

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

1. **Name**: State full name (include any former names used).

Jane Louise Kelly

2. **Position**: State the position for which you have been nominated.

United States Circuit Judge for the Eighth Circuit

3. **Address**: List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

Federal Public Defender's Office, Northern District of Iowa
320 Third Street SE, Suite 200
Cedar Rapids, Iowa 52401

4. **Birthplace**: State year and place of birth.

1964; Greencastle, Indiana

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

1993 – 1994, University of Illinois College of Law; LLM student (no degree obtained)

1988 – 1991, Harvard Law School; J.D. (*cum laude*), 1991

1983 – 1987, Duke University; B.A. (*summa cum laude*), 1987

Spring 1986, University of Bath, England; Higher Education in Europe, Semester Abroad Program (no degree obtained)

Summer 1985, Rice University (Sevilla, Spain); Summer School Session (no degree obtained)

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation

from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

1994 – present

Federal Public Defender's Office, Northern District of Iowa
320 Third Street SE, Suite 200
Cedar Rapids, Iowa 52401
Assistant Federal Public Defender (1994 – present)
Supervising Attorney (1999 – present)

1993 – 1994

University of Illinois College of Law
504 East Pennsylvania Avenue
Champaign, Illinois 61820
Visiting Instructor

1992 – 1993

United States Court of Appeals for the Eighth Circuit
Cedar Rapids, Iowa 52401
Judicial Clerk to the Honorable David R. Hansen (now retired)

1991 – 1992

United States District Court for the District of South Dakota
Pierre, South Dakota 57501
Judicial Clerk to the Honorable Donald J. Porter (deceased)

Summer 1990

The University of North Carolina at Chapel Hill
Knapp-Sanders Building, Campus Box 3330
Chapel Hill, North Carolina 27599
Law Clerk at the Institute of Government (now School of Government)

Summer 1989

Ice, Miller, Donadio, & Ryan (Ice Miller LLP)
One American Square, Suite 2900
Indianapolis, Indiana 46287
Summer Associate

1987 – 1988

University of Otago, Department of Paediatrics and Child Health
Health and Development Research Unit
Dunedin, New Zealand
Visiting Researcher (Fulbright Scholar)

Summers 1987 and 1988

Duke University

Talent Identification Program
1121 West Main Street
Durham, North Carolina 27701
Teaching Assistant

7. **Military Service and Draft Status:** Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

I have never served in the military, and I am not required to register for selective service.

8. **Honors and Awards:** List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

John Adams Award, Iowa Association of Criminal Defense Attorneys, 2004

Fulbright Scholarship, 1987

Phi Beta Kappa, 1986

9. **Bar Associations:** List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

Dean Mason Ladd Inn of Court (approx. 1994 – 1996)

National Association of Criminal Defense Lawyers (2001 – 2003, 2005)

United States District Court for the Northern District of Iowa

Facility Security Committee (2012 – present)

Blue Ribbon Panel for Criminal Cases (2007 – present)

Criminal Justice Act (CJA) Panel Selection Committee (approx. 1999 – present)

10. **Bar and Court Admission:**

- a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

Indiana, 1991

There have been no lapses in membership.

- b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse

in membership. Give the same information for administrative bodies that require special admission to practice.

Supreme Court of the United States, 1999

United States Court of Appeals for the Eighth Circuit, 1994

United States District Court for the Northern District of Iowa, 2001

There have been no lapses in membership.

11. Memberships:

- a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Duke University Alumni Association (1987 – present)

Harvard Law School Alumni Association (1991 – present)

- b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

Neither of the organizations listed in response to 11a above currently discriminates or formerly discriminated on the basis of race, sex, religion, or national origin.

12. Published Writings and Public Statements:

- a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

Warren R. Stanton, Jane L. Kelly, Deborah A. Bunyan, Phil A. Silva, "Expected Gain in Body Mass and Onset of Menarche," Australian and New Zealand Journal of Obstetrics and Gynaecology, 1992. Copy supplied.

J.L. Kelly, W.R. Stanton, R. McGee, P.A. Silva, "Tracking Relative Weight in Subjects Studied Longitudinally from Ages 3 to 13 Years," *Journal of Paediatrics and Child Health*, 1992. Copy supplied.

Jane L. Kelly, Warren R. Stanton, Phil A. Silva, Thomas E. Jordan, "Comparison of United States and New Zealand Children's Body Mass Scores," *Journal of The Royal Society of Health*, April 1991. Copy supplied.

- b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

I have not prepared, or contributed in the preparation of, any reports, memoranda or policy statements on behalf of any bar association, committee, conference, or organization.

- c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

I have not given any testimony, official statements, or other communications relating, in whole or in part, to matters of public policy or legal interpretation. No one has presented any such testimony, official statements, or other communications on my behalf.

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

I have not kept a complete list of all the presentations I have given. I have reviewed my files and other available information in an effort to locate information about as many of my speaking engagements as possible. The following list comprises all of the speaking engagements for which I have a record or that I otherwise recall. It is my general practice to speak from rough handwritten notes, which normally are not saved in my files. I have also spoken at the University of Iowa College of Law on various career day panels, discussing

my role and practice as an Assistant Federal Public Defender. These panels have taken place both at the University of Iowa College of Law in Iowa City, Iowa, and in Cedar Rapids, Iowa at the federal courthouse, but I do not have a record of specific dates on which these panel discussions took place. Finally, I have done a number of presentations that were sponsored by the Federal Defender of Iowa. They are listed below, and where I prepared my own notes or other materials for use during the presentation, they are supplied. Most of these presentations are also listed on the organization's website, along with links to the materials distributed during the presentations (including those I did not prepare). See http://ias.fd.org/english/cja_seminars.php. In sum, I have done my best to provide a complete listing of all of my speaking engagements, but it is possible that I have omitted one or more speaking engagements of which I have no record or no specific memory.

May 24, 2012: Panel Discussion Member, "Discovery," at a seminar entitled Federal Criminal Law and Procedure, sponsored by the Federal Defender of Iowa, Des Moines, Iowa. I spoke on a panel with other attorneys to discuss matters related to discovery in federal criminal cases, including the increasingly common practice of providing discovery by means of electronic media. I have no notes, transcripts, or recording. The address for the Federal Defender's office is 400 Locust Street, Suite 340, Des Moines, Iowa 50309.

May 26, 2011: Co-presenter, "Criminal Defense in the Era of Social Media," at a seminar entitled Federal Criminal Law and Procedure, sponsored by the Federal Defender of Iowa, Des Moines, Iowa. I have no notes, transcripts, or recording. The address for the Federal Defender's office is 400 Locust Street, Suite 340, Des Moines, Iowa 50309.

May 13, 2010: Panel Discussion Member, "Everyday Ethics for Criminal Defense Lawyers," at a seminar entitled Federal Criminal Law and Procedure, sponsored by the Federal Defender of Iowa, Des Moines, Iowa. Materials prepared for use during the panel discussion are supplied.

May 21, 2009: Panel Discussion Member, "Plea Negotiations: Dealing with Prosecutors and Difficult Clients," at a seminar entitled Federal Criminal Law and Procedure, sponsored by the Federal Defender of Iowa, Des Moines, Iowa. I have no notes, transcripts, or recording. The address for the Federal Defender's office is 400 Locust Street, Suite 340, Des Moines, Iowa 50309.

November 20, 2008: A colleague and I were scheduled to present "Postville Postmortem" at a seminar entitled Federal Criminal Law and Procedure, sponsored by the Federal Defender of Iowa, Des Moines, Iowa. Due to illness, I was unable to participate in this presentation. I have no notes, transcript, or recording. The address for the Federal Defender's office is 400 Locust Street, Suite 340, Des Moines, Iowa 50309.

November 17, 2008: Panel Discussion Member, "The Postville, Iowa, Prosecutions," at Loyola University School of Law, Chicago, Illinois. My role included discussing generally how the cases were handled by the prosecution, the defense attorneys, and the court, and describing some of the specific challenges that criminal defense attorneys faced. I have no notes, transcripts, or recording. The event was sponsored by the Federal Bar Association of Chicago, Workplace Enforcement and Immigration Program, Federal Plaza Center, P.O. Box 1200, Chicago, Illinois 60690.

September 18, 2008: Panel Discussion Member, "The Post-Postville Conference," Kansas City, Missouri. My role included discussing generally how the cases were handled by the prosecution, the defense attorneys, and the court, and describing some of the specific challenges that criminal defense attorneys faced. I have no notes, transcripts, or recording. The sponsor of the conference was the Federal Public Defender of Kansas, 201 United States Courthouse, 500 State Avenue, Kansas City, Kansas 66101.

March 13, 2008: Speaker: "Civil Commitment of Sexually Dangerous Persons," at a Brown Bag Lunch for CJA Panel Attorneys, sponsored by the Federal Defender of Iowa, Cedar Rapids, Iowa. Notes supplied.

January 30, 2008: Speaker: "Recent Developments in Federal Sentencing," Iowa City, Iowa. A colleague in Johnson County, Iowa asked me to speak at a relatively informal gathering of criminal defense attorneys. Notes supplied.

June 21, 2007: Co-presenter, "Current Issues in Federal Criminal Law," at the Annual Meeting of the Iowa State Bar Association, Des Moines, Iowa. Power Point slides prepared by my co-presenter and shown during our presentation are supplied. My recollection is that I used roughly the same set of notes that is provided for the June 23, 2006 presentation on the same topic.

November 30, 2006: Co-presenter, "Use of Polygraphs," at a seminar entitled Federal Criminal Law and Procedure, sponsored by the Federal Defender of Iowa, Des Moines, Iowa. Notes and materials supplied.

June 23, 2006: Co-presenter, "Current Issues in Federal Criminal Law," at the Annual Meeting of the Iowa State Bar Association, Des Moines, Iowa. Power Point slides prepared by my co-presenter and shown during our presentation are supplied, as well as my handwritten notes.

November 30, 2005: Panel Discussion Member, "Mental Health Issues," at a seminar entitled Federal Criminal Law and Procedure, sponsored by the Federal Defender of Iowa, Des Moines, Iowa. I have no notes, transcripts, or recording. The address for the Federal Defender's office is 400 Locust Street, Suite 340, Des Moines, Iowa 50309.

June 29, 2005: Brief welcoming remarks at the start of the “Take Back The Trail” event, Cedar Rapids, Iowa. I have no notes, transcripts, or recording. This event had no sponsor.

February 15, 2005: Speaker, “Federal Criminal Law,” at a program entitled the Lunch and Learn Series, sponsored by Southwestern Community College, Creston, Iowa. I spoke about the types of criminal cases brought in federal court, the nature of federal sentencing, and some of the particular challenges that defense attorneys face in federal court. I have no notes, transcripts, or recording. The address for Southwestern Community College is 1501 West Townline Street, Creston, Iowa 50801.

November 2004: Remarks following acceptance of John Adams Award, given by the Iowa Association of Criminal Defense Lawyers, Des Moines, Iowa. I have no notes, transcripts, or recording, but press coverage is supplied. The address for the Iowa Association of Criminal Defense Lawyers is 2400 University Avenue, Des Moines, Iowa 50311.

June 9, 2004: Speaker, “Eighth Circuit Update,” at a seminar entitled Federal Criminal Law and Procedure, sponsored by the Federal Defender of Iowa, Des Moines, Iowa. I have no notes, transcripts, or recording. The address for the Federal Defender’s office is 400 Locust Street, Suite 340, Des Moines, Iowa 50309.

November 21, 2003: Speaker, “Defending a Methamphetamine Case.” I believe this panel was sponsored by the local Criminal Justice Act (CJA) Panel in Madison, Wisconsin, but I have been unable to confirm this. Materials supplied. Additionally, I used the same set of notes that is provided for the October 10, 2003 presentation on the same topic.

November 20, 2003: Panel Discussion Member, “Everyday Ethics in Federal Practice,” at a seminar entitled Federal Criminal Law and Procedure, sponsored by the Federal Defender of Iowa, Des Moines, Iowa. I have no notes, transcripts, or recording. The address for the Federal Defender’s office is 400 Locust Street, Suite 340, Des Moines, Iowa 50309.

November 4, 2003: Panel Discussion Member, “Sentencing Issues,” at the CJA Panel Attorney Seminar, sponsored by the Federal Defender of Iowa, Cedar Rapids, Iowa. I have no notes, transcripts, or recording. The address for the Federal Defender’s office is 400 Locust Street, Suite 340, Des Moines, Iowa 50309.

October 10, 2003: Speaker, “Defending Methamphetamine Cases,” at the CJA Panel Attorney Seminar, sponsored by the Office of the Federal Public Defender, Middle District of Tennessee, Nashville, Tennessee. Materials and notes supplied.

November 14, 2002: Speaker, "Revocation of Probation and Supervised Release," at the Seminar for New Assistant Federal Defenders, sponsored by the Office of Defender Services of the Administrative Office of the U.S. Courts, Santa Fe, New Mexico. I have no notes, transcript, recording.

September 13, 2002: Co-presenter, General Practice Seminar on Federal Criminal Law, sponsored by the Continuing Legal Education Program of the University of Iowa College of Law, Iowa City, Iowa. Notes supplied.

June 6, 2002: Speaker, "Eighth Circuit Update," at a seminar entitled Federal Criminal Law and Procedure, sponsored by the Federal Defender of Iowa, Des Moines, Iowa. I have no notes, transcripts, or recording. The address for the Federal Defender's office is 400 Locust Street, Suite 340, Des Moines, Iowa 50309.

June 8, 2001: Speaker, "Eighth Circuit Update," at a seminar entitled Federal Criminal Law and Procedure, sponsored by the Federal Defender of Iowa, Des Moines, Iowa. I have no notes, transcripts, or recording. The address for the Federal Defender's office is 400 Locust Street, Suite 340, Des Moines, Iowa 50309.

June 16, 2000: Speaker, "Legal Writing," at a seminar entitled Federal Criminal Law and Procedure, sponsored by the Federal Defender of Iowa, Des Moines, Iowa. Materials supplied.

February 2, 2000: Panel Discussion Member, "Life Outside of Work," sponsored by the University of Iowa College of Law. I was on a panel of attorneys discussing how to balance a rewarding professional life with an equally satisfying personal life. I have no notes, transcripts, or recording. The address of the University of Iowa College of Law is 290 Boyd Law Building, Iowa City, Iowa 52242.

June 17, 1999: Speaker, "Sentencing Procedure," at a seminar entitled Iowa Federal Defender Seminar for Davenport CJA Attorneys, sponsored by the Federal Defender of Iowa, Davenport, Iowa. I have no notes, transcripts, or recording. The address for the Federal Defender's office is 400 Locust Street, Suite 340, Des Moines, Iowa 50309.

May 20, 1999: Co-presenter, "The Sweat Patch – Will it Work?" at a seminar entitled Federal Criminal Law Update, sponsored by the Federal Defender of Iowa, Des Moines, Iowa. My co-presenter and I spoke about the increasingly common use of the sweat patch to detect illegal drug use among persons under the supervision of the federal criminal court. I have no notes, transcripts, or recording. The address for the Federal Defender's office is 400 Locust Street, Suite 340, Des Moines, Iowa 50309.

September or October, 1997: Speaker at the ceremony for Paul Papak upon his official appointment as Federal Defender of Iowa, Cedar Rapids, Iowa. I have no notes, transcripts, or recording. The address for the Federal Defender's office is 400 Locust Street, Suite 340, Des Moines, Iowa 50309.

April 25, 1996: Speaker, "Appeals in Federal Criminal Cases," at a seminar entitled Federal Criminal Law Update, sponsored by the Federal Defender of Iowa, Des Moines, Iowa. I have no notes, transcripts, or recording. The address for the Federal Defender's office is 400 Locust Street, Suite 340, Des Moines, Iowa 50309.

In addition, I have been a guest lecturer at the University of Iowa College of Law in a course entitled Federal Criminal Practice, which is taught by two federal prosecutors. The topics I have covered include voir dire, opening statements, cross examination, and closing arguments. I have spoken at this class for the past several years, with the most recent time being October 2012. I also was a guest speaker at the University of Iowa College of Law at a course on the federal sentencing guidelines in the fall of 2011. Finally, I have been a guest lecturer on federal criminal law at Kirkwood Community College, although I do not recall the year. I have no notes, transcripts, or recording.

- e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

Rekha Basu, *An Attack on Attorney Puts Values to the Test*, Des Moines Register, Nov. 17, 2004. Copy supplied.

In June 2005, I was interviewed by two local television stations, KCRG and KGAN, about an upcoming event called "Take Back The Trail," a gathering of the community at a local biking/running trail on the one-year anniversary of my being attacked by an assailant on the trail on June 29, 2004. An article also appeared in the Cedar Rapids Gazette the following day, describing the event. I do not have copies of the interviews, but a copy of the article is available at: <http://newspaperarchive.com/cedar-rapids-gazette/2005-06-30/page-11>.

13. **Judicial Office:** State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

I have never held judicial office.

- a. Approximately how many cases have you presided over that have gone to verdict or judgment? _____

i. Of these, approximately what percent were:

jury trials:	____%
bench trials:	____% [total 100%]
civil proceedings:	____%
criminal proceedings:	____% [total 100%]

- b. Provide citations for all opinions you have written, including concurrences and dissents.
- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).
- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.
- e. Provide a list of all cases in which certiorari was requested or granted.
- f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.
- g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.
- h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.
- i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.
14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have

come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

I have never held judicial office.

- a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;
- b. a brief description of the asserted conflict of interest or other ground for recusal;
- c. the procedure you followed in determining whether or not to recuse yourself;
- d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

15. **Public Office, Political Activities and Affiliations:**

- a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

I have never held public office. I have not had any unsuccessful candidacies for elective office or unsuccessful nominations for appointed office.

- b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

I served as a poll watcher for the Democratic party on October 6, 2012, during early voting in Iowa. I played no other role in any political campaign.

16. **Legal Career:** Answer each part separately.

- a. Describe chronologically your law practice and legal experience after graduation from law school including:
 - i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I served as a judicial clerk to the Honorable Donald J. Porter, United States District Court Judge for the District of South Dakota, from August 1991 to August 1992.

I served as a judicial clerk to the Honorable David R. Hansen, United States Circuit Judge for the Eighth Circuit Court of Appeals, from August 1992 to July 1993.

- ii. whether you practiced alone, and if so, the addresses and dates;

I have never practiced law alone.

- iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

1994 – present

Federal Public Defender's Office, Northern District of Iowa

320 Third Street SE, Suite 200

Cedar Rapids, Iowa 52401

Assistant Federal Public Defender (1994 – present)

Supervising Attorney (1999 – present)

- iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

I have never served as a mediator or arbitrator in alternative dispute resolution proceedings.

b. Describe:

- i. the general character of your law practice and indicate by date when its character has changed over the years.

I began work as an Assistant Federal Public Defender in Cedar Rapids, Iowa, in July 1994. I remain in this position to date. Attorneys in the Federal Defender's office represent defendants in federal criminal court who are financially unable to hire private counsel. Since 1999, I have been the supervising attorney for the Cedar Rapids office of the Federal Defender. In my capacity as supervising attorney, I assist the Federal Defender in personnel and administrative matters in the Cedar Rapids office, and I am the main point of contact for the court and other agencies.

- ii. your typical clients and the areas at each period of your legal career, if any, in which you have specialized.

As an Assistant Federal Public Defender, I represent indigent defendants charged in federal criminal court. Since 1994, I have represented clients at all stages of a federal criminal case, including pre-trial matters, trial, sentencing, appeal, and post-conviction proceedings. The attorneys in the Federal Defender's office in Iowa do not specialize in any particular area of criminal law. As a result, I have represented clients charged with a wide range of criminal offenses, including but not limited to drug, firearm, money-laundering, immigration, fraud, and child pornography offenses.

- c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

My practice as an Assistant Federal Public Defender has been entirely in litigation. I appear in court frequently, sometimes multiple times per day. The frequency with which I have appeared in district court has remained relatively constant since 1994. In addition to trials, I represent my clients in contested detention hearings, suppression hearings, revocation hearings, and sentencing hearings. I prepare and file motions to suppress, motions to dismiss, and briefs in support of disputed sentencing issues. In my first several years as an Assistant Federal Public Defender, I also represented clients at oral argument before the Eighth Circuit Court of Appeals. Since the late 1990s, I have submitted relatively few briefs to the Court of Appeals, as the Cedar Rapids office's appellate cases are now handled primarily out of the Des Moines office of the Federal Defender of Iowa.

- i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|------|
| 1. federal courts: | 100% |
| 2. state courts of record: | 0% |
| 3. other courts: | 0% |
| 4. administrative agencies: | 0% |

- ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|------|
| 1. civil proceedings: | 0% |
| 2. criminal proceedings: | 100% |

- d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

To the best of my recollection, I have tried fourteen cases to jury verdict. Of these, I was sole (and chief) counsel in nine cases. I was associate counsel in five of the cases. I have also served as stand-by counsel in one additional criminal trial.

- i. What percentage of these trials were:
 1. jury: 100%
 2. non-jury: 0%
- e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

To the best of my memory, I have submitted only one petition for writ of certiorari to the Supreme Court of the United States, *Buchanan v. United States*, 99-5122, *cert. denied*, 528 U.S. 887 (1999). Copy supplied.

17. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

- a. the date of representation;
 - b. the name of the court and the name of the judge or judges before whom the case was litigated; and
 - c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.
1. *United States v. Mendoza Alvarez*, Case No. 94-114 (S.D. Iowa), *rev'd*, 79 F.3d 96 (8th Cir. 1996).

I represented Mr. Mendoza Alvarez from approximately January 1995 to late 1996. Mr. Mendoza Alvarez, an undocumented immigrant, was stopped for speeding. The officer who pulled him over saw a rifle in the back seat. Mr. Mendoza Alvarez said he had been hunting earlier and had left the gun in the car. He later pled guilty to illegal reentry after deportation and possession of a firearm as an alien unlawfully in the United States. At the time of sentencing, I objected to a significant increase in Mr. Mendoza Alvarez's offense level for being previously deported after a felony conviction and to the failure to assess a reduction in his offense level for the "sporting purposes" exception. The district court overruled the objections. I also represented Mr. Mendoza Alvarez on appeal. On appeal, I argued that the government failed to prove Mr. Mendoza Alvarez had been deported after a felony conviction; that the district court erred in refusing to apply the "sporting purposes" reduction; and that the government had breached the plea agreement by arguing against the "sporting purposes" reduction.

at sentencing. In a published decision, the Eighth Circuit Court of Appeals reversed and remanded for resentencing, ruling that the government failed to prove Mr. Mendoza Alvarez had been deported after a felony and that the government had breached the plea agreement. The Court also provided guidance concerning application of the “sporting purposes” exception and, on remand, Mr. Mendoza Alvarez received a significantly lower sentence.

Presiding Judge:
The Honorable Ronald Longstaff
United States District Judge, Southern District of Iowa

Counsel for the government:
Robert Dopf (deceased)
Assistant United States Attorney, Southern District of Iowa
United States Courthouse Annex
110 East Court Avenue, Suite 286
Des Moines, IA 50309
(515) 473-9300

2. *United States v. Schultz*, Case No. CR 95-3011, 917 F. Supp. 1343 (N.D. Iowa 1996).

I represented Mr. Schultz from approximately July 1995 to April 1996. Mr. Schultz went to trial on two counts related to the operation of an illegal gambling business. Mr. Schultz and a co-defendant were tried together. Prior to trial, I filed a motion to dismiss the charges on constitutional grounds, which the district court denied. After an eight-day trial, the jury convicted Mr. Schultz on both counts. Post-trial, I filed a motion for judgment of acquittal, arguing that no reasonable jury could find Mr. Schultz conducted a gambling business involving five or more people as required by the federal statute. I also filed a motion for new trial on the grounds that documentary evidence was improperly admitted against Mr. Schultz at trial. The district court denied these motions, and Mr. Schultz proceeded to sentencing. At sentencing, I argued that, despite having taken his case to trial, Mr. Schultz should receive the benefit of the reduction in his offense level under the federal sentencing guidelines for acceptance of responsibility, a reduction normally reserved for defendants who plead guilty. I argued that Mr. Schultz testified truthfully about his conduct at trial and did not deny running a gambling operation. Instead, the defense at trial was a legal one, focusing on whether the federal gambling statute properly applied to his largely undisputed conduct. The district court agreed and granted Mr. Schultz a reduction in his offense level for acceptance of responsibility. The district court then imposed a one-month sentence.

Presiding Judge:
The Honorable Mark W. Bennett
United States District Judge, Northern District of Iowa

Counsel for the government:
Janet Petersen (retired)
Assistant United States Attorney, Northern District of Iowa
600 Fourth Street, Suite 670
Sioux City, IA 51101
(712) 255-6011

3. *United States v. Knight*, Case No. CR 00-43 (N.D. Iowa), *rev'd*, 306 F.3d 534 (8th Cir. 2002).

I represented Mr. Knight from approximately July 2000 to January 2003. Mr. Knight was an over-the-road truck driver and a convicted felon. A state trooper asked Mr. Knight to pull over because the trooper detected the presence of a radar detector in Mr. Knight's semi-trailer. After he confirmed the presence of the radar detector, the trooper conducted a driver-inspection search. During the search, and without Mr. Knight's permission, the trooper opened a briefcase in the cab of Mr. Knight's truck. The briefcase contained a firearm. I filed a motion to suppress evidence of the firearm on the grounds that the trooper exceeded the scope of a proper regulatory search when he seized the briefcase. The district court denied the motion. On appeal, which was handled by another attorney in the Federal Defender's office, the Eighth Circuit Court of Appeals reversed. The Eighth Circuit ruled that the search of Mr. Knight's briefcase was not in compliance with the regulatory guidelines and also was not supported by probable cause. On remand, Mr. Knight was allowed to withdraw his plea of guilty and he was released from custody shortly thereafter.

Presiding Judge:
The Honorable Michael J. Melloy
United States Circuit Judge, Eighth Circuit Court of Appeals
(Then, United States District Judge)

Counsel for the government:
Robert Teig (retired)
Assistant United States Attorney, Northern District of Iowa
401 First Street SE, Suite 400
Cedar Rapids, IA 52401
(319) 363-6333

4. *United States v. Williams*, Case No. CR 00-56 (N.D. Iowa), *aff'd*, 308 F.3d 833 (8th Cir. 2002).

I represented Mr. Williams from approximately September 2000 to November 2001. Mr. Williams was charged with a violation of the Hobbs Act, a robbery of a taxi-cab driver. The government gave notice of its intent to seek a mandatory sentence of life imprisonment upon conviction pursuant to 18 U.S.C. §

3559(c)(1), the federal “Three Strikes” statute. This case involved extensive investigation of the alleged facts, interviews of numerous witnesses, and extended negotiations with the federal prosecutors. I filed a motion to dismiss, which the district court denied, and Mr. Williams was convicted after trial. After trial, I filed a motion for judgment of acquittal and a motion for new trial, arguing among other things that the government failed to prove the alleged robbery had an actual effect on interstate commerce. The district court denied these motions. Mr. Williams appealed. On appeal, which was handled by another attorney in the Federal Defender’s office, the Eighth Circuit Court of Appeals agreed that the district court, over Defendant’s objection, gave an improper jury instruction regarding whether the effect on interstate commerce must be actual or merely probable. The Court then determined that the error was harmless. The conviction was affirmed on all other grounds as well.

Presiding Judge:
The Honorable Charles Wolle
United States District Judge, Southern District of Iowa

Counsel for the government:
Robert Teig (retired)
Assistant United States Attorney, Northern District of Iowa
401 First Street SE, Suite 400
Cedar Rapids, IA 52401
(319) 363-6333

5. *United States v. Hicks*, Case No. CR 01-80 (N.D. Iowa).

I represented Mr. Hicks from approximately January 2002 to April 2002. Mr. Hicks was charged with possession of crack cocaine with the intent to distribute. Because he had a prior felony drug conviction, he faced a 10-year, rather than a 5-year, mandatory minimum sentence if convicted. Prior to trial, I filed motions in limine in an effort to restrict the type of evidence introduced at trial. At trial, the government was nevertheless permitted to admit evidence of an in-store videotape, from a local grocery store, purportedly showing Mr. Hicks wearing a coat that was later found at an apartment during a search by law enforcement. In the pocket of the coat were approximately 12 grams of crack cocaine. After the conclusion of the government’s case, I moved for a judgment of acquittal on the grounds that the government had failed to present sufficient evidence to support a conviction. The district court agreed and granted the motion.

Presiding Judge:
The Honorable Robert Pratt
United States District Judge, Southern District of Iowa

Counsel for the government:
The Honorable Stephanie Rose

United States District Court, Southern District of Iowa
(Then, Assistant United States Attorney, Northern District of Iowa)
United States Courthouse
123 East Walnut Street, Room 420
Des Moines, IA 50309
(515) 284-6453

6. *United States v. Hmimssa*, Case No. CR 02-15 (N.D. Iowa, J. Melloy); Case No. CR 06-112 (N.D. Iowa, C.J. Reade).

I represented Mr. Hmimssa from September 2001 to June 2003, and again from April 2007 to January 2008. Mr. Hmimssa was charged with fraudulent conduct in the Northern District of Iowa. After negotiations, the case was transferred to the Eastern District of Michigan, where Mr. Hmimssa also faced charges and where he became a government witness in a purported terror-related case. Given its high profile nature, this case raised a number of concerns about protecting Mr. Hmimssa's constitutional rights and safety. Mr. Hmimssa was later identified as a material witness in Case No. CR 06-112 and was transferred back to the Northern District of Iowa, where I again represented him. After he testified as a material witness, he was removed to his home country of Morocco.

Presiding Judges:

The Honorable Michael J. Melloy
United States Circuit Judge, Eighth Circuit Court of Appeals
(Then, United States District Judge)

The Honorable Linda R. Reade
Chief United States District Judge, Northern District of Iowa

Counsel for the government:

Kandice Wilcox (formerly an Assistant United States Attorney, Northern District of Iowa)
Professional Responsibility Advisory Office
U.S. Department of Justice
1425 New York Avenue NW, Suite 12000
Washington, D.C. 20530
(202) 514-0458

7. *United States v. Brathwaite*, Case No. CR 02-20 (N.D. Iowa).

I represented Mr. Brathwaite from approximately April 2002 to December 2002. Mr. Brathwaite was charged with two counts of witness intimidation related to an underlying bank fraud investigation. Mr. Brathwaite was accused of trying to influence the grand jury testimony of two of his friends, who were also potential witnesses in the bank fraud investigation. Mr. Brathwaite proceeded to trial, where the facts were not significantly in dispute. Instead, the parties disagreed on

whether statements Mr. Brathwaite made to his friends amounted to intimidation. The jury acquitted Mr. Brathwaite on both counts.

Presiding Judge:

The Honorable Linda R. Reade

Chief United States District Judge, Northern District of Iowa

Counsel for the government:

Sean Berry

Assistant United States Attorney, Northern District of Iowa

411 First Street SE, Suite 400

Cedar Rapids, IA 52401

(319) 363-6333

8. *United States v. Helder*, Case No. CR 02-43 (sealed) (N.D. Iowa).

Since May 2002, I have represented Lucas Helder, who has been charged in multiple federal districts with charges related to allegations that he planted pipe bombs in various locations across the middle section of the country. The case has involved extensive investigation as well as continued research into issues related to competency and a variety of mental health issues. The case has also received a significant amount of national publicity. All documents related to the criminal case are under seal.

Presiding Judge:

The Honorable Mark W. Bennett

United States District Judge, Northern District of Iowa

Counsel for the government:

Sean Berry, Richard Murphy

Assistant United States Attorneys, Northern District of Iowa

411 First Street SE, Suite 400

Cedar Rapids, IA 52401

(319) 363-6333

9. *United States v. Howell*, Case No. CR 07-2013 (N.D. Iowa), *aff'd*, 552 F.3d 709 (8th Cir. 2009).

I represented Mr. Howell from approximately August 2007 to April 2008. Mr. Howell was charged with two counts of failure to register as a sex offender as required, each count alleging a different period of time during which he had failed to register. I filed a motion to dismiss the charges, raising a number of statutory and constitutional arguments. The district court granted the motion as to Count 1, concluding that application of the statute during the alleged time period violated the *Ex Post Facto* Clause of the United States Constitution. The district court denied the motion as to Count 2; concluding in part that the sex offender registry

statute was a proper exercise of Congressional power pursuant to the Commerce Clause. The district court's decision regarding Count 2, which also addressed the issue of proper venue, was affirmed on appeal. The appeal was handled by another attorney in the Federal Defender's office.

Presiding Judge:

The Honorable Mark W. Bennett

United States District Judge, Northern District of Iowa

Counsel for the government:

Kandice Wilcox (formerly an Assistant United States Attorney, Northern District of Iowa)

Professional Responsibility Advisory Office

U.S. Department of Justice

1425 New York Avenue NW, Suite 12000

Washington, D.C. 20530

(202) 514-0458

10. *United States v. Penney*, Case No. CR 10-3027 (N.D. Iowa).

I represented Mr. Penney from approximately May 2010 to February 2011. Mr. Penney was a veteran of the war in Afghanistan. Shortly after his return from overseas, he was convicted of a felony. Mr. Penney then returned to Iowa, where he maintained his life-long interest in firearms and the outdoors. He was vigilant about gun safety and helped others clean and repair their firearms. In connection with this conduct, Mr. Penney was charged with unlawfully possessing a firearm as a convicted felon. After considering the circumstances surrounding his felony conviction, his difficulties re-adjusting to civilian life, and the otherwise responsible manner in which he handled his firearms, the district court varied from the advisory guidelines and imposed a sentence of probation rather than a term of imprisonment.

Presiding Judge:

The Honorable Linda R. Reade

Chief United States District Judge, Northern District of Iowa

Counsel for the government:

Robert Teig (retired)

Assistant United States Attorney, Northern District of Iowa

411 First Street SE, Suite 400

Cedar Rapids, IA 52401

(319) 363-6333

18. **Legal Activities:** Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List

any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

I have been engaged in litigation exclusively since I began my legal practice at the Federal Defender's office. In my capacity as Assistant Federal Public Defender, I have also served on court-related committees. I have served on the Northern District of Iowa's Blue Ribbon Committee on criminal matters. As part of that panel, I prepared and distributed a CJA Panel Attorney Survey, seeking input from criminal defense attorneys regarding their experience in federal court. I compiled the responses, which were given to the court for its use in identifying positive feedback, matters of concern, and areas in need of improvement. I serve on the CJA panel selection committee for the Northern District of Iowa, and I am a member of the Facility Security Committee, which was formed in anticipation of the opening of the new federal courthouse in Cedar Rapids, Iowa. I have not performed any lobbying activities on behalf of clients or organizations.

19. **Teaching:** What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

Legal Research and Writing; Appellate Advocacy
University of Illinois College of Law, Champaign, Illinois
1993 to 1994
I do not have a copy of the syllabus for these courses.

Business Law II, Co-instructor
Coe College, Cedar Rapids, Iowa
Spring 2000
Syllabus supplied.

Federal Criminal Law
University of Iowa College of Law, Iowa City, Iowa
Spring 2002
Syllabus supplied.

Trial Advocacy, Co-instructor
University of Iowa College of Law, Iowa City, Iowa
Spring 2004
I do not have a copy of the syllabus for this course.

Criminal Procedure, Co-instructor
University of Iowa College of Law, Iowa City, Iowa
Spring 2006
Syllabus supplied.

20. **Deferred Income/ Future Benefits:** List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

I do not expect to derive income from any previous business relationships, professional services, firm membership, former employers, clients, or customers.

21. **Outside Commitments During Court Service:** Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

I have no plans, commitments, or agreements to pursue outside employment, with or without compensation, during any service with the court.

22. **Sources of Income:** List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding \$500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

See attached Financial Disclosure Report.

23. **Statement of Net Worth:** Please complete the attached financial net worth statement in detail (add schedules as called for).

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

- a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

Cases arising from the Federal Defender's office in Iowa would initially create potential conflicts of interest. I would work with the Clerk for the Eighth Circuit Court of Appeals to make sure I was not assigned to any cases with which I had any previous involvement. If the issue of a potential conflict of interest is raised by a litigant, I would address those issues on a case by case basis by reference to the Code of Conduct for United States Judges and any other relevant canons and statutes.

I do not have any family members or financial arrangements that are likely to present potential conflicts of interest.

- b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

I would address any potential conflict of interest matter carefully and thoughtfully, paying close attention to the Code of Conduct for United States Judges as well as any other relevant statutory or regulatory provisions that would provide appropriate guidance.

25. **Pro Bono Work:** An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

As an Assistant Federal Public Defender, I have represented indigent criminal defendants in federal court since 1994. I also regularly give presentations at our Federal Defender seminars, which offer continuing legal education credits free of cost to criminal defense attorneys and other interested persons. At our local Cedar Rapids, Iowa, office, I also participate several times a year in a lunchtime meeting of CJA panel attorneys to discuss recent developments in federal criminal law and other topics of interest to those taking court-appointed cases in federal court.

26. **Selection Process:**

- a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

In July 2012, I submitted an application to Senator Harkin's office for the upcoming opening on the Eighth Circuit Court of Appeals. On September 14, 2012, I interviewed with members of Senator Harkin's staff in Des Moines, Iowa, and on September 23, 2012, I interviewed with Senator Harkin and two members of his staff in Des Moines, Iowa. A member of Senator Harkin's staff contacted me later to let me know that Senator Harkin had recommended me to the White House. On October 4, 2012, an official from the White House Counsel's Office contacted me to schedule a telephone interview, which took place on October 5, 2012. The following week, he telephoned me again to let me know that

representatives from the Department of Justice would contact me to begin the vetting process.

Since October 10, 2012, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On November 30, 2012, I met with officials from the White House Counsel's Office and the Department of Justice in Washington, DC. On January 31, 2013, the President submitted my nomination to the Senate.

- b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.

AFFIDAVIT

I, Jane Kelly, do swear
that the information provided in this statement is, to the best
of my knowledge, true and accurate.

2/1/2013

(DATE)

Jane Kelly

(NAME)

Carrie Meas

(NOTARY)

NOTARIAL SEAL - STATE OF IOWA
Carrie Meas
Commission Number 773747
My Commission Expires 7/6/15