

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

FUNDAMENTALS OF FEDERAL CRIMINAL DEFENSE

June 8-9, 2017, JW Marriott, Houston, Texas

**Draft Agenda
Liberty Hall 2-3**

Thursday, June 8, 2017

7:30 to 8:30 a.m. Registration & Continental Breakfast - Liberty Hall Foyer

8:30 to 8:45 a.m. INTRODUCTIONS & WELCOMING REMARKS - Liberty Hall 4-5

Marjorie Meyers, Federal Public Defender, Southern District of Texas, Houston, Texas

David Adler, Panel Representative, Southern District of Texas, Bellaire, Texas

Craig Crawford, Attorney Advisor, Defender Services Office Training Division, Washington, DC

8:45 to 10:00 a.m. "LITIGATING" INSIDE AND OUTSIDE OF THE COURTROOM: LESSONS FROM BUCK V. DAVIS - Liberty Hall 4-5

Christina Swarns, Litigation Director, NAACP Legal Defense Fund, New York, New York

Effective advocacy often requires more than just writing an excellent brief, or presenting a powerful argument. The decision makers in our cases are influenced by not only what happens inside the courtroom, but also what happens in the community, the media, the legislature and at the dinner table. Christina Swarns will explain how the defense team for Duane Buck, a death sentenced prisoner in Texas, used all of these advocacy vehicles - and more - to effectively and strategically advantage their client.

10:00 to 10:10 a.m. Break - Liberty Hall Foyer

10:10 to 11:25 a.m. THE ESSENTIAL ROLE OF INVESTIGATION IN CJA CASES

Sharon Samek, *Attorney Advisor, Defender Services Office Legal & Policy Division, Washington, D.C.*
Kevin Murphy, *Investigator, Philadelphia, Pennsylvania*

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 long time indigent 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.

11:25 to 11:30 a.m. Break

11:30 to 12:30 p.m. THE BAIL REFORM ACT

Francisco 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 Office of Michael Jerome Kennedy, PLLC, Reno, 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 3:05 p.m. Break - Liberty Hall Foyer

3:05 to 4:05 p.m. GETTING THE MOST OUT OF PLEA AGREEMENTS, COOPERATION, AND NAVIGATING THE DANGERS OF A PROFFER
Speaker not confirmed

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.

4:05 to 4:15 p.m. Break

4:15 to 5:15 p.m. DISMANTLING THE CONSPIRACY CHARGE: PRETRIAL THROUGH TRIAL - Liberty Hall 4-5

Michael Kennedy, Law Office of Michael Jerome Kennedy, PLLC, Reno, Nevada

This session will address the big issues that arise when a client is charged with being part of a conspiracy, including pretrial challenges, trial tactics, and sentencing issues.

5:15 p.m. Adjournment

Friday, June 9, 2017

7:30 to 8:30 a.m. **Registration & Continental Breakfast - Liberty Hall Foyer**

8:30 to 9:30 a.m. **SUPREME COURT UPDATE - Liberty Hall 4-5**

Paul Rashkind, *Supervisory Assistant Federal Public Defender and Chief of the Appellate Division of the Federal Public Defender, 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. **THE FEDERAL SENTENCING GUIDELINES: WALKING BEFORE WE RUN**

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.

10:40 to 10:50 a.m. **Break - Liberty Hall Foyer**

10:50 to 11:50 a.m. **THE FEDERAL SENTENCING GUIDELINES: LET'S RUN**

Daniel Stiller, *DStillerLLC, Milwaukee, Wisconsin*

Working from the fundamentals that were the focus of the earlier session, this hour will explore particular aspects of guideline application. As importantly, time will be devoted to mitigating the guidelines: effectively communicating to the sentencing judge how and why, on case-specific terms, the correct calculation of a client's offense level and criminal history score produces a recommended

sentence greater than necessary to serve the goals of federal sentencing.

11:50 a.m. Adjournment (Winning Strategies Seminar resumes at 1:00 p.m.)

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