

## SEMINAR

# When New Technology Becomes Evidence

*What it is and how to use it for your next criminal case!*

While developments in technology improve our everyday lives in countless positive ways, they also create novel means by which the police investigate crime. Prosecutions of many different types rely increasingly on the discovery of incriminating (or allegedly incriminating) digital evidence, not only through searches of smartphones and social media applications/platforms (Facebook, Instagram, Snapchat), but also from new, unexpected sources that record and collect data regarding our daily activity: personal IoT (Internet of Things) devices such as fitness trackers and smartwatches; home assistance devices (Amazon Echo, Google Home); and smart home appliances (Google Nest thermostats and other devices).

The successful defense of any case involving digital evidence requires a lawyer to understand how the police gather it, how it is produced and effectively managed during the discovery phase, how the prosecution uses it at trial, the many ways by which to challenge its admission, and, if admitted, how it might be used to the client's advantage.

The expert faculty discusses the admissibility of new types of evidence, the challenges faced by attorneys from both sides of the aisle in trying to produce, manage, and prepare for trial, and to explain the evidence to the finder of fact, and how to try to keep this evidence out if it hurts your case. Don't fall behind! Learn how this evidence is being gathered, produced, and used across the Commonwealth.

## Agenda

- Overview of Developing and "New" Technology: How Police Gather Information and How Prosecutors Use It at Trial
- How to Manage, Review, and Understand Discovery Production in the Digital Age
- How to Oppose the Admission of Digital Evidence: Getting and Conducting Daubert-Lanigan Hearings
- Constitutional Challenges to the Search and Seizure of Digital Evidence
- Cross-Examination of Prosecution Expert Witnesses and Employing Defense Experts
- "Ask the Experts" Q&A Session

## Faculty

Brian A. Wilson, Esq., *Clinical Instructor, Criminal Law Clinical Program, Boston University School of Law, Boston, Chair*

Brooke Gottlieb, *Paralegal, Federal Public Defender Office, Boston*

Andrew F. Sellars, Esq., *Director and Clinical Instructor, Technology & Law Clinic, Boston University School of Law, Boston*

Timothy G. Watkins, Esq., *Director's Leadership Program Resident, Administrative Office of the US Courts/Contracts & Services Division, Washington, DC*

## Dates & Locations

### BOSTON

Monday, July 29, 2019  
2:00 pm–5:00 pm

MCLE Conference Center,  
10 Winter Place, via Winter Street  
Program Number: 2190274P01

### LIVE WEBCAST

Monday, July 29, 2019  
2:00 pm–5:00 pm

Register at [www.mcle.org](http://www.mcle.org)  
Program Number: 2190274WBC

### RECORDED WEBCAST

Monday, August 12, 2019  
2:00 pm–5:00 pm

Register at [www.mcle.org](http://www.mcle.org)  
Program Number: 2190274RBC

## Tuition *(includes written materials)*

- \$195
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## Materials

The materials for this program include MCLE's *Massachusetts E-Discovery and Evidence: Preservation Through Trial*, which can be viewed or downloaded via the link emailed to you prior to the course.

Also, there is no need to take extensive notes. Two weeks after the live seminar, all registrants receive a link to a written verbatim transcript of this program.

## Can't Attend?

View the webcast—live or later, or download the mp3 recording at [www.mcle.org](http://www.mcle.org)

Listen to the Audio CD  
Available after Monday, August 12

- \$165
- \$148.50 MCLE Sponsor Members
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- ▶ **WALK UP** on the day of the program or **DROP IN** to  
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# Policies and Information

## Register early!

For course agendas, hours, fees, and discounts, please refer to the respective seminar pages. The fee includes all written materials unless otherwise noted, program instruction, and refreshment breaks. Lunch may be enjoyed on your own.

To reserve seating and gain access to online materials, please register in advance of the program.


Upon registration, MCLE will e-mail a confirmation. Please check in with the registrar on the day of the program.

Walk-in registrants are welcome, with the exception of limited enrollment programs. Please call us to confirm space availability and schedule.

We accept cash, checks, MasterCard, Visa, American Express, and Discover.

## Need special assistance?

If you are a person with a disability or special needs, please let us know in advance so that we can make your visit as convenient and comfortable as possible. Call Customer Service at 800-966-6253 to make arrangements.

For your convenience, MCLE also offers closed captioning  and written transcripts of all recorded webcast programs, available to you online two weeks after the program date.

## Mandatory CLE credits

States have varying mandatory CLE credit requirements; individual attorneys are responsible for checking with their particular state CLE accreditation authority about whether and how much credit will be granted. Although MCLE does not pursue state-based credit, MCLE programs are regularly approved in many jurisdictions. It is the responsibility of the individual attorney interested in CLE credit to submit the information and certifications required under the respective state rule to the appropriate state authorities in the jurisdictions in which they seek credit.

Depending on the jurisdiction, lawyers can satisfy their mandatory CLE requirements online with MCLE's webcasts, which feature periodic attendance prompts, online written materials, and the opportunity to receive a certificate of attendance.

## If your plans change

If you're unable to attend a program you've registered for, you will receive an email notification shortly after about how to access the program on demand via webcast and/or downloadable mp3 file, including the written materials in electronic form, in full satisfaction of the tuition paid. If you prefer a refund, let us know by the end of the business day prior to the program and we'll refund your tuition after deducting a \$25 processing fee. Note that limited enrollment programs are an exception, cancellation

of which require two weeks notice and are subject to a \$45 processing fee.

## Attorney scholarships

Attorneys with financial need who certify that they are unable to attend a program without financial aid may request a partial tuition scholarship in confidence by writing or emailing [scholarships@mcle.org](mailto:scholarships@mcle.org) **at least two weeks in advance of the program.**

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- Firms by number of Massachusetts attorneys:
  - 2-5 . . . . . \$ 150
  - 6-10 . . . . . 250
  - 11-25 . . . . . 500
  - 26-75 . . . . . 1,000
  - 76-150 . . . . . \$ 2,500
  - 151-250 . . . . . 3,500
  - 251+ . . . . . 4,500