Thursday, February 7, 2019

7:30 – 8:30 a.m.  Registration and Continental Breakfast

8:30 – 9:00 a.m.  Welcoming Remarks
Anthony Martinez, Federal Defender, Federal Public Defender for the Western District of North Carolina, Charlotte, NC
Lori Green, Chief, Defender Services Office, Training Division, Washington, DC

9:00 – 10:15 a.m.  Obstacles to Justice: Addressing Implicit Bias, Racial Anxiety, and Stereotype Threat
Kimberly Jade Norwood, Professor of Law and African & African American Studies, Washington University Law, St. Louis, MO

Judges, prosecutors, and defense attorneys all seek justice and fairness. Yet racially disproportionate outcomes in our criminal justice system raise questions about whether the system achieves the goals of each group. This paradox is deeply troubling and confounding to all who pride themselves on their egalitarian ethos. The “mind sciences” are useful both to understand the paradox and to alter the dynamics that often lead to different outcomes for minorities in the criminal justice system – despite good intentions on all sides. This session explores the concept of implicit bias and how it plays out in different areas within the criminal justice system.
10:25 a.m. – 12:00 p.m. **Addressing Issues of Race with the Jury Panel**

The Honorable Richard A. Jones, District Court Judge, United States District Court for the Western District of Washington, Seattle, WA
Kyana Givens, Assistant Federal Defender, Western District of Washington, Seattle, WA

The Western District of Washington has seen dramatic changes in its approach to jury selection based upon the skilled advocacy of a brave defense team, a court willing to allow exploration, and follow-up procedures that cemented long standing change in both the federal and state courts. Here, the defense and the court come together to discuss innovative ways to ignite rich discussion about unconscious bias during voir dire and systematic change.

12:00 – 1:30 p.m. **Lunch**

1:30 – 2:30 p.m. **Batson and Beyond**

Anthony Ricco, Esq., Federal Death Penalty Resource Counsel Project, New York, NY

Prosecutors continue to deliberately exclude people of color from juries. Rather than a jury of their peers, clients are being judged by jurors who may have no ability to understand and/or empathize with their experiences. This presentation discusses how to raise, present, and preserve for review Batson challenges.

2:30 – 2:35 p.m. **Break**

2:35 – 3:35 p.m. **Creating a Culturally Competent Team**

Fredilyn Sison, Assistant Federal Public Defender, Western District of North Carolina, Asheville, NC

This session will explore what "cultural competence" on criminal defense teams looks like, the challenges teams face in achieving and maintaining cultural competence, and provide strategies for thoughtful, respectful representation of clients throughout their case.

3:35 – 3:45 p.m. **Break**
3:45 – 4:45 p.m.  **The Disparate Impacts of Police Face Recognition**  
*Clare Garvie, Senior Associate, Center on Privacy & Technology, Georgetown University Law Center, Washington, DC*

Face recognition technology has become a routine police investigative tool, accessible to over a quarter of all agencies across the United States. Research shows that the accuracy of this tool differs depending on the race, gender, and age of the subject being searched for. These disparate accuracy rates mean that communities of color, who are both disproportionately the target of new police technologies and disproportionately enrolled in face recognition databases, may be more likely to bear the burden of face recognition misidentifications as well.

4:45 – 4:50 p.m.  **Break**

4:50 – 5:50 p.m.  **Plenary**  
*Eddie Moore, Jr., PhD, Director, The Privilege Institute, Iowa City, IA*

5:50 p.m.  **Adjourn for the Day**

**Friday, February 8, 2019**

7:30 – 8:30 a.m.  **Registration and Continental Breakfast**

8:30 – 9:45 a.m.  **Effective Communication with Clients from Different Backgrounds**  
*Moderator:  Lori James-Townes, President & CEO, Expand Now, Baltimore, MD*  
*Eddie Ellis, Jr., Founder/CEO, One by 1, Inc., Olney, MD*  
*Keeda J. Haynes, Assistant Public Defender, Office of the Metropolitan Public Defender, Nashville, TN*

Every federal criminal defense practitioner will work with clients who come from different socio-economic and racial backgrounds from them. As developing a trusting and productive client relationship is critical to providing successful client-centered representation, effective communication between client and defense team is a crucial building block. This session will provide nuts and bolts tools to help develop healthy and beneficial client relationships, with an eye on the differences that challenge many of us, and also delve into how these dynamics impact both the client and the case.
9:45 – 9:50 a.m. Break

9:50 – 11:00 a.m. Strategies for Effective Client Communication (Breakout Sessions)

This session will reinforce the information learned in the Effective Communication plenary. The participants will further delve into specific client issues in a small, non-judgmental group environment where real life scenarios can be openly discussed.

11:00 – 11:15 a.m. Break

11:15 a.m. – 12:15 p.m. Bail Reform

*Alexander Shalom, Senior Supervising Attorney, New Jersey American Civil Liberties Union, Newark, NJ*

There is a strong correlation between bail, risk assessments, and race. While at first glance the process may appear benign, the ramifications are far-reaching. This session will discuss some of the pitfalls of risk assessments and how bail impacts a client’s case from beginning to end.

12:15 – 1:30 p.m. Lunch

1:30 – 3:00 p.m. Judicial Perspectives on Race in the Criminal Justice System

*Moderator: Lori A. Green, Chief, Defender Services Office Training Division, Washington, DC*

*The Honorable Bernice Bouie Donald, Circuit Judge, United States Court of Appeals for the Sixth Circuit, Memphis, Tennessee*

*The Honorable David Hamilton, Circuit Judge, United States Court of Appeals for the Seventh Circuit, Bloomington, Indiana*

*The Honorable Esther Salas, District Court Judge, District of New Jersey, Newark, NJ*

*The Honorable Brian Tsuchida, Magistrate Judge, Western District of Washington, Seattle, WA*

Judges are aware that the promise of equal justice may depend on our willingness to confront issues of race. This judge’s panel offers us the opportunity to hear directly from the bench. The judges will explain how they view the challenges facing our criminal justice system and how they strive to ensure that those appearing in their court are treated fairly in those areas within the court’s control.
3:00 – 3:15 p.m.  Break

3:15 – 4:15 p.m.  Repeat Breakout Sessions

(1) **Raising Equal Protection Claims in Suppression Motions:**
*Kevin Tate, Senior Litigator, Western District of North Carolina, Charlotte, NC*

This course discusses the use of discovery and investigation to obtain relevant documents and data to satisfy the disparate treatment prong when challenging law enforcement initiatives based on violations of the Equal Protection Clause in the Fourth Amendment.

(2) **Childhood Trauma**
*Luli Buxton, Mitigation Specialist, Eastern District of Wisconsin, Milwaukee, WI*

This session will be a discussion of how repeated exposure to violent trauma during childhood impacts the growth and development of children; how the risk of such exposure to violent, traumatic situations is increased in urban settings; and how the availability of or the absence of the type of parental protection, nurture and support that might mitigate the impact of such exposure is an additional determinant of outcome. The impact of such resultant developmental difficulties on an individual's ability to function, even as an adult, will also be discussed, as well as the importance of recognizing and understanding such impaired functioning when representing an individual facing criminal charges. In addition, the use of mental health experts to help obtain this understanding, and the various ways that consultation with a mental health expert might be helpful to a defense team, the ultimate decision-maker, and the client will be discussed.

(3) **Ideas on Culturally Competent Sentencing Investigation**
*Tanya Greene, Resource Counsel and Director of Training, Capital Resource Counsel & Federal Death Penalty Resource Counsel Projects, Bronx, NY*

This session will discuss the role of race and ethnicity in successful sentencing investigation.
(4) Understanding Race and Racism in Indian Country to Better Serve All Clients

TBD

What we can learn from Indian Law and representing Native American that can assist in representation of our other clients? This session explores the race-based laws applicable in Indian Country - the Major Crimes Act, General Crimes Act, Assimilated Crimes Act, Indian Civil Rights Act, Violence Against Women Act – to understand how they apply differently to different races and determine how we can better serve our Native American Indigenous clients and all historically oppressed peoples.

4:15 – 4:25 p.m. Break

4:25 – 5:25 p.m. Repeat Breakout Sessions

(1) Raising Equal Protection Claims in Suppression Motions:
Kevin Tate, Senior Litigator, Western District of North Carolina, Charlotte, NC

This course discusses the use of discovery and investigation to obtain relevant documents and data to satisfy the disparate treatment prong when challenging law enforcement initiatives based on violations of the Equal Protection Clause in the Fourth Amendment

(2) Childhood Trauma
Luli Buxton, Mitigation Specialist, Eastern District of Wisconsin, Milwaukee, WI

This session will be a discussion of how repeated exposure to violent trauma during childhood impacts the growth and development of children; how the risk of such exposure to violent, traumatic situations is increased in urban settings; and how the availability of or the absence of the type of parental protection, nurture and support that might mitigate the impact of such exposure is an additional determinant of outcome. The impact of such resultant developmental difficulties on an individual's ability to function, even as an adult, will also be discussed, as well as the importance of recognizing and understanding such impaired functioning when representing an individual facing criminal charges. In addition, the use of mental health experts to help obtain this understanding, and the various ways that consultation with a
mental health expert might be helpful to a defense team, the ultimate
decision-maker, and the client will be discussed.

(3) **Ideas on Culturally Competent Sentencing Investigation**  
*Tanya Greene, Resource Counsel and Director of Training, Capital Resource Counsel & Federal Death Penalty Resource Counsel Projects, Bronx, NY*

This session will discuss the role of race and ethnicity in successful sentencing investigation.

(4) **America's Failed Hegemon: Reservations and its Jurisprudence in the 21st Century**  
*TBD*

This session will begin with a primer about the government paradigm with reservations, with an emphasis on the Indian Civil Rights Act of 1968. Then it will address changes in Tribal and Federal law, focusing on jurisdictional changes in the last five years, and how they are intertwined with one another. The recent Supreme Court case *United States v. Bryant* and the aftershocks of it will be discussed, as well as what the landscape looks like in a post-*Bryant* world.

6:00 p.m.  Adjourn for Day

**Saturday, February 9, 2019**

7:30 – 8:30 a.m.  Continental Breakfast

8:30 – 9:30 a.m.  **Race and Immigration: Analyzing the Double Penalty for Noncitizen Defendants**  
*Ubong Akpan, Attorney Advisor, Defender Services Office, Training Division, Washington, DC*

Why is immigration relevant on the topic of race and criminal defense? When criminal laws have a disparate impact on certain communities of color, we cannot ignore race and the discriminatory motivations behind such laws. Similar to the racial disparity between the penalties for crack and cocaine, illegal reentry and other immigration offenses have a direct impact on immigrant communities of color. Criminal convictions and subsequent deportations have future detrimental effects on the clients, their families and communities. This session will examine the myths behind the discriminatory laws affecting immigrants and the penalty of
deportation and how to use this information in the defense of immigrant clients—from plea negotiations to sentencing mitigation.

9:30 – 9:45 a.m. Break

9:45 – 10:45 a.m. A Defender’s Race-Conscious Approach to Reduce Implicit Bias Through Narrative, Culture, and Individuation

Walter Goncalves, Assistant Federal Public Defender, District of Arizona, Phoenix, AZ

The presentation will provide lawyers with strategies to reduce the negative impact of implicit bias on clients. Although the focus will be on crimes that mainly affect Latino defendants, the tactics and strategies described apply to any minority defendant (African-American, Middle Eastern, Asian, Native American) facing most criminal charges. The presentation will cover the impact of implicit bias on Latino criminal defendants that arise mainly from historic and contemporary media depictions of Latinos. Areas covered will include client interviewing and consulting, pre-trial motion practice, voir dire, jury instructions, use of experts, sentencing, and other trial and pre-trial subjects. The general theme is that implicit bias can be reduced through the use of narrative, culture, and individuation.

10:45 – 11:00 a.m. Break

11:00 a.m. – 12:00 p.m. What’s Race Got to do with it? Litigating Fourth Amendment Issues

Juval O. Scott, Attorney Advisor, Defender Services Office Training Division, Washington, DC

Often times the government resorts to the convenient but-your-client-said-yes excuse to save an otherwise illegal search. Given changes in technology, the media has unprecedented access to documented instances of sometimes aggressive police practices, and then the general public has unfettered exposure to these recordings. We must now question whether officer-initiated contacts are ever consensual in this environment. This session will discuss framing Fourth Amendment challenges through a new lens in hopes of gaining true justice for the client.

12:00 p.m. Closing Remarks/Adjournment

Lori Green, Chief, Training Division, Defender Services Office, Washington, DC