

## **LOCAL RULES OF CRIMINAL PROCEDURE<sup>7</sup>**

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<sup>7</sup> The Local Rules of Criminal Procedure may be cited as “LRCrim”.

**Title I. Applicability**

**F.R.Crim.P. 1. Scope; Definitions**

**LRCrim 1.1**

**REMOVAL TO FEDERAL COURT**

With regard to removal of a criminal prosecution from a state court, see Rule 3.6, Local Rules of Civil Procedure.

**F.R.Crim.P. 2. Interpretation**  
**(NO LOCAL RULE)**

**Title II. Preliminary Proceedings**

**F.R.Crim.P. 3. The Complaint**  
**(NO LOCAL RULE)**

**F.R.Crim.P. 4. Arrest Warrant or Summons on a Complaint**  
**(NO LOCAL RULE)**

**F.R.CRIM.P. 4.1. Complaint, Warrant, or Summons by Telephone or Other  
Reliable Electronic Means**  
**(NO LOCAL RULE)**

## **F.R.Crim.P. 5. Initial Appearance**

### **LRCrim 5.1**

#### **ASSIGNMENT OF CASES AND MATTERS; CRIMINAL; JUVENILE**

(a) **Assignment of Criminal Cases.** Unless otherwise provided in these Rules or ordered by the Court, the Clerk must assign criminal cases to District Judges within each division by automated random selection and in a manner so that neither the Clerk nor any parties or their attorneys will be able to make a deliberate choice of a particular Judge. At the conclusion of the preliminary hearing and detention hearing in Tucson, or at the conclusion of the grand jury return in Phoenix, the Clerk must randomly refer the criminal case to a Magistrate Judge. The cases so assigned or referred will remain with the Judges to whom assigned or referred unless otherwise ordered by the Court. With the exception of defense counsel, any officer of the Court who determines that a new charge has been filed against a defendant who is under federal Court supervision must immediately notify the presiding judge before whom the new case is pending.

(1) **New Cases in Which the Defendant is on Supervised Release or Probation.** The Clerk of Court must directly assign new cases in which the defendant is already on probation or supervised release to the judge to whom the probation or supervised release case is assigned, except as provided in subsections (A), (B), and (C) below.

(A) If the judge to whom the probation or supervised release case is assigned is on Senior Status and does not want both cases, the Clerk of Court must randomly assign both the new case and the petition to revoke probation or supervised release to a District Judge, except as provided in subsections (B) and (C) below.

(B) If the new case and the probation or supervised release case are in different divisions, the new case will remain in its division, and the petition to revoke probation or supervised release must be reassigned to that division's judge, unless the judge to whom the probation or supervised release case is assigned wants to keep the petition.

(C) In the case of a consolidated plea agreement which resolves both a new felony illegal reentry after deportation, and a probation or supervised release violation for illegal reentry, alien smuggling, or drug trafficking, the judge to whom the new offense is assigned must also decide the request for unsuccessful termination of supervision, unless the judge to whom the supervised release violation is assigned objects, in which case both the new case and the supervised release case must be assigned to the objecting judge. In all such cases, defense counsel must be assigned to handle the entire consolidated proceeding, the sentencing and disposition must be consolidated, and the clerk must file the minutes in both cases.

(2) Inter-District Probation and Supervised Release Transfer Cases. The Clerk of Court must randomly assign probation or supervised release cases transferred from another district to a District Judge in accordance with these rules, except that if a criminal case involving the same defendant has been filed in this district, the transferred case must be assigned to the same District Judge.

**(b) Assignment of Juvenile Matters and Related Cases.** Except as provided in subsection (1) below, the Clerk of Court must assign juvenile matters to the District Judges within each division by automated random selection and in a manner so that neither the Clerk nor any parties or their attorneys will be able to make a deliberate choice of a particular Judge. The cases so assigned will remain with the Judge to whom assigned unless otherwise ordered by the Court.

(1) Upon filing an indictment against an adult or an information against a juvenile(s) for conduct that arises from substantially the same event as a case already pending against a juvenile or an adult, the United States Attorney must file a Notice of Related Case in all affected cases. The judicial officer to whom the lowest numbered case is assigned will make a determination as to reassignment of these cases based on the factors set forth in LRCiv 42.1(a) and (d) and, if appropriate, direct the Clerk to reassign the cases accordingly.

(2) If there are multiple juveniles charged with conduct that arises from substantially the same event, the United States Attorney must file a Notice of Related

Case with each juvenile information. The judicial officer to whom the lowest numbered case is assigned will make a determination as to reassignment of these cases based on the factors set forth in LRCiv 42.1(a) and (d) and, if appropriate, direct the Clerk to reassign the cases accordingly.

(3) If the government moves to transfer a juvenile to adult status and the motion to transfer is granted, the Clerk of Court must reassign the case and any related cases by automated random selection to one District Judge upon return of an indictment by the grand jury.

**(c) Assignment of Misdemeanor Cases.** All misdemeanor cases filed by indictment, complaint, or information must be assigned to a Magistrate Judge who will proceed in accordance with 18 U.S.C. § 3401 and Rule 58 of the Federal Rules of Criminal Procedure. Class A misdemeanor cases filed by indictment or information must be assigned to a Magistrate Judge by automated random selection, with the exception of cases brought before the Magistrate Judges sitting in Flagstaff and in Yuma, which must be directly assigned such cases. In the Phoenix Division, Class B and C misdemeanors must be assigned to the Magistrate Judge who signed the complaint. In the Tucson Division, misdemeanors initiated by complaint must be assigned to the Magistrate Judge who signed the complaint but may be heard by any Magistrate Judge designated to try misdemeanors. Any Magistrate Judge may act in the absence or unavailability of the assigned Magistrate Judge. In the case of a Class A misdemeanor, if the defendant does not waive trial, judgment, and sentencing before a District Judge of the District Court and does not consent to those proceedings before the Magistrate Judge, the case will be promptly referred to the Clerk of Court for assignment to a District Judge and the defendant will be directed to appear before the assigned District Judge.

**(d) Temporary Reassignment of Cases.** With regard to temporary reassignment of cases above, see Rule 3.8(g) of the Local Rules of Civil Procedure.

**(e) Cases Refiled After Dismissal.** With regard to cases refiled after dismissal, see Rule 3.8(a)(2) of the Local Rules of Civil Procedure.

**(f) Voluntary Judicial Reassignment of Cases.** With regard to voluntary judicial reassignment of cases, see Rule 42.1(e) of the Local Rules of Civil Procedure.

**(g) Assignment of Judge to Changes of Plea Hearings.** All changes of plea are automatically referred to an available United States Magistrate Judge who shall, provided that the defendant and government consent in writing, thereafter conduct plea proceedings and make findings and recommendations pursuant to Rule 11, Federal Rules of Criminal Procedure.

## **LRCrim 5.2**

### **RELATED CASES; CONSOLIDATION; SERVICE; ASSIGNMENT**

With regard to transfer of related cases assigned to different Judges to a single judge, consolidation, service, and assignment, see Rule 42.1, Local Rules of Civil Procedure.



**F.R.Crim.P. 5.1. Preliminary Hearing**  
**(NO LOCAL RULE)**

**Title III. The Grand Jury, the Indictment, and the Information**

**F.R.Crim.P. 6. The Grand Jury**  
**(NO LOCAL RULE)**

**F.R.Crim.P. 7. The Indictment and the Information**  
**(NO LOCAL RULE)**

**F.R.Crim.P. 8. Joinder of Offenses or Defendants**  
**(NO LOCAL RULE)**

**F.R.Crim.P. 9. Arrest Warrant or Summons on an Indictment or Information**

**LRCrim 9.1**

**ARREST ON INDICTMENT, ORDER OF COURSE**

On the filing of an indictment found by the Grand Jury against a person not in custody or on bail, an order shall be entered for an arrest warrant, a bench warrant, or summons to be issued under the seal of the Court.

**Title IV. Arraignment and Preparation for Trial**

**F.R.Crim.P. 10. Arraignment**

**LRCrim 10.1**

**COPIES OF INDICTMENTS AND INFORMATIONS**

At the time of the preparation of each indictment or information, the United States Attorney shall prepare sufficient copies and deliver them to the Clerk with the original so that a copy may be delivered to each defendant as required by Rule 10 of the Federal Rules of Criminal Procedure.

**LRCrim 10.2**

**STATED TRUE NAME TO BE GIVEN**

When the defendant receives an initial appearance or is arraigned, the defendant shall be informed that if the name by which he or she is charged is not his or her true name, the defendant must then declare his or her true name or be proceeded against by the name in the charge.

**F.R.Crim.P. 11. Pleas  
(NO LOCAL RULE)**

## **F.R.Crim.P. 12. Pleadings and Pretrial Motions**

### **LRCrim 12.1**

#### **MOTIONS, MEMORANDA AND OBJECTIONS**

(a) **Forms of Papers and Motions.** With regard to Forms of Papers and Motions and Memoranda, see Rules 7.1 and 7.2 of the Local Rules of Civil Procedure.

(b) **Motions/Stipulations for Extensions of Time.** With regard to Motions/Stipulations for Extensions of Time, see Rule 7.3 of the Local Rules of Civil Procedure.

(c) **Objections to a Magistrate Judge's Report and Recommendation.** With regard to objections to a Report and Recommendation issued by a Magistrate Judge, see Rule 7.2(e)(3) of the Local Rules of Civil Procedure.

## LRCrim 12.2

### EXCLUDABLE TIME AND MOTIONS - SPEEDY TRIAL ACT

**(a) Content of Motions.** Any motion submitted for filing in a criminal case, other than in a petty offense case, must contain a statement as follows:

"Excludable delay under 18 U.S.C. s 3161(h)\_\_\_\_ will occur as a result of this motion or of an order based thereon." (In the blank space provided, the counsel will insert the specific subparagraph involved, e.g., (1)(A), competency examination of defendant; (3)(A), absence or unavailability of defendant or essential witness.)

**(b) Content of Orders.** Except in a petty offense case, any proposed or signed written order must contain the following final paragraph or statement:

"The Court finds excludable delay under 18 U.S.C. § 3161(h)\_\_\_\_ from \_\_\_\_ to \_\_\_\_."

**(c) Content of Minute Entries.** All minute orders relating to disposition of criminal motions ruled upon in open court, other than in a petty offense case, shall contain a statement comparable to that outlined in (b) above.

**(d) Waiver of Statement.** In any case, or in the case of a defendant proceeding pro per, the Court may, in the interest of justice, waive the necessity of a statement of excludable time.

**(e) Motions for Joinder of Motions.** Any motion for joinder must specifically identify the motions to be joined, and motions for joinder of motions to be filed in the future will not be considered.

### **LRCrim 12.3**

#### **MOTIONS/STIPULATIONS TO EXTEND TIME FOR TRIAL**

If a defendant is not in custody, any motion or stipulation for an extension of the trial date must include, below the title of the motion or stipulation, the following statement: “Defendant Not In Custody”.



**F.R.Crim.P. 12.1. Notice of an Alibi Defense**  
**(NO LOCAL RULE)**

**F.R.Crim.P. 12.2. Notice of an Insanity Defense; Mental Examination**  
**(NO LOCAL RULE)**

**F.R.Crim.P. 12.3. Notice of a Public-Authority Defense**  
**(NO LOCAL RULE)**

**F.R.Crim.P. 12.4. Disclosure Statement**

**LRCrim 12.4.1**

**CORPORATE DISCLOSURE STATEMENT**

With regard to the disclosure statement required by Rule 12.4(a)(1) and (2) of the Federal Rules of Criminal Procedure, see Rule 7.1.1., Local Rules of Civil Procedure.

**F.R.Crim.P. 13. Joint Trial of Separate Cases**  
**(NO LOCAL RULE)**

**F.R.Crim.P. 14. Relief from Prejudicial Joinder**  
**(NO LOCAL RULE)**

**F.R.Crim.P. 15. Depositions**  
**(NO LOCAL RULE)**

## **F.R.Crim.P. 16. Discovery and Inspection**

### **LRCrim 16.1**

#### **CONFESSIONS AND ADMISSIONS**

(a) **Written Notice of Statements to be Used.** Consistent with Rule 16(a)(1) of the Federal Rules of Criminal Procedure, unless otherwise ordered, the United States Attorney shall give written notice to the Defendant through his or her attorney of any and all written or oral confessions, admissions, or statements of the Defendant which the government intends to use during the course of the trial.

(b) **Objections to Above.** The Defendant's attorney shall, unless otherwise ordered, file a motion setting forth objections, if any, which Defendant may have to the admissibility of such confessions, admissions, or statements. Upon request of the Defendant's attorney, the Court shall set a hearing to consider such objections and determine the admissibility of the alleged confessions, admissions, or statements. However, no evidentiary hearing or oral argument need be set or held unless the Defendant's moving papers allege facts sufficient to enable the Court to conclude that contested issues of fact or law exist.

**LRCrim 16.2**  
**COMPLEX CASES**

(a) **Declaration of Complex Case.** On motion of any party or at the Court's own initiative, the Court may treat the case as unusual or complex within the meaning of 18 U.S.C. § 3161(h)(7)(B)(ii). If the Court determines the case to be complex, a status conference will be held within twenty-one days to determine a schedule for discovery, motions and any other pretrial case management issues.

(b) **Duty to Confer.** Before any status conference in a complex case to discuss discovery and disclosure issues, counsel shall confer in good faith to determine what discovery issues can be resolved by agreement. If the parties cannot agree on the scope, manner, or time of discovery, counsel for the parties shall file a joint report setting forth the issues agreed upon and those in dispute.

**F.R.Crim.P. 17. Subpoena**  
**(NO LOCAL RULE)**

**F.R.Crim.P. 17.1. Pretrial Conference**  
**(NO LOCAL RULE)**

**Title V. Venue**

**F.R.Crim.P. 18. Place of Prosecution and Trial**

**LRCrim 18.1**

**LOCATIONS**

With regard to locations of court, schedule of hearings, and place of trial, see Rule 77.1, Local Rules of Civil Procedure and Rule 57.6, Local Rules of Criminal Procedure.

**F.R.Crim.P. 19. (Reserved)**

**(NO LOCAL RULE)**



**F.R.Crim.P. 20. Transfer for Plea and Sentence**

**LR crim 20.1**

**CONSENT OF DEFENDANT**

With regard to referral of misdemeanor charges to a Magistrate Judge, see Rule 57.6(c), Local Rules of Criminal Procedure.

**F.R.Crim.P. 21. Transfer for Trial**  
**(NO LOCAL RULE)**

**F.R.Crim.P. 22. (Transferred)**  
**(NO LOCAL RULE)**

**Title VI. Trial**

**F.R.Crim.P. 23. Jury or Nonjury Trial**

**LRCrim 23.1**

**PROCEDURE AT TRIALS**

With regard to procedure at trials, see Rule 39.1, Local Rules of Civil Procedure.

**F.R.Crim.P. 24. Trial Jurors**

**LR crim 24.1**

**CRIMINAL JURIES**

In criminal cases, peremptory challenges by the government and the defense shall be exercised simultaneously unless otherwise directed by the Court. In all other respects the procedures for the selection of trial jurors shall be as set forth in Rule 24, Federal Rules of Criminal Procedure.

**LRCrim 24.2**

**COMMUNICATIONS WITH TRIAL JURORS**

With regard to communications with trial jurors, see Rule 39.2, Local Rules of Civil Procedure.

**F.R.Crim.P. 25. Judge's Disability**  
**(NO LOCAL RULE)**

**F.R.Crim.P. 26. Taking Testimony**  
**(NO LOCAL RULE)**

**F.R.Crim.P. 26.1. Foreign Law Determination**  
**(NO LOCAL RULE)**

**F.R.Crim.P. 26.2. Producing a Witness's Statement**  
**(NO LOCAL RULE)**

**F.R.Crim.P. 26.3. Mistrial**  
**(NO LOCAL RULE)**

**F.R.Crim.P. 27. Proving an Official Record**  
**(NO LOCAL RULE)**

**F.R.Crim.P. 28. Interpreters**  
**(NO LOCAL RULE)**

**F.R.Crim.P. 29. Motion for a Judgment of Acquittal**  
**(NO LOCAL RULE)**

**F.R.Crim.P. 29.1. Closing Argument**  
**(NO LOCAL RULE)**

**F.R.Crim.P. 30. Jury Instructions**

**LR crim 30.1**

**JURY INSTRUCTIONS**

The provisions and requirements of Rule 51.1, Local Rules of Civil Procedure, are applicable to and will be followed in all criminal jury trials except that Local Rules of Civil Procedure, Rule 51.1(e) objections must follow Rule 30, Federal Rules of Criminal Procedure.

**F.R.Crim.P. 31. Jury Verdict  
(NO LOCAL RULE)**



**Title VII. Post-Conviction Procedures**  
**F.R.Crim.P. 32. Sentencing and Judgment**  
**LR crim 32.1**

**SENTENCING - PRESENTENCE INVESTIGATIONS**

(a) **Presentence Investigation.** Upon conviction by trial or plea, a court shall order that defendant not leave the District of Arizona without prior authorization until he or she has been interviewed by a Probation Officer.

(b) **Appeals.** In all cases where a defendant has been sentenced to a period of probation, and files a notice of appeal, the period of probation and supervision shall begin on the date of judgment, notwithstanding the pendency of the appeal.

(c) **Petition for Disclosure of Presentence or Probation Records.** No confidential records of this Court maintained by the Probation Office, including presentence and probation supervision records, shall be sought by any applicant except pursuant to the provisions under General Order 05-12, Testimony of Judiciary Personnel and Production of Judiciary Records in Legal Proceedings.

(d) **Preparation and Use of Presentence Reports.**

(1) Plea agreements, whether a public record or sealed by order of the Court, shall be made available to the Probation Office for the District of Arizona, for the limited use of the Probation Officer preparing the presentence report and exercising probation supervision.

(2) Unless the Court directs otherwise, the Probation Officer shall disclose the sentencing recommendation as part of the initial and final presentence reports. The Probation Office shall disclose the initial and final presentence reports to the defendant's attorney or to the defendant, if pro per, and to the United States Attorney. The defendant's attorney may provide a copy to the defendant.

(3) The Probation Office will file under seal the original (final) copy of the presentence report on behalf of the Clerk of the Court. When a request is made to the Clerk's Office to view a copy of the presentence report, the request shall be referred to the Probation Office. If appropriate, the Probation Office shall prepare for the requestor a

copy of the presentence report exclusive of the Rule 32(d)(3), Fed.R.Crim.P., information.

(4) Nothing in this Local Rule shall prohibit the Probation Office from disclosing the presentence report to an Arizona Superior Court Probation Office if that office agrees in writing, on a form approved by the Chief Judge of this Court, to maintain confidentiality of matters so specified by this Court.

**F.R.Crim.P. 32.1. Revoking or Modifying Probation or Supervised Release**  
**(NO LOCAL RULE)**

**F.R.Crim.P. 32.2. Criminal Forfeiture**

**LRCrim 32.2.1**

**NOTICE OF ARREST**

(a) **Notice of Arrest of Probation and Parolee Violators.** As soon as practicable after taking into custody any person charged with a violation of probation or parole, the Marshal shall give written notice to the Clerk of the Court and the Probation Officer of the date and fact of such arrest, and the place of confinement of such alleged violator, and shall mail two (2) copies of such notice to the United States Attorney, who shall in turn mail a copy to any attorney who may appear of record for such alleged violator.

(b) **Notice of Arrest by Federal Agencies and Others.** It shall be the duty of the Marshal to require all federal agencies and others who arrest any person as a federal prisoner in this district and all jailers who incarcerate any such person in any jail or place of confinement in this district, to give the Marshal notice of such arrest or incarceration forthwith.

As soon as practicable after receiving notice or other knowledge of any such arrest or incarceration anywhere within the district, the Marshal shall notify Pretrial Services and shall give written notice to the Clerk of the Court and to the United States Attorney of the date and fact of such arrest and the place of confinement of such federal prisoner.

**F.R.Crim.P. 33. New Trial**  
**(NO LOCAL RULE)**

**F.R.Crim.P. 34. Arresting Judgment**  
**(NO LOCAL RULE)**

**F.R.Crim.P. 35. Correcting or Reducing a Sentence**  
**(NO LOCAL RULE)**

**F.R.Crim.P. 36. Clerical Error**  
**(NO LOCAL RULE)**

**F.R.Crim.P. 37. (Reserved)**  
**(NO LOCAL RULE)**

**F.R.Crim.P. 38. Staying a Sentence or a Disability**  
**(NO LOCAL RULE)**

**F.R.Crim.P. 39. (Reserved)**  
**(NO LOCAL RULE)**

**Title VIII. Supplementary and Special Proceedings**

**F.R.Crim.P. 40. Arrest for Failing to Appear in Another District or for  
Violating Conditions of Release Set in Another District**  
**(NO LOCAL RULE)**

**F.R.Crim.P. 41. Search and Seizure**  
**(NO LOCAL RULE)**

**F.R.Crim.P. 42. Criminal Contempt**  
**(NO LOCAL RULE)**

**Title IX. General Provisions**

**F.R.Crim.P. 43. Defendant's Presence**  
**(NO LOCAL RULE)**

**F.R.Crim.P. 44. Right to and Appointment of Counsel**  
**(NO LOCAL RULE)**

**F.R.Crim.P. 45. Computing and Extending Time**

**LR crim 45.1**

**MOTIONS/STIPULATIONS FOR EXTENSIONS OF TIME**

With regard to motions and stipulations for extension of time, see Rule 7.3, Local Rules of Civil Procedure.

## **F.R.Crim.P. 46. Release from Custody; Supervising Detention**

### **LRCrim 46.1**

#### **BAIL**

(a) **Bonds Taken by Magistrate Judges.** Unless otherwise ordered by the Court, all bonds in criminal cases for appearance before this Court shall be taken by Magistrate Judges and must be immediately forwarded to the Clerk's office by the Magistrate Judge taking such bond and must have endorsed thereon his or her approval. Bond monies will be deposited into the registry of the Court as provided by LRCiv 67.1.

(b) **Continuing Bonds.** All bonds must be continuing bonds, obligating the defendant to appear before the Court for judgment and sentence upon conviction.

(c) **Release on Bond.** Each defendant applying for release upon his or her own recognizance or for such other release as provided for by the terms of the Bail Reform Act of 1984 (18 U.S.C. § 3141 et seq.) shall support his or her request as provided in 18 U.S.C. § 3142 (f). When a release is obtained under the terms of the Bail Reform Act of 1984, such release shall be effective only upon the execution of an order and in accordance with its terms and upon forms supplied by the Clerk and signed by the defendant and the Magistrate Judge or the Judge granting the release.

(d) **Release on Bond Pending Appeal or Self-Surrender.** When a defendant is released on bond pending appeal or self-surrender, the defendant will be ordered to report to the Pretrial Services Office, and, unless otherwise directed, shall comply with such reasonable rules and regulations as the Pretrial Officer shall prescribe during pendency of the appeal or while awaiting the self-surrender date, subject to modification by the LRCiv 46Court for cause shown.

(e) **Justification of Sureties.** In all cases in which individuals are sureties they must justify before the officer taking the bond, and their justification must be endorsed thereon.



## **LRCrim 46.2**

### **CASH BOND AND FORFEITURE OF BOND**

(a) **Exoneration of Bail.** If the defendant has given bail, he or she may at any time before the forfeiture of the recognizance, in like manner, deposit the sum mentioned in such recognizance, in compliance with Rule 46(d), Federal Rules of Criminal Procedure, and, upon the deposit of that sum, the bail shall be exonerated.

(b) **Application to Fine and Costs.** When money, government notes, or bonds have been deposited by the defendant, then, if it remains on deposit at the time of a judgment for the payment of a fine or fine and costs, the Clerk shall, under the direction of the Court, apply the money, notes, or bonds in satisfaction thereof, and, after satisfying the fine and costs, shall refund the surplus, if any, to the defendant.

(c) **Forfeiture of Bonds.** Forfeitures of bonds shall be declared by this Court in conformity with Rule 46(f), Federal Rules of Criminal Procedure. If, at any time after such forfeiture is declared by this Court, the defendant appears and satisfactorily excuses his or her neglect, the Court may direct the forfeiture to be discharged where justice so requires.

### **LRCrim 46.3**

#### **BOND REQUIRED**

All Magistrate Judges, when holding persons or corporations charged with a crime and ordered to appear before this Court, shall require such persons or corporations to give bond or recognizance for their appearance in the division of the Court in which the case arose, in accordance with the orders and directions of the Court, or commit them to the custody of the United States Marshal. The Marshal shall confine the prisoners in such jail available for detention of federal prisoners as is situated most conveniently to the division in which the case arose.

**F.R.Crim.P. 47. Motions and Supporting Affidavits**

**LR crim 47.1**

**FORMS OF PAPERS AND MOTIONS**

With regard to Forms of Papers and Motions, see Rules 7.1 and 7.2 of the Local Rules of Civil Procedure.

**F.R.Crim.P. 48. Dismissal**

**LR crim 48.1**

**DISMISSAL FOR WANT OF PROSECUTION**

Cases which have had no proceedings for six (6) or more months may be dismissed by the Court for want of prosecution. Notice shall be given to the parties that such action is contemplated, and a status hearing shall be scheduled where the parties may show good cause why such action should not be taken.

**F.R.Crim.P. 49. Serving and Filing Papers**

**LR crim 49.1**

**PLACES FOR FILING**

With regard to places of filing, including petitions for writs of habeas corpus by a person in State custody under 22 U.S.C. § 2254, see Rule 5.1, Local Rules of Civil Procedure.

**LRCrim 49.2**

**FILING; COPY FOR JUDGE**

With regard to presenting copies of pleadings and documents filed with the Clerk, see Rule 5.4, Local Rules of Civil Procedure.

**LRCrim 49.3**

**ELECTRONIC FILING AND SERVICE**

With regard to electronic filing and service, see Rule 5.5 of the Local Rules of Civil Procedure.

## **LRCrim 49.4**

### **SEALING OF COURT RECORDS IN NON-SEALED CRIMINAL CASES**

**(a) Order Required.** No document may be filed under seal in non-sealed criminal cases except pursuant to an order by the Court as set forth in subpart (b) of this Rule and except for a response or reply to a criminal sealed motion or memorandum. For the purposes of this Rule, the term “document” means any filing, including a motion, memorandum, notice, exhibit, record, or other item to be filed under seal with the Court. The motion seeking leave to file a proposed document under seal, however, will automatically be filed under seal without need for a Court order.

**(b) Procedure for Obtaining an Order to File a Document Under Seal.** Any motion or stipulation seeking leave to file a document under seal must set forth a clear statement of the facts and legal authority justifying the filing of the document under seal and must append (as a separate attachment) a proposed order granting the motion. Any motion seeking leave to file a document under seal or requesting the entire case be sealed, will automatically be filed under seal in criminal cases. The document or documents that are subject of any such motion or stipulation must not be appended to the motion or stipulation, and must be lodged with the Court separately consistent with subpart (c) of this Rule.

**(c) Lodging of Documents to Be Filed Under Seal.**

(1) **Lodging in Electronic Form.** Generally, a document to be filed under seal must be lodged with the Court in electronic form. The Electronic Case Filing Administrative Policies and Procedures Manual (“the Administrative Manual”) sets for the circumstances in which such documents must be lodged electronically and the instructions for doing so.

(2) **Exceptions: Lodging in Paper Form.** A party or counsel who has been exempted from the requirements to file papers electronically must lodge a document to be submitted under seal with the Court in paper form, with a cover sheet prominently displaying the notation “DOCUMENT SUBMITTED UNDER SEAL” and clearly identifying:



- (A) the document and the underlying motion to which it pertains;
- (B) the number of pages submitted for lodging;
- (C) the motion or stipulation seeking to have the document filed

under seal; and

- (D) the case number and title of the case in which the document is to be filed.

**(d) Denial of Request to File a Document Under Seal.** If a request to file under seal is denied in part or in full, the lodged document will not be filed. If the request is denied in full, the submitting party may, within five (5) days of the entry of the order denying the request, resubmit the document for filing in the public record. If the request is denied in part and granted in part, the party may re-submit the document in a manner that conforms to the Court's order and this Rule.

**(e) Effect of Sealing.** If the Court orders the sealing of any document, the Clerk shall file the order to seal and secure the sealed document from public access.

## **LRCrim 49.5**

### **FILING OF COURT RECORDS IN SEALED CRIMINAL CASES**

Every document filed under seal in sealed criminal cases must be submitted to the court in paper form with a cover sheet prominently displaying the notation “DOCUMENT SUBMITTED UNDER SEAL” and clearly identifying the document, the number of pages submitted, and the case number and title of the case in which the document is to be filed. For juvenile case filings, refer to the Court's Administrative Policies and Procedures Manual.

**F.R.Crim.P. 49.1. Privacy Protection for Filings Made with the Court**  
**(NO LOCAL RULE)**

**F.R.Crim.P. 50. Prompt Disposition**  
**(NO LOCAL RULE)**

**F.R.Crim.P. 51. Preserving Claimed Error**  
**(NO LOCAL RULE)**

**F.R.Crim.P. 52. Harmless and Plain Error**  
**(NO LOCAL RULE)**

**F.R.Crim.P. 53. Courtroom Photographing and Broadcasting Prohibited**

**LR crim 53.1**

**CONDUCT IN COURTROOM AND ENVIRONS**

With regard to conduct in the courtroom and environs, see Rule 43.1, Local Rules of Civil Procedure.

**F.R.Crim.P. 54. (Transferred)**  
**(NO LOCAL RULE)**

**F.R.Crim.P. 55. Records**  
**(NO LOCAL RULE)**

**F.R.Crim.P. 56. When Court Is Open**

**LR crim 56.1**

**HOURS OF CLERK'S OFFICES**

With regard to hours of Clerk's offices, see Rule 77.1(d) of the Local Rules of Civil Procedure.

**F.R.Crim.P. 57. District Court Rules**

**LRCrim 57.1**

**PRETRIAL SERVICES**

Pursuant to the Pretrial Services Act of 1982 (18 U.S.C. § 3152-3155), the Court establishes an independent Pretrial Services Office for the District of Arizona.

Upon notification that a defendant has been arrested, pretrial service officers will conduct a prerelease interview as soon as practicable. The judicial officer setting bail or reviewing a bail determination shall receive and consider all reports submitted by pretrial service officers.

A copy of the pretrial service report and all supplemental reports prepared by the Pretrial Services Office shall be provided to and may be retained by the attorneys for the accused and the Government, and shall be used only for the purpose of fixing conditions of release, including bail determinations. When a copy is provided, it will have a header on the first page advising the attorneys that (a) the report is not to be copied, (b) the report is not a public record, and (c) that the content may not be disclosed to unauthorized individuals. Otherwise, the reports shall remain confidential, as provided in 18 U.S.C. § 3153, subject to the expectations provided therein.

Pretrial service officers shall supervise persons released on bail at the discretion of the judicial officer granting the release or modifications of the release.

## **LRCrim 57.2**

### **FREE PRESS - FAIR TRIAL DIRECTIVES**

These guidelines are proposed as a means of balancing the public's right to be informed with the accused's right to a fair trial before an impartial jury. While it is the right of a free press to report what occurs in a public proceeding, it is also the responsibility of the bench to take appropriate measures to insure that the deliberations of the jury are based upon what is presented to it in Court. It is the duty of the lawyer or law firm not to release or authorize the release of information or opinion 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 a law firm is associated, there is a reasonable likelihood that such dissemination will interfere with a fair trial or otherwise prejudice the due administration of justice.

**(a) Prior to Arrest.** With respect to a Grand Jury (consistent with the provisions of Rule 6, Federal Rules of Criminal Procedure) or other pending investigation of any criminal matter, a lawyer participating in or associated with the investigation shall refrain from making any extrajudicial statement which a reasonable person would expect to be disseminated by any means of public communication that goes beyond the public record or that is not necessarily 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, to warn the public of any dangers, or otherwise to aid in the investigation.

**(b) From Time of Arrest.** From the time of arrest, issuance of an arrest warrant, or the filing of a complaint, information, or indictment in any criminal matter until the commencement of trial or disposition without trial, a lawyer or law firm associated with the prosecution or defense shall not release or authorize the release of any extrajudicial statement which a reasonable person would expect to be disseminated by any means of public communication relating to that matter and concerning:

(1) The prior criminal record (including arrests, indictments, or other charges of crime), or the character or reputation of the accused, except that the lawyer or law firm may in their discretion 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 or 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; or

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

The foregoing shall not be construed to preclude the lawyer or law firm during this period, in the proper discharge of any 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 the 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.

(c) **During the Trial.** During the jury trial of any criminal matter, including the period of selection of the jury, no lawyer or law firm associated with the prosecution or defense shall give or authorize any extrajudicial statement or interview relating to the

trial 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 or refer without comment to public records of the Court in the case.

**(d) Other Information.** Nothing in this Local 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.

**(e) Disclosure by Others.** All Court personnel, including, among others, Marshals, Deputy Marshals, Court Clerks, Bailiffs, Court Reporters, and employees or subcontractors retained by a Court-appointed official reporter, are prohibited from disclosing to any person without authorization by the Court, information relating to a pending Grand Jury or criminal case that is not part of the public records of the Court. The divulgence of information concerning arguments and hearings held in chambers or otherwise outside the presence of the public is also forbidden.

**(f) Duty of Court in Special Cases.** In a widely publicized or sensational criminal 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 sequestration of jurors and witnesses, and any other matters which the Court may deem appropriate for inclusion in such order. Such a special order might be addressed to some or all of the following subjects:

(1) A proscription of extrajudicial statements by participants in the trial (including lawyers, parties, witnesses, jurors, and court officials) which might divulge prejudicial matters not of public record in the case.

(2) Specific directives regarding the clearing of entrances to and 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 or courthouse and during recesses in the trial.

(3) 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 during the trial and from communicating with others in any matter during their deliberations.

(4) Sequestration of the jury on motion of either party or by the Court, without disclosure of the identity of the movant.

(5) Direction that the names and addresses of jurors or prospective jurors not be publicly released except as required by statute, and that no photograph be taken or sketch made of any juror within the environs of the Court.

(6) Insulation of witnesses during the trial.

(7) Specific provisions regarding the seating of spectators and representatives of news media, including:

(A) an order that no member of the public or news media representative be at any time permitted within the bar railing;

(B) the allocation of seats to news media representatives in cases where there are an excess of requests, taking into account any pooling arrangement that may have been agreed to among the news reporters.

The Court may also consider making more extensive use of techniques to insure an impartial jury, to include use of change of venue, sequestration of jurors, sequestration of witnesses, individual voir dire of prospective jurors, cautionary instructions to the jury, the sealing of pretrial motion papers and pleadings, and the holding of sidebar conferences between the Judge and the attorneys during trial in order to rule upon legal and evidentiary issues without being overheard by the jury.

**(g) Closure of Pretrial Proceedings.** Unless otherwise provided by law, all preliminary criminal proceedings, including preliminary examinations and hearings on pretrial motions, shall be held in open court and shall be available for attendance and observation by the public; provided that, upon motion made or agreed to by the defense, the Court, in the exercise of its discretion, may order a pretrial proceeding be closed to the public in whole or in part on the grounds:

(1) that there is a reasonable likelihood that the dissemination of information disclosed at such proceeding would impair the Defendant's right to a fair trial; and

(2) that reasonable alternatives to closure will not adequately protect defendant's right to a fair trial.

If the Court so orders, it shall state for the record its specific findings concerning the need for closure.

**(h) No Direct Restraints on Media.** No rule of Court or judicial order should be promulgated by a United States District Court which would prohibit representatives of the news media from broadcasting or publishing any information in their possession relating to a criminal case.

**LRCrim 57.3**

**ATTORNEY OF RECORD; CRIMINAL CASES**

No attorney, unless specially appointed by the Court, shall be considered by the Court as the attorney of record for a defendant in a criminal case until after that attorney shall have filed with the Clerk a written appearance. This rule does not apply to motions for substitution of counsel, see LRCiv 83.3.

**LRCrim 57.4**

**HABEAS CORPUS, OTHER POST CONVICTION PETITIONS, AND  
PRISONER AND CERTAIN OTHER CIVIL RIGHTS COMPLAINTS**

With regard to habeas corpus, other post conviction petitions, and prisoner and certain other civil rights complaints, see Rule 72.1(b), Local Rules of Civil Procedure.

**LRCrim 57.5**

**WRITS OF HABEAS CORPUS AND MOTIONS PURSUANT TO 28 U.S.C. § 2255**

With regard to filing requirements, *in forma pauperis* certification, and assignment of judicial officer, see Rules 3.5 and 5.1, Local Rules of Civil Procedure.

## LRCrim 57.6

### UNITED STATES MAGISTRATE JUDGES

(a) **Duties Prescribed.** All Magistrate Judges in the District of Arizona shall perform the duties prescribed by 28 U.S.C. § 636. The only limitations on the duties and responsibilities delegated to and performed by a part-time Magistrate Judge are those limitations specifically set forth in 28 U.S.C. § 636 or other applicable statute or General Order.

(b) **Duty Stations.** The Magistrate Judges maintaining official stations at Grand Canyon National Park, Phoenix, Yuma, Flagstaff, Page, Kingman, and Tucson, are each specifically designated pursuant to 18 U.S.C. § 3401 to try persons accused of, and sentence persons convicted of misdemeanors. Any Magistrate Judge may accept a forfeiture of collateral or may enter judgment in a misdemeanor case based on a plea of guilty or *nolo contendere*. A Magistrate Judge trying a defendant charged with a misdemeanor shall do so in the manner prescribed by Rule 58 of the Federal Rules of Criminal Procedure.

(c) **Consent of Defendant.** Upon the transfer, under Rule 20 of the Federal Rules of Criminal Procedure, of any information, complaint, or indictment charging a misdemeanor, the case shall be referred without unnecessary delay to a Magistrate Judge who may take a plea and impose sentence in the manner prescribed by Rule 58 of the Federal Rules of Criminal Procedure.

(d) **Other Duties.** Subject to the Constitution and laws of the United States, the full-time Magistrate Judges in the District of Arizona shall 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 shall, upon designation 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 by express consent of all parties.

(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) Review and submit recommendations to a District Judge on all petitions for revocation of probation and supervised release and conduct necessary proceedings leading to the potential revocation of probation and supervised release and, upon the express consent of the parties and order of referral from a District Judge, take all admissions to violations of probation or supervised release conditions.

(5) Conduct arraignments, accept not guilty pleas, and set deadlines for filing of motions and responses thereto in criminal cases.

(6) Receive the return of indictments by the Grand Jury and issue bench warrants when necessary for defendants named in the indictments.

(7) Dismiss indictments on motion of the United States Attorney and with the consent of the defendants.

(8) 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.

(9) Conduct preliminary proceedings incident to transfer of cases pursuant to Rule 20, Federal Rules of Criminal Procedure.

(10) 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.

(11) Enter orders forfeiting bail where a defendant breaches his or her bail conditions in petty offense cases or Class A misdemeanor cases wherein all parties have consented to a Magistrate Judge pursuant to Rule 58 of the Federal Rules of Criminal Procedure.

(12) Hear and adjudge objections to notice of the Government's intention to destroy all but samples of controlled substance seizures and any hazardous chemical substance. Such determinations may include ex parte consideration by the Magistrate Judge if exigent circumstances reasonably require such.

(13) Issue orders upon appropriate application for disclosure of Grand Jury information pursuant to Rule 6(e)(3)(E) of the Federal Rules of Criminal Procedure.

(14) Make determinations of indigency based upon a signed and completed financial affidavit or upon oath or affirmation of a defendant pursuant to 18 U.S.C. § 3006A(b).

(15) Conduct extradition proceedings in accordance with 18 U.S.C. § 3184 and 18 U.S.C. § 4108 regarding fugitives or offenders from a foreign country to the United States.

(16) Direct the probation service of the Court to conduct a presentence investigation in any misdemeanor case or felony case referred to the Magistrate Judge for taking of a guilty plea.

(17) Conduct a jury trial in a Class A Misdemeanor case upon the express written consent of all the parties and any petty offense case where the parties request a jury trial and are entitled to trial by jury under the Constitution and laws of the United States.

(18) In cases assigned to the Magistrate Judge, make determinations and enter appropriate orders pursuant to the Speedy Trial Act, unless otherwise indicated by the Act.

(19) Conduct pretrial conferences, settlement conferences, and related pretrial proceedings in criminal cases upon the referral of a District Judge.

(20) Accept waivers of indictment pursuant to Rule 7(b) of the Federal Rules of Criminal Procedure.

(21) Accept petit jury verdicts in criminal cases with consent of the parties and upon the referral of a District Judge.

(22) 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.

(23) 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.

(24) Issue orders and search warrants authorizing civil administrative and other examinations, inspections, searches, and seizures as permitted by law.

(25) Conduct felony guilty plea proceedings pursuant to Rule 11, Federal Rules of Criminal Procedure 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 with Rule 7(b), Federal Rules of Criminal Procedure, with the express written consent of the parties. The Magistrate Judge shall make findings with respect to the voluntariness of the plea and the defendant's understanding of other matters as required by Rule 11(b), Federal Rules of Criminal Procedure, the presence of a factual basis for the plea, and shall make a recommendation whether the guilty plea should be accepted by the District Judge.

(26) Perform such additional duties as are not inconsistent with the Constitution and laws of the United States as may be assigned by the Court pursuant to 28 U.S.C. § 636(b).

(e) **Waiver of Appearance.** A person who is charged with a misdemeanor, as defined in 18 U.S.C. 3559(a)(6)-(9), may, in lieu of appearance, post collateral in the amount indicated by the offense, waive appearance before a Magistrate Judge, and consent to forfeiture of collateral to the United States.

(f) **Amount of Collateral Set.** A Schedule of Collateral for all violations signed by this Court shall be maintained in the office of the Clerk of the Court in Phoenix and Tucson, and the office of each Magistrate Judge. The Schedule shall be available for examination by the public upon request. Schedules may be amended from time to time by order of the Court. The Magistrate Judge may increase or decrease the amount of collateral, but if increased, the collateral may not exceed the maximum fine which could be imposed upon conviction.

(g) **Violation of Release.** Nothing contained in paragraph (e), of this Local Rule, shall prohibit a law enforcement officer from arresting any person for the commission of any offense, including any offense for which collateral may be posted and forfeited. Upon such arrest, a law enforcement officer shall take without unnecessary delay the arrested person before a Magistrate Judge, or require the person charged to make a mandatory appearance before a Magistrate Judge. In the event a Magistrate Judge is not readily available, an arrested person may post bail in the amount set for the offense in the Schedule of Collateral or if no amount is set then five hundred dollars (\$500.00), unless the person is taken without unnecessary delay before a state or local judicial officer authorized by the 18 U.S.C. 3041, who may then set bail and/or other conditions of release, if appropriate, pursuant 18 U.S.C. 3142.

**LRCrim 57.7**

**COURT CALENDAR MANAGEMENT**

With regard to court calendar management, see Rule 1.1, Local Rules of Civil Procedure.

**LR crim 57.8**

**DOCKETING**

With regard to docketing, see Rule 3.2, Local Rules of Civil Procedure.

**LRCrim 57.9**

**CONDUCT IN COURTROOM AND ENVIRONS**

With regard to conduct in the courtroom and its environs, see Rule 43.1, Local Rules of Civil Procedure.

**LR crim 57.10**

**LOCATIONS**

With regard to locations of courts, see Rule 77.1, Local Rules of Civil Procedure.



**LRCrim 57.11**

**CUSTODY AND DISPOSITION OF EXHIBITS AND SEALED DOCUMENTS**

With regard to custody and disposition of exhibits and sealed documents, see Rule 79.1, Local Rules of Civil Procedure.

**LRCrim 57.12**

**ATTORNEYS**

With regard to attorneys, admission to the bar of this Court, practice, association of local counsel, disbarment or suspension, sanctions for noncompliance with rules or failure to appear, see Rule 83.1, Local Rules of Civil Procedure.

**LR crim 57.13**

**ATTORNEY DISCIPLINE**

With regard to attorney discipline, see Rule 83.2, Local Rules of Civil Procedure.

**LRCrim 57.14**

**APPEARANCE BY ATTORNEY OR PARTY;**

**CONTACT INFORMATION CHANGES; CONTROL OF CAUSE**

With regard to an appearance, withdrawal or substitution by an attorney or a party; contact information changes; and control of cause, see Rule 83.3, Local Rules of Civil Procedure.

**LRCrim 57.15**

**STUDENT PRACTICE RULE**

With regard to student practice, see Rule 83.4, Local Rules of Civil Procedure.

**LR crim 57.16**

**PROHIBITION OF BIAS**

With regard to prohibition of bias, see Rule 83.5, Local Rules of Civil Procedure.

**LR crim 57.17**

**SUSPENSION OF RULES**

With regard to suspension of these Local Rules, see Rule 83.6, Local Rules of Civil Procedure.

**LRCrim 57.18**

**AMENDMENT OF THE RULES OF PRACTICE**

With regard to amendment of the Rules of Practice of the United States District Court for the District of Arizona, see Rule 83.9, Local Rules of Civil Procedure.



**F.R.Crim.P. 58. Petty Offenses and Other Misdemeanors**

**LR crim 58.1**

**ASSIGNMENT OF MISDEMEANORS TO MAGISTRATE JUDGES**

With regard to the assignment of misdemeanor cases to Magistrate Judges, see Rule 5.1 of the Local Rules of Criminal Procedure.

## LRCrim 58.2

### APPEAL FROM JUDGMENTS OF MAGISTRATE JUDGES IN MISDEMEANOR CASES (18 U.S.C. § 3402)

(a) **Notice of Appeal; Service.** A defendant may appeal a judgment of conviction by a Magistrate Judge in a misdemeanor case by filing a notice of appeal with the Clerk of the Court within fourteen (14) days after entry of the judgment, and by serving a copy of the notice upon the United States Attorney. The scope of appeal shall be the same as on an appeal from a judgment of the District Court to the Court of Appeals.

(b) **Record on Appeal.** The record on appeal to a District Judge shall consist of the original papers and exhibits filed with the Court and the transcript or tape recording of proceedings before the Magistrate Judge, if any.

(c) **Opening Memorandum.** The appellant shall, within thirty (30) days of the filing of the notice of appeal, file a typewritten memorandum with the Clerk of the Court. The memorandum shall include the following: (1) a statement of the issues presented for review and a statement of the nature of the case; (2) the course of proceedings; and (3) its disposition. There shall follow a statement of the facts relevant to the issues presented for review. The memorandum shall also include any argument which shall contain the contentions of the appellant with respect to the issues presented, and the reasons therefore, with citations to the authorities and statutes relied on. The argument shall be followed by a short conclusion stating the precise relief sought.

(d) **Answering Memorandum.** The appellee shall file an answering memorandum within twenty-one (21) days of the filing and service of the appellant's memorandum. The memorandum shall follow a format similar to the appellant's memorandum, except that a statement of the issues presented for review, a statement of the case, and a conclusion shall be optional.

(e) **Reply Memorandum.** The appellant may file a reply memorandum within fourteen (14) days of the date of service of the appellee's memorandum.

**(f) Request for Oral Argument.** Either party may request oral argument by placing “Oral Argument Requested” immediately below the title of their memorandum. If oral argument is granted, notice shall be given in a manner directed by the Court.

**(g) Extension of Time Limits; Dismissal of Appeal.** The Court may extend the time limits set in this Local Rule upon a showing of good cause made by the party requesting the extension. Such good cause may include reasonable delay in the preparation of any necessary transcript. If an appellant fails to file a memorandum within the time provided by this Local Rule, or an extension thereof, the Court may dismiss the appeal.

**F.R.Crim.P. 59. Matters Before a Magistrate Judge**  
**(NO LOCAL RULE)**

**F.R.Crim.P. 60. Victim's Rights**  
**(NO LOCAL RULE)**

**F.R.Crim.P. 61. Title**  
**(NO LOCAL RULE)**