventory of Criminal Thinking Styles (which asks our clients whether they agree with statements like: “Nobody tells me what to do and if they try I will respond with intimidation, threats, or I might even get physically aggressive.”).

Presenters:

Denise Barrett, Laura Mate

Option #3: Avoiding Immigration Consequences - St. Nicholas B

10:30 am - 11:45 am

To many clients, the potential immigration consequences are far greater punishment than the time they face in prison. In this session, we will examine how our clients’ convictions affect deportability and potential relief from removal. We’ll discuss what alternative dispositions might give your client some hope in the immigration case.

Presenter:

Norma Aguilar

Option #4: [Storytelling](#) - St. Nicholas A

10:30 am - 11:45 am

Making a persuasive case for your client at all stages of the proceeding, from pretrial through appeal.

Presenters:

Anthony J. Natale, Sarah Gannett

Option #5 [Mobile Device Forensics](#) - Blackstone Ballroom B

10:30 am - 11:45 am

With modern smart phones, we carry a wealth of information in a small device. The smart phone in your pocket is a computer carrying your most personal details from location to love notes. The demand for cell phone forensics has grown tremendously over the last few years. Hidden location information that is stored even if the phone is not being used can be retrieved. Internet history, text messages, call detail and maps are just some of the additional information that can be used to present a timeline and/or profile of the user. With so many different types of phones in the marketplace, specialty software and hardware has been developed to extract this data. You will see a live demonstration of a cell phone extraction and how that information is used.

Presenter:

Jerry Grant

Option #6 [The Art of Negotiation](#) - Grand Central Ballroom B

10:30 am - 11:45 am

Negotiation: it’s 97% of what we do!! Go beyond standard plea negotiations. Overwhelm prosecutors with atypical pretrial motions and sentencing arguments that the government may want to avoid all together (deconstruction, Guideline issues, legislative developments). Use their case against them: learn how good investigation can make an AUSA not want to burn their cop/witnesses/agents even if the government has a winnable case. Lastly, learn tips on what may work in your local practice.

Presenters:

Raquel Lazo, Brenda Weksler

11:45 am - 1:15 pm

Lunch Break

[Creative Uses of the Federal Rules of Evidence](#) (Plenary) - Grand Central Ballroom

1:15 pm - 2:30 pm

Professor Barbara Bergman, University of New Mexico School of Law

Presenter:

Barbara E. Bergman

2:30 pm - 2:45 pm

Break

2:45 pm - 4:00 pm

Concurrent Sessions IV (choose one)

Option #1: [But What Does It Mean? A Basic Guide to Statutory Construction](#) - St.

Nicholas B

Basic principles of statutory construction for both trial and appellate attorneys, including: textual-versus-nontextual approach; use of dictionaries; commonly used canons of statutory interpretation; finding and using legislative history; interpreting statutes in light of federalism and other policy concerns; and rule of lenity. This session is designed to help participants persuasively argue for the most favorable interpretation of a statute.

Presenters:

Timothy Crooks, Judy Madewell

Option #2: Challenging the Drug Guidelines - Grand Central Ballroom A

Discussion of better ways to measure the harms associated with drug offenses and information helpful to challenging the drug equivalency tables and the drug quantity tables.

Presenter:

Paul J. Hofer

Option #3: Effective Representation in Child Porn Cases - Blackstone Ballroom A

Presenter:

Jason Ser

Option #4: Practical Tips for Your Client Facing Federal Incarceration - Grand Central Ballroom B

This session 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.

Presenter:

David Merchant

Option #5: Technology in the Courtroom - St. Nicholas A

Presenter:

Andrea George

Option #6: Loss Calculations in Fraud and White Collar Cases - Blackstone Ballroom B

Few sentencing issues can be more complex than getting to the bottom of what your client needs to own up to when loss comes to town. Loss drives the Guidelines and can chain your client to restitution for decades to come. Learn the tricks, pitfalls, and danger zones when battling Probation, United States Attorneys, and the Court's calculations.

Presenter:

Kevin Tate

Break

Concurrent Sessions V (choose one)

Option #1: Put a Ph.D. On It—Using Social Science at Sentencing II: - St. Nicholas B

Recent research in criminology and other related social and behavioral sciences provides empirical evidence relevant to the purposes of sentencing. This sequel to last year's presentation will review some of the latest research, show where to find more of it, and provide ideas on how to use it to obtain lower sentences for clients.

Presenters:

Denise Barrett, Laura Mate

Option #2: The Art of Negotiation - Grand Central Ballroom B

Negotiation: it's 97% of what we do!! Go beyond standard plea negotiations. Overwhelm

2:45 pm - 4:00 pm

4:00 pm - 4:15 pm

4:15 pm - 5:30 pm

4:15 pm - 5:30 pm

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Presenters:

Raquel Lazo, Brenda Weksler

4:15 pm - 5:30 pm

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Presenter:

Jason Ser

4:15 pm - 5:30 pm

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Presenter:

Kevin Tate

4:15 pm - 5:30 pm

Option #5: Historical Cell Site Analysis - St. Nicholas A

We are all carrying around miniature tracking devices in today's modern world. Location data is increasingly being used as evidence in criminal cases to great effect. Understanding how to obtain the correct information from a cell phone provider, and then use that information to create maps showing the approximate location of a cell phone during activity is what Cell Site Analysis is all about. After this session, you will have an awareness of how this information is interpreted and what can and what can't be affirmatively stated. In the hands of the prosecution, Cell Site Analysis is often incorrectly interpreted as showing a precise location. In reality, Cell Site Analysis is the least accurate of three ways of determining a cell phone's location (GPS, Triangulation and Historical Cell Site Analysis).

This session will help you in deciding what this type of evidence means to your case and how to use it.

Presenter:

Jerry Grant

4:15 pm - 5:30 pm

Option #6: Writing Motions--With Style - Grand Central Ballroom A

Good lawyering depends on good communicating, and good communicating depends on good writing. The goal for this session is to give you several, easy-to-implement tips that will immediately improve your writing, which will lead to better communicating, which will result in better lawyering.

Presenter:

Jay McEntire

4:15 pm - 5:30 pm

Adjourn for the Day

5:30 pm

Friday, May 29, 2015

- 8:30 am - 9:45 am** **Key Issues in Digital Search Cases post-Riley and Confrontation Clause Cases (Plenary)**
Presenter:
Jeffrey L. Fisher
- 9:45 am - 10:00 am** **Break**
- 10:00 am - 11:30 am** **Ethics Issues Arising in Federal Criminal Practice (Plenary)**
Presenters:
H. Michael Sokolow, Celeste Higgins, Paresh Patel, Dumaka Shabazz
- 11:30 am** **Closing Remarks, Completion of Evaluations, and Adjournment**