



# **Life in the Balance 2001: Defending Death Penalty Cases**

**Capital Case Training for Mitigation  
Specialists, Defense Investigators, and  
Defense Attorneys**

**March 3 to 6, 2001  
Albuquerque Marriott  
Albuquerque, NM**

**National Legal Aid &  
Defender Association  
In Cooperation with  
ABA Death Penalty Representation Project &  
National Juvenile Justice Center**



**National Legal Aid & Defender Association  
Would like to thank:**

**New Mexico Criminal Defense Lawyers  
Association**

**Practising Law Institute**

**New Mexico Public Defender Department**

**NLADA's Life in the Balance 2001 Advisory Committee  
Welcomes You!**

**Barbara Bergman**

University of New Mexico Law School, NM

**John Blume**

Federal Habeas Training Counsel, SC

**Stephen B. Bright**

Southern Center for Human Rights, GA

**Robert Burke**

Training Section, NLADA, DC

**Lori James-Monroe**

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**Kevin McNally**

Fed. Death Penalty Resource Counsel, KY

**Ira Mickenberg**

Defender Training, NY

**Jill Miller**

Forensic Social Work Services, WI

**Russell Stetler**

New York State Capital Defender Office, NY

**Kathleen Wayland**

California Appellate Project, CA

**PLEASE NOTE:** The materials and information provided at the Life in the Balance 2001 conference are confidential and may not be disclosed except to other defense practitioners. The information and materials provided represents the thoughts, opinions, impressions, and strategies with regards to previous and ongoing cases and, accordingly, is protected under the attorney-client privilege and the work-product doctrine. It is critical that participants understand the nature of the information / materials and regard all information as privileged. Participants attending must be involved in the defense of persons accused in criminal cases.

# General Conference Information

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## Badges

Badges must be worn to gain entrance to all meetings and functions.

## Continuing Legal Education

Most states require that attorneys attend CLE-accredited training each year to maintain bar membership. NLADA has applied for accreditation in most states with mandatory CLE.

- A green CLE instruction sheet and three-part certificate of attendance/application can be found in your registration packet.
- Please complete this NLADA CLE form and return to the registration desk or mail to NLADA so that we may maintain a record of your attendance.
- Individual state forms are available at the conference registration desk.
- Please be familiar with the CLE requirements in your state.
- If you are an attorney from Delaware, Oklahoma or California, please remember to stop by the registration desk to sign the mandatory sign in sheets.
- At this time, NLADA is not applying to Continuing Education for other professions.
- The only session we have applied for Ethics credits for is: “Making the Media Work for Your Client: Strategically, Ethically, and Effectively” at 4:00 pm on Monday, March 5, 2001.

## Discuss Your Case

Life in the Balance 2001 offers a unique experience in capital case litigation learning: “**Discuss Your Case**” workshops. Discuss Your Case workshops permit you to assess your own needs and immediately gain valuable information that you can implement to your advantage in your own practice on your own individual case. See workshop descriptions in this agenda.



## Evaluations

### FREE REGISTRATION FOR NEXT YEAR!

When you return the overall conference evaluation, you will be entered into the drawing for a free registration at next year's conference. **Your evaluation of this program, including suggestions and comments, is important to NLADA, and will help us plan future events. We appreciate your assistance.** An overall evaluation form is included in your registration packet. Extra forms are available at the registration desk as well. Please return your name badge when turning in your evaluation to be eligible for the drawing.

There are two different evaluation forms. In addition to the overall **Evaluation Form** included in your registration packet, individual **Workshop Evaluations** will be provided at each session. These will be used to evaluate specific faculty and session topics. This information will be used only for the express purpose of guaranteeing you the finest faculty at future training events. We invite your input.

**Please complete the evaluation and turn it in at NLADA's registration desk at your earliest convenience. Thank you for helping make your training events the best available.**

## Non-Smoking Policy

No smoking is permitted inside the meeting rooms.

### ***COMING THIS SPRING!***

### ***2001 DEFENDER ADVOCACY INSTITUTE***

**At the state of the art University of Dayton Law School Building**

**Dayton, Ohio ~ June 1 to June 6, 2001**

NLADA's **2001 Defender Advocacy Institute** is a unique program in which participants work on their own real cases, under the supervision of an experienced faculty of excellent trial attorneys and teachers. Sessions are in small groups of six to seven lawyers, with two teachers to each group. Participants get to practice every aspect of a criminal trial, using their own cases as models. By the end of the conference, our students will have thoroughly prepared for trial in a case they will actually be trying when they return to their offices.

# What NLADA Membership Can Do For YOU

As a member of the National Legal Aid & Defender Association, you become part of the only national membership organization devoted exclusively to ensuring high-quality legal representation for individuals who cannot afford an attorney. Whether you are a litigator, a defender manager or a professional who provides services in the indigent defense arena, NLADA provides the tools to make your job easier and help you to do it better.

## **Training and Professional Development**

Every year NLADA offers affordable training programs across the country featuring innovative, professional training that incorporate state-of-the-art information and tools. Life In the Balance has become the premier death penalty litigation program in the nation. NLADA also offers Appellate Defender Training, the Defender Advocacy Institute, Defender Leadership and Management Training, Train-the-Trainers, the Annual Conference and programs covering scientific evidence, drug cases, sex offenses, juvenile practice and more.

## **Networking and Section Membership**

As a member of NLADA you benefit from the wisdom, experience and expertise of your peers. Active membership affords the opportunity to expand and develop an invaluable network of professional resources and contacts. NLADA sections are developed as semi-autonomous affinity groups seeking to improve the quality of service to their clients in specialized practice areas. Current defender sections include:

- Appellate Defender
- Defender Training
- Death Penalty Litigation
- Social Services

## **American Council of Chief Defenders**

The American Council of Chief Defenders (ACCD) is a section of the NLADA open to Chief and Deputy Chief Defenders of state, county, local and federal defender systems and programs in all 50 states, the District of Columbia, Puerto Rico, American Samoa and the Virgin Islands. The purpose of the ACCD is to promote equal justice by exchanging information, brainstorming shared problems and impacting criminal justice policies. Current issues being addressed include law school loan forgiveness, innocence protection acts, federal grant funding for indigent defense, California's Proposition 36, and the death penalty moratoria.

## **Standards and Best Practices**

To promote uniform quality and adequate funding of indigent defense, NLADA has developed national standards and other benchmark publications covering every aspect of indigent defense. The standards cover areas such as defender systems generally, contract defender programs, assigned counsel systems, appellate offices, death penalty cases, defender training and development, and the Performance Guidelines for Criminal Defense Representation.

## **Technical Assistance**

NLADA's Defender Division fields hundreds of requests every year for information and technical assistance on everything from expert witnesses to case management software and budget presentations. We can provide program evaluation, identify experts in a particular field, assemble resource materials for you or suggest problem-solving techniques.

## **Advocacy**

Decisions made by Congress, the U.S. Department of Justice and other government entities can have a major impact on your daily practice. NLADA is the voice of indigent defenders with policy makers in Washington DC and across the country on issues such as law school loan forgiveness for public defenders, defender access to federal criminal history databases and federal justice assistance grants for indigent defense.

## Publications and Online Resources

- *Indigent Defense*, NLADA's Defender Division quarterly journal, is the only national publication aimed solely at the needs of defenders. Feature articles cover litigation and management issues in-depth. Regular sections cover capital cases, legislation, training and technology. Up-to-the-minute information about national trends, innovations, funding tips and practical resources are also included in every issue.
- NLADA's Defender Services Web Site, accessible from [www.nlada.org](http://www.nlada.org), provides immediate access to legislative alerts, NLADA standards, publications, training events and a rich inventory of technical assistance materials.
- *Cornerstone*, NLADA's quarterly publication, features articles and opinions on a broad range of topics of interest to the defender and civil legal services community.
- The Directory of Legal Aid and Defender Offices is the nation's most comprehensive directory of civil legal aid and indigent defense providers.

## Professional Liability Insurance at Great Rates

More than 650 NLADA program members have enrolled in the NLADA Insurance Program, administered by NLADA's own in-house professional insurance subsidiary, the NLADA Service Corporation. The insurance program offers comprehensive professional liability coverage at highly competitive rates and the Service Corporation benefits the defender and legal aid community by providing resources and sponsorships to help support the programs, trainings and services of the NLADA. The program offers a basic malpractice policy as well as special endorsements covering management errors and omissions, employment practices liability, criminal defense, punitive damages, pro bono programs and the outside practice of law.

## Member Services and Discounts

NLADA membership offers significant savings on services like software licensing, overnight express mail and specially developed programs for the legal aid and defender community, including:

- Practicing Law Institute CD-ROM and Online Training  
The Practicing Law Institute (PLI) offers NLADA members incredible savings on their Interactive Courtroom CD-ROM training series. This series of over a dozen CDs includes Cross-Examination, Taking Effective Depositions, Mastering Motions, Fundamentals of Negotiation and Accounting for Lawyers.
- Justice Federal Credit Union  
Members of NLADA and their immediate family members are eligible to join the Justice Federal Credit Union, the nation's largest credit union serving the justice community. Services include a variety of savings and checking accounts, Visa card, online access to your accounts, Web BillPay, and online loan applications.
- Language Line Services (LLS) Over-the-Phone Interpretation  
Using advanced telecommunications technology, LLS provides access to live, over-the-phone professional interpretation from English into as many as 140 languages at significantly reduced cost to NLADA members. The service is available 24 hours a day, seven days a week.

## How to Join

For more information or to join today, get a membership application from the NLADA registration desk or contact the Member Services Department at:

1625 K St NW, Suite 800  
Washington, DC 20006  
202-452-0620 x215  
[www.nlada.org](http://www.nlada.org)

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## FRIDAY, MARCH 2, 2001

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Friday, 5:00 pm to 7:00 pm  
**Early Registration for the Mitigation / Investigation Track**

**Foyer**

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## SATURDAY, MARCH 3, 2001

Mitigation and Investigation Track

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Saturday, 7:00 am to 5:30 pm  
**Registration for the Mitigation / Investigation Track**

**Foyer**

Saturday, 7:30 am to 8:30 am  
**Continental Breakfast**

**Foyer**

Saturday 8:30 am to 9:15 am  
**Keynote: Where Do We Go From Here?**  
*Barbara Bergman*

**Grand Ballroom**

Saturday, 9:15 am to 10:30 am  
**Plenary: Unconventional Interviewing**  
*Sunwolf*

**Grand Ballroom**

A radical approach that changes client relationships, misperceptions, and dysfunctional power plays from the first meeting.

Saturday, 10:30 am to 11:00 am  
**BREAK**

**Foyer**



The **Incredible Woodpeckers** is an Albuquerque-based band that plays a broad range of high energy rock-n-roll, rhythm and blues, reggae and traditional blues music, including classic hits originally recorded by various artists during the '50s, '60s, '70s, '80s and '90s (that's half a century of music).

The Woodpeckers are Danny O'Brien, Ron Lipton, Woody Smith, Chris Dracup, Bill Tinker, Charles Daniels, Tommy Jewell, Eddie Sanchez, Carl Richardson, Mike Fleming. Although the musicians have had a broad range of professional and semi-professional performing experiences, most currently have similarly-varied "day-jobs," including lawyers and judges.

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**WORKSHOP GROUP ONE**  
**Saturday, March 3, 2001 ~ 11:00 am to 12:30 pm**

**Prosecution Anti-Mitigation**

*Russ Stetler*

Once content to ridicule mitigation as "the abuse excuse," prosecutors engage in increasingly aggressive tactics to rebut the case for life by denying our factual evidence. This session will discuss recent case examples and strategies for protecting our mitigation evidence, with particular attention to mental health evidence.

**Carlsbad Room**

**Building Relationships with the Client's Family When a Plea is Not an Option**

*Lori James-Monroe*

Working with the client's family is an essential function of a mitigation specialist and/or mitigation investigator. By the end of this workshop, participants will be able to: identify characteristics of nurturing and dysfunctional family behaviors, identify techniques for uncovering and assessing family secrets, and explore ways to engage family members throughout the case proceedings, while collecting mitigating evidence.

**CD Ballroom**

**The Client, the Family and Alpha Personalities**

*John Niland*

The presenter will discuss methods to achieve a trusting relationship with the client and secure the productive involvement of the client's family members. The "alpha personality," often a critical participant in the defense effort, will be discussed. Suggestions will be made on how to identify this person.

**Las Cruces Room**

**Beginner's PTSD: Nuts and Bolts**

*Claudia Baker*

Learn about the symptoms of Post-Traumatic Stress Disorder, DSM IV diagnostic criteria for PTSD and issues particularly relevant to accurately diagnosing PTSD in your client.

**GH Ballroom**

**Psychological Testing**

*Kathleen Wayland*

A review of the differences between testing of cognitive functioning (intellectual, academic, and neuropsychological assessment) and personality functioning. An overview of specific tests will be provided with case-specific examples of how these tests can be misused in litigation. A focus of the workshop will be rebutting harmful finds from tests.

**AB Ballroom**

**Beginners' Social History Investigation: Leave No Stone Unturned**

*Jan Dowling*

This workshop is geared toward the newer mitigation specialist, and will be focused on the necessity of an aggressive and thorough social history investigation. The goal of this workshop is to explore the nature of the information sought in the social history investigation, and to discuss the most efficient ways to obtain that information. This workshop will also address working with the client, the client's family, attorneys, and experts.

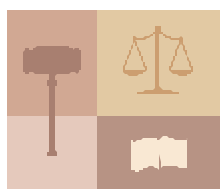
**Santa Fe Room**

**Report Writing**

*Carmeta Albarus*

This workshop is designed to assist participants in writing reports that bring their client's story to life. Outlines will be given on how to best prepare for and formulate the social history of the client, bearing in mind that the report goes a far way in humanizing the client to the reader. Other topics to be covered: strategies on obtaining information; the art of reflective listening (hearing what is and is not being said); the role of genograms, timelines, and chronologies; and the different types and purposes of reports. Example reports will be shared. Graphic presentations.

**Cimarron Room**



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Saturday, 12:30 pm to 1:45 pm

**LUNCH ON YOUR OWN**

Saturday, 12:30 pm to 5:30 pm

**Early Registration for Litigation**

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**WORKSHOP GROUP TWO**  
**Saturday, March 3, 2001 ~ 1:45 pm to 3:15 pm**

**Teams: Strategic and Effective Uses of Teamwork in Mitigation**

*Tom Saunders, Lori James-Monroe*

We will discuss how to build an effective team, common problems and ways to resolve them, how to understand each other's roles and language (the culture of the profession), and effectively using the different perspectives of all members of the trial team to more effectively gain cooperation of the client and the development & presentation of mitigation theory.

**IJ Ballroom**

**Reconciliation**

*Tammy Krause*

This session explores the work done with victims' families on behalf of the defense team - a discussion of the reasons this work should be done in your case and the benefits that result from it. Leslie Armstrong, a mother of a victim, will also be addressing the audience at this session.

**CD Ballroom**

**Gangs**

*Dwight Conquergood*

Explore society's view of "gangs," learn how to deconstruct the media's vilification of "gangs" and explore ways to effectively use this knowledge as mitigation in a capital case.

**EF Ballroom**

**What Mitigation Specialists and Investigators Need to Know About Anticipating and Defeating Prosecution Attacks on Mitigation Issues**

*Ellen Blau, Shelton Green*

A "how to" session for mitigation specialists and investigators on recognizing what the prosecution will do with your mitigation and what you can do to meet their attacks.

**Cimarron Room**

**Investigating Your First Case: ABC's of Mitigation Investigation**

*Marie Campbell, Denny LeBoeuf*

This workshop will focus on the ABC's of mitigation investigation at both trial and habeas levels. The following topics will be covered: Getting Started, what to do first, second, & third; Obtaining Life History Documents, how & why; Interviewing, who, where, when & how; Creating Chronologies, how & why; Creating Genograms, how & why; The Importance of Teamwork; Do's and Don'ts.

**Las Cruces Room**

**Crimes of Innocence: Transgressions of Mentally Retarded Offenders**

*Nancy Cowardin*

This session explores mental retardation as a developmental disability associated with reduced culpability. Crimes typical of these individuals include petty thefts and arson, which can often be explained by their developmental immaturity. Finally, sex offenses associated with mental retardation may include mutual exploration with children of a similar mental age, inappropriate actions springing from deviant personal experiences, and inability to discern and protect their own children from victimization.

**GH Ballroom**

**Juvenile Institutionalization as a Mitigator**

*Dan Macallair*

A large percentage of individuals in capital cases spent much of their developmental years in juvenile correctional institutions. The effect of this confinement on later behavior is often an overlooked element in many cases. This workshop will analyze conditions within juvenile correctional facilities and address their potential psychological and emotional impact. Defense strategies for gathering and presenting relevant information will be emphasized.

**Carlsbad Room**

**Elements of Dysfunctional Families: The Impact on the Client**

*Cessie Alfonso, Jorge Abreu*

This session: (1) reviews the gross and subtle dynamics that make a family system dysfunctional, (2) details the cognitive & emotional impact of dysfunctional families, (3) reviews parenting styles and how they contribute to faulty belief systems and contribute to an individual's criminal behavior. Learn how dysfunctional family dynamics can be compellingly and persuasively presented in the penalty phase.

**AB Ballroom**

**Malingering From a Psychologist's Point of View**

*Bruce Frumkin, David Keefe*

This session will discuss recent scientific advances in assessing for malingering and defensiveness. The use of clinical interviews and psychological testing will be examined in terms of both exaggeration and minimization of psychopathology and intellectual deficits in a variety of legal contexts.

**Santa Fe Room**



Saturday, 3:15 pm to 3:45 pm

**BREAK**

**Foyer**

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**WORKSHOP GROUP THREE**  
**Saturday, March 3, 2001 ~ 3:45 pm to 5:15 pm**

**Mentally Retarded Clients: Assessment of Adaptive Functioning**

*Jill Miller*

Mitigation specialists can play an important role in the diagnosis of mental retardation by assisting in assessing adaptive functioning. Session will address the definition of mental retardation, characteristics of mentally retarded clients, and methods for assessment of adaptive functioning.

**IJ Ballroom**

**Representing Non-Citizens in Death Penalty Cases**

*Kari Converse*

Culture can help explain why a client has acted the way s/he acted and can mitigate the severity of the offense. An understanding of the client's culture can also help in developing mitigation evidence through effective communication and establishment of trust.

**Santa Fe Room**

**Introduction to the Effects of Trauma on Development**

*Lee Norton*

This session will address basic concepts of trauma, including types of trauma, and the effects of trauma on cognitive, social and emotional development.

**Cimarron Room**

**Unconventional Interviewing Workshop**

*Sunwolf*

This workshop is a follow up to the plenary and attendance will be limited. Session will examine surprising advantages of being unconventional, uncovering the myths about the first client interview, enacting new solutions to typical client resistance strategies, using the force of the client's distrust to help the case, tactics to get beyond they-ness and into we-ness, how to do the no-question interview, research on the delicate relationship of helper-helpee, eliminating destructive platitudes and, working backwards from the result you will need to successfully end a capital case.

**Las Cruces Room**

**Discuss Your Own Case Workshop**

*Nancy Cowardin*

This workshop is a follow up on Nancy Cowardin's earlier session, giving time for detailed questions and answers on evaluating mental retardation as a developmental disability associated with reduced culpability in criminal defendants.

**AB Ballroom**

**PTSD and Violent Behavior**

*Claudia Baker, Cessie Alfonso*

This session will examine possible relationships between trauma, Post-Traumatic Stress Disorder symptoms and violent behavior. Ways to recognize offenses that may be related to PTSD will also be reviewed.

**Carlsbad Room**

**Working Towards a Plea Through the Building of Family Relationships**

*Carmeta Albarus, Eutifan Cameron*

The main thrust of bringing a client to the point where he will take a plea is demonstrating to him that his life is valued. This workshop is designed to educate participants on how to bring family members into the plea negotiation process. It will focus on some of the obstacles in engaging family and clients. Strategies for building trust will be shared. Using case studies, examples will be given on how to bring on board the most difficult of family members. It will also share ideas on how to reengage ostracized clients. Recognizing the right time to broach the subject of a plea will be stressed.

**CD Ballroom**

**Document Investigation**

*Scharlette Holdman*

Learn methods, processes, and systems for effectively gathering, documenting, organizing and communicating the voluminous information needed in investigating a client's "life" case. Spot and effectively follow up on "red flag" information obtained in the course of investigation.

**GH Ballroom**

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Saturday, 5:45 pm to 9:30 pm

**Trip into Old Town Albuquerque OR Nob Hill**



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**SUNDAY, MARCH 4, 2001**  
Mitigation / Investigation and Litigation Track

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Sunday, 7:30 am to 5:30 pm **Foyer**  
**Registration for the Mitigation/Investigation and the Litigation Track**

Sunday, 7:30 am to 8:30 am **Foyer**  
**Continental Breakfast**

Sunday, 8:30 am to 9:15 am **Grand Ballroom**  
**Welcome**  
**Award Presentation**

Each year the National Legal Aid and Defender Association honors an individual who has shown outstanding commitment to the cause of defending persons accused of capital crimes. Join us in honoring this year's recipient, *John Holdridge*, in recognition of his tireless efforts and lifelong dedication to fighting the death penalty, taking and winning cases no one else wanted, dealing with the grimmest facts, the most difficult judges, and the poorest clients. He has set the standard for capital defenders throughout the country.

Sunday, 9:15 am to 10:00 am **Grand Ballroom**  
**Keynote: Capital Case Work in the Years Ahead: Challenges and Responses**  
*Stephen B. Bright, Southern Center for Human Rights*

A discussion of the challenges facing those doing capital work in the next few years and some ideas about how to respond to them.

Sunday, 10:00 am to 10:15 am  
**Break**

**Sunday Night—Woody and the Woodpeckers**  
“The band specialized in playing upbeat, move-your-feet dance music that creates a party atmosphere.”

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**LARGE GROUP SESSIONS**  
Sunday, March 4, 2001 ~ 10:15 am to 11:15 am

**Strategic Development of Mental Health Theories and Themes**

*Kathleen Wayland*

An increasing number of criminal defendants have significant mental health issues. This session will provide guidelines for attorneys and mitigation specialist to recognize signs of mental illness, and methods to assess where and when mental illness claims should be raised and to integrate mental health evidence into all phases of litigation in a capital proceeding.

**Grand Ballroom**

**Individual Voir Dire in Death Penalty Cases: Saving, Striking and Identifying Potential Jurors**

*Richard Jaffe*

This session focuses on strategies and techniques regarding the questioning process of potential jurors in capital cases regarding their views about the death penalty. Examples utilized in actual cases illustrate the high level of ambivalence that many jurors bring into the courtroom and the necessity of exposing their actual feelings through careful questioning.

**Sandia Room Ballroom**

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Sunday, 11:15 am to 11:30 am **Break**

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## LARGE GROUP SESSIONS

Sunday, March 4, 2001 ~ 11:30 am to 12:30 pm

### Inside the Juror's MultiMind

*Sunwolf*

New Dimensions in Courtroom Influence, based on each juror's MultiMind: Illusory Correlations, Automatic Believing, Listening Errors, Dangerous Inferences, Cognitive Strategies, Mental Shortcuts, Mistaken Causal Attributions, How People Understand Other People, Appealing to Diverse Value Systems, with New Solutions!

**Grand Ballroom**

### Effective Capital Advocacy in 2001: Integrating and Exploiting New Doubts to Win

*George Kendall*

**Integrating and Exploiting New Doubts to Win:** Learn the practical and effective uses for taking new and important case law, political, sociological, and cultural developments relevant to capital defense work and make them work for your client.

**Sandia Room Ballroom**

Sunday, 12:30 pm to 1:45 pm

**Lunch on your own**

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## WORKSHOP GROUP FOUR

Sunday, March 4, 2001 ~ 1:45 pm to 3:15 pm

### Biological and Physiological Mitigation

*Jill Miller*

Many physiological conditions have mental health and behavioral consequences. Session will address effects of various types of biophysical factors including: biochemical bases of mental disorders, endocrine disorders, vitamin and mineral deficiencies, exposure to toxins, adverse effects of prescription and over-the-counter medications, and chronic pain.

**Santa Fe Room**

### Disorganized Crime: How Disabilities Affect Criminal Behavior

*Nancy Cowardin*

This session defines and discusses learning and developmental disorders that are significantly overrepresented in children and adults in the criminal justice system: mental retardation, specific learning disability, and attention deficit disorders. It will explain how cognitive disabilities may impact behavior in the commission of crimes and at the time of arrest using a matrix of illustrative case studies.

**Carlsbad Room**

### Social History Themes Throughout the Case

*Scharlette Holdman*

This session will highlight the importance of the social history investigation in a case and how to maximize its effectiveness in the theme of defense.

**IJ Ballroom**

### A Beginner's Roadmap Through the Post-Trial World of Capital Litigation

*Ira Mickenberg*

This session will give a step-by-step tour through the entire post-trial process, explaining the procedural and substantive requirements for each stage of a case. Its goal is to acquaint participants with the basics of appellate, post-conviction and habeas litigation in state and federal court, and to provide practical assistance in navigating the often complex legal rules. This session is essential for beginning lawyers, investigators and mitigation specialists, and will provide a useful refresher course for more experienced participants.

**Las Cruces Room**

### Cross-cultural Insanity

*Michael Curtis, José LaCalle, Ellen Rogers*

An interdisciplinary examination of issues which may be encountered in working with a client from another culture who may, or may not, be insane. Reflecting the interdisciplinary approach of the presenters, this presentation is meant for anyone participating in or interested in such cases. Issues specific to Hispanic Defendants will also be discussed. Topics such as: Santeria, Curanderismo, Candomble, Macumba, Shamanism, "Deber de Sangre," cultural demands of "paying" blood debts as mitigation, socio-cultural investigations in the country of origin, etc.

**Cimarron Room**

## **Police Interrogation, Tactics and Training**

*Charles Weisselberg*

Officers are becoming increasingly sophisticated in the psychology of interrogation. What occurs in an interrogation room is choreography, not coincidence. This workshop will explore the psychology of interrogation, and how police are actually trained to question our clients. We will cover some general legal principles as well as some pernicious practices, including police training on how to deliberately violate *Miranda v. Arizona*. We will discuss how to uncover police training and use it to our advantage.

**Sandia Room**

## **Litigating Victim Impact Evidence**

*Kelly Gleason*

Strategies for litigating victim impact issues will be discussed with a focus upon conflictineering principles. The use of defendant impact testimony will be also discussed. Materials include an overview and sample motions.

**GH Ballroom**

## **Nuts and Bolts Penalty Phase Opening**

*Jodie English*

This session will give participants a road map for an effective penalty phase opening, including how to overcome the credibility gap where an outright innocence defense was (unsuccessfully) mounted in phase one and how to explain the significance of mitigation evidence in a persuasive and compelling manner.

**Pecos Room**

## **Early Entry Issues in Capital Cases**

*John Niland, George Sornberger*

The presenters will discuss methods to make contact with a potential client as soon after an arrest as possible. Suggestions will be given on how to gain access to the accused, preserve the client's rights, ensure that evidence is preserved and begin an effective fact and mitigation investigation.

**AB Ballroom**

## **Advanced Jury Selection: How to Pick a Jury that will Return a Life Sentence**

*Richard Jaffe, John Mauldin*

Strategies and techniques unique to the jury selection process in capital cases are discussed. Techniques on teaching respect and getting a life sentence out of the jury room. The use of questionnaires and individual voir dire or in group settings will also be discussed.

**Acoma Room**

## **Restorative Justice for Capital Cases: Resourcing Attorneys and Investigators Challenged by Clients Needs and Rights**

*Melodee Smith, With a local death row family member and a local victim family member*

Restorative Justice demonstrates genuine concern for the needs and rights of the offender, and the victim/survivor and the community - rather than simply focusing on the punishment for the accused. Explore strategies for addressing and meeting these needs when the Government wants to kill your client.

**CD Ballroom**

Sunday, 3:15 pm to 3:45 pm

**BREAK**

**Foyer**

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### **WORKSHOP GROUP FIVE**

**Sunday, March 4, 2001 ~ 3:45 pm to 5:15 pm**

## **Un-DNA or "How to do DNA Cases Without Being a Biochemist-Microbiologist-Geneticist"**

*Kari Converse*

Not all of us can be Barry Scheck. Here is an introductory approach to STR DNA evidence, emphasizing not a frontal attack on the science or the underlying theories, but tips on how to look at your testing results, and how to do "flank attacks" on DNA evidence - how the testing might have been done wrong in your case or how the data may not support the analyst's conclusions.

**Santa Fe Room**

## **Understanding and Representing the Client Who Challenges Us**

*Russ Stetler, John Niland*

We are separated from our clients by barriers of race, mental disability, nationality, gender, education, religion, sexual orientation, language, age, suicide ideation and hopelessness. The challenge of capital representation is to overcome these obstacles, rather than blaming the client for the difficulty these barriers pose to our work. The presenters will discuss successful strategies.

**Sandia Room**

## **Cross-Examining the State's Medical Examiner**

*George Castelle*

This session will include a discussion of how to prepare for cross-examination of the state's medical examiner and how to address frequently arising issues in medical examiners' testimony.

**AB Ballroom**

## **Exposure to Domestic Violence? A Mitigator**

*Cessie Alfonso, Jorge Abreu*

This workshop will define domestic violence. It will discuss techniques that are used to assess the intensity, frequency, and duration of domestic violence witnessed by your client. This assessment process will enable the mitigator to evaluate how their client's exposure to domestic violence contributed to their client's behavior.

**IJ Ballroom**

## **Modern Police Standards of Interrogation**

*Richard Ofshe*

Discuss how the factors of coercive social control, social psychology and other influences involved in the police interrogation process affect one's decision to falsely confess.

**CD Ballroom**

## **Obtaining Resources Necessary to Preparing a Defense**

*David Keefe*

This session will attempt to demonstrate a step-by-step approach to obtaining the funding that is crucial to effectively litigating a capital case.

**GH Ballroom**

## **Successful Clemency**

*Katy O'Donnell*

This workshop focuses on utilizing creative resources, critical contacts and constructive strategies to launch a successful clemency effort.

**Carlsbad Room**

# TONIGHT

## **Behavioral Description Voir Dire: A Jury Selection Methodology to Complement the Theory of Your Case**

*Vince Aprile, George Sornberger*

This methodology is designed to elicit the most reliable answers to the important questions in your voir dire, to identify those venirepersons most and least likely to empathize with your theory of the case, and to advance your theory of the case in ways you never imagined. Based on sound psychological principles and state-of-the-art litigation theory, behavior description voir dire works for death penalty issues as well as criminal law issues in a death case. Learn the technique and see it applied. This session will have mock jurors.

**Acoma Room**

## **PTSD: It's Role in the Defense Theme**

*Kathleen Wayland, Lee Norton*

Learn what Post Traumatic Stress Disorder is, and how it affects our client. Learn how to effectively incorporate PTSD into the defense theme.

**Pecos Room**

## **Psychological Aspects of Miranda Warnings**

*Bruce Frumkin*

This session will cover recent advances in the assessment of competency to waive Miranda rights. The differences between making a "knowing," "intelligent," and "voluntary" waiver of rights will be explored. Relevant case law, research in the area of juveniles and adults comprehension of Miranda warnings, and interrogative suggestibility with coerced/false confessions will also be discussed.

**Las Cruces Room**

## **Defendants with Mental Retardation**

*James Ellis*

Representing defendants who may have mental retardation presents challenges at every stage of a capital trial, whether your jurisdiction bans the execution of defendants with mental retardation or not. The session will focus on the nature of mental retardation, evidentiary questions, and how to tell your client's story to make the nature of his disability real to jurors.

**Cimarron Room**

**THE NEW MEXICO CRIMINAL DEFENSE LAWYERS ASSOCIATION**  
proudly sponsors the Life in the Balance 2001 reception featuring  
**WOODY AND THE WOODPECKERS** starring Charlie Daniels, Bill Parnall, and  
other notorious NMCDLA members!

**The reception starts at 6:00 pm. Band starts at 7:00 pm in the Grand Ballroom.**

ONE FREE DRINK for all registered conference attendees. You must present your badge at the front door to receive the coupon. Cash bar and chips, tortilla chips, salsa, guacamole, etc.

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**MONDAY, MARCH 5, 2001**  
Litigation Track

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Monday, 7:30 am to 5:30 pm **Foyer**  
**Registration and Continuing Legal Education Credentialing**

Monday, 7:30 am to 8:30 am **Foyer**  
**Continental Breakfast**

Monday, 8:30 am to 9:45 pm **Grand Ballroom**  
**Welcome and Announcements**  
**Plenary: Eyewitness Testimony: Research, Courtroom Applications, and the Law**  
*Elizabeth Loftus, George Castelle*

This session will include recent developments in research into factors affecting the reliability of eyewitness testimony. It will include discussion of courtroom strategies to win the battle for admissibility of expert testimony on eyewitness and memory issues, and will include a discussion of alternatives to presenting the information to the jury in the absence of an expert.

Monday, 9:45 am to 10:45 am **Grand Ballroom**  
**Plenary: Preserving the Record for Appeal**  
*Terry Harper, Stephen Lindsay*

Protecting the record, what the appellate lawyer can teach the trial lawyer and vice versa. This presentation will focus on the needs and reasonable expectations that appellate lawyers have of trial lawyers to protect the record. It will also touch on ways in which the appellate lawyer can more effectively make use of the record when handling post-conviction cases.

Monday, 10:45 am to 11:15 am  
**BREAK**

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**WORKSHOP GROUP SIX**  
**Monday, March 5, 2001 ~ 11:15 am to 12:45 pm**

**Workshop on Eyewitness Testimony:  
Question and Answer & Discuss Your Own  
Case**

*Elizabeth Loftus, George Castelle*  
This workshop will follow up on the plenary session, giving time for detailed questions and answers on eyewitness and memory issues. Participants will be invited to discuss the eyewitness and memory issues in their own cases.

**AB Ballroom**

**Demonstrative Evidence in the Penalty  
Phase**

*Jill Miller, Stephen Lindsay*  
Session will discuss the benefits of a mixed-media presentation in the penalty phase of the capital trial, and will describe the various types of demonstrative evidence that can be used. Faculty will address both low-budget methods as well as use of video and LCD projected presentations.

**EF Ballroom**

**Protecting the Defense Case From  
Accusations of Malingering**

*David Keefe, Bruce Frumkin*  
Capital defendants who wish to introduce expert mental health evidence at sentencing are increasingly being ordered to submit to evaluation by prosecution mental health experts. Too often, such evaluations result in accusations of "malingering." This session will discuss how to deal with this potentially devastating charge.

**IJ Ballroom**

**Diffusing Aggravating Evidence**

*Katy O'Donnell, Lori James-Monroe*  
This workshop focuses on utilizing creative strategies to minimize or neutralize the effect of damaging evidence.

**GH Ballroom**

## **Seven Habits of Murder Mongers**

*Jodie English*

Capital prosecutors have an arsenal of tried and true tricks for unfairly enhancing their chances of securing a death sentence. Defense lawyers who have not tried a lot of capital cases can be caught unaware. This session will highlight 7 common ways that prosecutors cheat: 1) the calculated use of inflammatory argument; 2) improper cross examination of witnesses in order to sneak in inadmissible prior conviction, gang, and other improper rebuttal evidence; 3) improper inclusion of inadmissible 404(b) evidence in direct examination of their own witnesses, either in the case in chief or in rebuttal; 4) harassment of prospective defense witnesses pretrial; 5) Brady/Kyles violations; 6) fighting adequate funding and preparation time for the defense; and 7) polluting the prospective jury panel.

**Cimarron Room**

## **Bloodstain Patterns and the Investigator**

*Larry Renner*

Bloodstain patterns are often overlooked, ignored, or misinterpreted at crime scenes. The manner in which bloodstains are applied are many times more significant than the DNA present. Stain patterns, application methods, classification and the significance of each will be presented.

**Carlsbad Room**

## **Military Death Penalty: Getting Started--Nuts and Bolts**

*Carol Cooper, Henry Lazzaro*

A brief overview of the practice of capital litigation in the military, including the referral process, ideas to avoid a capital referral, defending a case on the merits and presenting a case in extenuation and mitigation.

**CD Ballroom**

## **Deconstructing Anti-Social Personality Disorder**

*Kathleen Wayland*

This session will provide strategies for accurately assessing your client's mental health history and avoiding or rebutting an erroneous diagnosis of ASPD. Included will be an overview of ASPD and information about symptom constellations / other disorders often mistakenly labeled ASPD. Film clips and life history documents will be used.

**Pecos Room**

## **Fingerprint Evidence: Is It Science or Junque? The Daubert Dilemma**

*Michael Mears*

This presentation will deal with whether or not fingerprint comparisons should be admitted as "scientific evidence." Fingerprint identifications, like handwriting analysis and hair comparisons have been found to be scientifically unreliable. Are fingerprint comparisons anything more than the subjective opinion of a technician whose livelihood rests upon the use of fingerprint identification as a "science?"

**Sandia Room**

## **Integrating Trial and Post-Conviction Strategies in Capital Cases**

*Marshall Hartman, Stephen L. Richards*

How to win at trial while preserving issues for appeal and post-conviction, including: (1) Resources (expert witnesses, social workers, psychologist, neuropsychologist), (2) Investigation, (3) Trial preparation, shadow juries, jury consultants, computers, notebooks, (4) Making a Record, (5) Relationships between trial and post-conviction lawyers, and (6) Working with the client.

**Acoma Room**

## **Mitigating In-Prison Homicides**

*Scharlette Holdman*

This presentation will examine the conditions within prisons that contribute to in-prison homicides. Find out about these conditions and explore the manner in which factors can be presented as a mitigator in a capital case.

**Las Cruces Room**

Monday, 12:45 pm to 2:00 pm

**LUNCH ON YOUR OWN**

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## LARGE GROUP SESSIONS

Monday, March 5, 2001 ~ 2:00 pm to 3:30 pm

### **Plea Negotiations: Strategic Planning for a Plea to Life**

*Russ Stetler, Katy O'Donnell, Scharlette Holdman, Carmeta Albarus*

When the goal becomes a life sentence, the safest route is a plea. This session will discuss how to use penalty phase preparation to identify allies for settlement; building the relationship of trust that will enable clients to make the hard decision; and persuading prosecutors to accept a plea.

**EF Ballroom**

### **Effective Teamwork: Working Together for Life**

*Jodie English, Frank Draper, Lori James-Monroe*

This plenary session's objectives are to: Review most common team conflicts and review indicators of team troubles; Provide an understanding of how to maintain a team when problems develop; and Review indicators of team problems and supply participants with best practice techniques to maintain or rebuild your team.

**Cimarron Room / Las Cruces Room**

### **Low Serotonin and Type-2 Alcoholism as Mitigators**

*Paul Rossby, Stephen Harper*

There is a link between low serotonin activity in the brain and deficient impulse control leading to severe unrestrained aggression [rage]. In addition, there is a connection between low serotonin activity and a male-exclusive type of alcoholism that is associated with violent behavior. Twenty years of international research will be summarized.

**Sandia Room**

Monday, 3:30 pm to 4:00 pm

**BREAK**

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## WORKSHOP GROUP SEVEN

Monday, March 5, 2001 ~ 4:00 pm to 5:30 pm

### **Making the Media Work for Your Client: Strategically, Ethically, and Effectively**

*Elisabeth Semel, Richard Dieter*

This session will identify both the pivotal junctures in a case where media may be helpful and the specific techniques of effective public relations. Semel and Dieter will engage in a dialogue with each other and the participants about using the media in a capital case. Their audio/visual presentation will provide examples of the practical considerations, pitfalls and ethical problems that lawyers face in newsworthy cases.

**Pecos Room**

### **Litigating Military Cases: Getting, Using and Presenting Mental Health Evidence**

*Henry Lazzaro, Carol Cooper, Jill Miller*

This session will discuss the differences in preparing for the trial of a military death penalty case from other court-martials with emphasis on trial preparation and requesting and locating the expert witnesses who will be needed to defeat a capital referral and sentence.

**CD Ballroom**

### **Litigating Brady/Kyles Evidence: How to Get It and What To Do With It**

*Denny LeBoeuf*

A practical guide to the benefits of the Brady/Kyles decision, including tips on how to litigate for enhanced discovery and suggestions on how to use the results to leverage deals, win evidentiary hearings, and develop mitigating evidence.

**Las Cruces Room**

### **Cross Examination in a Capital Case: Perils and Pitfalls**

*Stephen Lindsay*

This session focuses on problems encountered in cross examination in capital cases. Topics covered will include how to deal with a surviving family member, how to make the state or government experts into your experts, and how to avoid the many perils and pitfalls facing the capital defense attorney set to cross examine a witness.

**EF Ballroom**

WORKSHOP GROUP SEVEN CONTINUED

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**WORKSHOP GROUP SEVEN--CONTINUED**  
**Monday, March 5, 2001 ~ 4:00 pm to 5:30 pm**

**Violence Risk Assessment at Capital Sentencing**

*Mark Cunningham*

Group statistical data demonstrating that the majority of capital offenders will not commit acts of serious violence in prison or on old age parole will be reviewed. The continuing poor performance of Antisocial Personality Disorder, PCL-R psychopathy, HCR-20, and VRAG in predicting prison violence will be reviewed.

**Acoma Room**

**Brainstorming the Trial Phase of a Capital Case**

*Michael Mears, George Sornberger*

This session will give participants the opportunity to brainstorm their own cases that are pending for trial. Michael Mears and George Sornberger will assist participants in developing theories of defense, investigative plans, and tactical ideas for the trial phase of a capital case.

**AB Ballroom**

**Managing Your Capital Case**

*John Mauldin*

Whether you are a team member or lead counsel, the capital case can and will consume you like Kudzu if not properly managed. Examine and discuss techniques to manage and control your capital cases.

**GH Ballroom**

**Brainstorming Ineffective Assistance of Counsel Claims**

*Terry Harper, Ira Mickenberg*

This session will give participants the opportunity to brainstorm their own cases for potential ineffective assistance of counsel claims, both at the trial and appellate levels. Terry Harper and Ira Mickenberg will assist participants in developing theories of defense, investigation plans, and tactical ideas for raising IAC issues.

**Cimarron Room**

**Clemency Campaigns: Developing Strategies to Stop Executions**

*Melodee Smith, Jefferson Dorsey*

When should a "Clemency Campaign" to stop the killing of your client begin? Who can we get to help us? What are some of the risks and advantages of politicizing our client's case? Review recent clemency campaigns in Texas, Oklahoma and Tennessee within the current political/legal/social context.

**Carlsbad Room**

**Representing the Borderline Personality Client**

*Kelly Gleason*

The characteristics of Borderline Personality Disorder are addressed in the context of capital litigation. The effective representation of BPD clients requires tremendous patience and the formulation of specific strategies in client relations and development of mitigation. Exciting trends in research of the biological, hereditary, and environmental roots of BPD are discussed.

**IJ Ballroom**

**Presenting the Lives of Juveniles in Capital Cases**

*Stephen Harper*

This workshop deals with 1) representing juveniles facing the death penalty and 2) the many ways in which adolescence and youth can be teased out and presented as a mitigator in any capital case. We will look at the developmental aspects of adolescence as well as the ways in which most juvenile offenders are developmentally impaired. We will discuss how these factors reduce culpability and enhance prospects for rehabilitation as well as other ways in which they can be presented in mitigation. Finally, we will discuss the best use of experts and effective presentation of these mitigators.

**Sandia Room**

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**TUESDAY, MARCH 6, 2001**  
Litigation Track

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Tuesday, 7:30 am to 1:00 pm **Foyer**  
**Registration and Continuing Legal Education Credentialing**

Tuesday, 7:30 am to 8:30 am **Foyer**  
**Continental Breakfast**

Tuesday, 8:30 am to 9:45 am **ABCDEF Ballroom**  
**Announcements**

**Plenary: What to Ask the Prosecution's Expert Pathologist**  
*Werner Spitz*

The autopsy report is probably the single most important document in any trial involving a potential murder. It is essential that you read the report not only for what it says, but also between the lines so you can effectively cross-examine the medical expert who authored it. Remember in the OJ case, the pathologist was never called to the scene. Once the body is refrigerated, forget body temperature and time of death. This lecture will address cross-examination of the medical expert with photographs. Many trials have been lost that should have been won, only because of inadequate handling of these issues.

Tuesday, 9:45 am to 10:00 am **Break** **Foyer**

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**WORKSHOP GROUP EIGHT**  
**Tuesday, March 6, 2001 ~ 10:00 am to 11:30 pm**

**Evaluating Medical Examiner Testimony:  
Follow-up to Plenary**  
*Werner Spitz*

This session will follow up on the plenary of Dr. Spitz, giving time for detailed questions and answers on evaluating medical examiner testimony. Participants will be invited to discuss these issues as they relate to their own cases.

**EF Ballroom**

**Investigating Ineffective Assistance of  
Counsel Claims**  
*Ira Mickenberg*

Ineffective assistance of counsel claims are among the most common grounds for attacking a capital conviction. Sleeping lawyers, drunk lawyers, lawyers who don't investigate, lawyers who don't prepare and lawyers who don't put up a defense are all too common in death penalty cases. This session will provide many suggestions and methods for investigating IAC cases and for gathering evidence that courts will recognize as evidence of constitutionally defective counsel. We will also discuss techniques of constructing a persuasive theory of defense in IAC cases that will maximize the chance of gaining a reversal.

**Pecos Room**

**Meshing Innocent/Guilt and Life Arguments  
& Theories**  
*Tom Saunders*

This session concentrates on how 1) to use your guilt-innocence case to build or lay the groundwork for your mitigation, 2) to reconcile or minimize the effect of conflicting guilt-innocence and mitigation theories, 3) to use the guilt-innocence phase to advance your mitigation even if you have no viable defense theory and 4) to help your client recognize the "big picture" and work with you toward a mitigation theory.

**IJ Ballroom**

**The Sins of the Father (or Mother): How to  
Mitigate on Behalf of the Children When the  
Capital Client is also a Parent.**

*Frank Draper, Caroline Burry*

How to work with children of the defendant in the mitigation phase. Incorporating the parent-child relationship into the theme of the case, the psychosocial dynamics of parenting from prison, the psychosocial dynamics of the effects of the execution of a parent on a child, how to establish the necessary family relationships, how to present this at trial and potential pitfalls.

**Acoma Room**

**Anticipating and Defeating Prosecution  
Attacks on Mitigation Issues**

*Shelton Green, Jeffrey Howard*

A "how to" session for defense attorneys on recognizing what the prosecution will do with your mitigation and what you can do to meet their attacks.

**Santa Fe Room**

**It's Not Just an Abuse Excuse: Mitigation  
Concepts From the Department of Justice**

*Mark Cunningham*

This workshop presents research from the U.S. Department of Justice and other sources demonstrating that as damaging developmental and corruptive exposures increases, the likelihood of serious delinquency and violence in the community correspondingly increase. This data helps provide a reliable nexus between development and outcome, and rebuts simplistic "abuse excuse" arguments. Illustrative graphic models are provided.

**Sandia Room**

**Supreme Court Habeas Updates**

*Marshall Hartman*

The Supreme Court has handed down a number of Habeas decisions in recent months which interpret the Anti-Terrorist and Effective Death Penalty Act (AEDPA) and affect the manner in which we conduct trials and post-conviction proceedings. This will be an interactive session.

**Carlsbad Room**

**Cross-Cultural Aspects of Mental Health  
Evaluations**

*Bruce Frumkin*

This session will discuss clinical evaluations and "mental disorder" from a cross-cultural perspective. The use of consultants to provide cultural competency, informed use of interpreters, and common pitfalls in psychological test administration & interpretation will be examined. This session will have relevancy in terms of direct and cross-examination of mental health experts.

**GH Ballroom**

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Tuesday, 11:30 am to 11:45 am

**BREAK**

**Foyer**

Tuesday, 11:45 am to 12:45 pm

**ABCDEF Ballroom**

**Plenary: Closing Argument: Telling Our Client's Story**

*Denny LeBoeuf*

Thinking about close as the re-telling of the story begun in voir dire, with practical tips for constructing the story and dealing with surprises during trial. Some suggestions for general themes in closing argument. Demonstration of a closing argument in a case where childhood trauma was a major theme.

Tuesday, 12:45 pm

**ABCDEF Ballroom**

**Closing Remarks**

**SAVE THE DATE**

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## FACULTY

**Jorge Abreu**; Alfonso Associates, Jersey City, NJ.

**Carmeta Albarus** is a former secondary school teacher in the public education system in Jamaica. She holds a Master's degree in Social Work, and is licensed clinical social worker. Ms. Albarus has over 10 years experience working in the area of capital mitigation and has consulted on over 200 death penalty cases nationwide. She has been qualified as an expert in social history investigation and assessment at both the state and federal level. She is president of CVA Consulting Services, a forensic social work firm.

**Cecelia Alfonso**; Alfonso Associates, Jersey City, NJ.

**Vince Aprile** joined the Kentucky Department of Public Advocacy, the state public defender program, in June 1973 and from 1982 through 1999 served as its General Counsel. Vince is now senior litigator with the Department's Capital Post-Conviction Branch and is currently a member of NLADA's Defender Policy Group.

**Claudia Baker, MSW, MPH**, has been a social worker with the Department of Veterans Affairs for eight years. She currently works at the VA's National Center for Post-Traumatic Stress Disorder in Menlo Park, CA providing training to mental health professionals from around the world in the treatment of PTSD, with a particular emphasis on anger management issues. In the past she has coordinated outreach efforts to incarcerated veterans in New York City and San Francisco. She also works as a mitigation specialist with Alfonso Associates and has published several articles on PTSD and violent behavior.

**Barbara Bergman** is a professor at the University of New Mexico Law School. She is currently on leave, working on Terry Nichols' defense team in the state prosecution in Oklahoma, where, despite Mr. Nichols' federal life without parole sentence, the Oklahoma County District Attorney's Office is seeking the death penalty.

**Ellen A. Blau**; Missouri State Public Defender, St. Louis, MO.

**Stephen Bright** has been involved in the litigation of capital cases since 1979, has served as director of the Southern Center for Human Rights since 1982, and lectures at Emory and Yale law schools.

**Caroline L. Burry, MSW, Ph.D.** is currently an assistant professor of social work in the graduate program of the School of Social Work, University of Maryland. Her teaching foci are in clinical practice and child welfare. Previously, she founded and co-directed The Adoption Center of South Carolina and directed a child welfare-training project at the University of South Carolina. She has written extensively and served as an expert witness in several states and in federal courts.

**Eutifan Cameron**; Alfonso Associates, Jersey City, NJ.

**Marie L. Campbell** is a licensed private investigator and mitigation specialist in New Orleans, Louisiana. Marie was the mitigation investigator at the Loyola Death Penalty Resource Center in New Orleans for five years, until it closed in 1999. Since then, she has been self-employed, conducting mitigation investigations at both trial and habeas levels and consulting with law firms who have undertaken pro bono representation of capital cases.

**George Castelle** represented the interests of all prisoners in the 1993 and 1999 investigation into fraud in the West Virginia State Police Crime Laboratory case and has won several awards for freeing prisoners wrongfully convicted by untrustworthy expert testimony.

**Dwight Conquergood Ph.D.** joined the faculty of Northwestern in 1978, where he is now Associate Professor and Chair of Performance Studies. He has produced a number of films documenting his ethnographic work, through which he has given students the opportunity to interact with members of inner-city street gangs and Southeast Asian refugees. He was named 1993 Professor of the Year for the State of Illinois by the Council for the Advancement and Support of Education, and has received grants from such organizations as the Ford Foundation and the Illinois Humanities Council.

**Kari Converse** recently left a solo practice to join Bill Gordon & Associates. She has tried three murder cases with DNA evidence - one of them resulting in an acquittal despite her client's DNA inside the gloves which were unquestionably used in the murders. She is a former assistant state and federal public defender.

**Captain Carol Cooper** is a graduate of the Florida State University College of Law and The George Washington University (LLM). On active duty in the U.S. Navy, she has served as the Director of the Appellate Defense Division and as a judge on the Navy-Marine Corps Court of Criminal Appeals. In September 2001, she will head the Navy's Capital Litigation Resource Center.

**Dr. Nancy Cowardin** has provided assessment/expert witness testimony in over 450 criminal cases, and serves as principle expert in the class action Armstrong lawsuit seeking disability accommodation in California prisons. She was named "1999 Educator of the Year" by the California Learning Disability Association for professional trainings in disability awareness, and was also nominated in 2000 to represent her state for the national award.

**Mark D. Cunningham, Ph.D.**, is a clinical and forensic psychologist who has testified regarding mitigation and/or violence risk assessment in numerous capital sentencing cases in state and federal courts. He is one of fewer than 200 board certified ABPP forensic psychologists in the United States and has a number of recent peer-reviewed scholarly papers.

**Michael Curtis** received his JD from Willamette University, Salem, OR in 1977. He was a Staff attorney, Metropolitan Public Defender Services, Inc., in Oregon and is currently in Private Practice in Portland, where he focuses on death penalty defense. He is a member of NLADA as well as NACDL, OCDLA, the Oregon State Bar and the American Association for the Advancement of Science.

**Richard Dieter** has been Executive Director of the Death Penalty Information Center in Washington, DC since 1992. He has worked for many years on issues related to human rights and the death penalty, including work as director of the Community for Creative Non-Violence's

pre-trial release program, the founder of Alderson Hospitality House, and the founder of the Quixote Center's death penalty project.

**Jan Dowling** of Albuquerque, NM is a 1991 graduate of Indiana University Law School. She has worked as both a capital appellate and a practice lawyer and is currently working as a mitigation specialist. Although she lives in Albuquerque, she's a "have skills, will travel" kind of gal, and does most of her work in Arizona.

**Frank Draper** was previously a Staff Attorney with the South Carolina Death Penalty Resource Center, and Senior Trial Attorney at the Richland County (SC) Public Defender's Office. Currently, Frank is an Assistant Public Defender with the Capital Defense Division of the Maryland Office of the Public Defender.

**James W. Ellis** has taught since 1976 on Constitutional Law, Mental Disability Law, Criminal Law, and the Rights of Children. A graduate of Occidental College and the University of California at Berkeley, Ellis has worked at the Yale Psychiatric Institute and at the Mental Health Law Project. He has served as a Law Reporter for the American Bar Association's Criminal Justice Mental Health Standards Project and as President of the American Association on Mental Retardation. He is the principal author of briefs in ten cases in the Supreme Court of the United States, and has worked to obtain passage of statutes protecting people with mental retardation from the death penalty in thirteen states and the U.S. Congress.

**Jodie English** is employed as a statewide trial consultant for the Indiana Public Defender Council on both capital and non-capital felony trials. Jodie has served as a faculty member for the NCDL institutes since 1981. She has been a state public defender, a federal defender, and is currently in private practice.

**Dr. I. Bruce Frumkin, Ph.D.** is in private practice and holds a Diplomate in Forensic Psychology from the American Board of Professional Psychology. Dr. Frumkin has evaluated over 300 adult and juveniles on Competency to Waive Miranda Rights and has lectured and published in this area. He has also lectured, taught courses and testified on false/coerced confessions, malingering and deception, and cross-cultural aspects of mental health assessments. He just served as President of the Dade County Psychological Association.

**Kelly Gleason** is Deputy Counsel in the Capital Division of the Tennessee Public Defenders Conference, a consultation unit. Previously, Kelly was a public defender in the Capital Trial Unit and Stanton field office in Kentucky.

**Shelton Green** received his J.D. with honors from Chicago-Kent College of Law in 1980. Since then he has had extensive trial, appellate, and supervisory experience. He is currently Chief of Murder Task Force Office of Cook County Public Defender. He is in demand as a lecturer on death penalty cases.

**Stephen Harper** is a Coordinator of the Capital Litigation Unit in the Miami-Dade Public Defender's Office where he is primarily responsible for the gathering and presentation of mitigation evidence in capital cases. He has been an Assistant Public Defender since 1984 and served as the Chief of the Juvenile Division from 1989 to 1995. He has lectured nationally on a variety of juvenile and capital topics and is an adjunct professor at the University of Miami School of Law where he teaches a course on juvenile law.

**Teresa Harper**; Attorney At Law, Bloomington, IN.

**Marshall J. Hartman** has worked on behalf of the indigent criminal for the past four decades. He is currently the Deputy Defender in charge of the Capital Litigation Division of the Illinois State Appellate Defender Office. In 1999 he received the Advocates Award from the Illinois Attorneys for Criminal Justice for his work with death row inmates.

**Scharlette Holdman**; Center for Capital Assistance, San Francisco, CA.

**Jeffrey Howard** has served as the Capital Case Coordinator for the Office of the Cook County Public Defender since 1995. He has been handling death cases since 1986 and has managed death cases at both the trial and appellate levels.

**Richard S. Jaffe** is a former president of the Alabama and the Greater Birmingham Criminal Defense Lawyers Associations. He has handled over fifty capital cases. In 1997, he was lead counsel in State of Alabama vs. Randal Padgett and State of Alabama vs. James Cochran, both death row inmates whose retrials resulted in acquittals. In 1998, he represented the sixteenth defendant to be tried under the new Federal Death Penalty Statute which resulted in a life sentence.

**Lori James-Monroe** currently serves as the National President of National Association of Sentencing Advocates. She is a faculty member at the University of Maryland in Social the Social Work Community Outreach Service. She resides in Maryland with husband, Art and daughter, Maya.

**Tammy Krause** is a victim Leiason, Mastors in Conflict Transformation. She has worked with defense teams on several federal capital cases in outreach to the victim's families.

**David Keefe** is Chief Counsel of the Capital Division of the Tennessee District Public Defenders Conference in Nashville. He advises Tennessee attorneys and lectures nationally on the investigation, preparation and presentation of capital cases at the trial and appeal levels.

**George Kendall**; NAACP Legal Defense & Educational Fund, Inc., New York, NY.

**Denise LeBoeuf**; Capital Post-Conviction Project of Louisiana, New Orleans, LA.

**José J. LaCalle Ph.D. ABPP** is a Cross-Cultural Hispanic Forensic Psychologist and President of LaCalle Psychological Services, Inc. He specializes in capital cases, murder and violent sex crimes and cases involving violence, sex and racial discrimination claims. He has preformed over 7,000 psychological evaluations and personality assessments; over 3,000 cases were within the field of forensic psychology. Over 185 murder cases, including capital and first-degree cases, mostly with Hispanic defendants. For 25 years he owned and operated Mental Health Clinics for Hispanics in California.

**Captain Henry Lazzaro** obtained a Bachelor of Arts from Lewis University in 1974, a Juris Doctorate from the University of Illinois in 1977 and a Master of Arts in National Security and Strategic Studies from the Naval War College in 1991. He worked as an Assistant State's Attorney in Champaign, Cook and Lake Counties in Illinois from 1977 to 1990. He served as the Chief, Deputy Public Defender in Lake County, Illinois from 1991 to 1993. He thereafter

engaged in the private law practice, concentrating in major felony and personal injury trial work, from 1993 until the time of his recall to active duty with the Navy in 1997. He was recalled to active duty in June 1997 to serve as the Head of the Navy-Marine Corps Capital Litigation Resource Center. He has prosecuted and defended capital cases in these various positions.

**Stephen Lindsay** is a senior partner in a private law firm in Asheville, NC. His firm specializes in criminal defense in both state and federal courts. He earned his J.D. from the University of North Carolina School of Law. A faculty member for the National Criminal Defense College, Stephen dedicates four to six weeks a year teaching and lecturing for public defender organizations and criminal defense bar associations. He has published extensively. In his leisure he enjoys good books, fishing, good music, fishing, good movies, fishing, good food, and fishing.

**Elizabeth Loftus, Ph.D.** is Professor of Psychology and Adjunct Professor of Law at the University of Washington, Seattle. She has published 20 books and over 300 scientific articles. Her research of the last 20 years has focused on human memory, eyewitness testimony and courtroom procedure. Her 4th book, *Eyewitness Testimony*, won a National Media Award from the American Psychological Foundation. One of her most widely read books; "The Myth of Repressed Memory" has been translated into Dutch, Taiwanese, French, German, Japanese and other foreign languages. A Past-President of the American Psychological Society, Loftus has been an expert witness or consultant in hundreds of cases.

**Daniel Macallair** is the Vice President and a co-founder of the Center on Juvenile and Criminal Justice and the Justice Policy Institute. Mr. Macallair's expertise is in the development and analysis of correctional policy for youth and adult offenders and has implemented model programs throughout the country. In the past ten years, his programs received national recognition and were cited as exemplary models by the United States Department of Justice and Harvard University's Innovations in American Government program. In 1994, Mr. Macallair received a leadership award from the State of Hawaii for his efforts in reforming that state's juvenile correctional system. Mr. Macallair is presently a consultant to correctional systems around the country and frequently provides expert testimony on correctional practices.

**John Mauldin** is Chief Public Defender for Greenville County, South Carolina with emphasis on death penalty litigation. A 1973 graduate of Emory University School of Law, he was in private practice for 16 years before being appointed to his present position in 1992. Mr. Mauldin was honored by the American Civil Liberties Union as South Carolina Attorney of the Year.

**Michael Mears** received his BS and MA Degrees from Mississippi State University. He received his Juris Doctor Degree from the University of Georgia. He was with the law firm of McCurdy & Candler from 1979 until 1988. Since 1992, he has served as the Director of the Multi-County Public Defender Office (a state-wide capital defender office devoted to the defense of death penalty cases in Georgia).

**Ira Mickenberg** is a public defender trainer and consultant, who has designed and taught appellate, trial and post-conviction training programs for defender organizations across the nation. Ira has litigated appellate cases in the U.S. Supreme Court, several U.S. Courts of Appeals, and many state appellate courts. He has also been certified as an expert witness on effective assistance of appellate counsel. If he's not traveling, Ira spends time in his new library.

**Jill Miller, MSSW, LICSW**, is a Forensic Social Worker in private practice. Ms. Miller has worked in legal settings for thirty years. In the last fifteen years, she has worked on over eighty capital cases at the trial and post-conviction levels, in state, federal and military proceedings. She has trained extensively on capital mitigation.

**John P. Niland** is currently the Capital Trial Project Director for Texas Defender Service. He practiced in El Paso where he was President of the El Paso Young Lawyers Association, member of the Board of Directors of the Texas Young Lawyers Association and chosen Outstanding Young Lawyer in 1977. In Kentucky from 1992 until May of 2000, he was contract manager, directing attorney and regional manager for Kentucky's Department of Public Advocacy (DPA). He has maintained an active capital defense caseload and has presented at capital training programs around the country. He was the Kentucky DPA's Gideon Award recipient for the year 2000.

**Lee Norton** is a clinical and forensic social worker. Her areas of professional interest are the effects of acute and chronic trauma, team building in capital cases, the effects of secondary trauma, plea negotiation, and working with victims' families. She is an instructor for the Traumatology Institute in Tallahassee, Florida and has worked on over 100 capital cases. She has assisted attorneys in working with traumatized clients and conducting comprehensive social histories.

**Katy O'Donnell** serves as the Division Chief at the Capital Defense Division Office of the Public Defender in Baltimore, providing instruction, consultation, and training on all aspects of capital representation. She is involved in direct representation of capital clients at the trial level. Katy also does extensive lecturing on national level on numerous subjects relevant to death penalty litigation.

**Dr. Richard Ofshe** is a Social Psychologist and Professor at the University of California at Berkeley. His research focuses on decision making under extreme forms of influence. While widely published on the topics of how the social organization of some cult groups can cause the exploitation of members, as well as the creation of pseudo-memories of sexual abuse in the minds of patients of incompetent psychotherapists, his principle interest is police interrogation leading to coerced and false confessions. He has testified in nearly 150 suppression hearings and/or trials on behalf of victims of police coercion and has participated in more successful defenses of innocent false confessions than anyone else in America.

**Lawrence Lee Renner, PA** has 27 years in Forensics, is certified as a Senior Crime Scene Analyst and Bloodstain Pattern Examiner, is an active participant in the ACSR and IABPA. He lectures internationally, teaches University and Community College courses, consults and testifies on criminal cases nationally. Larry is employed at Santa Fe Room City Police as a Crime Scene Technician.

**Stephen L. Richards** is a Deputy Defender in the Capital Litigation Division of the Office of the State Appellate Defender, Chicago, IL.

**Ellen N. Rogers** brings to the field of mitigation the skills gleaned from years of working with various client populations including: mentally and emotionally children and adults, corrections clients, alcohol and drug clients, victims and perpetrators of physical and sexual abuse as well as individuals facing life-threatening illnesses. She worked in a mental health center where her

responsibilities included responding to mental health crisis. Ms. Rogers has also worked with personality disordered adults and children in intensive outpatient settings. She is a licensed professional counselor in Oregon.

**Paul Rossby, Ph.D.** is a Forensic Neurobiologist. For the past 9 1/2 years, Dr. Rossby has worked as a Research Assistant Professor in the Department of Psychiatry at Vanderbilt University. He has been qualified as an expert witness in five capital murder cases with four cases pending. Low serotonin as a mitigator has been successful in three cases.

**Thomas J. Saunders** is in private practice with an emphasis on capital litigation. He was with the Maryland Public Defender's Office for twenty years, was head of the capital litigation division for seven years and was lead counsel in over twenty capital cases.

**Elisabeth Semel** serves as the Director of the ABA Death Penalty Representation Project and as an adjunct faculty member of the Georgetown University Law Center. She received her JD from the University of California at Davis. She is admitted to practice in California, before the Supreme Court Ninth Circuit Court of Appeals, and several US District Courts.

**Rev. Melodee Smith** is an ordained minister in the United Church of Christ, a noted death penalty attorney and a chaplain for victim family members as well as death row inmates. A graduate of Harvard University, the Divinity School, Rev. Smith works with those who are suffering and encourages people of faith to speak out against the death penalty.

**George R. Sornberger** is the Trial Division Director for the Kentucky Department of Public Advocacy.

**Werner U. Spitz** is a Professor of Pathology (Forensic) at Wayne State University School of Medicine, Adjunct Professor of Chemistry (Toxicology) University of Windsor, Ontario Canada, Author of Spitz and Fisher's "MEDICOLEGAL INVESTIGATION OF DEATH" (3rd Edition, January, 1993) *known* as the "bible" of forensic pathology to pathologists around the world.

**Russell Stetler** has been the Director of Investigation and Mitigation at the New York Capital Defender Office since its inception in 1995. He has investigated capital cases -- both trial and postconviction -- for more than twenty years and served as chief investigator at the California Appellate Project from 1990 to 1995.

**Sunwolf, Ph.D., J.D.**, is a professor, trial consultant, storyteller, and criminal defense attorney. She persuaded her first jury in 1975, was training director for Colorado's Public Defender Office, is faculty at NCDC, and teaches relationships, persuasion, and group decision-making. She offers new ways at looking inside jurors' minds, helping advocates rearrange reality.

**Dr. Kathleen Wayland** received a Ph.D. in clinical psychology from Duke University in 1989. From 1990-95 she served on the faculty of Duke Medical Center as an Associate in the Division of Medical Psychology. Her area of clinical expertise is traumatic stress disorders. Since 1993 Dr. Wayland has been on staff, as Clinical Psychologist and Mitigation Specialist, at the California Appellate Project (CAP) in San Francisco, CA. She has consulted on many post-

conviction cases in both state and federal court, helping attorneys to identify and develop social history themes and mental health issues in their cases.

**Charles Weisselberg** is a law professor at Boalt Hall, where he teaches Criminal Procedure and directs the school's clinical center. Weisselberg and his students have litigated civil rights and criminal law cases involving police interrogation, including *California Attorneys for Criminal Justice v. Butts*.

## **NOTES:**

### Meeting Space Diagram:

