

## BRENT EVAN NEWTON

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### EMPLOYMENT

**Of Counsel (part-time)**

*Wittliff Cutter*  
*Attorneys at Law*

06/2019 – present  
Austin, TX (work remotely)

**Of Counsel (part-time)**

*Gerger, Khalil, Hennessy & McFarlane*  
*Attorneys at Law*

02/2019 – present  
Houston, TX (work remotely)

**Criminal Justice Research Consultant**

*Abt Associates*

12/2019 – present  
Rockville, MD

**Arbitrator**

*FINRA*

10/2020-present  
Baltimore, MD

**Pro Bono Immigration Attorney**

*Catholic Charities, D.C.*

02/2010 – present  
Washington, D.C.

**Deputy Director of Staff**

*United States Sentencing Commission*

05/2009 – 01/2019 (early-retirement)  
Washington, D.C.

- Advised presidentially-appointed Commissioners on matters of federal sentencing law and policy
- Member of Senior Executive Service (SES); managed approximately 100 Commission staff members
- Led several interdisciplinary policy teams (on structural reform/simplification of federal sentencing, recidivism, risk assessment, child pornography offenses, immigration offenses, alternatives to incarceration, and probation/supervised release)
- Lead staff author of five Commission reports: *Intra-City Differences in Federal Sentencing Practices: Federal District Judges in 30 Cities, 2005-2017* (Jan. 2019); *Federal Alternative to Incarceration Court Programs* (Sept. 2017); *Illegal Reentry Offenses* (Apr. 2015); *Report to Congress: Federal Child Pornography Offenses* (Dec. 2012); and *Federal Offenders Sentenced to Supervised Release* (July 2010)
- Commission's director of the U.S. Supreme Court Fellows Program
- Commission's representative on federal inter-agency Reentry Roundtable
- Commission's liaison with foreign judicial delegations
- Regular speaker at continuing legal education seminars on federal sentencing and legal ethics

**Assistant Federal Public Defender**

*Office of the Federal Public Defender, S.D. Tex.*

06/1996 - 05/2009

Houston, TX

- Lead counsel in over 1,000 federal criminal cases at all levels of federal court, from jury trials in federal district court to appellate litigation in the U.S. Court of Appeals and the Supreme Court of the United States
- Head of trial court division in Houston office
- Head of training (for attorneys in Houston office and four branch offices)
- Lead counsel for the petitioner in *Gonzalez v. United States*, 553 U.S. 242 (2008) (presented oral argument on January 8, 2008)
- First-chair or sole defense counsel at 11 federal trials in which complete acquittals obtained
- Faculty member at many dozens of continuing legal education seminars on various topics including legal ethics, mental health issues in the law, federal trial practice, federal sentencing, federal appellate practice, and federal habeas corpus

**Assistant Public Defender**

07/1995 - 06/1996

*Office of Public Defender, Dade County, Florida*

Miami, FL

- Counsel for several murder defendants in cases on direct appeal
- Lead counsel for appellant in *Johnson v. State*, 750 So.2d 22 (Fla. 1999) (reversing death sentence)

**Staff Attorney**

08/1993 – 07/1995

*Texas Appellate Practice and Educational Resource Center*

Houston, TX

- Counsel for several dozens of death row inmates on direct appeal and habeas corpus review
- Principal author of the petitions for writ of certiorari in *McFarland v. Collins*, 510 U.S. 989 (1993) (granting cert.), and *Lackey v. Texas*, 514 U.S. 1045 (1995) (Stevens, J., respecting denial of cert.)

**Law Clerk**

08/1992 - 08/1993

Honorable Carolyn Dineen King

Houston, TX

U.S. Court of Appeals for the Fifth Circuit

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**EDUCATION & LAW LICENSES**

J.D., Columbia University School of Law, 05/1992

James Kent Scholar, 1992; Harlan Fiske Stone Scholar, 1990 & 1991; Senior Editor, COLUMBIA LAW REVIEW

B.A., History, University of North Carolina at Chapel Hill, 05/1989

Graduated with highest honors; Phi Beta Kappa; Harry S. Truman Scholar

Licensed to practice law in D.C., Florida (inactive), Maryland, and Texas

Member, bars of U.S. District Court, S.D. Tex.; U.S. District Court, D. Md., U.S. Court of Appeals for the Fourth Circuit; U.S. Court of Appeals for the Fifth Circuit; Supreme Court of the United States

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**PUBLICATIONS**

**Law Review Articles:**

*A Partial Fix of a Broken Guideline: A Proposed Amendment to Section 2G2.2 of the United States Sentencing Guidelines*, 70 CASE WESTERN RESERVE L. REV. 1 (2019)

*Recurring Ethical Issues Related to Federal Sentencing*, 43 J. OF THE LEGAL PROF. 35 (2018)

*The Fourth Amendment, National Security, and Terrorism: A Bibliographic Essay*, 9 AMER. UNIV. NAT'L SEC. L. BRIEF FORUM ON NAT'L SEC. L. 3 (2018)

*The History of the Original United States Sentencing Commission, 1985-87*, 45 HOFSTRA L. REV. 1167 (2017) (co-authored with Dawinder Sidhu)

*The Supreme Court's Fourth Amendment Scorecard*, 13 STANFORD JOURNAL OF CIV. RTS. & CIV. LIBERTIES 1 (2017)

*The Real-World Fourth Amendment*, 43 HASTINGS CONST. L. QUARTERLY 759 (2016)

*The Story of Federal Probation*, 53 AMER. CRIM. L. REV. 311 (2016)

*Justice Kennedy, the Purposes of Capital Punishment, and the Future of Lackey Claims*, 62 BUFFALO L. REV. 979 (Fall 2014)

*Report from South Korea: My Experience Teaching Law Students at Seoul National University*, THE LAW TEACHER (Spring 2013)

*The Ninety-Five Theses: Systemic Reforms of American Legal Education and Licensure*, 64 S.C. L. REV. 55 (Fall 2012)

*The Slow Wheels of Furman's Machinery of Death*, 13 J. APP. PRACTICE & PROCESS 41 (Spring 2012)

*Law Review Scholarship Through the Eyes of the Twenty-First Century Supreme Court Justices: An Empirical Analysis*, 4 DREXEL L. REV. 399 (Spring 2012)

*Preaching What They Don't Practice: Why Law Faculties' Preoccupation with Impractical Scholarship and Devaluation of Practical Competencies Obstruct Reform in the Legal Academy*, 62 S.C. L. REV. 105 (Nov. 2010)

"How Can You Defend Someone You Know is Guilty?": Reflections of a Public Defender, 33 AMERICAN JOURNAL OF TRIAL ADVOCACY 167 (Summer 2009)

*Almendarez-Torres and the Anders Ethical Dilemma*, 45 HOU. L. REV. 747 (Summer 2008)

*Lopez v. Gonzales: A Window on the Shortcomings of the Federal Appellate Process*, 9 JOURNAL OF APPELLATE PRACTICE & PROCESS 143 (2007)

*A Primer on Post-Conviction Habeas Corpus Review*, THE CHAMPION (June 2005)

Preface, *Symposium on Death Penalty Appeals and Post-Conviction Litigation*, 5 JOURNAL OF APPELLATE PRACTICE & PROCESS 271 (2003)

*Felons, Firearms, and Federalism: Reconsidering Scarborough in Light of Lopez*, 3 JOURNAL OF APPELLATE PRACTICE & PROCESS 671 (2001)

*The Antiquated Slight Evidence Rule in Federal Conspiracy Cases*, 1 JOURNAL OF APPELLATE PRACTICE & PROCESS 49 (1999)

*Lopez in the Fifth Circuit: Watershed or Aberration?*, 1998 FIFTH CIRCUIT BAR JOURNAL 209 (1998)

*A Case Study in Systemic Unfairness: The Texas Death Penalty, 1973-94*, 1 TEX. FORUM ON CIV. RTS. & CIV. LIB. 1 (1994)

Articles cited in: *United States v. Hoffman*, 901 F.3d 523 (5th Cir. 2018); *Florida ex rel. Atty. Gen. v. U.S. Dept. of Health and Human Services*, 648 F.3d 1235, 1293 n. 97 (11th Cir. 2011); *Cvijetinovic v. Eberlin*, 617 F.3d 833, 840 & n.8, 842 (6th Cir. 2010) (majority and dissenting opinions); *United States v. Patton*, 451 F.3d 615, 634 (10th Cir. 2006); *United States v. Lopez*, 443 F.3d 1026, 1030 (8th Cir. 2006) (en banc); *United States v. Cortes*, 299 F.3d 1030, 1037 n.2 (9th Cir. 2002); *United States v. Navarrete-Barron*, 192 F.3d 786, 793 (8th Cir. 1999); *United States v. Mosby*, 177 F.3d 1067, 1069 (8th Cir. 1999); *ATACS Corp. v. Transworld Communications, Inc.*, 155 F.3d 659, 663 n.4 (3d Cir. 1998); *State v. Dunbar*, 163 A.3d 875, 884 (N.J. 2017); *State v. Santiago*, 122 A.3d 1, 53 (Conn. 2015); *Johnson v. State*, 328 P.2d 77, 85 n.43 (Alaska 2014).

### **Books and Chapters:**

TRIAL ADVOCACY IN ACTION: 20 EXERCISES TO SHARPEN YOUR CRIMINAL CASE SKILLS: UNITED STATES V. MCKAY (MOCK TRIAL CASE FILE) (NITA/LEXIS 2015)

CRIMINAL LITIGATION AND LEGAL ISSUES IN CRIMINAL PROCEDURE: READINGS AND HYPOTHETICAL EXERCISES (4th ed., NITA/LEXIS 2014; 5<sup>th</sup> edition forthcoming in late 2021)

PRACTICAL CRIMINAL PROCEDURE: A CONSTITUTIONAL MANUAL (NITA 4<sup>th</sup> ed. 2021)

Three chapters – *Mental Health Issues in Federal Criminal Practice*; *Pretrial Statements*; and *Constitutional Issues that Arise During Trial* – in DEFENDING A FEDERAL CRIMINAL CASE (2010)

Four entries – *Retroactivity*; *The Eighth Amendment*; *Substantive Due Process*; and *Professional Baseball Cases* – in THE ENCYCLOPEDIA OF THE SUPREME COURT OF THE UNITED STATES (Macmillian Reference USA 2008)

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**LEGAL EDUCATOR EXPERIENCE**

Visiting Assistant Professor  
Penn State-Dickinson Law  
7/2021-6/2022

Adjunct Professor of Law  
Georgetown University Law Center  
(joint appointment at Department of Psychiatry,  
Georgetown University School of Medicine, 2011-15)  
01/2010 – 12/2020

Adjunct Professor of Law  
Washington College of Law (American University)  
08/2009 – 06/2021

Adjunct Professor of Political Science &  
Criminal Justice and Criminology  
University of Maryland System (UMCP, 2010-16, and UMBC, 2010-2019)

Visiting Professor of Law  
Seoul National University  
South Korea  
Summers 2012 & 2016 (taught introductory 30-hour course on U.S. criminal justice system)

Lecturer  
University of Houston Law Center  
08/2000 - 05/2009  
(half-time visiting associate professor, 2007-08 academic year)

Senior Staff Author  
10/2017 – present  
Quimbee (Legal Education Company)

*Law School Courses:* Seminar on the Jurisprudence of Justice Stephen Breyer (American University, 2019, 2020); Sentencing Law and Policy (Georgetown University, 2012, 2014-17); Criminal Procedure I (American University, 2010-12, 2014-21); Georgetown University, 2010, 2013-2020); Criminal Procedure II (University of Houston, 2002-2009; American University, 2015-2021); Advanced Topics in Criminal Procedure (American University, 2009); Mental Health Issues in Criminal Law (University of Houston, 2005-08; Georgetown University, 2011-13); Criminal Litigation (advocacy course) (University of Houston, 2004-09); Federal Courts/Jurisdiction (University of Houston, 2003); Seminar on the Death Penalty (University of Houston, 2005); Remedies (University of Houston, 2001-09; American University, 2013-14, 2017); Introduction to the U.S. Criminal Justice System (Seoul National University, 2012, 2016)

*Medical School Courses* (Georgetown University, Department of Psychiatry): Mental Health Issues in Criminal Law (2011-14)

*Undergraduate Courses* (all University of Maryland System, 2010-19) (22 semester courses): Civil Rights (2012, 2014, 2016, 2018); Constitutional Issues in Law Enforcement (2013); Judicial Process (2010, 2011, 2013, 2015, 2017, 2018, 2019); Legal Advocacy and Litigation (2010, 2012, 2014, 2016, 2018); Public Law (2012); Comparative Criminal Justice Systems (foreign/international criminal law) (2013, 2015, 2017, 2019)

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***PROFESSIONAL HONORS AND ACHIEVEMENTS***

Elected Member, American Law Institute, 2010

Student Bar Association's "Adjunct Professor of the Year," 2013-14, Washington College of Law, American University

Student Bar Association's "Adjunct Professor of the Year," 2008-09, University of Houston Law Center

Named "Outstanding Assistant Federal Defender, 2006" (one of four nationally) by the National Association of Federal Defenders

Martindale-Hubbell "AV premier" (5/5) peer rating

Contributing Editor, JOURNAL OF APPELLATE PRACTICE & PROCESS, University of Arkansas at Little Rock School of Law, 1999-2009

Member, Adjunct Faculty Committee of the ABA's Section of Legal Education and Admissions to the Bar, 2004-07

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***PRESENTATIONS (SELECTED)***

"Hot Topics in the Supreme Court's Fourth Amendment Jurisprudence"  
Federal Public Defender's Office/CLE for CJA Panel Attorneys  
Phoenix, AZ  
March 2020

Regular Presentations on Legal Ethics, Immigration Offenses, Firearms Offenses, Child Pornography Offenses, and Federal Supervised Release  
U.S. Sentencing Commission's Annual National Seminars on the Sentencing Guidelines, Philadelphia, PA; Orlando, FL; New Orleans, LA; San Diego, CA; Salt Lake City, UT; Minneapolis, MN; Baltimore, MD; San Antonio, TX; San Francisco, CA  
2007-2019

Introductory Speaker and Moderator of Panel  
"The History of the Original U.S. Sentencing Commission"  
Symposium on Federal Sentencing Guidelines  
Hofstra University School of Law  
October 2017

"Sentencing Federal Child Pornography Cases" &  
"Alternative to Incarceration Court Programs"  
FJC Workshop for Judges in the Sixth Circuit  
Cleveland, OH  
May 2017

Moderator, Expert Roundtable on Structural Reform of the Federal Sentencing System  
U.S. Sentencing Commission  
Washington, DC  
October 2016

Webcast: "Constitutionalizing Your Objections in a Criminal Case"  
National Institute for Trial Advocacy  
Boulder, CO  
May 2016

“The Civil War and Civil Rights”  
Sandy Springs Library (“History Happy Hour”)  
Olney, MD  
August 2014

“The U.S. Sentencing Commission’s Report to Congress on Child Pornography Offenses”  
*Federal Sentencing Challenges Post-Booker* (symposium sponsored by the Criminal Justice Institute of the University of Houston Law Center and the HOUSTON LAW REVIEW)  
Houston, Texas  
November 2013

Presentations on Civil War Topics (Battle of Antietam, Civil Rights for Freed Slaves)  
“Making Sense of the Civil War” Series (sponsored by the National Endowment for the Humanities)  
Priddy Library, University of Maryland  
Rockville, MD  
October and November 2013

Moderator, Expert Roundtable on Recidivism Research  
U.S. Sentencing Commission  
Washington, D.C.  
October 2013

Lecture on Sex Offenders  
“Grand Rounds”  
Georgetown University School of Medicine  
October 2013

“Federal Child Pornography Offenses”  
Criminal Law Committee of the  
Judicial Conference of the United States  
Washington, D.C.  
June 2013

“Sentencing in Securities Fraud Cases”  
ABA’s Fifth Annual Institute on Securities Fraud  
New Orleans, LA  
October 2010

Regular Presentations on Federal Habeas Corpus Practice, Mental Health Issues in Criminal Law, Federal Pretrial Motions Practice, and Federal Sentencing Issues  
Advanced Criminal Law Course (sponsored by the State Bar of Texas)  
Corpus Christi, Dallas, Houston, and San Antonio, TX  
1999, 2002, 2005, 2007-09, 2011

Regular Presentations on Firearms Offenses, Immigration Offenses, Pretrial Motions Practice, and Title III Wiretaps  
“Winning Strategies” Seminars (sponsored by the Defender Services Division of the Administrative Office of the U.S. Courts)  
Phoenix, AZ; San Diego, CA; Miami, FL; Boston, MA; Baltimore, MD; Minneapolis, MN; Philadelphia, PA; Albuquerque, NM; Memphis, TN; Seattle, WA  
2002-2009

“How Social Science Can Inform Sentencing Judges in Child Pornography Cases”  
Sentencing Institute (co-sponsored by the Federal Judicial Center and United States Sentencing Commission)  
Memphis, Tennessee  
October 2012

“Systemic Reforms of Law School Pedagogy, Curriculum, and Faculty Scholarship”  
Presentation to Entire Faculty of the School of Law,  
Wake Forest University  
Winston-Salem, NC  
April 2011

“What Is the Primary Purpose of Law School?”  
Presentation to Faculty Committee,  
Washington College of Law, American University  
Washington, DC  
February 2011

“SORNA and Civil Commitment of Sex Offenders”  
Speech to American Constitution Society  
Georgetown University Law Center  
Washington, DC  
March 2010

“The Disconnect Between Law and Psychiatry”  
Presentation to Houston Chapter of  
American Psychiatric Association  
Houston, TX  
March 2006

“The Supreme Court and Circuit Splits”  
Eighth Circuit Appellate Practice Institute  
St Louis, MO  
April 2003

“Preparing Your Civil Client for Arrest”  
ABA White-Collar Section  
Houston, TX  
November 2002