

THE PUBLIC DEFENDER SERVICE

for the District of Columbia



CHAMPIONS OF LIBERTY

**2009
PUBLIC DEFENDER SERVICE
FOR THE DISTRICT OF COLUMBIA
Criminal Defender Training Program
SUMMER SERIES**

**JUNE – JULY 2009
Moot Court Room
(Courtyard Side)
601 Pennsylvania Avenue, NW
Washington, DC 20004
(202) 628-1200**

2009
PUBLIC DEFENDER SERVICE
CRIMINAL DEFENDER TRAINING PROGRAM
SUMMER SERIES

COURSE DESCRIPTIONS

NUTS AND BOLTS OF DEBRIEFING: WHEN TRIAL ISN'T THE ANSWER FOR YOUR CLIENT

Presenters: **Brandi Harden, Managing Partner, Harden & Pinckney**
Heather Pinckney, Managing Partner, Harden & Pinckney

Materials: [Now Available](#)

TUESDAY, JUNE 9, 2009
5:30 – 7:30 p.m.

In this session we will explore tactics and incentives used to determine if debriefing is the best choice for your client. We will cover a multitude of debriefing issues, and provide you with the ground rules for successful plea negotiations, including how to use the standard debriefing letter to your client's advantage. We will also discuss how to effectively assist your client in providing debriefing information. Finally, we will explore some of the special considerations presented when the client chooses to debrief as a cooperating witness.

WHEN TRIAL IS THE ANSWER: EFFECTIVE CROSS-EXAMINATION OF COOPERATING WITNESSES

Presenter: **Janet Mitchell, Supervising Attorney, Trial Division**
Jason Tulley, Supervising Attorney, Trial Division

Materials: [Now Available](#)

THURSDAY, JUNE 11, 2009
5:30 – 7:30 p.m.

This session will examine how to litigate disclosure of key cooperating witness information before trial using the discovery rules. We will discuss how to structure and approach the cross-examination of the cooperating witness to demonstrate the witness's motive to curry favor with the government. We will also demonstrate how to use the cooperating agreement as a tool to discredit the cooperating witness. We will conclude with a discussion of some of the common ways cooperating witnesses try to defend themselves – “the agreement means I always have to tell the truth” and “I have no idea what sentence I would have gotten before this agreement” – and how to handle those situations.

7th Annual Forensic Science Conference: Where is the *Science* in Forensic Science?

June 12 - 13, 2009

In February 2009, the National Academy of Sciences (NAS), the most prestigious scientific organization in the U.S., issued a revolutionary report entitled, *Strengthening Forensic Science in the United States: A Path Forward*. The report has created widespread media attention and new scrutiny of the forensic sciences. Championing the need for significant reforms across the spectrum, this Congressionally-mandated report exposes the many deficiencies in the forensic sciences and how they are oftentimes misused in our criminal justice system. The report also brings welcome support to criminal defense attorneys who have been on the frontlines of many forensic science challenges, whether through admissibility hearings or cross-examination, in our courtrooms.

Friday night will focus on the general background of the NAS Report and its broad implications for criminal defense practice. Saturday will be a daylong event devoted to translating the substance of the report into very specific practical lines of cross-examination attack on forensic science evidence. There will be a special focus on fingerprint evidence since the lessons drawn from those cases equally apply to many other disciplines that may be encountered in our cases.

The entire conference is free to court-appointed defense attorneys and investigators who practice in the Superior Court of the District of Columbia. Registration is limited to 120 participants. CLE Certificates of Attendance will be available. **Registration closes May 29, 2009.** In your registration email, please include your name, firm name, mailing address, email address, telephone number, fax number, and D.C. Bar number.

**To register or for more information, please contact Lysandra Pachuta at
lpachuta@pdsdc.org or at (202) 628-1200.**

Friday, June 12, 5 pm to 7:30 pm

Discussion of the NAS Report and reception

Marian Koshland Science Museum of the National Academy of Sciences

6th and E St, NW (two blocks from the courthouse)

Saturday, June 13, 8:30 am to 4:30 pm

Kellogg Conference Center at Gallaudet University

800 Florida Avenue, NE, Washington DC 20002

Near New York Ave-Florida Ave-Gallaudet Station on the Red Line

Free parking adjacent to the conference site.

BEYOND THE *ROSSER* LETTER: GETTING THE MOST OUT OF OUR DISCOVERY RULES

Presenters: Eric Klein, Supervising Attorney, Trial Division
Maribeth Raffinan, Supervising Attorney, Trial Division
James Whitehead, Staff Attorney, Appellate Division

Materials: [Now Available](#)

TUESDAY, JUNE 16, 2009
5:30 – 8:30 p.m.

The discovery process is a constant struggle to obtain information from the government, but in many instances, whatever information that is received is “too little, too late.” Learn how to even the playing field by taking a more active and creative approach to requesting and receiving discovery from the government. In this discussion, we will navigate Rule 16, *Brady*, the Innocence Protection Act, and other discovery mechanisms – all in an effort to become more successful in defending our clients.

THE WINNING CROSS-EXAMINATION: IMPEACHMENT BY PRIOR INCONSISTENT STATEMENTS AND OTHER MEANS

Presenters: Larry Kupers, Supervising Attorney, Trial Division
Liyah Brown, Staff Attorney, Trial Division

Materials: [Now Available](#)

THURSDAY, JUNE 18, 2009
5:30 – 8:30 p.m.

Two key goals of cross-examination are to discredit what a government witness says and to discredit the government witness generally. Impeachment is the classic means of achieving these goals. This session will focus on basic impeachment techniques utilized in cross-examination, including impeachment by prior inconsistent statements, whether sworn or unsworn and whether recorded or not, and by refreshing by recollection. Other forms of discrediting the witness, particularly exploring witness bias, will also be discussed.

GETTING A JURY IN A HURRY AND RACE AT A FAST PACE: MANAGING VOIR DIRE AND *BATSON* CHALLENGES IN SUPERIOR COURT

Presenters: Arthur Ago, Deputy Trial Chief
Nina Chernoff, Staff Attorney, Special Litigation Division
Materials: *No Materials will be Posted for this Session*

TUESDAY, JUNE 23, 2009
5:30 – 7:30 p.m.

This session will provide practical strategies for making the most of the generally limited voir dire in Superior Court. One essential ingredient to effective jury selection is the ability to create an open line of communication between you and prospective jurors. We will examine how to find common ground with prospective jurors regarding anticipated defenses as well as how to effectively unearth prospective juror bias. For example, we will explore the types of juror prejudices and/or biases that are likely to be evoked by the evidence, and we will discuss how to test belief systems and attitudes on such matters as eyewitness identification, the “war on drugs,” and the police or government being on trial. This session will also address the most recent developments in *Batson* law – including good news from the Supreme Court and bad news from the D.C. Court of Appeals – to put you in the best possible position for making and surviving *Batson* challenges.

STACK, CHALLENGE AND DELIVER: CLOSINGS TO SEAL THE DEAL

Presenters: Larry Kupers, Supervising Attorney, Trial Division
Materials: [Now Available](#)

THURSDAY, JUNE 25, 2009
5:30 – 8:30 p.m.

Preparing a closing argument can be a daunting task for even the most experienced trial attorney. This presentation will guide you in how to structure and formulate the themes and context of an effective closing argument. Attention will also be paid to framing the jury instructions as they relate to the facts of the case. Also discussed will be the use of demonstrative evidence to illustrate your closing and persuade the jury.

I'LL NEVER FORGET HIS FACE: CHALLENGING EYEWITNESS IDENTIFICATIONS

Presenters: Dr. Steven Penrod, Distinguished Professor of Psychology, John Jay College of Criminal Justice
Lysandra Pachuta, Forensic Fellow

Materials: [Now Available](#)

**TUESDAY, JUNE 30, 2009
5:30 – 8:30 p.m.**

Few other types of evidence are as powerful as eyewitness identification testimony. However, decades of social science research have shown that eyewitness identifications are highly unreliable. Are you up to date on the state of the science and the law? This session will cover the most current research and litigation strategies in the field, with a special focus on using expert testimony.

LYING LIE DETECTORS: CHALLENGING THE USE OF POLYGRAPH IN POST-CONVICTION SUPERVISION

Presenters: Professor William G. Iacono, Distinguished McKnight University Professor of Psychology and Neuroscience, University of Minnesota
Olinda Moyd, Chief, Parole Division
Rashida Ogletree, Staff Attorney, Special Litigation Division
Kate Philpott, Forensic Fellow

Materials: [Now Available](#)

**THURSDAY, JULY 9, 2009
5:30 – 8:30 p.m.**

For years, polygraphs have been kept out of criminal trials due to their unreliability. Indeed, the very standard that governs the admissibility of scientific evidence in the District, *Frye*, dates back to a 1923 case finding that these “lie detector” tests are unaccepted among scientists, and thus unacceptable as evidence in court. The field has not improved in the last 86 years, and polygraph results are still inadmissible at trial in D.C. And yet, these tests continue to be used in the post-conviction supervision of sex offenders and even introduced as evidence in revocation hearings. This session will explore how the polygraph is used in the post-conviction setting, its questionable scientific footing, and ways in which these tests can be challenged (or maybe even used to a client’s advantage).

RAISING YOUR GAME: EFFECTIVE CROSS-EXAMINATION STRATEGIES FOR DIFFERENT TYPES OF HEARINGS

Presenters: Renee Raymond, Training Director, Trial Division
Materials: [Now Available](#)

TUESDAY, JULY 14, 2009
5:30 – 7:30 p.m.

Different pretrial evidentiary hearings, such as preliminary and preventive detention hearings and suppression hearings, require different cross-examination techniques than in the trial context. Effective cross-examination in a pretrial setting often requires unraveling hearsay testimony that is otherwise inadmissible at trial. This session will help you develop cross-examination strategies in a variety of pretrial hearings that may be useful at trial. Also included will be the do's and don'ts of cross-examination at trial.

TAKING ADVANTAGE OF UNDERUSED EVIDENCE AND TESTIMONY AT TRIAL: INNOVATIVE USES, CREATIVE ATTACKS

Presenters: Jon W. Norris, Managing Partner, The Law Offices of Jon W. Norris
Materials: *No Materials will be Posted for this Session*

THURSDAY, JULY 16, 2009
5:30 – 7:30 p.m.

How can a skilled defense attorney build a case by using uncontested evidence at trial? This session will explore new perspectives in analyzing affirmative evidence in the government's case. Specific trial techniques will be reviewed for identifying and highlighting your opponent's case to your client's advantage. Come join us for this informative and thought-provoking session led by a seasoned criminal defense attorney.

DEFENSE THEORY AND THEMES: CONTINUING THE THREAD THROUGHOUT TRIAL FROM VOIR DIRE TO CLOSING ARGUMENT AND INSTRUCTIONS

Presenters: Renee Raymond, Training Director, Trial Division
Materials: [Now Available](#)

TUESDAY, JULY 21, 2009
5:30 – 7:30 p.m.

The development and pursuit of an appropriate theory of defense is crucial throughout the litigation process. Oftentimes it is necessary to refine the defense theory as the trial develops and new key evidence potentially comes to light. This session will cover the principles and methods of developing a coherent and potentially evolving theory throughout trial. Particular attention will be paid to voir dire and instructions, where theory development is often overlooked and underutilized.

MENTAL HEALTH DIVERSION COURT: NEW AND BETTER OPTIONS FOR DEFENDANTS WITH SERIOUS MENTAL HEALTH NEEDS

Presenters: Magistrate Judge Joan Goldfrank, Presiding Judge of the Mental Health Diversion Court and Chair, Superior Court's Commission on Mental Health
Shay Holman, Pre-Trial Services Liaison to the MHDC
Tejpal Chawla, Deputy Chief, General Crimes Section, United States Attorney's Office

Moderator: Dave Norman, Staff Attorney, Public Defender Service

Materials: [Now Available](#)

THURSDAY, JULY 23, 2009
5:30 – 8:30 p.m.

Launched in late 2007 as a pilot program, the Superior Court's new Mental Health Diversion Court has surpassed all expectations in several dimensions. After the first year, the Court established the MHDC as a permanent calendar. Learn about how this problem-solving court works, the opportunities it offers defendants with serious mental health needs (including persons with co-occurring substance abuse problems), and the certification process to the diversion calendar. The discussion will also highlight other procedural and program options for clients with serious mental health needs, including competence-to-stand-trial examinations, outpatient competence restoration treatment, mental health supervision by PSA's Specialized Supervision Unit, civil commitment, and referral to the new Urgent Care Clinic located at the Superior Court.

APPELLATE COURT ROUND-UP: RECENT DEVELOPMENTS IN THE DCCA AND SUPREME COURT AFFECTING DC CRIMINAL PRACTICE

Presenters: Alice Wang, Supervising Attorney, Appellate Division
Jon Anderson, Staff Attorney, Appellate Division

Materials: *No Materials will be Posted for this Session*

TUESDAY, JULY 28, 2009
5:30 – 7:30 p.m.

Come and learn about the most recent important Supreme Court and District of Columbia appellate cases impacting criminal defense. Discussion will include cases involving the Fourth Amendment, suppression of statements, the Second Amendment, Confrontation Clause issues in gun and drug cases, the illegal use of grand jury subpoenas and witness vouchers by prosecutors, and closing arguments about the lack of corroborative evidence, as well as other recently published opinions.

COLLATERAL CONSEQUENCES OF JUVENILE ADJUDICATIONS

Presenters: **Hannah McElhinny, Supervising Attorney, Juvenile Section, Trial Division**

Vida Johnson, Staff Attorney, Trial Division

Materials: *No Materials will be Posted for this Session*

THURSDAY, JULY 30, 2009

5:30 – 7:30 p.m.

In this session we will explore the collateral consequences of juvenile convictions in areas such as immigration, sex offender registration, housing, public records, DMV, and criminal history points. The session will be an overview designed to help the practitioner advise clients on pretrial decisions and post-adjudication conduct.

Seminar	Date	Time	Attendance (check below)
NUTS AND BOLTS OF DEBRIEFING: WHEN TRIAL ISN'T THE ANSWER FOR YOUR CLIENT	6/9/2009	5:30 to 7:30	
WHEN TRIAL <i>IS</i> THE ANSWER: EFFECTIVE CROSS-EXAMINATION OF COOPERATING WITNESSES	6/11/2009	5:30 to 7:30	
BEYOND THE <i>ROSSER</i> LETTER: GETTING THE MOST OUT OF OUR DISCOVERY RULES	6/16/2009	5:30 to 8:30	
THE WINNING CROSS-EXAMINATION: IMPEACHMENT BY PRIOR INCONSISTENT STATEMENTS AND OTHER MEANS	6/18/2009	5:30 to 8:30	
GETTING A JURY IN A HURRY AND RACE AT A FAST PACE: MANAGING VOIR DIRE AND <i>BATSON</i> CHALLENGES IN SUPERIOR COURT	6/23/2009	5:30 to 7:30	
STACK, CHALLENGE AND DELIVER: CLOSINGS TO SEAL THE DEAL	6/25/2009	5:30 to 8:30	
I'LL NEVER FORGET HIS FACE: CHALLENGING EYEWITNESS IDENTIFICATIONS	6/30/2009	5:30 to 8:30	
LYING LIE DETECTORS: CHALLENGING THE USE OF POLYGRAPH IN POST-CONVICTION SUPERVISION	7/9/2009	5:30 to 8:30	
RAISING YOUR GAME: EFFECTIVE CROSS-EXAMINATION STRATEGIES FOR DIFFERENT TYPES OF HEARINGS	7/14/2009	5:30 to 7:30	
TAKING ADVANTAGE OF UNDERUSED EVIDENCE AND TESTIMONY AT TRIAL: INNOVATIVE USES, CREATIVE ATTACKS	7/16/2009	5:30 to 7:30	
DEFENSE THEORY AND THEMES: CONTINUING THE THREAD THROUGHOUT TRIAL FROM VOIR DIRE TO CLOSING ARGUMENT AND INSTRUCTIONS	7/21/2009	5:30 to 7:30	
MENTAL HEALTH DIVERSION COURT: NEW AND BETTER OPTIONS FOR DEFENDANTS WITH SERIOUS MENTAL HEALTH NEEDS	7/23/2009	5:30 to 8:30	
APPELLATE COURT ROUND-UP: RECENT DEVELOPMENTS IN THE DCCA AND SUPREME COURT AFFECTING DC CRIMINAL PRACTICE	7/28/2009	5:30 to 7:30	
COLLATERAL CONSEQUENCES OF JUVENILE ADJUDICATIONS	7/30/2009	5:30 to 7:30	

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Registration Form

MAIL TO: PUBLIC DEFENDER SERVICE
c/o CRIMINAL DEFENDER TRAINING SUMMER SERIES
633 Indiana Avenue, NW
Suite 248
Washington, DC 20004

OR EMAIL TO: ccontact@pdsdc.org

Name: _____
Bar Number: _____
Title: _____
Organization: _____
Address: _____
City: _____ State: _____ Zip Code: _____
Telephone: _____ Fax: _____
Email: _____

Registrations are due by May 29, 2009, for June sessions and by June 26, 2009, for July sessions. **Space is limited**, so please register early to guarantee seating. Late registrations will be accepted on a space-available basis. **Course materials will not be given out at the sessions**, but will be available before each session on the web at www.pdsdc.org.

All sessions are free, and will begin promptly at 5:30 p.m. Please note that the doors to the building will close at 6:00 p.m. and that participants arriving after 6:00 p.m. will not be granted entrance.

CLE credits are available.

Please note that some sessions will now run for two (2) hours and that CLE credit will be granted accordingly. Those sessions expected to run for three (3) hours are indicated as such. Participants attending sessions designated as two hours that run longer will receive additional CLE time in half-hour increments.