

**INDIVIDUAL RULES AND PROCEDURES
FOR CRIMINAL CASES**

**Lorna G. Schofield
United States District Judge**

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Southern District of New York
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New York, New York 10007**

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A. Procedural Rules

The Court's procedures are governed by the Federal Rules of Criminal Procedure, the Local Criminal Rules of the United States District Courts for the Southern and Eastern Districts of New York (the "Local Rules"), and the Individual Practices set forth below. Unless otherwise ordered, these Individual Practices apply to all criminal matters before Judge Schofield, except criminal *pro se* cases.

B. Communications with Chambers

1. Initial Pretrial Conference. When a criminal case is assigned to Judge Schofield, the Assistant United States Attorney ("AUSA") shall immediately call Chambers at 212-805-0288 to arrange for a prompt conference / arraignment. The AUSA shall email a courtesy copy of the indictment or information and the criminal complaint, if one exists, to the Court Schofield_NYSDChambers@nysd.uscourts.gov as soon as practicable.
2. General Communications with Chambers. All communications with Chambers shall be by letter, not to exceed two pages, including exhibits, and in 12-point font, except as provided below.

Letters to the Court shall be filed via ECF and should not be sent to Chambers, except letters containing information that should not be in the public file (for example concerning settlement discussions or medical information) shall be emailed to Chambers as a .PDF attachment at Schofield_NYSDChambers@nysd.uscourts.gov. Emails shall state clearly in the subject line: (1) the docket number of the case, (2) the case caption with the lead party names, and (3) a brief description of the contents of the letter (*e.g.*, 11-cv-9999, *Jones v. Smith*, Request for Extension of Time"). Substantive statements shall be made only in the letter attachment; the Court will not review statements made in the body of the email. Copies of communications emailed to Chambers shall be emailed simultaneously to all counsel and unrepresented parties. The parties shall not send the Court copies of correspondence between counsel.

If a party does not want a letter to be docketed because of a protective order or for other good cause, the sender shall explicitly state in the letter the grounds for a request of confidential treatment, and include the header "CONFIDENTIAL" on every page of the letter. If a party wishes to ensure preservation of an undocketed letter for the record on appeal, it shall clearly so indicate in the first paragraph of the letter.

3. Requests for Adjournments and Extensions of Time. All requests for adjournments or extensions of time shall be made as a letter-motion filed via ECF except as provided above. The body of the letter shall state: (1) the original due date, the date sought to be extended, and the new date the party now seeks; (2) the number of previous requests for adjournment or extension

of time; (3) whether these previous requests were granted or denied; and (4) whether the adversary consents, and if not, the reasons given by the adversary for refusing to consent. If the requested adjournment or extension affects any other scheduled dates, a proposed Revised Civil Case Management Plan and Scheduling Order shall be attached to the letter. It is not necessary to send this revised proposed scheduling order to Orders and Judgments.

Requests for adjournment of court conferences shall be made by noon at least two business days before the scheduled appearance. Absent extraordinary circumstances, requests for extension of time will be denied if not made before the expiration of the original deadline.

The Court's permission is required to extend or adjourn Court-imposed dates and deadlines. Extensions and adjournments of Court-imposed dates and deadlines will be granted only for compelling reasons. When adjournments are granted, it is upon the condition that the party requesting the adjournment notifies all other parties of the new date and/or time.

4. Other Docket, Schedule and Calendar Matters. For docket, schedule and calendar matters, other than requests for adjournments and extensions of time, counsel may call Chambers at 212-805-0288 or email Schofield_NYSDChambers@nysd.uscourts.gov. The subject line of any email shall contain the information specified in paragraph I.B.1. above. Parties shall consult the ECF to confirm conference dates and times.
5. Urgent Matters. For urgent matters requiring the Court's immediate attention, counsel may telephone Chambers at 212-805-0288, and shall include all counsel on the call.
6. Authorized Hand Deliveries. Material specifically permitted or ordered by the Court to be delivered by hand shall be left with the Court Security Officers at the Worth Street entrance of Daniel P. Moynihan Courthouse and shall not be brought directly to Chambers. If the hand-delivered material is urgent and requires the Court's immediate attention, counsel shall ask the Court Security Officers to notify Chambers that an urgent package has arrived and needs to be retrieved by Chambers staff immediately.
7. Other Communications. Emails, telephone calls and hand deliveries to chambers are not permitted except as provided above. Faxes to Chambers are not permitted except with the prior authorization of Chambers, which will be given only in exceptional circumstances. In such situations, each faxed submission shall clearly identify the person in Chambers who authorized the sending of a fax, and copies shall be simultaneously faxed or delivered to all counsel.

C. Filing and Submission of Papers

1. Electronic Case Filing (“ECF”). All attorneys representing parties before Judge Schofield are required to register promptly as filing users on ECF. Instructions are available on the Court website at http://www.nysd.uscourts.gov/ecf_filing.php. Counsel are responsible for updating their contact information on ECF and for checking the docket sheet regularly, regardless of whether they receive an ECF notification of case activity.
2. Proposed Stipulations and Orders. Except as otherwise provided in these Rules, parties shall email all proposed stipulations and orders that they wish the Court to sign to the Orders and Judgments Clerk at judgments@nysd.uscourts.gov in accordance with the ECF Rules and Instructions. Courtesy copies shall not be sent to Chambers.
3. Redactions and Filing Under Seal. Except as provided in Section I.6 below regarding sentencing letters, any party wishing to file in redacted form any document under seal, or any portion thereof, shall email a letter to Chambers explaining the reasons for seeking to file under seal. The party shall attach to its letter one full set of the relevant page(s) or document(s) in highlighted form (i.e., with the proposed redactions highlighted). If the submission exceeds 25 pages, it shall be delivered in hard copy by hand as provided in Section C.6 above. The Court will review the proposed redactions and notify the party of its decision. The party may then, to the extent permitted by the Court, file the redacted documents on ECF and the full, unredacted documents under seal in accordance with this district’s procedures set forth at http://nysd.uscourts.gov/cases_records.php?records=sealed_records. On application of a party, and provided the unredacted papers are timely served on the party’s adversary, the Court will deem papers filed on the date the party delivers them to Chambers for review of proposed redactions.

D. Defense Counsel

1. Benefactor Payments. Whenever defense counsel has received, or is receiving, a benefactor payment that subjects counsel to a conflict of interest, he or she shall inform the Court and request a *Curcio* hearing *at the first conference*.
2. Substitution of Counsel. When there is a substitution of defense counsel, counsel of record shall call or email Chambers 212-805-0288 or Schofield_NYSDChambers@nysd.uscourts.gov to schedule a conference as soon as possible. At the conference, the Court will address the application by defense counsel to be relieved. The defendant, replacement counsel, and the AUSA also shall attend the conference.

E. Discovery Motions

Counsel shall comply with Southern District Local Criminal Rule 16.1, and the discovery motion shall contain a Rule 16.1 affidavit.

F. Bail Modification

Any written request by a defendant for bail modification shall indicate whether the Government and the Pre-Trial Services Officer consent to the request.

G. Guilty Pleas

1. Plea Agreements and *Pimentel* Letters. When a defendant is pleading guilty pursuant to a plea agreement or a cooperation agreement, a copy of the agreement ordinarily shall be received by Chambers at least two business days before the scheduled plea. Where the Government is providing a *Pimentel* letter, a copy of the letter shall be received by Chambers no fewer than two business days before the scheduled plea. These documents shall be emailed to the Court as provided in Rule B.2 above.
2. Preparation for Allocution. Prior to the date set for the plea, defense counsel are expected to have reviewed with the defendant – if necessary, with the assistance of an interpreter – any *Pimentel* letter or plea, cooperation or other agreement, as well as the Advice of Rights form available at <http://nysd.uscourts.gov/judge/Schofield>. Defense counsel and the defendant shall execute any plea or cooperation agreement, as well as the Advice of Rights form, prior to the plea. Defense counsel shall prepare the defendant to give narrative allocutions that incorporate all of the elements of the offense(s) to which the defendant is pleading guilty.

H. Trials

1. *Voir Dire*, Requests to Charge and Verdict Sheet. In all jury cases, no later than two business days before the scheduled trial date, each of the parties shall file proposed requests to charge, a verdict sheet and joint proposed *voir dire* questions, including a one or two paragraph statement describing the case to be read to the prospective jurors at the beginning of *voir dire*. The parties shall provide the Court with a courtesy digital copy of both the proposed *voir dire* and requests to charge in Word format either by email to Chambers or on a CD hand delivered to the Court as provided in Section B.6 above.
2. Witness List, Exhibits and 3500 Material. On the first day of trial, the Government shall provide the Court three hard copies of the witness list and exhibit list, and two sets of pre-marked documentary exhibits and Section 3500 material organized in a loose leaf binder, organized such that the Court can easily refer to the exhibits during trial.
3. Admission of Exhibits. In advance of each trial day, counsel for the party going forward shall show opposing counsel the exhibits he or she intends to introduce that day. The opponent shall indicate those exhibits to which he or she has no objection, and the Court will admit them when offered. Those exhibits to which there is an objection shall be presented to the Court for ruling before the opening

of the trial session. If possible, the Court will rule on the objection then, thereby eliminating the need for a sidebar conference when the exhibit is offered.

I. Sentencing

1. Sentencing Adjournments. Any request for an adjournment of a sentencing shall be made as early as possible, and *no later than 72 hours* before the sentencing proceeding in accordance with Section B.3 above.
2. Sentencing Submissions. Unless otherwise ordered by the Court, a defendant's sentencing submission shall be served two weeks in advance of the date set for sentencing. The Government's sentencing submission shall be served one week in advance of the date set for sentencing. The parties shall provide the Court with two courtesy hard copies of each submission when it is served.
3. Public Filing. The Court assumes that every document in a sentencing submission, including letters, will be filed in the public record, either in paper form or through the ECF system, using one of the following procedures:
 - (a) Paper Filing. If letters are filed as hard copies, a party shall group all letters together in a single paper filing under a cover marked SENTENCING MEMORANDUM with the caption and docket number clearly indicated and submit it to the Clerk's Office.
 - (b) ECF Filing. If letters are filed electronically, they shall be grouped and filed together as attachments to a single document marked SENTENCING MEMORANDUM with the caption and docket number clearly indicated.
4. Letters. The defendant is responsible for filing all letters submitted on behalf of the defendant, including those from friends and relatives. The Government is responsible for filing all letters from victims.
5. Privacy Policy. The parties are referred to the E-Government Act of 2002 and the Southern District's ECF Privacy Policy ("Privacy Policy") and reminded not to include, unless necessary, any of the five categories of "sensitive information" in their submissions (i.e., social security numbers, names of minor children [use initials only], dates of birth [use year only], financial account numbers, and home addresses [use only city and state]).
6. Redactions Related to Sentencing. If any material is redacted from a publicly filed document relating to sentencing, only those pages containing the redacted material will be filed under seal. Counsel shall bring to the sentencing proceeding a copy of the pages containing redactions, marked to indicate what information has been redacted from the publicly filed materials, to give to the Court for filing under seal.
 - (a) Redactions Not Requiring Court Approval. Parties may redact the five categories of "sensitive information" and the six categories of information

requiring caution (i.e., personal identifying number, medical records, treatment and diagnosis, employment history, individual financial information, proprietary or trade secret information, and information regarding an individual's cooperation with the government), as described in the Privacy Policy, without Court approval.

- (b) Redactions Requiring Court Approval. If a party redacts information beyond the eleven categories of information identified in the Privacy Policy, an application shall be served and filed at the time the sentencing submission is served. The application shall clearly identify the redaction and explain the reasons for the redaction. The application will be addressed at the sentencing proceeding.