

Section Chair Hon. Mark Dwyer Brooklyn, NY

Program Co-Chairs Hon. (ret.) Phylis S. Bamberger New York City

Marvin E. Schechter, Esq. Marvin E. Schechter Law Firm New York City

NYSBA

Forensics and the Law IV

Criminal Justice Section

Fall Meeting

India House 1 Hanover Square,

New York, New York 10004

Friday, October 17, 2014 8:30 a.m. - 5:30 p.m.

with Complimentary Reception 5:30 - 6:30 p.m.

and Saturday, October 18, 2014

8:30 a.m. - 12:15 p.m.

Under New York's MCLE rule, this program has been approved for a total of up to 11.5 MCLE credits: 6.5 in the area of professional practice, 3.5 in the area of skills and 1.5 in the area of ethics and professionalism and has been approved for all attorneys including those newly admitted.

Note: We are now accepting nominations for the 2015 Criminal Justice Awards. www.nysba.org/cjsawards15



Program Schedule

Friday, October 17

8:30 a.m. - 8:45 a.m. **Registration** (Continental Breakfast will be served)

8:45 a.m. - 9:00 a.m. **Welcome & Introductions**

9:00 a.m. - 10:15 a.m. Ethics, Discovery Procedures, and Defense Counsel Preparation

> Professor Ellen C. Yaroshefsky, Panel Chair Hon. Mark Dwyer, Supreme Court, Brooklyn, NY

Robert Dean, Esq., Attorney-in-Charge Center for Appellate Litigation, NYC William C. Milaccio, Esq., District Attorney's Office Westchester County

This program will review practices and procedures regarding discovery that affect forensic evidence and the defense practitioner's ability to prepare—Brady violations, the roots of intentional violations, ethical considerations, how to deal with discovery and Brady, New York practices and procedures that undermine Brady (especially on early turnover), judicial involvement, methods of dealing with violations and the impact of the claim that witness' identifications must be hidden because of danger to them.

(1.5 CLE credit in Ethics and Professionalism)

10:15 a.m. - 10:30 a.m.

10:30 a.m. - 11:45 a.m. Digital Evidence: Finding It, Collecting It and Admitting It Into Evidence

Professor Patrick Burke, Professor of Law, Cardozo Law School, Data Law Initiative

As digital evidence overtakes the importance of written documents in litigation, it becomes increasingly important for lawyers and judges to understand how digital evidence is found, forensically collected, and authenticated for admission as evidence in court. This session will bring you up to speed on proper handling of electronic data - including showing you what data looks like inside a computer -- and how it can be defensibly collected and admitted into evidence.

(1.5 CLE credit in Professional Practice)

11:50 a.m. – 12:40 p.m. **Cross Examination of Firearms Identification Experts**

Arnold J. Levine, Esq., Sole Practitioner, New York, NY

The prosecution often turns to firearms identification experts, a subgroup of toolmark examiners, to establish that a particular firearm is the source of a particular bullet or casing recovered at a crime scene or from a victim. In cases where the source firearm is not recovered, the expert's testimony may be offered to establish that two or more casings or two or more bullets were discharged from the same firearm. This program is designed to help the defense attorney prepare for and conduct the cross-examination of a firearms identification expert, from learning the "science" and deciding whether to request a Frye hearing, to cross-examining the prosecution's expert at trial regarding his or her qualifications.

(1 CLF credit in Professional Practice)

12:40 p.m. - 1:45 p.m.

Break for Lunch (On your own)

1:45 p.m. - 3:00 p.m.

Crime Scenes and Evidence Handling and Preservation

Kurtis G. Harris, First Grade Detective (ret) New York State Police Department

Robert J. Masters, Esq., District Attorney's Office Queens County Crime Scene Investigation - An Update in Advances, Techniques and Practices

(1.5 CLE credit in Skills)

3:00 p.m. - 3:15 p.m.

Break

3:15 p.m. - 4:30 p.m.

Frye Hearings

Chris Fabricant, Esq., Director, Strategic Litigation, Innocence Project, Inc., NYC The determination to request a Frye hearing and the structure of the Frye hearing.

(1.5 CLE credit in Professional Practice)

4:35 p.m. - 5:25 p.m.

The Essential Principles Needed When a Case has a DNA Component

Erin Murphy, Esq., Professor of Law, NYU School of Law, NYC

This session will cover the basic biological and mathematical principles that are used in forensic DNA typing. If you feel intimidated by the word "allele" or can't even master the probabilities of a blackjack game, then this session is for you. The lecture will discuss the fundamentals of nuclear forensic DNA typing and the probabilities used to express the significance of a match, along with common sources of error or statistical fallacies, as well as touch on cutting-edge techniques like low-copy number all while using friendly, accessible language and imagery.

(1.0 CLE credit in Professional Practice)

Complimentary Cocktail Reception Immediately After the Friday Program.

Saturday, October 18

8:30 a.m. - 9:00 a.m.

Registration

9:00 a.m. - 10:40 a.m.

Laboratory Accreditation, Discovery Developments and Cross-Examination

Marvin E. Schechter, Esq., Marvin E. Schechter Law Firm, NYC

Changes in the requirements for forensic laboratory accreditation are discussed during this presentation. New developments in reporting the results of forensic laboratory testing and the problems associated with how forensic technicians report "disagreements" about their conclusions will be presented along with the implications for cross-examination of lab experts. This presentation will also acquaint practitioners with the role of the American Society of Crime Lab Directors/Laboratory Accreditation Board.

(2 CLE credit in Skills)

10:40 a.m. – 11:00 a.m.

11:00 a.m. – 12:15 p.m.

Facial Recognition and Its Impact on Finding Evidence, Admission and Suppression of

Evidence, Trials, Police Conduct and Defense Counsel Conduct

Jennifer Lynch, Esq., Electronic Frontier Foundation, San Francisco, CA

This session will explain how face recognition works and how and where it's being used today—from Facebook to Walmart to your local police station. It will discuss the frontiers of face recognition, including using it to identify a face in a crowd or a suspect based on a 10-year-old photo or even to detect if someone is lying. It will also explain the limitations of face recognition in forensics and why those limitations matter for defense counsel

(1.5 CLE credit in Professional Practice)

12:15 p.m.

Adjournment



MEETING REGISTRATION FORM

Name
Office
Address
City/State/Zip
DEDCOMAL INFORMATION
PERSONAL INFORMATION
E-mail Address
Phone () Fax ()
PROGRAM FEES
NYSBA Members
\$170.00 advance
\$200.00 at door
Non-NYSBA Members
\$260.00 advance
\$300.00 at door
Newer Attorneys with 2 - 5 years of practice:
\$140.00 members in advance
\$175.00 members at door
\$190.00 non-members in advance
\$250.00 non-members at door
Navyay Attamaya with O. 2 years of avastics.
Newer Attorneys with 0 - 2 years of practice: \$50.00 members in advance
\$60.00 members at door
\$60.00 non-members in advance
\$70.00 non-members at door
PAYMENT INFORMATION
☐ Check or money order enclosed in the amount of \$ (Make checks payable to New York State Bar Association.)
☐ Charge \$ to ☐ American Express ☐ Discover
☐ MasterCard ☐ Visa Expiration Date:
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Criminal Justice Section

"Forensics and the Law IV" Friday, October 17 - 18, 2014

India House 1 Hanover Square New York, New York 10004

Important Information

Refund Policy: Notice of cancellation must be received on or before October 14, 2014 to receive a refund for the registration fee. Please contact Patricia Johnson pjohnson@nysba.org or 518-487-5688(phone or fax) to cancel your registration.

Accommodations for person with disabilities: NYSBA welcomes participation by individuals with disabilities. NYSBA is committed to complying with all applicable laws that prohibit discrimination against individuals on the basis of disability in the full and equal enjoyment of its goods, services, programs, activities, facilities, privileges, advantages, or accommodations. To request auxiliary aids or services or if you have any questions regarding accessibility, please contact Patricia Johnson at 518.487.5688.

Discounts and Scholarships: New York State Bar Association members and non-members may receive financial aid to attend this program. Under this policy, any member of our Association or non-member who has a genuine basis for his/her hardship, if approved, can receive a discount or scholarship, depending on the circumstances. To apply for a discount or scholarship, please send your request in writing to: Pat Johnson, New York State Bar Association, One Elk Street, Albany, New York 12207.

Mail or Fax this form to:

State Bar Service Center (SBSC) New York State Bar Association One Elk Street, Albany, NY 12207

Phone: 800-582-2452 Fax: (518) 463-5993 Email: pjohnson@nysba.org For online registration go to: www.nysba.org/criminal



Program Description

This day and a half program is the Criminal Justice Section's Fourth Annual Forensics and the Law program bringing together forensics specialists from academia and practice. Important topics include cross examination of forensic specialists; facial recognition; erroneous use of DNA evidence; preparing a Frye hearing; admission and exclusion of digital evidence; and, ethical issues.

IMPORTANT INFORMATION

The New York State Bar Association has been certified by the New York State Continuing Legal Education Board as an Accredited Provider of continuing legal education in the State of New York.

DISCOUNTS AND SCHOLARSHIPS: New York State Bar Association members and non-members may receive financial aid to attend this program. Under this policy, any member of our Association or non-member who has a genuine basis for his/her hardship, if approved, can receive a discount or scholarship, depending on the circumstances. To apply for a discount or scholarship, please send your request in writing to: Pat Johnson, New York State Bar Association, One Elk Street, Albany, New York 12207; pjohnson@nysba.org; 518.487.5688 phone or fax.

ACCOMMODATIONS FOR PERSONS WITH DISABILITIES: NYSBA welcomes participation by individuals with disabilities. NYSBA is committed to complying with all applicable laws that prohibit discrimination against individuals on the basis of disability in the full and equal enjoyment of its goods, services, programs, activities, facilities, privileges, advantages, or accommodations. To request auxiliary aids or services or if you have any questions regarding accessibility, please contact Pat Johnson, New York State Bar Association, One Elk Street, Albany, New York 12207; pjohnson@nysba.org; 518.487.5688 phone or fax.



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Criminal Justice Section



more details.

1.5 ethics credits

INCLUDES

Forensics and the Law IV

