



FUNDAMENTALS OF FEDERAL CRIMINAL DEFENSE SEMINAR

Sheraton Grand Los Angeles
711 S Hope Street
Los Angeles, CA 90017

June 6-7, 2024

Agenda

*All times listed are in Pacific Daylight Time (PDT)
All meeting rooms are on the Ballroom Level*

Thursday, June 6, 2024

- 7:30 – 8:30 a.m. **Registration & Continental Breakfast – *California Ballroom Foyer***
- 8:30 – 8:45 a.m. **Introduction & Welcoming Remarks – *California DEF***
Cuauhtemoc Ortega, *Federal Public Defender, Federal Public Defender's Office for the Central District of California, Los Angeles, CA*
Anthony M. Solis, *CJA Panel Representative for the Central District of California, Calabasas, CA*
George Couture, *Attorney Advisor, Defender Services Office Training Division, Washington, D.C.*
- 8:45 – 9:45 a.m. **Keynote: Celebrating the Guardians of Indigent Criminal Defense *California DEF***
Christina Swarns, *Executive Director, Innocence Project, New York, NY*
- In *Gideon v. Wainwright*, the United States Supreme Court unanimously ruled that every person accused of a crime in America must be provided with legal defense counsel, regardless of their economic status or ability to pay. While there remains much work yet to do before we can declare victory in the fight for racial justice, civil rights and human rights, we celebrate the Federal Defenders and CJA panel attorneys who strive to provide equal justice for marginalized communities.
- 9:45 – 10:00 a.m. **Refreshment Break – *California Ballroom Foyer***

10:00 – 11:15 a.m. **The Essential Role of Investigation in CJA Cases – *The Wiltern***
Susan M. Lin, *Partner, Kairys, Rudovsky, Messing, Feinberg, & Lin, Philadelphia, PA*

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 an experienced former Assistant Federal Defender and CJA panel member about the road map towards a successful investigation in all phases of a CJA case. Learn 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.

11:15 – 11:30 a.m. **Break**

11:30 a.m. – 12:30 p.m. **The Bail Reform Act – *The Wiltern***
Erin Murphy, *Assistant Federal Defender, Federal Public Defender's Office for the Central District of California, Los Angeles, CA*

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.

12:30 – 1:45 p.m. **Lunch (*on your own*)**

1:45 – 3:00 p.m. **Pretrial Motions: Stuff to Know to Get the Discovery You Need**
The Wiltern
Benjamin Schiffelbein, *Assistant Federal Defender, Federal Public Defender's Office for the Virginia Western District, Roanoke, VA*

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.

3:00 – 3:15 p.m. **Refreshment Break – *California Ballroom Foyer***

3:15 – 4:15 p.m. **Getting the Most Out of Plea Agreements, Cooperation, and Navigating the Dangers of a Proffer – *The Wiltern***
Fredilyn Sison, *CJA Attorney, Asheville, NC*

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.

4:15 – 4:30 p.m. **Break**

4:30 – 5:30 p.m. **From Presentence to Release – Avoiding BOP Pitfalls So Your Client Doesn't Serve More Time Than Necessary – *California DEF***
Stephen Sady, *Chief Deputy Federal Defender, Federal Public Defender's Office for the District of Oregon, Portland, OR*

This session will provide practical tips if your client faces federal imprisonment. It will include factors to consider for your client to receive the earliest feasible release date.

5:30 p.m. **Adjourn for the Day**

Friday, June 7, 2024

7:30 – 8:30 a.m.

Registration & Continental Breakfast – *California Ballroom Foyer*

8:30 – 9:30 a.m.

Black Drivers Have a Problem in Richmond, Virginia: How to Win a Selective Enforcement Claim – *California DEF*

Laura Koenig, *Assistant Federal Defender, Federal Public Defender's Office for the Eastern District of Virginia, Richmond, VA*

Eli Coston, Ph.D., *Assistant Professor, Virginia Commonwealth University, Richmond, VA*

In selective enforcement cases, the party challenging prosecution carries a heavy burden. They must show discriminatory effect and discriminatory intent in order to prove that the police targeted a person because of their race, ethnicity, or other impermissible factor. So how do you prove a selective enforcement claim based on the police selectively stopping black drivers, for example? This session will discuss how to investigate, develop, and present a winning selective enforcement claim, including use of experts to prove discriminatory effect and discriminatory purpose.

9:30 – 9:45 a.m.

Refreshment Break – *California Ballroom Foyer*

9:45 – 10:45 a.m.

Supreme Court Update – *California DEF*

Andrew Adler, *Assistant Federal Public Defender and Chief of the Appellate Division, Federal Public Defender's Office for the Southern District of Florida, Miami, Florida*

This session provides an update on recent Supreme Court decisions affecting federal criminal practice, and reviews issues currently under consideration.

10:45 – 10:55 a.m.

Break

10:55 – 11:55 a.m.

Sentencing Fundamentals: The Legal Framework

The Wiltern

Norma Aguilar, *Assistant Federal Defender, Federal Defenders of San Diego, Inc., San Diego, CA*

Each and every one of us representing individuals in federal court must understand sentencing. To be effective sentencing advocates, we must know our clients, our cases, and the legal framework that shapes and governs sentencing. This session focuses on the fundamentals of sentencing law, from the Constitution to the statutes, to the guidelines. Attendees will be introduced to 18 U.S.C. § 3553 and other relevant statutes. We also will tour the guidelines manual, with an eye towards understanding its basic structure and the theories on which it operates. A solid grasp of these basics will reveal there is both room and need for creative sentencing advocacy. It takes understanding this legal framework, where it is rigid and where it bends, to effectively advocate for the best possible outcomes for our clients.

11:55 a.m. – 1:00 p.m. Lunch (*on your own*)

1:00 – 2:00 p.m. Dirty Test, No Shows: The Basics of Supervised Release Violations
The Wiltern

Jen Uyeda, *Training Chief, Federal Public Defender's Office for the Central District of California, Los Angeles, CA*

This nuts-and-bolts session will walk you through the basics of a supervised release violation petition to prepare you in the event your client tests dirty, catches a new case, or doesn't show up for testing. Together, we'll go through the relevant law, the documents in the petition, sentencing guidelines, options, issues to flag, and sentencing considerations.

2:00 p.m. Closing Remarks—Adjournment

Michael Oppenheimer, *Attorney Advisor, Defender Services Office Training Division, Washington, D.C.*

The Winning Strategies Seminar continues after the Fundamentals program ends. Fundamentals Seminar attendees are welcome and encouraged to join the remainder of the Winning Strategies Seminar.