

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

LOCAL RULES OF CRIMINAL PROCEDURE

As Amended March 23, 2001

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LOCAL RULES
OF
CRIMINAL
PROCEDURE

RULE 1

SCOPE OF RULES

(a) Title and Citation.

These Rules shall be known as the Local Criminal Rules of the United States District Court for the District of Connecticut. They may be cited as "D. Conn. L. Cr. R. ____."

(b) Effective Date.

These rules shall apply in all criminal proceedings in the United States District Court for the District of Connecticut commenced on or after May 1, 1985.

(c) Applicability of Local Civil Rules.

The following Local Civil Rules shall apply in criminal proceedings: Rules 2 (Admission of Attorneys), 3 (Discipline of Attorneys), 4 (Definitions), 6 (Preparation of Pleadings), 7(e) (Proof of Service), 9(a)1 and 2 (Motion Practice), 9(b) (Motions for Extension of Time), 9(e) (Motions for Reconsideration), 9(g) (Reply Briefs), 12(c) (Examination of Jurors), 12(d) (Opening Statements), 12(e) (Secrecy of Jury Deliberations), 14 (Removal of Papers and Exhibits), 15 (Withdrawal of Appearances), 17 (Bill of Costs), 21 (Reporter's Fees), 22 (Remand by an Appellate Court), 26 (Law Student Internship Rules) 30 (Recordings and Photographs), 31 (Sanctions Against Counsel), 32 (Auxiliary Orders) and 33 (Prohibition on Counsel as Witness).

(amended September 17, 1999)

RULE 2

APPEARANCES

Attorneys representing defendants named in an information or indictment shall file a notice of appearance with the Clerk and serve a copy on the United States Attorney and all other counsel of record. Such appearance shall contain the attorney's name, address, zip code, federal bar number, telephone number, fax number and an e-mail address, if available.

(Amended March 23, 2001. Effective April 1, 2001.)

RULE 3

ATTENDANCE OF DEFENDANTS

A defendant in a criminal prosecution admitted to bail shall attend before the Court at all times required by the Federal Rules of Criminal Procedure, and at any time required by the Court.

RULE 4

TIMING OF DISCOVERY

At arraignment the Court shall set a schedule for the filing of motions and responses for discovery requests made pursuant to Rules 12.1, 12.2, and 16, Fed. R. Crim. P. All pretrial proceedings shall be governed by such schedule and by any standing orders on pretrial procedure as the Judges of the District may from time to time adopt. Said standing orders shall be published as an appendix to these Local Rules of Criminal Procedure.

RULE 5

ISSUANCE OF SUBPOENAS ON BEHALF OF PUBLIC DEFENDERS

(a) Within This District.

Any Public Defender, which term shall include both staff members of the Federal Public Defender and counsel specially appointed pursuant to the Criminal Justice Act, may apply to the Clerk for a witness subpoena when the witness involved will be served within the boundaries of this District. The Clerk shall issue such subpoena to said Public Defender in blank, signed but not otherwise filled in. No subpoena so issued in blank may be served outside the boundaries of this District. The filling in of any such subpoena shall constitute a certificate by said Public Defender, that he or she believes the witness in question will be able to provide relevant and material testimony at the trial and that it is the Public Defender's opinion that the attendance of said witness is reasonably necessary to the defense of the charge.

(b) Outside this District.

Where the witness to be subpoenaed will be served outside this District, an *ex parte* application for the issuance of such subpoena shall be made to a Judge or Magistrate.

(c) Service by Marshal.

Service of subpoenas issued by or at the request of a Public Defender shall be made by the United States Marshal or his or her deputies in the same manner as in other cases and the name and address of the person served shall not be disclosed without prior authorization of said Public Defender.

No fee will be allowed for the service by anyone other than the United States Marshal or his or her deputies of any subpoena issued by or at the request of a Public Defender, except when such service has been expressly authorized by written order of Court.

RULE 6

MOTION TO ADOPT

(a) Counsel may file a motion to adopt a motion previously filed by a codefendant in the same case by identifying the motion to be adopted by the name of the motion, the document number, the name of the codefendant who filed the motion and the date the motion was filed. Failure to comply with these requirements will result in denial of the motion to adopt.

(b) Parties may not adopt motions filed in other cases.

(c) Counsel for the government filing an omnibus response to defense motions must identify the motions responded to by the names of the motions, their document numbers, the names of the defendants who filed the motions and the dates the motions were filed.

RULE 7

APPEALS

(a) Notice of Appeal.

When an appeal is taken by a defendant in a criminal case, the Clerk shall cause a file-stamped copy of the notice of appeal to be served upon the United States Attorney, the defendant and all counsel of record in the case. The Clerk shall transmit forthwith a copy of the notice of appeal and of the docket entries to the Clerk of the Court of Appeals.

(b) Bond on Appeal.

The bond of any defendant admitted to bail pending appeal to the Court of Appeals shall be conditioned upon the defendant-appellant's compliance with the Rules of Appellate Procedure and the Rules of the United States Court of Appeals for the Second Circuit concerning the times for filing the record on appeal and briefs. Applications for an extension of time for filing the record on appeal in a criminal case shall be made to the Court of Appeals in accordance with the "Plan to Expedite the Processing of Criminal Appeals" adopted by the United States Court of Appeals for the Second Circuit.

(c) Transcripts on Appeal.

When an appeal is taken, counsel shall take the necessary steps forthwith to order that portion of the Court reporter's transcript which is required for appeal purposes. The Court reporter shall notify the Chief Judge of the United States Court of Appeals for the Second Circuit of the date on which such transcript has been completed. When the transcript is completed, a copy thereof shall be filed immediately by the appellant with the Clerk of the District Court for perfecting the record on appeal.

RULE 8

SEALED DOCUMENTS

(a) Counsel seeking to file a document under seal shall file a motion to seal, which shall be accompanied by the document and an unsealed envelope (or other appropriate sealing package). The unsealed envelope shall bear the caption of the criminal case or miscellaneous civil matter, the docket number, and a description of the document(s) to be sealed in the form outlined in paragraph (f). The Clerk of Court shall file stamp the motion to seal, the sealing envelope, and the document(s) to be sealed, shall docket the motion and sealing envelope, and shall forward the motion to seal and sealing envelope with the document(s) to be sealed contained therein, to the Court for consideration. If ordered sealed by the Court, the Clerk shall seal the envelope and its contents, and shall note the date of the sealing order on the envelope and docket sheet. Upon submission by the party seeking a sealing order, the sealing envelope and its contents shall be treated as a sealed document until directed otherwise by the Court.

(b) Counsel filing documents that are, or may be claimed to be, subject to any protective or impounding order previously entered shall file with the documents, and serve on all parties, a notice that the documents are, or are claimed to be, subject to such order or orders, identifying the particular order or orders by date, and shall submit such documents to the Clerk *under seal*.

(c) Any file or document ordered sealed by the Court upon motion of the parties, by stipulation, or by the Court, *sua sponte*, shall remain sealed pending further order of this Court, or any Court sitting in review.

(d) Any documents submitted to the Clerk under seal shall be kept and maintained by the Office of the Clerk in a separate, locked filing cabinet or other secure location. All sealed materials shall be maintained by docket number and the docket number shall be the same as that of the underlying criminal case or miscellaneous civil matter. The Clerk shall cause the docket card and the Court's file to reflect that a document or documents have been filed and/or are being held under seal. The Clerk shall not keep any sealed document in the Court file, or in any place other than the separate, locked filing cabinets or other secure location used to keep and maintain documents filed under seal.

(e) Upon final determination of the action, as defined in Rule 14 of the Local Rules of Civil Procedure, the Clerk of Court shall advise counsel that counsel shall have ninety (90) days to file a motion pursuant to Rule 14 for the return of sealed documents or

requesting their destruction. Any sealed document thereafter remaining may be destroyed by the Clerk pursuant to Rule 14 or retired by the Clerk with other parts of the file to the Federal Records Center, whereupon they shall be automatically unsealed without notice to counsel.

(f) The unsealed envelope shall be in substantially the following form:

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

[CAPTION] NO. _____

.

Contents: _____

Judicial Officer: _____

Attorney: _____

Date Sealed:

Date Unsealed: _____

The Clerk of the Court is directed to seal the contents of this envelope until further order of the Court.

SO ORDERED this ____ day of _____, 19____, at _____, Connecticut.

RULE 9

DISCLOSURE OF PRESENTENCE REPORTS

(a) Initial Disclosure of Presentence Reports.

Unless otherwise ordered by the Court, the Probation Officer shall, not more than six (6) weeks after the verdict or finding of guilt, disclose the presentence investigation report, including the worksheets utilized to calculate sentencing guideline ranges, to the defendant and to counsel for the defendant and the government. Within fourteen (14) days thereafter, counsel shall communicate in writing to the Probation Officer and to opposing counsel any objections they may have as to any of the following items contained in or omitted from the report:

- (i) factual inaccuracies;
- (ii) other material information;
- (iii) guideline calculations and sentencing ranges;
- (iv) sentencing classifications;
- (v) sentencing options; and
- (vi) bases for departure.

(b) Revisions to Report.

After receiving counsel's objections, the Probation Officer shall conduct any further investigation and make any revisions to the presentence report that may be necessary. Any counsel or the Probation Officer may request a meeting to discuss unresolved factual and legal issues.

(c) Submission of Revised Presentence Report.

No later than seven (7) days after the deadline for counsel's objections, the Probation Officer shall submit the revised presentence report to the sentencing judge and disclose the revised presentence report to the defendant and counsel for the defendant and the government. The report shall be accompanied by an addendum setting forth any objections counsel may have made that have not been resolved, together with the Probation Officer's comments thereon, and shall have attached thereto any written objections submitted to the Probation Officer pursuant to Local Rule 9(a). The Probation Officer shall certify that the contents of the report, including any revisions to the report, have been disclosed to the defendant and to counsel for the defendant and the government, that the content of the addendum and the Probation Officer's comments on unresolved issues have been communicated to counsel, and that the addendum fairly states any remaining objections.

(d) Objections to Revised Presentence Report.

Except with regard to any objection made under subdivision (a) that has not been resolved, the final presentence report may be accepted 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.

(e) Scheduling Order.

The Court shall, with the assistance of the Probation Officer and counsel, establish a scheduling order governing the dates for the initial disclosure of the presentence report, objections by counsel, disclosure of the revised report, sentencing memoranda and responses to sentencing memoranda. In accordance with Fed. R. Crim. P. 32(b)(6), initial disclosure of the presentence report must occur not less than thirty-five (35) days before the sentencing hearing unless the defendant waives this minimum period.

(f) Modification of Time Limits.

The times set forth in this Rule may be modified by the Court by scheduling order as provided in Local Rule 9(e) or for good cause shown, except that the 6 week period set forth in subsection (a) may be enlarged only with the consent of the defendant. In cases in which the defendant has agreed to cooperate with the government, and counsel for the government or the defendant wish to toll the timetable provided in Local Rule 9(a), counsel may submit a request under seal for a confidential sentencing conference pursuant to Local Rule 10(d). At any such sentencing conference, counsel may request the Court to establish a report date at which point counsel must report back to the Court as to the status of the case. At the report date, the Court can consider whether to set a sentencing date and enter a scheduling order pursuant to Local Rule 9(e) or set another report date.

(g) Non-Disclosable Information.

Any information that the Probation Officer believes, consistent with Fed. R. Crim. P. 32(b)(5), should not be disclosed to the defendant (such as diagnostic opinions, sources of information obtained upon a promise of confidentiality, or other information the disclosure of which might result in harm, physical or otherwise, to the defendant or other persons) shall be submitted on a separate page from the body of the report and marked "confidential." The sentencing Judge in lieu of making the confidential page available, exclusive of the sentencing recommendation, shall summarize in writing the factual information contained therein if it is to be relied on in determining the sentence. The summary may be provided to the parties in camera. The Judge must give the defendant and defendant's counsel a reasonable opportunity to comment on the information. Nothing in this Rule requires disclosure of portions of the presentence report that are not disclosable under Fed. R. Crim. P. 32.

(h) Date of Disclosure.

The presentence report shall be deemed to have been disclosed (1) when a copy of the report is physically delivered, (2) one (1) day after the report's availability for inspection is orally communicated, or (3) three (3) days after notice of its availability is mailed.

(i) Limitations on Disclosure by the Government and the Defense.

Disclosure of the presentence report is made to the government and to the defense, subject to the following limitations:

1. The attorney for the government shall not disclose the contents of the presentence report to any person other than the case agent, experts or consultants hired by the government and the Financial Litigation Unit of the United States Attorney's Office when a fine is imposed.

2. The attorney for the defendant shall not disclose the contents of the presentence report to any person other than the defendant or experts or consultants hired by the defense. The defendant shall not disclose the contents of the presentence report to any person other than his or her attorney and spouse.

3. The defendant or his or her attorney may take notes regarding the contents of the presentence report; however, such notes are subject to the same prohibition against disclosure as applies to the report itself.

4. The defendant and the attorney for the defendant and the government may retain their copies of the presentence report, subject to the same limitations on disclosure set forth in this rule.

The presentence report shall remain a confidential Court document, disclosure of which is controlled by the Court. A violation of any of the above conditions shall be treated as a contempt of Court and may be punished by any appropriate sanction, including action by the Grievance Committee pursuant to Rule 1 of these Local Rules of Criminal Procedure and Rule 3 of the Local Rules of Civil Procedure.

(j) Appeals.

On the date of sentencing, a copy of the presentence report shall provisionally be made a part of the district court record and shall be placed under seal. If a notice of appeal is not filed in the district court, the Clerk's Office shall return the report to the Probation Office.

(k) Disclosure to Other Agencies.

1. Any copy of a presentence report which the Court makes available, or has made available, to agencies other than the Federal Bureau of Prisons and the U.S. Parole Commission constitutes a confidential Court document and shall be presumed to remain under the continuing control of the Court during the time it is in temporary

custody of such other agencies. Such copy shall be lent or made available for inspection only for the purpose of enabling other agencies to carry out their official functions and shall be returned to the Court after such use, or upon request.

2. The following legend shall be stamped on the face of those reports lent to all agencies except the Bureau of Prisons and U. S Parole Commission:

CONFIDENTIAL
PROPERTY OF U.S. COURTS
SUBMITTED FOR OFFICIAL USE ONLY.
TO BE RETURNED AFTER USE.

3. Authorized agencies which may have access to a presentence report or summary thereof include the following:

- (i) United States Probation Offices outside this district
- (ii) United States Pretrial Services Officers.
- (iii) The Federal Bureau of Prisons.
- (iv) The United States Parole Commission
- (v) The United States Sentencing Commission.

4. The following legend shall be stamped on those reports sent to the Federal Bureau of Prisons and United States Parole Commission:

CONFIDENTIAL
U.S. PROBATION OFFICE

5. In addition to the above, the Court may authorize disclosure of a presentence report, or a summary thereof, with the written authorization of the defendant, to other agencies that are currently involved in the treatment, rehabilitation or correction of the defendant such as, but not limited to, mental or physical health practitioners, social service and vocational rehabilitation agencies, state or county Courts or probation/parole departments, and correctional institutions.

6. For situations other than those described above, requests for disclosure shall be handled on an individual basis by the Court, and shall be granted only upon a showing of compelling need for disclosure in order to meet the ends of justice.

RULE 10

SENTENCING PROCEDURES

(a) The Role of Defense Counsel.

1. Defense counsel shall read the presentence report prior to sentencing and review the report with the defendant prior to submitting objections pursuant to Rule 9(a) of these Local Rules and prior to sentencing

2. Defense counsel may submit a "Defendant's Version of the Offense" to the Probation Officer and, in that event, shall serve a copy on the attorney for the government. Subject to the restrictions of Fed. R. Crim. P. 32 and Local Rule 9(g), the attorney for the defendant shall promptly make available to the attorney for the government all documents provided to the Probation Officer that were not provided to the government in discovery, unless otherwise excused by the Court for good cause shown.

(b) The Role of the United States Attorney.

1. The United States Attorney or an Assistant United States Attorney may advise the Judge, on the record or confidentially in writing, of any cooperation rendered by the defendant to the Government. If such information is given in written form, the memorandum shall be submitted by the U.S. Attorney and it shall be revealed to defense counsel unless the United States Attorney or his or her assistant shows good cause for non-disclosure.

2. The attorney for the government shall not make any agreement with the defendant or defense counsel regarding the information to be included in the presentence report, including the information conveyed to the probation office in the government's version of the offense. The attorney for the government shall state on the record at any change of plea or sentencing proceeding the government's understanding of the amount of possible restitution based upon consultation with, inter alia, the victim.

3. The attorney for the government may submit a "Government's Version of the Offense" to the Probation Officer and, in that event, shall serve a copy on counsel for the defendant. Subject to the restrictions of Fed. R. Crim. P. 32 and Local Rule 9(g), the attorney for the government shall promptly make available to the attorney for the defendant all documents that are provided to the Probation Officer that were not provided to the defense in discovery, unless otherwise excused by the Court for good cause shown.

(c) The Role of the Probation Officer.

1. In preparing presentence reports, the Probation Officer is responsible to the Court, and is not bound by the terms of any agreement made between the United States Attorney and the defendant or defense counsel.

2. In connection with the preparation of the presentence report, the Probation Officer shall:

(i) Consider any sentence or correctional proposals that the defendant or defendant's counsel may suggest;

(ii) Consider any specific factual and opinion evidence submitted by the defendant or defense counsel relating to defendant's physical and mental condition;

(iii) Pursuant to 18 U.S.C., Section 3664(b), include in the presentence report information concerning any damage or injury that the defendant caused to any victims of the offense as provided in 18 U.S.C. Section 3663, and information concerning the defendant's ability to make restitution, including information about the defendant's family obligations;

(iv) Include the information required by Fed. R. Crim. P. 32(b)(4), including sentencing guideline calculations, the sentencing range, the kinds of sentence available, and an explanation of any aggravating or mitigating factors that may warrant departure.

(v) Notify defense counsel, in advance and without request, of any interview of the defendant or the defendant's spouse, whether in person or by telephone, and provide said counsel with a reasonable opportunity to attend and/or participate in the interview.

(vi) Include in the presentence report all facts known about the offense charged, as related by both the defendant and the government;

(vii) Notify defense counsel and the attorney for the government, without request, of the availability of the presentence report as provided in Local Rule 9.

3. In regard to presentence hearings and the sentencing hearing itself, the Probation Officer shall:

(i) Attend such hearings when requested by the Judge;

(ii) Consult with the Judge regarding any queries that the latter may have;

(iii) Make specific sentence recommendations to the Judge when requested.

(d) Sentencing Memoranda.

Counsel for the defense and the government may submit sentencing memoranda to the Court addressing (i) any factual inaccuracy in the presentence report; (ii) the guidelines calculations; (iii) the available sentencing options, including alternatives to incarceration; (iv) any restitution issues; (v) any bases for departure; and (vi) any other factual or legal issue relevant to sentencing. Any sentencing memorandum shall be filed no later than ten (10) days prior to the

sentencing date, and any response to an opposing party's sentencing memorandum shall be filed no later than three (3) days prior to the sentencing date, unless the Court has provided other deadlines for these memoranda by scheduling order. The times set forth in this Rule may be modified by the Court for good cause shown.

(e) Presentence Conference.

In his or her discretion, the sentencing Judge, prior to the sentencing hearing, may confer with the attorney for the government and defense counsel together (and with the Probation Officer, when requested by the Judge):

1. To be informed of any agreement;
2. To consider questions regarding the presentence report;
3. To define contested issues in the presentence report and, in the discretion of the Judge, establish an appropriate procedure for resolving material factual disputes;
4. To evaluate the significance of data in the presentence report on the issue of whether the data would support a determination to impose probation, home confinement, community confinement, intermittent confinement, or incarceration;
5. To consider the appropriateness of further study of the defendant, including psychiatric evaluation and/or presentence diagnostic commitment to a correctional facility;
6. To review the extent and value of defendant's cooperation with authorities; and
7. To consider any other matters deemed appropriate or necessary by the Judge.

(f) Confidentiality of Communications to Sentencing Judge.

In his or her discretion, the sentencing Judge may hold in confidence any oral or written communication directed to any judicial officer regarding any matter relating to sentencing, any matter relating to a motion filed pursuant to Rule 35, Fed. R. Crim. P., and any inquiry from a defendant or other person relating to the status of the defendant, the defendant's custodial conditions or the defendant's probation or parole. This Rule shall apply whether such communications are made before, during or after sentencing or the making of a motion pursuant to Rule 35, Fed. R. Crim. P. The sentencing Judge may also hold in confidence any communication made at any time by the United States Probation Officer assigned to the case.

(g) Binding Plea Agreements.

The Court may accept a plea of guilty offered by a defendant pursuant to 11(e)(1)(C) of the Federal Rules of Criminal Procedure. The plea agreement shall be reduced to writing and submitted to the Court for its approval. The agreement may provide for a specific

sentence or an applicable Guideline sentencing range. The Court may accept or reject the agreement, or may defer its acceptance or rejection until there has been an opportunity to consider the presentence report. If the Court accepts the agreement it shall inform the defendant that it will embody in the judgment and sentence the disposition provided for in the plea agreement or will impose a sentence within the agreed upon range. If the court rejects the plea agreement, it shall inform the parties of this fact on the record; advise the defendant personally in open court or, on a showing of good cause, *in camera*, that the court is not bound by the agreement; afford the defendant the opportunity to then withdraw the plea; and advise the defendant on the record that if the defendant persists in a guilty plea or plea of nolo contendere, the disposition of the case may be less favorable to the defendant than that contemplated by the plea agreement.

RULE 11

ASSIGNMENTS

(a) Assignment of Judges.

Assignment of Judges to criminal matters shall be made in accordance with a general policy on assignments adopted from time to time by the Judges of the Court in the interest of the effective administration of justice. The personnel of the Clerk's office shall not reveal to any person, other than a Judge or the Clerk of this Court, the order of assignment of Judges or the identity of the Judge assigned to a particular case, until such case has been filed and assigned.

(b) Individual Calendar System.

All cases will be assigned to a single Judge from filing to termination. In the event that it is subsequently determined that there is pending in this District a related case, or, if one is later filed, such case should normally be assigned to the Judge having the earliest filed case. A case may be reassigned at the discretion of the Chief Judge, after due consultation with transferor and transferee Judge.

(c) Substitution.

In the event that justice requires that some action be taken in a case in the absence of the assigned Judge, another Judge may consent to act in his or her behalf.

(d) Docket Numbers.

Upon the filing of an information or indictment a case will be assigned a **criminal** docket number followed by the initials of the Judge to whom the case has been assigned.

RULE 12

SPECIAL PROCEEDINGS

(a) Types of Proceedings.

All criminal proceedings requiring judicial action which do not commence with an indictment or information shall be denominated special proceedings. Such proceedings shall include, but not be limited to, the determination of all matters relating to proceedings before the grand jury, motions pursuant to Rule 41, Fed. R. Crim. P., made before indictment; and proceedings pursuant to the Omnibus Crime Control and Safe Streets Act, 18 U.S.C. Section 2510-20.

(b) Assignment of Judges to Special Proceedings.

At any given time one Judge may be designated to hear special proceedings for a particular seat of Court. Each such Judge shall be assigned to hear special proceedings for a designated period, on a rotating basis. The personnel of the Clerk's office shall not reveal to any person, other than a Judge or the Clerk of the Court, the identity of the Judge assigned to hear special proceedings or the order of assignment of Judges.

(c) Docket Numbers.

All matters involving special proceedings shall be assigned a miscellaneous civil docket number followed by the initials of the judge to whom the case has been assigned.

(d) Subsequent Proceedings.

If a proceeding is brought before the special proceedings Judge pursuant to this Rule 12, and the matter results in the filing of an information or an indictment, the case shall be assigned in the manner provided in Rule 11 of these Local Rules. In all other cases, the Judge to whom a special proceedings matter has been assigned shall normally preside over that matter until it has been concluded.

RULE 13

PUBLIC STATEMENTS BY COUNSEL

(a) Statements Permitted During Investigation.

A lawyer participating in or associated with the investigation of a criminal matter shall not make or participate in making an extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication and that does more than state without elaboration:

1. Information contained in a public record.
2. That the investigation is in progress.
3. The general scope of the investigation including a description of the offense and, if permitted by law, the identity of the victim.
4. A request for assistance in apprehending a suspect or assistance in other matters and the information necessary thereto.
5. A warning to the public of any dangers.

(b) Statements Prohibited After Commencement of Proceedings.

A lawyer associated with the prosecution or defense of a criminal matter shall not, from the time of the filing of a complaint, information, or indictment, the issuance of an arrest warrant, or arrest until the commencement of the trial or disposition without trial, make or participate in making an extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication and that relates to:

1. The character, reputation, or prior criminal record (including arrests, indictments, or other charges of crime) of the accused.
2. The possibility of a plea of guilty to the offense charged or to a lesser offense.
3. The existence or contents of any confession, admission, or statement given by the accused or his refusal or failure to make a statement.
4. The performance or results of any examinations or tests or the refusal or failure of the accused to submit to examinations or tests.
5. The identity, testimony, or credibility of a prospective witness.
6. Any opinion as to the guilt or innocence of the accused, the evidence, or the merits of the case.

(c) Statements Permitted After Commencement of Proceedings.

Rule 13(b) does not preclude a lawyer during such period from announcing:

1. The name, age, residence, occupation, and family status of the accused.
2. If the accused has not been apprehended, any information necessary to aid in his apprehension or to warn the public of any dangers he may present.
3. A request for assistance in obtaining evidence.
4. The identity of the victim of the crime, if otherwise permitted by law.
5. The fact, time and place of arrest, resistance, pursuit, and use of weapons.
6. The identity of investigating and arresting officers or agencies and the length of the investigation.
7. At the time of seizure, a description of the physical evidence seized, other than a confession, admission, or statement.
8. The nature, substance, or text of the charge.
9. Quotations from or references to public records of the Court in the case.
10. The scheduling or result of any step in the judicial proceedings.
11. That the accused denies the charges made against him.

(d) Statements Prohibited During Jury Selection and Trial.

During the selection of a jury or the trial of a criminal matter, a lawyer associated with the prosecution or defense of a criminal matter shall not make or participate in making an extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication and that relates to the trial, parties, or issues in the trial or other matters that are reasonably likely to interfere with a fair trial, except that he may quote from or refer without comment to public records of the Court in the case.

(e) Statements Prohibited Prior to Sentencing.

After the completion of a trial or disposition without trial of a criminal matter and prior to the imposition of sentence, a lawyer or law firm associated with the prosecution or defense shall not make or participate in making an extrajudicial statement that a reasonable person would expect to be disseminated by public communication and that is reasonably likely to affect the imposition of sentence.

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

The following is hereby adopted as a Standing Order on Discovery in all criminal cases in the United States District Court for the District of Connecticut, effective May 1, 1985.

STANDING ORDER ON PRETRIAL DISCOVERY

In all criminal cases, it is Ordered:

(A) Disclosure by the Government.

Within ten (10) days from the date of arraignment, government and defense counsel shall meet, at which time the attorney for the government shall furnish copies, or allow defense counsel to inspect or listen to and record items which are impractical to copy, of the following items in the possession, custody or control of the government, the existence of which is known or by the exercise of due diligence may become known to the attorney for the government or to the agents responsible for the investigation of the case:

(1) Written or recorded statements made by the defendant.

(2) The substance of any oral statement made by the defendant before or after his arrest in response to interrogation by the then known government agent which the government intends to offer in evidence at trial.

(3) Recorded grand jury testimony of the defendant relating to the offense charged.

(4) The defendant's prior criminal record.

(5) Books, papers, documents, photographs, tangible objects, buildings or places, or copies or portions thereof, which are within the possession, custody or control of the government, and which are material to the preparation of the defense or are intended for use by the government as evidence in chief at the trial, or were obtained from or belong to the defendant.

(6) Results or reports of physical or mental examinations and of scientific tests or experiments made in connection with this case. The government shall also disclose to the defendant a written summary of testimony the government intends to use under Rules 702, 703 or 705 of the Federal Rules of Evidence during its case in chief. This summary must describe the witness' opinions, the bases and reasons therefor, and the witness' qualifications.

(7) All warrants, applications, with supporting affidavits, testimony under oath, returns, and inventories for the arrest of the defendant and for the search and/or seizure of the defendant's

person, property, things, or items with respect to which the defendant has standing to move to suppress.

(8) All authorizations, applications, orders, and returns obtained pursuant to Chapter 119 of Title 18 of the United States Code with respect to which the defendant has standing to move to suppress, and if requested by the defendant and at reasonable cost to the defendant, all inventories, logs, transcripts and recordings obtained pursuant to Chapter 119 of Title 18 of the United States Code with respect to which the defendant has standing to move to suppress.

(9) Unless otherwise ordered by the presiding Judge pursuant to paragraph F of this Standing Order, a list of the names and address of all witnesses whom the government intends to call in the presentation of its case-in-chief, together with any record of prior felony convictions and of prior misdemeanor convictions which reflect on the credibility of any such witness.

(10) All information concerning the existence and substance of any payments, promises of immunity, leniency, or preferential treatment, made to prospective government witnesses, within the scope of *United States v. Giglio*, 405 U.S. 150 (1972) and *Napue v. Illinois*, 360 U.S. 264 (1959).

(11) All information known to the government which may be favorable to the defendant on the issues of guilt or punishment within the scope of *Brady v. Maryland*, 373 U.S. 83 (1963).

(12) All information concerning the defendant's identification in any lineup, showup, photospread or similar identification proceedings.

(13) All information relating to other crimes, wrongs or acts of the defendant that will be offered as evidence by the government at trial pursuant to Federal Rule of Evidence 404(b).

(B) Disclosure by the Defendant.

Within fourteen (14) days after the meeting required by Section A is held, defense counsel shall:

(1) Inform the attorney for the government in writing whether the nature of the defense is entrapment, insanity, duress or coercion, or acting under public authority at the time of the offense.

(2) Permit the government to inspect and copy the following items that are within the possession, custody or control of the defendant, the existence of which is known or by the exercise of due diligence may become known to the defendant: (a) books, papers, documents, photographs or tangible objects that the defendant intends to introduce as evidence in his case-in-chief at trial; (b) results or reports of physical or mental examinations and of scientific tests or experiments made in connection with this case that the defendant intends to offer as evidence at trial or which were prepared by a defense witness who will testify concerning the contents thereof. The defendant shall also disclose to the government a written summary of testimony the defendant intends to use as evidence at trial under

Rules 702, 703 or 705 of the Federal Rules of Evidence. This summary must describe the witness' opinions, the bases and reasons therefor, and the witness' qualifications.

(C) Other Discovery Motions.

Within twenty (20) days of arraignment, all motions concerning materials or information **not** covered by this Standing Order must be filed, with supporting papers and a memorandum of law. The party opposing such motion shall file its response within ten (10) days of the filing of the motion. The Court shall refuse to consider any such motions unless the supporting papers contain a certification that counsel have met and that, after good faith efforts to resolve their differences on discovery, they were unable to reach an accord. Unless otherwise directed by the Court, compliance with discovery ordered by the Court shall be made within ten (10) days of the entry of the Court's order.

(D) Continuing Duty.

It shall be the continuing duty of counsel for both sides to reveal immediately to opposing counsel all newly-discovered information or other material within the scope of this Standing Order.

(E) Exhibits.

Not less than ten (10) days prior to trial, the parties shall meet, inspect and premark, either for identification or as full exhibits, all exhibits which they reasonably anticipate will be offered into evidence at trial.

(F) Compliance.

At the time of arraignment or upon motion promptly filed thereafter with supporting moving papers, the Court may, upon a showing of sufficient cause, order the discovery provided under this Standing Order be denied, restricted or deferred, or make such other order as appropriate.

(G) Disclosure of Statements of Witnesses.

After a witness other than the defendant has testified on direct examination at a suppression hearing, a sentencing hearing, a hearing to revoke or modify probation or supervised release, or a detention hearing, the party calling said witness shall produce, for examination and use by the other party, any of the statements in its possession and that relates to the subject matter of the witness' testimony. Any party intending to call a witness at any such proceeding shall ensure that all statements of the witness are available for disclosure at the hearing.