



Cybercrime in the Courts

National Judicial Academy (NJA) – Federal Judicial Center (FJC) – CEELI Institute

NOVEMBER 12-15, 2021

VIRTUAL – FACILITATED FROM THE CEELI INSTITUTE

Monday, November 8:

Welcome: Program Overview & Introduction to Faculty

Welcome to this collaborative workshop on Cybercrime in the Courts. Information about the program, faculty bios, assigned reading materials, and links to the Zoom workshop sessions are accessible on **CEELI Online**. Program participants are invited to post questions and greetings on the CEELI Online program portal **discussion board**.

Available on CEELI Online

Artificial Intelligence as Evidence (120 minutes)

This session is pre-recorded and can be accessed on CEELI Online.

In the ever-changing landscape of litigation and modern forms of evidence, understanding cutting-edge topics relating to Artificial Intelligence (AI) has become essential for lawyers and judges. Topics to be covered in this 90-minute video session include the fundamentals of AI, encompassing how it works, how it is being used in the legal industry and elsewhere, and some of the issues AI implicates. In addition, the session will also address what admissibility issues are posed in introducing AI evidence and how to address those issues, as well as a description and analysis of the pertinent rules of evidence and how they apply to AI.

The Hon. Paul Grimm, Judge, U.S. District Court for the District of Maryland

Dr. Maura Grossman (J.D., Ph.D.), David R. Cheriton School of Computer Science, University of Waterloo, Ontario, Canada

Friday, November 12:

Overview of Cybercrimes and Cyber-Enabled Crimes (60 minutes)

6:00 PM IT | 1:30 PM CET | 7:30 AM ET | 6:30 AM CT

Cybercrime and cyber-enabled offenses have become significant threats to individuals and the global economy. Cybercrimes are directed against electronic devices or networks (such as hacking and installing malware) or use devices to commit criminal activities (such as phishing and cyberstalking). This session will serve as a 'primer for judges' on the different types of cybercrimes and the transnational reach of the cybercrime cases appearing on a judge's docket.

The Hon. Paul Grimm, Judge, U.S. District Court for the District of Maryland

Ovie Carroll, Director, U.S. Dept. of Justice Computer Crime and Intellectual Property Section Cybercrime Lab



Cybertechnologies: A Primer (45 minutes)

7:00 PM IT | 2:30 PM CET | 8:30 AM ET | 7:30 AM CT

Judges do not need to be cyber-experts, but familiarity with basic vocabulary and concepts of cybertechnology is important. During this session we will discuss how computers save and delete information, the meaning of such terms as cloud computing, hash values and the dark web, how encryption works, and related concepts and practices. At the end of this session, judges will know how to describe cyber-involved criminal conduct and understand the fundamentals of how computers are used to facilitate criminal activity.

The Hon. John Tunheim, Chief Judge, U.S. District Court for the District of Minnesota
Ovie Carroll, Director, U.S. Dept. of Justice Computer Crime and Intellectual Property Section Cybercrime Lab

Saturday, November 13:

Path of a Cyber Investigation (60 minutes)

1:30 PM IT | 9:00 AM CET | 3:00 AM ET

Cybercrime investigations involve the collection and analysis of computer hardware, software, and digital data. As with traditional criminal cases, this process requires careful scrutiny to ensure evidentiary reliability and attention to the chain of custody. During this session, participants will learn about techniques used by cybercrime investigators, the world of cyber-surveillance, the process of analyzing digital forensics, and how courts can best use expert testimony during trial proceedings.

Ovie Carroll, Director, U.S. Dept. of Justice Computer Crime and Intellectual Property Section Cybercrime Lab

BREAK (30 minutes)

Electronic Evidence and Digital Forensics (60 minutes)

3:00 PM IT | 10:30 AM CET | 4:30 AM ET

Electronic evidence is information and data stored in, transmitted by, or received on an electronic device. Evidence relevant to a cybercrime investigation may be stored not only on computers, but also on handheld devices, videogames, and even “smart” household appliances. Digital evidence easily crosses international borders and can be manipulated and destroyed, often in ways that require courts to rule on expedited motions. The growing range and complexity of cybercrime has required law enforcement agencies to develop expertise in the field of digital forensics. During this session, we will discuss the impact of digital forensics on criminal litigation and the evidentiary implications of a cyber-investigation.

Amit Jaju, Senior Managing Director, Ankura



BREAK (30 minutes)

Rise of Digital Currency and Related Issues (75 minutes)

4:30 PM IT | 12:00 PM CET | 11:00 AM GMT | 6:00 AM ET

Cryptocurrency, digital currency used to purchase goods and services, uses blockchain technology to secure online transactions. Blockchain uses decentralized computer networks to manage and record transactions. Cryptocurrency is used legitimately throughout world, but it also has become a tool for sophisticated online criminal conduct, including money laundering and fraud. This session will review the basics of cryptocurrency and describe how it is used to facilitate cybercriminal activities.

Ryan Rubin, Senior Managing Director, Ankura (London)

Sunday, November 14:

Legal Framework: India (90 minutes)

1:30 PM IT | 9:00 AM CET | 3:00 AM ET

This session will focus on Indian legislation addressing cyber-enabled crimes, including the Technology Act of 2000, its associated rules, and relevant provisions of the India Penal Code. Rather than reviewing the provisions of these laws in detail, we will focus on how Indian law addresses some of the challenging issues that arise in cybercrime cases, including extraterritorial jurisdiction over parties and criminal conduct and the use of expert testimony. Participants will apply these principles to the workshop fact pattern and discuss how to address the challenges they present.

The Hon. Joymalya Bagchi, Judge, Calcutta High Court

BREAK (30 minutes)

International Cooperation: MLATs (60 minutes)

3:30 PM IT | 11:00 AM CET | 5:00 AM ET | 4:00 AM CT

Cybercrime has no borders. A criminal case filed in India may implicate evidence across the globe. The UN Convention against Organized Crime was drafted to encourage and facilitate international cooperation in the prevention, detection, and prosecution of transnational crime. Even in the absence of treaty-based mandates, judges have the responsibility and authority to use mechanisms such as mutual legal assistance and extradition to share evidence, facilitate criminal investigations, and aid asset recovery. This session will address best practices in transnational judicial cooperation.

The Hon. John Tunheim, Chief Judge, U.S. District Court for the District of Minnesota



Monday, November 15:

Judicial Management of Complex Criminal Cases (75 minutes)

6:00 PM IT | 1:30 PM CET | 7:30 AM ET | 6:30 AM CT

Effective case management strategies are always important but are especially so for complex criminal cases. Judges must be actively engaged in cybercrime litigation, beginning as soon as charges are framed and continuing through pretrial proceedings and trial. At the conclusion of this session, participants will be able to identify and sequence at least 8 important case management tasks, facilitate cooperation between prosecution and defense on evidence disclosure and scheduling, and determine the types of legal issues that can be resolved before trial commences.

The Hon. John Tunheim, Chief Judge, U.S. District Court for the District of Minnesota

Pulling it all Together (15 minutes)

7:15 PM IT | 2:45 PM CET | 8:45 AM ET

Ten workshop sessions addressing the many varied facets of cybercrime litigation offers an overwhelming amount of new information to process. We will take the last ten minutes of this workshop to discuss the central 'takeaways' for judges and reflect upon how to integrate new knowledge and practices.

Mira Gur-Arie, Director, International Judicial Relations Office, FJC (Washington, D.C.)

Claire Smearman, Senior Judicial Education Attorney, Judicial and Legal Education, FJC (Washington, D.C.)

Closing Session

7:30 PM IT | 3:00 PM CET | 9:00 AM ET

National Judicial Academy Director A.P. Sahi will close the program and offer his reflections about the role of judges in complex criminal litigation.

The Hon. A.P. Sahi, Director, National Judicial Academy (Bhopal)