

Administrative Office of the United States Courts  
Federal Capital Trial Project

**2024 FEDERAL DEATH PENALTY STRATEGY SESSION**

**November 7-9, 2024**

**New Orleans, LA**

**AGENDA**

**THURSDAY, NOVEMBER 7, 2024**

- 7:30-8:30 AM           **REGISTRATION/CHECK-IN/BREAKFAST**
- 8:30-8:45 AM           **WELCOME**  
Claude Kelly, Federal Public Defender for the Eastern District of Louisiana
- 8:45-9:15 AM           **KEYNOTE SPEAKER**  
Sister Helen Prejean
- 9:15-10:15 AM         **YEAR IN REVIEW AND THE FEDERAL CAPITAL TRIAL PROJECT**  
*An overview of developments in the Federal Death Penalty under the Biden Administration, the status of federal death row, and a preliminary review of the challenges and opportunities the federal capital defense community face under the next Administration. This session will also cover how the Project seeks to strengthen the federal capital defense community by attracting new and diverse team members and be a resource for and support federal defenders, CJA attorneys, and other team members on federal capital cases.*  
Matthew Rubenstein, Director, Capital Resource Counsel Project  
Teri Duncan, Deputy Director, Federal Death Penalty Resource Counsel Project  
Kimberly Newberry, Staff Attorney, Federal Public Defender, District of Maryland
- 10:15-10:30 AM       **BREAK**
- 10:30-11:30 AM       **ASSEMBLING JUSTICE: BUILDING A DREAM TEAM**  
*The core of a capital case is the defense team. This session will provide suggestions for how to build and/or contribute to a strong, effective team.*  
Edward Ungvarsky, Ungvarsky Law  
Mitigation Specialist TBD

11:30 AM-12:45 PM **RACE IS ALWAYS IN THE CASE**  
*This plenary will focus on numerous ways in which the impact of race is present in virtually all capital cases, and how to effectively deal with that reality*  
Jerome Del Pino, Federal Capital Appellate Resource Counsel

12:45-2:00 PM ***Lunch on your own***

2:00-3:00 PM **BREAKOUT SESSIONS**

**FOREIGN NATIONAL CLIENTS WITH INTELLECTUAL DISABILITY: INVESTIGATING INTELLECTUAL DISABILITY (ID) OUTSIDE THE UNITED STATES WHILE EXAMINING A SPECIFIC COUNTRY'S HISTORY, CULTURE, STRUCTURE, AND EDUCATIONAL SYSTEM**

*This session will briefly discuss the current legal and medical definition of ID and will also address conducting a competent ID investigation in a country outside the U.S. while taking into account the client's culture and the settings in which they grew up so as to properly assess the client's adaptive functioning in the context of typical behavior in that foreign setting.*

Jackie Walsh, Federal Death Penalty Resource Counsel  
Caroline Boddie, Mitigation Coordinator, Federal Capital Trial Project  
Felicia Sullivan, Mitigation Specialist

**DISMANTLING THE VICAR STATUTE**

*This session will break down the elements of the VICAR statute (Violent Crime in Aid of Racketeering in violation of 18 U.S.C. § 1959), which often (1) independently serves as the basis for a death sentence or (2) serves as the basis for a death sentence via 18 U.S.C. § 924(j)—specifically as the alleged “crime of violence” under 18 U.S.C. § 924(j) (causing the death of a person through the use of a firearm during and in relation to a “crime of violence”).*

Paresh Patel, Appellate Assistant Federal Public Defender, District of Maryland

**AGGRESSIVE LITIGATION FOR THE FUTURE APPEAL**

*This session will cover how aggressive litigating in your case early can set-up issues for a possible appeal.*

Andrew Dalack, Assistant Federal Public Defender, Southern District of New York

Anita Aboagye Agyeman, Assistant Federal Public Defender, District of New Jersey

### **STORIES FROM THE FRONTLINES**

*Three seasoned capital defense practitioners will share their stories fighting against the death penalty. These experts will reflect on pivotal moments that have shaped their careers and the landscape of capital defense. This session will offer insights on where we have been and where we are going as a capital community.*

Moderated by: Marc Bookman, Executive Director of the Atlantic Center for Capital Representation, and Federal Death Penalty Resource Counsel  
David Ruhnke, Federal Death Penalty Resource Counsel  
Rich Jasper, Director, Federal Death Penalty Resource Counsel Project  
David Bruck, Federal Death Penalty Resource Counsel

### **CHALLENGING THE PROSECUTION’S JUNK SCIENCE**

*Forensic evidence has become commonplace in criminal investigations across the country. In this session, attendees will recognize the role forensic evidence plays in federal capital cases and develop the foundational knowledge necessary to understand the issues and learn how to effectively investigate and litigate forensic evidence. Participants will also learn to identify the parts of a standard DNA casefile and develop the vocabulary necessary to engage experts on DNA related issues.*

Jennifer Friedman, Office of the Federal Public Defender, Central District of California

### **WHAT IS AI? WHY DO I CARE?**

*Demystify the world of Artificial Intelligence. This session will provide you the foundational language and concepts and highlight the ethical considerations of using AI into your practice.*

Felix Valenzuela, Valenzuela Law Firm

3:00-3:15 PM

### **BREAK**

3:15-4:15 PM

### **NAVIGATING RULE 12.2**

*Understanding the pitfalls and litigating to the fullest to protect the client and the defense mental health presentation.*

Sean Bolser, Federal Capital Appellate Resource Counsel  
Annalisa Mirón, Assistant Federal Public Defender, Eastern District of Louisiana

4:15-5:15 PM

### **WHERE ARE THE WHITE GANGSTERS? HOW RACIAL BIASES AFFECT WHO GETS CHARGED IN GANG/RICO CASES**

*This plenary will explore the intersectionality of race and the capital prosecution of gangs.*

Don Knight, Federal Death Penalty Resource Counsel  
Professor Babe Howell, CUNY School of Law

5:15-7:15 PM

### **NETWORKING RECEPTION**

**FRIDAY, NOVEMBER 8, 2024**

- 7:30-8:30 AM **CHECK-IN/BREAKFAST**
- 8:30-9:30 AM **LITIGATING VICTIM IMPACT**  
*This plenary will discuss the complex and sensitive issue of litigating victim impact.*  
Jerome Del Pino, Federal Capital Appellate Resource Counsel
- 9:30-10:30 AM **CAN YOU BRING ME SOME *GOOD LAW FOR A CHANGE?*"**  
*This plenary will review often-overlooked trial court orders across the country that may be helpful in your next case. Attendees will also receive practical tips on how to use them to advocate on behalf of their clients.*  
Barry Fisher, Federal Capital Appellate Resource Counsel  
Kristina Leslie, Capital Resource Counsel
- 10:30-10:45 AM **BREAK**
- 10:45 AM-12:00 PM **RAISING AND LITIGATING BATSON**  
*This plenary addresses the importance of strategies for comprehensive Batson litigation, including making a complete record -- obtaining peremptory-strike data, comparison juror analysis, disparate juror voir dire, courtroom atmospherics, and prosecutor "social history" information.*  
Elisabeth Semel, Chancellor's Clinical Professor of Law, UC Berkeley School of Law
- 12:00-1:15 PM ***Lunch on your own***
- 1:15-2:30 PM **EXPERT INSIGHTS FOR BOP CASES**  
*This plenary will be a comprehensive exploration into the Bureau of Prisons (BOP) and its impact on mitigation narratives. Learn how a Corrections Specialist can help on your BOP case, and the current state of BOP.*  
Moderated by: Teri Duncan, Deputy Director, Federal Death Penalty Resource Counsel  
Mark Donatelli, Federal Death Penalty Resource Counsel  
Janet M. Purdue, Baird Perdue Prison Consultant  
Chris Synsvoll, Supervisory Attorney at Colorado Consolidated Legal Center (ADX, Florence, Colorado)
- 2:30-2:40 PM **TRANSITION TO BREAKOUTS**
- 2:40-3:45 PM **BREAKOUT SESSIONS**
- BEYOND FACEBOOK: SOCIAL MEDIA 101**  
*It is time to come to grips with the powerful role of social media in capital cases. Discover the different social media platforms and hidden corners of the web that could impact your case. Learn why every team member must take on the responsibility of understanding social media.*

Maria Sapene, Investigator, Office of the Federal Public Defender, Central District of California  
Jenny Merrigan, Attorney, Phillips Black

**COMMUNICATING YOUR CASE: MASTERING THEORY, AGGRAVATION, AND MITIGATION**

*Dive into the art of crafting and communicating your case theory. This session will discuss the creative strategies teams can take to test a mitigation narrative and ways to combat aggravation using mock trials and focus groups.*

Julie E. Howe, Ph.D., Trial Consultant

**FAMILY TIES: DEVELOPING A LEGAL STRATEGY WITH YOUR CLIENT'S FAMILY**

*Learn how to effectively work with your client's family as a key component of your case. Discover techniques for developing rapport with family members as well as identifying risks.*

Edward Ungvarsky, Ungvarsky Law, PLLC  
Felicia Sullivan, Mitigation Specialist

**MITIGATION THROUGH MIGRATION NARRATIVES**

*This session will explore the role of the migration journey as part of the mitigation narrative.*

Dr. Selena Sermeño, Psychologist  
Cristina Bordé, Federal Death Penalty Resource Counsel

**WHERE ARE THE WHITE GANGSTERS? LITIGATION STRATEGIES TO FIGHT RACIAL BIAS IN RICO CASES**

*This will be a brainstorming session to help define litigation options when faced with evidence of racial bias in policing and prosecutions of alleged gang members.*

Don Knight, Federal Death Penalty Resource Counsel  
Professor Babe Howell, CUNY School of Law

**DISCOVERY ISSUES**

*This session will explain how discovery litigation in death-eligible cases is vastly different than in other federal criminal cases, including "pre-authorization discovery"; the "heightened reliability" required by the Eighth Amendment; Brady concerns and considerations regarding sentencing factors; and will provide other tips and strategies for getting the most discovery you can.*

John Diaz, Federal Death Penalty Resource Counsel  
Teri Duncan, Deputy Director, Federal Death Penalty Resource Counsel Project

3:45-4:00 PM

**BREAK**

4:00-4:30 PM

**UNLOCKING THE FDPRC WEBSITE: YOUR KEY TO ESSENTIAL RESOURCES**

*This plenary will include a guided tour of the wealth of materials available on the Project's web site (capdefnet.org), with highlights on numerous "Litigation Guides", the extensive caselaw and mitigation findings compilations, Declarations and statistics, sample Motions, and similar useful information, and a discussion of Resource Counsel's role and involvement with teams.*

Vivian Hernandez, Capital Resource Counsel

4:30-5:15PM

**WILBERT RIDEAU**

*This session will discuss how your client is a member of the team and explore the role of client-attorney relationships.*

Wilbert Rideau, Life Support Project

**SATURDAY, NOVEMBER 9, 2024**

7:30-8:30 AM

**CHECK-IN/BREAKFAST**

8:30-9:30 AM

**STAYING READY IN YOUR CAPITAL CASE**

*This session will cover possible pitfalls in your capital defense case. Presenters will cover the new ways prosecutors are tackling capital cases and issues to be prepared for in the next administration.*

Bernadette Donovan, Donovan & Engle

Kim Stevens, Capital Resource Counsel

9:30-10:30 AM

**SELF-CARE & COMPETENCE: THE DYNAMIC DUO YOU CAN'T IGNORE**

*This plenary will dive into why self-care isn't a luxury but a crucial element of competent practice. This session will reveal how prioritizing your well-being directly enhances your effectiveness as a defender. Learn how it helps prevent burnout and understand its impact on your representation.*

Professor Ron Tyler, Professor of Law and Director of the Criminal Defense Clinic at Stanford Law School

10:30-10:45 AM

**BREAK**

10:45-11:45 AM

**JOYFUL MITIGATION**

*Mitigation is at the center of capital cases. This session will highlight the importance of identifying joyful mitigation as part of clients' stories. Ms. Jones is the curator of "Black Joy in Spite Of..." an exhibition which offers a three-dimensional picture of the Black American experience by focusing on moments of joy despite a history of pain and struggle. The images capture scenes of family connection, friendship, pride, and resistance that highlight the humanity of each individual and counter the more common focus on trauma.*

Brigette Jones, Founding Manager, Bridge Builders Historical Consulting, LLC

11:45-12:00 PM

**CLOSING REMARKS**