JAMES C. DUFF
Director

JILL C. SAYENGA
Deputy Director

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

WASHINGTON, D.C. 20544

THEODORE J. LIDZ
Assistant Director

Office of Defender Services

December 3, 2008

To: Clerks, United States District Courts

FROM: Andrea P. Taylor
Deputy Chief, Training Branch

RE: Winning Strategies Training Program for CJA Panel Attorneys
(ACTION REQUESTED)

The Administrative Office of the U.S. Courts, Office of Defender Services Training Branch announces Winning Strategies, a national training program open to CJA panel attorneys across the country from Thursday, February 5 through Saturday, February 7, 2009. Winning Strategies will be held in Charleston, South Carolina and will provide valuable tuition-free CLE for both experienced and new CJA panel attorneys. The program focuses on a variety of federal criminal defense topics, including computer crimes, identity theft, mortgage fraud, sentencing guidelines and sentencing mitigation. A draft agenda is attached. Limited financial assistance to defray the costs of travel and lodging is available to applicants demonstrating financial need. Details regarding how to register for Winning Strategies, apply for financial assistance and further information regarding our training programs and resources can be found at www.fd.org.

Early registration for Winning Strategies is strongly encouraged. Hotel reservations must be made by January 9, 2009 in order to receive the contracted rate. Please share this information with your CJA panel members and post the attached flyer in a location accessible to them.

If you have any questions regarding the Winning Strategies Seminar, please contact Karen Holsendorff, Administrative Assistant, at Karen_W_Holsendorff@ao.uscourts.gov or (202) 502-2905. Thank you.

Attachments

WINNING STRATEGIES SEMINAR

FEBRUARY 5-7, 2009

THE MILLS HOUSE HOTEL

115 MEETING STREET
CHARLESTON, SOUTH CAROLINA

Attendance is free and is limited to CJA Panel Attorneys

"I look forward to attending more of these trainings as I grow into a more proficient federal defense attorney."

"High quality speakers, content, organization, administration writing was just superb. Thank you!"

"Please continue these fabulous programs. The speakers are top-notch and they make learning enjoyable."

"Thank God for the Training Branch, www.fd.org and a government that still pays to help defend the same people it accuses and imprisons."

-- Testimonials from
2008 Winning Strategies Seminars,
New Orleans, LA & Scottsdale, AZ

Winning Strategies is a valuable educational opportunity that focuses on the nuts and bolts of federal criminal practice, including the sentencing guidelines and sentencing mitigation. Experienced and new panel attorneys can benefit from attending the Winning Strategies seminars. These programs offer varied presentations on topics of interest in both large and small group settings.

Financial Assistance for lodging and transportation is available for this program.

For a complete list of training programs and the Financial Assistance application offered by the Office of Defender Services/Training Branch, please visit our website at **WWW.FD.ORG**

ADMINISTRATIVE OFFICE OF THE U.S. COURTS
OFFICE OF DEFENDER SERVICES TRAINING BRANCH
WINNING STRATEGIES SEMINAR

Mills House Hotel
Charleston, South Carolina
February 5-7, 2009

Draft Agenda
(December 1, 2008)

Thursday, February 5, 2009

7:45-8:15 AM **Registration & Continental Breakfast**

8:15-8:30 AM **Welcoming Remarks**
Parks Small, Federal Public Defender, District of South Carolina
Douglas C. Greene, Attorney-Advisor, Office of Defender Services Training Branch, Washington, D.C.

8:30-9:00 AM **Keynote Address**
Julie Stewart, President
Families Against Mandatory Minimums, Washington, D.C.

9:00-10:30 AM **Computer Crimes**
Kenneth Hawk, AFPD, Eastern District of Texas
This presentation will focus broadly on federal computer and internet crimes, including child pornography, hacking, identity theft, cyberstalking, unauthorized password use, and fraud. The session will provide tips on how to investigate an alleged computer crime, and will include a discussion of the pertinent statutory, constitutional, search and seizure, pretrial detention, and sentencing issues.

10:30-10:45 AM **Break**

10:45-11:45 AM **BREAK-OUTS**

1. **The Nuts and Bolts of Federal Firearms Law**
Leigh Skipper, AFD, Eastern District of Pennsylvania
This presentation will cover the most common legal issues arising during both the guilt-innocence phase and the sentencing phase of federal firearms cases, with particular emphasis on prosecutions under 18 U.S.C. §922(g) (1) (the felon in possession statute) and the corresponding sentencing guideline, USSC §2K2.1. Common trial defenses and sentencing enhancements (including the statutory enhancement for armed career criminals) will be reviewed.

2. **The Lazy Susan: Federal Rules of Evidence 404 and 405**
Omodare Jupiter, AFPD, Southern District of Mississippi
This session reviews the basics of Rule 404(b), but wait: what could be more fun than turning the tables on the prosecutor? While we are naturally more comfortable playing defense in trial, this presentation also explores the benefits of going on offense by using rules 404 and 405 to introduce character evidence of an alleged victim or a government witness.

3. **Computer Forensics**
Rick Lavaty, Computer Services Administrator, District of Arizona
All is not as it seems when it comes to computers. Is the picture on the screen really there? And how and when did it get there? Does it belong to your client? These questions may be key to your defense. This session addresses those and similar issues that arise in cases involving computers.

4. **Aggravated Identity Theft**
Martin Richey, AFPD, District of Massachusetts
Francisco Morales, AFPD, Western District of Texas
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. **Attacking Wiretaps**
Liliana Coronado, AFPD, Central District of California
Callie Glanton Steele, AFPD, Central District of California
A step-by-step discussion of how to attack wiretap evidence.

6. **Sentencing Guidelines 101**

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

Alan Dorhoffer, United States Sentencing Commission, Washington, D.C.

This session will cover the basics of applying the federal sentencing guidelines. It will be of particular use to those practitioners who are new to federal criminal practice.

7. **Gangs**

Martin Sabelli, Esq., Law Offices of Martin Sabelli, San Francisco, CA,

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

In today's times, indictments alleging conspiracy and RICO (and conspiracy to commit RICO) have become the darlings of the United States Attorney's Office. Massive "takedowns" of local street gangs (and some not so local) are occurring across the country and will likely visit most panel lawyers. This panel will focus on issues that arise in these cases and suggest approaches to defending the alleged gang member client in conspiracy and RICO cases. A gang is a gang; but is a gang a RICO enterprise? Maybe not.

11:45-1:00 PM **Lunch**

1:00- 2:00 PM **Booker, Gall and Kimbrough: A View from the District Court Bench**

Moderator: Parks Small, FPD, District of South Carolina,

Panelists- Judges: Honorable Cameron Curry, U.S. District Judge, District of South Carolina

Honorable Alexander Williams, U.S. District Judge, District of Maryland

TBA

In 2005, Booker redefined the sentencing landscape – or did it? This panel discussion features district judges from around the country who will discuss their perspectives on sentencing post-Booker, Gall and Kimbrough so that counsel may learn ways to improve sentencing advocacy.

2:00 - 3:00 PM

Mitigation Presentation: Using a Mitigation Specialist and Presenting a Comprehensive Case for Mitigation at Sentencing
Robert Dunham, AFD, Eastern District of Pennsylvania
Stuart Lev, AFD, Eastern District of Pennsylvania
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.

3:00-3:15 PM

Break

3:15- 4:30 PM

BREAK OUTS (Repeat of Morning Sessions 1-7; Session 6 is Part II of a two-part presentation on applying the Federal Sentencing Guidelines)

1. **Firearms**
2. **The Lazy Susan: Federal Rules of Evidence 404 and 405**
3. **Computer Forensics**
4. **Identity Theft**
5. **Attacking Wiretaps**
6. **Sentencing Guidelines 202**
   Stephen Marley, Attorney-Advisor, Office of Defender Services, Training Branch, Washington, D.C.
   Alan Dorhoffer, United States Sentencing Commission, Washington, D.C.
   This session will cover more complicated sentencing guideline application issues, focusing particularly on how prior offenses (especially crimes of violence and controlled substance offenses) may trigger the Career Offender, Armed Career Criminal, and other recidivist enhancements.

7. **Gangs**

4:30- 5:45 PM

Supreme Court Update
Paul Rashkind, AFPD, Southern District of Florida
This session provides an update on recent Supreme Court decisions affecting federal criminal practice, and reviews issues currently under consideration.

Friday, February 6, 2009

8:00-8:30 AM Continental Breakfast

8:30 - 9:45 AM **Resources for CJA Panel Attorneys: A Panel Discussion**

Sean Broderick, National Litigation Support Administrator, Office of Defender Services Training Branch, Oakland, CA
Randall Schnack, CJA Supervising Attorney, Central District of California
Jeffrey Lindy, Esq., CJA Panel Representative, Eastern District of Pennsylvania

The CJA Guidelines specify how panel attorneys obtain funding for expert services and other resources to defend their clients in appointed criminal cases. This panel includes a seasoned CJA practitioner, a Supervising CJA Attorney, and the National Litigation Support Administrator who will discuss how to obtain funding when you need technical and other litigation support and the best ways to make use of the funds. In addition, they will address the potential role of investigators and mitigation specialists. There will be an opportunity to ask questions regarding these issues.

9:50-10:50 AM **BREAK-OUTS**

1. **Child Porn: Computer Based Sex Crimes -Defending Enticement and Child Pornography Cases**

   Peter Fleury, AFPD, Northern District of Texas

   This session will focus on some of the issues that often arise in connection with the defense of internet based sex crimes. Among other topics, this session will cover the most commonly charged offenses, detention issues, pretrial motions, trial defenses, and sentencing issues.

2. **Mental Health**

   Rikki Lynn Halavonich, M.D., Lowcountry Psychiatry, Charleston, SC

   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 mental health issue 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.

3. **Conspiracy, CCE, RICO and Co-Defendant Issues**
Richard G. Novak, Esq., Law Offices of Richard G. Novak, Pasadena, CA
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 the government's informants are; and how to get interviews with them.

4. **Cross-Examination**
Cynthia Roseberry, Assistant Clinical Professor, DePaul University, College of Law, Chicago, IL
This presentation will provide a discussion of cross-examination techniques, and the need to fully investigate the background of the witness – including the details of his/her deal with the government.

5. **Plea Negotiations and Proffers**
Callie Glanton-Steele, AFPD, Central District of California
Michael Meetze, AFPD, District of South Carolina
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.

6. **Trial Skills: Evidence Meets Hollywood: Training the Litigator's Ear to Make, Meet, and Win Trial Objections**
Francisco Morales, AFPD, Western District of Texas
Making, meeting, and winning trial objections starts with listening to everything that occurs in the courtroom setting. This session uses a multimedia approach (television, movies, music, etc.) to train the litigator's ear in spotting, meeting, and winning evidentiary objections.

7. **Discovery Software**
Sean Broderick, National Litigation Support Administrator, Office of Defender Services Training Branch, Oakland, CA
This session will provide strategies to handle two file formats that the government is using for electronic discovery: Tiff files that are provided with the run-time IPRO viewer, and PDF files which may or may not have searchable text. During this presentation, we will provide an overview of how CJA Panel attorneys can use discovery provided in IPRO by the government to search for information, tag documents and add annotations - all using the free version of the program. In addition we will discuss Adobe Acrobat Professional (not the free Adobe Reader), and how you can use it for reviewing, editing, and annotating discovery that has come in PDF or Tiff format. Though not a database, it provides excellent tools for attorneys wanting to manage their electronic discovery.

10:50-11:00 AM **Break**

11:00-12:30 PM **Sentencing Update Panel Discussion**
Amy Baron-Evans, National Sentencing Resource Counsel, Boston, MA
Paul Hofer, Esq., Washington, D.C.
The panelists will discuss the impact of the Supreme Court's decisions in *Rita*, *Gall* and *Kimbrough*; the changes to the Sentencing Guidelines effective November 1, 2008; and the potential areas for Guideline amendments in 2009.

12:30-2:00 PM **Lunch**

2:00-3:00 PM **BREAK-OUTS** (Repeat of Morning Sessions)

1. **Defending Enticement and Child Pornography Cases**
2. **Mental Health**
3. **Conspiracy, CCE, RICO and Co-Defendant Issues**
4. **Cross-Examination**
5. **Plea Negotiations and Proffers**
6. **Trial Skills: Evidence Meets Hollywood: Training the Litigator's Ear to Make, Meet, and Win Trial Objections**
7. **Discovery Software**

3:00-4:30 PM	**Introduction to Mortgage Fraud Terms, Players, Defense Strategies, Pretrial Motions and Defenses** *Kevin Tate, AFD, Western District of North Carolina* *Angela Parrott, AFD, Western District of North Carolina* This session will provide an overview of the unique terms and forms associated with the mortgage application process and the role of the different players in the typically charged mortgage fraud scheme.
4:30- 4:45 PM	Break
4:45- 5:45 PM	**Discovery Issues with a Twist: Rule 16 and More** *Michael Kennedy, First Assistant, AFPD, District of Nevada* *David Anthony, AFPD, Capital Habeas Unit, District of Nevada* A look at discovery issues from the combined perspectives of a trial attorney and a post-conviction attorney. 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.
6:00- 7:30 PM	***Reception*** ***Hosted by the Law Offices of David and Frank McCann*** *66 Hasell Street, Charleston, South Carolina*

Saturday, February 7, 2009

8:00-8:30 AM **Continental Breakfast**

8:30-9:30 AM **Attacking the Government's "Junk Science"**

Robert Epstein, AFD, Eastern District of Pennsylvania

A discussion of how to challenge the reliability of the government's "junk science" experts with a particular focus on firearms and tool mark examiners, fingerprint experts and forensic document examiners.

9:35-10:35 AM **BREAK-OUTS**

1. **Defending Unlawful Re-Entry Cases**

   Dennis Candeleria, AFPD, District of New Mexico

   This session discusses how to get and understand critical documents in the A-file; 4th Amendment issues and current circuit split in 1326 cases; how to raise collateral attacks to deportation or removal; how to parole in a material witness matter; derivative citizenship and other alienship defenses.

2. **Anders Briefs & Other Issues for Appeal**

   Kristen Rogers, AFD, Southern District of Alabama

   Alan DuBois, AFPD, Western District of North Carolina

   Don't know where and how to get started with an appeal? This presentation provides creative approaches to getting started and putting together an effective written product.

3. **Using PowerPoint to Create Effective and Dynamic Closing Arguments**

   Thomas C. Plunkett, Esq., St. Paul, Minnesota

   Technology can be a powerful tool in the courtroom. Learn how to use Powerpoint to make your closing arguments come alive for the jury.

4. **Crawford: A Sixth Amendment Revolution in the Use of Hearsay at Trial**

   Donna Coltharp, AFPD, Western District of Texas

   This session reviews the right to confront witnesses after Crawford and its progeny, and provides tips on using Crawford at trial and on appeal.

5. **Retroactivity of the Amended Crack Cocaine Guideline**
Martin Richey, AFDP, District Of Massachusetts
Molly Roth, AFPD, Western District of Texas
This session will focus on the effective representation of clients who may benefit from the retroactive application of the new (lower) crack cocaine sentencing guideline.

6. **Defending Against Armed Career Criminal Designation**
Brenda Weksler, AFPD, District of Nevada
Learn how to attack, defend and deflect the ACCA designation.

7. **The Impact of the Victim Witness Protection Act on the Federal Sentencing Process**
Paul Kish, Esq., Kish and Lietz, P.C., Atlanta, GA
There have been a variety of amendments to the federal Victim Witness Protection Act, the most recent occurring in 2005. These amendments have greatly increased victim's rights in the federal sentencing process. For too long, defense attorneys only thought about how to work with victims in death penalty cases or prosecutions involving violent acts. However, the recent VWPA amendments mean that more and more victims will show up in court to talk during the sentencing of our clients in cases where no violence is involved. More and more prosecutions for economic crimes are defended by appointed counsel, with the defendant having long lost his or her assets prior to indictment. Appointed counsel need to: 1) be aware of these changes to the VWPA which give greater voice to victims in such cases, 2) must recognize how a "live" victim in court at the sentencing hearing can completely change the dynamic of the sentencing process, and 3) should be prepared to work on some of the strategies learned in the death penalty context for trying to communicate with and at least neutralize the impact of victims at the sentencing hearing.

10:35-10:45 AM **Break**

10:45- 11:45 PM **Developing Theories and Themes and How to Use Them Effectively in Opening Statements and Closing Arguments**
Anthony Natale, AFPD, Southern District of Florida
Having a theme and/or theory of defense organizes your presentation and helps you tell a compelling story that benefits your client. This session will address how you develop theories and themes and weave them into your defense.

11:45-1:15 PM **Panel Discussion: Ethical Issues Confronting Criminal Defense Attorneys**
Moderator: Dan Stiller, FD, Eastern and Western Districts of

Wisconsin

Panelists: *David McCann, Esq., CJA Panel Representative, District of South Carolina*
Raquel Wilson, AFD, Western District of North Carolina
Jeffrey Lindy, Esq., CJA Panel Representative, Eastern District of Pennsylvania

A discussion of some of the recurring ethical issues faced by criminal defense attorneys, and tips on how to handle these issues while continuing to provide a zealous defense.

1:15-1:30 PM **CLOSING REMARKS**

Douglas C. Greene, Attorney-Advisor, Office of Defender Services Training Branch, Washington, D.C.