

INDIVIDUAL PRACTICES OF JUDGE PAUL G. GARDEPHE
CRIMINAL CASES

Chambers

United States District Court
Southern District of New York
500 Pearl Street, Room 920
New York, New York 10007
(212) 805-0224

Courtroom

500 Pearl Street, Courtroom 6B
Michael Ruocco
Courtroom Deputy Clerk – (212) 805-0102

1. ECF Cases. Counsel are required to register in accordance with the Procedures for Electronic Case filing within **one week** following the initial pretrial conference. Counsel can access the Court’s web site: www.nysd.uscourts.gov and click on “CM/ECF Home Page” for complete instructions on how to register.

2. Communications. Except for urgent matters requiring **immediate** attention, all communication with the Court should be in writing and must contain the docket number for the case and the Court’s initials (PGG). For an urgent matter, call chambers at 212-805-0224.

3. Substitution of Counsel. When there is a substitution of defense counsel, counsel of record must contact the Courtroom Deputy (212-805-0102) to schedule a conference. At the conference, the Court will address the application by defense counsel to be relieved. The defendant, replacement counsel and the Assistant United States Attorney must also attend the conference.

4. Motions. In making discovery motions, counsel are expected to comply with Southern District Local Criminal Rule 16.1. Any discovery motion must contain the Rule 16.1 Affidavit. Any motion to suppress must include a supporting affidavit from a party with personal knowledge.

5. Initial Conference/ Arraignment.

A. Upon assignment of a criminal case to Judge Gardephe, the parties immediately shall arrange with the Deputy Clerk for a prompt conference at which the defendant will be present in order to set a discovery and motion schedule. The Assistant United States Attorney shall provide a courtesy copy each of the indictment and criminal complaint, if one exists, to chambers as soon as possible.

B. Defense counsel are required to ask the Court, at the first conference, to hold a Curcio hearing whenever counsel has received, or is receiving, a benefactor payment that subjects counsel to a conflict of interest.

6. Guilty Pleas.

A. Guilty pleas will ordinarily be taken by Judge Gardephe and are not assigned to Magistrate Judges by standing order. No plea will be scheduled until after a defendant's first appearance before the Court.

B. Defense counsel are expected to have reviewed any plea, cooperation or other agreement – if necessary, with the assistance of an interpreter – with the defendant **prior** to the time set for the conference with the Court.

C. Defendants shall be prepared in advance of their pleas by their attorneys to give narrative allocutions that incorporate all the elements of the offense(s) to which they are pleading guilty.

D. Where a defendant is pleading guilty pursuant to a plea agreement or a cooperation agreement, a copy of the agreement which is signed by the defendant and the defendant's attorney must be received by Chambers no fewer than **three** business days before the scheduled plea. Where a defendant is pleading guilty pursuant to a Pimentel letter, a copy of the Pimentel letter must be received by Chambers no fewer than **three** business days before the scheduled plea.

7. Exclusion of Time. At scheduled court appearances, parties seeking an exclusion of time under the Speedy Trial Act must be prepared to apprise the Court of facts that will permit the Court to make an independent determination as to whether or not to exclude time, considering both the interest of the public and the interest of the Defendant in a speedy trial, in conformance with 18 U.S.C. § 3161(h)(8), Parisi v. United States, 529 F.3d 134 (2d Cir. 2008), and United States v. Zedner, 547 U.S. 489 (2006). It is not sufficient that the parties agree to exclude time.

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

9. Sentencing.

A. Adjournments. Any request for an adjournment of sentence should be made in writing as early as possible, but no later than **three** business days before the date at issue. Such requests should state whether opposing counsel consents.

B. Sentencing Submissions.

1. Redaction of Sensitive Information.

As a general matter, all documents submitted by the parties in connection with sentencing, including letters, are to be filed in the public record either in paper form or through the ECF system, using the procedures described below. Defense counsel will file all letters submitted on behalf of the defendant, including those from friends, relatives, and others. The Government is responsible for filing all letters from victims.

In filing sentencing submissions, the parties are directed to consider the E-Government Act of 2002 and this District's ECF Privacy Policy ("Privacy Policy"). Unless necessary, sentencing submissions should not contain the five categories of "sensitive information" (i.e., social security numbers; names of minor children [use initials only]; dates of birth [use year only]; financial account numbers; and home address [use only city and state]). Court permission is not required to redact information that falls within 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.

If any material is redacted from a publicly filed document, only those pages containing the redacted material will be filed under seal. Counsel should bring a copy of those pages to the sentencing proceeding, marked to indicate what information has been redacted from the publicly filed materials, to give to the Court for filing under seal.

If a party redacts information beyond the eleven categories of information identified in the Privacy Policy, an application to do so must be served and filed at the time the sentencing submission is served. The application should clearly identify the redaction and explain the reasons for redaction. The application will be addressed at the sentencing proceeding.

2. Timing and Filing Procedures

A defendant's sentencing submission shall be served two weeks before the sentencing date. The Government's sentencing submission shall be served one week before the sentencing date. The parties will provide the Court with one courtesy copy of each submission when it is served. At the time of service, a party shall file its sentencing submission following one of the two procedures described here:

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 MATERIALS 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 must be grouped together as attachments to a single document marked SENTENCING MATERIALS with the caption and docket number clearly indicated.