

# LOCAL CRIMINAL RULES



UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

Mark C. McCartt, Clerk of Court  
Effective Date: September 26, 2016

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

# LOCAL COURT RULES

LOCAL RULES OF CRIMINAL PROCEDURE

**Gregory K. Frizzell, Chief Judge**  
**Claire V. Eagan, Judge**  
**James H. Payne, Judge**  
**John E. Dowdell, Judge**  
**Terence C. Kern, Senior Judge**

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**Frank H. McCarthy, Magistrate Judge**  
**Paul J. Cleary, Magistrate Judge**  
**T. Lane Wilson, Magistrate Judge**

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Effective Date: September 26, 2016

Mark C. McCartt, Clerk  
U.S. District Court  
Page Belcher Federal Building  
333 West Fourth, Room 411  
Tulsa, OK 74103  
(918) 699-4700

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**Counties within the Northern District of Oklahoma are:**

**Craig**

**Creek**

**Delaware**

**Nowata**

**Mayes**

**Osage**

**Ottawa**

**Pawnee**

**Rogers**

**Tulsa**

**Washington**

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**LOCAL CRIMINAL RULES  
UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA**

**I. SCOPE OF RULES**

**LCrR1. Scope; Application.**

**1.1 Title and Citation.**

These local rules shall be known as Local Criminal Rules of the United States District Court for the Northern District of Oklahoma. They may be cited as LCrR \_\_\_\_.

**1.2 Effective Date.**

These Rules take effect on September 26, 2016.

**1.3 Application of Rules.**

These Rules supersede all previous local criminal rules and apply in all criminal proceedings on their effective date.

**1.4 Electronic filings.**

All pleadings and documents required to be filed with the Court must be electronically filed unless excepted as defined in the [CM/ECF Administrative Guide of Policies & Procedures](#), available on the website of this Court at <http://www.oknd.uscourts.gov>.

**1.5 Judicial Waiver.**

A judge may waive, supplement or modify any requirement of these local rules when the administration of justice requires such waiver.

**1.6 Forms and General Orders.**

Current forms and General Orders are available on the website of this Court.

**1.7 United States Magistrate Judges.**

(a) **General Authorization.** Each magistrate judge of this district is specifically designated to perform any duty allowed by law to be performed by a magistrate judge.

- (b) **Authorization.** Each magistrate judge of this district may try persons accused of misdemeanor offenses and sentence persons convicted of misdemeanor offenses.

## II. INITIAL APPEARANCE, ARRAIGNMENT, AND PRELIMINARY HEARINGS

### LCrR5. Initial Appearance Before Magistrate Judge.

#### 5.1 Time and Place of Initial Appearance.

Initial appearances will be regularly held at 2:00 p.m. each work day before a magistrate judge.

#### 5.2 Initial Interview of Defendant by U.S. Probation Officers.

- (a) **Opportunity to Consult with Counsel.** A defendant will be given an opportunity to consult with counsel before his or her initial interview with the probation officer. The probation officer will:

- advise the defendant of his or her rights;
- advise the defendant to consult with counsel before the initial interview;
- advise the defendant that his or her counsel may be present during the initial interview.

- (b) **Notification of Counsel.** It is the responsibility of the probation officer to notify the defendant's retained counsel and the Federal Public Defender of a scheduled initial appearance before the initial interview.

#### 5.3 Preparation of the Financial Affidavit.

If the defendant is requesting that counsel be appointed, it is the responsibility of defendant's counsel to prepare a financial affidavit (Form CJA 23) prior to commencement of the initial appearance docket.

#### 5.4 Appearance on a Summons.

If a summons is issued to a defendant, the defendant shall report in person to the probation office at 9:00 A.M. on the morning of the scheduled Initial Appearance for an interview. Following the interview, the defendant will be directed to the U.S. Marshals Service for processing then released with instructions to reappear for the scheduled Initial Appearance.

**5.5 Unsealing Case.**

Upon the initial appearance of any defendant in a sealed case, the case shall be unsealed unless the Court orders the case or portions of the case to remain sealed pursuant to a motion by a party.

**LCrR6. Grand Jury.**

**6.1 Release of Grand Jury Material to U.S. Probation Officer.**

The attorney for the government may, upon the request of the probation office, disclose to the probation office grand jury matter concerning a defendant for whom the Court has ordered the probation office to prepare a presentence investigation report. The probation office shall not use grand jury matter for any purpose other than preparation of a presentence report. The probation office shall not disclose grand jury matter except to the defendant's attorney in connection with the presentence investigation and in the presentence report. The attorney for the defendant shall not disclose grand jury matter except to defendant and in connection with the sentencing proceeding.

**LCrR7. Complaint, Indictment, and Information.**

**7.1 Delivery of a Complaint After Filing.**

After the filing of a complaint, an attorney for the government shall deliver a copy to the U. S. Marshals Service and the U. S. Probation Office.

**7.2 Related Case Notices.**

- (a) **Notification of Related Cases.** Upon filing a complaint, information or indictment related to or arising out of the same transaction or investigation and previous civil or criminal case, the government shall file a notice of related cases describing the relationship between the cases and setting forth the style and case numbers of the related cases.
- (b) **Assignment of Related Cases.** Upon the filing of the notice, the judges will determine whether the pending cases should be transferred to conserve judicial time and efficiency.

### **7.3 Return of Indictments.**

(a) **Indictments Filed Under Seal.** Upon the return of a sealed indictment, the government shall provide the Court with the following:

- for each defendant, a separate written record of the number of grand jurors concurring in the Indictment;
- two (2) original indictments signed in blue ink by the attorney for the government and the Grand Jury Foreperson;
- one (1) original indictment signed in blue ink by the attorney for the government and designated “/s/Grand Jury Foreperson;”
- six (6) copies of the original indictment designated “/s/Grand Jury Foreperson,” and if the indictment charges more than one defendant, two (2) additional copies of the original indictment designated “/s/Grand Jury Foreperson” shall be provided for each additional defendant;
- for each defendant, either an original arrest warrant and five (5) copies or an original summons and four (4) copies;
- for each defendant, an original cover sheet and three (3) copies with the penalty section initialed in blue ink by the attorney for the government; and
- a yellow cover sheet designated “FILE UNDER SEAL” attached to the front of the indictment packet.

(b) **Indictments Not Filed Under Seal.** Upon the return of a public indictment, the government shall provide the Court with the following:

- for each defendant, a separate written record of the number of grand jurors concurring in the Indictment;
- two (2) original indictments signed in blue ink by the attorney for the government and the Grand Jury Foreperson;
- one (1) original indictment signed in blue ink by the attorney for the government and designated “/s/Grand Jury Foreperson;”
- eight (8) copies of the original indictment designated “/s/Grand Jury Foreperson,” and if the indictment charges more than one defendant, two (2) additional copies

of the original indictment designated “/s/Grand Jury Foreperson” shall be provided for each additional defendant;

- for each defendant, either an original arrest warrant and five (5) copies or an original summons and four (4) copies; and
- for each defendant, an original cover sheet and three (3) copies with the penalty section initialed in blue ink by the attorney for the government.

#### **7.4 Delivery of an Information After Filing.**

After the filing of an Information, an attorney for the government shall deliver a file-stamped copy of the Information and summons or warrant to the U.S. Marshals Service, U.S. Probation Office, and all Magistrate Judges. The filing of an Information shall include an original cover sheet and an arrest warrant or summons per defendant. The penalty section of the cover sheet must be initialed in blue ink by the attorney for the government.

#### **7.5 Random Assignment of District Judges.**

Criminal cases shall be assigned to district judges according to a system based on random selection both for initial assignment and for assignment in the event of recusal. The system of random case assignment, distribution of cases, and rotating supervision of the Grand Jury shall be determined by the Court.

### **LCrR10. Arraignment**

#### **10.1 Waiver of Appearance.**

A defendant desiring to waive his or her appearance for arraignment under Fed. R. Crim. P 10(b) shall file a waiver of appearance at least three (3) business days prior to the scheduled arraignment. The waiver form is available on the website of this Court.

### **III. PREPARATION FOR TRIAL**

#### **LCrR11. Plea Agreements.**

##### **11.1 Providing Plea Agreements to the Court.**

When applicable, the parties must provide plea agreements to the Court not later than one (1) business day before the plea hearing.

**11.2 Notification of a Change of Plea.**

The parties must notify the Court of a Change of Plea sufficiently in advance of trial to avoid assembling a jury panel unnecessarily.

**11.3 Petition to Enter a Plea of Guilty.**

Unless otherwise instructed by the Court, the attorney for the defendant shall prepare and submit a copy of the Petition to Enter a Plea of Guilty at least one (1) business day prior to the Change of Plea Hearing.

**11.4 Deferring Acceptance or Rejection of Plea Agreements.**

The Court may defer a decision on the acceptance or rejection of the plea agreement until the Court has reviewed the presentence report, even in instances where the Court has accepted the guilty plea. For a plea agreement pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure, the Court may accept, reject, or defer the agreement, but if accepted, the presentence report shall be prepared consistent with the stipulations and the agreed range or sentence contained in the Rule 11(c)(1)(C) plea agreement.

**LCrR12. Disclosure Statement.**

**12.1 Disclosure Statement.**

Any non-governmental corporate party to an action in this Court shall file a statement identifying all its parent corporations and listing any publicly held company that owns 10% or more of the party's stock. Such corporate party shall file the statement with its initial pleading filed in the Court and shall supplement the statement within a reasonable time of any change in the information.

**LCrR16. Discovery and Inspection.**

**16.1 Disclosure of Evidence.**

It is expected the parties will complete discovery in compliance with Rule 16 of the Federal Rules of Criminal Procedure. There is no necessity for parties to file discovery motions unless disputes arise. The Court shall not hear any such motions unless counsel for the movant certifies in writing to the Court that the attorneys for the parties have conferred in good faith and have been unable to resolve the dispute.

## **LCrR17.1. Pretrial Conference.**

### **17.1.1 Conference in Criminal Case.**

A pretrial conference may be held in criminal cases for the purpose of considering such matters as will promote a fair and expeditious trial. Such conference may, at the direction of the Court, be conducted by a magistrate judge.

### **17.1.2 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, stipulations should be made at or prior to the pretrial conference with respect to the undisputed facts and the authenticity of documents. Each instrument anticipated to be offered into evidence (or photostatic copy of such instrument, if agreeable) should be marked with an exhibit number and case number prior to the trial.

## **IV. TRIAL**

### **LCrR23. Jury Trial.**

#### **23.1 Trial Rules.**

Parties shall review the website of this Court for any specific Courtroom rules published by a judge of this Court.

#### **23.2 Use of Exhibits at Trial.**

- (a) **Exhibit List.** At the commencement of trial, counsel shall submit to the judge, the courtroom deputy, and the court reporter a typewritten list of the exhibits they plan to introduce, designated by trial exhibit numbers.
- (b) **Withdrawal.** 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 which are bulky, heavy, 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.

- (c) **Photographs for Appeal.** Exhibits, diagrams, charts and drawings may, under the supervision of the Court, be photographed for use on appeal or otherwise.

**23.3 Witness List.**

At the commencement of the trial, counsel shall submit to the judge, the courtroom deputy, and the court reporter a typewritten list of the witnesses they expect to call, including known rebuttal witnesses, in the order they are expected to be called.

**23.4 Transcription of Video and Audio Recordings.**

In any trial in which counsel presents as evidence a video or audio recording, counsel may waive reporting and transcription of the audio portion of the recording. Regardless of whether counsel waives reporting, counsel shall be required to clearly identify on the record with specificity which portion(s) of the recording have been played (e.g., by counter number or time sequence), and to provide any special equipment needed for playing the recording, if necessary.

**LCrR24. Trial Jurors.**

**24.1 Random Selection of Grand and Petit Jurors.**

- (a) **Adoption of Plan.** Pursuant to the Jury Selection and Service Act of 1968 (Public Law 90-274) (“the Act”) the following plan is hereby adopted by this Court, subject to approval by the Tenth Circuit Judicial Council and to such rules and regulations as may be adopted from time to time by the Judicial Conference of the United States.
- (b) **Applicability of Plan.** This plan is applicable to the Northern District of Oklahoma, which consists of the following counties: Craig, Creek, Delaware, Nowata, Mayes, Osage, Ottawa, Pawnee, Rogers, Tulsa, and Washington.
- (c) **Policy.** It is the policy of this Court that all litigants entitled to trial by jury shall have the right to grand and petit juries selected at random from a fair cross-section of the community that constitutes the Northern District of Oklahoma, and that all citizens shall have the opportunity to be considered for service on grand and petit juries and shall be obligated to serve as jurors when summoned, unless excused for valid reasons by the Court.

- (d) **Management and Supervision of Jury Selection Process.** This Plan shall be managed by the Court Clerk under the supervision and control of the Chief Judge or such other judge as may be designated to perform these duties. Whenever used in the Plan, the terms “Clerk” and “Clerk of the Court” shall mean the Court Clerk, any authorized Deputy Court Clerk, or any other person authorized by the Court to assist the Court Clerk in performance of functions under this Plan. The Court finds that the electronic data processing methods can be advantageously used for managing this Plan. Therefore, a properly programmed electronic data system, or a combination system employing both manual and electronic machine methods, will be used to select Master Jury Wheel names, select names of persons to be sent questionnaires, select names of persons in the qualified jury wheel and supplemental qualified jury wheel to be summoned and to perform other clerical and record-keeping functions as the Court deems necessary.
- (e) **Random Selection from Actual Voter Lists and Supplementation from Driver License List of Tulsa County.** Actual voter lists with supplementation from the driver license list of Tulsa County represent a fair cross-section of the community in the Northern District of Oklahoma. Accordingly, names of grand and petit jurors shall be selected at random from the actual voter lists of all the counties within the district as supplemented by the driver license list of Tulsa County. In order to establish a Master Jury Wheel of randomly selected names of prospective jurors, the Court Clerk shall determine the aggregate number of individuals on the actual voter lists for the last general election in each county of this district, and further determine the number of individuals on the driver license list of Tulsa County. The Court shall build 50% of its Master Jury Wheel from the actual voter lists and 50% of the Master Jury Wheel from the driver license list of Tulsa County. For example, if the Court needs 30,000 names for the Master Jury Wheel, the Court Clerk will obtain 15,000 names from the actual voter lists and 15,000 names from the driver license list of Tulsa County. When a name is duplicated in both the Master Jury Wheel and the Supplemental Jury Wheel, the name will be purged from the Supplemental Wheel. In this example, the 15,000 names drawn from the actual voter lists will comprise the primary source of names within this district. The 15,000 names drawn from the driver license list of Tulsa County will comprise a supplementary source of names in order to foster the policy and protect the rights secured by Sections 1861 and 1862 of Title 28 of the United States Code. The Court Clerk is authorized to accept the voluntary assistance of the

Secretary of the State Election Board and the Commissioner of Public Safety in accomplishing the requirements of this section, provided such Secretary certifies the names furnished were selected in the manner herein prescribed. The Court Clerk is authorized to use qualified non-Court personnel to create the Master Wheel.

**(f) Master Jury Wheel.**

- (1) The Court Clerk shall maintain a Master Jury Wheel or a device similar in purpose and function for the district. The names of all persons randomly selected from the actual voter lists of the counties in the district and from the driver license list of Tulsa County shall be placed in the Master Jury Wheel. Pursuant to 28 U.S.C. § 1863(b)(4), the minimum number of names to be placed initially in the Master Jury Wheel shall be one-half of one percent of the total number of persons on the lists used as a source of names for the district, but in no event shall that number be less than 1,000.
- (2) The Master Jury Wheel shall be emptied and refilled between March 1 and June 30 of the year following a general presidential election and every four years thereafter. The Chief Judge or the Judge designated by the Chief Judge may order additional names to be placed in the Master Jury Wheel, as herein provided, from time to time when necessary. In the event that the Master Jury Wheel is not emptied and refilled within the time as herein provided, the current Master Jury Wheel shall continue to serve until it is properly refilled as herein provided.
- (3) After the Master Jury Wheel is refilled, the Court shall construct a Qualified Jury Wheel and a Supplemental Qualified Jury Wheel in the manner provided in subparagraph (g) below. This will be done at periodic intervals as may be required to maintain an adequate number of names in the Qualified Jury Wheel and the Supplemental Qualified Jury Wheel. A juror qualification form will then be mailed to each of those persons with instructions to fill out and return duly signed and sworn to, to the Court Clerk by mail within fourteen (14) days in order to elicit the information necessary to determine whether a person is qualified for, exempt from, or may be excused from jury service.

(g) **Qualified Jury Wheel.**

- (1) The names of those persons deemed qualified from the actual voter list shall be placed in a Qualified Jury Wheel and the names of those persons deemed qualified from the driver license list at Tulsa County shall be placed in a Supplemental Qualified Jury Wheel. Prospective jurors will be drawn at random from each wheel in a proportion to be determined by the Court from time to time. For example, prospective jurors may be selected by drawing three names from the Qualified Jury Wheel and one name from the Supplemental Qualified Jury Wheel. The prospective jurors whose names have been drawn shall be summoned to appear for a time certain as may be designated by the Chief Judge or the Judge designated by the Chief Judge.
- (2) The Court Clerk shall draw at random from the Qualified Jury Wheel and the Supplemental Qualified Jury Wheel for this district such number of names of persons are necessary to be summoned for the petit jury panels and prepare a list of the names drawn. Grand jurors shall be drawn from the Qualified Jury Wheel and the Supplemental Qualified Jury Wheel as ordered by the Court.
- (3)
  - (A) A jury list will be provided to the parties and/or their attorneys on the day of trial at the commencement of voir dire.
  - (B) Indictments available through CM/ECF will contain an electronic signature: s/grand jury foreperson. A paper indictment manually signed by the grand jury foreperson shall be retained under seal in the office of the Court Clerk. The Court directs the Court Clerk to make paper indictments manually signed available for viewing to the attorneys representing parties under indictment.
  - (C) The contents of records or papers used by the Court Clerk in connection with the jury selection process shall not be disclosed, except upon order of the Court as may be necessary in the preparation or presentation of a motion challenging compliance with the selection procedures of this plan. The parties in a case shall be allowed to inspect, reproduce, and copy such records or papers at all reasonable times during the preparation and pendency of such motion. Any person who discloses the

contents of any record or paper shall be subject to penalty, as provided in the Jury Selection and Service Act of 1968 as amended.

(D) All other disclosures of juror information including disclosures to the press or public shall be released only by Court Order upon written request.

(4) The Court Clerk or the Court Clerk's duly designated deputies shall issue summonses for the required number of jurors, to be served in the manner prescribed in 28 U.S.C. § 1866(b). There shall be no jury commission in this District.

(5) When there is an unanticipated shortage of available petit jurors drawn and summoned from the Qualified Jury Wheel and the Supplemental Qualified Jury Wheel, the Court may require the marshal to summon a sufficient number of petit jurors selected at random from available citizens listed either on the actual voter lists for the District or the driver license list of Tulsa County, or both in the manner ordered by the Court who are found to be qualified by the Court.

(6) The names of persons drawn for the trial of a case who may be excused or not used for any reason shall be placed back in the jury pool. The names of the trial panel at the completion of the trial may also be placed back in the jury pool for subsequent cases. The procedure is to be repeated for each subsequent case tried at each session of Court.

(h) **Determination of Qualifications for, and Exemption or Excuse from, Jury Service.**

Upon the initiative of the Chief Judge or any judge of the Court, or upon recommendation of the Court Clerk, the judge or his or her designee shall determine, solely on the basis of information provided on the juror qualification form and other relevant information, whether a person is unqualified for, exempt from, or to be excused from jury service.

(i) **Excuses and Exemptions.**

In making such determination, the Chief Judge or any judge of this Court shall deem any person qualified to serve on grand and petit juries in the district unless the person:

(1) is not a citizen of the United States, is not eighteen years old, or has not resided for a period of one year within the judicial district;

- (2) is unable to read, write, and understand the English language with a degree of proficiency sufficient to fill out satisfactorily the juror qualification form;
- (3) is unable to speak the English language sufficiently to participate fully and effectively at trial;
- (4) is incapable, by reason of mental or physical infirmity, to render satisfactory jury service; or
- (5) has a charge pending against him or her for the commission, or has been convicted in a state or federal court of record, of a crime punishable by imprisonment for more than one year and his or her civil rights have not been restored.

(j) **Exemption from Jury Service.**

The Court finds that exemption of the following groups of persons or occupational classes is in the public interest and would not be inconsistent with the Act, and accordingly members of such groups are barred from jury service:

- (1) members in active service in the Armed Forces of the United States;
- (2) members of the fire or police departments of any state district, territory, possession or subdivision thereof;
- (3) federal or state “public officers” in the executive, legislative or judicial branches of the government of the United States, or any state, district, territory, or possession or subdivision thereof, who are actively engaged in the performance of official duties. Public officer shall mean a person who is either elected to public office or directly appointed by a person elected to public office.

(k) **Excuses On Individual Request.**

The Court finds that jury service by members of the following groups of persons may entail undue hardship or extreme inconvenience to the members thereof, and the excuse of such members will not be inconsistent with the Act and shall be granted upon individual request:

- (1) persons over seventy (70) years of age;
- (2) persons who have legal custody of a child or children under the age of ten (10) years, and it is essential they remain in the home for child care;

- (3) persons who have served as a grand or petit juror in federal court within the past two years;
- (4) students in actual attendance at a university, college, academy, or other school having a regular schedule of classes;
- (5) volunteer safety personnel (fire fighters, rescue squad, or ambulance crew) for a public agency. The Court Clerk is authorized to grant temporary excuses to prospective jurors on the grounds of undue hardship or extreme inconvenience for such period as the Court Clerk deems necessary, at the conclusion of which such person shall be summoned again for jury service.

(I) **Challenges to the Selection Procedure.**

Any challenge to this jury selection procedure or the Court's compliance with the provisions of this jury selection procedure or compliance with the provisions of the Jury Selection and Service Act of 1968 shall be made within the times and manner provided in 28 U.S.C. § 1867.

**24.2 Attorney Communication with Jurors.**

At no time, including after a case has been completed, may attorneys approach or speak to jurors regarding the case unless authorized by the Court, upon written motion.

**V. POST-CONVICTION PROCEEDINGS**

**LCrR32. Sentencing and Judgment.**

**32.1 Scheduling of Sentencing.**

Sentencing proceedings shall be scheduled no earlier than ninety (90) days following entry of a guilty plea or jury verdict, unless otherwise ordered by the Court upon consent of the parties.

**32.2 Notice and Opportunity for Defendant's Attorney to Attend Presentence Interview.**

Defendant's attorney shall be given at least seven (7) days' notice of the date for the presentence investigation interview of the defendant by the probation office.

### **32.3 Confidential Nature of Presentence Report.**

The presentence report is confidential and may only be disclosed to the Court and parties for use in this case and to the U.S. Sentencing Commission and the U.S. Bureau of Prisons for discharge of their official duties. The probation office is responsible for maintaining confidentiality of the report.

### **32.4 Disclosure of Presentence Report to Counsel.**

Not less than thirty-five (35) days prior to the date set for sentencing, the probation officer shall disclose the report to the defendant, counsel for the defendant, and the government. The report is disclosed when:

- (a) the report is faxed or e-mailed to counsel;
- (b) the report is physically delivered to counsel;
- (c) one (1) business day after counsel is told orally that the report is available for inspection;  
or
- (d) three (3) days after either a copy of the report or notice of its availability for inspection is mailed to counsel.

### **32.5 Objection to Presentence Report.**

Within fourteen (14) days after receiving the report, the parties must communicate any material request or objection to the report, basis for said request or objection, and if applicable, cite authority in support of legal positions advanced. Such communication may in the first instance be oral or written, but if oral, shall be confirmed immediately in writing, unless the probation officer forthwith accedes to the oral request or objection by a written supplement or revision of the report. Otherwise, at least seven (7) days before sentencing, the probation officer will respond to any written request or objection by submission of a revised report and/or an Addendum to the parties and the Court.

### **32.6 Sentencing Pleadings.**

All motions for an upward or downward departure or variance shall be in writing, filed at least fourteen (14) days prior to sentencing, shall state the requested degree of relief requested and all bases for the requested relief. If both a departure and variance are requested, they shall

be filed as separate motions. Written responses shall be filed at least seven (7) days prior to sentencing and state all bases for any objections.

A separate written sentencing memorandum may be filed at least fourteen (14) days prior to sentencing. A written response may be filed at least seven (7) days prior to sentencing.

**32.7 Party's Duty to Disclose Sentencing-Related Materials.**

A party who submits any sentencing-related material to the probation office shall contemporaneously provide a copy of the material to opposing counsel.

**32.8 Disclosure of Sentencing Recommendation.**

The probation office shall not disclose any recommendation concerning sentencing.

**32.9 Requesting Presentence Report before Guilty Plea.**

A motion for a presentence investigation report before a defendant has entered a plea of guilty or nolo contendere will be granted only for exceptional circumstances and shall state all bases for the motion, the position of the government, include a copy of any proposed plea agreement, and contain a waiver of the defendant's right to a speedy trial.

**32.10 Correspondence.**

Attorneys shall have all written correspondence to the Court for consideration in sentencing on behalf of defendants, victims or other interested persons sent to the probation office. The probation office shall provide copies of all correspondence to counsel unless the Court orders otherwise.

**LCrR32.1. Revocations.**

**32.1.1 Revocations.**

An order on release, probation or supervised release that orders the issuance of a warrant shall be filed under seal. Upon the initial appearance of the defendant, the order shall be unsealed.

## VI. GENERAL PROVISIONS

### LCrR41. Search and Seizure Warrants.

#### 41.1 Applications for Search & Seizure Warrants and/or Warrants for a Tracking Device (herein warrants).

Affidavits in support of applications for warrants, and the warrants shall be filed under seal. Upon return of the warrant, the application, affidavit(s), inventory, and warrant shall be unsealed unless the Court orders them to remain under seal pursuant to a motion by the government.

### LCrR44. Attorneys.

#### 44.1 Attorneys.

- (a) **Roll of Attorneys.** The bar of this Court shall consist of those attorneys admitted to practice before this Court who have taken the prescribed oath and submitted the required fee.
- (b) **Committee on Admissions and Grievances.** A Committee on Admissions and Grievances shall be appointed by the Court.
- (c) **Procedure for Admission.** Every applicant for admission shall submit the required fee and shall submit to the Court Clerk, on a form prescribed by the Court, a written application for admission, which shall be referred to the Committee on Admissions and Grievances for investigation into the applicant's qualifications and fitness to be admitted to the bar of this Court. The Committee shall report its recommendations in writing to the Court Clerk. Upon a favorable report of the Committee, the applicant may be admitted. An admission ceremony will be scheduled by the Court.
- (d) **Eligibility.** Any member of the bar of the Supreme Court of the United States, or of any United States Court of Appeals, or of any District Court of the United States, or a member in good standing of the bar of the highest court of any state of the United States, is eligible for admission to the bar of this Court.
- (e) **Reciprocity.** Any attorney who shall have been admitted to practice in any other United States District Court of Oklahoma may be admitted to practice in this district without

referral to the Committee on Admissions and Grievances by submitting a written application for admission and certificate of good standing from such other district in Oklahoma, along with the required fee.

- (f) **Attorneys for the United States.** Attorneys who are employed or retained by the United States or its agencies may practice in this Court in all cases or proceedings in which they represent the United States or such agencies.
- (g) **Admission Pro Hac Vice.** Any attorney who is eligible for admission to the bar of this Court may in the discretion of a judge of this Court be granted temporary admission to practice in a pending case. Attorneys requesting such admission are required to attach to their motion a completed Request for Admission Pro Hac Vice form provided by the Court Clerk's office along with the required fee; provided, however, the pro hac vice fee will be waived as a matter of course if the attorney requesting a waiver of the fee has been approved for admission as a member in this district and awaits the next admission ceremony. If the attorney fails to appear at the next available admission ceremony, and subsequently applies for a waiver of the pro hac vice fee, a waiver will not be granted as a matter of course, but upon discretion of the Court.

#### **44.2 Association of Local Counsel.**

- (a) **Responsibilities of Non-Resident Counsel.** When representing a party in this Court, any attorney who is not a resident of, and does not maintain an office in, Oklahoma shall show association with an attorney who is personally appearing in the action and who is a resident of the State and maintains a law office within the State of Oklahoma, and who has been duly and regularly admitted to practice in this Court.
- (b) **Responsibilities of Local Counsel.** It is the responsibility of local counsel appearing in any criminal case to file the motion of the non-resident attorney to be admitted pro hac vice and to certify in the motion that the non-resident attorney is a member in good standing of the bar of the highest court of the state where the non-resident attorney resides or is licensed. The local attorney shall sign the first pleading filed and shall continue in the case unless other local counsel is substituted. Any notice, pleading or other paper may be served upon the local counsel with the same effect as if personally served on the non-resident attorney.

- (c) **Relief from this Rule.** Relief from this rule is within the Court's discretion upon motion establishing financial hardship, special qualifications of non-resident counsel, or other good cause, provided that out-of-state counsel certifies familiarity with the local criminal court rules.

**44.3 Appearance of Counsel.**

- (a) An attorney appearing for a party shall enter an appearance by signing and filing an entry of appearance on the form prescribed by the Court Clerk.
- (b) In the event a party should change counsel or add additional counsel, the new or additional counsel for such party shall enter an appearance by signing and filing an entry of appearance on the form prescribed by the Court Clerk.

**44.4 Attorney Withdrawal from Case.**

Attorneys of record shall not withdraw from the case except upon reasonable notice to the defendant and the government and by leave of the judge to whom the case is assigned.

**44.5 Professional Conduct.**

- (a) **Oklahoma Rules of Professional Conduct Apply.** Attorneys practicing in this Court are expected to conduct themselves in accordance with the Oklahoma Rules of Professional Conduct, as adopted by the Oklahoma Supreme Court, as the standard of conduct of all members of the Oklahoma Bar Association. See Title 5 O.S.A. Ch.1, App. 3A. As set forth in the preamble:

A lawyer's conduct should conform to the requirements of the law, both in professional service to clients and in the lawyer's business and personal affairs. A lawyer should use the law's procedures only for legitimate purposes and not to harass or intimidate others. A lawyer should demonstrate respect for the legal system and for those who serve it, including judges, other lawyers and public officials. While it is a lawyer's duty, when necessary, to challenge the rectitude of official action, it is also a lawyer's duty to uphold legal process.

In this spirit, all lawyers should become familiar with their duties and obligations, as defined and classified generally in the Oklahoma Rules of Professional Conduct, any interpretive decisions, applicable statutes, and the usages, customs, and practices of the bar.

(b) **Courtroom Behavior.** The purpose of this rule is to emphasize, not to supplant, certain portions of those ethical principles applicable to the lawyer's conduct in the courtroom. In addition to all other requirements, therefore, lawyers appearing in this Court shall adhere to the following:

- (1) Be punctual in attendance at Court.
- (2) Refrain from addressing anyone in court by first names – use last names only.
- (3) Refrain from leaving the courtroom while court is in session, unless it is absolutely necessary, and then only if the Court's permission has been obtained first.
- (4) At all times, counsel for plaintiff shall occupy the table nearest the jury box and counsel for defendant shall occupy the table furthestmost from the jury box.
- (5) Ascertain that only one lawyer is standing at a time, unless an objection is being made.
- (6) Bench conferences will be kept to a minimum. Counsel should anticipate issues which will arise during the trial and inform the Court and opposing counsel at the earliest opportunity. Permission must be obtained from the Court to approach the bench, a witness, an exhibit, or the clerk.
- (7) Refrain from employing dilatory tactics.
- (8) Hand all papers intended for the Court to see to the clerk who, in turn, will pass them up to the judge.
- (9) Hand to the clerk any exhibits offered into evidence.
- (10) Advise defendants, witnesses, and others concerning rules of decorum to be observed in court.
- (11) Use the lectern when interrogating witnesses or addressing the jury, unless otherwise permitted by the Court. Appropriate exceptions to this rule shall be made for disability or infirmity.
- (12) Never conduct or engage in experiments or demonstrations unless prior permission is granted by the Court.

- (13) Refrain from conducting a trial when they know, prior thereto, that they will be necessary witnesses, other than as to merely formal matters such as identification or custody of a document or the like. If, during the trial, it is discovered that the ends of justice require the lawyers' testimony, they should from that point on, if feasible and not prejudicial to defendant's case, leave further conduct of the trial to other counsel. If circumstances do not permit withdrawal from the conduct of the trial, lawyers should not argue the credibility of their own testimony.
- (14) Avoid disparaging personal remarks or acrimony toward opposing counsel and remain wholly uninfluenced by all ill feeling between the parties. Attorneys should abstain from any allusion to personal peculiarities and idiosyncrasies of opposing counsel.
- (15) Rise when addressing or being addressed by the Court. Appropriate exception will be made for disability or medical infirmity.
- (16) Refrain from assuming an undignified posture. Counsel should always be attired in a proper and dignified manner and should abstain from any apparel or ornament calculated to attract attention to themselves.
- (17) At all times exemplify conduct consistent with their obligation as an officer of the Court.
- (18) In making representations to the Court, know or honestly believe them to be supported by fact.
- (19) Comply, along with all other persons in the courtroom, with the following:
  - (A) No tobacco in any form will be permitted at any time.
  - (B) No propping of feet on tables or chairs will be permitted at any time.
  - (C) No water bottles or other beverage containers, bottles or cups, or edibles shall be brought into the courtroom, except with permission of the marshal or courtroom deputy clerk.
  - (D) No gum chewing or reading of newspapers or magazines (except as a part of the evidence in a case) will be permitted while court is in session.
  - (E) No talking or other unnecessary noises will be permitted while court is in session.

- (F) Everyone must rise when instructed to do so upon opening, closing, or declaring recesses of court. Appropriate exception shall be made for disability or medical infirmity.
- (G) Any attorney who appears in court intoxicated or under the influence of intoxicants, drugs, or narcotics may be summarily held in contempt.

#### **44.6 Standards of Practice.**

The following are principles intended to guide attorneys in practicing in the Northern District of Oklahoma:

- (a) In fulfilling his or her primary duty to the defendant, a lawyer must be ever conscious of the broader duty to the judicial system that serves both attorney and defendant.
- (b) A lawyer owes, to the judiciary, candor, diligence and utmost respect.
- (c) A lawyer owes, to opposing counsel, a duty of courtesy and cooperation, the observance of which is necessary for the efficient administration of our system of justice and the respect of the public it serves.
- (d) A lawyer owes, to the administration of justice, the fundamental duties of personal dignity and professional integrity.
- (e) Lawyers should treat each other, the opposing party, the Court, and members of the court staff with courtesy and civility and conduct themselves in a professional manner at all times.
- (f) A defendant has no right to demand that counsel abuse the opposite party or indulge in offensive conduct. A lawyer shall always treat adverse witnesses and suitors with fairness and due consideration.
- (g) In adversary proceedings, though ill feeling may exist, such ill feeling should not influence a lawyer's conduct, attitude, or demeanor towards opposing lawyers.
- (h) A lawyer should not use any form of discovery, or the scheduling of discovery, as a means of harassing opposing counsel or the defendant.

- (i) Lawyers will be punctual in communications with others and in honoring scheduled appearances, and will recognize that neglect and tardiness are demeaning to the lawyer and to the judicial system.
- (j) If a fellow member of the bar makes a just request for cooperation, or seeks scheduling accommodation, a lawyer will not arbitrarily or unreasonably withhold consent.
- (k) Effective advocacy does not require antagonistic or obnoxious behavior and members of the bar will adhere to the higher standard of conduct which judges, lawyers, defendants, and the public may rightfully expect.

#### **44.7 Discipline by the Court.**

- (a) **Discipline by Other Courts; Criminal Convictions.** Whenever any member admitted to practice in this Court, including a person admitted pro hac vice, has been suspended, disbarred or resigned pending disciplinary proceedings from the practice of law by the Supreme Court of Oklahoma or by any other court of competent jurisdiction or has been convicted of a felony or any crime involving moral turpitude in any court, such disbarment, suspension, or conviction shall operate as an automatic suspension of the attorney's right to practice in this Court, and an order of suspension shall be issued by the Court. Any attorney subject to this rule must notify the Court immediately upon any such suspension, disbarment or resignation. The automatic suspension from this Court shall remain in effect unless the attorney has by motion to the Court within twenty-eight (28) days of the order of suspension shown good cause as to why the suspension should not remain in effect. The Chief Judge or his or her designee shall rule on such motion. If the attorney was disbarred, resigned or was convicted as stated above, an order of disbarment will issue if no motion for good cause has been filed within the required time period.
- (b) **Standard Governing Attorney Conduct.** The Court adopts the Oklahoma Rules of Professional Conduct as adopted and amended from time to time by the Supreme Court of Oklahoma as the standard governing attorney conduct in this Court.
- (c) **Misconduct.** Complaints of professional misconduct by counsel are subject to Fed. R. Civ. P. 11. Complaints of professional misconduct may be submitted by a judge of the Court, at his or her discretion, to the Committee on Admissions and Grievances. Upon receipt

of a complaint regarding the professional conduct of an attorney, the Committee on Admissions and Grievances shall, after notice and opportunity to be heard, report and recommend to the Court whether:

- (1) The inquiry should be terminated because the question raised is unsupported or insubstantial;
  - (2) The alleged professional misconduct justifies further inquiry and, for members of the Oklahoma Bar Association, the matter should be referred to the Office of the General Counsel of the Oklahoma Bar Association for investigation and prosecution by that Office, if warranted;
  - (3) The alleged professional misconduct warrants consideration of prompt disciplinary action by this Court regarding the attorney's right to practice before the Court;
  - (4) The alleged professional misconduct of an attorney not a member of the Oklahoma Bar Association justifies further inquiry by the Court. Any attorney whose conduct in this Court is under investigation by the Committee on Admissions and Grievances shall not be admitted pro hac vice until the pending investigation is concluded. Any action taken by the Court pursuant to a report and recommendation by the Committee on Admissions and Grievances shall be by a majority vote of the active judges. Nothing contained in this Local Rule shall limit the right of an individual judge to manage the cases assigned to that judge, which right shall include, without limitation, the authority to impose any sanctions, penalties or other restrictions which may be appropriate in a particular case, or the authority to refer a matter for consideration to the Committee on Admissions and Grievances on an advisory basis.
- (d) **Right to a Hearing.** Except as otherwise provided under subsection (a), this Court shall not impose any disciplinary action affecting an attorney's right to practice before the Court until after a hearing on the matter has been held before a judge or panel of judges. The attorney may waive the right to a hearing. At the hearing, the attorney whose conduct is the subject of the complaint shall be afforded an opportunity to appear in person and/or by counsel, to present oral and documentary evidence, to compel the attendance of witnesses or the production of documents, to cross-examine witnesses, and to present

argument orally or in writing. If not called by the attorney whose conduct is being investigated, it is within the discretion of the judge or panel to call the complaining party to appear at the hearing.

- (e) **Sanctions.** Discipline by this Court may include disbarment, suspension from practice for a definite time, reprimand, or other discipline which the Court deems proper. Referral of a complaint to the Office of the General Counsel of the Oklahoma Bar Association for investigation shall not constitute such discipline as to entitle the attorney to a hearing in this Court on the propriety of the referral.
- (f) **Contempt of Court.** Disciplinary proceedings under this rule shall not affect or be affected by any proceeding for contempt under Title 18 of the United States Code or under Fed. R. Crim. P. 42.
- (g) **Unauthorized Practice.** Any person who before admission to the bar of this Court or who during disbarment or suspension exercises any of the privileges bestowed upon members of this bar, or who pretends to be entitled to such privileges, or who otherwise engages in the unauthorized practice of law before the Court, shall be guilty of contempt of this Court and shall be subject to punishment therefor and shall be subject to any other discipline which the Court may impose.
- (h) **Reinstatement.** Persons disbarred indefinitely from practice before this Court may not petition for reinstatement until three (3) years following disbarment or until two (2) years following an adverse decision upon a previous petition for reinstatement; provided, however, that a person disbarred under subsection (a) may apply for reinstatement at any time upon being reinstated by the disciplining body. Persons suspended indefinitely must satisfy all conditions to reinstatement imposed by the Court at the time of suspension.

## **LCrR47. Motions.**

### **47.1 Motions in Writing.**

Motions shall be in writing and state with particularity the grounds therefor and the relief or order sought. All motions and responses thereto must be accompanied by a concise brief citing all authorities upon which the movant or respondent relies.

**47.2 Notice of Motion Dates.**

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

**47.3 Proposed Order.**

A proposed order granting the requested relief shall be submitted pursuant to the CM/ECF Administrative Guide of Policies & Procedures.

**47.4 Statement of Objection.**

A motion must state on the first page whether or not it is opposed. If opposed, the motion must recite whether concurrence was refused or explain why concurrence could not be obtained. A motion that fails to recite concurrence of each party may be summarily denied.

**47.5 Citation of Authority.**

A motion or response must cite authority in support of legal positions advanced.

**47.6 Time for Filing in Absence of Notice.**

Unless ordered otherwise, all motions shall be filed within fourteen (14) days after defendant's arraignment. Responses shall be filed within seven (7) days of the motion's filing.

**47.7 Length of Motion and Brief.**

- No brief shall be submitted that is longer than twenty-five (25) pages without leave of Court. Motions for leave to file a brief in excess of twenty-five (25) typewritten pages shall state the requested number of pages and shall be filed no later than one (1) day prior to the date the brief is due.
- The print style, including footnotes, shall not be smaller than twelve (12) characters to an inch (i.e., 12 pitch font), and margins shall be a minimum of one (1) inch on the top, bottom, and sides. Briefs exceeding fifteen (15) pages in length shall be accompanied by an indexed table of statutes, rules, ordinances, cases, and other authorities cited.
- A response brief must not exceed twenty-four (24) double-spaced pages.

**47.8 Motions for Extensions of Time and Continuances.**

Motions and proposed orders to continue the trial date must address with particularity [18 U.S.C. § 3161\(h\)](#).

**47.9 Motions to Reconsider or Overrule Actions Taken by District Judges or Magistrate Judges in Connection with Ex Parte Applications.**

Once a motion or application has been presented and an order entered by a district judge or magistrate judge, a request to reconsider or overrule such determination shall be presented to the district judge or magistrate judge entering the order, if available. If presented to a different district judge or magistrate judge, the movant or applicant shall make known the action taken by the district 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 district 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 district judge to another and a motion to reconsider a prior ruling is made.

**47.10 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 hearing would take.

**47.11 Motions Regarding Release or Detention.**

A motion regarding release or detention must state the position of the U.S. Probation Office.

**47.12 Motions Regarding Modification of Conditions or Early Termination of Supervision.**

A motion requesting modification of conditions of pretrial release, probation, or supervised release, or a request for early termination of probation or supervised release must state the position of the U.S. Probation Office.

**47.13 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 motion.

**LCrR49. Serving and Filing Papers.**

**49.1 Identification of Filing Attorney.**

All pleadings and motions shall have the signing attorney's firm name, address, telephone number, e-mail address, and state bar membership number (if applicable) typed under the signature line.

**49.2 General Format of Paper Presented for Filing.**

All pleadings, motions, and other papers presented for filing shall be on 8 ½ x 11 inch white paper of good quality, flat and unfolded, and shall be plainly typewritten, printed, or prepared by a clearly legible duplicating or facsimile process without interlineations. The text shall be double-spaced in a font or typeface that contains no more than 12 characters per inch, except for quoted material, which may be single spaced. Each page shall be numbered consecutively. The text of footnotes may be single-spaced in a font or typeface that contains no more than 12 characters per inch. This rule is not intended to prohibit the appropriate use of scalable fonts.

**49.3 Filing by Electronic Means.**

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. Papers filed by electronic means shall be governed by the Court's CM/ECF Administrative Guide of Policies and Procedures and orders of the Court. Electronic case filing is mandatory except as specifically exempted in the Administrative Guide of Policies and Procedures.

**49.4 Change of Address; Proof of Service.**

(a) All papers shall contain the name, mailing address, daytime telephone number, fax number, and e-mail address, if any, of the attorney or pro se litigant. If any of this

information changes, the attorney or pro se litigant must notify the Court by filing the form provided by the Clerk and serving a copy on opposing counsel or pro se parties. Papers sent by the Court will be deemed delivered if sent to the last known address given to the Court. If applicable, the attorney or pro se litigant is further required to comply with Administrative Guide procedures regarding Change of Contact Information.

- (b) Proof of service of any papers required to be served shall be made by the certificate of any attorney of record or pro se litigant, or if made by any other person, the affidavit of such person.
- (c) 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.

#### **49.5 Sealed Documents.**

- (a) **Policy.** It is the policy of this Court that sealed documents are disfavored. The Court strongly urges attorneys to present all arguments and all documents in unsealed pleadings. In an effort to do this, attorneys should use good judgment in generically referring to matters without revealing confidential information.
- (b) **Caption of Sealed Documents.** Underneath the case number, in the style of any document sought to be sealed, the document shall be marked in all caps, "SEALED."
- (c) **Sealed Documents in Public Cases.** A person seeking to file a document under seal in a public case shall electronically file the sealed document.
- (d) **Documents in Sealed Cases.** Documents to be filed in sealed cases (nonpublic cases) must be filed in paper format.

#### **LCrR49.1.1. Redaction of Personal Data Identifiers.**

##### **49.1.1 Redaction of Personal Data Identifiers.**

- (a) 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 paper, unless otherwise ordered by the Court:

- **Social Security/Tax Identification Numbers.** If a Social Security or Tax Identification number must be included in a pleading, only the last four digits of that number shall be used.
- **Names of Minor Children.** If the involvement of a minor child must be mentioned, only the initials of that child shall be used.
- **Dates of Birth.** If an individual's date of birth must be included in a pleading, only the year shall be used.
- **Financial Account Numbers.** If financial account numbers are relevant, only the last four digits of these numbers shall be used.
- **Home Addresses.** 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 should exercise caution when filing a document that contains any of the following information and should consider filing such document under seal, or may refrain from including, or may partially redact where inclusion is necessary: personal identifying numbers such as driver's license numbers; medical records, treatment and diagnosis; 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).

- (b) 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. The unredacted version of the document or the reference list shall be marked underneath the case number “SEALED UNREDACTED VERSION” or “SEALED REFERENCE LIST.”

### **LCrR53. Courtroom Photographing and Broadcasting Prohibited.**

#### **53.1 Use of Electronic Devices, Photographs or Tape Recorders.**

- (a) The taking of photographs and operation of tape recorders and radio or television broadcasting in the courthouse during the progress of or in connection with judicial proceedings, including proceedings before a magistrate judge, whether or not Court is actually in session, is prohibited.
- (b) A judge may, however, permit (1) the use of electronic or photographic means for the presentation of evidence or the perpetuation of a record, and (2) the broadcasting, televising, recording, or photographing of investiture, ceremonial, or naturalization proceedings.
- (c)
  - (1) The Court prohibits the use of cellular telephones, pagers, or other electronic communication devices in the courtroom. Such devices may be carried on the person within a courtroom only if the device is turned off.
  - (2) All electronic communications devices including cell phones, personal data assistants, smartphones, and wireless laptops are prohibited from being turned on in the courtroom without express permission from the Court.

- (3) Many electronic devices contain cameras and recorders. Use of cameras and recorders are specifically prohibited notwithstanding permission to use an electronic device. Certain ceremonies and investitures are exceptions, but all such activities within a courtroom require permission from the Court.
- (4) Without the Court's express approval, electronic communication devices shall not be used for peer-to-peer wireless communication or network communication within the courtroom or from the courtroom to another location outside the courtroom. Persons entering the courtroom may be asked to reveal any such devices in order to ensure that they are turned off. Persons violating this Local Rule may be escorted from the courtroom, denied access to further proceedings, and subjected to other sanctions deemed necessary by the Court.

#### **LCrR55. Records.**

##### **55.1 Probation Office Official Record.**

All documents acquired or prepared by the probation office and material to the performance of its duties shall be scanned into the Probation/Pretrial Services Automated Case Tracking System (PACTS). The document shall be imaged and uploaded into PACTS and the original document destroyed consistent with quality control measures as approved by the Judicial Conference of the United States. The imaged document shall thereafter be the official record and document for all purposes of the Court.

#### **LCrR57. Miscellaneous Rules.**

##### **57.1 Release of Information by Courthouse Personnel.**

All court-related personnel, including the Clerk's Office, Chambers staff, U.S. Marshal's Office, Court Reporters, and Court Security Officers shall not release any information pertaining to a criminal case that is not part of the public records of the court or divulge any information concerning proceedings held outside the presence of the public. Court officers will not voluntarily testify before a Grand Jury or in any court proceeding without the express approval of the judge presiding over the matter.

**57.2 Release of Information by Attorneys.**

- (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, 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.
- (c) **Extrajudicial Statements After Investigation.** From the time of arrest, issuance of an arrest warrant, or the filing of a complaint, information, or indictment 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 his or her apprehension or to warn the public of any dangers 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 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;
  - (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 his or its official or professional obligations, from announcing the fact and circumstances of arrest (including time and place of arrest, resistance, pursuit, and use of weapons), the identity of the investigating and arresting officer or agency, and the length of the investigation; from making an announcement, at the time of seizure of any physical evidence other than a confession, admission or statement, which is limited to a description of the evidence seized; from disclosing the nature, substance, or text of the charge, including a brief description of the offense charged; from quoting or referring without comment to public records of the court in the case; from announcing the scheduling or result of any stage in the judicial process; from requesting assistance in obtaining evidence; or from announcing without further comment that the accused denies the charges made against him.
- (e) **Extrajudicial Statements During Trial.** During a jury trial, 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 or the parties or 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.

**57.3 Release of Information by and Testimony of Probation Officer.**

- (a) **Confidential Records.** Records of the court, to include pretrial services, presentence, probation reports, records, and correspondence are maintained by the probation office as custodian of the court record and, unless otherwise excepted, may be disclosed only upon a written request to the Court which establishes a need for the specific information.
- (b) **Release of Information and Witness Appearance.** Except for testimony related to release or detention pursuant to 18 U.S.C. § 3142, or testimony concerning orders on release, probation, or supervised release, no current or former probation officer shall respond to any request for information or for witness appearance and testimony as to any matters arising out of the performance of their official duties unless approved in advance by the Court. Unless excepted as described herein, any request for information or appearance and testimony may be granted upon written request to the Court which establishes a need for the information or testimony. Any request for information or appearance and testimony shall follow the procedures established by the Director of the Administrative Office of the United States Courts and approved by the Judicial Conference of the United States, as set out in [Testimony of Judiciary Personnel and Production of Judiciary Records in Legal Proceedings](#), modified in one respect as follows: the presiding judge, not the Chief Probation Officer, shall determine the proper response to a request for information or testimony.

**57.4 Plan for Implementing the Criminal Justice Act (18 U.S.C. § 3006A).**

Pursuant to 18 U.S.C. § 3006A, this Court's [Criminal Justice Plan \(CJA Plan\)](#) is available on the [website](#) of this Court.

**LCrR58. Petty Offenses and other Misdemeanors**

**58.1 Forfeiture of Collateral.**

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 with the Central Violations Bureau ([www.cvb.uscourts.gov](http://www.cvb.uscourts.gov)) in the fixed or maximum amount indicated for the offense, and consent to forfeiture of collateral in order to end the case. The fixed or maximum amounts for

which collateral may be posted for various offenses are published in the Code of Federal Regulations, and are typically stated on the violation notice (the charge).

Revision History	
9/26/2016	Updated: Changed Clerk of Court to Mark C. McCartt