



## FUNDAMENTALS OF FEDERAL CRIMINAL DEFENSE

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

InterContinental Hotel New Orleans

444 St. Charles Avenue

New Orleans, LA 70130

February 23-24, 2023

**All sessions are in LaSalle B, 3rd Floor, unless otherwise noted**

**(Draft Agenda 1/12/23)**

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Thursday, February 23, 2023

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

8:30 to 8:45 a.m.    **Introduction & Welcoming Remarks - LaSalle A, 3rd Floor**

*Claude J. Kelly, Federal Public Defender, Eastern District of Louisiana,  
New Orleans, Louisiana*

*Townsend Myers, Panel Representative, Eastern District of Louisiana,  
New Orleans, Louisiana*

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

8:45 to 9:45 a.m.    **Ethics - The Attorney Client Relationship: Crossing All Lines-  
LaSalle A, 3<sup>rd</sup> Floor**

*LaRonda R. Martin, Assistant Federal Defender, Office of the Federal  
Public Defender for the District of Nevada, Las Vegas, NV*

Every case begins and ends with the client. The attorney client relationships is the foundation of any preparation for trial or sentencing. If it has not been built, neither will thrive. Whether the challenge be race, sexual orientation, language, education, or religious - the attorney client relationship cannot grow without

addressing these issues. Join a discussion about building better client relationships.

**9:45 to 10:00 a.m. Break**

**10:00 to 11:15 a.m. The Essential Role of Investigation in CJA Cases**

*Cameron Blazer, Circuit Public Defender, Charleston, SC*

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 to 11:30 a.m. Break**

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

*Francisco "Frank" Morales, Assistant Federal Defender, Office of the Federal Public Defender for the 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**

*Kevin Tate, Senior Litigator, Office of the Federal Public Defender for the Western District of North Carolina, Charlotte, NC*

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**

*Fredilyn Sison, Assistant Federal Defender, Training Coordinator & Director, Office of the Federal Public Defender for the Western District of North Carolina, 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 to 4:30 p.m. Break**

**4:30 to 5:30 p.m. From Presentence to Release - Avoiding BOP Pitfalls So Your Client Doesn't Serve More Time Than Necessary - LaSalle A, 3rd Floor**

*Stephen Sady, Chief Deputy Federal Defender, Office of the Federal Public Defender 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.            **Adjournment**

**Friday, February 24, 2023**

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

8:30 to 9:30 a.m.    **Supreme Court Update - LaSalle A, 3rd Floor**

*Andrew Adler, Assistant Federal Public Defender and Chief of the Appellate Division, Office of the Federal Public Defender 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.

9:30 to 9:40 a.m.    **Break**

9:40 to 10:40 a.m. **A View from the Bench: Strategies for Skillfully Navigating Evidentiary Issues - LaSalle A, 3rd Floor**

*Honorable Lisa Rau, Founder Resonate Mediation and Arbitration (and retired 19 year Judge for the Court of Common Pleas, Philadelphia County), Philadelphia, PA*

Admitting and excluding evidence can be the crucial difference between winning and losing at trial. Judges generally want to follow the law and do not want their errors to be memorialized in an appellate opinion. Yet, evidentiary issues can be foreseeable, unforeseeable, and tricky. Educating your judge in advance about key evidentiary issues can be the secret to your success at trial. In this session, a seasoned state court trial judge will provide specific strategies to use before and during trial to diplomatically get judges to understand and rule correctly on evidentiary issues and permit you to make your record for appeal.

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

10:50 to 11:50 a.m. **Sentencing Fundamentals: The Legal Framework**

*J. Stephen Roberts Jr., Trial Attorney, Federal Defenders of Eastern Washington, Spokane, WA*

*Amy H. Rubin, Managing Attorney, Federal Defenders of Eastern Washington, Spokane, WA*

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.

11:50 p.m.

**Adjournment (Winning Strategies Seminar I continues— Fundamentals attendees are welcome and encouraged to join the remainder of the Winning Strategies Seminar)**