

2020 Annual Federal Criminal Practice Seminar

Course No. 174090325

July 22, 2020 & August 12, 2020

Zoom Webinar

presented by

The Office of the Federal Public Defender, Northern District of Texas

Overview

The Annual Federal Criminal Practice Seminar offers an assortment of cutting-edge material and instruction to benefit the less-experienced and experienced federal practitioner alike. This year's seminar will take place via Zoom webinar. We anticipate the State Bar of Texas will approve the seminar's curricula for a total of fifteen (15) hours of continuing legal education credit, of which three (3) hours qualify for ethics credit.

The **first section** is **July 22, 2020**. The focus of the material has been tailored to benefit the less-experienced attorney or attorneys who would like a refresher of the federal system. A total of seven and a half hours (7.5) of continuing legal education credit, of which one and a half (1.5) hours of ethics credit are being presented at this session.

The **second section** is **August 12, 2020**. The emphasis of this material is to take the experienced practitioner on a deeper exploration into the federal system. A total of seven and a half hours (7.5) of continuing legal education credit, of which one and a half (1.5) hours of ethics credit will be offered.

There is no cost to attend the seminar this year. However, advanced registration is required and limited to one hundred attendees. You may register for the first section, second section or both by going to the Federal Public Defender website at <http://txn.fد.org>.

If you have any questions please contact Charnese M. Toro, paralegal at (214) 767-2746 or charnese_toro@fd.org.

The agenda and faculty are on the pages below. We have an exciting agenda with wonderful speakers and we are looking forward to working with you this year!

Agenda

First Section: Fundamentals – July 22, 2020

- 8:30AM-8:45AM Opening Remarks
- 8:45AM-9:45AM Information for CJA attorneys
Speaker: Camille Knight, CJA representative
- Ms. Knight will provide helpful information specific to CJA attorneys, including the appointment process, any updates specific to the CJA panel, and submitting vouchers.
- 9:45AM-10:00AM Break
- 10:00AM-11:00AM First Steps: Appointment, Detention, and Discovery
Speaker: T.W. Brown, AFD
- You just got your first federal criminal appointment; what do you do? You will learn about what steps you need to take when appointed, how to prepare for and conduct a detention hearing, and you will learn about navigating the discovery process.
- 11:00AM-11:30AM De-mystifying DOJ: Profiling the Profilers*
Speaker: Robert Webster, Criminal Defense Lawyer
- You are about to have your first meeting with the AUSA assigned to your case. Who better to teach you about dealing with an AUSA than a former AUSA? Through Mr. Webster, you will learn what you need to know about the AUSA before you negotiate with them. This topic will also cover your obligations as to professional responsibility and conduct.
- 11:30AM-12:00PM Break/lunch line
- 12:00PM-1:00PM Lunch Presentation – Technology and Mental Health for Lawyers: How it Affects Us and What to Do About It.*
Speaker: Chris Ritter, Director of TLAP
- This course covers how dealing with clients by means of technology as an attorney can impact the fitness of an attorney practicing law, how that happens, and what to do about it. It covers how our legal correspondence, emails, texts, online research and writing, and other legal work performed using technologies will affect an attorney's health and fitness. This course will overview all of the wellness challenges faced by attorneys, along with reporting

rules, Section 467 of Health and Safety Code confidentiality, ethical duty and obligations, Rule 8.03 of the Texas Disciplinary Rules of Professional Conduct, and tips to maintain wellness and remain fit to practice pursuant to these ethical rules as a lawyer. It also overviews tips for dealing with legal technologies and common lawyer pitfalls. It also discusses symptoms and signs of the mental health and substance use disorders affecting lawyers' fitness, how to identify impaired lawyers and judges, and ethical duties to report a person of concern to discipline or to contact TLAP. It also covers the resources available to attorneys through TLAP and the State Bar of Texas.

1:00PM-2:00PM Plea Negotiations, Plea Documents, Alternative Charges, Acceptance of Responsibility, and Rearraignments
Speaker: Erin Brennan, ACPD

You've entered the plea negotiation process on your case. This presentation will teach you about negotiating plea deals, using creativity in your negotiations, and negotiating the language in plea agreements and factual resumes. You'll also learn about the importance of acceptance of responsibility, as well as how to prepare your client for a rearraignment.

2:00PM-2:15PM Break

2:15PM-3:15PM The Guidelines, a "How To"
Speaker: Gabriela Vega, ACPD, and Maria Chin, ACPD

You need to give your client an estimation of their guideline range so that they can make an informed decision about how to proceed with their case. You also have to be able to check the work of the probation officer who calculates your client's guidelines in the presentence report. Ms. Vega and Ms. Chin will give you a primer in how to calculate your client's guidelines.

3:15PM-4:15PM Sentencing and Mitigation; Objections to PSRs and Sentencing Memoranda
Speaker: Stephen Green, ACPD

Your client has been convicted and now faces sentencing; you are not done helping them yet. You can mitigate their case in a variety of ways: through your objections to the PSR, through a sentencing memorandum, and/or through your argument at sentencing. Mr. Green will give you tips on ways you can best help your client at sentencing.

4:15PM-5:15PM How Not to Preserve Error
Speaker: Joel Page, ACPD

You have completed your case, only for it to be handed off to the appellate lawyer, where they will grade your homework. This topic will cover things that an appellate lawyer wants the trial lawyer to know, things you can do at the plea/trial level to help the appellate lawyer with your case.

Agenda

Second Section: Advanced – August 12, 2020

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| 8:30AM-8:45AM | Opening Remarks |
| 8:45AM-9:45AM | First Step Act
Speaker: Adam Nicholson, AFD |
| | Mr. Nicholson will provide information and updates regarding the First Step Act, including the benefits it can offer our clients and the advice we should be giving them. |
| 9:45AM-10:00AM | Break |
| 10:00AM-11:00AM | Supreme Court and Fifth Circuit Update
Speaker: Brandon Beck, AFD |
| | This course will cover the opinions issued by the Supreme Court and the Fifth Circuit this year and how they affect our practice. |
| 11:00AM-12:00PM | Grouping under 3D
Speaker: Matthew Wright |
| | Your client has multiple counts, and you are trying to navigate the murky water of calculating the guidelines for the multiple counts. Mr. Wright will break down the process of grouping under section 3D of the United States Sentencing Guidelines. |
| 12:00PM-12:15PM | Break/Lunch Line |
| 12:15PM-1:15PM | Lunch Presentation – Ethically Representing your Client in the Age of Corona*
Speakers: Michael Kawi, AFD; Stephanie Inman, AFD; and Joel Page, AFD |
| | Trial in the midst of a pandemic is new to all of us. It is also a little scary. These three lawyers have personally and successfully experienced that process. |

The will discuss with you how to pick a jury, try a case, and ethically represent your client in the era of COVID-19. All while maintaining physical distance through the creative use of technology and ensuring your clients constitutionally protected right to trial is not violated.

1:15PM-2:15PM

Meth Sentencing Disparities
Speaker: Chris Curtis, AFD

Anyone who has handled a meth case has seen the disparity between the way guidelines for actual meth/ice are calculated and the way that meth – mixture and substance is calculated. Mr. Curtis will teach you about the discrepancies and ways to argue against the disparate treatment.

2:15PM-2:30PM

Break

2:30PM-3:30PM

Relevant Conduct
Speaker: Michael Lehmann

Relevant Conduct is the boogeyman of federal practice. Mr. Lehmann will talk to you about how to determine what constitutes relevant conduct, how to conduct the relevant conduct analysis, and how to argue against relevant conduct.

3:30PM-4:15PM

Thinking Outside the Box
Speaker: Loui Itoh, AFD

Ms. Itoh is an exceptional source of creativity in dealing with her cases. She will pass her tips along to you to assist you in being more creative in the way you handle your cases.

4:15PM-4:45PM

Making an Informed Designation Request: an overview for calculating your client's BOP security classification and resources available for programming
Speaker: Lara Wynn, AFD

Your client is going to ask you where he/she can go to serve their time. You can assist them in deciding what facility placement they want to request at sentencing. Ms. Wynn will teach you how to estimate your client's security classification and introduce you to the BOP's occupational training directory. These tools aid you in helping your client determine the best fit for them in the BOP.

4:45PM-5:15PM

Why We Do What We Do*
Speaker: Mike Heiskell, Criminal Defense Attorney

The best way to close out a seminar is to have an outstanding lawyer remind you of why we do what we do. This is a difficult job, and it is hard not to feel beaten down at times. Mr. Heiskell will remind you of why we keep getting back up again when we are knocked down. He will invigorate you to continue to fight the good fight.

*Denotes presentations that are expected to contain ethics

FACULTY BIOGRAPHIES

Brandon Beck

Brandon Beck is an appellate attorney with the Office of the Federal Public Defender for the Northern District of Texas and adjunct professor of legal practice at Texas Tech University School of Law. Before entering the world of federal criminal law, Professor Beck spent three years practicing civil trial and appellate litigation in Tyler, Texas. He has an undergraduate degree in classics from The University of Texas at Austin, a master's degree in religious studies from Boston University, and a law degree from Texas Tech. He is a 2012 inductee into both the National Order of Barristers and the National Order of Scribes.

Erin Brennan

Erin Brennan grew up in Saint Louis, Missouri, and attended Saint Louis University for undergraduate as well as law school. She graduated from Saint Louis University School of Law in 2008 and began her career as an APD in the Missouri State Public Defender System. In 2011, she moved to Dallas, Texas and clerked for United States Magistrate Judge Paul D. Stickney. In the beginning of 2014, she received a position as an AFPD in the Federal Public Defenders Office in Fort Worth, TX. In 2016, she transferred to the Dallas office. She loves dogs and is obsessed with hot yoga.

T.W. Brown

T.W. is an Assistant Federal Public Defender and works in the Fort Worth division. He graduated from the University of Arkansas School of Law in May 2013 and joined the FPD's office in January 2015. He spent a few years in the trial division and has been in appeals since May 2019. If you have any questions about his presentation, you can reach T.W. at [Taylor W Brown@fd.org](mailto:Taylor_W_Brown@fd.org).

Christopher A. Curtis

A 1986 graduate of Baylor University School of Law, and a 1983 graduate of Baylor University, Chris has been with the Federal Public Defender's office in the Northern District of Texas since February, 2002. Prior to that, Chris was an Assistant United States Attorney from December 1990 until July 2000. From July 2000 until February 2002, Chris worked in private practice and also worked for the Combined Law Enforcement Associations of Texas (CLEAT).

Chris has written and presented course materials for the State Bar of Texas, Advanced Criminal Law Course on the topics of Federal Criminal Practice and Federal Health Care Fraud Prosecutions. Chris has also written and presented course materials for the CJA panel training in the Northern District of Texas and the Dallas Federal Bar Association while he was in private practice and as an Assistant Federal Public Defender. For several years, Chris routinely prepared and presented course materials for the annual training in the U.S. Attorney's office in the Northern District of Texas and has taught on the topic of health care fraud PROSECUTIONS FOR THE Federal Bureau of Investigation Academy in Quantico, Virginia.

Stephen Green

Stephen Green joined the Federal Public Defender's Office in Dallas in August of 2015. Before law school, Stephen taught high-school history at an inner-city school in New York City through Teach

for America. During law school at the University of Texas at Austin, Stephen helped lead UT to its first national mock trial semi-finals appearance in over a decade. He also worked as a member of the American Journal of Criminal Law. Following graduation, Stephen clerked for United States District Judge Marcia A. Crone in the beautiful metropolis of Beaumont, TX. In his free time, Stephen enjoys mentoring the more senior attorneys in the office on how to use technology.

Michael P. Heiskell

Michael Heiskell is a former Galveston County Assistant District Attorney; Former Assistant U.S. Attorney for the Northern District of Texas; and recipient of the Tarrant County Black Bar Association's "Lawyer of the Year Award," in both 1995 and 2000. Michael is a frequent author and lecturer on all aspects of State and Federal Court practice, e.g., Grand Jury Litigation, Pre-Trial Motions, Plea Negotiations, Opening Statements, Privileges, Confessions, Jury Selection, Handling High Profile Cases, Direct Examination, Cross-Examination and Ethics.

Michael has spoken frequently before the Advanced Criminal Law Course sponsored by the *State Bar of Texas* and to numerous seminars sponsored by the *Texas Criminal Defense Lawyer's Association*, and *Texas Center for the Judiciary*. Has also presented to the *NACDL*, *Louisiana Association of Criminal Defense Lawyers*, *Dallas County Criminal Defense Lawyers*, *San Antonio Criminal Defense Lawyers*, *Mexican-American Bar Association* and the *Tarrant County Bar Association*. Michael has also been recognized in "Texas Lawyer" as one of the "Extraordinary Minorities in Texas Law."

Camille M. Knight

Camille Knight has devoted a large portion of her career to defending indigent people accused of federal crimes. Currently in private practice in the Dallas area, Camille's federal defense roots stem from her experience as a CJA attorney and as a former assistant federal defender. Her relationship with the Federal Defender family began in law school, where she interned at the Federal Defender office in Chicago, and externed for a United States Magistrate Judge who was a former Assistant Federal Defender. After school, Camille clerked for United States Magistrate Judge Paul D. Stickney, also a former Assistant Federal Defender. During the last 19 years, Camille has practiced at large and small firms in Dallas and Chicago in civil litigation in federal courts, has worked for the Federal Defender's Office, and has now returned to solo practice focusing mainly on federal criminal defense. During her years of practice, Camille has been on the CJA panels in the Northern and Eastern Districts of Texas, the Northern District of Illinois, and the United States Courts of Appeals for the Fifth and Seventh Circuits. In 2018, Camille was named the National CJA Panel Representative for the Northern District of Texas.

Michael Lehmann

Michael joined the Fort Worth Division of the Federal Public Defender's Office as a trial attorney in 2014 and was named the Division Supervisor in 2018. He was previously a member of the CJA Panel in private practice, a Dallas County Public Defender, and an Assistant Attorney General for the State of Texas. He earned a degree in Plan II from the University of Texas and a Juris Doctor at University of Colorado School of Law. He enjoys reading Harry Potter novels with his daughter, laughing through *Curb Your Enthusiasm* episodes with his wife, and contemplating the meaning of life with his dog.

Adam Nicholson

Adam Nicholson joined the office as an Assistant Federal Public Defender in our appellate section in September 2018. He graduated magna cum laude from Abilene Christian University in 1998 and went on to receive a Master of Divinity in 2002. He returned to law school at Texas A&M University School of Law where he graduated as the class valedictorian in 2016. While in law school, he interned with our Fort Worth office and authored a comment, “Broken, Bad: A Call for Leveraging DL-Methamphetamine to Reform Outdated Models for Combatting Methamphetamine in the United States” for the Texas A&M Law Review. Following graduation, he went to work for Dunham and Jones before joining our office.

Joel Page

Joel Page has worked in the Federal Public Defender’s office in Dallas since 2004. He started as a Research and Writing Attorney, became an Assistant Federal Public Defender in 2007, and now serves as the supervisor of the Appellate Division. He’s written over 400 briefs to the Fifth Circuit, and helped write merits briefs for two of the office’s cases that went to the Supreme Court. Joel is one of the few people that has created more bad precedent than Jason.

Chris Ritter

Chris Ritter graduated magna cum laude from Baylor University in 1994 with a B.A. Political Science and Philosophy. After law school at the University of Texas School of Law (J.D., 1998), he was a trial lawyer in West Texas for over 15 years until he joined TLAP in 2014. Most recently, Chris obtained a master’s degree in Clinical Mental Health Counseling from Lamar University (M.Ed., 2018). His peers have recognized him for his legal accomplishments, including being named a Texas Monthly Super Lawyers’ Rising Star three times. During his career, his law practice has included being a solo practitioner, an Assistant Criminal District Attorney, and a partner in prominent law firms. In his work at TLAP and in pursuit of his master’s degree, he has gained significant knowledge and experience pertaining to mental health and substance use disorders and their treatment.

M. Gabriela Vega

Gabriela Vega joined the Northern District of Texas Federal Public Defender’s Office in Dallas as an Assistant Federal Public Defender in November of 2017. Prior to becoming an AFPD, she worked in commercial litigation at Baker Botts, L.L.P. In 2016, she departed Baker Botts to help lead a new legal services project for sexual assault survivors at the Equal Justice Center, a nonprofit law firm that represents low-wage and immigrant workers in employment disputes. She graduated summa cum laude with a Bachelor of Arts in International Relations, Spanish and French from the Ohio State University and earned her law degree from Harvard Law School. After graduating, she clerked for United States District Judge Andrew Hanen in Brownsville, Texas. In her short time in the office she has secured more dismissals than Stephen Green.

Robert Webster

Bob Webster has been a solo practitioner since August 2015 after serving as a partner at Fitzpatrick Hagood Smith & Uhl, LLP since 2007. Webster specializes in white collar defense, SEC compliance

matters, and federal criminal appeals. Previously, Bob spent 22 years in the federal courthouse in Dallas, serving as a trial attorney for the Department of Justice-Antitrust Division and as an Assistant United States Attorney for the Northern District of Texas. He was Chief of the Criminal Division of the U.S. Attorney's Office for ten of those years. Mr. Webster also served as Chief of the Appellate Section for eight years.

Bob was an Adjunct Professor of Law at the Dedman School of Law at Southern Methodist University from 1997- 2007, teaching White Collar Crime and Corporate Criminal Liability to upper class law students. Bob is admitted to practice in the State of Texas and numerous federal districts and circuit courts and is a proud member of the CJA panel for the Northern District of Texas. He graduated *magna cum laude* from Gonzaga University School of Law in 1985 and from Loyola University of Los Angeles in 1974.

Matthew Wright

Matthew Wright is an Assistant Federal Public Defender in Dallas, Texas. He practices primarily in appeals before the Fifth Circuit and U.S. Supreme Court. Matthew is a magna cum laude graduate of the University of Arkansas School of Law. He previously served as a law clerk to U.S. District Judge Kenneth Hoyt in Houston. Matthew has also worked as an associate at Sidley Austin in Washington D.C. and at Mullin, Hoard, & Brown in Amarillo, Texas.

Lara Wynn

Lara Wynn is from Lubbock, Texas, and attended Texas Tech University for undergraduate and law school. She graduated from Texas Tech University School of Law in 2014, and joined the ranks of the Federal Public Defender's Office in Dallas, Texas as a Research & Writing Attorney in January 2015. In 2016, she transitioned into the trial division as an AFPD. In March 2019, Lara transitioned back to Lubbock to become the Division Supervisor for Lubbock and Amarillo.