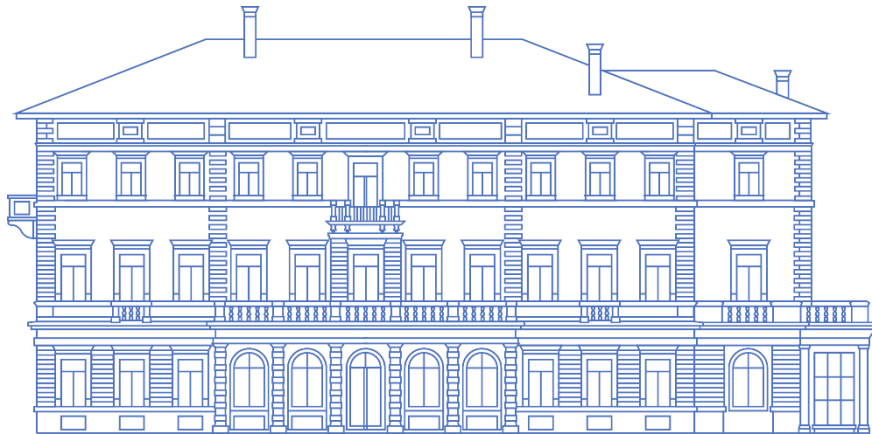


# Adjudicating Terrorism Cases

National Judicial Academy (NJA) – Federal Judicial Center (FJC) – CEELI Institute

FEBRUARY 22-25, FEBRUARY 28 - MARCH 3, 2022

VIRTUAL – FACILITATED FROM THE CEELI INSTITUTE



## AGENDA

Zoom link:

<https://www.zoomgov.com/j/1609579849?pwd=K1ZTOTJnQVVLVTYyTGczWFBlN2RmZz09>

## Pre-recorded material:

### **Welcome: Program Overview & Introduction to Faculty**

Welcome to this collaborative workshop on Adjudicating Terrorism Cases. Information about the program, faculty bios, assigned reading materials, and links to the Zoom workshop sessions are accessible on **CEELI Online**. Program participants are invited to post questions and greetings on the CEELI Online program portal **discussion board**.

### **Cyber: Electronic Evidence from Using Computers for Terrorist Purposes (60 minutes)**

This session is pre-recorded and can be accessed on CEELI Online.

Terrorism networks throughout the world use the internet for recruitment, communication, illicit financial transactions, and instilling terror. Using computer networks in this way creates an electronic trail useful for attribution and other purposes. This electronic trail often involves technologies not well understood by judges. We will review some of the ways in which use of the Internet for terrorist purposes creates an electronic trail.

*Mr. Anthony V. Teelucksingh, Prosecutor, Computer Crime & Intellectual Property Section, U.S. Department of Justice*

Available on CEELI Online

## Tuesday, February 22:

### **The Hague Memorandum and the Judicial Role in Countering Terrorism (90 minutes)<sup>1</sup>**

5:30 PM IT | 1:00 PM CET | 7:00 AM ET

The Hague Memorandum on Good Practices for the Judiciary in Adjudicating Terrorism Offenses was developed through a series of consultations with judges and legal experts from around the world. It features guidance for judges on the broad range of practical, procedural, and evidentiary issues that may arise. This session will introduce the Hague 'Good Practices' and address the judge's role overseeing fair and efficient proceedings during terrorism-related criminal cases.

*Hon. John Tunheim, Chief Judge, U.S. District Court for the District of Minnesota*

## Wednesday, February 23:

### **The Fair and Just Trial (90 minutes)**

5:30 PM IT | 1:00 PM CET | 7:00 AM ET |

International conventions and India's constitution guarantee the accused a fair trial. In terrorism cases, judges must overcome strong public sentiment -- amplified by media coverage and sometimes even statements by political figures -- that anyone charged with a terrorism crime is guilty. Judges are tasked with ensuring the accused receives fair treatment, due process, and access to competent defense counsel. This includes being vigilant about evidence tainted by torture or other coercive or illegal methods. During this session, we will discuss the fair trial due process standards set forth in the Hague Memorandum and how judges can most effectively ensure they are met.

*Hon. Barbara Rothstein, District Judge, U.S. District Court for the Western District of Washington*

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<sup>1</sup> All 90-minute sessions include a 10-minute tea break

Thursday, February 24:

**Guidelines for the Use and Protection of Evidence from Intelligence Sources (90 minutes)**

5:30 PM IT | 1:00 PM CET | 7:00 AM ET

One of the most difficult issues in terrorism cases is the use of information that is gathered through intelligence activities. Will the prosecutor be seeking to use information that is secret or classified by law? During this session we will review the steps judges can take to enable defense access to essential evidence and its potential introduction at trial without compromising national security.

*Hon. Jeremy Fogel (Ret.), Director, Berkeley Judicial Institute*

Friday, February 25:

**Media (90 minutes)**

8:30 AM IT | 4:00 AM CET | 10:00 PM ET | 7:00 PM California on Thursday Feb. 24

The impact of a terrorist incident is felt throughout a society and, as a result, terrorism trials generate significant public interest and media attention. Other criminal cases are newsworthy and may attract journalists, but terrorism trials will place much different demands on the judge and the court. What strategies and tools can judges use to prevent the media from becoming a distraction and impacting a fair trial?

*Hon. David O. Carter, District Judge, U.S. District Court for the Central District of California*

Monday, February 28:

**Indian Legislation (90 minutes)**

5:30 PM IT | 1:00 PM CET | 7:00 AM ET

The Hague Memorandum offers general guidance for judges around the world on how to manage terrorism trials. This session will have a narrower focus: India's domestic legislation that addresses terrorism offenses and national security issues. We will review key provisions of India's Penal Code, Code of Criminal Procedure, India's Evidence Act, the Unlawful Activities Prevention Act, the Prevention of Terrorism Act, and the Maharashtra Control of Organized Crime Act. We will also discuss some of the most significant Supreme Court decisions in this area.

*Hon. Justice Kotishwar Singh, Judge, Gauhati High Court*

Tuesday, March 1:

**Framing the Charges (90 minutes)**

5:30 PM IT | 1:00 PM CET | 7:00 AM ET

Framing of charges in a criminal case is a judicial function. If the judge concludes that there is sufficient evidence to proceed to trial, it is the judge's obligation to inform the defendant of the allegations against him.

This is the essence of framing the charges and the process requires judges to engage with the legal issues early and thoughtfully. Terrorism cases are complex. Judges must be especially diligent as they sort through the allegations against the accused and carefully frame the charges in a clear and concise manner that comports with due process.

*Hon. Justice P.N. Prakash, Judge, Madras High Court*

### Wednesday, March 2:

#### **Terrorism Trials, Security, and Witness Protections (90 minutes)**

5:30 PM IT | 1:00 PM CET | 7:00 AM ET

The violence of terrorism may infiltrate the sanctity of the courthouse. This can include pressure or physical harm directed at judges, danger during court proceedings, and threats to the security of cooperating witnesses. We will explore strategies judges and court officials can undertake to deter and prevent these threats.

As with any criminal case, a terrorism trial may include testimony from victims, witnesses, and family members. It may be necessary to protect their safety and shield their identity. In some cases, witnesses have a close relationship with the defendants and are often fearful of giving testimony and suspicious of press coverage. We will also discuss the court's role in protecting the rights of witnesses and victims.

*Hon. Justice Joymala Bagchi, Judge, Calcutta High Court*

### Thursday, March 3:

#### **Judicial Management of Terrorism Cases (90 minutes)**

8:30 AM IT | 4:00 AM CET | 10:00 PM ET | 6:00 PM AK on Wed. March 2 (Anchorage)

Effective case management strategies are always important but are especially so for terrorism cases. Judges must be actively engaged throughout the process, beginning as soon as charges are framed and continuing through pretrial proceedings and trial. At the conclusion of this session, participants will be able to identify and sequence at least 8 important case management tasks, facilitate cooperation between prosecution and defense on evidence disclosure and scheduling, and determine the types of legal issues that can be resolved before trial commences.

*Hon. Timothy Burgess, District Judge, U.S. District Court for the District of Alaska*

#### **Pulling it all Together (15 minutes)**

10:00 AM IT | 5:30 AM CET | 11:30 PM ET

This program addressed the many legal and procedural issues judges confront when presiding over a terrorism trial. It included an overwhelming amount of new information to process. We will take the last ten minutes of this workshop to discuss a few of the workshop's the central 'takeaways.'

*Ms. Mira Gur-Arie, Director, International Judicial Relations Office, Federal Judicial Center (Washington, D.C.)*

## Closing Session

10:15 AM IT | 5:45 AM CET | 11:45 PM ET

National Judicial Academy Director A.P. Sahi will close the program and offer his reflections about the role of judges in complex criminal litigation.

*Hon. A.P. Sahi, Director, National Judicial Academy (Bhopal)*

