



# THE LIBERTY LEGEND

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NATIONAL ASSOCIATION OF FEDERAL DEFENDERS

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## THE PRESIDENT’S MESSAGE

NAFD NEWSLETTER

National  
Association of  
Federal Defenders

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### THE GRIT: Celebrating The Work of Investigators and Paralegals

The last few years have been truly exciting times for criminal defense practitioners as we recover from the dark ages of the mandatory sentencing guidelines. Lest we forget, the words of Judge John L. Kane provide a chilling reminder:

[The] sentencing rhetoric had become formulaic at all levels from the drafting of the Pre-Sentence Report and the objections of counsel to the final sentencing statements of counsel and even, on occasion, the defendant. The court itself was not immune to this mind-numbing jumble of arcanity fostered by the Guidelines. Sentencing statements consisted of Orwellian jabberings of numbers, scores and grids - utterly divorced from human emotions.

Emerging in the wake of that system, the work of investigators and paralegals take on even greater importance. We must now add to our continuing duty to investigate the

details of the offense, a thorough development of social histories. In this brave new world, the crafting and telling of client’s stories take center stage at sentencing.

I am sure that many among us have been investigating and telling client stories all along, but the inhibiting nature of the mandatory sentencing guideline system often forced other strategies to achieve an approximation of a just result. At times, such may still be the case today, but to a lesser extent. While *Booker* granted greater discretion to the judges, it also freed us from the constraints of the mandatory sentencing guideline system and imposed in its stead a duty to investigate and tell the client’s story. We can now fully and unabashedly provide context, color, and emotion found in the often tragic lives of our clients. This is the antidote to the numbness Judge Kane described.

With that backdrop in mind, our yearly recognition of investigators and paralegals should be given an added importance. A wider, more in-depth investigation of

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the lives of our clients and the telling of those stories have the potential to transform our practice and the sentencing process itself. It places us at the brink of this new age, and offers greater understanding of our clients and ourselves as it exposes the links we have one to the other. We have seen first hand, in one case after another, the extraordinary relief granted to clients whose stories moves the court to grant variances, impossible or rarely seen in the mandatory context. There is great power in painstakingly, faithfully and truthfully telling our clients' stories.

It is in this spirit, on behalf of our membership, the Board of Directors and as President of the National Association of Federal Defenders, that I urge us all to celebrate, recognize and honor the contributions of our Investigators and Paralegals. In the last two years, The Board of Directors have selected some of our Investigators and Paralegals for special recognition:

The 2010 Outstanding Investigators are:  
Kevin Murphy, *District of New Jersey*,  
Anna Finkel, *Southern and Eastern  
District of New York*.

The 2010 Outstanding Paralegal is:  
Karen Mosher, *Eastern District of  
California*.

The 2009 Outstanding Investigator was:  
Juan Hernandez, *Southern District of  
Texas*.

The 2009 Outstanding Paralegal was:  
Betty Farr, *District of Arkansas*.

### CHOPPED LIVER ANYONE?

Just kidding, of course, this article was all about elevating the work of critical members of a team. One is no less important than the other. Our membership and Board of Directors is keenly aware of that relationship and so for the last two years they selected the following Assistant Federal Defenders for special recognition:

The 2009 Outstanding AFPDs were:  
Marc Robert, *District of New Mexico*,  
Rafael Andrade Raveloe, *District of Puerto  
Rico*.

The 2008 Outstanding AFPDs were:  
Kurt May, *Western District of Texas*,  
Kevin McCoy, *District of Alaska*.

The articles about the AFPD recipients will be included in the next issue of the Liberty Legend.

Again, on behalf of the membership and the Board of Directors for the National Association of Federal Defenders: CONGRATULATIONS!

*All the best,*  
*Carlos A. Williams, President*

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## PLEASE WELCOME DORIS HOLT AS NAFD PRESIDENT

Doris Randle-Holt, the First Assistant Federal Defender for the FPD Office for the Western District of Tennessee, will take office as the President of the National Association of Federal Defenders at the National Seminar in Seattle this June. She will guide this volunteer organization for the next two years.

Doris has been an active member of NAFD. She has been with the FPD since 1989. She handles the complex litigation and the high profile criminal cases. A native Mississippian, Doris graduated in 1975 from Mississippi Valley State University with a Bachelor of Science Degree in Business Administration, and graduated in 1987 from the University of Memphis, Cecil C.

Humphrey School of Law. Doris Randle-Holt was the Senior Law Clerk from 1988 until 1989 for the Hon. Odell Horton, Chief Judge for the Western District of Tennessee. She also clerked for the United States Attorney's Office for the Western District of Tennessee from 1986 until 1988. She was the International Legal Advisor for Sigma Gamma Rho Sorority, Inc., from 2000 until 2008. She is a member of the National Association of Criminal Defense Lawyers, the National Association of Federal Defenders and Sigma Gamma Rho Sorority, Inc.

Please welcome Doris as your new president!

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## ANNA FINKEL - OUTSTANDING INVESTIGATOR 2010

Anna Finkel, an investigator with the Federal Defenders of New York (Southern and Eastern Districts), nails all the criteria in your survey without question. She is extremely professional in her work, very organized and very bright. This job is far more than doing your job with a smile; it's about really caring for the clients, attorneys and the needs of the organization. It's truly about being a 'real' person, not putting on a facade. Anna is a bright example of a person who really cares and can be professional, all within the scope of the job, and is willing to help outside the job as well. She truly is one of the sweetest people I have ever met.



Anna Finkel (right) receives her Outstanding Investigator award from Franny Forsman, FPD, Las Vegas, NV.

## KEVIN MURPHY - OUTSTANDING INVESTIGATOR 2010

Kevin Murphy, Chief Investigator for the District of New Jersey, has been with the office for nearly 33 years. During that time, he has been a reliable, conscientious, and extremely effective team member. Kevin is not only relentless in finding witnesses, but perhaps more importantly, once he locates a witness, he somehow manages to get them to talk to him. For as long as he has been here, he remains responsive no matter how simple or complex a case may be. Kevin has worked on death penalty cases, complex fraud investigations, organized crime cases, sexual assault cases, and massive drug conspiracy cases. Approximately two years ago, we needed someone to go to Afghanistan to locate our Guantanamo detainee's family to prove that our client was the person he claimed to be. Kevin made the trip, established the necessary contacts, and within two months of doing so, our client – who was held for more than six years – was returned to his family.

Kevin has more than stayed current with developments in his field. He has learned and embraced new technology, and recently earned a masters degree in criminal justice at Rutgers University, where he now teaches as an adjunct. For years, Kevin has recruited college students to serve as interns. He has been a mentor to many of them through their internships and then into jobs with state and federal defender offices. This effort has exposed a talented and diverse group of young people to the Federal Defender program, and enriched our office as well.

Kevin is well respected both within our office and among investigators. He assists other offices when they require help from New Jersey and he has established working relationships with investigators throughout New Jersey and the



Kevin Murphy receives his award for Outstanding Investigator from Franny Forsman, FPD, Las Vegas, NV.

country which he has used to assist our clients on countless occasions. One of Kevin's best assets is his ability to work with out clients. He treats them and everyone else for that matter with respect and dignity. When a case goes to trial there is no cooler head or more valuable resource than Kevin. Whether it is assessing potential jurors, managing the client's emotions, prepping witnesses, or critiquing your own performance, Kevin's insights and observations are invaluable.

Finally, for years Kevin has trained our entire investigative staff. During that time, he not only encouraged at least four to go to law school, he also supported their efforts by taking on additional investigative assignments when they needed time to study. Kevin never complained or let anything slide. Indeed, he cheered them on and did everything he could to see that they achieved their goals. In short, Kevin Murphy has been an outstanding investigator and tremendous friend to our office.

## KAREN MOSHER - OUTSTANDING PARALEGAL 2010

Karen Mosher has worked in Fresno, California, for the Federal Defender Office for the Central District of California for ten years. Her initial hiring was from a civil firm to work on a specific death penalty case, and she worked only with Robert Rainwater on the Stayner case. Even though she was solely working for him, she was friendly and able and competent and helpful to other attorneys and staff. Her disarmingly friendly demeanor and helpful personality belied her abilities, and people gravitate to her.

Karen Mosher took on a complicated case in the summer of 2001, where the client adamantly denied making telephone calls in a



bribery case. Karen figured out what had happened. The client had called the pager of his friend, who returned the calls. By analyzing the telephone calls, Karen determined that the pager, which – unknown to client – actually belonged to an agent who had been bribed and was a government witness, had been given to client’s friend. Karen testified that the calls showed that client would call the pager, and his friend would return the call. It was complicated, and work intensive, and required that she be able to explain and justify her work. The jury believed Karen, and the client was acquitted.

Ms. Mosher has done great work on projects big and small, and never complains. She makes excellent suggestions, and treats difficult clients and difficult attorneys with respect. When she does not have enough work, she asks for more. She has done work on cases which were complicated, with difficult clients, and has been able to assist the attorneys, both with case law and with her exceptional skills. She asks salient questions, treats everyone well, all while raising her two beautiful children who were in pre-school when she started and are now in high school. She has helped institute a team approach to cases with the investigator, paralegal, and attorney involvement early in the case to keep everyone on track and organized.

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### NAFD MEMBERSHIP DUES

The dues year for the National Association of Federal Defenders runs from January 1 until December 31. Therefore, it's time to renew membership. These dues are used to give a voice to the federal defender community through activities such as participating as *amici* in important cases and to recognize the achievements of our colleagues. The dues are \$52 per year. If you paid dues in November or December 2009, those dues are credited towards 2010. Please mail dues to:

[National Association of Federal Defenders, P.O. Box 22223, Nashville, TN 27202](mailto:dues@nafd.org)

## JUAN HERNANDEZ - OUTSTANDING INVESTIGATOR 2009

Juan Hernandez is an investigator with the Houston office of the Federal Public Defender Office for the Southern District of Texas since before 1996. Before then, he worked as an investigator for a state juvenile public defender's office. Almost immediately upon joining the office, colleagues were impressed by Juan's strong work ethic, his attention to detail, his passion for justice, and his obvious intelligence. One attorney estimates that, since 1996, he has worked with Juan on at least 300 cases – all types of federal cases, including firearms cases, drug cases, immigration cases, bank robbery cases, and white-collar cases. Juan also has worked on several other attorneys' cases during that time. The Southern District of Texas has one of the largest caseloads in the country. Juan has been an essential contributor to our office's representation of literally thousands of defendants in the past 15 years. The many attorneys and investigators in our office hold Juan in the highest regard.

Two cases are examples in which Juan's assistance proved to be critical in achieving justice. The first involved a potential life-sentence drug charge. The client was on federal supervised release for a prior felony drug conviction (and also had a second prior felony drug conviction) when he was accused of possessing thousands of kilos of

marijuana with the intent to distribute. The prosecution's evidence included eyewitness testimony of a person who allegedly saw the client unloading the marijuana from the back of a tractor-trailer in a rural area. The prosecution also relied on a vehicle parked nearby the tractor-trailer that contained some of the client's property. According to the prosecution, the client fled when a police officer happened upon the scene. The client claimed he was innocent – in particular, that he was 450 miles away at the time.

He said he possessed and used a particular cell phone number during that time. The attorney subpoenaed cell phone records (including cell tower records) that showed that whoever used that particular cell phone was indeed 450 miles away from the scene of the crime. The challenge was proving that it was the client who used that particular cell phone. That is where Juan came in. He spent literally *hundreds* of hours tracking down the many people who had been called by that cell phone or who called it during the relevant time period -- *i.e.*, several hours before and after the alleged crime. As a result of Juan's hard work, 16



witnesses were found who were able to testify that they talked to the client on that cell phone during the relevant time period. These witnesses were not easy to find. Many had called from temporary "cricket" phones or otherwise used phone numbers not listed in their names. It took

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a great deal of hard work to find each one. Combined with the cell tower records, this potential testimony was enough to convince the prosecutor that our client's alibi defense was a good one. The drug charges were dropped. (It turns out that the client's brother had been the one who abandoned the car containing out the client's property at the scene of the crime.)

In the second case, the client was a BOP corrections officer charged with having sex with several female inmates who were incarcerated at a nearby female prison. Juan spent over 100 hours interviewing several corrections officers and dozens of female inmates at the prison. Juan identified several inmates who provided strong impeachment evidence concerning the complainants. Juan also became somewhat of an expert on female prison culture – information that we used at the trial (and in closing argument) to help explain the complainant's allegations. The jury acquitted our client on all counts.

In these two cases, and in so many others, the attorney says he could not have done his job effectively without Juan's expert investigative assistance. Many attorneys in our office will give similar examples of his valuable assistance over the years. Juan regularly comes to us asking for additional assignments.

Juan treats each of the office's clients with respect. Juan in particular has proven to be a tremendous asset with illegal reentry clients. Juan is very proud of his Mexican ancestry and finds ways to relate to such clients (the vast majority of whom are from Mexico or Central America) – besides merely speaking the same language. He has helped develop trust with clients who typically are very distrustful of our office's attorneys.

Additionally, during the past decade, Juan has been the primary parent of his two children (both are now in college). He is a wonderful father. The successful young adults whom they have become is a testament to Juan's parenting.

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## BETTY FARR - OUTSTANDING PARALEGAL 2009

Betty Farr has served as a paralegal for the Arkansas Federal Public Defender Office for the past seven years. She is dedicated, hard-working, intelligent, reliable, and innovative. For colleagues, Betty sets an example of professional, competence, industry, experience, and knowledge. She also has the ability to create and maintain a spirit of cooperation and congeniality among those with whom she works.

One colleague calls her "the best" because: First, not only is she superb in her knowledge and research skills, but she is also paramount in her ability to quickly grasp issues

that even lawyers sometimes cannot articulate. Then she very quickly, efficiently, and conclusively gives an analysis which enables us lawyers to look like we know what we are talking about in representing our clients in front of the courts.

Second, Betty always wears a smile in working with others and uniformly shows respect for her co-workers and the clients we represent.

Third, Betty's proficiency in her work and her efficiency in her work product are borne of her love of her job and her determination to stay

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abreast of changes in the law that apply to our clientele.

Fourth, Betty has often volunteered to help find answers to complex legal issues that arise from our weekly meetings to analyze and brainstorm our open cases. We all rely on her to help us on a frequent basis, yet she finds time to volunteer help when not specifically asked.

Fifth, Betty's devotion to her job comes through so crystal clear because she is devoted to what we do here. She is dedicated to the meaning of the Sixth Amendment – that the accused is entitled not only to counsel but to the effective assistance of counsel.

What is most amazing about Betty, however, is her humility. We often compliment her, but she shies away from expressions of gratitude for her work well done. She never complains and always endeavors to provide consistently good work for her attorneys and ultimately the clients.



Betty Farr receives her Outstanding Paralegal award from NAFD Treasurer Richard Moore.

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### **PAST OUTSTANDING INVESTIGATOR AND PARALEGAL AWARDS**

- 1999      INVESTIGATOR - Ann Walker King - *Middle District of Tennessee,*  
            INVESTIGATOR - Frank Murphy - *Southern District of Ohio*
  
- 2000      INVESTIGATOR - Judy Sholl - *District of Colorado*
  
- 2001      INVESTIGATOR - Ron Ninemire - *Western District of Missouri.*
  
- 2002      PARALEGAL- Tom Richardson - *Eastern District of California,*  
            INVESTIGATOR - Robert "Bobby" Villa - *Western District of Texas*
  
- 2003      PARALEGAL - Joe Phelan, Jr. - *Middle District of Tennessee,*  
            INVESTIGATOR - Tom McInerney - *District of Nevada,*  
            INVESTIGATOR - Charlie Fulgieri - *Middle District of Florida*

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- 2004      PARALEGAL - Annette Metcalf - *District of Hawaii*,  
INVESTIGATOR - Betsy Anderson - *District of Montana*,  
INVESTIGATOR - Gerald Powell - *Western District of Tennessee*
- 2005      PARALEGAL - Jan Kullburg - *District of Arizona*,  
INVESTIGATOR - Wesley Burns - *Southern District of Illinois*,  
INVESTIGATOR - Floyd Hancock - *Eastern and Western Districts of Arkansas*
- 2006      INVESTIGATOR - Teri Moore - *District of New Jersey*,  
INVESTIGATOR - Shelley Strayer - *Southern District of Texas*  
PARALEGAL Margarita (“Maggie”) Gonzales - *Southern District of California*
- MOUSSAOUI DEFENSE INVESTIGATORS  
AND PARALEGALS SPECIAL RECOGNITION  
INVESTIGATOR - Jim Allard - *Western District of North Carolina*  
INVESTIGATOR - Linda McGrew - *Eastern District of Virginia*  
PARALEGAL SPECIALIST - Sandra Schidlo - *Western District of North Carolina*  
PARALEGAL/ INVESTIGATOR - Pam Bishop - *Eastern District of Virginia*
- 2007      PARALEGAL - Sylvie Levine - *Southern District of New York*,  
INVESTIGATOR - Doug Cole - *Northern District of California*,  
INVESTIGATOR - Ronald Davis - *Eastern District of Missouri*
- 2008      INVESTIGATOR - David Davila - *Western District of Texas*,  
INVESTIGATOR - Michael Stortini - *Western District of Wisconsin*