

Criminal Local Rules

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LOCAL CRIMINAL RULE 1.1 - SCOPE AND PURPOSE OF THE RULES

- A. **Title and Citation.** These Rules shall be known as the Local Criminal Rules of the United States District Court for the Eastern District of Oklahoma. They may be cited as "LCrR"
- B. **Effective Date.** These Rules become effective on ~~February 20, 2006~~ _____, 2016.
- C. **Scope and Purpose of the Rules.** These Rules shall apply in all proceedings in criminal actions. These Rules are promulgated to supplement the Federal Rules of Criminal Procedure with local court procedure not to be inconsistent with the Federal Rules.
- D. **Relationship to Prior Rules; Cases Pending on Effective Date.** These Rules supersede all previous rules promulgated by this Court, or any Judge of this Court, and they shall govern all applicable proceedings brought in this Court after the effective date. These Rules also shall apply to all proceedings pending on the effective date, except to the extent that in the opinion of the Court the application thereof would not be feasible or would work an injustice.
- E. **Judicial Waiver.** A Judge may waive any requirement of these Rules when the administration of justice requires such waiver.

Committee Note: Changes reflect new effective date and a statement of purpose for local rules.

LOCAL CRIMINAL RULE 1.2 - APPLICABILITY OF CIVIL RULES

When appropriate in a criminal context, the Local Rules of Civil Procedure are also deemed applicable to criminal cases.

LOCAL CRIMINAL RULE 4.1 - WARRANTS AND COMPLAINTS

- A. **Sealing.** Upon written application showing good cause, filed documents may be sealed by order of a judge or magistrate judge. Sealed documents, except those filed pursuant

to 18 U.S.C. § 3509(d)(2), shall automatically revert to public documents at the defendant's first court appearance. For good cause shown, the sealing of the documents may be extended by the court upon written application.

- B. **Filing Upon Return.** Pursuant to Rule 41~~(e)(i)~~, Federal Rules of Criminal Procedure, the Magistrate Judge shall deliver the warrant, the return, the inventory, and all other papers in connection therewith, to the Court Clerk for filing upon return of the warrant.

Committee Note: Change corrects typographical error.

LOCAL CRIMINAL RULE 5.1 - PRELIMINARY PROCEEDINGS - UNITED STATES MAGISTRATE JUDGES

- A. **General Authorization.** Each Magistrate Judge, ~~including part time Magistrate Judges,~~ are is designated and authorized to perform any function consistent with the Constitution and laws of the United States, including but not limited to:
1. Try persons accused of, and sentence persons convicted of, misdemeanors committed within this district in accordance with 18 U.S.C. § 3401, and order a presentence investigation report on any such person if the defendant consents in writing;
 2. Enter bond forfeitures, remissions and judgment on bond forfeitures and exonerations of bonds in proceedings before the Magistrate Judge;
 3. Conduct removal proceedings and issue warrants of removal ~~in accordance with Rule — 40, Federal Rules of Criminal Procedure~~;
 4. Accept pleas and impose sentences upon the transfer of any information or indictment charging a misdemeanor offense, pursuant to Rule 20, Federal Rules

of Criminal Procedure, if the defendant consents in writing to this procedure;

5. Conduct extradition proceedings in accordance with 18 U.S.C. § 3184;
6. Conduct proceedings pursuant to letters rogatory in accordance with 28 U.S.C. §1782 as a person hereby appointed by the Court;
7. Conduct preliminary hearings; ~~and~~
8. Accept pleas of guilty in felony cases, ~~with consent of the parties~~ if defendant consents in writing.

~~B. **Authorization.** Each full-time Magistrate Judge appointed by this Court is designated and authorized to perform any function consistent with the Constitution and laws of the United States, including but not limited to:~~

- ~~19.~~ Conduct hearings, including evidentiary hearings, and submit to a District Judge of the Court proposed findings of fact and recommendations in accordance with 28 U.S.C. § 636(b)(1)(B) for the disposition of any motion excepted in 28 U.S.C. § 636(b)(1)(A), of applications for post-trial relief by individuals convicted of criminal offenses and of prisoner petitions challenging conditions of confinement;
- ~~210.~~ Conduct pretrial conferences and enter pretrial orders, upon request of a District Judge of the Court;
- ~~311.~~ Conduct arraignments in felony criminal cases; ~~to the extent of taking “not guilty” pleas upon request of a Judge of the Court and “guilty pleas” upon consent;~~
- ~~412.~~ Impanel and recall the grand jury and receive returns in accordance with Rule 6, Federal Rules of Criminal Procedure;

- ~~5~~13. Conduct preliminary hearings on petitions to revoke probationary sentences ~~as requested by a Judge of the Court;~~
- ~~6~~14. Issue subpoenas, writs of habeas corpus ad testificandum or habeas corpus ad prosequendum, or other orders necessary to obtain the presence of parties, witnesses or evidence for court proceedings;
- ~~7~~15. Accept waivers of indictment pursuant to Rule 7(b), Federal Rules of Criminal Procedure;
- ~~8~~16. Conduct hearings on petitions to modify, revoke, or terminate supervised release pursuant to 18 U.S.C. § 3401~~(1)~~(i); ~~and~~
- ~~9~~17. Issue findings of fact and recommendations as to disposition of a proposed order of restitution arising under the "Antiterrorism and Effective Death Penalty Act of 1996-:"
- ~~10~~18. Conduct jury selection in felony criminal cases ~~upon consent. if the parties consent in writing; and~~
- ~~11~~19. Conduct competency hearings.

Committee Note: Sections A and B are combined to remove reference to part-time magistrate judges and items are renumbered 1-19. Where defendant or parties must consent in writing, the wording was changed for consistency. Removed portion of number 3 to simplify and in order to not reiterate FRCrP Rules 40, 5.1 and 32.1. Added citation to number 9 authorizing magistrates' preparation of findings and recommendations. Corrected typographical error on number 9. Remainder of revisions were for punctuation and clarification purposes only.

LOCAL CRIMINAL RULE 12.1 - MOTIONS, APPLICATIONS AND OBJECTIONS

- A. Motions in Writing. Motions in criminal cases shall be in writing and state with particularity the grounds therefor and the relief or order sought. ~~Each claim for relief must be contained in a separate document. The first page of every motion shall contain a statement as to~~

~~whether or not opposing counsel objects to the motion.~~

B. Statement of Objection. ~~The first page of every motion shall contain a statement as to whether or not opposing counsel objects to the motion. Failure to include this statement as to opposing counsel's position may result in the motion being summarily denied.~~

BC. Concise Brief Required. All motions and responses thereto must be accompanied by a concise brief citing all authorities upon which the movant or respondent relies. A motion and the brief in support may be presented to the Court as one document if clearly stated in the caption of the document.

~~C. Combined Motion and Brief. The motion and brief may be combined in a single pleading.~~

~~D. Copies of Motions and Briefs. When conventionally filing motions and briefs, the original and two copies of each motion and brief shall be filed with the Court Clerk.~~

ED. Notice of Motion Dates. In cases where counsel for defendant has made an appearance of record, notice setting a time for the filing of motions and responses thereto may be sent by the Court Clerk.

FE. Time of Filing in Absence of Notice. All motions, including motions in limine, shall be filed with the Court Clerk within such time as the Court may order. Absent such special order, all such motions shall be filed with the Court Clerk within ~~thirteen (13)~~ fourteen (14) days after arraignment. The responses shall be filed within ~~five (5)~~ seven (7) days of the filing of said motions, unless a different time is fixed by statute or the Federal Rules of Criminal Procedure, or the Court orders otherwise.

GF. Motions for Extensions of Time and Continuances. ~~The first page of motions for extension of time and motions for continuance shall contain a statement as to whether~~

~~or not opposing counsel objects to the motion. Motions and proposed orders to continue the trial date must address with particularity the provisions of the Speedy Trial Act, specifically, 18 U.S.C. § 3161(h).~~

~~H. **Scheduling Conflicts.** Motions for continuances involving scheduling conflicts with Oklahoma federal courts and state courts shall comply with ~~This Court adopts the~~ General Order No. 98-2, In re: Guidelines for Resolving Scheduling Conflicts with Oklahoma Federal Courts and State Courts, ~~issued by the Tenth Circuit Court of Appeals on May 21, 1998.~~~~

~~IG.~~ **Motions to Reconsider or Overrule Actions Taken by District Judges or Magistrate Judges of This District in Connection with Ex Parte Applications.** Once a motion or application has been presented and an order entered by a Judge or Magistrate Judge sitting in this district, any request to reconsider or overrule such determination shall be presented to the Judge or Magistrate Judge entering the order, if available. If presented to a different Judge or Magistrate Judge, the movant or applicant shall make known the action taken by the Judge or Magistrate Judge to whom it was previously submitted. This provision is intended to apply to such matters as applications for search warrants, wiretaps, pen registers, and other such applications or motions which are made to a Judge or Magistrate Judge without a case having been filed. It is not a means to appeal an order entered in a case, nor is it intended to apply where a case is transferred from one Judge to another and a motion to reconsider a prior ruling is made.

~~H. **Motions for Evidentiary Hearing.** A party requesting an evidentiary hearing in connection with a motion shall state the factual and legal bases for the request in the motion or response, state whether each party agrees to or opposes the request, and estimate the length of time the requested evidentiary would take.~~

I. Joinder of Co-Defendant's Motion. A co-defendant who seeks to join a specific motion previously filed by a co-defendant must file a joinder in the motion.

J. Motion for —Stay of Release Pending Appeal of Bond Decision. At the conclusion of a bond hearing pursuant to 18 U.S.C. § 3142 in which a Magistrate Judge has set a bond which will result in release of a defendant if the conditions of the bond are met, an announcement in open court by the prosecutor that the government intends to appeal the bond to a District Judge shall result in an immediate stay of the bond set by the Magistrate Judge. Such stay shall continue until 5:00 p.m. that day, or in the event the bond is set in open court after 5:00p.m., until 9:30 a.m. the morning of the following business day, unless the prosecutor shall file an "Appeal of Magistrate Judge's Order" with the Court Clerk, upon which the stay shall become permanent unless and until it is lifted by a District Judge. The "Appeal of Magistrate Judge's Order" may be summary in form and need not be typed, but it shall be filed on or before the close of the business day following the day the bond was set by the filing of a detailed factual statement, in proper form, setting forth the grounds of appeal.

Committee Note: Changes reflect local practice in areas of request for evidentiary hearing, time for filing motions, co-defendant joinder in motions, and requirement of information on Speedy Trial implications when submitting motions for continuances. Other changes are organizational in nature.

LOCAL CRIMINAL RULE 16.1 - DISCOVERY AND INSPECTION

A. Discovery Conference and Agreement.

1. —The parties are expected to complete discovery themselves and the necessity of filing discovery motions is eliminated except when disputes arise. Discovery orders are hereby eliminated except when irreconcilable disputes arise. The Court shall not hear any such motion unless counsel for the movant certifies in writing

to the Court that the opposing attorneys have conferred in good faith and have been unable to resolve the dispute. It is anticipated that the Government will provide discovery to the Defendant contemporaneously with the arraignment. Additionally, at the arraignment, counsel for the Government should be prepared to announce the status of discovery on the record. ~~To further encourage early, voluntary and complete discovery, the parties shall confer and file a Disclosure Agreement Checklist (Exhibit A to these Rules) no later than the deadline for filing pretrial motions under LCrR 12.1(F).~~

- ~~2. If the Disclosure Agreement Checklist indicates that a party intends to disclose, but does not currently possess, certain listed information, that party must disclose the information as soon as practicable.~~
- ~~3. If the Disclosure Agreement Checklist indicates that a party refuses to disclose information, the other party may file motions regarding the undisclosed information within six (6) days after filing of the checklist.~~
- ~~4. Filing of the Disclosure Agreement Checklist does not preclude a party from filing motions relating to information not listed in the checklist.~~
- ~~5. Continuing Duty to Disclose. The parties have a continuing duty to disclose promptly to opposing counsel all newly discovered information the party is required to disclose or has agreed to disclose in the Disclosure Agreement Checklist.~~

B. Protective and Modifying Orders

For good cause, the court may deny, restrict, or defer discovery and inspection, or grant other appropriate relief.

Committee Note: Section A change eliminates the requirement of filing a Disclosure Agreement Checklist. Section B addition underscores the Court's authority to issue protective orders relating to discovery materials under appropriate circumstances.

LOCAL CRIMINAL RULE 17.1.1 - PRETRIAL CONFERENCE

- A. **Conferences In Criminal Cases.** Pretrial conferences may be held in criminal cases for the purpose of considering such matters as will promote a fair and expeditious trial.
- B. **Stipulations and Exhibits.** Consistent with the applicable Federal Rules of Criminal Procedure, and whenever it can be done without violating or jeopardizing the constitutional rights of the defendant in any criminal case, stipulations should be made at or prior to the pretrial conference with respect to the undisputed facts and the authenticity of documents. Each instrument which either party anticipates may be offered into evidence by either side should be marked with an exhibit number prior to the trial.

LOCAL CRIMINAL RULE 26.1 - LISTS OF WITNESSES AND EXHIBITS AT TRIAL

- A. **List of Witnesses.** At the commencement of the trial, unless otherwise ordered, counsel shall submit to the presiding Judge, the courtroom deputy clerk, and the court reporter, a typewritten list of ~~the all~~ witnesses they expect to call, ~~including known rebuttal witnesses~~. In cases involving treason or other capital offenses, the three-day provision of 18 U.S.C. § 3432 shall apply, unless otherwise ordered.
- B. **List of Trial Exhibits.** At the commencement of a trial, unless otherwise ordered, counsel shall submit to the presiding Judge, the courtroom deputy clerk, and the court reporter a typewritten list of the exhibits ~~they plan to introduce~~ intended to be introduced, designated by trial exhibit numbers.
- C. **Withdrawal of Exhibits.** Unless otherwise ordered by the Court, all exhibits introduced

in evidence in the trial of the case shall be withdrawn at the close of trial and remain in the custody of the party introducing the evidence. The Court may order the party introducing exhibits that are bulky, heavy, or are firearms or controlled substances to retain custody of such exhibits during the trial. Any such order shall provide for preservation of the exhibit as justice may require.

- D. **Photographs for Appeal.** Exhibits, diagrams, charts and ~~drawings on a blackboard~~ other demonstrative aids used at trial may, under the supervision of the Court, be photographed for use on appeal or otherwise.

Committee Note: Minor grammatical changes were made. Section D was amended to update the listed items.

LOCAL CRIMINAL RULE 32.1 - PRESENTENCE REPORT

- A. **Disclosure of Presentence Report.** The presentence report shall be deemed to have been disclosed when a copy of the report is filed in the Court's electronic filing system (CM/ECF). A presentence report filed within the court is a restricted document, that is, access to the document is restricted to counsel for the government, counsel for the defendant, the United States Probation Office and court staff. ~~(a) when a copy of the report is sent via electronic means to counsel of record, or (b) when a copy of the report is physically delivered, or (c) one day after the report's availability for inspection is orally communicated, or (d) three days after a copy of the report or notice of its availability is mailed.~~
- B. **Responses to Objections to Presentence Report.** Within fourteen (14) days after disclosure of the report, counsel for the defendant and the United States shall submit, in writing, any objections that they may have to the report, or a notice of no objections.

Said pleadings are to be submitted to the Probation Office and opposing counsel. Opposing counsel shall submit a written response to any objections within seven (7) days. Objections and responses shall be made a permanent attachment to the Presentence Report. If objections are submitted to the U.S. Probation Office by either counsel for the government or counsel for the defendant, the opposing counsel shall respond in writing to those objections within five days. Those responses shall be submitted to the U.S. Probation Office to be made a permanent attachment to the Presentence Report, and shall not be filed with the United States Court Clerk, in order to preserve the confidentiality of the Presentence Report. After receiving counsel's objections and responses from opposing counsel, the Probation Officer shall conduct any further investigation and make any revisions to the Presentence Report as may be necessary.

- C. **Confidentiality of Presentence Report.** The Presentence Report is a confidential document. Presentence Reports may not be disseminated beyond members of the prosecution or defense team and court staff. The parties shall not disclose personal identifiers from the report, except as allowed by L Cr R 49.3. Other confidential information from the report may only be disclosed for case-related purposes. However, the Probation Office is authorized to provide a copy of the Presentence Report, or any revised version of that report, to the defendant's appellate counsel, counsel for the defendant in revocation proceedings, and to another federal or state probation officer, the United States Sentencing Commission, the United States Parole Board and the Bureau of Prisons without further order of the Court. In the event any party makes substantial reference to the contents of the Presentence Report in any motion, brief, memoranda of law or other document, the party shall apply to the Court for an order

~~authorizing the clerk to file the document under seal. The pretrial services, presentence and probation reports maintained by the probation office of this Court are hereby declared to be confidential except as otherwise authorized. Correspondence to the United States Probation Office or to the Court, relative to a charged defendant, shall also be deemed confidential and shall not be released publicly except upon order of the Court.~~

D. **Unresolved Sentencing Factors.** After the final version of the Presentence Report has been provided to the parties, but no later than seven (7) days prior to the sentencing date, the attorney for the government and/or the attorney for the defendant may file with the Court a written statement setting forth their respective positions in regard to the sentencing factors, and facts that have not been resolved. This is to include but is not limited to motions for variance and departure.

Committee Note: Changes to Section A are needed as the Probation Office now uses CM/ECF for disclosure of the reports. Changes to Section B conform the objection and response times to the time frames for motion practice under Local Criminal Rule 12.1(E). Changes to Section C ensure the confidentiality of the Presentence Report. The new Section D creates uniformity in deadlines for filing sentencing motions and memoranda.

LOCAL CRIMINAL RULE 32.32 - SENTENCING CORRESPONDENCE

Attorneys for all parties shall arrange to have written correspondence on behalf of defendants, victims, or other interested parties, which is submitted for the Court's consideration at sentencing, sent to the Court through the probation office. Upon receipt of such materials, the probation office shall ensure through counsel that all parties have copies of such correspondence prior to sentencing. Any written correspondence sent directly to the Court pertinent to a defendant pending sentencing should also be made available to counsel of record prior to sentencing. Any correspondence received by the Court or the probation office shall be treated in the same manner as the presentence report, and shall not be released to third parties without

approval of the Court. Further, any such correspondence shall not be filed of record. An inadvertent failure to supply such correspondence to counsel shall not be a basis for resentencing except to correct a manifest injustice.

Further, in exceptional situations, the Court may determine that certain correspondence involves security or privacy concerns which require the correspondence to be placed under seal and not be furnished to the parties, subject to the provisions of Federal Rules of Criminal Procedure 32.

LOCAL CRIMINAL RULE 49.1 - FILING BY ELECTRONIC MEANS AND PROOF OF SERVICE

Pursuant to Rule 49~~(d)~~(e) of the Federal Rules of Criminal Procedure, the Clerk will accept papers filed, signed, or verified by electronic means that are consistent with technical standards, if any, that the Judicial Conference of the United States establishes. Any paper filed by electronic means pursuant to these rules constitutes a written paper for the purposes of applying these rules and the Federal Rules of Criminal Procedure. Papers filed by electronic means shall be governed by the Court's CM/ECF Administrative Guide of Policies and Procedures (ECF Policy Manual) and orders of the Court. Electronic filing is mandatory except as specified in the ECF Policy Manual.

Pursuant to Federal Rule of Criminal Procedure 49(b), receipt of the Notice of Electronic Filing generated by the Court's Electronic Case Filing System shall constitute the equivalent of service of the paper identified in the notice on persons who have consented to electronic service and who have waived their right to service by personal service or first class mail.

Committee Note: These changes mirror updates made to Local Civil Rule 5.1.

LOCAL CRIMINAL RULE 49.2 - FORMAT OF PAPERS PRESENTED FOR FILING

A. All papers presented to the Clerk for filing by electronic means or in paper form shall be clearly legible. The paper size shall be 8½ inches wide by 11 inches long. The print style, including footnotes, shall not be smaller than 12-point font, and margins shall be a minimum of one (1) inch on the top, bottom, and sides. Only one side of the paper shall be used, and line spacing shall be no less than 1.5, excluding blocked quotations and footnotes.

~~All papers presented to the Clerk for filing by electronic means or in paper form shall be double-spaced, if typewritten, using only one side of the paper and a paper size of 8½ inches wide by 11 inches long. Each page shall be double-spaced in a font or typeface that contains no more than 12 characters per inch, except for quoted material, and numbered consecutively. All papers shall be clearly legible.~~

B. Papers presented to the Clerk in paper form for conversion and filing in electronic form shall not be stapled or permanently bound.

C. Papers that are required by the Court to be retained or filed in paper form as set forth in the ECF Policy Manual shall be stapled or otherwise semi-permanently fastened at the top of the page without the use of paper clips, binder clips, or rubber bands. If the document is too large to staple, it should be two-hole punched at the top and secured with metal prongs. Unless otherwise stated in these local rules, all papers presented to the Clerk for filing in paper form shall consist of an original and ~~two copies~~ one copy.

Committee Note: Changes made to be consistent with Local Civil Rule 5.2.

LOCAL CRIMINAL RULE ~~49.3~~ 49.1.1 - REDACTION OF PERSONAL DATA IDENTIFIERS

In compliance with the policy of the Judicial Conference of the United States and the

E-Government Act of 2002 (Pub. L. 107-347, ~~which was enacted on December 17, 2002~~), and in order to promote electronic access to case files while also protecting personal privacy and other legitimate interests, parties shall refrain from including, or shall partially redact where inclusion is necessary, the following personal data identifiers from all pleadings filed with the court, including exhibits thereto, whether filed electronically or ~~in~~on paper, unless otherwise ordered by the court:

- **Social Security Numbers (in civil and criminal cases).** If an individual's Social Security number must be included in a pleading, only the last four digits of that number shall be used.
- **Names of Minor Children (in civil and criminal cases).** If the involvement of a minor child must be mentioned, only the initials of that child shall be used.
- **Dates of Birth (in civil and criminal cases).** If an individual's date of birth must be included in a pleading, only the year shall be used.
- **Financial Account Numbers (in civil and criminal cases).** If financial account numbers are relevant, only the last four digits of these numbers shall be used.
- **Home Addresses (in criminal cases only).** If a home address must be included, only the city and state shall be used.

The responsibility for redacting these personal data identifiers rests solely with counsel and the parties. The clerk will not review each pleading for compliance with this general rule.

In addition, parties may refrain from including, or may partially redact where inclusion is necessary, the following confidential information: personal identifying numbers such as

driver's license numbers; medical records; employment history; individual financial information; proprietary or trade secret information; information regarding an individual's cooperation with the government; information regarding the victim of any criminal activity; national security information; and sensitive security information as described in 49 U.S.C. § 114(s).

In compliance with the E-Government Act of 2002, a party wishing to file a document containing the personal data identifiers or other confidential information listed above may:

- File an unredacted version of the document under seal, which shall be retained by the court as part of the record; **or**
- File a reference list under seal. The reference list shall contain the complete personal data identifier(s) and the redacted identifier(s) used in its (their) place in the filing. All references in the case to the redacted identifiers included in the reference list will be construed to refer to the corresponding complete identifier. The reference list must be filed under seal, and may be amended as of right. The reference list shall be retained by the court as part of the record. The Court may, however, still require the party to file a redacted copy of the document for the public file.

Committee Note: Changes mirror updates made to Local Civil Rule 5.3.

LOCAL CRIMINAL RULE 49.1.2- TRANSCRIPT REDACTION

The Judicial Conference of the United States approved a policy governing the availability of transcripts of court proceedings and the redaction of personal identifiers from those transcripts. Parties are referred to this Court's ECF Policy Manual for the specific procedure to be followed for obtaining the transcript and for redaction requests.

Committee Note: Additional rule mirrors Local Civil Rule 5.4.

LOCAL CRIMINAL RULE 53.1 - USE OF ELECTRONIC COMMUNICATION DEVICES, PHOTOGRAPHS OR TAPE RECORDERS

The taking of photographs and operation of tape recorders and radio or television broadcasting in the courthouse ~~or its environs~~ during the progress of, or in connection with judicial proceedings, including proceedings before a Magistrate Judge, whether or not court is actually in session, are prohibited unless prior leave is granted by the Court.

The Court prohibits use of cellular telephones, pagers, or other electronic communication devices in the courtroom. A Judge may, however, permit (1) the use of electronic or photographic means for the presentation of evidence or the perpetuation of a record; (2) the broadcasting, televising, recording, or photographing of investitive, ceremonial, or naturalization proceedings; and (3) the use of ~~personal computers by attorneys.~~ electronic communication devices by attorneys as authorized by General Order No. 13-02.

As used in this Rule, the term "environs courthouse" means any place within the Ed Edmondson Federal Building in Muskogee, Oklahoma, or any other place in this district where federal criminal proceedings are being conducted.

Committee Note: Changes are identical to those made to Local Civil Rule 39.3. Changes reflect the Court's adoption of General Order No. 13-02 generally authorizing attorneys to bring and use electronic communication devices in the courthouse subject to certain restrictions. The amendment also inserts the word "courthouse" as the operative definition and eliminates the word "environs" as a misleading reference.

LOCAL CRIMINAL RULE 57.1 - RELEASE OF INFORMATION BY ATTORNEYS IN CRIMINAL CASES

- A. **Release of Information or Opinions.** It is the duty of the lawyers or law firm not to release, or authorize the release of, information or opinions which a reasonable person would expect to be disseminated by any means of public communication, in connection

with pending or imminent criminal litigation with which a lawyer or law firm 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.

- B. **Extrajudicial Statements During Investigation.** With respect to a grand jury or other pending investigation of any criminal matter, a lawyer participating in, or associated with, the investigation shall refrain from making any extrajudicial statement which a reasonable person would expect to be disseminated; by any means of public communication, that goes beyond the public record or that is not necessary to inform the public that the investigation is underway, to describe the general scope of the investigation, to obtain assistance in the apprehension of a suspect, to warn the public of any dangers, or otherwise to aid in the investigation.

Committee Note: Changes to Sections A and B were for punctuation and clarification purposes only.

- C. **Extrajudicial Statements After Investigation.** 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 or law firm associated with the prosecution or defense shall not release, or authorize the release of, any extrajudicial statement which a reasonable person would expect to be disseminated by any means of public communication, relating 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 or law firm 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 apprehension of the accused or to warn the public of any dangers the accused 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 or law firm 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.

D. **Statements Permitted.** The foregoing shall not be construed to preclude the lawyer or law firm during this period, in the proper discharge of the lawyer's or the law firm's official or professional obligations, from: (1) announcing the fact and circumstances of arrest (including time and place of arrest, resistance, pursuit, and use of weapons); (2) announcing the identity of the investigating and arresting officer or agency, and the length of the investigation; (3) announcing at the time of seizure of any physical evidence other than a confession, admission or statement, a description of the evidence seized; (4) disclosing the nature, substance, or text of the charge, including a brief description of the offense charged; (5) quoting or referring without comment to public records of the Court in the case; (6) announcing the scheduling or result of any stage in the judicial process; (7)

requesting assistance in obtaining evidence; or (8) announcing without further comment that the accused denies the charges made against him or her.

- E. **Extrajudicial Statements During Trial.** During a jury trial of any criminal matter, including the period of selection of the jury, no lawyer or law firm associated with the prosecution or defense shall give or authorize any extrajudicial statement or interview relating to the trial, the parties, or the issues in the trial which a reasonable person would expect to be disseminated by means of public communication, if there is a reasonable likelihood that such dissemination will interfere with a fair trial, except that the lawyer or law firm may quote from, or refer without comment to, public records of the Court in the case.
- F. **Special Situations.** 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, to preclude the holding of hearings or the lawful issuance of reports by legislative, administrative, or investigative bodies, or to preclude any lawyer from replying to charges of misconduct that are publicly made against him or her.

LOCAL CRIMINAL RULE 57.2 - PLAN FOR IMPLEMENTING THE CRIMINAL JUSTICE ACT PURSUANT TO 18 U.S.C. § 3006A

- A. **Criminal Justice Act Plan.** A Federal Public Defender organization, supervised by a Federal Public Defender, shall assist in the administration of the Court's Criminal Justice Act Plan and maintain a register of eligible attorneys. The Plan for Implementing the Criminal Justice Act is on file in the Court Clerk's office.
- B. **Claims for Compensation.** All Criminal Justice Act (CJA) vouchers shall be submitted within ~~thirty (30)~~ forty-five (45) days after a case is dismissed or after a

defendant is sentenced. Any voucher submitted beyond ~~thirty (30)~~ forty-five (45) days and less than one (1) year after the case is dismissed or after a defendant is sentenced shall be accompanied by a letter demonstrating good cause why the voucher should be paid. Any application, letter or vouchers submitted more than one (1) year after the case is dismissed or after a defendant is sentenced shall be summarily denied.

Committee Note: Change conforms to General Order 09-05.

- C. **Withdrawal of Appointed Counsel.** Prior to sentencing, withdrawal of appointed counsel shall be by leave of this Court upon written application. After sentencing, appointed counsel shall continue to represent appellant until relieved by the United States Court of Appeals for the Tenth Circuit.

LOCAL CRIMINAL RULE 58.1 - FORFEITURE OF COLLATERAL IN LIEU OF APPEARANCE

As provided in Fed.R.Crim.P. 58(d)(1), a person who is charged with a petty offense as defined in 18 U.S.C. § 19 may, in lieu of appearance, post collateral in the amount indicated for the offense, waive appearance before a Magistrate Judge, and consent to forfeiture of collateral. The offenses for which collateral may be posted and forfeited in lieu of appearance by the person charged, together with the amounts of collateral to be posted, are contained in a written schedule approved by the Court and on file with the Court Clerk.

ADOPTED by the Judges of this Court effective ~~February 20, 2006~~ _____,
2016.