CrR 1

SCOPE; DEFINITIONS

(a) Scope

These local rules supplement the Federal Rules of Criminal Procedure (Fed. R. Crim. P.) as to local procedures; they are effective ~~January 1, 2020~~ _____, 2023. They are designated as "CrR", numbered to correspond, where possible, with rules having similar subject matter as the Fed. R. Crim. P~~., and they, along with the local civil rules (LCR) and magistrate judges' rules (MJR), may be cited as "Local Rules, W.D. Wash."~~. The local magistrate judges' rules (MJR) also contain many provisions relating to criminal matters~~., and the following local civil rules apply to criminal matters:~~

~~LCR 1(c) Definitions~~
~~LCR 1(d) Prohibition of Bias~~
~~LCR 3(c) Initial Case Assignment~~
~~LCR 3(e) Motions to Recuse~~
~~LCR 5(b) Service by Electronic Means~~
~~LCR 5(d) Electronic Filing and Signing~~
~~LCR 5(f) Proof of Service~~
~~LCR 5(g)(2) Sealing Requirements~~
~~LCR 5(g)(6) Withdrawing Unsealed Document~~
~~LCR 6 Computing and Extending Time~~
~~LCR 10 Form of Pleadings, Motions and Other Filings~~
~~LCR 11 Signing Filings; Sanctions~~
~~LCR 47(a) Examination of Jurors~~
~~LCR 65.1 Bonds~~
~~LCR 67 Registry Funds~~
~~LCR 77 Conducting Business; Clerk's Authority~~
~~LCR 78 Photography, Broadcasting, and Personal Electronic Devices in the Courthouse~~
~~LCR 79(f) Files Custody and Withdrawal~~
~~LCR 79(g) Custody and Disposition of Exhibits, Depositions~~
~~LCR 83.1 Attorneys; Admission to Practice~~
~~LCR 83.2(b) Withdrawal of Attorneys~~
~~LCR 83.3 Standards of Professional Conduct; Continuing Eligibility to Practice; Attorney Discipline~~
~~LCR 83.4 Legal Interns~~
~~LCR 85 Title and Citations~~

Petitions for Habeas Corpus Under Title 28 U.S.C. 2241 or 2254 and Motions Pursuant to Title 28 U.S.C. § 2255 are addressed in ~~LCR~~ the Local Civil Rules at 100.

(b) Definitions

(1) "Chief Judge" of this district is the judge who has attained that position pursuant to 28

U.S.C. § 136. The Chief Judge shall have precedence and preside at any session that he or she attends. The current Chief Judge of this district is identified on the court's website.

(2) "Clerk" or "Clerk of Court" refers to the District Court Executive/Clerk of Court or a deputy Clerk of Court.

(3) "Court" refers to the United States District Court for the Western District of Washington and to a Judge, Clerk, or deputy clerk acting on behalf of the Court.

(4) "General Orders" are made by the Chief Judge or by the court relating to court administration and are available on the court's website.

(5) "Judge" refers to a United States District Judge, a United States Bankruptcy Judge, or United States Magistrate Judge. Terms used herein (such as "magistrate judge") shall have the same designated meanings as set out in Fed. R. Crim. P. 1(b). Unless the context indicates otherwise "court" and "judge" refer to the judge or magistrate judge before whom the matter or hearing is pending or has been referred; or who may act in the absence of said judge or magistrate judge.

(6) "Meet and Confer" means a good faith conference in person or conducted virtually via videoconference technology to attempt to resolve the matter in dispute without the court's involvement. If, however, it is impractical to meet in person or via videoconference, the conference may be conducted via telephone. The court expects a high degree of professionalism and collegiality among counsel during any meet and confer conference.

(7) "Noting Date" or "Note on Motion Calendar" means the date on which a motion is ripe for the Court's consideration. Counsel should not appear on the noting date unless so directed by the court.

(8) "Stipulated Motion" is a stipulation (agreement) between or among the parties presented to the court with a proposed order.

(c) Reserved

(d) Prohibition of Bias

~~(c)~~ Litigation, inside and outside the courtroom in the United States District Court for the Western District of Washington, must be free from prejudice and bias in any form. Fair and equal treatment must be accorded all courtroom participants, whether judges, attorneys, witnesses, litigants, jurors, or court personnel. The duty to be respectful of others includes the responsibility to avoid comment or behavior that can reasonably be interpreted as manifesting prejudice or bias toward another on the basis of categories such as gender, race, ethnicity, religion, disability, age, or sexual orientation.

* Electronic filing in the Western District of Washington became mandatory on June 1, 2004. The electronic filing procedures for the district can be found at http://www.wawd.uscourts.gov.

CrR 2

PURPOSE AND CONSTRUCTION

These local rules are intended to set out local procedures consistent with the Fed. R. Crim. P. They shall be construed to secure simplicity in procedure, fairness in administration and the elimination of unjustifiable expense and delay.

CrR 3

THE COMPLAINT

RESERVED

CrR 4

ARREST WARRANT OR SUMMONS ON A COMPLAINT

RESERVED

CrR 4.1

COMPLAINT, WARRANT, OR SUMMONS BY TELEPHONE OR OTHER RELIABLE ELECTRONIC MEANS

RESERVED

See CrR 41(d)(3).

CrR 5

INITIAL APPEARANCE

(a) In General

(1) Notice of Arrest. Any agency or person who holds any person in this district on federal criminal charges, shall so advise the U.S. Marshal without unnecessary delay. Except with respect to federal parole violations, after receiving notice or other knowledge during business hours of any such federal arrestee or person held on federal charges anywhere in the district, the marshal shall give notice without unnecessary delay of the date of federal arrest or custody to the courtroom deputy or other designated staff member for the appropriate magistrate judge who will conduct the initial appearance;

(A) After receiving notice from the U.S. Marshal, the courtroom deputy or other designated staff member for the appropriate magistrate judge shall give notice without unnecessary delay to:

1. The designated person in the United States Attorney's Office;

2. During business hours, ~~the U.S. Pretrial Services Office~~ the U.S. Probation and Pretrial Services Office.

~~2.~~3. The designated person in the Federal Public Defenders Office and Criminal Justice Act Administrator.

Like notice, during business hours, shall also be given by the courtroom deputy or other designated staff member to the U.S. Probation and Pretrial Services Office duty officer as to any probation, supervised release, or parole violators.

(B) -(C) Reserved

(2) Arrest Without Warrant — Forty-Eight Hour Rule. Whenever an arrest without warrant occurs and the initial appearance will not be or is likely not to be held within forty-eight hours of arrest (because of the weekend or holidays or unavailability of an appropriate magistrate judge):

(A) A complaint and affidavit will be prepared and presented within forty-eight hours after the arrest to the appropriate magistrate judge at said judge's home or as directed by said judge. If probable cause is found, an order so finding shall be signed and defendant shall be ordered held pending the initial appearance as promptly as that hearing can be scheduled during court hours or as otherwise ordered.

(B) The initial contact with the appropriate magistrate judge shall be made by the United States Attorney or an authorized assistant who shall have either previously prepared or reviewed and approved the form and content of the complaint and affidavit.

~~(3)~~ Initial Case Assignment – Unless otherwise provided in these Rules or the General Orders of the Court, all actions, causes and proceedings shall be assigned by the clerk to judges by random selection.~~Reserved~~

(3)

(4) Appropriate Magistrate Judge. The "appropriate magistrate judge" is the United States magistrate judge who would normally be expected to conduct the initial appearance; or if unavailable, any available United States magistrate judge; or if unavailable, any other magistrate judge as defined in Fed. R. Crim. P. 1(b).

(b) through (f) Reserved

~~(e)~~(g) Appearance of Counsel

(1) Appearance Prior to Arraignment. Any appearance in court prior to arraignment obligates counsel to handle all matters up to, and to appear at, arraignment, unless relieved of said obligation as provided for in paragraphs (3) and (4). (See ~~LCR 83.1~~CrR 62.1 (d)

regarding appearances by non-W.D. Wash. attorneys.)

(2) Appearance at Arraignment. At arraignment, a counsel who has previously appeared may orally withdraw, and arraignment may be continued for up to two weeks to allow defendant to obtain counsel. Any counsel appearing at arraignment may request up to two weeks to finalize a representation agreement with defendant, and the arraignment shall be so continued. Counsel may thereafter be relieved of responsibility by filing, prior to the continued arraignment hearing and after service on defendant and the United States Attorney's Office, a written notice of nonrepresentation, without the necessity of counsel appearing at said hearing; or by appearing and orally stating so on the record. Defendant must be present in all instances. Further continuances of arraignment to finalize representation may be made only upon a proper showing and by order of the judge or magistrate judge before whom the matter is pending upon due consideration of Speedy Trial rights, including the discovery, motions and trial dates, the situation with respect to any codefendants, right-to-counsel rights, and other relevant considerations. Counsel representing a defendant when arraigned or rearraigned is obligated to handle, in the district court, all matters charged at that arraignment or rearraignment.

(3) Stand-In Appearance. With the agreement of defendant on the record in open court, and with court approval, another attorney may appear for defense counsel.

(4) Relief from Representation. Counsel may be relieved:

(A) With the approval of the judge or magistrate judge before whom the matter is pending, endorsed upon a stipulation of substitution submitted ex parte and signed by counsel, substitute counsel, and defendant; or

(B) By an order of the judge or magistrate judge before whom the matter is pending, granting counsel's written motion for withdrawal, served (except portions submitted ex parte and under seal under CrR 55(b)(5)), filed and noted for consideration as required under CrR 12 and ~~LCR 83.2~~ CrR 62.2, with the additional requirement of service upon the defendant; or

(C) By an order appointing other counsel after review of a financial affidavit submitted by defendant pursuant to 18 U.S.C. § 3006A.

The Clerk's Office shall provide to counsel, substitute counsel, the United States Attorney's Office, and, when appropriate, the defendant, copies of approved stipulations, orders allowing withdrawal, and orders appointing counsel.

(h) Release From Custody — Bail/Detention

~~(d)~~ At the initial appearance, the court can schedule or hold a detention hearing only if the case involves one of the circumstances in 18 U.S.C. § 3142(f). If the record does not establish that the case involves one of the circumstances in § 3142(f), the magistrate judge must immediately release the person pursuant to 18 U.S.C. §§ 3142(b) or 3142(c).

~~(1) On federal criminal charges, see CrR 46.~~

~~(2) On Probation and Supervised Release violations, see Fed. R. Crim. P. 32.1 and 46.~~

(i) Request to Recall Warrant of Removal.

The United States Attorney's Office must immediately notify the Court whenever it becomes aware that a charging district has dropped all charges against a defendant who has been ordered transferred to that district under Fed. R. Crim. P. 5(c)(3) but the transfer has not taken place. The United States Attorney should do so by filing a Request to Recall Warrant of Removal in the case in which the transfer was ordered and notifying the Magistrate Judge on duty when the Request is filed.

CrR 5.1

PRELIMINARY HEARING

(a) through (f) Reserved

(b) Recording the Proceedings

(1) Copies of Preliminary Hearing Recording(s). Unless ordered sealed by court order, a copy of the preliminary hearing recording(s) may be obtained from the Clerk's Office and will, whenever possible, be provided within five (5) days of the request. A court-appointed attorney for a defendant and the attorney for the government may obtain a copy free; all others must pay the prevailing rate per recording (as set by the Judicial Conference).

(2) Original Preliminary Hearing Recording(s). The original preliminary hearing recording(s) shall remain in the custody of the Clerk's Office under the control of the court, subject to the Clerk's established procedures for storage of records and retention. The recording(s) may be made available at further hearings or for other purposes, upon application to the court specifying the necessity.

(3) Transcripts. Anyone seeking preparation of transcripts at government expense shall apply to the court or a judge thereof, and shall state specifically why the access to the recording is insufficient for the party's needs.

(c) Reserved

CrR 6

THE GRAND JURY

(a) through (i) Reserved

(j) Grand Jury Practice

(1) Motions practice in connection with Grand Jury proceedings and process issued in aid of such proceedings shall be accorded the secrecy protections as set forth in Fed. R. Crim. P. 6(e).

(2) The Clerk's office shall accept for filing under seal without the need for further judicial authorization all motions and accompanying papers designated by counsel as related to Grand Jury matters.

(3) Such motions shall be assigned Grand Jury cause numbers if not otherwise related to pending criminal cases and will be decided by the judge of this court assigned by the Chief Judge to hear Grand Jury matters.

(4) In all other respects, motions and related filings shall conform to CrR 12(c).

CrR 7

THE INDICTMENT AND THE INFORMATION

RESERVED

CrR 8

JOINDER OF OFFENSES OR DEFENDANTS

RESERVED

CrR 9

ARREST WARRANT OR SUMMONS ON AN INDICTMENT OR INFORMATION

RESERVED

CrR 10

ARRAIGNMENT

Arraignments are generally conducted by a magistrate judge. A trial date, based upon the requirements of the Speedy Trial Act (18 U.S.C. §§ 3161 et seq.), will usually be set at the time the arraignment is first scheduled. Requests for change of a trial date should be addressed to the judge assigned to the case.

See CrR 5(g) regarding appearance of counsel at arraignment; and CrR 18 regarding the place of trial and assignment of cases.

CrR 11

PLEAS

(a) ~~through (b)~~ Reserved

(b) Entering a Plea Without an Agreement

(1) **through (3) Reserved**

(4) If a defendant chooses to plead guilty without a written Plea Agreement, defense counsel must file a Notice of Intent to Enter a Guilty Plea, which includes the following information:

(A) The counts and offenses to which the defendant intends to plead guilty;

(B) The elements of each offense;

(C) The minimum and maximum penalties of each offense;

(D) Known collateral consequences of the guilty plea;

(E) A statement of facts the defendant is prepared to admit under oath;

(F) A statement by counsel that he or she has reviewed the rights the defendant waives upon entry of a guilty plea; and

(G) A statement verifying that counsel has relayed all plea offers and that the defendant did not accept them.

(c) Plea Agreement Procedure

(1) In General. Without court approval, plea agreements in felony cases shall be in writing and signed by the defendant, the defendant's attorney and the attorney for the government. Unless otherwise ordered, all felony plea agreements shall set forth a factual basis for the plea.

(d) through (h) Reserved

(e) Felony Pleas Before Magistrate Judges

The magistrate judges in this district are authorized to accept waivers of indictment and guilty pleas in felony cases with the consent of the defendant, the defendant's attorney, and the United States, and to order a presentence investigation report concerning any defendant who pleads guilty to felony charges (Fed. R. Crim. P. 7(b), 11(a), and 32(c)). In such cases, the United States magistrate judge may conduct the proceedings required by Fed. R. Crim. P. 11, and, if the plea is accepted, order a presentence investigation report pursuant to Fed. R. Crim. P. 32.

If the magistrate judge accepts the plea, the United States magistrate judge shall file a report and recommendation with the district judge to whom the case has been assigned. A copy of such report and recommendation shall be served on all parties. Within fourteen days after such service, any party may file and serve written objections thereto, and any party desiring to oppose such objections shall have seven days thereafter within which to file and serve a written response. The district judge may accept, reject, or modify, in whole or in part, the report and

recommendation of the magistrate judge. Sentencing shall take place before the district judge to whom the case has been assigned. This rule in no way precludes any district judge from reserving the function of conducting the proceedings required by Rule 11 in any/all case(s) assigned to the district judge.

CrR 12

PLEADINGS AND PRETRIAL MOTIONS

(a) Reserved

(b) Motion Procedure

(1) Obligations of Movant. The moving party shall file and serve on each party that has appeared in the action the motion and a proposed order. The argument in support of the motion shall not be made in a separate document but shall be submitted as part of the motion itself. The moving party shall also note the motion~~, as prescribed in subsection (6) hereof~~. If the motion requires the consideration of facts not appearing of record, the movant shall also serve and file copies of all affidavits and photographic or documentary evidence presented in support of the motion. See ~~LCR 5;~~ CrR 49.1; CrR 55. The moving party shall note the motion for twelve days after the day on which it is filed.

(2) Obligations of Opponent. Each party opposing the motion shall~~, within seven days after the filing of a motion and no later than one day before its noting date,~~ file with the clerk~~,~~ and serve on each party that has appeared in the action~~,~~ a brief in opposition to the motion, together with any supporting material as provided in subsection (1) hereof. The deadline for filing the opposition is seven days after the motion is filed.~~The time for service and filing of the brief and any other materials in opposition to the motion may be extended by the court or by written stipulation of the parties; however, the parties may not stipulate to a response date later than the noting date.~~

(3) Reply Brief. The moving party may, but is not required to, file and serve on each party that has appeared in the action a reply brief in support of the motion, together with any supporting material~~, no later than the noting date of the motion~~. The deadline for filing the reply is five days after the opposition.

(4) Noncompliance. If a party fails to file the papers required by this rule, or fails to appear on the day appointed for argument or hearing if such be required by the court, such failure 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.

(5) Length of Briefs. Supporting and opposition briefs filed in connection with any pretrial motion shall not exceed 4,200 words or, if written by hand or with a typewriter, twelve pages without prior approval of the court. Any reply brief shall not exceed 2,100 words or, if written by hand or with a typewriter, six pages without prior approval of the court. ~~See LCR 10.~~ The court may refuse to consider any text, including footnotes, which is not included within the word or page limits. Captions, tables of contents, tables of authorities, signature blocks, and certificates of service need not be included within the word or page

limit. When word limits apply, the signature block shall include the certification of the signer as to the number of words, substantially as follows: "I certify that this memorandum contains words, in compliance with the Local Criminal Rules." Counsel may rely on the word count of a word-processing system used to prepare the brief.

(6) Noting and Consideration of Motions. Unless otherwise authorized by the court, motions shall be noted for consideration twelve days ~~for the second Friday~~ after the ~~motion is filed~~ day of filing, as determined by counting days under Fed. R. Cr. P 45. Under CrR 1(b)(7), parties need not appear on the date noted unless directed to do so by the court. The motion shall include in its caption (immediately below the title of the motion) a designation of the noting date~~Friday upon which the motion is to be noted upon the court's motion calendar. A motion may be noted for a Friday which is a holiday~~. The form shall be as follows:

NOTE ON MOTION CALENDAR: [insert date noted for consideration.]

(7) Meet and Confer Requirement. A motion in limine pursuant to ~~CrR 23.2~~ CrR 23.1(a)(6) and any motion for an order compelling disclosure or discovery must include a certification, in the motion or in a declaration or affidavit, that the movant has in good faith conferred or attempted to confer with opposing counsel in an effort to resolve the dispute without court action. The certification must list the date, manner, and participants to the conference. If the movant fails to include such a certification, the court may deny the motion without addressing the merits of the dispute. A good faith effort to confer with opposing counsel requires a face-to-face meeting or a telephone conference. If the court finds that counsel for any party willfully refused to confer, failed to confer in good faith, or failed to respond on a timely basis to a request to confer, the court may take appropriate action.

(8) Same Day Motions. Stipulated, ~~or~~ joint motions or unopposed motions, motions to file over-length motions or briefs, motions for reconsideration, ex parte motions, and motions to recuse shall be noted for consideration for the day they are filed.

(9) Telephonic Motions. Upon the request of any party, and with the court's approval, a motion may be heard by telephone without the filing of motion papers, unless requested by the court. No request for a telephonic motion shall be considered unless all counsel participate in the call making the request, or unless it is represented by counsel making the call that reasonable efforts have been made to include all counsel in the call, and that such efforts were unavailing. Whether such telephonic motions will be considered, what procedural requirements will be imposed, and the type of relief granted are within the sole discretion of the court. Any such hearing shall be on the record.

(10) Motions for Relief from a Deadline. A motion for relief from a deadline should, whenever possible, be filed sufficiently in advance of the deadline to allow the court to rule on the motion prior to the deadline. Parties should not assume that the motion will be granted and must comply with the existing deadline unless the court orders otherwise.

If a true, unforeseen emergency exists that prevents a party from meeting a deadline, and the emergency arose too late to file a motion for relief from the deadline, the party should

contact the adverse party, meet and confer regarding an extension, and file a stipulation and proposed order with the court. Alternatively, the parties may use the procedure for telephonic motions outlined above. It is expected that if a true emergency exists, the parties will stipulate to an extension.

(11) Emergency Motions. Motions to shorten time are abolished. If immediate action is necessary, parties shall use the procedures for telephonic motions outlined above. If the judge assigned to the case is unavailable, any other judge may hear and dispose of the matter requiring immediate attention, but such action shall not constitute reassignment of the case or proceeding.

(12) Evidentiary Hearings and Oral Arguments. Each motion and response shall state whether an evidentiary hearing is requested. Unless otherwise ordered by the court, all motions will be decided by the court without oral argument. A party desiring oral argument shall so indicate by typing ORAL ARGUMENT REQUESTED in the caption of the motion or responsive brief. If the court determines an evidentiary hearing is appropriate or grants a request for oral argument, the clerk will notify the parties of the date and hour thereof. Counsel shall not appear on the date the motion is noted unless so directed by the court.

(13) Reconsideration of Motions.

(A) Standards. Motions for reconsideration are disfavored. The court will ordinarily deny such motions in the absence of a showing of manifest error in the prior ruling or a showing of new facts or legal authority which could not have been brought to its attention earlier with reasonable diligence.

(B) Procedure. A motion for reconsideration shall be plainly labeled as such. The motion shall be noted for consideration on the day it is filed. The motion shall point out with specificity the matters which the movant believes were overlooked or misapprehended by the court, any new matters being brought to the court's attention for the first time, and the particular modifications being sought in the court's prior ruling. Failure to comply with this subsection may in itself be grounds for denial of the motion.

(C) Response. No response to a motion for reconsideration shall be filed unless requested by the court. No motion for reconsideration will be granted without such a request. The request will set a time when the response is due, and may limit the response to particular issues or points raised by the motion. A reply may be filed not later than seven days after all responses have been served and filed or the time for filing responses has expired, whichever is earlier.

(c) Time for Motions

(1) 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. If arraignment is postponed at the request of the defendant, the deadline for filing and service of pretrial motions shall be three weeks from the new arraignment date, unless the court otherwise orders. In the event superseding charges are filed, counsel for defendant

may apply to the district judge or to the magistrate judge for additional time to file pretrial motions. Such application shall be made on or before the date initially set for arraignment on the superseding charges. See ~~CrR 23.2~~ CrR 23.1(a)(6).

(2) The time for filing motions in limine is governed by CrR 23.1(f).

(d) Motions to Recuse – Whenever a motion to recuse directed at a judge of this court is filed pursuant to 28 U.S.C. § 144 or 28 U.S.C. § 455, the challenged judge will review the motion papers and decide whether to recuse voluntarily. If the challenged judge decides not to voluntarily recuse, he or she will direct the clerk to refer the motion to the chief judge, or the chief judge's designee. If the motion is directed at the chief judge, or if the chief judge or the chief judge's designee is unavailable, the clerk shall refer it to the active judge with the highest seniority.

(e) Format

All pleadings, motions or other filings should include the following:

(1) Margins and Fonts. No less than three inches of space should be left at the top of the first page. All other margins must be at least one inch wide, although formatted lines and numbering, attorney information, the name of the judge(s) to whom copies should be sent, and footers may be placed in the margins. The text of any typed or printed brief must be 12 point or larger and must, with the exception of quotations, be double spaced or exactly 24 points. Footnotes must be 10 point or larger and may be single spaced. A proportionally spaced font must be used on all typed filings.

(2) Title. Each pleading, motion or other filing shall contain the words "United States District Court, Western District of Washington" on the first page and, in the space below the docket number, a title indicating the purpose of the paper and the party presenting it.

(3) Bottom Notation. At the left side of the bottom of each page, an abbreviated title of the pleading, motion or other filing should be repeated, followed by the case number. The page number should be placed after the abbreviated title or in the middle of the bottom of each page. At the right side of the bottom of each page, the law firm (if any), mailing address and telephone number of the attorney or party preparing the paper should be printed or typed.

(4) Dates and Signature Lines. All pleadings, motions and other filings shall be dated and signed as provided by Federal Rule of Civil Procedure 11, CrR 62.5, and the court's Electronic Filing Procedures. If an original document is required to be filed with the court, any required signature thereto must also be original. The court might not consider improperly signed or unsigned documents.

(5) Numbered Paper. Each pleading, motion or other filing shall bear line numbers in the left margin, leaving at least one-half inch of space to the left of the numbers.

(6) Citation to the Record. In all cases where the court is to review the proceedings of an administrative agency, transcripts, deposition testimony, etc., the parties shall, insofar as

possible, cite the page and line of any part of the transcript or record to which their pleadings, motions or other filings refer. Citations to documents already in the record, including declarations, exhibits, and any documents previously filed, must include a citation to the docket number and the page number (e.g., Dkt. # __ at p. __) and citations to legal authority must include page numbers.

(7) Proposed Orders. Any document requiring the signature of the court shall bear the signature of the attorney(s) presenting it preceded by the words "Presented by" on the lefthand side of the last page and shall provide as follows: "Dated this ___ day of (Insert Month), (Insert Year). "_____ "UNITED STATES DISTRICT JUDGE [or UNITED STATES MAGISTRATE JUDGE]"

(8) Marking Exhibits. All exhibits submitted in support of or opposition to a motion must be clearly marked with divider pages. References in the parties' filings to such exhibits should be as specific as possible (i.e., the reference should cite specific page numbers, paragraphs, line numbers, etc.). All exhibits must be marked to designate testimony or evidence referred to in the parties' filings. Acceptable forms of markings include highlighting, bracketing, underlining or similar methods of designations but must be clear and maintain the legibility of the text. Filing parties shall submit only those excerpts of the referenced exhibits that are directly germane to the matter under consideration, or necessary to provide relevant context. Excerpted material must be clearly and prominently identified as such. Parties who file excerpts do so without prejudice to their right to timely file additional excerpts of the exhibit with reply briefs if otherwise appropriate. Responding parties may also timely file additional excerpts of the exhibit that they believe are directly germane.

(9) Format of Hard Copy or Paper Originals. Originals of documents filed with the court shall not contain double-sided pages or items other than 8 ½ x 11 inch paper, unless double-sided or larger original documents are being filed as exhibits. If an original document is required to be filed with the court, any required signature thereto must also be original.

(f) Name and Address of Parties and Attorneys Any attorney representing any party or any party not represented by an attorney must file a notice with the court of any change in address, telephone number or email address. Such notice must be received by the Clerk's Office within ten days of the change. All subsequent pleadings, motions or other filings shall reflect the new address, telephone number, and email. The address, telephone number, and email of the party or its attorney, noted on the first pleadings, motions or other filings or as changed by individual notice, shall be conclusively taken as the last known address and telephone number of said party or attorney.

~~(d)~~ **(g) through (h) Reserved**

CrR 12.1

NOTICE OF AN ALIBI DEFENSE

RESERVED

CrR 12.2

NOTICE OF AN INSANITY DEFENSE; MENTAL EXAMINATION

RESERVED

CrR 12.3

NOTICE OF A PUBLIC-AUTHORITY DEFENSE

RESERVED

CrR 12.4

DISCLOSURE STATEMENT

RESERVED

CrR 12.5

NOTICE OF ENTRAPMENT DEFENSE

In addition to the requirements of Fed. R. Evid. 404(b), if, during the discovery conference or thereafter, the attorney for the defendant advises the attorney for the government that the defense is one of entrapment and provides a synopsis of the evidence of that defense, the attorney for the government shall, within seven days or two weeks prior to trial, whichever is later, disclose a synopsis of any other crimes, wrongs, or acts about which the government has information and which is relevant to said defense and intended for use by the government in its case-in-chief or in rebuttal.

CrR 13

JOINT TRIAL OF SEPARATE CASES

(a) Common Questions

When criminal cases involving common questions of law and fact (but not necessarily the same parties) are assigned to different judges, there may be good reason to assign all of said cases to one judge. Such may be assigned to the judge to whom the case bearing the earliest filing number was assigned, at his or her option.

(b) Related Cases

Counsel are encouraged to file a notice of related case in order to bring such cases to the attention of the court. The notice of related case should be filed in the case bearing the earliest filing number and a copy thereof shall be served upon all counsel of record in all such cases.

(c) Consolidation

A motion for consolidation of indictments or informations under Fed. R. Crim. P. 13 shall be heard by the judge to whom the case bearing the earliest filing number has been assigned, and in the event consolidation is ordered, the consolidated cases shall be heard by said judge.

CrR 14

RELIEF FROM PREJUDICIAL JOINDER

RESERVED

CrR 15

DEPOSITIONS

RESERVED

CrR 16**

DISCOVERY AND INSPECTION

The purposes of this rule are to expedite the transfer of discoverable material contemplated by the Federal Rules of Criminal Procedure between opposing parties in criminal cases and to ensure that pretrial discovery motions to the court are filed only when the discovery procedures outlined herein have failed to result in the exchange of all legitimately discoverable material. It is the intent of the court to encourage complete and open discovery consistent with applicable statutes, case law, and rules of the court at the earliest practicable time. Nothing in this rule should be construed as a limitation on the court's authority to order additional discovery.

(a) Discovery Conference

At every arraignment at which the defendant enters a plea of not guilty, or other time set by the court, the attorney for the defendant shall notify the court and the attorney for the United States, on the record, or thereafter in writing, whether discovery by the defendant is requested. If so requested, at the Fed. R. Crim. P. 16.1(a) discovery conference no later than 14 days after the arraignment, the attorney for the defendant and the attorney for the government shall, if reasonably feasible, comply with the obligations imposed by subsections 16(a)(2) and 16(a)(3) of this rule and try to agree on a timetable and procedures for pretrial disclosure to the opposing party of any additional information in their custody or control or which by due diligence may become known to them. This conference shall be in person or conducted virtually via videoconference technology. If, however, it is impractical to meet in person or via videoconference, the conference may be conducted via telephone.

(1) Proposed Topics for Discussion.

During the conference, or as soon as practicable thereafter considering the size and complexity of the case, the parties should consider ways in which to ensure simplicity in procedure, fairness in administration and the elimination of unjustifiable expense and delay.

If discovery includes electronically stored information, the parties shall discuss the issues listed in the ESI Discovery Production Checklist set out in the Recommendations for Electronically Stored Information (ESI) Discovery Production in Federal Criminal Cases (2012) (National ESI Protocols), found in Appendix B, including subsequent updates.

Other topics for discussion may include:

(A) Whether there is likely to be additional discovery material to be provided and if so:

(i~~)~~) The expected timing for the production of that discovery;

(ii) The expected timing for the production of reciprocal discovery;

(B) Whether there are likely to be affirmative defenses and the timing of those disclosures;

(C) Whether the case can be resolved through plea negotiations and the appropriate timing for making and responding to plea offers;

(D) Whether consideration should be given to proposing a scheduling order to the Court to reflect discovery agreements and to propose dates for various filings different from those already required by the rules, including the following:

1. The filing and responding to pretrial motions (see CrR12(c)(1)), and motions in limine (see CrR 23.~~2~~1(a)(6));

2. The early exchange of preliminary, non-binding exhibit lists and witness lists ~~(see CrR 23.3)~~ in order to facilitate the efficient review of discovery and preparation for trial;

3. The exchange of final exhibit lists and witness lists (see CrR 23.1(a)(3), (a)(4)); and

4. The timing of expert disclosure as set forth in CrR 16(d);

(E) Whether the parties have a different view of the length of trial than originally estimated by the United States;

(F) Whether the trial date set at arraignment is realistic and, if not, what a realistic date might be;

(G) Whether it would be beneficial to have one or more status conferences in the case,

and the schedule for such conferences (see CrR 17.1(a)).

~~(G)~~ Appendix C to the Local Criminal Rules is an example case scheduling order. Appendix D to the Local Criminal Rules is an example case scheduling order for complex cases due to the volume of discovery or the nature of the case, regardless of being designated as complex by the court.

(2) Discovery from the Government.

Consistent with any scheduling order entered by the Court, any timetable agreed to by the parties, or if reasonably feasible at or before the discovery conference the attorney for the government shall comply with its obligations for disclosure of the information and material required by Fed. R. Crim. P. 16(a) and all exculpatory information, including, but not limited to, the following:

(A) Permit defendant's attorney to inspect and copy or photograph any photographs used in any photograph lineup, show up, photo spread, or any other identification proceedings or, if no such photographs can be produced, the government shall notify the defendant's attorney whether any such identification proceeding has taken place and the results thereof;

(B) Permit defendant's attorney to inspect and copy or photograph any search warrants and supporting affidavits which resulted in the seizure of evidence which is intended for use by the government as evidence in chief at trial or which was obtained from, or belongs to, the defendant;

(C) Inform the defendant's attorney whether any physical evidence intended to be offered in the government's case-in-chief, the admissibility of which the defendant may have standing to challenge, was seized by the government pursuant to any exception to the warrant requirement;

(D) Advise whether the defendant was a subject of any electronic eavesdrop, wire tap, or any other interception of wire or oral communications as defined by 18 U.S.C. § 2510, et seq., during the course of the investigation of the case; and

(E) Advise the attorney for the defendant whether the government will provide addresses for the witnesses it intends to call in its case-in-chief at trial. If no time to provide a witness list is agreed between the parties or the court has not adopted a specific scheduling order then the parties shall comply with CrR 23.~~3~~1(a)(4).

The attorney for the government is not required, however, to produce any statements of witnesses which fall within the purview of 18 U.S.C. § 3500 and Fed. R. Crim. P. 26.2, until such time as required under those provisions.

(3) Discovery From Defendant.

If discovery has been requested from the United States, consistent with any scheduling order entered by the Court, any timetable agreed to by the parties, or if reasonably feasible

at the discovery conference, the defense shall comply with the requirements in Fed. R. Crim. P. 16(b). In addition, the defendant's attorney shall advise the attorney for the government if it will provide addresses for the witnesses it intends to call in its case-in-chief at trial. If no time to provide a witness list is agreed between the parties or the Court has not adopted a specific scheduling order, then the parties shall comply with CrR 23.~~3~~1(a)(4).

(4) Substantial Expenses Relating to Discovery.

(A) At the discovery conference, counsel shall discuss whether discovery in the case might involve substantial expense, including the expense of storage, distribution, or organization of electronically stored information. Counsel shall discuss whether a discovery coordinator for the case should be appointed.

(B) If counsel for any party believes that the case might involve substantial expense or that a discovery coordinator for the case should be appointed, the parties shall submit to the court, within seven days after the discovery conference, a joint status report reciting the parties' respective views on these issues.

(C) If, after the discovery conference, counsel for any party believes that circumstances have changed, counsel shall confer and the parties shall, if appropriate, file a joint status report reciting the parties' respective views. See CrR 17.1(a).

(b) Declination of Disclosure

If, in the judgment of the attorney for the government or of the defendant's attorney, it would not be in the interest of justice to make any one or more of the disclosures set forth in the subsections of this rule, disclosure may be declined. A declination of any requested disclosure shall be in writing, directed to opposing counsel. In the event either the attorney for the government or attorney for the defendant declines to provide the names and addresses of witnesses, such a declination shall, in addition, state the particular reasons for the declination. The declination shall be served on opposing counsel and a copy filed with the court at least seven days before the pretrial motions deadline.

(c) Statements of Witnesses

Statements of witnesses, including material covered by Fed. R. Crim. P. 26.2, 18 U.S.C. § 3500, and Fed. R. Crim. P. 6, are to be exchanged:

(1) During the time of trial as provided by Fed. R. Crim. P. 26.2, and 18 U.S.C. § 3500; or

(2) At any time if the parties agree; and

(3) Production of statements of witnesses at a hearing on a motion to suppress evidence will be governed by Fed. R. Crim. P. 12(h).

(d) Expert Disclosures

(1) Within 7 days of the discovery conference or 21 days from the date of arraignment, whichever is earlier, the parties shall submit to the Court a proposed case scheduling order with expert disclosures under Fed. R. Crim. P. 16(a)(1)(G) and Fed. R. Crim. P. 16(b)(1)(C), along with any other case scheduling timelines that the parties believe are appropriate.

~~(3)~~ (2) If no proposed case scheduling order setting expert disclosure due dates is submitted (i) the government shall disclose no later than 30 days before trial any expert testimony it intends to use at trial in its case-in-chief under Fed. R. Crim. P. 16(a)(1)(G); (ii) the defendant shall disclose no later than 14 days before trial any expert testimony it intends to use at trial in its case-in-chief under Fed. R. Crim. P. 16(b)(1)(C); and (iii) the government shall disclose no later than 7 days before trial any expert testimony it intends to use in rebuttal under Fed. R. Crim. P. 16(a)(1)(G).

~~(d)~~(e) Further Discovery or Inspection

If discovery or inspection beyond that provided for above is sought by either counsel, the attorney for the government and the defendant's attorney shall confer with a view toward satisfying these requests in a cooperative atmosphere without recourse to the court. The request for further discovery may be oral or written and the response shall be in a like manner. Only in the event that either party's request for any discovery or inspection cannot be satisfied without recourse to the court may either party move for additional discovery or inspection.

Any motion for further discovery or inspection shall be filed in compliance with these Local Criminal Rules.

~~(e)~~(f) Certification of Compliance

All motions for disclosure or discovery shall contain a certification that the movant has complied with CrR 12(b)(7).

** See Electronic Discovery and Technology Requirements for Criminal Cases, adopted January 2017, available at http://www.wawd.uscourts.gov.

CrR 17

SUBPOENA (OBTAINING THE PRESENCE OF WITNESSES)

(a) Reserved

(b) Defendant Unable to Pay

(1) Payment of Witnesses. The United States Marshal shall pay witness costs and fees incurred pursuant to Fed. R. Crim. P. 17(b), and subsection (2) below.

(2) In-District Services. By presenting a copy of the order of appointment to the U.S. Marshal's Office, a court-appointed attorney may:

(A) Have in-district witnesses served by the United States Marshal; and

(B) Have in-district witnesses paid attendance fees when also providing the documentation required by the U.S. Marshal's Office.

(3) Other Costs. To be allowable, any other costs or fees for defendants unable to pay must be authorized by court order pursuant to Fed. R. Crim. P. 17(b). Service of any out-of-district subpoenas issued pursuant to this subsection is to be done by the U.S. Marshal unless otherwise ordered by the court. Ex parte applications and orders thereon may be filed and maintained under seal until the witnesses have testified.

(4) Nondisclosure of Witnesses. Except as authorized by the court-appointed attorney or defendant found financially unable to pay, the United States Marshal shall not disclose the name and address of persons served pursuant to this rule; and returns of service on such witnesses are to be filed and maintained under seal until the witnesses have testified.

(c) through (h) Reserved

(d) Subpoena Alternatives

See MJR 1(b) which authorizes magistrate judges to issue writs of habeas corpus ad testificandum and other orders or warrants to obtain the presence of witnesses.

CrR 17.1

PRETRIAL AND STATUS CONFERENCES

(a) Policy and Procedure

Any party may request that the court schedule a pretrial or status conference with the trial judge prior to trial. The purpose of such conference or conferences shall be to address outstanding motions, the status of discovery, scheduling, and such other matters as may be appropriate. The parties are encouraged to utilize status and pretrial conferences in complex criminal cases.

(b) Recordation

All pretrial and status conferences in felony cases shall be recorded.

(c) Presence of Defendant

A defendant is required to be present at a pretrial or status conference unless the nature of the hearing is such that the defendant's presence is not required under Fed. R. Crim. P. 43.

CrR 17.2

SETTLEMENT CONFERENCES

REPEALED

CrR 18

PLACE OF PROSECUTION AND TRIAL (ASSIGNMENT OF CASES)

Cases involving federal felonies committed in the Western District of Washington's six "Seattle" counties (Island, King, San Juan, Skagit, Snohomish and Whatcom), in the absence of a court order directing otherwise, shall be assigned equally among the Seattle district judges; and those in the other thirteen "Tacoma" counties (Clallam, Clark, Cowlitz, Grays Harbor, Jefferson, Kitsap, Lewis, Mason, Pacific, Pierce, Skamania, Thurston, Wahkiakum) shall likewise be assigned equally among the Tacoma district judges. In cases involving multiple felony charges committed in both "Seattle" and "Tacoma" counties, the United States Attorney's Office may designate the case as a Seattle or Tacoma case, subject to reassignment upon motion of a defendant, or upon the court's own motion, based upon the convenience of the defendant(s) and the witnesses, and the prompt administration of justice.

The above shall also apply to all proceedings before U.S. district judges in cases involving misdemeanors, including petty offenses and infractions.

Assignments are subject to such changes as may be established by the chief judge for the purposes of equitable assignments of cases to all judges of the district.

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 19

RESERVED

CrR 20

TRANSFER FOR PLEA AND SENTENCE

RESERVED

CrR 21

TRANSFER FOR TRIAL

(a) Through (c) Reserved

~~(b)~~(d) Time to File a Motion to Transfer

A motion to transfer a trial under Fed. R. Crim. P. 21 shall be made within the time allowed for filing pretrial motions under CrR 12.

CrR 22

RESERVED

CrR 23

JURY OR NONJURY TRIAL

RESERVED

CrR 23.1

EXPERT DISCLOSURES, JURY INSTRUCTIONS, EXHIBIT LISTS, WITNESS LISTS, TRIAL BRIEF AND MOTIONS IN LIMINE

Unless a scheduling order with different deadlines has been adopted, the parties shall abide by the following deadlines.

(1) Expert Disclosures. *See* CrR 16(d)(2) for when parties fail to submit a proposed case scheduling order setting expert disclosure dates.

(2) Proposed Instructions. *See* CrR 30.

(3) Exhibit Lists. ~~Unless a specific scheduling order has been adopted for the case,~~ The government shall file its list of case-in-chief exhibits 14 days in advance of the trial date. The defense shall file its list of case-in-chief exhibits no later than ten days in advance of trial. The list of exhibits filed by the defense should not duplicate any exhibit otherwise listed on the government's list of exhibits, upon which the defense can rely.

~~(5)~~ (4) Witness Lists. In the absence of witness safety concerns, the government must provide a list of proposed case-in-chief witnesses to the court and the defense no later than 14 days prior to trial, and the defense must provide its list of proposed case-in-chief witnesses to the court and the government no later than 10 days prior to trial. Witness lists need not be filed until directed by the court. Where reasonable and articulable witness safety concerns are present, the government may redact the names of witnesses for whom such concerns are presented, while still identifying the number of witnesses, both named and redacted on its list.

~~(6)~~ (5) Trial Brief. The government shall serve and file a trial brief discussing matters of substantive law involved in the trial and important or unusual evidentiary matters at least 14 days prior to the trial date. Motions contained in the trial brief will not be considered by the Court. The defense shall file and serve a trial brief ten days before trial. If the government or the defense produces discovery after the date on which a trial brief is to be filed, the opposing party may file a supplemental trial brief after the deadline provided by this rule provided that the supplemental trial brief is directed only at this subsequently-produced

information.

(6) Motions in Limine. The parties must meet and confer prior to the filing of a motion in limine pursuant to CrR 12(b)(7). Unless otherwise ordered by the court, motions in limine shall be filed at least ten days before trial. Responses to motions in limine shall be filed at least five days before trial. No reply shall be filed unless requested by the court. If the government or the defense produces discovery after the date on which motions in limine are to be filed, the opposing party may file a motion in limine after the deadline ~~provided by~~set out in this rule provided that the motion is directed only at this subsequently-produced information.

The government shall serve and file a trial brief discussing matters of substantive law involved in the trial and important or unusual evidentiary matters at least 14 days prior to the trial date. Motions contained in the trial brief will not be considered by the Court. The defense shall file and serve a trial brief ten days before trial. If the government or the defense produces discovery after the date on which a trial brief is to be filed, the opposing party may file a supplemental trial brief after the deadline provided by this rule provided that the supplemental trial brief is directed only at this subsequently-produced information.

~~**CrR 23.2**~~

~~**MOTIONS IN LIMINE**~~

~~The parties must meet and confer prior to the filing of a motion in limine pursuant to CrR 12(b)(7). Unless otherwise ordered by the court, motions in limine shall be filed at least ten days before trial. Responses to motions in limine shall be filed at least five days before trial. No reply shall be filed unless requested by the court. If the government or the defense produces discovery after the date on which motions in limine are to be filed, the opposing party may file a motion in limine after the deadline provided by this rule provided that the motion is directed only at this subsequently-produced information.~~

~~**CrR 23.3**~~

~~**EXHIBIT LISTS AND WITNESS LISTS**~~

~~**(a) Exhibit Lists**~~

~~Unless a specific scheduling order has been adopted for the case, the government shall file its list of case-in-chief exhibits 14 days in advance of the trial date. The defense shall file its list of case-in-chief exhibits no later than ten days in advance of trial. The list of exhibits filed by the defense should not duplicate any exhibit otherwise listed on the government's list of exhibits, upon which the defense can rely.~~

~~**(b) Witness Lists**~~

~~Unless a case-specific scheduling order or protective order entered by the court provides otherwise, in the absence of witness safety concerns, the government must provide a list of proposed case-in-chief witnesses to the court and the defense no later than 14 days prior to trial,~~

~~and the defense must provide its list of proposed case-in-chief witnesses to the court and the government no later than 10 days prior to trial. Witness lists need not be filed until directed by the court. Where reasonable and articulable witness safety concerns are present, the government may redact the names of witnesses for whom such concerns are presented, while still identifying the number of witnesses, both named and redacted on its list.~~

CrR 24

TRIAL JURORS

(a) Examination

The court will conduct a voir dire examination of the prospective trial jurors. Each party shall prepare any suggested questions for the court to propound to the jurors, which shall be served and filed at least ten days before the trial date. In addition, counsel may examine the prospective jurors directly if and to the extent permitted by the court.

(b) ~~through (c)~~ Reserved

(c) Disclosure of Identifying Juror Information

Names of trial jurors shall not be disclosed to the public or media outside open court, except upon order of the court. A request for disclosure of petit juror names to the public or media must be made to the presiding judge. Juror names which may be part of a transcript of court proceedings will be restricted from remote electronic public access. Counsel may not release a jury list or a transcript of voir dire to a defendant except upon order of the court.

(d) Contacting Jurors

Counsel shall not contact or interview jurors or cause jurors to be contacted or interviewed after trial without first having been granted leave to do so by the court.

CrR 25

JUDGE'S DISABILITY

RESERVED

CrR 26

TAKING OF TESTIMONY (AND EXHIBIT HANDLING)

(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 may either then, or after the United States has closed its evidence in chief, state generally what he or she expects to prove. After all the evidence on each side is in, the United States may 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 be

precluded from a reply. Each defendant may then argue his or her case, and the United States may 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, unless unable to do so due to a disability-related or health-related condition. Advance notice should be provided, when appropriate. *See* https://www.wawd.uscourts.gov/visitors/access for information regarding accommodations.~~.~~

(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.

(c) Expert Witnesses

Except as otherwise ordered by the court, a party shall not be permitted to call more than one expert witness on any subject.

(d) Attorney as Witness

If an attorney for any party be examined as a witness on behalf of a party he or she represents and gives testimony on the merits, he or she shall not argue the merits of the cause, either to the court or jury, except by the consent of the opposite party and the permission of the court.

(e) Custody and Disposition of Exhibits

See ~~LCR 79(g)~~CrR 55(a).

CrR 26.1

FOREIGN LAW DETERMINATION

RESERVED

CrR 26.2

PRODUCING A WITNESS'S STATEMENT

RESERVED

See CrR 16(f)

CrR 26.3

MISTRIAL

RESERVED

CrR 27

PROVING AN OFFICIAL RECORD

RESERVED

CrR 28

INTERPRETERS

RESERVED

CrR 29

MOTION FOR A JUDGMENT OF ACQUITTAL

RESERVED

CrR 29.1

CLOSING ARGUMENT

RESERVED

CrR 30

JURY INSTRUCTIONS

(a) Proposed Instructions Required

Unless a specific scheduling order has been adopted for the case, the government shall file its proposed jury instructions 14 days in advance of the trial date. The defense may file any proposed alternative or supplemental instructions no later than ten days in advance of trial. The government may file any supplemental instructions based on the defense filing no later than five days in advance of trial.

Each party has the right to propose additional or modified instructions during the course of the trial.

(b) Format

Each proposed instruction shall be numbered consecutively as "Plaintiff's (or Government's or Defendant's) proposed Instruction No. (fill in number)," and each shall reflect, at the foot of the page, any supporting authority for the instruction.

(c) Filing and Service

All proposed instructions must be served on all parties, filed in the docket, and attached as a Word or WordPerfect compatible file to an e-mail sent to the e-mail orders address of the assigned judge pursuant to the court's electronic filing procedures. The assigned judge may impose additional requirements for submitting proposed jury instructions during a pre-trial conference, in the applicable case management order, or by other order. Further clarification may be obtained by reviewing the assigned judge's web page at http://wawd.uscourts.gov and/or by contacting the assigned judge's in-court deputy.

(d) Reading Instructions Prior to Argument

The court will normally read instructions to the jury after the close of evidence and prior to argument.

(e) Copy of Instructions for Jury Use

A written set of the court's instructions shall be given to the jury when they retire to deliberate their verdict.

(f) Jury Note

If the jury sends the court a note, the court shall notify the parties. In open court, but outside the jury's presence, the court shall allow each side to be heard on the note and the court's proposed response to it. If the court determines that the note requires an answer, the court shall give the answer to the jury in open court with the parties present. The court may instead give the answer in writing if there is no objection from the parties.

Both the note and any written response should be entered on the docket as part of the trial record.

CrR 31

JURY VERDICT

(a) Receiving the Verdict

The defendant or defendants shall be present to receive the verdict of the jury, except as provided in Fed. R. Crim. P. 43(b). One attorney for each party shall also be present.

(b) through (d) Reserved

~~(e)~~**(e) Contacting Jurors After Trial (Verdict)**

Counsel shall not contact or interview jurors, or cause jurors to be contacted or interviewed after trial without first having been granted leave to do so by the court.

CrR 32

SENTENCING AND JUDGMENT

(a) through (c) Reserved

(d) Presentence Report

(1) through (3) Reserved

(4) When Made. 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, the defendant shall execute an appropriate request and waiver.

(5) Confidentiality. Each copy of a probation department presentence report which this court has or does make available to the United States Parole Commission, the Bureau of Prisons, the United States Sentencing Commission or any other agency for any reason whatever constitutes a confidential court document and shall be presumed to remain under the continuing control of the court during the time that such presentence report is in the temporary custody of any of those agencies. Such copy of the presentence report shall be provided to such agency only for the purpose of enabling the agency to carry out its official functions.

(6) Final Presentence Report. The final presentence report shall be provided to counsel for the parties at least 14 days in advance of the sentencing date.

(e) through (h) Reserved

(i) Sentencing

(1) Sentencing Hearing.

(A) Section 5K1.1 Motions. If the government intends to file a § 5K1.1 motion for substantial assistance, the motion must be served on all counsel and filed under seal at least fourteen days prior to sentencing. In such event, the government must also serve and file under seal a written statement of the nature and extent of the defendant's cooperation. Any motion under § 5K1.1 and the supporting written statement must also be provided to the probation officer who has prepared the presentence report. If the government files a § 5K1.1 motion requesting that the court depart from the Guidelines, the defendant may file, in response, his or her version of the defendant's cooperation. Any such response by the defendant must be filed at least seven days prior to sentencing and may be included in the defendant's sentencing memorandum. A duplicate copy of all pleadings shall also be filed for the sentencing judge.

(B) Continuance of Sentencing Date. The sentencing court may continue the sentencing date on its own motion; or upon a telephonic request of a party or the U.S. Probation Office through the judge's courtroom clerk based on the need for more time. A party or a U.S. Probation Officer seeking a continuance should be in a

position to advise the courtroom clerk as to whether or not the request is opposed by any party or by the U.S. Probation Office.

(C) Acceptance of Responsibility. In the event that a defendant wishes to provide a written statement accepting responsibility, the statement should be signed by the defendant. The original should be provided to the U.S. Probation Office with a copy to the United States Attorney at least 21 days prior to sentencing.

(D) Sentencing Memorandum. Counsel for the United States or for a defendant shall serve copies of any sentencing memorandum or related documents upon the opposing party and upon the U.S. Probation Office and file such materials at least seven days prior to sentencing.

(E) Evidentiary Hearing. At least seven days prior to the sentencing hearing, counsel shall inform the probation officer and Clerk's Office whether or not an evidentiary hearing will be requested at the sentencing and, if so, whether witnesses will be called, who they will be, and an estimated length of the hearing.

(j) and (k) Reserved

CrR 32.1

REVOKING OR MODIFYING PROBATION OR SUPERVISED RELEASE

(a) Reserved

(b) Revocation

(1) Reserved

(2) Evidentiary Hearing

(A) Upon request by either party, the U.S. Probation and Pretrial Services Office will provide to the U.S. Attorney's Office and to the attorney of record for the defendant any and all of the following materials that are in the possession of the U.S. Probation and Pretrial Services Office prior to a scheduled evidentiary hearing:

1. Any warrants or court orders related to the alleged violation(s);

2. Any police reports or incident reports related to the alleged violation(s);

3. Any video or audio recordings related to the alleged violation(s);

4. Any photographs related to the alleged violation(s);

5. Any laboratory reports related to the alleged violation(s) and any litigation packet prepared by the laboratory;

6. Any witness statements related to the alleged violation(s);

7. Any statements of the defendant related to the alleged violation(s);

8. Any statements or reports made by a U.S. Probation and Pretrial Services officer related to the alleged violation(s); and

9. Upon the scheduling of an evidentiary hearing, defense counsel should provide the U.S. Probation and Pretrial Services Office with an itemized written request for any file contents that may be considered exculpatory. Upon receipt of this request, the U.S. Probation and Pretrial Services Office should expeditiously request authorization to disclose this information either from the Chief U.S. Probation and Pretrial Services Officer and/or the assigned United States District Judge or assigned United States Magistrate Judge.

(c) Reserved

(d) Confidentiality

1. Probation or supervised release violation petitions for warrants are filed under seal and remain sealed pending the defendant's court appearance. Upon a defendant's initial appearance for the violation(s), the petition is unsealed and made publicly accessible. Petitions for Summons are not filed under seal and are publicly accessible upon filing.

2. Violation memos for both warrant petitions and summons petitions remain court-only documents and are not available to the public.

3. Each copy of a probation or supervised release violation memo which this court has or does make available to the United States Parole Commission, the Bureau of Prisons, the United States Sentencing Commission or any other agency for any reason whatever constitutes a confidential court document and shall be presumed to remain under the continuing control of the court during the time that such violation memo is in the temporary custody of any of these agencies. Such copy of the violation memo shall be provided to such agency only for the purpose of enabling the agency to carry out its official functions.

4. Except for the government and defense counsel, copies of the probation or supervised release sentencing recommendation are not for disclosure to outside agencies.

5. Sentencing Recommendation Submission. The probation or supervised release sentencing recommendation shall be provided to the court and counsel for the parties at least seven days in advance of the evidentiary and/or disposition hearing. This deadline is subject to change at the request of the presiding judge and/or the time frame in which the evidentiary/disposition hearing is scheduled.

(e) A magistrate judge shall conduct all probation or supervised release revocation proceedings as to a defendant originally sentenced by a magistrate judge. In revocation proceedings relating to defendants sentenced by a district judge, initial appearances shall be conducted by a magistrate judge, unless otherwise ordered by a district judge. In the case of an initial appearance scheduled to take place pursuant to a summons, defense counsel shall, if possible, consult with the defendant in advance of the hearing and shall attempt to determine whether the defendant intends to admit the violations. If defense counsel determines that the defendant will admit the

violations, defense counsel shall notify the magistrate judge. The magistrate judge may then strike the scheduled initial appearance and schedule a single hearing in front of the district judge that shall also serve as both the initial appearance and the disposition hearing. If, in a hearing before a magistrate judge, the defendant admits the alleged violation or violations, such admission shall constitute a waiver of a revocation hearing pursuant to Fed. R. Crim. P. 32.1(b)(2), and the matter shall be set for disposition before a district judge. If the defendant denies the alleged violation or violations, the matter will be decided by a district judge.

CrR 32.2

CRIMINAL FORFEITURE

RESERVED

CrR 33

NEW TRIAL

RESERVED

CrR 34

ARRESTING JUDGMENT

RESERVED

CrR 35

CORRECTING OR REDUCING A SENTENCE

(a) through (c) Reserved

(d) Motions to modify an imposed term of imprisonment under 18 U.S.C. § 3582(c)

(1) Obligations of movant. A party moving to modify an imposed term of imprisonment under 18 U.S.C. § 3582(c) shall serve the motion on each party that has appeared in the action. The argument in support of the motion may be submitted as part of the motion itself and need not be made in a separate document. If the motion requires consideration of facts not appearing in the record, the movant shall serve and file copies of all evidence offered in support of the motion. The movant shall note the motion for 40 days after the motion is filed.

(2) Obligations of opponent. A party opposing the motion shall have 30 days to file an opposition to the motion and any supporting material.

(3) Reply brief. The moving party may, but is not required to, file a reply brief in support of the motion within 10 days of the opposition, together with any supporting material.

RESERVED

CrR 36

CLERICAL ERROR

RESERVED

CrR 37

RULING ON A MOTION FOR RELIEF THAT IS BARRED BY A PENDING APPEAL

RESERVED

CrR 38

STAYING A SENTENCE, COURT REGISTRY FUNDS OR A DISABILITY

(a) through (g) Reserved

(h) Deposit into Court Registry Pending Sentencing and Investment of Registry Funds

All deposits into the Registry of the Court must be accompanied by a proposed order. Each proposed order shall contain the following language: "the Clerk is directed to deposit funds into the Registry of the Court in the principal amount of $____."

Acceptable forms of deposit into the Court Registry are cashier's or business check.

(i) Investing and Withdrawing Funds

Funds deposited in the Registry of the Court will be invested in the Court Registry Investment System (CRIS), an interest-bearing account in accordance with the guidelines set up by the Administrative Office of the Court and approved by the court.

All motions for disbursement of registry funds shall specify the principal sum initially deposited, the amount(s) of principal funds to be disbursed and to whom the disbursement is to be made. Each proposed order seeking disbursement of registry funds shall contain the following language: "… the clerk is authorized and directed to draw a check(s) on the funds deposited in the registry of this court in the principal amount of $ ____ plus all accrued interest, payable to (name of payee) and mail or deliver the check(s) to (name of payee)." If more than one check is to be issued pursuant to a single order, the portion of principal and interest due each payee must be separately stated.

Mailing address(es) and a completed IRS W-9 form from each disbursement recipient must be emailed to the Clerk's Office Finance Department at seafin@wawd.uscourts.gov, but shall not be filed in the record.

(j) Clerk Fee

The clerk is directed to deduct from the income earned on the investment a fee as prescribed by the Judicial Conference of the United States and set by the Director of the Administrative Office of the Court.

~~**RESERVED**~~

CrR 39

RESERVED

CrR 40

ARREST FOR FAILING TO APPEAR IN ANOTHER DISTRICT OR FOR VIOLATING CONDITIONS OF RELEASE SET IN ANOTHER DISTRICT

RESERVED

CrR 41

SEARCH AND SEIZURE

(a) through (d)(2) Reserved

(d)(3) Search Warrant Applications by Telephone or Other Reliable Electronic Means

The presumption is that s~~S~~earch warrant applications ~~that are to~~will be presented to the magistrate judge via a written affidavit sworn to by telephone or other reliable electronic means . At the discretion of the magistrate judge, the affiant may be required to appear personally to present the search warrant application. If the preparation of a written affidavit is not possible, the testimony may be recorded~~may be made to a magistrate judge of this district only under the circumstances described below unless otherwise ordered by a United States district judge of this district~~. Whenever possible, the magistrate judge shall have voice recording equipment available to record all telephonic applications for search warrants.

~~(1)~~ An application for a search warrant may be presented by reliable electronic means or by telephone only with the prior approval of the United States Attorney, or an Assistant United States Attorney, for this district.

(A) When the search warrant application is to be presented by reliable electronic means, prior to calling the magistrate judge, the law enforcement agent shall prepare, and the Assistant United States Attorney shall review, the form of the affidavit and proposed search warrant to be presented.

~~(A)~~(B) The magistrate judge must decide whether the circumstances are such that it is reasonable to dispense with the written affidavit and permit the warrant application to be presented via a telephonic search warrant application. One factor the magistrate judge should consider in making this determination is the possibility that if a search warrant were not issued pursuant to the telephone application, there would be a

significant risk that evidence would be destroyed.

~~(B)~~(C) In the rare case when a warrant application is to be made solely by telephone, prior to calling the magistrate judge, the law enforcement agent and the Assistant United States Attorney shall have agreed to a form of affidavit which can be read to the magistrate judge verbatim insofar as circumstances permit.

~~(2)~~ The presentation of a search warrant application by telephone or other electronic means must be made by a conference call in which both a law enforcement agent and an Assistant United States Attorney are able to converse with the magistrate judge, unless the magistrate judge excuses this requirement.

~~(3) The magistrate judge must decide whether the circumstances are such that it is reasonable to dispense with the personal appearance of the law enforcement officer and permit the warrant application to be presented by reliable electronic means or whether the circumstances constitute the rare event when a telephonic search warrant application may be presented. Among the non-exclusive factors the magistrate judge should consider in making this determination are:~~

~~( ) Whether the agent can appear before the magistrate judge during regular court hours;~~

~~( ) Whether the agent requesting a search warrant is a significant distance from the magistrate judge;~~

~~( ) Whether the factual situation is such that it would be unreasonable for a substitute agent, who is located near the magistrate judge, to present a written affidavit in person to the magistrate judge in lieu of proceeding with an application presented by other reliable electronic means or as a telephonic application; and,~~

~~( ) The possibility that if a search warrant were not issued pursuant to the telephone application, there would be a significant risk that evidence would be destroyed.~~

~~(8)~~ If the warrant application is made by sworn oral testimony, whether by telephone or in person, on the first day following the issuance of such a search warrant, the magistrate judge shall have a duplicate recording made of the oral testimony, and furnish that recording to the United States Attorney's Office who shall cause a transcription of the recording to be made and returned to the magistrate judge~~If the warrant application is made by telephone, on the first day following the issuance of a search warrant based on a telephonic application, the magistrate judge shall have a duplicate recording made of the application, furnish that recording to the United States Attorney's Office who shall cause a transcription of the recording to be made and returned to the magistrate judge~~.

~~(9)~~ Deviation from the procedures set forth in this rule may be grounds for the magistrate judge to refuse a warrant application, but shall not necessarily be grounds for a motion to suppress evidence which has been seized.

(e) through (i) Reserved

CrR 42

CRIMINAL CONTEMPT

RESERVED

CrR 43

DEFENDANT'S PRESENCE

RESERVED

CrR 44

RIGHT TO AND APPOINTMENT OF COUNSEL

RESERVED

CrR 44.1

LEGAL INTERNS

See ~~LCR 83.4~~CrR 62.4.

CrR 45

COMPUTING AND EXTENDING TIME

(a) Computing Time

When the Local Rules or a court order permits a party to act within a period of time stated in days or a longer unit of time and the last day of the period is a Saturday, Sunday, or legal holiday, the time period continues to run until the following day that is not a Saturday, Sunday, or legal holiday. "Following day" is determined by counting only forward in time. If an order of the court sets a specific calendar date by which a party must act, the date is not extended even if it falls on a Saturday, Sunday, or legal holiday unless otherwise ordered by the court. If access to the electronic filing system is not available due to failure of the court's filing system(s) for a period longer than two hours, or any period after 5pm, or if the courthouse is closed for unanticipated reasons, filing deadlines are extended to the next business day. If the closure results in a party having additional time to file a response to a motion, then the deadline for the party filing a reply shall be extended by the same number of days.

(b) Motions to shorten time have been abolished. *See* CrR 12(b)(11).

~~**RESERVED**~~

For a Time Table of trial events under these local rules, see **Appendix A.**

CrR 46

RELEASE FROM CUSTODY; SUPERVISING DETENTION

(a) Release Prior to Trial

(1) Pursuant to the Pretrial Services Act of 1982 (18 U.S.C. §§ 3152, 3155), the court authorizes U.S. Probation and Pretrial Services of the Western District of Washington to perform all pretrial services as provided by the Act.

(2) Upon notification that a defendant has been arrested, pretrial service officers will conduct a pretrial services~~prerelease~~ interview as soon as practicable, if counsel for defendant consents. Counsel for defendant shall be allowed to be present at any such interview. The judicial officer setting conditions of release or reviewing conditions previously set shall receive and consider reports submitted by pretrial service officers.

(3) Appearance bonds and related documents shall be on such forms as are approved by the court.

(b) through (d~~i~~) Reserved

(e) Bonds

(1) Qualifications of Surety – Monetary Deposit Every bond must be secured by either a monetary deposit equal to the amount of the bond, or a corporation authorized by the Secretary of the Treasury of the United States to act as surety on official bonds under 31 U.S.C. §§ 9301-9306, which corporation shall have on file with the clerk one of the following: (i) proof that the corporation is incorporated in Washington, (ii) a copy of the power of attorney appointing a resident agent for service of process in this district, or (iii) proof that the corporation has a resident agent who is an official of the State of Washington authorized or appointed under Washington law to receive service of process on the corporation.

(2) Bail Reform Act – In criminal cases where conditions of release have been set under the bail reform act, a bond with sureties other than as set out in paragraph (e)(1) of this rule may be approved by a judicial officer.

~~(b)~~(3) Court Officers as Sureties – No clerk, marshal, member of the bar, or other officer of this court will be accepted as surety on any bond or other undertaking in any action or proceeding in this court. Monetary deposits on bonds may be made by members of the bar on oral certification that the funds are the property of a specified person who has signed as surety on the bond. Upon voiding of the bond, such moneys shall be returned to the surety alone and not to the attorney.

CrR 47

MOTIONS AND SUPPORTING AFFIDAVITS

RESERVED

See CrR 12

CrR 48

DISMISSAL

RESERVED

CrR 49

SERVING AND FILING PAPERS

~~**Reserved**~~

(a) Electronic Filing and Signing – Unless otherwise specifically ordered by the court or directed by the clerk, all counsel are required to electronically file documents through the court's electronic filing system and to comply with the electronic filing procedures for the district. Unrepresented parties are authorized, but are not required to, electronically file documents. The court's Electronic Filing Procedures for Civil and Criminal Cases can be found on the court's website at www.wawd.uscourts.gov.

CrR 49.1

PRIVACY PROTECTION FOR FILINGS MADE WITH THE COURT

(a) Redacted Filings.

In addition to redactions required by Fed. R. Crim. P. 49.1, p~~P~~arties shall redact in its entirety ~~refrain from including, or shall partially redact where inclusion is necessary, the following personal data identifiers from all documents filed with the court or used as exhibits in any hearing or at trial, unless otherwise ordered by the court:~~

~~(4) Dates of Birth - redact to the year of birth~~

~~(5) Names of Minor Children - redact to the initials~~

~~(6) Social Security Numbers and Taxpayer-Identification Numbers - redact in their entirety~~

~~(7) Financial Accounting Information - redact to the last four digits~~

~~(8)~~ Passport Numbers and Driver License Numbers. ~~- redact in their entirety~~

~~(2) Home Addresses - redact to the city and state of the address.~~

~~(c)~~(b) through (c~~h~~) Reserved

(d) ~~See CrR 55(b) & (c).~~ Matters To Be Filed Under Seal

If the following matters or items are filed, they shall be filed under seal, with access provided only to court staff:

(1) grand jury matters;

(2) pretrial services reports and recommendations;

(3) petitions for warrant, until the defendant appears on the petition;

(4) financial affidavits in support of motions for appointment of counsel;

(5) materials relating to motions for leave to withdraw as counsel;

(6) psychological or psychiatric reports;

(7) lists of prospective or seated jurors;

(8) transcripts of voir dire;

(9) materials relating to a defendant's cooperation, *e.g.* U.S.S.G. § 5K1.1, 18 U.S.C. § 3553(e) memos, or Rule 35(b), and supporting documents must be filed electronically via CM/ECF pursuant to General Order ___ of this court so they do not appear on the publicly available docket. These materials must be served on the opposing party via traditional means;

(10) release status reports;

(11) final presentence reports and recommendations;

(12) the judge's statement of reasons for the sentence imposed; and

(13) documents received from a defendant who is represented by counsel may be forwarded to counsel or filed under seal, pending review by and specific order of the court. Pro se motions to disqualify counsel should ordinarily be filed under seal and ex parte.

(e) Sealing Requirements

If a party wishes to file under seal materials other than those enumerated above, a motion or stipulated motion to seal must be made or filed before or at the same time the party files the sealed materials. The motion should set forth a specific statement of the applicable legal standard and the reasons for keeping a document under seal, with evidentiary support from declarations when necessary.

Parties may file a motion or stipulated motion requesting that the court unseal a document.

Withdrawing Unsealed Document

When the court denies a motion to seal, the clerk will unseal the document unless (1) the court orders otherwise, or (2) the party who is relying on the sealed document requests in the motion to seal or response that, if the motion to seal is denied, the court withdraw the document from the record rather than unseal it. If a document is withdrawn on this basis, the parties shall not refer to it in any pleadings, motions or other filings, and the court will not consider it. For this reason, parties are encouraged to seek a ruling on motions to seal well in advance of filing underlying motions relying on those documents.

(f) through (h) Reserved

CrR 50

PROMPT DISPOSITION

RESERVED

CrR 51

PRESERVING CLAIMED ERROR

RESERVED

CrR 52

HARMLESS AND PLAIN ERROR

RESERVED

CrR 53

REGULATION OF CONDUCT

(a) Release of Information by Attorneys

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

With respect to a pending investigation of any criminal matter, a lawyer participating in the investigation shall refrain from making any extra-judicial statement, for dissemination by any means of public communication, that goes beyond the public record or that is not necessary to inform the public that the investigation is underway; to describe the general scope of the investigation; to obtain assistance in the apprehension of a suspect; to warn the public of any dangers; or otherwise to aid in the investigation.

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

(1) The prior criminal record (including arrests, indictment, or other charges of crime), or the character or reputation of the accused, except that the lawyer may make a factual statement of the accused's name, age, residence, 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 apprehension or to warn the public of any dangers he may present;

(2) The existence or contents of any confession, admission, or statement given by the accused, or the refusal 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 may announce the identity of the victim if the announcement is not otherwise prohibited by law;

(5) The possibility of a plea of guilty to the offense charged or a lesser offense;

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

The foregoing shall not be construed to preclude the lawyer during this period in the proper discharge of his official or professional obligations, from announcing the fact and circumstances of arrest (including time and place of arrest, resistance, pursuit, and use of weapons); the identity of the investigating and arresting officer or agency and the length of the investigation; from making an announcement, at the time of seizure of any physical evidence other than a confession, admission or statement, which is limited to a description of the evidence seized; from disclosing the nature, substance, or text of the charge, including a brief description of the offense charged; from quoting or referring without comment to public records of the court in the case; from announcing the scheduling or result of any stage in the judicial process; from requesting assistance in obtaining evidence; or from announcing without further comment that the accused denies the charges made against him.

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

After the completion of a trial or disposition without trial of any criminal matter, and prior

to the imposition of sentence, a lawyer associated with the prosecution or defense shall refrain from making or authorizing any extra-judicial statement for dissemination by any means of public communication if there is a reasonable likelihood that such dissemination will affect the imposition of sentence.

Nothing in this rule is intended to preclude the formulation or application of more restrictive rules relating to the release of information about juvenile or other offenders, to preclude the holding of hearings or the lawful issuance of reports by legislative, administrative or investigative bodies, or to preclude any lawyer from replying to charges of misconduct that are publicly made against him.

(b) Release of Information by Courthouse Personnel

All courthouse personnel, including among others, court clerks, court reporters, law clerks, secretaries, probation officers, the U.S. Marshal, and deputy marshals, are prohibited from disclosing to any person, without authorization by the court, information relating to a pending criminal case that is not part of the public records of the court. All such personnel are specifically prohibited from divulging information concerning arguments and hearings held in chambers or otherwise outside the presence of the public.

(c) Conduct of Proceedings in a Widely Publicized or Sensational Case

In a widely publicized or sensational case likely to receive massive publicity, the court, on its own motion, or on motion of either party, may issue a special order governing such matters as extra-judicial statements by lawyers, parties, witnesses, jurors and court officials 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 an order. Such special order may be addressed to some or all of the following subjects:

(1) A proscription of extra-judicial statements by participants in the trial, including lawyers, parties, witnesses, jurors, and court officials, which might divulge prejudicial matter 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 so as to avoid their mingling with or being in the proximity of reporters, photographers, parties, lawyers, and others, both in entering and leaving the courtroom and courthouse, and during recesses in the trial;

(3) 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 manner during their deliberations;

(4) Sequestration of the jury on motion of either party or 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 be made of any juror within the environs of the court;

(6) Insulation of witnesses from news interviews during the trial period;

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

(A) An order that no member of the public or news media representatives 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 newsmen.

The above list of subjects is not intended to be exhaustive, but is merely illustrative of subject matters which might appropriately be dealt with in such an order.

(d) Pretrial Publicity

Nothing in this rule or any other criminal rule of this court is intended to restrict the media's right to full pretrial coverage of news pursuant to the First Amendment to the United States Constitution. To assure this right, notice of presentation to the court of any motion for an order affecting the news media's right to full pretrial coverage of pending or impending criminal proceedings must be served by movant upon designated representatives of the principal public media at least twenty-four hours prior to presentation. The designated representative or representatives shall have the right to be heard by the court, in open court, at the time the motion is presented.

(e) Photography and Broadcasting Prohibited And Electronic Devices in the Courthouse

(1) Definitions – As used herein, "Judicial Proceeding" means: (i) any trial or other criminal or civil proceeding, naturalization proceeding or ceremonial occasion occurring in any United States District Court; (ii) any proceeding before any bankruptcy judge or United states magistrate judge; and (iii) sessions of the grand jury;

"Courtroom" of a United States District Court means the courtroom and all space behind the double doors containing the courtroom number and the name of the judge. "Courtroom" of a United States magistrate judge means any place where a judicial proceeding is conducted.

"Environs" means any area located within the interior confines of the United States Courthouse, including but not limited to the entrances, hallways, stairwells, corridors, and lobbies therein.

(2) Personal Electronic Devices in the Courthouse – Personal electronic devices, such as smartphones, laptops, tablet computers, or similar functioning devices having wireless

communications capabilities, may be brought into the courthouse. In the environs, personal electronic devices may be used to make telephone calls, transmit and receive data communications, such as email or text messages, or to access the Internet. In the courtrooms, personal electronic devices may be used to take notes, transmit and receive data communications, such as email or text messages, or to access the Internet. Telephone ring tones and other functional sounds produced by devices must be disabled while in the courtroom. Only silent keyboards may be used in the courtroom. A presiding judge may prohibit or further restrict use of such devices by all persons prior to or during a judicial proceeding when necessary to protect the rights of the parties or to ensure the orderly conduct of the proceedings. Temporary modifications to this rule may be made via General Order and posted on the Court's website.

CrR 54

RESERVED

CrR 55

RECORDS

(a) Files – Custody and Withdrawal

All files and records of the court shall remain in the custody of the clerk and no record or paper belonging to the files of the court shall be taken from the custody of the clerk without a special order of the court or judge and a proper receipt signed by the person obtaining the record or paper. No such order will be made except upon urgent grounds stated in a written application for such order.

~~(a)~~ Custody and Disposition of Exhibits, Depositions – After being marked for identification, all exhibits, except weapons, drugs, or other sensitive materials, shall be placed in the custody of the clerk during the duration of the trial, unless otherwise ordered by the court. Any weapons or other sensitive exhibits shall be held in the custody of the counsel offering the exhibits during the trial. Upon completion of the trial, all exhibits shall be returned to counsel offering them, unless otherwise ordered by the court. A party or his attorney who has custody of an exhibit shall keep it available for the use of the court or an appellate court, and shall grant the reasonable request of any party to examine or reproduce the exhibit for use in the proceeding. This obligation shall continue until any appeal has been finally resolved or time for filing a notice of appeal or petition for writ of certiorari has expired.

~~See LCR 79(f).~~

~~**(b) Matters To Be Filed Under Seal**~~

~~If the following matters or items are filed, they shall be filed under seal, with access provided only to court staff:~~

~~(1) grand jury matters;~~

~~(2) pretrial services reports;~~

~~(3) petitions for warrant, until the defendant appears on the petition;~~

~~(4) financial affidavits in support of motions for appointment of counsel;~~

~~(5) materials relating to motions for leave to withdraw as counsel;~~

~~(6) psychological or psychiatric reports;~~

~~(7) lists of prospective or seated jurors;~~

~~(8) transcripts of voir dire;~~

~~(9) materials relating to § 5K1.1 motions;~~

~~(10) release status reports;~~

~~(11) final presentence reports;~~

~~(12) the judge's statement of reasons for the sentence imposed; and~~

~~documents received from a defendant who is represented by counsel, pending review by and specific order of the court.~~

~~**(c) Motions to Seal**~~

~~If a party wishes to file under seal materials other than those enumerated in CrR 55(b), a motion or stipulated motion to seal must be made or filed before or at the same time the party files the sealed materials. The motion should set forth a specific statement of the applicable legal standard and the reasons for keeping a document under seal, with evidentiary support from declarations when necessary. The party filing the sealed materials shall comply with the requirements of LCR 5(g)(2) and (6) unless otherwise ordered. Parties may file a motion or stipulated motion requesting that the court unseal a document.~~

CrR 56

WHEN COURT IS OPEN, CONDUCTING BUSINESS, CLERK'S AUTHORITY

(a) Regular Sessions of Court

~~(a)~~ The court shall be in continuous session throughout the year in Seattle and in Tacoma. The court may establish other locations in this district for holding court pursuant to General Order. Nothing in this rule shall prohibit the court from conducting proceedings via electronic transmission in lieu of live court proceedings. ~~Reserved~~

(b) Hours and Closures.

The court's hours and holiday closures are set forth on the court's website at https://www.wawd.uscourts.gov.

(c) Text Only Docket Orders

~~(c)~~ The clerk of court may issue text only docket orders for any act within the clerk's authority. A text only docket order is an order electronically entered on the case docket without an attached document and is as official and binding as if the clerk of court had signed a document containing the text. If the one or more of the parties are unrepresented and do not file electronically, the clerk of court will mail to those recipients a copy of the Notice of Electronic Filing of the text only docket order.~~Reserved~~

CrR 57

DISTRICT COURT RULES

RESERVED

CrR 58

PETTY OFFENSES AND OTHER MISDEMEANORS

(a) Reserved

(b) Pretrial Procedure

All informations, indictments, citations, or other instruments on file with the clerk which charge only misdemeanors (including such cases transferred to this district under Fed. R. Crim. P. 20) shall upon filing with the clerk be designated for proceeding before a magistrate judge. If the defendant does not consent to trial and/or disposition before a magistrate judge, and if such consent is required, the clerk shall reassign the case for trial and/or disposition before a district court judge.

(c) Reserved

(d) Securing the Defendant's Appearance; Payment in Lieu of Appearance.

(1) Forfeiture of Collateral. Payment of sums fixed in this court's Schedule of Forfeitable Bail may be accepted in lieu of appearance and as authorizing termination of the proceedings.

Where such proceedings involve a charge of moving traffic violations, the Clerk shall transmit a copy of the charge to the appropriate state's driver licensing authority, and identify it as a record of conviction. A copy of the current "Schedule of Forfeitable Bail and Mandatory Appearances for Misdemeanors and Infractions in the Western District of Washington" is available at the Clerk's Office.

(2) through (3) Reserved

(e) through (f) Reserved

(g) Appeal

(1) Reserved

(2) Decision, Order, Judgment or Sentence by a Magistrate Judge.

(A) through (B) Reserved

(C) Record — Transcript or Recording of Proceeding Before Magistrate Judge. Where the proceedings before a magistrate judge were tape recorded, that recording will be available for review by the district judge, without further action by the parties. Where either party wishes to have a transcript made from that recording, or where the proceedings were attended by a court reporter, that party shall be responsible for arranging for and paying the costs of the preparation of the transcript. A party who qualifies may obtain authorization for the transcript pursuant to the Criminal Justice Act, 18 U.S.C. § 3006A. Counsel for appellant shall arrange to have such transcript filed within twenty-one days after the Notice of Appeal is filed; but upon motion made within such time, the district judge may extend the deadlines for transcript and briefs.

(D) Reserved

(E) Briefs. Appellant shall file and serve an opening brief within twenty-eight days after filing the Notice of Appeal. Appellee shall file and serve a response brief in response within fourteen days thereafter. Appellant may file and serve a reply brief within seven days thereafter. If appellant is pro se, appellant may file a short statement of the issues for the court to consider on appeal, instead of a formal brief.

(F) Oral Argument. The district judge shall have discretion whether to schedule oral argument on an appeal. Any party may request oral argument not later than the deadline for the filing of his initial brief.

(3) Reserved

CrR 59

MATTERS BEFORE A MAGISTRATE JUDGE

RESERVED

CrR 60

VICTIM'S RIGHTS

RESERVED

CrR 61

TITLE

RESERVED

CrR 62.1

ATTORNEYS; ADMISSION TO PRACTICE

(a) The Bar of this Court

The bar of this court consists of those who have been admitted to practice before this court.

(b) Eligibility

An attorney is eligible for admission to the bar of this court if he or she is (1) a member in good standing of the Washington State Bar, or (2) a member in good standing of the bar of any state and employed by the United States or one of its agencies in a professional capacity and who, while being so employed may have occasion to appear in this court on behalf of the United States or one of its agencies.

(c) Procedure for Admission

(1) *Admissions.* With the exception of applicants for conditional admission, each applicant for admission to the bar of this court shall file with the clerk a Petition for Admission to Practice. The petition must include the certificates of two reputable members of the bar of this court attesting to the petitioner's good moral character. The certificates must be completed by members of this court's bar who either reside or maintain an office for the practice of law in the Western District of Washington. The petition form and instructions are available at www.wawd.uscourts.gov. The clerk will examine the petition and if in compliance with this rule, the petition for admission will be granted.

(2) *Conditional Admission.* In the case of an attorney for the United States or one of its agencies who is not a member of the Washington State Bar, he or she must file a Petition for Conditional Admission to Practice, which can be downloaded from the court's website, and state the department or agency by which he or she is employed and the circumstances

justifying the proposed admission to the bar of this court. The right of such an attorney to practice before this court is conditioned upon his or her continuing to be so employed. If a conditionally admitted attorney ceases to be employed as an attorney for the United States or one of its agencies, the conditional admission will be revoked and the attorney must file a petition for admission as set forth in CrR 62.1(c)(1) and pay the applicable fee.

(d) Permission to Participate in a Particular Case *Pro Hac Vice*; Responsibilities of Local Counsel

(1) *Admission Pro Hac Vice.* Any member in good standing of the bar of any court of the United States, or of the highest court of any state, or of any organized territory of the United States, and who neither resides nor maintains an office for the practice of law in the Western District of Washington normally will be permitted upon application and upon a showing of particular need to appear and participate in a particular case *pro hac vice*. The party must also be represented by local counsel, who shall fulfill the responsibilities set forth below. Attorneys who are admitted to the bar of this court but reside outside the district need not associate with local counsel.

An application for leave to appear *pro hac vice* shall be promptly filed with the clerk and shall set forth: (1) the name and address of the applicant's law firm; (2) the basis upon which "particular need" is claimed; (3) a statement that the applicant understands that he or she is charged with knowing and complying with all applicable local rules; (4) a statement that the applicant has not been disbarred or formally censured by a court of record or by a state bar association; and (5) a statement that there are no pending disciplinary proceedings against the applicant. This application, which can be downloaded from the court's website, must be filed electronically by local counsel. Applications filed under this rule will be approved or disapproved by the clerk.

(2) *Responsibilities of Local Counsel.* To qualify to serve as local counsel, an attorney must have a physical office within the geographic boundaries of the Western District of Washington and be admitted to practice before this court.

Local counsel must review, sign, and electronically file the applicant's *pro hac vice* application. By agreeing to serve as local counsel and by signing the *pro hac vice* application, local counsel attests that he or she is authorized and will be prepared to handle the matter in the event the applicant is unable to be present on any date scheduled by the court.

Unless waived by the court in addition to those responsibilities and any assigned by the court, local counsel must review and sign all motions and other filings, ensure that all filings comply with all local rules of this court, and remind *pro hac vice* counsel of the court's commitment to maintaining a high degree of professionalism and civility from the lawyers practicing before this court as set forth in the Introduction to the Criminal Rules.

CrR 62.2

ATTORNEY APPEARANCE AND WITHDRAWAL

(a) Entry of Appearance

An attorney eligible to appear may enter an appearance in a criminal case by properly signing in accordance with the ECF Filing Procedures and filing a Notice of Appearance on behalf of the party the attorney represents.

(b) Withdrawal of Attorneys

(1) No attorney shall withdraw an appearance in any criminal case, except by leave of court, unless the withdrawal complies with the requirements of subsections (b)(2) or (b)(3). Leave shall be obtained by filing a motion or a stipulation and proposed order for withdrawal or, if appropriate in a criminal case, by complying with the requirement of CrR 5(g). A motion for withdrawal shall be noted in accordance with CrR 12(b) and shall include a certification that the motion was served on the client and opposing counsel. A stipulation and proposed order for withdrawal must (1) be signed by all opposing counsel or pro se parties, and (2) be signed by the party's new counsel, if appropriate, or by the party. If a withdrawal will leave a party unrepresented, the motion to withdraw must include the party's address and telephone number. The attorney will ordinarily be permitted to withdraw at the discretion of the court in a criminal case.

(2) Where there has simply been a change of counsel within the same law firm, an order of substitution is not required; the new attorney should file a Notice of Appearance and the withdrawing attorney should file a Notice of Withdrawal. However, where there is a change in counsel that effects a termination of one law office and the appearance of a new law office, the substitution must be effected in accordance with subsection (b)(1), which requires leave of court.

(3) Where a party is represented by multiple attorneys from the same or different firms and one or more attorneys wish to withdraw but will not leave the client without representation, leave of the court to withdraw is not required. The remaining or withdrawing attorney(s) shall file a Notice of Withdrawal, which shall include a statement that the client remains represented and identifies the withdrawing and remaining attorneys. The Notices shall be signed by the withdrawing attorney(s) and the remaining attorney(s) of record to confirm that fact. If circumstances prevent obtaining the signature of the withdrawing attorney(s), the Notice must state those circumstances in sufficient detail to satisfy the court that those circumstances in fact preventing obtaining signature.

(4) A business entity, except a sole proprietorship, must be represented by counsel. If the attorney for a business entity, except a sole proprietorship, is seeking to withdraw, the attorney shall certify to the court that he or she has advised the business entity that it is required by law to be represented by an attorney admitted to practice before this court and that failure to obtain a replacement attorney by the date the withdrawal is effective may result in the dismissal of the business entity's claims for failure to prosecute and/or entry of default against the business entity as to any claims of other parties.

(5) When a party is represented by an attorney of record in a case, the party cannot appear or act on his or her own behalf in that case, or take any step therein, until after the party requests by motion to proceed on his or her own behalf, certifies in the motion that he or she has provided copies of the motion to his or her current counsel and to the opposing party, and is granted an order of substitution by the court terminating the party's attorney as counsel and substituting the party in to proceed pro se; provided, that the court may in its discretion hear a party in open court, notwithstanding the fact that he or she is represented by an attorney.

(6) When an attorney suddenly becomes unable to act in a case due to death, incapacity, removal or suspension, the party for whom he or she was acting as attorney must, before any further proceedings are had in the action on his or her behalf, unless such party is already represented by another attorney, (i) appoint another attorney who must enter an appearance in accordance with subsection (a) or (ii) seek an order of substitution to proceed pro se in accordance with subsection (b)(5).

(7) Unless the attorney withdraws in accordance with these rules, the authority and duty of an attorney of record shall continue after final judgment.

(c) Notices of Unavailability

Notices of unavailability are not required. Such notices, if filed, do not alter dates set by the Court or criminal rules. The Court expects the parties to confer about significant periods of unavailability. This rule does not preclude an attorney from requesting relief from a deadline due to a scheduling difficulty. *See* CrR 12(b)(10).

CrR 62.3

STANDARDS OF PROFESSIONAL CONDUCT; CONTINUING ELIGIBILITY TO PRACTICE; ATTORNEY DISCIPLINE

(a) Standards of Professional Conduct

In order to maintain the effective administration of justice and the integrity of the court, attorneys appearing in this district shall be familiar with and comply with the following materials ("Materials"):

(1) The local rules of this district, including the local rules that address attorney conduct and discipline;

(2) The Washington Rules of Professional Conduct (the "RPC"), as promulgated, amended, and interpreted by the Washington State Supreme Court, unless such amendments or additions are specifically disapproved by the court, and the decisions of any court applicable thereto;

(3) The Federal Rules of Criminal Procedure;

(4) The General Orders of the court.

In applying and construing these Materials, the court may also consider the published decisions and formal and informal ethics opinions of the Washington State Bar Association, the Model Rules of Professional Conduct of the American Bar Association and Ethics Opinions issued pursuant to those Model Rules, and the decisional law of the state and federal courts.

(b) Continuing Eligibility and Maintenance of Good Standing

(1) *Representation of Continuing Eligibility.* By signing any document filed with the court or otherwise participating in any matter before the court, an attorney certifies that he or she is currently eligible to practice before this court. Should the status of an attorney change so that he or she no longer meets the requirements of CrR 62.1(b), he or she shall notify the Clerk of Court in writing no later than 10 days after the change in status.

(2) If the change in status is due to a disciplinary proceeding or criminal conviction, the provisions of CrR 62.3(c) shall apply. Otherwise, upon receipt of a notification of change of status, the Chief Judge, or other district judge who may be assigned to the matter, may issue an Order to Show Cause why the court should not suspend or revoke the attorney's admittance to practice before the court. The Order to Show Cause shall contain:

(A) a reference to the notification of the change of status;

(B) an order directing the attorney to show cause within 30 days why the attorney's admission to practice before this court should not be suspended or revoked;

(C) notification that failure by the attorney to file a timely response to the Order to Show Cause may be deemed to be acquiescence to suspend or revoke the attorney's admission to practice before the court.

(3) If the attorney files a response stating that he or she does not contest the suspension or revocation of his or her admission to practice before this court or the attorney does not respond to the Order to Show Cause within the time specified, then the Chief Judge or other judge assigned to the matter may issue an order suspending or revoking the attorney's admission to practice before this court.

(4) If the attorney files a written response to the Order to Show Cause within the time specified, stating that he or she contests the entry of an order suspending or revoking his or her admission to practice, then the Chief Judge, or other district judge who may be assigned, shall determine whether such an order shall be entered. The judge shall impose an order suspending or revoking the attorney's admission to practice unless the attorney demonstrates by clear and convincing evidence that one or more of the following elements have been shown from the record:

(A) the procedure in the other jurisdiction was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process;

(B) there was such an infirmity of proof establishing the reasons underlying the change in status in the other jurisdiction as to give rise to a clear conviction that the court should not accept as final the other jurisdiction's conclusion(s) on that subject;

(C) the imposition of suspension or revocation would result in a grave injustice; or

(D) other substantial reasons exist so as to justify not suspending or revoking the attorney's admission to practice.

(c) Attorney Discipline

(1) *Jurisdiction*. Any attorney admitted to practice before this court, admitted for a particular proceeding and/or who appears before this court is subject to the disciplinary jurisdiction of this court.

(2) *Powers of an Individual Judge to Deal with Contempt or Other Misconduct Not Affected*. Nothing contained in this Rule shall be construed to limit or deny the court the powers necessary to maintain control over proceedings before it, including the contempt powers. Nothing contained in this Rule precludes the court from imposing sanctions for violations of the Local Rules, the Federal Rules of Criminal Procedure, or other applicable statutes and rules.

(3) *Grounds for Discipline*. An attorney may be subject to disciplinary action for any of the following:

(A) violations of the Standards of Professional Conduct stated in subsection (a) above;

(B) disbarment, suspension, sanctions or other attorney discipline imposed by any federal or state court, bar association or other governing authority of any state, territory, possession, or the District of Columbia, or any other governing authority or administrative body which regulates the practice of attorneys;

(C) conviction of any felony or a misdemeanor involving dishonesty or corruption, including, but not limited to, those matters listed in Rule 7.1(a)(2)(B)-(c) of the Washington Rules of Enforcement of Lawyer Conduct ("ELC");

(D) misrepresentation or concealment of a material fact made in an application for admission to the Bar of this court or in a pro hac vice or reinstatement application;

(E) violation of this court's Oath of Attorney.

(4) *Types of Discipline*. Discipline may consist of one or more of the following:

(A) disbarment from the practice of law before this court.

(B) suspension from the practice of law before this court for a specified period;

(C) interim suspension from the practice of law before this court, defined as the temporary suspension of a lawyer from the practice of law pending imposition of final discipline. Examples of situations in which the court will consider interim suspension include:

(i) suspension upon conviction of a serious crime;

(ii) suspension when the lawyer's continuing conduct is likely to cause immediate and serious injury to a client or the public; or

(iii) inability to practice.

(D) reprimand, defined as a form of public discipline which declares the conduct of the lawyer improper, but does not limit the lawyer's right to practice before this court;

(E) admonition, defined as a form of non-public discipline which declares the conduct of the lawyer improper, but does not limit the lawyer's right to practice before this court;

(F) The following types of discipline may be imposed alone or in conjunction with other types of discipline. If imposed alone or in conjunction with a reprimand, these other types of discipline need not be made public by the court:

(i) probation, with or without conditions;

(ii) restitution;

(iii) fines and/or assessment of costs; and

(iv) referral to another appropriate disciplinary authority.

Any discipline imposed may be subject to specific conditions, which may include, but are not limited to, continuing legal education requirements, counseling and/or supervision of practice.

(5) Discipline Initiated by the Court.

(A) Authority of the Court. The court has the inherent authority to govern the conduct of attorneys practicing law before it.

(B) Initiation of a Grievance. A United States District Court Judge, Bankruptcy Judge, or Magistrate Judge may present to the Chief Judge a written grievance alleging that an attorney has violated any of the standards of conduct specified in this Rule and recommending the imposition of discipline against that attorney. The Chief Judge shall review the grievance and determine whether the grievance should be dismissed or pursued further.

If the Chief Judge determines that the grievance should be pursued, he or she may refer it to another judge who shall review the record and evaluate the evidence. If the Chief Judge initiates the grievance, he or she must refer it to another judge. If, at any time during the evaluation of a grievance, the Chief Judge or the assigned judge determines that the grievance would be more appropriately addressed by the Washington State Bar Association or other governing authority or administrative body which governs the practice of attorneys, the Chief Judge and the judge who

referred the grievance may refer the matter to another authority or dismiss the grievance.

(C) Notice and Hearing.

(i) If, after reviewing the record, the assigned judge determines that the matter should not be pursued, he or she will inform the Chief Judge. If the assigned judge concludes that a disciplinary proceeding should be conducted, he or she will issue an order to show cause to the respondent attorney explaining the alleged misconduct and inviting the attorney to show cause why he or she should not be disciplined. The notice shall be sufficiently clear and specific to inform the respondent attorney of the alleged misconduct. The order to show must also state that the failure to file a timely response may be deemed acquiescence to the imposition of discipline. The order to show cause shall be emailed and mailed to the attorney at the last known addresses the attorney provided to the court.

(ii) The attorney will be afforded at least thirty days to present any objections and show cause why discipline should not be imposed, and the order to show cause must include the deadline.

(iii) The attorney may request a hearing and choose to be represented by counsel at his or her own expense. There is no right to court appointed counsel or to a jury at the disciplinary proceeding.

(iv) During the hearing, if one is requested, or in the attorney's response to the order to show cause, the respondent attorney may submit any evidence or statements to rebut the grievance. The court may impose disciplinary sanctions only after the respondent attorney is afforded the opportunity to present evidence and argument in rebuttal and/or mitigation.

(v) If the attorney fails to file a timely response to the order to show cause, the assigned judge will review the record and determine whether the imposition of discipline is warranted.

(D) Confidentiality. During the pendency of the disciplinary proceedings, the allegations and other records of the proceeding will remain confidential and will not be made a part of the public record.

(E) Recommendation to the Chief Judge. Within a reasonable time after the hearing, if one has been requested, or after receiving the attorney's response to the order to show cause, the assigned judge shall make findings of fact and conclusions of law and recommend the disciplinary action, if any, to be taken. The assigned judge will transmit his or her findings of fact and conclusions of law, recommendation, and the record to the Chief Judge.

(F) Imposition of Discipline. The Chief Judge will review the documents transmitted by the assigned judge under subparagraph (E) and determine whether discipline

should be imposed and if so, the appropriate discipline. If the Chief Judge initiated the grievance, then the matter shall be referred to the judge who is next in seniority for review and a determination. The appropriate disciplinary sanction to be imposed is within the court's discretion. However, in determining the proper disciplinary sanction, the court may refer to the American Bar Association Standards for Imposing Lawyer Sanctions. In addition, the court may, in its discretion, use as a guide any federal or state case law the court deems helpful.

(6) Reciprocal Discipline.

(A) For purposes of this section, "discipline by any other jurisdiction" refers to discipline imposed by any federal or state court, bar association or other governing authority of any state, territory, possession, or the District of Columbia, or any other governing authority or administrative body which regulates the practice of attorneys.

(B) For purposes of this section, "discipline by any other jurisdiction" refers only to suspension, disbarment or other disciplinary action which temporarily or permanently deprives an attorney of the right to practice law.

(C) Upon receipt of a copy of an order or other official notification that he or she has been subjected to discipline by any other jurisdiction, an attorney who is also subject to the disciplinary jurisdiction of this court shall provide the Clerk of Court with a copy of such disciplinary letter, notice or order.

(D) Any attorney subject to the disciplinary jurisdiction of this court who resigns from the Bar of any other jurisdiction while disciplinary proceedings are pending against the attorney in that jurisdiction shall promptly notify the Clerk of Court of such resignation.

(E) Upon receipt of reliable information that an attorney subject to the disciplinary jurisdiction of this court has been subjected to discipline by any other jurisdiction, or has resigned from the Bar of any other jurisdiction while an investigation or proceeding for discipline was pending, the Chief Judge, or other district judge who may be assigned to the matter, may issue an Order to Show Cause why reciprocal discipline should not be imposed by this court. The Order to Show Cause shall contain:

(i) a reference to the order or other official notification from the other jurisdiction;

(ii) an order directing the attorney to show cause within 30 days why reciprocal discipline should not be imposed by this court;

(iii) an order directing that if the attorney chooses to respond to the order and to contest the imposition of reciprocal discipline, he or she must produce a certified copy of the entire record from the other jurisdiction or persuade the court that less than the entire record will suffice;

(iv) notification that failure by the attorney to file a timely response to the Order to Show Cause may be deemed to be acquiescence to reciprocal discipline.

(F) If the attorney files a response stating that he or she does not contest the imposition of reciprocal discipline from this court, or if the attorney does not respond to the Order to Show Cause within the time specified, then the court may issue an order of reciprocal discipline. In fashioning the sanction to be imposed, the court may be guided by the discipline imposed by the other jurisdiction. The order imposing reciprocal discipline shall be issued by the Chief Judge or other district judge who may be assigned to the matter.

(G) If the attorney files a written response to the Order to Show Cause within the time specified, stating that he or she contests the entry of an order of reciprocal discipline, then the Chief Judge, or other district judge who may be assigned, shall determine whether an order of reciprocal discipline shall be entered. The judge shall impose an order of reciprocal discipline, unless the attorney demonstrates by clear and convincing evidence that one or more of the following elements appear from the record on which the original discipline is predicated;

(i) the procedure in the other jurisdiction was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process;

(ii) there was such an infirmity of proof establishing the misconduct as to give rise to a clear conviction that the court should not accept as final the other jurisdiction's conclusion(s) on that subject;

(iii) the imposition of like discipline would result in a grave injustice; or

(iv) other substantial reasons exist so as to justify not accepting the other jurisdiction's conclusion(s).

(7) Discipline Based Upon a Criminal Conviction.

(A) Any attorney subject to the disciplinary jurisdiction of this court shall promptly notify the Clerk of Court of the attorney's conviction of any felony or a misdemeanor involving dishonesty or corruption, including, but not limited to, those matters listed in Rule 7.1(a)(2)(B)-(c) of the ELC (hereafter, "crime" or "criminal conviction").

(B) Upon receipt of reliable proof that an attorney has been convicted of any of those matters identified in paragraph A above, the court shall enter an order of interim suspension, suspending the attorney from engaging in the practice of law in this court pending further order. Upon good cause shown, the court may set aside such suspension where it appears to be in the interest of justice to do so.

(C) The court shall forthwith issue an order to the subject attorney directing the attorney to show cause why the conviction or the facts underlying the conviction do not affect the attorney's fitness to practice law and why the attorney should not be

subject to discipline based upon the conviction. The Order to Show Cause shall contain:

(i) a copy of or a reference to the notification to the court that the attorney has been convicted of a crime;

(ii) an order directing the attorney to show cause within 30 days why the criminal conviction or underlying facts do not affect the attorney's fitness to practice law, and why discipline should not be imposed by this court;

(iii) notification that failure by the attorney to file a timely response to the Order to Show Cause may be deemed acquiescence to discipline based upon the criminal conviction.

(D) If the attorney files a response stating that he or she does not contest the imposition of discipline by this court based upon the criminal conviction, or if the attorney does not respond to the Order to Show Cause within the time specified, then the court may issue an order of discipline.

(E) If the attorney files a written response to the Order to Show Cause within the time specified, stating that the criminal conviction or its underlying facts do not affect the attorney's fitness to practice law or stating that he or she contests the entry of an order of discipline, then the court shall determine whether discipline should be imposed.

(F) The discipline to be imposed shall be within the court's discretion. The court may consider the underlying facts of the criminal conviction, the sentence imposed on the attorney, the gravity of the criminal offense, whether the crime involved dishonesty or corruption, the effect of the crime on the attorney's ability and fitness to practice law, and any other element the court deems relevant to its determination.

(G) Upon the court's receipt of reliable proof demonstrating that the underlying criminal conviction has been reversed or vacated, any suspension order entered under subparagraph (7)(B) and any other discipline imposed solely as a result of the conviction may be vacated.

(8) Disciplinary Orders and Notices.

(A) Any order of discipline, except for non-public forms of discipline, as stated in subparagraph (4)(E)-(F) herein, shall be a public record.

(B) The court shall cause copies of all orders and notices of discipline, except for an admonition, to be given to the Clerk of Court, the Clerk of the United States District Court for the Eastern District of Washington, the Clerk of the United States Bankruptcy Court for the Western District of Washington, the Clerk of the United States Court of Appeals for the Ninth Circuit, the Washington State Bar Association, and the appropriate disciplinary bodies in the jurisdictions in which the court knows the disciplined attorney is admitted to practice.

(9) Reinstatement.

(A) No attorney who has been suspended or disbarred from practice before this court may resume practice before the court until reinstated by order of the court.

(B) Any attorney who has been suspended or disbarred from practice before this court may not apply for reinstatement until the expiration of such period of time as the court shall have specified in the order of suspension or disbarment.

(C) Any attorney who has been disbarred or suspended from practice pursuant to the provisions of subparagraph (6) (reciprocal discipline) may apply for reinstatement based upon a change of the attorney's status in the jurisdiction whose imposition of discipline upon the attorney was the basis for the imposition of reciprocal discipline by the court.

(D) Any attorney whose admission to practice before this court was suspended or revoked pursuant to CrR 62.3(b) may apply for reinstatement if the attorney becomes eligible again under CrR62.1.

(E) Petitions for reinstatement shall be filed with the Clerk of Court, who will transmit the petition to the Chief Judge. The petition must include a copy of this court's prior order of suspension or disbarment, a copy of an order of reinstatement from another jurisdiction if the petitioner is seeking reinstatement based on such an order, and a concise statement of facts claimed to justify reinstatement. Petitioners for reinstatement after disbarment must also file a Petition for Admission to Practice before this court and pay the applicable fee.

Upon receipt of a petition for reinstatement, the Chief Judge shall consider the matter or refer it to another designated judge. The petitioner shall have the burden of demonstrating that he or she is qualified and able to practice law before this court and that the circumstances that led to the suspension or disbarment have changed. After consideration, the court shall enter an appropriate order.

(F) Expenses incurred in the investigation and proceedings for reinstatement may be assessed by the court against the petitioning attorney, regardless of the outcome of the proceedings.

CrR 62.4

LEGAL INTERNS

(a) Admission to Limited Practice

Qualified law students and graduates of approved law schools may be admitted to the status of legal intern and be granted a limited license to engage in the practice of law only as provided in this rule. To qualify, an applicant must:

(1) Be a student duly enrolled and in good academic standing at an approved law school

with legal studies completed amounting to not less than two-thirds of a prescribed three-year course of study or five-eighths of a prescribed four-year course of study; or

(2) Make the application before expiration of nine months following graduation from an approved law school, and submit satisfactory evidence thereof to the court; and

(3) Certify in writing under oath that the applicant has read, is familiar with, and will abide by, the Washington State Rules of Professional Conduct and this rule.

(b) Procedure

The applicant shall submit to the clerk a completed Application for Leave to Appear as a Legal Intern, which can be downloaded from the court's website. No fee shall be required.

(1) The application shall give the name of, and shall be signed by, the supervising lawyer who, in doing so, shall assume the responsibilities of supervising lawyer set forth in this rule if the applicant is granted a limited license as a legal intern. The supervising lawyer shall be relieved of such responsibilities upon the termination of the limited license or at an earlier time if the supervising lawyer or the applicant gives written notice to the court requesting that the supervising lawyer be so relieved.

(2) Upon receipt of the application, the clerk shall forward it to a district judge or magistrate judge, who will approve or disapprove the application and return it to the clerk.

(c) Scope of Practice

A legal intern shall be authorized to engage in the limited practice of law only as authorized by the provisions of this rule. A legal intern shall be subject to all laws and rules governing lawyers admitted to this court and shall be personally responsible for all services performed as an intern.

(1) A judge may exclude a legal intern from active participation in a case filed with the court in the interest of orderly administration of justice or for the protection of a litigant or witness, and shall thereupon grant a continuance to secure the attendance of the supervising lawyer.

(2) No legal intern may receive payment from a client for the intern's services. However, nothing contained herein shall prevent a legal intern from being paid for services by the intern's employer or to prevent the employer from making such charges for the service of the legal intern as may otherwise be proper. A legal intern, the intern's supervising lawyer or a lawyer from the same office shall, before the intern undertakes to perform any services for a client, inform the client of the legal intern's status, and obtain the client's consent to be represented by a legal intern.

(3) A legal intern may advise or negotiate on behalf of a person referred to the intern by the supervising lawyer. A legal intern may prepare necessary pleadings, motions, briefs or other documents. It is not necessary in such instances for the supervising lawyer to be present.

(4) A legal intern may participate in all court proceedings, including depositions, provided the supervising lawyer or another lawyer from the same office is present. Unless otherwise ordered by the court, the supervising lawyer or another lawyer from the same office shall be present while a legal intern is participating in court proceedings. Ex parte and agreed orders may be presented to the court by a legal intern without the presence of the supervising lawyer or another lawyer from the same office.

(d) Supervising Lawyer

The supervising lawyer shall be admitted to practice before this court. The supervising lawyer shall have been actively engaged in the practice of law for at least three years at the time the application is filed.

(1) The supervising lawyer or another lawyer from the same office shall direct, supervise and review all of the work of the legal intern and both shall assume personal professional responsibility for any work undertaken by the legal intern while under the lawyer's supervision. All pleadings, motions, briefs, and other documents prepared by the legal intern shall be reviewed by the supervising lawyer or a lawyer from the same office as the supervising lawyer. When a legal intern signs any correspondence or legal document, the intern's signature shall be followed by the title "legal intern" and, if the document is prepared for presentation to a court or for filing with the clerk thereof, the document shall also be signed by the supervising lawyer or lawyer from the same office as the supervising lawyer.

(2) Supervision shall not require that the supervising lawyer be present in the room while the legal intern is advising or negotiating on behalf of a person referred to the intern by the supervising lawyer, or while the legal intern is preparing the necessary pleadings, motions, briefs, or other documents.

(3) As a general rule, no supervising lawyer shall have supervision over more than one legal intern at any one time. However, in the case of (i) the Federal Public Defender or the U.S. Attorney, the supervising lawyer may have supervision over two legal interns at one time, or (ii) a clinical course offered by an approved law school where such course has been approved by its dean and is directed by a member of its faculty, each full-time clinical supervising lawyer may have supervision over ten legal interns at one time.

(4) A lawyer currently acting as a supervising lawyer may be terminated as a supervising lawyer at the discretion of the court. When an intern's supervisor is so terminated, the intern shall cease performing any services under this rule and shall cease holding himself or herself out as a legal intern until written notice of a substitute supervising lawyer, signed by the intern and by the new and qualified supervising lawyer, is given to the court.

(5) The failure of a supervising lawyer, or lawyer acting as a supervising lawyer, to provide adequate supervision or to comply with the duties set forth in this rule shall be grounds for disciplinary action by the court.

(6) For purposes of the attorney-client privilege, an intern shall be considered a subordinate of the lawyer providing supervision for the intern.

(7) For purposes of this provision of this rule which permit a lawyer from the same office as the supervising lawyer to sign documents or be present with a legal intern during court appearances, the lawyer so acting must be one who meets all of the qualifications for becoming a supervising lawyer under this rule.

(e) Term of Limited Admission to Practice

A limited admission to practice as a legal intern shall be valid, unless revoked, for a period of not more than 24 consecutive months, provided that a person shall not serve as a legal intern more than 12 months after graduation from law school.

(1) A limited admission to practice before the court is granted at the sufferance of the court and may be revoked at any time upon the court's own motion.

An intern shall immediately cease performing any services under this rule and shall cease holding himself out as a legal intern (i) upon termination for any reason of the intern's limited license under this rule; or (ii) upon the resignation of the intern's supervising lawyer; or (iii) upon the suspension or termination by the court of the supervising lawyer's status as supervising lawyer; or (iv) upon the withdrawal of approval of the intern pursuant to this rule.

CrR 62.5

SIGNING FILINGS; SANCTIONS

(a) Signature

A document signed electronically (by either a digital signature or by an attorney using the "s/ Name" convention) has the same force and effect as if the person had affixed a signature to a paper copy of the document, unless an original document is otherwise required. If an original document is required to be filed with the court, any required signature thereto must also be original. Electronic signatures must be in conformance with this district's Electronic Filing Procedures for Criminal Cases.

(b) Sanctions for Non-Participation, Non-Compliance, or Multiplying or Obstructing Proceedings

An attorney or party who without just cause fails to comply with any of the Federal Rules of Criminal Procedure, these rules, or an order of the court, or who presents to the court unnecessary motions or unwarranted opposition to motions, or who fails to prepare for presentation to the court, or who otherwise so multiplies or obstructs the proceedings in a case may, in addition to or in lieu of the sanctions and penalties provided elsewhere in these rules, be required by the court to satisfy personally such excess costs and may be subject to such other sanctions as the court may deem appropriate.

APPENDIX A

LOCAL CRIMINAL RULES, WESTERN DISTRICT OF WASHINGTON

TIMETABLE – TRIAL AND SENTENCING EVENTS

	EVENT	TIME, DATES AND LIMITS	RULE
1.	Trial Date	Set at arraignment - Speedy Trial Act	CrR 10
2.	Discovery Conference	To be held within 14 days after request for discovery, usually within 2 weeks after arraignment	CrR 16(a)
3.	Motion Filing Date	Normally set 3 weeks from original arraignment date unless otherwise ordered by court	CrR 12(c)
4.	Motion Noting Date (for court consideration)	Second Friday after filing of motion	CrR 12(c)(6)
5.	Motion Response Date	7 days after filing of motion	CrR 12(c)(2)
6.	Motion for Reconsideration and Noting Date	No specified time limit on filing for reconsideration – note on date of filing	CrR 12(c)(10)
7.	Pretrial and Status Conferences	Upon request of a party and order of the court	CrR 17.1(a)
8.	Exhibit Lists Filed	14 days before trial for the government and 10 days before trial for the defense	CrR 23.3(a)
9.	Motions in Limine	10 days before trial	CrR 23.2
10.	Trial Brief	14 days before trial for the government and 10 days before trial for the defense	CrR 23.1
11.	Voir Dire	10 days before trial	CrR 24

	EVENT	TIME, DATES AND LIMITS	RULE
12.	Jury Instructions Filed	10 days before trial and during trial	CrR 30(c)
13.	Witness Lists Exchanged	14 days before trial for the government and 10 days before trial for the defense	CrR 23.3(b)
14.	Witness Statements	After witness has testified at trial or earlier by agreement of parties	Fed. R. Cr. P. 26.2 and CrR 16(f)
15.	Presentence Reports	Furnished by Probation 35 days before sentencing; objections within 14 days of receipt (submit to Probation); final presentence report to counsel 14 days before sentencing; submitted to court 7 days before sentencing	Fed. R. Cr. P. 32(e), (f), & (g) and CrR 32(d)(6)
16.	Sentencing § 5K1.1 Motions	14 days before sentencing	CrR 32(i)(1)(A)
17.	5K1.1 Motion Response	7 days before sentencing	CrR 32(i)(1)(A)
18.	Acceptance of Responsibility Statement	21 days before sentencing (submit to Probation)	CrR 32(i)(1)(C)
19.	Sentencing Memorandum	7 days before sentencing	CrR 32(i)(1)(D)

APPENDIX B

LOCAL CRIMINAL RULES, WESTERN DISTRICT OF WASHINGTON

ESI DISCOVERY PRODUCTION CHECKLIST

- Is this a case where the volume or nature of ESI significantly increases the case's complexity?
- Does this case involve classified information?
- Does this case involve trade secrets, or national security or homeland security information?
- Do the parties have appropriate technical advisors to assist?

- Have the parties met and conferred about ESI issues?
- Have the parties addressed the format of ESI being produced? Categories may include:
  - Investigative reports and materials
  - Witness statements
  - Tangible objects
  - Third party ESI digital devices (computers, phones, etc.)
  - Photos, video and audio recordings
  - Third party records
  - Title III wire tap information
  - Court records
  - Tests and examinations
  - Experts
  - Immunity and plea agreements
  - Discovery materials with special production considerations
  - Related matters
  - Discovery materials available for inspection but not produced digitally
  - Other information
- Have the parties addressed ESI issues involving:
  - Table of contents?
  - Production of paper records as either paper or ESI?
  - Proprietary or legacy data?
  - Attorney-client, work product, or other privilege issues?
  - Sensitive confidential, personal, grand jury, classified, tax return, trade secret, or similar information?
  - Whether email transmission is inappropriate for any categories of ESI discovery?
  - Incarcerated defendant's access to discovery materials?
  - ESI discovery volume for receiving party's planning purposes?
  - Parties' software or hardware limitations?
  - Production of ESI from 3rd party digital devices?
  - Forensic images of ESI digital devices?
  - Metadata in 3rd party ESI?
  - Redactions?
  - Reasonable schedule for producing party?
  - Reasonable schedule for receiving party to give notice of issues?
  - Appropriate security measures during transmission of ESI discovery, e.g., encryption?
  - Adequate security measures to protect sensitive ESI against unauthorized access or disclosure?
  - Need for protective orders, clawback agreements, or similar orders or agreements?
  - Collaboration on sharing costs or tasks?
  - Need for receiving party's access to original ESI?
  - Preserving a record of discovery produced?
- Have the parties memorialized their agreements and disagreements?
- Do the parties have a system for resolving disputes informally?
- Is there a need for a designated discovery coordinator for multiple defendants?

- Do the parties have a plan for managing/returning ESI at the conclusion of the case?