

THE PUBLIC DEFENDER SERVICE

for the District of Columbia



CHAMPIONS OF LIBERTY

2007

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

JUNE – JULY 2007

**Moot Court Room
(Courtyard Side)**

**601 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20004**

(202) 628-1200

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COURSE DESCRIPTIONS

LOST IN TRANSLATION: A DEFENDER'S GUIDE TO EFFECTIVE ASSISTANCE OF COUNSEL WHEN YOU DON'T SPEAK THE LANGUAGE

Presenters: Gwendolyn McDowell Washington, Staff Attorney,
Civil Legal Services Division, Public Defender Service
Isabel Laguzzi, Language Specialist,
Legal Services Division, Public Defender Service
Mona Asiner, Staff Attorney, Parole Division, Public Defender
Service
Gladys Segal, Certified Court Interpreter, Seagull International
Teresa Salazar, Certified Court Interpreter, Director of Interpreter
Services, United States District Court for the District of Columbia

TUESDAY, JUNE 5, 2007
5:30 – 8:30 p.m.

[Click here for materials](#)

A client's limited English proficiency presents a host of complications that can make effective assistance of counsel a daunting task. This panel will address the fundamentals of providing an effective criminal defense when a language barrier exists between client and counsel. Panelists will discuss how to make effective use of an interpreter in-court and out-of-court; when and how to challenge the accuracy of translation on the record; how to qualify or challenge the use of an interpreter as an expert; how to maintain client secrets and confidences through interpreters and in translations; how to use jury instructions to mitigate potential anti-immigrant juror biases. Panelists will also provide guidance on how to ensure that your client is afforded all resources and legally required accommodations necessary for an effective defense in accordance with the Code of Professional Responsibility, the law, court rules and court procedures. Immigrant witness issues will also be discussed, including case investigation when there are non-English speaking witnesses, related evidentiary and ethical issues, and other legal considerations one must review when attempting to discredit a non-citizen witness. Finally, the panel will discuss the legal rights of non-English proficient criminal defendants under the Court Interpreters Act of 1978, the Language Access Act of 2004, and Superior Court Rules.

KEEPING AN EYE ON YOUR ETHICAL OBLIGATIONS: RECENT CHANGES TO THE DC RULES OF PROFESSIONAL CONDUCT

Presenter: Julia Leighton, General Counsel

**THURSDAY, JUNE 7, 2007
5:30 – 8:30 p.m.**

[Click here for materials](#)

Do you know that there have been recent important changes to the District of Columbia's Rules of Professional Conduct? Do you know under what circumstances you are required to make disclosures to the court regarding information otherwise protected by Rule 1.6? Do you know what your duties are to a prospective client (Rule 1.18), as well as to a client with diminished capacity (Rule 1.14)? In this session, we will discuss very important changes to these rules, and others. So bring your questions and concerns regarding any of these essential rules of professional conduct.

EVERYTHING YOU WANTED TO KNOW ABOUT THE COCAINE IN YOUR CLIENT'S GLOVE COMPARTMENT BUT WERE AFRAID TO ASK: EFFECTIVELY LITIGATING FOURTH AND FIFTH AMENDMENT ISSUES

**Presenters: Andrea Roth, Staff Attorney, Appellate Division
Eve Hanan, Staff Attorney, Appellate Division**

**TUESDAY, JUNE 12, 2007
5:30 – 8:30 p.m.**

[Click here for materials](#)

Feel like your knowledge of Fourth and Fifth Amendment law extends only to cases predating Earl Warren's retirement? Don't know the difference between being in "custody" under the Fifth Amendment and being "seized" under the Fourth Amendment? Didn't realize you can suppress statements on both Fourth and Fifth Amendment grounds? Don't know what *Schmerber* is, other than a funny name? Then come join us for a session covering all aspects of Fourth and Fifth Amendment practice, including what constitutes a "search" or "seizure," exceptions to the warrant requirement, challenging a warrant, and key Supreme Court and DC cases, particularly the flood of new *Miranda* cases such as *Seibert*, *Patane*, *I.J.*, *Hill*, *Hairston*, and *(Kevin) Edwards*. We will even throw in a few Due Process Clause issues such as voluntariness of confessions and suggestive identifications.

THE BUILDING BLOCKS OF CLOSING ARGUMENTS

Presenters: Michael Satin, Staff Attorney, Trial Division

**THURSDAY, JUNE 14, 2007
5:30 – 8:30 p.m.**

No Materials Will be Posted for this Session

Join us for a dynamic review of the principles of closing argument. We will begin with a review of closing techniques such as arguing the absence of evidence as a reason to doubt the government's case as well as arguing a missing witness inference. We will discuss how to identify burden-shifting and how to prevent the jury from speculating about the defendant's failure to testify. Additionally, we will discuss the nuts and bolts on drafting and presenting a closing argument, paying close attention to structure and content. Finally, we will discuss examples of prosecutorial misconduct, such as making an improper argument, misusing the hypothetical, and inflaming the passions and prejudices of the jury.

THE DEFENSE CALLS ... TACTICAL, LEGAL, AND FACTUAL CONSIDERATIONS IN PRESENTING A DEFENSE

**Presenter: Eric Klein, Staff Attorney, Trial Division
Dana Page, Staff Attorney, Trial Division**

**TUESDAY, JUNE 19, 2007
5:30 – 8:30 p.m.**

[Click here for materials](#)

In this session, we will discuss what defense attorneys need to know when presenting their case. The session will include a discussion on tactical considerations in deciding whether to present a defense at all, legal considerations regarding the right to present a defense, and legal and factual issues about specific defenses presented. We will discuss self-defense, third party perpetrator defenses, accident, consent, alibi, mistaken identification, and character evidence.

IMPEACHMENT: WHEN THE TRUTH REALLY HURTS ...

**Presenters: Brandi Harden, Staff Attorney
Heather Pinckney, Staff Attorney**

**THURSDAY, JUNE 21, 2007
5:30 – 8:30 p.m.**

[Click here for materials](#)

Impeachment with prior inconsistent statements is often the most dramatic means of attacking the credibility of witnesses. This session will teach you how to lay a proper foundation for impeachment, including pitfalls to avoid that will otherwise preclude you from using certain impeachment evidence. This session will instruct you on how to impeach correctly via affirmative impeachment, impeachment by omission, and impeachment by conviction. The session will conclude with an overview of specific types of impeachment and the different techniques that may be used for each.

“I’LL TAKE THE FIRST TWELVE IN THE BOX:” NEW STRATEGIES FOR JURY SELECTION

**Presenters: Timothy O’Toole, Chief, Special Litigation Division
Renee Raymond, Training Director
Janet Mitchell, Supervising Attorney, Trial Division
Nina Chernoff, Staff Attorney, Special Litigation Division**

**TUESDAY, JUNE 26, 2007
5:30 – 8:30 p.m.**

[Click here for materials](#)

The demographics of the District’s jury pool are changing - do your jury selection techniques need to change too? In this session we will share information about the attitudes of different jury-eligible residents of D.C. toward criminal justice issues - and discuss how these attitudes either challenge or conform with traditional assumptions about “good” jurors for the defense. We will also discuss the use of written questionnaires and share strategies for getting judicial approval and ideas for making the most of the jurors’ responses. Finally, we will provide and discuss a model motion for addressing jury pool issues and the fair-cross section requirement.

TO PLEA OR NOT TO PLEA (IN JUVENILE COURT)

**Presenters: Stephen Cooper, Staff Attorney, Trial Division
Chris Roberts, Staff Attorney, Trial Division**

**THURSDAY, JUNE 28, 2007
5:30 – 8:30 p.m.**

[Materials will ONLY be available at the session](#)

This session will focus on the impact that a juvenile adjudication may have on a client’s future criminal sentences in light of the adult sentencing guidelines and sex offender registration. The session will include a discussion of relevant constitutional and DCCA decisions relating to advice to clients prior to the entry of a guilty plea. In particular, we will focus on what you need to do in negotiating pleas and in competently preparing for plea bargaining, including what investigation must be done, what information must be conveyed to the client, and how to maintain the line between pressure and persuasion in advocating that your client take a plea.

THE TRUTH ABOUT FALSE CONFESSIONS

**Presenters: Timothy O’Toole, Chief, Special Litigation Division
Detective James Trainum, Program Director, Violent Crime Case Review
Project
Parisa Dehghani-Tafti, Staff Attorney, Special Litigation Division**

**TUESDAY, JULY 10, 2007
5:30 – 8:30 p.m.**

[Click here for materials](#)

This session will include a discussion of police tactics that elicit false confessions, methods of preventing false confessions, the DC statute requiring videotaping of all police interrogations, and the role of false confession in innocence cases. We will discuss some of the reasons why people confess falsely, how unreliable our normal judgments are as to who is telling the truth and who is lying, and how counter-intuitive is the notion of an innocent person confessing falsely. The panel will discuss studies demonstrating that jurors – even when they find a confession to be coerced – do not always discount the confession and, in fact, frequently still return guilty verdicts even as they deem a confession involuntary.

GUNS, DRUGS AND DV CASES: MORE THAN A LOSS OF LIBERTY: PROTECTING YOUR CLIENT FROM THE EFFECTS OF COLLATERAL CIVIL CONSEQUENCES

**Moderator: Gwendolyn McDowell Washington, Staff Attorney, Civil Legal Services
Division**

**Presenters: Paula D. Scott, Chief, Civil Legal Services Division
Angela Acree, Staff Attorney, Civil Legal Services Division
Heather Pinckney, Staff Attorney, Trial Division
Rodney Mitchell, Staff Attorney, Community Defender Division**

**THURSDAY, JULY 12, 2007
5:30 – 8:30 p.m.**

[Click here for materials](#)

The panel will discuss how to anticipate and control damage to your criminal case when there are collateral civil or administrative proceedings in which your client may make statements related to the criminal case. Knowing what potential consequences your client faces may also help you persuade prosecutors and judges to alter pre-release terms, plea offers or sentencing decisions. Finally, this panel will address strategies on how to use civil proceedings to benefit your criminal case discovery, investigation, and development of case theory. Incorporating this knowledge into your criminal case strategy will help you achieve for your client the best outcome possible in both the criminal case, and the collateral civil matter.

HOW TO GET THE MOST OUT OF YOUR EVIDENTIARY OBJECTIONS

Presenters: John Norris, PDS Alumni

**TUESDAY, JULY 17, 2007
5:30 – 8:30 p.m.**

[Click here for materials](#)

Come learn about the strategies and tactics in raising evidentiary objections. This session will review key hearsay exceptions, the admissibility of expert testimony, and the foundational requirements for police reports and other documentary evidence. Evidence blocking is always the best defense at trial. So, even if you think you know it all, this session may be just the refresher course you need!

THE YEAR IN REVIEW: RECENT DEVELOPMENTS IN THE SUPREME COURT AND DC APPELLATE COURTS THAT AFFECT DC CRIMINAL PRACTICE

**Presenters: Sandra Levick, Training Director, Appellate Division
Timothy O'Toole, Chief, Special Litigation Division**

**THURSDAY, JULY 19, 2007
5:30 – 8:30 p.m.**

[Click here for materials](#)

In this session, we will discuss the most important Supreme Court and District of Columbia appellate cases of the term, including cases involving Fourth Amendment search issues, aiding and abetting, evidence of third party guilt, judicial bias, prosecutorial misconduct in closing, the confrontation right in the post-*Crawford* era, and the Second Amendment.

WHAT CONSTITUTES (MENTAL) FITNESS?: A FOCUS ON RECENT DEVELOPMENTS IN THE LAW OF COMPETENCY

**Presenters: Dave Norman, Staff Attorney, Mental Health Division
Janet Mitchell, Supervising Attorney, Trial Division**

**TUESDAY, JULY 24, 2007
5:30 – 8:30 p.m.**

[Click here for materials](#)

This session will explore ways of effectively handling questions concerning a client's competence to stand trial through discussion of prototypical cases, with emphasis on new developments in law and practice effected by the "Incompetent Defendants Criminal Commitment Act of 2004," (D.C. Law 15-358, eff. May 24, 2005). We will take a look at the competency assessment process and attorney disposition following competency determination. Discussion will also touch on interplay between competence evaluation/treatment process, pre-trial mental health supervision, involuntary civil commitment, and voluntary psychiatric treatment. We will also explore the defense attorney's ethical obligations and tactical considerations with respect to "diminished capacity" clients.

SEX, LIES, AND VIDEOS: A DEFENSE ATTORNEY'S GUIDE TO CROSS EXAMINATION IN SEXUAL ASSAULT CASES

**Presenters: Renee Raymond, Training Director
Arthur Ago, Supervising Attorney, Trial Division
James Whitehead, Staff Attorney, Trial Division**

**THURSDAY, JULY 26, 2007
5:30 – 8:30 p.m.**

[Click here for materials](#)

This session will discuss the unique problems that arise in the context of preparing and trying sex cases, and strategies for overcoming them, including how to cross examine witnesses who you

haven't interviewed, child witnesses, and cross-examining the crying witness, among other things.

Seminar	Date	Time	Attendance (check below)
LOST IN TRANSLATION: A DEFENDER'S GUIDE TO EFFECTIVE ASSISTANCE OF COUNSEL WHEN YOU DON'T SPEAK THE LANGUAGE	6/5/2007	5:30 to 8:30	
KEEPING AN EYE ON YOUR ETHICAL OBLIGATIONS: RECENT CHANGES TO THE DC RULES OF PROFESSIONAL CONDUCT	6/7/2007	5:30 to 8:30	
EVERYTHING YOU WANTED TO KNOW ABOUT THE COCAINE IN YOUR CLIENT'S GLOVE COMPARTMENT BUT WERE AFRAID TO ASK: EFFECTIVELY LITIGATING FOURTH AND FIFTH AMENDMENT ISSUES	6/12/2006	5:30 to 8:30	
THE BUILDING BLOCKS OF CLOSING ARGUMENTS	6/14/2007	5:30 to 8:30	
THE DEFENSE CALLS ... TACTICAL, LEGAL, AND FACTUAL CONSIDERATIONS IN PRESENTING A DEFENSE	6/19/2007	5:30 to 8:30	
IMPEACHMENT: WHEN THE TRUTH REALLY HURTS...	6/21/2007	5:30 to 8:30	
TAKE THE FIRST TWELVE IN THE BOX: NEW STRATEGIES FOR JURY SELECTION	6/26/2006	5:30 to 8:30	
TO PLEA OR NOT TO PLEA (IN JUVENILE COURT)	6/28/2007	5:30 to 8:30	
THE TRUTH ABOUT FALSE CONFESSIONS	7/10/2007	5:30 to 8:30	
GUNS, DRUGS AND DV CASES: MORE THAN A LOSS OF LIBERTY: PROTECTING YOUR CLIENT FROM THE EFFECTS OF COLLATERAL CIVIL CONSEQUENCES	7/12/2007	5:30 to 8:30	
HOW TO GET THE MOST OUT OF YOUR EVIDENTIARY OBJECTIONS	7/17/2007	5:30 to 8:30	
THE YEAR IN REVIEW: RECENT DEVELOPMENTS IN THE SUPREME COURT AND DC APPELLATE COURTS THAT AFFECT DC CRIMINAL PRACTICE	7/19/2007	5:30 to 8:30	
WHAT CONSTITUTES (MENTAL) FITNESS?: A FOCUS ON RECENT DEVELOPMENTS IN THE LAW OF COMPETENCY	7/24/2007	5:30 to 8:30	
SEX, LIES, AND VIDEOS: A DEFENSE ATTORNEY'S GUIDE TO CROSS EXAMINATION IN SEXUAL ASSAULT CASES	7/26/2007	5:30 to 8:30	

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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 25, 2007, for June sessions and by June 25, 2007, 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.

CLE credits are available.