

Defending January 6th Defendants

Evidence, liberty, and independent advocacy.

A practical guide to charges, detention, discovery, trial decisions, sentencing, and later developments.

PROGRAM FACULTY

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LATINO LAWYERS ASSOCIATION
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About the course

Federal defense, client decisions, and changing law.

This coursebook is a practical guide to evaluating federal criminal charges, seeking release, organizing discovery, advising a client and preserving review. It develops the January 6 discussion through the evidence, procedural choices and governing law that shape an individual defense.

Use the recording alongside this book's current-law analysis. Authorities were reviewed October 12, 2026. The recording date has not been independently confirmed. The status guide separates the historical Reed file, later legal developments and independent 2026 practice cases. All model records and work products are fictional teaching examples.

Proposed New York CLE credit: 0.5 Areas of Professional Practice, subject to approval of the final course. This written review draft does not establish accreditation or attendance credit.

The focus is federal criminal procedure, with a bounded New York voting-rights discussion and a civil-forum coda drawn from the episode. The book does not adjudicate political allegations or supply a complete treatise on constitutional litigation, foreign criminal law, or defamation.

What you will be able to do

1. Distinguish the charged offense, its required proof, and the effect of Fischer on a particular count.
2. Build an individualized release argument and identify the correct review procedure.
3. Prepare a usable discovery-access request and evaluate a supported delay calculation.
4. Evaluate jury bias, official-assurance arguments, and a client's disputed plea admissions.
5. Separate advisory sentencing ranges, statutory limits, appellate remedies, and executive clemency.
6. Identify the controlling facts for a voting-rights inquiry or a civil-forum decision.

A practical reading path

Chapters 1–3 establish representation, charges, and liberty. Chapters 4–7 follow preparation through trial and plea decisions. Chapters 8–9 explain sentencing and later relief. Chapter 10 treats the episode's civil-forum discussion; Chapter 11 completes the defense plan. Numbered citations link to the authorities at the back.

Attorneys with Swag × Latino Lawyers Association of Queens County. Participant review edition 2.0 • Quality review October 12, 2026.

Start here: current status before historical strategy

Law-review date: October 9, 2026. Start an actual January 6-related file with the current docket, judgment, clemency instrument and operative court orders. The January 20, 2025 proclamation commuted fourteen named sentences, pardoned other persons convicted of covered offenses, and directed pursuit of dismissal with prejudice of covered pending indictments. Those are different routes and instruments. A later motion, order, amended judgment or disputed coverage question can matter; neither the recording nor this book supplies a current status report for every defendant. [40,41]

Verified posture	First supported decision	Error to avoid
Entered dismissal covering the counts	Read its scope/prejudice and any terminated conditions; address actual residual records	Continuing to advise trial preparation as if those counts remained pending
Conviction plus a clemency document	Match person, offense and terms; inspect subsequent judicial orders	Treating commutation, pardon, vacatur and expungement as identical
Motion or public announcement only	Obtain the ruling and current obligations	Treating requested relief as already entered
Other or unrelated conduct	Analyze the actual instrument and separate proceeding	Assuming the proclamation covers every offense by the same person

The three timelines used in this book

Historical Reed file. Alex Reed is an invented defendant in a D.C. case about January 6, 2021 conduct: public indictment July 26, 2024; New York appearance July 29; first D.C. appearance and release August 1; original-count motions August 12–26; counsel’s status review September 10, 2024. Chapters 1–7 and 11 reconstruct decisions on that dated record after Fischer and before the proclamation. The later assumed January 22, 2025 entered dismissal is supplied separately in chapter 9. The historical exercise is not presented as a currently pending prosecution.

Later legal updates. Fischer was decided June 28, 2024; the proclamation is dated January 20, 2025; Celentano’s published opinion is dated January 21, 2025. This edition distinguishes the reasoning of a published decision from any person’s later case disposition. The recording’s own date remains unestablished. [2,40,52]

Transferable practice in 2026. Harbor’s force-instruction problem, Vale’s sentencing/appeal file and the independent civil-forum file concern separate fictional 2026 matters. Vale’s offense and October 1 sentencing use the November 2025 Guidelines Manual.

They are not a resentencing calculation for Reed or another real January 6 defendant. Proposed terms and assumed orders are labeled; nothing here was filed with a court or adopted by faculty.

Find the completed work products

File	Contents and chapter
C1-C2	Funding decision, client communication, count motion and proof map; 1-2
B0-B5	Appearance/transfer record, declarations, review motion and release terms; 3
D1-D3	Dated trial clock, failed-access proof, actual request/opposition/order and video synchronization; 4
J / F	Juror responses, immunity-source comparison, official-assurance facts and D.C. force instruction; 5-6
P / S1	Annotated plea, preservation decision, appeal notice and traceable sentencing/mitigation file; 7-8
T / V / L1	Operative later-status decision, civil-forum memorandum and dated defense ledger; 9-11
Problem Q	A fresh problem before its reasoned answer; Review and application

Meet the faculty

Joseph D. McBride, Esq.



Founder, The McBride Law Firm, PLLC

Joseph D. McBride is the founder of The McBride Law Firm, PLLC, where his practice includes criminal defense and civil litigation. He established the firm in 2019 after working as a public defender in The Legal Aid Society's Manhattan Criminal Defense Practice. Earlier, he spent a year as a legal intern at the Innocence Project.

He graduated from John Jay College of Criminal Justice in 2011, majoring in political science with a minor in history, and earned his J.D. from Benjamin N. Cardozo School of Law. Admitted to practice in New York in 2016, he has represented January 6 defendants, including Richard Barnett. His litigation experience includes criminal trials, bail disputes, and challenges concerning detention conditions.

Education: John Jay College of Criminal Justice, 2011: political science major, history minor; J.D., Benjamin N. Cardozo School of Law

Admission: New York, 2016

Practice: Founder, The McBride Law Firm, PLLC, established in 2019

Earlier experience: Innocence Project internship; The Legal Aid Society's Manhattan Criminal Defense Practice

Meet the faculty continued

Eugene D. Toussaint, Esq.



President, Attorneys With Swag Inc.; Staff Attorney, The Legal Aid Society

Eugene D. Toussaint is President of Attorneys with Swag Inc. and a staff attorney in The Legal Aid Society's Criminal Defense Practice in Queens. As a public defender, he represents people facing criminal charges. He founded AWS to make legal knowledge accessible through its podcast, music, and community education programs, and serves as a host and showrunner.

He graduated from Mount Saint Vincent in 2010 after studying history and psychology and earned his J.D. from St. John's University School of Law in 2014. He was admitted to the New York bar in 2015. A Bronx native and first-generation college graduate, he developed his interest in public education and community organizing alongside his legal career.

Education: Mount Saint Vincent, 2010, history and psychology; J.D., St. John's University School of Law, 2014

Admission: New York, 2015

Leadership and practice: President, Attorneys With Swag Inc.; staff attorney, The Legal Aid Society, Queens Criminal Defense Practice; AWS host and showrunner

Meet the faculty continued

Jack Gomez



Producer, Host and Designer, Attorneys With Swag; Educator

Jack Gomez is an educator, designer and musical artist from Coney Island, Brooklyn. He is a producer, host and designer for Attorneys With Swag, hosts The Jury's Out, and serves on the organization's board. His education background includes classroom support for teachers and individual work with students with different learning needs in New York City's Department of Education.

He founded Splaticus in 2021, developing an art and fashion practice centered on individually designed clothing. His creative work draws on street art, painting, music and dance, with an emphasis on color, texture and personal expression. Alongside that work, his background in education includes helping young people build work habits, confidence and independence.

AWS roles: Producer, host, designer and board member; host of The Jury's Out

Education experience: Classroom and individual student support in New York City public education

Creative work: Founder, Splaticus, established in 2021; art, fashion, music and visual design

1. The client and the representation

Independent advocacy starts with a defined client, an accurate record, and decisions the client can actually make.

1.1 Advocacy across political differences

The episode emphasizes representation across political differences. Counsel must assess the charge, proof, remedies, and client objectives even when a client's views are unpopular. Personal political agreement cannot substitute for that analysis; doing so risks overlooking both viable defenses and damaging evidence.

New York's professional rules place decisions such as the plea, jury waiver, and whether to testify with the client after consultation. They also protect confidential information and professional independence when someone else pays. These New York provisions orient the intended reader; counsel appearing in another jurisdiction must separately determine the forum's admission, local, and disciplinary rules. [1]

1.2 Worked intake: Alex Reed

Historical practice case • intake on July 29, 2024, before the January 2025 proclamation. Alex Reed is a New York resident charged in federal court in Washington, D.C., for alleged conduct at the Capitol on January 6, 2021. Reed acknowledges entering a corridor but disputes striking an officer or intending to interfere with documents. A short prosecution clip shows an arm moving near an officer. A longer recording may show that someone behind Reed caused the movement. Reed's priorities at intake are release, accurate factual admissions and protecting employment. An advocacy group offers to pay fees if the defense rejects every plea and publishes discovery. The dated file in §1.4 and current-status guide control the timeline.

Record Reed's confidential account, the procedural chronology, and disputed propositions requiring independent proof. The longer video is a lead, not yet an exoneration: obtain its source, full sequence, and relationship to the prosecution clip. Employment belongs in release and sentencing planning; it cannot determine what the video depicts.

Recommendation. Do not accept the funding condition as stated. Explain who the client is, preserve Reed's choice about a plea, and resolve confidentiality and discovery restrictions before accepting outside payment. If the donor instead offers unconditional payment with no access to privileged communications, the analysis changes: informed client consent and safeguards may permit the arrangement. A signed retainer cannot make an otherwise improper interference term valid. [1]

1.3 Communication that supports a decision

A useful update separates events, disputes, counsel's work, and the client's decision: "The indictment alleges an intentional strike. We have only a short clip. I requested the preceding and following footage and a way to review it with you. We have not agreed to the government's factual account. The next decision is whether to seek a continuance for that review, with the possible effect on custody time explained."

Ask Reed to explain the options back. Record the advice and decision confidentially. Separately assess public communications; fundraising does not justify publishing protected discovery or confidential strategy.

1.4 File C1: the representation decision, completed

Historical Reed file • July 29–31, 2024. All people, documents, dates and docket numbers in the Reed file are invented for instruction. The case is United States v. Alex Reed, teaching docket 24-CR-700, District of Columbia. It concerns alleged January 6, 2021 conduct. Its historical posture is fixed before the January 2025 clemency proclamation. The present-day status review comes first in this book and returns in chapter 9. Neither this case nor these submissions are faculty work product.

The July 26 public indictment contains two counts: a physical-contact assault under §111(a) and obstruction under §1512(c)(2). Reed surrendered in New York on July 29. Attorney Maya Chen undertook the defense after confirming admission/association requirements for the charging court; attorney Luis Ortiz covers the New York appearance. There is no joint representation of a donor or another accused person. The later superseding indictment and actual discovery docket are supplied in chapter 4.

C1-A • donor email, July 29, 4:10 p.m. "We will fund \$18,000 for Alex's defense. Our board must approve any plea. We want the government's videos for fundraising and a weekly report of what Alex tells you." This is the entire operative condition for the exercise; the group's political identity is immaterial.

C1-B • Chen's response, July 30, 9:00 a.m. "Alex is my client. I cannot give your board control over the plea, privileged communications or protected discovery. I can consider payment without those conditions, with Alex's informed consent and an agreement preserving independent judgment and confidentiality. We will separately agree on a lawful billing description that does not reveal confidential information. I have not accepted your conditional offer." This implements the New York orientation rules discussed above. D.C. Rule 1.8(e) separately requires informed consent, no interference and confidentiality; the subsection differs from New York's 1.8(f). Counsel must apply the forum's rules, including its conflict provisions, after the Rule 8.5 analysis. Payment does not make a donor a client through billing. [1,59]

C1-C • confidential conference entry, July 30, 2:00 p.m. Reed says: “I want to keep my job and get out, but I will not say I hit someone if that is false. I want to hear every actual offer.” Chen explains the two current counts, the incomplete video, possible release conditions, the distinction between an offer and a guaranteed disposition, and the cost of refusing the donor’s conditions. Reed authorizes seeking unconditional funding, declines release of confidences and directs counsel to communicate all offers. Reed’s teach-back: “The donor pays only if it gives up control. You advise me; I decide whether to plead after I understand the offer.” Chen records no consent to public disclosure.

C1-D • revised agreement accepted July 31. The donor provides \$18,000 without control over strategy, plea, witnesses or counsel’s continued service. Reed gives informed consent to third-party payment after the discussion above. Billing goes to the donor only at the agreed level of nonconfidential administrative detail; no discovery or client account accompanies it. Any demand for additional access returns to counsel for a fresh confidentiality analysis. Counsel remains responsible for the fee agreement, treatment of funds and any withdrawal under the applicable rules. The payment is not a waiver of those obligations.

Why this result follows. The first offer fails because the payer would direct a reserved client decision and receive protected material. Reed’s desire for funding does not cure interference with counsel’s professional judgment. The revised payment can be accepted on these assumed facts because control and improper access have been removed and informed consent obtained. If the donor later says, “Reject the offer or we stop paying,” counsel must explain the threat privately, preserve the client’s choice and assess continued representation; counsel cannot silently convert a financial threat into Reed’s litigation objective. Public comments remain subject to confidentiality, trial-publicity restrictions and any court order. Rule 8.5 requires a separate choice-of-law analysis rather than assuming New York rules displace the tribunal’s rules. [1]

2. Read the charge before judging the exposure

Each count has its own elements. A change in one offense does not resolve every other count.

2.1 What Fischer decided

In *Fischer v. United States*, the Supreme Court construed 18 U.S.C. §1512(c)(2) narrowly in relation to the evidence-focused provision preceding it. The government must establish impairment, or attempted impairment, of the availability or integrity of records, documents, objects, or other things used in an official proceeding. The Court vacated the appellate judgment and remanded; it did not announce an acquittal for every January 6 defendant. [2]

The episode's physical-contact shorthand is too narrow. The decision discusses false evidence, witness testimony, and intangible information. Conversely, merely describing a disruption does not supply the required connection. Counsel must examine the indictment's theory, evidence, instructions, and procedural posture. Section 1512(c) provides a **20-year maximum**, not a 20-year mandatory minimum. [2] [3]

2.2 A completed count audit

For the fictional Reed case, assume the §1512(c)(2) count alleges that entering the corridor delayed certification, without identifying any impaired record or other thing used in the proceeding. Counsel should seek identification of the alleged evidentiary object and conduct, evaluate a timely legal challenge, and preserve the issue. This is a reason to examine the count, not a promise that the court must dismiss every pending allegation.

Changed fact. Suppose authenticated messages show a plan to conceal certification documents and evidence of an attempt to reach them. Counsel can no longer rely solely on the absence of physical contact with paper. The government has a materially different theory; intent, the act constituting an attempt, the proceeding connection, and evidentiary reliability require analysis. A legal motion does not replace a trial dispute over whose messages they were.

2.3 Separate the statutory tiers

Section 111(a) distinguishes simple assault, with a maximum of one year, from covered acts involving physical contact with the victim or intent to commit another felony, with a maximum of eight years. Section 111(b) provides a maximum of twenty years where a deadly or dangerous weapon is used or bodily injury is inflicted in committing the covered acts. The charge must be read with the governing elements and instructions; the presence of a crowd does not itself establish the defendant's use of force. [4]

Section 231(a)(3) addresses obstructing, impeding, or interfering, or attempting to do so, with a firefighter or law-enforcement officer lawfully performing official duties during a civil disorder affecting commerce or a federally protected function. Its imprisonment maximum is five years. “Civil disorder” has a statutory definition; it is not a synonym for any unpopular gathering. [5]

Section 1752 requires a qualifying restricted building or grounds, with different prohibited conduct in its subsections. The ordinary maximum is one year; specified weapon or significant-bodily-injury circumstances increase it to ten years. Capitol restrictions under 40 U.S.C. §5104 are a separate statutory scheme; for example, subsection (e)(2)(G) concerns parading, demonstrating, or picketing in a Capitol building. Do not import §1752’s protected-person requirement into every Capitol count. [6] [7]

Why the distinction matters. If the longer video defeats an alleged strike, a remaining unlawful-entry count still needs its own assessment. If Reed was in a public area outside the charged restriction, a location defense may matter even though other people committed violence elsewhere. Prepare a count-by-count proof chart before describing aggregate exposure.

2.4 Conspiracy is not a presence offense

The episode asks how someone absent from the Capitol could receive a substantial sentence. Physical absence does not defeat a conspiracy charge by itself. Section 371 addresses specified agreements to commit an offense against, or defraud, the United States and requires an overt act by a conspirator. Section 2384 separately addresses agreements involving force for its specified unlawful objectives. Identify the actual conspiracy statute rather than borrowing elements between them. [8] [9]

An organizer’s authenticated planning messages and knowing agreement may matter even if the organizer stayed home. Conversely, membership in a club, political agreement, or knowing other defendants is not a substitute for proof of the charged agreement and participation. The defense task is to separate association from agreement and each alleged participant’s conduct from the acts of the group.

Count or issue	Required distinction	Reed’s next factual inquiry
§1512(c)(2)	Obstruction must satisfy Fischer’s evidentiary limitation, as well as the offense’s other requirements.	What thing used in the proceeding was allegedly impaired or targeted?
§111	Force, protected officer/function, and the applicable statutory tier matter.	Does the complete video show intentional force, accidental contact, or another actor?

Count or issue	Required distinction	Reed's next factual inquiry
§231(a)(3)	The officer's lawful duties, civil disorder, and commerce or federally protected function nexus matter.	What lawful official act was obstructed, and by what conduct?
§1752 or §5104	Restricted-ground and Capitol offenses have distinct location and mental-state requirements.	Which boundary, notice, conduct, and statutory subsection are alleged?

2.5 File C2: a count-specific motion and proof map

Historical analysis • August 2024, after Fischer. The fictional Count Two alleges: “On January 6, 2021, Alex Reed corruptly obstructed and attempted to obstruct the congressional certification proceeding by entering Corridor C and delaying access by officials, in violation of 18 U.S.C. §1512(c)(2).” It identifies no record, document, object or other thing whose availability or integrity Reed impaired or attempted to impair. This excerpt is deliberately the complete asserted theory; it is not a disguised summary of a real indictment.

Defense submission, filed August 12. “Reed moves under Rule 12(b)(3)(B)(v) to dismiss Count Two for failure to state an offense on its stated theory. Fischer requires the evidentiary connection described in the opinion, not obstruction in the abstract. The count alleges only corridor obstruction and resulting delay. The Court should dismiss that count on this legal theory; alternatively, the government should identify its allegedly impaired thing and the charged conduct sufficiently to permit the Court to resolve the legal issue and counsel to prepare. Reed does not ask the Court to decide disputed video facts or acquit on Count One through this motion.” [2,3,31]

Government response. “The pleading uses the statutory terms and the surrounding proceeding supplies context. The motion improperly asks for a preview of trial proof. We seek permission to clarify the evidentiary theory and oppose a factual merits determination before trial.” The response identifies the procedural risk: a Rule 12 motion is not criminal summary judgment. Counsel must distinguish a theory that would be legally insufficient even if true from a dispute over what the government can prove. The example’s August 26 order directs particularization of the alleged evidentiary theory and denies dismissal without prejudice on the present submission; it makes no guilt finding. Counsel records a renewed motion/instruction/Rule 29 issue rather than treating the denial as a final appellate victory or defeat.

C2 evidence supplied	What it supports	What it does not establish
G-01, an eight-second corridor clip	Reed is near an officer; an arm moves	Whose force moved the arm, the preceding sequence, or an intentional strike
G-02, location map with Corridor C labeled	A lead for proving location and restrictions	Knowledge, lawful-authority issues or every element of a separate entry count
G-03, agent's summary: "delay to certification"	The government's asserted effect on the proceeding	The missing Fischer connection to impaired or targeted evidence
D-01, longer video, not yet synchronized	Potential context and another person's movement	An authenticated, fully synchronized exoneration

Changed object and changed agreement. In a separate variation, M-01 is an authenticated message from Reed: "Hide the certification envelopes so they cannot be used." M-02 is another person's response agreeing to meet at the storage door, and a verified recording shows Reed trying that door. That evidence materially strengthens an attempted evidence-impairment theory, even if Reed never touched an envelope. It does not relieve the prosecution of proving the remaining statutory requirements, identity, intent and the attempt. Counsel would replace the "delay only" premise with a challenge fitted to this actual allegation, preserve authentication objections and test innocent explanations. [2,3]

For §371, the same messages could also support a charged agreement to commit a specified federal offense and an overt act. The analyst must identify that object and which act advances it. If M-02 instead says, "I disagree; I am going home," and the only remaining evidence is club membership, the supplied record no longer supports the same inference of a shared agreement. Section 2384 has its own force-based objectives; neither a §371 agreement nor political association automatically proves seditious conspiracy. This is why someone's absence from the scene does not settle the conspiracy question, and presence does not settle it either. [8,9]

2.6 Update lens: knowledge and separate counts

The later D.C. Circuit decision in *Celentano* applies Griffin's interpretation of §1752: the government need not prove knowledge that the Vice President's presence was the reason for the restriction. That is different from dispensing with proof of knowing entry into an unauthorized restricted area. The January 21, 2025 decision postdates Reed's August 2024 defense work. The same decision illustrates count-specific remedies: instructional error affected one assault conviction differently from other counts supported by other encounters. Counsel must read both the holding and the actual disposition. [52]

3. Arrest, release, and detention review

The court needs an individualized explanation of risk and workable conditions, not a generalized account of the event.

3.1 The arrest district and the prosecution district

Rule 5 generally requires an initial appearance without unnecessary delay. When the arrest occurs outside the district of the alleged offense, the rule identifies where that appearance occurs and the procedures for transfer. Warrant production and identity are distinct from adjudicating guilt. An indictment also changes whether a preliminary hearing is required; do not promise such a hearing in every case. [10]

Reed's first work sequence. Obtain the complaint or indictment, warrant, docket, custody location, appointment or retention documents, and every release or detention order. Confirm identity and the charged district. Arrange confidential consultation before litigating a fact-sensitive waiver. If the prosecution seeks review of a release order, obtain the review motion and any stay. A review proceeding in the charging district does not mean that the first judicial officer's order never existed.

Keep a separate venue issue list for trial. Transfer after an out-of-district arrest and a defendant's request to move the trial because of prejudice are different procedures with different questions.

3.2 The detention decision has stages

Under §3142, start with eligibility for a detention hearing under subsection (f), then consider any applicable statutory presumption, individualized risk, and release conditions. A felony label alone does not establish every hearing gateway. If release on recognizance or an unsecured bond is insufficient, the court considers the least restrictive adequate conditions. Dangerousness findings supporting detention require clear and convincing evidence. The D.C. Circuit uses a preponderance standard for the flight ground. Keep those burdens distinct. [11] [50]

Common hearing gateways include a qualifying crime of violence, a covered weapons felony, or a serious risk of flight or obstruction under §3142(f); the statutory list and definitions control. A January 6 association is not itself a gateway or a rebuttable presumption. Any claimed presumption must be tied to §3142(e)'s actual conditions. Even where a hearing is authorized, detention still requires the separate finding that adequate conditions cannot address the applicable risk. [11]

The federal system permits financial conditions but prohibits a financial condition that results in pretrial detention. Thus, "cash bail does not exist" is misleading. Money cannot cure a demonstrated danger that no release conditions address; inability to pay cannot be used as a disguised detention order. [11]

Munchel illustrates the individualized inquiry. The D.C. Circuit reviewed detention orders arising from January 6 conduct and remanded for further consideration of the threat and the adequacy of conditions. Serious past conduct mattered, but the court required attention to a concrete prospective threat, the defendants' circumstances, and possible restrictions. Neither collective blame nor a categorical rule of release captures that holding. [12]

3.3 Worked release presentation

Release framework. File B below supplies the verified surrender, residence, work and custodian evidence, the adverse travel proffer and the actual proposed conditions. Conditions must address an identified concern; intrusiveness is not a substitute for proof.

Government concern	Defense proof and proposed response
Intentional officer assault	Identify the complete video and explain the disputed attribution; acknowledge that the issue is unresolved.
Future organized violence	Address actual communications, access to weapons, plans, and conduct after the event.
Flight	Document surrender, stable residence, employment, travel documents, and a realistic reporting arrangement.
Witness interference	Investigate the specific allegation; propose a clear no-contact condition if appropriate.

Changed fact. A newly authenticated threat to a named witness substantially weakens the proposal. A custodian cannot simply promise that Reed will stop. Counsel must address access, communication methods, enforcement, and whether any conditions can reasonably manage the threat. An ankle monitor records location; it does not itself prevent electronic intimidation.

3.4 Choose the right route for relief

Section 3145 provides district-court review of qualifying magistrate release or detention orders in the court with original jurisdiction over the offense, and appellate review of release or detention decisions. Section 3142(f) separately permits reopening for previously unknown information materially bearing on release conditions. Repeating a rejected argument is different from presenting qualifying new information. [13] [11]

Relief selection. Sections 3.5–3.6 supply the review motion, declarations, conditions, entered teaching order and separate custody-access variation. Match evidence and requested remedy to the actual order and statutory route; generalized allegations cannot substitute for proof.

3.5 File B: the appearance, evidence and release request

Historical file • July 29–August 1, 2024. These completed records supplement the earlier release framework. They supply the missing evidence and procedural route; no actual person’s custody status is represented.

Record	Supplied event or fact	Consequence for counsel
B0, July 29 New York minute entry	Reed appears with Ortiz on the D.C. indictment and warrant. Identity and warrant production are established; an indictment is already pending. A magistrate judge orders detention after a hearing on asserted serious flight risk.	Obtain the order and hearing record; no promised preliminary hearing on this indicted charge. Preserve the client’s instructions about transfer.
Government proffer at B0	Agent has a July 24 outward flight reservation and believes it is one-way. Government invokes §3142(f) (2) (A); it asserts no statutory presumption.	Challenge the actual flight evidence and separately the need for detention; do not assume all §111(a) charges automatically satisfy a crime-of-violence gateway.
B1, airline itinerary	Reservation made July 24 for August 3–5 family travel; return segment is on a linked reservation. Both were cancelled July 28.	The incomplete initial proffer has a verifiable alternative explanation. Attach the linked segments and cancellation receipt, not counsel’s assurance alone.
B2, appearance and transport	Rule 5 transfer paperwork completed July 30; arrival in D.C. July 31; first appearance in charging court August 1.	Keep transfer/identity, detention review and trial venue as distinct issues. The chapter 4 trial clock starts with the later charging-court appearance.
B3, residence/work records	Lease at the same New York address since 2014; employer confirms a job available and leave for court. No prior failures to appear are shown in the supplied record.	Particularized ties and a feasible attendance plan; neither establishes innocence.

B4 • declaration of proposed custodian Robin Reed, July 31. “Alex has lived at our shared apartment since 2014. I have reviewed the proposed reporting and travel conditions. I can provide housing and transport to scheduled appointments. I understand that supervision includes promptly reporting a violation to Pretrial Services; I will not conceal one. I am not

a witness to the Capitol encounter. I have attached the lease and do not claim to know what the video proves. I declare under penalty of perjury that these statements are true and correct. Executed July 31, 2024, in New York. Robin Reed.” This is a fictional completed declaration under §1746, not an actual signed witness statement. [53]

B5 • Chen’s motion to the charging district, filed July 31. “Under §3145(b), Reed requests prompt review and revocation of the New York magistrate judge’s detention order. The initial proffer omitted the return segment and cancellation receipt, attached as B1. Voluntary surrender on July 29, stable residence, employment and the custodian’s undertaking address the asserted risk. The government has identified neither a §3142(e) presumption nor a threat to a witness. Reed disputes the §3142(f)(2)(A) gateway and, independently, whether any remaining risk cannot be addressed by conditions. The disputed eight-second clip is serious evidence to investigate; it is not proof that no conditions can manage future risk. The Court should release Reed on the terms below, or identify the remaining risk and hear the custodian before deciding.” [11–13,50]

Proposed terms in B5. Reed must appear as directed; report to Pretrial Services within 24 hours of release and weekly thereafter; reside at the verified address with the custodian; surrender the passport to Pretrial Services before release; and limit travel to New York and necessary D.C. court/counsel travel unless the court approves otherwise. These are tailored proposed conditions, not automatic requirements for everyone. No cash deposit is proposed. There is no condition authorizing publication of protected material or restricting ordinary political beliefs.

Government response and assumed result. The government acknowledges the return segment but argues that access to travel and the potential sentence still create flight risk. Chen responds that capacity to travel is not itself a serious risk of flight or a showing that conditions fail. The fictional August 1 order grants release on the proposed conditions after finding the government’s flight showing insufficient to justify detention in light of the corrected itinerary and conditions. No dangerousness determination substitutes for the missing individualized record. This is an assumed result for the exercise, not a prediction. Reed remains released through the September 10 historical status date; chapter 4’s discovery difficulties arise under a protective order, not because Reed is then jailed.

3.6 Changed custody facts and a different route to relief

Threat variation. Replace “no threats” with an authenticated July 28 message from Reed naming a prospective witness, giving the witness’s address and saying he will make the witness unable to testify. This changes both the §3142(f)(2)(B) inquiry and the prospective-risk analysis. Counsel cannot repeat the no-threat declaration. Investigate authenticity, timing, capability and context, submit available counterproof, and assess whether a clear no-contact condition, supervision and limits on relevant access can reasonably address the risk. If not, detention may follow under the proper burden; Munchel is not an entitlement to release for every defendant. [11,12]

Reopening versus review. B5 challenges a magistrate judge's order through §3145(b). A request to reopen a detention hearing under §3142(f) instead requires information not known to the movant at the hearing that materially bears on conditions. Calling the original argument "new" does not satisfy that requirement. A later district-court detention order raises the appellate route in §3145(c), not another identical §3145(b) motion addressed to that same judge. [11,13]

Detained-client access variation • separate from the baseline clock. Assume the threat variation produces detention, and the custodian cannot manage that risk. On August 12, counsel documents three failed confidential video-review sessions: a cancelled escort on August 5, an incompatible approved player on August 8 and a 20-minute slot on August 9 that ended before the eight-minute sequence could be replayed and discussed. A technician can supply a secure compatible player in the facility. The primary request is an order setting two confidential three-hour review sessions by August 20 with the approved equipment, with a report of compliance. This addresses the demonstrated preparation problem without assuming temporary release is necessary.

Alternative §3142(i) application, completed. "If the facility cannot implement those sessions, Reed requests temporary release to a United States marshal or another custodian the Court finds appropriate for two specified counsel-review sessions, August 19 and 20, 9:00 a.m.–noon, with transport, continuous supervision, no witness contact, no internet access and return immediately afterward. The attached failure log and technician's declaration explain the material to review, why counsel cannot finish it by verbal description and why available in-custody alternatives have failed. Counsel requests findings on whether this limited release is necessary for preparation of the defense, not dissolution of the underlying detention order." Section 3142(i) also recognizes another compelling reason; a claim must be supported, not merely labeled compelling. The government may respond that the compatible facility setup solves the need or that proposed supervision does not contain the established threat. A denial or narrower in-custody order is therefore a reasoned possibility. [11]

Client instruction after the August 1 release. "Follow the actual order: attend court, report as directed and confirm permitted travel. Call counsel about a needed change; a condition remains binding until changed."

4. Make discovery usable

Production, access, and effective consultation are related but separate problems.

4.1 Identify the disclosure obligation

Rule 16 covers specified statements, records, objects, examinations, and expert disclosures, subject to its conditions and exclusions. It is not a universal federal open-file rule. Brady requires disclosure of favorable material evidence; Giglio applies the principle to material impeachment evidence, including relevant promises to a key witness. Rule 5(f) requires a disclosure-obligation order at the specified early proceeding. [14] [15] [16] [10]

The Jencks Act generally addresses qualifying statements of a government witness after that witness testifies on direct examination. That provision does not authorize withholding Brady material until it becomes useless. Counsel should identify overlapping duties, the court's orders, and a schedule allowing effective use. Federal rules should not be described through New York's separate discovery and certificate framework. [17]

For Reed, request the surrounding video, source metadata, alternative angles, relevant statements, and information bearing on mistaken identification. Explain why a particular item matters. "All January 6 footage" may be too unfocused to resolve the immediate evidentiary dispute; "the corridor camera covering the two minutes before and after the alleged strike" gives the prosecutor and court a tractable task.

4.2 Turn a large production into evidence

Create an index containing the production identifier, source, time range, restrictions, issue, and review status. Preserve the original file and work from a copy. Where camera clocks disagree, record the offset and the event used to synchronize them; do not silently rewrite timestamps. A clipped social-media copy may be useful as a lead without being the best trial exhibit.

Synchronization check. The completed D3 record in §4.7 aligns two shared events in recordings G-04 and D-01, both showing G-04 seventy-two seconds ahead. The alleged contact at G-04 14:03:00 therefore aligns provisionally with D-01 14:01:48. The changed second-event time defeats a uniform offset. Preserve both native displays, identify assumptions and verify the system records before presenting an edited composite.

A video can undermine attribution while confirming presence. Record both results. The client should be able to identify locations and people without being coached to adopt the lawyer's theory.

4.3 Protected material and client access

Rule 16(d) allows protective and modifying orders for good cause and provides remedies for discovery failures. Protection classifications come from the actual order; there is no single nationwide rule that every federal defendant may keep every file, or that no detained defendant may see protected video. [14]

Completed access application. Section 4.6 supplies the released Reed's actual request concerning protected file G-04, a technical declaration, the government's opposition and an entered teaching order. Identification on the assault count is disputed. The separate detained-client variation in §3.6 uses different access facts and a different requested remedy; it is not Reed's status after the August 1 release.

D3 includes the observed playback failures, device limits, governing restriction and evidentiary relevance, then answers the government's security concern with specific conditions. If usable access already exists and the problem is counsel's scheduling, correct that problem; a motion asserting technical impossibility would misstate the record.

4.4 Delay, new charges, and the trial clock

The Speedy Trial Act generally uses a 70-day trial period from the later qualifying indictment/information event or appearance in the charging court, with statutory exclusions. A separate 30-day indictment rule and a separate minimum preparation period may matter. Motion-related delay and properly supported ends-of-justice continuances require careful treatment; elapsed calendar days alone do not establish a violation. [18]

Dated ledger. D1 below uses August 1, 2024 as the triggering appearance. August 2–11 contributes 10 chargeable days; the August 12–26 motion interval is excluded on the supplied assumptions; August 27–September 10 contributes 15. The result is 25 chargeable days and 45 remaining. Both motions were promptly decided on the papers August 26, without a hearing; their overlapping periods are counted only once. This is the original-count calculation, not an assumed clock for the new conspiracy count.

Changed fact. If the supposed motion was merely an unfiled draft, it supplies no filing-based exclusion. On the otherwise identical assumptions, the first 40 days are chargeable, leaving 30. A later continuance order cannot be treated as a blank retroactive eraser without examining the statutory findings.

A superseding indictment does not automatically grant a new 30-day preparation period. Rojas-Contreras distinguishes that question from the court's ability to grant a justified continuance. Identify the new allegation, new discovery, investigation needed, requested time, and effect on custody. [19]

Under §3162, dismissal for a trial-clock violation must be sought before trial or a guilty or nolo plea; failure to move timely waives the statutory dismissal right. Dismissal can be with

or without prejudice after the required analysis. A client update should explain these possibilities without promising that every delay ends the prosecution. [20]

The constitutional inquiry under Barker balances the length and reason for delay, assertion of the right, and prejudice. A statutory exclusion does not end that separate analysis. For Reed, document custody, lost evidence, unavailable witnesses, and objections to postponement. Delay requested to investigate a defense differs from deliberate government delay to disadvantage the accused; the full balance controls rather than any single calendar number. [51]

4.5 File D1: the actual docket behind the clock

Historical Reed file • counsel’s review as of September 10, 2024. The following is the complete supplied docket for the calculation on the two original counts. There are no codefendants, competency proceedings, other motions, continuances, pending pleas, interlocutory appeals or additional exclusions. It is a simplified teaching record, not a reconstruction of an actual federal docket. The newly added conspiracy count requires its own commencement analysis; the calculation below is confined to the original two counts.

Entry/date	Operative record	Clock treatment for the original counts
1 • July 26	Indictment filed and made public	Earlier of the two §3161(c) (1) triggering events
2 • July 29–31	New York appearance; transfer; July 31 detention-review motion	Before the first appearance in the charging court
3 • August 1	First D.C. appearance, not-guilty plea; review motion decided; release ordered	Day 0; not a chargeable trial-clock day
No entry • August 2–11	No proceeding/exclusion	10 chargeable days
4–5 • August 12	Defense files Count Two legal motion and discovery-access motion	Motion exclusion begins with filing
6 • August 26	Court promptly decides both motions on the papers; no hearing or further submission pending	Last day of this motion exclusion; August 12–26 = 15 excluded days
No excluded event • August 27–September 10	No further motion/proceeding within the supplied assumptions	15 chargeable days

Entry/date	Operative record	Clock treatment for the original counts
7 • September 6	Superseding indictment repeats both original counts and adds §371 conspiracy; no arraignment or other proceeding yet	No automatic new preparation period or reset for the repeated counts

Calculation. August 2–September 10 contains 40 calendar days. Subtract the 15 motion days once: **25 chargeable days**, leaving **45 of 70** on the original-count clock. The fact that two motions overlap does not produce a 30-day deduction. The clock is a legal ledger of actual events, not the number of days since counsel first opened the file. Section 3161(c)(2)’s minimum preparation period from the first appearance through counsel is a different protection from the 70-day trial limit. Rojas-Contreras rejects an automatic fresh 30-day preparation period solely because a superseding indictment is filed. [18,19]

Changed filing fact. Delete entries 4–6: both papers remained drafts in counsel’s folder and the court did not consider them. With no other exclusion, all 40 days are chargeable and **30 remain**. A draft file’s creation date is not the filing date. Do not deduct time for a motion the lawyer intended to file. If there was an actual oral motion or another qualifying proceeding, examine that record rather than imposing this no-proceeding assumption on a real case.

Completed preparation request for September 11. “The new conspiracy count identifies two alleged planning messages and a new sender. Counsel received the export September 9; authentication, full-thread review and confidential consultation cannot reasonably be completed for the September 18 trial setting despite the requests made. Counsel seeks trial on October 2, a September 20 production deadline for the complete thread and original extraction information, and an October 1 readiness conference. The request is based on those tasks and counsel’s documented work, not general congestion. Reed understands and joins this preparation request while preserving any distinct claim concerning earlier delay.”

Proposed prospective finding. “After considering the public’s and defendant’s interest in a speedy trial, the Court finds that denying reasonable preparation time on the newly supplied messages would deny effective preparation despite due diligence. For the specified tasks, the ends served by a continuance outweigh those speedy-trial interests. Trial is continued to October 2; September 11–October 1 is excluded under §3161(h)(7)(A), (B)(iv). The production and conference dates stated above apply.” This is proposed language requiring an actual judicial finding and ruling; counsel’s consent alone is insufficient. No September 11 ruling is assumed in the September 10 calculation, and the order does not retroactively erase earlier chargeable days. [18]

If a supported calculation eventually exceeds the statutory limit, §3162 requires a timely defense motion and an analysis of dismissal with or without prejudice; a later dismissal is

not automatically with prejudice. A constitutional speedy-trial claim under Barker separately weighs length, reasons, assertion and prejudice. Neither a New York certificate-of-compliance rule nor an unsupported statement that federal cases are “slow” resolves either federal inquiry. [20,51]

4.6 File D2: disclosure that can actually be used

Assumed August 1 protective order, paragraph 4. “Sensitive security video may be held only by defense counsel and retained defense personnel. The defendant may review it with counsel but may not retain a copy or transmit it. Counsel may seek modification for demonstrated preparation needs.” Reed is released. The problem is a restriction on access and incompatible files, not a blanket rule that every January 6 defendant was forbidden to see evidence.

Item and source	Present production	Counsel's identified obligation/request
G-01 eight-second government clip, produced August 2	Plays on counsel's laptop	Rule 16 request for underlying complete recording, metadata and relevant object, subject to materiality/other applicable grounds
G-04 full security sequence, produced August 2	Proprietary player fails	Obtain a usable protected viewing method without publishing security footage
Officer interview reflecting uncertainty about whose arm moved	Mentioned in agent email, not supplied	Specifically request favorable/credibility information under Brady/Giglio; do not postpone it merely by attaching a witness-statement label
Witness's unrelated prior statement	Not yet produced	Determine §3500/Rule 26.2 applicability and timing; request agreed early production where useful, without representing an automatic general right to all statements now
D-01 defense-source longer video	Counsel has a working copy and source contact	Preserve original and provenance, consider reciprocal duties and proposed use; do not confuse defense possession with government production

Rule 16, constitutional disclosure, the Jencks Act and court orders answer overlapping but different questions. The request should identify the item, source, relevance and missing component; “give us everything” conceals the practical failure. Favorable evidence necessary for effective use deserves a focused timing request. The court’s Rule 5(f) order reinforces disclosure obligations; it does not make the New York statutory discovery system govern the federal case. [14–17]

D3-A • actual failure log. August 5, 10:00 a.m.: counsel and Reed attempt G-04 using supplied Player A; error “unsupported codec” at load. August 8, 2:00 p.m.: government supplies Player B; it opens the index but gives a black screen after frame 1. August 9, 11:00 a.m.: technician tries the government’s remote portal; audio works but frame advancement freezes at 00:08. Each session ends without joint review of the complete sequence. The log records software version, error capture and session duration, not conclusions about intentional obstruction.

D3-B • technician’s declaration, August 12. “I, Dana Lee, tested the copies identified as G-04, retained their original filenames and preserved the supplied media without alteration. I observed the three failures listed in D3-A. A conversion on a working copy permits ordinary playback; I have retained the original and documented settings so conversion can be checked. Counsel’s disconnected, encrypted laptop can display the working copy without network access or removable-media export. I cannot certify the source recording’s accuracy or which person made the contact. I declare under penalty of perjury that the foregoing is true and correct. Executed August 12, 2024. Dana Lee.” These are invented technical observations, not a claim that a real forensic conversion was performed. [53]

D3-C • request filed August 12 under Rule 16(d). “Counsel requests permission to use the documented working copy of G-04 on counsel’s encrypted, disconnected laptop for private review with Reed; preservation of the original; identification of the government’s source file and available metadata; and production or an effective viewing method for the preceding and following eight minutes. D3-A and D3-B show why mere delivery has not enabled review. Counsel offers the safeguards in the proposed order. The request does not seek public release or unrestricted copies for the client. Counsel also requests prompt disclosure of the officer’s attribution uncertainty and any related favorable material so it can be used in preparation.” [14–17]

Government response. The prosecution objects that the recording exposes security-camera locations and that an exportable derivative could be redistributed. It offers supervised use of a government terminal but only for one hour, without the client, on September 12. Counsel’s reply identifies why that offer fails: client consultation and repeated review of the full sequence are the demonstrated needs, while the proposed disconnected device, access limits and copy controls address the stated security concern. Security is a reason to shape relief, not evidence that the client needs no access.

D3-D • operative teaching order, entered August 26. “1. Defense counsel may retain one encrypted working copy of G-04 solely for this defense, preserving the unmodified source and conversion log. 2. Reed may view it only with counsel on a disconnected device under counsel’s control; Reed may not retain, photograph or transmit it. 3. Authorized defense personnel shall acknowledge this order before access. 4. The government shall provide the identified source sequence and available metadata, or a working equivalent that permits confidential joint review, by September 3. 5. Public disclosure remains prohibited; any party seeking modification must apply to the Court. 6. Counsel shall report an unresolved access failure by September 4 so that prompt further relief can be considered. 7. Existing Brady/Giglio obligations remain in force; this order does not postpone favorable-material disclosure to the Jencks deadline.” The exercise assumes counsel reports successful playback and joint review September 3; no additional motion is filed through September 10.

4.7 Two synchronization points, not a guessed offset

On G-04 the blue cart passes the doorway at **14:02:12**; the same event appears at **14:01:00** on D-01. A light flashes at **14:07:12** on G-04 and **14:06:00** on D-01. Both comparisons show G-04 running **72 seconds ahead**; within that tested interval, subtract 72 seconds from its display to compare events. The apparent contact at G-04 14:03:00 corresponds to D-01 14:01:48, not 14:03:00. Both original displays remain visible in the comparison log. No claim is made about absolute clock accuracy.

Changed second event. If D-01’s light flash instead reads 14:05:30, the later offset is 102 seconds. A uniform 72-second correction is no longer supported; drift, an edit, a playback-rate error or a mistaken event identification must be investigated. Counsel should not present the apparently exculpatory sequence as synchronized until the discrepancy is resolved. Even a validated timing comparison leaves questions about angle, occlusion, identity and intent. This changes the strength of the defense submission, not just a caption on an exhibit.

5. Venue, publicity, and an impartial jury

Measure the asserted prejudice with facts that bear on this trial and these jurors.

5.1 Trial location and transfer

Rule 18 ordinarily places prosecution in a district where the offense occurred. Rule 21(a) provides transfer on the defendant's motion where prejudice is so great that a fair and impartial trial cannot be obtained; Rule 21(b) separately addresses convenience and the interest of justice. Residence in New York is not itself a right to move a Washington prosecution home. [21] [22]

Skilling rejects the assumption that extensive adverse publicity invariably establishes presumed prejudice. The Court examined the community, the character and timing of publicity, and the jury process; the actual record matters. A district's voting pattern does not establish that every juror will disregard the evidence. [23]

Reed's motion analysis. Compile representative reporting, its dates and reach, any repeated inadmissible confession or personal threats, and the questionnaire and voir-dire record. Ask how publicity connects to a juror's inability to decide this defendant's counts. If the showing supports careful screening but not transfer, request individual questioning on sensitive exposure and renew a supported challenge if the selection process reveals the problem.

5.2 A useful voir-dire sequence

Start with exposure, then memory, then effect: What did the person encounter? What do they remember about Reed? Have they formed an opinion? Do they have a personal connection to the event or a witness? Can they decide each count on admitted proof and instructions? A bare "I can be fair" is less informative than the surrounding answers.

Changed fact. One prospective juror follows political news but knows nothing about Reed. Another is a close relative of the officer allegedly injured and has discussed that injury in detail. The second situation calls for a different and much more specific inquiry. Preserve the actual answers, the challenge, and the ruling. Avoid equating political identity with incapacity.

A juror's personal stake can justify focused questions about impartiality. Investigate the connection to the parties, events and disputed issue, then ask how it may affect the juror's assessment of the evidence. A shared demographic experience alone does not establish bias. An opinion expressed during voir dire also does not prove the underlying scientific or medical proposition.

5.3 Correcting the Oliver North analogy

United States v. North involved the use of immunized congressional testimony, including whether witnesses' evidence was influenced by it. The D.C. Circuit required a searching independent-source inquiry under Kastigar and addressed additional trial errors. It did not hold that a widely publicized defendant automatically cannot be tried. [24]

The distinction changes counsel's work. If Reed merely appeared in news reports, analyze publicity and impartiality. If Reed gave compelled testimony under an immunity grant and a prosecution witness later watched it, obtain the grant, testimony, witness chronology, and prior statements; investigate derivation. Publicity and immunity can intersect, but the legal injury and remedy are not interchangeable.

5.4 File J: a jury-bias submission with an adverse record

Historical preparation file. Counsel's September 10 media log contains 12 saved reports, with date, outlet, reach estimate and whether Reed is named. Ten discuss January 6 generally; two identify Reed and describe an accusation, without a confession or adjudicated guilt. Counsel has no reliable survey showing inability to seat an impartial jury. This record supports careful screening, but an unsupported assertion that a district's voters cannot be fair would replace evidence with a demographic assumption. Skilling requires attention to such matters as community size, content and timing of publicity, and the actual jury process. [21–23]

Completed requested screening questions. "What reporting about this defendant do you remember, and what conclusion, if any, have you reached? Do you or someone close to you have a personal connection to the charged encounter? Would you expect the defendant to prove innocence? Can you decide each count from admitted evidence and the judge's instructions even if your political views differ from the defendant's?" Seek individual follow-up on sensitive answers so one juror's prejudicial information is not broadcast to the entire panel.

J1 • two assumed answers. Juror 14 follows politics but knows none of the participants, has formed no view about Reed and can require proof beyond a reasonable doubt. Juror 22 says a sibling was injured in the same encounter, discussed it with the juror and identified Reed as responsible; the juror believes Reed must explain himself before being trusted. The second response supplies an individualized concern about personal knowledge, stake and burden shifting that the first does not.

Challenge and response. "The defense challenges Juror 22 for cause based on the relationship, extra-record account and stated presumption requiring Reed to explain himself. Please question the juror individually about whether those beliefs can actually be set aside, and rule on the challenge on the record." The government may seek rehabilitation; a later bare "I can be fair" must be assessed with the complete answers. Preserve the precise objection, further questions requested and court ruling. Do not

promise that a political opinion alone compels exclusion, or that an erroneous cause ruling necessarily produces reversal under every later preservation record.

Rule 21 request, bounded to the proof. Counsel submits the dated log and requests transfer for prejudice, alternatively individual screening and leave to renew after voir dire. The government answers that most reports do not identify Reed and the remaining reports describe allegations neutrally. On these supplied facts, the stronger immediate relief is meaningful screening; a categorical claim that the present record already proves an impossible fair trial overstates it. A variation adding repeated publication of a coerced confession and jurors' fixed guilt beliefs materially changes the submission, but still calls for the applicable presumption/actual-bias analysis. [22,23]

5.5 North: identify the immunity problem before borrowing the remedy

J2-A. A witness learns Reed's name from ordinary news and later supplies an independently recorded eyewitness account. **J2-B.** In a separate immunity exercise, the accused gave compelled testimony under a use-immunity order, and a prosecution witness then refreshed a disputed detail by watching that testimony. The second record raises the problem addressed in North: whether prosecution evidence was shaped by immunized testimony and whether an independent source can be demonstrated. It is not simply "the case was on television." [24]

Counsel's completed J2-B request seeks the immunity order, pre-exposure interview notes, exposure chronology, later statements and a hearing examining the identified disputed detail and independent source. The government's useful response would identify contemporaneous untainted notes and explain the provenance of each relevant fact; saying that prosecutors themselves avoided the broadcast does not answer whether a witness was influenced. If J2-A is the actual record and no compelled immunized testimony exists, counsel should not label ordinary publicity a North violation. The revised/rehearing decision belongs with the original opinion when evaluating its scope. [24,60]

6. Test a defense against its actual elements

An invitation, a police encounter, and government inducement present different legal questions.

6.1 Entrapment is not every government opportunity

Mathews identifies government inducement and lack of predisposition as the core entrapment questions. A defendant may be entitled to an instruction where the evidence supports the defense even while denying an element of the offense. The existence of an undercover actor, or an opportunity offered by the government, is not by itself entrapment. [25]

Application. If Reed was already planning the charged conduct and an undercover officer simply provided an opportunity, the predisposition issue differs sharply from sustained government pressure directed at a previously unwilling person. Preserve the full communications, who initiated them, refusals, persuasion, and evidence predating contact. The episode's suggestion that a police drug purchase is inherently unlawful entrapment should not be carried into practice.

6.2 Entrapment by estoppel and official assurances

Entrapment by estoppel concerns reasonable reliance on an authorized official's affirmative assurance that the conduct was lawful. It is not the same as inducement and predisposition. In *Chrestman*, a district-court detention opinion rejected a January 6 defendant's theory based on presidential encouragement; the analysis addressed the lack of a lawful basis for the asserted authorization. Its discussion is useful but does not replace controlling circuit law or fact-specific trial instructions. [26]

Reed's two accounts. "An officer did not stop me" leaves unresolved what the officer knew, intended, and had authority to permit. "An identified authorized official expressly told me this particular entry was lawful after I disclosed the relevant facts" presents a more substantial inquiry, still requiring proof of the assurance, authority, actual reliance, and reasonableness. A gesture directing a crowd away from danger may be crowd management, not permission to enter a restricted chamber.

Collect the complete recording, exact words, location, visible barriers, timing, and official's role. Distinguish a potential mens-rea argument from an affirmative estoppel defense. Even evidence insufficient for estoppel may bear on what Reed knew, depending on the charged offense; the court must be asked to rule on the correct issue.

6.3 Force, self-defense, and the full sequence

An alleged use of excessive force requires an individualized analysis. It does not authorize retaliation against any officer or excuse unrelated entry and obstruction counts. Counsel must investigate the immediate threat, the defendant's knowledge, initial aggression, available context, and proportionality of the response. Instruction law varies with the circuit and theory. The Ninth Circuit's model discussion expressly distinguishes a mistake about officer status from self-defense against excessive force; it is a research illustration, not a D.C. instruction. [27]

For Reed, footage showing an accidental arm movement supports a different theory from footage showing a deliberate defensive movement. Do not blur them. Obtain the seconds before and after the contact, identify who applied force first, and determine whether the response continued after any threat ended. If Reed struck a retreating officer after the alleged danger had passed, that changed fact undermines a justification theory even if an earlier use of police force was improper.

Completed force file. F2 below supplies the threat-and-response chronology, competing camera accounts, proposed D.C. instruction, government opposition and reasoned deadly-force variation. The exercise distinguishes a reasonable defensive mistake from an unjustified response and identifies what changes if aggression or proportionality is disputed.

6.4 File F1: inducement, permission and reliance are different facts

Historical Reed file. The complete assumed audio at the corridor door is: Officer: "Move to your right; keep that lane clear." Reed: "Can I go through that door?" The clip ends without an answer. A gesture points along the corridor, not clearly through the door. This does not supply an affirmative assurance that unauthorized entry or force is lawful. Counsel requests the preceding and following audio and identifies the officer and duties; counsel does not turn silence into permission. [25,26]

In the changed-assurance variation, the authenticated continuation says, "This particular door is open to visitors; you may enter through it now," from an identified official responsible for that entrance, after Reed accurately describes the intended conduct. Reed enters only through that door in reliance on the statement. Counsel now has a fact-specific estoppel argument to research and present, including the official's actual authority, meaning, reasonableness and scope of reliance. Permission to walk through a door still does not authorize striking an officer elsewhere. Chrestman and the district court's later Vaglica ruling reject reliance on generalized presidential rhetoric in the circumstances they addressed; district-court opinions are not a substitute for controlling appellate law or a guarantee that every specific assurance fails. [26,54]

An entrapment variation needs different proof. If a government agent repeatedly pressures an initially unwilling person to commit the charged offense, that is an inducement lead; the

record must also support lack of predisposition. Merely placing an opportunity before someone or showing official presence does not complete the defense. Mathews permits an instruction on a recognized defense when evidence would permit a reasonable jury to find it, even though the defendant also disputes an element. Counsel can investigate alternative theories without telling the jury an unsupported story. [25]

6.5 File F2: a D.C. force instruction supported by evidence

Current-law transfer exercise • September 2026, unrelated to January 6. At a federal building, Taylor Harbor is charged under §111(a) with intentionally pushing a federal officer's forearm. Harbor claims defense of another. The parties stipulate the officer's protected status and official duties for this exercise, but dispute justification. This new file permits use of the 2025 Celentano opinion without placing a later decision in Reed's 2024 motion.

F2 evidence proffer. Camera A shows a kneeling person with hands visible and an officer making three rapid baton movements. Harbor stands six feet away with an unobstructed view of the kneeling person's upper body. Harbor testifies that the person was not resisting and that the next strike appeared imminent. Harbor pushes the officer's forearm once, steps back when the movement stops, uses no object and does not pursue. Camera B partly obscures the kneeling person's lower hand; the officer testifies that the hand was grasping another officer's equipment. The proffer contains no evidence that Harbor initiated the confrontation or saw an earlier attack by the third person. All of these are invented facts, including the adverse camera and testimony.

Proposed Count One instruction for Harbor's nondeadly-force defense. "Officers may use reasonably necessary force to perform lawful duties; not every use of force is excessive. In deciding this defense, consider whether Harbor actually and reasonably believed that the officer was using excessive force against the other person and that the person faced imminent unlawful bodily harm. Evaluate that belief from what Harbor knew and reasonably could have learned from the circumstances, including the need for restraint, any immediate threat or resistance, possible weapons, the number of people involved, the time available, changes in the encounter and the amount and duration of force. A reasonable belief can be mistaken; an honest but unreasonable belief is insufficient. Harbor's responsive force must be no greater than reasonably necessary to protect the person. This proposed instruction concerns nondeadly force on the supplied evidence. The government must disprove the defense beyond a reasonable doubt. If it has not, find Harbor not guilty of Count One. Decide any other count under its own instructions." [25,52]

Why this wording matters. Celentano, slip pages 7–10, identifies the defendant's actual and reasonable belief, the circumstances informing it and the officer's lawful authority to use nonexcessive force. It rejected an instruction that made actual excessive force and the reasonable officer's perspective the controlling threshold for the criminal defense. This differs from simply transplanting a civil excessive-force test. The circuit did not prescribe a

universal exact formula, and its discussion distinguishes deadly from nondeadly responsive force. A Ninth Circuit model is comparative background only. [27,52]

Government opposition and reasoned ruling. The government argues that the hidden hand justified the officer's restraint and that Harbor had time to observe it. It also argues that an instruction should not reward interference with a lawful officer. The defense responds that the legal protection for officers is included, while Harbor's vantage point and the obscured hand create a factual dispute about a reasonable belief. On this supplied proffer, the court can give a properly limited defense instruction and let the jury resolve credibility; the court need not decide that the officer actually used excessive force first. If Harbor's view clearly showed an ongoing attack on another officer, the reasonableness argument weakens sharply. A jury could reject it while accepting Harbor's sincerity.

Material change: a potentially deadly response. Change the single forearm push to a forceful shove toward an open stairwell. The parties can no longer stipulate the same nondeadly-force premise. The court must determine the supported instruction for the potentially deadly response, including actual and reasonable belief in imminent death or serious bodily harm and necessary/proportionate force. An anticipated minor baton bruise does not automatically meet that higher threshold. If evidence suggests Harbor or the third person was the initial aggressor, request and litigate the appropriate additional limitation rather than silently assuming it away. Celentano declined to consider an unpreserved aggressor-perspective argument; counsel should identify a disputed instruction distinctly and timely under Rule 30(d). [52,55]

7. Pleas, trial choices, and review

The client decides with accurate facts, explained consequences, and a record that preserves the intended issue.

7.1 A factual basis is not an administrative formality

Rule 11 requires an informed, voluntary plea and a factual basis before entry of judgment on a guilty plea. Counsel should review each material admission with the client and compare it with the charge and evidence. The prosecutor's narrative is a proposal to evaluate, not a document the client must sign because it is long or uses standard language.

[28]

Admission review. The P1 draft below says Reed knowingly entered Corridor C without permission, intentionally punched Officer Lane and destroyed certification documents. Reed accepts presence but disputes knowledge and permission, denies an intentional punch, and denies destroying documents. The completed annotation separates those factual issues from legal objections. Counsel must investigate and obtain a truthful factual basis for any proposed resolution; counsel cannot manufacture facts to complete the plea.

7.2 Advice under custody pressure

Explain the offer, trial exposure, evidence gaps, sentencing uncertainty, appeal waiver, and consequences of waiting. Detention can exert severe pressure, but pressure alone does not establish that every plea is legally involuntary. Assess coercion, understanding, competence, and the actual decision process. Do not use a promised release or a guessed sentence as a substitute for the agreement's terms.

McCoy protects a defendant's choice to maintain innocence against counsel's contrary concession of guilt at trial. It does not authorize perjury or give the client control of every tactical detail. In Reed's conference, distinguish the client's objective and fundamental choices from counsel's evidentiary and procedural advice. [29]

Changed fact. If Reed accepts the historical facts but disputes whether they satisfy §1512(c)(2), the question becomes preservation of a legal issue, not invention of a false denial. If Reed disputes a central historical fact, a stipulation resolving that fact against Reed has a different consequence. Document which situation exists.

7.3 A bench trial is not automatic preservation

Rule 11(a)(2) permits a conditional plea reserving specified pretrial rulings in writing with government consent and court approval. Rule 23 generally requires written jury waiver, government consent, and court approval for a nonjury trial where the defendant is entitled to a jury. A stipulated bench trial is not a universal substitute for a conditional plea. [28] [30]

Decision example. Reed wants appellate review of a legal ruling while avoiding a full evidentiary trial. First ask whether a conditional plea is available and precisely which ruling it would preserve. If it is refused, assess the consequences of trial, what facts any stipulation would concede, and whether the intended issue survives. Obtain the required consent and explain the resulting waiver to Reed before choosing the path.

Rule 12 governs timely pretrial objections and relief for untimely motions; Rule 29 governs acquittal motions testing sufficiency. Counsel should identify the issue, motion deadline, necessary factual record, requested instruction, and ruling. Merely saying “we preserve everything” does not supply a missing objection or undo an express concession. [31] [32]

7.4 Appeal access and the first deadline

A federal criminal defendant’s notice of appeal generally must be filed within 14 days after the later of entry of the judgment or order appealed from, or the government’s notice of appeal. Specified timely posttrial motions and the extension provisions require separate examination. Calendar the entry date, not an assumed date based on the oral sentencing announcement. [33]

The Criminal Justice Act provides representation for qualifying financially eligible defendants and continuation through appeal under its terms. A large private-retainer estimate is not a legal prerequisite to appellate review. Appointment, withdrawal, scope of representation, waiver, and discretionary further review must each be checked. [34]

Appeal handoff requirements. Confirm judgment entry, the client’s instruction and the actual filing deadline, preserve the record and obtain an accepted transfer of responsibility. P3 below supplies Vale’s dated notice, filing receipt and appellate counsel’s acceptance. The merits brief can follow; allowing the notice deadline to pass while seeking a perfect merits assessment may forfeit a critical step.

7.5 File P1: mark the factual admissions before advising acceptance

Historical Reed conference • September 10, 2024. The government’s draft factual statement says: “Reed knowingly entered Corridor C without permission, intentionally punched Officer Lane and destroyed certification documents.” Reed accepts being in the corridor, says permission and knowledge require review of the complete entry recording, denies an intentional punch, and denies destroying documents. Counsel has the successful September 3 video review but has not resolved attribution; the full message export arrived September 9. This is an unaccepted draft, not an actual offer with complete charge and sentencing terms.

Proposed admission	Completed client/counsel annotation	Consequence
Presence in Corridor C	Reed accepts physical presence; map/source location must match	Preserve the limited fact; it does not admit every entry element
Knowing entry without authority	Disputed; complete entry audio needed	Seek accurate wording and proof; do not infer permission from an unanswered question
Intentional punch	Expressly denied; short and longer clips differ in context	Do not sign the statement as true; investigate intent/attribution
Destruction of certification documents	Denied; no such act identified in supplied record	Remove unsupported assertion; a possible later message theory is different conduct

Chen’s advice recorded. “We cannot recommend signing this factual statement as written. I will identify the disputed passages and seek an accurate account and a complete offer specifying counts, any sentencing stipulations, appeal terms and consequences. If no truthful acceptable resolution is available, we prepare for trial. Trial brings risk and expense; it does not justify a false admission. You decide whether to accept a lawful plea after consultation.” Rule 11 requires a factual basis for a guilty plea; McCoy protects the client’s autonomy to maintain innocence against counsel’s contrary concession, within the decision it addressed. Neither authority guarantees the prosecutor will offer different terms. [1,28,29]

7.6 File P2: what would actually preserve an issue?

The draft reservation says: “With government consent and court approval, Reed reserves in writing the right to seek appellate review of the specified adverse determination of the legal sufficiency of Count Two under Fischer.” Counsel marks it **not ready for signature**: the actual August 26 order denied dismissal without prejudice while directing particularization, the later theory is unresolved, and no truthful final plea or consent has been obtained. The completed decision is to renew and resolve the precise legal issue, identify the actual order, and negotiate any Rule 11(a)(2) reservation before a plea. A handwritten “all rights reserved” does not supply government consent, court approval or a defined preserved issue. [28,31]

For a stipulated bench trial, Rule 23(a) generally requires written jury waiver, government consent and court approval. Agreeing that a recording is authentic differs from stipulating that it proves an intentional punch. Counsel’s proposed evidentiary stipulation therefore says: “The parties agree only that Exhibit G-01 is the identified eight-second recording; the defendant does not concede intent, attribution, justification, the truth of a witness’s

account, or sufficiency.” Whether the prosecutor agrees and what remains for the court to decide must be clear. Counsel still raises appropriate pretrial issues, Rule 29 sufficiency arguments and specific objections; a bench trial label does not cure a conceded element or an unpreserved claim. [30–32]

Changed fact. If an authenticated full video now shows an intentional punch and Reed truthfully acknowledges it after consultation, counsel must update the factual advice. That does not authorize an admission to destroying records, eliminate investigation of justification or require acceptance of an unspecified sentence. The unit tests separating evidence and client choices, not choosing trial in every case.

7.7 File P3: the notice and accepted appeal handoff

Separate Vale file • October 2026. Morgan Vale’s unrelated 2026 federal-officer conviction supplies the sentencing file in chapter 8. For this notice example, final judgment is entered **October 1, 2026**; no tolling motion is filed, there is no earlier government notice and Vale directs an appeal. Fourteen days under Rule 4(b)(1)(A) run to **October 15**. Counsel calendars that actual date, verifies docket entry and does not rely on the later date a paper copy arrives. A qualifying posttrial motion or other procedural fact would require a new calculation. [33]

Completed notice filed October 8, teaching docket 26-CR-810. “United States District Court for the District of Columbia. United States v. Morgan Vale. Notice is given that defendant Morgan Vale appeals to the United States Court of Appeals for the District of Columbia Circuit from the final judgment entered October 1, 2026. October 8, 2026. Maya Chen, counsel for defendant.” The file includes the assumed electronic filing receipt and service on government counsel. This teaching notice is not filed in any real court.

Accepted handoff, October 8. Chen sends the judgment, plea/waiver documents, PSR objections, sentencing transcript order and notice receipt to appointed appellate counsel, Jordan Ellis. Ellis confirms acceptance and the briefing-calendar task that day. Vale receives a private explanation that the notice begins review; it does not guarantee relief, avoid a valid appeal waiver or resolve the merits. Financial eligibility and the scope of a Criminal Justice Act appointment must be established. Section 3006A provides a representation framework, not a promise that any particular private lawyer will fund the appeal. [33,34]

8. Sentencing without false arithmetic

A statutory maximum, an advisory range, and the sentence imposed answer different questions.

8.1 Identify the controlling version and limits

For every count, record the offense-date statute, maximum and any minimum, authorized sentence types, and the applicable guideline analysis. The Guidelines do not replace the statute. Section 3553(a) directs an individualized sentence sufficient but no greater than necessary for the statutory purposes, considering the offense, defendant, sentencing options, guidelines, disparities, and other listed factors. [35]

Current-law update. The 2025 Guidelines Manual, effective November 1, 2025, uses a two-step framework after Amendment 836: calculate the guideline range and sentencing options, then consider the other §3553(a) factors. It removes the former general departure step and many departure provisions while retaining specified mechanisms, including substantial assistance. The recording’s departure terminology must therefore be understood in its historical setting. Check the applicable manual, including ex post facto issues, rather than assuming the newest edition governs an older offense. [36]

8.2 A bounded range comparison

The following is an arithmetic demonstration using the 2025 sentencing table, **not a calculation of Reed’s actual offense level**. Assume the properly determined total offense level is 18 and Criminal History Category I. The table range is 27–33 months. If a sustained legal objection instead produces level 12 with the same category, the table range is 10–16 months. Criminal-history points determine a category; they are not simply added to the offense level. [37]

Assumed inputs	Table range	Decision still required
Level 18; Category I	27–33 months	Verify adjustments, statutory limits, sentence options, and §3553(a).
Level 12; Category I	10–16 months	Recheck the resulting zone and lawful sentencing options; do not assume probation.
Level 18; Category II	30–37 months	Revisit the criminal-history record supporting the different category.

The range changes because an input changes, not because counsel subtracts years from a statutory maximum. If a count has a five-year maximum, a guideline calculation does not

authorize six years on that count. Multiple-count rules and total-sentence questions require their own analysis. Conversely, a range below a statutory minimum cannot by itself authorize a sentence below that minimum. [36]

8.3 Build mitigation around supported facts

Gall instructs sentencing courts to begin with a correct guideline calculation, consider the statutory factors, make an individualized assessment, and explain the sentence. An outside-range sentence needs a reasoned justification; disagreement with the prosecution is not enough. [38]

A mitigation packet should substantiate employment, caregiving, relevant treatment, postoffense conduct and a feasible plan linked to sentencing purposes. The completed calculation and mitigation file below concern Morgan Vale's separate 2026 case. Reed's historical prosecution ends with the assumed dismissal in Chapter 9.

Changed fact. A claimed caregiving duty supported only by Reed's assertion has less persuasive force than medical information, the dependent's actual needs, and an explanation of unavailable alternatives. A misleading letter can damage the submission. Check the presentence report against records and timely object to consequential errors; Rule 32 ordinarily gives the parties 14 days after receipt to communicate objections, subject to its provisions and the court's orders. [39]

8.4 File S1: a reproducible, bounded sentencing calculation

Independent transfer case, not Reed. Morgan Vale, born in 1989, pleaded guilty August 25, 2026 to one §111(a) count involving physical contact during an unrelated January 15, 2026 federal-building encounter. Sentencing occurs October 1, 2026. There is no January 6 clemency connection. This worksheet demonstrates the imprisonment-range decision on specified facts; it is not a full calculation of every monetary sanction, supervision term, grouping possibility or collateral consequence in federal practice.

S1-A • accepted factual record. Vale deliberately pushed a federal officer's shoulder while the officer performed a lawful duty. There was physical contact but no injury, weapon, strangulation, intent to commit another felony, other participant or other relevant criminal conduct. Vale truthfully admitted the conduct, ceased the conduct, timely pleaded and accepts responsibility. There is no obstruction, role adjustment, reckless flight, terrorism adjustment or acquitted conduct. These are explicit exercise findings, not conclusions inferred solely from the offense label. A real court must resolve the relevant factual disputes before using them.

S1-B • criminal-history records. Certified adult judgments show a separate January 14, 2019 petty-theft conviction with a \$300 fine and a June 17, 2022 petty-theft conviction with one day of imprisonment. The arrest for the first offense preceded the second offense; different incidents and judgments are involved. Neither conviction was expunged, vacated or part of the present conduct. Vale was not under a criminal-justice sentence when the 2026 offense

occurred. There are no other prior sentences. These ordinary theft convictions are not assumed to fall within an excluded petty-offense category.

Step	Source and reasoning	Result
Edition	November 1, 2025 Manual; both offense and sentencing occur while it is the effective manual. §1B1.11 requires the ex post facto check and whole-manual approach.	2025 Manual throughout
Applicable guideline	Appendix A and §1B1.2; §2A2.4 fits the specified officer obstruction/contact conduct.	Base level 10
Contact characteristic	§2A2.4(b)(1); deliberate physical contact established	+3 → 13
Injury/cross-reference	No injury; none of the aggravated-assault facts in §2A2.2 application note 1 is present	+0; no cross-reference
Official-victim adjustment	§2A2.4 application note 2 already incorporates official status; §3A1.2 is not added here	+0
Other Chapters 2–3 adjustments	None on the fully stated record; one count only	13
Acceptance	§3E1.1(a), assumed clear demonstration; pre-adjustment level is below 16, so no third point under (b)	–2 → 11
Prior sentences	Each receives one point under §4A1.1(c); read with §4A1.2(a), (c), (e)	1 + 1 = 2 points
Status/zero-point adjustments	No status point on these facts; §4C1.1 fails at least the zero-points condition	No reduction/addition
Table	Chapter 5, Part A, row 11 / Category II (2–3 points)	10–16 months; Zone C

Step	Source and reasoning	Result
Statutory comparison	§111(a) physical-contact tier; no mandatory minimum specified for this count	8-year maximum; table range below it

The arithmetic is $10 + 3 - 2 = 11$, not 10 plus every feature named somewhere in the manual. Two separate one-point judgments establish Category II; “only misdemeanors” is not a reason to call it Category I. The table’s row and column, not a general recollection of typical sentences, produce 10–16 months. Guideline options for Zone C under §5C1.1(d) require their own analysis; a simple sentence of probation is not the within-guideline option supplied by that zone. A statutory permission and an advisory guideline recommendation are distinct. [4,36,37,56]

S1-C • presentence objection, served September 10. “Vale objects to PSR paragraphs 45–47, which add three levels under §3A1.2 solely because the victim was an officer. The selected guideline is §2A2.4, and its application note 2 precludes that adjustment unless the cross-reference to §2A2.2 applies. S1-A supplies none of the aggravated-assault predicates. Correct the total from 14 to 11 and the Category II range from 18–24 to 10–16 months. We accept the two separately countable one-point prior sentences on the attached judgments, without conceding that an unsupported official-victim adjustment is permissible.” The government may contest the facts requiring a cross-reference, but it cannot justify duplicate counting merely by repeating the victim’s title. [39,56]

Service record: On September 10, counsel sent the written objections to the probation officer and opposing counsel, with same-day electronic acknowledgments retained in S1-C. The PSR was received **August 27**, 35 days before the October 1 sentencing. Fourteen days after receipt is **September 10**; the supplied objection is timely under Rule 32(f), with no special extension or shorter agreed period assumed. Counsel requests a ruling on the contested finding, not merely an unexplained statement that the final sentence would be the same. The final teaching judgment assumes the objection was sustained and the corrected range used. [39]

8.5 The changed-injury range and the mitigation submission

Material injury variation. Replace “no injury” with a painful, obvious bruise documented in a same-day medical note, found to be bodily injury under §1B1.1 application note 1(B). It is not serious bodily injury; all other facts remain unchanged, including no weapon, strangulation or intent to commit another felony. Apply §2A2.4(b)(2)’s additional two levels: $10 + 3 + 2 - 2 = 13$. With the same two criminal-history points, Category II gives **15–21 months, Zone D**. Acceptance still produces only two levels because the pre-adjustment total is 15, below 16. The offense of conviction remains §111(a); a guideline injury finding does not silently replace the conviction with §111(b) or raise the statutory maximum from eight to twenty years. [4,36,37,56]

If the revised proof instead establishes serious bodily injury or another aggravated-assault predicate, return to the cross-reference and rebuild the calculation; do not automatically stop after adding two. If one prior sentence is vacated, reassess criminal history and all affected provisions instead of altering a table column by intuition. The example intentionally does not calculate every new combination without its necessary facts.

S1-D • completed supporting mitigation exhibits. These four records belong to the fictional Morgan Vale case. The names, organization, records and typed signatures are teaching examples.

Exhibit S1-D1 • employer letter, September 18, 2026. “To the sentencing court: I am Hannah Brooks, operations manager at Cedar Street Supply. Morgan Vale has worked here as an inventory assistant since September 12, 2022. I supervise the receiving and stock-control team and have reviewed Vale’s employment record. Vale’s duties include checking deliveries, recording discrepancies and preparing stock for dispatch. We will permit leave for the period of any custodial sentence and make a full-time inventory-assistant position available after lawful release. I will coordinate the return date with Vale and counsel once the release date and any work restrictions are known. This commitment concerns employment; I did not witness the January 15 encounter and offer no account of what occurred there. Signed, Hannah Brooks.”

Exhibit S1-D2 • caregiver declaration, September 18, 2026. “I, Dana Vale, declare: (1) I am Morgan Vale’s parent. I have standing appointments each Tuesday and Thursday and need help with transportation. (2) For the past year, Morgan has ordinarily driven me, waited during the appointment and brought me home. I know this from the trips we made together. (3) My other adult child, Sam Vale, can provide the Tuesday trip but cannot leave work for the Thursday trip. (4) If Morgan is in custody, Sam will cover Tuesdays and my neighbor Pat Warren will cover Thursdays temporarily. I spoke with both on September 17 and each agreed. Morgan’s return would restore our usual arrangement, but I understand the court must determine the sentence. (5) I am describing transportation and the arrangement I made; I am not offering a medical diagnosis or saying there is no possible substitute for Morgan. I declare under penalty of perjury that the foregoing is true and correct. Executed September 18, 2026, in Washington, D.C. Signed, Dana Vale.” [53]

Exhibit S1-D3 • program attendance record, issued September 18, 2026. “Participant: Morgan Vale. Program: eight-session conflict-management workshop. Attendance: July 30—present; August 6—present; August 13—present; August 20—present; August 27—present; September 3—present; September 10—present; September 17—present. Completion: eight of eight sessions. Topics included recognizing escalation, leaving an escalating encounter, following lawful directions and practicing nonviolent responses. I maintain the sign-in record and confirmed these entries against it. This record establishes attendance and completion; it is not a clinical assessment or a prediction of future conduct. Signed, Lee Park, program coordinator.”

Exhibit S1-D4 • Vale’s statement, September 18, 2026. “I deliberately pushed the officer’s shoulder while the officer was performing a lawful duty. I accept that conduct and the risk I created. The absence of injury does not make the push acceptable. I have discussed the encounter in the conflict-management sessions and practiced stopping, creating distance and leaving instead of answering an order with physical contact. If a future encounter becomes tense, I will keep my hands visible, follow lawful directions and seek legal advice afterward rather than use force. I know my prior theft convictions remain part of the court’s assessment. I ask the court to consider the work and family arrangements in this packet when deciding the sentence, not to treat them as an excuse. Signed, Morgan Vale.”

Counsel’s annotation. D1 supports a specific employment commitment and identifies the writer’s basis of knowledge. D2 supplies the actual caregiving task and acknowledges a temporary substitute; counsel should not recast it as proof that incarceration would leave the parent without any transport. D3 proves attendance, not rehabilitation by itself. D4 accepts the supplied offense and explains concrete future conduct. Compare every assertion with the PSR and resolved facts; remove unnecessary personal information before filing and follow the court’s filing and privacy requirements. These records support the §3553(a) submission below without replacing the guideline calculation. [35,39]

Changed fact and reasoned response. Suppose Brooks withdraws the job commitment before sentencing and explains that the position was eliminated. Counsel must correct the submission and tell the court that no job is presently secured; the earlier letter cannot continue to support assured employment. The attendance record, accepted responsibility and caregiving evidence remain available on their actual terms. Counsel can seek time to verify a replacement work plan, but a hoped-for job is not a completed placement. The guideline range remains 10–16 months on the unchanged offense and history inputs; the court reassesses the weight of the mitigation and the requested sentence. If the caregiver declaration instead shows both appointments are already fully covered, acknowledge that fact and limit the caregiving argument accordingly.

Completed sentencing request, September 23. “Using the corrected 10–16 month range, the defense requests ten months’ imprisonment. The offense involved deliberate physical contact with an officer and warrants a meaningful sanction. The absence of injury or weapon, verified employment, completed program and feasible family plan support the low end; the two prior thefts remain part of the record and explain Category II. The proposed sentence addresses punishment, deterrence and protection of the public without treating unrelated political views as mitigation. The Court should state its range finding and its individualized §3553(a) reasons. The separate required determinations concerning supervision, financial penalties and any restitution remain for the sentencing record.” [35,38,56]

Government response. The government seeks sixteen months, emphasizing that an officer was intentionally impeded and that prior convictions did not prevent new misconduct. Counsel replies that those are real aggravators but the current offense’s actual harm and the

verified postoffense plan support the requested lower endpoint. A court could reasonably give weight to either supported account; the lower term is not owed because Vale pleaded guilty. For the exercise, the October 1 court imposes ten months after sustaining the calculation objection and explaining those factors. Chapter 7's notice is a separate client-directed preservation step; it is not a finding that this assumed sentence is reversible.

9. Later relief and collateral consequences

Read the operative order. A legal decision, a pardon, and a commutation do different work.

9.1 Fischer does not execute its own remedy

After a narrowing decision, counsel must identify the affected count, theory, preservation, procedural posture, and available vehicle for relief. A pending pretrial case, direct appeal, and final conviction present different questions. Review the actual judgment and mandate before promising dismissal, release, or resentencing. Other valid counts and the remaining sentence can matter.

Reed's file review. List each count and disposition, the factual basis or trial instructions, sentence on each count, concurrent or consecutive structure, and the current docket. If the challenged count was never charged, Fischer cannot be treated as a direct count-specific remedy. If it was central to a plea or sentence, examine the agreement and governing review rules. This is issue identification, not a universal collateral-review prescription.

9.2 The January 20, 2025 proclamation

Proclamation 10887 commuted the sentences of fourteen named individuals to time served, pardoned other individuals convicted of covered January 6-related offenses, and directed the Attorney General to pursue dismissal with prejudice of covered pending indictments. These categories are different. The proclamation should be read alongside the person's judgment, pardon or commutation documentation, and ensuing court orders. [40]

Document or event	What counsel must determine
Commutation	Which sentence was reduced and on what terms; it is not itself a vacatur of the conviction.
Pardon	Which offense is covered and what consequences the pardon affects.
Pending-case dismissal	Whether a dismissal was entered, which counts it covers, and its stated prejudice.
Judicial vacatur or remand	What the court set aside, what remains, and what further proceedings it ordered.

The Pardon Attorney explains that a pardon does not itself expunge a conviction. A certificate, a dismissal, and an amended judgment should not be used interchangeably in employment, licensing, or background-check advice. Nor does clemency itself establish an

entitlement to damages for prior custody. Investigate the specific residual consequence and governing law. [41]

Changed fact. Reed has an unrelated conviction outside the covered conduct. Do not infer that its sentence or collateral consequences disappear because a January 6 count received relief. Obtain the actual instruments and analyze each matter separately.

9.3 Voting and eligibility for office

New York Election Law §5-106 excludes persons from registration and voting while incarcerated for a qualifying felony, including the specified federal and out-of-state convictions. The incarceration-based exclusion ends on release; parole or supervised release is not itself the same exclusion. The person must still meet registration and other voting requirements. Other states have their own rules. [42]

Example. A qualifying New York resident released from imprisonment and living in the community should be advised to check and complete registration rather than assume a lifetime ban or automatic enrollment. A person still incarcerated for the qualifying felony is differently situated. Moving to New York requires actual residence and satisfaction of eligibility rules, not simply obtaining a mailing address. [43]

Eligibility for President is a separate constitutional inquiry. Article II states age, citizenship, and residency qualifications; it does not impose a general felony-conviction bar. Other constitutional provisions, including the Twenty-Second Amendment and Fourteenth Amendment §3, raise distinct questions. This course does not decide a particular candidate's eligibility or treat a criminal judgment as resolving every constitutional issue. [44]

9.4 File T1: close the historical case through the actual instrument

Assumed later Reed records. This is the continuation of the invented case, not a report about any real defendant. On January 21, 2025 the government files a Rule 48(a) motion seeking dismissal with prejudice of the July 26 indictment and September 6 superseding indictment under the proclamation's pending-case direction. On January 22, the court enters the following teaching order. [40,57]

T1 entered-order excerpt. "The government's motion is granted. All counts against Alex Reed in teaching docket 24-CR-700 are dismissed with prejudice to the government. Release conditions imposed solely in this docket are terminated. This order resolves this prosecution; it makes no finding concerning an unrelated judgment or civil claim." The supplied docket contains no conviction in this case. The order's express scope, not a news headline, supports changing the client's plan.

Completed October 9, 2026 status memorandum. "We have the entered January 22 order and matching docket entry. Reed has no pending count or release obligation under this teaching docket. We have recorded the disposition of both original counts and the added

conspiracy count as dismissed with prejudice. We have not labeled the disposition an acquittal, a pardon certificate or a declaration of factual innocence. We are retaining the order and checking that the particular record supplied to an employer accurately reflects this disposition. No unrelated conviction, damages claim or financial refund has been adjudicated by the supplied order.” Trial-preparation tasks for these dismissed counts are closed; a residual record-correction request must identify the actual erroneous record and available procedure.

Changed instrument. Replace the entered order with only the January 21 government motion. The requested relief is known, but no disposition has yet been verified. Counsel must obtain the ruling and assess any still-operative conditions rather than tell the client to disregard them. Replace it with a commutation certificate in a convicted person’s separate file: imprisonment may be reduced on its stated terms, but the fact of conviction is not vacated by commutation itself. A covered pardon likewise is not automatic expungement. Subsequent judicial orders can change the analysis; inspect them before advising on a particular record. [40,41]

Before advising a client about present conviction, custody, financial liability or refund status, obtain the current docket, judgment and operative clemency or court orders. Match each claimed consequence to the relief actually granted. A historical account or the proclamation alone cannot establish the present status of an individual case.

9.5 File T2: a release-to-voting conversation

Assume a 32-year-old U.S. citizen, domiciled and resident in Queens for five years, is released from imprisonment for a federal felony on September 1, 2026 and remains on supervised release. No other disqualification is supplied. The incarceration-based restriction in Election Law §5-106(3) no longer applies once the person is released; supervised release alone is not continued incarceration for that subsection. Counsel’s completed advice is: “Check your registration and complete any required registration steps and applicable election deadlines with the election authority. Release removes this incarceration-based barrier; it does not automatically enroll you.” [42,43]

Change the facts to continued imprisonment for that qualifying felony: the statutory barrier remains. Change only the mailing address to Queens while domicile and actual residence remain elsewhere: do not assume New York eligibility. A presidential-eligibility question must be answered separately under Article II and the other potentially applicable constitutional provisions; a felony label neither adds an unstated general bar to Article II nor resolves every constitutional disqualification issue. [42–44]

10. The civil-forum coda

The episode's closing litigation discussion teaches a bounded lesson: identify the court's authority before predicting the merits.

10.1 Allegations, evidence, and separate proceedings

A complaint contains allegations; a filing or jurisdictional ruling does not prove them. Related foreign criminal and United States defamation proceedings can require different elements, proof, and remedies. This fictional example teaches the forum issue without adopting the episode's disputed factual allegations.

Practice example. A Florida resident sues an online publisher for a statement about conduct abroad, claiming \$5 million. Identify the statement, speaker, publication, injury, jurisdictional contacts, service, and posture. The amount demanded establishes neither falsity nor damages.

10.2 Personal jurisdiction is defendant-focused

Walden v. Fiore explains that the necessary forum contacts must arise from the defendant's own relationship with the forum, not merely the plaintiff's residence or experience of injury there. The Court rejected Nevada jurisdiction over a Georgia officer on the contacts presented. A defamation case still requires the applicable state statute and constitutional analysis; Walden is not a rule that online conduct can never create jurisdiction. [45]

Changed fact. A publisher deliberately directs the disputed story to Florida customers and solicits Florida transactions connected to it. That record differs from a foreign publication merely accessible to a Florida resident. Counsel should collect publication targeting, distribution, transactions, and other claim-related contacts instead of relying solely on the plaintiff's address. Personal jurisdiction and federal subject-matter jurisdiction remain separate inquiries.

10.3 Removal and remand are not merits decisions

Section 1332 requires a qualifying citizenship alignment and an amount in controversy exceeding \$75,000, exclusive of interest and costs. Residence does not always establish citizenship; alienage and citizens domiciled abroad require particular care. Sections 1441 and 1446 add removal requirements, including the applicable time periods, consent rules, and restrictions on diversity removal. A large demand alone does not open federal court. [46] [47] [48]

Assume the plaintiff and individual defendant are both Florida citizens and the complaint pleads only state-law defamation. The \$5 million demand does not cure the lack of diversity. If the defendant is instead a Georgia citizen, diversity becomes possible on those

assumed facts, but counsel must still check every party, amount, timing, service, and the removal restrictions.

Under §1447(c), a motion to remand for a procedural defect generally must be made within 30 days after filing of the removal notice; lack of subject-matter jurisdiction requires remand if it appears before final judgment. Thus, separate “this removal was procedurally defective” from “the federal court lacks power over this case.” A remand ordinarily answers a forum question, not whether the allegedly defamatory statement is true. [49]

10.4 File V: a forum memorandum from the supplied record

Independent civil exercise • September 2026. The plaintiff, Elena Cruz, and individual defendant, Sam Ortiz, are U.S. citizens domiciled in Florida at filing and removal. They are the only parties. The Florida state-court complaint pleads only state-law defamation, demands \$5 million exclusive of interest/costs and contains no federal claim. Ortiz was properly served August 20. A notice of removal filed September 8 relies solely on diversity and is delivered to plaintiff’s counsel that day. These citizenship facts are supplied as facts, not inferred merely from residence; there is no corporation or LLC whose citizenship needs a different inquiry.

V1 • completed memorandum and requested relief, September 15. “Move to remand under §1447(c). Section 1332(a)(1) does not supply diversity jurisdiction because Cruz and Ortiz are both Florida citizens. The amount demanded cannot cure that defect. In addition, a properly joined and served Florida defendant in this Florida action cannot remove solely on diversity under §1441(b)(2). The motion asks the district court to return the action to the state court, without deciding whether the publication was false or defamatory. Attach the complaint, notice and the supplied citizenship declarations. Do not describe the removal notice as an adjudication of jurisdiction or guilt.” [46–49]

The lack of subject-matter jurisdiction remains a remand ground if discovered before final judgment; the separate procedural-defect deadline is 30 days after the notice of removal. September 8 plus 30 calendar days is **October 8**, with no weekend or holiday adjustment needed on these dates. The September 15 motion is within that period. Counsel should preserve both arguments promptly instead of relying on the longer treatment of the jurisdictional one. The analysis assumes the dates and service method stated; a later-removable pleading, multiple defendants or a different statutory basis requires a different removal record. [48,49,58]

Government is not a party here. The opposing party is Ortiz, whose response says the plaintiff demands more than \$75,000 and the internet reaches other states. Neither proposition changes the supplied shared citizenship. The recommended remand follows from the missing jurisdictional alignment, not from an evaluation of the truth of the publication.

Georgia-citizenship variation. If Ortiz instead was domiciled in Georgia at filing and removal, the parties are completely diverse on the supplied two-party facts and the forum-defendant obstacle is absent. September 8 is within 30 days of the assumed August 20 service. With the amount requirement satisfied and no other removal defect supplied, counsel should not file the same lack-of-diversity motion. This conclusion concerns federal subject-matter jurisdiction/removal; it does not establish personal jurisdiction over a Georgia defendant in Florida or prove defamation.

10.5 A separate contact file for the personal-jurisdiction question

In the Georgia variation, assume Ortiz’s only connection to Florida is knowing Cruz lives there and that a general foreign-affairs article can be read online there. Walden rejects treating injury experienced by the plaintiff in the forum as the defendant’s sufficient forum relationship. Counsel’s preliminary recommendation is to challenge the adequacy of the alleged claim-related contacts, subject to the applicable Florida jurisdictional statute, the exact publication and procedural preservation requirements. This bounded example does not purport to resolve every Florida long-arm or defamation issue. [45]

Now supply V2: Ortiz bought advertising directed only to Florida subscribers for this particular story, solicited purchases from Florida customers and arranged a Florida event to promote the challenged statements. Those are defendant-created, claim-related contacts requiring a fresh statutory and due-process analysis. The lawyer should preserve advertisements, targeting settings, transactions and event communications; “the plaintiff lives here” remains insufficient by itself, while “online conduct can never count” would also be wrong. The supplied facts do not establish that the story is false, actionable, privileged or worth the demanded damages. A forum decision leaves those merits questions open.

11. A completed defense plan

Convert analysis into an ordered set of decisions and supported requests.

11.1 Reed's recommendation memorandum

Historical intake recommendation • July 29, 2024. Immediate work concerned release and usable video access, with a count-specific Fischer review. Counsel could not advise signing the disputed strike or document-destruction admissions. The completed September 10 memorandum in §11.4 updates that initial recommendation after release, actual discovery review and a superseding indictment; the later-status record in chapter 9 closes the dismissed prosecution.

The release presentation should acknowledge the allegation while identifying surrender, stable residence, and suitable conditions. The discovery request should name the files, the access failure, and a secure solution. The charge memorandum should identify the government's theory and what proof would change the legal assessment. These work products serve different decisions and should not be merged into one generalized grievance.

Priority	Framework direction	Evidence or decision still needed
Liberty	Seek individualized release or proper review with documented conditions.	Actual order, government proffer, threat evidence, and custodian suitability.
Video	Obtain full sequences and workable confidential client review.	Original sources, clock alignment, protective order, and access confirmation.
Counts	Audit §1512(c) (2) separately from assault, civil disorder, and entry allegations.	Charged subsections, evidentiary object, intent proof, and current posture.
Client choice	Correct disputed admissions and explain lawful alternatives.	Reed's informed decision after evidence review; no donor veto.
Trial and review	Identify each objection, ruling, required consent, and deadline.	Precise reserved issue, trial record, judgment-entry date, and appeal instruction.
Later relief	Match each count to the operative judicial or clemency document.	Covered conduct, remaining sentence, and specific collateral consequence.

11.2 Four facts that change the plan

An authenticated witness threat: revise the risk analysis and proposed conditions; do not recycle a no-danger narrative.

A plan to hide certification materials: reassess the Fischer argument; lack of physical contact alone is inadequate.

A corrected complete video: update attribution and the client's options even if the new evidence weakens the original defense theory.

An entered covered dismissal: shift from trial preparation on that dismissed count to verifying the order's scope and remaining consequences. A news report announcing intended relief is not the entered order.

11.3 Reusable conference prompts

Ask the client what outcome matters most, which factual statements are disputed, what source can test each dispute, and what decision is actually due. Ask counsel which rule supplies the requested relief, what fact could defeat it, and what record will permit review. Finish the conference with a dated task, responsible person, and next communication point. The objective is a supported decision the client understands.

11.4 File L1: the dated recommendation and action ledger

Chen to Reed • September 10, 2024 • confidential teaching memorandum. “You remain released under the August 1 order. We achieved confidential joint review of the complete video September 3. Attribution and intent remain disputed; we will not represent that the video conclusively clears you. The original obstruction theory requires further specification after Fischer. The superseding conspiracy allegation and September 9 message production create new preparation work. I recommend the supported September 11 continuance request in chapter 4, continued investigation and rejection of the inaccurate plea narrative as written. I have not accepted a plea or donor instruction for you. We will meet September 13 to review the complete messages and your options.”

Supplied message extract. The September 9 export contains a message attributed to Reed: “Meet at Corridor C; we will stop them getting through,” followed by a second sender’s “I’ll be there.” The extract alone does not say “hide the envelopes,” and the sender attribution and full thread are not yet authenticated. Counsel preserves the source and asks for the original extraction, surrounding messages and account identifiers. The statement may support an agreement theory depending on the charged object and evidence, but it cannot be silently rewritten into either the chapter 2 concealment variation or proof of seditious conspiracy.

Item	Completed evidence or decision	Owner, next date and completion condition
Client/funding	C1 rejects donor veto; unconditional agreement and client consent recorded July 31	Chen; review any changed payer demand before acting
Liberty	B0-B5; entered August 1 release; itinerary correction and custodian proof retained	Reed/Chen; follow actual reporting/travel order; revisit only on new facts or requested modification
Two original counts	C2 motion and August 26 order retained; no final acquittal/dismissal assumed	Chen; September 11 request for specified theory; renewed motion only after actual theory/ruling
Discovery	D3 entered order; original preserved; successful September 3 playback/joint review logged	Technician Lee; retain provenance and both synchronization checks; recheck if drift appears
Speedy-trial calculation	D1 ledger: 25 chargeable, 45 remaining through September 10 for original counts	Ortiz independently checks docket daily before any deadline representation; new count tracked separately
New charge/messages	September 6 indictment and September 9 extract saved	Chen/Lee; September 13 full-thread/attribution review; seek identified missing source data
Preparation time	Actual task-based request and prospective proposed findings prepared	Chen; file/present September 11; calendar only the court's actual order as an exclusion
Jury/defense	J1 individualized screening request; F1 incomplete assurance record	Ortiz; before court's motion deadline, preserve missing audio and specific objections; no blanket venue/permission claim
Plea choice	P1 disputed admissions marked; P2 conditional reservation not accepted	Reed decides after advice; Chen schedules September 13 conference and records teach-back

Item	Completed evidence or decision	Owner, next date and completion condition
Later status	January 22, 2025 assumed entered dismissal covers all counts in this teaching docket	Chen; at October 9, 2026 review, close trial tasks and address identified residual record issues only

An action ledger can accurately mark an investigation still open. The completed work is the decision supported by existing evidence, the named owner and the concrete next deliverable; it is not a fabricated successful result. The supplied September 10 record cannot honestly say that counsel already authenticated messages scheduled for later review. Likewise, the 2025 closure belongs in the later-status column, not in the historical client advice.

11.5 Reassess the recommendation when a controlling fact changes

If Lee confirms an inconsistent second synchronization point, withdraw the uniform-offset comparison pending correction; tell Reed why the confidence changed. If the complete message thread supports a plan to conceal certification records, replace the delay-only Fischer argument with the actual intent/attempt/evidentiary analysis and revise the plea advice. If a verified witness threat emerges, reassess risk and conditions using the actual message rather than reusing B5's no-threat premise. If the only later document is an ungranted dismissal motion, keep the status question open instead of closing the case. Each change identifies a different lost premise and a different required work product.

The chronology and documents are usable offline: the relevant facts, requests, proposed terms, objections, counterarguments and calculations are printed here. Linked authorities permit primary-law review; they do not replace the operative teaching record. Blank notes or future research tasks are not counted as the completed demonstrations.

Review and application

Seven questions with reasoned answers. All case facts are fictional.

1. The untouched document

A defendant never touched paper but sent messages planning to conceal certification records. Does Fischer necessarily defeat the count?

Model answer. No. Physical contact is not the governing boundary. Analyze the alleged impairment or attempt, the things used in the proceeding, intent, and authentic proof. The messages change the theory from generalized disruption to a potential evidence-related offense. See §§2.1–2.2.

2. The unaffordable bond

A court proposes a financial condition Reed cannot meet, producing continued detention without the required detention analysis. Is “federal court has no money bail” the correct objection?

Model answer. No. Financial conditions exist, but §3142(c)(2) prohibits one that results in pretrial detention. Identify the practical effect and seek lawful conditions or the required detention determination and review. See §§3.2–3.4.

3. The discovery clock

Under the Chapter 4 assumptions, ten days run, a qualifying motion excludes Days 11–25, and fifteen more days run. How many days remain?

Model answer. Twenty-five days are chargeable, leaving forty-five of seventy. Verify the motion and each exclusion. An unfiled draft would not supply the assumed exclusion, leaving thirty on the alternative facts. See §4.4.

4. The proposed plea narrative

Reed agrees to unlawful entry but denies an intentional strike. Counsel thinks trial is risky. May counsel treat the disputed strike as an agreed fact?

Model answer. No. Investigate and explain the evidence, seek a truthful acceptable resolution if available, and preserve the client’s informed choice. A convenient narrative is not a substitute for a factual basis. See §§7.1–7.3.

5. The old sentencing vocabulary

An older recording recommends a downward departure. Can counsel simply copy that request under the 2025 manual?

Model answer. No. Check the applicable manual and mechanism. Amendment 836 removed the former general departure step; a supported §3553(a) variance and retained specific mechanisms require accurate treatment. The correct range and statutory limits come first. See §§8.1–8.3.

6. The pardon and the record

A client receives a covered pardon and asks whether all criminal records and an unrelated conviction disappear.

Model answer. They do not disappear automatically. Read the pardon, judgment, and ensuing orders, distinguish expungement and vacatur, and analyze the unrelated matter separately. See §9.2.

7. Fresh transfer problem: decide before reading the answer

Problem Q • a different 2026 federal case, unrelated to January 6. The public indictment is filed June 1; the defendant first appears in the charging district June 4 and pleads not guilty. A motion is filed June 15 and promptly decided June 24 on the papers. There are no other exclusions or codefendants. Counsel reviews the clock through July 9. A second motion drafted June 28 has never been filed. The client was released June 4. A protective order permits client review only with counsel; the government's complete video will not play. The client denies the officer strike in a proposed plea narrative.

For an independent sentencing variation, use Vale's entire S1 record but substitute the documented bodily-injury facts in §8.5; do not invent a §111(b) conviction. For a later-status variation, the file contains a motion asking for dismissal and no entered ruling. Write: (1) the chargeable days and remaining days; (2) a supported access request and the two things you would not tell the client about the plea/status; and (3) the revised guideline level, category, range and statutory maximum. State which supplied facts drive each answer. The reasoned answer follows on the next page.

Problem Q: reasoned answer and changed-fact check

June 5–14 contributes **10** days. The filed motion excludes June 15–24 inclusive, **10** days. June 25–July 9 contributes **15** more days. Total **25 chargeable, 45 remaining** of 70. The June 28 draft creates no exclusion. If the June 15 paper also was only a draft and no proceeding occurred, the 35 days from June 5 through July 9 would all count, leaving **35**, not 45. The later trigger is June 4, not the June 1 indictment. [18]

Request a documented usable method for confidential joint review, identifying the file, observed failures, relevant sequence and protective terms. Attach actual failure/technical proof and propose access on counsel's secure device, preservation of the original and no copying or dissemination by the client. A limited in-custody application is inapposite because this client is released. The specific protective order controls; there is no general permission to post the evidence online. Counsel cannot treat the denied strike as an agreed plea fact, and cannot call an ungranted dismissal motion an entered dismissal. Obtain a truthful basis and the actual ruling. [14,28,40,57]

Vale's injury variation gives $10 + 3 + 2 - 2 = \text{level } 13$; two history points remain **Category II**; row 13/II is **15–21 months, Zone D**. The §111(a) physical-contact conviction still carries the **eight-year maximum**. The injury finding changes the guideline calculation on the stated facts, not the offense of conviction. An actual serious-injury cross-reference, a different conviction or different history would require a new analysis. Identify the manual and the facts supporting each input: this calculation uses the **November 2025 Manual** for the supplied 2026 offense and sentencing. [4,36,37,56]

Glossary

Terms used in the book, with the distinctions that matter in practice.

Conditional plea. A Rule 11(a)(2) plea preserving specified pretrial rulings in writing with required consent and approval.

Commutation. Executive reduction of punishment; distinct from judicial vacatur of the conviction.

Entrapment. A defense focused on government inducement and lack of predisposition.

Entrapment by estoppel. A distinct reliance theory involving an authorized official's affirmative assurance and reasonable reliance.

Factual basis. The basis supporting the guilty plea required by Rule 11 before judgment.

Guideline range. An advisory sentencing range derived through the applicable Guidelines analysis, subject to statutory limits.

Immunity. Protection whose precise terms matter; use and derivative-use immunity requires attention to independent sources.

Pardon. Executive clemency for covered offenses; not automatic expungement.

Protective order. A court order controlling specified disclosure or use; read its actual categories and permissions.

Remand. Return for further proceedings or return to the proper court; not inherently a merits victory.

Statutory maximum. The ceiling authorized for the particular offense and tier, distinct from a mandatory minimum.

Variance. A sentence outside the guideline range based on the statutory sentencing analysis.

Selected authorities

Primary law and official guidance supporting the instruction. Reviewed October 12, 2026. Opinion reproductions contain the court's text; official guidance is identified separately.

1. New York Rules of Professional Conduct, 22 NYCRR Part 1200, Rules 1.2(a)–(b), 1.6, 1.8(f), 3.6, 5.4(c) and 8.5. Compilation amended through July 1, 2026; adopted rule text distinguished from comments. D.C. third-party funding rule is separately cited at 59. [New York Rules of Professional Conduct \(July 2026 compilation\)](#)
2. [Fischer v. United States](#), 603 U.S. 480 (2024), majority opinion pp. 8–9, 15–16.
3. 18 U.S.C. §1512(c).
4. 18 U.S.C. §111(a)–(b).
5. 18 U.S.C. §§231(a)(3), 232(1)–(3). Civil disorder, commerce, federally protected function and covered officer duties. 18 U.S.C. §231 — civil disorders; 18 U.S.C. §232 — statutory definitions.
6. 18 U.S.C. §1752(a)–(c).
7. 40 U.S.C. §5104(e)(2).
8. 18 U.S.C. §371.
9. 18 U.S.C. §2384.
10. Fed. R. Crim. P. 5(a), (c), (d), (f); compare Rule 5.1(a). Federal Rule of Criminal Procedure 5.1 — preliminary hearing.
11. 18 U.S.C. §3142(b)–(c), (e)–(i).
12. [United States v. Munchel](#), 991 F.3d 1273, 1280–84 (D.C. Cir. 2021).
13. 18 U.S.C. §3145(a)–(c).
14. Fed. R. Crim. P. 16(a), (c), (d).
15. [Brady v. Maryland](#), 373 U.S. 83, 87–88 (1963).
16. [Giglio v. United States](#), 405 U.S. 150, 154–55 (1972).
17. 18 U.S.C. §3500(a)–(b), (e) (Jencks Act).
18. 18 U.S.C. §3161(b), (c), (h)(1), (h)(7).
19. [United States v. Rojas-Contreras](#), 474 U.S. 231, 234–37 (1985).
20. 18 U.S.C. §3162(a)(2).
21. Fed. R. Crim. P. 18.
22. Fed. R. Crim. P. 21(a)–(b).
23. [Skilling v. United States](#), 561 U.S. 358, 378–99 (2010), Part II.
24. [United States v. North](#), 910 F.2d 843, 854–73 (D.C. Cir. 1990), modified on rehearing, 920 F.2d 940 (1990).
25. [Mathews v. United States](#), 485 U.S. 58, 62–63 (1988).
26. [United States v. Chrestman](#), 525 F. Supp. 3d 14, 30–33 (D.D.C. 2021).
27. Ninth Circuit Model Criminal Jury Instructions §8.3 (2022 edition, updated March 2026). Comparative material only; D.C. instruction analysis is at reference 52. [Ninth Circuit Model Criminal Jury Instructions §8.3 \(March 2026 PDF\)](#)
28. Fed. R. Crim. P. 11(a)(2), (b).
29. [McCoy v. Louisiana](#), 584 U.S. 414, 421–428 (2018). Maintaining innocence against counsel's contrary concession; opinion text reproduced. [McCoy v. Louisiana — Supreme Court opinion](#)

30. Fed. R. Crim. P. 23(a).
31. Fed. R. Crim. P. 12(b)(3), (c).
32. Fed. R. Crim. P. 29(a), (c).
33. Fed. R. App. P. 4(b)(1)–(4).
34. 18 U.S.C. §3006A(a)–(c).
35. 18 U.S.C. §3553(a).
36. U.S. Sentencing Guidelines Manual §§1B1.1, 1B1.11, 5G1.1–5G1.2, 5K1.1 (Nov. 2025); Amendment 836. Sentencing Guidelines Amendment 836.
37. U.S. Sentencing Guidelines Manual, Chapter 5, Part A, printed page 387 (Nov. 2025). Row/column sentencing table, ranges and zones. 2025 Guidelines sentencing table, printed page 387
38. *Gall v. United States*, 552 U.S. 38, 49–51 (2007).
39. Fed. R. Crim. P. 32(e)(2), (f), (i).
40. Proclamation 10887 of January 20, 2025, 90 Fed. Reg. 8331–32 (Jan. 29, 2025).
41. U.S. Department of Justice, Office of the Pardon Attorney, Frequently Asked Questions. Official guidance.
42. New York Election Law §5-106(2)–(5).
43. New York Election Law §5-102.
44. U.S. Constitution, Article II, §1, cl. 5; Amendments XIV, §3, and XXII. Constitutional Amendments XIV and XXII.
45. *Walden v. Fiore*, 571 U.S. 277, 283–91 (2014).
46. 28 U.S.C. §1332(a).
47. 28 U.S.C. §1441(a)–(b).
48. 28 U.S.C. §1446(b)–(c).
49. 28 U.S.C. §1447(c).
50. *United States v. Simpkins*, 826 F.2d 94, 96–98 (D.C. Cir. 1987).
51. *Barker v. Wingo*, 407 U.S. 514, 530–33 (1972).
52. *United States v. Celentano*, 126 F.4th 680 (D.C. Cir. Jan. 21, 2025), slip pp. 7–13 (defense instruction, burden, count-specific prejudice) and 14–16 (knowledge/sentencing). Published opinion; no current individual docket status inferred. *United States v. Celentano — D.C. Circuit opinion*
53. 28 U.S.C. §1746(2). Domestic unsworn declarations under penalty of perjury; the completed declarations here are fictional teaching records. *28 U.S.C. §1746 — unsworn declarations*
54. *United States v. Vaglica*, No. 23-cr-429, ECF 52, pp. 5–6 (D.D.C. Sept. 12, 2024). Specific district-court exclusion of generalized public-authority/estoppel evidence. *United States v. Vaglica — September 12, 2024 order*
55. Fed. R. Crim. P. 30(d). Specific timely instruction objections; current federal criminal rules (Dec. 1, 2025) also verify Rules 5, 5.1, 11, 12, 16, 18, 21, 23, 26.2, 29 and 32. *Federal Rules of Criminal Procedure (December 2025 PDF)*
56. 2025 USSG §§1B1.1–1B1.3, 1B1.11; 2A2.4(a)–(c), notes 1–2; 2A2.2 note 1; 3E1.1; 4A1.1(c), 4A1.2(a), (c), (e); 4C1.1; 5C1.1(d), (f); Appendix A. Full edition and factual limits govern File S1. *2025 Guidelines Manual — calculation provisions*

57. Fed. R. Crim. P. 48(a). Government dismissal with leave of court; distinguish requested relief from the entered operative order. [Federal Rule of Criminal Procedure 48 — dismissal](#)
58. Fed. R. Civ. P. 6(a) and Fed. R. App. P. 26(a). Exclude triggering day; count intervening days and apply final-day rules in the specified computations. [Federal Rule of Civil Procedure 6 — computing time](#); [Federal Rule of Appellate Procedure 26 — computing time](#)
59. D.C. Rules of Professional Conduct, Rule 1.8(e), and cross-referenced Rules 1.6, 1.7, 5.4(c). Third-party payment, consent, confidentiality and independence; Rule 1.8 uses a different subsection from New York. [D.C. Rule of Professional Conduct 1.8 — conflicts and third-party payment](#)
60. *United States v. North*, 920 F.2d 940, 942–943, 950–951 (D.C. Cir. 1990). Rehearing/modification; read with reference 24 for the scope and independent-source inquiry. [United States v. North — rehearing opinion](#)