



## Public Defenders Office Guide

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## Introduction

This document was created in light of the U.S. Attorney Manual to act as an equivalent for the Public Defender's Office. It is to be used as a learning tool to introduce individuals to the position of public defender. From personal experience, the position of Public Defender can be the most rewarding and entertaining legal position there is, and the more you understand the nuances of the NUSA legal system the better you become at the position. Defence is one of the best ways to make a name for yourself, as prosecution is usually led by the U.S. Attorneys or the District Attorney General yet defence is almost always centred around the Public Defender. Success as a public defender gives great recognition in the DoJ and in the Judiciary, often leading to a fantastic career.

This guide includes templates and how to format them, pretrial procedure, trial procedure, post trial procedure, good strategy as a PD, how to appeal a case, ethics of practicing, then a conclusion. Thanks for reading and I wish you well in your future career as a Public Defender!

- *SanurahI*

## Formats

Templates can be located at [this](#) trello. For each template, you will need to fill in your name, the necessary information (some templates will require you to delete information as required, such as the Motion to Strike an Affidavit) and other details such as the judge, case code and date. All motions should be filed within a timely and organized manner. Common motions include the following;

- [Discovery Motion](#)
  - A motion requesting the prosecution turns over any and all evidence relevant to the case in accordance with [FRCRMP Rule 16\(a\)](#)
- [Motion for a Bill of Particulars](#)
  - A bill of particulars is requested by the defence to ensure the prosecution understands the evidence and supplies the defence with adequate detail of the evidence so every party is on the same page in regards to the evidence, this usually includes detailed timestamps of any videos, weapons used in an incident, people involved, witnesses and contact information
- [Motion for Dismissal](#)
  - This motion is filed when the prosecution has made a mistake or the case is unfair towards the defendant in a way that violates the constitution, federal rules or SCOTUS precedent

- [Motion to strike Affidavit](#)
  - This motion is filed when the affidavit accompanying the criminal information in some way violates the constitution, the U.S. Code, federal rules or SCOTUS precedent
- [Motion to strike Criminal Information](#)
  - This motion is filed when the Criminal Information violates the constitution, the U.S. Code, federal rules, SCOTUS Precedent or, most commonly, [FRCRMP Rule 7\(c\)\(1\)](#)
- [Motion to strike surplusage from the Criminal Information](#)
  - This motion is filed when the criminal information contains unnecessary information needing to be struck.

Other templates include;

- [Response to a discovery motion](#)
  - If the prosecution motions for discovery, file this motion to turnover all evidence (which is usually none)
- [Plea Deal](#)
  - Sometimes you can enter into a plea deal with the prosecution, which trades a guilty plea for a reduced sentence

## Case Guide

### Pretrial

Pretrial proceeds in the following way;

- Prosecution submits Criminal Information and Affidavit
- Summons is served, either the defendant is not located or requests a PD which leads to;
- PD is appointed by the CPD
- Time period for pretrial motions, it's recommended you file as many as possible
- Trial scheduling, where you'll schedule with the prosecution for a trial

### Trial

Trial usually proceeds in the following way;

- Prosecution gives opening statement followed by your opening statement
  - Your opening statement should introduce your argument but not argue it, it should acknowledge viewers, the prosecution and the judge and it should declare your clients innocence
- Prosecution presents evidence then argues evidence, you will rebut
  - Your argument has to be founded on the definition of the laws, the FRCRMP, the FRE or SCOTUS Precedent. Random argumentation harms your general argument and hurts the case. Only speak in regards to the evidence and the prosecution's arguments, don't attack the prosecution or the judge.
- Prosecution gives closing statement, you give closing statement, prosecution rebuts
  - In your closing statement, submit any final rebuttals and lay out your case clearly again. Make a statement saying prosecution has failed to prove beyond a reasonable doubt that your client is guilty and thus your client has to be declared not guilty for the sake of justice (something along those lines).

### Post Trial

Post trial usually is just the judge giving his/her verdict followed by sentencing, where you can argue for a reduced sentence or accept the sentence presented against you.

## Strategy

There are various strategies you can employ in your defence, most of which can be employed concurrently. Here are a few;

- You can file as many motions as possible, arguing every single aspect of the case and every single thing presented by the prosecution. Ensure all of your motions are formatted properly and founded in the FRCRMP, FRE, SCOTUS Precedent, the Constitution, or the legal definitions. Essentially, the goal here is to make the prosecution do so much work that they fail to meet a set time from the judge, then you motion to dismiss due to failure to prosecute and violations of your clients 5th and 14th amendment rights to a fair and speedy trial.
- You can attack the charges in trial through a mens rea attack. *Morissette v. United States*, 342 U.S. 246 (1952) described two separate classes of crime, one of which required a mental state and another which didn't. The class which did not require a mental state was offenses against public welfare. For the first class which requires a mental state, such as murder and stealing, prosecution must prove a guilty mind. A public defender can argue this guilty mind can't be adequately proven and thus the defendant cannot be considered guilty.
- A simple yet effective strategy is to attack the definitions of the laws in a trial. Explicitly citing the definitions and nitpicking each individual word can convince a judge that the prosecution does not understand what a law details and thus is failing to adequately prosecute, leading to a ruling in your favour.
- Another useful strategy in all phases of a case is to hound your opponent. This involves some of the previously mentioned strategies. The general idea is to cause as much of a problem as possible, by challenging each document, filing a load of motions, making every possible objection and attacking your opponent's argument from all sides. This weakens their argument and makes you seem actively involved in the case, and if everything you're doing is legitimately founded in law and precedent you're defending your client to an excellent standard.
- During any sort of argumentation, whether it's in trial or over a motion, everything states **must** originate from some rule, law, or constitutional dictate. If your opponent doesn't do this, constantly mention it. Make sure the judge understands the prosecution is failing to do what they are supposed to do at a fundamental level, it'll strengthen your argument as a whole.
- Always make sure you understand the laws your client is being charged with. This means knowing the definitions, knowing major SCOTUS rulings on said laws, and understanding how things like stare decisis and mens rea play into it. Then, once you've completely understood the law, you need to attack the prosecution's argument from every side to attempt to logically screw them and their ideas.

## Appeals

If you lose a case for a ridiculous reason, like the judge's verdict not aligning with the law, a mistake in the trial, or an error from the courts, you still have the option to appeal. You'll need to write and file a Petition for a [Writ of Certiorari](#), then once all the filing is complete you'll need to file a [brief](#) with the Supreme Court/Court of Appeals. After that, oral arguments will take place (although the petitioner may file a response to a brief from the respondent) and then questions will be asked by the justices viewing the case.

An appeal isn't something you should attempt to do after every loss. It should only be done if a loss was clearly and ridiculously incorrect or unfounded.

## Ethics

For this section, I'll go over courtroom ethics only. Other requirements should be present in guidelines and NDA's.

A judge is more likely to rule for you if you're respectable compared to when you aren't. Individuals who consistently get contempt usually don't go very far in the judicial branch, and judges pick up on that. You don't want a reputation as an asswipe.

- Always, whenever you are addressing the judge, you are always to say either "Your Honour" or "Honour [Name]."
- **NEVER INSULT THE JUDGE**
  - Genuinely this is one of the stupidest things you can do
- Never insult the prosecutor, rather, insult their argument through counter arguments and logically sound statements with grammar, punctuation, and formality.
- Always act mature and professional. You're representing your client and the DoJ in front of the whole justice system.
- Relevancy is vital to a case, never make an irrelevant statement as it retracts from everything else discussed.

## Conclusion

I wrote this mostly as a teaching aid for incoming defenders. The Public Defenders' Office is, in my opinion, the most entertaining esquire position you can have. You file minimal paperwork, you get to run a case by yourself with minimal external input, you don't have the same pressure as the prosecution, and you learn everything you need to know about the law while having fun arguing a case. This is also a fantastic way to launch a career within the DOJ and/or the Judicial Branch, if that's what you're looking for. All you need is to consistently do good in your cases, you don't even necessarily have to win.

As a disclaimer, this guide doesn't cover the FRCRMP, the Constitution, DOJ policy, or the law as written.

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Thank you for reading, and welcome to the Office of Public Defenders.

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