



NORTH CAROLINA DEFENDER TRIAL SCHOOL

Monday, July 8 through Friday, July 12, 2024
UNC School of Government, Chapel Hill, NC
*Cosponsored by the UNC-Chapel Hill School of Government
& Office of Indigent Defense Services*

Monday, July 8, 2024

8:00-8:45am ***Check-in***

8:45-9:00am **Welcome, Introduction, and Description of Program**
Phil Dixon, Jr., Teaching Associate Professor,
UNC School of Government, Chapel Hill, NC
Bob Burke, Indigent Defense Consultant and Trainer, Erie, CO

9:00-10:00am **FACTUAL BRAINSTORMING/FACTBUSTING (PLENARY)**
Joseph Ross, Assistant Federal Defender, Raleigh, NC

At the conclusion of the plenary and workshop, participants will:

1. Know the elements of effective brainstorming/factbusting.
2. Understand the importance of effective factbusting to creation of a rich pool of facts from which to develop a persuasive theory of the case and story.
3. Be able to effectively bust the facts of a case.

10:00-10:15am ***Break***

10:15am-12:30pm **BRAINSTORMING/FACTBUSTING (WORKSHOP)**

12:30-1:30pm ***Lunch***

1:30-2:30pm **BRAINSTORMING/FACTBUSTING (WORKSHOP)**

2:30-2:45pm ***Break***

2:45-4:00pm **DEVELOPING YOUR THEORY OF THE CASE AND THEMES
BY TELLING YOUR CLIENT'S STORY (PLENARY)**
Ira Mickenberg, Attorney & Consultant, Saratoga Springs, NY

At the conclusion of the plenary, participants will:

1. Know and understand the definitions of, and differences between, a theory of the case (or defense story summary) and a theme.
2. Know and understand the purposes of a theory of the case/story summary and themes.
3. Know and understand methods for developing a theory of the case/story summary and themes.
4. Know the elements of storytelling.



5. Understand how storytelling elements (such as sequence, imagery, scenes, characters) and persuasive techniques (such as theory and themes, primacy and recency, chapters, hooks) and how to effectively use them.

4:00-4:15pm

Ethics in Criminal Defense: Trial Strategy

Ira Mickenberg, Attorney & Consultant, Saratoga Springs, NY

Discussion of ethical issues in client relations related to trial theories and strategies.

4:15-4:30pm

Break

4:30-5:15pm

THEORY OF THE CASE/DEFENSE STORY (WORKSHOP)

After completion of these workshops, participants will have:

1. Developed a theory of the case/summary of defense story, and a full, persuasive story for a trial case.
2. Put in writing a theory of the case/story summary for their case that is consistent with the definition of a theory of the case.
3. Identified any supporting emotional theme or themes for their case.
4. Sketched out, in writing, a defense story for their case.

6:00pm

**Dinner @ Top of the Hill Restaurant & Brewery, Chapel Hill
(Individual Pay)**



Tuesday, July 9, 2024

9:00-11:00am **THEORY OF THE CASE/DEFENSE STORY (WORKSHOP)**

11:00-11:15am ***Break***

11:15-12:15pm **THEORY OF THE CASE/DEFENSE STORY (WORKSHOP)**

12:15-1:00pm ***Lunch***

1:00-1:55pm **JURY SELECTION: A JOURNEY OF DISCOVERY
(PLENARY)**

Kevin Tully, Chief Public Defender,
Office of the Public Defender, Dist. 26 Charlotte, NC

After completion of this session and the workshops, participants will:

1. Know and understand the purposes of voir dire (develop rapport, inform, educate, learn, introduce theory of case).
2. Know and understand questioning and conversational techniques for accomplishing the purposes of voir dire, such as open-ended, life experience questions, “get it and spread it,” and other techniques.
3. Be able to effectively use jury selection techniques in their own case, conducting a voir dire of real jurors, with an eye towards deciding whether those jurors would be receptive to the theory of the case the participants will be advocating in their cases.

2:00-2:45pm **JURY SELECTION (DEMONSTRATION AND DISCUSSION)**
30-minute demo and 15-minute debrief

2:45-3:00pm **Ethics in Criminal Defense: Jury Selection**
Kevin Tully, Chief Public Defender,
Office of the Public Defender, Dist. 26 Charlotte, NC

Discussion of a factual supplement to the plenary fact problem related to lawyer and client decisions in jury selection.

3:00-3:15pm ***Break***

3:15-4:30pm **BRAINSTORM VOIR DIRE (WORKSHOP)**



Wednesday, July 10, 2024

9:00-10:30am	CONDUCT VOIR DIRE (WORKSHOP)
10:30-10:45am	<i>Break</i>
10:45am-12:15pm	CONDUCT VOIR DIRE (WORKSHOP)
12:15-12:30pm	DEBRIEF JURY SELECTION
12:30-1:30pm	<i>Lunch</i>
1:30-2:20pm	OPENING STATEMENTS (PLENARY/DEMONSTRATION) Rebecca Chappell, Assistant Public Defender, Cleveland County Public Defender's Office, Shelby, NC

At the conclusion of this session, participants will:

1. Know and understand that an opening statement must present a factual and persuasive defense story that drives and supports the theory of the case and emotional themes.
2. Know and understand basic techniques for doing an opening statement that is factual, persuasive, and drives the theory of the case and themes (Hook, headline, primacy and recency, context, storyline, creation of inferences, use of "theory and theme language").

2:20-2:30pm	<i>Break</i>
2:30-3:00pm	BRAINSTORM/PREPARE OPENING (WORKSHOP)

After this workshop, participants will:

1. Be able to articulate what they want to accomplish with their opening statement, and how it advances their theory of the case and themes.
2. Be able to use basic techniques for the presentation of a factual and persuasive defense story that advances the theory of the case and themes (Hook, headline, primacy and recency, context, storyline, of inferences, use of "theory and theme language").

3:00-5:00pm	CONDUCT OPENINGS (WORKSHOPS)
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Thursday, July 11, 2024

9:00-9:55am **CROSS-EXAMINATION (PLENARY/DEMONSTRATION)**
Johnna Herron, Assistant Public Defender, Guilford County, NC

At the conclusion of this session, participants will:

1. Know and understand that the goals of cross-examination, as well as the questions asked and language used, are determined by the theory of the case and supporting themes.
2. Know and understand techniques for effective cross-examination (chapters, transitions, use of “theory and theme language,” sequence, and leading, one-fact questions).
3. Know and understand techniques for impeachment with prior inconsistent statements and omissions.

9:55-10:10am **Ethics in Criminal Defense: Cross-Examination**
Johnna Herron, Assistant Public Defender, Guilford County, NC

Discussion of a factual supplement to the plenary fact problem related to lawyer and client decisions on cross-examination.

10:10-10:25am ***Break***

10:25-10:55am **BRAINSTORM/OUTLINE CROSS EXAMINATION (WORKSHOP)**

After this workshop, participants will:

1. Be able to articulate what they want to accomplish with their cross-examination, and how it advances their theory of the case.
2. Be able to make use of techniques for the effective cross-examination of a government witness that advances the theory of the case and themes.

10:55am-12:45pm **CONDUCT CROSS EXAMINATION (WORKSHOP)**

12:45-1:30pm ***Lunch***

1:30-2:20pm **DIRECT EXAMINATION (PLENARY/DEMONSTRATION)**
Timothy Heinle, Teaching Assistant Professor,
UNC School of Government, Chapel Hill, NC

At the conclusion of this session, the participants will:

1. Know and understand that all aspects of direct examination -- including the decision to call a particular witness (why is it important and what is important), the questions that should be asked, and the way those questions should be asked -- must flow from the theory of defense and emotional themes.



2. Know and understand basic techniques for doing a direct examination (preparation of witness, chapters, anchoring questions, transitional questions, use of “theory of the case and themes language”, open-ended questions, practice, use of visuals, demonstrations).

2:20-2:35pm

Ethics in Criminal Defense: Direct Examination

Timothy Heinle, Teaching Assistant Professor,
UNC School of Government, Chapel Hill, NC

Discussion of a factual supplement to the plenary fact problem related to lawyer and client decisions on Direct Examination.

2:35-2:45pm

Break

2:45-3:15pm

BRAINSTORM DIRECT EXAMINATION (WORKSHOP)

After this workshop, participants will:

1. Be able to articulate what they want to accomplish with their direct examination, and how it advances their theory of the case.
2. Be able to effectively prepare a witness for direct and cross and effectively use direct examination techniques to advance the theory of the case, defense story, and supporting themes.

3:15-5:15pm

CONDUCT DIRECT EXAMINATION (WORKSHOP)



Friday, July 12, 2024

9:00-10:00am **CLOSING ARGUMENTS (PLENARY/DEMONSTRATION)**
Sophorn Avitan, Assistant Public Defender,
Office of the Public Defender, Charlotte, NC

At the conclusion of this session, participants will:

1. Know and understand that closing argument must be factual and persuasive and must flow from the theory of defense and emotional themes.
2. Know and understand basic persuasive techniques (use of “theory of the case and themes language,” primacy and recency, repetition, chapters (clarity), hooks, vivid language, pictures or images, trilogies) for closing argument.

10:00-10:15am ***Break***

10:15-10:45am **BRAINSTORM/PREPARE CLOSING ARGUMENT
(WORKSHOP)**

After this workshop, participants will:

1. Be able to articulate what they want to accomplish with their closing argument, and how it advances their theory of the case or defense story.
2. Be able to use basic persuasive techniques to effectively advance the theory of the case, defense story, and supporting themes in closing argument.

10:45am-12:45pm **CONDUCT CLOSING ARGUMENT (WORKSHOP)**

12:50-1:00pm **CONCLUSION**

CLE HOURS: 29.5

includes 1.0 hour of ethics/professional responsibility

pending approval by the NC State Bar



Small Group Facilitators

Sophorn Avitan, Assistant Public Defender, District Court DV Chief, Dist. 26, Charlotte, NC

Dawn Y. Baxton, Chief Public Defender, Dist. 14, Durham, NC

Jonathan Broun, Senior Staff Attorney, North Carolina Prisoner Legal Services, Inc. Raleigh, NC

Derek Brown, Attorney, The Derek K. Brown Law Firm, PC, Greenville, NC

Bob Burke, Attorney and Criminal Defense Consultant, Erie, CO

Rebecca Chappell, Assistant Public Defender, Office of the Public Defender, Dist. 27B, Shelby, NC

Phil Dixon, Teaching Assistant Professor, UNC-SOG, Chapel Hill, NC

Allison Garren, Assistant Public Defender, District 39, Shelby, NC

Laura Gibson, Chief Public Defender, Dist. 2, Washington, NC

Timothy Heinle, Teaching Assistant Professor, UNC-SOG, Chapel Hill, NC

Burcu Hensley, Assistant Juvenile Defender, NC Office of the Juvenile Defender, Raleigh, NC

Johnna Herron, Assistant Public Defender, Dist. 18, Greensboro, NC

Alexander Loyal, Assistant Public Defender, Dist. 26, Charlotte, NC

Catherine McCormick, Assistant Public Defender, Dist. 26, Charlotte, NC

Ira Mickenberg, Attorney and Consultant, Saratoga Springs, NY

Jason St. Aubin, Senior Trial Attorney, Marcilliat & Mills, PLLC, Charlotte, NC

Matthew Schofield, Assistant Public Defender, Dist. 42, Brevard, NC



Daniel Spiegel, Assistant Professor of Criminal Law, Procedure and Evidence, UNC-SOG, Chapel Hill, NC

Beth Hopkins Thomas, Exec. Dir., NC Prisoner Legal Services, Raleigh, NC

Eddie Thomas, Assistant Public Defender, Violent Crimes Unit, Dist. 26, Charlotte, NC

Kevin Tully, Chief Public Defender, Office of the Public Defender, Dist. 26 Charlotte, NC

Antoan Whidbee, Attorney, Smithfield, NC

Becky Whitaker, Defender Policy and Planning Attorney, NC Indigent Defense Services, Durham, NC