Practical Aspects of Forensics in Judicial Education

Presented to the National Commission on Forensic Science

Judge Mark D. Atkinson
January, 2015
Washington, DC
Forensics Curriculum

• Developing Curriculum
• Selecting Faculty
• Programs Presented
Curriculum Committee

Diverse committee of judges of various jurisdictions, court types and geographic locations
Curriculum Development

• Organic -- from the ground, up

• Topics that judges have seen, are seeing or anticipate seeing in their courts
Faculty

• Judges
• Attorneys
• Policy Makers
• Other Professions (Medical, Technical, Scientific)
• Curriculum Committee Members’ Conference Attendance, Personal Contacts and Recommendations from others
Curriculum Delivery

- In Person – face to face, vs distance or online
- Lecture
- Conversational
Forensics Defined

• Matters of substance: What topics constitute forensics?

• Matters of form: What procedures are necessary in the court case?
COURSE DESCRIPTIONS

MONDAY, MAY 7
5:00 PM – 6:00 PM, Registration

TUESDAY, MAY 8
8:30 AM – 9:30 AM
Electronic Evidence and Admissibility – Join the discussion regarding electronic evidence and its peculiarities, exceptions, and admissibility pitfalls.
Faculty: Mr. Brian Vigor

9:45 AM – 10:45 AM
Eyewitness Identifications: Recent Case Law and Trends – The session will provide an analysis of recent case law and developing trends in eyewitness identification, line-ups, show-ups, and the use of experts.
Faculty: Mr. Gary Ussahen and Ms. Darlene Crouder

11:00 a.m. – 12:00 Noon
Practical Tools for Sentencing – Hear an overview of the current state of the art, screening and assessment tools for sentencing.
Faculty: Hon. John Clark

12:00 Noon – 1:00 p.m. – Working Lunch

New Legislation: State Jail Diligent Participation
Low - House Bill 2542, passed in the 82nd Texas legislative session, allows some state jail offenders to be granted diligent participation credit by their sentencing judge. Learn how this could affect you.
30 minute presentation (12:15 p.m. – 12:45 p.m.)
Faculty: Ms. Lori White

Best Practices Track
Get expert answers and gain practical pointers to ensure you are fully compliant with the rules, and decisions relating to visits, plea and dispositions. Also learn how to handle lawyers who may violate the ethics code, whether to intervene and how to proceed once a violation has been made.
1:00 p.m. – 2:00 p.m., Wills, Trusts, and Adoptions
Faculty: Hon. Mike Kessman
2:15 p.m. – 3:15 p.m., Control in the Courtroom
Faculty: Hon. Robin Malone Dar
3:30 p.m. – 4:30 p.m., Recognizing Ethical Violations by Attorneys
Faculty: Ms. Paul Coggins

Capital Murder Track
Since 1995, Texas has executed 496 inmates and has 110 offenders on death row awaiting the same fate. With these numbers among the highest in the nation, judges must proceed with the utmost caution in capital murder trials. Judge Cynthia Kent will give an overview of the key issues with voir dire and mitigation evidence in capital murder cases. Jack Scroggins and Jim Beall will conclude the afternoon with a discussion of costs and attorneys fees associated with indigent defendants and capital murder cases.
1:00 p.m. – 2:00 p.m., Voir Dire
Faculty: Hon. Cynthia Kent

2:15 p.m. – 3:15 p.m., New Trends in Mitigation
Faculty: Hon. Cynthia Kent
3:30 p.m. – 4:30 p.m., What’s Appropriate for Costs and Attorney Fees?
Faculty: Mr. Jim Beall and Mr. Jack Scroggins

WEDNESDAY, MAY 9
Keep up-to-date on the precedents being set by the high courts. Join Judge Cathy Cochran and Professor Joseph Hofmann for a discussion of recent significant decisions from the Texas Court of Criminal Appeals and Texas Supreme Court.
8:30 a.m. – 10:00 a.m., Court of Criminal Appeals
Faculty: Hon. Cathy Cochran
10:30 a.m. – 12:00 Noon, U.S. Supreme Court Update
Faculty: Prof. Joseph Hofmann

Specialty Tracks (Choose One)

DWI Technology Track
The sessions for this track include a balanced look from the prosecutor’s perspective of the most common breathalyzer device licensed in the State of Texas, the Intoxilyzer 5000; a discussion of selecting DWI technologies and what to expect in the future; and a scientific discussion on the reliability and limitations of alcohol monitoring technologies, primarily in relationship to interlock and transdermal technology.
1:00 p.m. – 2:00 p.m., Back to Basics: Intoxilyzer 5000
Faculty: Ms. Deanna Grant and Mr. Terry Roberson
2:15 p.m. – 3:15 p.m., Alcohol Monitoring Technology – Today and Tomorrow
Faculty: Ms. Safety Bridges, Mr. Terry Finn, Mr. Mike Forcosca
3:30 p.m. – 4:30 p.m., Limitations of Alcohol Monitoring Technologies
COURSE DESCRIPTIONS

SUNDAY, MAY 6

2:00 PM - 5:00 PM, Registration

MONDAY, MAY 7

8:30 AM - 12:00 PM, Understanding the Psychology of the Criminal Justice Process
Faculty: Professor Dan Simon

Dan Simon is a professor at the University of Southern California (USC) and specializes in the field of Law & Psychology. He will begin the morning by examining the mental processes of key players in a criminal investigation and trial, such as police detectives, witnesses, suspects, and victims and the role that each can play in wrongful convictions. How did a witness misidentify the defendant? How did investigators end up with erroneous evidence? And most importantly - how can anyone make a false confession for a crime they did not commit? Understanding the psychology behind these events will help you evaluate evidence and testimony more critically. Professor Simon will not only familiarize you with the mental processes that lead to wrongful convictions, he will also offer practical strategies for improving your ability to recognize inaccuracies in the system and adjust judicial decision-making accordingly.

12:00 PM - 1:00 PM, Lunch
Lunch will be provided.

10:00 PM - 5:00 PM, Case Studies: An In-Depth Look at the Cases of Recent Exonerations
Faculty: Mr. Jason Krieg

Jason Krieg joins us from the renowned Innocence Project in New York founded by Barry Scheck and Peter Neufeld in 1992. He will spend the afternoon analyzing three exonation cases and identifying key points in the cases where something went wrong exploring how and why it went wrong and suggesting actions a judge could have taken to prevent the wrongful conviction. Each case will examine a different issue - misidentification of the defendant, erroneous evidence, or a false confession - and expose the reality of how well-meaning individuals can make mistakes that result in the wrong person being sent to prison of even death. How does the story of one wrongful conviction told directly from the exoneree himself, Mr. Chris Schoel who falsely confessed to an arson murder he didn't commit and spent over a decade in prison. Another case will examine how 10 victims and witnesses mistreated Steven Phillips do a rape, which led to a 30 year prison sentence for him despite the fact that he had an alibi. Mr. Phillips was finally exonerated using post-conviction DNA after serving 24 years. The third case study will be that of Convicted Killer Mark Suppes. You will dive into questions of police and prosecution tunnel vision, effective representation by the defense, prosecutorial misconduct, identifying the actual perpetrator, and how solving one wrongful conviction can solve other unwarranted crimes. The goal of this session is to make you aware of the weaknesses in the criminal justice system and identify how, sometimes, you have the power to save an innocent person from being a casualty of those weaknesses.
Sunday, January 5
4:00 p.m. – 5:00 p.m.
Registration

Monday, January 7
5:30 p.m. – 8:00 p.m.
Social Media & Secondary Issues
Facebook has one billion users and growing. You might not be a Facebook user, but don’t forget you can print the power of social media. This session will explore the uses of Facebook and other social media sites, including new ones. We will look at the use of social media sites, and how users use the sites to share news, broadcast messages, and make photos. We will also cover the legal implications and procedures regarding the admissibility of social media evidence and how to handle evidence.
Faculty: Mr. Emily Ann Miller
8:15 p.m. – 10:15 p.m.
Courtroom Management and Discovery
Courtroom Management and Disposition
In this course, you will learn how to manage a court case, including how to handle motions, how to prepare for trial, and how to manage your time effectively. You will also learn how to handle courtroom礼仪, including how to address the court, how to file court papers, and how to prepare for trial.
Faculty: Hon. Steve Smith
11:00 a.m. – 2:00 p.m.
The Effects of Immigration and Human Trafficking on State Courts
Dr. John Green, Director of the Center for Public Policy Studies, will examine the complex issues facing state courts in the United States. This lecture will focus on the challenges faced by state courts, including the increase in immigration cases, the impact of immigration on the economy, and the difficulties faced by state courts in addressing these issues.
Faculty: Dr. John Green
10:00 a.m. – 11:00 p.m.

Breakout Sessions:

Judicial Problem-Solving
In this interactive, case-study-oriented session, judges will present real-world cases and work together in groups of 4-6 to problem-solve and brainstorm solutions. These sessions are designed to allow judges to share experiences, knowledge, and expertise on issues they face regularly. Topics include:
- Criminal, Hon. Dan Kelly and Hon. Sam Vasquez
- Probate, Hon. Mike Knepper and Hon. Birna Kelling
- Family, Hon. Judy Ware
- Civil, Hon. Robin Regez
- Civil, Hon. David Cerny

Wednesday, January 8
9:00 a.m. – 12:00 p.m.
Regional Judicial Meetings

Legislative Priorities
Faculty: Hon. Allen Chavers

Retreats:
- Family Law Update, Hon. W.G. “Ted” Knepper, 8:30 a.m. – 9:00 a.m.
- Criminal Law Update, Mr. G. Donald, 10:45 a.m. – 10:45 a.m.
- Civil Law Update, Hon. Harry Rea, 11:00 a.m. – 11:30 a.m.
THURSDAY, APRIL 11

Sessions will be held in Plumeria.

7:30 a.m. – 8:30 a.m. – Breakfast, Primrose C
8:30 a.m. – 9:30 a.m.
Indictments and Charges
Faculty: Hon. Chris Oldner
9:30 a.m. – 9:45 a.m. – Break
9:45 a.m. – 10:45 a.m.
Search and Seizure and Suppression Issues
Faculty: Mr. John Rolater
10:45 a.m. – 11:00 a.m. – Break
11:00 a.m. – 12:00 noon
Write
Faculty: Hon. Michael Keasler
12:00 Noon – 1:00 p.m. – Lunch, Primrose C

(Join Family Track in Camellia)

1:00 p.m. – 2:30 p.m.
The Effects of Development and Trauma on a Child’s Statement, 1.0 FV [822.2307(6)(1)(B)(7)(74)]
Faculty: Dr. Sandeep Narang
2:30 p.m. – 3:00 p.m. – Break
3:00 p.m. – 4:30 p.m.
Irreconcilable Differences: Forensic and Therapeutic Relationships
Faculty: Dr. Edward Silverman
4:30 p.m. – 5:30 p.m.
Class of ’13 Photo and Reception

FRIDAY, APRIL 12

Sessions will be held in Plumeria.

7:30 a.m. – 8:30 a.m. – Breakfast, Primrose Foyer
8:30 a.m. – 9:30 a.m.
The Psychology of Violence, 1.0 FV
Faculty: Dr. Keith B. Cruise and Dr. Barry Rosenfeld
9:30 a.m. – 9:45 a.m. – Break
9:45 a.m. – 10:45 a.m.
The Psychology of Violence
Faculty: Dr. Keith B. Cruise and Dr. Barry Rosenfeld
10:45 a.m. – 11:00 a.m. – Break
11:00 a.m. – 12:00 noon
The Kaiser Report and the Impact of Violence, 1.0 FV
Faculty: Dr. Brian M. Shuping and Dr. Barry Rosenfeld
12:00 Noon – 1:00 p.m. – Lunch, Primrose C

Conference Concludes
THURSDAY, MAY 23

8:30 AM – 9:30 AM, The 83rd Legislature’s Contributions to the Ever-Expanding Penal Code
Stay up to date on significant legislation from the 83rd Legislative Session and learn how these changes will impact criminal cases in your courtroom.
Faculty Hon. Allison Charles

9:45 AM – 10:45 AM, The Judge’s Role in Meeting the Requirements of Brady
1.0 Ethics (Cassidy 39B-7-10)
Brady made it clear that evidence must be turned over to the defense when there is a reasonable probability that had the evidence been disclosed to the defense, the result of the proceeding would be different. But what role does a judge play in complying with Brady? (Gip Wilkinson, author of Brady: The Pre-Trial Disclosure of Evidence, will share his insights into what judges can do to ensure that prosecutors are following the law.)
Faculty: Mr. Chip Wilkinson

11:00 AM – 12:00 PM, Admissibility of Expert Testimony: Dubbert and Beyond
Expert testimony is both pervasive and, very often, determinative, in modern adjudication. In Dubbert and parallel state court decisions, trial courts have been charged with the responsibility to be “gatekeepers” to ensure that the underlying basis for preferred expert opinion is reliable and valid. This session will cover the latest case law and best practices for applying the Dubbert test to expert witness testimony, whether that testimony is based on “social,” “forensic,” or “other” scientific bases.
Faculty: Prof. David Fajerman

2:15 PM – 3:15 PM, GSCD Perspective on Alcohol Monitoring
This workshop will provide a review of what research indicates is most effective when using technology to monitor alcohol substance abuse defendants. Presenters will discuss matching the current technology to the defendants’ rules and specific needs. What type of defendants, how long should they be on monitoring, and what other kinds of services should be attached to help people be successful?
Faculty: Ms. Caroline Rickayzen, Mr. Jeff Morrow and Dr. Greg Dilkens

3:30 PM – 4:30 PM, Blood Alcohol Analysis and Related Issues
BAC (Blood Alcohol Concentration), we have all heard the term and seen the lab reports but where did that number come from? How are blood alcohol analysts determined? How do you know the result is accurate? Can the results be trusted? This talk will take a look at these questions and others by looking into a little science, a little math, and a little policy (but hopefully not too much).
Faculty: Mr. Scott Williams

TRENDS TRACK

1:00 PM – 2:00 PM, Designer Drugs
Designer drugs are not new, but they do represent a challenge to criminal justice practitioners. This session will discuss the emergence of new designer drugs such as synthetic cannabinoids, “bath salts” and what’s coming next. This presentation will provide facts about these designer drugs including information on their origin, their chemical composition, physical effects, their detection and the legal effort to ban their sale.
Faculty: Mr. Paul Cary

2:15 PM – 3:15 PM, Domestic Child Trafficking
1.0 FV [92.110(i)(2)(3)]
Human trafficking continues to be the second largest criminal industry in the world, after the weapon and drug trade. Nationally, more than 200,000 American children are at risk for being lured into sex trafficking each year. This session will provide a brief overview of the human trafficking laws recently implemented in Texas, resources for children who are victims of trafficking, and policy priorities and recommendations that are being made to the legislature.
Faculty: Ms. Dawn Lee
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<th>Wednesday, May 14</th>
<th>Thursday, May 15</th>
<th>Friday, May 16</th>
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<tr>
<td><strong>8:30 a.m. - 9:30 a.m.</strong>&lt;br&gt;Reflections on our Texas Criminal Justice System: Where We’ve Been and Where We’re Going&lt;br&gt;Hon. Cathy Cochran</td>
<td><strong>11:00 a.m. - 12:00 noon</strong>&lt;br&gt;When to Step in to Avoid Reversal for Ineffective Assistance of Counsel&lt;br&gt;Hon. Cynthia Kent</td>
<td><strong>8:30 a.m. - 10:00 a.m.</strong>&lt;br&gt;Court of Criminal Appeals Update&lt;br&gt;Hon. Bud Kirkendall</td>
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<td><strong>9:45 a.m. - 10:45 a.m.</strong>&lt;br&gt;Birth of the 4th Amendment &amp; Where It Stands Today&lt;br&gt;Prof. James Viator</td>
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<td><strong>10:30 a.m. - 12:00 noon</strong>&lt;br&gt;U.S. Supreme Court Update&lt;br&gt;Prof. Joseph Hoffmann</td>
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<td><strong>12:00 p.m. - 1:00 p.m. — Lunch</strong></td>
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**REGISTRATION**<br>4:00 p.m. – 5:00 p.m.

**Hot Topics Track**
1:00 – 2:00 p.m.<br>The Michael Morton Act: How It’s Working 5 Months In<br>Mr. Steve Reis and TBD

2:15 – 3:15 p.m.<br>Update on Indigent Defense<br>Mr. Jim Bethke and Hon. Sharon Keller

3:30 p.m. – 4:30 p.m.<br>The Judicial Framework of a Family Violence Case 1.0 FV<br>Hon. Mike Denton

**DUI Track**
1:00 – 2:00 p.m.<br>Fundamentals of Gas Chromatography<br>Dr. Robert Lanz and Judge Kelly Case

2:15 – 3:15 p.m.<br>Fundamentals of Gas Chromatography (cont.)<br>Dr. Robert Lanz and Judge Kelly Case

3:30 p.m. – 4:30 p.m.<br>Pre-trial Issues on Blood Warrants<br>Judge Randy Gray

**Actual Innocence Track**
1:00 – 2:00 p.m.<br>Forensic Science: A Perspective Outside of the Echo Chamber<br>Mr. Jay Koehler

2:15 – 3:15 p.m.<br>Forensic Science: A Perspective Outside of the Echo Chamber<br>Mr. Jay Koehler

3:30 p.m. – 4:30 p.m.<br>Why Avoiding Daubert at the Trial Level Makes Problems at the Appellate Level<br>Prof. David Fagman
Actual Innocence
2012 Actual Innocence Conference
May 7, 2012
Omni Park West, Dallas

Understanding the Psychology of the Criminal Justice Process

Faculty: Professor Dan Simon
8:30 a.m. – 12:00 p.m.

Dan Simon is a professor at the University of Southern California (USC) and specializes in the field of Law & Psychology. He will begin the morning by examining the mental processes of key players in a criminal investigation and trial, such as police detectives, witnesses, suspects, and victims and the role that each can play in wrongful convictions. How did a witness misidentify the defendant? How did investigators end up with erroneous evidence? And most importantly – how can anyone make a false confession for a crime they did not commit? Understanding the psychology behind these events will help you evaluate evidence and testimony more critically. Professor Simon will not only familiarize you with the mental processes that lead to wrongful convictions, he will also offer practical strategies for improving your ability to recognize inaccuracies in the system and adjust judicial decision-making accordingly.

Case Studies: An In-Depth Look at the Cases of Recent Exonerees

Faculty: Mr. Jason Kreag
1:00 p.m. – 5:00 p.m.

Jason Kreag joins us from the renowned Innocence Project in New York, founded by Barry Scheck and Peter J. Neufeld in 1992. He will spend the afternoon analyzing three exoneration cases. Mr. Kreag will identify key points in the cases where something went wrong, explore how and why it went wrong, and suggest actions a judge could have taken to prevent the wrongful conviction. Each case will examine a different issue - misidentification of the defendant, erroneous evidence, or a false confession - and expose the reality of how well-meaning individuals can make mistakes that result in the wrong person being sent to prison or even death row. Hear the story of one wrongful conviction told directly from the exoneree himself, Mr. Chris Ochoa, who falsely confessed to an Austin murder he didn’t commit and spent over a decade in prison. Another case will examine how 10 victims and witnesses misidentified Steven Phillips as a rapist, which led to a 30 year prison sentence for him despite the fact that he had an alibi. Mr. Phillips was finally exonerated using post-conviction DNA after serving 24 years. The third case study will be that of Kennedy Brewer from Mississippi. You will delve into questions of police and prosecution tunnel vision, effective representation by the defense, prosecutorial misconduct, identifying the actual perpetrator, and how solving one wrongful conviction can solve other unrelated crimes. The goal of this session is to make you aware of the weaknesses in the criminal justice system and identify how, sometimes, you have the power to save an innocent person from being a casualty of those weaknesses.
Wrongful Convictions: Where We Are Today and We Can We Do To Prevent Them

Faculty: Mr. Jason Kreag
1:00 p.m. – 2:00 p.m. & 2:15 p.m. – 3:15 p.m.

Although a tragic story, the Morton case did help raise public awareness in Texas on an issue the direly needed it. We cannot go a day without reading about the exoneration of someone who served many years in prison for a crime he or she did not commit. Mr. Kreag will provide you with an overview of where we are today with actual innocence cases and offer strategies for making sure a wrongful conviction does not happen in your courtroom.

Forensic Science

Faculty: Prof. David Faigman
1:00 p.m. – 2:00 p.m., 2:15 p.m. – 3:15 p.m.

Forensic science has recently come under increased scrutiny and has been the subject of intense criticism, including by a recent report of the National Academy of Sciences. Professor Faigman will discuss general controversies surrounding the use of forensic evidence, with particular emphasis on areas such as fingerprints, firearm and toolmark identification, handwriting identification, and arson investigation. His presentation will focus, in particular, on how the erroneous use of such forensic evidence can lead to wrongful convictions.

New Model Eye-Witness Identification Protocols

Faculty: Dr. Phillip Lyons
3:30 p.m. – 4:30 p.m.

The LEMIT model eye-witness identification policy was drafted in response to § 3(b) of the Texas Code of Criminal Procedure, which required LEMIT to “develop, adopt, and disseminate to all law enforcement agencies in this state a model policy… regarding the administration of photograph and live lineup identification procedures.” The policy was finalized and released in December of 2011. Dr. Lyons will provide a detailed analysis of the procedures called for in the new policy and address any questions or concerns judges may have about how the new policy will affect criminal cases in their courtroom.
2014 Winter Regional Conferences
January 23-24, 2014, Regions: 1, 6, 7 & 9
Horseshoe Bay Hotel – Horseshoe Bay

February 20-21, 2014, Regions: 2, 3, 4, 5 & 8
Moody Gardens Hotel - Galveston

How to Satisfy the New Requirements of the Michael Morton Act
Faculty: Hon. Alfonso Charles
2:15 p.m. – 3:15 p.m.

The Morton Discovery Act took effect January 1, 2014, which means judges need to ensure their courtroom procedures are in compliance. Using lecture, as well as interactive discussions, judges will hear how the Act is being implemented in different counties across Texas. They will also hear how the law affects discovery procedures in felony, misdemeanor and juvenile cases. The format of the session will provide an open forum for judges to share their experiences and concerns with other judges throughout the state, and develop best practices to bring back to their courtrooms.
After this presentation, the judge participant will be able to:

How to Assess a Brady Claim
Faculty: Mr. Chip Wilkinson
3:30 p.m. – 4:30 p.m.

Brady made it clear that evidence must be turned over to the defense when “there is a reasonable probability that had the evidence been disclosed to the defense, the result of the proceeding would be different.” Chip Wilkinson, author of Brady Duties & The Pre-Trial Disclosure of Evidence, will share his insights into what judges can do to ensure that prosecutors are following the law.
The Michael Morton Act and Other Discovery Issues, 1 hr
Join us for a discussion of how the Michael Morton Discovery Act affects discovery procedures in felony, misdemeanor and juvenile cases, and how Texas courts can adjust their courtroom practices to ensure compliance. While most of this session will focus on the Morton Act, it will also include a review of innovative practices being utilized for general discovery procedures in criminal courts.

“It Didn’t Happen!” Post-Conviction Writs & Other Issues, 1 hr
Post-conviction writs usually require enormous investigation and research and analysis of complicated procedural and substantive issues. This session will examine the grounds, hurdles and procedures relating to post-conviction writs.

2014 Criminal Justice Conference
May 15-16, 2014
Hilton Bella Harbor - Rockwall

The Michael Morton Act: How It’s Working 5 Months In, 1 hr
This session will utilize a team-teach approach - both a prosecutorial and defense perspective – to discuss the practicalities of dealing with the Morton Discovery Act requirements since it became effective on September 1. The speakers will address the difficulties facing both litigants and judges, as well as which practices seem to be working and which are not.

Forensic Science: A Perspective Outside of the Echo Chamber, 2 hrs
Forensic sciences play an increasingly important role in the criminal justice system; judges and juries alike now rely heavily on testimony from forensic experts during criminal trials. This session will provide an overview of the types of forensic science, as well as their methods and admissibility standards, with a focus on DNA and fingerprint evidence.

Why Avoiding Daubert at the Trial Level Makes Problems at the Appellate Level, 1 hr
Expert testimony is both pervasive and, very often, determinative, in modern adjudication. Trial courts have been charged with the responsibility to be "gatekeepers" to ensure that the underlying basis for proffered expert opinion is reliable and valid. However, this responsibility can be very complex and daunting for many trial judges, and they sometimes avoid the necessary analysis. Professor Faigman will lead the discussion on the relationship between the trial court’s gatekeeping task and the responsibilities, explicit and implicit, for appellate courts in this area.
The Michael Morton Act: 9 Months In, 1 hr
This session will utilize a team-teach approach - both a prosecutorial and defense perspective – to discuss the practicalities of dealing with the Morton Discovery Act requirements since it became effective on January 1, 2014.

Post-Conviction Writs, 1 hr
Post-conviction writs usually require enormous investigation and research and analysis of complicated procedural and substantive issues. This session will examine the grounds, hurdles and procedures relating to post-conviction writs.

Mental Health & Forensic Science Issues for Trial Judges
October 23-24, 2014
South Marriot Hotel - Austin

Judicial Gatekeeping, 1 hr
Expert testimony is both pervasive and, very often, determinative, in modern adjudication. In Daubert and parallel State court decisions, trial courts have been charged with the responsibility to be "gatekeepers" to ensure that the underlying basis for proffered expert opinion is reliable and valid. This session will cover the latest case law and best practices for judges when determining whether forensic science evidence should make it past the “gate.”

The Daubert Analysis of Child Abuse Injuries – Head & Body Trauma, 2 hrs
Child abuses cases form one of the most contentious areas of medicolegal investigations. In the child abuse case in court, conflicting medical science will typically be offered by both parties to explain the etiology of an injury and courts are often asked to weigh complex, novel and controversial scientific evidence. This presentation will discuss appraisal of the published medical literature and evidence in the context of the rise in the denial in the field of Shaken Baby Syndrome. The broad strokes of Evidence-Based Medicine will be used to highlight the importance of medical literature appraisal. We will discuss the strengths and weaknesses of peer review and highlight some of the pitfalls and fallacies which can appear within the published reports. Specific examples of flawed studies and flawed analyses will be presented. The participant will learn how to critically read a paper and scrutinize the contents systematically. This session will also review work that is being done in Texas, as well as nationally, to improve the science and effective diagnosis of physical child abuse.
WHY A FAKE ARTICLE TITLED "CUCKOO FOR COCOA PUFFS?" WAS ACCEPTED BY 17 MEDICAL JOURNALS

A HARVARD SCIENTIST WANTED TO SEE EXACTLY HOW EASY IT IS TO GET MEDICAL RESEARCH PUBLISHED. IN SOME CASES, $500 IS PRETTY MUCH ALL IT TAKES.

BY ELIZABETH SEGRAN

As a medical researcher at Harvard, Mark Shrimge gets a very special kind of spam in his inbox: every day, he receives at least one request from an open-access medical journal promising to publish his research if he would only pay $500.

"You block one of them with your spam filter and immediately another one pops up," Shrimge, an MD who is pursuing a PhD in health policy, tells me.

These emails are annoying, for sure, but Shrimge was worried that there might be bigger issues at stake: What exactly are these journals publishing and who is taking these journals to be credible sources of medical information?

Shrimge decided to see how easy it would be to publish an article. So he made one up. Like, he
What is Medical Evidence?: Separating the Wheat from the Chaff

Christopher Spencer Greeley, MD, MS
Professor of Pediatrics
Center for Clinical Research and Evidence-Based Medicine
University of Texas Health Sciences Center
At Houston
Disclaimer

• I have no financial connections with industry
• I am a full-time employee of the University of Texas at Houston

• Christopher.S.Greeley@uth.tmc.edu
Purpose

- Appreciate how distill good medical evidence from bad
- Understand how to think about the medical literature
- Review examples of Child Abuse literature to highlight gaps and emphasize strengths
- Understand common pitfalls in using medical literature
Take Home Messages

• Be skeptical of everything you read
  o Published does not mean “True”
• Peer review is not fool proof
• Case reports have limited value
• Appreciate (?read) the methods section
• Appreciate the references
  o And the references’ references
TCJ Forensic Science Courses

• Past two years, TCJ offered 17 courses related to forensic science.
• 20 hours of continuing education
• 520 judges attended at least one of these courses
• Speakers included prosecutors, defense attorneys, and judges, representatives from the Innocence Project, forensic science experts, and soon will include Michael Morton.
Examples of Topics Presented:

• “Wrongful Convictions: Where We Are Today and What We Can We Do To Prevent Them?”
• ”The Judge’s Role in Meeting the Requirements of Brady”
• “Admissibility of Expert Testimony: Daubert and Beyond”
• “How to Satisfy the New Requirements of the Michael Morton Act”
• “Forensic Science: A Perspective Outside of the Echo Chamber”
• “Forensic Science & Judicial Gatekeeping”
The End

Thank you
Contact Information

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