



## **MULTI-TRACK FEDERAL CRIMINAL DEFENSE SEMINAR**

*(1) THE FOURTH AMENDMENT / SEARCH & SEIZURE; (2) GUNS AND DRUGS; (3) FORENSICS;  
(4) DIGITAL EVIDENCE; AND (5) SENTENCING STRATEGIES & PRACTICES.*

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

**OMNI LOS ANGELES HOTEL AT CALIFORNIA PLAZA  
251 SOUTH OLIVE STREET  
LOS ANGELES, CALIFORNIA  
AUGUST 16-18, 2018**

**DRAFT AGENDA (rev. 6/14/2018)**

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### **Thursday, August 16, 2018**

**7:30 – 8:30 a.m. Registration - Continental Breakfast**

**8:30 – 9:00 a.m. Welcoming Remarks**

*Frank Draper, Attorney Advisor, Office of Defender Services Training Division, Washington, DC*

*Hilary Potashner, Federal Public Defender, Office of the Federal Public Defender for the Central District of California, Los Angeles, CA*

*Anthony Solis, CJA Panel Representative for the Central District of California, Los Angeles, CA*

**9:00 – 10:00 a.m. PLENARY: The Opioid Crisis and Its Impact on Criminal Defense**

*Charles Reznikoff, M.D., Addiction Medicine, Internal Medicine, Hennepin County Medical Center, Minneapolis, MN (invited)*

The Department of Justice announced new law enforcement tools to fight the opioid epidemic, which may result in an increase of federal drug charges for many of our clients. What should you know about the opioid epidemic and substance abuse to assist as a member of the defense team? This session will discuss substance abuse as it relates to opioid use, its effects on cognition and behavior, and the progression of addiction. In addition, the session will address the role of substance abuse in mitigation and the interaction of substance abuse with a co-occurring mental illness.

## **TRACK PRESENTATION DESCRIPTIONS**

### **1. The Fourth Amendment/Search & Seizure**

The Supreme Court is deciding three major Fourth Amendment cases this year involving the constitutional limits of police searches of things from motorcycles to cell phone records. Sessions in this tract will examine how to litigate traffic stops and searches and racial profiling in light of the Court's evolving jurisprudence, as well as lessons learned from recent litigation involving the Los Angeles Sheriff's Department—all with an eye to identifying winning Fourth Amendment motions.

### **2. Guns and Drugs**

Gun crimes and drug offenses still remain front and center as practitioners take on representing clients in federal courts. This tract will include “hot” developing areas and new ways of looking at common offenses.

### **3. Forensics**

A fundamental understanding of science and processes is critical to representing a client in federal cases, particularly as the government. These sessions are designed to provide a basic overview of frequently encountered forensic issues and potential areas where forensic science will be deployed. They will further discuss ways defense attorneys can either refute the evidence or use it to their advantage.

### **4. Digital Evidence**

Criminal defense attorneys are faced with a myriad of challenges with digital forensics. The government is using digital information to build its case against your client, ranging from computer searches, cell phone records, tracking devices and other surveillance techniques. Track sessions will look at digital forensics, Shotspotter and other types of government surveillance technology.

### **5. Sentencing Strategies & Practices**

Sentencing in federal criminal cases is no longer limited to a mere guideline calculation. This track highlights avenues available to defense counsel to obtain better sentences for their clients. Track sessions will look at the guidelines, interpretations of sentencing statutes and how to create a critical sentencing narrative by developing persuasive, fact-based, sentencing strategies.

## **10:15 – 11:15 a.m. TRACK PRESENTATIONS**

### **1. The Fourth Amendment/Search & Seizure**

**What's Race Gotta Do with It? Litigating Fourth Amendment Claims**

Juval Scott, *Attorney Advisor, Defender Services Office Training Division, Washington, DC*

Often times the government resorts to the convenient but-your-client-said-yes excuse to save an otherwise illegal search. Given changes in technology, the media has unprecedented access to documented instances of sometimes aggressive police practices, and then the general public has unfettered exposure to these recordings. We must now question whether officer-initiated contacts are ever consensual in this environment. This session will discuss framing Fourth Amendment challenges through a new lens in hopes of gaining true justice for the client.

**2. Guns and Drugs**

**Theories of Defense in Drug Overdose Homicides**

Callie Glanton Steele, *Senior Litigator, Office of the Federal Public Defender for the Central District of California, Los Angeles, CA*

In the wake of the opioid epidemic, United States Attorneys are prosecuting drug cases resulting in death more like homicide cases to seek substantial sentencing enhancements, often relying on forensic toxicology and autopsy findings. This session will explore how to investigate, develop, and present a theory of defense that is rooted in the facts of a drug case resulting in death, but questions the prosecution's causation narrative.

**3. Forensics**

**The Current State of Forensic Challenges (With a Focus on Firearm Toolmark Evidence)**

Chris McKee, *Director of the Schaden Experiential Learning & Public Service Programs, University of Colorado Law School, Boulder, CO*

This session will discuss the current state of forensic challenges with a special focus on Firearm Toolmark evidence. Recent developments with trial courts fashioning orders to restrict what firearm examiners can testify to at trial highlight the continuing need to challenge the government's firearms experts. Strategies for discovery, pre-trial motions and trial challenges to unreliable forensic evidence will also be discussed.

**4. Digital Evidence**

**A Digital Primer: Defense Strategies for Navigating the Digital World**

Sean Broderick, *National Litigation Support Coordinator, Oakland, CA*

John Ellis, *Attorney at Law, San Diego, CA*

This session will provide an overview of the challenges facing criminal defense attorneys with digital forensics, e-discovery and surveillance technology. From

terabyte hard drives, encryption, the cloud, and social media, we will discuss the frequent forms of digital data being utilized in criminal cases (both content and metadata). We will look at how the government uses surveillance technology, and the ways defense counsel learned of its presence in their cases. Finally, we will discuss what tools you can use to view, search and analyze digital information, and considerations for when and if you get outside assistance.

## 5. Sentencing Strategies & Practices

### Crimes of Violence

Craig Crawford, *Attorney Advisor, Defender Services Offices Training Division, Washington, DC*

Attendees will leave this course with an understanding of the steps necessary to analyze whether a prior conviction may be used as a predicate offense for recidivist enhancements such as career offender and Armed Career Criminal. The step-by-step instruction will guide students through the new categorical approach post-*Mathis*, with an emphasis on determining whether the statute at issue is divisible.

**11:15 – 11:30 a.m. BREAK**

**11:30 – 12:30 p.m. PLENARY: Lessons from the Pulse Night Club Case**

Fritz Scheller, *Fritz Scheller PL, Orlando, FL*

Lessons learned from the prosecution and acquittal of Noor Salman. This presentation will address the government's misconduct in the case and the acquitted person's false confession.

**12:30 – 1:30 p.m. Lunch - On Your Own**

**1:30 – 2:30 p.m. TRACK PRESENTATIONS**

### 1. The Fourth Amendment/Search & Seizure

#### **Riling Up the Border Doctrine: Litigating Searches of Digital Content at Our Ports of Entry**

Aisha Dennis, *Research & Writing Specialist, Office of the Federal Public Defender for the Southern District of Texas, Houston, TX (invited)*

[Description]

### 2. Guns and Drugs

**Shotspotter & Government Surveillance Technology--When in Doubt,**

**Keep it Out; But if it Comes In, How to Win**

Rebecca Brackman, *Attorney, Office of the Public Defender for Contra Costa County, Richmond, CA*

Michelle Tong, *Deputy Public Defender, San Francisco Public Defender's Office, San Francisco, CA*

This session will explain how ShotSpotter technology works, what discovery is available, how to mount an admissibility challenge and attack in trial. We will also address how to more generally confront and limit the emerging technology and surveillance being developed for use against our clients in criminal cases.

**3. Forensics**

**The Current State of Forensic Challenges (With a Focus on Firearm Toolmark Evidence) (repeat)**

Chris McKee, *Director of the Schaden Experiential Learning & Public Service Programs, University of Colorado Law School, Boulder, CO*

This session will discuss the current state of forensic challenges with a special focus on Firearm Toolmark evidence. Recent developments with trial courts fashioning orders to restrict what firearm examiners can testify to at trial highlight the continuing need to challenge the government's firearms experts. Strategies for discovery, pre-trial motions and trial challenges to unreliable forensic evidence will also be discussed.

**4. Digital Evidence**

**Facial Recognition and the Perpetual Line-up**

Clare Garvie, *Associate, Center on Privacy & Technology, Georgetown University Law Center, Washington, DC (invited)*

Across the country, state and local police departments are building their own face recognition systems, many more advanced than even the FBI's. Estimates are that one in two Americans adults are now in a law enforcement face recognition database. At the same time, major police departments are exploring real-time face recognition on live surveillance camera video. This session will update attendees on status of facial recognition systems, how law enforcement is exploring its use in its investigations, the accuracy of these systems, how it may be less accurate for African Americans, and legal strategies to consider how to address these systems in your jurisdiction.

**5. Sentencing Strategies & Practices**

**Crimes of Violence (repeat)**

Craig Crawford, *Attorney Advisor, Defender Services Offices Training Division, Washington, DC*

Attendees will leave this course with an understanding of the steps necessary

to analyze whether a prior conviction may be used as a predicate offense for recidivist enhancements such as career offender and Armed Career Criminal. The step-by-step instruction will guide students through the new categorical approach post-*Mathis*, with an emphasis on determining whether the statute at issue is divisible.

**2:35 – 3:35 p.m. TRACK PRESENTATIONS**

**1. The Fourth Amendment/Search & Seizure**

**Lessons Learned from Litigating Suppression Motions Against the Los Angeles Sheriff's Domestic Highway Enforcement Team – Putting the SCT's Opinion in Rodriguez to Good Use (repeat)**

Chris Dybwad, *Chief Deputy Federal Public Defender, Office of the Federal Public Defender for the Central District of California, Los Angeles, CA*

Georgina Wakefield, *Supervising Deputy Federal Public Defender, Office of the Federal Public Defender for the Central District of California, Los Angeles, CA*

[Description]

**2. Guns and Drugs**

**Theories of Defense in Drug Overdose Homicides (repeat)**

Callie Glanton Steele, *Senior Litigator, Office of the Federal Public Defender for the Central District of California, Los Angeles, CA*

In the wake of the opioid epidemic, United States Attorneys are prosecuting drug cases resulting in death more like homicide cases to seek substantial sentencing enhancements, often relying on forensic toxicology and autopsy findings. This session will explore how to investigate, develop, and present a theory of defense that is rooted in the facts of a drug case resulting in death, but questions the prosecution's causation narrative.

**3. Forensics**

**Eyewitness Identification**

Karen Newirth, *Senior Staff Attorney, The Innocence Project, New York, NY* (invited)

Eyewitness misidentification is the greatest contributing factor to wrongful convictions proven by DNA testing, playing a role in more than 70% of convictions overturned through DNA testing nationwide. Inaccurate eyewitness identifications can confound investigations from the earliest stages. Critical time is lost while police are distracted from the real perpetrator, focusing instead on building the case against an innocent person. This session will provide an overview of the solid and growing proof of the inaccuracy of traditional eyewitness ID procedures and approaches taken in federal court.

#### 4. Digital Evidence

##### **Facial Recognition and the Perpetual Line-up (repeat)**

Clare Garvie, *Associate, Center on Privacy & Technology, Georgetown University Law Center, Washington, DC (invited)*

Across the country, state and local police departments are building their own face recognition systems, many more advanced than even the FBI's. Estimates are that one in two Americans adults are now in a law enforcement face recognition database. At the same time, major police departments are exploring real-time face recognition on live surveillance camera video. This session will update attendees on status of facial recognition systems, how law enforcement is exploring its use in its investigations, the accuracy of these systems, how it may be less accurate for African Americans, and legal strategies to consider how to address these systems in your jurisdiction.

#### 5. Sentencing Strategies & Practices

##### **So You Think You Can Dance: Mastering the Criminal History Rules**

Laura Mate, *National Sentencing Resource Counsel Project*

The criminal history rules play a significant role in determining the guideline-recommended sentence for your client. This session, using scenarios, provides an opportunity to both test and improve your ability to navigate these rules to ensure you know them better than anyone else in the room, all in service of helping you obtain the lowest possible sentence for your client.

**3:35 – 3:50 p.m. BREAK**

**3:50 – 4:50 p.m. TRACK PRESENTATIONS**

##### 1. The Fourth Amendment/Search & Seizure

###### **Young, Scrappy, and Hungry: Finding & Winning Fourth Amendment Motions**

Norma Aguilar, *Assistant Federal Defender, Federal Defenders of San Diego, Inc., San Diego, CA (invited)*

[Description]

##### 2. Guns and Drugs

###### **Shotspotter & Government Surveillance Technology--When in Doubt, Keep it Out; But if it Comes In, How to Win (repeat)**

Rebecca Brackman, *Attorney, Office of the Public Defender for Contra Costa*

County, Richmond, CA

Michelle Tong, *Deputy Public Defender, San Francisco Public Defender's Office, San Francisco, CA*

This session will explain how ShotSpotter technology works, what discovery is available, how to mount an admissibility challenge and attack in trial. We will also address how to more generally confront and limit the emerging technology and surveillance being developed for use against our clients in criminal cases.

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#### **Eyewitness Identification (repeat)**

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Eyewitness misidentification is the greatest contributing factor to wrongful convictions proven by DNA testing, playing a role in more than 70% of convictions overturned through DNA testing nationwide. Inaccurate eyewitness identifications can confound investigations from the earliest stages. Critical time is lost while police are distracted from the real perpetrator, focusing instead on building the case against an innocent person. This session will provide an overview of the solid and growing proof of the inaccuracy of traditional eyewitness ID procedures and approaches taken in federal court.

### 4. Digital Evidence

#### **Network Investigative Techniques (NITs), Tor, and the Dark Web**

Colin Fieman, *Assistant Federal Defender, Office of the Federal Public Defender for the Western District of Washington, Seattle, WA* (invited)

Identifying and defending "Operation Pacifier" cases and emerging issues with the FBI's advanced computer search capabilities.

### 5. Sentencing Strategies & Practices

#### **Gangs: Deconstructing Allegations and Finding Mitigating Stories in a Client's Gang Experience**

Jorpa Leap, Ph.D., *Director, Health and Social Justice Partnership, UCLA Luskin School of Public Affairs, Los Angeles, CA*

[Description]

4:50 – 5:00 p.m.    **BREAK**

**5:00 – 6:00 p.m. PLENARY: Investigating and Understanding the Problem of False Confessions**

TBD

False confessions can arise for many reasons, including police coercion, improper interrogation techniques, and characteristics of the suspect himself. Confessions also have the potential to corrupt other evidence in your case. Learn how to identify possible false, coerced and/or misleading statements and how to defend against them.

**6:00 p.m. Adjourn for the Day**

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**Friday, August 17, 2018**

**7:30 – 8:30 a.m. Continental Breakfast**

**8:30 – 9:30 a.m. PLENARY: Uncovering Brady by Playing Offense: Lessons from the Bundy Case**

Brenda Weksler, *Assistant Federal Defender, Nevada Federal Public Defender, Las Vegas, NV*

The recent dismissal with prejudice of the lead defendants in the Bundy case serves as a stark reminder that many prosecutors are prepared to hide exculpatory evidence in an effort to win at all costs. More importantly, the dismissal also serves as a lesson of what aggressive defense motion practice, team work and sheer tenacity can achieve when confronting unethical practices by prosecutors. This presentation will provide a roadmap on how to successfully litigate Brady issues.

**9:30 – 9:40 a.m. Break**

**9:40 – 10:40 a.m. TRACK PRESENTATIONS**

**1. The Fourth Amendment/Search & Seizure**

**Young, Scrappy, and Hungry: Finding & Winning Fourth Amendment Motions (repeat)**

Norma Aguilar, *Assistant Federal Defender, Federal Defenders of San Diego, Inc., San Diego, CA (invited)*

[Description]

**2. Guns and Drugs**

**Innovative Investigation and Persuasive Trial Techniques in Gun Cases**

Cuauhtemoc Ortega, *Supervising Deputy Federal Public Defender, Office of the Federal Public Defender for the Central District of California, Los Angeles, CA*

Chemeka Goss-Kater, *Investigator, Office of the Federal Public Defender for the Central District of California, Los Angeles, CA*

[Description]

### 3. Forensics

#### **DNA: Where to Start in your Case (only time offered)**

Jennifer Friedman, *Forensic Science Coordinator, Los Angeles County Public Defender, Los Angeles, CA*

As DNA becomes a staple of the government's case we will all have to become familiar with how to investigate and challenge DNA evidence. This is the first step toward that - a DNA primer for poets, dreamers, and all others who went to law school to avoid math and science.

### 4. Digital Evidence

#### **Emerging Forms of Government Surveillance**

John Ellis, *Attorney at Law, San Diego, CA*

Technological advances have given law enforcement powerful new tools to conduct surveillance. While techniques like cell site tracking are widely known to the defense community, newer technologies like IMSI catchers or "stingrays," Network Investigative Techniques ("NIT") and databases like Hemisphere have only recently come to light after being shrouded in government secrecy. This presentation will summarize these technologies and discuss how to discover whether they have been used in your case, and motions and legal strategies to consider when confronting this surveillance technique.

### 5. Sentencing Strategies & Practices

#### **The Road to Probation Should Be Paved with Second Chance Act Funds (only time offered)**

Joan Politeo, *Visiting Attorney Advisor, Training Division, Defender Services Office, Washington, DC*

This session will focus on the new and improved Second Chance Act (SCA) which now authorizes the use of funds for housing, vocational training and much more for our clients on bond. Participants will be armed with arguments which must be raised when the government routinely seeks detention based upon the contention that the accused has no stable housing or employment. Congressional re-authorization in 2017 for the use of SCA funds to aid our clients with vocational training and housing provided by the Pretrial Services Agency must be part of our arsenal to not only win detention hearings but to place our impoverished clients on parity with those with bail resources. This session will conclude with a discussion of the "post-offense rehabilitation" and mitigation arguments that can be raised at sentencing with the end goal of a sentence of probation.

**10:40 – 10:50 a.m. BREAK**

**10:50 – 12:05 a.m. Effective Communication with Clients from Different Backgrounds**

**Moderator:** *Lori James-Townes*, President & CEO, Expand Now, Baltimore, MD

Every federal criminal defense practitioner will work with clients who come from different socio-economic and racial backgrounds from them. As developing a trusting and productive client relationship is critical to providing successful client-centered representation, effective communication between client and defense team is a crucial building block. This session will provide nuts and bolts tools to help develop healthy and beneficial client relationships, with an eye on the differences that challenge many of us, and also delve into how these dynamics impact both the client and the case.

**12:05 – 1:15 p.m. LUNCH**

**1:15 – 2:15 p.m. TRACK PRESENTATIONS**

**1. The Fourth Amendment/Search & Seizure**

**What's Race Gotta Do with It? Litigating Fourth Amendment Claims (repeat)**

*Juval Scott, Attorney Advisor, Defender Services Office Training Division, Washington, DC*

Often times the government resorts to the convenient but-your-client-said-yes excuse to save an otherwise illegal search. Given changes in technology, the media has unprecedented access to documented instances of sometimes aggressive police practices, and then the general public has unfettered exposure to these recordings. We must now question whether officer-initiated contacts are ever consensual in this environment. This session will discuss framing Fourth Amendment challenges through a new lens in hopes of gaining true justice for the client.

**2. Guns and Drugs**

**Combatting Penalty Enhancements Where Death or Serious Bodily Injury Results from the Use of a Controlled Substance**

*George Couture, Attorney Advisor, Training Division, Defender Services Office, Washington, DC*

Deaths from drug overdoses have exploded in recent years, especially for opioids. The minimum and maximum statutory sentence a defendant faces may be increased if a drug offense resulted in death or serious bodily injury. This session provides an overview of the statutes at play in death and injury

cases. The discussion will focus on issues of causation and toxicology that are relevant to understand and investigate for trial and sentencing.

### 3. Forensics

#### **Network Investigative Techniques (NITs), Tor, and the Dark Web (repeat)**

Colin Fieman, *Assistant Federal Defender, Office of the Federal Public Defender for the Western District of Washington, Seattle, WA (invited)*

Identifying and defending "Operation Pacifier" cases and emerging issues with the FBI's advanced computer search capabilities.

### 4. Digital Evidence

#### **Riling Up the Border Doctrine: Litigating Searches of Digital Content at Our Ports of Entry (repeat)**

Aisha Dennis, *Research & Writing Specialist, Office of the Federal Public Defender for the Southern District of Texas, Houston, TX (invited)*

[Description]

### 5. Sentencing Strategies & Practices

#### **Challenging Drug Predicates (only time offered)**

Davina T. Chen, *Law Office of Davina T. Chen, Glendale, California*

Does it seem like nothing is a crime of violence but everything is a controlled substance offense? In this session, we will share legal challenges to the characterization of offenses as controlled substance offenses (Guidelines), felony drug offenses (851), and serious drug offenses (ACCA). More ways to save your client years, even decades, in prison.

**2:15 – 2:30 p.m. BREAK**

**2:30 – 3:30 p.m. PLENARY: Searching and Candid Voir Dire**

Kyana Givens, *Assistant Federal Defender, Western District of Washington, Seattle, Washington*

This session will focus on innovative ways to ignite rich discussion about unconscious bias during voir dire. These skills will be illustrated through a voir dire case study that is transforming jury education and voir dire discussions on race. **NOTE:** A Special Breakout, "On Your Feet Searching and Candid Voir Dire, Plus" will be held on Saturday morning.

**3:30 – 3:45 p.m. BREAK**

- 3:45 – 5:15 p.m.    PLENARY: Implicit Bias: Strategies for Disrupting or Reducing Implicit Bias**  
Prof. Kimberly Jade Norwood, *Henry H. Oberschelp Professor of Law; Professor of African & African American Studies, Washington University School of Law, St. Louis, MO*  
Implicit bias is pervasive, impacting how we engage with others. It has fundamentally undermined our institutions for decades. This session will delve not only into the stories, empirical evidence and research on implicit bias but how, as a practical matter, unconscious biases undermine our criminal justice system. This session will enhance each participant's ability to readily define and identify implicit bias in our daily lives as individuals and as criminal defense lawyers. This session will also cover the resources available for lawyers to disrupt systemic bias, while on a path to more effectively represent our impacted clients.
- 5:15 p.m.            Adjourn for Day**

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## **Saturday, August 18, 2018**

**7:30 – 8:30 a.m. Continental Breakfast**

**8:30 – 9:30 a.m. PLENARY: Resources for CJA Panel Attorneys**

Sharon Samek, *Attorney Advisor, Defender Services Office, Legal & Policy Division, Washington, DC*

TBA

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 will help you make sense of it all. Learn some new ideas and tips on how to obtain technical and litigation support funding and the best ways to use those funds. The panel will also explore potential roles of investigators, mitigation specialists and other experts, as well as resource available through [www.fd.org](http://www.fd.org) and the Defender Services Office Training Division. Questions welcomed.

**9:35 – 10:35 a.m. TRACK PRESENTATIONS**

### **1. Special Session**

#### **On Your Feet Searching and Candid Voir Dire, Plus – Marietta (only presented once)**

Kyana Givens, *Assistant Federal Defender, Office of the Federal Public Defender for the Western District of Washington, Seattle, WA (invited)*

This session will provide a more in-depth discussion about the subject addressed in the plenary session titled Searching and Candid Voir Dire. In addition to focusing on innovative ways to discuss race and unconscious bias during voir dire, this session will engage participants with on your feet exercises involving race and voir dire and Batson challenges. We will also cover strategies to address implicit bias in sentencing advocacy.

### **2. The Fourth Amendment/Search & Seizure**

#### **Lessons Learned from Litigating Suppression Motions Against the Los Angeles Sheriff's Domestic Highway Enforcement Team – Putting the SCT's Opinion in Rodriguez to Good Use (repeat)**

Chris Dybwad, *Chief Deputy Federal Public Defender, Office of the Federal Public Defender for the Central District of California, Los Angeles, CA*

Georgina Wakefield, *Supervising Deputy Federal Public Defender, Office of the Federal Public Defender for the Central District of California, Los Angeles, CA*

[Description]

### 3. Guns and Drugs

#### **Combatting Penalty Enhancements Where Death or Serious Bodily Injury Results from the Use of a Controlled Substance (repeat)**

George Couture, *Attorney Advisor, Training Division, Defender Services Office, Washington, DC*

Deaths from drug overdoses have exploded in recent years, especially for opioids. The minimum and maximum statutory sentence a defendant faces may be increased if a drug offense resulted in death or serious bodily injury. This session provides an overview of the statutes at play in death and injury cases. The discussion will focus on issues of causation and toxicology that are relevant to understand and investigate for trial and sentencing.

### 4. Forensics

#### **“There’s No There There”: Using the Government’s Negative Fingerprint Expert to Your Advantage (only presented once)**

David Wasserman, *Deputy Federal Public Defender, Office of the Federal Public Defender for the Central District of California, Los Angeles, CA*

In most criminal trials, the government will try to use every means available to convict your client. But what happens when the government lacks evidence connecting your client to the crime? No worries, the government will figure out how to make this look inculpatory as well! Common in most firearms cases, the government’s “negative fingerprint expert” will readily testify that fingerprints are hard to recover and, thus, your client can still be guilty of possessing a firearm even though the fingerprint examiner failed to locate any fingerprint evidence on the firearm. This session will focus on the evidentiary value (or lack thereof) of the government’s “negative fingerprint expert” and strategies to push back against the government’s inability to back up its case with forensic-evidence.

### 5. Sentencing Strategies & Practices

#### **So You Think You Can Dance: Mastering the Criminal History Rules (repeat)**

Laura Mate, *National Sentencing Resource Counsel Project*

The criminal history rules play a significant role in determining the guideline-recommended sentence for your client. This session, using scenarios, provides an opportunity to both test and improve your ability to navigate these rules to ensure you know them better than anyone else in the room, all in service of helping you obtain the lowest possible sentence for your client.

**10:35 – 10:45 a.m. BREAK**

**10:45 – Noon**      **PLENARY: Representing the Difficult Client (or Mentally Ill Client)**

*Irene Oritseweyinmi Joe, Acting Professor and Martin Luther King Jr. Hall Research Scholar Affiliated Faculty - Aoki Center for Critical Race and Nation Studies UC Davis School of Law*

Nearly half of those confined in federal prison suffer from significant mental illness. This session will explore the serious ethical issues which participants will encounter when representing a client with mental illness. This session will provide participants with concrete practical tips to consider when representing the most vulnerable of our clients.

**Noon**                      **Closing Remarks/Adjournment**

*Frank Draper, Attorney Advisor, Training Division, Defender Services Office, Washington, DC*

**CLE Accreditation**