

## I. INDICTMENT AND INFORMATION

### 6-1. Impanelment of Grand Jury

The General Duty Judge ~~of each courthouse of this District~~ is empowered to impanel one or more grand juries as the public interest requires. Upon a determination by a General Duty Judge to impanel a grand jury for ~~that a particular~~ courthouse, he or she shall summon a sufficient number of legally qualified residents of the counties served by that courthouse pursuant to Civil L.R. 3-2 to satisfy the requirements of Fed. R. Crim. P. 6(a).

### 6-2. Grand Jury Administration

(a) **Motions Pertaining to Composition or Term of Impaneled Grand Jury.** A request by the government or a grand juror for an order pertaining to service on or the term of an impaneled grand jury shall be made by *ex parte* motion or request to the Judge who impaneled the grand jury. If that Judge is unavailable within the meaning of Civil L.R. 1-5(n), the motion or request shall be made to the General Duty Judge ~~of the courthouse in which the grand jury sits~~. Such motions or requests may pertain to matters such as:

- (1) A request by a member of a grand jury or by the government that a grand juror be excused;
- (2) A request by the government to appoint an alternate grand juror;
- (3) A motion to extend the term of a grand jury.

(b) **Motions Regarding Grand Jury Process or Proceedings.** Any government motion regarding those parts of the grand jury's process or proceedings or in aid of its process or proceedings which must be conducted in secret pursuant to Fed. R. Crim. P. 6, may be made under seal by *ex parte* motion to the General Duty Judge ~~of the courthouse at which the grand jury sits~~. Unless otherwise ordered by the General Duty Judge pursuant to *ex parte* request, any such motion filed by a private party shall be accompanied by proof of service of the motion upon the office of the United States Attorney for this District.

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## II. PRELIMINARY PROCEEDINGS

### 5-1. Criminal Case Proceedings before Assignment to a District Judge

(a) **Calendar for Proceedings in Criminal Cases Before Assignment.** Each courthouse of this District shall maintain a criminal calendar to hear any matter in a criminal case which has been assigned to that courthouse and which arises before the case is assigned to a District Judge.

#### Cross Reference

See Crim. L.R. 18-1(a),(b) or (c).

(b) **Proceedings Before Magistrate Judge Prior to Assignment.** At each courthouse a Magistrate Judge shall be designated to hear and decide matters arising before the case has been assigned to a District Judge in criminal cases which have been assigned to that courthouse. The designated Magistrate Judge is empowered to hear and decide any matter on that calendar unless a federal statute or federal rule requires that the matter be decided by a District Judge.

- (c) **Initial Appearance After Arrest.** Whenever a person is arrested in this District for a federal offense, the person shall be brought without unnecessary delay before a Magistrate Judge. The Magistrate Judge before whom the person is brought shall preside over the initial appearance in accordance with Fed. R. Crim. P. 5. All subsequent proceedings shall be conducted at the courthouse where the case has been assigned pursuant to Crim. L.R. 7-1.
- (d) **Proceedings Before a District Judge Prior to Assignment.** When a matter arises in a criminal case before the case has been assigned to a District Judge which a federal statute or federal rule requires be presented to or decided by a District Judge, it shall be presented to the General Duty Judge ~~for the courthouse or, if unavailable, to the General Duty Judge at any other courthouse.~~

**Cross Reference**

See Civil L.R. 1-5(j) “*General Duty Judge.*”

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### 32-7. Confidential Character of Presentence Report

- (a) **Disclosure of Presentence Reports and Related Records.** A presentence report, probation, supervised release report, violation report and related documents to be offered in a sentencing or violation hearing are confidential records of the Court. Except as otherwise required by Fed. R. Crim. P. 26.2, authorized by statute, federal rule or regulation or unless expressly authorized by order of the Court, such records shall be disclosed only to the Court, court personnel, the defendant, defense counsel and the attorney for the government in connection with sentencing, violation hearings, appeal or collateral review.
- (b) **Request for Disclosure Under Circumstances Not Covered by Statute.** Anyone seeking an order authorizing disclosure of a presentence report which is not authorized by statute, federal rule or regulation shall file a motion pursuant to Crim. L.R. 47-1 with the sentencing Judge or, if no longer sitting, with the General Duty Judge ~~of the courthouse where the defendant was sentenced.~~ Such motion shall state with particularity the reason disclosure is sought and to whom the report will be provided. No disclosure shall be made under this Crim. L.R. 32-7(b) except upon an order issued by this Court. The motion shall be served upon the defendant, last defense counsel of record, the attorney for the government and the Probation Officer of record.

**Commentary**

Other than as allowed by any regulations of the Probation Office for disclosure (e.g., for disclosure to U.S. Marshal in the case of an absconding defendant or to other U.S. Probation Offices for purposes of supervision or other sentencing of the defendant; therapists with whom the defendant is engaged as a result of a court ordered study or condition of supervision; or U.S. Sentencing Commission pursuant to 28 U.S.C. § 994(w), a presentence report should not be disclosed.

#### 32.1-1. Revocation of Probation or Supervised Release

- (a) **Petition for Revocation.** The following procedures shall be followed with respect to any petition by a Probation Officer for revocation of probation or supervised release:
  - (1) The petition shall be filed and noticed for hearing before the sentencing Judge or sentencing Magistrate Judge. If the sentencing judicial officer is unavailable, the petition shall be presented to the ~~General Duty Judge or~~ Criminal Calendar Magistrate Judge for the courthouse where the probationer or releasee was originally sentenced or to the General Duty Judge;

- (2) The petition shall be accompanied by a summons and proposed order that the probationer or releasee appear and show cause why probation or supervised release should not be revoked. Alternatively, the petition may request that the Court issue an arrest warrant. If a warrant is sought, the probation office shall recommend bail in a specified amount or that the probationer or releasee be held without release on bail; and
- (3) Unless otherwise ordered, the Probation Officer shall serve a copy of the petition and order on the probationer or releasee, last known counsel of record and the attorney for the government.

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## **IX. SUPPLEMENTARY AND SPECIAL PROCEEDINGS**

### **40-1. Assignment of Rule 40 Cases**

For purposes of assignment of proceedings under Fed. R. Crim. P. 40, the “nearest available federal Magistrate Judge” shall be deemed to be a Magistrate Judge sitting at the courthouse which serves the county in which the defendant is a resident, or, if not a resident, the county in which the defendant is physically present at the time the defendant is apprehended.

### **41-1. Assignment of Rule 41 Motion or Proceedings**

When no criminal case has been filed, proceedings under Fed. R. Crim. P. 41 shall be assigned as a miscellaneous matter to the General Duty Judge ~~at the courthouse which, under Crim. L.R. 18-1, serves the county from which the warrant was issued.~~ When a criminal case is pending or has been completed, proceedings under Fed. R. Crim. P. 41 shall bear the original case number and shall be assigned to the District Judge assigned to the pending or completed criminal case.