

**THE OFFICE OF THE FEDERAL PUBLIC DEFENDER (TXN)  
and the  
FEDERAL BAR ASSOCIATION**

*are pleased to sponsor the  
2016 “Federal Crim. Law Practice” CLE  
United States Federal Courthouse,  
1000 Lamar St # 206, Wichita Falls, TX 76301  
Thursday, April 07, 2016*

***Overview***

The Federal Public Defender for the Northern District of Texas has designed this one-day event to provide the experienced and the less-experienced (and the would-be) federal criminal defense practitioner with instruction in a broad array of procedural and substantive subject matter. The Federal Defender has submitted the agenda to the State Bar of Texas for certification and the course has been approved for **7.00** hours of continuing legal education credit, of which one **1.0** hour qualifies for Ethics credit.

**Two “Track” Options**

This year we have implemented Track options to better respond to Wichita Falls’s practitioners’ diverse training needs. The Refresher Track has been designed to provide experienced practitioners with updates in the major areas of substantive criminal law.

But for the less-experienced federal practitioner—or even the would-be federal practitioner—we have designed a Fundamentals Track. This program will present “the basics,” to include: Detention hearings (The Bail Reform Act); Arraignment and Re- Arraignment; Discovery Process & Ethics Considerations; an overview of the Sentencing Guidelines; examination of the key “gotcha’s” in guideline sentencing; Plea Agreements; and a discussion of basic documents and motions.

<b>Cost(s):</b>	All Attendees:	Free
	Lunch:	TBD
	Parking:	On your own

**Registration:** E-Mail a Registration Form to: [txn\\_cle@fd.org](mailto:txn_cle@fd.org)

## **REFRESHER AGENDA**

**7:45 - 8:00 A.M.**

### **Welcoming Remarks**

*The Hon. Robert K. Roach, United States Magistrate Judge  
Mr. Jason Hawkins, Federal Defender N.D. of Texas*

**8:00 - 9:30 A.M.**

### **Sentencing Guideline Update**

*Lara Wynn, Assistant Federal Defender (Dallas office)  
Jerry V. Beard, Staff Attorney, (Dallas Office)*

On November 1, 2015, the latest version of the United States Sentencing Guidelines went into effect. In this session we will review the recent amendments and identify practice-pointers that you can use to increase your sentencing effectiveness.

**9:30 - 10:30 A.M.**

### **Restitution**

*J. Matthew Wright, Ass't Federal Defender (Amarillo Office)  
Brandon Beck, Staff Attorney (Lubbock Office)*

One of the “high interest” items percolating recently at the Supreme Court, the Fifth Circuit, and the various Northern District’s trial courts is court-ordered restitution. Matthew Wright will share insights into the application of the federal restitution statutes and highlight pitfalls for the unwary practitioner to avoid.

**10:30 - 10:45 A.M.**

### **BREAK**

**10:45 - 11:45 A.M.**

### **Ethics/Discovery (Plenary Session)**

*Christopher Curtis, Ass't Fed. Defender (Fort Worth Office)  
Taylor W. Brown, Ass't Fed. Defender (Fort Worth Office)*

A look at discovery issues confronting the federal practitioner from the combined trial- and post-conviction attorney perspectives. This session addresses the requirements of Rule 16 for prosecutors and for defense counsel, and we will also examine obtaining discoverable evidence from the perspective of a lawyer seeking post-conviction relief. We will learn about other avenues to discoverable evidence, and will examine the newly-promulgated Texas Ethics opinion and the effect (or non-effect) it may have for the federal practitioner.

**11:45 - 1:15 P.M.**

**LUNCH**

**1:15 – 3:15 P.M.**

**Sentencing Practice in the Post-*Johnson* Era**

*Brandon Beck, Staff Attorney (Lubbock Office)*

*Shery Kime-Goodwin, Ass't Fed. Defender ((Lubbock Office)*

The Supreme Court's recent decision in *United States v. Johnson* (that the Armed Career Criminal Act's "residual clause" is void for vagueness) has worked a sea-change in federal sentencing practices. In this session we will first review Johnson's direct impact in ACCA cases. But we will also examine its possible effect in non-ACCA cases, which often involve the same type language which the *Johnson* Court found constitutionally-infirm. *Johnson's* reach is particularly far-reaching and the subject matter can be tedious. But the decision's importance to federal practitioners cannot be understated!

**3:15 - 3:30 P.M.**

**BREAK**

**3:30 - 5:00 P.M.**

**Panel Discussion: Sentencing Considerations**

Moderator: *Shery Kime-Goodwin, Ass't Federal Defender*

*Jason Hawkins, Federal Public Defender (Panelist)*

*Carly Barton Ass't Federal Defender (Panelist)*

*Christopher Curtis, Ass't Federal Defender (Panelist)*

*Stephen Green, Ass't Federal Defender (Panelist)*

*Lauren Woods, Ass't Federal Defender (Panelist)*

This directed Panel Discussion will focus on the critical need in federal sentencing to lay the groundwork for successful sentencing through: (1) comprehensive written Presentence Report (PSR) objections; and/or, (2) the proper drafting and submission of Section 3553(a) Sentencing Memoranda. Panelists will discuss the proper development of PSR objections and sentencing memo considerations as well as touch upon various techniques for persuading a sentencing court to exercise its discretion to sentence toward the *lower* ends of the advisory and statutory ranges.

## **FUNDAMENTALS AGENDA**

**7:45 - 8:00 A.M.**

### **Welcoming Remarks (Plenary Session)**

*The Hon. Robert K. Roach, United States Magistrate Judge  
Mr. Jason Hawkins, Federal Defender N.D. of Texas*

**8:00 – 09:00 A.M.**

### **Intro to Federal Criminal Practice for the Texas State Criminal Defense Lawyer**

*J. Matthew Wright, Ass't Federal Defender (Amarillo Office)  
Jessica Graf, Staff Attorney (Fort Worth Office)*

This hour is designed to introduce federal criminal practice to a lawyer who has some experience defending clients in state courts. We will provide an overview and timeline of a federal criminal case, and then use your state experience as a springboard to discuss the unique features of federal practice. We will also introduce and emphasize the law and process of federal sentencing, including the Sentencing Guidelines, “contested” sentencing in every case, sentencing before the court (and not a jury), the absence of parole, and the role of the appellate courts.

**9:00 - 10:30 A.M.**

### **Initial Appearance, Pretrial Release, Re-arraignment**

*Carly Barton, Ass't Federal Defender (Lubbock Office)  
Shery Kime-Goodwin, Ass't Fed. Defender (Lubbock Office)*

“How does a Federal case get started?” “The Magistrate Judge just called: I said ‘yes’ but now what do I do?” “How do I get my client released on bond?” This session will address these questions and more! After quickly examining how a federal case gets underway, attention will shift to pretrial interviews, third-party custodians, other favorable witnesses, the detention hearing, the appeal of a detention order, and release pending appeal. We will also talk briefly about entering a federal guilty plea.

**10:30 – 10:45 A.M.**

### **BREAK**

**10:45 - 11:45 A.M.**

**Ethics/Discovery (Plenary Session)**

*Christopher Curtis, Ass't Fed. Defender (Fort Worth Office)*  
*Taylor W. Brown, Ass't Fed. Defender (Fort Worth Office)*

A look at discovery issues confronting the federal practitioner from the combined trial- and post-conviction attorney perspectives. This session addresses the requirements of Rule 16 for prosecutors and for defense counsel, and we will also examine obtaining discoverable evidence from the perspective of a lawyer seeking post-conviction relief. We will learn about other avenues to discoverable evidence, and will examine the newly-promulgated Texas Ethics opinion and the effect (or non-effect) it may have for the federal practitioner.

**11:45-1:15 P.M.**

**LUNCH**

**1:15 – 2:15 P.M.**

**Federal Sentencing Part I: An Overview of the Sentencing Guidelines**

*Taylor W. Brown, Ass't Fed. Defender (Fort Worth Office)*  
*Jerry V. Beard, Staff Attorney (Dallas Office)*

This presentation lays out the basic structure of the United States Sentencing Guidelines with emphasis on calculating offense levels; understanding the importance of criminal history; appreciating the adjustment roles; using the sentencing table; and integrating guideline sentencing practice within the statutory sentencing framework set out at 18 U.S.C. 3553a.

**2:15 – 3:15 P.M.**

**Federal Sentencing Part II: Applying the Law (case study)**

*J. Matthew Wright, AFD (Amarillo Office)*  
*Jerry V. Beard, Staff Attorney (Dallas Office)*

We will apply the applicable statutes and guidelines to a garden-variety federal prosecution. In doing so, we will estimate the likely federal sentencing range based on what we know at the outset of the case through examination of

available discovery. Along the way, we will highlight some of the pitfalls and complexities of federal sentencing

**3:15 – 3:30 P.M.**

**BREAK**

**3:30 - 5:00 P.M.**

**Process, Paperwork & Pleas**

*Carly Barton, Ass't Federal Defender (Lubbock Office)*

*J. Matthew Wright, AFD (Amarillo Office)*

Once the client has decided to plead guilty, the “real” work of sentencing begins. We will discuss the lawyer’s role in (a) negotiating a favorable plea agreement, (b) reviewing (and objecting to) the Presentence Investigation report, and (c) representing the defendant at a contested sentencing hearing. Utilizing the hypothetical scenario from Part II above, we will provide examples of the “paperwork” for each stage of the process, including a plea agreement, a factual resume, and objections to the Presentence Investigation Report. We will also talk about protecting a defendant’s appellate rights.

## **FACULTY BIOGRAPHIES**

### **Carly Barton**

Carly Barton is an Assistant Federal Public Defender in the Lubbock Division of the Northern District of Texas. She received her Bachelor of Art in Latin American Studies at The University of Texas at Austin and followed that with a law degree from Texas Tech University School of Law. During law school she was active in the Board of Barristers and advocacy competitions, serving as the Vice-Chair of Judges and earning the Murray Hensley Award. Shortly after law school, her boss, Jason Hawkins, took a chance on a recent graduate and hired her for her current position. Since then she hasn't looked back, vigorously fighting for her clients, especially those who have been charged with immigration crimes. When not hanging out at the county jail or federal building, she enjoys spending time with her husband, Zach and their adorable yet eccentric dogs, Barney and Jake.

### **Jerry V. Beard**

Jerry Beard works as a Staff Attorney in the Northern District of Texas as an appellate litigator, and he has submitted over 500+ merits briefs and presented 80+ oral arguments to the United States Court of Appeals for the Fifth Circuit. In 2008, he also appeared before the United States Supreme Court to argue *Regalado-Cuellar v. United States*. Jerry also serves as drafting and writing editor; helps train new assistant defenders; oversees Intern selections for the Defender's 4 offices; serves on the Defenders' national Supreme Court Resource & Assistance Panel; and occasionally works as a project officer for CLE seminars like this one. Jerry is a 1991 graduate of the Texas Tech University School of Law and, from 2004 to 2007, Jerry taught there as an adjunct law professor. He has also completed 20 years' service in the Air Force and Air Force Reserve as a Reserve Judge Advocate and an Airborne Battle Manager. Lt Col. Beard retired from reserve military service in 2006.

### **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.

**Taylor W. Brown.**

T.W. Brown is an Assistant Federal Public Defender in the Fort Worth Division of the Northern District of Texas. Before taking his current position, T.W. worked as a Research and Writing Specialist in the Fort Worth Division and an Assistant Public Defender for the Law Offices of the Public Defender in Las Cruces, New Mexico. T.W. is a 2013 graduate of the University of Arkansas School of Law.

**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.

**Jessica Graf**

Jessica Graf joined the Federal Public Defender's Office in Fort Worth as a Research and Writing Specialist in July of 2015. Jessica graduated summa cum laude from Texas Tech



School of Law in 2014, where she was a member of the Law Review and competed in multiple national moot court competitions. Following graduation, she clerked for Judge Cathy Cochran and Judge David Newell at the Texas Court of Criminal Appeals. In her spare time, Jessica enjoys watching sci-fi television shows with her husband and three dogs.

### **Jason D. Hawkins**

Upon graduating from St. Mary's University School of Law in 1995, Jason became a law clerk and *Pro Se* Staff Attorney for the Greatest American, the Honorable Royal Furgeson, former United States District Judge for the Western District of Texas and current Dean of the University of North Texas Dallas College of Law.

His career in the Federal Public Defender's Office started in 1999, when he went to work in the Capital Habeas Unit in Phoenix, Arizona, representing death row prisoners. He won a ruling that Arizona's rules for restoring death row inmate to competency were unconstitutional in *Amaya-Ruiz v. Stewart*. Jason also drafted the briefly successful argument that the Supreme Court's decision in *Ring v. Arizona* (holding Arizona's death penalty sentencing scheme unconstitutional) should apply retroactively to all of Arizona's death row prisoners. Ultimately Justice Scalia disagreed and, writing for the majority, reversed the Ninth Circuit's decision.

Growing weary of the eternal sunshine, Jason left Phoenix in 2001 and accepted a position with the Federal Public Defender's Office in Dallas. He was named appellate chief in 2008 and his wins before the Fifth Circuit have generally come in either unpublished *per curiam* opinions or sweeping published opinions "limit[ing] the precedential value of [the] holding to cases presenting indistinguishable facts in all material respects." *United States v. Willis*, 563 F.3d 168 (5th Cir. 2009). In November 2011, he argued and lost before the Supreme Court in *Setser v. United States*, 10-7387. Justice Scalia once again proved to be Jason's nemesis.

He was later moved out of the appellate section and named First Assistant when former Federal Public Defender Richard Anderson became despondent over the new and creative ways Jason was making harmful precedent. Hoping to completely remove him from ever appearing in court again, the Honorable Carl Stewart, Chief Judge of the Fifth

Circuit, sentenced Jason to 48 months as the Federal Public Defender on August 26, 2013. Jason is now in charge of making sure everyone has enough paper and pencils to go to court. In his spare time he and his wife can be found in a gym supporting their two daughters' club volleyball habits.

### **Shery Kime-Goodwin**

Shery Kime-Goodwin joined the Office of the Federal Public Defender fifteen years ago after being in private practice for six years. Prior to joining the office, she worked for the law firms of Mullin Hoard & Brown, L.L.P., and Langston Law Offices, P.C., where her practice focused on bankruptcy, banking, and commercial litigation. For the past ten years, she has been an adjunct professor at Texas Tech University School of Law teaching legal research and writing. She also coaches the Texas Tech Law School National Arbitration team and her teams have won the ABA national championships four times in the past eight years and her most recent teams were national semi-finalists.

### **Matthew Wright**

Matthew Wright is an Assistant Federal Public Defender in Amarillo, 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 works as an Assistant Federal Defender in Dallas, Texas. She first joined the Federal Defender family during law school in 2014 as a full-time extern through Texas Tech School of Law's Regional Externship Program and officially became a member of the office in January 2015.

When she is not drafting motions and briefs or assisting attorneys in various endeavors, she enjoys running with her dogs and navigating the urban trails of Dallas by bicycle.