

Below is the agenda for the

2013 MULTI-TRACK FEDERAL CRIMINAL DEFENSE SEMINAR

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**

**With the assistance of
The Federal Public Defender Organization for the Western District of New York**

Multi-Track Federal Criminal Defense Seminar

August 8-10, 2013

Buffalo Niagara Convention Center

Buffalo, New York

The Multi-Track Federal Criminal Defense Seminar offers in-depth instruction in a variety of substantive areas of federal criminal defense practice. Sessions in each substantive area are grouped into tracks. The four tracks for 2013 in Buffalo Niagara are: 1) Forensics; 2) Mental Health and Mitigation; 3) Digital Age Litigation; and 4) Fundamentals of a Federal Case Plus! The Forensics, and Mental Health and Mitigation Tracks will begin on Thursday, August 8, and run until Saturday, August 10. Fundamentals of a Federal Case Plus! will begin on Thursday, August 8, and run until midday Friday, August 9. The Digital Age Litigation track will begin midday on Friday, August 9, and conclude on Saturday, August 10.

In addition to the offered tracks, the seminar includes larger plenary sessions. These sessions will address topics of general interest and importance to most criminal defense practitioners.

1. Fundamentals of a Federal Case Plus!

Designed as an overview for new (and not so new) federal CJA practitioners, this program addresses topics that are essential to defending clients in federal cases. It will include the basics of working up a federal case, release issues, sentencing guidelines, and beyond.

2. Forensic Implications in Your Everyday Federal Case and Beyond

This track will provide a better understanding of the “science” itself, or the lack of it, to better prepare defense counsel to challenge the use of such evidence in their cases at the pretrial, trial level and in post-conviction. These sessions will look at specific areas of forensic “science,” many of which the courts and juries formerly relied upon, and that now have been debunked and questioned.

3. Mental Health and Mitigation - Identifying, Developing, and Understanding

Forty-five percent of federal prisoners have had a mental health problem, and 40% of federal prisoners have had symptoms of a mental health disorder. This track provides an in-depth training to practitioners for identifying, developing, and understanding mental health and mitigation. We must develop the history and personal characteristics of the client to provide quality representation to our clients. Pretrial release options, trial considerations and potential sentencing alternatives including treatment are all influenced by these factors. We will cover changes in the DSM-5 that practitioners will encounter in their practice as well as the importance of mental health symptoms and history.

4. Digital Age Litigation

The Fourth Amendment, ALPR, GPS, COO, GSM, Pinging - What does it all mean? This track will focus on the digital aspects of criminal defense litigation, including cell phone tracking, social media, online investigation, and managing Electronically Stored Information (ESI).

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Multi-Track Federal Criminal Defense Seminar

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Final Agenda

Thursday, August 8, 2013

- 7:30 to 8:25 A.M. **Registration and Continental Breakfast - LOBBY**
- 8:25 to 8:30 A.M. **INTRODUCTIONS & WELCOMING REMARKS - ROOM 106**
Frank Draper, *Attorney-Advisor, Office of Defender Services Training Branch, Washington, D.C.*
Marianne Mariano, *Federal Public Defender, Western District of New York*
Rodney Personius, *CJA Panel Representative, Buffalo, New York*
- 8:30 to 8:45 A.M. **WELCOMING REMARKS - ROOM 106**
The Honorable William M. Skretny, *Chief Judge, District of Western New York, Buffalo, New York*
- 8:45 to 9:45 A.M. **Plenary: GIDEON V. WAINWRIGHT: A MULTIMEDIA PRESENTATION OF THE HISTORY, ORAL ARGUMENTS AND AFTERMATH OF A LANDMARK CASE - ROOM 106**
Paul Rashkind, *Supervisory Assistant Federal Public Defender and Chief of the Appellate Division of the Federal Public Defender, Southern District of Florida*
A multimedia presentation marking the 50th anniversary of the *Gideon* decision, featuring original memorabilia, vintage film-clips, and interviews of Clarence Earl Gideon, his Supreme Court counsel Abe Fortas, counsel for Florida Bruce Jacob, and retrial counsel W. Fred Turner; excerpts of the 3-hour oral argument before the Supreme Court; and the current reflections of Jacob, Turner, and constitutional scholar John Hart Ely, who played a significant role in the original Supreme Court briefing.
- 9:45 to 10:00 A.M. **Break**

10:00 to 11:00 A.M. Track Presentations

1. Fundamentals of a Federal Case - ROOM 101A

WORKING UP YOUR CASE (Part One)

Anthony J. Natale, *Second Level Supervisory Assistant Federal Public Defender, Florida Southern Federal Public Defender*

Take control of your case from the beginning. Learn the nuts and bolts of criminal defense work from the experts. Think of your case as an affirmative presentation, not a defense. Learn where to go for the nuts and bolts of how to put together your case and not let the government drive your decision making. (NOTE: Noon to 1:15 P.M. - Brown Bag Q & A: An opportunity to ask Steve Lindsay and Tony Natale follow-up questions about Working Up Your Case in Room 106).

2. Forensic Implications in Your Everyday Federal Case and Beyond - ROOM 101D

NAS AND WHERE WE ARE TODAY - DAUBERT & RELIABILITY ISSUES IN FORENSIC SCIENCE

Jules Epstein, *Associate Professor of Law, Widener University School of Law*

The 2009 report STRENGTHENING FORENSIC SCIENCE - A PATH FORWARD called into question the validity of “individualization” testimony (e.g., this print came from this suspect to the exclusion of all other people in the world”) in a number of forensic disciplines. The report also called the court system “utterly ineffective” in addressing the validity and limits of many forensic disciplines. This session will present a summary of the findings of the report; review the *Daubert* holding and its limitations; discuss post-report cases reviewing forensics under *Daubert* and in light of the report; and conclude with litigation strategies for cases involving forensic non-DNA matching testimony.

3. Mental Health and Mitigation - Identifying, Developing, and Understanding - ROOM 101H

DSM-5: CHANGES TO THE DSM AND HOW THEY WILL AFFECT OUR CLIENTS WITH MENTAL IMPAIRMENT

Michael Laurence, *Executive Director of the Habeas Corpus Resource Center*
Mental Health Expert

Released in May 2013, the DSM-5 changes some of the framework practitioners have worked with in the last twenty years. This session will present a brief overview of what has changed, and what has stayed the same.

11:00 A.M. to 12:00 noon Track Presentations

1. Fundamentals of a Federal Case - ROOM 101A

WORKING UP YOUR CASE (Part Two)

Stephen Lindsay, Esq., *Asheville, NC*

Building upon the nuts and bolts from Part One, learn about the process of creating a theory of defense and fact-busting discovery. Find out more on how to put your theory into play, and how it should be used in the various stages of litigation. (**NOTE:** Noon to 1:15 P.M. - Brown Bag Q & A: An opportunity to ask Steve Lindsay and Tony Natale follow up questions about Working Up Your Case in Room 106).

2. Forensic Implications in Your Everyday Federal Case and Beyond - ROOM 101D

MICROSCOPIC HAIR COMPARISON ANALYSIS

Vanessa Antoun, *Resource Counsel, NACDL, Washington, DC*

Katherine E. Stern, *Post-Conviction Project Counsel, NACDL, Washington, DC*

Before routine DNA testing of hair evidence, FBI lab technicians provided microscopic hair comparison analysis in thousands of trials that led to the most serious penalties, often overstating the conclusions that could be drawn from comparing evidentiary hair to a known hair sample. Now, DOJ has announced a historic effort to review the forensic hair evidence in these cases, identify erroneous statements, and provide notice of specific types of errors to prosecutors, defense counsel and defendants. NACDL and the Innocence Project, aided by a pro bono team from the firm of Winston & Strawn, are assisting DOJ to ensure a comprehensive review of cases in which FBI experts provided microscopic hair comparison analysis. This session will explain the limits of the science of hair microscopy and the scope of the nationwide review underway; detail the concepts necessary to identify errors in lab reports and testimony; discuss strategies to address similar error by state or local lab analysts; and outline the litigation strategies and judicial remedies that the review aims to facilitate.

3. Mental Health and Mitigation - Identifying, Developing, and Understanding - ROOM 101H

DEVELOPING A TREATMENT PLAN

Denise Barrett, *National Sentencing Resource Counsel*

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.

Noon to 1:15 P.M. Lunch On Your Own - ROOM 106

Brown Bag Q & A: *Bring Your Lunch to a Question and Answer with Steve Lindsay and Tony Natale to ask questions about Working Up Your Case.*

1:15 to 2:15 P.M. Track Presentations

1. Fundamentals of a Federal Case - ROOM 101A

BAIL REFORM ACT

Francisco Morales, *Assistant Federal Defender, Southern District of Texas*

Your performance at the bail hearing will be your first strut for your client. Win or lose, your ability to fight goes a long way. In this session, you will learn to maximize your chances of getting your client released on bond under the Bail Reform Act. This session will address pretrial interviews, third party custodians, favorable witnesses, good pre-discovery discovery, ethics issues, the detention hearing, the appeal of a detention order, and release pending appeal.

2. Forensic Implications in Your Everyday Federal Case and Beyond - ROOM 101D

EYEWITNESS IDENTIFICATION

Jules Epstein, *Associate Professor of Law, Widener University School of Law*

Mistaken eyewitness identifications contributed to approximately 75% of the 301 wrongful convictions in the United States overturned by post-conviction DNA evidence. Inaccurate eyewitness identifications can confound investigations from the earliest stages. Critical time is lost while police are distracted from the real perpetrator, focusing instead on building the case against an innocent person. This session will provide an overview of the solid and growing proof of the inaccuracy of traditional eyewitness ID procedures.

3. Mental Health and Mitigation - Identifying, Developing, and Understanding - ROOM 101H

RECOGNIZING MENTAL DISORDERS AND COGNITIVE DEFICITS

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

Lyn McRaine, *Ph.D., Senior Psychological Examiner, Nashville, TN*

Mental illness and cognitive deficits are very common among our 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, sentencing alternatives and treatment planning.

2:15 to 3:15 P.M. Plenary: SUPREME COURT UPDATE - ROOM 106

Paul Rashkind, *Supervisory Assistant Federal Public Defender and Chief of the Appellate Division of the Federal Public Defender, Southern District of Florida*

This session provides an update on recent Supreme Court decisions affecting federal criminal practice, and reviews issues currently under consideration.

3:15 to 3:30 P.M. Break

3:30 to 4:30 P.M. Track Presentations

1. Fundamentals of a Federal Case - ROOM 101A

**INTRODUCTION TO THE FEDERAL SENTENCING GUIDELINES
(SENTENCING GUIDELINES 101)**

Callie Glanton Steele, *Supervising Deputy Federal Public Defender, Central District of California*

The Supreme Court still requires each sentencing court to correctly determine the appropriate Guideline Calculations, and even if the Guidelines are “advisory” attorneys must still know them front to back. This session will cover the basics of applying the Federal Sentencing Guidelines while taking a close look at areas such as drug amount calculations, criminal history, and offense conduct.

2. Forensic Implications in Your Everyday Federal Case and Beyond - ROOM 101D

HOW LAW ENFORCEMENT CAN, OR CANNOT, TRACK PEOPLE USING THEIR CELL PHONES, iPADS, BLACKBERRIES, GPS, ETC.

Aaron Romano, *Aaron Romano, PC, Bloomfield, CT*

Law enforcement’s tracking of cell phones has become a powerful and widely used surveillance tool for both federal authorities and local police alike with hundreds of departments aggressively tracking cell phones with little to no court oversight. The practice of tracking cell phones and smartphones has become big business for companies with some carriers marketing a host of services to law enforcement for “surveillance fees.” That smartphone in a client’s pocket may be able to determine a suspect’s location, trace phone calls and texts or provide other services to inquiring law enforcement. Some in law enforcement describe these devices as “the virtual biographer of our daily activities” and yet, there are pitfalls, misleading data and misunderstood technology which may lead to erroneous conclusions by law enforcement and attorneys alike. This discussion will get attorneys started on learning the lay of the land and help attendees understand the issues, the technology and the problems with over reliance on these “virtual biographers.”

3. Mental Health and Mitigation - Identifying, Developing, and Understanding - ROOM 101H

**FIGHTING FICTION WITH FACT TO ATTAIN LOWER SENTENCES –
MYTHS YOU CAN DEBUNK WITH CURRENT RESEARCH**

Denise C. Barrett, *National Sentencing Resource Counsel*

Laura E. Mate, *National Sentencing Resource Counsel*

Too often, the assumptions underlying sentencing recommendations and decisions not only lack empirical support but actually contradict what has been proven to work. Criminologists, psychologists, psychiatrists, and related professionals have published a wealth of information about identifiable risk factors for criminal behavior and what programs have been most effective in dealing with them. In this session, we will “truth squad” some common sentencing misconceptions, setting the record straight with recent research that you can use to argue for more efficacious and just sentences.

4:30 to 5:30 P.M. Track Presentations

1. Fundamentals of a Federal Case - ROOM 101A

GETTING THE DISCOVERY YOU NEED USING PRETRIAL MOTIONS-- RULE 16 AND MORE

Jay McEntire, *Assistant Federal Defender, Federal Defenders of Eastern Washington & Idaho*

An introduction to discovery in federal court, and how to conduct discovery in your client's case. Discovery practices vary from district to district, but should be guided by the same constitutional and statutory principles. Learn the best way to get what you need pretrial using Rule 16 and more. Included will be helpful tips on how to write those pretrial motions.

2. Forensic Implications in Your Everyday Federal Case and Beyond - ROOM 101D

DNA FOR DUMMIES

Gary R. Skuse, Ph.D., *Rochester, NY*

Everything you ever wanted to know about DNA, but were afraid to ask. The basics you need to know, what to ask for, and what all those numbers mean.

3. Mental Health and Mitigation - Identifying, Developing, and Understanding - ROOM 101H

AUTISM SPECTRUM DISORDERS (ASD)

Dr. Kimberly G. Spence, *Rockledge, FL*

Autism is a pervasive developmental disorder that is characterized by impaired social interactions, problems with verbal and nonverbal communication, and unusual, repetitive, or severely limited activities or interests. The three most common pervasive developmental disorders: Autism, Asperger's Syndrome, and PDD-NOS are frequently referred to as Autism Spectrum Disorders (ASD). Currently, 1 in 88 people are diagnosed with ASD in the United States, making this neurological disorder more common than pediatric cancer, diabetes, and AIDS combined. Autism and other pervasive developmental disorders occur in all racial, ethnic, and socio-economic groups and are five times more likely to affect males. This presentation will provide specific information about ASD and documented consequences within the criminal justice system for lawyers, public defenders, and mitigation specialists. Participants will be provided with detailed information about pervasive developmental disorders, relevant ASD diagnostic information, practical strategies for determining the presence of ASD in non-diagnosed clients, and video of individuals with ASD for the purpose of identification and support designation.

5:30 P.M.

Adjournment

Friday, August 9, 2013

7:30 to 8:30 A.M. Continental Breakfast - LOBBY

8:30 to 9:30 A.M. Track Presentations

1. Fundamentals of a Federal Case -ROOM 101A

GETTING THE MOST OUT OF PLEA AGREEMENTS, COOPERATION AND NAVIGATING THE DANGERS OF A PROFFER

Callie Glanton Steele, *Supervising Deputy Federal Public Defender, Central District of California*

With an overwhelming percentage of clients entering pleas, this session will take a hard look at how to get the most out of deals with the government. Additionally, like it or not, many of our clients intelligently decide cooperation is in their best interests.

Unfortunately, proffer sessions can quickly devolve into train wrecks with clients getting no benefit and all the added risk we lose sleep over. This session explores common benefits and dangers associated with cooperation while addressing the many land mines just waiting for your client in the proffer room.

2. Forensic Implications in Your Everyday Federal Case and Beyond - ROOM 101D

FALSE AND COERCED CONFESSIONS

Allison Redlich, Ph.D., *Associate Professor of Criminal Justice, SUNY Albany*

False confessions can arise for many reasons, including police coercion, improper interrogation techniques, and characteristics of the suspect himself. Confessions also have the potential to corrupt other evidence in your case. Learn how to identify possible false, coerced and/or misleading statements and how to defend against them.

3. Mental Health and Mitigation - Identifying, Developing, and Understanding - ROOM 101H

INTELLECTUAL DISABILITY

Stephen Greenspan, Ph.D., *Littleton, CO*

Recognizing intellectual disabilities in your client, and understanding the new definition of Intellectual Disability Disorder (IDD) in the DSM-5.

9:30 to 9:45 A.M. Break

9:45 to 10:45 A.M. Track Presentations

1. Fundamentals of a Federal Case - ROOM 101A

DEFENDING AGAINST "ARMED CAREER CRIMINAL" & "CAREER OFFENDER" DESIGNATIONS

Jaime Hawk, *Assistant Federal Defender, Federal Defenders of Eastern Washington & Idaho*

No single sentencing calculation inflicts more harm than a determination that a client's previous conviction(s) qualify as a "crime of violence," "violent felony," or certain drug offense definitions, and that s/he has two or three qualifying predicate convictions. Such a finding that the Career Offender enhancement and/or the Armed Career Criminal statute apply to your case expose the client to huge guideline offense-level enhancements and/or to an increased statutory minimum sentence of fifteen years. Learn how to analyze these draconian provisions and how to attack and deflect the ACCA and Career Offender designations.

2. Forensic Implications in Your Everyday Federal Case and Beyond - ROOM 101D

ATTACKING THE GOVERNMENT'S FIREARM AND TOOLMARK IDENTIFICATION EVIDENCE

Jack Cunha, Esq., *Cunha and Holcomb Attorneys at Law, Boston, MA*

This session will address how to effectively challenge the lack of a scientific basis of "forensic" evidence presented in cases involving firearms/toolmark identification. With the findings in the National Academy of Sciences (NAS) Report there is now evidence based research for use when attacking forensics and being able to repudiate laboratory claims. No longer can we merely accept the notion that firearms produce unique markings on bullets/casings when there is a lack of standards for identifying so-called individual markings, lack of statistical basis for declarations of a match between a gun and bullet, and prejudice from unsupported "expert" testimony.

3. Mental Health and Mitigation - Identifying, Developing, and Understanding - ROOM 101H

SUBSTANCE ABUSE

Robert L. Smith, Ph.D., *Assistant Professor, Department of Psychiatry, Case Western Reserve University, School of Medicine and MetroHealth Medical Center, Cleveland, Ohio*

This session will discuss substance abuse and the current research regarding the etiology and progression of addiction, as well as the impact of various substances upon emotion, cognition and behavior. Included, will be a review of the recent changes to the American Psychiatric Association's diagnostic criteria in DSM-5. Finally, the role of substance abuse in mitigation will be reviewed, as well as the interaction of substance abuse with a co-occurring mental illness.

10:45 to 11:00 A.M. Break

11:00 A.M. to 12:00 noon Track Presentations

1. Fundamentals of a Federal Case - ROOM 101A

PRACTICAL TIPS IF YOUR CLIENT FACES INCARCERATION IN A FEDERAL PRISON

David Merchant, *Assistant Federal Defender, Federal Defenders of Montana, Billings, Montana*

This session will provide practical tips if your client faces federal imprisonment. It will include factors to consider for your client to obtain a federal sentence at the least restrictive possible facility and receive the earliest feasible release date.

2. Forensic Implications in Your Everyday Federal Case and Beyond - ROOM 101D

ARSON

Robert B. Dunham, *Assistant Federal Defender, Federal Public Defender for the Middle District of Pennsylvania, Capital Habeas Corpus Unit*

An overview of arson investigations.

3. Mental Health and Mitigation - Identifying, Developing, and Understanding - ROOM 101H

A NEURODEVELOPMENTAL FORMULATION OF FETAL ALCOHOL SPECTRUM DISORDERS IN DSM-5: IMPLICATIONS FOR FORENSIC PSYCHIATRY

Dr. Susan D. Rich, M.D., M.P.H., *Potomac, MD*

Forensic psychiatrists often evaluate clients with Fetal Alcohol Spectrum Disorder (FASD) in criminal justice cases, often without insight into the underlying neurodevelopmental condition. The recently published DSM-5 includes the possibility of a neurodevelopmental formulation of Fetal Alcohol Spectrum Disorder (FASD). This presentation will provide insights into forensic assessments of individuals with moderate to heavy prenatal alcohol exposure in an era of DSM-5. All the neurodevelopmental conditions in DSM-5, as well as a number of other neuropsychiatric conditions, may be induced by exposure to alcohol *in utero*. Appropriate differential diagnosis, psychiatric comorbidity, and neurodevelopmental formulation by informed psychiatrists can, in turn, reduce recidivism and improve probation and parole outcomes for affected individuals.

12:00 to 1:15 P.M. Lunch

1:15 to 2:15 P.M. Plenary: ELECTRONIC SURVEILLANCE AND THE FOURTH AMENDMENT - ROOM 106

Paula Xinis, Esq., *Murphy, Falcon & Murphy, Baltimore, MD*

An overview of electronic surveillance techniques, statutes, possible areas for litigation, and issues to raise in your case.

2:15 to 3:15 P.M. Track Presentations

1. Forensic Implications in Your Everyday Federal Case and Beyond - ROOM 101A

ATTACKING FINGERPRINTS WITH A VENGEANCE: SHOWING THE COURT AND THE JURY WHY THIS “JUNK SCIENCE” SHOULD NOT BE CONSIDERED!

Jack Cunha, Esq., *Cunha and Holcomb Attorneys at Law, Boston, MA*

In the world of CSI, fingerprints are as good as a confession and better than gold. In real life, and according to many experts, fingerprints are the lesser cousin of a lie detector and shouldn't be anywhere near a courtroom. Learn what makes this evidence “junk,” learn how the National Academy of Sciences attacks “fingerprint science,” and arm yourself with the tools for addressing, attacking and presenting this otherwise deadly evidence.

2. Mental Health and Mitigation - Identifying, Developing, and Understanding - ROOM 101D

THE MANY USES OF NEUROPSYCHOLOGY

Joette James, Ph.D., *Washington, DC*

What is Neuropsychology? How does the brain relate to learning & behavior? What is a good Neuropsychological Evaluation? Neuropsychology studies brain/behavior relationships to answer questions regarding cognitive impairment, loss of brain function integrity, relationship between neuropsychological deficits and daily functioning. Learn what neuropsychology is, and how it can be integrated into your case.

3. NEW: Digital Age Litigation - ROOM 106

THE DIGITAL ASPECTS OF A CHILD PORNOGRAPHY (CP) CASE AND USING EXPERTS

Anne Burger, *Assistant Federal Public Defender, Federal Public Defender's Office for the Western District of New York, Rochester, NY*

Jerry Grant, *Computer Forensic Investigator, Federal Public Defender's Office for the Western District of New York, Rochester, NY*

CP cases can seem overwhelming at first glance. Learn how to wade through the computer aspects of defending a CP case, how to integrate experts into your investigation, and how to prepare for trial.

3:15 to 3:30 P.M. Break

3:30 to 4:30 P.M. Track Presentations

1. Forensic Implications in Your Everyday Federal Case and Beyond - ROOM 101A

READING THE MEDICAL EXAMINER'S REPORT

Amy T. Sheil, M.D., *Assistant Professor, UC Department of Pathology & Laboratory Medicine, Cincinnati, Ohio*

What to look for, what it means, and what to ask for that is not in the report.

2. Mental Health and Mitigation - Identifying, Developing, and Understanding - ROOM 101D

SEX OFFENDER DIAGNOSES, TREATMENT AND DSM-5 UPDATES

Richard Bohn Krueger, M.D., *Medical Director, Sexual Behavior Clinic, New York, NY*
Meg S. Kaplan, Ph.D., *Director, Sexual Behavior Clinic, New York, NY*

This session will review the assessment, diagnosis, and treatment of individuals who have committed sexual offenses, and present information which may be salient for mitigation in non-sexual offense cases.

3. Digital Age Litigation - ROOM 101H

TECHNIQUES IN ONLINE INVESTIGATION

Jonathan Lyon, *Chicago, IL*

This session will teach participants techniques for using the internet as an investigative aid. The participants will learn a better way of using search engines to get results that are more relevant, and less daunting in number. The introduction of a metasearch engine and the new technology of clustering will be discussed.

4:30 to 5:30 P.M. Track Presentations

**1. Forensic Implications in Your Everyday Federal Case and Beyond
ROOM 101A**

WORKING WITH EXPERTS

Eric Vos, *Attorney-Advisor, Office of Defender Services, Training Branch, Washington, D.C.*

Experts win cases, and as a result, attorneys must consider using experts with every theory of defense when presenting their case to the jury. In the alternative, when the government employs an expert, a properly prepared defense attorney can use the witness to the defendant's advantage. This session will look at how best to prepare and use experts, both pretrial and during trial, including admitting evidence, qualifying the expert to testify, and taking the government's key witness and turning him into their train wreck.

2. Mental Health and Mitigation - Identifying, Developing, and Understanding - ROOM 101D

UNDERSTANDING TRAUMA, VIOLENCE, and PTSD

Hope Hill, Ph.D., *Associate Professor, Department of Psychology, Howard University*
Many of our clients suffer from traumatic stress disorders. Learning about trauma is even more critical in light of our soldiers, domestic violence, sexual abuse and disaster victims. Our clients tend to have been chronically exposed to the most serious forms of trauma – repeated physical beatings, multiple sexual assaults or witnessing many friends shot and killed. The exposure to trauma is an important mitigator because the event itself represents a critical moment in your client’s life. “Trauma” refers to an experience outside the normal during which the person perceives his/her life to be at risk. Whatever the long-term consequences of this trauma event, the event itself is important in telling our client’s story.

3. Digital Age Litigation - ROOM 101H

ELECTRONIC DISCOVERY, COMPLEX CASES AND CJA PANEL RESOURCES

Kelly Scribner, *Assistant National Litigation Support Administrator*

Alex Roberts, *National Litigation Support Paralegal*

Emma Greenwood, *Coordinating Discovery Attorney*

We are all experiencing how information provided in any given case continues to grow in size and complexity. Cases that were a few folders of paper are now CDs, DVDs and hard drives of electronic files of various types that may prove difficult to open on your computer. And yet paper and their electronic equivalents are also still a part of people’s day to day practice. This session will present a primer on various file formats that are being provided in discovery, cover some of the options available for reviewing and analyzing the discovery more effectively, and discuss practical computer technology tools that can assist the solo practitioner in their daily practice.

5:30 P.M. Adjournment

Evening: Optional Bus Trip to Niagara Falls (At participant’s expense)

Saturday, August 10, 2013

7:30 to 8:30 A.M. Continental Breakfast - LOBBY

8:30 to 9:30 A.M. Track Presentations

1. Forensic Implications in Your Everyday Federal Case and Beyond - ROOM 101A

FORENSIC ODONTOLOGY (DENTISTRY)

Dr. Mary A. Bush, D.D.S., *Buffalo, New York*

Learn from a leading expert in the field. Forensic odontology includes among other areas, bitemarks, and identification of human remains. Dr. Bush was part of a research team that has published a number of scientific articles that oppose what many bitemark experts have testified to in past cases concerning bitemarks. The presentation will cover an introduction on bitemark evidence, and the lack of scientific studies on skin distortion and the unresolved issue of dental uniqueness.

2. Mental Health and Mitigation - Identifying, Developing, and Understanding - ROOM 101D

INTERVIEWING FOR MITIGATION

Vickie Piontkowski, *Mitigation Specialist, Federal Public Defender's Office for the Western District of Pennsylvania*

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 that will allow you to obtain mitigating information from the client and other key figures.

3. Digital Age Litigation - ROOM 101H

SOCIAL MEDIA: MYTHS AND REALITIES

Kelly Scribner, *Assistant National Litigation Support Administrator*

Alex Roberts, *National Litigation Support Paralegal*

Emma Greenwood, *Coordinating Discovery Attorney*

Today, more and more people are joining at least one social network. Whether it is making "friends" on Facebook or tweeting complete strangers on Twitter, social media has become a part of many people's lives, including potential witnesses in your case. This presentation will describe the potential information that may be available through social network websites and applications on smartphones and tablets, and how to obtain and present that information, and discuss the ethical rules and laws that must be followed in the course of conducting these investigations. In addition, you will learn things such as how much is actually said with a 140 character tweet and how private a private message on Facebook really is. This will be an interactive session so please bring your stories and questions.

9:30 to 10:30 A.M. Plenary: TRAUMATIC BRAIN INJURY - ROOM 106

David A. Williamson, M.D., *Neuropsychiatrist & Medical Director, Inpatient Neuropsychiatry/Traumatic Brain Injury Program, Walter Reed National Military Medical Center, Bethesda, MD*

Traumatic brain injury (TBI) is a serious public health problem in the United States. Each year, traumatic brain injuries contribute to a substantial number of deaths and cases of permanent disability. A TBI is caused by a bump, blow or jolt to the head or a penetrating head injury that disrupts the normal function of the brain. Learn more about explaining brain injury in your client to courts and juries, and why TBI may make your client fundamentally different.

10:30 to 10:45 A.M. Break

10:45 to 11:45 A.M. Plenary: PANEL DISCUSSION “ETHICAL ISSUES CONFRONTING CRIMINAL DEFENSE ATTORNEYS” - ROOM 106

Eric Vos, *Attorney-Advisor, Office of Defender Services, Training Branch, Washington, D.C.*

Francisco Morales, *Assistant Federal Defender, Southern District of Texas*
Stuart Patchen, *Assistant Federal Defender, Community Defender for the Eastern District of Pennsylvania*

Watch three experienced lawyers discuss how best to handle clients, even difficult ones, in different ways. While the speakers may not always agree on what is best, they provide meaningful questions, good answers and make us all laugh about the trials and tribulations we all know when trying to make even the most difficult clients happy - and all while making sure we meet our ethical obligations.

11:45 A.M. to 12:45 P.M. Tracks Presentations

1. Forensic Implications in Your Everyday Federal Case and Beyond - ROOM 101A

CONTROLLED SUBSTANCE ANALYSIS

Heather L. Harris, M.F.S., J.D., *Philadelphia, PA*

Learn the basics of forensic drug chemistry, novel and new compounds (are they legal?), and potential challenges to drug cases new and old.

2. Mental Health and Mitigation - Identifying, Developing, and Understanding - ROOM 101D

WHERE ARE WE GOING?

George Woods, MD, *San Francisco, CA*

Michael Laurence, *Executive Director of the Habeas Corpus Resource Center*

What is all the shouting about? Are there new diagnoses that will lead to mislabeling? Are we looking at some future strictly biological model of mental illness? Or are we looking at a paradigm shift away from the notion that the brain has much to do with mental illness? Learn more about the changes, debates, and controversies in the field of psychiatry.

3. Digital Age Litigation - ROOM 106

IPADS, NEW TECHNOLOGY AND MOBILE COMPUTING

Alex Roberts, *National Litigation Support Paralegal*

Jerry Grant, *Computer Forensic Investigator, Federal Public Defender's Office for the Western District of New York, Rochester, NY*

This session will showcase some of the state-of-the-art applications and mobile devices being used by attorneys in the field. The focus will be on mobile computing devices such as smartphones and iPads. The presenters will also demonstrate some popular free and low-cost programs, many of which allow for the collection, organization and review of case-related materials.

12:45 to 1:00 P.M. Closing Remarks and Adjournment - ROOM 106

Frank Draper, *Attorney-Advisor, Office of Defender Services Training Branch, Washington, D.C.*