

UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR NON-JUDICIAL NOMINEES

PUBLIC

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

Laura Elizabeth Mate

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

Commissioner and Vice Chair, United States Sentencing Commission

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

Office of the Federal Public Defender for the District of Arizona  
850 West Adams Street, Suite 201  
Phoenix, Arizona 85007

Duty Station: Des Moines, Iowa

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

1969; Detroit, Michigan

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

1995 – 1998, University of Michigan Law School; J.D., 1998

1992 – 1994, Louisiana State University; no degree sought or received

1988 – 1992, Kenyon College; B.A., 1992

6. **Employment Record:** List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

2011 – present

Office of the Federal Public Defender for the District of Arizona

850 West Adams Street, Suite 201

Phoenix, Arizona 85007

Duty Station: Des Moines, Iowa

Director, Sentencing Resource Counsel Project (2020 – present)

Sentencing Resource Counsel, Sentencing Resource Counsel Project (2015 – 2020)

Research and Writing Specialist, Sentencing Resource Counsel Project (2011 – 2015)

2001 – 2011

Office of the Federal Public Defender for the Western District of Washington

1601 Fifth Avenue, Suite 700

Seattle, Washington 98101

Research and Writing Specialist, Sentencing Resource Counsel Project (2010 – 2011)

Assistant Federal Public Defender (2007 – 2010)

Research and Writing Specialist (2001 – 2007)

2001

Columbia Legal Services

Compensated through Perkins Coie Community Interest Fellowship

101 Yesler Way, Suite 300

Seattle, Washington 98104

Fellow

1998 – 2001, Summer 1997

Perkins Coie LLP

1201 Third Avenue, Suite 4900

Seattle, Washington 98101

Associate (1998 – 2001)

Summer Associate (Summer 1997)

Winter Term 1998

Equal Justice Initiative

Uncompensated

122 Commerce Street

Montgomery, Alabama 36104

Extern

1996, 1997

The University of Michigan Child Welfare Law Resource Center

The University of Michigan Law School

625 South State Street

Ann Arbor, Michigan 48109

Research Assistant

1996

The Defender Association (Seattle, Washington)

Compensated through University of Michigan Law School, W.K. Kellogg Foundation

The Defender Association is now a division of the King County Department of Public Defense.

710 Second Avenue, Suite 700

Seattle, Washington 98104

Intern/Child Welfare Law Fellow

1992 – 1995

East Baton Rouge Parish School System

1050 South Foster Drive

Baton Rouge, Louisiana 70806

Teacher

Summer 1994

Mid-City Redevelopment Alliance: SERVE Mid-City

419 North 19th Street

Baton Rouge, Louisiana 70802

Team Leader

Summer 1993

Hennepin County Attorney's Office Child Protection Division

Uncompensated

Health Services Building

515 Portland Avenue South

Minneapolis, Minnesota 55415

Intern

Other affiliations (uncompensated)

1992 – 1994

Teach for America

Headquartered: 25 Broadway, 12th Floor

New York, New York 10004

Corps Member

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

I have not served in the military. I was not required to register for the selective service.

8. **Honors and Awards:** List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other

special recognition for outstanding service or achievement.

Washington Association of Criminal Defense Lawyers, Certificate of Appreciation (2007)

Perkins Coie Community Interest Fellow (I believe it is now called Sher Kung Memorial Pro Bono Fellowship) (2001)

Certificate of Merit (highest grade in class) for Tax I (1997)

University of Michigan Law School Child Advocacy Clinic, W.K. Kellogg Foundation, Summer Child Welfare Law Fellow (1996)

Phi Beta Kappa (1992)

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

American Bar Association

American Constitution Society

Blackstone American Inn of Court

National Association of Criminal Defense Lawyers

National Association of Federal Defenders

National Association for Public Defenders

Washington Association of Criminal Defense Lawyers

Washington State Bar Association

10. **Bar and Court Admission:**

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

Washington, 1998

There have been no lapses in membership.

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

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

Supreme Court of the United States, 2006

United States Court of Appeals for the Ninth Circuit, 2000

United States District Court for the Eastern District of Washington, 2001

United States District Court for the Western District of Washington, 2000

There have been no lapses in membership.

**11. Memberships:**

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

None.

- b. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

I have not listed any organizations in response to question 11a.

**12. Published Writings and Public Statements:**

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

With Denise Barrett, Summary of 2016 Amendments to the Sentencing Guidelines (2016). Copy supplied.

With Amy Baron Evans, Denise C. Barrett, Jennifer Niles Coffin, & David Patton, *Federal Defender Analysis of Corrections Act of 2015*, 28 FED. SENT'G REP. 151 (2015). Copy supplied.

With Denise C. Barrett, & Anne E. Blanchard, Fighting Fiction with Fact to Attain Lower Sentences (May 2012). Copy supplied.

Listed below are published items on which the Sentencing Resource Project is listed as an author or editor during my tenure as Director.

Sentencing Resource Counsel for the Federal Public & Community Defenders, The COVID-19 Crisis in Federal Detention (Dec. 1, 2020). Copy supplied.

Sentencing Resource Counsel for the Federal Public & Community Defenders, The COVID-19 Crisis in Federal Detention (Sept. 9, 2020). Copy supplied.

Sentencing Resource Counsel for the Federal Public & Community Defenders, The Worsening COVID-19 Crisis in Federal Detention (July 30, 2020). Copy supplied.

Sentencing Resource Counsel for the Federal Public & Community Defenders, Length of Incarceration and Recidivism: What You Need to Know About the USSC's Flawed Report (June 4, 2020). Copy supplied.

Sentencing Resource Counsel for the Federal Public & Community Defenders, Federal Defender Fact Sheet: Flawed U.S. Sentencing Commission Report Misstates Current Knowledge (June 4, 2020). Copy supplied.

Sentencing Resource Counsel for the Federal Public & Community Defenders, The CARES Act (Mar. 26, 2020). Copy supplied.

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

None.

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

Letter from David Patton, Co-Chair, Federal Public & Community Defenders Legislative Committee, Jayme L. Feldman & Laura E. Mate, National Sentencing Resource Counsel, to Rules Unit, Office of General Counsel, Federal Bureau of Prisons (Jan. 22, 2021). Copy supplied.

Laura E. Mate, Sentencing Resource Counsel, Statement at the National Institute of Justice's Listening Sessions: Comments on the Department of Justice Report, *The First Step Act of 2018: Risk and Needs Assessment System* (Sept. 11, 2019). Copy supplied.

Letter from Marjorie Meyers, Chair, Federal Defender Sentencing Guidelines Committee & Amy Baron-Evans, Denise Barrett, Jennifer Coffin, Laura Mate, and Paul Hofer, Sentencing Resource Counsel Project, to Hon. Patti B. Saris, Chair, United States Sentencing Commission (July 15, 2013). Copy supplied.

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

The following list reflects my best efforts to identify the public speaking events in which I have participated, based on a review of my records and publicly available information.

August 29, 2019, Co-Presenter, The Categorical Approach, Tampa Bay Chapter of the Federal Bar Association, National Association of Criminal Defense Lawyers, the Criminal Law Section of the Federal Bar Association, and the Criminal Justice Section of the American Bar Association's Twenty-Eighth Annual National Seminar on Federal Sentencing, St. Petersburg Beach, Florida. Presentation and notes supplied.

September 6, 2018, Co-Presenter, Don't Know Much About Criminal History..., Tampa Bay Chapter of the Federal Bar Association, National Association of Criminal Defense Lawyers, the Criminal Law Section of the Federal Bar Association, and the Criminal Justice Section of the American Bar Association's Twenty-Seventh Annual National Seminar on Federal Sentencing, Orlando, Florida. Presentation and notes supplied.

June 30, 2017, Co-Presenter, Using Social Science at Sentencing, Tampa Bay Chapter of the Federal Bar Association, National Association of Criminal Defense Lawyers, the Criminal Law Section of the Federal Bar Association, and the Criminal Justice Section of the American Bar Association's Twenty-Sixth Annual National Seminar on Federal Sentencing, St. Petersburg Beach, Florida. Presentation and notes supplied.

June 11, 2015, Co-Presenter, Risk Assessment and Federal Criminal Court,

National Association of Criminal Defense Lawyers and Cardozo Law, National Forensic College, New York, New York. Presentation and notes supplied.

June 13, 2014, Presenter, 2B or not 2B: USSG, Empirical Evidence and Sentencing in Fraud Cases, National Association of Criminal Defense Lawyers and Cardozo Law, National Forensic College, New York, New York. Presentation and notes supplied.

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

I did an exhaustive search to find any interviews responsive to this question and was only able to identify the one item listed below.

Laurie Smith Anderson, *Transition program reaches out to city kids*, THE ADVOCATE (July 3, 1994). Copy supplied.

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

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

I have not held any public office.

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

None.

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

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

I have not served as a law clerk to a judge.



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

I have not practiced alone.

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

1998 – 2001  
Perkins Coie LLP  
1201 Third Avenue, Suite 4900  
Seattle, Washington 98101  
Associate

2001  
Columbia Legal Services  
Compensated through Perkins Coie Community Interest Fellowship  
101 Yesler Way, Suite 300  
Seattle, Washington 98104  
Fellow

2001 – 2011  
Office of the Federal Public Defender for the Western District of  
Washington  
1601 Fifth Avenue, Suite 700  
Seattle, Washington 98101  
Research and Writing Specialist, Sentencing Resource Counsel Project  
(2010 – 2011)  
Assistant Federal Public Defender (2007 – 2010)  
Research and Writing Specialist (2001 – 2007)

2011 – present  
Office of the Federal Public Defender for the District of Arizona  
850 West Adams Street, Suite 201  
Phoenix, Arizona 85007  
Duty Station: Des Moines, Iowa  
Director, Sentencing Resource Counsel Project (2020 – present)  
Sentencing Resource Counsel, Sentencing Resource Counsel Project  
(2015 – 2019)  
Research and Writing Specialist, Sentencing Resource Counsel Project  
(2011 – 2015)

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

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

b. Describe:

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

I began my legal career in 1998 at Perkins Coie LLP in Seattle, Washington. As an associate in the Labor & Employment Law Group, I represented private and public sector employers. I provided counseling on employment practices, conducted internal investigations, and litigated cases. I wrote numerous motions (e.g., motions to dismiss, discovery motions, motions for summary judgment), was involved in large-scale electronic document discovery, and participated in settlement and mediation sessions. I also engaged in an extensive pro bono practice and was selected for the then-named Perkins Coie Community Interest Fellowship to fund my work with Columbia Legal Services.

In 2001, I joined the Office of the Federal Public Defender for the Western District of Washington in Seattle, as a Research & Writing Specialist. In that role, I represented indigent people facing criminal charges in federal district court, on appeal to the United States Court of Appeals for the Ninth Circuit, and in the United States Supreme Court. I also represented indigent individuals in federal post-conviction habeas proceedings. In 2007, I was promoted to Assistant Federal Public Defender. In that role, my work focused primarily on representing indigent people in connection with federal habeas petitions.

In 2010, I joined the Sentencing Resource Counsel Project, a national project of the Federal Public and Community Defenders, as a Research and Writing Specialist. Initially, I remained an employee of the Federal Public Defender for the Western District of Washington, but in 2011, the Sentencing Resource Counsel Project was transferred to the Federal Public Defender for the District of Arizona. In 2011, I also changed my duty station from Seattle, Washington, to Des Moines, Iowa. I focused on supporting the Federal Defender Sentencing Guidelines Committee through which Defenders satisfy their statutory obligation to comment on the work of the United States Sentencing Commission. I reviewed and researched the Commission's proposed amendments every year and advised and assisted the Guidelines Committee and witnesses selected by the Guidelines Committee in commenting and testifying on the United States Sentencing Commission's proposed amendments. To provide appropriate advice and assistance, I was in regular contact with Defenders and panel attorneys appointed to represent indigent individuals under the

Criminal Justice Act across the country regarding sentencing practices. I also provided national litigation support through case consultation and training to Defenders and appointed attorneys on sentencing issues. In 2015, I was promoted to Sentencing Resource Counsel and continued the same type of work.

In 2020, I became the Director of Sentencing Resource Counsel Project. My work continues to focus on supporting the Guidelines Committee. I also supervise the six attorneys who: (1) support the Guidelines Committee and the Federal Defender Legislative Committee, (2) provide national sentencing litigation support; and (3) develop and deliver training to Defenders and Criminal Justice Act panel attorneys on sentencing issues.

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

At Perkins Coie, my typical clients were large companies and some small municipalities, that were involved in civil disputes in federal and state courts. During this time, I focused on labor and employment law.

At the Federal Public Defender for the Western District of Washington, my clients were all indigent individuals charged with crimes in connection with federal criminal proceedings or federal civil habeas proceedings. I focused on federal criminal law and federal habeas law.

At the Sentencing Resource Counsel Project, I do not have clients. I focus on federal sentencing law and practice, and the United States Sentencing Guidelines.

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

From 1999 to 2010, my entire practice was litigation. I appeared in court only occasionally, primarily for oral argument on appeal.

Since 2010, when I joined the Sentencing Resource Counsel Project, I regularly consult on federal sentencing litigation, but have not engaged in direct representation or litigation.

- i. Indicate the percentage of your practice in:
  - 1. federal courts: 90%
  - 2. state courts of record: 9%
  - 3. other courts: 0%
  - 4. administrative agencies: 1%

- ii. Indicate the percentage of your practice in:
1. civil proceedings: 45% (including federal habeas)
  2. criminal proceedings: 55%

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

I have not tried any cases to verdict.

- i. What percentage of these trials were:
1. jury:
  2. non-jury:

- e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I have not argued before the Supreme Court of the United States, but I have appeared as counsel in the following Supreme Court cases:

*Shaw v. Quinn*, 555 U.S. 1186 (2009) (denying cert.)

I am unable to locate a copy of the petition for a writ of certiorari.

*United States v. Ressam*, 553 U.S. 272 (2008)

Brief in Opposition, No. 07-455, 2007 WL 3307517 (Nov. 5, 2007)

Brief for the Respondent, No. 07-455, 2008 WL 626257 (Feb. 21, 2008)

*Burton v. Stewart*, 549 U.S. 147 (2007)

Brief for Petitioner, No. 05-9222, 2006 WL 2516087 (Aug. 28, 2006)

Reply Brief for Petitioner, No. 05-9222, 2006 WL 3146710 (Oct. 31, 2006)

Motion to File Supplemental Brief for Petitioner, No. 05-9222, 2006 WL 3607764 (Dec. 4, 2006)

*Rita v. United States*, 551 U.S. 338 (2007); *United States v. Claiborne*, cert. granted in part, 549 U.S. 1016 (2006), vacated as moot, 551 U.S. 87 (2007)

Amicus brief of the Federal Public and Community Defenders and the National Association of Federal Defenders in Support of Petitioners, Nos. 06-5618, 06-5754, 2006 WL 3760844 (Dec. 18, 2006)

15. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases

were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

- a. the date of representation;
- b. the name of the court and the name of the judge or judges before whom the case was litigated; and
- c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. *Martin v. Quinn*, No. 3:08-cv-5344 (W.D. Wash.) (Bryan, J.; Strombom, Mag. J.)

I represented Mr. Martin from 2008 to 2010 in connection with his federal habeas petition proceedings in the United States District Court for the Western District of Washington. The initial issue in Mr. Martin's case was whether his pro se habeas petition should be dismissed as untimely. We argued the petition should be heard on the merits because the deadline for submitting his petition had been equitably tolled by Mr. Martin's inability to file due to mental incompetence. The state initially opposed tolling but following the court's grant of Mr. Martin's request for an evidentiary hearing, agreed to waive any statute of limitations objection, and the parties jointly stipulated that the statute of limitations imposed no bar on Mr. Martin's habeas petition. Mr. Martin's habeas petition raised several issues related to his mental health and competency at various stages of the state court proceedings. The district court denied relief on the merits. I co-authored the pleadings submitted by counsel for Mr. Martin in the district court.

Co-Counsel

Dennis Carroll

Office of the Federal Public Defender for the Western District of Washington

1601 Fifth Avenue, Suite 700

Seattle, WA 98101

(206) 553-1100

Christopher J. Kerkerling

Formerly with the Office of the Federal Public Defender for the Western District of Washington

2133 South Adams Street

Spokane, WA 99203

(509) 835-5934

Opposing Counsel

Gregory Rosen

Formerly with Washington State Attorney General's Office

Retired

2. *Frost v. Van Boening*, No. 09-cv-00725 (W.D. Wash.) (Zilly, J.; Tsuchida, Mag. J.)

From 2009 to 2010, I represented Mr. Frost before the United States District Court for the Western District of Washington in connection with his habeas petition challenging a Washington State conviction. The case presented procedural and substantive issues including: (1) whether the trial court violated Mr. Frost's Sixth and Fourteenth Amendment rights by prohibiting defense counsel from arguing in closing both a duress defense and that the state failed to prove all the elements of the offense; and (2) whether that error was structural. The district court denied relief. My representation of Mr. Frost ended when I was hired by the Sentencing Resource Counsel Project. After my representation ended, a divided en banc court of the United States Court of Appeals for the Ninth Circuit granted relief (*Frost v. Van Boening*, 757 F.3d 910 (2014)), but was later reversed by the Supreme Court (*Glebe v. Frost*, 574 U.S. 21 (2014)).

Counsel representing Mr. Frost after me

Erik Levin

Formerly with the Office of the Federal Public Defender for the Western District of Washington

Office of the California State Public Defender

1111 Broadway, 10th Floor

Oakland, CA 94607

(510) 267-3300

Opposing Counsel

John J. Samson

Attorney General's Office

Washington State

1125 Washington Street Southeast

Olympia, WA 98504

(360) 586-1445

3. *Young v. Uttecht*, No. 2:08-cv-458, 2010 WL 3767600 (W.D. Wash. Mar. 15, 2010) (Martinez, J.; Donohue, Mag. J.)

I represented Mr. Young from 2008 through 2010 in the United States District Court for the Western District of Washington in connection with his petition for federal habeas relief from a Washington State conviction. The district court adopted the recommendation of the magistrate judge to grant habeas relief because Mr. Young was denied his Sixth Amendment right to effective assistance of counsel when counsel failed to subpoena a material witness for trial. That material witness, Mr. Young's son and an acquitted co-defendant, had proceeded to trial before Mr. Young. The son testified at his own trial that he shot the individual Mr. Young was later convicted of killing. Because Mr. Young's attorney did not subpoena Mr. Young's son, the jury in Mr. Young's trial did not hear this testimony. The state did not appeal the decision granting habeas relief. I authored the amended habeas petition and related briefing in this case.

Opposing Counsel

Gregory Rosen  
Formerly with Washington State Attorney General's Office  
Retired

4. *Daniels v. Pastor*, No. 09-cv-05711, 2010 WL 56041 (W.D. Wash. Jan. 6, 2010) (Settle, J.)

I represented Ms. Daniels from 2009 to 2010 in connection with a federal habeas petition that challenged Ms. Daniels' retrial in Washington State as unconstitutional under the Fifth Amendment. The case raised a double-jeopardy issue relating to Washington State's pattern jury instructions. The United States District Court for the Western District of Washington granted the writ of habeas corpus, concluding Ms. Daniels' retrial on the charge of homicide by abuse would violate her right to be free from double jeopardy. I co-authored the habeas petition and related briefing in this case.

Co-counsel

Thomas W. Hillier, II  
Former Federal Public Defender for the Western District of Washington  
Perkins Coie LLP  
1201 Third Avenue, Suite 4900  
Seattle, WA 98101  
(206) 359-8000

Opposing Counsel

Kathleen Proctor  
Formerly with Pierce County Prosecuting Attorney's Office  
4810 Point Fosdick Drive, Northwest, No. 510  
Gig Harbor, WA 98335  
(253) 691-2575

5. *Shaw v. Quinn*, 277 F. App'x 748 (9th Cir. 2008) (Graber and Rawlinson, Circuit JJ.; Wright, J.); 555 U.S. 1186 (2009) (denying cert.)

I represented Mr. Shaw from 2007 through 2009 in connection with his appeal of a federal habeas petition he filed pro se in United States District Court for the Western District of Washington challenging two Washington State drug convictions. Mr. Shaw sought habeas relief on the basis that the prosecution failed to disclose impeachment evidence under *Brady v. Maryland*, 373 U.S. 83 (1963). Specifically, the state forensic scientist who tested the substances in Mr. Shaw's cases and testified that they contained cocaine later admitted to stealing and using heroin from the state crime lab and pled guilty to tampering with physical evidence. The United States Court of Appeals for the Ninth Circuit concluded that the undisclosed evidence was not material. I co-authored the briefs and argued Mr. Shaw's case in the Ninth Circuit, and I co-authored the petition for certiorari to the Supreme Court.

Co-Counsel

Christopher J. Kerkering  
Formerly with the Office of the Federal Public Defender for the Western District of  
Washington  
2133 South Adams Street  
Spokane, WA 99203  
(509) 835-5934

Opposing Counsel

John J. Samson  
Attorney General's Office  
Washington State  
1125 Washington Street, Southeast  
Olympia, WA 98504  
(360) 586-1445

6. *Marin-Torres v. Uttecht*, No. 06-cv-00830 (W.D. Wash.) (Martinez, J.; Donohue, Mag. J.)

I represented Mr. Marin-Torres from 2007 to 2008 in connection with a federal habeas petition challenging his Washington State conviction following a trial where Mr. Marin-Torres, a Spanish-speaking individual, represented himself. Ruling on the merits of the habeas petition, the magistrate judge recommended to the district court that Mr. Marin-Torres was denied his Sixth Amendment right to self-representation when the state trial court answered a question posed by the jury during deliberations without translating the question for Mr. Marin-Torres and without seeking his view on how to respond. The magistrate judge also concluded the state court's decision on the claim was contrary to clearly established Supreme Court precedent because the state court subjected this structural error to harmless error analysis. Following objections from the Respondent and additional briefing by the parties, the district court judge adopted the Report and Recommendation and granted habeas relief for Mr. Marin-Torres. I co-authored the amended habeas petition and related briefing in this case. Washington State dismissed its appeal of this case.

Co-Counsel

Thomas W. Hillier, II  
Former Federal Public Defender for the Western District of Washington  
Perkins Coie LLP  
1201 Third Avenue, Suite 4900  
Seattle, WA 98101  
(206) 359-8000

Opposing Counsel

Gregory Rosen  
Formerly with Washington State Attorney General's Office



Retired

7. *United States v. Ressam*, 553 U.S. 272 (2008) (Roberts, C.J., Stevens, Kennedy, Souter, Ginsburg, Alito, Scalia, Thomas, Breyer, JJ.); 474 F.3d 597 (9th Cir. 2007) (Alarcón, Rymer, Berzon, Circuit JJ.)

I represented Mr. Ressam from 2005 to 2008, first on cross-appeal to the United States Court of Appeals for the Ninth Circuit and then before the United States Supreme Court. Following a jury trial, Mr. Ressam was convicted on nine counts including an act of terrorism transcending a national boundary in violation of 18 U.S.C. §§ 2332b(a)(1)(B) and 2332b(c), and—significantly for the cross-appeal—carrying an explosive during the commission of a felony in violation of 18 U.S.C. § 844(h)(2). Mr. Ressam’s sentencing was postponed for approximately four years due to his cooperation with the government. He was sentenced on July 27, 2005, to 22 years in prison. The government filed a notice of appeal from Mr. Ressam’s sentence, and Mr. Ressam subsequently filed a notice of appeal from his judgment and sentence. The issue for Mr. Ressam on cross-appeal was a matter of statutory construction: whether 18 U.S.C. § 844(h)(2), which prohibits someone from carrying “an explosive during the commission of any felony” and assigns a mandatory minimum ten-year sentence for such conduct, requires that the explosive be carried during and *in relation* to the charged felony. Mr. Ressam also defended the reasonableness of his sentence. The Ninth Circuit agreed with Mr. Ressam that § 844 requires a relationship between the underlying crime and the act of carrying an explosive, reversed his conviction on that count, and vacated his sentence. After the government successfully sought a writ of certiorari, the Supreme Court reversed the Ninth Circuit on its interpretation of § 844(h)(2). I co-authored the briefs in the Ninth Circuit with particular focus on the statutory construction issue, and the briefs before the Supreme Court.

Co-counsel

Thomas W. Hillier, II  
Former Federal Public Defender for the Western District of Washington  
Perkins Coie LLP  
1201 Third Avenue, Suite 4900  
Seattle, WA 98101  
(206) 359-8000

Michael Filipovic  
Federal Public Defender for the Western District of Washington  
1601 Fifth Avenue  
Suite 700  
Seattle, WA 98101  
(206) 553-1100

Lissa Wolfendale Shook  
Formerly with the Office of the Federal Public Defender for the Western District of Washington

1 Microsoft Way  
Redmond, WA 98052  
(425) 538-8603

Counsel for the United States – Supreme Court

Michael B. Mukasey  
Former Attorney General of the United States  
Debevoise & Plimpton LLP  
919 Third Avenue  
New York, NY 10022  
(212) 909-6589

Paul D. Clement  
Former Solicitor General, United States Department of Justice  
Kirkland & Ellis  
1301 Pennsylvania Avenue, Northwest  
Washington, DC 20004  
(202) 389-5000

Counsel for the United States – Ninth Circuit

John McKay  
Former United States Attorney for the Western District of Washington  
Davis Wright Tremaine, LLP  
920 Fifth Avenue, Suite 3300  
Seattle, WA 98104  
(206) 757-8058

Mark N. Bartlett (former Assistant U.S. Attorney)  
Formerly with U.S. Attorney's Office for the Western District of Washington  
Davis Wright Tremaine, LLP  
920 Fifth Avenue, Suite 3300  
Seattle, WA 98104  
(206) 757-8298

Helen J. Brunner  
U.S. Attorney's Office for the Western District of Washington  
700 Stewart Street, Suite 5220  
Seattle, WA 98101  
(206) 553-7970

8. *Burton v. Stewart*, 549 U.S. 147 (2007) (Roberts, C.J., Stevens, Kennedy, Souter, Ginsburg, Alito, Scalia, Thomas, Breyer, JJ.) (per curiam); *Burton v. Waddington*, 142 F. App'x 297 (9th Cir. 2005) (Tashima, Paez, Bea, Circuit JJ.)

I represented Mr. Burton in connection with his appeal of a federal habeas petition challenging his Washington State conviction. The case involved a procedural issue

regarding whether his petition was “second or successive,” as well as a substantive issue regarding whether the Supreme Court’s decision in *Blakely v. Washington*, 542 U.S. 296 (2004), announced a new rule, and if so, whether it applied retroactively. The Supreme Court did not reach the substantive issue because it determined the district court lacked jurisdiction and remanded the case with the direction that the petition be dismissed for lack of jurisdiction. To the best of my recollection, I began assisting in the representation of Mr. Burton in 2004 while the case was in the United States Court of Appeals for the Ninth Circuit, following the Supreme Court’s decision in *Blakely*, and became more actively involved in late 2005 through 2007 in connection with the Supreme Court proceedings. I was one of the attorneys involved in drafting the supplemental briefs in the Ninth Circuit, and I co-authored the petition for certiorari and briefing in the Supreme Court.

Co-counsel

Hon. Brian Tsuchida  
Formerly with the Office of the Federal Public Defender for the Western District of Washington  
United States Magistrate Judge  
United States Courthouse  
700 Stewart Street, Suite 12143  
Seattle, Washington 98101  
(206) 370-8421

Jeffrey L. Fisher  
Professor of Law, and Co-Director, Supreme Court Litigation Clinic  
Stanford Law School  
559 Nathan Abbott Way  
Stanford, CA 94305  
(650) 724-7081

Opposing Counsel

John J. Samson  
Attorney General’s Office  
Washington State  
1125 Washington Street Southeast  
Olympia, WA 98504  
(360) 586-1445

William B. Collins  
Formerly with Washington State Solicitor General’s Office  
3905 Lakehills Drive Southeast  
Olympia, WA 98510  
(360) 943-7534

9. *Insyxiengmay v. Morgan*, 403 F.3d 657 (9th Cir. 2005) (D.W. Nelson, Reinhardt, Thomas, Circuit JJ.)

I represented Mr. Insyxiengmay from 2003 through 2005 in connection with an appeal to the United States Court of Appeals for the Ninth Circuit of the district court's denial of his federal habeas petition. The habeas petition challenged a Washington State conviction for conduct that occurred when Mr. Insyxiengmay was fifteen-years old. At issue on appeal were procedural issues related to default and exhaustion of three of Mr. Insyxiengmay's claims, and the substantive issue of whether Mr. Insyxiengmay's constitutional rights were violated when he and his attorney were excluded from an *in camera* pre-trial hearing. The Ninth Circuit agreed with Mr. Insyxiengmay that three of his claims were not procedurally barred and remanded to the district court for a merits decision on those claims. The Ninth Circuit also remanded for an evidentiary hearing on Mr. Insyxiengmay's substantive claim regarding the pre-trial *in camera* hearing. I co-authored the briefing on this appeal.

Co-Counsel

Nancy Tenney  
Office of the Federal Public Defender for the Western District of Washington  
1601 Fifth Avenue, Suite 700  
Seattle, WA 98101  
(206) 553-1100

Opposing Counsel

John J. Samson  
Attorney General's Office  
Washington State  
1125 Washington Street Southeast  
Olympia, WA 98504  
(360) 586-1445

10. *Lambert v. Blodgett*, 393 F.3d 943 (9th Cir. 2004) (O'Scannlain, Rymer, Bybee, Circuit JJ.); 248 F. Supp. 2d 988 (E.D. Wash. 2003) (Nielsen, J.).

I began assisting lawyers at Columbia Legal Services with Mr. Lambert's case on a pro bono basis when I was at Perkins Coie in either 1999 or 2000, representing him until 2001, and then again from 2003 through 2005. Mr. Lambert was charged while he was a juvenile with two counts of aggravated first-degree murder. He stipulated to the transfer of his case from juvenile court to adult court, and then pled guilty to one count of aggravated first-degree murder, a conviction that carried a mandatory sentence of life without parole. My representation of Mr. Lambert focused on his post-conviction challenge to his conviction, raising three claims that he was denied effective assistance of counsel and another claim that his guilty plea was not knowing and voluntary. The United States District Court for the Eastern District of Washington granted habeas relief for Mr. Lambert on one of the claims of ineffective assistance of counsel and on the basis that his plea was not knowing and voluntary. Washington State appealed the grant of relief, and Mr. Lambert cross-appealed the two issues on which he was denied relief. The United States Court of Appeals for the Ninth Circuit reversed the district court's decision

granting relief and affirmed its rulings denying relief. In district court, I worked with co-counsel on discovery issues. In the Ninth Circuit I co-authored the briefs and presented oral argument.

Co-Counsel:

Patricia Arthur  
Formerly with Columbia Legal Services  
Retired

Nancy Tenney  
Office of the Federal Public Defender for the Western District of Washington  
1601 Fifth Avenue, Suite 700  
Seattle, WA 98101  
(206) 553-1100

Opposing Counsel

John J. Samson  
Paul D. Weisser  
Attorney General's Office  
Washington State  
1125 Washington Street, Southeast  
Olympia, WA 98504  
(360) 586-1445

16. **Legal Activities:** Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

For the past decade, my most significant work has been focused on the United States Sentencing Commission. I have monitored every amendment to the Guidelines Manual since 2011, as well as the Commission's research reports, including its Annual Sourcebooks and special data projects.

I support the Federal Defender Guidelines Committee's statutory obligation to comment on the work of the Commission. This includes working with the Guidelines Committee to propose priorities for the Commission, commenting on the Commission's proposed priorities and proposed amendments, and preparing Defenders and Criminal Justice Act panel attorneys to testify at Commission public hearings.

I regularly consult nationally with Defenders and Criminal Justice Act panel attorneys appointed on federal sentencing issues and provide relevant training. I serve on our national Training Expert Panel, and several planning committees for national programs.

Since 2020, I have served as Director of the Sentencing Resource Counsel Project, supervising the hiring and work of a team of six lawyers focused on issues related to federal sentencing.

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

None.

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

None.

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

If confirmed as a full-time member of the Commission, I do not have any plans, commitments, or agreements to pursue outside employment during my service with the Commission.

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

When my nomination is formally submitted to the Senate, I will file my Financial Disclosure Report and will supplement this Questionnaire with a copy of that Report.

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

See attached Net Worth Statement.

22. **Potential Conflicts of Interest**:

- a. Identify the family members or other persons, parties, affiliations, pending and

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

None.

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

I would evaluate and resolve any potential conflicts of interest, by consulting with and applying the standards established by the United States Sentencing Commission, as well as any other applicable canons, rules, statutes, and treatises.

23. **Pro Bono Work:** An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each. If you are not an attorney, please use this opportunity to report significant charitable and volunteer work you may have done.

I have devoted my legal career to advocating for the disadvantaged. While an associate at Perkins Coie, the firm encouraged attorneys to seek out and participate in pro bono endeavors. I actively participated in a variety of pro bono matters and was selected to receive the Perkins Coie Public Interest Fellowship.

For the last two decades, my work with the Federal Public and Community Defenders has focused entirely on serving indigent individuals. From 2001 until 2010, I engaged in direct representation of individuals in federal courts. Much of my work focused on federal post-conviction representation of individuals who had been convicted in state court.

In 2010, my focus shifted to national policy work on federal sentencing issues, consultation, and training Defenders and Criminal Justice Act panel attorneys. While I no longer directly represent individual clients, my work has remained grounded in serving people in the federal criminal legal system who cannot afford to retain counsel.