
**FEDERAL PUBLIC DEFENDER'S OFFICE
DISTRICT OF DELAWARE**

Client Handbook



Edson A. Bostic, Federal Public Defender

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OFFICE OF THE FEDERAL PUBLIC DEFENDER - AN INTRODUCTION

WHO WE ARE: We are the office of the Federal Public Defender for the District of Delaware. This office represents individuals who are charged with federal crimes in the District of Delaware, and who cannot afford to hire private counsel.

Our mission is to: (1) provide high-quality representation to indigent defendants; (2) ensure that justice is administered to every individual on a fair and equal basis; and (3) advance the effectiveness of the criminal justice system through the ongoing education and training of the criminal defense bar. We are dedicated to our clients, and we zealously to represent our clients' interests.

Once appointed by the court, we work for you, and not for the court. Our only job is to provide the best defense for you.

Our attorneys are supported by investigators, paralegals and administrative staff members. Your attorney will handle every aspect of your case, including appeals and problems that may arise while you are detained.

If there are other defendants in your case, we can represent only one of you. We will get you a free private attorney, known as a "panel attorney," if you qualify for appointed counsel and we cannot represent you. We also will get you a panel attorney if we have a conflict with your case (for example, if we previously represented a witness or co-defendant).

CONTACTING US: Our office address and telephone numbers are:

Office of the Federal Public Defender for the District of Delaware
800 King Street, Suite 200
Wilmington, DE 19801
Telephone: (302) 573-6010
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The office is open from 8:30 a.m. to 5:00 p.m., Monday through Friday. We will accept a reasonable number of collect calls. If your attorney is not in the office, your call will not be accepted, but please call back later. If you are in custody, your attorney will come to visit you. If you are out of custody, you will meet with your attorney in our office. Please keep all of your appointments. If you need to reschedule, please call your attorney or his or her secretary in advance.

THE FIRST STEPS IN A FEDERAL CASE

Federal court is very different from state court. Below is what you can expect as a defendant charged with a federal crime:

FEDERAL CHARGES: If you are charged with a federal crime, the Government will try to prove that you: (1) violated a criminal law passed by Congress; or (2) violated a state law while on property owned by the United States Government (such as Dover Air Force Base).

Sometimes, you will be charged in an “indictment.” Other times you will be charged in an “information” or a “criminal complaint.” Whether you are charged by way of indictment, information or criminal complaint, your attorney will review the charges with you and explain the elements and potential penalties.

RIGHT TO COUNSEL: You have the right to have an attorney represent you. If you cannot afford to hire an attorney, the court will appoint our office or a panel attorney to represent you.

In order to qualify for appointed counsel, you must complete a Financial Affidavit. Be honest when you fill out the Financial Affidavit. If you think an honest answer might incriminate you, ask to speak to an attorney from our office before you sign or hand in the Financial Affidavit. A false answer on the Affidavit might be used against you at trial, or might be used in support of a new charge against you. You will not be required to pay any fee for our services unless the court determines that you should pay a limited amount based on your income.

COMING TO COURT ON TIME: Your case will be heard in the United States District Court, which is located at 844 King Street in Wilmington, Delaware. If you are out of custody, never miss a court appearance or arrive late for court. If you have a problem with a court date, talk to your attorney ahead of time. Unless your presence is excused, in writing, you must come to court.

DRESSING FOR COURT: Judges pay attention to how defendants dress. If the defendant dresses in a way that shows respect for the court, that may help the case. We recommend that men wear a dark suit or sports jacket with a white shirt and a tie that is not flashy. We recommend that women wear a dress, or a skirt with a blouse, or a pant suit. Hems should be at the knee or lower, and dark colors are better than light colors.

INITIAL APPEARANCE: Soon after your arrest, you will be brought before a United States Magistrate Judge. The Magistrate Judge will make sure that you are the person named in the Complaint or arrest warrant. The judge will advise you of the charges against you, and explain your rights. If you qualify financially, the judge will appoint our office or a private attorney to represent you.

ARRAIGNMENT: At the arraignment, the Magistrate Judge will formally notify you of the charges against you. The judge will ask you to plead “guilty” or “not guilty” to the charges in the indictment.

Unless you are charged with a minor offense, we recommend that you plead "not guilty" and request a jury trial. You will have the chance to change your plea at a later time if you so choose. In fact, a Magistrate Judge cannot accept a guilty plea on a felony charge.

A guilty plea gives up many important rights, and you should not plead guilty until your attorney has been able to review with you all of the evidence and potential penalties. A "not guilty" plea preserves your rights and gives your attorney the chance to investigate the case against you.

The Magistrate Judge may also announce deadlines for filing motions before the United States District Court Judge. The District Court Judge will handle your case after the arraignment.

BAIL: In federal court, bail is not automatic. Even if bail is granted, the judge may order that you undergo drug testing, post cash or property, surrender your passport, comply with restrictions on travel or residence, comply with a curfew or meet other restrictions. You also may be placed on electronic monitoring.

You will probably be supervised by a Pretrial Services Officer. If you violate the conditions of your release, you may be sent back to jail. Some violations can add to the length of an existing sentence, and other violations can be used to charge you with a new crime. You will get credit for time served if you are later convicted, unless you are serving another sentence when you are detained on your federal charge.

DETENTION HEARING: In some instances, there will be a hearing to determine whether you should be released until your trial date. The Magistrate Judge will decide if you should be released, with or without bail, or kept in jail. This hearing may take place at your initial appearance, or several days after your appearance, if your attorney needs more time to prepare.

PRETRIAL SERVICES REPORT: Before your detention hearing, a Pretrial Services Officer may want to speak with you. He or she gathers information about your background and personal circumstances, writes a report for the judge, and makes a recommendation about whether you should be released and on what conditions.

Remember that the Pretrial Services Officer works for the court, and not for your attorney. Your attorney will help you decide whether or not to agree to this interview. The information that you give to the Pretrial Services Officer cannot be used against you at trial, but it can be used against you at sentencing. If you agree to the interview, you must truthfully answer the Pretrial Services Officer's questions. You should not, however, be asked any questions about the charges that you are facing.

FACTORS THE JUDGE WILL CONSIDER: During the detention hearing, the judge will consider several factors in deciding whether to release you. These factors may include any prior record, ties to the community, any prior failures to appear for court, and your employment status. Certain serious crimes carry what is called a "presumption of detention." If you are charged with one

of these crimes, the law requires the judge to keep you in jail through trial, unless your attorney can convince the judge that there are good reasons why you should be released.

PREPARING FOR THE HEARING: Your attorney will need a lot of information about your family, job, financial situation and background. A Federal Defender investigator may also help your attorney prepare for the detention hearing. Your attorney or investigator may need to speak with people who know you well, and identify property that could be used to secure a bond. Sometimes witnesses may be needed at the hearing. Your attorney will explain the best way to handle your hearing, depending on your circumstances.

JAIL: If the judge decides not to release you before your trial, you will be in the custody of the United States Marshals. While your criminal case is pending, you may be held at the Federal Detention Center in Philadelphia, Pennsylvania, the Howard R. Young Correctional Institution (formerly known as Gander Hill) in Wilmington, Delaware, the Delaware Correctional Center (DCC) in Smyrna, Delaware, the Sussex Correctional Institute (SCI) in Georgetown, Delaware, or in the Chesapeake Detention Facility in Baltimore, Maryland. Female clients are sometimes taken to the Dolores Baylor Women’s Correctional Institute (WCI) in New Castle, Delaware.

If you have problems at these jails, let us know, and we will ask the Marshals to look into it. Your attorney has no control over the selection of the jail in which you are held pending trial. Because of overcrowding, the Marshals may move you from jail to jail at any time. If your circumstances change, your attorney can go back to court and ask the judge to reconsider the request for bail.

PRELIMINARY HEARING: If you have been charged by a complaint rather than an indictment, you have the right to a preliminary hearing. At the preliminary hearing the burden is on the government to prove that there is “probable cause to believe an offense has been committed and the defendant committed it.” The government does not have to meet the “beyond a reasonable doubt” standard applicable at a jury trial; instead, a lower “preponderance of the evidence” standard is applicable. In addition, the normal rules of evidence are not applied at a preliminary hearing, so the government’s witness may be permitted to present hearsay testimony. You should speak with your attorney to determine whether or not it is in your best interest to have a preliminary hearing.

FOUR KEY WARNINGS

Do not discuss your case with anyone except your attorney. Everything you say to your attorney is completely confidential. You have the absolute right to not discuss your case with any law enforcement officers or prosecutors. Always remember that you have the right to remain silent, the right not to incriminate yourself, and the right to have an attorney present at all times.

If law enforcement officers or the prosecutor try to talk to you, which is unlikely, please request that your attorney be present with you during any such meetings. If a law enforcement officer tells you that you do not need your attorney because he or she needs to talk to you about another case,

respectfully tell the officer that your attorney told you not to speak to anyone. Tell the officer to call your attorney.

Do not talk about your case with anyone over the phone if you are in jail. All calls, even calls to your attorney or staff in our office, are recorded by prison officials.

Do not discuss your case with other inmates, including your cellmate. There are inmates at the jails who sometimes pass information on to the authorities. Anything you say could be used against you. Other people can be forced to testify about what you say to them. Your own attorney, and people working for him or her, are the only ones that you should talk to about your case.

Do not believe what you hear from other inmates about what might happen to you. Some jail inmates are not federal prisoners, and they do not know about federal cases. Even among federal prisoners, there are many false rumors about sentencing deals and other matters. Your attorney will have accurate information.

PREPARING FOR TRIAL

There are two main ways that you and your attorney will get the information that you need to defend your case: **discovery and investigation**. Discovery is information provided by the government; investigation is information that we get on our own.

Your defense team will consist of you, your Trial Attorney, a Research & Writing Attorney, an Investigator, and other Federal Defender staff. Please cooperate with the members of your trial team so that we can do the best possible job in defending you. **Anything that you say to any member of your trial team is privileged and confidential and cannot be used against you.**

If your case goes to trial, your attorney will have to share with the prosecutor any physical evidence or test results that we will use in your direct case. We will also have to inform the prosecutor of alibi defenses and mental health defenses. As you prepare for trial, your attorney will explain the information that has to be shared with the prosecutor.

DISCOVERY: You will hear the word “discovery” used to describe the evidence against you, evidence that the prosecutor must give to your attorney. The discovery will give us an idea about the strength of the case against you. We will use discovery to understand what the prosecutor will try to prove at trial, and how to prepare the best possible defense.

THE TYPES OF DISCOVERY THAT THE PROSECUTOR MUST GIVE YOUR LAWYER:

The prosecutor must give your attorney copies of any documents that he or she plans to use against you at trial, any statements that you made to law enforcement officers, and the results of any scientific tests or examinations. Your attorney will also be allowed to look at any physical evidence that the prosecutor plans to use against you.

WHEN DO YOU GET DISCOVERY? You will begin to receive discovery after the arraignment hearing. Your attorney will send a letter to the prosecutor requesting that he or she provide discovery.

In some cases, the prosecutor may object to turning over certain discovery. If your attorney believes that the withheld items are relevant to your defense, the Federal Defender will file, with the court, a Motion to Compel Discovery. The judge will review the motion and decide if the prosecutor has to turn over this discovery.

Your attorney and investigator will review that discovery with you. Based on the strength of this discovery, you and your attorney will decide on what motions to file, what investigations to do, and whether or not to plea bargain.

INVESTIGATIONS: Your attorney and other members of your legal team will explore your possible defenses and investigate issues that could affect your case. The investigation process varies widely from case to case, and it can include:

1. Locating and interviewing witnesses
2. Examining crime scenes
3. Testing physical evidence
4. Getting expert opinions
5. Preparing exhibits

Your legal team will protect all information that you give them during any investigations.

MOTIONS: A motion is a formal written request that a defense attorney or prosecutor makes to the judge, requesting certain actions before trial. For example, your attorney may file a motion to exclude the evidence against you, or to keep out of court any statements that you made.

After one party makes a motion, the other side always has the chance to respond to the motion in writing. Sometimes, the judge will hold a hearing with witnesses to decide a motion, but he or she may decide a motion without a hearing.

If the judge holds a hearing, he or she may also require that the parties file a “memorandum” with the court. A memorandum gives both parties a chance to argue why the judge should grant or deny the motion based on the law and specific facts of your case.

There are many types of motions that the prosecutor or your attorney can file before or after trial. Some of these motions are:

Motion to Suppress Evidence: This motion asks the court to throw out evidence or statements that the police obtained illegally. If the judge decides that the evidence was gathered illegally, it cannot ordinarily be used against the defendant at trial. If

you take the stand, however, suppressed evidence can be used to challenge your testimony. In addition, suppressed evidence can be used at sentencing hearings.

Motion *in Limine*: These are usually motions about whether certain evidence will be allowed in or excluded at your trial based on the Federal Rules of Evidence. If your case goes to trial, your attorney will discuss these motions with you.

Post-trial motions: These motions include a motion for a new trial, if there was a legal error during the trial.

There are many types of motions that are not described here. **It is your attorney's job to decide if there is a legal basis for any motions that will be filed before, during or after trial.** Your attorney will explain which motions may be applicable to your case. It is important that you inform your attorney of any facts that may be relevant to your motion, and to answer any questions as honestly and completely as possible.

PLEA NEGOTIATIONS: Before your case goes to trial, your attorney may speak with the prosecutor regarding a possible plea agreement.

Your attorney will not make any deals without your permission, but he or she will find out what kind of offer the prosecutor is willing to make. In Delaware, the prosecutor often encloses a written plea offer with the initial discovery package. It is up to you, with your attorney's advice, to decide what to do.

In many state and county courts, defendants are allowed to plead guilty in exchange for a specific, agreed-upon sentence. It is unusual for the federal prosecutor in Delaware to agree to this kind of "stipulated sentence" plea agreement. The prosecutor may agree to a sentencing recommendation, but it is unlikely that you will be given an advance guarantee of the sentence you will receive.

Sometimes, defendants cooperate with the government as part of a plea deal. Ask your attorney if you have questions about the burdens and benefits of cooperation.

If you decide to accept a plea deal and to plead guilty, you are giving up many valuable constitutional rights. Your attorney will discuss these rights with you before you decide to accept a plea offer, but these rights include:

- the right to trial by jury;
- the right to have the government prove its case beyond a reasonable doubt;
- the right to testify, or, if you prefer, the right to remain silent;

- the right to have your attorney confront and cross-examine government witnesses; and
- the right to call witnesses at trial;

Pleading guilty is similar to being convicted after trial, and if you plead guilty to a felony, you may lose valuable civil rights such as:

- the right to vote or hold public office;
- the right to hold certain licenses;
- the right to remain in the United States if you are not a citizen; and,
- the right to possess a firearm.

Usually, a plea agreement does not contain binding promises regarding the sentence. Thus, even if the prosecutor agrees to recommend a sentence at the low end of the guidelines, it is up to the judge to decide whether to accept that recommendation. Please be aware that the judge has the legal authority to impose any sentence up to the statutory maximum.

Once the sentence is imposed, it is almost impossible to withdraw a plea of guilty. For this reason, it is important to fully understand the plea agreement before you sign it. If there is something that you do not understand, be sure to discuss it with your lawyer.

CHANGING YOUR PLEA: If you decide to change your plea to guilty, there will be a Change of Plea Hearing. The judge will make sure that you understand the rights you are giving up, that you know what it is going on, and that no one is forcing you to plead guilty. You should never enter a guilty plea unless you fully understand what you are agreeing to.

The judge will ask the prosecutor to describe the facts of the crime, and then you will be asked whether or not those facts are true. If the prosecutor states a fact which is not correct, ask to speak with your attorney.

TRIAL

IN GENERAL: The U.S. Constitution guarantees the right to a trial by jury, except for certain misdemeanors and petty offenses. The trial date usually will be set when you are arraigned, but it also can be continued if good cause is shown.

Federal trials can be complicated, and you must help your attorney and other members of your legal team with anything that they ask of you. Your attorney has a lot of experience with trials. Some decisions, such as whether to testify, are yours to make after advice from your attorney. Other decisions, involving legal strategy and the way that your case should be presented, are for your attorney to make. You will be kept informed of these decisions.

It is the prosecutor's job at a trial to prove that you are guilty. If the prosecutor does not prove the charges beyond a reasonable doubt, you must be found not guilty. You do not have the burden of proving your innocence.

SPEEDY TRIAL ACT: The law says that you must be tried no later than 70 days after your arraignment. There are exceptions to the 70-day rule, and these exceptions may be applied at the request of the prosecutor, a co-defendant, or your own attorney. These exceptions could extend the 70-day limit.

You may hear the term "excludable time." This means the time that the court needs to make decisions about your case, or the period of time that your attorney needs to prepare your case. This is not counted toward the 70-day limit. We say that "the clock stops" for those periods of time. In many cases, motions are filed. Those motions also stop the speedy trial clock.

JURY: A jury of 12 people will hear your case and decide it on the facts. You, your attorney, the prosecutor, and the judge will all participate in selecting the jurors.

You can give up your right to a jury if you decide you would be better off having the judge decide your case, and if the prosecutor also agrees to waive the jury. Giving up the right to a jury trial is a very serious decision.

OPENING STATEMENTS: Each side will get to make a statement to the jury about what the case is about, what the evidence will be, and what the jury will have to decide.

GOVERNMENT CASE: The prosecutor will call witnesses and introduce physical evidence. After the prosecutor questions a witness, your attorney will have the chance to question that witness. This is called cross-examination.

YOUR CASE: After the prosecutor finishes, your attorney will have the chance to present any witnesses and evidence that might help your case. The defense does not have to present any evidence. If it does, the prosecutor will be able to cross-examine your witnesses.

You will have to decide whether you want to testify. Your attorney will help you with this decision, including telling you about the risks that are involved. **You make the final decision about whether or not you want to testify.**

REBUTTAL: If you put on a defense case, the prosecutor will have the chance to rebut it. That means showing the jury evidence to contradict your defense.

CLOSING ARGUMENTS: When both sides have presented their evidence, each side gets a chance to tell the jury what they think the evidence means, and how the jury should decide the case. The prosecutor goes first, then your attorney, and then the prosecutor gets the final word. This is because the government has the burden of proving its case against you.

JURY INSTRUCTIONS: The judge will tell the jury what the law is, and what questions they will have to answer about your guilt or innocence. The attorneys for both sides will have a chance to help the judge choose the instructions to give to the jury.

JURY DELIBERATIONS: The jury will leave the courtroom and try to agree on a verdict. Every one of the jurors must agree. If they cannot agree on a verdict, then the judge may call a mistrial. A mistrial may mean that you must go through the whole trial process again.

If the jury returns a "not guilty" verdict, the federal criminal proceedings are over and you will be discharged. The federal government cannot re-try you on the same charges after an acquittal.

If, however, the jury returns a finding of "guilty" to one or more counts contained in the indictment, there will be a sentencing proceeding.

SENTENCING

About 90 or more days after a guilty plea or guilty verdict, you will go back to court for sentencing. The sentencing phase involves four major steps: (1) interviewing with the United States Probation Office; (2) calculating your possible sentence; (3) preparing a sentencing memorandum on your behalf; and (4) the sentencing hearing.

THE PROBATION OFFICE AND THE PRESENTENCE REPORT: Prior to your sentencing hearing, the United States Probation Office prepares a "Presentence Report" (PSR) to help the judge determine what sentence you should receive. **The Probation Officer works for the court, and is not your advocate or part of your legal team.**

A Probation Officer will want to interview you, and your attorney will go with you. During the interview, do not lie to the Probation Officer. It is a crime to do so, and lying may lead to a worse sentence. You can refuse to answer a question, but whatever you say must be the truth. The Probation Officer may ask you to discuss how you feel about the offense. Always wait for your attorney to be present for this discussion.

After the interview, the Probation Officer will write a pre-sentence report (PSR) for the judge. This PSR discusses the facts of the crime, your background, family, criminal history, education, career, mental and physical health, and other pertinent information. The Probation Officer may interview

your family members or employers, and may check the information that you provide about yourself. The Probation Officer may also talk to the prosecutor and the case agent.

In the PSR, the Probation Officer calculates your possible sentencing range (how many months you could face in prison), and may make a recommendation to the judge regarding your sentence. The judge, however, will decide the appropriate sentence.

The Probation Officer will send a draft of the PSR to you and your attorney before the judge sees it. You will get to review the draft PSR, and tell your attorney if there are any factual mistakes. Your attorney will also look for legal mistakes.

If there are factual or legal mistakes, your attorney will write a letter to the Probation Officer regarding any changes that should be made. The Probation Office then issues a final PSR, which is sent to you, your attorney, the prosecutor and the judge. If you disagree with the final PSR, the matter is decided by the judge.

THE UNITED STATES SENTENCING GUIDELINES: Your sentence will be determined by the federal sentencing statutes and the United States Sentencing Guidelines. The Guidelines use a three-step process which:

1. Looks to the severity of your criminal history;
2. Looks to the severity of the crime at issue; and
3. Calculates an advisory sentencing range based upon the combination of the crime and criminal history.

Here is how the Sentencing Guidelines work to determine your possible sentence:

Step 1: The Guidelines rate your criminal history by giving "points" to most of your prior convictions. The total number of "points" will put you in a specific "Criminal History Category," ranging from I to VI. Figuring out your Criminal History Category can be very complicated. Your attorney will discuss this with you in detail.

Step 2: The Guidelines rate your offense. The Guidelines give a particular score, called an "Offense Level," to every federal offense. The scores range from 1 (for very minor offenses) to 43 (for very serious offenses). This number may then be "adjusted" according to the particular characteristics of your case. Adjustments can raise or lower the Offense Level. For example, if you plead guilty you will usually get points off your Offense Level. Your attorney will explain any adjustments that could affect your sentence.

Step 3: The Guidelines Sentencing Table is a chart that shows the suggested sentencing range (the number of months you could spend in prison), based on your Criminal History Category and Offense Level. The "low end" of the range is the recommended minimum sentence, and the "high end" is the maximum recommended

sentence. For example, if your "sentencing range" is 121-135, this means that the guidelines recommend anywhere from 121 to 135 months in prison. Your attorney will show you the Table and explain how it works.

The Guidelines are "advisory" rather than mandatory. This means that the judge has the discretion to give you a sentence above or below the advisory guideline range. In choosing a reasonable sentence, the judge will consider the Sentencing Guidelines' recommended sentence for your offense, along with and several other factors required by law, including the nature and circumstances of the offense, your personal history, and the need to deter and punish.

DEPARTURES AND NON-GUIDELINE SENTENCES: "Departures" from the required sentencing ranges are allowed in some situations. The judge can depart upward, giving you a sentence higher than your Guidelines range, or downward, giving you a sentence lower than your Guidelines range. Although the judge has the discretion to give you a sentence above or below the Guidelines range, he or she cannot give you a sentence that is below any mandatory minimum sentence set by Congress for your specific crime.

It is our experience that judges generally follow the recommended Guidelines sentencing range, or grant modest variances from the Guidelines sentencing range. For this reason, your attorney will always provide you with his or her estimate of how the Guidelines will be calculated if you go to trial and lose, versus how they will be calculated if you enter a negotiated plea of guilty. Because of the downward adjustment for acceptance of responsibility, the sentence on a guilty plea will usually be lighter than a sentence following trial and conviction. Of course, if you go to trial and win, there is no sentence at all.

THE SENTENCING MEMORANDUM: Your attorney may file a sentencing memorandum on your behalf, which argues why you should get a certain sentence. Your attorney may ask you to get letters of support from family and friends (addressed to the judge) to submit with your sentencing memorandum. The letters should be given to your attorney, and not sent directly to the judge.

THE SENTENCING HEARING: During the sentencing hearing, three different people will tell the judge how they think you should be sentenced: your attorney, the Probation Officer, and the prosecutor. Sometimes these people agree about the sentence, and sometimes they do not.

At the hearing, the judge will ask whether you have read your PSR and discussed it with your attorney. The judge will then ask your attorney and the prosecutor if they wish to say anything about your sentence. The judge will also ask you if you wish to say anything. It is your absolute right to speak if you want to, but you do not have to. You can say anything you like to the judge about yourself or your case, but you should discuss it with your attorney in advance.

In some cases, we will recommend to a client that he waive his right to make a statement to the court. The statements made at sentencing may be used to support new charges against the defendant, can be cited by the prosecutor on appeal, and can be used as evidence against the client

if a new trial is granted. If we recommend that you give up your right to make a statement, you should carefully consider the recommendation. It is up to you, however, to decide whether you want to make a statement at sentencing.

If you are sentenced to prison, your attorney can ask the judge to recommend that you serve your time near your home, or in a special program like drug rehabilitation. The judge's recommendation does not guarantee that you will go where you want. That decision is made by the Federal Bureau of Prisons (BOP).

WHAT'S NEXT? After sentencing, you will be taken back to jail if you were detained. If you were out of custody, you may be taken into custody in the courtroom, or you may be given a surrender date. The judge will sign a document called a Judgment, which goes to the BOP. The BOP reviews your PSR, any criminal history, gang affiliation, medical issues, and/or recommendations from the judge, and then decides where you should serve your time. It may take a month or even more before you are finally transported to federal prison or given a prison to report to.

RELATED SENTENCING MATTERS

Credit: There is no federal parole. You will serve your entire sentence, minus good time credit. Good time credit is not automatic, but it is applied if you have no disciplinary problems. **There is no good time credit for sentences of one year or less.** You will also get credit for time served, as long as you were not also serving another sentence (like a state sentence), while your case was pending. Currently, federal prisoners get 54 days off for every year of good behavior.

Release: Most (but not all) federal prisons send inmates to a halfway house for the last few months of their sentence. The halfway house is designed to help you adjust back into the community. It has curfews, rules, drug tests, and other restrictions. You are not guaranteed to go to a halfway house before your prison term is up. If you are not a U.S. citizen and do not have a green card, you will not go to a halfway house. If you are subject to deportation, that will happen after you serve your sentence.

Supervised Release: All federal inmates are placed on supervised release after their prison term is completed. Your supervised release begins the day you are released from federal prison or a halfway house. Supervised release is like being on probation or parole, but it happens only after your entire prison sentence is served. A federal Probation Officer will supervise you, and he or she has the right to conduct warrantless searches, random drug tests, and other types of monitoring.

APPEALS AND OTHER POST-CONVICTION RELIEF

RIGHT TO APPEAL: In general, you have a right to appeal your conviction and/or your sentence. You must file a notice of appeal within 14 days after the written judgment is filed. Your appeal will be decided by the United States Court of Appeals for the Third Circuit, which is located in Philadelphia, Pennsylvania.

You have the right to an attorney on appeal. If our office represented you in District Court, we will also handle your appeal, unless we have a conflict. If there is a conflict and you cannot afford an attorney, the court will appoint an attorney from outside this office. If you previously had a private attorney but cannot afford an attorney on appeal, you may ask to have an attorney appointed for your appeal.

PURPOSE OF AN APPEAL: Generally the purpose of an appeal is to correct legal errors. We must be able to argue a failure to produce legally sufficient evidence, or the misapplication of a relevant rule of evidence or criminal procedure, or a legal error involving a statute or the Constitution. Occasionally, we may be able to challenge a district court's factual findings, but it is very difficult to prevail on such a claim.

PLEA BARGAINS AND APPEALS: Unless you preserve the right to appeal rulings on pre-trial motions, your guilty plea waives the right to appeal any of the court rulings made prior to your plea. If you go to trial, however, you can appeal any rulings the judge made before, during, or after the trial. In other words, a plea of guilty generally limits your rights on appeal.

APPEALS TO THE UNITED STATES SUPREME COURT: If you lose your appeal before the Third Circuit Court of Appeals, you and your attorney may decide to appeal the decision to the United States Supreme Court. You should be aware, however, that the Supreme Court reviews very few cases on appeal and accepts only the most important cases for review every year.

If you and your attorney decide to appeal to the Supreme Court, your attorney will file a "*Petition for Writ of Certiorari*," which asks the Supreme Court to consider your appeal. If the Supreme Court grants the petition, it will order briefing and argument on the merits. If the Supreme Court denies the petition, the Third Circuit's decision will stand. The entire appeals process may take one to two years. Your attorney will inform you if your case presents any issues that can be presented to the Supreme Court.

OTHER POST-CONVICTION RELIEF: Federal prisoners can file motions attacking their sentence under 28 U.S.C. § 2255. A 2255 motion usually comes after an appeal, and usually claims that your constitutional rights were violated. You must file this motion within one year of the date that your conviction becomes final. At this stage, there is no right to appointed counsel. If you do not have the funds to hire private counsel, you must file the motion by yourself and ask the court to appoint an attorney for you. If an attorney is not appointed, you will have to represent yourself.

VIOLATIONS OF PROBATION OR SUPERVISED RELEASE

Supervised release involves strict rules, which are called "conditions." These conditions include drug testing and staying out of trouble. It is the Probation Officer's job to make sure that you follow these rules, and to report any violations to the judge. Try to establish a good working relationship with your Probation Officer so as to avoid problems that could lead to violations.

WHAT IS A VIOLATION? If your Probation Officer thinks that you have broken one of your conditions, you may be charged with a violation. If the judge finds that you have violated a condition of supervised release, you could go to prison.

If you are having trouble with your Probation Officer or think that you are in danger of being violated, call your attorney. In some situations, we can resolve a supervision problem before there is a formal violation charge.

NOTICE OF VIOLATION: Your Probation Officer or the prosecutor may file a violation notice, which tells the judge that they think you have violated one or more conditions of supervised release.

INITIAL APPEARANCE: You usually will appear before a Magistrate Judge. The judge will explain your rights and make sure that you have an attorney. If you previously had an attorney, he or she will probably represent you during this appearance. In some cases, you may get a different attorney from the Federal Public Defender's Office. If you had a private attorney but can no longer afford to pay for his or her services, the court may appoint an attorney for you.

Instead of pleading guilty or not guilty, you will be asked to admit to or deny the charged violation(s). This will occur at a separate court date shortly after your initial appearance.

VIOLATION HEARING: If you deny the charges, there will be a hearing. At the hearing, both sides have the chance to put on witnesses and evidence. There is no jury, and the judge will decide what happened. It is your decision whether or not to testify. Your attorney will explain the difference between the rules at a violation hearing and the rules at trial.

CONSEQUENCES OF A PROBATION OR SUPERVISED RELEASE VIOLATION: If the judge finds that you violated the conditions of your probation, he or she can keep you on probation or decide to revoke your probation. If probation is continued, the judge can change the conditions. If your probation is revoked, the judge will re-sentence you. The law states that the judge must revoke your probation if you possessed drugs or guns. The Sentencing Guidelines apply to revocations.

Supervised release begins after you are released from prison, and is a separate part of your federal sentence. If you violate, you will get a new prison term for the violation even if you served all the time on your original sentence. Also, your sentence for the violation can include another term of supervised release after you get out of prison again. Your attorney will explain how the Sentencing Guidelines apply to your situation.

IF YOUR VIOLATION WAS A NEW CRIMINAL OFFENSE: All violations of the law are also violations of supervision. If you get arrested on state or federal charges while on supervision, your Probation Officer may file a petition seeking to punish you for violating the conditions of supervised release. Your sentence for the violation will be separate from whatever sentence you might get in the other case, and will probably run consecutively to it. Your sentence for the

supervised release violation is punishment for disobeying the federal court; your sentence in the new case is the punishment for whatever you did to break the law. Discuss this with your attorney.