

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA**

NOTICE OF PROPOSED AMENDMENTS TO CRIMINAL LOCAL RULES

Pursuant to Rule 57 of the Federal Rules of Criminal Procedure, public notice is hereby given of proposed amendments to the Criminal Local Rules for the United States District Court, Western District of Louisiana. The original wording that is to be repealed in these rules is shown as stricken with wording added shown as underlined as follows:

~~**LOCAL CRIMINAL RULE 5—
INITIAL APPEARANCE BEFORE THE MAGISTRATE JUDGE**~~

LCrR5.1 Referral of Pre-trial Proceedings in Criminal Cases

~~Pre-trial proceedings in criminal matters shall be referred to a magistrate judge for decision or for report and recommendation in accordance with 28 USC 636(b)(1)(A) and (B), and any standing orders issued by the judge to whom the case is assigned.~~

LOCAL CRIMINAL RULE 6 - GRAND JURY

LCrR6.1 Unauthorized Presence When Grand Jury Is in Session

No person, except grand jurors, witnesses, government attorneys, agents or employees, court personnel concerned with any grand jury proceeding, private attorneys whose clients have been called to appear as witness at a session of the grand jury then in progress or about to commence, and others specifically authorized, may be allowed to remain in the hall adjacent to the grand jury space beyond the entrance door.

LCrR6.2 Interviewing Witnesses Before Grand Jury

No person may attempt to question, interview or interfere with any person who may testify or who has testified before any grand jury within the premises.

LOCAL CRIMINAL RULE 11 – GUILTY PLEAS

LCrR11.1 Guilty Pleas

Defense attorneys must thoroughly review the plea package and the Fed. R. Cr. P. 11 colloquy with their clients and be prepared to proceed at the time set for the change of plea hearing.

LOCAL CRIMINAL RULE 12 – MOTIONS

LCrR12.1 Motions Under Seal

Unless otherwise authorized by these Local Rules or the Federal Rules of Criminal Procedure (including, without limitation, documents pertaining to pre-sentencing investigation reports, sentencing memoranda, or motions filed under USSG 5k1.1 or Fed. R. Cr. P. 35(b)), any party seeking to file a document under seal must file a “Motion to Seal Attached Document,” stating, in general terms, the reason for sealing the document and attaching under seal for the Court’s *in camera* review, the relevant document. The Motion must also include a proposed order.

LOCAL CRIMINAL RULE 17 – SUBPOENAS

LCrR17.1 Subpoenas

Fed. R. Cr. P. 17(c) subpoenas are not a discovery device and are not intended to provide an additional means of obtaining pre-trial discovery. Any motion for issuance of Fed. R. Cr. P. 17(c) subpoenas, except for good cause shown, must be filed with the Court only after conferring with opposing counsel and must set forth: (i) the specific documents sought, (ii) their relevance, and (iii) their admissibility at trial or a pre-trial hearing.

LOCAL CRIMINAL RULE 23 – TRIAL BY JURY OR BY THE COURT

LCrR23.1 Trial by Jury

Trial by jury in criminal cases shall be limited to those cases in which a crime is charged for which the maximum possible penalty exceeds imprisonment for a period of six months or a fine of \$500, or both.

LOCAL CRIMINAL RULE 32 - SENTENCE AND JUDGMENT

LCrR32.1 Sentencing

- A. Not less than 35 days prior to sentencing, the probation officer shall file the preliminary presentence investigation report, excluding any sentencing recommendation, notifying counsel for the defendant and the Government. Within 14 days thereafter, counsel shall electronically file any objections they may have as to any material information, sentencing classifications, sentencing guideline ranges, and policy statements contained in or omitted from the report. Access to pre-sentence reports, objections and any sentencing memorandum will be limited to counsel for the applicable defendant and the government as selected by the filer during entry in the record. The Probation Office will make any necessary revisions and submit the final report with an addendum to the court prior to sentencing. Thereafter, the Probation Office will electronically file the final report in the record.
- B. After receiving counsel's objections, the probation officer shall conduct any further investigation and make any revision to the presentence report that may be necessary. The officer may require counsel for both parties to meet with the officer to discuss unresolved factual and legal issues.
- C. No later than seven (7) days prior to the date of the sentencing hearing, the probation officer shall submit the presentence report to the sentencing judge. The report shall be accompanied by an addendum setting forth any objections counsel may have made that

have not been resolved, together with the officer's comments thereon. The probation officer shall certify that the contents of the report, including any revisions thereof, but excluding any sentencing recommendations, have been disclosed to the defendant and to counsel for the defendant and the Government, that the content of the addendum has been communicated to counsel, and that the addendum fairly states any remaining objections.

- D. Except with regard to any objection made under subdivision A that has not been resolved, the report of the presentence investigation may be accepted by the court as accurate. The court, however, for good cause shown, may allow a new objection to be raised at any time before the imposition of sentence. In resolving disputed issues of fact, the court may consider any reliable information presented by the probation officer, the defendant, or the Government.
- E. The times set forth in this rule may be modified by the court for good cause shown, except that any period may be diminished only with the consent of the defendant.
- AF. As authorized by Fed. R. Cr. P. 32(e)(3), this court directs that the probation officer not disclose the probation officer's recommendation of sentence to the defendant, the defendant's counsel, or the attorney for the Government.
- BG. The presentence report and addendum, along with the written statement of reasons of the district court for imposition of sentence as required by 18 U.S.C. § 3553(c), must shall be filed in the record under seal ~~by the Court immediately after sentencing.~~

LCrR32.2 Presentencing Memoranda

All presentencing memoranda must shall be filed by counsel within the time frame designated by the sentencing judge. Sentencing memoranda may be filed under seal but in all cases must be served on opposing counsel. Access to the memorandum will be selected by the filer during the docket transaction in the electronic record to include appropriate defense and government counsel. The submission of a presentencing memorandum does not relieve the parties from the obligation of providing the probation officer with written objections to the presentence investigation report within 14 days from the day of disclosure in accordance with Fed. R. Cr. P. 32(f)(1).

LOCAL CRIMINAL RULE 47- MOTIONS ~~FORMAT OF CAPTION IN CRIMINAL CASES~~

LCrR47.1 Format of Caption in Multi-Defendant Criminal Cases

For multi-defendant criminal cases, to the right of the case number, there must be appended to the case number the number of the defendant(s) to whom the filing applies. The caption on the left shall include only the names of the corresponding defendants.

LCrR47.1 Motions

- (a) **Motions and Supporting Affidavits.** Unless otherwise directed by the court, motions must comply with the form requirements set forth in Local Civil Rules 7.1, 7.4, 7.5, 7.9, 10.1, and 11.1. Any response to a motion, including opposing affidavits, memoranda, and supporting documents as are then available, must be filed within the delay set by the court.
- (b) **Motions to Suppress.** Motions to suppress pursuant to Fed. R. Crim. P. 41(b) must be filed within the delay set by the court. The motion must be supported by a memorandum

citing the most relevant Supreme Court and Fifth Circuit authority. Evidentiary hearings will not be granted on bare-bones motions to suppress.

- (c) **Format of Caption in Multi-Defendant Criminal Cases.** For multi-defendant criminal cases, the number of the defendant(s) to whom any filing applies, must be included to the right of the case numbers contained in the caption. The caption on the left must include only the names of the defendant(s) to whom the filing pertains.

LOCAL CRIMINAL RULE 53 - REGULATION OF CONDUCT IN THE COURTROOM

LCrR53.1 Dissemination of Information Concerning Pending or Imminent Criminal Litigation by Lawyer Prohibited

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

LCrR53.2 Pending Investigations

When there is a grand jury or other pending investigation of any criminal matter, a lawyer participating in the investigation must ~~shall~~ refrain from making any extrajudicial statement, for dissemination 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 under way, to describe the general scope of the investigation, to obtain assistance in the apprehension of a suspect, or to warn the public of any dangers, or otherwise to aid in the investigation.

LCrR53.3 Extrajudicial Statements Concerning Specific Matters

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

- A. The prior criminal record (including arrests, indictments, or other charges of crime), or the character or reputation of the accused, except that the lawyer may make a factual statement of the accused's name, age, ~~residence~~ domicile, occupation, and family status; and, if the accused has not been apprehended, a lawyer associated with the prosecution may release information necessary to aid in the accused's apprehension or to warn the public of any dangers he or she may present;
- B. 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;
- C. The performance of any examinations or tests or the accused's refusal or failure to submit to an examination or test;
- D. The identity, testimony, or credibility of prospective witnesses, except that the lawyer may announce the identity of the victim if the announcement is not otherwise prohibited by law;

- E. The possibility of a plea of guilty to the offense charged or a lesser offense;
- F. Any opinion as to the accused's guilt or innocence or as to the merits of the case or the evidence in the case.

Upon the showing of good cause by any party, the application of this Rule may be changed or modified to any extent by the court.

LCrR53.4 Disclosures Authorized

The foregoing must shall not be construed to preclude the lawyer during this period, in the proper discharge of his/her official or professional obligations, from announcing the fact and circumstances of arrest (including the time and place of arrest, resistance, pursuit, and use of weapons), and 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 or her.

LCrR53.5 Extrajudicial Statements During Trial

During the trial of any criminal matter, including the period of selection of the jury, no lawyer associated with the prosecution or defense may shall give or authorize any extrajudicial statement or interview, relating to the trial or the parties or issues in the trial, for dissemination by any means of public communication, except that the lawyer may quote from or refer without comment to public records of the court in the case.

LCrR53.6 Extrajudicial Statements After Trial and Prior to Sentence

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

LCrR53.7 Matters Not Precluded

Nothing in these rules 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.

LCrR53.8 Disclosure of Information by Courthouse Personnel

All courthouse personnel, including marshals, deputy marshals, guards, court clerks, deputy clerks, law clerks, secretaries, bailiffs and court reporters, must shall under no circumstances disclose to any person, without express authorization by the court, information relating to a pending criminal

case or grand jury matter that is not part of the public records of the court. This rule specifically forbids the divulgence of information concerning arguments and hearings held in chambers or otherwise outside the presence of the public.

LCrR53.9 Special Orders

In a widely publicized or sensational case, the court, on motion of either party or on its own motion, may issue a special order governing such matters as extrajudicial statements by parties and witnesses likely to interfere with the rights of the accused to a fair trial by an impartial jury, the seating and conduct in the courtroom of spectators and news-media representatives, the management and the sequestration of jurors and witnesses and any other matters that the court may deem appropriate for inclusion in such an order.

LCrR53.10 Subjects of Special Order

Such a special order may be addressed to some or all of the following subjects:

- A. A proscription of extrajudicial statements by participants in the trial, including lawyers, parties, witnesses, jurors, and court officials, that might divulge prejudicial matter not of public record in the case;
- B. Specific directives regarding the clearing of entrances to the hallways in the courthouse and respecting the management of the jury and witnesses during the course of the trial to avoid their mingling with or being in the proximity of reporters, photographers, parties, lawyers, and others, both in entering and leaving the courtroom and courthouse, and during recesses in the trial;
- C. A specific direction that the jurors refrain from reading, listening to, or watching news reports concerning the case, and that they similarly refrain from discussing the case with anyone, or with one another, during the trial and from communicating with others in any manner during their deliberations;
- D. Sequestration of the jury on motion of either party or of the court without disclosure of the identity of the movant;
- E. Direction that the names and addresses of jurors or prospective jurors not be publicly released except as required by statute, and that no photographs be taken or sketch made of any juror within the environs of the court;
- F. Insulation of witnesses from news interviews during the trial period;
- G. Specific provisions regarding the seating of spectators and representatives of news-media, including:
 1. An order that no member of the public or news-media representative be at any time permitted within the bar railing;
 2. The allocation of seats to news-media representatives in cases where there is an excess of requests over the number of seats available, taking into account any pooling arrangement that may have been agreed to among the news-media representatives.

LOCAL CRIMINAL RULE 55 - RECORDS

LCrR55.1 Records

~~All exhibits in criminal cases in the custody of the Clerk shall be maintained for purposes of appeal and post-conviction relief, until the sentence and any probation conditions imposed have been satisfied.~~ All exhibits in criminal cases in the custody of the Clerk must be maintained for purposes of appeal and post-conviction relief until any sentence imposed has been fully satisfied. At the discretion of the presiding judge, any physical exhibits may be released to the custody of the government pending satisfaction of the sentence. In such case, a photograph of each exhibit must be retained by the Clerk as a substitution for the physical item in the record.

LOCAL CRIMINAL RULE 58 - PROCEDURE FOR MISDEMEANORS AND OTHER PETTY OFFENSES

LCrR58.2 Petty Offenses

A. As authorized by ~~Fed. R. Cr. P. 58(d), Rule 4 of the Rules of Procedure for Trial of Misdemeanors Before United States Magistrate Judges,~~ the petty offenses named in the Schedule of Offenses designated by the court may be disposed of by payment of the fixed sum provided in the schedule in lieu of a personal appearance before a magistrate judge. The proceeding will ~~shall~~ be terminated on receipt of payment by the Central Violations Bureau or clerk.

B. In all other petty offense proceedings, unless otherwise authorized in a specific case by the magistrate judge to whom the case has been assigned, or pursuant to ~~FRCP~~ Fed. R. Cr. P. 43(c), the defendant must personally appear before the magistrate judge for disposition of the charges or for other proceedings directed by law.

C. The magistrate judge may direct the Probation Office of the court to conduct a pre-sentence investigation and report in accordance with 18 U.S.C. § 3401(c).

~~LCrR58.3 Central Violations Bureau~~

~~There shall be maintained a Central Violations Bureau. The Bureau shall keep a record of violation notices transmitted by enforcement agencies, a record of all payments made and shall give appearance notices to those violators whose offenses are not disposed of under a Schedule of Offenses. The Bureau shall transmit to the magistrate judges, notices for personal appearance and shall maintain other records needed to affect the prompt disposition of petty offenses.~~

LOCAL CRIMINAL RULE 59 – MAGISTRATE JUDGES

LCrR59.1 United States Magistrate Judges

- (a) All Magistrate Judges in the Western District of Louisiana will perform the duties prescribed by 28 U.S.C. § 636.
- (b) Subject to the Constitution and laws of the United States, all Magistrate Judges may perform the following duties:
 1. Assist the District Judges in the conduct of pretrial discovery proceedings in criminal actions. A Magistrate Judge may hear and determine a procedural or discovery motion or other pretrial matter in a criminal case other than the motions which are specified in 28 U.S.C. § 636(b)(1)(A). As to such specified motions so assigned, a Magistrate Judge

- will, upon referral by a District Judge, submit to that District Judge a report containing proposed findings of fact and recommendations for disposition by the District Judge.
2. Conduct voir dire examinations and select juries in criminal cases upon referral by a District Judge.
 3. Conduct all detention hearings, including juvenile hearings pursuant to 18 U.S.C. § 5034, and hearings to amend, modify or revoke conditions of release under the Bail Reform Act of 1984, as amended. All Magistrate Judges are specifically authorized to conduct detention hearings on alleged probation and supervised release violations unless the assigned District Judge directs otherwise.
 4. Conduct arraignments, accept not guilty pleas, and set deadlines for filing of motions and responses thereto in criminal cases.
 5. Review the return of indictments by the Grand Jury and issue warrants and summonses when necessary for defendants named in the indictments.
 6. Enter orders for examination to determine mental competency; hold hearings and conduct examinations to determine mental competency; and enter orders determining mental competency except any motion to involuntarily medicate a defendant in an effort to restore competency.
 7. Conduct preliminary proceedings incident to transfer of cases pursuant to Fed. R. Cr. P. 20.
 8. Issue subpoenas and writs of habeas corpus ad prosequendum and writs of habeas corpus ad testificandum or other orders necessary to obtain the presence of parties, witnesses, or evidence needed for court proceedings.
 9. Enter orders forfeiting bail where a defendant's bail conditions are breached in petty offense cases or Class A misdemeanor cases wherein all parties have consented to a Magistrate Judge pursuant to Fed. R. Cr. P. 58.
 10. Issue orders upon appropriate application for disclosure of Grand Jury information pursuant to Fed. R. Cr. P. 6(e)(3)(E).
 11. Make determinations of indigency based upon a signed and completed financial affidavit or upon or affirmation of a defendant pursuant to 18 U.S.C. § 3006A(b).
 12. Conduct extradition proceedings in accordance with 18 U.S.C. § 3184 and 18 U.S.C. § 4108 regarding fugitives of offenders from a foreign country to the United States.
 13. Direct the Probation Office to conduct presentence investigation in any misdemeanor or felony case referred to the Magistrate Judge for taking of a guilty plea.
 14. Conduct a jury trial in a Class A misdemeanor case upon the express consent of the parties and any petty offense where the parties request a jury trial and are entitled to trial by jury under the Constitution and laws of the United States.
 15. In cases assigned to a Magistrate Judge, make determinations and enter appropriate orders pursuant to the Speedy Trial Act, unless otherwise indicated by the Act.
 16. Conduct pretrial conferences and related pretrial proceedings in criminal cases upon the referral of a District Judge.
 17. Accept waivers of indictment pursuant to Fed. R. Cr. P. 7(b).
 18. Perform the functions specified in 18 U.S.C. § 4107 and 4109 regarding the transfer of an offender from the United States to a foreign country, conduct recorded proceedings for verification of the offender's voluntary consent to transfer from the United States and appoint counsel therein pursuant to 18 U.S.C. § 3006A.

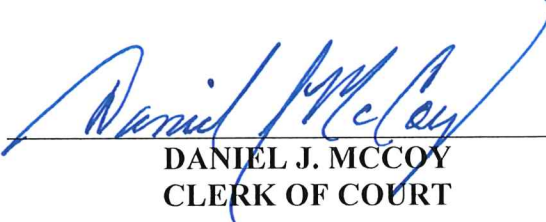
19. Issue orders authorizing the installation and use of a pen register or a trap and trace device pursuant to 18 U.S.C. §§ 3122-23, and related orders directing the furnishing of information, facilities and technical assistance necessary to accomplish the installation of the pen register or trap and trace device as well as orders and search warrants pursuant to 18 U.S.C. §§ 2701 through 2710 for subscriber or customer information and for contents of electronic communications as provided by law.
20. Issue orders and search warrants authorizing civil administrative and other examinations, inspections, searches and seizures as permitted by law.
21. Conduct felony guilty plea proceedings pursuant to Fed. R. Cr. P. 11 upon referral of such proceedings by a District Judge with the consent of the parties, or upon the filing of an information prior to assignment of a District Judge after waiver of indictment in open court before a Magistrate Judge in compliance to Fed. R. Cr. P. 7(b), with the express written consent of the parties. The Magistrate Judge will make findings with respect to the voluntariness of the plea and the defendant's understanding of other matters as required by Fed. R. Cr. P. 11(b), the presence of a factual basis for the plea, and must make a recommendation whether the guilty plea should be accepted by the District Judge.
22. Perform such additional duties as are not inconsistent with the Constitution and laws of the United States as may be designated by the Court pursuant to 28 U.S.C. § 636(b).

Comments on these amendments may be made in writing addressed to the Clerk of Court,

Daniel J. McCoy, 800 Lafayette Street, Suite 2100, Lafayette, LA 70501, before **April 30, 2024**.

This Notice may be accessed on the court's website at **www.lawd.uscourts.gov**.

Lafayette, Louisiana, this 14th day of March, 2024



DANIEL J. MCCOY
CLERK OF COURT