
Below is the agenda for the

2007 WINNING STRATEGIES SEMINAR

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.

Note for Mac Users: The links in this agenda will only function on a PC. If you do not have access to a PC and would like to view the materials in conjunction with a particular session, please send a request to [Lisa Porcari](#). Select materials from this program are also accessible through the Topics Menu on the left side of the Training Materials & Other Publications Page on www.fd.org.

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

2007 WINNING STRATEGIES SEMINAR

FINAL AGENDA

February 8-10, 2007

Albuquerque Convention Center

Albuquerque, NM

Thursday, February 8, 2007

- 7:30 am to 8:15 am** **CONTINENTAL BREAKFAST AND REGISTRATION -
Foyer of Picuris/Sandia/Santa Ana**
- 8:15 am to 8:30 am** **WELCOME - Picuris/Sandia/Santa Ana**
Robert Burke, Chief, Training Branch, Office of Defender Services,
Washington, D.C.
Lori A. Green, Attorney-Advisor, Training Branch, Office of Defender
Services, Washington, D.C.
Stephen McCue, FPD, District of New Mexico
- 8:30 am to 9:00 am** **KEYNOTE ADDRESS - Picuris/Sandia/Santa Ana**
“Does It Get Any Better Than This?”
Claire Rauscher, Executive Director, Federal Defenders of Western
North Carolina, Inc., Charlotte, North Carolina
- 9:00 am to 10:00 am** **LITIGATING MULTI-DEFENDANT CONSPIRACY CASES**
Picuris/Sandia/Santa Ana
Jon Sands, FPD, District of Arizona
*Most of the cases that are being paneled are co-defendant cases,
primarily conspiracies. These cases are increasingly focusing on
gangs and charging CCEs and RICO. This session will discuss what
the government has to show to prove a bona fide conspiracy; what
motions (severance, bill of particulars, exclusion of evidence, etc.) to
file; how to find out who their informants are; and how to get
interviews with them.*
- 10:00 am to 10:15 am** **BREAK - Foyer of Picuris/Sandia/Santa Ana**

10:15 am to 11:15 am **COMMUNICATING WITH CLIENTS: DIFFERENCES ARE NOT A BARRIER - Picuris/Sandia/Santa Ana**

Cecilia Alfonso, Alfonso Consultants, Troy, NY

Clients' backgrounds and experiences often vary from those of the attorneys representing them. This session focuses on understanding the different experiences of our clients and overcoming any resulting obstacles in order to provide the best representation possible.

11:20 am to 12:20 pm **BREAK-OUT SESSIONS (Choose One)**

1) Defending Illegal Reentry Cases - Navajo

Kari Converse, Esq., Albuquerque, New Mexico

This session will discuss the available defenses and detail sentencing strategies for illegal reentry cases. Included will be attacks on criminal history (Faretta, avoiding two point bumps for "being found" after conviction on state charges, over representation, and categorization of priors), and Booker sentencing issues (how to discover your Booker issues through an adequate social history, common mitigation themes, mitigation of predicate felony, and use of graphics in sentencing memoranda).

2) Defending a Methamphetamine Manufacturing Case - Nambe

Kenneth Gleria, Esq., CJA Panel Representative, District of New Mexico, Albuquerque, New Mexico

Roger Finzel, AAFP, District of New Mexico

A discussion focusing on defending methamphetamine manufacturing cases from the initial client contact through sentencing. Like many other types of drug cases, methamphetamine cases often turn on suppression issues and gaining information on cooperating informants. Following an overview of these issues, this presentation will address considerations relevant to deciding whether to enter a plea or go to trial. Finally, this presentation will discuss sentencing issues in methamphetamine cases, particularly the application of the Sentencing Guidelines and the interplay between the Guidelines and the statutory mandatory minimums.

3) Plea Negotiations and Proffers - Laguna

Marc Robert, AAFP, District of New Mexico

A discussion of how to negotiate a plea, with a particular focus on providing charge alternatives that limit a client's exposure, and avoiding pitfalls as you guide your client through proffers to the government.

4) Introduction to the Federal Sentencing Guidelines¹ - Acoma

Lori A. Green, Attorney-Advisor, Training Branch, Office of Defender Services, Washington, D.C.

Stephen Marley, Attorney-Advisor, Training Branch, Office of Defender Services, Washington, D.C.

Judges still rely heavily on these now “advisory” Guidelines. In this session we will explain how to do the calculations and where to find the jewels that can help your client.

5) Major Crimes Off Indian Reservations - Santo Domingo

Richard Winterbottom, Senior Litigator, AFPD, District of New Mexico

Federal jurisdiction in Indian cases can be based upon the status of the accused, the nature of the alleged offense and the location of the offense. The session will address those issues along with others that arise in the context of defending cases where the alleged crime occurred on an Indian reservation.

6) Confronting the Adam Walsh Child and Protection Safety Act of 2006 - Cochiti

Amy Baron-Evans, National Sentencing Resource Counsel, Boston, Massachusetts

Sara Noonan, Research and Writing Specialist, National Sentencing Resource Counsel, Boston, Massachusetts

The Adam Walsh Child Protection and Safety Act of 2006 was enacted on July 27, 2006. In addition to establishing a national sex offender registry law, the Act made significant changes to sexual abuse, exploitation, and transportation crimes. The Act created new substantive crimes, expanded federal jurisdiction over existing crimes, and increased statutory minimum and/or maximum sentences. This session discusses how to address its potential impact on your cases.

12:20 pm to 1:30 pm

LUNCH (on your own)

1:30 pm to 2:30 pm

REPEAT OF 11:20 A.M. BREAK-OUT SESSIONS

¹The afternoon sentencing breakout session will offer both new and experienced practitioners an opportunity to address specific practice questions such as how to group counts or calculate criminal history.

- 2:35 pm to 3:35 pm** **SUPREME COURT UPDATE- Picuris/Sandia/Santa Ana**
 Paul Rashkind, AFPD, Southern District of Florida
*Have there been other criminal cases since Booker/Fanfan?
 Find out what other significant criminal decisions have been
 handed down and what others are forthcoming.*
- 3:35 pm to 3:50 pm** **BREAK - Foyer of Picuris/Sandia/Santa Ana**
- 3:50 pm to 5:15 pm** **JUDGES' PANEL: Expectations After Booker, How
 Have Things Changed Two Years Down the Road
 Picuris/Sandia/Santa Ana**
 Moderator: Stephen McCue, FPD, District of New Mexico
 The Honorable Carl J. Barbier, Judge, U.S. District Court for the
 Eastern District of Louisiana
 The Honorable Consuelo Marshall, U.S. District Court for the Central
 District of California
 The Honorable Martha Vazquez, Chief Judge, U.S. District Court for
 the District of New Mexico
*In 2005, Booker/Fanfan redefined the sentencing landscape, or did it?
 This panel discussion features district judges from around the country
 who will discuss how Booker has impacted sentencing and discuss their
 perspectives on sentencing post-Booker. Learn how counsel can
 improve their advocacy at sentencing. In addition, there will be an
 opportunity to ask questions related to sentencing issues.*
- 5:15 pm** **ADJOURN FOR THE DAY**
- 5:15 pm to 6:45 pm** **EVENING RECEPTION - Doubletree Albuquerque Hotel,
 VIP Suite 1502**

Friday, February 9, 2007

7:45 am to 8:30 am **CONTINENTAL BREAKFAST AND REGISTRATION**
Foyer of Picuris/Sandia/Santa Ana

8:30 am to 9:30 am **COMPUTER CRIMES - Picuris/Sandia/Santa Ana**
Patrick Black, FPD, Eastern District of Texas
This presentation will focus on federal computer and internet crimes including hacking, identity theft, cyberstalking, unauthorized password, and fraud. It will also provide tips on how to investigate an alleged computer crime. Additionally, the session will focus on child pornography cases with an in-depth discussion of statutes, constitutional issues, search and seizure, pretrial detention, sentencing guidelines and other related issues.

9:35 am to 10:35 am **BREAK-OUT SESSIONS (Choose One)**

1) Cultural Issues in Defending Native Americans - Navajo
Ron J. Whitener, J.D., Asst. Professor of Law, Assistant Director, Native American Law Center, Director, Tribal Court Criminal Defense Clinic, University of Washington School of Law, Seattle, WA
Cultural issues may affect how a defense attorney communicates with and prepares the defense of a Native American client. How you communicate with and deal with potential witnesses can also be impacted by these issues. Learn about some of them and how you can effectively plan your defense.

2) CJA Issues: Getting the Resources You Need - Nambe
Randall Schnack, CJA Supervising Attorney,
Central District of California
Learn how to obtain funding when you need technical and other litigation support. There will also be an opportunity to ask this very knowledgeable and experienced attorney and court employee any questions you have about CJA administrative policies.

3) Confronting Issues in Alien Smuggling Cases - Laguna
Francisco Morales, AFD, Western District of Texas
This session will address the issues that arise in alien transporter cases, including a discussion of the elements of proof, potential pretrial motions and the use of deposition testimony in these cases.

4) Recognizing and Confronting Mental Health Issues - Acoma

Caryll Alpert, AFPD, Middle District of Tennessee

Lyn McRaney, Senior Psychological Examiner, Nashville, TN

Is your client a difficult personality? Does he or she have mental health issues that impact his/her ability to assist the defense? Does the condition provide a defense or significant mitigation evidence? Learn about the signs that could indicate the need for further evaluation and what to do with the information once you have it.

5) Analyzing Presentence Reports and Common Sentencing Issues in Illegal Reentry Cases - Santo Domingo

James Langell, AFPD, District of New Mexico

Shari Allison, AFPD, District of New Mexico

This session focuses on some of the major issues involved in sentencings in illegal reentry cases. It presents a method for determining the appropriate enhancement level and discusses some of the arguments that can be used to challenge enhancements and criminal history calculations. It will also look at some of the arguments for a below-Guidelines sentence.

6) Gangs - Cochiti

Katherine Corrigan, Esq., Corrigan Law Corporation, APLC, Newport Beach, CA

Learn how to defend a RICO gang case from bond hearing to sentencing, with a specific focus on creative motions, plea negotiations and sentencing. This session will also provide tips on how to investigate gang cases and how to develop defenses for use at trial or plea negotiation and sentencing, such as whether an “enterprise” even exists and whether the acts attributed to your client were in furtherance of the enterprise or were actually gang activities.

10:35 am to 10:50 am BREAK

10:50 am to 11:50 am REPEAT OF 9:35 A.M. BREAK-OUT SESSIONS

11:50 am to 12:50 pm COMPUTER FORENSICS - Picuris/Sandia/Santa Ana

Jerry Grant, Acting Chief, National IT LAN Application and Policy Support Team

All is not as it seems when it comes to computers. Is what’s on the screen really there? And how did it get there? Does it belong to your client? Who put it there and when did it get there? These questions may be key to your defense. This session addresses those and similar issue that arise in cases involving computers.

12:50 pm to 2:00 pm LUNCH (on your own)

2:00 pm to 3:00 pm

USING A MITIGATION SPECIALIST AND PRESENTING A COMPREHENSIVE CASE FOR MITIGATION AT SENTENCING - Picuris/Sandia/Santa Ana

Paula Xinis, AFD, District of Maryland

A discussion of the development of mitigation evidence. Learn what a mitigation specialist does and how to make effective use of one in your case. This session will also provide tips on how you or your investigator/paralegal can do the mitigation legwork. Finally, there will be a discussion on how to effectively present mitigation evidence through the sentencing memo and at a sentencing hearing.

3:05 pm to 4:05 pm

BREAK-OUT SESSIONS (Choose One)

1) Writing Effective and Persuasive Motions and Briefs - Navajo

Brett Sweitzer, AFD, Defender Association of Philadelphia

This session will address the nuts and bolts of writing a motion and brief that tells a compelling story using vivid language and incorporating the law in a way that grabs the judge's attention.

2) Jury Instructions - Nambe

Susan Jewell Walsh, Esq., Moskowitz and Book, LLP, New York, NY

A discussion of how to prepare jury instructions and special verdict forms that address the issues that arise in criminal cases, including unanimity instructions, conspiracy instructions and other instructions relevant to multiple count and multiple defendant cases.

3) Crawford: A Sixth Amendment Revolution in the Use of Hearsay at Trial - Laguna

Marc Robert, AFD, District of New Mexico

This session reviews the Supreme Court's Crawford decision regarding confrontation of witnesses, discusses its implications, and provides tips on using Crawford at trial and on appeal. It also outlines Crawford related cases pending before the Supreme Court.

4) Identity Fraud and Identity Theft - Acoma

J. Martin Richey, AFD, District of Massachusetts, Visiting Attorney-Advisor, Training Branch, Office of Defender Services, Washington, D.C.

Identity theft is the crime du jour. This session will provide an overview of federal identity theft and identity fraud cases, including review of the relevant statutes and sentencing guidelines, and potential pretrial, trial, and sentencing issues.

5) Discovery Issues With a Twist – Rule 16 and More

Santo Domingo

Michael Kennedy, First Assistant Federal Public Defender, District of Nevada

Brian Abbington, Chief of the Capital Habeas Unit, District of Nevada

David Anthony, AFPD, Nevada Capital Habeas Unit, District of Nevada

A look at discovery issues from the combined perspectives of a trial attorney and attorneys working on cases post conviction. This session addresses the requirements of Rule 16, but goes beyond it by looking at discoverable evidence from the perspective of a lawyer seeking post conviction relief. Learn about other avenues to discoverable evidence that might be helpful if considered while mounting a defense to criminal charges.

6) Effective Cross-Examination Techniques - Cochiti

Calvin Malone, AFPD, Federal Public Defender Services of Eastern Wisconsin

This presentation focuses on cross-examination techniques. It will also cover the need to fully investigate the background of the witness, including the details of his/her deal with the government prior to cross-examination.

4:10 pm to 5:10 pm

SEARCH AND SEIZURE - Picuris/Sandia/Santa Ana

Margaret Katze, AFPD, District of New Mexico

This session addresses search and seizure issues with an analysis of expectations of privacy. Border stops, body cavity searches and other types of searches and seizures will be discussed. Learn how to mount effective challenges.

5:10 pm

ADJOURN FOR THE DAY

Saturday, February 10, 2007

- 8:30 am to 9:00 am** **CONTINENTAL BREAKFAST**
Foyer of Picuris/Sandia/Santa Ana
- 9:00 am to 10:00 am** **ATTACKING WIRETAPS - Picuris/Sandia/Santa Ana**
Brent Newton, AFPD, Southern District of Texas
A step by step discussion of how to attack wiretap evidence.
- 10:05 am to 11:05 am** **EXPERTS - WHEN YOU SHOULD CONSIDER USING THEM AND HOW TO OBTAIN THEM**
Picuris/Sandia/Santa Ana
Eric Vos, AFPD, District of Maine
A discussion of the use of experts in a criminal case, both pretrial and during trial, including admissibility of evidence, qualifying the expert to testify and cross-examining the government's expert.
- 11:05 am to 12:05 pm** **ETHICS - Picuris/Sandia/Santa Ana**
The Honorable Carmen Garza, United States Magistrate Judge, District of New Mexico
A discussion of some of the ethical issues criminal defense attorneys face and how to handle them while continuing to provide your client with a zealous defense.
- 12:05 pm to 12:15 pm** **CLOSING REMARKS AND ADJOURNMENT**
Foyer of Picuris/Sandia/Santa Ana