



FUNDAMENTALS OF FEDERAL CRIMINAL DEFENSE

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

KIMPTON EPIC HOTEL
270 BISCAYNE BOULEVARD WAY
MIAMI, FLORIDA 33131

JANUARY 10-12, 2019

Draft Agenda (rev. 10/29/2018)

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Thursday, June 7, 2018

7:30 to 8:30 a.m. Registration & Continental Breakfast

8:30 to 8:45 a.m. Introduction & Welcoming Remarks

*Michael Caruso, Federal Defender, Office of the Federal Public Defender
for the Southern District of Florida, Miami, FL*

Henry Bell, Panel Representative, Southern District of Florida, Miami, FL

*George Couture, Attorney Advisor, Defender Services Office Training
Division, Washington, DC*

8:45 to 9:45 a.m. The Essential Role of Investigation in CJA Cases -

*Sharon Samek, Attorney Advisor, Defender Services Office Legal & Policy
Division, Washington, DC*

*Herbert Duzant, Investigator, Office of the Federal Public Defender for the
District of Nevada, Las Vegas, NV*

As cases continue to grow complex with more discovery and information regarding the guilt phase as well as the sentencing phase,

the services of a trained and dedicated investigator can be invaluable. Hear from a defense investigator about the road map towards a successful investigation in all phases of a CJA case. An attorney will join the discussion of how the investigator can assist throughout the life cycle of a case, including quickly locating and interviewing witnesses, obtaining information from digital and paper records and seeking out information that can be important factors for the court to consider at sentencing. The discussion will include information about how to obtain funding for investigative and other expert services.

9:45 to 10:00 a.m. Break

10:00 to 11:00 p.m. The Bail Reform Act

Francisco "Frank" Morales, *Assistant Federal Defender, Office of the Federal Public Defender for the Southern District of Texas, Corpus Christi, TX*

Your performance at the bail hearing will be your first strut for your client. Win or lose, your ability to fight goes a long way. In this session, you will learn to maximize your chances of getting your client released on bond under the Bail Reform Act. This session will address pretrial interviews, third party custodians, favorable witnesses, good pre-discovery discovery, ethics issues, the detention hearing, the appeal of a detention order, and release pending appeal.

11:00 to 12:15 p.m. Pretrial Motions: Stuff to Know to Get the Discovery You Need

David Anthony, *Assistant Federal Defender, Office of the Federal Public Defender for the District of Nevada, Las Vegas, NV*
Michael Kennedy, *Law Offices of Michael Jerome Kennedy, PLLC, Reno and Las Vegas, NV*

Tired of simply begging the federal prosecutor for the discovery and materials you need? This session will explore the advantages to taking a proactive, rather than a passive, approach to using multiple pretrial motions in combination with third party subpoenas to get more of the discovery and evidence you need. Learn from the combined perspective of a trial lawyer and a death penalty post-conviction attorney about other avenues, in addition to Rule 16, to obtain discoverable evidence that might be helpful if considered while mounting a defense to any federal criminal prosecution.

12:15 to 1:30 p.m. Lunch

1:30 to 2:30 **Getting the Most Out of Plea Agreements, Cooperation, and Navigating the Dangers of a Proffer**
TBD

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, 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.

2:30 to 3:30 p.m. **The Federal Sentencing Guidelines: Looking at the Forest to See Its Trees**

Daniel Stiller, *DStillerLLC, Milwaukee, WI*

The key to mastering the application of the federal sentencing guidelines, and then avoiding the full brunt of what they call for, is understanding their fundamentals: the theories upon which they operate. A solid grasp of those fundamentals is equally important to helping clients better understand their place on the sentencing table. This session focuses on a big picture understanding of the guidelines. It is ideal for the less seasoned federal practitioners, but useful as a refresher for everyone.

3:30 to 3:45 p.m. Break

3:45 to 5:00 p.m. **The Federal Sentencing Guidelines: Master the Grid, Then Break those Chains**

Daniel Stiller, *DStillerLLC, Milwaukee, WI*

Working from the guideline fundamentals that were the focus of the earlier session, this hour is envisioned as a more free-form and participant-driven discussion of a holistic approach to federal sentencing. This includes approaches under Section 3553(a) to mitigating both the guidelines and the client, all with the idea of

persuasively arguing a below-guideline sentence as no greater than necessary to serve the goals of federal sentencing.

5:00 p.m.

Closing remarks

George Couture, Attorney Advisor, Defender Services Office
Training Division, Washington, DC

Adjournment

Fundamentals attendees are encouraged to return on January 11-12 to attend the Winning Strategies Program

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