



The American Bar Association Criminal Justice Section

Presents

## The 2012 Spring Conference

# E-Discovery in Government Investigations and Criminal Litigation

Friday, April 13, 2012  
Los Angeles, CA

### Millennium Biltmore Hotel

506 S. Grand Ave. Los Angeles

(See the back page for hotel and airfare discounts)

*Accreditation has been requested  
from mandatory CLE states.*

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Dealing with electronically stored information (ESI), for clients, prosecutors and defense attorneys, over the years has steadily grown in cost and complexity – with little guidance provided by courts and none from the rules. Tracking the evolution of a case – from the outset of a government investigation to the trial – five panels will discuss the evolving world of e-discovery relating to government investigations and criminal matters, focusing on subpoena compliance; Fourth Amendment issues; post-indictment discovery and trial evidence; social media and cyber ethics; and cost effective approaches to dealing with ESI.

8:00 am Registration

8:45 am **Welcoming Remarks:** Janet Levine, Chair, ABA Criminal Justice Section

9:00 – 10:00 am **Investigations and Subpoena Compliance**

This panel will explore the duty to preserve potentially relevant information, the direct and collateral consequences of failing to do so, the obstruction of justice statutes available to the government, what advice defense counsel can provide their client relating to preserving information, issues relating to international investigations, pre-indictment discussions with the government and government scrutiny of productions, particularly in a joint defense context.

Moderator: Stephen Byers, Crowell & Moring, Washington, DC

Panelists: Joe Burton, Duane Morris, San Francisco, CA;  
Michael Martinez, Senior Vice President, Marriott International, Inc., Bethesda, MD;  
Patrick Oot, Special Counsel for Electronic Discovery, Securities and Exchange Commission, DC;  
Kimberly Quan, Huron Legal, Director, San Diego, CA;  
David Willingham, Caldwell Leslie & Proctor, PC, Los Angeles, CA

10:00 – 10:15 am Break

10:15 – 11:30 am **ESI and the Fourth Amendment**

This panel will delve into the unique challenges presented by ESI in the context of search warrants, GPS tracking, the search of cell phones incident to arrest and the use of cell towers in investigations.

Moderator: Justin Murphy, Crowell & Moring, Washington, DC

Panelists: Hon. John Facciola, Magistrate Judge, U.S. District Court for District of Columbia;  
Jason Gonzalez, Counsel, Nixon Peabody, Los Angeles, CA;  
Hon. Craig Shaffer, Magistrate Judge, District of Colorado, Denver, CO;  
Eric Vandevelde, Assistant U.S. Attorney, Central District of California, Cyber and Intellectual Property Crimes Section, Los Angeles, CA

11:30 am – 12:45 pm **Post-Indictment Discovery and Trial Evidence**

This panel will address the impact of the rules – or lack thereof – governing post-indictment discovery of ESI, the role of *Brady* and the government's obligations in "data dumps," the relevance and importance of civil rules in criminal matters, the use of and access to advanced technologies such as predictive coding in criminal cases and how to get it all admitted in court.

Moderator: Ron Hedges, Former Magistrate Judge, Hackensack, NJ

Panelists: Douglass Mitchell, Boies, Schiller & Flexner LLP, Las Vegas, NV;  
Hon. Lee Rosenthal, Judge, U.S. District Court, Southern District of Texas, Houston, TX;  
Kathryn Showers, Head Deputy, High Tech Crime Division, L.A. District Attorney's Office, CA;  
Justin Shur, MoloLamken LLP, Washington, DC;  
Susan Yu, Mesereau & Yu, LLP, Los Angeles, CA

12:45 – 2:00 pm **"A-List" Luncheon**

Noted constitutional scholar Erwin Chemerinsky, Dean of University of California Irvine School of Law, will deliver keynote address at the luncheon. He will speak on the recent *Jones* decision and where he sees the Court headed on electronic searches.

2:00 – 3:15 pm **The Internet, Social Media, Ethics & Juror Issues**

This panel will consider the impact and influence of the internet and social media on government investigations, including advising clients on social media policies, the collection and use of social media in investigations, the application and impact of state bar ethical rules and authorities, strategic issues that counsel face in identifying and using internet and social media sources, and the impact of social media on jurors.

Moderator: Hon. Brian M. Hoffstadt, Judge, Superior Court of Los Angeles, CA

Panelists: James Aquilina, Executive Managing Director, Stroz Friedberg, Los Angeles, CA;  
George Cardona, Chief Assistant U.S. Attorney, Central District of California, Los Angeles, CA;  
Michael Emmick, Special Counsel, Sheppard Mullin, Los Angeles, CA;  
Gary Collins, Managing Director, GE Energy Financial Services, GE Capital, Stamford, CT;  
Laurie Levenson, Professor, Loyola Law School, Los Angeles, CA

3:15 – 3:30 pm Break

3:30 – 4:45 pm **Cost Effective Approaches to Dealing with ESI**

Given the often extraordinary costs associated with the gathering, review and use of ESI, this panel will address the unique challenges relating to ESI that white collar, solo, PDS, and CJS practitioners face, including the use of and access to technology for both attorneys and their clients, your rights under the rules, and strategies for cost-effective discovery in government investigations and criminal matters.

Moderator: Matthew Esworthy, Shapiro Sher Guinot & Sandler, Baltimore, MD

Panelists: Sean Broderick, National Litigation Support Administrator, Federal Public Defender, Oakland, CA; Jerone English, Director of e-Discovery and Litigation Management Group, Intel Litigation Group, Santa Clara, CA; Andrew Goldsmith, National Criminal Discovery Coordinator, U.S. Department of Justice, DC; Jessica Puathasnanon, Director, Advisory Services, KPMG, Los Angeles, CA; Jeane Thomas, Crowell & Moring, Washington, DC

A "Red Carpet" Reception to follow.



For updates to the agenda, see [www.americanbar.org/crimjust](http://www.americanbar.org/crimjust)

**Registration Form: 2012 CJS Spring Conference on E-Discovery**

Return to: ABA Criminal Justice Section, 740 15<sup>th</sup> Street NW, Washington, DC 20005 or fax to 202-662-1501. Contact Carol Rose at 202-662-1519, [carol.rose@americanbar.org](mailto:carol.rose@americanbar.org)

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**Program Fee (check one):**

- \$395 for those in Private Practice;
- \$350 for ABA members;  \$325 for ABA Criminal Justice Section members;
- \$345 for ABA members, joining CJS at the time of conference registration;
- \$125 for Government & Nonprofit Employees, Academics, Solo Small Firms [**Specially-reduced rate**];
- \$50 for Law Students.

(You will receive electronic confirmation upon registering. Cancellations must be received by March 15, 2012. Substitutions are allowed. Cancellations subject to an administrative fee of \$50, except for law students.)

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506 S. Grand Ave. Los Angeles

Call 800/245-8673 and ask for the ABA Criminal Justice Section Spring meeting rate.

Rate \$169 single/double, for reservations made before March 22, 2012 at 5:00 p.m. CST

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