

THE PUBLIC DEFENDER SERVICE

for the District of Columbia



CHAMPIONS OF LIBERTY

**2010
PUBLIC DEFENDER SERVICE
FOR THE DISTRICT OF COLUMBIA
CRIMINAL DEFENDER TRAINING PROGRAM
SUMMER SERIES**

**JUNE – JULY 2010
Moot Court Room
(Courtyard Side)
601 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20004
(202) 628-1200**

**2010
PUBLIC DEFENDER SERVICE
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COURSE DESCRIPTIONS

STRATEGIES FOR NEGOTIATING THE BEST BOP PLACEMENT AND DESIGNATION FOR YOUR CLIENT

Presenters: Brian Roberts, Coordinator, Institutional Services Program
Jeremy Alper, Staff Attorney, Institutional Services Program
Almo Carter, Staff Attorney, Community Defender Division

Materials: [Now Available](#)

**THURSDAY, JUNE 3, 2010
5:30 – 7:30 p.m.**

The PDS Institutional Services Program will be hosting a session to give D.C. Superior Court attorneys a greater understanding of the Federal Bureau of Prisons' ("BOP") Placement and Designation policies and procedures. This program will provide attorneys with information about ways to obtain the best placement for clients who will be serving a sentence in the BOP. The program will include a discussion on educational and vocational programs within the BOP; the types of medical facilities that are available to your clients; how the information in the Pre-Sentence Report affects the future status of clients in the BOP; and the ways in which the new Second Chance Act can be used to increase client opportunities for greater success upon their return to the community.

MASTERING THE PRELIMINARY HEARING: EVALUATING HEARSAY INFORMATION AND OTHER SUSPICIOUS EVIDENCE

Presenter: Larry Kupers, Staff Attorney, Trial Division
Natalie Lawson, Staff Attorney, Trial Division

Materials: [Now Available](#)

**TUESDAY, JUNE 8, 2010
5:30 – 7:30 p.m.**

The preliminary hearing is your opportunity to test the strength and quality of the government's case, and thus, to analyze the facts should the case go to trial. Alternatively, the information gained during the preliminary hearing may be vital in obtaining a favorable plea bargain. This session will explore the basics of the probable cause hearing and will teach you how to conduct

in a meaningful way a preliminary examination that will assist in addressing questions of how to later prepare for trial.

UPPING THE ANTE: ADVENTURES IN CROSS-EXAMINATION

Presenter: Renee Raymond, Supervising Attorney, Trial Division

Materials: [Now Available](#)

THURSDAY, JUNE 10, 2010

5:30 – 7:30 p.m.

This session will begin with a review of the principles of cross-examination, including the decision to conduct cross-examination of a particular witness, when and how to object, and the limitations on cross-examination. We will discuss how to construct crosses to support the defense theory, how to draft winning cross-examinations and how to build one cross upon another. Particular attention will be paid to impeachment and to discrediting the biased witness. This session will include skills practice, so be ready to volunteer and hone your cross-examination skills.

**8th Annual Forensic Science Conference:
Mental Health Issues in Superior Court
What Are We Missing?**

June 11 - 12, 2010

This conference is intended to increase the defense bar's awareness of the varied nature of mental impairment, the many ways in which a client's impairment may be relevant to representation, and the myriad procedural issues that can arise. The conference will kick off on Friday night, as Henderson Hill, Penny Marshall, and Lori James-Towns discuss how they worked with mental health experts to present a winning mitigation defense and save Brian Nichols from the death penalty.

The entire conference is free to court-appointed defense attorneys, investigators and social workers who practice in the Superior Court of the District of Columbia. Space is limited. **Registration closes May 21, 2010.** In your registration email, please include your name, affiliation (e.g. firm, PD's office), email address, telephone number, and D.C. Bar number and indicate if you are a CJA attorney or investigator.

To register or for more information, please contact Kate Philpott at kphilpott@pdsdc.org.

Friday night keynote address (5 – 7:30pm) and Saturday all-day conference (8:30am – 4:30pm) will be held at Arnold & Porter LLP, 555 Twelfth St. NW, Washington DC 20004.

REASONABLE DOUBT: IDENTIFYING, ASSESSING, AND LITIGATING THE MISIDENTIFICATION CASE

Presenters: Michael Satin, Training Director, Trial Division
Hannah McElhinny, Supervising Attorney,
Juvenile Section, Trial Division

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

TUESDAY, JUNE 15, 2010
5:30 – 7:30 p.m.

This session will explore the defense of misidentification. The first part of the session will examine the different tactics and strategies for setting up the defense during the pre-trial stage, from presentment through investigation and motions practice. The second part will focus on trial strategies and techniques, including how to deal with the out-of-court and in-court identification. The use and admissibility of eyewitness identification experts will also be discussed.

DNA TO THE DEFENSE: A PRIMER

Presenters: Jason Tulley, Special Counsel to the Director
Kate Philpott, Forensic Fellow

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

THURSDAY, JUNE 17, 2010
5:30 – 7:30 p.m.

Join us for an informative session where we will introduce you to the basics of how DNA testing, or the lack thereof, can affect the outcome of your case. We will discuss first steps an attorney should take including what discovery requests you need to make, issues that go into possible defense DNA testing, the Innocence Protection Act and your rights to test under the IPA statute. We will also do a short introduction to forensic DNA and arm you with contact information for people who can assist you with valuable information about DNA testing.

THE ART OF PLEA BARGAINING: EVALUATION AND NEGOTIATION

Presenter: Renee Raymond, Supervising Attorney, Trial Division

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

TUESDAY, JUNE 22, 2010
5:30 – 7:30 p.m.

Many criminal cases in Superior Court are resolved through plea-bargaining. Therefore, it is crucial to know the ins and outs of plea-bargaining, and how to secure the best possible outcome for your client. We will discuss techniques for preparing and investigating the case in

anticipation of plea-bargaining, how to negotiate effectively with the government, and how to ensure that your client will be protected as much as possible from any collateral effects of plea-bargaining. Also included in this session will be a short presentation on debriefing.

IMMIGRANT DEFENSE POST-PADILLA: PROVIDING EFFECTIVE ASSISTANCE OF COUNSEL TO NON-CITIZEN CLIENTS

Presenters: Gwendolyn McDowell Washington, Staff Attorney,
Civil Legal Services Division
Paromita Shah, Esq., Associate Director,
National Immigration Project,
National Lawyers Guild

Materials: [Now Available](#)

**THURSDAY, JUNE 24, 2010
5:30 – 8:30 p.m.**

The Supreme Court recently issued a landmark decision in *Padilla v. Kentucky* recognizing that deportation is an integral part of the penalty that may be imposed on non-citizen clients who plead guilty to specified crimes. As a result of the *Padilla* decision, defense attorneys have an affirmative duty to advise their non-citizen clients of the adverse immigration consequences that may flow from a guilty plea. This panel will involve an in-depth discussion on the types of adverse consequences that non-citizen clients may face. The panel will provide tips for effective assistance of counsel to non-citizen clients in their criminal cases and provide tips on how to protect non-citizen clients from adverse immigration consequences stemming from their criminal cases. Ms. Shah will also discuss immigration detention issues that arise from criminal matters. This will be a highly informative session not to be missed by any criminal defense attorney representing non-citizen clients.

SENTENCING ADVOCACY: SHINING A POSITIVE LIGHT ON YOUR CLIENT

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

Materials: [Now Available](#)

**TUESDAY, JUNE 29, 2010
5:30 – 7:30 p.m.**

In this session two experienced criminal litigators will teach you everything you need to know about ensuring the best possible outcome for your client at sentencing. The creation of comprehensive and detailed sentencing memos will be covered, as will proper investigation of the case in anticipation of sentencing, including how to identify and request appropriate letters of support and other records supporting your sentencing position. Sentencing options will be discussed, including how to identify which treatment options might be most appropriate for your

client. Attention will also be paid to the circumstances in which expert and psychological evaluations should be obtained for the client.

**2010 Community Defender Workshop:
Collateral Consequences of a Criminal Conviction:
How to Get Better Results for Our Clients**

***June 30, 2010
4:00 pm – 5:30 pm***

Walter E. Washington Convention Center
801 Mount Vernon Place, N.W.
Washington, DC 20001
Room 150

A person's punishment does not end after the court-imposed sentence is completed. A criminal conviction triggers a variety of consequences under civil and administrative laws which are commonly referred to as collateral consequences. This seminar will provide an overview of how a criminal conviction impacts housing, employment, child custody and other areas under D.C. law and discuss how criminal defense attorneys can work together with civil legal services attorneys to minimize these consequences which impact successful reentry. We will hear from defender agencies that incorporate the consideration of collateral consequences into client representation and receive practical advice on how this practice yields better client results.

The seminar is free to court-appointed defense attorneys, investigators and social workers who practice in the Superior Court of the District of Columbia. Space is limited. **Registration closes June 23, 2010.** In your registration email, please include your name, affiliation (e.g. firm, PD's office), email address, telephone number, and D.C. Bar number and indicate if you are a CJA attorney or investigator.

To register or for more information, please contact April Frazier at afrazier@pdsdc.org.

MORE THAN WORDS: THE WINNING CLOSING ARGUMENT

Presenters: Chiquisha Robinson, Staff Attorney, Trial Division
Phil Andonian, Staff Attorney, Trial Division
Materials: *No Materials will be posted for this Session*

**THURSDAY, JULY 8, 2010
5:30 – 7:30 p.m.**

At trial thorough investigation and pre-trial preparation paves the way for the art of persuasion. Are you maximizing your client's chances of winning with a well structured and articulate closing argument? Join us for an informative session that will provide you with skills to increase

the impact of every word in your closing argument through in-depth critique and analysis of cases and collaboration with your colleagues. A fact pattern will be provided from which the participants will be able to prepare and present their own closing argument.

PERSUADING THE BENCH: CLOSING ARGUMENTS IN JUVENILE TRIALS

Presenters: Hannah McElhinny, Supervising Attorney,
Juvenile Section, Trial Division
Materials: *No Materials will be posted for this Session*

**TUESDAY, JULY 13, 2010
5:30 – 7:30 p.m.**

Most training on closing argument assumes a jury as the audience. Juvenile trials are bench trials, and your audience is the judge. This session will explore the special challenges and issues presented by closing argument in bench trials – how and when to use exhibits (including demonstrative exhibits), how and when to refer to legal principles and standards, how and when to make objections, and how much rhetoric is too much. Through a combination of demonstration, discussion, and skills exercises, our group will learn how to prepare for and execute thorough and compelling closing arguments aimed at persuading the professional fact finder to find reasonable doubt.

LITIGATING *BRADY* ISSUES BEFORE AND AT TRIAL

Presenters: Sandra Levick, Chief, Special Litigation Division
Kate Easterly, Staff Attorney, Special Litigation Division
Materials: [Now Available](#)

**THURSDAY, JULY 15, 2010
5:30 – 7:30 p.m.**

The tide is turning with respect to judicial enforcement of the government's constitutional obligation under *Brady v. Maryland* to timely disclose favorable, material information to the defense. The Court of Appeals has now made it clear that trial courts must exercise more oversight over the government's *Brady* disclosures and have great power and authority to ensure that the government is fulfilling its disclosure obligations under *Brady* before trial begins. Come learn more about (1) motions for pretrial *Brady* orders imposing checklists and deadlines for disclosures, and (2) creative responses to and remedies for *Brady* violations when they do occur.

DISCREDITING THE WITNESS: EFFECTIVE USE OF BIAS CROSS-EXAMINATION

Presenters: Michael Satin, Training Director, Trial Division

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

TUESDAY, JULY 20, 2010

5:30 – 7:30 p.m.

Everyone knows that bias is a proper subject of cross-examination. But how do you develop the cross? How do you combine it with other areas of cross? And just how far can you take it? This session will explore the law surrounding bias cross-examination as well as the techniques and strategies for revealing a witness' bias and arguing it to the jury. Different types of bias, such as motive to curry favor with the government, antagonism towards client, and interest in outcome of the case will be discussed.

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: [Now Available](#)

THURSDAY, JULY 22, 2010

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 decided within the past year involving the Fourth Amendment, suppression of statements, the Second Amendment, ineffective assistance of counsel, late disclosure of *Brady*, expert witnesses, and other topics.

FIRST IMPRESSIONS: COMPELLING OPENING STATEMENTS

Presenters: Arthur Ago, Deputy Trial Chief

Sean Brebbia, Staff Attorney, Trial Division

Grey Gardner, Staff Attorney, Trial Division

Materials: [Now Available](#)

TUESDAY, JULY 27, 2010

5:30 – 7:30 p.m.

A compelling and clear opening statement provides the jury with means by which to critique the government's case throughout the trial. How can we maximize our opportunity to make a convincing first impression on the jury? Join us for a discussion of compelling and innovative techniques that may enhance our effectiveness from the first moments of the trial. Participants

will be provided a fact pattern and have an opportunity to practice skills and experiment with novel ideas.

BEST PRACTICES FOR PRESERVING THE RECORD

Presenters: **Jaelyn Frankfurt, Deputy Chief, Appellate Division**
Lee Goebes, Staff Attorney, Trial Division

Materials: [Now Available](#)

THURSDAY, JULY 29, 2010

5:30 – 7:30 p.m.

Plain error? Non-constitutional *Kotteakos* error? Constitutional error? The standard of review on appeal can make all the difference for chances of reversal. That standard depends completely on what you do and say as the trial lawyer to preserve the error and apprise the trial judge of the issue. Come find out the magic words you need to say to make your best record so that you can either (1) convince the trial judge to rule as you want or (2) make a record so that the Court of Appeals is more likely to give you a second shot.

Seminar	Date	Time	Attendance (check below)
STRATEGIES FOR NEGOTIATING THE BEST BOP PLACEMENT AND DESIGNATION FOR YOU CLIENT	6/3/2010	5:30 to 7:30	
MASTERING THE PRELIMINARY HEARING: EVALUATING HEARSAY INFORMATION AND OTHER SUSPICIOUS EVIDENCE	6/8/2010	5:30 to 7:30	
UPPING THE ANTE: ADVENTURES IN CROSS- EXAMINATION	6/10/2010	5:30 to 7:30	
REASONABLE DOUBT: IDENTIFYING, ASSESSING AND LITIGATING THE MISIDENTIFICATION CASE	6/15/2010	5:30 to 7:30	
DNA TO THE DEFENSE: A PRIMER	6/17/2010	5:30 to 7:30	
THE ART OF PLEA BARGAINING: EVALUATION AND NEGOTIATION	6/22/2010	5:30 to 7:30	
IMMIGRANT DEFENSE POST-PADILLA: PROVIDING EFFECTIVE ASSISTANCE OF COUNSEL TO NON- CITIZEN CLIENTS	6/24/2010	5:30 to 8:30	
SENTENCING ADVOCACY: SHINING A POSITIVE LIGHT ON YOUR CLIENT	6/29/2010	5:30 to 7:30	
MORE THAN WORDS: THE WINNING CLOSING ARGUMENT	7/8/2010	5:30 to 7:30	
PERSUADING THE BENCH: CLOSING ARGUMENTS IN JUVENILE TRIALS	7/13/2010	5:30 to 7:30	
LITIGATING <i>BRADY</i> ISSUES BEFORE AND AT TRIAL	7/15/2010	5:30 to 7:30	
DISCREDITING THE WITNESS: EFFECTIVE USE OF BIAS CROSS-EXAMINATION	7/20/2010	5:30 to 7:30	
APPELLATE COURT ROUND-UP: RECENT DEVELOPMENTS IN THE DCCA AND SUPREME COURT AFFECTING DC CRIMINAL PRACTICE	7/22/2010	5:30 to 7:30	
FIRST IMPRESSIONS: COMPELLING OPENING STATEMENTS	7/27/2010	5:30 to 7:30	
BEST PRACTICES FOR PRESERVING THE RECORD	7/29/2010	5:30 to 7:30	

Please include a copy of this page with your registration form.

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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 (please type) _____

Registrations are due by May 28, 2010, for June sessions and by June 25, 2010, 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.