U.S. District Court Criminal Rules
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Rule 1
Appearance by Counsel; Substitution and Withdrawal

(A) In all criminal actions, counsel retained to represent the accused shall, immediately after being retained as such, file with the Clerk a formal written appearance.

(B) Rule 3(E) of the General Rules of this Court relating to the withdrawal or substitution of an attorney for a party in a civil action shall apply with equal force and effect with respect to any attorney retained to represent the accused in criminal actions.

Rule 2
Confessions and Admissions

(A) The United States Attorney shall give written notice to the defendant through his attorney of all written or oral confessions or admissions by the defendant which the Government intends to use during the course of trial. This notice shall be given at least ten (10) days prior to trial.

(B) No less than five (5) days prior to the trial date, defendant's attorney shall notify the Clerk and the United States Attorney in writing of any objections which the defendant may have to said confessions or admissions. On receipt of the objections, the Clerk may refer the matter to the U.S. Magistrate for determination or shall otherwise fix a time and place for hearing such objections and determining the admissibility of the alleged confessions or admissions.

Rule 3
Bail Hearings

(A) All hearings to fix bail including bail review hearings after indictment (in accordance with the provisions of 18 U.S.C. § 3146 and in accordance with practices of this Court), shall be set before a United States Magistrate. Bail review hearings shall not be set before the United States District Court until there has been an initial bail hearing and a review of that hearing before the United States Magistrate—unless the magistrate is unavailable.

(B) Federal defendants can appear before a magistrate of the Alaska Court System on holidays or after normal working hours when a judge or magistrate of this Court is unavailable.

Rule 3.1
Pretrial Services

(A) Pursuant to the Pretrial Services Act of 1982 (18 U.S.C. §§ 3152—3155), the Court authorizes the United States Probation Office for the District of Alaska to establish all pretrial services as provided by said Act.

(B) Personnel within the Probation Office in the performance of their duties, pursuant to this Act, shall be designated as pretrial service officers.

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

(D) Pretrial service reports shall be made available to the attorneys for the accused, and the attorneys for the Government and shall be used only for the purpose of fixing conditions of release, including bail. Otherwise, the reports shall remain confidential, as provided in 18 U.S.C. § 3153, subject to the exceptions provided therein.

(E) Pretrial service officers shall supervise persons released on bail at the discretion of the judicial officer granting the release or modifications of the release.
(Added, eff. 2-23-83)

Rule 3.2
Change of Plea

(A) Counsel for a defendant who wishes to enter a change of plea from not guilty to guilty shall arrange for the change of plea to be taken by the court no later than the morning of the last court day before the date set for trial.

(B) In a criminal case to which the Federal Sentencing Commission Guidelines Manual applies, defense counsel shall review all applicable sentencing guidelines with the defendant prior to any appearance in court for the purpose of entry of a plea of guilty.
(Added, eff. 5-4-93)

Commentary[1]

General Background. The sentencing guidelines promulgated by the United States Sentencing Commission became effective November 1, 1987. The court's initial procedures for guideline sentencing were set out in Miscellaneous General Order No. 590 of February 25, 1988. Sufficient time has now passed to permit an evaluation of the court's procedures for imposing sentences in criminal cases under the guidelines. These revised procedures were first reviewed by a committee made up of representatives of the United States Attorney's Office, the Federal Public Defender's Office, the defense bar, and the court. The revised procedures were adopted on an interim basis on January 8, 1993, by Miscellaneous General Order No. 725, which also provided for public notice and comment as required by 28 U.S.C. § 2071. After its own further evaluation and review of public comment, the district court has adopted Local Criminal Rules 3.2, 3.3, and 3.4 by Miscellaneous General Order No. 725.1.

Local Criminal Rule 3.2. Subsection (A) of this rule is the produce of the court's need to know whether a case will go to trial in sufficient time to efficiently cancel a jury call. The court understands that there will be occasions when, for good reason, counsel cannot comply with this rule. However, more often than not, counsel know well in advance of a trial date that there will be a change of plea; and in those cases, counsel must observe this rule. Moreover, counsel sometimes assume that because a plea agreement has been reached, it is sufficient to have the change of plea entered at the time set for trial. Such delay in informing the court of the status of a case preempts the court from scheduling other matters in place of a trial, and puts all concerned at risk where, as sometimes occurs, the parties believe they have a plea agreement but find out at the last minute that they do not. The court needs to ascertain such problems in sufficient time to allow the court to go forward as scheduled.

[1] All commentaries were provided to the publisher by the United States District Court for the District of Alaska.

Rule 3.3
Plea Agreements

(A) Plea agreements shall be reduced to a writing approved by the United States Attorney or his designee, counsel for the defendant, and the defendant. The written plea agreement shall be filed with the court by noon of the court day preceding the change of plea hearing.

(B) Any superseding charging documents associated with a change of plea shall be lodged with the court by noon of the court day preceding the change of plea hearing.

(c) The plea agreement shall be set forth:

(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 subsection of Rule 11(e)(1), Federal Rules of Criminal Procedure, pursuant to which the agreement has been entered.

(3) All maximum and mandatory minimum statutory penalties applicable to a court of conviction.

(4) Agreements of the parties as to disposition of the counts of conviction, including specific references to United States Sentencing Commission guidelines.

(5) The elements of each count of conviction.

(6) The facts which demonstrate, independently of the indictment or information, the existence of a factual basis for each count of conviction. The agreed facts shall fairly demonstrate the defendant's total offense conduct. This stipulation of facts shall also address those factors which affect the computation of a guideline sentence, e.g., specific offense characteristics, adjustments, and criminal history. Where the parties are unable to agree on facts which will affect the computation of the defendant's total offense level or criminal history category, the plea agreement shall set forth the factor or factors as to which there is no agreement.

(7) With respect to a plea agreement which contemplates the dismissal of charges pursuant to Rule 11(e)(1)(A), a statement demonstrating how the remaining charges adequately reflect the seriousness of the actual offense behavior and why acceptance of the agreement will not undermine the statutory purposes of sentencing.

(8) With respect to a plea agreement which includes a nonbinding sentencing recommendation pursuant to Rule 11(e)(1)(B), a statement demonstrating that the recommended sentence is within the applicable guideline range, or set forth facts and authorities consistent with 18 U.S.C. § 3553(b), as amended, justifying departure from the applicable guideline range.

(9) With respect to a plea agreement which includes a specific sentence pursuant to Rule 11(e)(1)(C), which is proposed to be binding upon the court, a statement demonstrating that the agreed sentence is within the applicable guideline range, or set forth facts and authorities consistent with 18 U.S.C. § 3553(b), as amended, justifying departure from the applicable guideline range.

(10) With respect to a plea agreement which does not require restitution where there is an identifiable loss and victim, a statement of facts demonstrating that restitution is not warranted.

(11) With respect to a plea agreement which does not impose a fine within the applicable guideline range, a statement justifying a lesser fine or waiver of fine and demonstrating that the sentence proposed is punitive.

(12) Any provision for forfeiture of assets.

(13) An acknowledgment of defendant's waiver of rights with respect to trial.
(Added, eff. 5-4-93)

Commentary

Local Criminal Rule 3.3(A) is intended to mesh with the scheduling requirements of Rule 3.2. The court realizes that it is not always possible to have a signed plea agreement twenty-four hours in advance of the date set for a change of plea hearing. However, there are good reasons why the arrangements suggested by this rule should be observed. Counsel have an obligation to their clients and to the court to do their work timely. If change of plea negotiations are not timely conducted, there is a substantial risk that counsel will needlessly do trial preparation work. Moreover, the longer counsel wait to inform the court of a change of plea, the more difficult it is for the court to schedule necessary hearings or schedule other matters in place of a trial which has become unnecessary due to a plea.

Where it is not possible to provide the court with a signed plea agreement in accordance with this rule, counsel should observe the following suggestions:

(1) Counsel should **not** attempt to **file** with the clerk of court an unsigned proposed plea agreement.

(2) Where a plea agreement has been agreed upon and reduced to writing, but for good reason has not yet been signed, counsel may **lodge** an unsigned copy of the final agreement with the court's case management clerk when a change of plea hearing is scheduled.

In Local Criminal Rule 3.3(C) the court has endeavored to amplify its requirements for an appropriate plea agreement in a fashion which will minimize the need for revisions in the current practices of the United States Attorney and criminal defense counsel with respect to plea agreements. Plea agreements must be tailored to suit the peculiar needs of each case. However, there are many aspects to most plea agreements as to which there is no need for variation. It will expedite and simplify the process for all concerned if the same format and language are used in all plea agreements unless there is some reason to vary the same.

Rule 3.4
Procedure for Guideline Sentencing

(A) Except in unusual circumstances, imposition of sentence shall be scheduled no earlier than seventy-two (72) days subsequent to conviction. The times set forth in this rule may be modified by the court for good cause shown, except that the final presentence report must be disclosed to counsel no less than ten (10) days prior to sentencing unless the minimum period is waived by the defendant.

A presentence report shall be presumed to have been disclosed:

(1) When a copy of the report is physically delivered; or
(2) When a facsimile of the report is transmitted to counsel's office; or
(3) One day after the report's availability for inspection is orally communicated; or
(4) Three days after a copy of the report or notice of its availability is mailed.

(B) A probation officer shall conduct a presentence investigation and report to the court before the imposition of sentence in all criminal cases except for Class B and Class C misdemeanors or infractions, unless the court finds that there is information in the record sufficient to enable the meaningful exercise of sentencing authority pursuant to 18 U.S.C. § 3553, in which event a finding to this effect shall be incorporated with other findings for which provision is hereinafter made. The parties may not waive preparation of a required presentence report.

(c) No less than thirty-five (35) days prior to the sentencing date, the probation officer shall disclose a draft presentence report to all counsel. Defendant and counsel for the defense shall promptly review the draft report.

(D) Within fourteen (14) days after disclosure of the draft report, counsel shall communicate to the probation officer all objections concerning material information, guideline application, or sentencing options contained in or omitted from the presentence report. The objections must demonstrate how the issue to be resolved is material to a sentencing guideline or other legal issue in the case, and describe the impact of the desired remedy on the guideline sentencing range and/or sentencing options. Such objections may be made either orally or in writing at the discretion of the probation officer. Counsel for the parties shall be available to the probation officer to discuss objections. The probation officer shall conduct such further investigations as the probation officer may deem necessary to resolve issues materially affecting sentencing, and shall make any revision(s) to the draft presentence report which the probation officer deems necessary.

(E) No less than fifteen (15) days prior to the sentencing date, the final presentence report shall be disclosed to all counsel. The probation officer shall attach to the final presentence report an addendum setting forth a synopsis of the unresolved objections submitted by counsel, and the probation officer's position regarding each objection. Defendant and defense counsel shall promptly review the final presentence report and addendum. After receipt of the final presentence report, counsel are expected to make a good faith effort to resolve any remaining objection(s) with opposing counsel.

(F) No less than seven (7) days prior to the sentencing date, counsel for the Government and for the defense shall each serve opposing counsel and the probation officer and shall file with the court a written memorandum of the sentencing factors (herein “sentencing memorandum”) to be relied upon at sentencing. The sentencing memorandum shall cite all United States Sentencing Commission Guidelines and any applicable guideline case law which are relevant to disputed guideline issues. The sentencing memorandum may be supported by affidavits, statements, records, and argument as appropriate.

(G) If counsel deems an evidentiary hearing to be necessary, the sentencing memorandum shall so state, and the court shall be advised of the nature and extent of the evidence which counsel would offer.

(H) If counsel intends to urge the court to depart from the sentencing guidelines, the sentencing memorandum shall identify the grounds for departure, cite the statute and guideline permitting the departure, and justify the recommended departure. If the Government intends to depart for the substantial assistance the defendant has provided the Government in the investigation or prosecution of another person who has committed an offense, the Government's motion shall be filed separately (under seal if appropriate) at the same time that the sentencing memorandum is filed. The Government shall make a specific recommendation of what departure should be made and the reasons which the Government believes justify the departure.

(I) No less than five (5) days preceding the sentencing date, the presentence report and addendum shall be submitted to the court. The presentence report shall be accompanied by a confidential sentencing recommendation which is not available to counsel.

(J) When any factor important to the sentencing determination is reasonably in dispute, the court will adjudicate such matter prior to imposition of sentence.

(K) In imposing sentence, the court shall state on the record or in a Memorandum of Sentencing Hearing:

(1) Its reasons for imposition of the particular sentence within guidelines if the guideline range exceeds twenty-four (24) months;

(2) Its reasons for imposing a sentence different from the guideline sentence if the court has departed from the guidelines; and

(3) Such other findings as are appropriate to the case, such as reduced or no restitution, or reduced or no fine.

(L) Counsel who habitually fail to comply with the requirements of this rule shall be subject to sanctions. Government counsel may be subject to public or private reprimand and a requirement of remedial study of the guidelines under the direct supervision of the United States Attorney. Defense counsel may be subject to public or private sanction, which may include remedial study of the guidelines under the direct supervision of the Federal Public Defender, or, in the case of Criminal Justice Act Panel attorneys, remedial study of the guidelines under the direct supervision of the Federal Public Defender or suspension from the Criminal Justice Act Panel.
(Added, eff. 5-4-93)

Commentary

As set out in Rule 3.4(C) and 3.4(E), copies of the presentence report are provided to the defendant, to counsel for the defense, and to counsel for the Government for the purpose of the sentencing hearing. Despite the foregoing disclosure, the presentence report is a confidential document. Rule 32(c)(1), Federal Rules of Criminal Procedure. Defense counsel and the defendant may retain these copies. Counsel for the Government may also retain the presentence report for use in collecting monetary penalties. 18 U.S.C. § 3552(d). The parties and counsel do not receive copies of the probation officer's final recommendation to the court with respect to sentencing. Rule 32(c)(3), Federal Rules of Criminal Procedure. Following sentencing, the presentence report shall be further disclosed to the U.S. Sentencing Commission and to the Federal Bureau of Prisons, and may be disclosed to community correctional

centers and mental health and/or drug treatment specialists as necessary to implement the sentence and conditions of supervision in a particular case. The presentence report shall not be disclosed to anyone other than as described above, without permission of the court.

The sentencing process under the United States Sentencing Commission Guidelines has become far more mechanical and objective than pre-guideline sentencing which was by and large a subjective process. As a consequence, guideline sentencing requires a more mechanical process as reflected by this rule. It is absolutely essential to the efficient administration of sentencing for all concerned to observe the timeline set out in this rule. When someone misses a deadline, someone else is going to be inconvenienced, and his or here ability to comply with succeeding aspects of the sentencing process will be prejudiced. This rule sets forth more generous time allowances than obtained under the court's Miscellaneous General Order No. 590 which has heretofore governed the guideline sentencing process. With this liberalization of the sentencing timeline, the court expects strict compliance with the time requirements of the rule.

The provisions of this rule are not optional. Defense counsel must review both the draft presentence report and any revisions made in the final presentence report with their clients. Objections to the draft presentence report must be communicated to the probation officer, not the court. Sentencing memoranda must be filed with the court by all counsel in all cases. Where there is no disagreement with the presentence report, counsel's sentencing memoranda may simply so indicate.

Rule 4
Release of Information by Attorneys in Criminal Cases

(A) It is the duty of the lawyer or law firm not to release or authorize the release of any information or opinion which a reasonable person would expect to be disseminated by any means of public communication, in connection with pending or imminent criminal litigation with which a lawyer or law firm 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.

(B) With respect to a grand jury or other pending investigation of any criminal matter, a lawyer participating in or associated with the investigation, shall refrain from making any extrajudicial statement which a reasonable person would expect to be disseminated, by any means of public communication that goes beyond the public record or that is not 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.

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

(1) The prior criminal record (including arrests, indictments or other charges of crime) or the character or reputation of the accused except that the lawyer or law firm may 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 such information necessary to aid in his apprehension of the defendant 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 or failure of the accused to make any statement;

(3) The performance of any examinations or tests or the accused's refusal or failure to submit to an examination or test;

(4) The identity, testimony, or credibility of prospective witnesses, except that the lawyer or law firm may announce the identity of the victim if the announcement is not otherwise prohibited by law;

(5) The possibility of a plea of guilty to the offense charged of 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 or law firm during this period, in the proper discharge of his or its 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 test 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.

(D) During a jury trial of any criminal matter, including the period of selection of the jury, no lawyer or law firm associated with the prosecution or defense shall give or authorize any extrajudicial statement or interview relating to the trial or the parties or issues in the trial which a reasonable likelihood that such dissemination will interfere with a fair trial, except that the lawyer or law firm may quote from or refer without comment to public records of the Court in the case.

(E) 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 in 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.

(F) Release of Information by Other Persons. All Court-supporting personnel, including among other, marshals, deputy marshals, court clerks, bailiffs, court reporters, and employees or subcontractors retained by the Court-appointed official reporters, from disclosing to any person, without authorization by the Court, information relating to a pending grand jury proceeding or criminal case that is not part of the public records of the Court. All such personnel shall not divulge any information concerning grand jury proceedings, in camera arguments and hearings held in chambers or otherwise outside the presence of the public.

(G) The Court on motion of either party or on its own motion, in a widely publicized or sensational criminal case, may issue a special order governing such matters as extrajudicial statements by parties and witnesses likely to interfere with the rights of the accused to a fair trial by an impartial jury, the seating and conduct in the courtroom of spectators and news media representatives, the management and sequestering of jurors and witnesses, and any other matters which the Court may deem appropriate for inclusion in such an order.

(H) The Court on motion of either party or on its own motion, may enter special orders relating to a continuance, change of venue, sequestering of jurors and witnesses, voir dire examination, cautionary instructions to jurors, or to any other matter which the court deems necessary to insure a fair trail by an impartial jury.

(I) Unless otherwise provided by law, all preliminary criminal proceedings, including preliminary examination and hearings or pre-trial motions, shall be held in open court and shall be available for attendance and observation by the public; provided that, upon motion made or agreed to by the defense, the Court, in the exercise of discretion, may order a pre-trial proceeding be closed to the public in whole or in part, on the ground:

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

(2) That reasonable alternatives to closure will not adequately protect defendant's right to a fair trail. If the Court so orders, it shall state for the record, its specific findings concerning the need for closure.

(J) The taking of photographs and operation of tape recorders in the courtroom or its environs and/or radio or television broadcasting from the courtroom or its environs during the progress of, or in connection with judicial proceedings, including proceedings before a United States Magistrate, whether or not court is actually in session, is prohibited. A judge may, however, permit (1) the use of electronic or photographic means for the presentation of evidence or the perpetuation of a record, and (2) the broadcasting, televising, recording, or photographing of investitive, ceremonial, or naturalization proceedings. As used herein, "judicial proceedings" means (1) any trial, naturalization proceeding or ceremonial occasion in any United States District Court, (2) any proceedings before any Bankruptcy Judge, or United States Magistrate, (3) sessions of the grand jury, (4) or the recording of any person participating in a judicial proceeding (including petit and grand jurors). "Courtroom" of a United States District Court means the foyer, witness room, jury room and all space behind the double doors of the courtroom. "Courtroom" of a Bankruptcy Judge or United States Magistrate means any place where a judicial proceeding is conducted. The "environs" of the courtrooms of the United States District Court for the District of Alaska are defined as follows:

(1) All public areas in the portion of the Federal Building — U.S. Courthouse, 701 C Street, Anchorage, Alaska, occupied by the U.S. District Court on the first and second floors of Module A and the second floor of Module B, more specifically as follows:

(a) Module A, floor 1: All areas accessible to the west of the roller gate,

(b) Module A, floor 2: All areas in Module A, floor 2,

(c) Module B/C, floor 2: All of the Court's area accessible west of (1) the east end of the jury assembly room corridor and (2) the east side of the north/south elevator corridor through the north end of said corridor. In addition to the preceding described area, the Court's environs include any area from which Module A, floors 1 and 2 and Module B, floor 2, is accessible by sight or sound;

(2) All public areas in the portion of the Federal Building and United States Courthouse at Fairbanks, Alaska, occupied by the United States District Court on the third floor of the building;

(3) All public areas in the portion of the Federal Building, United States Post Office and Courthouse at Juneau, Alaska, occupied by the United States District Court on the ninth floor of the building;

(4) All public areas in the portion of the State Court Building at Ketchikan, Alaska, when occupied and used by the United States District Court, on the fourth and fifth floors of the building;

(5) All public areas in the portion of the United States Post Office, Courthouse and Jail at Nome, Alaska, occupied by the United States District Court on the second floor of the building.

(K) This rule shall not prohibit recordings by a court reporter. However, no court reporter or any other person shall use or permit to be used, any part of any recording of a court proceeding on or in connection with, any radio or television broadcast of any kind.

Rule 5
Speedy Trial; Excludable Time

1. No motion in a criminal case will be accepted for filing by the Clerk unless it contains a statement directed to the determination of excludable time pursuant to the Speedy Trial Act and the Speedy Trial Plan for this District including a statement of the basis for computing such exclusion under 18 U.S.C. 3161, for example:

"A period of excludable delay under 18 U.S.C. 3161(h) _____________ may occur as a result of the filing/granting/denying of this motion." (In the blank space provided, insert the specific subparagraph involved; e.g., (1)(A), Competency examination of defendant; (3)(A), absence or unavailability of defendant or essential witness.)

OR

"Excludable delay under 18 U.S.C. 3161(h) will not occur as a result of this motion."

2. The statement required by paragraph 1 of this Order shall be contained in the first paragraph of any motion presented to the Clerk or on a separate sheet attached as the last page of the motion and entitled "Excludable Delay Statement."

3. Motions presented for filing by pro per defendants will be received by the Clerk and referred to a judge or magistrate for a determination of whether the provisions of the Order should be waived (and the motion filed) as provided below.

4. In any case or in the case of a defendant proceeding pro per, the Court may, in the interests of justice, waive the necessity of a statement of excludable time required by paragraph 1 above.

5. Any order prepared for a signature by a judicial officer must contain a statement determining excludable delay similar to one of the following:

"Excludable delay under 18 U.S.C. 3161(h) _______ is found to commence on _______ and end on _____ , for a total of ______ days."

OR

"No excludable delay has occurred in connection with this motion (matter)."

6. All minute orders are to contain a legend comparable to one or the other set forth in paragraph 6.

Rule 6
Assignment and Hearing of Criminal Cases, Calendars

(A) Assignment. All criminal cases when filed shall be numbered consecutively by the Clerk and immediately assigned as follows:

(1) *Felony Cases.* Upon the return of an indictment or the filing of an information, all felony cases shall be assigned by the Clerk to a judge in a manner that distributes a substantially equal number of cases to each judge. Thereafter such cases shall be referred to a magistrate for conducting an arraignment and such pretrial conferences as are necessary and for the hearing and administration of all pretrial, procedural and discovery motions.

(2) *Misdemeanor Cases.* Upon the return of an indictment or the filing of an information, all misdemeanor cases shall be assigned to a magistrate who shall proceed in accordance with the provisions of 18 U.S.C. §§ 3401 and 3402, the Rules of Procedure for the Trial of Misdemeanor before United States Magistrates and of any other rules promulgated by the Supreme Court pursuant to 18 U.S.C § 3402.

(3) *Misdemeanor Appeal.* The appeal of a misdemeanor case shall be assigned by the Clerk to a judge in the same manner as felony cases are assigned under (1) preceding. The scope of the appeal shall be the same as an appeal from a judgment of the District Court to the Court of Appeals.

(4) *General.* Nothing in these rules shall preclude the District Judge from retaining any criminal matter or motion for disposition rather than referring a matter or motion to a magistrate. The Court may modify the method of assigning proceedings to the magistrate as changing conditions may warrant.

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

Rule 7
Appeals

(A) Misdemeanor Offenses. In an appeal from a judgment of a U.S. Magistrate certified to the Court in conformity with Rule 7 of the Rules of Procedure for the Trial of Misdemeanor Offenses before the U.S. Magistrates, the appellant, within fifteen (15) days from the certification of the record, shall serve and file a brief. The United States Attorney shall serve and file a brief within fifteen (15) days after receipt of a copy of appellant's brief. The appellant may serve and file a reply brief within five (5) days after receipt of a copy of appellee's brief. Unless otherwise ordered, forty (40) days after the filing of the Magistrate's certificate, the appeal shall be set by the Court if a hearing is deemed required. (Amended, eff. 7-31-85)

(B) **Magistrate's Decision.** In an appeal from a magistrate's decision or order determining a non-dispositive motion or matter, the District Court will endeavor to make the appeal expeditious and inexpensive in the following manner:

(1) *Briefs*. The appellant, within fifteen (15) days of the filing of the Notice of Appeal, shall serve and file a brief. The United States Attorney shall serve and file a brief within fifteen (15) days after receipt of a copy of appellant's brief. The appellant may serve and file a reply brief within five (5) days after receipt of a copy of appellee's brief. Briefs filed to be in accordance with General Rule 6(K). (Amended, eff. 2-4-85)

(2) *Hearing*. Unless otherwise ordered, forty (40) days after the filing of the Notice of Appeal, the appeal shall be set for the Court if a hearing is deemed required.

Rule 8
Payment Fixed Sum in Lieu of Appearance

(A) A person who is charged with a petty offense as defined in 18 U.S.C. § 1(3) or with a certain specified misdemeanor of the malum prohibitum variety may, in lieu of appearance pay to the United States the amount indicated for the offense, thereby waiving appearance. The payment of said amount shall be tantamount to a finding of guilt.

NOTE: A list of offenses and amounts indicated for the offenses may be obtained from the Clerk's Office upon request.

(B) 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) The record of any conviction of a traffic violation as may be required by state statute shall be certified by the Clerk of Court to the proper state authority.

(D) Nothing contained in this rule shall prohibit a law enforcement officer from requiring a person charged with the commission of any petty offense to appear before a United States Magistrate or from arresting a person for the commission of any petty offense and taking him immediately before a United States Magistrate or judicial officer. (Amended, eff. 8-31-83)

Rule 9
Custody of Drugs, Cash, Firearms and Other Sensitive Exhibits

(A) Any cash, drugs, handguns, etc., shall be presented to the Court for admittance in a sealed bag not to be opened except under order of Court.

(B) The United States Attorney shall retain custody of such items and shall be responsible for these exhibits during trial, including recesses.

(c) Sensitive items admitted into evidence and submitted to the jury for deliberation shall become the responsibility of the jury bailiff during deliberations. Upon the return of a verdict and subsequent discharge of the jury, the U.S. Attorney shall immediately take custody of such items.

Rule 10
Applicability of General Rules

In all criminal actions, the General Rules of the United States District Court for the District of Alaska shall be followed wherever applicable.