

Below is the agenda for the

2011 NON-CAPITAL MITIGATION WORKSHOP

To view written materials produced in conjunction with a particular session at the seminar, click on the [blue link](#) to that agenda item.

Please note that the absence of a link for a specific session indicates that the presenter did not provide any written materials for that session.

**ADMINISTRATIVE OFFICE OF THE U.S. COURTS
OFFICE OF DEFENDER SERVICES TRAINING BRANCH**

NON-CAPITAL MITIGATION WORKSHOP

**Hyatt Regency
Chicago
May 23-25, 2011**

Monday, May 23

8:30 a.m. Registration & Breakfast *Soldier Field Foyer Bronze Level, West Tower

9:00 a.m. Welcoming Remarks *Water Tower Room

9:10 a.m. Introduction to Program *Water Tower Room

Andrea Taylor, Deputy Chief, Training Branch, Office of Defender Services,
Administrative Office of the U.S. Courts, Washington, D.C.

9:15 a.m. Conceptualizing Mitigation *Water Tower Room

Robert Dunham, Assistant Federal Defender, Federal Public Defender for the
M.D. Pennsylvania, Capital Habeas Corpus Unit, Harrisburg, Pennsylvania

This session presents an integrated framework for understanding what mitigating evidence is, how to investigate and present it. The session will remind us how to "think large" about mitigating circumstances: describing the multiple dimensions and interrelatedness of what may sometimes appear to be different kinds of mitigating evidence. It will use age, poverty and brain damage as stepping-off points to illustrate the personal, social, psychological and neuropsychological dimensions of mitigating evidence to provide the thorough investigation and presentation that the Constitution requires and our clients deserve.

10:05 a.m. BREAK

**10:15 a.m. Meet Michelle Parker - A Client's Perspective on Non-Capital Mitigation
*Water Tower Room**

Michelle Parker

Michelle Parker was recently represented by the Federal Defender Program in Chicago. Hear her perspective on working with a non-capital mitigation specialist and its impact on her.

10:45 a.m. [Working with Pretrial Services](#) ***Water Tower Room**
Christa Brown, U.S. Pretrial Services Officer, Chicago, Illinois

The Pretrial Services Officer can be a critical member of the defense team. Pretrial offers many resources and is often highly trusted and relied upon by the judges. This session will discuss the development of an effective partnership with the pretrial officer in order to get the services your client needs.

11:30 a.m. **The Role and Responsibilities of the Mitigation Specialist**
***Water Tower Room**
Juliet Yackel, Mitigation Specialist, Marietta, Wisconsin

Lawyers will learn what they can and should expect from their mitigation specialist, in terms of both work product and addressing complex client issues. Likewise, mitigation specialists will learn how to best serve as a core member of the defense team as articulated by the *Supplemental Guidelines for the Mitigation Function of the Defense Teams*. Discussion will highlight examples of work product such as genetic and behavioral mapping. Regarding complex client issues, topics will include the mitigation specialist's role in setting the stage for a plea and secure the cooperation of difficult clients.

12:30 p.m. **Lunch - On Your Own**

1:45 p.m. [Interviewing for Mitigation](#) ***Water Tower Room**
Jim Tibensky, Non-Capital Mitigation Specialist, Federal Defender Program, Chicago, Illinois

How do I uncover and develop the mitigating factors that will allow me to tell the client's story in a persuasive manner? This session will focus on developing an effective relationship with your client and demonstrate interviewing techniques which will allow you to obtain mitigating information from the client and other key figures.

2:35 p.m. **BREAK**

2:45 p.m. **Small Groups - Interviewing Skills**
Small Group Assignments will be posted at the registration desk.
Group A: Soldier Field
Group B: Columbian
Group C: Picasso
Group D: Haymarket
Participants will meet with their small group facilitators to practice their interviewing skills.

4:45 p.m. Planning, Preparing and Presenting Mental Health and Mitigation Claims and Evidence *Water Tower Room

Mental Health Expert

Mental illness and cognitive deficits are very common among our CJA clients, This session helps us learn how to identify signs and symptoms of mental illness and cognitive deficits. It will then discuss the tools necessary to plan, prepare and present mitigating claims based on the identified mental health issues.

5:45 p.m. Adjourn for the Day

6:00 p.m. Cocktail Reception **Addams Room

Tuesday, May 24

8:30 a.m. Registration & Breakfast *Soldier Field Foyer

9:00 a.m. Trauma *Water Tower Room

Robert L. Smith, Ph.D., Assistant Clinical Professor of Psychology, Case Western Reserve University, Cleveland, Ohio

Many of our clients have been exposed to traumatic events where they experienced or witnessed actual or threatened death or serious injury, helplessness or horror. This session will address the impact of that trauma on our clients and how it may affect the offense conduct.

10:00 a.m. Addiction as a Brain Disease *Water Tower Room

Dr. T. Celeste Napier, Director, Center for Compulsive Behavior and Addiction, Chicago, Illinois

A significant majority of our clients suffer from addiction to illicit drugs, alcohol, gambling, etc. Modern day neuroscience provides important insights into why and how addiction occurs, and what is needed to deal with addiction-related problems. This session will discuss addiction as a brain disease and how this knowledge could change mitigation.

10:55 a.m. BREAK

11:00 a.m. **Locating and Analyzing Mitigation Documents *Water Tower Room**
Russ Stetler, National Mitigation Coordinator, Office of the Federal Public
Defender, Oakland, California

This session will provide an overview of the importance of records in developing mitigation evidence. Records are inherently credible because they were created by objective, neutral professionals long before the client faced criminal charges. They reveal sensitive information that clients and their family members are reluctant to disclose -- and sometimes information that the client and their family members know nothing about. After a short introduction, we will break up into small groups to decipher and decode some records from a real case. The goal is to identify mitigation themes, hypotheses, questions, and investigative follow-up tasks. The small groups will have an hour to work in teams of three or four to find what's significant in the records. After lunch, everyone will return to the plenary room to share what they have found. The records relate to multiple family members across three generations. The interactive nature of the workshop helps everyone to appreciate the value of teamwork, because different people in the room will spot different things in the records. There are no "right" answers. Every time people do this exercise, someone finds something that has never been noticed before.

11:30 a.m. **Small Groups - Locating and Analyzing Documents**
Group A: Soldier Field
Group B: Columbian
Group C: Picasso
Group D: Haymarket

Participants will meet with their small group facilitators to review the records, identifying mitigation themes, hypotheses, questions, and investigative follow-up tasks.

12:30 p.m. **Lunch-On Your Own**

1:45 p.m. **Locating and Analyzing Documents *Water Tower Room**
Russ Stetler, National Mitigation Coordinator, Office of the Federal Public
Defender, Oakland, California

Participants will reconvene in the plenary room to share the mitigation themes, hypotheses, questions and investigative follow-up tasks identified in the small groups.

2:40 p.m. **BREAK**

2:45 p.m. Writing Skills - Concurrent Breakouts (participants sign up for one of the two sessions prior to the workshop)

1) Mitigation Declarations and Reports *Haymarket Room

Michael Laurence, Executive Director, Habeas Corpus Resource Center, San Francisco, California

This session will discuss how to ensure your Mitigation Declarations and Reports are clear and concise.

2) Sentencing Memos *Water Tower

Ira Mickenberg, Public Defender Trainer and Consultant, Saratoga Springs, New York

This session will discuss the principles of persuasive writing.

3:45 p.m. Small Groups - Writing Skills

Group A: Soldier Field

Group B: Columbian

Group C: Picasso

Group D: Haymarket

Participants meet with their small group facilitators to write part of a Mitigation Declaration, Report or Sentencing Memo based on the facts of the model case.

5:30 p.m. Adjourn for the Day

Wednesday, May 25

8:00 a.m. Registration & Breakfast *Soldier Field Foyer

8:30 a.m. Small Groups - Writing Skills (continued)

Group A: Soldier Field

Group B: Columbian

Group C: Picasso

Group D: Haymarket

10:00 a.m. Developing a Treatment Plan *Water Tower

Betsy Biben, Chief, Office of Rehabilitation and Development, Public Defender Service of D.C., Washington, D.C.

This session will focus on the need for non-capital mitigation evidence to include a treatment plan which addresses the underlying issue leading to the offense. It will explore the development and use of community resources to impact sentencing outcomes.

10:45 a.m. BREAK

10:50 a.m. Small Groups -Where Do We Go From Here?

Group A: Soldier Field

Group B: Columbian

Group C: Picasso

Group D: Haymarket

Participants will meet with their small group facilitators and identify specific ways to enhance the effective development and use of non-capital mitigation, including posting of non-capital mitigation resources on www.fd.org, developing non-capital mitigation training programs on the local, regional and national levels, creating an official non-capital mitigation position within the federal defender system, and being an integral part of the defense team.

11:45 a.m. Reports and Discussion - Where Do We Go From Here?

***Water Tower Room**

Small group reporters will give summaries of their discussion to the large group and participants will further discuss where we as a community go from here.

12:00 a.m. Closing Remarks and Program Adjournment *Water Tower Room

Andrea Taylor, Deputy Chief, Training Branch, Office of Defender Services, Administrative Office of the U.S. Courts, Washington, D.C.