LANCE KENNEDY LAW

The Federal Case Book

What defendants and families need to know about federal court

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Contents

Read This First

If you are holding this book, a federal criminal case has probably entered your life. Maybe agents came to your door. Maybe a letter arrived from a United States Attorney's Office. Maybe someone you love called from a booking facility and said the words "federal charges," and you have spent every hour since trying to understand what that means. This book was written for that moment.

Here is the first thing to understand: federal court is not state court with a different flag on the wall. It is a separate system with its own prosecutors, its own judges, its own rules about getting out of jail, its own approach to evidence, and its own way of deciding sentences. Almost everything you know about "court" from television, from a past state case, or from friends who have been through the county courthouse will mislead you here. The habits that serve people in a Texas state case can hurt them badly in a federal one.

Here is the second thing: an indictment is not a conviction. A federal charge is an accusation. It is not evidence, and the government must still prove every element of every count beyond a reasonable doubt. Federal prosecutors are careful and well resourced, and it is true that most federal cases end in a conviction of some kind. But cases are dismissed, charges are narrowed, evidence gets suppressed, detention gets defeated, sentences come in far below what the family feared on the first night, and some defendants are acquitted. What happens in your case depends on facts no book can know. No honest lawyer will promise you an outcome, and neither will this book. What we can promise is a clear map.

Here is the third thing, and it may be the most important: **the federal timeline is front-loaded**. The government usually investigates for months or years before you ever hear about the case. Once charges are public, the most consequential events come fast: the initial appearance, the detention hearing, the early decisions about what to say and to whom. Then the case slows down for months of discovery and negotiation. People often get the rhythm exactly backwards. They drift through the early days, when the biggest decisions are being made, and then panic during the slow middle, when patience is what the case needs.

If you take only three sentences from this book, take these. Do not talk to agents, investigators, or anyone else about the facts without a lawyer. Get a lawyer who actually practices in federal court, as early as you possibly can, because the days before an indictment and the days right after an arrest are when the most is decided. And write down everything you remember while it is fresh, for your lawyer and no one else.

This book walks through a federal case in the order you will live it: how the case began before you knew it existed, the grand jury, the first days after arrest or summons, the people prosecuting you, the evidence you will see, the Sentencing Guidelines that shadow every decision, the choice between a plea and a trial, the two federal districts where our firm appears (the Western and Eastern Districts of Texas), sentencing day, federal prison designation, supervised release, and appeals. The last chapter tells you what to look for in a federal defense lawyer, whoever you hire.

Plain English, no scare tactics, no sugar. Let's start where the government started: long before you found out.

Chapter 1. How Federal Cases Start: The Investigation You Did Not Know About

By the time most people learn they are part of a federal case, the case is already old. That is the single biggest difference between state and federal practice, and it explains almost everything else about how these cases feel.

The case existed before you knew

A typical state arrest happens in real time: an officer sees something, an arrest follows within minutes, and the investigation largely ends there. A federal case usually runs in the opposite order. An agency opens an investigation, works it quietly for months or years, presents it to a federal prosecutor, and only then does anything become visible: a search warrant executed at dawn, agents at a workplace, a target letter, a grand jury subpoena, or an arrest. When the government finally knocks, it is usually because the investigation is close to done, not because it is starting.

Who does the investigating? Not the local police department. Federal cases are built by federal agencies: the FBI, the DEA, the ATF, Homeland Security Investigations (HSI), IRS Criminal Investigation, the Secret Service, the Postal Inspection Service, and a long list of inspector-general offices, often working together on task forces that may include local officers deputized for federal work. These agencies have subpoena power through the grand jury, sophisticated surveillance tools, forensic accountants, cooperating witnesses, and time. Time is their biggest advantage. They do not have to rush, so they usually don't.

The ways you find out

A federal investigation typically surfaces in one of five ways:

- **Agents at your door** (or your office, or your parents' house), asking to "just talk" and "clear a few things up."
- **A search warrant**, executed early in the morning, with agents seizing phones, computers, and documents.
- **A target letter** from the U.S. Attorney's Office telling you a grand jury is investigating you.
- **A grand jury subpoena** ordering you to produce documents or testify.
- **An arrest**, on a criminal complaint or an indictment you never saw coming.

Each of these is serious, and each is survivable. What matters most is what you do in the first hours after any of them.

Target, subject, or witness

Federal prosecutors sort the people in an investigation into three rough categories, and the Department of Justice's own manual defines them. A **target** is someone the prosecutor or grand jury has substantial evidence linking to a crime; in plain terms, a person the government expects to charge. A **subject** is someone whose conduct falls within the scope of the investigation; not yet a target, but not in the clear. A **witness** is someone believed to have useful information. These labels matter, and they move. Subjects become targets. Witnesses who talk carelessly become subjects. A target letter usually means charges are being considered but have not been filed, which means there is still time for a lawyer to do something about it: to learn what the government thinks it has, to present facts the agents never gathered, and sometimes to affect whether charges are filed at all, what the charges are, or how the case begins. That pre-indictment window is often the most valuable stretch of the entire case, and it closes for good the day the grand jury votes.

Agents at the door

Federal agents are trained interviewers. They are usually polite, they usually come in pairs, and they usually already know the answers to most of the questions they ask. The visit is not really an information-gathering exercise; it is often a test, and sometimes a trap for a statement the government can use later. You have an absolute right to decline the interview. Decline it clearly and out loud, because the law gives its strongest protection to a plain, express invocation of your rights to silence and to counsel, and every experienced federal practitioner, prosecutors included, would decline too.

> **If agents come to you, remember two sentences:** "I am not going to answer questions." "My lawyer will contact you." Say them politely, take the agents' business cards, close the door, and call a lawyer. Do not lie, ever: lying to a federal agent is itself a felony under 18 U.S.C. § 1001, punishable by up to five years, and it is one of the most commonly charged federal crimes. Do not delete, shred, or "clean up" anything: destroying records in a federal investigation can be charged as obstruction under 18 U.S.C. § 1519, which carries up to twenty years. Silence is legal. Lying and destroying are not.

One more thing about this stage: do not discuss the investigation with coworkers, friends, or family beyond the bare minimum, and stay off social media entirely. Casual conversations become witness interviews. Posts become exhibits. The people you talk to can be subpoenaed; your lawyer cannot be.

Chapter 2. The Grand Jury: Indictment vs. Complaint

Nearly every federal felony passes through a grand jury, an institution most people have heard of and almost no one understands. This chapter explains what it is, what it is not, and the two different doors through which a federal case can be charged.

What a grand jury actually is

The Fifth Amendment requires that federal felony charges be brought by a grand jury: a group of 16 to 23 citizens, sitting in secret, who hear the government's evidence and decide whether there is **probable cause** to believe a crime was committed and the person under investigation committed it. If at least 12 grand jurors agree, they return an **indictment**, the formal charging document. The rules are set by Federal Rule of Criminal Procedure 6.

Understand how one-sided this proceeding is. The prosecutor runs the room. There is no judge present during testimony, no defense lawyer at the table, no cross-examination, and no requirement that the grand jury hear your side at all. Hearsay is allowed; agents commonly summarize the whole investigation. Probable cause is a low standard, far below proof beyond a reasonable doubt. For all these reasons, grand juries indict in the overwhelming majority of cases the government presents. That is not a prediction about your guilt. It is a reason to treat the indictment as what the law says it is: an accusation, nothing more, and a description of the fight ahead rather than the result of it.

The two doors: complaint and indictment

Federal cases become public through one of two charging routes, and which one your case took tells you something.

Door one: the indictment first. In most investigated cases, especially white-collar and long-running drug conspiracies, the grand jury indicts before any arrest. The indictment may be sealed until agents make arrests, which is why some defendants are arrested on charges they never knew existed. Arrest or a summons follows, and the case proceeds to an initial appearance and arraignment.

Door two: the complaint first. When the government needs to move fast (a defendant about to flee, drugs seized at a stop, an ongoing danger), a prosecutor can file a **criminal complaint**: a charging document supported by an agent's sworn affidavit, reviewed by a magistrate judge, which authorizes an immediate arrest. A complaint is temporary scaffolding. If you are detained on a complaint, you are generally entitled to a preliminary hearing within 14 days (21 days if you were released), where a magistrate judge tests probable cause, unless the grand jury indicts first, which is what usually happens. And under the Speedy Trial Act, the government generally must obtain an indictment within 30 days of an arrest on a complaint. So a complaint case converts into an indictment case within weeks.

There is a third path worth knowing: a defendant can **waive indictment** and agree to be charged by an "information," a charging document filed by the prosecutor without a grand jury. That almost always happens as part of a negotiated plea, and if you ever see it in your case, it means a deal has been struck.

The complaint affidavit is your first discovery

If your case began with a complaint, read the agent's affidavit carefully with your lawyer. It is the government's own preview of its theory: what it thinks happened, which sources it relied on, and sometimes what it does not yet have. Defense lawyers mine complaint affidavits for inconsistencies, overstatements, and investigative shortcuts that later become suppression motions and cross-examination.

If you receive a grand jury subpoena

A subpoena to produce documents or to testify is a court order. Do not ignore it, and do not comply with it on your own either. Whether you are a witness, a subject, or a target changes everything about how to respond, and testimony inside that secret room is given under oath without your lawyer beside you (counsel can wait outside, and you may leave to consult). The Fifth Amendment privilege against self-incrimination applies, but using it well takes advice. Get counsel before you respond in any way.

Chapter 3. The First Days: Arrest, Initial Appearance, and the Fight Over Detention

The first week of a public federal case decides more than any other week except the last one. This chapter walks through it hour by hour, with special attention to the decision that dominates everything early: whether you fight the case from home or from a cell.

Arrest or summons

A federal case begins for you in one of two ways: agents arrest you (on a complaint or an indictment warrant), or you receive a **summons** directing you to appear in court on a certain date. A summons is common in white-collar cases and is quietly good news; it usually signals that the government does not view you as a flight risk or danger, which sets a favorable tone for release. If your lawyer is involved before charges land, counsel can sometimes negotiate a self-surrender instead of a dawn arrest, which spares your family the spectacle and helps the release argument. It is one more reason early counsel matters.

The initial appearance

Under Federal Rule of Criminal Procedure 5, an arrested person must be taken before a magistrate judge "without unnecessary delay," which usually means the same day or the next business day. The initial appearance is short. The judge tells you the charges, advises you of your rights, addresses counsel (if you cannot afford a lawyer, the court appoints the Federal Public Defender or a private panel attorney under the Criminal Justice Act), and takes up the question of release or detention. Early in every federal case, at the first court date where both the prosecutor and your lawyer are present, the judge is also required to order the prosecution, on the record, to honor its constitutional duty to turn over favorable evidence; more on that in Chapter 5.

Say nothing about the facts of your case at this hearing or in the holding cells around it. Marshals, agents, and cellmates are not your friends, and phone calls from federal detention facilities are recorded.

There is no bail bondsman in federal court

Forget the state-court model of posting a bond through a bondsman against a bond schedule. Federal court has neither. Release and detention are governed by the **Bail Reform Act, 18 U.S.C. § 3142**, and the question is never "how much money," but rather two others: Is there a serious risk you will not appear? Is there a serious risk to the safety of any person or the community? A judge answering those questions can do one of three things: release you on your personal recognizance or an unsecured bond, release you on **conditions**, or order you **detained** until trial because no condition or combination of conditions will reasonably assure your appearance and the community's safety.

Conditions are the middle ground where most contested cases land, and they can include: reporting to Pretrial Services, travel limits, surrender of your passport, home detention or a curfew, location monitoring (an ankle unit), drug testing and treatment, mental health treatment, no contact with witnesses or codefendants, employment requirements, a third-party custodian (a responsible person who vouches for you and reports violations), and secured bonds backed by property or money. The judge tailors the package to the case.

Pretrial Services: the interview that shapes everything

Shortly after arrest, an officer from **U.S. Pretrial Services** will interview you. Pretrial Services is an arm of the court, not the prosecution. Its officer investigates your background (family, residence, employment, finances, health, substance use, criminal history), verifies what can be verified, and writes a report recommending release conditions or detention. Judges read these reports closely and often follow them.

> **The Pretrial Services interview has one iron rule:** be truthful about your background, and say nothing about the facts of the alleged offense. The interview is not the place to explain, minimize, or argue. Lies about your history will surface, and they poison the court's trust at the exact moment you need it. If a lawyer is available to you before the interview, ask to speak with counsel first. Also tell your family: if Pretrial Services calls them to verify information or to ask someone to serve as custodian, prompt cooperation genuinely helps.

The detention hearing

The government cannot seek detention in every case. Section 3142(f) lists the categories: crimes of violence, offenses with very long maximum sentences, serious drug offenses, certain repeat offenders, cases with a serious risk of flight or of obstruction, and others. When the government moves for detention, the court holds a **detention hearing**, immediately at the first appearance unless either side seeks a short continuance: up to three days for the government, up to five days for the defense (not counting weekends and holidays). People often ask why the defense would ever delay. Because a detention hearing you win beats a detention hearing you rush. Those few days let counsel verify a residence, line up a custodian, document employment, and build a release plan the judge can actually adopt. You remain detained during the continuance, which is painful, but a prepared hearing is usually worth it.

At the hearing, the judge weighs the factors in § 3142(g): the nature and circumstances of the offense, the weight of the evidence, your history and characteristics (family ties, employment, community ties, past record, past court appearances), and the danger release would pose. The rules of evidence do not apply; both sides may proceed by proffer.

One more concept you must know: the **presumption of detention**. For certain charges (most notably drug offenses carrying a maximum of ten years or more under the Controlled Substances Act, firearm offenses under 18 U.S.C. § 924(c), and certain offenses involving minors), the law presumes that no conditions will suffice, and the defense must come forward with evidence to rebut that presumption: a stable residence, a custodian, treatment, employment, a track record of appearing. The presumption can be rebutted, and regularly is, but nobody rebuts it by showing up unprepared. If you lose before the magistrate judge, the decision can be appealed to the district judge under 18 U.S.C. § 3145, and a hearing can be reopened later if important new information comes to light.

	Texas state court	Federal court
Who decides release	Magistrate sets bail, often from a schedule	A federal magistrate judge, under the Bail Reform Act
Bail bondsman	Standard practice	Does not exist
The key question	Bond amount	Flight risk and danger; conditions vs. detention
Who investigates you for release	Usually no one	U.S. Pretrial Services, which reports to the judge
Denial of release	Historically rare, though Texas's 2025 bail changes, including Proposition 3, now let judges deny bail outright for certain violent or sexual felonies	Presumption applies by statute to certain drug, firearm, and other charges; rebuttable
If released	Bond conditions, often light supervision	Pretrial Services supervision, sometimes with monitoring

The arraignment

After indictment comes the arraignment, a brief hearing where the charges are read and you enter a plea. The plea at arraignment is essentially always "not guilty," even in cases that later resolve by agreement, because it preserves every option while your lawyer obtains and studies the evidence. The court then sets a schedule, and the case enters its long middle phase.

Chapter 4. The Team on the Other Side

Knowing who is prosecuting you, and how they work, removes a lot of fear and replaces it with something more useful: realism.

The United States Attorney's Office

Federal charges are brought in the name of the United States by a **United States Attorney's Office** (USAO), a branch of the Department of Justice. Each of Texas's four federal districts has its own office. The Western District's office is headquartered in San Antonio with roughly 300 personnel and staffed branches that include Austin, Waco, Del Rio, El Paso, Midland, and Alpine. The Eastern District's office is headquartered in Beaumont, with offices in Beaumont, Lufkin, Tyler, Texarkana, Sherman, and Plano. The office is led by the United States Attorney, a presidential appointee, but your case will be handled day to day by an **Assistant United States Attorney** (AUSA), a career prosecutor.

AUSAs differ from county prosecutors in ways you will feel. They carry smaller caseloads. They choose their cases, or at least their office does, declining matters they do not think they can prove. They are involved before charges are filed, shaping the investigation rather than inheriting it. And they operate under Justice Department policies that govern charging, plea agreements, and sentencing positions. None of this makes them unbeatable. It makes them prepared, which is a different thing, and it tells you what your defense must be: equally prepared.

The case agent

Every federal prosecution has at least one **case agent**: the FBI, DEA, ATF, HSI, or IRS-CI agent (or task force officer) who built the investigation. The case agent is not a background figure. They sit at the government's table in court, they testify, they hunt down whatever the AUSA needs mid-case, they interview witnesses right up through trial, and they stay involved through sentencing. When you were approached for "a quick conversation," that was probably the case agent. Everything you said, and how you said it, went into a report of interview that both sides will read for the life of the case.

What this means for your defense

Take the other side seriously and take heart at the same time. The government's advantages are real: time, resources, subpoena power, cooperating witnesses. But its burdens are real too. It must prove guilt beyond a reasonable doubt to a unanimous jury. It must turn over evidence that helps you, as the next chapter explains. Its searches and interrogations must survive the Fourth and Fifth Amendments or the fruits get suppressed. Its cooperators come with baggage that a capable cross-examiner can unpack in front of a jury. Federal cases are not won by outgunning the government. They are won at the seams: the illegal stop, the overbroad warrant, the exaggerated loss figure, the cooperator with a motive, the element the evidence does not quite reach.

Chapter 5. Discovery: What the Government Must Show You

Once a case is charged, the government has to open its files, though not all of them and not all at once. Understanding what you are entitled to see keeps the process from feeling like a black box.

Rule 16: the core disclosures

Federal Rule of Criminal Procedure 16 requires the government, on request, to disclose the core of its case:

- **Your statements:** written or recorded statements you made, and the substance of oral statements you made to known government agents, including that doorstep interview.
- **Your criminal record.**
- **Documents and objects:** items the government intends to use in its case, items material to your defense, and items taken from you (the contents of your seized phone and computers live here).
- **Examinations and tests:** lab reports, forensic analyses, and the like.
- **Expert disclosures:** a summary of any expert opinion the government will offer, its bases, and the expert's qualifications.

Discovery runs both ways: once the defense requests these categories, it takes on reciprocal duties for the material it intends to use. In a modern federal case, the production can be enormous (phone extractions alone can run to hundreds of thousands of pages' worth of data), and much of it will arrive under a protective order limiting who may see it and how. If you are detained, ask your lawyer how you will get access to review your own discovery; there are systems for it, and reviewing the evidence yourself is part of preparing your defense.

Brady and Giglio: the evidence that helps you

Beyond Rule 16, the Constitution itself requires disclosure. Under *Brady v. Maryland*, the government must turn over evidence favorable to the accused that is material to guilt or punishment: the witness who described someone else, the lab note that undercuts the report, the fact that cuts against the government's theory. Under *Giglio v. United States*, that duty extends to **impeachment** material: anything that undermines the credibility of a government witness, including plea deals, promises of leniency, payments to informants, prior inconsistent statements, and a cooperator's own record. In a system where so many cases rest on cooperating witnesses, Giglio material is often where the real fight is.

Since 2020, federal law has added teeth. Under the Due Process Protections Act, at the first scheduled court date where both the prosecutor and defense counsel are present, the judge must enter an oral and written order, under Rule 5(f), confirming the prosecution's Brady obligations and the consequences of violating them. That order converts a constitutional duty into a direct court order, with contempt and other sanctions available for violations.

What discovery does not include, and when things arrive

Two honest cautions. First, federal discovery is narrower than many people expect. There are generally no depositions in a federal criminal case, no right to interview the government's witnesses in advance, and no general right to the grand jury's materials. Second, some material arrives late by design: under the Jencks Act, a testifying witness's prior statements need not be produced until after the witness testifies, although in practice most prosecutors produce them before trial. Your lawyer will push, through requests and motions to compel, for earlier and broader disclosure; judges have discretion, and local practice varies by district and by judge.

Discovery is not paperwork. It is the raw material for everything that follows: the motion to suppress the search, the challenge to the loss calculation, the cross-examination of the cooperator, and the honest sit-down conversation about whether this case should be tried or resolved. Which brings us to the number that hangs over every one of those conversations: the guideline range.

Chapter 6. The Sentencing Guidelines: The Number Behind Every Decision

No part of the federal system confuses families more than the Sentencing Guidelines, and no part matters more. From the first proffer session to the last sentencing memo, every strategic conversation in a federal case happens in the shadow of a guideline range. This chapter explains how the number is built, what can move it, and what can override it. Read it twice if you need to. It is the heart of the book.

What the Guidelines are

The United States Sentencing Guidelines are a national point system, written by the U.S. Sentencing Commission and updated regularly (the current manual took effect November 1, 2025). They exist to make sentences more consistent from courtroom to courtroom. The system produces an **advisory range in months** from two inputs: an **offense level** from 1 to 43, and a **criminal history category** from I to VI. Where those two intersect on the Commission's sentencing table, you find the range.

Input one: the offense level

Every federal crime maps to a guideline that assigns a **base offense level**. On top of the base, the guidelines add or subtract for **specific offense characteristics**: drug type and quantity in a trafficking case, the loss amount and number of victims in a fraud case, whether a weapon was possessed, whether a victim was injured. Then come broader adjustments: aggravating role (organizer or leader) adds levels, minor role subtracts, obstruction of justice adds, abusing a position of trust adds. Two features surprise people most:

- **Relevant conduct.** The guideline calculation is not limited to the counts of conviction. Conduct that was part of the same scheme or course of conduct can count, even conduct from dismissed counts, if the judge finds it by a preponderance of the evidence at sentencing.
- **Small facts, big swings.** A quantity threshold, a loss table bracket, or a two-level enhancement can move the range by years. This is why guideline litigation, objecting to the math fact by fact, is real lawyering and not paperwork.

Acceptance of responsibility

A defendant who clearly accepts responsibility for the offense, almost always by pleading guilty and being straight with the court, receives a **two-level reduction** under guideline § 3E1.1. If the offense level before that reduction is 16 or greater and the government moves for it based on a timely plea, a **third level** comes off. Three levels is a large move on the table; at the higher levels it can mean years. This reduction is one of the strongest currents pushing federal cases toward pleas, and you should understand it early, because acceptance credit can be lost by delay, by obstruction, or by going to trial.

Input two: criminal history

Your past is scored in points: generally 3 points for each prior sentence longer than 13 months, 2 points for each prior sentence of at least 60 days, and 1 point for other countable convictions (capped), with rules about how old is too old to count. Since a 2023 amendment, the extra "status points" for offending while on probation, parole, or supervised release apply only to people who already have 7 or more points, and then only as a single point. The points map to categories:

Criminal history points	Category
0 or 1	I
2 or 3	II
4, 5, or 6	III
7, 8, or 9	IV
10, 11, or 12	V
13 or more	VI

Two special rules cut in opposite directions. If you have **zero** criminal history points and your offense involved none of a list of aggravating factors (violence, guns, and others), guideline § 4C1.1 subtracts two offense levels; many first-time defendants qualify. At the other end, "career offender" and "armed career criminal" provisions can drive the range dramatically upward for people with qualifying prior convictions. Which priors count, and how, is technical and frequently contested; do not assume your record scores the way you fear it does, in either direction.

The table, with a sample

The full sentencing table is a grid of 43 levels by six categories. Here is a small excerpt so you can see how the two inputs interact (ranges in months):

Offense level	Category I	Category III	Category VI
15	18 to 24	24 to 30	41 to 51
20	33 to 41	41 to 51	70 to 87
25	57 to 71	70 to 87	110 to 137
30	97 to 121	121 to 151	168 to 210

The table is also divided into zones that matter at the low end: in Zone A (ranges starting at zero) probation alone is possible, and in Zones B and C various splits of confinement and supervision are available, while Zone D calls for imprisonment. Whether your case can land in a probation-eligible zone is one of the first questions your lawyer will run down.

The Guidelines are advisory: § 3553(a)

Since the Supreme Court's decision in *United States v. Booker* in 2005, the Guidelines are **advisory, not mandatory**. The judge must calculate the range correctly and consider it, but the sentence itself is governed by 18 U.S.C. § 3553(a), which commands a sentence "sufficient, but not greater than necessary," weighing the nature of the offense, your history and characteristics, deterrence, protection of the public, rehabilitation, and the need to avoid unwarranted disparities. Judges can and do sentence below the range (a "variance") when the human facts justify it, and above it when they cut the other way. This is why sentencing advocacy (the mitigation investigation, the letters, the treatment record, the honest account of who you are beyond the worst thing you are accused of) is not a formality. It is where cases are won after they are lost.

Mandatory minimums: the floor the Guidelines cannot break

Some statutes carry a **mandatory minimum** set by Congress, and a mandatory minimum beats the guideline math. Common examples: drug quantities at the thresholds of 21 U.S.C. § 841(b)(1)(A) carry a ten-year minimum, quantities at the § 841(b)(1)(B) thresholds carry five years, and using or possessing a firearm in furtherance of a drug crime or crime of violence under 18 U.S.C. § 924(c) carries at least five years that must run **consecutive** to everything else (seven if brandished, ten if discharged). When a minimum exceeds the guideline range, the minimum becomes the guideline sentence. Whether a mandatory minimum is in play, and whether the charge carrying it can be avoided or negotiated away, is one of the first and most important questions in any federal case.

There are exactly two reliable paths under a mandatory minimum:

- **The safety valve, 18 U.S.C. § 3553(f).** In qualifying drug cases, a defendant can be sentenced below the minimum, without any help to the government beyond honesty, by meeting five conditions: limited criminal history (the statute disqualifies you if you have more than 4 history points excluding one-point offenses, or a prior 3-point offense, or a prior 2-point violent offense; the Supreme Court held in 2024 that any one of those disqualifies); no violence or credible threats and no gun in connection with the offense; no death or serious injury resulting; no organizer or leader role; and a full, truthful debrief to the government before sentencing. The debrief is not cooperation against anyone; it is telling the truth about your own conduct.
- **Substantial assistance.** If you cooperate and the government concludes your help was substantial, it can file a motion under guideline § 5K1.1 (and, to go below a statutory minimum, under 18 U.S.C. § 3553(e)) asking the court to sentence below the range or the minimum. After sentencing, the same door can reopen: under Rule 35(b), the government can move to reduce an already-imposed sentence for substantial assistance, generally within one year. Two hard truths: only the government can file these motions, and cooperation carries risks and moral weight that deserve a careful, private conversation with your lawyer, never a rushed one.

About every number in this chapter: any guideline figure you compute, read, or hear early in a case is an estimate, and the range itself is advisory. A real calculation depends on the offense guideline, relevant conduct, adjustments, criminal history scoring, statutory limits, and rulings the judge has not made yet. No lawyer can promise you a sentence, and you should walk away from any who does. What a good lawyer can do is fight every disputed level, position you for every reduction the law allows, and then advocate under § 3553(a) for the person you actually are.

Chapter 7. Plea or Trial in the Federal System

At some point, every federal case arrives at the same fork: resolve it by agreement, or try it to a jury. The overwhelming majority of federal convictions come from guilty pleas, not verdicts. That statistic is not a command, and it must never be treated as one. It is the backdrop against which you and your lawyer will make the most personal decision in the case, and it is **your** decision. Your lawyer advises; only you decide whether to plead guilty, and only you decide whether to go to trial.

Why so many federal cases plead

Be clear-eyed about the incentives. A timely guilty plea earns the acceptance-of-responsibility reduction described in Chapter 6, up to three levels. A negotiated agreement can drop counts, cap the government's arguments, avoid a charge carrying a mandatory minimum, or lock in a specific outcome for the judge to accept or reject. Cooperation, for those who choose it, runs through the plea process. And a plea trades the uncertainty of trial for a known set of exposures. Against all that stands the trial itself: the government's burden to convince twelve jurors unanimously, beyond a reasonable doubt, with your lawyer testing every witness. When the evidence has real seams, trial is not a gamble; it is leverage, and sometimes it is the only just answer. Prosecutors price cases differently when they know the defense will actually try one.

How federal plea agreements work

Federal pleas run through Rule 11, and it has features that surprise people:

- **The judge stays out of negotiations.** The deal is struck between defense and government; the judge may not participate in the discussions.
- **Most agreements do not bind the judge.** The common form is a recommendation agreement: the government agrees to recommend certain things, but the judge remains free to sentence anywhere the law allows, and you generally cannot withdraw the plea because the sentence disappoints you. A less common form, the binding agreement, fixes a specific sentence or range; the judge must accept the agreement or let you withdraw the plea.
- **The colloquy is real.** Before accepting a plea, the judge questions you under oath in open court to confirm the plea is knowing and voluntary, that there is a factual basis, and that you understand every right you are giving up. Answer honestly. This record follows you.
- **Appeal waivers are standard.** Most federal plea agreements include a waiver of most appellate rights. Courts enforce these, with narrow exceptions. Understand exactly what you are waiving before you sign, not after.

Deciding

There is no formula, but there is a method. With discovery reviewed and motions resolved or evaluated, you and your lawyer should be able to put honest answers next to these questions: What is the realistic guideline range after a plea, and after a trial loss? Is a mandatory minimum in play either way, and can it be avoided? How strong is the suppression issue, and what happens to the case if it wins? What do the cooperating witnesses actually say, and how will they hold up? What are the immigration, professional, and family consequences of each path? (If you are not a U.S. citizen, no plea should ever be entered before a clear analysis of the immigration consequences, which often means bringing an immigration lawyer into the conversation; a plea that saves months in prison and guarantees deportation may be no bargain at all.) A decision made from that kind of ledger, on your timeline rather than the government's, is one you can live with either way.

Never plead guilty to a crime you did not commit, and never let anyone rush you. If a proposed deal depends on facts that are not true, say so. And remember that until a plea is accepted in open court, you retain every right you were born with, including the right to make the government prove its case.

Chapter 8. Two Districts, Two Worlds: The Western and Eastern Districts of Texas

Texas has four federal judicial districts. This chapter covers the two where our firm's offices sit: the Western District (WDTX), stretching from Austin and Waco to El Paso and the Big Bend, and the Eastern District (EDTX), running from the Gulf Coast through East Texas to the northern Dallas suburbs. Federal law is national, but where your case lands changes the courthouse, the judges, the prosecutors' office, the jury pool, and the rhythm of the docket. Here is the terrain.

The Western District of Texas

The WDTX covers 68 counties and roughly 93,000 square miles, organized by statute (28 U.S.C. § 124(d)) into seven divisions. The district's headquarters is San Antonio, and the U.S. Attorney's Office for the district is headquartered there as well, with branch offices including Austin, Waco, Del Rio, El Paso, Midland, and Alpine.

Division	Main courthouse	Coverage highlights
Austin	Austin U.S. Courthouse, 501 West Fifth Street, Austin	17 counties, including Travis, Williamson, Hays, Bastrop, and Caldwell
Waco	Waco U.S. Courthouse, 800 Franklin Avenue, Waco	13 counties, including McLennan and Bell (the Temple and Fort Hood area)
San Antonio	San Antonio U.S. Courthouse, 262 West Nueva Street, San Antonio (district headquarters)	14 counties, including Bexar, Comal, and Guadalupe
El Paso	Albert Armendariz, Sr. U.S. Courthouse, 525 Magoffin Avenue, El Paso	El Paso County only
Del Rio	Del Rio U.S. Courthouse, 111 East Broadway, Del Rio	7 border-region counties, including Maverick and Val Verde
Pecos	Lucius D. Bunton, III U.S. Courthouse, 410 South Cedar Street, Pecos (court also held in Alpine)	10 counties, including Hudspeth and the Big Bend region
Midland-Odessa	George H.W. Bush and George W. Bush U.S. Courthouse, 200 East Wall Street, Midland	6 Permian Basin counties, including Midland and Ector

What gives the WDTX its character is the border. The Del Rio, El Paso, and Pecos divisions sit on or near the Rio Grande, and their dockets carry a high volume of immigration-related and drugtransport prosecutions, some handled on expedited "fast-track" programs. That volume shapes everything: how quickly cases move, how plea offers are structured, and how much individual attention any single case gets by default (which a prepared defense can change). The Austin and San Antonio divisions, by contrast, run large urban dockets with the full range of federal work: drug conspiracies, firearms, fraud and white-collar cases, and child-exploitation prosecutions.

The Eastern District of Texas

The EDTX covers 43 counties and more than 50,000 square miles, organized into six divisions, with court held in seven cities because the Sherman Division sits in both Sherman and Plano. The court's administrative home is Tyler, while the district's U.S. Attorney's Office is headquartered in Beaumont, with staffed offices in Beaumont, Lufkin, Tyler, Texarkana, Sherman, and Plano; the Marshall Division has no staffed prosecutor's office of its own and is covered from the district's other offices.

Division	Main courthouse	Coverage highlights
Beaumont	Jack Brooks Federal Building and U.S. Courthouse, 300 Willow Street, Beaumont (home of the U.S. Attorney's Office headquarters)	6 Gulf Coast counties, including Jefferson and Orange
Lufkin	Ward R. Burke U.S. Courthouse, 104 North Third Street, Lufkin	9 deep East Texas counties
Marshall	Sam B. Hall Jr. Federal Building and U.S. Courthouse, 100 East Houston Street, Marshall	6 counties, including Harrison
Sherman	Paul Brown U.S. Courthouse, 101 East Pecan Street, Sherman; court also held at 7940 Preston Road, Plano	8 counties, including Collin, Denton, and Grayson; the district's most populous division
Texarkana	U.S. Courthouse and Post Office, 500 North State Line Avenue, Texarkana	4 counties on the Arkansas line
Tyler	William M. Steger Federal Building and U.S. Courthouse, 211 West Ferguson Street, Tyler (the court's administrative headquarters)	10 counties, including Smith and Gregg

A note that confuses many families: Plano is not a seventh division. If your paperwork says "Sherman Division" but lists a Plano courtroom, that is normal. And while the EDTX is nationally famous for its patent docket in Marshall and Tyler, that fame is a civil phenomenon; it tells you nothing about how criminal cases run. The EDTX is not a border fast-track district. Its criminal work runs toward drug trafficking along the region's highway corridors (I-10, I-20, I-30, U.S. 59, and U.S. 75), firearms offenses, fraud and white-collar matters, and cases built by the federal task forces working the region. The Sherman Division, taking in the booming Collin and Denton county suburbs, carries an increasingly heavy and sophisticated docket.

What actually changes with the district, and what does not

- **Changes:** the courthouse and its rules, the judges and their practices, the U.S. Attorney's branch office and its priorities, the jury pool (an Austin jury and a Lufkin jury are different rooms), the speed of the docket, and the local legal culture, which in smaller divisions means the same judges, prosecutors, and defenders see one another constantly.
- **Does not change:** the Federal Rules of Criminal Procedure, the Bail Reform Act, the Sentencing Guidelines, the Speedy Trial Act, and the road to the Fifth Circuit. The law is the same; the terrain is not.

Practical courthouse notes, both districts: every federal courthouse screens visitors, restricts phones and electronics (rules vary by building and judge), and expects business-appropriate dress. Arrive early, bring identification, and confirm the current rules for your specific courthouse before every hearing.

Chapter 9. Sentencing Day and the Bureau of Prisons

If your case ends in a conviction, by plea or verdict, the case is not over. In many ways the most consequential phase is just beginning, and it rewards preparation like nothing else in the process.

The presentence investigation

After conviction, a U.S. Probation officer prepares the **Presentence Investigation Report (PSR)**: the document that will follow you for the rest of the case and beyond. The officer interviews you (with your lawyer present; take that seriously), gathers records, interviews the government, and produces a report that calculates the guidelines and tells your life story: family, education, work, health, finances, substance use, and criminal history. The rules give the process structure: the PSR must be disclosed at least 35 days before sentencing, objections are due within 14 days, and the final report with unresolved objections goes to the judge at least 7 days before the hearing.

Fight for the PSR you deserve. Judges rely on it heavily at sentencing, and afterward the Bureau of Prisons uses it to decide nearly everything about your custody: security classification, facility, program eligibility. An error that seems harmless in the courtroom can cost you a camp placement or a treatment program later. Object to what is wrong, and supplement what is missing.

The sentencing hearing

Sentencing day has a rhythm: the judge resolves objections and states the guideline calculation, both sides argue, victims may speak in cases with victims, and you have the right of **allocution**, the chance to address the court directly. Whether and how to use it is a decision to make carefully with counsel; sincere, specific words matter, and hollow ones hurt. The judge then pronounces sentence: custody or probation, supervised release, restitution, fines, forfeiture, and a special assessment. Before the hearing, your lawyer will have filed a sentencing memorandum and assembled mitigation: character letters, treatment records, work history, and the fullest honest picture of who you are. This is not decoration. Under § 3553(a), it is the argument.

If the sentence includes custody and you have been on release, the judge decides whether you may **self-surrender** to your designated facility on a later date, which is both more humane and better for placement, or must be remanded that day.

BOP designation: where you serve

The judge does not pick your prison. The court can recommend a facility or region, and a good lawyer asks for specific, realistic recommendations (including program recommendations), but the **Federal Bureau of Prisons** makes the designation under 18 U.S.C. § 3621(b), based on security level, medical and program needs, bed space, and your PSR. The law directs BOP to place people as close as practicable to home, generally within 500 driving miles, to the extent practicable. Facilities run from minimum-security camps through low, medium, and high-security penitentiaries, plus medical and administrative centers.

How time is actually served

There is **no parole** in the federal system; it was abolished for offenses committed on or after November 1, 1987. What exists instead:

- **Good conduct time:** up to 54 days per year of the sentence imposed, for compliance with prison rules.
- **First Step Act earned time credits:** eligible people who complete recidivism-reduction programming can earn 10 to 15 days of credit per 30 days of participation, applied toward earlier transfer to prerelease custody (halfway house or home confinement) or up to 12 months of earlier transfer to supervised release. Eligibility depends on the offense and a risk assessment; not everyone qualifies.
- **The Residential Drug Abuse Program (RDAP):** for those who qualify with a documented substance-use history, completing this intensive program can reduce a sentence by up to a year in eligible cases. Documenting substance-use history honestly in the PSR is what keeps this door open.

Planning for designation, programs, and credits is part of the defense, not an afterthought. The difference between a well-prepared sentencing package and a careless one is measured in real months of a real person's life.

Chapter 10. Supervised Release: The Sentence After the Sentence

Most federal prison terms are followed by **supervised release**: a period of court supervision, overseen by a U.S. Probation officer, that begins the day custody ends. Families often overlook it during the case, and people coming home often underestimate it. Both are mistakes. Supervised release is part of the sentence, and violating it can send a person back to prison years after the courtroom went quiet.

What it is, and what it is not

Supervised release is authorized by 18 U.S.C. § 3583 and is imposed at sentencing as its own term, served **after** the prison term, not instead of any part of it. It is not parole. Parole released people early under a board's supervision; supervised release adds supervision on top of a fully served sentence. For most felonies the term runs up to three or five years depending on the offense class, but some drug statutes require longer minimum terms, and some offenses, including certain drug and sex offenses, authorize supervision up to life.

Living under supervision

Everyone on supervised release must follow standard conditions: report to a probation officer as directed, answer truthfully, work or seek work, stay away from new criminal activity and from felons, submit to drug testing, notify the officer of address and job changes, and remain within the judicial district without permission to travel. Judges add special conditions fitted to the case: substance-abuse or mental-health treatment, financial disclosures and restrictions in fraud cases, computer monitoring in some cases, restitution payment schedules. Two pieces of practical advice from the far side of many cases: treat your probation officer as a professional relationship worth investing in, and never let a small problem (a missed test, a lost job, a move) become a hidden one. Officers have discretion, and candor early is cheaper than discovery later.

Violations and revocation

If the government or the probation officer alleges a violation, the court holds a revocation hearing. The standard is preponderance of the evidence, not beyond a reasonable doubt, and there is no jury. Violations range from technical (missed appointments, failed tests) to new criminal conduct, and the consequences range from a warning or modified conditions to revocation and a return to prison, up to caps set by statute based on the offense class. New criminal conduct is the fastest road back. Take violations seriously and take counsel with you; revocation practice is its own discipline with its own guidelines.

The good news

Supervision can end early. After one year, the court may terminate supervised release if your conduct and the interests of justice warrant it, and judges regularly grant well-supported motions from people who have rebuilt: steady work, clean tests, paid restitution, stable home. Early termination is a goal worth planning for from the first month of supervision, and it is one more place where good lawyering has work to do after the "case" is over.

Chapter 11. Appeals: The Fifth Circuit and Beyond

A federal conviction or sentence out of either Texas district discussed in this book is reviewed by the **United States Court of Appeals for the Fifth Circuit**, which sits in New Orleans and hears federal appeals from Texas, Louisiana, and Mississippi. An appeal is a real chance, and also a specific, limited tool. Knowing what it can and cannot do will spare you both false hope and missed opportunity.

The deadline comes first

Fourteen days. In a criminal case, the notice of appeal generally must be filed within 14 days after the judgment is entered. It is a short, hard deadline. If you want to appeal, or even think you might, tell your lawyer immediately at sentencing; if you were sentenced and your lawyer has not discussed an appeal with you, raise it yourself, in writing, today. Filing the notice costs almost nothing and preserves everything.

What an appeal is

An appeal is not a retrial. The Fifth Circuit does not hear witnesses, take new evidence, or substitute its judgment about who was telling the truth. It reviews the written record of what happened in the district court for **legal error**: a wrongly denied suppression motion, an incorrect jury instruction, evidence admitted that should have been excluded, insufficient evidence on an element, a misapplied guideline, an unreasonable sentence. The standards of review do a lot of work here. Issues your lawyer preserved by objecting are reviewed under ordinary standards; issues raised for the first time on appeal face the much steeper "plain error" test. This is one more reason trial-level lawyering matters: appeals are built, or lost, in the district court record.

Remember also that most plea agreements contain appeal waivers. A waiver does not always end the inquiry (some claims survive), but it narrows the field, and it is a factor to weigh back at the plea stage, not after.

How it unfolds

The appeal proceeds on a transcript and written briefs, sometimes with oral argument before a three-judge panel. The timeline is measured in months, often a year or more from notice to decision. The possible outcomes: the court affirms; it vacates the conviction or sentence and remands for a new trial, new hearing, or resentencing; or, rarely, it reverses outright. Honest expectations matter: most criminal appeals end in affirmance, and yet reversals and remands happen every month in the Fifth Circuit, usually in cases where a focused brief presented one or two strong issues instead of ten weak ones. After the Fifth Circuit, the only direct step remaining is a petition asking the Supreme Court of the United States to take the case, which is entirely discretionary and rarely granted.

After the direct appeal

Separate from the direct appeal is a motion under 28 U.S.C. § 2255, a collateral attack on the conviction or sentence filed back in the trial court, generally within one year after the judgment becomes final. This is where claims that depend on facts outside the record, most commonly ineffective assistance of counsel, are usually raised. It is a distinct tool with its own strict rules and deadlines. If a direct appeal ends unsuccessfully, get advice about § 2255 promptly; the clock is unforgiving.

Chapter 12. Choosing Federal Counsel

Everything in this book leads to one practical question: who stands next to you? Federal criminal defense is its own discipline. The Bail Reform Act, the Guidelines, Rule 16 practice, and federal trial and sentencing advocacy are not state-court skills under another name, and a lawyer must be admitted to the bar of the federal district court to appear there at all. Here is how to choose well, whoever you choose.

What actually matters

- **Federal experience, specifically.** Ask directly: How much of your practice is federal criminal work? Have you handled cases in this district, before these judges? Have you tried federal cases and argued federal sentencings?
- **Guidelines fluency.** Within a conversation or two, a capable federal lawyer should be able to sketch the guideline issues in your case, the enhancements in play, the reductions worth fighting for, and whether a mandatory minimum looms. If the conversation never leaves generalities, keep looking.
- **Detention-hearing readiness.** The first fight comes fast. Ask what the release plan will be and how the lawyer prepares for detention hearings in presumption cases.
- **Pre-indictment capability.** If you are at the target-letter or subpoena stage, you need someone who has worked that window, where the quietest lawyering does the most good.
- **A prosecutor's-eye view.** Knowing how the government builds, charges, and prices a case is a genuine advantage. Our firm's founding attorney is a former Assistant United States Attorney and a former Special Assistant United States Attorney in the Eastern District of Texas, and is admitted to the Supreme Court of the United States and the U.S. Court of Appeals for the Fifth Circuit. That background does not guarantee anything (nothing does), but it means your defense is planned by someone who has sat on the other side of the table and knows how the decisions across it actually get made.

A word about appointed counsel

If you cannot afford a lawyer, the court will appoint the Federal Public Defender or a Criminal Justice Act panel attorney. Let us say something some private lawyers will not: federal defenders are, as a group, experienced specialists who try federal cases regularly, and many panel lawyers are excellent. If you are represented by appointed counsel, work with them fully. If your family is weighing whether to retain private counsel, the honest comparison is not "paid versus free" but the specific lawyer's federal experience, time for your case, and fit with you.

Questions to ask, and flags to walk away from

Ask any lawyer you interview: Who will actually work my case? What are the first three things you would do? What are the guideline issues you see so far? How do you charge, and what does the fee cover (through trial? sentencing? appeal?)? How will you communicate with me and my family? Then trust your judgment about the answers. And walk away, quickly, from anyone who guarantees an outcome, claims special influence with a judge or prosecutor, pressures you to decide on the spot, or cannot explain their fee in writing. No ethical lawyer promises results, in this book or in any office you will ever sit in. The promises that can honestly be made are these: preparation, candor, and a defense that fights every fight worth having.

The road ahead

If you have read this far, you know more about the federal system than most people who walk into it, and you know the through-line of every chapter: the system is serious, and it is navigable. Cases are shaped at the door interview that never happened, the detention hearing that was prepared, the objection that moved the loss table, the mitigation that reached the judge, the surrender date that preserved a camp placement, the notice of appeal filed on day three. None of it requires panic. All of it rewards early, deliberate action.

If a federal case has entered your life in the Western or Eastern District of Texas, or you fear one is coming, talk to a federal defense lawyer now, while the widest set of options is still open. Ours is a phone call away, and the case review is free and confidential.

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