
SOME THINGS YOU SHOULD KNOW



**AN INTRODUCTION TO THE
FEDERAL PUBLIC DEFENDER OFFICE
AND THE FEDERAL COURT SYSTEM**

**FEDERAL PUBLIC DEFENDER OFFICE
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OFFICE OF THE FEDERAL PUBLIC DEFENDER

The Office of the Federal Public Defender represents people facing criminal charges in federal court who cannot afford to hire a lawyer to represent them. We are experienced in, and dedicated to, defending people charged with federal crimes.

Terms used in this brochure:

In federal court, “government” means the federal prosecutor(s), also called the Assistant United States Attorney or the U.S. Attorney’s Office. “The government” may also mean law enforcement officers.

“The court” means the judge.

“Filing a motion” means to send written papers or briefs to the court.

YOUR RIGHTS

You have the following rights while represented by this office:

- To reasonable contact with your attorney.
- To an explanation of the charges against you, the possible penalties, and any possible defenses.
- To be updated on the progress of your case and the investigation.
- To review correspondence, discovery, pleadings, and orders filed or received.
- To decide whether to go to trial or plead guilty.
- To decide whether to testify if you go to trial.

If you have any questions about your rights or your representation, first

contact the attorney assigned to your case. If you are still not satisfied, direct your questions to the Federal Public Defender.

WRITING YOUR ATTORNEY

Your mail to your attorney is confidential. However, it is wise to write on the envelope:

“CONFIDENTIAL ATTORNEY-CLIENT PRIVILEGE”

Include your return address, and, if you are incarcerated, include your inmate number. *Address the letter:*

[Name of Attorney]
Office of the Federal Public Defender
95 Pine Street, Suite 150
Burlington, VT 05401

Be careful what you write to other people. If the government obtains copies of letters you write to friends, other inmates, etc., that information can be used against you.

CALLING YOUR ATTORNEY

The Federal Public Defender Office phone is: (802) 862-6990. We accept collect calls from clients.

Your attorney will try to take your calls. However, she/he may not be available because of court appearances or other matters. If you call collect, your call may not be accepted if your attorney is unavailable.

CONFIDENTIALITY

Do not talk to anyone about your case without first discussing the matter with your attorney. Discussions you have with your attorney and others in the Federal Public Defender Office are confidential. But, things you tell your family, friends, or others, including cellmates, are **not** confidential. Such people can be subpoenaed to testify about what you have said—even if they do not want to testify.

The Federal Public Defender Office will not discuss your case with your family or friends unless you give permission.

COMMUNICATING FROM JAILS TO FRIENDS & FAMILY

You should assume that law enforcement is monitoring your phone calls and letters with friends and family. Do not discuss your case on the phone or in letters with anyone except your attorney.

CONTACT WITH LAW ENFORCEMENT

Always check with your attorney before talking to anyone about your case, particularly to law enforcement. Law enforcement agents may say they want to help you but talking to them could hurt your case.

OUTLINE OF A CRIMINAL CASE

- **Early Proceedings**
- **Indictment**
- **Preparing Your Case**
- **Trial**
- **Sentencing**
- **Appeal**

EARLY PROCEEDINGS

1. Initial Appearance

After arrest, the officer must take you before a judge without unnecessary delay. This is an *Initial Appearance*. The judge will tell you what the charges are and about your right to ask to have an attorney appointed to represent you. **You will not plead guilty or not guilty at this hearing.**

Before your initial appearance, a probation officer (Pretrial Services) will interview you about your background, your residence, etc. You may—and should—have an attorney with you at that interview.

You should not discuss *the charges* with the probation officer, because your statements *could* be used against you.

The pretrial services officer may also interview members of your family. The pretrial services officer will write a report. The judge will use it to determine whether to release or detain you.

2. Bail Hearing/Detention Hearing

If the government moves to detain you, your *detention hearing* will usually be held within 5 days of your initial appearance. You will be held in a jail until your detention hearing. At that hearing, the judge will decide whether to “release you on conditions” or to “detain” you.

3. Release Conditions

If you are released, the conditions may include:

- (a) a bond, secured or unsecured
- (b) home confinement with electronic monitoring.

If you are released, a probation officer will supervise you.

You should ***not try to contact*** any prosecution witness. If you do, your release could be revoked and you could be charged with a separate crime.

4. Preliminary Hearing

If you have been charged by a “Complaint,” (that is, not by an indictment), a *preliminary hearing* will be scheduled for within 10 days of your initial appearance. Note: you have the right to a preliminary hearing only if you are in custody (“detained”).

At that hearing, the prosecutor must present evidence to convince a judge there is enough evidence (“probable cause”) to continue to hold you on the charges.

INDICTMENT

1. Grand jury presentation

A federal prosecutor (“Assistant United States Attorney”) might present evidence about your case to a grand jury. A grand jury consists of 16-23 people who hear the government’s presentation. If the grand jury decides there *is* enough evidence against you to believe that you committed a crime, the grand jury will issue an indictment.

2. Arraignment

If you are indicted, you will have an *arraignment*. At the *arraignment*, the charge(s) will be read to you. You will enter a plea of not guilty to the charge(s). The judge will set the date for filing pre-trial motions and will tell you which district judge will preside over your case. The prosecutor has the obligation to provide certain evidence (also called “discovery”) to your attorney 14 days from the arraignment.

PREPARING YOUR CASE

1. Reviewing discovery, etc.

Your attorney will obtain copies of law enforcement reports and other evidence in the government’s case against you. Your attorney will go over the discovery with you. Obtaining the discovery could take several weeks.

Your attorney will keep you informed by phone, letter, or visit. If you have questions about your case, **write or call your attorney** and these matters will be explained to you.

2. Investigation

An investigator, who works with the attorney, might contact you. Anything you tell the investigator will be confidential as if you were talking with your attorney. The investigator can find and speak to witnesses to help your case. *You* should not contact witnesses. And you should not have a friend or family member contact a witness.

Be very careful about discussing your case with anyone, even your family. Conversations you have with someone *other than your attorney or other Federal Public Defender staff* could be used as evidence against you!

3. Motions

You and your attorney might file “pretrial motions.” Examples include: a motion to suppress statements or a motion to suppress evidence seized by police in a stop of your car. In such motions you will be asking the court to *exclude* certain evidence from trial. (In a motion to continue, your attorney would ask the court to extend a deadline.) **You should not file any motions on your own.**

4. Trial or Guilty Plea

Your right to a trial by jury is guaranteed by the United States Constitution. Your attorney will assist you in deciding to go to trial or not. The decision is yours.

TRIAL

The attorneys in this office are experienced trial lawyers. They will not try to “talk you into” pleading guilty. If you decide to go to trial the Federal Public Defender Office will have several people working hard to prepare your case for trial.

Your case will be tried before a jury of twelve people. You can present evidence and witnesses. *You* decide whether *you* will testify. Your attorney will give you advice on this, including the risks, but the decision is yours.

After all the evidence has been presented, each side gives a closing argument. The judge then reads instructions to the jury about how to consider the evidence. The jury then deliberates until it reaches a unanimous verdict. If the jury cannot agree on a unanimous verdict, a mistrial is declared.

SENTENCING

If you are convicted—either after a trial or by pleading guilty, you will be sentenced. Before deciding whether to go to trial, you and your attorney will talk about how the Sentencing Guidelines apply to your case.

1. Sentencing Guidelines

The Sentencing Guidelines apply to federal cases. They are the starting point to determine your sentence. Each crime is assigned a “**Base Offense Level.**” The offense level may increase or decrease depending on the circumstances of your case.

The Guidelines also determine your “**Criminal History Category.**” The category is determined by the number of previous sentences you have received. It also depends upon the length of previous sentences, and when you served them.

The “**Sentencing Table**” shows the recommended ranges of imprisonment under the guidelines. The guidelines are only advisory, and the judge may veer from your determined guideline range. Your attorney can present evidence to the judge to ask for a sentence *lower than* your guideline range. The government *may* present evidence supporting a sentence above your guideline range.

2. Sentencing Hearing

Before the sentencing hearing, a presentence investigation report (PSR) will be written by the United States Probation Office. You will be interviewed as part of that process. Your attorney will help prepare you and will be with you at the PSR interview.

Your attorney will review the PSR with you well before the sentencing hearing. If you have objections to the presentence report, you (by your attorney) can file objections with the probation officer. Any comments or objections will be resolved, either in the “final

presentence report” or at the sentencing hearing before the judge.

You may speak to the judge at your sentencing hearing. You should discuss that with your attorney beforehand.

The judge can allow other people to speak on your behalf, and the judge will consider “letters of support.” **Let your attorney know the names and addresses of people who could write such letters to the judge.**

Be prepared to be taken into custody at the sentencing hearing if you are sentenced to imprisonment. You are not likely to be given an opportunity to go home to “get your affairs in order.” Therefore, you should not carry cash or wear any jewelry, watches, or other items of value to the sentencing hearing.

Sometimes, the judge will allow a person to “self-report” to a federal prison on a date after the sentencing hearing. But those cases are rare.

3. Types of Sentences

Most people convicted in federal court receive a prison sentence. Probation is an option, but it is imposed in limited cases only. You could be “designated to,” or placed in, any “federal correctional institution” in the United States.

The Bureau of Prisons tries to place people as close to their home as possible. However, many factors are part of determining where your sentence will be served, including the offense itself, your prior record, etc.

There is no parole in the federal system. If sentenced to prison, you can expect to serve at least 85% of your sentence.

You will have to pay a special assessment of \$100 for each felony count of conviction. The special assessment is like a court cost. You pay it to the Clerk, United States District Court. The address and

location for the Clerk are on the court website at www.vtd.uscourts.gov.

In cases involving restitution, the court must order you to pay restitution. Also, the court may, and sometimes must, impose a fine.

4. Supervised Release

If you receive a sentence of incarceration, “supervised release” will also be imposed. That means that when you are released, you will then be supervised by a United States Probation Officer, generally for between two to five years.

If you violate the conditions of your supervised release, you can be sentenced to an additional term of confinement, followed by another period of supervised release.

APPEAL

If you are convicted (and sometimes even if you plead guilty) you may appeal your case. A notice of appeal must be filed within 14 days after judgment (the sentencing order) is filed or you lose the right to appeal. In an appeal, you explain to the appellate court (the U.S. Court of Appeals for the Second Circuit) how the judge did not follow the law or that certain Constitutional rights were denied you.

If you tell your attorney to file an appeal, he or she will do so. However, if your attorney believes there are no issues for an appeal, your attorney must submit a brief to the Court of Appeals that says, essentially, that no appeal issues were found.

Typically, the appeal of your case will take six months to a year or more to be decided. You do not have an automatic right to bail while your appeal is pending.