

UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

LOCAL CRIMINAL RULES

[EFFECTIVE DECEMBER 12, 2019]

WITH AMENDMENTS THROUGH DECEMBER 4, 2020

SUMMARY OF 2020 AMENDMENTS

Local Criminal Rule 24.1 Contact with Trial Jurors – modified pursuant to MGO 20-01.

Local Criminal Rule 32.1(b) Draft Presentence Report – modified to correct a typographical error pursuant to MGO 20-31.

Local Criminal Rule 44.1 Appearance and Withdrawal of Counsel – modified for brevity and clarity pursuant to MGO 20-31.

[[TO GO TO DESIRED RULE, CLICK ON RULE NUMBER IN TABLE OF CONTENTS](#)]

Contents

- Local Criminal Rule 1.1 Scope/Applicability/Citation..... 1
 - (a) Scope1
 - (b) District of Alaska Local Civil Rules Applicable.....1
 - (c) Effective Date of Amendments.....1
 - (d) Title and Citation1
- Local Criminal Rule 3.1 Venue; Place of Trial; and Filing in Divisional Offices..... 1
 - (a) Original Actions1
 - (b) Intra-District Transfer1
- Local Criminal Rule 3.2 Criminal Matters Routinely Assigned to Magistrate Judges..... 2
 - (a) In General2
 - (b) Other Matters.....2
- Local Criminal Rule 4.1.1 Warrants or Summons by Electronic Means 2
- Local Criminal Rule 5.1 Initial Appearance by Video Conferencing 3
- Local Criminal Rule 10.1 Arraignments 3
 - (a) Before Magistrate Judge3
 - (b) Continuance to Obtain Counsel3
- Local Criminal Rule 10.2 Initial Appearance or Arraignment by Video Conferencing 3
 - (a) Request for Appearance by Video Conferencing3
 - (b) Consent.....3
 - (c) Unrepresented Defendants.....3
 - (d) Facilities.....3

Local Criminal Rule 11.1 Change of Plea 4

 (a) Scheduling 4

 (b) Duties of Defense Counsel 4

Local Criminal Rule 11.2 Plea Agreements 4

 (a) Felony Pleas 4

 (b) Misdemeanor Pleas 4

 (c) Superseding Charging Documents 4

 (d) Contents 4

 (e) Addendum to Plea Agreement 5

Local Criminal Rule 16.1 Omnibus Discovery in Criminal Cases 5

 (a) Discovery Deadlines 5

 (b) Discovery Motions 5

Local Criminal Rule 23.1 Sensitive Exhibits 5

Local Criminal Rule 24.1 Contact with Trial Jurors 6

 (a) Before or During Trial 6

 (b) After Trial 6

 (c) Notice 6

Local Criminal Rule 32.1 Sentencing Procedure 6

 (a) Scheduling 6

 (b) Draft Presentence Report 6

 (c) Final Presentence Report 6

 (d) Confidential Recommendation 7

(e) Sentencing Memoranda	7
(f) Sentencing Memorandum Addendum.....	7
(g) Sentencing Factors	7
(h) Evidentiary Hearing	8
(i) Duties of Counsel.....	8
Local Criminal Rule 32.1.1 Revocation of Probation or Supervised Release	8
(a) Initial Appearance.....	8
(b) Agreed Modification.....	8
(c) Evidentiary Hearings.....	9
(d) Disposition Hearing	9
(e) Sentencing Recommendation for Violation Disposition	9
(f) Hearing on Disposition	10
(g) Disposition Agreements	10
Local Criminal Rule 32.1.2 Disclosure of Pretrial Services Reports, Presentence Reports, and Sentencing Recommendations for Violation Dispositions	10
(a) General Rule of Confidentiality	10
(b) Pretrial Services Reports and Presentence Reports.....	10
(c) Sentencing Recommendations for Violation Dispositions	11
(d) Law Enforcement/Correctional Officials	11
(e) Motion to Authorize Disclosure	12
(f) Procedure for Subpoenas to U.S. Probation and Pretrial Services	12
(g) Unauthorized Disclosure	13

Local Criminal Rule 44.1 Appearance and Withdrawal of Counsel	13
(a) Appearance.....	13
(b) Withdrawal of Counsel.....	13
(c) Continued Representation Pending Court Approval of Withdrawal.....	13
Local Criminal Rule 44.2 Appointed Counsel	13
(a) Right to and Appointment of Counsel.....	13
(b) Criminal Justice Act Plan.....	13
Local Criminal Rule 46.1 Bail Hearings, Pretrial Release	14
(a) Hearings.....	14
(b) Pretrial Services.....	14
(c) Pretrial Services Interview	14
(d) Pretrial Release Services	14
(e) Third Party Request.....	14
Local Criminal Rule 46.2 Non-custodial Transportation of Defendant(s) and Witnesses.....	15
Local Criminal Rule 47.1 Criminal Motion Practice	15
(a) Pretrial Motions to Continue Deadlines or Proceedings.....	15
(b) Substantive Motion Practice	15
(c) Oppositions to Motions.....	16
(d) Replies to Oppositions.....	16
(e) Motions for Expedited Consideration	16
(f) Motions or Supporting Documents Filed Under Seal or <i>Ex Parte</i>	16
(g) Motion for Reconsideration	17

(h) Conventional Filing for Registered CM/ECF Users	18
(i) Motion for Judicial Notice	18
(j) Motion to Submit Documents for <i>In Camera</i> Review (seeking to provide a document for review only by the presiding judge).....	18
Local Criminal Rule 49.1 Electronic Case Filing	19
(a) Cases Assigned to CM/ECF System.....	19
(b) Special Filing Requirements for Criminal Cases	19
Local Criminal Rule 50.1 Assignments; Calendars	19
(a) Assignment of Cases.....	19
(b) Calendars.....	20
Local Criminal Rule 56.1 Release of Information in Criminal Cases	20
(a) Court Support Personnel.....	20
(b) Parties and Witnesses	20
Local Criminal Rule 58.1 Payment of Fixed Sum in Lieu of Appearance for Petty and Traffic Offenses.....	21
(a) Bail Forfeiture	21
(b) Failure to Pay or Appear.....	21
(c) Exception	21
(d) Assimilated Offenses	21
Local Criminal Rule 59.1 Review of Magistrate Judge Reports and Recommendations	21

Local Criminal Rule 1.1 Scope/Applicability/Citation

(a) Scope

(1) These rules:

[A] apply to all criminal actions and proceedings before this court; and

[B] supplement the Federal Rules of Criminal Procedure and federal statutory law.

(2) All parties, including self-represented parties, must comply with these Local Rules and the Federal Rules of Criminal Procedure. References in these rules to “counsel” or “attorneys” also refer to self-represented parties.

(3) The court may by order entered on its own initiative or on motion, change, dispense with, or waive any of these Local Criminal Rules in the interest of justice.

(b) District of Alaska Local Civil Rules Applicable

The District of Alaska Local Civil Rules and District of Alaska Local Magistrate Judge Rules also apply to criminal proceedings, to the extent not inconsistent with these rules.

(c) Effective Date of Amendments

Amendments to these rules, including new rules, govern:

(1) all proceedings commenced on or after the effective of the amendment; and

(2) all existing, open proceedings from and after the effective date to the extent that the newer amended rule does not unreasonably prejudice the rights of any party.

(d) Title and Citation

These rules constitute the Local Criminal Rules of Practice for the United States District Court for the District of Alaska and may be cited as "L.Crim.R."

Local Criminal Rule 3.1 Venue; Place of Trial; and Filing in Divisional Offices

(a) Original Actions

An action in which venue is proper in the United States District Court for the District of Alaska may be commenced in any of the 5 court locations specified in 28 U.S.C. § 81A.

(b) Intra-District Transfer

On motion of a party or on its own initiative, the court may transfer a case to another court location within the District of Alaska for some or all purposes.

Local Criminal Rule 3.2 Criminal Matters Routinely Assigned to Magistrate Judges

(a) In General

Unless otherwise ordered by the presiding district judge, all criminal matters designated for hearing before magistrate judges by statute will be assigned to magistrate judges, including but not limited to:

- (1) issuance of arrest warrants;
- (2) issuance of search warrants;
- (3) initial appearances;
- (4) preliminary examinations;
- (5) removal hearings;
- (6) Class B and Class C misdemeanor cases, and infractions in their entirety; and
- (7) Class A misdemeanor cases in their entirety upon consent of the defendant.

(b) Other Matters

Unless otherwise ordered by the presiding district judge, in addition to the matters provided in subsection (a), the following criminal matters will be assigned to magistrate judges:

- (1) extradition proceedings under 18 U.S.C. § 3184;
- (2) return of indictments;
- (3) warrants and summonses upon indictment or information;
- (4) arraignments;
- (5) waivers of indictment;
- (6) pretrial release and detention hearings;
- (7) pretrial motions within the scope of 28 U.S.C. § 636 (b)(1)(A), except motions related to scheduling the time and place of trials not otherwise assigned to a magistrate judge;
- (8) pretrial motions within the scope of 28 U.S.C. § 636 (b)(1)(B) for reports and recommendations;
- (9) evidentiary hearings on petitions to revoke supervised release pursuant to Fed. R. Crim. P. 32.1(b)(2), upon the consent of the defendant; and
- (10) status of counsel hearings.

Local Criminal Rule 4.1.1 Warrants or Summons by Electronic Means

Prior permission of the magistrate judge must be obtained before proceeding pursuant to Fed. R. Crim. P. 4.1. The complaint, summons or warrant applications must be in writing.

Local Criminal Rule 5.1 Initial Appearance by Video Conferencing

Appearance by the accused by video conferencing at the initial appearance under Fed. R. Crim. P. 5, is governed by Local Criminal Rule 10.2, Arraignment by Video Conferencing.

Local Criminal Rule 10.1 Arraignments

(a) Before Magistrate Judge

At all arraignment proceedings held before a magistrate judge:

- (1) prior to the arraignment, the district judge, or designee, will provide a trial date consistent with the Speedy Trial Act; or
- (2) if no trial date is provided by the district judge, the parties will advise the magistrate judge of any date or dates on which the party will be unavailable for trial within the Speedy Trial time.

(b) Continuance to Obtain Counsel

The court will grant a reasonable continuance for arraignment when a defendant appears without counsel in a criminal proceeding and seeks to retain counsel.

Local Criminal Rule 10.2 Initial Appearance or Arraignment by Video Conferencing

(a) Request for Appearance by Video Conferencing

An appearance by the accused at an initial appearance under Fed. R. Crim. P. 5 or arraignment under Fed. R. Crim. P. 10 by video conferencing is subject to approval by the presiding judicial officer.

(b) Consent

Consent by the accused to an initial appearance or arraignment by video conferencing may be given:

- (1) in writing prior to the hearing and filed with the court as soon as practicable; or
- (2) on the record at the beginning of the hearing.

(c) Unrepresented Defendants

If the accused is not represented by counsel, before accepting a consent to video conferencing, the judicial officer will advise the accused that the accused has the right to appear in person before the court.

(d) Facilities

The facilities from which the accused may appear must be preapproved by the judge.

Local Criminal Rule 11.1 Change of Plea

(a) Scheduling

Unless otherwise ordered by the court, counsel for a defendant who seeks to enter a change of plea from not guilty to guilty must file a Notice of Change of Plea not less than 7 calendar days before the date set for trial.

(b) Duties of Defense Counsel

Defense counsel must arrange a presentence investigation interview to occur within 14 days following the proposed change of plea.

Local Criminal Rule 11.2 Plea Agreements

(a) Felony Pleas

Plea agreements in felony cases must be:

(1) in a written document approved by:

[A] the United States Attorney or his/her designee,

[B] counsel for the defendant, and

[C] the defendant; and

(2) filed with the court by noon of the business day preceding the proposed change of plea hearing. If unsigned, a courtesy copy must be provided to Chambers by the same deadline.

(b) Misdemeanor Pleas

The court may require a plea agreement in a Class A, Class B, or Class C misdemeanor case to conform to this rule.

(c) Superseding Charging Documents

Any superseding charging documents associated with a change of plea must be provided to Chambers by noon of the business day preceding the proposed change of plea hearing, if unsigned.

(d) Contents

The plea agreement must contain the following:

(1) the charge or charges to which a plea of guilty will be entered and the disposition to be made of other charges;

(2) the subparagraph of Fed. R. Crim. P. 11(c)(1), under which the agreement has been entered;

(3) all maximum and mandatory minimum statutory penalties applicable to a count of conviction;

- (4) any agreements of the parties as to disposition of the counts of conviction, including specific references to United States Sentencing Guidelines;
- (5) the elements of each count of conviction;
- (6) facts that demonstrate, independent of the indictment or information, the factual basis for each count to which a plea of guilty is entered;
- (7) if restitution is not proposed where there is an identifiable loss and victim, contain a statement of facts demonstrating that restitution is not warranted;
- (8) any provision for forfeiture of assets; and
- (9) an acknowledgment of defendant's waiver of rights with respect to trial.

(e) Addendum to Plea Agreement

In each case, a "Plea Agreement Addendum" must be filed under seal in conjunction with every Plea Agreement.

- (1) If a criminal defendant has agreed to cooperate, the Plea Agreement Addendum must contain the terms of the cooperation agreement;
- (2) If the criminal defendant and the United States have not entered into a cooperation agreement, the Plea Agreement Addendum must indicate that no such agreement exists;

Local Criminal Rule 16.1 Omnibus Discovery in Criminal Cases

(a) Discovery Deadlines

The discovery materials, exclusive of expert reports, listed in Fed. R. Crim. P. 16 shall be provided to the defense within 14 calendar days after the arraignment. Expert reports shall be provided by the prosecution at the time provided in the Order of Progression of a Criminal Case.

(b) Discovery Motions

Any motion for discovery must contain a certification that the parties have met and conferred and that the issues set out for decision in the motion are genuinely in dispute between the parties.

Local Criminal Rule 23.1 Sensitive Exhibits

Parties are required to consult with the U.S. Marshal on the nature of their physical exhibits prior to their introduction to satisfy safety concerns as follows:

- (a) Any party wishing to introduce drugs, cash, firearms, or similar items into evidence must contact the U.S. Marshal for instructions not later than 2 business days prior to the date the item is to be brought to the courtroom.

(b) Any party wishing to introduce blunt or edged weapons, or similar items, into evidence shall contact the U.S. Marshal for instructions not later than 1 week prior to the date the item is to be brought to the courtroom.

(c) The attorney or case agent for the party offering the exhibit will retain custody of the exhibit and is responsible for the exhibit during trial, including recesses.

(d) Sensitive exhibits admitted into evidence at a jury trial become the responsibility of the case agent during deliberations.

(e) Upon the return of a verdict or discharge of the jury, the attorney or case agent for the party offering a sensitive exhibit must immediately take custody of the item.

Local Criminal Rule 24.1 Contact with Trial Jurors

The following provisions apply unless otherwise ordered by the court:

(a) Before or During Trial

No party, attorney, or other interested person may contact or communicate with, directly or indirectly, any juror, prospective juror, or member of such juror's or prospective juror's family.

(b) After Trial

After the jury concludes its deliberations and is discharged, a party, attorney, or other interested person may communicate with a juror who first initiates contact. Unless otherwise ordered, no party, lawyer, investigator, or other agent for a party shall attempt to initiate contact with any trial juror, including any alternate juror. Jurors are free to, but are under no obligation to, discuss the trial in which the juror has been a participant.

(c) Notice

Subsections (a) and (b) will be posted in the jury rooms of this District and jurors will be instructed fully as to this matter.

Local Criminal Rule 32.1 Sentencing Procedure

(a) Scheduling

Unless otherwise ordered, imposition of sentence will be scheduled no earlier than 91 days after conviction.

(b) Draft Presentence Report

The draft presentence report will be disclosed to counsel not less than 42 days prior to the sentencing date.

(c) Final Presentence Report

The final presentence report will be disclosed to counsel not less than 21 days prior to the sentencing date.

(d) Confidential Recommendation

Unless otherwise ordered, the confidential sentencing recommendation accompanying the presentence report is to be disclosed to counsel concurrently with the disclosure of the final presentence report.

(e) Sentencing Memoranda

- (1) Not less than 7 days before the sentencing hearing, each party must file with the court and serve on opposing counsel and the probation officer a sentencing memorandum.
- (2) Not less than 3 days before the sentencing hearing, each party may reply to the opposing sentencing memorandum addressing any factual or legal disputes.
- (3) The sentencing memorandum must not include any reference, direct or indirect, to either the existence or nonexistence of a cooperation agreement, if any, between the defendant and the government.
- (4) The sentencing memorandum must:
 - [A] indicate if there is no disagreement with the presentence report;
 - [B] indicate whether or not it is contended that a sentence within the Sentencing Guideline range is reasonable;
 - [C] cite all controlling authority relevant to disputed guideline issues;
 - [D] address whether the sentence shall run concurrently or consecutively to any state sentence or matter; and
 - [E] may be supported by declarations, letters, and other documents as appropriate.

(f) Sentencing Memorandum Addendum

Concurrent with the filing of its sentencing memorandum and reply, each party must file a “Sentencing Memorandum Addendum” under seal.

- (1) If the criminal defendant has agreed to cooperate, the Sentencing Memorandum Addendum must include any relevant or pertinent discussion of the cooperation agreement, including its effect on the sentence to be imposed.
- (2) If the parties have not entered into a cooperation agreement, the Sentencing Memorandum Addendum must indicate that there is no cooperation agreement.

(g) Sentencing Factors

- (1) If counsel intends to argue that the court should find an upward or downward departure from the sentencing guidelines, the sentencing memorandum must include:
 - [A] the grounds for departure;
 - [B] the citation of the statute or guideline supporting the departure; and
 - [C] the justification for the recommended departure.

(2) If the government moves to depart on the basis that the defendant has provided substantial assistance in an investigation or prosecution, the government's motion:

[A] is to be included in the Sentencing Memoranda Addendum; and

[B] must make a specific recommendation of the extent to which the departure should be made and the reasons that justify the departure.

(3) The sentencing memoranda shall discuss the factors to be considered in imposing sentence, pursuant to 18 U.S.C. § 3553(a).

(h) Evidentiary Hearing

If a party deems an evidentiary hearing to be necessary, not later than concurrently with the filing of the Sentencing Memorandum under subsection (e), but as a separate document:

(1) a motion for an evidentiary hearing must be filed on expedited consideration; and

(2) the motion must include:

[A] the nature and extent of the evidence, and

[B] an estimate of time necessary for the hearing.

(i) Duties of Counsel

Defense counsel must review both the draft presentence report and the final presentence report with the defendant(s).

Local Criminal Rule 32.1.1 Revocation of Probation or Supervised Release

(a) Initial Appearance

(1) Upon the filing of a petition alleging a violation of the conditions of probation or supervised release, an initial appearance will be held before a magistrate judge.

(2) If the person is in custody:

[A] the initial appearance will be scheduled without unnecessary delay, but in no case more than 7 days after the petition is filed, absent extenuating circumstances;

[B] the hearing on a motion for release pending the revocation hearing may be combined with the initial appearance; and

[C] the hearing may take place by video conference.

(b) Agreed Modification

(1) If the parties agree upon a modification of the condition(s) or term of probation or supervision in lieu of revocation, the probation officer will prepare a Petition to Modify the Conditions of Supervision and a Waiver of Hearing and Consent to Modify for the Court's approval.

(2) The petition and waiver will be forwarded to the appropriate judicial officer for approval or rejection.

(3) If modification is approved by the court, unless further action by the court is required, the government must move to dismiss the petition with or without prejudice.

(c) Evidentiary Hearings

If the defendant denies the allegations of violation(s) of the conditions of probation or supervised release, a hearing on the merits of the petition will be scheduled without undue delay.

(1) Evidentiary hearings will be heard by a magistrate judge if:

[A] sentence was imposed by a magistrate judge; or

[B] referred by a district judge, upon consent by the defendant.

(2) Upon conclusion of an evidentiary hearing referred to a magistrate judge under subparagraph (c)(1)(B), a report and recommendation(s) regarding the violation(s) will be made on the record before the parties.

[A] Any objection to the report and recommendation(s) must be filed within 7 days of the date announced;

[B] If no objection is timely filed, the court may adopt the report and recommendations(s) without further hearing or notice to the parties.

(d) Disposition Hearing

Upon the entry of an order finding a violation, unless the court finds that there is sufficient information in the record to enable the meaningful exercise of sentencing authority under 18 U.S.C. §§ 3553, 3565, or 3583, the court will schedule a disposition hearing.

(e) Sentencing Recommendation for Violation Disposition

(1) The Probation Office will prepare a Sentencing Recommendation for Violation Disposition that includes, if available, any agreed-upon disposition, and identifies any significant legal or factual issues.

(2) Unless otherwise ordered by the court:

[A] The Sentencing Recommendation for Violation Disposition must be filed not less than 7 days prior to the disposition hearing.

[B] A party with significant legal or factual disputes with the Sentencing Recommendation must file a disposition memorandum not less than 2 business days prior to the disposition hearing.

(3) Defense counsel must review the Sentencing Recommendation for Violation Disposition with the defendant(s).

(f) Hearing on Disposition

If either party intends to call witnesses at the disposition hearing, an expedited notice of intended length of hearing shall be filed. At the hearing the court may:

- (1) consider material submitted by the parties without regard to admissibility at trial, provided that the material submitted is deemed credible by the court; and
- (2) in appropriate cases, consider testimony.

(g) Disposition Agreements

Any disposition agreement must be placed on the record, and be previously communicated to the probation officer for inclusion in the Sentencing Recommendation for Violation Disposition.

Local Criminal Rule 32.1.2 Disclosure of Pretrial Services Reports, Presentence Reports, and Sentencing Recommendations for Violation Dispositions

(a) General Rule of Confidentiality

Presentence and probation reports and records, as well as Sentencing Recommendations for Violation Dispositions, prepared by the U.S. Probation and Pretrial Services Office are hereby declared to be confidential records of the court, and may not be released or otherwise disclosed, except pursuant to this rule. This includes any notes, recordings, memoranda, interviews, and statements maintained by the U.S. Probation and Pretrial Services Office, and correspondence to the U.S. Probation and Pretrial Services Office or to the court, relative to a charged defendant

(b) Pretrial Services Reports and Presentence Reports

Except to the extent that release of the information would violate a promise of confidentiality made to the source of the information, and unless otherwise ordered, the U.S. Probation and Pretrial Services Office may disclose as follows:

- (1) The pretrial services report and presentence report may be disclosed to the U.S. Attorney's Office, Federal Public Defender's Office, or defense counsel.
- (2) Presentence reports, or portions thereof as provided in this subsection, may be disclosed upon written request to:
 - [A] the State of Alaska, Department of Corrections; and
 - [B] mental health and substance abuse treatment professionals, if the licensed treatment professional is actively assessing or providing treatment to the defendant in accordance with an order of the court or disclosure is authorized by the defendant;
- (3) Any copy of a pretrial services report or presentence report that the court makes available, or has made available, to a foregoing entity:

[A] constitutes a confidential court document and is presumed to remain under the continuing control of the court during the time it is in the temporary custody of the entity;

[B] is provided to the entity solely for the purpose of enabling that entity to carry out its official function; and

[C] must be returned to the court upon request.

(c) Sentencing Recommendations for Violation Dispositions

Sentencing Recommendations for Violation Dispositions prepared by the U.S. Probation and Pretrial Services Office may not be released or otherwise disclosed to any entity, except as otherwise provided in this rule or Local Criminal Rule 32.1.1

(d) Law Enforcement/Correctional Officials

The following information may be extracted from and released or disclosed to federal, state, or local law enforcement or correction officials and probation officers with respect to an individual awaiting sentencing or under a criminal justice sentence including imprisonment, parole, probation, supervised or work release, or who has absconded from supervision:

(1) identifying information, including:

[A] name;

[B] date and place of birth;

[C] race, color, and complexion;

[D] identifying marks (tattoos, scars, deformities, etc.);

[E] social security number, any local or federal identification number; and

[F] photographs.

(2) current or last known address and telephone number;

(3) former addresses and telephone numbers;

(4) current and last known addresses of all known relatives;

(5) names, aliases, and addresses of all known co-defendants;

(6) areas that the defendant may be known to frequent or have frequented;

(7) occupation and name, address, and telephone number of last known employer;

(8) date, place, and nature of last known arrest;

(9) automobile make, model, color, and license number; and

(10) the defendant's criminal history including a description of the offense(s) of conviction in federal court.

(e) Motion to Authorize Disclosure

(1) Any entity requesting release or disclosure of any presentence report other than as specified in this rule may do so by filing a written motion in the case in which the sentence was imposed.

(2) The motion must:

[A] include—

- [i] the nature of the information requested;
- [ii] reason(s) release is requested;
- [iii] the intended use of the information; and
- [iv] any relevant or pertinent authority authorizing the release;

[B] state —

- [i] whether the requesting party has met and conferred with the U.S. Probation and Pretrial Services Office and the subject of the presentence report and/or the subject's counsel if represented; and
- [ii] if so, the position of the U.S. Probation and Pretrial Services Office and/or subject of the report on the requested release; and

[C] be served on—

- [i] the subject of the report;
- [ii] if represented, counsel for the subject of the report;
- [iii] U.S. Attorney; and
- [iv] U.S. Probation and Pretrial Services Office.

[D] Any interested party may file and serve on all other parties an opposition to the release or disclosure of the presentence report within 14 days of the date the motion is filed.

(f) Procedure for Subpoenas to U.S. Probation and Pretrial Services

(1) The party at whose request a subpoena is issued must, concurrently with or before service of the subpoena on the U.S. Probation and Pretrial Services office, file a motion under subsection (e).

(2) In addition to the requirements of subsection (e), the motion must include a copy of the subpoena.

(3) Unless otherwise ordered by the court as provided in this subsection, the U.S. Probation and Pretrial Services Office will not release, furnish, or otherwise disclose the presentence report or its contents in response to a subpoena.

(g) Unauthorized Disclosure

Any unauthorized reproduction or copying, in whole or in part, or disclosure or dissemination of the information described in paragraph (a) may be treated as a contempt of court and punished accordingly.

Local Criminal Rule 44.1 Appearance and Withdrawal of Counsel

(a) Appearance

In all criminal actions, counsel retained or appointed to represent the accused and appearing in a criminal case must promptly file a formal written appearance.

(b) Withdrawal of Counsel

An attorney who has appeared in the matter may withdraw only upon:

- (1) notice to the defendant and all parties; and
- (2) upon an order finding that good cause exists and granting leave to withdraw.

(c) Continued Representation Pending Court Approval of Withdrawal

Until leave to withdraw is granted, the retained or appointed attorney must continue to represent the defendant.

Local Criminal Rule 44.2 Appointed Counsel

(a) Right to and Appointment of Counsel

(1) If the defendant requests appointment of counsel by the court, or retained counsel has not entered an appearance within 7 days of initial appearance, the court will, when the defendant is eligible under the Criminal Justice Act, appoint counsel, unless the defendant:

- [A] elects to proceed without counsel; and
- [B] signs and files the court-approved form waiver of right to counsel.

(2) In an appropriate case, the court may designate counsel to advise and assist a defendant who elects to proceed without counsel to the extent the defendant might thereafter desire.

(b) Criminal Justice Act Plan

Appointment of counsel will be made in accordance with the CJA Plan adopted pursuant to the Criminal Justice Act of 1964 which is on file with the Clerk of Court.

https://www.akd.uscourts.gov/sites/akd/files/cja_plan2010.pdf

Local Criminal Rule 46.1 Bail Hearings, Pretrial Release

(a) Hearings

Bail review hearings will be set before a magistrate judge unless otherwise ordered.

(b) Pretrial Services

The United States Probation Office for the District of Alaska is authorized to conduct all pretrial services provided for in 18 U.S.C. §§ 3151-3156.

(c) Pretrial Services Interview

(1) Upon notification that a defendant has been arrested or summoned, the pretrial service officer must:

[A] conduct an interview, when possible; and

[B] prepare a written report addressing the statutory factors governing release and detention.

(2) The judicial officer setting or reviewing release or detention must consider all applicable reports submitted by pretrial service officers.

(d) Pretrial Release Services

In addition to the pretrial services furnished under 18 U.S.C. § 3152, *et seq.*, counsel for a defendant may request other release services from the court's Pretrial Services office.

(1) If a request for other release services is made, counsel must provide Pretrial Services and opposing counsel with a written request no less than 4 business days prior to any court hearing at which the request for that service is considered. Examples of special services that require written requests include—

[A] requests for third-party investigations;

[B] home confinement and electronic inquiry;

[C] residential treatment program inquiry;

[D] halfway house placement inquiry.

(2) Counsel requesting other release pretrial services is also responsible for requesting that any hearing on the request be set on the court's calendar.

(e) Third Party Request

No person will be considered for approval as a third-party custodian unless:

(1) the proposed third-party custodian has completed a third-party application form and questionnaire as provided by the Pretrial Services Officer;

(2) the proposed custodian has been interviewed by Pretrial Services; and

(3) the completed application and questionnaire forms have been served on Pretrial Services and opposing counsel not less than 4 business days prior to the hearing at which the matter is addressed.

Local Criminal Rule 46.2 Non-custodial Transportation of Defendant(s) and Witnesses

Any request for non-custodial travel of a federal defendant or a defense witness must be filed at least 10 days in advance of the intended travel except upon showing of good cause justifying shorter notice.

Local Criminal Rule 47.1 Criminal Motion Practice

(a) Pretrial Motions to Continue Deadlines or Proceedings

A pretrial motion for continuance of deadlines or proceedings must address:

- (1) the number of days remaining prior to the expiration of the time limit set out in the Speedy Trial Act, 18 U.S.C. § 3161;
- (2) if applicable, the subsection of 18 U.S.C. § 3161(h) of the Speedy Trial Act pertinent to the filing and consideration of the motion;
- (3) the position of the opposing party on the motion, or an explanation why such position was not obtained; and
- (4) a proposed order, which is also to be emailed to the judicial officer's proposed orders inbox;

Unopposed motions to continue deadlines may be filed on expedited time without prior approval, and the unopposed and expedited nature of the motion must be set forth in the motion's caption.

Pretrial motions for continuances by defendants appearing without counsel must be filed electronically by the Clerk, and referred by the Clerk to a judicial officer for a determination whether the provisions of this rule should be waived.

(b) Substantive Motion Practice

A motion is initiated by the filing of a document that includes:

- (1) a concise statement of the relief or decision sought;
- (2) if the motion is seeking discovery, a certification that the movant has in good faith conferred or attempted to confer with the opposing party;
- (3) a brief statement of the relevant facts, including, for motions made pursuant to the Fourth Amendment, how the moving party has met (or expects to meet) its burden of establishing a reasonable expectation of privacy in the place or object searched;
- (4) statement of the legal authorities relied upon;
- (5) a statement as to whether or not an evidentiary hearing will be required and if so, an estimate of the time needed for the hearing; and
- (6) a proposed order, which is also to be emailed to the judicial officer's proposed orders inbox.

(c) Oppositions to Motions

Unless otherwise ordered by the court, oppositions to any pretrial motions must be filed within 7 days of the filing of the motion, and post-conviction motions (other than those covered by the habeas corpus local rules) must be filed within 14 days of the filing of the motion.

(d) Replies to Oppositions

Unless otherwise ordered by the court, no reply memorandum will be filed.

(e) Motions for Expedited Consideration

A party may move for a hearing or consideration of a motion on a time schedule shorter than provided by these rules. The motion that is proposed to be expedited must be filed separately from, but concurrently with, the motion for expedited consideration. A motion requesting expedited consideration must contain:

- (1) a specific statement of the reasons supporting the request;
- (2) a statement of the efforts made by counsel for the moving party to resolve the timing issue with opposing counsel, and the non-moving party's position; and
- (3) the requested timing for the responsive filing and a ruling on the underlying motion, along with a proposed order setting forth these dates.

The party filing the motion must immediately advise the clerk's office of the filing as by calling the clerk's office at (907) 677-6130. The clerk's office will immediately bring the motion to the judge's attention so that the judge may decide whether expedited consideration of the principal motion is warranted.

(f) Motions or Supporting Documents Filed Under Seal or *Ex Parte*

A motion seeking to file a separate document under seal or *ex parte* may itself be filed under seal or *ex parte* without first obtaining leave of the court. Otherwise, except as specifically provided by statute, court rule, case law, protective order or published policy and procedures, no other pleading, motion, or other paper may be filed under seal or *ex parte* without first obtaining leave of the court.

- (1) Any motion to file a document under seal must:

[A] set forth the factual basis for filing the document under seal, why filing the document with redactions is not practicable, and citation to supporting authority;

[B] identify the filings associated with the document, if applicable;

[C] attach the principal document to be filed under seal as an exhibit;

[D] contain a proposed order authorizing the filing of the document under seal, which identifies the type of document to be filed under seal and states the general basis for the filing in such manner. (For example, "The Court grants the motion to file under seal at Docket ___, as the Court finds that the movant's interest in confidentiality outweighs the public's interest in open proceedings. The movant

may file the [motion/exhibit/document] under seal.”) The moving party should expect that this proposed order will be filed on the public record; and

[E] be served on opposing counsel by email.

(2) Any motion to file a document *ex parte* must:

[A] set forth the factual basis for filing the document *ex parte*, why filing the document with notice is not practicable, and citation to supporting authority;

[B] identify the filings associated with the document, if applicable;

[C] attach the principal document to be filed *ex parte* as an exhibit; and

[D] contain a proposed order authorizing the filing of the document *ex parte*, which identifies the type of document to be filed *ex parte* and states the general basis for the filing in such manner. (For example, “The Court grants the motion to file *ex parte* at Docket ___, as the Court finds that the movant’s interest in confidentiality outweighs the public’s interest in open proceedings. Further, the movant has justified the necessity of filing *ex parte*. The movant may file the [motion/exhibit/document] *ex parte*.”) The moving party should expect that this proposed order will be filed on the public record.

(3) If a motion to file under seal or *ex parte* is granted, the order authorizing the filing of the document will be docketed on the public record, the principal documents may be filed under seal or *ex parte*, and the docket number of the order authorizing the sealed or *ex parte* filing must be identified in title of the filing as well as the Docket Text on CM/ECF (for example, “Sealed Motion to Continue as Authorized by Court Order at Docket ___”).

(g) Motion for Reconsideration

(1) A court will ordinarily deny a motion for reconsideration absent a showing of one of the following:

[A] manifest error of the law or fact;

[B] discovery of new material facts not previously available; or

[C] intervening change in the law

(2) A motion for reconsideration is limited to 5 pages, and must be filed and served:

[A] not later than 7 days after the entry of the order, for motions asserted under subsection (1)(A); or

[B] within 14 days of the discovery or change in law, for motions asserted under subsections (1)(B) or (1)(C).

(3) No response to a motion for reconsideration may be filed unless requested by the court. Unless otherwise ordered, a response must be filed within 7 days of entry of the order requesting a response and is limited to 5 pages.

(4) No reply may be filed unless requested by the court. Unless otherwise ordered, a reply must be filed within 7 days of the order requesting a reply and is limited to 5 pages.

(h) Conventional Filing for Registered CM/ECF Users

If an exhibit cannot be filed electronically, a party may file it conventionally as follows:

- (1) A “Notice of Filing Conventional Materials” must be filed electronically in the case, including a brief description of the materials.
- (2) The filer must include a page in the appropriate place sequentially in the electronic document to which the exhibit pertains, with a conspicuous notation in the middle of the page “Exhibit (insert brief description of the exhibit) to be filed conventionally.”
- (3) When an exhibit is filed conventionally, two copies of the exhibit must be delivered to the clerk’s office. One copy will be retained in the clerk’s office and the other copy will be forwarded to Chambers.

(i) Motion for Judicial Notice

Requests that the court take judicial notice pursuant to Federal Rule of Evidence 201 must be made in a separate motion.

(j) Motion to Submit Documents for *In Camera* Review (seeking to provide a document for review only by the presiding judge)

- (1) Except as otherwise specifically provided by statute, court rule, case law, or published policy and procedures, a document must not be submitted to the court for *in camera* review without first obtaining leave of the court.
- (2) A motion to submit a document *in camera* may be filed under seal without prior court order and shall be supported by a declaration or affidavit that is separately docketed and filed under seal that must:
 - (A) identify the document(s) proposed to be reviewed *in camera*; and
 - (B) state the basis for *in camera* review.
- (3) If granted, all documents that are submitted *in camera* shall, within 7 days, be filed via CM/ECF using the “*Ex Parte* Document” event. A courtesy copy also shall be delivered to the presiding judge’s chambers in a sealed envelope conspicuously marked “Submitted *In Camera*” and containing the following information on the envelope:
 - (A) the case caption and case number; and
 - (B) the name of the presiding judge.

Local Criminal Rule 49.1 Electronic Case Filing

(a) Cases Assigned to CM/ECF System.

- (1) Except as otherwise provided by Local Rules or court order, all documents filed in criminal cases must be filed electronically using the CM/ECF System. The CM/ECF [Electronic Filing Procedures Guide](#) is available on the court's website.
- (2) In CVB cases, all documents are filed conventionally.
- (3) Chamber copies must be provided of every filing that exceeds 25 pages, pursuant to the Local Civil Rules.

(b) Special Filing Requirements for Criminal Cases

(1) Indictments

[A] Indictments must be presented to the court in electronic format via email to the clerk's office, and include:

- [i] the entire indictment with the name and/or signature of the jury foreperson redacted, and
- [ii] as a separate document, the signature page bearing the digitally imaged ("scanned") signature of the jury foreperson.

(2) Complaints, Warrants, and Summonses

[A] Complaints, warrants, and summonses may be filed conventionally or electronically in accordance with the CM/ECF Administrative Procedures promulgated by the Clerk of the Court.

[B] Complaints, warrants and summonses may be issued electronically.

Local Criminal Rule 50.1 Assignments; Calendars

(a) Assignment of Cases

Upon the return of an indictment or the filing of an information, all criminal cases when filed will be numbered consecutively by the Clerk of Court and immediately assigned as follows:

(1) Felony and Class A Misdemeanor Cases

[A] felony cases will be assigned by the Clerk of Court to a district judge in a manner that distributes a substantially equal number of cases to each district judge; and

[B] unless otherwise ordered by a district judge, referred to a magistrate judge in a manner that distributes a substantially equal number of cases to each magistrate judge for conducting:

- [i] an arraignment;
- [ii] such pretrial conferences as are necessary; and

[iii] hearing and administration of all pretrial, procedural, and discovery motions.

(2) Misdemeanor Cases. Class B and Class C misdemeanor cases will be assigned to a magistrate judge in a manner that distributes a substantially equal number of cases to each magistrate judge.

(3) Misdemeanor Appeals. The appeal of a misdemeanor case will be assigned by the Clerk of Court to a district judge in the same manner as felony cases are assigned under paragraph (a)(1).

(4) Retention by District Judge

[A] Nothing in these rules precludes the district judge from retaining any criminal matter or motion for disposition.

[B] The court may modify the method of assigning and referring cases to magistrate judges as changing conditions may warrant.

(b) Calendars

In accordance with the Speedy Trial Act and the Speedy Trial Plan for this district, priority will be given to the calendaring of criminal matters for hearing or trial.

Local Criminal Rule 56.1 Release of Information in Criminal Cases

(a) Court Support Personnel

All court-supporting personnel including, but not limited to, marshals, deputy marshals, court clerks, court reporters, and employees or subcontractors retained by the Clerk of Court, are prohibited from disclosing to any person, without authorization by the court, any information relating to grand jury proceedings, *in camera* submissions, or a criminal case that is not part of the public records of the court.

(b) Parties and Witnesses

In any criminal proceeding, the court, on motion of either party or on its own initiative, may issue an order governing:

- (1) extrajudicial statements by parties and witnesses substantially likely to interfere with the fairness of the trial;
- (2) the seating and conduct in the courtroom of spectators and news media representatives;
- (3) the management and sequestration of jurors and witnesses; and
- (4) any other matters that the court may deem appropriate for inclusion in the order.

Local Criminal Rule 58.1 Payment of Fixed Sum in Lieu of Appearance for Petty and Traffic Offenses

(a) Bail Forfeiture

- (1) A person who is charged with a petty offense as defined in 18 U.S.C. §3559(a)(6)–(9), may, in lieu of appearance, pay to the United States the amount indicated for the offense, thereby waiving appearance and forfeiting the amount so paid.
- (2) Forfeiture of the specified amount constitutes an admission of guilt.

(b) Failure to Pay or Appear

If a person charged with an offense listed for which a fixed amount may be paid fails to pay the amount or otherwise appear, any punishment including fine, imprisonment or probation, may be imposed within the limits established by law upon conviction by plea or after trial.

(c) Exception

Nothing contained in this rule prohibits a law enforcement officer from:

- (1) requiring a person charged with the commission of any offense described in subsection (a) to appear before a magistrate judge; or
- (2) arresting a person for commission of the offense and taking the person immediately before a magistrate judge or other judicial officer.

(d) Assimilated Offenses

- (1) The bail forfeiture schedule adopted by the State of Alaska under Alaska Administrative Rule 43 applies to any offense assimilated by the Federal Assimilated Crimes Act (18 U.S.C. § 13).
- (2) The bail forfeiture schedule adopted by the State of Alaska under Alaska Administrative Rule 43 applies to any offense adopted or incorporated by a regulation promulgated by a Federal agency, except as otherwise provided in the regulation.

Local Criminal Rule 59.1 Review of Magistrate Judge Reports and Recommendations

Unless otherwise ordered, a party may file objections within 14 days after the issuance of the report and recommendation, and response to the objections may be filed by the opposing party within 7 days of the filing of the objections. The district court will then determine the matter pursuant to Federal Rule of Criminal Procedure 59(b).