Idaho Local District Criminal Rules Packet

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LOCAL DISTRICT RULES OF PROCEDURE

UNITED STATES DISTRICT COURT
DISTRICT OF IDAHO

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ANNOUNCEMENT TO ATTORNEYS AND THE PUBLIC

LOCAL RULES OF CIVIL AND CRIMINAL PRACTICE

Revised and adopted January 1, 2019

The local rules are available for public viewing at each Federal Courthouse in Idaho (Boise, Pocatello, and Coeur d'Alene).

Local rules, among other documents, are available on the court's Internet website at http://www.id.uscourts.gov/. If you do not have access to the Internet, local rules can be provided at the Federal Courthouse closest to you. You can also send your request, with a return addressed and stamped mailer, to:

Clerk, U.S. District Court
550 W Fort St.
Boise, ID 83724

We welcome your comments and suggestions. Please e-mail them to: **District Court Local Rules Committee** (local_rulesDC@id.uscourts.gov)

SCOPE

a) **Title and Citation.** These rules shall be known as the Local Rules of Criminal Practice before the United States District Court for the District of Idaho. They may be cited as "Dist. Idaho Loc. Crim. R. _____."

b) **Effective Date.** These rules became effective on January 1, 2007. Any amendments to these rules become effective on the date approved by the Court.

c) **Scope of Rules.** These rules shall apply to all criminal proceedings in the District of Idaho.

d) **Relationship to Prior Rules; Actions Pending on Effective Date.** These rules supersede all previous local rules promulgated by this Court or any judge of this Court. They govern all applicable proceedings brought in this Court after they take effect. They also apply to all proceedings pending at the time they take effect, except to the extent that their application is not feasible or will work an injustice, in which event the former rules shall govern.

e) **Rule of Construction and Definitions.**

1) Title 28, United States Code, Section 2071, shall, as far as applicable, govern the construction of these rules.

2) The following definitions shall apply:

A) "**Court**." As used in these rules, the term "Court" refers to the United States District Court of the District of Idaho, the entire Board of Judges for the District of Idaho, or to a judge or magistrate judge of the Court before whom a proceeding is pending unless the rule expressly refers to a district judge only or to the full Court.

B) "**Clerk**." As used in these rules, the term "Clerk" refers to the Clerk of Court or any deputy clerk designated by the Clerk of Court to act in the capacity of the Clerk.

f) **Applicability of Local Rules of Civil Practice.** All general provisions of the Local Rules of Civil Practice apply to criminal proceedings unless such provisions are in conflict with or are otherwise provided for by the Federal Rules of Criminal Procedure or the Local Rules of Criminal Practice.

RELATED AUTHORITY

28 U.S.C. § 2071 and Fed. R. Crim. P. 57

SEALED DOCUMENTS AND PUBLIC ACCESS

The provisions of Dist. Idaho Loc. Civil R. 5.3 apply to criminal actions and proceedings unless otherwise ordered by the Court.

RELATED AUTHORITY

None

District Local Rule Crim 12.1 (Criminal) Back to Top

PROCEDURAL ORDERS AND MOTION

(a) **Procedural Orders**. At the arraignment, the magistrate judge or district judge shall set cutoff dates for the filing of requests for discovery, pretrial motions, and submission of jury instructions in accordance with the Criminal Procedural Order as approved by the Court. These dates will be strictly adhered to unless an extension of time is granted by the Court upon good cause shown.

(b) **Pretrial Conference.** At the time of the arraignment, a date will be set for a pretrial conference. In addition to any other matters to be covered, i.e., evidentiary or trial procedures, the defendant should be prepared to advise the trial judge (1) if the case will continue to trial based on a not guilty plea, or (2) whether the case will be resolved on a plea of guilty.

RELATED AUTHORITY

Fed. R. Crim. P. 12, 47
General Order #319

District Local Rule Crim 28.1 (Criminal) Back to Top

INTERPRETERS

(a) **Courtroom Proceedings.** Only officially designated interpreters may interpret official courtroom proceedings. Regardless of the presence of a private interpreter, such official interpreter must interpret all proceedings in the courtroom.

(b) **Out-of-Court Proceedings.** Official interpreters shall also be available when needed to interpret at interviews between the attorney and his or her non-English-speaking client.

(c) **Compensation for Interpreters.** Attorneys appointed by the Court may claim up to the maximum allowed by the Criminal Justice Act in interpreter fees and be reimbursed, provided they attach all pertinent interpreter bills to said voucher.

Interpreters are compensated in accordance with the policies and the Fee Schedule established by the Judicial Conference of the United States.

RELATED AUTHORITY

Fed. R. Crim. P. 28

DISCLOSURE OF INVESTIGATIVE REPORTS BY
UNITED STATES PROBATION OFFICE

a) **Presentence Report, Sentencing Recommendation and Confidentiality.**

1) Presentence reports are not available for public inspection. They shall not be reproduced or copies distributed to other agencies or other individuals unless the Court or the Chief United States Probation Officer grants permission.

2) In addition to the presentence report, the probation officer will submit a separate document entitled "Sentencing Recommendation" to the Court. The Sentencing Recommendation is for the benefit of the Court and will not be disclosed to the government, the defendant, or defendant's counsel or to any other person or party, unless authorized by the sentencing judge, as provided in subsection (3).

3) The Sentencing Recommendation may be disclosed to the government and defense counsel if authorized by the sentencing judge. Such authorization shall be communicated to the Chief United States Probation Officer in writing or electronically and shall specify whether the authorization applies to all of the individual sentencing judge's cases or to selected cases only. The sentencing judge may revoke the authorization at any time by so notifying the Chief United States Probation Officer in writing or electronically.

4) If a sentencing is scheduled before a visiting judge, the probation officer shall contact the staff of the visiting judge to determine whether the visiting judge would like the Sentencing Recommendation disclosed to the government and defense counsel.

5) Probation reports, violation of supervised release reports, and sentencing recommendations prepared for these reports are governed by these same provisions.

b) **Presentence Report.**

1) Sentencing shall occur no less than seventy (70) days following the entry of a guilty plea or nolo contendere plea or verdict of guilty. At the time the Court sets the date of sentencing, the Court will advise counsel and the probation office of the dates the presentence report will be disclosed to counsel, the date counsel is to submit any objections to the probation office, and the date on which the presentence report, and any amendments thereto, will be submitted to the Court and counsel. Should counsel or the probation office be unable to comply with the Court's specified dates, they shall notify the Court and request a continuance of the sentencing hearing.

2) The probation officer shall timely notify counsel of the date and place of the initial and subsequent interviews for the presentence report. Counsel shall be provided a reasonable opportunity to attend any interview of the defendant during the course of the presentence investigation.

3) Not less than thirty-five (35) days prior to the date of sentencing, the probation officer shall disclose the presentence investigation report to the defendant and to counsel for the defendant and the government. Within fourteen (14) days, counsel shall file with the Clerk of Court any objections they may have as to any material information, sentencing classifications, sentencing guideline ranges, and policy statements contained in or omitted from the report.

4) After receiving counsel's objections, the probation officer shall conduct any further investigation and make any revisions to the presentence report that may be necessary. The probation officer may request counsel for both parties to meet with the probation officer to discuss unresolved factual and legal issues.

5) Seven (7) days prior to the date of the sentencing hearing, the probation officer shall submit the presentence report to the sentencing judge. The report shall be accompanied by an addendum setting forth any objections counsel may have made that have not been resolved, together with the officer's comments thereon, as well as sentencing letters received by the probation officer and the Sentencing Recommendation. The final presentence report and any addendum will also be disclosed at this time to counsel for the defendant and the government. If the sentencing judge has authorized its disclosure, the Sentencing Recommendation shall be disclosed to counsel for the defendant and the government.

Counsel shall provide or direct others to provide sentencing letters to the probation officer for inclusion with the addendum to the final presentence report. Only those letters received before the final presentence report will be included in the addendum. Counsel must file in ECF any letters received after the final presentence report.

6) Except with regard to any objection made under subdivision (a) that has not been resolved, the presentence report may be accepted by the Court as accurate. The Court, however, for good cause shown, may allow a new objection to be raised at any time before the imposition of sentence. In resolving disputed issues of fact, the Court may consider any reliable information presented by the probation officer, the defendant, or the government.

7) The times set forth in this rule may be modified by the Court for good cause shown, except that the thirty-five (35)

day period set forth in subsection (b)(3) may only be shortened if the defendant expressly consents.

8) Nothing in this rule requires the disclosure of any portions of the presentence report that are not disclosable under Federal Rule of Criminal Procedure 32.

9) The presentence report shall be deemed to have been disclosed when a copy of the report is delivered by electronic filing, hand, fax, or e-mail.

c) **Confidentiality of Probation Records.**

1) Investigative reports and supervision records of this Court maintained by the probation office are confidential and not available for public inspection. However, the Chief Probation Officer may disclose these records to federal, state, or local Courts; correctional and law enforcement agencies, contacted treatment providers; or paroling authorities who have a legal, investigative, or custodial interest in that individual.

2) Any party, other than those defined in subsection (c)(1), seeking access to the confidential records maintained by the probation office, must file a written request to the Chief Probation Officer that conforms to the requirements of *The Guide to Judiciary Policy, Volume 20, Chapter 8* (which is available at www.idp.uscourts.gov/disclosure.html).

d) **Rule Not to Supersede or Void Provisions of Federal Rule of Criminal Procedure 32(c).** Nothing in this rule shall be construed to supersede or void the provisions of Fed. R. Crim. P. 32(c)(1).

RELATED AUTHORITY

Fed. R. Crim. P. 32
The Guide to Judiciary Policy, Volume 20, Chapter 8

RIGHT TO AND APPOINTMENT OF COUNSEL

(a) **Right to and Appointment of Counsel.** Attorneys may be appointed for indigent parties in a criminal proceeding including pretrial diversion and parole revocation hearings. If a defendant, appearing without counsel in a criminal proceeding, desires to obtain his or her own counsel, a reasonable continuance for arraignment shall be granted for that purpose. If the defendant requests appointment of counsel by the Court or fails for an unreasonable time to appear with his or her own counsel, the assigned judge or magistrate judge shall, subject to the applicable financial eligibility requirements, appoint counsel unless the defendant advises the Court that he or she wishes to represent himself pro se. Any financial affidavit submitted with the application for appointment of counsel shall be sealed by the Clerk.

If a defendant desires to represent himself and proceed without counsel, he or she shall sign and file a written waiver of right to counsel. The district judge or magistrate judge may nevertheless designate counsel to advise and assist the defendant to the extent defendant might thereafter desire. Appointment of counsel shall be made in accordance with the plan of this Court adopted pursuant to the Criminal Justice Act of 1964 and on file with the Clerk.

(b) **Appearance and Withdrawal of Counsel.** An attorney who has appeared for a defendant may thereafter withdraw only upon notice to the defendant and all parties to the case and after order of the Court finding good cause exists and granting leave to withdraw. Failure of a defendant to pay agreed compensation shall not alone be deemed sufficient cause.

Unless such leave is granted, the attorney shall continue to represent the defendant until the case is dismissed or the defendant is acquitted. In the event the defendant is convicted, unless leave is granted, the attorney shall continue to represent the defendant until the time for making post-trial motions and for filing notice of appeal, as specified in Federal Rule of Appellate Procedure 4(b), has expired. If an appeal is taken, the attorney shall continue to serve until leave to withdraw is granted by any competent Court.

(c) **Pro Hac Vice/Local Counsel.** An attorney eligible for admission under Dist. Idaho Loc. Civ. R. 83.4(a), and who is a member in good standing and eligible to practice before the bar of any United States Court or of the highest court of any state or of any territory or insular possession of the United States, who is of good moral character and who has been retained to appear in this Court, may, upon written application and in the discretion of the Court, be permitted to appear and participate in a particular case, and no certificate of admission shall be issued by the Clerk of Court.

The pro hac vice application shall be presented to the Clerk of Court and shall state under penalty of perjury (1) the attorney's residence and office addresses, (2) by what court(s) the attorney has been admitted to practice and the date(s) of admission, (3) that the attorney is in good standing and eligible to practice in said court(s), and (4) that the attorney is not currently suspended or disbarred in any other court(s). The attorney shall also (1) designate an active member of the bar of this Court as Local Counsel with the authority to act as attorney of record for all purposes and with whom the Court and opposing counsel may readily communicate regarding the conduct of the case, and (2) file with such designation the address, telephone number, and written consent of designated local counsel.

Attorneys not admitted to the bar of this Court who, upon the filing of a verified petition for permission to practice in an individual case, are admitted under the conditions pre scribed in Dist. Idaho Loc. Civ. R. 83.4(e), and shall be required to pay the proscribed fee for each such pro hac vice application filed.

Attorneys not admitted to the bar of this Court who, upon the filing of a verified petition for permission to practice in an individual case, are admitted under the conditions prescribed in Dist. Idaho Loc. Civ. R. 83.4(e), and shall be required to pay a fee in accordance with the General Orders of this Court for each such pro hac vice application so filed.

The designated local counsel shall personally appear with the attorney on all matters heard and tried before this Court unless such presence is excused by the Court. Original proceedings may be filed by an attorney before admission pro hac vice, but the time for the responsive pleading shall not begin to run until the appearance of associated local counsel is filed with the Clerk of Court.

RELATED AUTHORITY

Fed. R. Crim. P. 44

District Local Rule Crim 46.1 (Criminal) Back to Top

RELEASE FROM CUSTODY/BAIL

(a) **Release from Custody.** Eligibility for release prior to and after trial shall be in accordance with 18 U.S.C. §§ 3142, 3143, and 3144.

(b) **Bail.** If the Court sets as a condition of release a monetary bail under the Bail Reform Act, the bond or equivalent security shall comply with Dist. Idaho Loc. Civ. R. 65.1 unless the Court specifically orders otherwise.

(c) **Motion to Modify Release or Detention Orders.** Except as otherwise ordered by a judge of this Court, magistrate judges shall, subject to the provisions of 18 U.S.C. § 3141 et seq., hear and determine all motions to modify release or detention orders.

(d) **Appeal of Release or Detention Orders.** If a defendant is not moving to modify a previous order entered by a magistrate judge, but desires to appeal the decision made by the magistrate judge, the pleading should be clearly entitled "Notice of Appeal."

RELATED AUTHORITY

18 U.S.C. §§ 3142-3144
Fed. R. Crim. P. 46
Dist. Idaho Loc. Civ. R. 65.1

District Local Rule Crim 46.2 (Criminal) Back to Top

PRETRIAL SERVICES

Pursuant to the Pretrial Services Act of 1982 (18 U.S.C. §§ 3152-3155), the Court authorizes the United States Probation Office for the District of Idaho to establish a Pretrial Services Division as provided for by the Act.

At the discretion of the Chief U.S. Probation Officer, personnel within the probation office shall be designated to perform pretrial services pursuant to the Act.

Upon notification that a defendant has been charged with an offense, either felony or misdemeanor, pretrial service officers will conduct a pre-release investigation as soon as practicable. The judicial officer setting bail or reviewing a bail determination shall receive and consider all reports submitted by pretrial service officers.

Pretrial service reports shall be made available to the attorneys for the accused and the attorneys for the government and shall be used only for the purpose of fixing conditions of release, including bail determinations. Otherwise, the reports shall remain confidential, as provided in 18 U.S.C. § 3153, subject to the exceptions provided therein. In the event a pretrial service report is received in evidence at a hearing on terms and conditions of release, it shall be sealed by the Court and not made a matter of public record.

Pretrial service officers shall supervise persons released on bail at the discretion of the judicial officer granting the release or conditions of the release. Supervision will be conducted in accordance with 18 U.S.C. § 3154, *The Guide to Judiciary Policy,* Volume 8, and District of Idaho operations policy.

The Chief U.S. Probation Officer of the District is authorized to approve interdistrict travel for persons under the supervision of the Court.

RELATED AUTHORITY

18 U.S.C. §§ 3152-3155
18 U.S.C. § 3142(c)(1)(B)(VI)

District Local Rule Crim 49.1 (Criminal)

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Search warrants, all affidavits filed in support of search warrants, and all search warrant returns will be filed under seal, and will remain sealed until the court orders otherwise. This rule also applies to any court filing that is related to a criminal matter or investigation and that is prepared before the filing of a criminal charge or is not filed as part of any docketed criminal case.

RELEASE OF INFORMATION BY ATTORNEYS
IN CRIMINAL CASES

(a) **General.** It is the duty of the lawyer for the United States and the lawyer for the defendant not to release or authorize the release of information or opinion for dissemination by any means of public communication, in connection with pending or imminent criminal litigation with which he or she is associated, if there is a reasonable likelihood that such dissemination will interfere with a fair trial or otherwise prejudice the due administration of justice.

From the time of arrest, issuance of an arrest warrant, or the filing of a complaint, information, or indictment in any criminal matter until the commencement of trial or disposition without trial, a lawyer associated with the prosecution or defense shall not release or authorize the release of any extrajudicial statement for dissemination by any means of public communication related to that matter and concerning:

(1) The prior criminal record (including arrests, indictments, or other charges of crime) or the character or reputation of the accused, except that, the lawyer may make a factual statement of the accused's name, age, residence, occupation, and family status, and if the accused has not been apprehended, a lawyer associated with the prosecution may release any information necessary to aid in his or her apprehension or to warn the public of any danger he or she may present;

(2) The existence or contents of any confession, admission, or statement given by the accused, or the refusal or failure of the accused to make any statement;

(3) The performance of any examinations or tests or the accused's refusal or failure to submit to an examination or test;

(4) The identity, testimony, or credibility of prospective witnesses, except that the lawyer may announce the identity of the victim if the announcement is not otherwise prohibited by law;

(5) The possibility of a plea of guilty to the offense charged or a lesser offense; or

(6) Any opinion as to the accused's guilt or innocence or as to the merits of the case or the evidence in the case.

(b) **Pretrial Matters.** During the course of any pretrial proceedings, including investigations by the grand jury, the attorney for the United States shall be guided by the provisions of Fed. R. Crim. P. 6(e) and 28 C.F.R. § 50.2(b), Release of Information by Personnel of the Department of Justice Relating to Criminal Proceedings. Attorneys for the defendant shall comply with Rule 3.6, Idaho Rules of Professional Conduct.

(c) **Release of Information During Trial.** During the trial of any criminal matter, including the period of selection of the jury, no lawyer associated with the prosecution or the defense shall give or authorize any extrajudicial statement or interview relating to the trial or the parties or issues in the trial for dissemination by any means of public communication.

(d) **Release of Information After Trial. After the completion of a trial or disposition** without trial of any criminal matter and prior to the imposition of sentence, a lawyer associated with the prosecution or defense shall refrain from making or authorizing any extrajudicial statement for dissemination by any means of public communication if there is a reasonable likelihood that such dissemination will affect the imposition of sentence.

(e) **Exclusions.** Nothing in this rule is intended to preclude the formulation or application of more restrictive rules relating to the release of information about juvenile or other offenders or to preclude any lawyer from replying to charges of misconduct that are publicly made against him.

(f) **Sanctions.** Violation of this rule may result in sanctions being imposed consistent with the powers of the Court.

RELATED AUTHORITY

None

VIOLATION NOTICES, FORFEITURE OF COLLATERAL
IN LIEU OF APPEARANCE

For certain scheduled offenses committed within the territorial and subject matter jurisdiction of a United States magistrate judge within the District of Idaho, collateral may be posted in the scheduled amount, in lieu of an accused's appearance before the magistrate judge.

If the accused fails to appear before the magistrate judge after posting collateral in the scheduled amount, the collateral shall be forfeited to the United States and such forfeiture shall be accepted in lieu of appearance and as authorizing the termination of the proceedings.

No forfeiture of collateral will be permitted for certain listed offenses described in the general order adopting the Uniform Collateral Forfeiture Schedule for this Court.

Copies of current schedules of offenses for which collateral may be posted in lieu of appearance, and of the amounts of required collateral shall be available for public inspection at the offices of the Clerk of Court in Boise, Pocatello, Moscow, and Coeur d'Alene.

RELATED AUTHORITY

General Order No. 278

District Local Rule Crim 57.3 (Criminal) Back to Top

CUSTODY OF FILES AND EXHIBITS

The provisions of Dist. Idaho Loc. Civ. R. 79.1 apply to criminal actions and proceedings, unless otherwise ordered by the Court.

District Local Rule Crim 58.1 (Criminal) Back to Top

ASSIGNMENT OF CRIMINAL MATTERS
TO MAGISTRATE JUDGES

(a) **Misdemeanor Cases.** All misdemeanor cases shall be assigned, upon the filing of an information or the return of an indictment, to one of the district judges and then delivered to a magistrate judge to conduct the arraignment. All magistrate judges are specifically designated to exercise misdemeanor jurisdiction. If the defendant consents to a trial of the case by a magistrate judge, the magistrate judge shall proceed in accordance with the provisions of 18 U.S.C. § 3401 and Fed. R. Crim. P. 58.

(b) **Felony Cases.** Upon the return of an indictment or the filing of an information, all felony cases shall be assigned by the Clerk of Court to one of the district judges and then delivered to a magistrate judge to conduct an arraignment, to appoint counsel when appropriate, and to resolve other preliminary matters pursuant to the Federal Rules of Criminal Procedure, including entry of the procedural order. Upon receipt of a not guilty plea, the magistrate judge shall set the matter for trial before the assigned district judge. If the defendant advises the magistrate judge that he or she wishes to enter a plea of guilty or *nolo contendere*, the magistrate judge shall inform the district judge so the matter can be place on the district judge's calendar.

RELATED AUTHORITY

28 U.S.C. § 636(b)
18 U.S.C. § 3401
Fed. R. Crim. P. 58

APPEAL FROM CONVICTION BY A MAGISTRATE JUDGE

a) **Notice of Appeal.** A defendant who has been convicted by a magistrate judge may appeal to a district judge by filing a timely notice of appeal within fourteen (14) days after entry of judgment with the Clerk of Court and by serving a copy on the United States Attorney pursuant to Fed. R. Crim. Pro. 58(c)(4).

b) **Record.** A transcript, if desired, shall be ordered as prescribed by Fed. R. App. Pro. 10(b), except that, in the absence of a reporter, the transcript shall be ordered as directed by the magistrate judge. Applications for orders pertaining thereto shall be made to the magistrate judge. Within thirty (30) days after a transcript has been ordered, the transcript shall be filed with the Clerk.

If no transcript is ordered within fourteen (14) days after the notice of appeal is filed, the record on appeal shall be deemed complete.

c) **Assignment to a District Judge.** The Clerk of Court shall assign the appeal to a District judge in the same manner as any indictment or felony information.

d) **Notice of Hearing.** After assignment, the Clerk shall promptly notify the parties of the time set for oral argument. Argument shall be scheduled not less than sixty (60) days, nor more than ninety (90) days, after the date of the notice. However, an earlier date may be set upon application to the judge to whom the appeal has been assigned.

e) **Time for Serving and Filing Briefs.** The appellant shall serve and file his or her brief within twenty-one (21) days after the notice of hearing. The appellee shall serve and file his or her brief within twenty-one (21) days after service of the brief of the appellant. The appellant may serve and file a reply brief within seven (7) days after service of the brief of the appellee. These periods may be altered by order of the assigned judge upon application of a party for good cause shown.

f) **Scope of Appeal.** The scope of the appeal shall be the same as on an appeal from a judgment of the District Court to the Court of Appeals.

RELATED AUTHORITY

None

District Local Rule Crim 58.3 (Criminal)

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a. **Scope.** This Rule shall apply to petty offenses (as that term is defined in Rule 58(a)(3) of the Federal Rules of Criminal Procedure), whether originating under the applicable federal statutes or regulations, or applicable state statutes by virtue of the Assimilative Crimes Act, 18 U.S.C. § 13, occurring with the territorial jurisdiction of the United States District Court for the District of Idaho, including areas within the exterior boundaries of United States military installations, bases, institutions, Indian Country, and government reservations located on lands under the exclusive or concurrent jurisdiction of the United States.

b. **Forfeiture of Collateral.** Persons charged in this District with a petty offense for which a fixed sum payment is established pursuant to this Rule, may elect to post, in person or by mail, collateral in the amount specified for such offense and, upon waiver of the right to a hearing on the charge made, consent to the forfeiture of such collateral in lieu of appearance before the United States Magistrate Judge and all further proceedings. The forfeiture of collateral in lieu of appearance is a "civil penalty," is not an admission of guilt, and shall not be deemed a criminal conviction in the District of Idaho, but there may be other consequences under other state and federal regulations. Any person so charged who does not elect to forfeit collateral in lieu of appearance shall be required to appear before the United States Magistrate Judge as prescribed by law, and upon conviction shall be subject to any penalty otherwise provided.

c. **Arrest and Aggravated Offenses.** Nothing contained in this Rule shall be interpreted to prohibit or restrict otherwise existing authority of any law enforcement officer in proper circumstances to place persons under arrest. Further, where the law enforcement officer involved considers the circumstances of the offense to be aggravated, the officer may specify that appearance before the United States Magistrate Judge is required, in which case the collateral forfeiture procedure in this Rule shall not be available.

d. **Collateral Schedules.** The schedules of fixed sum payments which may be deposited as collateral and forfeited in lieu of appearance shall be those established by General Orders as may be issued from time to time by this Court. The schedules shall be posted by the Clerk on the Court's website. Such General Orders may be issued by the Chief Judge of this Court on behalf of the Court, pending further General Orders of the full Court. Offenses for which no amount of collateral is shown require a mandatory appearance before a United States Magistrate Judge.

   Notwithstanding the foregoing, the list of petty offenses for which collateral may be posted and forfeited or for which the offender must appear before a Magistrate Judge is not intended to be exhaustive. A Magistrate Judge may use his or her discretion whether to allow forfeiture of collateral or require an appearance for any offenses which are not listed.

e. **Failure to Forfeit Collateral and Appear.** When a person charged in this District with a petty offense for which a fixed sum payment is established pursuant to this Rule fails to post collateral and also fails to appear before the Magistrate Judge for initial appearance on the date set by the Court, the Magistrate Judge may, when issuing a warrant for the person's arrest, increase the amount of collateral which may be forfeited to an amount not in excess of the maximum fine which could be imposed upon conviction.

RELATED AUTHORITY

General Order 296

MAGISTRATE JUDGE RULES

(a) **Authority of United States Magistrate Judges in Felony Matters.**

(1) Upon referral by a district judge, a magistrate judge shall impanel the grand jury.

(2) A magistrate judge may accept waivers of indictment pursuant to Federal Rule of Criminal Procedure 7(b).

(3) A magistrate judge shall preside over all arraignments, establish deadlines within which parties shall file and respond to pretrial motions, and fix trial dates.

(4) A magistrate judge may conduct plea inquiry hearings pursuant to Fed. R. Crim. P. 11 if a district judge has referred the matter to the magistrate judge, and the defendant, in writing, has waived his or her right to have a district judge take the plea. If, during the hearing, the requirements of Fed. R. Crim. P. 11 are met, the magistrate judge shall:

(A) Order the probation officer to conduct a presentence investigation and prepare a presentence report pursuant to Fed. R. Crim. P. 32;

(B) Set deadlines in accordance with Fed. R. Crim. P. 32 for disclosure of the presentence report;

(C) Set the date for objections and responses to objections;

(D) Calendar the case for sentencing before the district judge; and

(E) File a report certifying that the requirements of Fed. R. Crim. P. 11 have been met and recommending that the district court accept the defendant's plea.

(5) A magistrate judge may conduct voir dire and select petit juries if the district court has referred the matter to the magistrate judge for that purpose and the parties have consented in writing.

(6) A magistrate judge may at the request of a district judge, and with the consent of the parties, accept petit jury verdicts, fix dates for imposition of sentence, determine if release pending appeal is appropriate, and set the terms and conditions of that release.

(7) Perform any additional duties not inconsistent with the Constitution and laws of the United States.

(b) **Orders and Reports and Recommendations**

Objections to an order on a non-dispositive matter or to a report and recommendation on a dispositive matter filed by a magistrate judge shall be filed pursuant to Fed. R. Crim. P. 59 and shall not exceed twenty (20) pages. A party may respond to another party's objections within fourteen (14) days of being served with a copy of the objections, or at some other time set by the magistrate judge. Any response shall not exceed ten (10) pages.

RELATED AUTHORITY

Fed. R. Crim. P. 59
Fed. R. Crim. P. 11
Fed. R. Crim. P. 32