

**THE UNITED STATES DISTRICT CLERK (TXN),
THE DALLAS FEDERAL BAR ASSOCIATION,
THE UNIVERSITY OF NORTH TEXAS
DALLAS COLLEGE OF LAW,
AND
THE OFFICE OF THE FEDERAL PUBLIC DEFENDER (TXN)**

Are Pleased To Sponsor The

2017 ANNUAL FEDERAL CRIMINAL PRACTICE SEMINAR

July 26-28, 2017

**UNT Dallas College of Law, 1901 Main St.
Dallas, Texas, 75201**

Overview

This year's Dallas Federal Criminal Practice Seminar will bring an assortment of cutting-edge material and instruction to benefit the less-experienced and experienced practitioner alike. As a result of recent jurisprudential decisions and political developments, this year's event focuses particularly upon sentencing matters. So, if you're wanting to solidify (or increase) your understanding of federal criminal law's increasingly-focused sentencing considerations, this seminar may be the one for you.

The 2017 event will take place at the University of North Texas Dallas College of Law (located in downtown Dallas at 1901 Main Street) from July 26 to 28th. We anticipate the State Bar of Texas approving the seminar's curricula for **20 hours** of continuing legal education credit, of which up to **3 hours** will likely qualify for ethics credit.

The 2017 Seminar Format and Description

This year's seminar will employ a mix of plenary presentations and break-out sessions. For example, on Wednesday, July 26th, attendees will meet throughout the day in plenary session: (1) to learn about high-interest federal practice topics; (2) to hear a lunchtime Ethics presentation; and (3) to help untangle a typical "guns-and-drugs" case scenario.

But on Thursday, July 27th, attendees meet in plenary and breakout sessions to focus entirely upon various aspects of federal sentencing. The morning plenary session will provide measured, in-depth instruction on how recent Supreme Court decisions control the treatment of defendants' previous convictions at federal sentencings. The presentation will take admittedly-complex material and (hopefully!) break it down into more understandable concepts and practices. Then, after listening to a one-hour lunch session on the ethics

implications emanating from methamphetamine-sentencing practices, attendees will attend smaller break-out sessions for the remainder of the day. These breakouts are designed to provide smaller groups of students an opportunity to work with instructors to apply the morning's concept and principles to real-world sentencing fact patterns. The day will conclude with a much-deserved social hour.

Finally, on Friday, July 28th, the seminar returns to plenary session to focus on trial practice in federal court. Attendees will meet to receive instruction in various aspects of federal trial practice to include: (1) effective communication with the jury; (2) meaningful voir dire; (3) engaging the jury with opening statement; (4) artful cross-examination; and (5) compelling closing statement. The day will also include a lunchtime Ethics presentation. The abbreviated day will conclude with a social hour.

NOTE: Because our venue offers a variety of larger and smaller classrooms, we must closely monitor attendance to ensure adequate seating. To facilitate these determinations, we will close Registration as we approach our seating limits. (We will maintain a “stand by” list.)

Course Description

Wednesday: General Topics and Scenario-based instruction.

The seminar will begin on Wednesday, July 26, 2017, at 08:00 a.m. Participants will meet in plenary session to hear opening remarks and housekeeping matters, followed by presentations concerning: (1) E-Discovery in the Northern District of Texas; (2) Immigration Law implications on criminal law practice; and (3) Insights into achieving sentencing objectives from the Bureau of Prisons.

Lunch is covered by the seminar tuition costs and will consist of boxed-lunches or similar fare brought in from local eateries—during the meal, seminar participants will hear from a speaker addressing ethics-related topics germane to federal practice.

The afternoon session will begin with a moderated two-hour block of instruction taught by a panel consisting of two attorneys (trial and appellate litigators) and possibly an investigator. The panel will review a case scenario involving a “typical” federal case. This year's scenario is once again a “guns-and-drugs” prosecution involving multiple firearms, two or more drug types, the potential for various statutory enhancements, and some wide-ranging Sentencing Guideline, restitution, and forfeiture issues. For purposes of this block of instruction, the defendant will eventually have been convicted (by plea or trial). Attendees will receive the scenario in advance—it will also be posted online—and the panel instructors will walk through the case from the time of appointment through sentencing.

Day One will finish with a social hour in the law school lobby.

Thursday: Federal Sentencing Developments

On Thursday, July 27th, sign-in will again begin at 08:00 a.m. Attendees will attend a 3-hour block of plenary instruction during which the instructors will proceed deliberately and slowly to explain the implications of recent Supreme Court decisions upon federal criminal sentencings. The importance of the subject matter simply cannot be overstated. For this reason, the seminar instructors are especially focused on presenting the material in understandable, workable fashion.

During the lunch break, attendees may snag a boxed lunch and eat while listening to an Ethics presentation involving the Sentencing Guidelines' methamphetamine calculus. Assistant Federal Defender Christopher Curtis and his co-faculty will expound upon one of the seminar's most-critical subjects: the ethical obligations arising from the need to craft various sentencing objections and variance requests.

The afternoon will have seminar attendees in breakout sessions to work with instructors to apply the morning's lessons to various drug sentencing scenarios. The breakout sessions will be "low-threat" for everyone involved. Instructors are hand-picked not only for their expertise in the subject matter but also for their ability to teach practitioners what to look for and how to apply the law to defendants' previous convictions. The ultimate goal: to avoid unnecessary (or unmerited) sentencing enhancements. This will conclude the day's instruction.

Seminar participants are invited to stick around for a happy hour.

Friday: Trial Skills

On Friday, July 28th, the seminar shifts its focus toward trial skills. Attendees may sign in beginning at 08:00 a.m., after which they will meet in plenary session for numerous presentations relating to federal court trial practice. Morning sessions will cover Communicating with the Jury; Voir Dire considerations; Cross-examination; and Opening statements. Lunch will again consist of "boxed lunch" type fare and attendees will be free to eat in-place. During the lunch hour, attendees will hear an Ethic presentation. In the afternoon, the seminar will close out with a presentation on Closing Statements.

At the close of the day's events, all seminar participants are invited to join in an early happy hour.

AGENDA

GENERAL TOPICS & SCENARIO INSTRUCTION (WEDNESDAY)

July 26, 2017

8:00 - 8:20 A.M. **Welcome / Registration.** *UNT Dallas College of Law Lobby (Lobby)*

8:30 - 8:45 A.M. **Welcoming Remarks.** *Fourth Floor, Room 410*

Jason D. Hawkins, Federal Public Defender, Northern District of Texas

Karen Mitchell, United States District Clerk for the Northern District of Texas

Mackenzie S. Wallace, Thompson & Knight, LLP, Pres. Dallas Chapter—Federal Bar Association

Judge (Ret'd) Royal Furgeson, Dean, University of North Texas Dallas College of Law

8:45 – 9:45 A.M. **E-Discovery in the Age of the Terabyte: The Northern District of Texas's Discovery Server.** *Room 410*

Jason Hawkins, Federal Public Defender, NDTX
Brett Welaj, Computer Systems Administrator, Office of the Federal Defender, NDTX

Cases involving giga- and even terabytes of electronic discovery are increasingly common. Msrs. Hawkins and Welaj have spearheaded and implemented, respectively, the NDTX's creation and implementation of a Discovery Server to host the Government's massive discovery deliveries. Hawkins and Welaj will explain not only how this server is configured but also how to navigate it when reviewing E-gigabyte and E-terabyte discovery quantities.

09:45 – 10:00 A.M. BREAK

10:00 – 11:00 A.M. Immigration Law: An Update. *Room 410*

Presenter: TBD

It would be impossible to practice law currently and not know that Immigration policy in this country is undergoing massive change(s). Not surprisingly, those changes stand to affect not only immigrants and their families who are caught up in civil-law proceedings, but many times criminal law defendants and their families, too. This presentation will highlight and forecast existing changes and change likely-to-come.

11:00 – 12:00 P.M. Best Practices at Sentencing: a BOP Perspective. *Rm. 410*

Presenter: TBD

Instruction on how the Bureau of Prisons implements a sentencing court's judgment. Instruction will proceed to provide insights into what you as defense counsel can do to ensure that the sentencing court uses terminology that will allow/compel the Bureau to impose the sentence you and your client had contemplated.

12:00 – 1:10 P.M. LUNCH & LUNCH SPEAKER

Fundamental Considerations of Professional Ethics in Federal Criminal Defense. *Room 410*

Michael Sokolow, First Assistant FPD, SDTX (Houston)

This presentation covers numerous ethical issues that arise in representing a defendant in a federal criminal case as well as the applicable ethical rules and case law that govern defense counsel's actions in facing these issues.

[Note: This presentation has been submitted for Ethics credit.]

1:20 –4:30 P.M.

Scenario Instruction: “Guns and Drugs.” *Room 410*

Erin Brennan, AFPD, NDTX (Fort Worth)

Matthew Wright, AFPD, NDTX (Amarillo)

Joe Saal, Senior FPD Investigator, NDTX (Dallas)

Moderated by: Christopher Curtis, AFPD, NDTX (FtW)

The panel will work through a typical “guns & drugs” case scenario to work through the various issues in detail. The panel’s discussions will include the charging statutes; various pretrial motions; sentencing guideline issues; various “good” and “not so good” outcomes; appellate preservation; and more.

4:30 – 5:30 P.M.

Hosted Social Hour. *Lobby*

FEDERAL SENTENCING (THURSDAY)

July 27, 2017

8:00 - 8:20 A.M.

Welcome / Registration. *Lobby*

8:30 - 8:45 A.M.

Welcoming Remarks. *Fourth Floor, Room 410*

John Nicholson, Assistant Federal Public Defender, Northern District of Texas

Carolyn Hill, CJA Panel Representative, Northern District

8:45 –12:00 A.M.

In the wake of *Johnson* and *Mathis*: current issues in prior conviction enhancements. *Room 410*

Brandon Beck, AFPD, NDTX (Lubbock)
Jessica Graf, AFPD, NDTX (Dallas)

In this program, we will be discussing the current and future state of the law as affected by the U.S. Supreme Court's decisions in *Johnson v. United States* and *Mathis v. United States*. The focus will be on Supreme Court precedent and the Fifth Circuit's application of in the past 18 months. We will then discuss unresolved issues and approaches to arguing those issues before district and appellate courts.

12:10 – 1:10 P.M.

LUNCH & LUNCH SPEAKER:

Methamphetamine purity and other sentencing issues: The ethical implications of not objecting to—and not requesting variances—in federal district court. *Room 410*

Christopher Curtis, AFPD & Branch Chief, (Fort Worth)
Gabriel Reyes, AFPD (Dallas)
Lauren Woods, AFPD (Dallas)

AFPDs Curtis, Reyes, and Woods will examine the various empirical flaws associated with the current methamphetamine guideline analyses. They will highlight and discuss the professional and ethical responsibility of objecting to guideline calculations and requesting variances under the methamphetamine and other guideline sections.

[Note: This presentation has been submitted for Ethics credit.]

1:15 – 4:45 P.M.

Applying *Johnson* and *Mathis*: De-mystifying Federal Sentencing.

Break-out sessions (Rooms to be assigned)

Instructor/Presenters TBD

Seminar attendees and Instructors will meet throughout the afternoon in smaller, assigned “break-out” sessions to work through various scenarios which confront federal practitioners on a near-daily basis.

4:45 – 5:45 P.M.

Social Hour. *Lobby*

FEDERAL TRIAL SKILLS (FRIDAY)

July 28, 2017

08:00–08:20 A.M.

Welcome / Registration. *Lobby*

8:30 - 08:45 A.M.

Opening Remarks. *Fourth Floor, Room 410*

Cody Cofer, AFPD (Fort Worth)

08:45–09:40 A.M.

Communicating with a Jury. *Room 410*

Greg Westfall, Law Office of Greg Westfall, Fort Worth

This presentation focuses upon developing a theory and rapport within the common constraints of as federal criminal trial.

09:40–9:50 A.M.

BREAK

09:50–10:45 A.M.

Voir Dire. *Room 410*

Instructor TBD

This presentation focuses upon gaining momentum in your client's federal criminal trial in 20 minutes (or less!)

10:45–11:40 A.M.

Opening Statement. *Room 410*

Instructor TBD

This presentation focuses upon getting out to an early lead: framing the trial with your story.

11:40–11:50 A.M.

BREAK

11:50 A.M.–12:50 P.M.

LUNCH & LUNCH SPEAKER

Ethics considerations at Trial. *Room 410*

Richard Anderson, Esq.

Noted trial attorney Richard Anderson makes a triumphant return to The DFW Metroplex to share his insights into various ethics considerations flowing from trial and sentencing.

[Note: This presentation has been submitted for Ethics credit.]

12:50–1:00 P.M.

BREAK

1:00–1:50 P.M.

Cross-Examination. *Room 410*

Instructor: TBD

This presentation focuses on developing techniques to effect an effective cross-examination.

1:50–2:40 P.M.

Closing Argument. *Room 410*

Cody Cofer, AFPD (Fort Worth)

This presentation focuses on techniques to compel and to empower a jury--to accept your client's marching orders!

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2:40-2:50 P.M.

Closing Remarks. *Room 410*

2:50-3:50 P.M.

Social Hour. *Location TBD*