

Below is the agenda for the

2012 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 SENTENCING WORKSHOP

**Hotel Sax
Chicago
October 24-26, 2012**

Tuesday, October 23

4:15 - 6:15 p.m. **Faculty Meeting - *New Orleans Room (Lobby Level)***

Wednesday, October 24

8:00 a.m. **Registration & Breakfast**

8:30 a.m. **Welcoming Remarks ***
Chicago, Lobby Level

*Carol A. Brook, Executive Director, Federal Defender Program, Inc., Community Defender Organization for the Northern District of Illinois
Kenneth L. Cunniff, Kenneth L. Cunniff, Ltd, Panel Attorney Representative for the Northern District of Illinois*

8:45 a.m. **Introduction to Program ***
Chicago, Lobby Level

Bob Burke, Chief, Training Branch, Office of Defender Services, Administrative Office of the U.S. Courts, Washington, D.C.

8:50 a.m. **Conceptualizing Mitigation**

Robert Dunham, Assistant Federal Defender, Federal Public Defender Organization for the Middle District of Pennsylvania, Capital Habeas Unit, Harrisburg, PA

Stuart Lev, Assistant Federal Defender, Community Defender Organization for the Eastern District of Pennsylvania, Capital Habeas Unit, Philadelphia, PA

This session presents an integrated framework for understanding what mitigating evidence is, how to investigate and present it. The session will remind us how

****All plenary sessions will be held in the Chicago Room***

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.

9:45 a.m. BREAK

9:55 a.m. Meet Michelle Parker - A Client’s Perspective on Non-Capital Mitigation

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.

10:25 a.m. [Working with Pretrial Services](#)

Christa Green, 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.

11:25 a.m. The Role and Responsibilities of the Mitigation Specialist

Dana Cook, MSW, Deputy Director, Atlantic Center for Capital Representation, Philadelphia, PA

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 securing the cooperation of difficult clients.

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

1:45 p.m. [Interviewing for Mitigation](#)

Jim Tibensky, Non-Capital Mitigation Specialist, Federal Defender Program, Inc., Community Defender Organization for the Northern District of Illinois, 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.

2:45 p.m. BREAK

2:55 p.m. Small Groups - Interviewing Skills *

Participants will meet with their small group facilitators to practice their interviewing skills.

Group A - Chicago, Lobby Level

Group B - New Orleans, Lobby Level

Group C - Memphis, Lobby Level

Group D - London, 4th Floor

Group E - State Street South, 14th Floor

Group F - State Street North, 14th Floor

5:00 p.m. Recognizing Mental Disorders and Cognitive Deficits

Caryll Alpert, Assistant Federal Defender, Federal Defender Organization for the Middle District of Tennessee, Nashville, TN

Lyn McRainey, Ph.D., Senior Psychological Examiner, Nashville, TN

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 that may need further exploration as mitigation evidence.

5:50 p.m. Adjourn for the Day

6:00 p.m. Reception (Cash Bar)
Crimson Lounge, Lobby Level

**All small groups will meet in the same rooms throughout the workshop.*

Thursday, October 25

8:00 a.m. Registration & Breakfast

8:20 a.m. Neuropsychological Abnormalities in Indigent Defense Clients

Robert Hanlon, Ph.D, ABPP, Board Certified Clinical Neuropsychologist, Assoc. Prof of Psychiatry & Neurology, Northwestern Univ. Feinberg School of Medicine and Neuropsychological Associates of Chicago, Chicago, IL

The presentation will review the prevalence, extent, and severity of neuropsychological abnormalities in a sample of 150 murder defendants from 5 different states and the influence of such abnormalities on violent aggression. Disorders include head trauma, traumatic brain injury, mental retardation, learning disorders, ADHD, schizophrenia, bipolar disorder, dementia, and substance abuse/dependence. In addition to mitigation, the effect of selective neuropsychological abnormalities on fitness, sanity, and capacity to waive Miranda will be discussed.

9:10 a.m. Trauma

April L. Carbone, Ph.D., Clinical Neuropsychologist, Chicago, IL

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. Break

10:10 a.m. Planning, Preparing, and Presenting Mental Health and Mitigation Claims and Evidence

Rose Lindsay-Guimaraes, Assistant Federal Defender, Federal Defender Program, Inc., Community Defender Organization for the Northern District of Illinois, Chicago, IL
William "Kip" Hilman, Psy.D., ABPP, Diplomate Forensic Psychology, Chicago, IL

This session will address tools and techniques necessary to plan, prepare and present mitigating claims based on identified mental health issues.

11:00 a.m. Locating and Analyzing Mitigation Documents

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

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

Russ Stetler

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

2:45 p.m. BREAK

3:00 p.m. Developing a Treatment Plan

Denise Barrett, National Sentencing Resource Counsel, Wilmington, DE

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.

3:45 pm Break

3:55 Writing Skills - Concurrent Breakouts

1) Mitigation Reports (Investigators and Paralegals)

Chicago, Lobby Level

Jim Tibensky

This session will discuss how to ensure your Mitigation Reports are clear and concise, and tell the defense sentencing story as effectively as possible.

2) Sentencing Memos (Attorneys)

New Orleans, Lobby Level

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

This session will discuss the principles of persuasive writing, including fact-based writing, language use, organization, and the use of storytelling elements.

5:00 p.m. Adjourn for the Day

Friday, October 26

8:00 a.m. Registration & Breakfast

8:15 a.m. Small Groups - Writing Skills

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

11:15 a.m. BREAK

11:30 a.m. Small Groups -Where Do We Go From Here?

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.

12:15 p.m. Reports and Discussion - Where Do We Go From Here?

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.

12:30 p.m. Closing Remarks and Program Adjournment

Bob Burke

Additional Small Group Faculty

Geoffrey Cheshire, Assistant Federal Defender on Temporary Duty Assignment in the Office of Defender Services Training Branch, Washington, DC

Ingrid Christiansen, Capital Mitigation Specialist, Center for Capital Mitigation, Chicago, IL

Denise Hines, Paralegal, Federal Public Defender Organization for the District of Nevada, Reno, NV

Janet Hinton, Chief Paralegal, Federal Public Defender Organization for the Eastern District of Missouri, St. Louis, MO

Fredilyn Sison, Assistant Federal Defender, Federal Defenders of Western North Carolina, Inc, Asheville, NC

Eric Vos, Attorney-Advisory, Office of Defender Services Training Branch, Washington, DC

Betsy Wilson, Attorney; Mitigation Specialist, Sentencing Advocacy Group of Evanston, Evanston, IL