



NORTH CAROLINA DEFENDER TRIAL SCHOOL

Monday, July 12 through Friday, July 16, 2021
UNC School of Government, Chapel Hill, NC

*Cosponsored by the UNC-Chapel Hill School of Government
& Office of Indigent Defense Services*

AGENDA

Monday, July 12, 2021

8:40 Check-in

8:45-9:00 Welcome, Introduction, and Description of Program

John Rubin, Albert Coates Professor, UNC School of Government, Chapel Hill, NC

9:00-9:45 **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.

9:45-12:15 **BRAINSTORMING/FACTBUSTING [with 10:15 Break] (WORKSHOPS)**

12:15-1:15 Lunch

1:15-2:15 **BRAINSTORMING/FACTBUSTING (WORKSHOPS)**

Tuesday, July 13, 2021

9:00-10:20 **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 and skills can be persuasively used throughout trial.
6. Know and understand basic persuasive techniques (“theory of the case and themes language,” primacy and recency, repetition, chapters (clarity), hooks, vivid language, pictures or images, trilogies).

10:20-10:30 Break

10:30-12:15 **THEORY OF THE CASE/DEFENSE STORY (WORKSHOPS)**

During or after completion of this workshop, participants will:

1. Be able to develop a theory of the case/summary of defense story and 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. Identify a supporting emotional theme or themes for their fact problem.
4. Sketch out, in writing, a defense story for their fact problem.

12:15-1:15 Lunch

1:15-2:45 **THEORY OF THE CASE/DEFENSE STORY (WORKSHOPS)**

2:45-3:00 **JURY SELECTION: A JOURNEY OF DISCOVERY (PLENARY)**

Stephanie Jackson, Assistant Public Defender, Violent Crimes Team
Supervisor, District 26, Charlotte, NC

Evening Work: Outline Two or Three Areas of Discovery for Jury Selection in Your Case

Wednesday, July 14, 2021

9:00-10:00 **BRAINSTORM VOIR DIRE (WORKSHOPS)**

10:00-10:45 **OPENING STATEMENTS (PLENARY/DEMONSTRATION)**

Johnna Herron, Assistant Public Defender, Guilford County, 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”).

10:45-11:00 Break

11:00-11:30 **BRAINSTORM/PREPARE OPENING (WORKSHOPS)**

During and 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”).

11:30-12:30 **OPENINGS (WORKSHOPS)**

12:30-1:30 Lunch

1:30-2:45 **OPENINGS (WORKSHOPS)**

Thursday, July 15, 2021

9:00-10:00 **CROSS-EXAMINATION (PLENARY/DEMONSTRATION)**

Jason Ser, Assistant Federal Defender, Federal Defender of New York,
Southern District of New York, White Plains, NY

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, pace, leading, one-fact questions, looping).
3. Know and understand techniques for impeachment with prior inconsistent statements and omissions.



4. Know and understand the proper use of demonstrative evidence and the admission of evidence on cross-examination.

10:00-10:30 BRAINSTORM/OUTLINE CROSS EXAMINATION (WORKSHOPS)

During and 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.
3. Be able to effectively impeach a witness with a prior inconsistent statement and an omission.
4. Be able to effectively use and get evidence admitted during cross-examination.

10:30-10:40 Break

10:40-12:00 CROSS EXAMINATION (WORKSHOPS)

12:00-1:00 Lunch

1:00-2:00 CROSS EXAMINATION (WORKSHOPS)

Friday, July 16, 2021

9:00-9:50 CLOSING ARGUMENTS (PLENARY/DEMONSTRATION)

Sophorn Avitan, Assistant Public Defender, Office of the Public Defender,
Charlotte, NC

Fred Friedman, Attorney and Professor, University of Minnesota, Duluth, MN

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.

9:55-10:25 BRAINSTORM/PREPARE CLOSING ARGUMENT (WORKSHOPS)

During and 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.

10:25-12:30 **CLOSING ARGUMENT (WORKSHOPS)**

12:30-12:45 **CONCLUSION**

Small Group Facilitators

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

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

Susan Brooks, Defender Administrator, OIDS, Durham, NC

Bob Burke, Attorney and Criminal Defense Consultant, Beech Mountain, NC

Rebecca Chappell, Senior Trial Counsel, Roberts Law Group, Charlotte, NC

Tucker Charns, Chief Regional Defender, OIDS, Durham, NC

Jeffrey B. Connolly, Regional Defender, Divs. II and IV, Durham, NC

Phil Dixon, Defender Educator, UNC-SOG, Chapel Hill, NC

Fred Friedman, Attorney and Professor, Univ. of Minnesota, Duluth, MN

Laura Gibson, Chief Assistant Public Defender, District 2, Washington, NC

Timothy Heinle, Civil Defender Educator, UNC-SOG, Chapel Hill, NC

Burcu Hensley, Hensley Law Firm, PLLC, Marshall, NC

Johnna Herron, Assistant Public Defender, District 18, Greensboro, NC

Stephanie Jackson, Violent Crimes Unit Supervisor, District 26, Charlotte, NC

Ira Mickenberg, Attorney and Consultant, Saratoga Springs, NY



John Rubin, Albert Coates Professor of Public Law and Government, UNC-SOG, Chapel Hill, NC

Jason Ser, Assistant Federal Defender, White Plains, NY

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

Kevin Tully, Chief Public Defender, District 26, Charlotte, NC

David Wanderman, Assistant Public Defender, District 21, Winston-Salem, NC

Antoan Whidbee, Attorney, Smithfield, NC