

PRACTICE STANDARDS
(Criminal Cases)

Judge Charlotte N. Sweeney
United States District Court
District of Colorado

Courtroom A702
Alfred A. Arraj Courthouse

Chambers A738
901 19th Street
Denver, CO 80294

Telephone: (303) 335-2610
Email: Sweeney_Chambers@cod.uscourts.gov

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I. GENERAL PROCEDURES

A. Applicable Rules

1. Those appearing in the District Court must know and follow:
 - a. The Federal Rules of Criminal Procedure;
 - b. The Federal Rules of Evidence;
 - c. The Local Rules of Practice of the United States District Court for the District of Colorado;
 - d. The Electronic Case Filing Procedures (Criminal Version 3.0 or the most current version); and
 - e. These Practice Standards.
 - f. Failure to comply with the foregoing rules or procedures or the Practice Standards of this Court may result in appropriate sanctions.

B. Communications with Chambers

Inquiries to Chambers (e.g., questions about procedures and standards) should be made via **email** to Sweeney_Chambers@cod.uscourts.gov. Please copy opposing counsel or opposing pro se parties on all emails. Please do not contact Chambers about substantive matters as Chambers staff cannot give legal advice or grant informal requests not made via motion. For information about filing documents electronically please contact the ECF Help Desk at cod_cmecf@cod.uscourts.gov or (303) 335-3433.

C. Citations

1. Citations shall be made pursuant to the most current edition of *The Bluebook: A Uniform System of Citation*.
2. Specific references in the form of pinpoint citations should be used to identify relevant excerpts from a document (e.g., to ECF page numbers or paragraph numbers). Whenever practicable, a citation to an unpublished opinion should include its Westlaw citation.
3. These standards should be cited as Crim. Practice Standard, Part, Section, Subsection, Paragraph, and Subparagraph (e.g., Crim. Practice Standard IV.C.2.b.1).

D. Typeface and Spacing

All papers filed with the Court by anyone other than a judicial officer shall be double-spaced and in Arial 12-point font (exclusive of footnotes and endnotes).

E. Proposed Orders

Parties may be directed to transmit proposed orders or other pleadings or papers **by e-mail** to **Sweeney_Chambers@cod.uscourts.gov**. The proposed order or document should be submitted as an attachment to the e-mail **in editable (Word) format** unless otherwise specified. The e-mail message should identify the case number and document attached. **Please do not send documents directly to chambers by mail or e-mail unless requested or ordered to do so by the Court.**

II. COURTROOM PROCEDURES

A. Courtroom Operations

For information regarding the courtroom, including telephonic or video connection, courtroom equipment and technology, courtroom protocol, use of deposition transcripts, the submission of trial exhibits and witness lists, and the use of exhibits at trial, please contact the Courtroom Deputy, **Julie Dynes**, at Julie_dynes@cod.uscourts.gov or **(303) 335-2054**. The courtroom is equipped with HDMI and VGA plug-ins for displaying exhibits. In addition, there are monitors at each table including the witness stand, large screens for the gallery, white pads, easels, and an ELMO.

Please contact Ms. Dynes at least **fourteen days prior** to trial or evidentiary hearing with any questions regarding remote witnesses (if allowed by the Court), submission of trial exhibits and witness lists, use of exhibits at trial, general courtroom procedures, and to schedule a technical walk-through, if needed.

B. Recording of Proceedings

1. The realtime court reporter assigned to the Court is **Sarah Mitchell**. Transcripts of proceedings may be ordered from Ms. Mitchell by email at **Sarah_K_Mitchell@cod.uscourts.gov**. Requests for realtime or daily rough draft transcripts must be made at least **thirty days** before trial. For further details, contact Ms. Mitchell.

2. The realtime and rough draft transcripts are unedited and uncertified and may contain untranslated stenographic symbols, an occasional reporter's note, a misspelled proper name, and/or nonsensical word combinations. All such entries will be corrected on the final certified transcript when ordered. Due to the need to correct entries prior to certification, counsel shall use the realtime draft only for the purpose of augmenting counsel's notes. **It shall not be used or cited in any court proceeding or distributed to any other parties.** By purchasing a realtime transcript, purchaser agrees to the terms and conditions for the use of this rough draft.

C. Courtroom Decorum

Creating a courtroom where all parties, witnesses, and counsel feel welcome and respected is of utmost importance to this Court. In that regard, counsel are invited and encouraged to identify the preferred pronouns of counsel, clients, and witnesses at the earliest juncture possible. This may be done in an initial signature block, in person at a conference or hearing, or in a witness list. Should the wrong pronoun be used, counsel are encouraged to bring that to the Court's attention at the time, or through a subsequent email to Chambers.

Counsel should bring any accessibility or disability accommodation issues to the attention of the courtroom deputy prior to any hearing or trial so the Court can ensure that all necessary accommodations are in place.

All parties should observe the following courtroom decorum:

1. Stand when the Judge enters or leaves the courtroom, when addressing the Court, including making objections, and when the jury enters or leaves the courtroom;
2. Request permission to approach the bench;
3. Address the Judge as "Your Honor";
4. Refer to all other persons by their surnames, prefaced by the individual's title (e.g., Dr., Agent, Officer, etc.) and preferred pronouns.

D. Oaths

Please note and advise all persons appearing with you in court, including co-counsel, paralegals, clients, witnesses, and spectators that oath-taking is treated formally in the courtroom. The Court will administer an oath to a jury or witness ONLY when all other activity in the courtroom has ceased. Attorneys are directed to observe the administration of the oath and to stop all other activity.

III. MOTIONS AND OBJECTIONS PRACTICE

A. General

Motions with separately filed briefs or memoranda in support are not permitted. The motion and all supporting arguments must be contained **within a single document**.

Exhibits to a motion, response, or reply must be filed on the same calendar day as the motion, response, or reply. Exhibits filed on a later day may be summarily stricken.

B. Conferral

The moving party is directed to confer with opposing counsel (and co-defendant counsel if applicable) before filing any motion and include the opposing party's position in the motion.

C. Page Limitations and Font Size

All motions, objections, responses, and concomitant briefs shall not exceed **fifteen pages**. Replies are limited to **ten pages**. These page limitations shall not include any cover page, table of contents, signature block, or certificate of service. The body of the text shall be no smaller than 12-point font. The Court will entertain motions for extensions of the page limit where appropriate and for good cause.

D. Motions to Continue

Motions to continue (including motions to vacate or reset) hearings and trials will be determined pursuant to *United States v. West*, 828 F.2nd 1468, 1469-70 (10th Cir. 1987) unless a party seeks to continue a hearing or trial outside the Speedy Trial Act deadlines, in which case it will be decided pursuant to the Speedy Trial Act. Oral or written motions to continue should not be made at the time of a hearing or trial. Stipulations for continuance are not effective unless approved by the Court.

E. Motions for Extensions of Time

Motions for extension of time require a showing of good cause, which must be established with particularity.

F. Emergency Motions

Emergency motions are only those necessary to avoid imminent irreparable harm. Counsel filing an emergency motion should ensure that: (1) the caption of the motion begins with the word “emergency”; (2) the motion is electronically filed using CM/ECF drop-down menu option entitled “Emergency” on the docket text modification screen; and (3) Chambers is notified of the motion by email to Sweeney_Chambers@cod.uscourts.gov, with a subject line containing “Emergency Motion,” and the case name and number.

G. Ends of Justice Continuances of Hearings and Trials

All motions for an ends of justice continuance must:

1. Specify the number of days remaining on the speedy trial clock and the date the requesting party believes the speedy trial clock expires;
2. Specify the number of days the party is seeking to exclude;
3. Identify which parties join in the motion and which parties object to the motion.

Any party who objects to the granting of an ends of justice continuance must file their objection within **seven days** of the filing of the motion.

H. Responses and Replies

A response shall clearly and completely identify by title, the CM/ECF docket number, and date filed the antecedent motion or petition to which the response is made. Similarly, a reply shall clearly and completely identify by title, CM/ECF docket number, and date filed the antecedent response to which the reply is made.

I. Objections to Rule 404(b) Notices

Objections to a Fed. R. Crim. P. 404(b) notice shall be filed no later than **seven days** after such Rule 404(b) notice was filed.

J. Motions In Limine

1. Motions in limine are strongly discouraged when the motion cannot be resolved until evidence is presented at trial. Instead, such evidentiary issues can be flagged in a trial brief. If motions in limine are filed, they must be filed **fourteen days** before the Trial

Preparation Conference. Any responses to the motions in limine shall be filed **seven days** before the Trial Preparation Conference.

2. **Conferral and One Motion Limit:** Prior to filing a motion in limine, counsel shall confer with one another in an attempt to resolve the contested evidentiary issues. If they are unable to come to a mutual resolution, counsel shall then determine which party will file the motion on the particular evidentiary issue and which party will file the response.
3. Each party shall be limited to **one** motion in limine unless the Court grants leave for a supplemental filing. The motion shall address all difficult or unusual evidentiary issues the party anticipates will arise at trial, with **each discrete evidentiary dispute separately numbered within the motion**. The motion and response shall be **limited to eight pages** unless there is a showing of good cause and the Court grants leave to extend the page limits. All text in these filings will count against the page limits, except for the attorney or party signature blocks and the certificate of service. No reply brief in support of a motion in limine will be permitted.

K. Trial Briefs

Trial briefs are encouraged, but not required absent specific court order. If filed, trial briefs shall not exceed ten pages and shall be filed not later than **seven days** before trial. Please flag evidentiary issues in a trial brief rather than by motion in limine. A trial brief may not be used as a substitute for a motion.

IV. HEARINGS AND TRIALS

A. Exhibits and Exhibit Lists

1. Format: Parties must use the exhibit list available on the District Court website at <http://www.cod.uscourts.gov/JudicialOfficers/ActiveArticleIIIJudges/HonCharlotteNSweeney.aspx>.
2. When to File Exhibit Lists
 - a. Parties shall file their exhibit lists via CM/ECF no later than **two business days** before a hearing or **seven days** before the Trial Preparation Conference. Final exhibit lists shall be filed via CM/ECF by noon the Friday before trial.
3. When to Submit Exhibits:
 - a. Motions Hearings: each party must provide a copy of its exhibits to opposing counsel or any pro se party **two business days** before

the hearing. Each party must provide a copy of its exhibits (one flash drive and two notebooks) to the Courtroom deputy on the day of the hearing.

- b. Trial: each party must provide a copy of its exhibits (one flash drive and two notebooks) to the Courtroom Deputy on the morning of the first day of trial.
- c. Exhibits Preparation:
 - i. The parties must pre-mark all exhibits that will be used or identified for the record. Exhibits not timely pre-marked or exchanged before a hearing or trial may not be admitted.
 - ii. The case number shall appear on each exhibit sticker or label. If exhibits are not bound and labeled properly, the trial may be delayed or continued until they are.
 - iii. There is no need for duplicate exhibits or for a party to seek to admit exhibits offered by another party and admitted by the Court or by stipulation.
 - iv. The parties shall confer and attempt to stipulate to the admissibility of any exhibits.
 - v. No oversized exhibits are to be used unless requested by prior motion and approved by the Court.
- d. **One USB flash drive and two exhibit notebooks**, one containing the original exhibits and one containing copies of the exhibits for the Court, shall be delivered to Chambers per the designated deadline. The following information should appear on the cover of each notebook: (i) caption, (ii) nature of the proceeding, (iii) scheduled date and time, and (ii) "original" or "copy."

B. Witness Lists

1. Format: The parties must use the witness list form available through the District Court website at <http://www.cod.uscourts.gov/JudicialOfficers/ActiveArticleIIIJudges/HonCharlotteNSweeney.aspx>.
2. When to File: Each party shall submit a list of its proposed witnesses as set forth below:
 - a. Parties shall file their witness lists via CM/ECF no later than **two business days** before a hearing or **seven days** before the Trial Preparation Conference. Final witness lists shall be filed via CM/ECF by noon the Friday before trial.

- b. For trial preparation conferences, **two days** after witness lists are filed, the parties shall file estimates of the time required for their cross-examination of the opposing party's witnesses. The parties shall include the proposed order of witnesses, the anticipated length of testimony, and the expertise of any testifying experts. The parties shall also advise the Court whether any witnesses will appear by video.
3. A Final witness lists, must include an estimate of the time anticipated for each witness's direct and cross-examination.

C. Depositions

Together with Fed. R. Crim. P. 15, this practice standard governs the use of depositions in criminal proceedings:

1. Deposition designations and objections: If a party intends to offer deposition testimony in lieu of a live witness at trial, counsel shall exchange with each other their designations of anticipated deposition testimony. If any party objects to any deposition designations, the parties shall jointly file with the Court a single marked-up transcript of their respectively designated deposition testimony no later than **fourteen days** before trial. The Government's designations shall be highlighted in yellow, and Defendant's designations shall be highlighted in blue. The parties shall also file a chart identifying the designation by page and line number and any objections to that designation. Objections must state the rule and a short statement of the basis for the objection.
2. For jury trials, parties shall provide a person to read the deposition answers.
3. For bench trials, depositions will not usually be read in open court. Instead, the Court will read them in chambers in any requested sequence. At the beginning of the trial, the offering party shall provide the courtroom deputy clerk with two copies of the relevant deposition transcript marked as an exhibit with the Government's designated portions highlighted in yellow and the defendant's in blue.

D. Videotaped Depositions

Together with Fed. R. Crim. P. 15, this practice standard governs the use of videotaped depositions in criminal proceedings. Objections to any portion of a proposed videotaped deposition shall be filed and determined pursuant to D.C.COLO.LCivR 7.1 and these Practice Standards. Objections may be resolved before trial to facilitate appropriate redaction.

E. Trial Preparation Conference

The Court will set a date for the Trial Preparation Conference at the time it sets the case for Trial. Counsel who will try the case must attend.

Not later than **seven days** prior to the Trial Preparation Conference, the parties shall submit, via CM/ECF, the following:

1. **Witness and exhibit lists:** the parties shall file their proposed witness and exhibit lists via CM-ECF in accordance with Section IV.A and B.
2. **Proposed jury instructions and verdict forms:** the parties shall file their instructions and verdict forms via CM-ECF and by email to Sweeney_Chambers@cod.uscourts.gov in editable (Word) format. Verdict forms shall be submitted in a separate file from jury instructions. Within the jury instruction file, each jury instruction shall begin on a new page.

Clear and concise jury instructions are imperative. While the Court encourages the use of stock and model instructions, counsel should review those instructions with the average layperson in mind and modify language that is overly complicated or “lawyerly.”

As with jury instructions, the Court urges counsel to confer and craft a stipulated verdict form that is understandable to lay persons.

Where possible, jury instructions and verdict forms will be finalized **before** the trial begins.

- a. Each instruction should be numbered (e.g., “Government’s Instruction No. 1”) for purposes of making a record at the jury instruction conference. The parties shall attempt to stipulate to the jury instructions, particularly “stock” instructions, and verdict forms.
- b. To the maximum extent possible, the parties shall agree on one stipulated set of proposed jury instructions; only true conflict or uncertainty in binding substantive law should prevent such agreement.

- c. The jury instructions shall identify the source of the instruction and supporting authority. Whenever practicable and appropriate, the parties shall use or adapt for use the Criminal Pattern Jury Instructions prepared by the Criminal Pattern Jury Instruction Committee of the United States Court of Appeals for the Tenth Circuit. The pattern instructions and updates may be found online at (<https://www.ca10.uscourts.gov/>).
- d. To the extent that counsel are unable to agree on proposed instructions, they are to jointly submit a document identifying all disputed instructions, with a brief statement of dispute and each side's proposed language.

F. Jury Trials

1. The parties shall be present on the first day of trial **at 8:00 a.m.** Jury selection will begin **at 8:30 a.m.** The second day of trial will begin **at 8:30 a.m.** and continue **until 4:30 p.m.** The trial day will have morning and afternoon recesses of approximately fifteen minutes in duration. A lunch break of approximately one hour will be taken at approximately 12:00 p.m.
2. Voir Dire: After potential jurors are seated in the courtroom, the Court will give them a brief statement of the case and conduct initial voir dire.
 - a. The parties will conduct the remainder of the voir dire examination. Unless ordered otherwise, each side shall be permitted voir dire examination of **thirty minutes** after voir dire examination by the court.
3. Challenges pursuant to *Batson v. Kentucky*, 476 U.S. 79 (1986), shall be made and considered at the time challenges for cause are made, before the jury is sworn. A party that wants to preserve a *Batson* challenge should request the Court not to release any jurors subject to the challenge.
4. Jurors will be permitted to take notes during the trial.
5. The jury will be instructed before closing argument.
6. Each juror will be given a copy of the written jury instructions for use during deliberations.

G. Trials to Court

1. Trials to court will begin at 8:30 a.m. on the first day of trial.

2. For a trial to the court, a proper resume or curriculum vitae, marked as an exhibit, generally will suffice for the qualification of an expert witness.

J. Glossary

1. Not later than **five business days** before trial, the parties shall **email to Chambers** a Glossary of any difficult, unusual, scientific, or technical words, names, terms, or phrases.
2. The parties shall submit to the Courtroom Deputy **three paper copies** of the Glossary and provide a copy of the Glossary to opposing counsel and any pro se party **on the day of trial**.

V. PLEA AGREEMENTS

A. Treatment of Notice of Disposition

Any notice of disposition filed pursuant to D.C.COLO.LCrR 11.1A shall be considered to be a pretrial motion within the meaning of 18 U.S.C. § 3161(h)(1)(F) for the purpose of computing time under the Speedy Trial Act of 1974, 18 U.S.C. §§ 3161-74.

B. Rule 11(c)(1)(C) Pleas

Any plea agreement pursuant to Fed. R. Crim P. 11(c)(1)(C) must be **submitted to chambers** no later than 14 days before **the date set for trial**.

C. Plea Agreement Content Restriction

1. No plea agreement shall identify whether a defendant has agreed to cooperate with the United States or other jurisdiction with respect to the investigation or prosecution of others.
2. Consequently, no plea agreement shall contain any reference to any cooperation agreement between the Defendant and Government, to any potential for a motion under 5K.1.1 of the United States Sentencing Guidelines (U.S.S.G.), or to any other statutory or guideline calculation or adjustment predicated on such cooperation.

D. Change of Plea Hearing

1. The AUSA who negotiated the plea agreement and defense counsel who reviewed the plea agreement with the defendant must be present in person at the Change of Plea hearing.
2. Courtesy Copy of Plea Agreement: No less than **three (3) business days** before the Change of Plea Hearing, the parties shall send **via**

email a courtesy copy of the plea agreement (signed or unsigned) to Chambers.

3. Signed Plea Agreement: Pursuant to D.C.COLO.LCrR 11.1(e), defense counsel shall submit the signed original and one copy of the “Statement by Defendant in Advance of Change of Plea” and the “Plea Agreement and Statement of Facts” to the Courtroom Deputy at the time of the hearing.
4. If the defendant is pleading to an Information that has not been filed prior to the Change of Plea Hearing, Counsel must provide copies of the Information, Criminal Penalty Sheet, and Waiver of Indictment to the Courtroom Deputy at the time of the hearing.

Table of Pretrial/Trial Deadlines

Note: This table is provided for the convenience of parties appearing before Judge Sweeney. It does not include all the dates and deadlines listed within the Judge's Criminal Practice Standards and is not a substitute for knowledge of and familiarity with the text.

DEADLINE	DAYS PRIOR	CRIM. PRACTICE STANDARDS REF.
Motions Hearing		
Objections to Rule 404(b) Notices	7 days after notice filed	III.E
Objections to Ends of Justice Continuance	7 days after motion filed	III.D
Courtesy Copy of Plea Agreement	3 business days prior	V.D.2
Exhibits and Witness List	2 business days prior	IV.A.2.a & IV.B.2.a
Prior to Trial Preparation Conference		
Motions in limine	14 days	III.F
Responses to motions in limine	7 days	III.F
Proposed jury instructions and verdict form	7 days	IV.E.2
Exhibit list	7 days	IV.E
Witness list	7 days	IV.E
Estimates for cross-examinations of opposing party's witnesses	5 days (or two days after witness lists are filed)	IV.B.2.b
Prior to Trial		
Realtime or daily rough draft transcript request	30 days	II.B
Designations and objections regarding deposition designations	14 days	IV.C.2
Questions to Courtroom Deputy regarding courtroom technology	14 days	II.A
Trial briefs	7 days	III.G
Glossary due (3)	5 business days	IV.J.1
Exhibit notebooks (2) and USB flash drive (1)	Morning of first day of trial	IV.A.2.b
Final witness list	Friday before trial by noon	IV.B.3
Final exhibit list	Friday before trial by noon	IV.A.3