



**S. Kato Crews**  
**United States District Judge**  
Byron G. Rogers United States Courthouse  
Courtroom C201  
(303) 335-2124  
[Crews\\_Chambers@cod.uscourts.gov](mailto:Crews_Chambers@cod.uscourts.gov)

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**STANDING ORDER FOR CRIMINAL CASES**

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*Effective: February 26, 2024*

## I. GENERAL PROCEDURES

### A. Applicable Rules

Those appearing in the District Court must know and follow:

1. The Federal Rules of Criminal Procedure;
2. The Federal Rules of Evidence;
3. The Local Rules of Practice of the United States District Court for the District of Colorado;
4. The Electronic Case Filing Procedures (Criminal Version 3.0 or the most current version); and
5. These Practice Standards.

### B. Access to Local Rules and Practice Standards

1. Copies of the local rules are available on the District Court's website (<http://www.cod.uscourts.gov/>) under "Local Rules," and from the Clerk of the Court in Room A105.
2. Copies of these practice standards are available on the District Court's website (<http://www.cod.uscourts.gov/>) under "Judicial Officers' Procedures," and from the Clerk of the Court in Room A105.

### C. Communication with Chambers

1. My Judicial Assistant is Amanda Montoya, at [crews\\_chambers@cod.uscourts.gov](mailto:crews_chambers@cod.uscourts.gov).
2. For information about the status of a motion or document, please contact the Clerk's Office, at (303) 844-3433.
3. For information about courtroom technology, trial preparation, or submission of trial exhibits, please contact my Courtroom Deputy, Cathy Pearson, at (303) 335-2089, or [cathy\\_pearson@cod.uscourts.gov](mailto:cathy_pearson@cod.uscourts.gov).
4. My Court Reporter is Mary George, at (303) 335-2109, or [mary\\_george@cod.uscourts.gov](mailto:mary_george@cod.uscourts.gov).
5. Please do not contact the law clerks about procedural or scheduling matters.

### D. Proposed Orders

You may be directed to transmit proposed orders by electronic mail to [crews\\_chambers@cod.uscourts.gov](mailto:crews_chambers@cod.uscourts.gov). The proposed order or document should be submitted as an attachment in Word format. The e-mail message should identify the

case number and the document attached. Do not send documents directly to chambers by facsimile or electronic mail unless asked to do so.

#### **E. 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.2d 1468, 1469-70 (10<sup>th</sup> 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. When a motion to continue is granted, all parties will be notified as soon as practicable.

#### **F. Motions for Extensions of Time**

1. Motions for extension of time require a showing of good cause, which must be established with particularity. The following reasons do not constitute good cause: agreement of counsel; inconvenience to counsel or to the parties; the press of business; conflicts in scheduling; or practice as a sole practitioner.
2. Any motion for extension of time shall be filed no later than three business days before the date the motion, response, reply, or other paper is due.

## **II. COURTROOM PROCEDURES**

#### **A. Courtroom Protocol**

1. Please observe traditional courtroom decorum: stand when addressing the Court, address the Court as “Your Honor,” and request permission to approach the bench. It will not normally be necessary for counsel to approach a witness on the stand. The Courtroom Deputy, upon request of counsel, will hand a witness an exhibit.
2. If you have a question about courtroom protocol, please contact my Courtroom Deputy, Cathy Pearson, at (303) 335-2089, or [cathy\\_pearson@cod.uscourts.gov](mailto:cathy_pearson@cod.uscourts.gov).

#### **B. 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.

### **C. Recording of Proceedings**

1. The official record of all trials and proceedings will be taken either by a realtime reporter or by electronic sound recording (audiotape).
2. The realtime reporter assigned to the Court is Mary George, at (303) 335-2109, or [mary\\_george@cod.uscourts.gov](mailto:mary_george@cod.uscourts.gov). Transcripts of proceedings may be ordered from Ms. George. Requests for realtime, daily, or hourly copy must be made at least thirty days before the trial or hearing. Further details can be obtained from Ms. George.

### **D. Exhibits**

1. When to file - For motions hearings, each party must provide a copy of its exhibit list to opposing counsel or any pro se party two business days before the hearing. As for exhibits for trial, the Government must provide a copy of its exhibits to Chambers no later than two business days prior to trial. This requirement applies to a defendant if they have identified exhibits for trial. As for exhibit lists for trial, see Section IV.A concerning Trial Preparation Conference.
2. Format of Exhibit List – Parties must use the form exhibit list available on the District Court website for Judge Crews. For trial exhibit lists, please add at least ten additional blank rows at the end of the exhibit list to accommodate any additional exhibits that may be introduced.
3. Each party must pre-mark all exhibits that will be used or identified in a hearing or trial. Exhibits not timely pre-marked or exchanged before a hearing or trial may not be admitted.
4. Exhibit labels can be obtained from the Clerk’s Office before trial. The Government’s exhibits should be marked using numbers. Defendant’s exhibits should be marked using alphabetical letters for the first twenty-six exhibits. For example, if there are 26 or fewer exhibits, label them A through Z. If there are more than 26 exhibits, begin marking them as A-1 through A-99, then B-1 through B-99, etc. Do not use double or triple letters. The criminal action number should also be placed on each of the exhibit stickers.
5. There will be no juror exhibit notebooks. Instead, the Court will provide an Elmo projector and television screen, or other technology, for purposes of publishing admitted exhibits to the jury. The parties may use the Elmo system provided by the Court or may bring in their own technology for purposes of publishing exhibits. Questions concerning

exhibits and courtroom equipment/technology may be directed to Ms. Pearson.

6. Only one exhibit notebook is required as a backup for the witness stand and which will also be the notebook the jury receives during deliberations. Your single exhibit notebook should contain that party's original exhibits, properly marked and tabbed, with the pages of each exhibit numbered. You should also bring **two electronic copies of your exhibits on a thumb drive on the first trial day to provide one to my courtroom deputy and the other to my court reporter.** The court reporter does not need media files such as videos or photos, only document exhibits.

#### **E. Witness Lists**

1. When to File – For motions hearings, witness lists should be filed via CM/ECF two business days before the hearing. For trials, see Section IV.A. concerning the Trial Preparation conference.
2. Format – Parties should use the form of witness list available on the District Court website (<http://www.cod.uscourts.gov/>).

#### **F. Depositions**

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

1. Objections to any portion of a proposed deposition shall be filed as soon as practicable, but no later than the time of the Trial Preparation Conference. Any objectionable portion of the deposition shall be identified with specificity, i.e., by page and line. Objections may be resolved before trial to facilitate appropriate redaction.
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 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.

#### **G. 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 as soon as practicable, but no later than the time of the Trial Preparation Conference. Objections may be resolved before trial to facilitate appropriate redaction.

#### **H. Special Equipment (Audio/Visual)**

The Court has audio-visual and other special equipment that may be used by the parties. A listing of available equipment can be found on the District Court's website (<http://www.cod.uscourts.gov/>) under "Courtroom Technology Manual for Attorneys." Notify my Courtroom Deputy, Cathy Pearson, no later than seven days before a hearing or trial concerning the date and time you need such equipment or need your own equipment to be brought through security for use in the courtroom.

### **III. MOTIONS PRACTICE**

#### **A. Page Limitations**

1. All motions, objections, responses, and briefs shall not exceed fifteen pages. Replies shall not exceed ten pages. Motions and briefs shall be combined and will be considered one paper for purposes of computing page limitations. These page limitations include the cover page, statement of facts, procedural history, argument, authority, closing, signature block, and all other matters, except the certificate of service. The body of the text and all footnotes shall be no smaller than 12-point type.
2. Motions to exceed the page limitations set forth in these Practice Standards will be granted only upon a showing of good cause. Any such motion shall indicate the number of pages of the proposed document and the reason why the additional pages are necessary.

#### **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. Objections to Rule 404(b) Notices**

The 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.

#### **D. Motions *In Limine***

Motions *in limine* are discouraged when the motion is evidence driven and cannot be resolved until evidence is presented at trial. Instead, the issue can be

flagged in a trial brief. If motions *in limine* are filed, they must be filed seven days before the trial preparation conference.

#### **E. 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; and
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.

#### **F. 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 no later than seven days before trial. Please flag evidentiary issues in a trial brief rather than by a motion *in limine*. A trial brief may not be used as a substitute for a motion.

### **IV. TRIALS**

#### **A. Trial Preparation Conference**

The Trial Preparation Conference will usually be held approximately two to ten days before trial. Counsel who will try the case must attend. Once trial has been set, the Court will issue an order that will confirm the Trial Preparation Conference date and specify the tasks to be completed before the Trial Preparation Conference.

1. Jury Instructions and Verdict Forms
  - a. Two business days before the Trial Preparation Conference, counsel and any pro se party shall submit proposed jury instructions and verdict forms. The jury instructions shall be titled (e.g., Burden of Proof) and shall identify the source of the instruction and supporting authority, e.g. § 103, Fed. Jury Practice, O'Malley, Grenig, and Lee (5<sup>th</sup> ed.). The parties shall submit their instructions and verdict forms both via CM/ECF and by electronic mail to [crews\\_chambers@cod.uscourts.gov](mailto:crews_chambers@cod.uscourts.gov) in Word format. Verdict forms shall be submitted in a separate file from jury instructions. Within the jury instructions file, each jury instruction shall begin on a new page.

- b. 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.
- c. 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/>).

2. Exhibit and Witness Lists: Two business days before the Trial Preparation Conference, the parties shall file their proposed witness and exhibit lists via CM/ECF. Defendants do not need to be listed on defendant’s witness lists. The forms of such lists are found at (<http://www.cod.uscourts.gov/>). For additional matters regarding exhibit and witness lists, see Sections II.D and II.E. above.

3. Voir Dire: Two business days before the Trial Preparation Conference, the parties shall file their proposed *voir dire* questions.

## **B. Jury Trials**

1. Counsel and pro se parties shall be present on the first day of trial at 8:00 a.m. Jury selection will begin at 8:30 a.m. Each trial day, counsel must be ready at 8:00 a.m. to meet with the Court. The jury will be brought in and trial will commence 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 duration. A lunch break of approximately 45 minutes will be taken at approximately 12:00 p.m.
2. Unless ordered otherwise, the procedure employed for selection of jurors and alternate jurors will be reviewed with the parties at the Trial Preparation Conference.
3. Unless ordered otherwise, each side shall be permitted *voir dire* examination of 15 to 20 minutes after *voir dire* examination by the Court.
4. 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 a potential juror is excused.
5. Jurors will be permitted to take notes during the trial.



6. The jury will be instructed after closing argument.
7. The jury will be given a copy of the indictment and written jury instructions for use during deliberations.

**C. Trials To Court**

Trials to Court will begin at 8:30 a.m. For a trial to the Court, a resumé or *curriculum vitae*, marked as an exhibit, generally will suffice for the qualification of an expert witness.

**D. Glossary**

1. No 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. Plea Agreement Content Restriction**

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. Consequently, no plea agreement shall contain any reference to any cooperation agreement between the defendant and the government, to any potential for a motion under 5K.1.1 of the Unites States Sentencing Guidelines (“U.S.S.G.”), or to any other statutory guideline calculation or adjustment predicated on such cooperation.

**C. Plea Agreement Supplement**

1. In all criminal cases resolved by plea agreement in which the defendant’s cooperation against others is part of the agreement, the parties shall prepare and provide to the Court, in addition to the Plea Agreement and Statement by Defendant in Advance of Plea provided for by D.C.COLO.LCrR 11.1(c) and (d), a Plea Agreement Supplement. At the conclusion of the change of plea hearing, the courtroom deputy will

file the Plea Agreement Supplement in the Electronic Case Filing (“ECF”) system as a Court only entry.

2. The Plea Agreement Supplement shall contain in substance, the following statement: “The parties agree that the following additional terms and provisions are part of the Plea Agreement.” Thereafter, the Plea Agreement Supplement shall fully set forth all terms and provisions of the agreement between the parties that were omitted from the Plea Agreement because of the restriction required by Section V(B), *supra*, together with all U.S.S.G. computations and statutory implications of the additional plea agreement provisions.
3. The Plea Agreement Supplement shall be signed by all persons who sign the Plea Agreement.
4. A copy of the Plea Agreement Supplement shall be provided to Chambers together with the Plea Agreement in the same time and manner as provided for by the D.C.COLO.LCrR 11.1(c).
5. The Plea Agreement Supplement shall be tendered to the courtroom deputy in the same time and manner as provided for by D.C.COLO.LCrR 11.1(e).

#### **D. Safety Valve Cases**

The parties may, but are not required to, adhere to the requirements of Sections B and C above in cases where the Defendant is eligible for safety valve relief under the U.S.S.G. and no other cooperator agreement is included as part of the disposition with the government. Where the disposition entails both safety valve relief and further benefit based on that or additional cooperation, Section B and C above shall apply to both the safety valve and additional cooperation aspects of the plea agreement.

#### **E. Sentencing Statements, Objections to Presentence Report and Motions for Departure or Variance and Related Documents**

1. All Sentencing Statements, Objections, and Responses to Presentence Reports, and Motions for Departure or Variance provided for by D.C.COLO.LCrR 32.1 shall, except as provided in ¶3 below, be filed as restricted documents subject to Restriction Level 2.
2. This requirement shall constitute a standing order for purposes of D.C.COLO.LCrR 32.1(d) and 47.1(a).
3. The following are excluded from the requirement set forth in ¶1 that the matter be filed under restriction: (i) Sentencing Statements in cases

resolved by trial, (ii) Motions pursuant to U.S.S.G. § 3E1.1(b) and (iii) Motions pursuant to U.S.S.G. § 5K3.1.

4. Motions to Dismiss are not covered by D.C.COLO.LCrR 32.1 and, accordingly, need not be filed as restricted documents.

**F. Rule 11(c)(1)(C) Pleas**

If a plea is to be tendered pursuant to Fed. R. Crim P. 11(c)(1)(C), the notice of disposition must so state.