FILED IN THE
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

OCT 2 1979

JOE W. ROMANE, Clerk
By _____ Deputy

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

In the Matter of the Local Rules for the Western District of Washington	ORDER

The local rules for the Western District of Washington are hereby amended by adopting new Criminal Rules as follows:

CrR 5

NOTICE OF ARREST

(a) Notice of Arrest of Parole Violators. As soon as practicable after taking into custody any person charged with a violation of parole, the United States Marshal shall give written notice to the Chief Probation Officer of the date of arrest and the place of confinement of the alleged violator.

(b) Notice of Arrest of Probation Violators. As soon as practicable after taking into custody any person charged with a violation of probation, the United States Marshal shall give written notice to the Chief Probation Officer, the United States Attorney, and the United States Magistrate in Tacoma or Seattle.

(c) Notice of Arrest by Federal Agencies and Others. It shall be the duty of the United States Marshal to require

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all federal agencies and others who arrest or hold 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 United States 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 give written notice to the United States Magistrate in Seattle or Tacoma and the United States Attorney of the date of the arrest and the prisoner's place of confinement.

CrR 5.1

PRELIMINARY EXAMINATION

(c) Recordings

(1) Upon application by a party, the Magistrate shall make the recording of the preliminary examination available, together with suitable playback equipment, at some place under his control, for the party's information in connection with any further hearing or in connection with his preparation for trial.

(2) Applications for preparation of transcripts of preliminary examinations shall be addressed to the Court or a Judge thereof, and shall state specifically why access to the recording is insufficient for the party's needs.

CrR 6

THE GRAND JURY

(a) through (d) Reserved

(e) Recording of Proceedings

All grand jury proceedings, except when the grand jury is deliberating or voting, shall be recorded stenographically or by an electronic recording device. An unintentional

failure of any recording to reproduce all or any portion of a proceeding shall not affect the validity of the prosecution. The recording or reporter's notes or any transcript prepared therefrom shall remain in the custody of the attorney for the government unless otherwise ordered by the court in a particular case.

CrR 12

PLEADINGS AND MOTIONS BEFORE TRIAL

(a) and (b) Reserved

(c) Motions

(1) Time for motions. At the time of arraignment the Court shall set a date for the filing of pretrial motions. No motion may be filed subsequent to that date except upon leave of Court for good cause shown or upon written stipulation of the parties.

(2) Time for responses to motions. Responses to pretrial motions shall be filed within one week after filing of the motion, unless the time allowed is extended by the Court or by written stipulation of the parties.

(3) Obligation of counsel to file memoranda of authorities. Counsel for the moving party shall serve and file with any motion a memorandum of authorities in support of the motion. Opposing counsel shall serve and file a memorandum of authorities in opposition to the motion. Failure by counsel to file a memorandum of authorities may be deemed by the Court to be an admission that the motion, or the opposition to the motion, as the case may be, is without merit.

(4) Need for evidentiary hearing. Each motion and response shall state whether an evidentiary hearing is necessary.

(5) Time for hearing and for ruling. Pretrial hearings shall be conducted as soon after arraignment as is practicable, and the Court shall rule on such motions as soon after the hearings as is practicable.

CrR 17

SUBPOENA

(a) Reserved

(b) Subpoenas requested by counsel appointed under the Criminal Justice Act.

(1) The Clerk of the Court shall issue subpoenas, signed but otherwise in blank, to counsel appointed under the Criminal Justice Act as implemented by Rule CrR 44. No subpoena so issued may be served outside the boundaries of this District. The filling in of any such subpoena by defense counsel shall constitute his certification that the subpoena is necessary to obtain relevant and material testimony and that the witness' attendance is reasonably necessary to the defense of the charge.

(2) If a witness is to be subpoenaed outside the boundaries of this district, an ex parte application for issuance of a subpoena shall be made to the appropriate Court or Magistrate.

(3) Defense counsel may request service of subpoenas under this rule by the United States Marshal. The Marshal shall serve such subpoenas 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 defense counsel. No fee will be allowed for private service of any subpoena issued under this rule unless express advance authorization is obtained by written order of the Court.

(4) As authorized by Rule 17(b) of the Federal Rules of Criminal Procedure, the Court orders that the costs for service of process and payment of witness fees for each witness subpoenaed under the rule, shall be paid in the same manner in which similar costs and fees are paid in case of a

witness subpoenaed on behalf of the government.

CrR 17.1

DELETED

CrR 18

PLACE OF PROSECUTION AND TRIAL

The place of trial shall be the courtroom regularly assigned to the judge handling the case, unless otherwise ordered. A party wishing trial at some other place within the district or elsewhere shall move for the same within the time allowed for filing pretrial motions under these rules.

CrR 22

TIME OF MOTION TO TRANSFER

A motion for change of venue under Rule 21, Fed. R. Crim. P., shall be made within the time allowed for filing pretrial motions under these rules.

CrR 26

TAKING OF TESTIMONY

(a) Procedure at Trial

(1) In the trial the United States shall open the cause by stating generally what it expects to prove. Each defendant shall either then, or after the United States has closed its evidence in chief, state generally what he expects to prove. After all the evidence on each side is in, the United States shall argue the cause to the Court or jury, as the case may be, and shall, during such argument, state fully all of its points and refer to all of its authorities, or by precluded from a reply. Each defendant shall then argue his case, and the United States shall close.

(2) Unless otherwise permitted by the Court, counsel shall conduct the examination of witnesses and

argument to the Court or jury from the lectern, and counsel shall rise upon making objections or otherwise addressing the Court.

(b) Examination of Witnesses

On the trial of an issue of fact only one attorney for each party shall examine or cross-examine any witness unless otherwise ordered by the Court.

CrR 32

SENTENCE AND JUDGMENT

(a)(1) Reserved

(a)(2) In each case in which the Court has advised a defendant of his right to appeal, defense counsel is obligated to file a notice of appeal, or file a notice of decision not to appeal. A notice of the decision not to appeal shall recite that the defendant has been advised of his right to appeal, and waives the same. It shall be witnessed by defense counsel and filed within ten (10) days of entry of judgment.

(b) Reserved

(c)(1) If a defendant desires preparation of a presentence report and its review by the Court prior to entry of a guilty plea or acceptance of a plea agreement by the Court, he shall obtain from the Clerk request and waiver forms and execute the same.

CrR 44

RIGHT TO AND ASSIGNMENT OF COUNSEL

(a) and (b) Reserved

(c) Whenever two or more defendants have been jointly charged or have been joined for trial and are represented by the same attorney or by attorneys who are associated in the practice of law, the Court shall inquire with respect to such

joint representation and shall personally advise each defendant of his right to separate representation, and take such other action as may be appropriate.

CrR 45

TIME

(a) through (c) Reserved

(d) Criminal motions and proposed orders shall be filed, served and heard as provided for motions in the Civil Rules of this Court except that the parties shall note them for the first Friday after the respondent's time to reply will expire under CrR 12(c)(2).

These rules shall be effective November 1, 1979.

Walter T. McGovern, Chief Judge
United States District Court

Morell E. Sharp, Judge
United States District Court

Donald S. Voorhees, Judge
United States District Court

Jack E. Tanner, Judge
United States District Court