

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Claude John Kelly III

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

United States District Judge for the Eastern District of Louisiana

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
500 Poydras Street, Suite 318
Hale Boggs Federal Building
New Orleans, Louisiana 70130

Residence: River Ridge, Louisiana

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

1961; New Orleans, Louisiana

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.

1984 – 1987, Tulane Law School; J.D., 1987

1979 – 1983, College of the Holy Cross; B.A., 1983

Summer 1980, Trinity College in Dublin, Ireland; no degree

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.

1992 – 2000; 2014 – present
Federal Public Defender's Office
500 Poydras Street, Suite 318
Hale Boggs Federal Building
New Orleans, Louisiana 70130
Chief Federal Defender (2014 – present)
Assistant Federal Public Defender (1992 – 2000)

2009 – 2014
Capital Defense Project of Southeast Louisiana
3801 Canal Street, Suite 400
New Orleans, Louisiana 70119
Certified Lead Counsel

2006 – 2014
Claude J. Kelly, Attorney at Law
700 Camp Street
New Orleans, Louisiana 70130
Private Law Practice

2002 – 2006
International Exchange Group (formerly International Foundation to Support
Humanitarian Programs, Inc.)
1050 Connecticut Avenue NW
Washington, DC 20036
Consultant

2000 – 2002
The Palm Tree Group/Optimal Healthcare
12701 Directors Drive
Stafford, Texas 77477
Director of International Sales

1983 – 1984; 1990 – 1992
Kolb's German Restaurant
125 St. Charles Avenue
New Orleans, Louisiana 70130
General Manager (1990 – 1992)
Cashier, busboy, waiter (1983 – 1984)

1987 – 1990
New Orleans District Attorney's Office
619 South White Street
New Orleans, Louisiana 70119
Senior Trial Attorney

Summer 1986
Louisiana State Senate
900 North Third Street
Baton Rouge, Louisiana 70802
Senate Aide/Senator Tom Casey

Summer 1985
Lemle & Kelleher
601 Poydras Street
New Orleans, Louisiana 70130
Law Clerk

Other Affiliations (uncompensated):

2015 – present
Federal Bar Association, New Orleans Chapter
500 Poydras Street, Suite B245
New Orleans, Louisiana 70130
Board of Directors

1996 – 2008
Louisiana Political Vikings, Inc.
now defunct
Board Member/Secretary/Vice President

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 not served in the military. I timely registered 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.

Summer Study Abroad Scholarship to Trinity College, Dublin, Ireland (1980)

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.

Criminal Justice Act Panel – Eastern District of Louisiana
Member (2006 – 2014)

Federal Bar Association, New Orleans Chapter

Board of Directors (2015 – present)

Louisiana Association of Criminal Defense Lawyers

Louisiana State Bar Association

National Association of Criminal Defense Lawyers

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.

Louisiana, 1987

I assumed inactive status in Louisiana from 2000 to 2004 while I lived out of state and did not practice law. There have been no other 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.

United States Court of Appeals for the Fifth Circuit, 1990

United States District Court for the Eastern District of Louisiana, 1990

Louisiana State Courts, 1987

I assumed inactive status in the Fifth Circuit from 2001 to 2013. Initially, I lived out of state and did not practice law. When I resumed practicing law, my work did not entail Fifth Circuit practice until 2013. There have been no other 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.

Louisiana Political Vikings, Inc.

Board Member/Secretary/Vice President (1996 – 2008)

- 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.

To the best of my knowledge, the organization listed above does not currently discriminate and did not formerly discriminate on the basis of race, sex, religion or national origin, either through formal membership requirements or the practical implementation of membership policies.

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.

None.

- 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.

None.

- 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.

None.

- 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.

October 21, 2015: Panelist, Annual Federal Defender & CJA Panel Training Program, Federal Bar Association, New Orleans Chapter, New Orleans, Louisiana. The panel explored recent developments in federal criminal law. I have no notes, transcript or recording. The address of the Federal Bar Association, New Orleans Chapter is 500 Poydras Street, Suite B245, New Orleans, Louisiana 70130.

June 17, 2015: Speaker, Meet and Greet Roundtable for Summer Law Clerks and Young Lawyers, "Morning at the Federal Courthouse" Program, Younger Lawyers Division of the Federal Bar Association, New Orleans Chapter, New Orleans, Louisiana. I addressed my role as the Federal Public Defender. I have no notes, transcript or recording. The address of the Federal Bar Association, New Orleans Chapter is 500 Poydras Street, Suite B245, New Orleans, Louisiana 70130.

March 3, 2015: Panelist, "Unpopular Defendants: From John Adams to Guantanamo – Serving the Profession through Pro Bono Work," Federal Bar Association, New Orleans Chapter, New Orleans, Louisiana. The panel explored topics such as immigration cases, death row cases, and pro bono opportunities. I have no notes, transcript or recording. The address of the Federal Bar Association, New Orleans Chapter is 500 Poydras Street, Suite B245, New Orleans, Louisiana 70130.

November 2014: Panelist, Defense Attorney CLE Program, United States Attorney's Office, New Orleans, Louisiana. The panel explored the topic of plea agreements and cooperation between the federal criminal defense community and the United States Attorneys. I have no notes, transcript or recording. The address of the United States Attorney's Office is 650 Poydras Street, Suite 1600, New Orleans, Louisiana 70130.

February 21, 2014: Panelist, "Practices and Policies in the United States Attorney's Office and the Federal Public Defender's Office in Plea Negotiations," "At the Crossroads of Criminal Justice: Transitions and Developments in Criminal Practice" CLE Seminar, Federal Bar Association, New Orleans Chapter, New Orleans, Louisiana. The panel explored the topic of plea agreements and waivers. I have no notes, transcript or recording. The address of the Federal Bar Association, New Orleans Chapter is 500 Poydras Street, Suite B245, New Orleans, Louisiana 70130.

Spring 2013: Judge, Appellate Trial Advocacy Team, Loyola University School of Law, New Orleans, Louisiana. I served as a judge at a practice round for the school's team prior to their departure for a national tournament. I gave the students feedback regarding their style and the substance of their arguments. I have no notes, transcript or recording. The address of Loyola University School of Law is 526 Pine Street, New Orleans, Louisiana 70118.

- 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.

Press Release, "Louisiana Association of Criminal Defense Lawyers (LACDL) Recognizes Billy Gibbens with Criminal Justice Act Panel Attorney Award," Louisiana Association of Criminal Defense Lawyers, December 23, 2014. Copy supplied.

Robert McClendon, *Nearly Penniless Nagin Gets Publicly Funded Legal Help*, New Orleans Times-Picayune, September 4, 2014. Copy supplied (reprinted in multiple outlets).

Juliet Linderman, *Federal Public Defender Will Lead New Orleans Office; River Ridge Attorney Chosen*, New Orleans Times-Picayune, February 2, 2014. Copy supplied.

Mr. Move Owner, Employee, Plead Guilty to Extortion, CBS-4 WWL (New Orleans, Louisiana), December 16, 2013. Video is available at <http://www.wwltv.com/story/news/local/northshore/2014/09/04/14646828/>.

Former NOPD Officer Joshua Colclough Apologizes to Wendell Allen's Family, New Orleans Times-Picayune/Fox8 – WVUE New Orleans, August 16, 2013. Video is available at http://videos.nola.com/times-picayune/2013/08/former_nopd_officer_joshua_col.html.

Ex-Cop Charged with Killing Wendell Allen Wants Change of Venue, The Louisiana Weekly, May 6, 2013 – May 12, 2013. Copy supplied.

Lawyer for Officer in Wendell Allen Shooting Seeks New Venue for Trial, WDSU 6 News, May 3, 2013. Copy supplied.

Paul Purpura, *Copper Thief, Jailhouse Informant Finds More Trouble with Law*, New Orleans Times-Picayune, April 23, 2013. Copy supplied.

New Orleans Cop Turns Himself In, New Orleans Times-Picayune, August 18, 2012. Copy supplied.

Colclough Surrenders to Face Manslaughter Charge, WDSU 6 News, August 17, 2012. Copy supplied.

Brendan McCarthy, *August Date for Danziger Suspect Set*, New Orleans Times-Picayune, May 16, 2012. Copy supplied.

Officer Who Fatally Shot Unarmed Man Gives Statement to Police, CBS-4 WWL (New Orleans, Louisiana), March 15, 2012. Copy supplied.

Brendan McCarthy, *Answers Sought in Police Shooting*, New Orleans Times-Picayune, March 14, 2012. Copy supplied.

Monica Hernandez, *Upset Judge Calls for Mistrial in Final Danziger Case*, CBS-4 WWL (New Orleans, Louisiana), January 27, 2012. Copy supplied.

Laura Maggi, *Danziger Bridge Suspect Gerard Dugue Finally Gets His Day in Court*, New Orleans Times-Picayune, January 23, 2012. Copy supplied.

Monica Hernandez, *Trial Begins for Final Officer Charged in Danziger Case*, CBS-4 WWL (New Orleans, Louisiana), January 23, 2012. Copy supplied.

Michael Kunzelman, *Last Officer in Katrina Shootings Heading to Trial*, Associated Press, January 22, 2012. Copy supplied (reprinted in multiple outlets).

Paul Purpura, *Metairie 18-Year-Old Charged with Killing Man, 67*, New Orleans Times-Picayune, December 9, 2011. Copy supplied.

Laura Maggi and Brendan McCarthy, *Two Danziger Suspects Tied to 2001 Cover-Up*, New Orleans Times-Picayune, March 4, 2011. Copy supplied.

Michael Kunzelman, *2001 Shooting Won't Be Part of Katrina Case*, Associated Press, March 4, 2011. Copy supplied.

Laura Maggi, *As Defense Strategy, Storm Is No Slam Dunk*, New Orleans Times-Picayune, December 12, 2010. Copy supplied.

Michael Kunzelman, *Defense in Katrina-Era Police Cases Stresses Chaos*, Associated Press, December 10, 2010. Copy supplied (reprinted in multiple outlets).

Jeff Adelson, *Grand Jury Looks at Credit Cards*, New Orleans Times-Picayune, December 3, 2010. Copy supplied.

Mandeville Politicians Testify in Grand Jury on City Credit Card Use, CBS-4 WWL (New Orleans, Louisiana), December 2, 2010. Copy supplied.

Doug Mouton, *Mandeville Finance Director Believed to Be at Heart of Grand Jury Investigation*, CBS-4 WWL (New Orleans, Louisiana), November 26, 2010. Copy supplied.

Brendan McCarthy, *Tapes Reveal Danziger Plotting, Feds Say*, New Orleans Times-Picayune, October 27, 2010. Copy supplied.

Gerard Shields, *Vitter's Reputation Paints Aloof Republican Stalwart*, The Advocate (Baton Rouge, Louisiana), October 25, 2010. Copy supplied.

Katie Moore, *Three Plead Not Guilty in Danziger Case*, CBS-4 WWL (New Orleans, Louisiana), July 27, 2010. Copy supplied.

Allen Johnson Jr., *New Orleans Officers Plead Not Guilty in Shootings*, Bloomberg Business, July 14, 2010. Copy supplied.

Laura Maggi and Brendan McCarthy, *Federal Probe of Danziger Violence Ends in Charges*, New Orleans Times-Picayune, July 14, 2010. Copy supplied.

Michael W. Savage, *Three New Orleans Officers Plead Not Guilty in Katrina Shootings*, Washington Post, July 14, 2010. Copy supplied.

Michael Kunzelman, *Cops Could Face Death in Post-Katrina Shootings*, Associated Press, July 14, 2010. Copy supplied (reprinted in multiple outlets).

Mike Perlstein, *Retired NOPD Officer, Who Co-Authored Danziger Report, Named in Target Letter*, CBS-4 WWL (New Orleans, Louisiana), March 26, 2010. Copy supplied.

Brendan McCarthy and Laura Maggi, *Sergeant Linked to 2005 Danziger Incident Retires*, New Orleans Times-Picayune, March 25, 2010. Copy supplied.

Michael Perlstein and Dominic Massa, *NOPD Sergeant Who Co-Authored Police Report on Danziger Bridge Shootings Retires*, CBS-4 WWL (New Orleans, Louisiana), March 24, 2010. Copy supplied.

Laura Maggi and Brendan McCarthy, *NOPD Officer Planned Retirement Before Getting Federal 'Target Letter,' Attorney Says*, New Orleans Times-Picayune, March 24, 2010. Copy supplied.

Paul Purpura and Mary Sparacello, *Budget Crisis? Oh, That Crisis*, New Orleans Times-Picayune, February 13, 2010. Copy supplied.

Susan Schmidt and Glenn R. Simpson, *House Ex-Staffer Caught in Probe*, Wall Street Journal, June 10, 2008. Copy supplied.

Kathleen S. Carr, *Hurricane Katrina: In Their Own Words*, Holy Cross Magazine, Winter 2006. Copy supplied.

Petula Dvorak, *Some Fares Fuss About Gas Costs*, Washington Post, May 12, 2005. Copy supplied.

Michael Perlstein, *Former Cop Faces Two Years in Jail for Extortion*, New Orleans Times-Picayune, March 16, 2000. Copy supplied (reprinted in multiple outlets).

Michael Perlstein, *New Orleans Cop to Plead Guilty in Extortion*, New Orleans Times-Picayune, November 19, 1999. Copy supplied (reprinted in multiple outlets).

Pamela Coyle, *Guns Land More Felons in Federal Courts*, New Orleans Times-Picayune, April 24, 1999. Copy supplied.

Michael Perlstein, *On the Trail of the Latin Kings*, New Orleans Times-Picayune, October 8, 1998. Copy supplied.

Michael Perlstein, *Law Student Chalks Up First Victory*, New Orleans Times-Picayune, January 15, 1990. Copy supplied.

Michael Perlstein, *Man Who Stabbed Girlfriend 18 Times Gets 20 Years in Jail*, New Orleans Times-Picayune, December 8, 1989. Copy supplied.

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 not served as a judge.

- 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 not served as a judge.

- 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.

In 2010 I qualified as a candidate for judge in the 24th Judicial District Court, Jefferson Parish, and State of Louisiana. After approximately two weeks, I realized I would not be able to properly close my private sole practitioner law office and effectively campaign, so I withdrew my name from the race.

- 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.

None.

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 did not serve as a clerk.

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

2006 – 2014
Claude J. Kelly, Attorney at Law
700 Camp Street
New Orleans, Louisiana 70130
Private Law Practice

- 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.

1987 – 1990
New Orleans District Attorney's Office
619 South White Street
New Orleans, Louisiana 70119

Senior Trial Attorney

1992 – 2000; 2014 – present
Federal Public Defender's Office
500 Poydras Street, Suite 318
Hale Boggs Federal Building
New Orleans, Louisiana 70130
Assistant Federal Public Defender (1992 – 2000)
Chief Federal Defender (2014 – present)

2009 – 2014
Capital Defense Project of Southeast Louisiana
3801 Canal Street, Suite 400
New Orleans, Louisiana 70119
Certified Lead Counsel

- 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.

None.

b. Describe:

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

In 1987, after law school, I worked as an Assistant District Attorney in the New Orleans District Attorney's Office. I served in juvenile court, magistrate court, and the trial division, and as the senior trial attorney in the courts of the Honorable Frank Shea, Dennis Waldron, and Patrick Quinlan. In three years as an assistant district attorney, I prosecuted approximately 75 felony jury trials.

In 1992, I accepted the position of Assistant Federal Public Defender with the Federal Public Defender's Office in the Eastern District of Louisiana. I served as an Assistant Federal Public Defender until 2000 under both Chief Federal Defender Jack Mulvehill and Chief Federal Defender Virginia Schlueter. As counsel on hundreds of federal criminal cases, I worked in all phases of the federal criminal process – pre-trial, trial/plea, and appeal. Due to my Spanish language proficiency, approximately 20% of my caseload involved Spanish-speaking clients.

From 2006 to 2014, I resumed my law practice and worked as a solo practitioner, specializing in criminal trial work in both state and federal court. I was a member of the Criminal Justice Act panel, where I was

regularly assigned conflict cases from the Federal Public Defender's Office. In 2009, I also joined the Capital Defense Project of Southeast Louisiana, where I worked part-time. In this position I maintained two capital cases at all times, and was certified as lead counsel for capital cases in the State of Louisiana.

In 2014, I was appointed as Chief Federal Defender for the Office of the Federal Public Defender, Eastern District of Louisiana. I direct an office of 15 employees, including eight attorneys with approximately 250 open federal criminal cases. I also administer the Criminal Justice Act conflict panel of 100 private attorneys.

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

As an Assistant District Attorney I represented the State of Louisiana. My clients were the officers of the New Orleans Police Department who made the cases I prosecuted. My clients were also the victims and families of victims who were impacted by crime.

As a Federal Defender, the majority of my clients are indigent and qualify for public defender assistance. Some do not speak English and are not familiar with the American criminal justice system. In contrast, I also have many clients who are veterans of the criminal justice system.

In addition, I have also recently represented police officers charged with assorted state and federal offenses for the Fraternal Order of Police.

- 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 law practice has always required frequent appearances in court. The percentages have changed significantly depending upon the phase of my law career. From 1987 to 1990, as an Assistant District Attorney, I was in court every day for trials, motion hearings or status conferences. My practice then was 100% in state court and was 100% criminal proceedings.

From 1992 to 2000, as an Assistant Federal Defender, I was in court two to three times a week. My practice was 100% in federal court and 100% criminal proceedings.

From 2006 to 2014, as an attorney in private practice, I was in court generally one to two times a week. This was usually for status conferences or motion hearings, as well as the occasional trial. My practice then was approximately 10% civil proceedings and 90% criminal, and approximately 70% in state court and 30% in

federal court.

Currently, as the Chief Federal Defender, I am in court two to three times a week for motion hearings, sentencings, status conferences and the occasional trial. My practice is 100% in federal court and 100% criminal proceedings.

i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 70% |
| 2. state courts of record: | 30% |
| 3. other courts: | 0% |
| 4. administrative agencies: | 0% |

ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|-----|
| 1. civil proceedings: | 5% |
| 2. criminal proceedings: | 95% |

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.

I have tried approximately 115 cases to verdict. I was sole or lead counsel in approximately 80% of these cases.

i. What percentage of these trials were:

- | | |
|--------------|-----|
| 1. jury: | 85% |
| 2. non-jury: | 15% |

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.

In my capacity as Chief Federal Defender I oversee appellate and research and writing attorneys. I am listed as counsel of record for the following petitions:

R. Davis v. United States, No. 15-7863 Brief in Support of Petition for Certiorari. Copy supplied. Cert. decision pending.

Hupp v. United States, No. 15-7841 Brief in Support of Petition for Certiorari. Copy supplied. Cert. decision pending.

Jones, Jr. v. United States, No. 15-7328 Brief in Support of Petition for Certiorari. Copy supplied. *Cert denied*, 136 S. Ct. 914 (Jan. 19, 2016).

Brumfield v. United States, No. 15-7241, Brief in Support of Petition for Certiorari. Copy supplied. *Cert denied*, 136 S. Ct. 867 (Jan. 11, 2016).

Hollingsworth v. United States, No. 15-5317, Brief in Support of Petition for Certiorari and Petitioner's Reply Brief. Copies supplied. *Cert. denied*, 2015 U.S.

Lexis 7477, 136 S. Ct. 535 (Nov. 30, 2015).

In addition, the following petitions were submitted while I was Chief Federal Defender, with oversight responsibilities:

Gibbs v. United States, No. 14-7138 Brief in Support of Petition for Certiorari. Copy supplied. *Cert denied*, 135 S. Ct. 985 (Jan. 12, 2015).

A. Davis v. United States, No. 15-6044 Brief in Support of Petition for Certiorari. Copy supplied. *Cert denied*, 136 S. Ct. 373 (Oct. 19, 2015).

Brown v. United States, No. 15-5702 Brief in Support of Petition for Certiorari. Copy supplied. *Cert denied*, 136 S. Ct. 275 (Oct. 5, 2015).

Pacheco-Alvarado and de la Cruz v. United States, No. 15-5037 Brief in Support of Petition for Certiorari. Copy supplied. *Cert denied*, 136 S. Ct. 175 (Oct. 5, 2015).

Saunders and Nero v. United States, No. 14-10270 Brief in Support of Petition for Certiorari. Copy supplied. *Cert denied*, 136 S. Ct. 127 (Oct. 5, 2015).

Smith v. United States, No. 14-10418 Brief in Support of Petition for Certiorari. Copy supplied. *Cert denied*, 136 S. Ct. 156 (Oct. 5, 2015).

Harris v. United States, No. 13-9686 Brief in Support of Petition for Certiorari and Petitioner's Reply Brief. Copies supplied. *Cert denied*, 135 S. Ct. 54 (Oct. 6, 2014).

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. Dugue*, Case No. 2:10-cr-00204 (USDC EDLA 2010)

My client, Officer Dugue, was one of eleven police officers indicted by the Department of Justice for shootings that took place in the days following Hurricane Katrina which resulted in two deaths and several injuries. My client's case was severed from the group and proceeded to trial in January 2012. After five days of testimony, Judge Kurt Engelhardt declared a mistrial due to prosecutorial misconduct. The case is currently continued without a new trial date. I was the sole attorney for Officer Dugue. I

performed all aspects of the trial from jury selection, examination of all witnesses and arguing of motions and rulings

Judge: Honorable Kurt D. Engelhardt

Opposing Counsel:

Barbara "Bobbi" Bernstein
United States Department of Justice
Civil Rights Division
950 Pennsylvania Avenue NW
Washington, DC 20530
(202) 353-5983

(2) *United States v. Roberts*, Case No. 97-cr-0367 (USDC EDLA 1997)

Mr. Roberts was a popular musician from the Island of St. Vincent who was employed on a Carnival cruise ship. After a week-long cruise out of the port of New Orleans, he was arrested on the ship and charged with the rape of a 14-year-old minor passenger from Alabama. The trial was widely reported in and closely followed by many on the Island of St. Vincent. The case was also significant due to the rarity of rape cases in federal court. After a five-day trial in September 1998, Mr. Roberts was found not guilty. I performed all aspects of the trial, including jury selection, examination of all witnesses and closing arguments.

Judge: Honorable Charles Schwartz, Jr.

Defense Co-Counsel:

Roma Kent
Private Practice (formerly at Federal Public Defender's Office)
5500 Prytania Street #120
New Orleans, Louisiana 70115
(504) 224-9717

Opposing Counsel:

Greg Guidry
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Linda Bizzarro (formerly at U.S. Attorney's Office)
Current contact information unavailable

Date: September 1998

- (3) *State of Louisiana v. Wells*, Case No. 441-698 K, Criminal District Court for the Parish of Orleans

Mr. Wells was indicted for first degree murder and the state sought the death penalty. This high profile case involved the killing of a popular local restaurateur. After three months of jury selection, which involved individualized sequestered voir dire due to the large amount of media attention, the case proceeded to trial. After a two-week trial in March 2009, the jury was unable to return a verdict and a mistrial was declared. A second trial proceeded nine months later, after another three months of jury selection. Mr. Wells was found guilty of second degree murder and sentenced to life in prison. The second trial was extremely contentious, entailing over a dozen emergency writs to the Louisiana Supreme Court. I served as co-counsel with Michael Fawer. I conducted extensive voir dire, witness examination (including the direct examination of the defendant), and closing argument.

Judge: Honorable Arthur Hunter

Defense Co-Counsel:

Michael Fawer
Private Practice
312 30th Street
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Opposing Counsel:

Leon Cannizzaro
District Attorney's Office
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- (4) *United States v. Robinson*, Case No. 93-cr-00455 (USDC EDLA 1993)

In 1994, the federal government successfully prosecuted a major New Orleans gang for multiple drug and other violations, including crimes of violence. Two weeks after the trial, the government's star witness was shot but survived. Mr. Robinson was one of four individuals arrested and prosecuted for retaliation on a federal witness. After a week-long trial highlighted by an overwhelming show of court security, Mr. Robinson was found not guilty by the jury. I was the sole counsel for Mr. Robinson. I conducted all aspects of the trial.

Judge: Honorable Peter Beer

Opposing Counsel:

James Letten

Tulane University School of Law (formerly at U.S. Attorney's Office)
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New Orleans, Louisiana 70118
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Walter Becker

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1100 Poydras Street
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(504) 585-7046

Clint Williamson

Current contact information unavailable (formerly at U.S. Attorney's Office)

(5) *United States v. Thomas*, Case No. 2:99-cr-00163 (USDC EDLA 1999)

Mr. Thomas was charged with being a felon in possession of a firearm. Despite a lengthy state court criminal history, Mr. Thomas would not entertain the idea of consenting to a plea deal. Although the jury heard inflammatory evidence implicating Mr. Thomas in drug usage, his trial in 2000 resulted in a hung jury and a mistrial was declared. Mr. Thomas was found not guilty in his retrial. I conducted the entire trial, jury selection through closing arguments.

Judge: Honorable Stanwood R. Duval, Jr.

Defense Co-Counsel:

Valerie Jusselin

Federal Public Defender's Office
500 Poydras Street, Suite 318
Hale Boggs Federal Building
New Orleans, Louisiana 70130
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Opposing Counsel:

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(504) 658-9190

Gaynell Williams

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724 11th Street
Gretna, Louisiana 70053
(504) 302-2462

- (6) *State of Louisiana v. Colclough*, Case No. 512-932 "E", Criminal District Court
for the Parish of Orleans, State of Louisiana

Mr. Colclough was a New Orleans policeman who shot and killed an unarmed teenager, Mr. Allen, while executing a search warrant on a residence. The district attorney brought the case to the grand jury, and requested a second degree murder indictment, which carries mandatory life in prison. Officer Colclough was indicted for manslaughter, which carries a maximum prison term of 40 years in Louisiana. A change of venue motion was filed and litigated, detailing the dozens of newspaper articles, television reports and community activities about the shooting. In August 2013, the attorney representing the deceased's mother and I arranged a meeting between the Allen family and Officer Colclough. The meeting was filmed by a local television station. Officer Colclough pled guilty, and at the personal request of the victim's mother, received a vastly reduced sentence of four years. The Independent Police Monitor that oversees the actions of the New Orleans Police Department, indicated that it intends to use the handling of this case as a model for resolving police community disputes. I was sole counsel for Officer Colclough. I handled all negotiations and court appearances.

Judge: Honorable Keva Landrum

Opposing Counsel:

Leon Cannizzaro
Robert Freeman
District Attorney's Office
619 South White Street
New Orleans, Louisiana 70119
(504) 822-2414

- (7) *State of Louisiana v. Thompson*, Case No. 468-993, Criminal District Court
for the Parish of Orleans, 2007

Mr. Thompson was a young man with no criminal history. He was charged with the rape of a woman after their second date. Mr. Thompson did not dispute that he and the woman had sex, but he maintained that it was consensual. After a trial in 2008, the Orleans Parish jury found him not guilty. This case was significant to me for two reasons. First, it was my first trial after a six-year hiatus from the practice of law. Second, the stakes for this defendant were particularly high. He had an excellent job at Martin Marietta and had rejected a plea offer to a lesser charge because all lesser charges required sex offender registration. Because Mr. Thompson was resolute in his innocence, he proceeded to trial. I was the sole counsel for Mr. Thompson. I conducted all aspects of the trial, from voir dire through closing arguments.

Judge: Honorable Raymond Bigelow

Opposing Counsel:

Payel Patel
District Attorney's Office
Parish of Orleans
619 South White Street
New Orleans, Louisiana 70119
(504) 822-2414

(8) *United States vs. Grant*, Case No 96-cr-340 (USDC EDLA 1996)

Mr. Grant was a young man with a sixth grade education who was stopped by the Louisiana State Police while riding as a passenger in a U-Haul truck. Mr. Grant and his co-defendant were placed handcuffed in the back of the trooper's car which was positioned directly behind the U-Haul truck. Unbeknownst to the defendants, the trooper's car had an audio recorder which taped their conversations as they watched the search, which eventually yielded two kilos of cocaine. While the taped conversations appeared to incriminate both defendants as they discussed, the likelihood of the troopers finding the stash, a detailed analysis at the 1997 trial convinced the jury that Mr. Grant did not know where the drugs were hidden. Facing a mandatory minimum of ten years in jail, Mr. Grant was released from custody after the not guilty verdict. I was the sole counsel for Mr. Grant and conducted all aspects of the trial.

Judge: Honorable G. Thomas Porteous

Defense Co-Counsel:

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Opposing Counsel:

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Gretna, Louisiana 70053

(504) 302-2462

(9) *United States v. Sorto-Enamorado*, Case No 10-cr-224 (USDC EDLA 2010)

Mr. Sorto-Enamorado was an undocumented alien from Honduras doing construction work in post-Katrina New Orleans. He posted an ad on Craigslist seeking sexual activity with a female. Undercover FBI agents responded to his ad in the guise of a 13-year-old girl. Text and e-mail conversations ensued, culminating in Mr. Sorto-Enamorado's arrest at a hotel room. Mr. Sorto-Enamorado was indicted for using interstate commerce to entice a minor for illegal sexual activity, carrying a mandatory minimum of ten years in jail. The Assistant Federal Public Defender who was originally assigned the case successfully negotiated a deal of five years if Mr. Sorto-Enamorado would plead guilty. He refused the plea offer and asked the court for another attorney. I was assigned the matter through the CJA panel. Mr. Sorto-Enamorado continued to refuse the plea offer and insisted on a trial. Despite a vigorous defense focusing on the defendant's rudimentary English language ability, a jury convicted the defendant at the August 2011 trial. I was the sole counsel for Mr. Sorto-Enamorado. I conducted all aspects of the trial from jury selection through closing arguments.

Judge: Honorable Kurt D. Engelhardt

Opposing Counsel:

Brian Klebba
Jordan Ginsberg
United States Attorney's Office
650 Poydras Street
New Orleans, Louisiana 70130
(504) 680-3000

(10) *State of Louisiana v. Cortes*, Case No. 486-053, 17th Judicial District Court, Parish of Lafourche, State of Louisiana

Mr. Cortes was a 20-year-old man who had been illegally present in the United States for two months and did not speak a word of English. He worked construction in rural Louisiana. In June 2011, after over 24 hours of drinking, he and three fellow workers left a bar with a local woman for what was initially going to be a paid sexual encounter, but which ultimately resulted in the woman being sexually assaulted by one of the other men and choked to death. All four were arrested within two days and gave confessions in Spanish, without the assistance of an interpreter, to a police officer who had a proficient knowledge of Spanish. All were charged with first degree murder and faced the death penalty. I employed the services of a Spanish interpreter, who discovered that Mr. Cortes had no understanding of his right to counsel and his right to silence. The first step was to eliminate the possibility of death. We finally negotiated a plea agreement of 60 years. I served as co-counsel with Mr. Kerry Cuccia. We shared all investigative duties, client contact, mitigation efforts and negotiations.

Judge: Honorable Walter I. Lanier, III

Defense Co-Counsel:

Kerry Cuccia
Capital Defense Project of Louisiana
3801 Canal Street Suite 400
New Orleans, Louisiana 70119
(504) 595-8965

Opposing Counsel:

Camille "Cam" Morvant II
Joseph Soignet
Lafourche Parish District Attorney's Office
200 West Second Street
Thibodeaux, Louisiana 70301
(985) 448-3422

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.)

The most significant legal activity I have pursued is my daily work as a public defender. A recent significant aspect of my work has been my involvement in our court's re-entry program. Two of our courts in the Eastern District of Louisiana currently have re-entry programs for defendants who have been released from the Bureau of Prisons and are on supervised release with the U.S. Probation office. These programs offer a creative blend of treatment and sanction alternatives to effectively address offender behavior, rehabilitation, and the safety of our community. The goals of this program are to reduce recidivism and promote successful community reintegration while maintaining public safety. I personally staff one of the courts, which involves a weekly meeting with the probation officers, a United States Attorney, a judge and the health care providers. It also involves a weekly court setting with the defendants in the program.

Most recently, I have also worked with the United States Attorney and the Chief Probation Officer in designing a companion program that focuses on offenders pre-indictment. This new court program, which is scheduled to launch in March 2016, will allow the offenders who successfully complete the program to avoid the lifelong stigma of a felony conviction.

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.

None.

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.

The only future benefit I expect to receive is my Federal Thrift Savings Plan.

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.

None.

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 Statement of Net Worth.

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.

I do not foresee any potential conflicts of interest based upon financial holdings. If confirmed, I would recuse myself from any case currently in the office of the Federal Public Defender or any Criminal Justice Act panel case of which I have gained knowledge.

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

If confirmed, I would strictly adhere to the Code of Conduct for United States Judges and any other relevant statutes, ethical canons and rules regarding resolution of potential or actual conflicts of interest.

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 the Chief Federal Public Defender, as an Assistant Federal Public Defender, as a member of the Criminal Justice Act panel, and as a certified lead counsel in Louisiana State Capital cases, I represented indigent clients charged with serious federal and state crimes. I have devoted the vast majority of my legal career to indigent defense.

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.

There is no selection commission in my jurisdiction. I have spoken with Senator Vitter numerous times both on the phone and in person beginning in early 2015 in New Orleans about my interest in the position. On February 18, 2015, I interviewed with Senator Cassidy in Baton Rouge. I met with Congressman Richmond on March 22, 2015 in New Orleans. In Summer 2015, I was informed by Senator Vitter that my name was being forwarded to the White House for consideration. Since November 3, 2015, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On December 21, 2015, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C. On February 4, 2016, 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.