



## OFFICEWIDE TRAINING PLAN

In *Gideon v. Wainwright*, the Supreme Court recognized that without the safeguard provided by the Sixth Amendment's right to counsel, justice cannot be done. In *Gideon*, the Supreme Court endeavored to eliminate the double standard of justice then existing: one for the rich and one for the poor. As a consequence, the Office of the Public Defender was created.

The Public Defender's Office for the Eleventh Judicial Circuit of Florida is dedicated to the proposition that any human being facing the loss of liberty or life through criminal prosecution is entitled not merely to representation, but the most effective representation possible. To that end, the Office has created the following Training-Plan, which is intended to facilitate our efforts toward that goal.

The Training Plan is designed to provide a generalized framework for training. It has been constructed to permit flexibility; the needs of the employees affected by the Plan vary as greatly as the methods that may be employed to meet those needs. The focus of the Training Plan is to fulfil several basic objectives. They are:

- 1. Providing legal training of the highest quality.**
- 2. Accelerating the growth and development of all lawyers and support staff.**
- 3. Monitoring of the progress of the individual employee, as a means of quality control, to ensure that the Office is consistently endeavoring to provide services of the highest professional caliber.**
- 4. Meeting the objectives contained within paragraphs 1-3 economically.**

Generally, training of all employees shall be divided into two components: Entry level and in-service training. Entry level training shall include an orientation to the values, goals and perspectives of the Office, as well as introductory training for the employee's specific position. In-service training shall be periodically provided to assure the maximization of productivity and the efficient use of our limited resources. In the case of attorneys, entry level and in-service training shall partially be directed toward fulfillment of Florida's mandatory Continuing Legal Education Requirement.

Finally, all employees shall receive training on the formulation of effective manager/subordinate relationships. This training shall cover, but is not limited to, effective team-working, context setting, task assignment, planning and coaching techniques.

### **TRAINING FOR ATTORNEYS**

#### **INITIAL TRAINING - THE NEW ATTORNEY AND CERTIFIED LEGAL INTERN ASSISTANT PUBLIC DEFENDER ORIENTATION**

The Assistant Public Defender Orientation is a one-week lecture, practice and demonstration series provided to all new attorneys and interns. The course is presented three times a year, generally, in January, June and August. The course is designed to familiarize the participant with the services provided by the Public Defender's Office and to provide an overview of the responsibilities of the Assistant Public Defender, with emphasis on practice tips in specific substantive areas. The course is taught by experienced assistant public defenders who have demonstrated proficiency in the areas to be discussed. The curriculum for the Assistant Public Orientation is as follows:

1. **Orientation and Tour** - discussion of the roles of the Public Defender's Office and the individual Assistant Public Defender in the criminal justice system. Discussion of Office policies and goals. Tour of the Public Defender Building and the Metro Justice Building to familiarize participants with available facilities.

2. **Disposition Specialists Services** - discussion of the programs and services available from the Public Defender's Office Disposition Specialists Unit Staff.
3. **Investigations** - discussion of the services available from the Public Defender's Office Investigative Staff.
4. **Mental Health** - discussion of the issues and law common to representation of defendants with mental health impairments.
5. **Computers** - review of the computer system utilized by the Public Defender's Office. Individualized training provided to develop computer literacy skills.
6. **Bond Hearings/ERU** - observation of a bond hearing proceeding. Discussion of the roles of the Bond Hearing Unit and the Early Representation Unit. Survey of the law applicable to pre-trial release.
7. **Court Calendar** - observation of morning calendar in felony court. Discussion of proper calendar markings and calendar notations. Emphasis on techniques to establish courtroom control. Arraignment proceedings and the propriety of pleas at arraignment are discussed.
8. **Crime Scene** - viewing of a crime scene video tape recorded at an actual homicide scene. Discussion of police practices in the gathering and preservation of evidence at crime scenes.
9. **Professional Responsibility** - an overview of the professional responsibilities of a criminal defense lawyer. Emphasis on common ethical problems faced by an assistant public defender. Conflicts of interest are discussed.
10. **Client Interview** - a discussion of theories and techniques to be utilized in conducting an effective client interview. Client counseling techniques are also covered.
11. **Discovery and Depositions** - an overview of procedural rules and substantive law in the area of discovery. Deposition taking techniques are discussed.
12. **Theories of Defense** - techniques in the formulation of theories of defense in a criminal trial. A discussion of the art of interrelating facts and law.
13. **Jury Selection** - a discussion of the questioning techniques used in the jury selection process. Demonstrations. Discussion of the law pertaining to jury selection, with emphasis on the rules applicable to the usage of discriminatory, peremptory challenges.
14. **Opening Statement** - a lecture covering the preparation and presentation of an effective opening statement. Demonstrations.
15. **Cross Examination** - a lecture covering techniques in the art of cross examination. Emphasis is placed on control of the witness, eliciting information and

impeachment. Demonstrations.

16. **Closing Argument** - a lecture covering the preparation and presentation of an effective closing argument. Demonstrations.
17. **Motion Practice and Record Preservation** - a discussion of legal requirements to preserve the record on appeal. Objections, mistrial motions, proffers, and curative instructions are covered. Tactical usage of pre-trial motions is emphasized.
18. **Sentencing Guidelines** - a lecture covering the procedural rules and substantive law involving Florida's Sentencing Guidelines.

## **FELONY INTERNSHIP**

The Public Defender's Office regularly recruits attorneys who attended law schools outside the State of Florida. In many instances, these lawyers have no experience with Dade County's criminal justice system and are not well versed in Florida criminal procedure. It is therefore the policy of the Office to provide these new lawyers with a brief internship in the felony division, to afford them an opportunity to familiarize themselves with Florida practice and procedure.

The internship last from two to four months. After completion of the Assistant Public Defender Orientation, the new attorney may be assigned to a felony division, under the direct supervision of at least one lawyer. The new attorney will be given an opportunity to engage in all aspects of felony practice, including interviewing, discovery, calendar, motion practice and trials. Emphasis must be placed on courtroom work. The progress of the new attorney will be monitored by his attorney supervisor, a training attorney and, where possible, a major crimes lawyer or senior attorney.

## **TRAINING IN THE COUNTY COURT DIVISION**

The County Court Division is primarily comprised of lawyers with less than two years' practical experience. In an effort to be responsive to the relatively inexperienced attorney, the Training Plan for the County Court Division has been formulated with an emphasis on education

and support from Training Attorneys and more experienced lawyers. Presently, a three week process is employed.

The first week of the training process includes an orientation session intended to familiarize the lawyer with the structure, operation and resources of the County Court Division.

Substantive lectures are presented on:

- **Traffic Offenses**
- **Right to Counsel**
- **Right to Jury Trial**
- **Discharge of Counsel**
- **Domestic Violence including Injunctions, Restraining Orders and Contempt**
- **Misdemeanor Offenses**
- **DUI**
- **Jail Arraignment**

Where possible, the new attorney is given opportunities to observe and participate in court proceedings.

During the second week of the training process, the attorney's participation in courtroom proceedings is intensified. Additionally, training is provided in the defense of a DUI case, including practice exercises in client interview, jury selection, opening statements, cross examination and closing argument. The discovery process and motion practice in misdemeanor cases is also reviewed.

In the third week, the new attorney also begins to accumulate new cases as part of the formulation of his/her caseload.

Training continues for the entire staff through weekly lectures on substantive law, trial techniques, DUI and domestic violence issues. The County Court Training Attorneys are primarily

responsible for the content of the lectures, and in conjunction with the Training Director, shall apply for applicable CLE credits. Monthly staffings are held in each division to discuss operational problems of the courtroom as well as problem cases within the division.

In addition to in-house County Court training, attorneys assigned to the Division may be sent to seminars outside the Office for training in specialized areas, such as DUI and domestic violence. Seminar participants are chosen based upon their job performance, their skill needs and their CLE requirements.

It is imperative that the Training Attorneys assigned to the County Court Division, make an assessment of the skill level of each of the attorneys there. Each attorney's strengths and weaknesses will be noted and discussed with the individual attorney. Efforts should be made, through one-on-one instruction, to improve the skills deemed to be weak. Emphasis should be placed on thorough trial preparation and aggressive courtroom presentation. Where possible, the Training Attorney should second chair trials, to permit the lawyer to learn by performance and observation.

Finally, it is the Training Attorney's responsibility to regularly report to the Chief of the County Court Division on the status and progress of the attorneys within the Chief's supervision.

#### **TRAINING IN THE JUVENILE DIVISION**

The Juvenile Division is primarily comprised of attorneys with less than two years' practical experience. In an effort to be responsive to the specialized needs of the relatively inexperienced attorney, the Training Plan for the Juvenile Division has been formulated with emphasis on education and support provided by Training Attorneys and more experienced lawyers. Presently, a three week process is employed.

The first week of the training process includes an orientation session intended to familiarize the lawyer with the structure and operation of the Juvenile Division.

A tour of the Juvenile Justice Center is conducted. Additionally, lectures providing an overview of juvenile law are presented. Among the areas discussed are:

- **Chapter 39, Florida Statutes**
- **Florida Rules of Juvenile Procedure**
- **Structure and Operation of the Department of Juvenile Justice**
- **Juvenile Detention, Adjudication and Punishment Consequences**
  - **Felony and Misdemeanor Offenses**
  - **Motion Practice**

Where possible, the new attorney is given opportunities to observe court proceedings.

The second week of the training process is principally concerned with "hands on" experience with every aspect of juvenile practice. The new attorney is personally monitored while conducting interviews and depositions, and while participating in calendar and other court proceedings. The Training Attorney shall instruct on the art of efficient case preparation and presentation, in an effort to prepare the new attorney for the high caseload demands characteristic of the Juvenile Division.

In the third week, the new attorney continues the intensive practical experience from the previous week. Additionally, the new attorney begins to accumulate new cases as part of the formulation of his/her own caseload.

Training continues for the entire staff through weekly lectures presented on substantive law, trial techniques or juvenile issues. The Juvenile Division Training Attorneys are primarily responsible for the content of the lectures, and in conjunction with the Training Director, shall apply for applicable CLE credits. Monthly staffings are held in each division to discuss operational problems of the courtroom as well as problem cases within the division.

It is imperative that the Training Attorneys assigned to the Juvenile Division, make an assessment of the skill level of each attorney there. Each attorney's strengths and weaknesses should be noted and discussed with the individual attorney. Efforts should be made, through one-on-one instruction, to improve the skills deemed to be weak. Emphasis should be placed on thorough trial preparation and aggressive courtroom presentation. Where possible, the Training Attorney should second chair trials, to permit the lawyer to learn by performance and observation. It is the Training Attorney's responsibility to regularly report to the Chief of the Juvenile Division on the status and progress of the attorneys within the Chief's supervision.

#### **TRAINING IN THE FELONY DIVISION**

When an attorney is transferred from either the Juvenile Division or the County Court Division to the Felony Division, the Training Director and/or a Felony Training Attorney should contact the attorney's former division chief for an assessment of the attorney's skill levels. Once a Training Attorney is assigned, the Training Director, the Training Attorney and the new felony attorney should meet to discuss the felony training program, skill strengths and weaknesses, expectations and goals. Thereafter, the Training Attorney should serve as a mentor for the new felony attorney. One-on-one training is essential.

The Training Attorney should attend calendar sessions daily through the new lawyer's first two trial weeks. Once the Training Attorney is satisfied that the new lawyer has demonstrated sufficient capability in calendar skills, the Training Attorney should periodically attend calendar sessions sufficient to enable the Training Attorney to remain apprised of the trainee's trial status and skill level.

In preparation for trial weeks, the Training Attorney should meet with the new attorney and review selected files set for the coming trial week. Emphasis should be placed on developing issue perception, motion practice and trial preparation.

While the rate of skill development varies with each lawyer, generally, the Training Attorney should second chair the new felony attorney's first three felony trials. In the first trial, the Training Attorney should select the jury. Thereafter, the trainee should select the jury panel. The trainee's performance should be critiqued at the conclusion of each trial.

When consistent with the trainee's other duties, the trainee should be encouraged to second chair the trials of other experienced attorneys in the office.

The Training Attorney must report on the progress of the new lawyer to the Senior Attorney for the division in which the new lawyer is assigned, at least once every two months. The trainee may be removed from the training list when, in the judgment of the Training Attorney and the Training Director, the trainee has attained an adequate level of competence. The Training Division shall notify the appropriate Senior Attorney of the attorney's completion of the training program.

#### **TRAINING IN THE EARLY REPRESENTATION UNIT**

The Early Representation Unit (ERU) has two primary goals: 1) the reduction in the number of days spent in jail by our clients prior to trial, and 2) and the voluntary dismissal or reduction of charges by the State. Since the lawyers who are assigned to ERU are highly experienced, the focus of training in ERU is directed at the specific functions of the Unit, as opposed to trial advocacy in general. The ERU Coordinator is responsible for providing the necessary training.

Initially, instruction is provided in case assessment. The new ERU attorney is trained in making appropriate judgments regarding possible avenues of attack to accomplish release and/or charge reduction. Computer training in CJIS is provided to assist the lawyer in obtaining all available background information.

Proper use of our investigative staff is discussed with the new ERU attorney. Utilization

of investigators for obtaining discovery materials in advance of Arthur hearings, such as tapes of BOLOs and 911 calls, and offense incident reports is stressed. Investigators are also used to take voluntary statements of the victim and other State witnesses, to locate defense witnesses and to document injuries and crime scenes. Tactics for the effective use of the discovered information in negotiations with the State Attorney's Office Felony Screening Unit are covered.

Finally, instruction is provided on effective, pre-trial representation in special cases such as cases involving high publicity, juveniles and mentally or medically impaired defendants.

### **TRAINING IN THE APPELLATE DIVISION**

Unlike the Trial Division, the addition of new attorneys to the Appellate Division is an infrequent event. As a result, there is no need for a full-time Training Attorney in the Appellate Division. Training of new attorneys in the Appellate Division will generally be handled by the Chief of the Division. If more than one new attorney is being trained at the same time, training responsibilities will be delegated to one of the more experienced attorneys in the Division.

New appellate attorneys shall initially attend the Assistant Public Defender Orientation. Additionally, all new appellate attorneys not proficient in the use of Westlaw, Premise, CD-Rom and Windows will be required to attend training sessions to learn these essential skills.

Training of new appellate attorneys will focus mainly on developing the following skills: 1) issue identification; 2) research; 3) brief writing and 4) oral argument. A new attorney will be given cases in which the record on appeal has been filed, and the initial brief of appellant is due to be filed. The new attorney will be required to familiarize himself with the Rules of Appellate Procedure. The new attorney will start out with appeals from Juvenile and County Court, and work their way up to felony jury trial appeals.

The new attorney will read through the record and identify possible appellate issues. The supervising attorney will also read through the record to make sure that the new attorney has not

missed any potential issues. The supervising attorney and the new attorney will then discuss the possible issues and decide which issues should be researched.

After researching possible issues, the new attorney will meet again with the supervising attorney. The supervising attorney will review the research and make suggestions to improve the research skills of the new attorney. This process will be repeated until the supervising attorney feels that the new attorney has found all the relevant authorities needed to brief the issues in the case.

The next conference between the supervising attorney and the new attorney will decide what issues (if any) are to be raised in the brief. If there are no viable issues, the supervising attorney will advise the new attorney about the factors to be considered in deciding whether to file an *Anders* brief. Once a determination is made concerning the issues to be raised, the new attorney will prepare a draft of the initial brief. A series of conferences will then follow in which the supervising attorney will edit the draft briefs and offer constructive criticism until the new attorney writes an acceptable brief.

Preparation for oral argument starts with a review of the State's brief, and an explanation to the new attorney of the factors to be considered in deciding whether to file a reply brief. Once all the briefs in a case are filed and the case is set for oral argument, the supervising attorney will give the new attorney an overview of the oral argument process, and teach the new attorney how to prepare for the oral argument. The new attorney will attend two or three oral arguments in other cases to observe the process first-hand. As the date of the oral argument approaches, the new attorney will have the opportunity to present a mock oral argument before a group of experienced appellate attorneys. For the first few actual oral arguments, the supervising attorney will accompany the new attorney to the oral argument.

After the new attorney has demonstrated a degree of proficiency in issue identification, research, brief writing and oral argument, that attorney will be placed in the regular rotation of appellate attorneys and will be assigned cases as they come into the Appellate Division. At this

point, the new attorney will be trained in the additional skills of initiating an appeal by communicating with the trial attorney, examining the trial court file, and filing the necessary pleadings to have the appellate record prepared.

Members of the Appellate Division staff shall maintain and endeavor to improve their appellate skills by attending appropriate seminars and conferences. New appellate attorneys shall be required to attend the annual Florida Public Defender Association seminar for appellate defenders in the State of Florida.

#### **ATTORNEY SEMINARS AND IN-SERVICE TRAINING**

The Training Division is responsible for creation and implementation of an in-service training program, consisting of in-house training and seminars from outside vendors, that is designed to improve the knowledge and skill level of our legal staff.

Seminars from outside vendors shall be selected on the basis of quality, cost effectiveness and CLE credit offered. It shall be the policy of the Office, when fiscally practicable, to require the attendance of each Assistant Public Defender who has reached the status of a "C" level felony attorney, at one of three trial practice programs: the National Criminal Defense College Trial Institute at Macon, Georgia, State Attorney/Public Defender Training Program at Gainesville, Florida or State Attorney/Public Defender Training Program at Coral Gables, Florida. Thereafter, seminar participants shall be chosen based upon their job performance, their skill needs and their CLE requirements.

The in-house training program shall include lectures and presentations by attorneys and experts from within and outside the Office. Efforts will be made to engage the assistance of former members of the Office, who have attained a level of expertise in the various disciplines of trial practice.

**RECURRING IN-HOUSE TRAINING — OFFICE WIDE BY DIVISION**

**JUVENILE DIVISION TRAINING**

ATTEMPTS

CASE PREPARATION

CHARACTER EVIDENCE

CIRCUMSTANTIAL EVIDENCE

CLIENT INTERVIEWS

CLOSING ARGUMENT

COMMENTS ON SILENCE

COMMUNITY CONTROL VIOLATION HEARINGS

COMMUNITY PROGRAMS FOR JUVENILES ON COMMUNITY CONTROL

COMPETENCY

COMPUTER APPLICATIONS

CONFESSIONS

CONSEQUENCES OF PLEAS

CONTEMPT

CRIMINAL MISCHIEF

CROSS EXAMINATION

DEPOSITIONS

DETENTION HEARINGS

DIRECT EXAMINATION

DISCUSSION OF THE JUVENILE DETENTION STATUTE

FORENSIC SOCIAL WORKERS

FORM BANK

HEARSAY AND THE STATE OF MIND EXCEPTION

IMPEACHMENT

IMPROPER PROSECUTORIAL CLOSING ARGUMENT

INEVITABLE DISCOVERY

INTERNET USAGE

INVESTIGATIONS

JUDGMENT OF ACQUITTAL MOTIONS

JUVENILE ASSESSMENT CENTER

KIDNAPING

MISIDENTIFICATION CASES

NEGATIVE IMPEACHMENT

OPENING STATEMENTS

PLEA NEGOTIATIONS

PREDICATE FOR INTRODUCTION OF DRUGS INTO EVIDENCE

PROFESSIONALISM

SEARCH WARRANTS

SECRETARIES

SELF DEFENSE

SOUNDINGS

SPEEDY TRIAL

STRATEGIES AND TACTICS IN THE DEFENSE OF SEX OFFENSES

SUPPRESSION MOTIONS

SWORN MOTION TO DISMISS

THE FLORIDA PUNISHMENT CODE  
THE SEXUAL PREDATOR DETENTION LAW  
TRIAL BOARD  
USE OF PRIOR INCONSISTENT STATEMENTS  
VOIR DIRE  
*WILLIAMS* RULE EVIDENCE AND RES GESTAE

**COUNTY COURT DIVISION TRAINING**

BE ON THE LOOKOUTS AND STOPS  
BENCH WARRANTS  
BOND HEARINGS  
CLOSING ARGUMENT  
COMPUTER APPLICATIONS  
CONTEMPT  
*CORPUS DELICTI* MOTIONS  
DESTRUCTION OF EVIDENCE  
DIRECT TESTIMONY OF THE DEFENDANT  
DISCHARGE OF THE PUBLIC DEFENDER  
DISCOVERY VIOLATIONS  
DRIVING UNDER THE INFLUENCE– DISCOVERY  
DRIVING UNDER THE INFLUENCE – ENHANCEMENT OF A MISDEMEANOR TO A FELONY  
DRIVING UNDER THE INFLUENCE – RETROGRADE EXTRAPOLATION  
DRIVING UNDER THE INFLUENCE – VOIR DIRE

DRIVING UNDER THE INFLUENCE TRIALS (intoxilyzer, partition ratios, air blank, error factor, cross examination on roadside tests and breath machine analysis)

DRUG RECOGNITION EXPERTS: MARIJUANA, COCAINE, ETC.

FIELD SOBRIETY TESTS

FORENSIC SOCIAL WORKERS

FORM BANK

HENRY'S LAW – PARTITION RATIOS

HOUSE ARREST AND WORK RELEASE

IMPOUNDMENT OF MOTOR VEHICLES

IMPROPER JUDICIAL COMMENT

INTERNET USAGE

INVESTIGATIONS

JAIL CASES

JURY SELECTION – ISSUE PRESERVATION

MOTIONS IN LIMINE

NECESSITY DEFENSE FOR DRIVING WHILE LICENSE SUSPENDED

NEGATIVE IMPEACHMENT AND RELEVANCY

PRESERVING JURY SELECTION ERRORS FOR APPEAL

PROBATION VIOLATION HEARINGS

PROFESSIONALISM

RECUSALS

RESTITUTION

RULE 6.180 – PRIOR CONVICTIONS

SECRETARIES

SELF DEFENSE

SPEEDY TRIAL

SUBPOENA DUCES TECUM

SUPERSEDEAS BOND

SWORN MOTION TO DISMISS

TACTICS AND TECHNIQUES IN BENCH TRIALS

TACTICS FOR HANDLING IMPROPER PROSECUTORIAL COMMENT

TRIAL BOARD

TRIAL INFORMATION SHEETS FOR APPEALS

VOIR DIRE (theory of defense and improper prosecutorial comment)

VOIR DIRE (time limits)

## **FELONY DIVISION TRAINING**

7 HABITS OF HIGHLY EFFECTIVE PEOPLE

ACTING FOR LAWYERS – MAXIMIZING COURT PERFORMANCE

APPELLATE PRACTICE

BAIL REVOCATION

BOND HEARING

CAPITAL SEX BATTERY

CLIENT INTERVIEW

CLIENT INTERVIEW WORKSHOP

CLOSING ARGUMENT

COMPUTER APPLICATIONS

CONFIDENTIAL INFORMANTS

CONFLICT GUIDELINES

CONSEQUENCES OF ARREST/CONVICTION

CONTEMPT

CRIME SCENES

CRIMINAL PUNISHMENT CODE

CROSS EXAMINATION

DEATH PENALTY

DISCOVERY & DEPOSITIONS

DRUG COURT

FALSE CONFESSION

FEDERAL FIREARMS CONSEQUENCES

FINGERPRINTS

FORENSIC SOCIAL WORKERS

FORM BANK

IMMIGRATION

INDEFINITE CIVIL COMMITMENT

INDIGENCY GUIDELINES

INTERNET USAGE

INVESTIGATIONS

MANAGEMENT TRAINING

MENTAL HEALTH

MISIDENTIFICATION

MITIGATION THEMES IN SENTENCING AND/OR THE

USE OF PSYCHOLOGICAL TESTING IN COURT

NON VIOLENCE PRINCIPLES – MARTIN LUTHER KING JR.

OPENING STATEMENT

PENALTIES FOR SEX OFFENDERS

PRESERVING THE RECORD ON APPEAL

PRISON RELEASEE RE-OFFENDER PUNISHMENT ACT

PROFESSIONALISM

SELF DEFENSE

SENTENCING ADVOCACY

SENTENCING GUIDELINES

SEXUAL PREDATOR STATUTE

SPEEDY TRIAL

SUBPOENAS DUCES TECUM

SUPERSEDEAS BOND

SWORN MOTION TO DISMISS

THE *FRYE* TEST AND DNA

THEORIES OF DEFENSE

TRIAL BOARD

VOIR DIRE

**CRIMINAL APPELLATE DIVISION TRAINING**

ANALYZING RECORD FACTS

COMMON LAW WRITS

COMMUNICATION WITH TRIAL COUNSEL AND CLIENT

DEFENDING AGAINST HARMLESS ERROR

DEVELOPING A THEORY OF DEFENSE ON APPEAL

EFFECTIVE BRIEF WRITING

ETHICAL CONSIDERATIONS FOR THE APPELLATE PRACTITIONER

HABEAS CORPUS, PROHIBITION, MANDAMUS AND CERTIORARI

IDENTIFYING PER SE AND STRUCTURAL ERRORS

IDENTIFYING, PRIORITIZING AND WEAVING LEGAL ISSUES

MANAGING THE DIFFICULT CLIENT

MOOT ORAL ARGUMENT PRACTICE

RAISING UNPRESERVED AND WEAKLY PRESERVED ERRORS

RECENT SUPREME COURT DECISIONS, STATE DECISIONS, STATUTES AND RULES

RECORD PREPARATION

SENTENCING ISSUES

STORYTELLING TOOLS, TECHNIQUES AND CHARACTERIZATION OF WITNESSES AND

TRIAL PARTICIPANTS

## **DOMESTIC REPRESENTATION UNIT TRAINING**

ADVOCATE PROGRAM

*ALLEN* CHARGE

APPEALING DISPOSITIVE MOTIONS

CASE PREPARATION

CHAPTER 741

CLIENT PREPARATION

CLOSING ARGUMENT

COMPETENCY AND INSANITY

COMPUTER APPLICATIONS

CONFLICTS OF INTEREST

CONTEMPT

CORPUS DELECTI

COURTROOM CLOSURE

CROSS EXAMINATION

DEALING WITH THE PRESS

DEFENDANT'S PRESENCE IN COURT

DIRECT EXAMINATION

DISCOVERY

DISQUALIFICATION

DOMESTIC REPRESENTATION UNIT LIBRARY RESOURCES

DOMESTIC VIOLENCE HISTORY, POLITICS, AND PHILOSOPHIES

EVIDENCE: EXCITED UTTERANCE, SPONTANEOUS STATEMENTS, *WILLIAMS* RULE,

OPINION AND EXPERT TESTIMONY, JUDICIAL NOTICE, CHARACTER EVIDENCE,

IMPEACHMENT, HEARSAY EXCEPTIONS AND BUSINESS RECORDS

FILE JACKET ANNOTATIONS AND ABBREVIATIONS

FIRST APPEARANCE AND BAIL AND MODIFICATIONS

FORENSIC SOCIAL WORKERS

FORM BANK

FRIEND-OF-THE-COURT ISSUES

*HALIBURTON* ISSUES

IMMIGRATION CONSEQUENCES

IMPROPER (OBJECTIONABLE) STATE AND JUDICIAL COMMENTS DURING TRIAL

INFORMATION VERSUS ARREST FORMS

INTERNET USAGE

INTERVIEWING CLIENTS

INTERVIEWING WITNESSES

INVESTIGATORS

JUDGMENT OF ACQUITTAL

JURY INSTRUCTIONS

LATE TRIALS

MENTAL HEALTH

MOTION DRAFTING AND LEGAL WRITING

MOTIONS TO SUPPRESS

NEGOTIATION

*OBANION* AND RAMIFICATIONS

OPENING STATEMENTS

ORDERS OF NO IMPRISONMENT

POLLING OF JURY

PRESENTATION OF LEGAL ARGUMENTS TO JUDGES

PRESERVING RECORD FOR APPEAL

PROBATION

PROFESSIONALISM

PURPOSES, NUANCES, AND OBJECTIVES OF VARIOUS CALENDARS

RE-OPENING CASES

RESTITUTION

RIGHT TO INTERPRETER

RULE OF COMPLETENESS

RULE OF SEQUESTRATION

RULE TO SHOW CAUSE

RULES OF CRIMINAL PROCEDURE

SECRETARIES

SELF DEFENSE

SEVERANCE, JOINDER, and CONSOLIDATION

SPEEDY TRIAL

STATUTE OF LIMITATIONS

STAY AWAY ORDERS VS. INJUNCTIONS

SUBSTANTIVE DOMESTIC VIOLENCE OFFENSES

SUPERSEDEAS BOND

SWORN MOTIONS TO DISMISS

TRIAL BOARD

TRIAL INFORMATION SHEETS AND PROCEDURES

VOIR DIRE

WEEKEND BOND PROCEDURES

WORKING WITH CLERKS AND CORRECTIONS

## TRAINING FOR DISPOSITION SPECIALISTS

The primary role of the Disposition Specialists Services Unit is to:

- 1) Provide Assistant Public Defenders and their clients with therapeutic assessments, treatment options and alternatives to incarceration. Disposition specialists assist in the resolution of legal cases by addressing client needs and placing them in the most beneficial and least restrictive setting. By working with an individual's legal and mental health needs, the client may benefit from treatment, a reduction in the chance of re-offending, and the opportunity to become a productive member of society.
- 2) Provide detailed information, synthesis of prior placements and life history of clients for courtroom presentation. These documents take the form of mitigation reports and sentencing recommendations that may be used pre- and post-trial.

The Disposition Specialists Unit assists clients with "special needs." Disposition specialists provide intervention within the Felony, Juvenile and County Court divisions of the Public Defender's Office. "Special Need" clients are those who exhibit the following conditions and/or problems:

- **Mental Retardation**
- **Physical Disabilities**
- **Learning Disabilities**
- **Mental Illness**
- **Substance Abuse (Alcohol and Other Drugs)**
- **Dually Diagnosed (Substance Abuse and Mental Illness)**
- **Homelessness**
- **Domestic Violence History**
- **Illiteracy and Those in Need of Educational Assistance**
- **Lack of Vocational Skills (Job Placement)**
- **Lack of Parenting Skills**
- **Anger Control**

- **Sexual Offenses**
- **HIV**
- **Competency Issues**

#### **INITIAL TRAINING – THE NEW DISPOSITION SPECIALIST**

The training curriculum for the new disposition specialist is two weeks in length. The first week is predominately didactic and practically oriented. The second week focuses on the assignment of a caseload. Each disposition specialist is assigned a lead trainer who is responsible for following a detailed training agenda. The lead trainer is responsible for answering questions, consulting on cases, providing court exposure, and coordinating tours of jails and community programs. One hour each day is allotted for the lead trainer and new disposition specialist to review case progress and direction. Each disposition specialist within the division is delegated to train on specific areas of the training agenda outline. The general areas presented in the training curriculum are as follows:

1. **Philosophy of the Public Defender's Office.** Due to the fact that the Disposition Specialists unit operates within a law office, the Office's disposition specialists do not operate in a traditional social work capacity. The role of an Assistant Public Defender, duties and responsibilities to clients and appropriate intervention are discussed. Disposition specialists are taught boundaries and treatment parameters within legal sentencing. The importance of providing Assistant Public Defenders with a variety of placement options, both therapeutic and least restrictive in nature, is stressed. Confidentiality and Professional Regulations Guidelines for Disposition specialist Conduct is addressed.
2. **Office Resources.** The disposition specialist is trained to utilize available computer resources such as E-Mail, CJIS, Teamup, Windows 1995, and laptop computers. Special attention is paid to documenting information obtained by disposition specialists. Case notes are made accessible and are updated by all units of the Office in order to better serve clients in a timely and efficient manner. Emphasis is placed on creating a comprehensive picture of client needs in furtherance of building a strong legal defense.

3. **Services Provided by the Public Defender's Office.** An introduction to specific units within the office: Early Representation Unit, Bond Hearing Unit, Mental Health Unit, Investigations, Felony, County, Drug and Juvenile Court. Discussion regarding the responsibilities and purposes of these units, as well as the efficient integration of the disposition services unit with other factions of the Office, in furtherance of providing better service to our clients.
4. **Assessing and Addressing Client Needs.** A detailed outline of interviewing techniques and the relationship of the interview to mitigation and placement. The disposition specialist is taught how to efficiently gather information regarding the client's life, to better assess needs and to provide the Assistant Public Defender with pertinent information. The disposition specialist is then trained in the effective utilization of defense experts through sharing of information, life history, family interviews and symptomatology in order to obtain a clear picture of the client and his or her situation.
5. **Community Resources.** Training on all available community resources. A list of outpatient programs, residential programs and contact persons are reviewed. The disposition specialist is trained on Department of Corrections programs, Community Mental Health Catchment areas, indigent programs and insurance or private pay treatment agencies. In addition, the disposition specialist is trained on accessing benefits and utilizing various screening committees in order to obtain services for indigent clients.
6. **Competency Issues.** Discussion of involuntary hospitalizations and forensic commitments, as well as provision for placement of clients upon their return from commitment facilities. The Mental Health Division trains and provides literature on involuntary commitments and incompetence due to mental retardation.
7. **Sentencing Guidelines.** A general understanding of the specific charges and the appropriate guidelines recommended sentence is essential in order to properly prepare treatment alternatives to incarceration. Training includes, but is not limited to, county jail and prison sentences, offenses which carry minimum mandatory sentences, probation, community control, Habitual Offender and Habitual Violent Offender provisions, GORT, and Youthful Offender and Juvenile sanctions.
8. **Introduction to the Criminal Justice System.** The new disposition specialist is given a tour of the courthouse and introduced to the various duties and roles of court personnel. Court documents essential to the assessment of cases are reviewed. These documents include, but are not limited to, the arrest form, information, pre-sentence investigations, court-ordered and TASC evaluations.
9. **Courtroom Protocol.** Appropriate courtroom conduct, delivery of information, and courtroom presence are discussed. The new disposition specialist will observe the lead trainer presenting cases in open court, as well as in chambers.
10. **Preparation of Written Documentation for Mitigation Purposes.** Training on the compilation and presentation of the following documents: Psycho-social and Chronological Summaries, treatment plans, mitigation reports, and sentencing recommendations.

## **IN-SERVICE DISPOSITION SPECIALIST TRAINING**

Each individual disposition specialist unit has weekly staff meetings, at which individual case development is discussed. There is a monthly meeting at which all units convene to discuss issues and problems. A collection of program literature is continually updated and maintained. New community programs offer presentations to the disposition specialists on a regular basis. Outside seminars which focus on special client populations are also made available. Seminar participants are selected based upon job performance and training need.

## **TRAINING FOR INVESTIGATORS**

The investigator is crucial to the strength of the defense unit. His primary function is to gather information from people and institutions and conceptualize it into data that is useful to the defense.

In order to realize his full potential, the investigator must be totally immersed in the defense case. He must have enough information about the case and the theory of defense to be able to participate in problem solving and contribute to the formulation of an overall investigation strategy. The investigator should be encouraged to be an independent thinker and to apply his common sense and life experience to problem resolution.

Investigator training will be accomplished chiefly through the use of in-house resources, experts from other governmental agencies, and private sector lecturers.

## **INITIAL TRAINING – THE NEW INVESTIGATOR**

During the new investigator's first week, the investigator will receive several hours of classroom training dedicated to orienting the investigator with the role, responsibilities and structure of the Public Defender's Office.

During this general orientation, the trainee will receive instruction on the following subjects:

1. **The Role and Responsibilities of the Public Defender's Office.** A general overview of the Office's role in the representation of indigent defendants charged with criminal offenses. Discussion of the attorney-client privilege.
2. **The Structure of the Office**, including:
  - a. **Felony, County and Juvenile Trial Divisions** - their organization and function.
  - b. **Appellate Division.** The function of the division and its relationship with the trial divisions.
  - c. **Early Representation Unit.** Its function and personnel. Specific attention is given to the particularized investigative needs of the division, i.e., the need for sensitivity toward the family of the accused and for expediency in completing investigative assignments. The new investigator will meet with the supervisor of the unit.
  - d. **Bond Hearing Unit.** Its function, personnel and investigative requirements. Observation of Bond Hearing procedures, both in the Miami-Dade Pretrial Detention Facility and in the courtroom.
  - e. **Mental Health Unit and Disposition Specialists Staff.** An overview of the function of the unit and the interplay of our disposition specialists staff with our lawyers, investigators and clients.
  - f. **Office Support Structure.** An overview of secretary and clerical assignments, the role of the librarian, systems development and automation personnel and the Office's communications coordinator.

In addition, to the material covered during the orientation series, the new investigator shall receive computer training directed at the development of proficiency in the use of the CJIS, Teamup, Auto-Track and Florida Driver's License databases.

Following completion of the orientation series, the new investigator shall be assigned an experienced investigator/trainer that will mentor the new investigator on a one-on-one basis.

This individualized training shall specifically include the following:

1. **Development of Interviewing Skills and Questioning Techniques.** Emphasis is on the necessity to develop good techniques and skills to be an effective interviewer. These should include effective listening and note taking, awareness of the surroundings in which the interview is conducted, and sensitivity toward the race, religion and ethnic origin of the person being interviewed.
2. **Efficient Access to Detention Facilities and Jails.**
3. **General Investigative Technique**, including:
  - a. Location of witnesses through the use of street canvassing and on-line information.
  - b. Visiting and recording crime scenes by photography or video.
  - c. Measurement of distances.
  - d. Collection, observation and recording of evidence.
  - e. Background research of witnesses.
  - f. Service of subpoenas and court orders.
  - g. Obtaining school, medical, police, public and corrections records.
4. **Procurement and Preparation of Court Displays and Presentations.**
5. **Using Proper Protocol to Transport Witnesses and Clients.**
6. **The Team Approach.** An investigator's responsibility to aid and assist other investigators in the performance of their duties.
7. **Investigator Safety and Security.**
8. **Criminal Investigation Techniques.** Development of knowledge of the techniques used by the various police personnel involved in the investigation and arrest of our clients.

## **IN-SERVICE TRAINING**

A Standing Committee responsible for investigator training will facilitate the presentation of monthly seminars designed to develop the skills of our investigative staff. Attendance at the lectures shall be mandatory. The subject matter of the lectures may include, but is not limited to:

- **Videotaping and Photography**
- **Investigator Safety**
- **Mitigation Evidence Development**
- **Witness Location Techniques Through the Use of Computer Databases**
- **Organization and Storage of Information**
- **Investigation of a Sexual Battery Case**
- **Investigation of a Domestic Violence Case**
- **The Use of Chapter 119 – Public Records Statute**
- **Investigator Testimony – Deposition and Courtroom**
- **Interviewing a Witness – An Attorney's Perspective**

In addition to the in-house training discussed above, investigators may attend outside seminars that will assist the investigator in keeping abreast of developments in the forensic sciences and expose him to various investigation techniques. Previously, seminars offered by the National Defenders Investigator Association, the Florida Public Defender Association and the Public Safety Institute of the University of North Florida have been proven to be valuable. Seminar participants shall be chosen based upon their job performance and training needs.

## **INVESTIGATOR TRAINING FOR THE JUVENILE AND COUNTY COURT DIVISIONS**

An investigator who is assigned to work in the Juvenile or County Court divisions will have specialized training needs consistent with the responsibilities of the respective divisions. The Office will endeavor to provide the necessary training through one-on-one instruction by an experienced investigator/trainer and/or a training attorney assigned to the particular division.

In Juvenile, the investigator will receive instruction on:

- **Confidentiality of Records**
- **Interviewing Techniques with Children**
- **Chapter 39, Florida Statutes**
- **Development of Mitigation Evidence and Juvenile Placement**

In County Court, the investigator will receive instruction on:

- **Statutes and Administrative Regulations Pertaining to DUI**
- **Operation, Procedures and Programs in Domestic Violence Court**
- **Development of Mitigation Evidence**
- **Sentencing Alternatives in Domestic Violence Cases**

## **TRAINING FOR SECRETARIES**

### **TRAINING THE NEW SECRETARY**

For the first three months of employment, secretaries are placed on probationary status. Within those three months, they will be evaluated three separate times. The initial two evaluations, done during Phase II and Phase III, will be completed approximately within the first four weeks. The third evaluation will be executed after the third month. After this process, evaluations will be conducted on a yearly basis.

### **Phase I**

The Automation Training Unit is responsible for the first week of training. This training consists of:

- **Punching in on the Computer**
- **Tour of the Main Office**
- **Public Defender's Role in the Criminal Justice System**
- **Role of Secretary**
- **Explanation of Chain of Command**
- **Computer training (e.g. Teamup, FoxPro, CJIS, WordPerfect)**
- **Introduction to Calendars (reading a calendar, opening new cases, updating and closing/disposition)**
- **Document Production (subpoenas, motions, notices, orders, memos and letters)**
- **Maintaining Attorneys' Books**
- **Telephones (proper telephone etiquette, role playing)**

A checklist covering the areas listed above shall be signed and dated by the trainer and the new secretary upon completion of each section.

The Training Unit is responsible for receiving all original evaluations and checklists for copying and distribution to appropriate personnel.

### **Phases II and III**

Phases II and III will be performed by designated personnel to help train the new secretaries. During Phase II, a two week training period, a secretary (referred to as trainer) from within a pod will be assigned to train and mentor the new secretary. A checklist will be given to the trainers to be initialed as sections are completed. The following are some of the

tasks that are to be covered:

- Follow-up Computer Training (Teamup {defend, history, audits}, CJIS and WordPerfect { assemble motions, subpoenas})
- Calendars (reading a calendar, opening new cases, updating, closing/dispositions)
- Document Production (subpoenas, motions, notices, orders, memos and letters)
- Follow-up on Maintaining Attorneys' Books
- Telephones (telephone etiquette, answering questions and following through on calls)

By the end of Phase II, trainers must evaluate trainees on performance and interaction. The Automation Training Unit and the pod trainer will confer and review the new secretary's evaluation. At this time, it will be determined if the new secretary is ready to go on to Phase III or if personalized training is necessary. If remedial training is needed, the Automation Training Unit and the pod trainer will determine the type of training that is needed. The Automation Training Unit will be present when the evaluation is reviewed with the new secretary.

Upon satisfactory completion of Phase II, the new secretary will enter Phase III, a one week training session. During this phase, the new secretary shall handle a court's work independently, with daily monitoring by the pod trainer.

After the conclusion of Phase III, the pod trainer will evaluate the new secretary's performance. Should the evaluation be acceptable, the new secretary will be deemed to have successfully completed the initial training program and will be given a new job assignment. After her third month with the Office, the new secretary's job performance will be evaluated by the Administrative Secretary. The information gathered for this evaluation will come from the attorneys in the court and the pod coordinator/floater.

Should the evaluation be negative after Phase III, administrative staff and the Automation Training Unit shall determine the appropriate measures to be taken regarding the

new secretary's employment with the Office.

### **IN-SERVICE TRAINING**

All secretaries are required to attend a yearly computer refresher course. The course, which shall include an assessment of the secretary's computer skills, re-training to strengthen identified weaknesses and training on new computer functions and databases, shall be coordinated through the Automation Training Unit.

Secretaries may also be selected to attend in-house seminars and seminars that are presented by outside vendors relating to computer and secretarial skill building. Seminar participants shall be chosen based upon their job performance and their training needs.

### **TRAINING FOR CLERKS**

The Public Defender's Office employs clerks who fill a variety of distinct roles with varying job responsibilities and tasks. In the past, Office operational requirements have often necessitated movement of clerks from one role to another within the Office. Clerical training must be sufficiently broad to permit clerks to easily move from one position to another, without sacrificing Office efficiency or clerical job performance.

### **INITIAL TRAINING – THE NEW CLERK**

The initial training program for clerks will be for one to two weeks and will include an orientation program, automation training, a period of "hands on" training with an experienced clerk and a period of "hands on" training in the clerk's assigned area. After successful completion of the initial training program, the new clerk will be assigned to their position.

During the orientation program, the clerical trainee will receive instruction on the following subjects:

1. **The Role and Responsibilities of the Public Defender's Office.** A general overview of the Office's role in the representation of indigent defendants charged with criminal offenses. Discussion of the attorney-client privilege.
2. **The Structure of the Office,** including:
  - a. **Felony, County and Juvenile Trial Divisions.**  
Their organization and function.
  - b. **Appellate Division.** The function of the division and its relationship with the trial divisions.
  - c. **Early Representation Unit.** Its function and personnel.
  - d. **Bond Hearing Unit.** Its function and personnel.
  - e. **Mental Health Unit and Disposition Specialists Unit Staff.** An overview of the function of the unit and the interplay of our disposition specialists staff with our lawyers, investigators and clients.
  - f. **Office Support Structure.** An overview of secretary and clerical assignments, the role of the librarian, systems development and automation personnel and the Office's communications coordinator.
  - g. **Tour of the Dade County Jail.**

In addition to the orientation program, all clerks will receive computer training directed at the development of proficiency in the use of the CJIS and Teamup databases. Through the use of these computer resources, the clerk will be trained to research the criminal history of a client (CJIS), locate Office files, enter Office files into the Office computer system, keep track of supplies, and retrieve and print secretarial requests (Teamup or FoxPro).

#### **RECEPTION CLERK TRAINING**

In addition to the initial training described above, reception clerks will be trained for the following duties:

1. **Secretarial Phone Coverage.** Efficient phone coverage while utilizing proper phone etiquette, with emphasis on handling difficult calls.

2. **Conflict Files.** Location of files for private attorneys appointed after a public defender conflict, verification of the attorney of record, procedures for copying the file and obtaining receipts.
3. **General Office Duties.** Sorting and distributing office mail, assisting the public in a professional manner, and preparation of daily court calendars.

### **COPY CLERK**

The Office employs two different types of copy clerks. One is sent to the clerk's office to copy documents requested by staff. The other does in-house copying of materials requested by staff. Training for these positions will include:

1. **Clerk's Office.** Obtaining proper documents requested by attorneys and secretaries, use of the micro-film disk and certification of documents.
2. **In-house Clerk.** Accurate distribution of copies to staff and familiarity with publications for attorney distribution.

### **FILE AND SUPPLY ROOM CLERKS**

The file and supply room clerks work closely together. Supply room clerks are expected to assist in the file room when they have completed their work and have returned from their daily supply runs. Their training will include:

1. **Entry of Files in the Computer Database.** Collection of files from all areas of the Office, proper labeling of files with year tabs and proper file storage procedures.
2. **Procedures for Filing of Documents with the State Attorney's and Clerk's Offices.**
3. **Supply Distribution.** Proper distribution of supplies to all facilities, maintenance of inventory in computer database and organization of office and furniture moves for inter- and intra-building movement.