



FUNDAMENTALS OF FEDERAL CRIMINAL DEFENSE II

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

Atlanta Marriott Buckhead Hotel & Conference Center
3405 Lenox Road NE
Atlanta, Georgia 30326
June 7-8, 2018
DRAFT AGENDA

Thursday, June 7, 2018

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

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

Leigh Burton Finlayson, Panel Representative, Northern District of Georgia, Atlanta, Georgia

George Couture, Attorney Advisor, Defender Services Office Training Division, Washington, D.C.

8:45 to 10:00 a.m. Searching and Candid Voir Dire

Kyana Givens, Assistant Federal Defender, Western District of Washington, Seattle, Washington

This session will focus on innovative ways to ignite rich discussion about unconscious bias during voir dire. These skills will be illustrated through a voir dire case study that is transforming jury education and voir dire discussions on race.

10:00 to 10:15 a.m. Break

10:15 to 11:15 a.m. The Essential Role of Investigation in CJA Cases

Sharon Samek, *Attorney Advisor, Defender Services Office Legal & Policy Division, Washington, D.C.*

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

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.

11:15 to 11:30 a.m. Break

11:30 to 12:30 p.m. The Bail Reform Act

Francisco "Frank" Morales, *Assistant Federal Defender, Southern District of Texas, Corpus Christi, Texas*

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 to 1:45 p.m. Lunch

1:45 to 3:00 p.m. Pretrial Motions: Stuff to Know to Get the Discovery You Need

David Anthony, *Assistant Federal Defender, Nevada Federal Public Defender, Las Vegas, Nevada*

Michael Kennedy, *Law Offices of Michael Jerome Kennedy, PLLC, Reno and Las Vegas, Nevada*

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 to 3:15 p.m. Break

3:15 to 4:15 p.m. 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.

4:15 to 4:30 p.m. Break

4:30 to 5:30 p.m. Neuropsychology of the Developing Brain and Trauma
James Garbarino, Ph.D., *Professor, Maude C. Clarke Chair in Humanistic Psychology, Loyola University, Chicago, Illinois*

The Supreme Court has recognized that adolescents are constitutionally different than adults for sentencing purposes. Adolescents are impulsive, lack maturity, have underdeveloped sense of responsibility that leads to recklessness, and are generally more vulnerable to negative outside influences and pressures. At

the same time, an adolescent's character is not fixed, in part, because their brains are still developing well into early adulthood. This session will address the development of the adolescent brain into adulthood, the effects of trauma during that critical development, with an eye to developing powerful mitigation for adult offenders.

5:30 p.m. Adjournment

Friday, June 8, 2018

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

8:30 to 9:30 a.m. The Federal Sentencing Guidelines: Looking at the Forest to See Its Trees

Daniel Stiller, DStillerLLC, Milwaukee, Wisconsin

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.

9:30 to 9:40 a.m. Break

9:40 to 10:40 a.m. The Federal Sentencing Guidelines: Master the Grid, Then Break those Chains

Daniel Stiller, DStillerLLC, Milwaukee, Wisconsin

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.

10:40 to 10:50 a.m. Break

10:50 to 12:00 p.m. Sentencing from the Bench

Experienced District Court Judges will share their perspectives on effective sentencing advocacy.

12:00 p.m. Adjournment (Fundamentals attendees are encouraged to join the Winning Strategies Program)

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