

## Special Notes-Criminal Cases

a. Status Conferences: In criminal cases, the Court does not hold status conferences unless a request for a conference is made.

b. Exhibits: Exhibits must be exchanged by both the Government and the defense prior to the trial.

c. *Alford* Pleas and *Nolo Contendere*: The Court generally will accept an *Alford* plea. A *nolo contendere* will be accepted, but never over Government objection.

d. Presentence Investigation and Report: The Court requires a presentence investigation and report prior to sentencing even if there will be no custodial sentence imposed. This is not required for corporate defendants and possibly would not be required if both the Government and defendant agree to waive it. If the Court waives a presentence report but a defendant requests it, the Court will order it.

e. Sentencing Guidelines: Sentencing guideline computation disputes are typically resolved by a hearing prior to sentencing. Probation Officer objections to guideline computations agreed to by the AUSA and defense counsel will typically be resolved at a hearing at the time of sentencing.

f. Probation Officer: The Court meets with the Probation Officer prior to sentencing.

g. Self-reporting: The Court will typically permit a convicted individual to self-report to the custodial facility if the Government recommends it and defendant has been free on bond prior to sentencing.

h. Rule 11 Plea Agreement: If the Court decides to reject a Rule 11 Plea Agreement, it will so inform the parties in open Court prior to the sentence date. The Court does not meet with the attorneys off the record and will not become involved in the bargaining.

The Court will accept a sentencing guideline plea containing a maximum amount of time (e.g. three months) above the minimum applicable guideline range. For this purpose, it does not matter whether the parties agree to what the applicable range is. A plea may possibly be withdrawn by the defendant if the range turns out to be higher than he advocated.

i. Plea Cutoff: The Court does not have a plea cutoff date.

j. Trial Briefs: Trial briefs are required to be submitted in criminal cases before the commencement of trial.

k. Witness Lists: The Government is required to submit witness lists, the defense is not. Government witnesses will be disclosed during *voir dire*.

l. *Jencks* Materials: The Court generally encourages the Government to disclose *Jencks* materials before trial.

m. Peremptory Challenges in Multiple Defendant Trials: Peremptory challenges are allocated as agreed among the defendants. The Court allots less than ten peremptory challenges per defendant in multiple defendant cases. The actual number depends upon the case, but the total of all defendants' peremptory challenges could exceed ten. A peremptory challenge is not lost by passing. However, once all parties have passed, a party may not choose to exercise a remaining peremptory challenge. When all parties have passed, the jury is sworn. Jury selection procedures are the same as in civil trials.

n. Jury Instructions: Disputes between the Government and defense counsel regarding proposed jury

instructions are resolved either in a hearing on the record or in chambers.

o. Bench Conferences: The Court discourages bench conferences during trial.

p. Magistrate Judges: The Court refers pretrial conferences and arraignments to the Magistrate Judge.

q. Cutoff Dates: The Court follows the Standing Order and enforces the discovery and motion cutoff dates in the order.

r. General Comments: Counsel are strongly encouraged to check the Court Rules and this Practice Guide before calling the Court.

Counsel are expected to be prepared to proceed in the manner and time frame which they have represented to the Court and to be considerate of the Court's time.