



PROGRAM ANNOUNCEMENT

The Advocacy Institute Is Pleased to Present

THE DIVISION OF CRIMINAL JUSTICE'S 2017 APPELLATE SYMPOSIUM

September 5, 2017

10:00 a.m. – 4:00 p.m.

Richard J. Hughes Justice Complex

4th Floor A Rooms

25 Market Street

Trenton, New Jersey

PLEASE READ: NOTICE REGARDING COURSE MATERIALS

You will receive the course materials approximately forty-eight (48) hours prior to the date of the course. The materials will be contained in an email attachment.

Program Summary

This day-long symposium will address hot topics and emerging issues in criminal law enforcement in New Jersey; including: prosecuting drug-impaired drivers, upcoming New Jersey Supreme Court litigation, double jeopardy, and jail credit.

Who Should Attend?

This seminar is only intended for Division of Criminal Justice Deputy Attorneys General, Assistant Prosecutors, Detectives and Investigators handling criminal matters. This program is not open to other government attorneys or law enforcement personnel beyond those identified above. Please do not attempt to register if you are not a member of one of the listed groups.

Who Is the Faculty?

Please see below.

CLE Credit

NJ CLE Credit: This program had been approved by the Board on Continuing Legal Education of the Supreme Court of New Jersey for 5.4 hours of total CLE credit. Of these, 0.0 qualify as hours of credit for ethics/professionalism.

NY CLE Credit: 5.0 Substantive Credits (pursuant to the approved jurisdiction policy).

PA CLE Credit: 4.5 Substantive Credits (\$7.50 per credit mandatory registration fee required).

How Do I Register?

State Employees

Most State employees are able to register for this course by going to <http://reg2.dcj.lps.state.nj.us/lpcreg/login.aspx?portalid=2> and creating an AGAI Course Registration account. To do so, your computer **must** be attached to the government's Garden State Network. Upon opening the AGAI Course Registration System home page, you will see the Create Account link in the Login Box. Click on it and create your account, which will include you selecting a user name and password. Once you create your account, you can access the AGAI Course Registration System at <http://reg2.dcj.lps.state.nj.us/lpcreg/login.aspx?portalid=2> to register for future courses or to manage your account. Please retain your user name and password for your records.

Non-State Employees or State Employees not Connected to the Garden State Network

If you are not a State employee, or are otherwise unable to access the AGAI Course Registration System through the Garden State Network, kindly email the Advocacy Institute at: njagai@njoag.gov for an authorization code to allow you access to the AGAI Course Registration System through the My New Jersey portal. **Setting up your account through the portal is a two-step process, the details of which are set forth in the next two paragraphs.**

Once you receive the portal authorization code you will be prompted to go to the My New Jersey portal at <http://www.state.nj.us/> and create a portal account. Once your portal account is created you are prompted to enter your authorization code. This is Step 1 of the process, which you need only do once.

If you have already been issued an authorization code in the past you do not need to request another one. You can log into your account on the Garden State Network at <http://www.state.nj.us> and under the heading NJ L&PS Applications you will see the Attorney General's Advocacy Institute's Registration System. Click on that and log into your account on our system.

Upon setting up your portal account, you need to set up your AGAI Course Registration System account. This is Step 2. To do so, log on to the My New Jersey Portal <http://www.state.nj.us/>. Upon opening the AGAI Course Registration System home page, you will see the Create Account link in the Login Box. Click on it and create your account, which will include you selecting a new user name and password. Once you create your account, you can access the AGAI Course Registration System at <http://reg2.dcj.lps.state.nj.us/lpcreg/login.aspx?portalid=2> to register for future courses or to manage your account. Please retain your user name and

password for your records.

PROGRAM SCHEDULE

Legal Considerations for Prosecuting the Drug-Impaired Driver

10:00 a.m. – 11:00 a.m.

This presentation will explore the Drug Recognition Expert Program, including the seven drug categories and the scope of testimony a DRE can provide. This presentation will also discuss the legal and practical issues involved in the prosecution of the drug-impaired driver, with a focus on challenges to the Drug Recognition Expert program and the current state of New Jersey law.

AP Monica do Outeiro is an Assistant Prosecutor in the Appellate Section of the Monmouth County Prosecutor's Office. AP do Outeiro began working for the Monmouth County Prosecutor's Office as a legal assistant in the Appellate Section and was sworn in as an Assistant Prosecutor in 2007. After brief stints in the Family Unit prosecuting juvenile and domestic violence cases, she returned to the Appellate Section. AP do Outeiro is the Municipal Prosecutors Supervisor and is responsible for developing case law involving the Alcotest. She is also a Police Training Commission Certified Instructor who regularly teaches at the Monmouth County Police Academy and at various in-service trainings for municipal police officers. AP do Outeiro graduated *magna cum laude* from Hamilton College in Clinton, New York in 2003 with a Bachelor of Arts degree in English Literature, and graduated *cum laude* from Quinnipiac University School of Law in Hamden, Connecticut in 2006.

DAG Robyn Mitchell is a Deputy Attorney General with the New Jersey Division of Criminal Justice. DAG Mitchell joined the Division in January 2000, working in the Legislation Section until 2003, and the Appellate Bureau from 2003 to 2011. Since March 2011, DAG Mitchell has been assigned to the Prosecutors Supervision & Training Bureau, where she handles DWI and Alcotest-related issues, provides legal guidance and support to assistant prosecutors and municipal prosecutors in the prosecution of DWI and traffic safety-related cases, provides DWI training to prosecutors, provides RADAR and speed-enforcement training to law enforcement officers, and serves as the Traffic Safety Resource Prosecutor for the State of New Jersey. DAG Mitchell started her career in 1991 as a staff attorney in the Criminal Defense Division of The Legal Aid Society in Manhattan. She received her B.A. degree in 1988 from Rutgers College and her J.D. in 1991 from the University of Maryland School of Law in Baltimore, Maryland.

Break

11:00 a.m. – 11:15 a.m.

Double Jeopardy in the Modern Era: Redefining Sameness

11:15 a.m. – 12:15 p.m.

In State v. Rodney Miles, the New Jersey Supreme Court recently redefined the contours of double-jeopardy jurisprudence under New Jersey law, establishing a new test for determining whether offenses are the same for purposes of the Double Jeopardy Clause. This presentation

will explore important double-jeopardy issues in the aftermath of Miles and also discuss related concepts involving joinder of offenses, joinder of defendants, severance of offenses, and severance of defendants.

DAG Daniel I. Bornstein has served as Chief of the Appellate Bureau of the Division of Criminal Justice since September 2014. He started working for the Appellate Bureau of the Division of Criminal Justice in 1995, and for about seven years, he handled both criminal trials and appeals while being simultaneously assigned to the Appellate Bureau and the Gangs & Organized Crime Bureau. While in the Gangs & Organized Crime Bureau, DAG Bornstein successfully prosecuted and tried cases involving homicide, racketeering, and weapons and narcotics offenses, including several multi-defendant wiretap cases. While in the Appellate Bureau, DAG Bornstein has handled many appeals before the New Jersey Supreme Court and the Appellate Division. He has also defended against habeas petitions before the United States District Court and Third Circuit Court of Appeals. He now supervises the Appellate Bureau and regularly provides guidance to prosecutors throughout the State. He is also an instructor for the Attorney General's Advocacy Institute. DAG Bornstein graduated *magna cum laude* from Colgate University and received his law degree from the University of Pennsylvania Law School. He clerked for the Honorable Martin J. Kole, J.A.D., t/a, and the Honorable Theodore A. Winard, J.S.C.

Lunch

12:15 p.m. – 1:15 p.m.

Upcoming New Jersey Supreme Court Litigation

1:15 p.m. – 2:45 p.m.

This course will provide a brief overview of the most significant criminal appeals likely to be argued in the New Jersey Supreme Court during the 2017-2018 Court Term.

AP Kelly Shelton is an Assistant Prosecutor with the Warren County Prosecutor's Office, which she joined in 1998. She has been assigned to various units within the office, including the Special Victim's Unit, the Trial Unit, and the Megan's Law Unit. Assistant Prosecutor Shelton began supervising the Mental Health Unit upon its establishment in 2009 and has been supervising the Appellate Unit since 2013. She is also an instructor for the Attorney General's Advocacy Institute. Prior to joining the prosecutor's office, she practiced civil litigation in Philadelphia, PA. Assistant Prosecutor Shelton graduated *magna cum laude* from Temple University School of Law in 1994.

AP Douglas B. Pagenkopf is an Assistant Prosecutor with the Gloucester County Prosecutor's Office, which he joined in 2016. He started in the Appeals Unit and currently serves on the trial team. Assistant Prosecutor Pagenkopf received his Juris Doctorate from Widener University School of Law – Delaware (now Delaware Law School) in 2015, where he served as Bluebook Editor for the Widener Law Review and as President of the Christian Legal Society. He received his Bachelor of Science degree in Biblical Studies from Abilene Christian University in 2001.

Break

2:45 p.m. – 3:00 p.m.

Everything You Need to Know About Jail Credit (But Were Afraid to Ask)

3:00 p.m. – 4:00 p.m.

This program provides a guide to understanding jail credit. The course will clearly explain how jail credit is calculated, and the differences between jail credit, gap-time credit, and prior service credit. The Supreme Court jail credit cases in Hernandez, Rawls, Joe, and C.H. will also be discussed.

AAG Carol M. Henderson is a Deputy Chief of the Appellate Bureau of the Division of Criminal Justice and has been with the Bureau since 1979. She has briefed and argued over 60 cases before the New Jersey Supreme Court in addition to litigating cases before the Appellate Division, the United States District Court, and the Third Circuit Court of Appeals. AAG Henderson established a victim notification system for appellate cases which allows county victim witness offices to register cases where victims wished to be informed of appellate proceedings. AAG Henderson is an instructor for the Attorney General's Advocacy Institute, the New Jersey Bar Association and ICLE and has published articles on appellate practice, habeas litigation, interlocutory appeals, sentencing, legal writing, and prosecutor ethics and conduct. In 2008, she was the recipient of the New Jersey County Prosecutors' Association award for "Outstanding Advocacy Over a Career." AAG Henderson is the former chairperson of the Criminal Law Section and the Appellate Practices Committee of the New Jersey State Bar Association and a past president of the Women Lawyers' Caucus of Mercer County. AAG Henderson graduated with honors from Ramapo College of New Jersey and received her law degree from Seton Hall Law School.