



RACE IN THE FEDERAL CRIMINAL COURT: STRATEGIES IN PURSUIT OF JUSTICE

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

**Hilton Dallas Park Cities
5954 Luther Lane, Dallas, TX 75225
February 2-4, 2023**

Final Agenda

Thursday, February 2, 2023

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

8:30 – 9:00 a.m. Welcoming Remarks and Introduction to Conference
Akin Adepoju, Attorney Advisor, Training Division, Defender Services Office, Washington, D.C.
Jason Hawkins, Federal Public Defender for the Northern District of Texas, Dallas, TX
Camille Knight, CJA Panel Representative, Northern District of Texas, Dallas, TX

9:00 – 10:15 a.m. PLENARY SESSION: Advancing Cultural Competency in Criminal Defense Spaces
Juval O. Scott, Federal Public Defender, Western District of Virginia, Roanoke, VA
When the criminal defense community converses about issues related to race and ethnicity, the dialogue is typically focused on litigation and/or addressing systemic bias within the courts. But the criminal defense community cannot meaningfully address such pressing issues without being able to focus inward and engage in these critical conversations with one another. This session will discuss racial and ethnic dynamics within defense organizations and offices and invite dialogue geared towards improving our collective work towards the mission, and, ultimately, the results for our clients.

10:15 – 10:30 a.m. Break

10:30 – 11:45 a.m. PLENARY SESSION: Representing the Indigent Client as a Team: Struggles for Justice and Defense Team Roles
Derwyn Bunton, *Chief Legal Officer, Southern Poverty Law Center, New Orleans, LA*

Having multiple sets of eyes on each client's case produces the most effective defense. Team lawyering drives better results. This session will address the challenges in representing indigent clients and will focus on how to work as a team in preparing the best defense for individual clients, define success as a defense team while achieving justice for clients.

11:45 – 1:30 p.m. Lunch – On Your Own

Optional Lunch Gathering Spaces – The Rooms Where It Happens

12:00 – 1:30 p.m. LITIGATION ROOM
Kyana Givens, *Interim Federal Defender for the Districts of Massachusetts, New Hampshire, and Rhode Island, Boston, MA*

Want to get together, brainstorm, and discuss the ideas in your head before you attended the conference or what has inspired you today? Want to share the name of expert(s) or some skill you successfully used in resolving a case? Some article you just read? Bring your beverage, lunch, or just come for an informal conversation or listen in on litigation topics, ideas, and connect with new friends or re-connect with others.

12:00 – 1:30 p.m. COMMUNITY ENGAGEMENT ROOM
Tara I. Allen, *Associate Professor of Law, Roger Williams University School of Law, Bristol, RI*

We must work collaboratively to achieve our shared vision. Do you have ideas on how defense professionals can develop or deepen relationships and trust between defenders and community members, community-based organizations, and community institutions (e.g., courts, schools, housing, health care providers, and employers) to improve case outcomes and life outcomes for clients, and to strengthen families and communities? Intentional interactions can inspire change. Please come by to share ideas or learn what others are doing. Sharing is caring.

12:00 – 1:20 p.m. OFFICE ISSUES ROOM
Donetta Bray, *Chief Paralegal, Federal Public Defender Office for the Northern District of Ohio, Cleveland, OH*

Do you have ideas on strategies to increase racial diversity and create an environment of inclusion to best serve staff and clients of all races and ethnicities? Come join the conversation on how to have a sustainable practice.

1:20 – 1:30 p.m. Break – then back to regularly scheduled conferencing

1:30 – 2:30 p.m. PLENARY SESSION: Challenging Discrimination in the Striking of Jurors: A Roadmap for Successful *Batson* Litigation
Patrick Mulvaney, *Managing Attorney and Director of the Capital Litigation Unit, Southern Center for Human Rights, Atlanta, GA*

Race discrimination in jury selection continues to undermine the fairness of criminal trials. Prosecutors often strike prospective jurors on the basis of race, and the process established in *Batson v. Kentucky*, 476 U.S. 79 (1986), has failed to address the problem. However, some recent cases from across the country provide a helpful roadmap for successful litigation under *Batson*. This session will discuss those cases as well as strategies for approaching, raising, and preserving *Batson* issues.

2:30 – 2:45 p.m. Break

2:45 – 3:45 p.m. PLENARY SESSION: “Crazy Pants to Possible, Possible to Probable, Probable to Precedential”: Understanding and Litigating Race Within the Fourth Amendment
Byron Conway, *Director, Diversity, Equity, Inclusion, & Belonging, Office of Respondent Parent Counsel, Denver, CO*

This workshop seeks to help attendees understand the importance of contemplating race within criminal cases, especially within the context of the Fourth Amendment. The social science research affiliated with this topic has been robust and extensive within the last 20 years. As criminal defense professionals, it is incumbent upon us to know that the data is there and figure out the how/when it is viable to use the data in our practices. The hope for this workshop is to educate, encourage, support, and destigmatize the concept of race litigation within advocacy in criminal cases.

3:45 – 4:00 p.m. Break

4:00 – 5:15 p.m. PLENARY SESSION: Speaking Truth to Power: Practical Approaches for De-Biasing the Court
Callie Steele, *Chief Trial Deputy, Santa Barbara County Public Defender’s Office, Santa Barbara, CA*
Tara I. Allen, *Associate Professor of Law, Roger Williams University School of Law, Bristol, RI*

To provide effective and impactful representation for our clients, defense attorneys must address racial injustice directly. This session will provide practical advocacy approaches to de-biasing the court at various stages of the case, including at bail, pretrial, and sentencing hearings.

5:15 p.m. Adjourn for the day

Friday, February 3, 2023

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

8:30 – 9:45 a.m. PLENARY SESSION: Bridging the Empathy Gap Between Courts, Prosecutors, Probation and Our Clients

Miriam Gohara, *Clinical Professor of Law, Yale Law School, New Haven, CT*

Rachelle Veasley, *Director of Client & Mitigation Services, Federal Defenders of New York, New York, NY*

The presentation will discuss how to build a mitigation case that shows stakeholders like judges, prosecutors, and probation officers the often-traumatic contexts our clients have come from and highlights their rehabilitations pre-sentencing and in reduction-in-sentencing cases. This means considering historical, racial, and community trauma that contextualizes our clients' experiences.

9:45 – 10:00 a.m. Break

10:00 – 11:00 a.m. PLENARY SESSION: In spite Of, Because Of: Race as a Component of Mitigation

Eric Davis, *Felony Trial Division Chief, Harris County Public Defender's Office, Houston, TX*

Due to the persistence of racism in America, non-whites are more likely to experience hardships related to their race or ethnicity that are relevant to mitigation than whites. This presentation will discuss strategies on how to respectfully incorporate racial or ethnic inequality as mitigation.

11:00 – 11:15 a.m. Break

11:15 – 12:30 p.m. PLENARY SESSION: Client Voices/Life After Prison

Moderator: Jarrett Adams, *Author of Redeeming Justice and Founding Partner, The Law Offices of Jarrett Adams, Chicago, IL*

Naji Mujahid Fenwick, *Staff Attorney, Medical Legal Community, Partnership Philadelphia Legal Assistance, Philadelphia, PA*

Serena Nunn McCullers, *RS Legal Media, Atlanta, GA*

Crystal Warner, *Dover, DE*

The session will provide an opportunity to hear directly from those who have experienced the unnecessary cruelty of the law firsthand. They will share their experiences, answer questions, and offer perspectives on how to better develop a trusting and productive client relationship, effective communication between client and defense team, and address the issue of race in their cases.

12:30 – 1:45 p.m. Lunch – On Your Own

1:45 – 2:45 p.m. PLENARY SESSION: Rooted in Racism: Immigration Based Prosecutions and their Disproportionate Impact on Our Latinx Community

Diana Rashid, *Managing Attorney, National Immigrant Justice Center's Detention Project, Chicago, IL*

Over the past two decades, unauthorized entry and re-entry prosecutions have become the most prosecuted federal crimes. The statutes, 8 U.S.C. § 1325 and 8 U.S.C. § 1326, were passed into law over a century ago with overtly white supremacist goals and rhetoric directed disproportionately at Latinx people. In keeping with their racist origins and application, these laws cruelly punish immigrants and fuel the mass incarceration of Black and Brown people; waste government resources; destroy families; hurt communities; and deprive migrants seeking to come to the United States of vital protections. In this session, the presenter will provide context and an overview of the law, the compelling stories directly from the community, and litigation strategies to employ in the fight for justice.

2:45 – 3:00 p.m. Break

3:00 – 4:00 p.m. Concurrent Breakout Sessions I

1. Creating and Cultivating a Culture of Inclusion

Donetta Bray, *Chief Paralegal, Federal Public Defender Office for the Northern District of Ohio, Cleveland, OH*

Robin Konrad, *Assistant Federal Public Defender, Capital Habeas Unit, District of Arizona, Phoenix, AZ*

(Repeats at 4:15 p.m.)

In this breakout session, we will facilitate an interactive discussion on ways to create, cultivate, and maintain an inclusive work environment. To provide a safe space and thus encourage honest communication, the information shared during this session will be confidential. We will also provide tips and resources to assist offices in promoting and achieving equity and inclusion.

2. Cooley and the Representation of Native American Clients Post-McGirt

Evangelos Arvanetes, *Assistant Federal Defender, Federal Defenders of Montana, Billings, MT*

(Repeats at 4:15 p.m.)

This session will address the impactful decisions of McGirt and Cooley and their consequences. This presentation will also include a discussion of litigation strategies to consider when appointed to Indian country cases and a discussion of the critical role that cultural competency plays when representing a client from the Native American community.

3. **“Float Like A Butterfly, Sting Like A Bee!” Navigating The Court System From The Muslim Perspective.**

Adeel Bashir, *Assistant Federal Defender and Appellate Supervisor, Office of the Federal Public Defender, Middle District of Florida, Tampa, FL*

(Repeats at 4:15 p.m.)

From the infamous prosecution of Muhammad Ali, through the post-9/11 era, a combination of a politics of fear and government backed surveillance has been used to target Muslims. This has resulted in unwarranted surveillance, unlawful profiling, and exclusionary immigration policies targeting people based on their faith, nationality, or national origin. But even as awareness of discrimination against Muslims has grown both among our society, there remains a disconnect between the judiciary and Muslim culture. This presentation will address that disconnect from both the Muslim lawyer and litigant perspective, and discuss some of the stereotypes and tropes surrounding Muslim communities, how they are exploited in the legal system, and how to challenge the injustice and unfair treatment.

4. **Secondary-Trauma and Practical Tips on Addressing Burnout in Criminal Defense Practice.**

Riddhi Mukhopadhyay, *Director, Sexual Violence Law Center, Seattle, WA*

(Repeats at 4:15 p.m.)

Criminal defense professionals often represent people who have been traumatized as victims of abuse, crime or other adversity. As the case unfolds, we are often exposed to emotional stories, highly charged situations, as well as gruesome and disturbing evidence, which can lead to secondary or vicarious trauma. Symptoms include burnout, PTSD, irritability, as well as difficulties with sleep and diminished concentration. This session will include strategies to implement a trauma-informed approach and provide practical tips on addressing burnout.

4:00 – 4:15 p.m. Break

4:15 – 5:15 p.m. Concurrent Breakout Sessions II

1. **Creating and Cultivating a Culture of Inclusion**

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5:15 p.m.

Adjourn for the day

Saturday, February 4, 2023

7:30 – 9:00 a.m. Continental Breakfast

9:00 – 10:15 a.m. PLENARY SESSION: Peeling Back the Layers of Bias in Risk Assessments: From the Legal to the Practical

Brandon Buskey, *Director, ACLU Criminal Law Reform Project, New York, NY*

The criminal legal system uses algorithmic risk assessment tools in its pretrial detention and sentencing decisions. Some of these tools include the Pretrial Risk Assessment (PTRA), the Post-Conviction Risk Assessment (PCRA), and PATTERN under the First Step Act. This presentation addresses how to evaluate the tools concerning their objectivity, accuracy, reliability, and fairness. This presentation discusses ideas on how defense professionals can challenge or educate the courts on how racial disparities become embedded in, and multiplied by, these assessment tools.

10:15 – 10:30 a.m. Break

10:30 – 11:45 a.m. PLENARY SESSION: Fixing a Broken System

Jarrett Adams, *Author of Redeeming Justice and Founding Partner, The Law Offices of Jarrett Adams, Chicago, IL*

Speaking from experience as a civil rights and criminal defense lawyer, experienced investigator, and an exoneree, this presentation discusses the need for criminal justice reform and an end to racial injustice in our legal system. This presentation highlights the racist tactics used to convict young men of color, the unique challenges facing exonerees once released, and the lack of equal representation in our courts, illustrating how upholders of the law have a collective responsibility to push reform forward and how they must be more proactive in the space.

11:45 a.m. Closing Remarks

Joan Politeo, *Attorney Advisor, Training Division, Defender Services Office, Washington, D.C.*