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Director

ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

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WASHINGTON, D.C. 20544

April 29, 1996

MEMORANDUM TO ALL: CHIEF JUDGES, UNITED STATES DISTRICT COURTS
CHIEF JUDGES, UNITED STATES BANKRUPTCY COURTS
CLERKS, UNITED STATES DISTRICT COURTS
CLERKS, UNITED STATES BANKRUPTCY COURTS

SUBJECT: Uniform Numbering System for Local Rules of Court (ACTION REQUESTED)

RESPONSE DUE DATE: April 15, 1997

On March 12, 1996, the Judicial Conference approved the recommendation of the Committee on Rules of Practice and Procedure to "adopt a numbering system for local rules of court that corresponds with the relevant Federal Rules of Practice and Procedure." The action of the Judicial Conference implements the December 1, 1995 amendments to the Federal Rules of Appellate, Bankruptcy, Civil, and Criminal Procedure, which provide that all local rules of court "must conform to any uniform numbering system prescribed by the Judicial Conference." (See Appellate Rule 47, Bankruptcy Rules 8018 and 9029, Civil Rule 83, and Criminal Rule 57.) The Conference also set April 15, 1997, as the date for compliance with the uniform numbering system.

Uniform numbering systems will assist the bar in locating local rules applicable to a particular subject, reduce the chance of a trap for unwary counsel, and ease incorporation of local rules into indexing and computer services. Model uniform numbering systems that track the Federal Rules of Practice and Procedure are attached with an accompanying introduction from Judge Alicemarie H. Stotler, Chair, Committee on Rules of Practice and Procedure, to assist the courts in renumbering their local rules. A report prepared by the Local Rules Project on the Local Rules of Criminal Practice also is being distributed, which evaluates and identifies particular local rules that may be models for other courts or inconsistent or duplicative of the Federal Rules of Criminal Procedure.

- Please contact either Professor Mary P. Squiers, Director of the Local Rules Project, at (617) 552-8851, or Professor Daniel R. Coquillette, the Reporter to the Standing Rules Committee, at (617) 552-8650, if you have a question regarding the numbering of Appellate,

Uniform Numbering System for Local Rules of Court

Page Two

Civil, or Criminal local rules of court. You may contact Patricia S. Channon, a senior attorney with the Bankruptcy Judges Division at (202) 273-1908, if you have a question regarding the numbering of bankruptcy local rules of court.

A handwritten signature in cursive script, appearing to read "Leonidas Ralph Meham".

Leonidas Ralph Meham

Attachments

cc: Circuit Executives

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE
OF THE
JUDICIAL CONFERENCE OF THE UNITED STATES
WASHINGTON, D.C. 20544

ALICEMARIE H. STOTLER
CHAIR

PETER G. McCABE
SECRETARY

CHAIRS OF ADVISORY COMMITTEES

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APPELLATE RULES

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PATRICK E. HIGGINBOTHAM
CIVIL RULES

D. LOWELL JENSEN
CRIMINAL RULES

RALPH K. WINTER, JR.
EVIDENCE RULES

April 19, 1996

MEMORANDUM TO ALL: CHIEF JUDGES, UNITED STATES DISTRICT COURTS
CHIEF JUDGES, UNITED STATES BANKRUPTCY COURTS
CLERKS, UNITED STATES DISTRICT COURTS
CLERKS, UNITED STATES BANKRUPTCY COURTS

SUBJECT: *Uniform Numbering System for Local Rules of Courts and a Report on the Local Rules of Criminal Practice*

UNIFORM NUMBERING SYSTEM

The Judicial Conference authorized the Committee on Rules of Practice and Procedure to undertake a study of local rules of the district courts at its September 1986 meeting. The committee recognized early on that there was no uniform numbering system for federal district court local rules. Such a system would have many advantages and would be especially helpful to a national practitioner.

At the committee's request, the Judicial Conference in 1988 urged district courts to adopt a uniform numbering system for their local rules addressing civil practice, patterned on the Federal Rules of Civil Procedure. In 1991, a suggested uniform numbering system governing local rules of courts of appeal based on the Federal Rules of Appellate Procedure was circulated to the circuit chief judges. Many of the district courts and all but one of the courts of appeals have revised the numbering of their local rules using suggested uniform numbering systems. In 1995, a preliminary draft of a uniform numbering system for local rules of courts based on the Federal Rules of Bankruptcy Procedure was circulated for comment.

The Federal Rules of Practice and Procedure were amended in December 1995 to require courts to adopt a numbering system for their local rules that conforms to any uniform numbering system prescribed by the Judicial Conference. The Conference has now implemented those amendments mandating only that the number of a particular local rule correspond with the relevant number of the Federal Rules of Practice and Procedure. For example, matters regarding

a summary judgment would be located in number 56 of a district court's local rules governing civil practice.

To assist courts, model uniform numbering systems for local rules are included as Attachment A (Civil Rules), Attachment B (Bankruptcy Rules), and Attachment C (Criminal Rules). The suggested numbering system for local rules governing bankruptcy practice was submitted by the Advisory Committee on Bankruptcy Rules and is more detailed than the other two models. These model uniform numbering systems for local rules are similar to those that were previously circulated. As a result, courts that have already renumbered their local rules based on these models need take no further action.

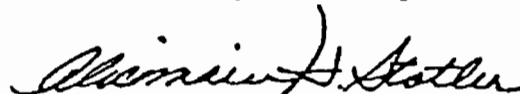
REPORT ON THE LOCAL RULES OF CRIMINAL PRACTICE

In response to Congressional concerns regarding the proliferation of local rules of court, the Committee on Rules of Practice and Procedure formed the Local Rules Project in 1984 to study local rules. The Project completed its study of local civil rules in 1989, local appellate rules in 1991, and local criminal rules in 1995. Comprehensive reports on local rules of appellate and civil practice were distributed to courts identifying particular local rules as models for other courts or as duplicative or inconsistent with the national rules. For your consideration, I am attaching the Project's report on Local Rules of Criminal Practice (Attachment D), which follows the format of the earlier reports.

The Project's report ought to be considered as the empirical research of scholars. Neither the Committee on Rules of Practice and Procedure nor the Advisory Committee on Criminal Rules has evaluated or approved the Report. The committees hope that the report will be helpful to you as you examine and renumber your local criminal rules.

REQUESTS FOR ASSISTANCE

The Committee on Rules of Practice and Procedure recognizes the burden imposed on judges, staff, and the bar in complying with the amended Federal Rules of Practice and Procedure. We have asked our reporter, Professor Daniel R. Coquillette, and our consultant, Professor Mary P. Squiers, Director of the Local Rules Project, to stand ready to respond to your questions regarding renumbering of local rules of court and the Report on the Local Rules of Criminal Practice. We have also asked Patricia S. Channon, a senior attorney in the Bankruptcy Judges Division, to be available to respond to questions regarding the numbering of bankruptcy local rules of court. I would also welcome a letter or call from you on any aspect of this project.



Alicemarie H. Stotler
Chair

Attachments

cc: Circuit Executives

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE
OF THE
JUDICIAL CONFERENCE OF THE UNITED STATES
WASHINGTON, D.C. 20544

Attachment A

ALICEMARIE H. STOTLER
CHAIR

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SECRETARY

CHAIRS OF ADVISORY COMMITTEES

JAMES K. LOGAN
APPELLATE RULES

PAUL MANNES
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PATRICK E. HIGGINBOTHAM
CIVIL RULES

D. LOWELL JENSEN
CRIMINAL RULES

RALPH K. WINTER, JR.
EVIDENCE RULES

April 17, 1996

MEMORANDUM TO JUDGE ALICEMARIE H. STOTLER

FROM: MARY P. SQUIERS, DIRECTOR, LOCAL RULES PROJECT

SUBJECT: *Renumbering of Local Rules of Civil Practice*

Amendments to the Federal Rules of Civil Procedure took effect on December 1, 1995, requiring that all local rules of court "conform to any uniform numbering system prescribed by the Judicial Conference." See Civil Rule 83. At its March 1996 session, the Judicial Conference prescribed a uniform numbering system for local rules that is based on and tracks the relevant Federal Rules. This uniform numbering system uses the numbers of respective Federal Rules as the structure. Each local rule is numbered according to its corresponding Federal Rule. There are local rules for which there are no corresponding Federal Rules; these local rules are correlated with the respective Federal Rule on local rulemaking. (Fed.R.Civ.P.83.)

At present, there is no uniform numbering system for federal district court local rules on civil practice. Some of the jurisdictions have local rules that are simply numbered sequentially beginning at "1." E.g., Central District of California, District of Connecticut. Other jurisdictions have rules that are arranged by topic, designated with a "100," "200," or "300," followed by a hyphen and the actual rule number. E.g., Northern District of California, District of the Northern Mariana Islands. Still other jurisdictions have local rules that are arranged by topic, designated "1," "2," or "3," followed by a decimal point or colon and the actual rule number. E.g., Northern District of Ohio.

A uniform numbering system has many advantages over the current numbering. It will be helpful to the bar in locating rules applicable to a particular subject. This is especially important for those attorneys with multi-district practice. It is also significant for any attorney needing to locate a particular rule or to learn whether a local rule on a specific topic exists in the first instance. At present, it is sometimes difficult to find any

case law relating to a particular local rule, in part because there is no uniform numbering. The uniform numbering system will also ease the incorporation of local rules into the various indexing services such as West Publishing Company and the Lexis computer services.

The system focuses on the numbering system already used for the Federal Rules of Civil Procedure. This system is already familiar to the bar. What follows, therefore, is a numbering system for local rules which tracks the number of the related Federal Rule of Civil Procedure. Each local rule number corresponds to the number of the related Federal Rule of Civil Procedure. For example, the designation "LR15.1" refers to the local rule relating to motions to amend. The designation "LR" indicates that it is a local civil rule; the number "15" indicates that the rule is related to Rule 15 of the Federal Rules of Civil Procedure; and, the number "1" indicates that it is the first local rule concerning Rule 15 of the Federal Rules of Civil Procedure. The same system applies with respect to those Federal Rules of Civil Procedure with a "1" or a "2" after the initial rule number, such as Rule 65.1 entitled "Security; Proceedings Against Sureties." Thus, for example, the first local rule concerning Federal Rule 65 "Injunctions" is designated "LR65.1," while the first local rule concerning Federal Rule 65.1 "Security; Proceedings Against Sureties" is designated "LR65.1.1."

Numbering of the Local Rules
of a Fictitious Jurisdiction

Part 1. Proposed Numbering

Proposed Numbering

Chapter I—General Rules

- | | | |
|------|--|---------|
| 100. | Title—Effective Date of These Rules—Compliance and Construction. | |
| | 100-1. Title. | LR1.1 |
| | 100-2. Scope. | LR1.1 |
| | 100-3. Sanctions and Penalties for Noncompliance. | LR1.3 |
| | 100-4. Definitions. | LR1.1 |
| | 100-5. Effective Date; Transitional Provision. | LR1.1 |
| 101. | Sessions of the Court. | |
| | 101-1. Regular Sessions. | LR77.4 |
| 102. | Divisions of the Court. | |
| | 102-1. Number of Divisions. | LR3.2 |
| | 102-2. Transfer of Civil Actions. | LR3.2 |
| 110. | Attorneys—Admission to Practice—Standards of Conduct—Duties. | |
| | 110-1. Admission to the Bar. | LR83.5 |
| | 110-2. Standards of Professional Conduct. | LR83.5 |
| | 110-3. Student Practice. | LR83.5 |
| | 110-4. Appearance, Substitution, and Withdrawal. | LR83.5 |
| | 110-5. Discipline. | LR83.6 |
| 120. | Court Library. | |
| | 120-1. Use of the Library. | LR77.6 |
| 121. | Court Reporters. | |
| | 121-1. Fee Schedule. | LR80.1 |
| 122. | Money in the Custody of the Clerk. | |
| | 122-1. Receipt and Deposit of Registry Funds. | LR67.2 |
| | 122-2. Investment of Registry Funds. | LR67.2 |
| | 122-3. Disbursement of Registry Funds. | LR67.3 |
| 130. | Format of Pleadings and Other Papers—Filing of Papers. | |
| | 130-1. Form; Legibility | LR5.1 |
| | 130-2. Filing by Clerk—Nonconforming Documents Rejected. | Deleted |
| 131. | Time Periods | |
| | 131-1. Computation of Time. | LR6.1 |
| | 131-2. Extensions of Time by Clerk. | LR6.2 |

Numbering of the Local Rules
of a Fictitious Jurisdiction

Proposed Numbering

- | | |
|--|--------|
| 132. Clerk of the District Court. | |
| 132-1. Location and Hours. | LR77.1 |
| 132-2. Custody and Withdrawal of Files. | LR79.1 |
| 132-3. Custody and Disposition of Exhibits | LR79.1 |
| 132-4. Orders Grantable by Clerk. | LR77.2 |
| 140. Publicity. | |
| 140-1. Photography and Broadcasting. | LR83.4 |
| 145. Security in the Courthouse. | |
| 145-1. Weapons Not Permitted. | LR83.4 |

Chapter II—Civil Rules

- | | |
|---|-------------------------|
| 200. Institution of Civil Proceedings. | |
| 200-1. Identification of Counsel. | LR11.1 |
| 200-2. Caption and Title. | LR10.1 |
| 200-3. Jury Demand. | LR38.1 |
| 200-4. Class Actions. | LR23.1 |
| A. Complaint. | |
| B. Class Certification. | |
| C. Restrictions Regarding Communications with
Actual or Potential Class Members. | |
| 200-5. Three-Judge Court. | LR9.2 |
| 200-6. Claim of Unconstitutionality. | LR24.1 |
| 200-7. Social Security Cases. | LR9.1 |
| 205. Differentiated Case Management ¹ | |
| 205-1. Purpose and Authority. | LR16.2CJ or
LR40.1CJ |
| 205-2. Definitions. | LR16.2CJ |
| 205-3. Date of DCM Application. | LR1.1CJ |
| 205-4. Conflicts with Other Rules. | LR1.1CJ |
| 205-5. Tracks and Evaluation of Cases. | LR16.2CJ |
| 205-6. Case Information Statement. | LR16.2CJ |
| 205-7. Track Assignment and Case Management
Conference. | LR16.2CJ |
| 205-8. Status Hearing and Final Pretrial
Conference. | LR16.2CJ |
| 205-9. Alternative Dispute Resolution. | LR16.2CJ |

¹ Some jurisdictions may provide for assignment of a trial date at a pretrial hearing or in a pretrial order so that placing this rule under Federal Rule 16 is appropriate. Others may prefer that such a local directive be placed under Federal Rule 40 on assignment of cases for trial. This decision is left to the individual districts to better conform to local practice. Most of the provisions of Local Rule 205, then, can be placed in one of two places; Local Rule 205-1 is illustrative. See also Local Rules 206 and 255.

Numbering of the Local Rules
of a Fictitious Jurisdiction

Proposed Numbering

206.	Early, Firm Trial Dates ²	
206-1.	Presumptive Trial Date.	LR16.3CJ or LR40.2CJ
206-2.	Firm Trial Date for Track "A" Cases.	LR16.3CJ
206-3.	Firm Trial Date for Track "B" and "C".	LR16.3CJ
206-4.	Continuances After Firm Trial Date is Set.	LR16.3CJ
206-5.	Parties Informed of Case Status.	LR16.3CJ
210.	Service of Pleadings and Other Papers.	
210-1.	Service by Mail.	LR4.1
210-2.	Proof of Service.	LR5.2
210-3.	Filing with the Court.	LR5.1
215.	Motion Practice. ³	
215-1.	Motions; to Whom Made.	LR7.1
215-2.	Notice and Supporting Papers.	LR7.1
215-3.	Opposition and Reply.	LR7.1
215-4.	Briefs and Memoranda.	LR7.1
	A. When Required.	
	B. Form of Briefs, Memoranda, and Appendices.	
	C. Contents of Briefs.	
	D. Contents of Appendices.	
	E. Number of Papers.	
215-5.	Nonconforming Papers Rejected.	Deleted
215-6.	Filing.	LR7.1
215-7.	Affidavits.	LR7.1
215-8.	Temporary Restraining Orders.	LR65.2
215-9.	Preliminary Injunctions.	LR65.1
215-10.	Continuances and Withdrawal of Motions.	LR7.1
215-11.	Extensions, Enlargements, or Shortening of Time.	LR7.1
215-12.	Submission of Orders to a Judge.	LR7.1
220.	Prejudgment Remedies.	
220-1.	Receivers.	LR66.1
225.	Discovery Filing and Service Practice.	
225-1.	Filing.	LR5.5
225-2.	Service.	LR5.5

² The provisions of Local Rule 206 can be placed in one of two places, either under Federal Rule 16 or 40, depending upon the preference of the district court. See also Local Rules 205 and 255.

³ If these rules refer to specific motions such as those pursuant to Rules 12 or 56, one of two options can be exercised. A notation can be made at the other rule locations, such as at LR56.1 referring the reader to LR7, or there can be multiple local rules on the subject of motions: one for motions generally at LR7 and rules relating to such specific motions at LR12 and LR56.

Numbering of the Local Rules
of a Fictitious Jurisdiction

Proposed Numbering

230.	Discovery.	
	230-1. Form of Certain Discovery Documents.	LR26.1
	230-2. Interrogatories.	LR33.1
	230-3. Requests for Production.	LR34.1
	230-4. Requests for Admission.	LR36.1
	230-5. Depositions.	LR30.1
	A. Who May Attend Depositions.	
	B. Videotape Depositions.	
	230-6. Physical and Mental Examination.	LR35.1
	230-7. Form of Discovery Motions.	LR37.2
	230-8. Informal Conference to Settle Discovery Disputes.	LR37.1
	230-9. Preliminary Discovery.	LR26.2CJ
235.	Pretrial and Setting for Trial.	
	235-1. Status Conference.	LR16.1
	235-2. Status Conference Order.	LR16.1
	235-3. Pretrial Conference.	LR16.1
	235-4. Pretrial Conference Statement.	LR16.1
	235-5. Pretrial Order.	LR16.1
	235-6. Objections to Proposed Testimony and Exhibits	LR16.1
	235-7. Dismissal for Lack of Prosecution.	LR41.1
240.	Settlement.	
	240-1. Settlement Conference.	LR16.4
245.	Jury	
	245-1. Six-Person Juries.	Delete
	245-2. Voir Dire.	LR47.1
	245-3. Proposed Instructions.	LR51.1
	245-4. Objections to Proposed Instructions.	LR51.1
	245-5. Assessment of Jury Costs.	LR54.2
250.	Exhibits.	
	250-1. Use of Exhibits.	LR39.3
255.	Trial Date. ⁴	
	255-1. Continuance of Trial Date.	LR16.5 or LR40.3
260.	Conduct in the Courtroom.	
	260-1. Courtroom Decorum.	LR83.3
	260-2. Examination of Witnesses.	LR43.1
	260-3. Communication with Jurors.	LR47.2

⁴ The provisions of Local Rule 255 can be placed in one of two places, either under Federal Rule 16 or 40, depending upon the preference of the district court. See also Local Rules 205 and 206.

Numbering of the Local Rules
of a Fictitious Jurisdiction

Proposed Numbering

265.	Judgment.	
265-1.	Form of Judgment.	LR58.1
270.	Taxation of Costs.	
270-1.	Procedure for Taxing Costs.	LR54.1
275.	Attorneys' Fees.	
275-1.	Procedure for Determining Attorneys' Fees.	LR54.3
280.	Executions.	
280-1.	Procedure for Execution.	LR58.2
285.	Petitions to Stay Execution of State Court Judgments.	
285-1.	Procedure to Stay Execution of State Court Judgments.	LR62.1
290.	Bonds and Sureties.	
290-1.	When Required.	LR65.1.1
290-2.	Qualifications of Surety.	LR65.1.1
290-3.	Removal Bond.	Delete
290-4.	Examination of Sureties.	LR65.1.1
290-5.	Supersedeas Bonds.	LR62.2

Chapter III—Magistrate Judges

300.	Duties of Magistrate Judges.	
300-1.	General Duties of Magistrate Judges.	LR72.1
310.	Assignment of Duties to Magistrate Judges.	
310-1.	Assignment of Duties to Magistrate Judges.	LR72.1
320.	Review of Magistrate Judges' Determinations.	
320-1.	Procedure for Review.	LR74.1
330.	Chief Magistrate Judge.	
330-1.	Selection of Chief Magistrate Judge.	LR72.1
330-2.	Duties of Chief Magistrate Judge.	LR72.1
340.	Trials of Civil Cases Upon Consent of the Parties.	
340-1.	Procedure for Obtaining Consent.	LR73.1
340-2.	Effect of Magistrate Judge's Result.	LR73.1
350.	Prisoner Petitions.	
350-1.	Responsibilities of Magistrate Judges.	LR72.1

Chapter IV—Alternative Dispute Resolution.

400.	General Provisions.	
400-1.	General Provisions.	LR16.6CJ

Numbering of the Local Rules
of a Fictitious Jurisdiction

Proposed Numbering

405.	Mandatory Arbitration.	
	405-1. Actions Subject to Mandatory Arbitration.	LR16.7CJ
	405-2. Procedure for Referral to Arbitration.	LR16.7CJ
	405-3. Selection and Compensation of Arbitrators.	LR16.7CJ
	405-4. Award and Judgment.	LR16.7CJ
	405-5. Trial De Novo.	LR16.7CJ
410.	Voluntary Arbitration.	
	410-1. General Provisions.	LR16.8CJ
415.	Early Neutral Evaluation.	
	415-1. General Provisions.	LR16.9CJ
420.	Mediation	
	420-1. General Provisions.	LR16.10CJ
425.	Summary Jury Trial	
	425-1. General Provisions.	LR16.11CJ
430.	Summary Bench Trial	
	430-1. General Provisions.	LR16.12CJ
435.	Other ADR Procedures	
	435-1. General Provisions.	LR16.13CJ
440.	Civil Justice Delay and Expense Reduction Plan. [The last local rule for the district consists of a table of cross references for each of the directives in the Plan to its local rule number. ⁵]	LR83.7CJ

Part 2. Renumbered Local Rules

LR1.1	Title.(100-1)	
LR1.1	Scope of Local Rules. (100-2)	
LR1.1	Definitions. (100-4)	
LR1.1	Effective Date; Transitional Provisions. (100-5)	
LR1.1CJ	Date of Differentiated Case Management (DCM) Application. (205-3)	
LR1.1CJ	Conflicts of DCM with Other Rules. (205-4)	
LR1.3	Sanctions and Penalties for Noncompliance. (100-3)	

⁵ An alternative that a district may wish to consider is to omit "CJ" from all rules but include as an Appendix to the local rules of the district two tables of cross-references—one organized in the sequence of the Plan and showing corresponding local rule numbers, and the other organized in the sequence of the local rules and showing corresponding sections of the Plan.

Numbering of the Local Rules
of a Fictitious Jurisdiction

- LR3.2 Number of Divisions. (102-1)
- LR3.2 Transfer of Civil Actions Among Divisions. (102-2)

- LR4.1 Service by Mail. (210-1)

- LR5.1 Filing with the Court. (210-3)
- LR5.1 Form; Legibility of Pleadings and Other Papers. (130-1)
- Deleted Filing by Clerk—Nonconforming Documents Rejected. (130-2)

- LR5.2 Proof of Service. (210-2)

- LR5.5 Discovery; Filing. (225-1)
- LR5.5 Discovery; Service. (225-2)

- LR6.1 Computation of Time Periods. (131-1)

- LR6.2 Extensions of Time by Clerk. (131-2)

- LR7.1 Motions; to Whom Made. (215-1)
- LR7.1 Motions; Notice and Supporting Papers. (215-2)
- LR7.1 Motions; Opposition and Reply. (215-3)
- LR7.1 Motions; Briefs and Memoranda. (215-4)
 - A. When Required.
 - B. Form of Briefs, Memoranda, and Appendices.
 - C. Contents of Briefs.
 - D. Contents of Appendices.
 - E. Number of Papers.
- Deleted Motions; Nonconforming Papers Rejected. (215-5)
- LR7.1 Motions; Filing. (215-6)
- LR7.1 Motions; Affidavits. (215-7)
- LR7.1 Motions; Continuances and Withdrawal. (215-10)
- LR7.1 Motions; Extensions, Enlargements, or Shortening of Time. (215-11)
- LR7.1 Submission of Orders to a Judge. (215-12)

- LR9.1 Social Security Cases. (200-7)

- LR9.2 Three-Judge Court. (200-5)

- LR10.1 Pleadings; Caption and Title. (200-2)

- LR11.1 Identification of Counsel. (200-1)

- LR16.1 Pretrial Status Conference. (235-1)
- LR16.1 Pretrial Status Conference Order. (235-2)
- LR16.1 Pretrial Conference. (235-3)
- LR16.1 Pretrial Conference Statement. (235-4)
- LR16.1 Pretrial Order. (235-5)
- LR16.1 Pretrial Objections to Proposed Testimony and Exhibits. (235-6)

- LR16.2CJ Differentiated Case Management (DCM); Purpose and Authority. (205-1)
- LR16.2CJ DCM; Definitions. (205-2)
- LR16.2CJ DCM; Tracks and Evaluation of Cases. (205-5)
- LR16.2CJ DCM; Case Information Statement. (205-6)

Numbering of the Local Rules
of a Fictitious Jurisdiction

- LR16.2CJ DCM; Track Assignment and Case Management Conference. (205-7)
- LR16.2CJ DCM; Status Hearing and Final Pretrial Conference. (205-8)
- LR16.2CJ DCM; Alternative Dispute Resolution. (205.9)

- LR16.3CJ Trial Date; Presumptive. (206-1)
- LR16.3CJ Trial Date; Firm for Track "A" Cases. (206-2)
- LR16.3CJ Trial Date; Firm for Track "B" and "C". (206-3)
- LR16.3CJ Trial Date ; Continuances After Date is Set. (206-4)
- LR16.3CJ Trial Date; Parties Informed of Case Status. (206-5)

- LR16.4 Settlement Conference. (240-1)

- LR16.5 Continuance of Trial Date. (255-1)

- LR16.6CJ Alternative Dispute Resolution (ADR) General Provisions. (400-1)

- LR16.7CJ Arbitration; Actions Subject to Mandatory Arbitration. (405-1)
- LR16.7CJ Arbitration; Procedure for Referral to Mandatory Arbitration. (405-2)
- LR16.7CJ Arbitration; Selection and Compensation of Arbitrators. (405-3)
- LR16.7CJ Arbitration; Award and Judgment. (405-4)
- LR16.7CJ Arbitration; Trial De Novo. (405-5)

- LR16.8CJ Arbitration; General Provisions for Voluntary Arbitration. (410-1)

- LR16.9CJ Early Neutral Evaluation; General Provisions. (415-1)

- LR16.10CJ Mediation; General Provisions. (420-1)

- LR16.11CJ Summary Jury Trial; General Provisions. (425-1)

- LR16.12CJ Summary Bench Trial; General Provisions. (430-1)

- LR16.13CJ Other ADR Procedures. (435-1)

- LR23.1 Class Actions. (200-4)
 - A. Complaint.
 - B. Class Certification.
 - C. Restrictions Regarding Communications with Actual or Potential Class Members.

- LR24.1 Claim of Unconstitutionality. (200-6)

- LR26.1 Discovery Documents; Form. (230-1)

- LR26.2CJ Discovery; Preliminary. (230-9)

- LR30.1 Depositions. (230-5)
 - A. Who May Attend Depositions.
 - B. Videotape Depositions.

- LR33.1 Interrogatories. (230-2)

- LR34.1 Requests for Production. (230-3)

Numbering of the Local Rules
of a Fictitious Jurisdiction

- LR35.1 Physical and Mental Examination. (230-6)
- LR36.1 Requests for Admission. (230-4)
- LR37.1 Conference to Settle Discovery Disputes. (230-8)
- LR37.2 Discovery Motions; Form. (230-7)
- LR38.1 Jury Demand. (200-3)
- Delete Six-Person Juries. (245-1)
- LR39.3 Use of Exhibits. (250-1)
- LR41.1 Dismissal for Lack of Prosecution. (235-7)
- LR43.1 Examination of Witnesses. (260-2)
- LR47.1 Jury; Voir Dire. (245-2)
- LR47.2 Jury; Communication with Jurors. (260-3)
- LR51.1 Jury Instructions; Proposed. (245-3)
- LR51.1 Jury Instructions; Objections. (245-4)
- LR54.1 Taxation of Costs; Procedure. (270-1)
- LR54.2 Jury Costs. (245-5)
- LR54.3 Attorneys' Fees. (275-1)
- LR58.1 Judgment; Form. (265-1)
- LR58.2 Execution. (280-1)
- LR62.1 Stays of Execution of State Court Judgments. (285-1)
- LR62.2 Supersedeas Bonds. (290-5)
- LR65.1 Preliminary Injunctions. (215-9)
- LR65.1.1 Bonds and Sureties; When Required. (290-1)
- LR65.1.1 Bonds and Sureties; Qualifications of Surety. (290-2)
- Delete Bonds and Sureties; Removal Bond. (290-3)
- LR65.1.1 Bonds and Sureties; Examination of Sureties. (290-4)
- LR65.2 Temporary Restraining Orders. (215-8)
- LR66.1 Receivers. (220-1)
- LR67.2 Receipt and Deposit of Registry Funds. (122-1)
- LR67.2 Investment of Registry Funds. (122-2)
- LR67.3 Disbursement of Registry Funds. (122-3)
- LR72.1 Magistrate Judges' Duties. (300-1)

Numbering of the Local Rules
of a Fictitious Jurisdiction

- LR72.1 Magistrate Judges; Assignment of Duties. (310-1)
- LR72.1 Magistrate Judges; Selection of Chief Magistrate Judge. (330-1)
- LR72.1 Magistrate Judges; Duties of Chief Magistrate Judge. (330-2)
- LR72.1 Magistrate Judges; Responsibilities. (350-1)

- LR73.1 Magistrate Judges; Procedure for Obtaining Consent to Trial. (340-1)
- LR73.1 Magistrate Judges; Effect of Magistrate Judge's Result. (340-2)

- LR74.1 Magistrate Judges; Procedure for Review. (320-1)

- LR77.1 Clerk's Office; Location and Hours. (132-1)
- LR77.2 Orders Grantable by Clerk. (132-4)
- LR77.4 Sessions of the Court. (101-1)
- LR77.6 Library. (120-1)

- LR79.1 Files; Custody and Withdrawal. (132-2)
- LR79.1 Exhibits; Custody and Disposition. (132-3)

- LR80.1 Court Reporters; Fee Schedule. (121-1)

- LR83.3 Courtroom Decorum. (260-1)

- LR83.4 Weapons Not Permitted. (145-1)
- LR83.4 Photography and Broadcasting. (140-1)

- LR83.5 Attorneys; Admission to the Bar. (110-1)
- LR83.5 Attorneys; Standards of Professional Conduct. (110-2)
- LR83.5 Attorneys; Student Practice. (110-3)
- LR83.5 Attorneys; Appearance, Substitution, and Withdrawal. (110-4)

- LR83.6 Attorney Discipline. (110-5)

- LR83.7CJ Civil Justice Delay and Expense Reduction Plan. [The last local rule for the district consists of a table of cross references for each of the directives in the Plan to its local rule number.] (440)

Part 3. Alphabetical List of Local Rule Topics

- LR16. Alternative Dispute Resolution (ADR); General Provisions.
- LR16. ADR; Other Procedures.
- LR16. Arbitration; Actions Subject to Mandatory Arbitration.
- LR16. Arbitration; Award and Judgment.
- LR16. Arbitration; General Provisions for Voluntary Arbitration.
- LR16. Arbitration; Procedure for Referral to Mandatory Arbitration.
- LR16. Arbitration; Selection and Compensation of Arbitrators.
- LR16. Arbitration; Trial De Novo.
- LR83. Attorney Discipline.
- LR83. Attorneys; Admission to the Bar.

Numbering of the Local Rules
of a Fictitious Jurisdiction

- LR83. Attorneys; Appearance, Substitution, and Withdrawal.
- LR83. Attorneys; Standards of Professional Conduct.
- LR83. Attorneys; Student Practice.
- LR54. Attorneys' Fees.

- LR65.1. Bonds and Sureties; Examination of Sureties.
- LR65.1. Bonds and Sureties; Qualifications of Surety.
- Delete Bonds and Sureties; Removal Bond.
- LR65.1. Bonds and Sureties; When Required.

- LR83. Civil Justice Delay and Expense Reduction Plan. [The last local rule for the district consists of a table of cross references for each of the directives in the Plan to its local rule number.]

- LR24. Claim of Unconstitutionality.
- LR23. Class Actions.
 - A. Complaint.
 - B. Class Certification.
 - C. Restrictions Regarding Communications with Actual or Potential Class Members.

- LR77. Clerk's Office; Location and Hours.
- LR37. Conference to Settle Discovery Disputes.
- LR1. Conflicts of DCM with Other Rules.
- LR16. Continuance of Trial Date.
- LR80. Court Reporters; Fee Schedule.
- LR83. Courtroom Decorum.

- LR1. Definitions.
- LR30. Depositions.
 - A. Who May Attend Depositions.
 - B. Videotape Depositions.
- LR16. Differentiated Case Management (DCM); Alternative Dispute Resolution.
 - LR1. DCM; Application; Dates.
 - LR16. DCM; Case Information Statement.
 - LR16. DCM; Definitions.
 - LR16. DCM; Purpose and Authority.
 - LR16. DCM; Status Hearing and Final Pretrial Conference.
 - LR16. DCM; Track Assignment and Case Management Conference.
 - LR16. DCM; Tracks and Evaluation of Cases.
 - LR26. Discovery Documents; Form.
 - LR5. Discovery; Filing.
 - LR26. Discovery; Preliminary.
 - LR5. Discovery; Service.
 - LR37. Discovery Motions; Form.
 - LR41. Dismissal for Lack of Prosecution.
 - LR3. Divisions; Number.

- LR16. Early Neutral Evaluation; General Provisions.
- LR1. Effective Date; Transitional Provisions.
- LR43. Examination of Witnesses.
- LR58. Execution.
- LR79. Exhibits; Custody and Disposition.

- LR79. Files; Custody and Withdrawal.

Numbering of the Local Rules
of a Fictitious Jurisdiction

- Deleted Filing by Clerk; Nonconforming Documents Rejected.
LR5. Filing with the Court.
LR5. Form; Legibility of Pleadings and Other Papers.
- LR11. Identification of Counsel.
LR33. Interrogatories.
- LR58. Judgment; Form.
LR47. Jury; Communication with Jurors.
LR54. Jury Costs.
LR38. Jury Demand.
LR51. Jury Instructions; Objections.
LR51. Jury Instructions; Proposed.
LR47. Jury; Voir Dire.
- LR77. Library.
- LR72. Magistrate Judges; Assignment of Duties.
LR72. Magistrate Judges; Duties.
LR72. Magistrate Judges; Duties of Chief Magistrate Judge.
LR73. Magistrate Judges; Effect of Magistrate Judge's Result.
LR73. Magistrate Judges; Procedure for Obtaining Consent to Trial.
LR74. Magistrate Judges; Procedure for Review.
LR72. Magistrate Judges; Responsibilities.
LR72. Magistrate Judges; Selection of Chief Magistrate Judge.
LR16. Mediation; General Provisions.
LR7. Motions; Affidavits.
LR7. Motions; Briefs and Memoranda.
A. When Required.
B. Form of Briefs, Memoranda, and Appendices.
C. Contents of Briefs.
D. Contents of Appendices.
E. Number of Papers.
LR7. Motions; Continuances and Withdrawal.
LR7. Motions; Extensions, Enlargements, or Shortening of Time.
LR7. Motions; Filing.
Deleted Motions; Nonconforming Papers Rejected.
LR7. Motions; Notice and Supporting Papers.
LR7. Motions; Opposition and Reply.
LR7. Motions; to Whom Made.
- LR7. Orders; Submission of Orders to a Judge.
LR77. Orders Grantable by Clerk.
- LR83. Photography and Broadcasting.
LR35. Physical and Mental Examination.
LR10. Pleadings; Caption and Title.
LR65. Preliminary Injunctions.
LR16. Pretrial Conference.
LR16. Pretrial Conference Statement.
LR16. Pretrial Objections to Proposed Testimony and Exhibits.
LR16. Pretrial Order.
LR16. Pretrial Status Conference.
LR16. Pretrial Status Conference Order.

Numbering of the Local Rules
of a Fictitious Jurisdiction

- LR5. Proof of Service.

- LR66. Receivers.
- LR67. Registry Funds; Disbursement.
- LR67. Registry Funds; Investment.
- LR67. Registry Funds; Receipt and Deposit.
- LR36. Requests for Admission.
- LR34. Requests for Production.

- LR1. Sanctions and Penalties for Noncompliance.
- LR1. Scope of Local Rules.
- LR4. Service by Mail.
- LR77. Sessions of the Court.
- LR16. Settlement Conference.
- Delete Six-Person Juries.
- LR9. Social Security Cases.
- LR62. Stays of Execution of State Court Judgments.
- LR16. Summary Bench Trial; General Provisions.
- LR16. Summary Jury Trial; General Provisions.
- LR62. Supersedeas Bonds.

- LR54. Taxation of Costs; Procedure.
- LR65. Temporary Restraining Orders.
- LR9. Three-Judge Court.
- LR6. Time; Computation of Time Periods.
- LR6. Time; Extensions of Time by Clerk.
- LR1. Title.
- LR3. Transfer of Civil Actions Among Divisions.
- LR16. Trial Date; Continuances After Date is Set.
- LR16. Trial Date; Firm for Track "A" Cases.
- LR16. Trial Date; Firm for Track "B" and "C".
- LR16. Trial Date; Parties Informed of Case Status.
- LR16. Trial Date; Presumptive.

- LR39. Use of Exhibits.

- LR83. Weapons Not Permitted.

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE
OF THE
JUDICIAL CONFERENCE OF THE UNITED STATES
WASHINGTON, D.C. 20544

Attachment B

ALICEMARIE H. STOTLER
CHAIR

PETER G. McCABE
SECRETARY

CHAIRS OF ADVISORY COMMITTEES

JAMES K. LOGAN
APPELLATE RULES

PAUL MANNES
BANKRUPTCY RULES

PATRICK E. HIGGINBOTHAM
CIVIL RULES

D. LOWELL JENSEN
CRIMINAL RULES

RALPH K. WINTER, JR.
EVIDENCE RULES

April 17, 1996

MEMORANDUM TO JUDGE ALICEMARIE H. STOTLER, CHAIR, COMMITTEE ON
RULES OF PRACTICE AND PROCEDURE

SUBJECT: *Uniform Numbering System for Local Bankruptcy Rules*

The attached numbering system for local bankruptcy rules was approved by the Advisory Committee on Bankruptcy Rules to assist courts in the renumbering process. The accompanying materials will be helpful in renumbering any local rule that does not correspond to a specific Federal Rule of Bankruptcy Procedure. The cross-references listed in the column labeled "See Also LBR" are intended to assist in locating other topics or local rules related to the rule that is the starting point. An alphabetical listing is also attached.

The attached numbering system for local bankruptcy rules consists of a four-digit national rule number, a dash, and a fifth digit, starting with 1. For instance, local rules relating to chapter 13 trustees are assigned the number 2015-1, and local rules relating to United States trustees are assigned the number 2020-1. Local rule topics for which there is no related national rule have been assigned to the part of the national rules to which each topic is most closely related. These topics are assigned available, unused numbers within the part, starting with 1070, 2070, etc. For example, rules related to attorney admissions and discipline are assigned to numbers 2090-1 and 2090-2.

The attached numbering system was derived from a comprehensive review of local rules and represents the subjects on which bankruptcy courts now have local rules. Some courts have few rules. Others have many. The existence of a model local rule number should not be interpreted as a recommendation that there should be a local rule on the topic. If a court uses both the model number and the topic name in the attached material, that will permit searching both by number and type.

Likewise, many national rules address matters about which there has been no apparent need for local rules. Accordingly, users may perceive "gaps" in the numbering system where there is no uniform local rule number assigned to a national rule. This exclusion of various national rules from the model local rule numbering system is deliberate, but is not intended to

preclude a district from prescribing a local rule using one or more numbers not found in the attached material.



Paul Mannes, Chair
Advisory Committee on Bankruptcy Rules

Attachment

UNIFORM NUMBERING SYSTEM FOR LOCAL BANKRUPTCY RULES

Cite as " _____ LBR ____ - ____." Example: "E.D. Va. LBR 1007-1."
(District) (Number)

If a rule is prescribed by a circuit council for a Bankruptcy Appellate Panel Service, cite as ____ Cir. BAP LBR ____ - ____." Example: "9th Cir. BAP LBR 8009-1."

The topic names are part of this uniform numbering system and should be used in addition to the rule numbers.

PART I

Uniform Local Rule Number

Topic

See Also LBR

1002-1	PETITION - GENERAL	1004-1, 1005-1 1010-1, 5005-2
1004-1	PETITION - PARTNERSHIP	
1005-1	PETITION - CAPTION	9004-2
1006-1	FEES - INSTALLMENT PAYMENTS	5080-1, 5081-1
1007-1	LISTS, SCHEDULES, & STATEMENTS	5005-2
1007-2	MAILING - LIST OR MATRIX	
1007-3	STATEMENT OF INTENTION	
1009-1	AMENDMENTS TO LISTS & SCHEDULES	
1010-1	PETITION-INVOLUNTARY	
1014-1	TRANSFER OF CASES	
1014-2	VENUE - CHANGE OF	
1015-1	JOINT ADMINISTRATION/ CONSOLIDATION	
1015-2	RELATED CASES	
1017-1	CONVERSION - REQUEST FOR/ NOTICE OF	
1017-2	DISMISSAL OR SUSPENSION - CASE OR PROCEEDINGS	
1019-1	CONVERSION - PROCEDURE FOLLOWING	
1020-1	CHAPTER 11 SMALL BUSINESS CASES - GENERAL	
1070-1	JURISDICTION	
1071-1	DIVISIONS - BANKRUPTCY COURT	
1072-1	PLACES OF HOLDING COURT	

PART I, Cont'd.

<u>Uniform Local Rule Number</u>	<u>Topic</u>	<u>See Also LBR</u>
1073-1	ASSIGNMENT OF CASES	
1074-1	CORPORATIONS	

PART II

<u>Uniform Local Rule Number</u>	<u>Topic</u>	<u>See Also LBR</u>
2002-1	NOTICE TO CREDITORS & OTHER INTERESTED PARTIES	
2002-2	NOTICE TO UNITED STATES OR FEDERAL AGENCY	
2002-3	UNITED STATES AS CREDITOR OR PARTY	
2003-1	MEETING OF CREDITORS & EQUITY SECURITY HOLDERS	
2004-1	DEPOSITIONS & EXAMINATIONS	7027-1, 9016-1
2007.1-1	TRUSTEES & EXAMINERS (Ch. 11)	
2010-1	TRUSTEES - BONDS/SURETY	
2014-1	EMPLOYMENT OF PROFESSIONALS	6005-1
2015-1	TRUSTEES - GENERAL	
2015-2	DEBTOR-IN-POSSESSION DUTIES	
2015-3	TRUSTEES - REPORTS & DISPOSITION OF RECORDS	
2015-4	TRUSTEES - CHAPTER 12	
2015-5	TRUSTEES - CHAPTER 13	
2016-1	COMPENSATION OF PROFESSIONALS	6005-1
2019-1	REPRESENTATION OF MULTIPLE PARTIES	
2020-1	UNITED STATES TRUSTEES	
2070-1	ESTATE ADMINISTRATION	
2071-1	COMMITTEES	
2072-1	NOTICE TO OTHER COURTS	
2080-1	CHAPTER 9	
2081-1	CHAPTER 11 - GENERAL	

PART II, Cont'd.

<u>Uniform Local Rule Number</u>	<u>Topic</u>	<u>See Also LBR</u>
2082-1	CHAPTER 12 - GENERAL	
2083-1	CHAPTER 13 - GENERAL	
2090-1	ATTORNEYS - ADMISSION TO PRACTICE	9010-1
2090-2	ATTORNEYS - DISCIPLINE & DISBARMENT	9011-3
2091-1	ATTORNEYS - WITHDRAWALS	

PART III

<u>Uniform Local Rule Number</u>	<u>Topic</u>	<u>See Also LBR</u>
3001-1	CLAIMS AND EQUITY SECURITY INTERESTS - GENERAL	5003-3
3006-1	CLAIMS - WITHDRAWAL	
3007-1	CLAIMS - OBJECTIONS	
3008-1	CLAIMS - RECONSIDERATION	
3009-1	DIVIDENDS - CHAPTER 7	
3010-1	DIVIDENDS - SMALL	
3011-1	UNCLAIMED FUNDS	
3012-1	VALUATION OF COLLATERAL	
3015-1	CHAPTER 13 - PLAN	
3015-2	CHAPTER 13 - AMENDMENTS TO PLANS	
3015-3	CHAPTER 13 - CONFIRMATION	
3016-1	CHAPTER 11 - PLAN	
3016-2	DISCLOSURE STATEMENT - GENERAL	
3017-1	DISCLOSURE STATEMENT - APPROVAL	
3017-2	DISCLOSURE STATEMENT - SMALL BUSINESS CASES	
3018-1	BALLOTS - VOTING ON PLANS	
3018-2	ACCEPTANCE/REJECTION OF PLANS	
3019-1	CHAPTER 11 - AMENDMENTS TO PLANS	
3020-1	CHAPTER 11 - CONFIRMATION	
3021-1	DIVIDENDS - UNDER PLAN (Ch. 11)	
3022-1	FINAL REPORT/DECREE (Ch. 11)	
3070-1	CHAPTER 13 - PAYMENTS	

PART IVUniform Local
Rule NumberTopicSee Also LBR

4001-1	AUTOMATIC STAY - RELIEF FROM	
4001-2	CASH COLLATERAL	
4001-3	OBTAINING CREDIT	
4002-1	DEBTOR - DUTIES	
4002-2	ADDRESS OF DEBTOR	
4003-1	EXEMPTIONS	
4003-2	LIEN AVOIDANCE	
4004-1	DISCHARGE HEARINGS	
4004-2	OBJECTIONS TO DISCHARGE	
4007-1	DISCHARGEABILITY COMPLAINTS	
4008-1	REAFFIRMATION	
4070-1	INSURANCE	
4071-1	AUTOMATIC STAY - VIOLATION OF	

PART VUniform Local
Rule NumberTopicSee Also LBR

5001-1	COURT ADMINISTRATION	
5001-2	CLERK - OFFICE LOCATION/HOURS	
5003-1	CLERK - GENERAL/AUTHORITY	
5003-2	COURT PAPERS - REMOVAL OF	
5003-3	CLAIMS - REGISTER	
5005-1	FILING PAPERS - REQUIREMENTS	1002-1, 1007-1, 9004-1, 9004-2
5005-2	FILING PAPERS - NUMBER OF COPIES	
5005-3	FILING PAPERS - SIZE OF PAPERS	9004-1
5005-4	ELECTRONIC FILING	
5009-1	FINAL REPORT/DECREE	
5010-1	REOPENING CASES	
5011-1	WITHDRAWAL OF REFERENCE	

PART V, Cont'd.

<u>Uniform Local Rule Number</u>	<u>Topic</u>	<u>See Also LBR</u>
5011-2	ABSTENTION	
5070-1	CALENDARS & SCHEDULING	9073-1, 9074-1
5071-1	CONTINUANCE	
5072-1	COURTROOM DECORUM	
5073-1	PHOTOGRAPHY, RECORDING DEVICES & BROADCASTING	
5075-1	CLERK - DELEGATED FUNCTIONS OF	
5076-1	COURT REPORTING	
5077-1	TRANSCRIPTS	
5078-1	COPIES - HOW TO ORDER	
5080-1	FEEES - GENERAL	1006-1
5081-1	FEEES - FORM OF PAYMENT	1006-1
5090-1	JUDGES - VISITING & RECALLED	
5091-1	SIGNATURES - JUDGES	
5092-1	SEAL OF COURT	
5095-1	INVESTMENT OF ESTATE FUNDS	

PART VI

<u>Uniform Local Rule Number</u>	<u>Topic</u>	<u>See Also LBR</u>
6004-1	SALE OF ESTATE PROPERTY	
6005-1	APPRAISERS & AUCTIONEERS	2014-1, 2016-1
6006-1	EXECUTORY CONTRACTS	
6007-1	ABANDONMENT	
6008-1	REDEMPTION	
6070-1	TAX RETURNS & TAX REFUNDS	

PART VII

<u>Uniform Local Rule Number</u>	<u>Topic</u>	<u>See Also LBR</u>
7001-1	ADVERSARY PROCEEDINGS - GENERAL	
7003-1	COVER SHEET	
7004-1	SERVICE OF PROCESS	
7004-2	SUMMONS	
7005-1	CERTIFICATE OF SERVICE (APs)	9013-3
7005-2	FILING OF DISCOVERY MATERIALS	
7007-1	MOTION PRACTICE (in APs)	9013-1
7008-1	CORE/NON-CORE DESIGNATION (Complaint)	
7012-1	CORE/NON-CORE DESIGNATION (Responsive Pleading)	
7016-1	PRE-TRIAL PROCEDURES	
7023-1	CLASS ACTION	
7024-1	INTERVENTION	
7024-2	UNCONSTITUTIONALITY, CLAIM OF	
7026-1	DISCOVERY - GENERAL	
7027-1	DEPOSITIONS & EXAMINATIONS (APs)	2004-1
7040-1	ASSIGNMENT OF ADVERSARY PROCEEDINGS	1073-1
7052-1	FINDINGS & CONCLUSIONS	
7054-1	COSTS - TAXATION/PAYMENT	
7055-1	DEFAULT - FAILURE TO PROSECUTE	
7056-1	SUMMARY JUDGMENT	
7065-1	INJUNCTIONS	
7067-1	REGISTRY FUND	
7069-1	JUDGMENT - PAYMENT OF	

<u>Local Rule Topic</u>	<u>Uniform Local Rule Number</u>
UNITED STATES TRUSTEES	2020-1
VALUATION OF COLLATERAL	3012-1
VENUE - CHANGE OF	- 1014-2
WITHDRAWAL OF REFERENCE	5011-1
WITNESSES	9016-2

APPENDIX OF UNIFORM LOCAL RULE NUMBERS FOR BANKRUPTCY APPEALS

<u>Topic</u>	<u>Uniform Local Rule Number</u>
COMPLETION OF RECORD - APPEAL	8007-1
COSTS - APPEAL	8014-1
DAMAGES AND COSTS FOR FRIVOLOUS APPEAL	8020-1
DESIGNATION OF RECORD - APPEAL	8006-1
DETERMINATION OF MOTION - APPEAL	8011-3
DETERMINATION OF PROCEDURAL MOTION - APPEAL	8011-2
DISMISSAL OF APPEAL BY COURT FOR NON-PROSECUTION	8070-1
DISMISSAL OF APPEAL (Voluntary)	8001-2
DISPOSITION OF APPEAL	8013-1
DOCKETING OF APPEAL	8007-3
ELECTION FOR DISTRICT COURT DETERMINATION OF APPEAL	8001-3
EMERGENCY MOTION - APPEAL	8011-4
ENTRY OF JUDGMENT BY CLERK OF DISTRICT COURT OR BAP	8016-1
FILING PAPERS - APPEAL	8008-1
FORM OF BRIEFS - APPEAL	8010-1
LENGTH OF BRIEFS - APPEAL	8010-3
LOCAL RULES OF CIRCUIT JUDICIAL COUNCIL OR DISTRICT COURT	8018-1
MANNER OF SERVING PAPERS - APPEAL	8008-3
MOTION FOR LEAVE TO APPEAL	8003-1
MOTION FOR REHEARING - APPEAL	8015-1
MOTION, RESPONSE, REPLY - APPEAL	8011-1
NOTICE OF APPEAL	8001-1
NOTICE OF ORDER OR JUDGMENT - APPEAL	8016-2

APPENDIX OF UNIFORM LOCAL RULE NUMBERS FOR BANKRUPTCY APPEALS

PART VIIIUniform Local
Rule NumberTopic

8001-1	NOTICE OF APPEAL
8001-2	DISMISSAL OF APPEAL (VOLUNTARY)
8001-3	ELECTION FOR DISTRICT COURT DETERMINATION OF APPEAL
8002-1	TIME FOR FILING APPEAL
8003-1	MOTION FOR LEAVE TO APPEAL
8004-1	SERVICE OF NOTICE OF APPEAL
8005-1	STAY PENDING APPEAL
8006-1	DESIGNATION OF RECORD - APPEAL
8007-1	COMPLETION OF RECORD - APPEAL
8007-2	TRANSMISSION OF RECORD - APPEAL
8007-3	DOCKETING OF APPEAL
8007-4	RECORD FOR PRELIMINARY HEARING - APPEAL
8008-1	FILING PAPERS - APPEAL
8008-2	SERVICE OF ALL PAPERS REQUIRED - APPEAL
8008-3	MANNER OF SERVING PAPERS - APPEAL
8008-4	PROOF OF SERVICE OF FILED PAPERS - APPEAL
8009-1	TIME FOR FILING BRIEFS - APPEAL
8009-2	TIME FOR FILING APPENDIX TO BRIEF - APPEAL
8010-1	FORMS OF BRIEFS - APPEAL
8010-2	REPRODUCTION OF STATUTES, ETC. - APPEAL
8010-3	LENGTH OF BRIEFS - APPEAL
8011-1	MOTION, RESPONSE, REPLY - APPEAL
8011-2	DETERMINATION OF PROCEDURAL MOTION - APPEAL
8011-3	DETERMINATION OF MOTION - APPEAL
8011-4	EMERGENCY MOTION - APPEAL

PART VIII, Cont'd.Uniform Local
Rule NumberTopic

8011-5	POWER OF SINGLE JUDGE TO ENTERTAIN MOTIONS
8012-1	ORAL ARGUMENT - APPEAL
8013-1	DISPOSITION OF APPEAL
8014-1	COSTS - APPEAL
8015-1	MOTION FOR REHEARING - APPEAL
8016-1	ENTRY OF JUDGMENT BY CLERK OF DISTRICT COURT OR BAP
8016-2	NOTICE OF ORDER OR JUDGMENT - APPEAL
8016-3	RETURN OF RECORD ON APPEAL
8017-1	STAY PENDING APPEAL TO COURT OF APPEALS
8018-1	LOCAL RULES OF CIRCUIT JUDICIAL COUNCIL OR DISTRICT COURT
8019-1	SUSPENSION OF PART VIII, FED.R.BANKR.P.
8020-1	DAMAGES AND COSTS FOR FRIVOLOUS APPEAL
8070-1	DISMISSAL OF APPEAL BY COURT FOR NON-PROSECUTION

ALPHABETICAL LIST OF LOCAL RULE TOPICS AND UNIFORM LOCAL RULE NUMBERS

<u>Local Rule Topic</u>	<u>Uniform Local Rule Number</u>
ABANDONMENT	6000-1
ABSTENTION	5000-2
ACCEPTANCE/REJECTION OF PLANS	3018-2
ADDRESS OF DEBTOR	4002-2
ADVERSARY PROCEEDINGS - GENERAL	7001-1
ALTERNATIVE DISPUTE RESOLUTION (ADR)	9019-2
AMENDMENTS TO LISTS & SCHEDULES	1009-1
AMENDMENTS TO PLANS (See "Ch. 11 - _____," "Ch. 13 - _____.")	
APPEALS	8001-1 ff. (See Appendix)
AUCTIONEERS & AUCTIONEERS	6005-1
ASSIGNMENT OF ADVERSARY PROCEEDINGS	7040-1
ASSIGNMENT OF CASES	1073-1
ATTORNEYS - ADMISSION TO PRACTICE	2090-1
ATTORNEYS - DISCIPLINE & DISBARMENT	2090-2
ATTORNEYS - DUTIES	9011-1
ATTORNEYS - NOTICE OF APPEARANCE	9010-1
ATTORNEYS - WITHDRAWALS	2091-1
AUTOMATIC STAY - RELIEF FROM	4001-1
AUTOMATIC STAY - VIOLATION OF	4071-1
BALLOTS - VOTING ON PLANS	3018-1
BANKRUPTCY ADMINISTRATORS	9035-1
BRIEFS & MEMORANDA OF LAW	9013-2
CALENDARS & SCHEDULING	5070-1
CAPTION - PAPERS, GENERAL (See also "Petition-Caption")	9004-2
CASH COLLATERAL	4001-2
CERTIFICATE OF SERVICE - APs	7005-1
CERTIFICATE OF SERVICE - MOTIONS	9013-3
CHAPTER 11 - AMENDMENTS TO PLANS	3019-1

<u>Local Rule Topic</u>	<u>Uniform Local Rule Number</u>
CHAPTER 11 - CONFIRMATION	3020-1
CHAPTER 11 - GENERAL	2081-1
CHAPTER 11 - PLAN	3016-1
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COMMITTEE ON RULES OF PRACTICE AND PROCEDURE
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WASHINGTON, D.C. 20544

Attachment C

ALICEMARIE H. STOTLER
CHAIR

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SECRETARY

CHAIRS OF ADVISORY COMMITTEES

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CRIMINAL RULES

RALPH K. WINTER, JR.
EVIDENCE RULES

April 17, 1996

MEMORANDUM TO JUDGE ALICEMARIE H. STOTLER

FROM: MARY P. SQUIERS, DIRECTOR, LOCAL RULES PROJECT

SUBJECT: *Renumbering of Local Rules of Criminal Practice*

Amendments to the Federal Rules of Criminal Procedure took effect on December 1, 1995, requiring that all local rules of court "conform to any uniform numbering system prescribed by the Judicial Conference." *See* Criminal Rule 57. At its March 1996 session, the Judicial Conference prescribed a uniform numbering system for local rules that is based on and tracks the relevant Federal Rules. This uniform numbering system uses the numbers of respective Federal Rules as the structure. Each local rule is numbered according to its corresponding Federal Rule. There are local rules for which there are no corresponding Federal Rules; these local rules are correlated with the respective Federal Rule on local rulemaking. (Fed.R.Crim.P.57.)

At present, there is no uniform numbering system for federal district court local rules on criminal practice. Some of the jurisdictions have local rules that are simply numbered sequentially beginning at "1." E.g., Central District of California, District of Connecticut. Other jurisdictions have rules that are arranged by topic, designated with a "100," "200," or "300," followed by a hyphen and the actual rule number. E.g., Northern District of California, District of the Northern Mariana Islands. Still other jurisdictions have local rules that are arranged by topic, designated "1," "2," or "3," followed by a decimal point or colon and the actual rule number. E.g., Northern District of Ohio.

A uniform numbering system has many advantages over the current numbering. It will be helpful to the bar in locating rules applicable to a particular subject. This is especially important for those attorneys with multi-district practice. It is also significant for any attorney needing to locate a particular rule or to learn whether a local rule on a specific topic exists in the first instance. At present, it is sometimes difficult to find any

case law relating to a particular local rule, in part because there is no uniform numbering. The uniform numbering system will also ease the incorporation of local rules into the various indexing services such as West Publishing Company and the Lexis computer services.

The system focuses on the numbering system already used for the Federal Rules of Criminal Procedure. This system is already familiar to the bar. What follows, therefore, is a numbering system for local rules which tracks the number of the related Federal Rule of Criminal Procedure. Each local rule number corresponds to the number of the related Federal Rule of Criminal Procedure. For example, the designation "LCrR4.1" refers to the local criminal rule relating to the arrest warrant or summons upon complaint. The designation "LCrR" indicates that it is a local criminal rule; the number "4" indicates that the rule is related to Rule 4 of the Federal Rules of Criminal Procedure; and, the number "1" indicates that it is the first local rule concerning Rule 4 of the Federal Rules of Criminal Procedure. The same system applies with respect to those Federal Rules of Criminal Procedure with a "1" or a "2" after the initial rule number, such as Rule 12.1 entitled "Pleadings and Motions before Trial; Defenses and Objections." Thus, for example, the first local rule concerning Federal Rule 32 "Sentence and Judgment" is designated "LCrR32.1," while the first local rule concerning Federal Rule 32.1 "Revocation or Modification of Probation or Supervised Release" is designated "LCrR32.1.1."

Proposed Numbering

I. Scope, Purpose, and Construction

LCrR1.1 Scope

LCrR2.1 Purpose and Construction

II. Preliminary Proceedings

LCrR3.1 The Complaint

LCrR4.1 Arrest Warrant or Summons Upon Complaint

LCrR5.1 Initial Appearance Before the Magistrate Judge

III. Indictment and Information

LCrR6.1 The Grand Jury

LCrR7.1 The Indictment and the Information

LCrR8.1 Joinder of Offenses and of Defendants

LCrR9.1 Warrant or Summons Upon Indictment or
Information

IV. Arraignment, and Preparation for Trial

LCrR10.1 Arraignment

LCrR11.1 Pleas

LCrR12.1 Pleadings and Motions before Trial; Defenses and
Objections

LCrR12.1.1 Notice of Alibi

LCrR12.2.1 Notice of Insanity Defense or Expert Testimony of
Defendant's Mental Condition

LCrR12.3.1 Notice of Defense Based Upon Public Authority

LCrR13.1 Trial Together of Indictments or Informations

LCrR14.1 Relief from Prejudicial Joinder

LCrR15.1 Depositions

LCrR16.1 Discovery and Inspection

LCrR17.1 Subpoena

LCrR17.1.1 Pretrial Conference

V. Venue

LCrR18.1 Place of Prosecution and Trial

LCrR19.1 Transfer Within the District (Rescinded)

LCrR20.1 Transfer From the District for Plea and Sentence

LCrR21.1 Transfer From the District for Trial

LCrR22.1 Time of Motion to Transfer

VI. Trial

LCrR3.1 Trial by Jury or by the Court

LCrR24.1 Trial Jurors

LCrR25.1 Judge; Disability

LCrR26.1 Taking of Testimony

LCrR26.1.1 Determination of Foreign Law

LCrR26.2.1 Production of Witness Statements

LCrR26.3.1 Mistrial

LCrR27.1 Proof of Official Record

LCrR28.1 Interpreters

LCrR29.1 Motion for Judgment of Acquittal

LCrR29.1.1 Closing Argument

LCrR30.1 Instructions

LCrR31.1 Verdict

VII. Judgment

LCrR32.1 Sentence and Judgment

LCrR32.1.1 Revocation or Modification of Probation or
Supervised Release

LCrR33.1 New Trial

LCrR34.1 Arrest of Judgment

LCrR35.1 Correction or Reduction of Sentence

LCrR36.1 Clerical Mistakes

VIII. Appeal (Abrogated)

LCrR37.1 Taking Appeal; and Petition for Writ of Certiorari
(Abrogated).

LCrR38.1 Stay of Execution

LCrR39.1 Supervision of Appeal (Abrogated)

IX. Supplementary and Special Proceedings

LCrR40.1 Commitment to Another District

LCrR41.1 Search and Seizure

LCrR42.1 Criminal Contempt

X. General Provisions

LCrR43.1 Presence of the Defendant

LCrR44.1 Right to and Assignment of Counsel

LCrR45.1 Time

LCrR46.1 Release from Custody

LCrR47.1 Motions

LCrR48.1 Dismissal

LCrR49.1 Service and Filing of Papers

LCrR50.1 Calendars; Plans for Prompt Disposition
LCrR51.1 Exceptions Unnecessary
LCrR52.1 Harmless Error and Plain Error
LCrR53.1 Regulation of Conduct in the Court Room
LCrR54.1 Application and Exception
LCrR55.1 Records
LCrR56.1 Courts and Clerks
LCrR57.1 Rules by District Courts (Including Duties of
Magistrates)
LCrR58.1 Procedure for Misdemeanors and Other Petty
Offenses
LCrR59.1 Effective Date
LCrR60.1 Title

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Attachment D

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EVIDENCE RULES

Memorandum

TO: Honorable Alicemarie Stotler, Chairwoman,
and Members of the Committee on Rules of Practice and
Procedure

FROM: Mary P. Squiers, Consultant

RE: Report on the Local Rules of Criminal Practice

DATE: June 6, 1995

Attached is the Report on the Local Rules of Criminal Practice for your review. What follows is a brief history of this Committee's involvement with local rules and an explanation of the content of this Report.

General Background. As you are aware, in 1986, the United States Judicial Conference authorized the Committee on Rules of Practice and Procedure to undertake a study of federal district court local rules regulating civil practice. The study was intended to attempt: 1) a complete review of the local civil rules for legal errors or internal inconsistencies; 2) a study of the rules and rulemaking procedures to see how they work in practice; and 3) an examination of the relationship of local rules to the overall scheme of uniform federal rules. The results of this study were sent to the chief judges of the district courts in April 1989 from the Chairman of the Standing Committee, Joseph F. Weis, Jr., and entitled: "The Report of the Local Rules Project: Local Rules on Civil Practice." That Report consisted of several documents:

1. History and Methodology.
2. Uniform Numbering System.
3. Three different documents discussing the content of the local rules.
4. A list of local rules for each district court.

This Committee then authorized a study of the local rules on appellate practice. The "Report on the Local Rules of Appellate Practice" was distributed to the chief judges of the circuit courts by the Chairman of the Advisory Committee on Appellate Rules, Kenneth F. Ripple, in April of 1991. The Report on local appellate rules contained similar documents:

1. History and Methodology.
2. Uniform Number System.
3. One document discussing the content of the local rules.
4. A list of local rules for each appellate court.

This Committee authorized a review of the local rules on criminal practice at its June 1994 meeting in Washington, D.C. This study is the result of that authorization.

The Attached Report. Attached is the Report on the Local Rules of Criminal Practice. It consists of several parts, each of which is described briefly below.

1. **Methodology for the Report on the Local Rules of Criminal Practice.** The first material consists of a brief history and methodology of the current Report on criminal local rules. It explains how the rules were collected, sorted, and analyzed. It is useful to keep in mind that, throughout all of this material, the local rules are examined by topic and not by jurisdiction. For example, the available rules from all of the courts relating to grand jury proceedings, arraignments, and subpoenas were examined. There was no specific examination of all of the local rules of any one particular court. Included with the methodology are several appendices:

Appendix A—The History and Methodology of the Local Rules Project, which was distributed in April 1989 as part of the Report of the Local Rules Project: Local Rules on Civil Practice.

Appendix B—A sample of the letter to the chief judges of the district courts requesting local rules materials for this study, which was sent in June of 1994.

Appendix C—An outline of the criminal rule topics examined.

Appendix D—A sample of one of the "Rules Sorts" listing the related criminal local rules from all of the district courts.

2. **Uniform Numbering System.** This is a recommended uniform numbering system for all jurisdictions based, in large measure, on the Federal Rules of Criminal Procedure. Similar recommendations were made with respect to civil and appellate local rules. In fact, the Judicial Conference, at its September 1988 meeting, approved and urged the districts to adopt such a uniform numbering system for local rules of civil practice. See Report of the Judicial Conference (September, 1988) 103.
3. **Treatise.** The topics covered in the research document are arranged according to the Federal Rules of Criminal Procedure. Each topic consists of a discussion of all of the rules relating to that topic. The discussion includes five areas, where applicable:
 1. A discussion of rules that ought to remain local.
 2. A discussion of rules that may assist all jurisdictions so that the courts may want to consider adopting a model local rule on the subject.
 2. A discussion of rules that repeat existing law.
 3. A discussion of rules that are inconsistent with existing law.
 4. A discussion of those rule topics that are being referred to the Advisory Committee on Criminal Rules for possible incorporation into the Federal Rules of Criminal Procedure.
4. **List of Local Rules for Each Jurisdiction.** This is a list of the local rules for each jurisdiction, arranged according to each district court's present numbering system, that were discussed in the treatise. Each rule is numbered and then identified as a repetitive local rule, an inconsistent local rule, a rule that should remain subject to local variation, a rule that should be referred to the Advisory Committee, or a rule that may be appropriate as a model local rule for all courts to consider adopting. There is also a designation next to each of these local rules indicating where in the treatise the discussion on the particular rule can be found.

Your feedback at our July meeting in Washington, D.C., will be most helpful. At that time, the Committee may be interested in approving circulation of this material to the chief judges of the district courts for their review.

**Methodology for the
Report on the Local Rules of Criminal Practice**

General Background

In 1986, the United States Judicial Conference authorized the Committee on Rules of Practice and Procedure to undertake a study of federal district court local rules regulating civil practice. The study was intended to attempt: 1) a complete review of the local civil rules for legal errors or internal inconsistencies; 2) a study of the rules and rulemaking procedures to see how they work in practice; and 3) an examination of the relationship of local rules to the overall scheme of uniform federal rules. The results of this study were sent to the chief judges of the district courts in April 1989 from the Chairman of the Standing Committee, Joseph F. Weis, Jr., and entitled: "The Report of the Local Rules Project: Local Rules on Civil Practice." That Report consisted of several documents:

1. History and Methodology.
2. Uniform Numbering System.
3. Three different documents discussing the content of the local rules.
4. List of local rules for each district court.

A copy of the "History and Methodology" of that Report is attached as Appendix A. Because the methodology used in studying the local criminal rules is essentially the same as that used when examining the local civil rules, it may be helpful to review that earlier document.

The Committee on Rules of Practice and Procedure then authorized a study of the local rules on appellate practice. The "Report on

the Local Rules of Appellate Practice" was distributed to the chief judges of the circuit courts by the Chairman of the Advisory Committee on Appellate Rules, Kenneth F. Ripple, in April of 1991. The Report on local appellate rules contained similar documents:

1. History and Methodology.
2. Uniform Number System.
3. One document discussing the content of the local rules.
4. List of local rules for each appellate court.

The Committee on Rules of Practice and Procedure authorized a review of the local rules on criminal practice at its June 1994 meeting in Washington, D.C. This study is the result of that authorization.

Methodology

The first step was to collect from the jurisdictions their local rules and any other directives having the same function. This was accomplished by writing to every district in the summer of 1994. A copy of the letter that was sent to each chief judge from the Chairwoman of the Committee on Rules of Practice and Procedure, Alicemarie H. Stotler, and the Chairman of the Advisory Committee on Criminal Rules, D. Lowell Jensen, and dated June 29, 1994 is attached as Appendix B. The letter specifically requested local rules and

standing orders, general orders, internal operating procedures, a typical trial scheduling order, a typical application to plead guilty, any case assignment plan, speedy trial act plan, jury selection plan and other district-wide plans, and any other directives which are the functional equivalent of local rules and which regulate practice in criminal cases.

Letter of June 29, 1994 to chief judges.

This communication resulted in sixty-five jurisdictions' sending material for evaluation. The courts were not individually contacted

after the initial letter. The fact that all ninety-four district courts failed to respond, however, does not mean that a large number of courts have rules which were not studied. To the contrary, there are some number of districts with no rules regulating criminal practice. For example, two courts, the District of South Carolina and the Western District of Virginia, acknowledged receipt of the letter and indicated that there were no criminal local rules in their respective district courts.

After collection of the material, the next step was to enter each rule into a computerized data base. The rules of each jurisdiction were individually placed on an outline based on the Federal Rules of Criminal Procedure. This resulted in a retrieval system organized by topic. It was then possible to sort and count the local rules according to each of the topics on the outline. The outline which was used for this procedure is attached as Appendix C. Next to each of the outline topics on Appendix C is a number indicating the number of jurisdictions with rules on the topic. Each of these topics was then sorted so that, for each topic, a list of the related rules from all of the district courts was generated. A sample of one of the sorts is attached as Appendix D.

The rules were then analyzed. The analysis focused on an examination of the rules covering each particular topic on the outline. The rules were studied singly and in the aggregate to determine if they were appropriate subjects for local district court rulemaking. Specifically, the rules were analyzed using five broad questions:

1. Do the local rules repeat existing law?
2. Do the local rules conflict with existing law?

3. Should the local rules form the basis of a Model Local Rule for all jurisdictions to consider adopting?
4. Should the local rules remain subject to local variation?
5. Should the subject addressed by the local rules be considered by the Advisory Committee to become part of the Federal Rules of Criminal Procedure?

A brief discussion of each of the five questions listed above follows.

It is helpful to be mindful of two issues which presented themselves during the evaluation of the local rules and directives. First, the examination of the local rules from the jurisdictions included a review of other material provided by the districts. These other materials were standing orders, general orders, and various sample court documents. It is not known whether the sample documents are suggestive or binding on litigants. They were reviewed as if they served the functional equivalent of a local rule or order although, in reality, such a document may be merely representative of a variety of documents on the same subject.

Second, in making determinations on which local rules and other directives were repetitive and which were inconsistent, the intention was to err on the side of over-inclusion rather than under-inclusion. If a rule appeared, on its face, to conflict with existing law, it was deemed inconsistent, leaving any further interpretation to the particular district.

Repetitious rules were highlighted since such repetition is superfluous and may be counterproductive. It is unnecessary since the bench and bar already have access to existing federal rules and statutes through the published United States code services, as well as through handbooks of selected rules and portions of Title 18 useful for practitioners and through the available computer services. In addition, attorneys have had courses in law school on some of these subjects. The bar is

accountable, of course, for knowledge of existing law. Documentation which restates existing law simply results in more paper with its concomitant production and circulation costs. Further, if the law is restated only partially or is restated incorrectly, attorneys may be confused about what law actually applies.

Rules that are inconsistent with existing law were noted since Rule 57 of the Federal Rules of Criminal Procedure and Section 2071 of Title 28 mandate that there be no inconsistency in the local rules with existing law. The determination of whether a particular local rule is inconsistent depends, in the first instance, on the definition of "inconsistency" used. One using a narrow definition of "inconsistency" may conclude that only those local rules which flatly contradict actual statements or requirements in other law are inconsistent. If one uses a broader definition of "inconsistency," there is more opportunity for disagreement over whether a particular local rule is, in fact, inconsistent. For example, one can argue that a local rule may be inconsistent with the intent or spirit of the Federal Rules. One can also argue that local rules that take away the court's discretion in an individual case are inconsistent with the intent and spirit of the Federal Rules that case management, generally, be addressed on an individual basis. For example, one of the Federal Rules provides that time limits in the Rule can be altered "for good cause." Fed.R.Crim.P. 32(a). Many local rules, however, provide an automatic and inflexible time schedule, rather than rely on the court's discretion in an individual case. One can also argue that local rules that add further requirements than those set forth in the Federal Rules conflict with the intent and spirit of the Federal Rules.

One can argue that a local rule that is inconsistent with existing case law should be rescinded even though such an inconsistency is not prohibited in Rule 57 or Section 2071 of Title 28. Case law will surely impact on counsel's activities and the court's decisions in much the same way as the Federal Rules and statutes. For example, the use of video conferencing of arraignments has been rejected by a circuit court of appeals yet a directive in one of the district courts still exists authorizing its use. D.Ariz. GO 190; see *Valenzuela-Gonzalez v. United States District Court for the District of Arizona*, 915 F.2d 1276 (9th Cir. 1990).

Local rules may exist that, while not problematic on their face, may be inconsistent as applied in practice.

There are many local rules that seem useful in delineating certain procedures and practices in the individual district courts, in answering the third and fourth questions set out above. There are also local rules which may be advisable for other jurisdictions to consider adopting. For example, a uniform rule explaining the applicability of the local rules, their scope, and their citation form may be helpful for all courts.

Lastly, there are local rules that may more appropriately be incorporated into the Federal Rules of Criminal Procedure rather than remaining as local rules. Such topics should be brought to the attention of the Advisory Committee. Incorporation into the Federal Rules may be advisable for one of several reasons: 1) the particular topic covered by the local rule is critical to the procedural scheme of the Federal Rules ; 2) the local rule affects the substantive outcome of a class of cases; 3) the local rule affects litigation costs; 4) the local rule affects the operation of the federal courts generally; or 5) the local rule relates in a significant way to the integrity of the Federal Rules as a unified, integrated set of rules. In

addition, a Federal Rule or Rules may already cover the issue. Lastly, the local court rules may have served as an experimental device to test a particular procedure. Further experimentation is no longer necessary and the particular local rules can be incorporated into the Federal Rules or rejected. For example, there are local rules that require that the parties meet and confer about discovery disputes before any motion is filed. *E.g.*, E.D.La. 2.11; D.P.R. 409; D.Vt. 2. An analogous requirement exists in the Federal Rules of Civil Procedure and the Advisory Committee on Criminal Rules may want to consider a similar amendment to the Federal Rules.

Appendix C

Outline of Topics with the Number of Jurisdictions Having a Local Rule on Each Topic

What follows is a copy of the outline used to sort the criminal rules from the district courts. Next to each of the topics is a number reflecting the number of jurisdictions with a rule on the respective topic. This outline was based on the outline of the Federal Rules of Criminal Procedure.

I. Scope, Purpose, and Construction

- 12 Rule 1. Scope
 - 5 (a). Title and Citation
 - 2 (b). Effective Date
 - 9 (c). Scope of the Rules
 - 2 (d). Relationship to Prior Rules; Actions
Pending on Effective Date
 - 2 (e). Rule of construction and Definitions
- 0 Rule 2. Purpose and Construction

II. Preliminary Proceedings

- 0 Rule 3. The Complaint
- 11 Rule 4. Arrest Warrant or Summons Upon Complaint
- 3 Rule 5. Initial Appearance Before the Magistrate
Judge

III. Indictment and Information

- 18 Rule 6. The Grand Jury
 - 9 (a) Summoning Grand Juries.

- 2 (b) Objections to Grand Jury and to Grand Jurors.
- 0 (c) Foreperson and Deputy Foreperson.
- 3 (d) Who May Be Present.
- 12 (e) Recording and Disclosure of Proceedings.
- 2 (f) Filing and Return of Indictment.
- 3 (g) Discharge and Excuse.
- 2 Rule 7. The Indictment and the Information
- 5 Rule 8. Joinder of Offenses and of Defendants
- 4 Rule 9. Warrant or Summons Upon Indictment or Information

IV. Arraignment, and Preparation for Trial

- 11 Rule 10. Arraignment
- 19 Rule 11. Pleas
- 28 Rule 12. Pleadings and Motions before Trial; Defenses and Objections
 - 1 Rule 12.1. Notice of Alibi
 - 2 Rule 12.2. Notice of Insanity Defense or Expert Testimony of Defendant's Mental Condition
 - 0 Rule 12.3. Notice of Defense Based Upon Public Authority
- 4 Rule 13. Trial Together of Indictments or Informations
- 1 Rule 14. Relief from Prejudicial Joinder
- 2 Rule 15. Depositions
- 38 Rule 16. Discovery and Inspection

- 13 Rule 17. Subpoena
- 32 Rule 17.1. Pretrial Conference

V. Venue

- 5 Rule 18. Place of Prosecution and Trial
- 0 Rule 19. Transfer Within the District (Rescinded)
- 3 Rule 20. Transfer From the District for Plea and Sentence
- 1 Rule 21. Transfer From the District for Trial
- 1 Rule 22. Time of Motion to Transfer

VI. Trial

- 9 Rule 23. Trial by Jury or by the Court
- 27 Rule 24. Trial Jurors
- 0 Rule 25. Judge; Disability
- 1 Rule 26. Taking of Testimony
- 0 Rule 26.1. Determination of Foreign Law
- 0 Rule 26.2. Production of Witness Statements
- 0 Rule 26.3. Mistrial
- 0 Rule 27. Proof of Official Record
- 0 Rule 28. Interpreters
- 2 Rule 29. Motion for Judgment of Acquittal
- 4 Rule 29.1. Closing Argument
- 20 Rule 30. Instructions
- 1 Rule 31. Verdict

VII. Judgment

- 52 Rule 32. Sentence and Judgment

- 9 Rule 32.1. Revocation or Modification of Probation or Supervised Release
- 0 Rule 33. New Trial
- 0 Rule 34. Arrest of Judgment
- 6 Rule 35. Correction or Reduction of Sentence
- 0 Rule 36. Clerical Mistakes

VIII. Appeal (Abrogated)

- 0 Rule 37. Taking Appeal; and Petition for Writ of Certiorari (Abrogated).
- 3 Rule 38. Stay of Execution
- 0 Rule 39. Supervision of Appeal (Abrogated)

IX. Supplementary and Special Proceedings

- 3 Rule 40. Commitment to Another District
- 6 Rule 41. Search and Seizure
- 0 Rule 42. Criminal Contempt

X. General Provisions

- 7 Rule 43. Presence of the Defendant
- 40 Rule 44. Right to and Assignment of Counsel
- 10 Rule 45. Time
- 40 Rule 46. Release from Custody
- 23 Rule 47. Motions
- 5 Rule 48. Dismissal
- 14 Rule 49. Service and Filing of Papers
- 52 Rule 50. Calendars; Plans for Prompt Disposition
- 0 Rule 51. Exceptions Unnecessary

0	Rule 52. Harmless Error and Plain Error
48	Rule 53. Regulation of Conduct in the Court Room
0	Rule 54. Application and Exception
0	Rule 55. Records
22	Rule 56. Courts and Clerks
0	Rule 57. Rules by District Courts
36	Rule 58. Procedure for Misdemeanors and Other Petty Offenses
0	Rule 59. Effective Date
0	Rule 60. Title
32	Other—Duties of Magistrates
1	Other—Activities of the Clerk
1	Other—Juvenile Delinquency Proceedings

APPENDIX D

<u>Juris/Direction</u>	<u>Jurisdiction</u>	<u>Rule 32. Sentence and Judgment</u>
M.D.	Alabama	28: Disclosure of Presentence or Probation Recs. 33: Implementation of Guideline Sentencing
S.D.	Alabama	SO: Sentencing Procedures
D.	Arizona	4.8: Probation—Presentence Investigations; GO 194: Sentencing Procedures.... GO 221: Urine Testing for Presentence Investigations
W.D.	Arkansas	GO 4: Probation Office Reports; GO 20: Presentence Reports
C.D.	California	6.1: Policy; 6.2: Presentence Investigation Reports; 6.3: Ojections and Positions of the Parties; 6.4: Mirimum Custody Questions
E.D.	California	460: Disclosure of Presentence Reports & Related Recs. 461: Disclosure of Other Probation Records
N.D.	California	330-1: Disclosure of Presentence Report; 330-2: Sentencing Information; Sample Probation Referral Form
S.D.	California	GO 344: Application of Sent. Guide. in Misdemeanors; GO 345: Application of Sent. Guide. to Petty Offenses; GO 350: Time and Procedure for Sent. Guidelines
D.	Colorado	GO1987-5: Procedures for Guideline Stendings; Order Concerning Presentence Investigation & Report
D.	Connecticut	10: Change of Plea and Sentencing Procedures; 9: Disclosure of Pre-Sentence Reports
D.	D.C.	311: Sentencing Guidelines

<u>Juris/Direction</u>	<u>Jurisdiction</u>	<u>Rule 32. Sentence and Judgment</u>
D.	Delaware	
M.D.	Florida	4.12: Presentence Investigation Reports; Present. Proc.
N.D.	Georgia	535: Presentence Report; Order re: Presentence Report
S.D.	Georgia	232.1: Conditions of Probation or Supervised Release; 232.2: Disclosure of Presentence or Probation Records 232.2-232.6: Sentencing
D.	Hawaii	360: Sentencing Procedure
C.D.	Illinois	3.3: Implementation of Sentencing Guidelines; 3.1: Confidential Probation Records
S.D.	Illinois	24: Confidential Probation Records
N.D.	Indiana	
S.D.	Indiana	11: Records Relating to Presentence Rep + Prob. Super.
S.D.	Iowa	27: Presentence Reports
D.	Kansas	305: Presentence Reports

<u>Juris/Direction</u>	<u>Jurisdiction</u>	<u>Rule 32. Sentence and Judgment</u>
E.D.	Kentucky	
W.D.	Kentucky	
E.D.	Louisiana	16E: Sentence
M.D.	Louisiana	16M: Sentencing
W.D.	Louisiana	16W: Sentencing
E.D.	Michigan	232.1: Guideline Sentencing
D.	Minnesota	83.10: Sentencing Procedures
D.	Montana	
D.	Nevada	
D.	New Hampshire	Sample Procedural Order re: Sentencing
D.	New Jersey	38: Recommendation Against Deportation

<u>Juris/Direction</u>	<u>Jurisdiction</u>	<u>Rule 32. Sentence and Judgment</u>
E.D.	New York	6: Sentence; Sentencing Guidelines...
N.D.	New York	32.1: Presentence Reports
S.D.	New York	6: Sentence; Sentencing Guidelines
W.D.	New York	38: Presentence Report; Local Procedural Guide....
E.D.	North Carolina	46: Petition for Disclosure of Presentence.... 50.00: Proceedings Implementing Sentencing Guide.
W.D.	North Carolina	SO20: Implementation of Sentencing Procedures....
W.D.	North Carolina	
D.	North Dakota	27: Probation and Pretrial Services Office
D.	Northern Mariana Islands	
J.D.	Ohio	3:8.1: Pre-Plea Presentence Report; 3:8.2: Deletion of Challenged Statements in Pres. Rep; 3:8.3: Presentence Report and Sentencing Proceedings;
.D.	Ohio	102: Presentence Reports; 103: Probation Office Records

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Juris/Direction Jurisdiction

Rule 32. Sentence and Judgment

W.D.	Oklahoma	
D.	Oregon	
E.D.	Pennsylvania	19: Loan of Presentence Invest. Rep. to Parole & Prison SO: Sentencing Reform Act of 1984
M.D.	Pennsylvania	
W.D.	Pennsylvania	32.1: Procedure for Guideline Sentencing
D.	Puerto Rico	418: Procedures under Sentencing Reform Act; 427: Petition for Disclosure of Presentence/Prob. Recs.
E.D.	Tennessee	83.9: Sentencing Proceedings
W.D.	Tennessee	21: Procedural Steps for Sentencing; 22: Probation Office Records
E.D.	Texas	GO94-18: Rules and Procedure for Cases Sentenced; GO88-7: Rules and Procedure for Cases Sentenced;
N.D.	Texas	Sample Scheduling Order for Sentencing; 10.9: Procedure for Guideline Sentencing; MO26: Disclosure of Presentence in Probation Recs.
S.D.	Texas	16: Guideline Sentencing

<u>Juris/Direction</u>	<u>Jurisdiction</u>	<u>Rule 32. Sentence and Judgment</u>
W.D.	Texas	CR32: Sentence and Judgment
D.	Utah	310: Plea Agreements and Presentence Investigations
D.	Vermont	3: Sentencing Procedures; 4: Disclosure of Pretrial Services, Presentence... Sample Order re: Sentencing Procedures
E.D.	Virginia	
E.D.	Washington	Order (5/22/81): Disclosure of Present. Invest. Report
W.D.	Washington	CrR32: Sentence and Judgment; GO(7/1/93): Sentencing Procedures
N.D.	West Virginia	3.06(c): Sentencing After Guilty Plea; 3.08: Petition for Disclosure of Present. or Prob. Recs.; 3.10: Guideline Sentencing
S.D.	West Virginia	3.01: Petitions for Disclosure of Pres. and Prob. Recs; 3.02: Guideline Sentencing Implementation....; 3.03: Pretrial Services and Presentence Interviews
W.D.	Wisconsin	
D.	Wyoming	105: Presentence and Postsentence Investigation Reps.

Uniform Numbering System for Local Criminal Rules

Currently, there is no uniform numbering system for federal district court local rules on criminal practice. Some of the jurisdictions have local rules which are simply numbered sequentially beginning at "1". *E. g.*, Central District of California, District of Connecticut. Other jurisdictions have rules which are arranged by topic, designed with a "100," "200," or "300," followed by a hyphen and the actual rule number. *E.g.*, Northern District of California, District of the Northern Mariana Islands. Still other jurisdictions have local rules which are arranged by topic, designed "1," "2," or "3," followed by a decimal point or colon and the actual rule number. *E.g.*, Northern District of Ohio.

The Judicial Conference recommended that a uniform numbering system be adopted for local rules on civil practice which would standardize the numbering of all local rules. See Report of the Judicial Conference (September, 1988) 103. It is now recommended that a similar uniform numbering system for the local rules on criminal practice be adopted.

Such a uniform system has many advantages. It would be helpful to the bar in locating rules applicable to a particular subject. This is especially important for those attorneys with multi-district practices. It is also significant for any attorney needing to locate a particular rule or to learn whether a local rule on a specific topic exists in the first instance. At present, it is sometimes difficult to find any case law relating to a particular local rule, in part because there is no uniform numbering. The uniform system will also ease the incorporation of local rules into the various indexing services such as West Publishing Company and the Lexis computer services.

The system, as proposed, focuses on the numbering system already used for the Federal Rules of Criminal Procedure. This system is already familiar to the bar. What follows, therefore, is a numbering system for local rules which tracks the Federal Rules of Criminal Procedure. Each local rule number corresponds to the number of the related Federal Rule of Criminal Procedure. For example, the designation "LCrR4.1" refers to the local criminal rule relating to the arrest warrant or summons upon the complaint. The designation "LCrR" indicates it is a local criminal rule; the number "4" indicates that the rule is related to Rule 4 of the Federal Rules of Criminal Procedure; and, the number "1" indicates that it is the first local rule concerning Rule 4 of the Federal Rules of Criminal Procedure. The same system applies with respect to those Federal Rules of Criminal Procedure with a "1" or a "2" after the initial rule number, such as Rule 12.1 entitled "Pleadings and Motions before Trial; Defenses and Objections. Thus, for example, the first local rule concerning Federal Rule 32 "Sentence and Judgment" is designated "LCrR32.1," while the first local rule concerning Federal Rule 32.1 "Revocation or Modification of Probation or Supervised Release" is designated "LCrR32.1.1."

I. Scope, Purpose, and Construction

LCrR1.1 Scope

LCrR2.1 Purpose and Construction

II. Preliminary Proceedings

LCrR3.1 The Complaint

LCrR4.1 Arrest Warrant or Summons Upon Complaint

LCrR5.1 Initial Appearance Before the Magistrate Judge

III. Indictment and Information

- LCrR6.1 The Grand Jury
- LCrR7.1 The Indictment and the Information
- LCrR8.1 Joinder of Offenses and of Defendants
- LCrR9.1 Warrant or Summons Upon Indictment or Information

IV. Arraignment, and Preparation for Trial

- LCrR10.1 Arraignment
- LCrR11.1 Pleas
- LCrR12.1 Pleadings and Motions before Trial; Defenses and Objections
 - LCrR12.1.1 Notice of Alibi
 - LCrR12.2.1 Notice of Insanity Defense or Expert Testimony of Defendant's Mental Condition
 - LCrR12.3.1 Notice of Defense Based Upon Public Authority
- LCrR13.1 Trial Together of Indictments or Informations
- LCrR14.1 Relief from Prejudicial Joinder
- LCrR15.1 Depositions
- LCrR16.1 Discovery and Inspection
- LCrR17.1 Subpoena
 - LCrR17.1.1 Pretrial Conference

V. Venue

- LCrR18.1 Place of Prosecution and Trial
- LCrR19.1 Transfer Within the District (Rescinded)
- LCrR20.1 Transfer From the District for Plea and Sentence
- LCrR21.1 Transfer From the District for Trial

LCrR22.1 Time of Motion to Transfer

VI. Trial

LCrR3.1 Trial by Jury or by the Court

LCrR24.1 Trial Jurors

LCrR25.1 Judge; Disability

LCrR26.1 Taking of Testimony

LCrR26.1.1 Determination of Foreign Law

LCrR26.2.1 Production of Witness Statements

LCrR26.3.1 Mistrial

LCrR27.1 Proof of Official Record

LCrR28.1 Interpreters

LCrR29.1 Motion for Judgment of Acquittal

LCrR29.1.1 Closing Argument

LCrR30.1 Instructions

LCrR31.1 Verdict

VII. Judgment

LCrR32.1 Sentence and Judgment

LCrR32.1.1 Revocation or Modification of Probation or
Supervised Release

LCrR33.1 New Trial

LCrR34.1 Arrest of Judgment

LCrR35.1 Correction or Reduction of Sentence

LCrR36.1 Clerical Mistakes

VIII. Appeal (Abrogated)

LCrR37.1 Taking Appeal; and Petition for Writ of Certiorari
(Abrogated).

LCrR38.1 Stay of Execution

LCrR39.1 Supervision of Appeal (Abrogated)

IX. Supplementary and Special Proceedings

LCrR40.1 Commitment to Another District

LCrR41.1 Search and Seizure

LCrR42.1 Criminal Contempt

X. General Provisions

LCrR43.1 Presence of the Defendant

LCrR44.1 Right to and Assignment of Counsel

LCrR45.1 Time

LCrR46.1 Release from Custody

LCrR47.1 Motions

LCrR48.1 Dismissal

LCrR49.1 Service and Filing of Papers

LCrR50.1 Calendars; Plans for Prompt Disposition

LCrR51.1 Exceptions Unnecessary

LCrR52.1 Harmless Error and Plain Error

LCrR53.1 Regulation of Conduct in the Court Room

LCrR54.1 Application and Exception

LCrR55.1 Records

LCrR56.1 Courts and Clerks

LCrR57.1 Rules by District Courts (Including Duties of
Magistrates)

LCrR58.1 Procedure for Misdemeanors and Other Petty
Offenses

LCrR59.1 Effective Date

LCrR60.1 Title

I. Scope, Purpose, and Construction

Rule 1. Scope

Twelve jurisdictions have local criminal rules which explain the applicability of the local rules in the respective jurisdictions. The substance of most of these rules should be incorporated into a Model Local Rule for all jurisdictions to consider adopting. In addition, rules in five jurisdictions repeat existing law, and rules in two other courts are inconsistent with existing law. These inconsistent and repetitious rules should be rescinded.

There are analogous rules governing the scope and purpose of local rules in the civil context. These local civil rules cover five broad areas: 1. The title and citation form for the local rules; 2. The effective date of the local rules; 3. The scope of the local rules; 4. The relationship of the local rules to prior rules; and, 5. The rules of construction and definition. The Local Rules Project recommended, with respect to the civil rules, that one Model Local Rule be adopted by the jurisdictions covering these five topics. It is recommended that the jurisdictions consider adopting an analogous Model Local Rule for criminal practice that encompasses all of these areas.

The full text of this Model Local Rule is set forth below. A detailed discussion of each of the five areas follows.

Model Local Rule 1.1.

Scope of the Rules.

- (a) **Title and Citation.** These Rules shall be known as the Local Criminal Rules of the United States District Court for the _____ District of _____. They may be cited as "____.D.____. LCrR____."
- (b) **Effective Date.** These Rules become effective on

_____.

(c) **Scope of Rules.** These Rules shall apply in all proceedings in criminal actions. Rules governing criminal proceedings before magistrate judges [are incorporated here] [may be found at...]. [Civil local rules shall apply insofar as they do not conflict with any statute, federal rule, local criminal rule, or individual order.] [The following civil/general local rules shall apply in criminal actions:

_____]]

(d) **Relationship to Prior Rules; Actions Pending on Effective Date.** These rules supersede all previous rules promulgated by this court or any judge of this court. They shall govern all applicable proceedings brought in this court after they take effect. They also shall apply to all proceedings pending at the time they take effect, except to the extent that in the opinion of the court the application thereof would not be feasible or would work injustice, in which event the former rules shall govern.

(e) **Rule of Construction and Definitions.**

1. United States Code, Title 1, sections 1 to 5, shall, as far as applicable, govern the construction of these rules.
2. The following definitions shall apply:

[The underlined portions of this Model Local Rule signify those areas which must be completed, if at all, by the individual districts.]

a. Title and Citation

Subsection (a) of this Model Local Rule includes the title and citation form for the local rules. Five districts currently have criminal local rules on this subject. C.D.Cal. 1.0; N.D.N.Y. 1.1; E.D.N.Car. 1.00; E.D.Pa. 1; W.D.Tex. 1.

The Local Rules Project recommended a standard method of labeling and citing all local civil rules in 1989. The criminal rules should be similarly cited. The method used consists of using the abbreviation of the district court, followed by the designation "LCrR" to denote a local criminal rule, and the number. Accordingly, Local Criminal Rule 1.1 of the Central District of California would be cited as: "C.D.Cal. LCrR1.1."¹

A standard and uniform system of labeling and citing the local rules is preferable, for several reasons, to the variations which currently exist. First, uniformity among the jurisdictions will be helpful to those attorneys with multi-state practices. Second, uniformity will assist the companies that index legal materials. This is particularly significant for those companies that have computer systems which rely on exact citation forms for retrieving information. For example, a user of a computer research system who attempts to find cases challenging a particular local rule and who types in a local rule number which deviates only slightly from the form used by the jurisdiction may not find the information requested. Lastly, the citation form employs the district court abbreviations already in use when citing district court opinions so all attorneys can easily conform to the method.

¹ This Report does not use the recommended citation form since some of the local rules examined were criminal local rules, some were general rules, and some were civil and criminal rules combined. It was easier for the purpose of this study to simply refer to the rules by number; each individual district court will be familiar with the particular rules.

At present, there are only four jurisdictions with a stated form for citing the local criminal rules, and each method differs from the others. N.D.N.Y. 1.1 (cite "L.R.Cr.P. ____"); E.D.N.Car. 1.00 (cite "Local Rule ____, EDNC"); E.D.Pa. 1 (cite "L.C.R."); W.D.Tex. 1 (cite "Local Court Rules"). Uniformity would be desirable to avoid these variations.

b. Effective Date.

Subsection (b) of the Model Local Rule sets forth the effective date of the local criminal rules. This subsection simply provides a sentence indicating that the local rules become effective on a particular date. The exact date is inserted by the individual jurisdictions in the blank space provided. Two of the courts currently provide this information in the text of a rule. E.D.Pa. 1; W.D.Tex. 1.

c. Scope of the Rules.

Subsection (c) of the Model Local Rule concerns the scope of the rules. Nine rules have similar provisions, listing what actions the local rules "apply to" or "govern." *E.g.*, C.D.Cal. 1.1; W.D.Tex. 1. In order to convey the rules' scope, the Model Local Rule defines, in the first paragraph, to which actions the local rules apply rather than listing which Federal Rules (*e.g.*, Federal Rules of Civil Procedure; Federal Rules of Criminal Procedure) the local rules "supplement" as some of the local rules do. *E.g.*, D.Vt. 1. The "apply to" language is more accurate than the "supplementing" language because local court rules supplement all federal law, but their scope is defined by the kind of actions in which they are used. Provision is also made in this Model Local Rule for a statement about the applicability of the civil and criminal rules as is currently done in some jurisdictions. *E.g.*, D.Nev. 300; S.D. Ohio 100, 101.

d. Relationship to Prior Rules; Actions Pending on Effective Date.

Subsection (d) of the Model Local Rule provides that the local rules supersede all previous rules promulgated by the court or any judge of the court. Subsection (d) also includes a provision which allows the court to use the previous local rules, when necessary, in cases that are pending at the time the new local rules become effective. Two courts have rules governing this topic at present. W.D.Tex. 1; E.D.Pa. 1.

e. Rule of Construction and Definitions.

Subsection (e) of the Model Local Rule provides that the United States code, Title 1, sections one through five, shall govern the construction of the local rules. Because these sections also govern the construction of other federal statutes, it is appropriate to use them to construe local court rules as well.

Subsection (e) also includes any definitions a local district may feel are necessary. Two district courts have a similar "definitions" section. E.D.Pa. 1; C.D.Cal. 1.4.

Two jurisdictions have local rules that are inconsistent with Rule 57 of the Federal Rules of Criminal Procedure by providing that a judge may ignore the local rules and direct the parties to proceed otherwise. E.D.N.Car. 1.00; N.D.Tex. 1.1. Rule 57 contemplates that the local rules govern a district court's practice from the effective date, unless amended or abrogated, and that the judges and magistrate judges may regulate their practice individually only in those cases "not provided for by rule." Fed.R.Crim.P. 57. Rule 57 does not anticipate that local rules will be used only when a particular judge or magistrate judge wants to use them. These local rules should be rescinded.

Five courts have local rules that repeat existing law. Three of the courts have rules that provide that, if a local rule conflicts with existing law, then the Federal Rules and statutes take precedence and apply. C.D.Cal. 1.2; S.D.Ga. 201.1; D.Vt. 1. These rules repeat Rule 57 and the Rules Enabling Act in requiring that the local rules be consistent with existing law. Fed.R.Crim.P. 57; 28 U.S.C. §§2071 *et seq.* To the extent they are inconsistent, of course, they may be invalid. *Id.*

Two courts have local rules indicating that, if there is no stated procedure, a court may proceed in any manner not inconsistent with existing law. D.N.J. 44; W.D.Tex. 1. These rules simply repeat the last sentence of Rule 57 and, as such, are unnecessary. Fed.R.Crim.P. 57.

Rule 2. Purpose and Construction

There are no local criminal rules directly relating to this Federal Rule.

II. Preliminary Proceedings

Rule 3. The Complaint

Similarly, there are no local rules relating to this Rule.

Rule 4. Arrest Warrant or Summons Upon Complaint

Eleven jurisdictions have local rules addressing the arrest warrant or summons. Five of these rules are appropriate as local directives and should remain subject to local variation. Rules in six of the district courts are inconsistent with existing law and should, therefore, be rescinded. Because these rules may be helpful, however, it would be useful for the Advisory Committee on Criminal Rules to examine whether the topic covered by these local rules should be incorporated into the Federal Rules.

Rules in five of the district courts concern subsection (a) of Rule 4 addressing the issuance of the arrest warrant or summons. *See* Fed.R.Crim.P. 4(a). Directives in these courts are appropriate supplements to subsection (a). D.Ariz. GO 226; W.D.Ark. GO 19; D.Utah 304; D.Wyo. Order (4/8/93); E.D.Tex. GO 93-4.

Four of these directives attempt to maintain the confidentiality of documentation supporting the issuance of certain arrest warrants. D.Ariz. GO 226; W.D.Ark. GO 19; D.Wyo. Order (4/8/93); E.D.Tex. GO 93-4. The order in the District of Arizona indicates that a miscellaneous file will be kept which houses documentation relating to the issuance of an arrest warrant in connection with a violation of probation, conditions of supervised release, or pretrial conditions of release. It requires that the file be sealed until the marshal returns the warrant. D.Ariz. GO 226. The order in the Western District of Arkansas requires that all papers in connection with the complaint be sealed until return of the warrant or the appearance of the defendant. W.D.Ark. GO 19; *see also* D.Wyo. Order (4/8/93); E.D.Tex. GO 93-4.

The local rule in the District of Utah provides that a request for a summons be made either orally or in writing. D.Utah 304(a). This is also an appropriate addition to Rule 4(a). Fed.R.Crim.P. 4(a).

The rules in the other six districts concern the notice required to be given by arresting officers or agencies to other agencies. Directives in these districts require that the arresting officer give prompt notice of the arrest to other person such as a pretrial services officer or United States marshal. C.D.Cal. 11.1; D.Haw. 310; N.D.N.Y. 5.1; N.Mar.Isl. 330-1; S.D.Tex. Order 91-26 (Houston Division); W.D.Wash. 5. Two of these jurisdictions have additional notice requirements for United States marshals. C.D.Cal. 11.2; W.D.Wash. 5. Upon receiving notice of arrest from an arresting officer or

agency, the marshal must notify the United States attorney and the clerk (C.D.Cal. 11.2) or the chief probation officer, the magistrate judge, and the United States attorney (W.D.Wash. 5). Rule 4 of the Federal Rules of Criminal Procedure requires only that the arresting officer make return to the magistrate judge or other officer before whom the defendant is brought.. Fed.R.Crim.P. 4(d)(4). To the extent these directives seek to impose additional notice requirements on any arresting office, other than those set forth in the Federal Rules, they are inconsistent with Rule 4(d)(4) and should be rescinded. These directives may be quite burdensome if the defendant is arrested in a distant jurisdiction and the arresting officer is not aware of the requirements.

As a practical matter, it may be very helpful for the arresting officer, who is obviously the first to know of the defendant's arrest, to provide notice to others who will be involved in processing the defendant through the court system. Accordingly, it is recommended that the Advisory Committee on Criminal Rules examine these rules to see if their substance should be incorporated into the existing Federal Rules.

Rule 5. Initial Appearance Before the Magistrate Judge

Three jurisdictions have local rules concerning the defendant's initial appearance before the magistrate judge. Rules in two of these districts should remain subject to local variation. In addition, one district court has a rule that may conflict with existing law and another court has a rule that repeats existing law.

An order in the Eastern District of Texas requires that the date of arrest of a defendant be established at the first appearance in response to

each warrant served upon the defendant. E.D.Tex. 92-11. This directive is appropriate as a local rule.

Two provisions in the rules of the Eastern District of Michigan should also remain subject to local variation. There is a requirement that the United States attorney provide the relevant papers to the magistrate judge at the initial appearance. E.D.Mich. 205.1(c). Another directive explains that a defendant, appearing voluntarily, must report to pretrial services and the marshal's office before the defendant's initial appearance in court. E.D.Mich. 205.1(b). Although appropriate as a local directive, there may be a notice concern for those defendants who are unrepresented by counsel and who would be unaware of the local rule requirement.

The District of Arizona has an order allowing video conferencing of initial appearances when elected by the defendant and permitted by the magistrate judge.² D.Ariz. GO 190. This directive may be appropriate as a local rule. This directive also permits video conferencing of arraignments. The Ninth Circuit has rejected the use of video conferencing of arraignments in the District of Arizona pursuant to this order. *See Valenzuela-Gonzalez v. United States District Court for the District of Arizona*, 915 F.2d 1276 (9th Cir. 1990).

One provision simply repeats the applicability of Federal Rule 5 and is, therefore, unnecessary. E.D.Mich. 205.1(a).

Rule 5.1. Preliminary Examination

Three districts have local rules concerning the preliminary examination. Two of the courts have rules that should remain subject to local

² This order was dated in 1990 and indicated it was valid for one year. It appears to continue in force, however, since it was provided by the district court as an existing local directive.

variation. The other jurisdiction has a rule that repeats existing law and should, therefore, be rescinded.

Rule 5.1 provides that a court may, by local rule, appoint the place and define the conditions under which the defendant may obtain the recording of the preliminary examination. Fed.R.Crim.P. 5.1(c)(1). Two districts have adopted such a rule. One rule indicates that the attorney must make arrangements with the magistrate judge for a specific time and place when the equipment will be available for listening. S.D.Iowa 30. The other district court has a local rule which goes further to state that, if the recording is insufficient for the party's need, the party can make application to the court for preparation of transcripts of preliminary examinations. W.D.Wash. 5.1(c).

The other jurisdiction has a local rule that simply indicates that preliminary examinations are conducted pursuant to Rule 5.1 of the Federal Rules of Criminal Procedure and 18 U.S.C. §3060. N.D.Ga. 505-2. This rule repeats Rule 5.1 and is unnecessary.

III. Indictment and Information

Rule 6. The Grand Jury

Eighteen jurisdictions have local rules concerning the activities of the grand jury. Rules in fifteen of these jurisdictions should remain subject to local variation. One court has a local rule that is inconsistent with existing law. Six jurisdictions have local rules that repeat existing law. Lastly, one district court has a local rule that is either inconsistent or repetitious. A brief discussion of these rules, organized according to the sections of Rule 6, follows.

(a) Summoning Grand Juries.

Nine jurisdictions have local rules concerning the selection of grand jurors and alternates. Rules in eight of these courts are appropriate and should remain local. For example, several jurisdictions have local rules that indicate when and where a grand jury will be convened. C.D.Cal. 8.2; S.D.Ind. 10; W.D.N.Car. Order 10/31/75; E.D.Va. 26. Other courts have local rules that discuss the method of selection of jurors or refer the reader to the relevant jury selection plan. N.D.Ga. 400-1; W.D.Tex. 6. Still other rules explain who is responsible for impaneling the grand juries. N.D.Ohio 3:2.1 (chief judge or designate); E.D.Pa. 4(a) (emergency judge).

Rules in three of the nine jurisdictions repeat existing law and should, therefore, be rescinded. For example, two of the jurisdictions have local rules that indicate that a grand jury will be convened "at such time as the public interest may require." N.D.Ga. 400-2; *see also* W.D.N.Y. 35(a). Such a statement repeats the first sentence of Rule 6(a)(1). *See* Fed.R.Crim.P. 6(a)(1). Another rule indicates that extra jurors may be impaneled when necessary. C.D.Cal. 8.2.2. This directive, in essence, repeats Rule 6(a)(1) and (g). Fed.R.Crim.P. 6(a)(1), (g). Lastly, one local rule simply repeats that Federal Rule 6 governs grand jury proceedings. W.D.N.Y. 35(b).

(b) Objections to Grand Jury and to Grand Jurors.

Two jurisdictions have local rules concerning subsection (b) of Rule 6, and these rules should remain subject to local variation. One of the directives sets forth the procedure for making pre-indictment challenges to the grand jury proceedings. S.D.Ind. 10(d). The other rule explains that

motions for relief from grand jury orders or process are made returnable before the judge who impaneled the grand jury W.D.N.Y. 35.

(c) Foreperson and Deputy Foreperson.

There are no local rules addressing this topic.

(d) Who May Be Present.

Three jurisdictions have local rules relating to this subsection of Rule 6. Three of the rules are appropriate as local rules. They describe, generally, the physical areas used by the grand jury and who is allowed near these areas. N.D.Ga. 400-5; N.D.Ind. 108.1; E.D.Tex. GO 91-5. A portion of the local rule from the Northern District of Georgia, however, simply repeats Rule 6(d) and should be rescinded. N.D.Ga. 400-5; see Fed.R.Crim.P. 6(d).

(e) Recording and Disclosure of Proceedings.

Twelve jurisdictions have local rules relating in some way to the secrecy of grand jury proceedings. Rules in five of the district courts should remain subject to local variation. Rules in seven of the jurisdictions repeat existing law. Rules in three of the district courts are inconsistent with existing law.

Directives in three jurisdictions require that juror data be maintained in confidence. C.D.Cal. 8.5; D.N.Dak. 8(B); E.D.Tex. GO 92-5. These rules are appropriate supplements to subsection (e) and are authorized by the Plan for Random Jury Selection. See 28 U.S.C. §1863. There are rules concerning how confidentiality of grand jury documents will be maintained. M.D.N.Car. SO 11; E.D.Pa. 4(b); E.D.Tex. GO 94-9. A local rule in the Eastern District of Michigan requires that a party prepare a motion for sealing papers before the grand jury. E.D.Mich. 206.1(c). An order in the

Eastern District of Texas sets forth the circumstances under which indictments may be sealed. E.D.Tex. GO 93-3. These rules are also appropriate as local rules.

Six jurisdictions have local rules that repeat existing law. For example, two jurisdictions have local rules repeating that grand jury proceedings are secret. C.D.Cal. 8.3; D.D.C. 302. These rules repeat the general language of Rule 6(e)(2). Fed.R.Crim.P. 6(e)(2). There are also rules stating that grand jury materials are kept under seal. N.D.Ga. 400-4; S.D.Ind. 10(c); E.D.Mich. 206.1(b). These rules repeat Rule 6(e)(6). Fed.R.Crim.P. 6(e)(6). The local rule from the Southern District of Indiana also explains that grand jury materials are given a miscellaneous docket number for confidential filing. This information is unnecessary in a local rule since the directive, to the extent it intends to require particular behavior, only requires that behavior of a court clerk. This type of mandate is better placed in an internal operating procedure since it does not regulate attorney conduct in any way. Another district court has a rule that repeats Rule 6(e)(1), that grand jury proceedings are recorded. W.D.Wash. 6. All of these rules should be rescinded.

A rule in the Eastern District of Pennsylvania either repeats Rule 6(e)(2) or is inconsistent with that Federal Rule. E.D.Pa. 4(c). The local rule sets out detailed requirements and explanations for how disclosures concerning the activities of the grand jury are made. *Id.* To the extent this rule simply paraphrases Rule 6(e)(2), it is repetitious and should be rescinded. To the extent it sets forth more requirements for secrecy than what is already set forth in that Federal Rule, it is inconsistent with Rule 6(e)(2) which states: "No obligation of secrecy may be imposed on any person except in accordance with this rule." Fed.R.Crim.P. 6(e)(2).

One local rule indicates that all indictments "shall not be made public" until the defendant is apprehended or appears in response to a criminal summons. D.Mont. 345-1. This local rule is inconsistent with the statement in Rule 6(e)(4) allowing the indictment to be kept secret perhaps longer. Fed.R.Crim.P. 6(e)(4). It states that indictments may be kept secret "until the defendant is in custody or has been released pending trial." *Id.* To the extent the local rule only paraphrases Rule 6(e)(4), it is repetitious and unnecessary.

(f) Filing and Return of Indictment.

Two rules exist which state that the return of the indictment is to the magistrate or emergency judge (E.D.Pa 4(e)) or to a judge (D.Utah 303). These rules are appropriate supplements to subsection (f). Fed.R.Crim.P. 6(f). One of these rules, however, explains the duty of the magistrate judge in filing material. D.Utah 303. Because this portion of the rule does not regulate attorney behavior, its content is probably better omitted from a local rule and, instead, may be set out in a guide for magistrate judge conduct or some other internal operating procedure.

(g) Discharge and Excuse.

Three jurisdictions have rules explaining, generally, who supervises or discharges a grand jury. C.D.Cal. 8.1, 8.4 (chief judge or designate); E.D.Mich. 206.1(a) (chief judge or designate); N.D.Ohio 3:2.2 (miscellaneous docket clerk). These rules are appropriate as local rules. One of these courts has a local rule permitting the extension of the service of the grand jury. C.D.Cal. 8.1.4. This rule repeats Rule 6(g) and 18 U.S.C. §3331(a) and should, therefore, be rescinded.

Rule 7. The Indictment and the Information

Two jurisdictions have local rules requiring that the United States attorney file a "Criminal Designation Form" with each new indictment or information. N.D.N.Y. 57.1; N.D.Ohio 3:2.3. Both of these rules are appropriate as local directives.

Rule 8. Joinder of Offenses and of Defendants

Five jurisdictions have local rules or other directives regulating related criminal cases. Rules in three of the jurisdictions are appropriate as local rules. E.D.Cal. 401; N.D.Cal. 320-1, 320-2; E.D.Mich. Samps; S.D.N.Y. DOB 15, 27. One of the rules requires that the United States attorney's office file a notice of related case document. E.D.Cal. 401; *see also* N.D.Cal. 320-1. One of the district courts provide two sample notices, one explains the procedure for multiple defendants to join in co-defendant's motions and the other explains the procedure for obtaining a separate trial if one of the defendants inculcates another. E.D.Mich. Samps. One jurisdiction has a rule that states that motions to consolidate are heard by the judge with the lowest docket number and another that the consolidated cases are heard at the place where the earliest case was filed. S.D.N.Y. DOB 15, 27. Another court has a rule explaining that notice of common defendants or common offenses must be provided in order to facilitate assignment of the cases. N.D.Cal. 320-2.

The first sentence of one of the rules in the Southern District of New York simply repeats that motions to consolidate are regulated by the Federal Rules. S.D.N.Y. DOB 15. Such a statement is unnecessary.

A rule in the Central District of California explains that the United States attorney's office must give notice of any matter set forth in a particular

section of a general order. C.D.Cal. 2.3. The portion of the General Order mentioned in the rule, however, appears to have been deleted from the General Order. *Id.* As written, then, the rule serves no effect.

Rule 9. Warrant or Summons Upon Indictment or Information

Four jurisdictions have local rules concerning the issuance of a warrant or summons upon an indictment or information. One jurisdiction has a local rule that should remain subject to local variation. The other three jurisdictions each have directives that repeat existing law. Two of these courts also have rules that are inconsistent with existing law.

An order in the Western District of Wisconsin sets forth the procedure used to contact the defendant after a summons has been issued. W.D.Wisc. Order (2/20/87). This procedure is appropriate as a local directive.

Three local rules repeat portions of Rule 9(a) of the Federal Rules of Criminal Procedure. Fed.R.Crim.P. 9(a). One of the jurisdictions has a rule indicating that a warrant or summons will issue upon an indictment. D.Ariz. 4.2. A rule in the District of Utah indicates that a warrant may issue on an information only if it is accompanied by a written probable cause statement given under oath. D.Utah 304(a). Another jurisdiction has a rule explaining the consequences of a failure to appear in response to a summons. C.D.Cal. 4.6. Each of these rules repeats portions of Rule 9(a). Fed.R.Crim.P. 9(a).

There is a rule that repeats, in substance, Rule 9(c)(2), that an indictment must be returned. C.D.Cal. 3.1. Another rule in this jurisdiction repeats Rule 9(c)(2), that there must be a return of service. C.D.Cal. 4.4.1. All of these repetitious rules should be rescinded.

Two jurisdictions have local rules that may be inconsistent with Rule 9(a). Rule 9(a) indicates that the government attorney decides whether

a warrant or a summons shall issue. Fed.R.Crim.P. 9(a). If the government does not make a request, then the court "may issue either a warrant or a summons in its discretion." *Id.* One local rule states that a summons will issue unless the government makes a written request for a warrant. D.Utah 304(a). To the extent this rule precludes the government from making an oral request for a warrant which will be honored, it is inconsistent with Rule 9(a). Another local rule requires the government "whenever practicable" to use a summons rather than a warrant. C.D.Cal. 4.5. To the extent this local rule intends to restrict the discretion of the government in deciding whether to request a summons or warrant, it is also inconsistent with Rule 9(a).

Another rule in the Central District of California requires that a copy of the indictment be served along with the summons or warrant. C.D.Cal. 4.4. Rule 9(b) only requires that the warrant or summons "describe the offense charged in the indictment or information...." Fed.R.Crim.P. 9(c)(1). To the extent this local rule requires more than the Federal Rule to effect service of a summons or a warrant, it is inconsistent with Rule 9(b).

IV. Arraignment, and Preparation for Trial

Rule 10. Arraignment

Eleven jurisdictions have local rules relating to the arraignment process. Rules in ten of these courts should remain subject to local variation. In addition, four jurisdictions have local rules that repeat existing law. One court has a local directive that is inconsistent with existing law.

The local rules from the ten district courts that should remain as local rules cover diverse topics. Two courts have local rules that require the United States attorney to provide sufficient copies of the indictment to the clerk to be given to each defendant at the arraignment. D.Ariz. 4.3; E.D.Pa.

8. Two courts have local rules that require the defendant to provide his or her true name at the indictment and provide that the indictment may be amended to reflect the new name. D.Ariz. 4.4; C.D.Cal. 4.1, 4.2, 4.3. Three rules allow the magistrate judge to conduct arraignments under certain circumstances. W.D.N.Y. 33; E.D.Pa. 8; W.D.Pa. 10.1. Two courts have local rules that explain how arraignments are scheduled. E.D.Mich. 210.1 (United States attorney responsible for scheduling); N.D.Ga. 505-3 (scheduling occurs automatically upon filing indictment). Three courts have local rules explaining who gives notice of the pending arraignment to the defendant. N.D.Ohio 3:3.1 (notice from clerk); N.D.W.Va. 3.05 (notice from United States attorney to defendant); S.D.W.Va. 1.02 (notice from United States attorney to defendant). One of these courts, the Northern District of West Virginia, also requires the United States attorney to give the clerk a list of all indictments upon discharge of the grand jury. N.D.W.Va. 3.05. Lastly, one court requires defense counsel or, if defendant is unrepresented, the United States attorney to inform the defendant of the need to go to the Pretrial Services Agency and the United States Marshals office. E.D.Mich. 210.1.

Two courts have local rules that simply repeat that Rule 10 of the Federal Rules of Criminal Procedure governs arraignments. E.D.Mich. 210.0; E.D.N.Car. 42.01. A portion of the rule from the Eastern District of North Carolina indicates that arraignments are conducted under "Rule 19(B)(4), F.R.Crim.P."; this cited rule does not exist. E.D.N.Car. 42.01. Three jurisdictions have local rules that say that the arraignments will be recorded. E.D.Mich. 255.1; N.D.Ohio 3:3.2; N.D.Ga. 505-3(c). These rules repeat the Court Reporter's Act, 28 U.S.C. §753(b), which requires that open criminal proceedings be recorded. All of these rules should be rescinded.

A 1990 directive in the District of Arizona permits video conferencing of arraignments in the court's discretion.³ D.Ariz. GO 190. The Ninth Circuit rejected the use of video conferencing of arraignments in the District of Arizona pursuant to this order. *See Valenzuela-Gonzalez v. United States District Court for the District of Arizona*, 915 F.2d 1276 (9th Cir. 1990). Accordingly, this general order should be stricken.

Rule 11. Pleas

Nineteen jurisdictions have local rules relating to pleas and plea agreements. Rules in all of these courts should remain subject to local variation. In addition, rules in two of the jurisdictions repeat existing law. A rule in one jurisdiction appears inconsistent with Rule 11 and should, therefore, be rescinded.

All of the rules except one relate specifically to the plea agreement procedure set forth in Rule 11(e) of the Federal Rules of Criminal Procedure. Fed.R.Crim.P. 11(e). Five of the jurisdictions have local rules that set forth the format for plea agreements submitted before the court and the procedure for their acceptance. M.D.Ala. 31 (plea agreement must be placed on consent docket); N.D.Cal. 315-2 (questionnaire completed by defendant and signed in open court if court accepts plea); D.Colo. 40.1 (written notice of plea agreement at least ten days before Monday of week set for trial); N.D.Ga. 505-4 (procedure for acceptance of plea of nolo contendere); D.Utah 310(a) (plea agreement in writing and accompanied by written stipulations of fact relevant to sentencing). Three other courts have local rules that provide

³ This order was dated in 1990 and indicated that it was valid for one year. It appears to continue in force, however, since it was provided by the district court as an existing local directive.

similar procedures for those defendants seeking to change pleas. N.D.Cal. 315-1; N.D.N.Y. 11.1; D.P.R. 414. All of these rules should remain local.

Sixteen jurisdictions have documentation relating directly to the content of the plea agreement. One of these courts sets out the criteria in a local rule. D.Haw. 360. The other courts rely, instead, on a sample or form plea agreement or a sample plea questionnaire. *E.g.*, D.Colo (plea agreement); D.P.R. (plea agreement); D.Utah (plea agreement). These plea documents take on several different forms. Some of them are in the first person, in a narrative form; others are in the third person, also in a narrative form; still others are in a question and answer format. They cover a wide range of topics such as the following:

1. Charges.
2. Nature of the charges and the elements of the crime.
3. Possible defenses to the charges.
4. Whether English is the defendant's native language.
5. Education level of the defendant.
6. Agreements made by the defendant.
7. Agreements made by the government.
8. Factual basis for the plea.
9. Reasonable doubt standard which the government must meet.
10. Fact that defendant need not testify and no negative inference can be drawn from a refusal to testify.
11. Potential sentence including possible enhancements of the sentence.
12. Effect of this plea agreement on current probation or parole.
13. Applicability of any forfeiture provision.

14. Waiver of rights.
15. Fact that court may question defendant in open court and defendant must answer honestly.
16. This is entire agreement.
17. Court not a party.
18. Presentence report will help determine sentence.
19. If charges will be dismissed in agreement, statement as to whether remaining charges adequately reflect seriousness of behavior and why dismissal will not undermine purposes of sentencing.

These topics are appropriately the subject of local rulemaking if a court chooses to incorporate them into a local rule. It may be preferable to have one local rule with all relevant plea agreement topics set forth than to have multiple plea agreements in one district court, each outlining an individual judge's preferences. This is particularly true given that the rulemaking process will allow many constituencies an opportunity comment on the substance of the local rule.

Two of the courts have local rules that repeat portions of Rule 11 of the Federal Rules of Criminal Procedure. W.D.Okla. 41 (plea agreement shall be as set forth in Rule 11(e)); N.D.Tex. 9.3 (says court not under obligation to accept plea agreement as already acknowledged in Rule 11(e)(2), (3), and (4)). These rules should be rescinded.

One court has a paragraph in a local rule entitled "Plea Bargain Arrangements" that is, at least arguably, inconsistent with section (d) of Rule 11 which requires that a plea be voluntary. M.D.Ala. 31; *see* Fed.R.Crim.P. 11(d). The paragraph reads:

This Court is unanimously of the opinion that attorneys, whose professions must ultimately suffer from excessive expenses or litigation, must accept the burden of attempting to limit such expenses. In unusual cases, this court will

invoke the provisions of the statute providing that the Court may assess the costs of frivolous litigation, including the jury expense, against attorneys causing the same.

M.D.Ala. 31.

The mere existence of this provision may influence an attorney to push a plea agreement even though that attorney may not think the case merits an agreement in order to avoid personal sanctions. Such a result is inconsistent with Rule 11, in its entirety, and with section (d), specifically, both of which stress the voluntary nature of any plea agreement.

Rule 12. Pleadings and Motions before Trial; Defenses and Objections

Twenty-eight courts have local rules relating to pretrial motions and pleadings. All of the courts have rules that should remain subject to local variation. In addition, the Advisory Committee on Criminal Rules may want to consider whether the topics addressed in local rules in two jurisdictions should be incorporated into the Federal Rules of Criminal Procedure. Six courts have directives that repeat existing law. Lastly, one local rule is inconsistent with the language of Rule 12.

Rule 12 requires that certain motions be made prior to trial or be deemed waived. Fed.R.Crim.P. 12(a) and (f). Section (c) of Rule 12 provides that the court may, by local rule, set a time for the making of pretrial motions and, if needed, a hearing date. *Id.* at (c). All of the courts have rules that supplement this Federal Rule. Generally, the local rules establish the times for filing and hearing pretrial motions. *E.g.*, N.D.Cal. 320-3 (not less than fourteen nor more than twenty-one days after arraignment); D.Haw. 325 (between fortieth and fiftieth days following arraignment); E.D.Ky. 6 (within eleven days after arraignment); N.D.Ind. 109.1 (dates set at arraignment).

Other rules explain what documentation must accompany the pretrial motion. *E.g.*, C.D.Cal. (declaration in support); E.D.Pa. 11 (factual statement and list of authorities); W.D.Pa. 12.1 (memorandum with reasons and legal support). All of these rules are appropriate.

Rule 12(b) lists those motions which must be raised prior to trial or be deemed waived:

- (1) Defenses and objections based on defects in the institution of the prosecution; or
- (2) Defenses and objections based on defects in the indictment or information ...; or
- (3) Motions to suppress evidence; or
- (4) Requests for discovery under Rule 16; or
- (5) Requests for a severance of charges or defendants under Rule 14.

Fed.R.Crim.P. 12(b).

Two district courts have local rules stating that the defense of entrapment must also be raised through a pretrial motion. M.D.Ala. 30; S.D.Ga. 212.2. There is case law indicating that a defense of outrageous government involvement may implicate due process concerns by challenging the institution of the prosecution itself so that a pretrial motion is appropriate. *See United States v. Wylie*, 625 F.2d 1371, 1377 (9th Cir. 1980) *cert. denied* 449 U.S. 1080 (1981), and cases cited therein; see also *United States v. Washington*, 705 F.2d 489, 495 (D.C.Cir. 1983); *United States v. Numez-Rios*, 622 F.2d 1093 (2d Cir. 1980). The Advisory Committee may want to consider whether a claim of entrapment should be raised by pretrial motion so that the court can determine whether the alleged government misconduct rises to the level of excessive or outrageous government involvement. If so, an amendment to Rule 12(b) would be appropriate.

Six courts have rules that repeat various portions of Rule 12 or Rule 49 of the Federal Rules of Criminal Procedure. Fed.R.Crim.P. 12, 49. For example, several jurisdictions have rules repeating Rule 12(f), requiring that the pretrial motions be made or they are lost. *E.g.*, N.D.Ga. 515-2; E.D.Va. 27. Some courts have rules that repeat the list of motions set forth in Rule 12(b) that must be raised prior to trial. *E.g.*, E.D.Va. 27; D.Nev. 320. Lastly, some courts have rules that repeat Rule 49(a), that motions must be served on the parties. *E.g.*, S.D.Tex. 7; N.D.W.Va. 3.06(b). These rules are unnecessary.

One local rule indicates that a pretrial motion is called a "written pleading". M.D.Ala. 30. Rule 12(a) indicates that "pleadings" consist only of the indictment, information, and the plea of not guilty, guilty, and nolo contendere. Fed.R.Crim.P. 12(a). The language in this local rule, then, is inappropriate.

Rule 12.1. Notice of Alibi

Only one jurisdiction has a rule concerning defendant's notice of an intent to rely on a defense of alibi. D.Nev. 315(e). This local rule provides that the defense must serve notice of such a defense "within 2 weeks after arraignment." *Id.* Rule 12.1 of the Federal Rules of Criminal Procedure requires the defendant to serve such a notice "within ten days" after receiving a written demand from the government stating the time, date, and place at which the offense was committed" or at such different time as the court may direct." Fed.R.Crim.P. 12.1(a). The local rule is inconsistent with the Federal Rule because it is not clear that the arraignment will establish the time, date, and place at which the offense was committed sufficiently to trigger the notice requirement of Rule 12.1. To the contrary, Federal Rule 12.1

anticipates that the arraignment will be insufficient by requiring that the government make a separate "written demand" setting forth the "time, date, and place at which the alleged offense was committed." Fed.R.Crim.P.

12.1(a).

Even if the arraignment does provide enough specificity to trigger the notice requirement of Rule 12.1, this local rule is still problematic. Arguably, the "different time" suggested by the Federal Rule is one determined on a case-by-case basis by the court and not by a local rule affecting all cases. Imposing a different time by local rule, then, is inconsistent with Rule 12.1. Lastly, to the extent that this local rule precludes a defendant in a particular case from seeking a time within which to serve a notice of alibi which is later than two weeks after the arraignment, it is inconsistent with Rule 12.1.

*Rule 12.2. Notice of Insanity Defense or Expert Testimony of Defendant's
Mental Condition*

Two jurisdictions have rules concerning defendant's notice of mental incompetency. D.Nev. 315(e); D.Ariz 4.12. These local rules provide that the defense must serve notice of such a defense either "within 2 weeks after arraignment" (D.Nev. 315(e)) or within fifteen days after arraignment (D.Ariz. 4.12). Rule 12.2 of the Federal Rules of Criminal Procedure requires the defendant to notify the government in writing of an intention to rely on the defense of insanity "within the time provided for the filing of pretrial motions or at such later time as the court may direct".... Fed.R.Crim.P. 12.2(a). These rules are appropriate supplements to Federal Rule 12.2.

One of these local rules provides that for good cause shown the court may permit filing such a notice after the fifteen-day time limit. See

D.Ariz. 4.12. The Federal Rule provides that the court may direct a "later time" for filing the notice. To the extent that the other local rule, which requires that the notice be provided within two weeks of the arraignment, precludes a defendant in a particular case from seeking a "later time", it is inconsistent with Rule 12.2. See D.Nev. 315(e).

Rule 12.3. Notice of Defense Based Upon Public Authority

There are no local criminal rules directly relating to this Federal Rule.

Rule 13. Trial Together of Indictments or Informations

Four jurisdictions have local rules concerning the procedure used to determine if a case is a related case and how such a case will be assigned.

D.Colo. 7.1(D), GO 1993-5; E.D.N.Y. DOB 50.3; W.D.Okla. 8; D.Utah 107(b).

For example, two of the rules require that the United States attorney notify the clerk, in writing, that an action is related to a previously filed case.

D.Colo. GO 1993-5; W.D.Okla. 8. If related, then the case is assigned to the same judge. *Id.* If a motion to consolidate is filed, the judge who will decide the motion is the judge assigned to the case with the oldest docket number.

D.Colo. 7.1(D). E.D.N.Y. DOB 50.3; W.D.Okla. 8. In another jurisdiction, either judge may hear a motion to consolidate but, if consolidated, the case will be heard by the judge assigned to the case with the oldest docket number. D.Utah 107(b). These rules are appropriate as local directives.

Rule 14. Relief from Prejudicial Joinder

One court has a sample order to participants in multiple defendant cases indicating that the government must, within ten days from the date of the order, indicate whether the government intends to proffer a post-arrest

statement from one defendant, which may inculpate another defendant, so that the court has the opportunity to determine the need for separate trials of the accused individuals. E.D.Mich. Samp. Such an order is appropriate pursuant to Rule 14.

Rule 15. Depositions

Two jurisdictions have local rules that specifically indicate that depositions not be filed in a criminal case. N.D.Tex. 6.1; W.D.Tex 15, 49. These rules are inconsistent with Rule 15 of the Federal Rules of Criminal Procedure and should, therefore, be rescinded. Fed.R.Crim.P. 15. Rule 15 explains that depositions "shall be taken and filed in the manner provided in civil actions except as otherwise provided in these rules...." Fed.R.Crim.P. 15(d). The applicable civil rule is Rule 5(d) which states that "the court may on motion of a party or on its own initiative order that depositions ... not be filed unless on order of the court or for use in the proceeding." Fed.R.Civ.P. 5(d). The use of a court order in this Rule refers to an order made in an individual case and not a standing order or local rule applicable to all cases. This interpretation is established by the Advisory Committee Notes and the Federal Rules of Civil Procedure. To interpret this language otherwise would thwart the intent of the Advisory Committee that discovery materials should generally be accessible.

Further, the language in the Advisory Committee Notes indicates that the Advisory Committee intended in Rule 5(d) that filing be the norm and that non-filing only be permitted in particular cases. The Advisory Committee Notes to the 1980 Amendments state that the requirement of filing is

subject to an order of the court that discovery materials not be filed unless filing is requested by the court or is effected by

parties who wish to use the material *in the proceeding*.

Fed.R.Civ.P. 5 Advisory Committee Notes to 1980 Amendments (emphasis added).

The Advisory Committee used similar language in its 1970 Amendments and clearly intended to refer to orders made in individual cases. The Advisory Committee amended Rule 5(a) in 1970 to permit that discovery papers and pleadings be served on all parties "unless the court orders otherwise." Fed.R.Civ.P. 5(a). the Advisory Committee Notes to this Amendment state:

Discovery papers may be voluminous or the parties numerous, and the court is empowered to vary the requirement if *in a given case* it proves needlessly onerous.

Fed.R.Civ.P. 5 Advisory Committee Notes to 1970 Amendments (emphasis added).

Rule 5(d), as it currently reads, requires that a court issue an order that discovery not be filed in each case. This rule, read in conjunction with Rule 15 of the Federal Rules of Criminal Procedure, regulates the filing of depositions in criminal proceedings. A local rule permitting routine non-filing of depositions is inconsistent with these Federal Rules.

Rule 16. Discovery and Inspection

Thirty-eight jurisdictions have local rules concerning discovery in criminal actions. Rules in all of these courts should remain subject to local variation. Rules in eight district courts may be helpful to all of the district courts; accordingly, it is recommended that the Advisory Committee on Criminal Rules consider incorporating the procedure reflected in these rules in a Federal Rule. In addition, rules in eighteen of the jurisdictions repeat existing law and should be rescinded. Lastly, a rule in one of the courts is inconsistent with other Federal Rules.

Rule 16 of the Federal Rules of Criminal Procedure explains, in the main, the procedure for the parties to obtain discovery and what material may actually be discovered. Fed.R.Crim.P. 16. All of the courts have local rules that appropriately supplement this Federal Rule. For example, most of the rules provide a time limit within which discovery must be completed or a general schedule for completing each phase of discovery. *E.g.*, N.D.Ga. 520-1 (discovery made available by prosecution at arraignment and by defendant at least twenty-one days before trial); D.Wyo. 103 (discovery made available by prosecution within seven days of arraignment); E.D.Mich. SO 90-AO-010 (within ten days of arraignment, parties meet to confer and prosecution provides discovery). Many of the rules explain the procedure the government may use to decline a discovery request from the defendant. *E.g.*, W.D.Pa. 16.1; D.N.J. Sample Order; E.D.Pa. 9. Some of the other rules set forth the required contents of any motion to compel. *E.g.*, E.D.Tex. Sample Order.

Eight jurisdictions have local rules requiring that the parties meet to confer about discovery disputes before any motion is filed. *E.g.*, E.D.La. 2.11; D.P.R. 409; D.Vt. 2. Several of the rules also require that the moving party file a certification explaining that such a conference occurred or setting forth the reasons why such a conference did not occur. *E.g.*, E.D.N.Y. 3; S.D.N.Y. 3. These rules are appropriate supplements to Rule 16. There are directives in the Federal Rules of Civil Procedure that require a conference and a certification before a motion for a protective order or a motion to compel is filed. Fed.R.Civ.P. 26(c), 37(a)(1). The Advisory Committee on Criminal Rules may want to consider a similar amendment to Rule 16.

The rules in eighteen of the courts repeat portions of Rule 16 of the Federal Rules of Criminal Procedure. Fed.R.Crim.P. 16. Most of them repeat subsections (a)(1) and (b)(1) of Rule 16, describing what information is subject

to disclosure. *E.g.*, N.D.W.Va. 3.06(d); D.Conn. Appendix; D.Haw. 320-1. Others repeat section (c) of Rule 16, explaining that the parties are under a continuing duty to disclose. *E.g.*, S.D.Ga. 212.4; S.D.Ind. Sample Order; E.D.N.Car. 43.00. Still others repeat portions of section (d), that protective orders may be granted and that sanctions may be imposed for failure to comply with a discovery request. *E.g.*, E.D.Pa. 9; E.D.Wash. Sample Order; E.D.Cal. 440.

This repetition may be quite problematic. Frequently, the local rules paraphrase the Federal Rule. To the extent the different language is interpreted to mean something different than what is meant by the Federal Rule, the local rule may actually be inconsistent with the Federal Rule. At a minimum, such variance may lead to confusion. In addition, sometimes the local rules repeat only portions of the Federal Rule. It is unclear to someone reading the local rule what the effect of the omission may be. Such a gap may only mean that a practitioner should look to the Federal Rule for the remainder; on the other hand, it may mean that the omitted material is not relevant to practice in the particular district. Lastly, it is unnecessarily cumbersome to simply repeat the Federal Rule, or a large portion of it, in a local rule. It is unwieldy to reproduce, distribute, and read local rules that repeat Federal Rules.

Many jurisdictions provided sample orders used for discovery. While these orders do not purport to be local rules, the reasons to avoid repetition within them is the same. An order with a reference to Rule 16 disclosures would be preferable to an order with three or four pages reciting portions of that Rule.

One court has a local rule stating that discovery material is not to be filed. E.D.N.Car. 3.08. As discussed above, nonfiling of discovery is

inconsistent with Rule 5(d) of the Federal Rules of Civil Procedure and Rule 15 of the Federal Rules of Criminal Procedure. *See* discussion at Rule 15, *supra*.

Rule 17. Subpoena

Thirteen courts have local rules concerning the use of subpoenas. Rules in all of these jurisdictions should remain subject to local variation. Rules in five of the courts repeat existing law. Lastly, rules in three of these district courts are inconsistent with existing law.

All of the courts have local rules that are appropriate supplements to Rule 17 of the Federal Rules of Criminal Procedure. For example, many rules explain the required procedure for a defendant who is unable to pay the witness fee to obtain a subpoena in blank for a witness. *E.g.*, C.D.Cal. 7.1; E.D.Mich. 217.1; N.D.N.Y. 17.1. Some of these rules also require that all subpoenas be served within a set time before the proceeding to provide the marshal with sufficient time for service. *E.g.*, E.D.N.Car. 47 (seven days before Monday of week in which case is set for trial); E.D.Pa. 35 (five days before trial).

Five jurisdictions have local rules that repeat existing law. One court has a rule that repeats section (f) of Rule 17, that there be an order to take a deposition before the subpoena issues. N.D.N.Y. 17.1. Another rule repeats section (d) of Rule 17, that service of a subpoena may be by the marshal. E.D.Mich. 217.1(c). Three courts have rules that repeat portions of Rule 17 as well as a portion of Title 28 concerning the payment of fees. E.D.La. 5.12; M.D.La. 5.12; W.D.La. 5.12; *see* Fed.R.Crim.P. 17; 28 U.S.C. §1825. Rule 17(d) and section 1825(c) of Title 28 both indicate that, upon service of the subpoena, the witness fees need not be tendered if the subpoena

is issued in behalf of the United States. Fed.R.Crim.P. 17(d); 28 U.S.C. §1825(c). The local rules repeat this statement and are, therefore, unnecessary.

Three jurisdictions have rules that are inconsistent with Rule 17 and section 1825 of Title 28. E.D.La. 5.12; M.D.La. 5.12; W.D.La. 5.12. Rule 17 provides that service is made by delivering a copy of the subpoena to the person served along with the witness fee and mileage. Fed.R.Crim.P. 17(d). The Rule further provides that fees and mileage need not be tendered to the witness if the subpoena was issued in behalf of the United States. *Id.* If a subpoena is issued in behalf of a defendant who cannot pay, the fees "shall be paid in the same manner in which ... fees are paid in case of a witness subpoenaed in behalf of the government." *Id.* at (b). Section 1825 explains that witness fees for subpoenas issued in behalf of defendants unable to pay are paid by the marshal. 28 U.S.C. §1825(b). The three local rules indicate that it is

the duty of the person provoking the issuance of any subpoena for a witness to cause to be tendered to the witness at the time of service of the subpoena..., one day's attendance fee and ... mileage... and ... the daily attendance fee for each day he or she is required to attend said trial or hearing.

E.D.La. 5.12; M.D.La. 5.12; W.D.La. 5.12.

To the extent these local rules do not permit defendants who are unable to pay the fees and mileage from obtaining service of subpoenas, they are inconsistent with the Federal Rules and Title 28.

Rule 17.1. Pretrial Conference

Thirty-two district courts have rules relating to pretrial conferences. Rules in all of these jurisdictions should remain subject to local variation. A rule in one court repeats existing law and should be rescinded.

The rules in all the jurisdictions cover essentially one or more of the following broad topics: the agenda for discussion at the pretrial conference; the dates and time limits for various motions, discovery, and other activities; and the development and issuance of the pretrial order. *E.g.*, N.D.Ga. 520-2 (agenda consists of many items, a date for the hearing is determined, and pretrial order prepared at end of conference); D. Haw. 34L (same); N.D.N.Y. 17.1.1 (list of agenda items). The agenda for the pretrial conferences consists of the following topics:

1. Production of statements under Rule 26.2 of the Federal Rules of Criminal Procedure
2. Production of grand jury testimony.
3. Stipulation of facts.
4. Appointment of court interpreters.
5. Severance of trial.
6. Exchange of witness lists.
7. Pretrial resolution of evidence issues.
8. Preparation of trial briefs for problematic issues.
9. Submission of jury instructions.
10. Submission of voir dire questions.
11. Dates for completion of discovery.
12. Exhibit lists.
13. Trial date.

In addition, three of the jurisdictions have local rules suggesting the use of settlement conferences in complex criminal cases. S.D.Cal. GO 39; C.D.Cal. 14; D.Mont. SO 6. All of these rules are appropriate as local directives.

The rule in the Western District of Oklahoma states, basically, that the court may consider matters at a pretrial conference that will promote a fair trial. W.D.Okla. 17(G). This rule repeats Rule 17.1 that indicates that the court may "consider such matters as will promote a fair and expeditious trial." Fed.R.Crim.P. 17.1. The local rule is unnecessary.

V. Venue

Rule 18. Place of Prosecution and Trial

Five jurisdictions have local rules concerning intradistrict venue of criminal actions. Rules in all of these courts are appropriate as local rules. In addition, one jurisdiction have a rule that repeats existing law.

One rule indicates that cases should be filed in the division where the offense was allegedly committed. N.D.Ga. 105-3. That same rule provides that papers from proceedings such as the arraignment or sentencing, which may occur in a different place, are transferred and held where the case was originally filed. *Id.* Another jurisdiction has a rule indicating that the government may file a case in either division if the alleged offense was committed in more than two. D.Nev. 110-2. Another court has a rule providing that a motion may be filed seeking an intradistrict transfer if it is made during the time permitted for submission of all other pretrial motions. W.D.Wash 18. One jurisdiction has a local rule indicating that all criminal actions are filed in one division and can then be transferred to another location within the district upon a motion or stipulation. E.D.Cal. 402. Lastly, one court has a rule indicating that an appeal to the district court of a decision from a magistrate judge must be made within the same division. D.N.Dak. 740.

A rule in the District of North Dakota repeats the applicability of the Federal Rules of Criminal Procedure to determinations concerning the place of prosecution and trial. This rule repeats, generally, Rule 18 of the Federal Rules of Criminal Procedure and should, therefore, be rescinded.

Rule 19. Transfer Within the District (Rescinded)

There are no local criminal rules directly relating to this topic.

Rule 20. Transfer From the District for Plea and Sentence

Three jurisdictions have local rules concerning interdistrict transfers. N.D.Ga. 505-1(b); N.D.N.Y. 20.1; D.Utah 311. The local rule in the District of Utah explains that the United States attorney, after receiving a request for such a transfer from a defendant, must notify the clerk of this request and of whether the particular defendant is also a named defendant in a case currently pending in Utah; the United States attorney must also promptly process the transfer documents. D.Utah 311. The delegation of these tasks to the United States attorney is appropriately accomplished through local rulemaking.

The other two jurisdictions have rules that simply repeat existing law. One of the rules repeats the applicability of Rule 20 of the Federal Rules of Criminal Procedure. N.D.Ga. 505-1(b). The other rule repeats existing law explaining that the defendant may consent in writing to a trial of a misdemeanor before a magistrate judge. N.D.N.Y. 20.1; see 18 U.S.C. §3401.

Rule 21. Transfer From the District for Trial

There is only one court with a rule relating to the procedure used when a person is removed from one district to another. D.Utah 312. Specifically, this directive requires that the United States attorney or

marshal give notice to the magistrate judge that a person is being removed to the District of Utah; it also explains that the clerk must obtain the relevant documents. *Id.* This rule is appropriate as a local rule.

Rule 22. Time of Motion to Transfer

One jurisdiction has a local rule requiring that a motion for change in venue "be made within the time allowed for filing pretrial motions under these rules." W.D.Wash. 22. This rule is inconsistent with Rule 22 and should, therefore, be rescinded. Fed.R.Crim.P. 22. Rule 22 requires that such a motion be made "at or before arraignment or at such other time as the court or these rules may prescribe. *Id.* The Rule anticipates that decisions about venue will be made early, sufficiently before the case is prepared for trial so that the expense and time of preparing again, in a different court after transfer, will not occur. *See generally United States v. Polizzi*, 500 F.2d 856 (9th Cir. 1974), *cert. denied* 419 U.S. 1120 (1975). The Federal Rule recognizes that, in certain situations, a motion for transfer could not be made at or before the arraignment. Accordingly, the Rule gives the court discretion to prescribe a later time. Such discretion must be exercised on an individual basis, and not by local rule, or the provision loses force. A local rule setting a different time limit in all cases still misses those cases that require individual attention. For example, a motion to transfer may be made after the time for filing pretrial motions has expired and still be timely in the particular circumstances of the case. This situation is ignored by the local rule.

VI. Trial

Rule 23. Trial by Jury or by the Court

Nine courts have local rules relating to Rule 23. One of these rules is appropriate as a local rule. Five rules repeat Rule 23. The other three rules are inconsistent with existing law.

The rule in the Western District of Pennsylvania explains that the court, in a nonjury case, may direct the parties to submit findings of fact and conclusions of law with appropriate record and exhibit references. W.D.Pa. 23.1. This is appropriate instruction to parties.

Two jurisdictions have local rules that simply repeat the applicability of Rule 23. N.D.Ga. 525-2; W.D.N.Y. 35A. Other rules repeat that juries shall consist of twelve members. D.N.H. 31(a); N.D.Tex. 8.2(d); D.Utah 113. These rules are unnecessary.

Two rules explain that trial by jury is available only for those crimes carrying a maximum penalty of imprisonment for six months or a fine of \$500 or both. E.D.La. 13.01; W.D.La. 13.01. These rules seem to allow jury trials in more situations than currently anticipated by the Supreme Court. See *Blanton v. City of North Las Vegas*, 489 U.S. 538, 109 S.Ct. 1289, 103 L.Ed.2d 550 (1989). In *Blanton*, the Court explained that Congress' most recent definition of a "petty" offense consisted of a prison sentence of six months or less or a fine of up to \$5,000 and not \$500 as it had been previously. *Id.* at 544 citing 18 U.S.C. @1 (1982 ed., Supp. IV). Under this view, a jury trial would be available only for crimes carrying a maximum penalty of imprisonment for six months or a fine of \$5,000.

A rule in one court conflicts with Rule 23(b). E.D.Cal. 162. Rule 23(b) requires that a jury consist of twelve persons unless

the parties ... stipulate in writing with the approval of the court that the jury shall consist of any number less than 12 or that a valid verdict may be returned by a jury of less than 12 should the court find it necessary to excuse one or more jurors for any just cause after trial commences.

Fed.R.Crim.P. 23(b).

The local rule provides that a jury shall consist of twelve members "[u]nless waived by the defendant in writing and in the presence of the Court". E.D.Cal. 162(a). In those situations when the government is unwilling to stipulate to fewer than twelve jurors, this rule would permit the defendant to unilaterally agree to a smaller jury. Such a result is inconsistent with Rule 23.

Rule 24. Trial Jurors

Twenty-seven jurisdictions have local rules dealing, in some manner, with Rule 24. Rules in twenty-five of these courts should remain subject to local variation. In addition, five courts have rules that repeat existing law and should be rescinded. Forty-four jurisdictions have Jury Selection Plans which should also remain subject to local variation.

Most of the rules in twenty-five of the jurisdictions address three broad topics relating to jurors. Many courts have rules supplementing Rule 24 (a) that explain that the court examines potential jurors and that counsel are permitted to submit voir dire questions to the court in advance of the examination. *E.g.*, D.Mont. 326-1 (questions to be submitted at least one day in advance); D.P.R. 412 (questions to be submitted no later than three days before trial); S.D.Ga. 230.1 (questions to be submitted seven days before jury selection). Other rules require that counsel refrain from any contact with jurors before, during, and, sometimes, after trial. *E.g.*, E.D.Ky. 12; E.D.Wash. 47; N.D.Tex. 82(e). Still others supplement Rule 24 (b) by

explaining how peremptory challenges will be exercised. *E.g.*, D.Ariz. 4.10; D.N.J. 20; D.N.Dak. 8(D). All of these rules are appropriate.

Four courts have local rules that repeat the applicability of Rule 24 of the Federal Rules of Criminal Procedure. E.D.Cal. 451; N.D.Ga. 525-2; W.D.N.Y. 35A; N.D.Tex. 8.2(b). Another rule repeats, in large part, the substance of sections (a) and (c) of Rule 24. D.Mont. 326-1. These rules are unnecessary.

Section 1863 of Title 28 requires that each district court develop and use a plan for random jury selection. 28 U.S.C. §1863. The plan must be approved by a reviewing panel before it becomes operational. *Id.* Forty-four courts submitted jury selection plans that have been approved and are operational. *E.g.*, W.D.Ark. Plan; M.D.Pa. Plan; D.Del. Plan. These plans are appropriate supplements to the local rules.

Rule 25. Judge; Disability

There are no local criminal rules directly relating to this Federal Rule.

Rule 26. Taking of Testimony

There is one rule concerning the responsibilities of counsel. W.D.Wash. 26. This rule is appropriate as a local rule. It indicates that counsel should use a lectern, that counsel should rise when addressing the court or objecting, and that only one attorney for each party is permitted to examine or cross-examine each witness.

Rule 26.1. Determination of Foreign Law

There are no local criminal rules directly relating to this Federal Rule.

Rule 26.2. Production of Witness Statements

Local rules regulating the production of witness statements are routinely found, if they exist at all, with the local rules regulating discovery generally pursuant to Rule 16 of the Federal Rules of Criminal Procedure. Accordingly, the discussion of these local rules is set forth in the discussion of Rule 16, *supra*.

Rule 26.3. Mistrial

There are no local criminal rules directly relating to this Federal Rule.

Rule 27. Proof of Official Record

There are no local criminal rules directly relating to this Federal Rule.

Rule 28. Interpreters

Similarly, there are no local rules relating to this Rule.

Rule 29. Motion for Judgment of Acquittal

Two courts have local rules explaining the general procedure used to submit a motion for judgment of acquittal pursuant to Rule 29. E.D.Pa. 14; N.D.W.Va. 3.09. Both of these rules are appropriate supplements to Rule 29.

Rule 29.1. Closing Argument

Four courts have local rules concerning closing arguments. E.D.La. 13.03; M.D.La. 13.03; W.D.La. 13.03; W.D.Wash. 26(a).

The rules in three jurisdictions are appropriate supplements to this Federal Rule in requiring that counsel refrain from arguing law to the jury. E.D.La. 13.03; M.D.La. 13.03; W.D.La. 13.03.

One rule repeats Rule 29.1 by relating that the government argues in closing, the defendant may reply, and then the government may reply in rebuttal. W.D.Wash. 26(a).

Rule 30. Instructions

Twenty district courts have local rules discussing jury instructions. Rules in sixteen of these jurisdictions should remain subject to local variation. Rules in fifteen of the courts are inconsistent with existing law and should be rescinded. Because the issue raised by the fifteen inconsistent rules is problematic, the Advisory Committee on Criminal Rules may want to consider amending Rule 30 of the Federal Rules of Criminal Procedure.

Rule 30 permits a party to submit jury instructions prior to the charge. Fed.R.Crim.P. 30. The Rule also allows any party to object to the charge. *Id.* The directives in the sixteen district courts which are appropriate as local rules supplement Rule 30 by setting forth the required form for the instructions and the procedure for making objections to the charge. *E.g.*, N.D.Ga. 525-6, 255-2; N.D.Ind. 110.1; D.Utah 114.

Rule 30 requires that any jury instructions be submitted "[a]t the close of the evidence or at such earlier time during the trial as the court reasonably directs." Fed.R.Crim.P. 30. Fifteen courts have local rules requiring the submission of jury instructions at some time prior to the trial. *E.g.*, S.D.Ga. 230.1 (seven days before trial); D.P.R. 412 (three days before trial); W.D.Ark. Order (fourteen days before trial). These rules are inconsistent with Rule 30 and should be rescinded. The particular practice in these fifteen courts may be to review the instructions in advance of the commencement of the trial. Accordingly, the Advisory Committee on

Criminal Rules may want to consider amending Rule 30 to accommodate to the procedure reflected by these local rules.

Rule 31. Verdict

One jurisdiction has a local rule explaining that, when the verdict is received in court, one attorney for each side and the defendant(s) must be present. W.D.Wash. 31. This rule is appropriate as a local directive.

VII. Judgment

Rule 32. Sentence and Judgment

Fifty-two courts have local rules supplementing Rule 32 of the Federal Rules of Criminal Procedure on sentencing. See Fed.R.Crim.P. 32. Portions of rules in fifty-one of these jurisdictions should remain local rules. Directives in nine of the courts repeat existing law. Rules in five courts either repeat or are inconsistent with Rule 32. Lastly, thirty-six of the courts have local rules that are inconsistent with Rule 32.

The local rules concerning sentencing are quite lengthy and detailed. This may be because the courts intended to incorporate the model local rule proposed by the Judicial Conference Committee on Probation Administration in 1987. The 1994 amendments to Rule 32 were designed to meet two objectives:

First, the amendments incorporate elements of a "Model Local Rule for Guideline Sentencing" which was proposed by the Judicial Conference Committee on Probation Administration in 1987. That model rule and the accompanying report were prepared to assist trial judges in implementing guideline sentencing mandated by the Sentencing Reform Act of 1984....

Second, in the process of effecting those amendments, the rule was reorganized. Over time, numerous amendments to the rule had created a sort of hodge podge; the reorganization

represents an attempt to reflect an appropriate sequential order in the sentencing procedures.

Fed.R.Crim.P. Advisory Committee Note of 1994.

Because the new amendments to Rule 32 incorporated much of the model local rule that was already set forth in the local rule, significant amounts of the content of the local rules will now probably be unnecessary. It is difficult to precisely define those portions of the rules which are repetitious, although that has been done in some instances. See discussion, *infra*. Rather, it is suggested that the district courts review their respective rules in an effort to reduce the sheet volume of the rules in light of the new amendments.

Rule 32 explains the procedure, generally, for sentencing defendants. Fed.R.Crim.P. 32. The Rule sets forth the time limits for conducting a presentence investigation and submitting a report. *Id.* at (a) and 9b). These time limits may be "either shortened or lengthened for good cause." *Id.* at (a). The Rule also outlines the contents of the presentence report, *Id.* at (b). The Rule explains, generally, the sentencing hearing and procedure to impose sentence. *Id.* at (c). The rule also explains the contents of a judgment of conviction and the effect of a plea withdrawal on sentencing. *Id.* at (d) and (e).

Rules in fifty-one of the district courts are appropriate supplements to Rule 32. For the most part, these local rules explain that the presentence report is a confidential report and that there are specified procedures which must be followed to disclose the report. *E.g.*, W.D.Ark. GO 20; D.Conn. 9; D.Kan. 305. Other rules explain that the presentence report will be deemed delivered on a particular day. *E.g.*, D.D.C. 311 (either (1) when physically delivered, (2) one day after available for inspection, or (3) three days after

copy mailed); M.D.Fla. 4.12. Still others provide a detailed procedure for objecting to the contents of the presentence report. *E.g.*, S.D.Ill. 24.

Rules in nine of the district courts repeat various portions of Rule 32 and, as such, are unnecessary. *E.g.*, M.D.Ala. (repeats 32(b)(6)); W.D.La. 16 (repeats 32(b)(6)(B)); S.D.Iowa 27 (repeats general applicability of Rule 32).

Rules in five of the courts are either inconsistent with Rule 32 or repeat it. Rule 32(b)(6)(B) requires the parties to "communicate in writing to the probation officer, and to each other, any objections to any material information" Fed.R.Crim.P. b)(6)(B). The five jurisdictions have rules that require objections to be made in a "pleading" which must be entitled "Position of Parties with Respect to Sentencing Factors' in accordance with 6A1.2 of the Sentencing Guidelines and policy Statements (Oct. 1987)." M.D.N.Car. SO 20; *see also* S.D.Ala. SO; W.D.Pa. 32.1; D.Utah 310; E.D.Tenn. 83.9. The only "pleadings" permitted in criminal proceedings are the indictment, the information, and the pleas. *See* Fed.R.Crim.P. 12(a). It is inconsistent to characterize this document, then, as a pleading. In addition, the Federal Rule is silent as to the form of the document, requiring only that it be in writing. It is arguably inconsistent for a local rule to require a particular form for this document since, presumably, failure to conform to the correct format may cause the court to reject the document. To the extent, however, that these rules merely require written objections to the presentence report, they are repetitive and unnecessary.

Thirty-six courts have local rules that are inconsistent with existing law. All of the courts have rules dealing with some of the time limits of Rule 32. Specifically, these local rules provide for different time limits than those set forth in subdivision (b)(6) of Rule 32 concerning the disclosure of the

presentence report and making objections to the report. *E.g.*, N.D.Tex. 10.9; S.D.Ill. 24; M.D.Fla. 4.12.

Rule 32(a) indicates that the time limits set forth in the Rule for disclosing the presentence report and making objections "may be either shortened or lengthened for good cause." Fed.R.Crim.P. 32(a). The change in time limits "for good cause" should be interpreted to refer to a change made in an individual case and not by local rule. There are many instances in the Federal Rules of Criminal Procedure where a "good cause" requirement is imposed which is clearly intended to refer to a discretionary determination made by the court in an individual case. *E.g.*, Fed.R.Crim.P. 5.1 (government may move for copy of transcript "for good cause shown"), 12(e) (motions determined before trial unless court, "for good cause," orders deferral), 15(b) (court may "for cause shown" change time or place of deposition). These situations can be contrasted with the instances in the Federal Rules where a particular procedure may be imposed by local rule. Local rules are used to set forth a procedure when discretion is unnecessary or undesirable. *E.g.*, Fed.R.Crim.P. 5.1 (court may, "by local rule" determine time and place for providing preliminary examination records), 12(c) (unless provided "by local rule", the court may establish a pretrial schedule), 49(e) (dangerous offender notice sealed "as permitted by local rule"). In fact, another portion of Rule 32 draws a distinction between local rules and discretionary decisions made in an individual case:

The court may, by local rule or in individual cases, direct that the probation officer not disclose the probation officer's recommendation, if any, on the sentence.

Fed.R.Crim.P. 32(b)(6)(B).

In addition, the stated intention of the Advisory Committee on Criminal Rules is that the time limits of Rule 32 (b)(6) be changed only on an individual basis:

The amendment to subdivision (a)(1) [now subsection (a)] is intended to clarify that the court is expected to proceed without unnecessary delay, and that it may be necessary to delay sentencing when an applicable sentencing factor cannot be resolved at the time set for sentencing. Often the factor will relate to a defendant's agreement to cooperate with the government. But, other factors may be capable of resolution if the court delays sentencing while additional information is generated. As currently written, the rule might imply that a delay requested by one party or suggested by the Court sua sponte might be unreasonable. The amendment rids the rule of any such implication and provides the sentencing court with desirable discretion to assure that relevant factors are considered and accurately resolved. In exercising this discretion, the court retains under the amendment the authority to refuse to delay sentencing when a delay is inappropriate under the circumstances.

Fed.R.Crim.P. Advisory Committee Note to 1989 Amendments.

Because the local rules apply an automatic and inflexible time schedule, when discretion was anticipated, the rules in the thirty-six courts should be rescinded.

There is another local rule that is inconsistent with Rule 32. It requires that an affidavit accompany the written objections made pursuant to Rule 32(b)(6)(B). E.D.Tex. GO 94-18. The Federal Rule only requires that written objections be made. Fed.R.Crim.P. 32(b)(6)(B).

Rule 32.1. Revocation or Modification of Probation or Supervised Release

Nine courts have local rules addressing the revocation or modification of probation pursuant to Rule 32.1 of the Federal Rules of Criminal Procedure. Rules in all of these jurisdictions should remain local.

In addition, one of the rules repeats a portion of Rule 32.1 and should, therefore, be rescinded.

The local rules address two broad topics related to this Federal Rule. Rules in eight jurisdictions set forth the conditions of probation. *E.g.*, N.D.Cal. 330-3; S.D.Ga. 232.1; N.D.Ohio 3:8.4. Another six rules explain and supplement the procedure for revocation of probation. *E.g.*, E.D.Tex. GO 93-5; D.D.C. 309; N.D.Ohio 3:8.5. These rules are appropriate additions to Rule 32.1.

Rule 32.1(a)(2) sets forth the procedure for the revocation hearing and the rights and opportunities available to the defendant. Fed.R.Crim.P. 32.1(a)(2). One rule simply paraphrases these factors and is unnecessary. D.D.C. 309.

Rule 33. New Trial

There are no local criminal rules directly relating to this Federal Rule.

Rule 34. Arrest of Judgment

Similarly, there are no local rules relating to this Rule.

Rule 35. Correction or Reduction of Sentence

Six jurisdictions have local rules concerning the procedure for seeking a correction or modification of the sentence. Rules in each of these courts should remain as local rules. In addition, two courts have rules that repeat existing law, and four courts have rules that are inconsistent with the Federal Rules.

The local rules that supplement Rule 35 are, generally, those that explain the procedure for submitting, or responding to, a motion. For

example, two courts have rules that indicate that no response to a Rule 35 motion is required, unless requested by the court; they further state that the court will not usually grant such a motion unless it asks, first, for a response. D.Haw. 350; D.N.Mar.Isl. 350-1. Another court relieves the government from filing a responsive pleading when the defendant files a motion for modification of the sentence. D.Nev. 330. One court indicates that applications may be made under seal. W.D.Pa. 35.1. One rule indicates that oral argument is permitted if directed by the court. D.Conn. 6(a). Lastly, one court requires that a request for oral argument be made in order to address the court. E.D.Cal. 480.

Two courts have local rules that simply repeat that motions shall be in writing and state the grounds therefor. W.D.Pa. 35.1; D.Conn. 6(a). This requirement is already set forth in Rule 49(b) of the Federal Rules of Criminal Procedure.

Three courts have rules that require service of Rule 35 motions to more persons than already required under the Federal Rules. Two local rules require that the defendant serve the United States attorney as well as the Probation Department. E.D.Cal. 480; D.Conn. 6(a). Another jurisdiction requires that the application be served upon the defendant and counsel for the parties. W.D.Pa. 35.1. All of these directives are inconsistent with Rule 49(b) which states :

Whenever under these rules or by an order of the court service is required or permitted to be made upon a party represented by an attorney, the service shall be made upon the attorney unless service upon the party personally is ordered by the court.

Fed.R.Crim.P. 49(b).

The last portion of this Federal Rule allows the court to order that service be made upon the party personally. This order must be made

in an individual case and not by local rule, applicable to all cases. To determine otherwise would thwart the intent of this Federal Rule, that service is made upon the attorney representing a party in the ordinary case.

Even if it were determined that this Federal Rule authorized a local rule which routinely required service upon a party, these local rules are still problematic. Two of the rules require that service be on the Probation Department, who is neither a party nor a party's legal representative. *See* E.D.Cal. 480; D.Conn. 6(a). The other rule requires that service be made on the defendant and, again, on the defendant's legal representative. *See* W.D.Pa. 35.1.

One local rule requires that Rule 35 motions be made on forms supplied by the court and completed in full. D.Nev. 330. A subsection of the rule warns that, if the motion does not comply with the local rule, it may be returned by the clerk. D.Nev. 330(j). This rule is inconsistent with Federal Rules of both civil and criminal practice which regulate filing of documents. *See* Fed.R.Crim.P. 49; Fed.R.Civ.P. 5(e).

Rule 49 of the Federal Rules of Criminal Procedure indicates that "[p]apers shall be filed in the manner provided in civil actions." Fed.R.Crim.P. 49(d).

At the time the Local Rules Project Report on Civil Rules was circulated, in the spring of 1989, there were many civil local rules that permitted the clerk to refuse to accept documents for filing which, in the clerk's opinion, were not in compliance with the then-existing local rules. For example, there were thirty-eight jurisdictions with local rules that stated that a failure to comply with a respective local rule on the form of a document presented for filing might result in nonfiling of that document by the clerk.

Important statute of limitations issues might arise if the clerk refuses to accept the document for filing.

The Advisory Committee on Civil Rules suggested an amendment to Rule 5 to prevent potential abuse. The following sentence was added to Rule 5(e), effective December 1, 1991:

The clerk shall not refuse to accept for filing any paper presented for that purpose solely because it is not presented in proper form as required by these rules or any local rules or practices.

Fed.R.Civ.P. 5(e).

This sentence applies to filing of documents in criminal proceedings pursuant to Rule 49(d). Accordingly, the local rule is inconsistent with these Federal Rules.

Rule 36. Clerical Mistakes

There are no local criminal rules directly relating to this Federal Rule.

VIII. Appeal (Abrogated)

Rule 37. Taking Appeal; and Petition for Writ of Certiorari (Abrogated).

Similarly, there are no local rules relating to this topic.

Rule 38. Stay of Execution

Three courts have local rules concerning stays of execution pursuant to Rule 38. Rules in each of these jurisdictions should remain subject to local variation. In addition, a rule in one court repeats existing law and is inconsistent with existing law.

A local directive in one court sets forth the procedure followed in the district court when the judge and sentence of conviction has been

affirmed in the appeals court and the defendant must surrender or must arrange for probation or a fine. W.D.Ark. GO 1. Another rule sets forth the form for the application for a stay of execution. D.Conn. 6. Rules in two other jurisdictions provide that, after appeals have been exhausted, stays will not be allowed except in extraordinary circumstances. C.D.Cal. 12; D.Conn. 6.

One rule requires that applications for a stay of execution be in writing. D.Conn. 6. This requirement repeats Rule 47 of the Federal Rules of Criminal Procedure. The same local rule requires that the application for a stay of execution be served on the United States attorney and on the Probation Office. D.Conn. 6. This directive is inconsistent with Rule 49(b) which states :

Whenever under these rules or by an order of the court service is required or permitted to be made upon a party represented by an attorney, the service shall be made upon the attorney unless service upon the party personally is ordered by the court.

Fed.R.Crim.P. 49(b).

The last portion of this Federal Rule allows the court to order that service be made upon the party personally. This order must be made in an individual case and not by local rule, applicable to all cases. The intent of this Federal Rule is that service be made upon the attorney representing a party in the ordinary case.

Even if it were determined that this Federal Rule authorized a local rule which routinely required service upon a party, this local rule is still problematic. It requires that service be on the Probation Department, who is neither a party nor a party's legal representative. See D.Conn. 6.

Rule 39. Supervision of Appeal (Abrogated)

Again, there are no local rules relating to this topic.

IX. Supplementary and Special Proceedings

Rule 40. Commitment to Another District

Three jurisdictions have local rules concerning the procedure to remove a case. N.D.Ga. 505-1(a); N.D.Ohio 3:10.1; E.D.Pa. 5. One of the rules explains the procedure a magistrate judge follows to issue the warrant of removal and the content of the copy of the order of removal which is provided to the defendant. E.D.Pa. 5. This rule is appropriate as a local directive.

Two other courts have rules that repeat existing law. One rule repeats that Rule 40 of the Federal Rules of Criminal Procedure applies to proceedings affecting those persons arrested in a district other than that in which the offense was allegedly committed. N.D.Ga. 505-1(a). The other court has a rule that repeats that Rule 40(f) applies, which permits a magistrate judge to amend or modify any conditions of release imposed by the district where the complaint or warrant originated.

Rule 41. Search and Seizure

Six courts have local rules concerning search and seizure. Rules in each of these jurisdictions are appropriate as local rules. In addition, one of the local rules repeats existing law.

Two courts have local rules that supplement Rule 41(e) of the Federal Rules of Criminal Procedure which explains that a motion for the return of property can be made by an aggrieved person. D.N.J. 12(F); N.D.W.Va. 3.06(b); see Fed.R.Crim.P. 41(e). These local rules explain the

procedure used to file such a motion. Two other rules explain the procedure used to secure a search warrant by telephone and are appropriate supplements to subsection (c)(2) of Rule 41. W.D.Okla. 36; W.D.Wash. 41. One rule supplements subsection (g) of Rule 41 concerning the filing of warrants and other papers with the clerk by requiring that the clerk maintain a confidential file for these papers pending the opening of a case file. W.D.Ark. GO 7. Another rules explains the required procedure for obtaining a wire tap. E.D.Pa. 16. All of these rules are appropriate as local directives.

A rule in the Western District of Oklahoma repeats, in large part, the language of Rule 41(c)(2), the general procedure to obtain a warrant by telephone. W.D.Okla. 36. The repetitious language is simply unnecessary.

Rule 42. Criminal Contempt

There are no local criminal rules directly relating to this Federal Rule.

X. General Provisions

Rule 43. Presence of the Defendant

Seven courts have local rules regarding the presence of the defendant during various portions of the criminal proceeding. Rules in three of these jurisdictions are appropriate as local rules. Rules in four of the courts repeat existing law. Lastly, three jurisdictions have local rules that are inconsistent with Rule 43 of the Federal Rules of Criminal Procedure.

There are three rules that should remain subject to local variation. One of them sets forth the form of a waiver of appearance, as permitted pursuant to Rule 43(c)(2). E.D.N.Car. 41.00; *see* Fed.R.Crim.P. 43(c)(2).

Another rule indicates that any motion requesting that the prisoner be brought to the courthouse for a particular proceeding be made at least fifteen days before the date of the proceeding unless a shorter time is permitted by the court upon good cause shown. D.Mont. 327-1. Another rule presumes the presence of the defendant unless otherwise indicated on the record. S.D.Ga. 243.1.

There are four rules that repeat Rule 43(a) which sets forth those circumstances under which the defendant must be present. D.Conn. 3; E.D.N.Y. 2; S.D.N.Y. 2; D.Vt. Sample Waiver. These rules are simply unnecessary.

Rule 43(a) states that the presence of the defendant is required at certain enumerated proceedings "except as otherwise provided by this rule." Fed.R.Crim.P. 43(a). Three courts have local rules that require the presence of the defendant in additional circumstances. D.Conn. 3 ("and at any time required by the Court"); E.D.N.Y. 2 ("and at any time upon notice from the United States attorney"); S.D.N.Y. 2 ("and at any time upon notice from the United States attorney"). To the extent these rules require the presence of the defendant when the defendant is absent, as permitted by the other sections of Rule 43, these local rules are inconsistent with Rule 43.

Rule 44. Right to and Assignment of Counsel

Forty courts have local rules that supplement Rule 44 of the Federal Rules of Criminal Procedure. All of these directives should remain subject to local variation.

Rule 44 states that defendants unable to obtain counsel shall have counsel appointed. Fed.R.Crim.P. 44(a). It explains that the procedure for such appointment shall be "those provided by law and by local rules of court

established pursuant thereto." *Id.* at (b). Lastly, the rule provides that, when there is joint representation, the court must inquire and advise each defendant of the right to effective assistance of counsel. *Id.* at (c).

The procedure for the appointment of counsel is set forth in local rules or plans of each district court, as required by Rule 44(b). The Criminal Justice Act requires that each district court develop a plan to provide representation to those financially unable to do so or to certain enumerated defendants who may be financially able to secure counsel:

Each United States district court, with the approval of the judicial council of the circuit, shall place in operation throughout the district a plan for furnishing representation for any person financially unable to obtain adequate representation in accordance with this section. Representation under each plan shall include counsel and investigative, expert, and other services necessary for adequate representation

18 U.S.C. §3006A(a).

Twenty-five of the jurisdictions submitted Criminal Justice Act Plans approved by the judicial council of the respective circuit. *E.g.*, D.Colo. Plan; S.D.Ohio Plan; W.D.N.Y. Plan.

Twenty-six district courts have local rules supplementing other aspects of Rule 44. For example, fifteen jurisdictions have local rules that explain the required procedure for making an appearance in behalf of a party. *E.g.*, D.Conn. 2; D.N.Mar.Isl. 320; D.P.R. 402. Nine districts have rules that explain the procedure to withdraw from representation. *E.g.*, D.Wyo. 217; D.D.C. 301; E.D.Mich. 244.1. Six courts have directives that set forth the procedure for submitting vouchers for payment. *E.g.*, D.Haw. 304-7; D.Utah 301; N.D.Tex. MO 9. All of these rules are appropriate as local rules.

Rule 45. Time

Ten jurisdictions have local rules concerning time. Rules in nine of these courts should remain subject to local variation. Rules in two jurisdictions repeat portions of Rule 45. Lastly, one court has a rule that is inconsistent with that Federal Rule.

The rules in nine district courts are appropriate supplements to existing law. Six courts have local rules that supplement Rule 45 of the Federal Rules of Criminal Procedure on time. For example, Rule 45(d) permits the court by rule or order to change certain time constraints. Fed.R.Crim.P. 45(d). Some courts set forth different time periods. *E.g.*, E.D.Cal. 430(i). Other courts set forth the required form for motions for enlargements pursuant to Rule 45(b). *E.g.*, N.D.Ind. 105.1; S.D.Ind. 7. Five jurisdictions have local rules that discuss the Speedy Trial Act (18 U.S.C. §3161). *E.g.*, D.Mont. 340; N.D.Cal. 340-2. The Speedy Trial Act requires that any continuance granted by a judge be based on findings that "the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." 18 U.S.C. §3161(h)(8). The statute further requires that the record contain specific findings establishing this result:

No such period of delay resulting from a continuance granted by the court in accordance with this paragraph shall be excludable under this subsection unless the court sets forth, in the record of the case, either orally or in writing, its reasons for finding that the ends of justice served by the granting of such continuance outweigh the best interests of the public and the defendant in a speedy trial.

Id.

Five of the jurisdictions have local rules that require the parties to explain why a particular request for a continuance is excludable delay under the statute. *E.g.*, N.D.Cal. 340-2; N.D.N.Y. 45.1; D.Mont. 340-2.

Two courts have local rules that repeat existing law. One of the rules repeats, in substance, the first sentence of Rule 45(a), that "the day of the act from which the designated period of time begins to run shall not be included." Fed.R.Crim.P. 45(a). S.D.Cal. GO 155. Another rule repeats a portion of Rule 45(b), that a request for extension of time made after the period has expired must be by motion and show excusable neglect. D.Nev. 150. These rules are unnecessary.

A directive in one jurisdiction is inconsistent with the second sentence of Rule 45(a) which indicates that "[t]he last day of the period so computed shall be included, unless it is a Saturday, a Sunday ..., in which event the period runs until the end of the next day which is not one of the aforementioned days." Fed.R.Crim.P. 45(a); see S.D.Cal. GO 155. The local rule indicates that "[t]he last day of the period so computed including Saturday, Sunday or legal holiday shall be included." S.D.Cal. GO 155.

Rule 46. Release from Custody

Forty jurisdictions have local rules supplementing Rule 46 of the Federal Rules of Criminal Procedure. Rules in all of these courts should remain local. In addition, rules in four of the jurisdictions repeat existing law and should be rescinded.

Rule 46 covers several broad topics. It provides for pretrial release pursuant to the Bail Reform Act (18 U.S.C. §§3141 *et seq.*). Fed.R.Crim.P. 46(a). It also discusses release during trial and pending sentence and appeal. *Id.* at (b) and (c). It explains, generally, the procedure for securing bail and for exoneration of the bond. *Id.* at (d), (e), and (f). It explains that the detention of persons pending trial will be supervised. *Id.* at (g). Lastly, it permits forfeiture of property in certain circumstances, and it requires

adherence to Federal Rule 26.2, concerning production of statements, at revocation hearings. *Id.* at (h) and (i).

The local rules appropriately supplement many of these topics. For example, eight courts have rules that explain who within the district will supervise and provide the pretrial services. *E.g.*, M.D.Fla. 4.19; M.D.Ala. 29; W.D.Ark. GO 10. Twenty-nine of the courts have local rules discussing bonds. Several courts have rules explaining what the bond can be. *E.g.*, E.D.Tex. GO 92-25 (real or personal property debts cannot be collateral); E.D.N.Car. 10.00 (real property can be security); E.D.Tenn. 83.10 (real property can be bond). Other rules explain who can be a surety. *E.g.*, M.D.La. 5.11 (court officers not sureties); D.Mont. 305 (no officers of court, member of bar, nor office associates or employees thereof as surety); E.D.Pa. 46 no attorney or officer of court as surety). Another court has a rule discussing how to file an appearance bond when a deed of trust is used to secure it. E.D.N.Car. 42.02. Lastly, many courts have rules explaining the procedure to obtain approval of a bond. *E.g.*, D.N.Dak. 24; E.D.N.Y. 5; S.D.N.Y. 5. Rules in seven courts set forth conditions of release. *E.g.*, D.D.C. 303; E.D.Tex. GO 88-5.

Four courts have local rules that repeat various portions of Rule 46. C.D.Cal. 5.1 (repeats 46(a)), 5.6 (repeats 46(f)); N.D.Ga. 505-5 (repeats 46(a)); E.D.Mich. 246,1 (repeats 46(a)); D.Ariz. 4.6 (repeats 46(d)), 4.7 (repeats 46(e)). These rules are simply unnecessary.

Rule 47. Motions

Twenty-three courts have local rules discussing the content of and procedure for motions in a criminal action. Rules in all of these jurisdictions should remain. In addition, three of the courts have a rule that the Advisory

Committee on Criminal Rules may want to consider for incorporation into the Federal Rules. Lastly, two courts have rules that repeat existing law and should be rescinded.

Rule 47 regulates motion practice in the district courts. *See* Fed.R.Crim.P. 47. All of the jurisdictions have local rules that supplement this Federal Rule. Many of the rules set forth the form that the motions should take. *E.g.*, D.P.R. 406; N.D.W.Va. 3.09; D.Colo. 7.1G. Other rules explain the method to secure an oral argument. *E.g.*, E.D.La. 2.14; W.D.N.Y. 27; D.Utah 317. Many of the rules also explain the time limits within which memoranda, both in support and in opposition, to motions must be filed. *E.g.*, D.Mont. 320-2; E.D.Pa. 20(g); N.D.W.Va. 3.09. All of these rules are appropriate supplements to Rule 47.

Three courts have rules that require the parties to confer, or attempt to confer, before any motion is filed in an effort to reach an agreement. N.D.Tex. 5.1; D.Mont. 320-2; M.D.Pa. Sample Order. Such a conference is also mandated in some jurisdictions prior to filing discovery motions. *See* discussion at Rule 16, *supra*. The Advisory Committee on Criminal Rules may want to consider whether such an amendment to the Federal Rules would be helpful.

Two district courts have local rules that repeat either portions of Rule 47 or Rule 49 of the Federal Rules of Criminal Procedure on service and filing of papers. Fed.R.Crim.P. 47, 49; *see* W.D.Tenn. 12 (repeats Rule 47, that a motion must state the grounds); D.Utah 317 (repeats Rule 47 that the motion contain the grounds and Rule 49(a) that motions must be served on the opposing party). These rules are simply unnecessary.

Rule 48. Dismissal

Five courts have local rules addressing the dismissal of an indictment, information, or complaint. Rules in three jurisdictions are appropriate supplements to Rule 48 of the Federal Rules of Criminal Procedure. Rules in two courts repeat existing law. A rule in one of the jurisdictions is inconsistent with Rule 48 and should be rescinded.

The local rules in three courts discuss dismissal and sanctions, generally. D.Ariz. 4.15; N.D.Ga. 530-1; W.D.N.Y. 17(a). One of the rules indicates that the court will issue a notice for hearing on the appropriateness of a dismissal of a criminal proceeding where no action has been taken for six or more months. D.Ariz. 4.15. Another rule indicates that the government must notify the clerk and United States marshal in writing of its intent to abandon the prosecution of any criminal proceeding. N.D.Ga. 530-1. Another rule indicates that sanctions, short of dismissal, are available for failure to prosecute or for abandonment of the case. W.D.N.Y. 17(a).

Rules in two of the courts repeat Rule 49(a) of the Federal Rules of Criminal Procedure, that motions to dismiss must be served. Fed.R.Crim.P. 49(a); see N.D.W.Va. 3.05; S.D.W.Va. 1.02. These rules are simply unnecessary.

One rule indicates that an appropriate order for sanctions may be entered if the court determines there has been an abandonment of the case or a failure to prosecute. W.D.N.Y. 17(a). To the extent this directive relates to a criminal proceeding and "an appropriate order" is a dismissal of the criminal proceeding, the rule is inconsistent with Rule 48(a) which requires that a dismissal not be filed during the trial "without the consent of the defendant." Fed.R.Crim.P. 48(a).

Rule 49. Service and Filing of Papers

Fourteen jurisdictions have local rules concerning the service and filing of papers. Rules in nine of these courts should remain local. Rules in seven jurisdictions repeat existing law and should be rescinded. Rules in two courts are inconsistent with existing law. In addition, it is recommended that the Advisory Committee on Criminal Rules consider amending Rule 49 of the Federal Rules of Criminal Procedure to conform with other statutory amendments.

Rule 49 explains when and how service and notice are made upon parties and how documents are filed with the court. Fed.R.Crim.P. 49. The rules in nine of the district courts, generally, explain the form such documents must take and are appropriate supplements to this Federal Rule. *E.g.*, S.D.Ga. 249.1; E.D.N.Car. 3.06; D.N.J. 8.

Rule 49 (d) requires that papers be filed with the court "in the manner provided in civil actions." Fed.R.Crim.P. 49(d). Rule 5(d) of the Federal Rules of Civil Procedure requires that "[a]ll papers after the complaint required to be served upon a party, together with a certificate of service, shall be filed with the court" Fed.R.Civ.P. 5(d). Six of the repeating rules in the seven courts repeat Rule 5(d), that a certificate of service is required. *E.g.*, E.D.Ky. 7; M.D.La. 1.09. Another rule repeats Rule 9 of the Federal Rules of Criminal Procedure, concerning the information, and Rule 49(d), by requiring that informations be filed. C.D.Cal. 3.2.

Two courts have local rules that indicate that "the clerk may refuse to accept pleadings and other documents not conforming to the provisions of these rules or the Federal Rules of Civil or Criminal Procedure." E.D.La. 1.08; W.D.La. 1.08; W.D.La. 2.16. Rule 5(e) of the Federal Rules of Civil Procedure reads, in relevant part:

The clerk shall not refuse to accept for filing an paper presented for that purpose solely because it is not presented in proper form as required by these rules or any local rules or practices.

Fed.R.Civ.P. 5(e).

To the extent the three local rules intend to permit the clerk to refuse to accept documents for filing that do not conform with existing local rules on form, they are inconsistent with Rule 5(e) and should be rescinded.

Rule 49(e) concerns the filing of a dangerous offender notice. Fed.R.Crim.P. 49(e). It makes specific reference to two statutes: "A filing with the court pursuant to 18 U.S.C. §3575(a) or 21 U.S.C. §849(a) shall be made by filing the notice with the clerk of the court." *Id.* Subsection 3575(a) of Title 18 referred to dangerous special offenders and subsection 849(a) of Title 21 referred to dangerous special drug offenders. 18 U.S.C. §3575(a); 21 U.S.C. §849(a). Both of these statutes were repealed effective November 1, 1987 in connection with the Sentencing Reform Act (18 U.S.C. §§3551 *et seq.*). The two statutes that have, in essence, replaced these repealed provisions are 28 U.S.C. §994(i)(2) and 21 U.S.C. §851(a)(1). Rule 49(e) requires that this dangerous offender notice only be disclosed to the presiding judge pursuant to certain guidelines in the Rule and the named statutes. Subsection (a)(1) of section 851, however, does not require nondisclosure to the judge:

No person who stands convicted of an offense under this part shall be sentenced to increased punishment by reason of one or more prior convictions, unless before trial, or before entry of a plea of guilty, the United States attorney files an information with the court (and serves a copy of such information on the person or counsel for the person) stating in writing the previous convictions to be relied upon.

The Advisory Committee on Criminal Rules may want to examine Rule 49 and determine whether it is appropriate to amend Rule 49 to conform to these statutes.

Rule 50. Calendars; Plans for Prompt Disposition

Fifty-two courts have rules supplementing Rule 50 of the Federal Rules of Criminal Procedure. All of these rules are appropriate as local directives.

Rule 50 indicates that courts may place criminal proceedings on a calendar, with preference for criminal proceedings. Fed.R.Crim.P. 50(a). The Rule also requires each district court to submit a plan for the prompt disposition of criminal cases in accordance with the Speedy Trial Act (18 U.S.C. §§3161-3174). Fed.R.Crim.P. 50(b).

The Speedy Trial Act requires that the plan

be submitted for approval to a reviewing panel consisting of the members of the judicial council of the circuit and either the chief judge of the district court whose plan is being reviewed or such other active judge of that court as the chief judge of that district court may designate.

28 U.S.C. §3165(c).

Thirty-seven district courts submitted Speedy Trial Act Plans. *E.g.*, D.Ariz. Plan; S.D.Iowa Plan; E.D.La. Plan.

Thirty-three jurisdictions have local rules that explain how cases are assigned and placed on a calendar. *E.g.*, E.D.Mich. 100.2; D.N.J. 11; D.Conn. 11. These rules are appropriate supplements to Rule 50.

Rule 51. Exceptions Unnecessary

There are no local criminal rules directly relating to this Federal Rule.

Rule 52. Harmless Error and Plain Error

Again, there are no local criminal rules directly relating to this Federal Rule.

Rule 53. Regulation of Conduct in the Court Room

Forty-eight courts have rules that supplement Rule 53 concerning the regulation of conduct in the courtroom. All of these rules should remain subject to local variation.

The rules address several topics. Twenty-seven of the courts have rules seeking to find a balance between free press and fair trial concerns. *E.g.*, D. Minn. 83.2; S.D.N.Y. 7; W.D.N.Car. 11; D.N.Dak. 29. Another eleven courts have rules that specifically regulate cameras and broadcasting. *E.g.*, E.D.N.Car. 8.00; D.Wyo. 77; D.Haw. 130-1. Four of the jurisdictions have local rules regulating security in the courtroom (*e.g.*, E.D.La. 21; D.Colo. 83.4) while another three courts specifically regulate the use of weapons in the courtroom or the courthouse (*e.g.*, W.D.Ark. GO 6; N.D.Ga. 125). Twenty of the courts have local directives that regulate courtroom decorum. *E.g.*, W.D.Ky. 11; D.Nev. 125; S.D.Tex. 19. All of these rules are appropriate as local directives.

Rule 54. Application and Exception

There are no local criminal rules directly relating to this Federal Rule.

Rule 55. Records

Again, there are not local rules supplementing or addressing this Federal Rule.

Rule 56. Courts and Clerks

Twenty-two courts have local rules relating, in some manner, to Rule 56. Rules in all of the courts should remain local. In addition, three jurisdictions have local rules that repeat existing law and should be rescinded.

Twenty-two jurisdictions have rules that should remain subject to local variation. Rules in eighteen courts discuss the method used to maintain custody and dispose of exhibits in cases. *E.g.*, W.D.Ky. 13; D.Nev. 170; D.N.J. 26. Most of them discuss who maintains control over the exhibits both before and after trial, how and under what circumstances exhibits may be removed from the court, and the disposition of sensitive exhibits such as monies, drugs, and weapons. Other rules are supplement Rule 56 by explaining the hours of the court and the procedure for filing when the courthouse is not physically open. *E.g.*, D.Haw. 370; E.D.N.Car. 3.04. All of these rules are appropriate supplements to the Federal Rules.

Three courts have local rules that repeat portions of the Federal Rules. E.D.La. 15; W.D.La. 15; E.D.N.Car. 3.04. For example, all three of the district courts have rules that repeat, in substance, the first sentence of Rule 56, that the court is deemed always open. *Id.*; *see* Fed.R.Crim.P. 56. In addition, two courts have rules that repeat a portion of Rule 6(a), that a grand jury will be summoned as needed. E.D.La. 15; W.D.La. 15; *see* Fed.R.Crim.P. 6(a). These rules are unnecessary.

Rule 57. Rules by District Courts

There are no local criminal rules directly relating to this Federal Rule.

Rule 58. Procedure for Misdemeanors and Other Petty Offenses

Thirty-six jurisdictions have local rules concerning the procedure of criminal actions involving misdemeanors and other petty offenses pursuant to Rule 48 of the Federal Rules of Criminal Procedure. Rules in all of these courts should remain local. In addition, portions of rules in nine district courts are inconsistent with existing law and should be stricken.

Rule 58 explains in some detail how proceedings involving misdemeanors are conducted either before magistrate judges or district court judges. See Fed.R.Crim.P. 58. It was amended in 1990 to incorporate rules that, prior to that time, had been entitled "Rules of Procedure for the Trial of Misdemeanors before United States Magistrates" and had been physically located apart from the Federal Rules of Criminal Procedure. The Advisory Committee Notes to this Rule indicate:

This new rule is largely a restatement of the Rules of Procedure for the Trial of Misdemeanors before United States Magistrates which were promulgated in 1980 to replace the Rules for the Trial of Minor Offenses before United States Magistrates (1970). The Committee believed that a new single rule should be incorporated into the rules of Criminal Procedure where those charged with its execution could readily locate it and realize its relationship with the other Rules. A number of technical changes have been made throughout the rule and unless otherwise noted, no substantive changes were intended in those amendments.

Fed.R.Crim.P. 58 Advisory Committee Notes to 1990 Amendments.

All of the jurisdictions have local rules that appropriately supplement this Federal Rule. Most of these rules authorized magistrate judges to exercise jurisdiction over misdemeanors and other petty offenses. *E.g.*, M.D.Ala. 32; N.D.Cal. 405; W.D.N.Y. 29(a). Some of the courts have rules that explain the procedure to appeal a conviction by a magistrate judge. *E.g.*, E.D.Cal. 422; D.Haw. 303-2; D.Utah 316. Fifteen courts have local rules

that authorize the payment of a fixed sum in lieu of appearance pursuant to subsection (d). Fed.R.Crim.P. 58(d); *see e.g.*, W.D.N.Car. 12; W.D.N.Y. 41; E.D.Tex. GO 94-21.

Nine courts have local rules that refer to the Rules of Procedure for the Trial of Misdemeanors before United States Magistrates for the correct practice before magistrate judges. *E.g.*, E.D.Pa. 17; N.D.Ga. 540-1; D.Haw. 303-2. Because these Rules are now obsolete, the local rule references should be abolished.

Rule 59. Effective Date

There are no local criminal rules directly relating to this Federal Rule.

Rule 60. Title

There are no local criminal rules directly relating to this Federal Rule.

Other—Duties of Magistrates

Thirty-two courts have local rules that authorize the magistrate judges in the courts to exercise jurisdiction over certain types of cases. *E.g.*, D.Utah 316; S.D.Tex. 14; D.N.Dak. 28. All of these rules are appropriate supplements to the Magistrates' Act (28 U.S.C. §§631-636).

Other—Activities of the Clerk

One court has a local rule explaining the responsibility of the clerk to provide for service upon the United States attorney, the defendant, and all counsel of the notice of appeal and to send copies of the notice, along with the docket entries, to the court of appeals. D.Conn. 7. This directive only explains the duties of the clerk; such information is not necessary for the

litigants and, therefore, is not needed in a local rule. This information may be better placed in an internal operating procedure or other handbook for the clerk.

Other—Juvenile Delinquency Proceedings

A rule in one jurisdiction simply repeats the applicability of 18 U.S.C. §§5031-5038, the Federal Rules of Criminal Procedure, and other rules, statutes, and courts decisions in proceedings involving juveniles. This rule is unnecessary.

M.D. Ala.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
12	Rule 56. Courts and Clerks	Local Variation
26	Rule 44. Right to and ...	Local Variation
27	Rule 44. Right to and ...	Local Variation
28	Rule 32. Sentence and ...	Local Variation
30	Rule 12. Pleadings and ...	To Advisory Committee
30	Rule 12. Pleadings and ...	Local Variation
30	Rule 12. Pleadings and ...	Possible Inconsistency
31	Rule 11. Pleas	Local Variation
31	Rule 11. Pleas	Possible Inconsistency
32	Rule 58. Procedure for ...	Local Variation
33	Rule 32. Sentence and ...	Local Variation
33	Rule 32. Sentence and ...	Possible Repetition
33	Rule 32. Sentence and ...	Possible Inconsistency

S.D. Ala.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
SO	Rule 32. Sentence and ...	Local Variation
SO	Rule 32. Sentence and ...	Possible Inconsistency
SO	Rule 32. Sentence and ...	Possible Repetition

D. Ariz.

	<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
	4.10	Rule 24. Trial Jurors	Local Variation
	4.1	Rule 50. Calendars; Plans...	Local Variation
	4.11	Rule 16. Discovery and ...	Local Variation
	4.12	Rule 12.2. Notice of ...	Local Variation
	4.13	Rule 53. Regulation of ...	Local Variation
	4.15	Rule 48. Dismissal	Local Variation
	4.16	Rule 50. Calendars; Plans...	Local Variation
	4.17	Rule 30. Instructions	Local Variation
	4.17	Rule 30. Instructions	To Advisory Committee
	4.17	Rule 30. Instructions	Possible Inconsistency
	4.2	Rule 9. Warrant/Summons	Possible Repetition
	4.3	Rule 10. Arraignment	Local Variation
	4.4	Rule 10. Arraignment	Local Variation
	4.5	Rule 46. Release from ...	Local Variation
	4.6	Rule 46. Release from ...	Local Variation
	4.6	Rule 46. Release from ...	Possible Repetition
	4.7	Rule 46. Release from ...	Local Variation
	4.7	Rule 46. Release from ...	Possible Repetition
	4.8	Rule 32. Sentence and ...	Local Variation
	4.8	Rule 32. Sentence and ...	Possible Repetition
	4.9	Rule 32.1. Revocation or ...	Local Variation
GO	190	Rule 5. Initial Appearance..	Local Variation
GO	190	Rule 10. Arraignment	Possible Inconsistency
GO	194	Rule 32. Sentence and ...	Local Variation
GO	194	Rule 32. Sentence and ...	Possible Inconsistency

D. Ariz.

	<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
GO	195	Rule 32.1. Revocation or ...	Local Variation
GO	195	Rule 46. Release from ...	Local Variation
GO	201	Rule 32.1. Revocation or ...	Local Variation
GO	221	Rule 32. Sentence and ...	Local Variation
GO	226	Rule 4. Arrest Warrant ...	Local Variation
Plan		Rule 24. Trial Jurors	Local Variation
Plan		Rule 50. Calendars; Plans...	Local Variation

W.D. Ark.

	<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
GO	1	Rule 38. Stay of Execution	Local Variation
GO	4	Rule 32. Sentence and ...	Local Variation
GO	6	Rule 53. Regulation of ...	Local Variation
GO	7	Rule 41. Search and Seizure	Local Variation
GO	10	Rule 46. Release from ...	Local Variation
GO	18	Rule 32.1. Revocation or ...	Local Variation
GO	19	Rule 4. Arrest Warrant ...	Local Variation
GO	20	Rule 32. Sentence and ...	Local Variation
GO	22	Other-Duties of Magistrates	Local Variation
Order		Rule 30. Instructions	Local Variation
Order		Rule 30. Instructions	To Advisory Committee
Order		Rule 30. Instructions	Possible Inconsistency
Order	(12/2/93)	Rule 50. Calendars; Plans...	Local Variation
Plan		Rule 24. Trial Jurors	Local Variation
Plan		Rule 44. Right to and ...	Local Variation

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
1.0	Rule 1. Scope	Model Local Rule
1.1	Rule 1. Scope	Model Local Rule
1.2	Rule 1. Scope	Possible Repetition
1.3	Rule 1. Scope	Model Local Rule
1.4	Rule 1. Scope	Model Local Rule
1.5	Rule 6. The Grand Jury	Local Variation
2.1	Rule 50. Calendars; Plans...	Local Variation
2.2	Rule 50. Calendars; Plans...	Local Variation
2.3	Rule 8. Joinder ...	Local Variation
3.1	Rule 9. Warrant/Summons	Possible Repetition
3.2	Rule 49. Service and ...	Possible Repetition
3.3	Rule 49. Service and ...	Local Variation
3.4	Rule 49. Service and ...	Local Variation
4.1	Rule 10. Arraignment	Local Variation
4.2	Rule 10. Arraignment	Local Variation
4.3	Rule 10. Arraignment	Local Variation
4.4	Rule 9. Warrant/Summons	Possible Inconsistency
4.4.1	Rule 9. Warrant/Summons	Possible Repetition
4.5	Rule 9. Warrant/Summons	Possible Inconsistency
4.6	Rule 9. Warrant/Summons	Possible Repetition
5.1	Rule 46. Release from ...	Local Variation
5.1	Rule 46. Release from ...	Possible Repetition
5.2	Rule 46. Release from ...	Local Variation
5.3	Rule 46. Release from ...	Local Variation
5.4	Rule 46. Release from ...	Local Variation

C.D. Cal.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
5.5	Rule 46. Release from ...	Local Variation
5.6	Rule 46. Release from ...	Possible Repetition
6.1	Rule 32. Sentence and ...	Local Variation
6.2	Rule 32. Sentence and ...	Local Variation
6.3	Rule 32. Sentence and ...	Local Variation
6.4	Rule 32. Sentence and ...	Local Variation
7.1	Rule 17. Subpoena	Local Variation
7.2	Rule 17. Subpoena	Local Variation
7.3	Rule 17. Subpoena	Local Variation
7.4	Rule 17. Subpoena	Local Variation
7.5	Rule 17. Subpoena	Local Variation
8.1	Rule 6. The Grand Jury	Local Variation
8.1.4	Rule 6. The Grand Jury	Possible Repetition
8.2	Rule 6. The Grand Jury	Local Variation
8.2.2	Rule 6. The Grand Jury	Possible Repetition
8.3	Rule 6. The Grand Jury	Possible Repetition
8.4	Rule 6. The Grand Jury	Local Variation
8.4	Rule 24. Trial Jurors	Local Variation
8.5	Rule 24. Trial Jurors	Local Variation
9.1	Rule 12. Pleadings and ...	Local Variation
9.2	Rule 12. Pleadings and ...	Local Variation
9.3	Rule 12. Pleadings and ...	Local Variation
9.4	Rule 12. Pleadings and ...	Local Variation
10.1	Rule 32.1. Revocation or ...	Local Variation
10.2	Rule 32.1. Revocation or ...	Local Variation

	<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
	10.3	Rule 32.1. Revocation or ...	Local Variation
	10.4	Rule 32.1. Revocation or ...	Local Variation
	10.5	Rule 32.1. Revocation or ...	Local Variation
	10.6	Rule 32.1. Revocation or ...	Local Variation
	10.7	Rule 32.1. Revocation or ...	Local Variation
	10.8	Rule 32.1. Revocation or ...	Local Variation
	11.1	Rule 4. Arrest Warrant ...	Possible Inconsistency
	11.1	Rule 4. Arrest Warrant ...	To Advisory Committee
	12	Rule 38. Stay of Execution	Local Variation
	13	Rule 47. Motions	Local Variation
	14	Rule 17.1. Pretrial Conf.	Local Variation
	113	Rule 46. Release from ...	Local Variation
GO	224	Rule 50. Calendars; Plans...	Local Variation
Order		Rule 30. Instructions	Local Variation
Order		Rule 30. Instructions	To Advisory Committee
Order		Rule 30. Instructions	Possible Inconsistency
Plan		Rule 24. Trial Jurors	Local Variation
Samp.		Rule 16. Discovery and ...	Possible Repetition
Samp.		Rule 16. Discovery and ...	Local Variation
Samp.		Rule 53. Regulation of ...	Local Variation

E.D. Cal.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
162(a)	Rule 23. Trial by Jury ...	Possible Inconsistency
162	Rule 24. Trial Jurors	Local Variation
300	Other-Duties of Magistrates	Local Variation
306	Rule 58. Procedure for ...	Local Variation
400	Rule 50. Calendars; Plans...	Local Variation
401	Rule 8. Joinder ...	Local Variation
402	Rule 18. Place of Pros...	Local Variation
410	Rule 58. Procedure for ...	Local Variation
420	Rule 58. Procedure for ...	Local Variation
421	Rule 58. Procedure for ...	Local Variation
422	Rule 58. Procedure for ...	Local Variation
423	Rule 58. Procedure for ...	Local Variation
430	Rule 47. Motions	Local Variation
430(i)	Rule 45. Time	Local Variation
430	Rule 50. Calendars; Plans...	Local Variation
440	Rule 16. Discovery and ...	Local Variation
440	Rule 16. Discovery and ...	Possible Repetition
450	Rule 17.1. Pretrial Conf.	Local Variation
451	Rule 24. Trial Jurors	Local Variation
451	Rule 24. Trial Jurors	Possible Repetition
451	Rule 30. Instructions	Local Variation
460	Rule 32. Sentence and ...	Local Variation
461	Rule 46. Release from ...	Local Variation
470	Rule 56. Courts and Clerks	Local Variation
480	Rule 35. Correction or ...	Possible Inconsistency

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
480	Rule 35. Correction or ...	Local Variation
AppA	Rule 50. Calendars; Plans...	Local Variation
GO 98	Rule 50. Calendars; Plans...	Local Variation
PA	Rule 11. Pleas	Local Variation
Plan	Rule 24. Trial Jurors	Local Variation
SO	Rule 30. Instructions	To Advisory Committee
SO	Rule 30. Instructions	Possible Inconsistency
SO	Rule 53. Regulation of ...	Local Variation

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
300-1	Rule 58. Procedure for ...	Local Variation
300-2	Rule 58. Procedure for ...	Local Variation
300-3	Rule 58. Procedure for ...	Local Variation
305-1	Rule 46. Release from ...	Local Variation
305-2	Rule 46. Release from ...	Local Variation
305-3	Rule 46. Release from ...	Local Variation
310-1	Rule 50. Calendars; Plans...	Local Variation
310-2	Rule 50. Calendars; Plans...	Local Variation
310-3	Rule 50. Calendars; Plans...	Local Variation
315-1	Rule 11. Pleas	Local Variation
315-2	Rule 11. Pleas	Local Variation
320-1	Rule 8. Joinder ...	Local Variation
320-2	Rule 8. Joinder ...	Local Variation
320-3	Rule 12. Pleadings and ...	Local Variation
325-1	Rule 17.1. Pretrial Conf.	Local Variation
326-1	Rule 24. Trial Jurors	Local Variation
330-1	Rule 32. Sentence and ...	Local Variation
330-2	Rule 32. Sentence and ...	Local Variation
330-3	Rule 32.1. Revocation or ...	Local Variation
330-4	Rule 32.1. Revocation or ...	Local Variation
335-1	Rule 44. Right to and ...	Local Variation
335-2	Rule 44. Right to and ...	Local Variation
340-1	Rule 45. Time	Local Variation
340-2	Rule 45. Time	Local Variation
405	Rule 58. Procedure for ...	Local Variation

	<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
	405	Other-Duties of Magistrates	Local Variation
	410	Other-Duties of Magistrates	Local Variation
GO	6	Rule 24. Trial Jurors	Local Variation
PA		Rule 11. Pleas	Local Variation
Samp.		Rule 17.1. Pretrial Conf.	Local Variation
Samp.		Rule 53. Regulation of ...	Local Variation

S.D. Cal.

	<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
GO	147-F	Rule 24. Trial Jurors	Local Variation
GO	155	Rule 47. Motions	Local Variation
GO	155	Rule 45. Time	Possible Repetition
GO	155	Rule 45. Time	Possible Inconsistency
GO	155	Rule 50. Calendars; Plans...	Local Variation
GO	168-E	Rule 50. Calendars; Plans...	Local Variation
GO	172	Rule 24. Trial Jurors	Local Variation
GO	262-D	Rule 50. Calendars; Plans...	Local Variation
GO	266	Rule 47. Motions	Local Variation
GO	344	Rule 32. Sentence and ...	Local Variation
GO	345	Rule 32. Sentence and ...	Local Variation
GO	350	Rule 32. Sentence and ...	Local Variation
GO	366-A	Rule 44. Right to and ...	Local Variation
GO	370	Rule 44. Right to and ...	Local Variation
GO	390	Rule 17.1. Pretrial Conf.	Local Variation
GO	400	Rule 17.1. Pretrial Conf.	Local Variation
GO	405	Rule 44. Right to and ...	Local Variation
PA		Rule 11. Pleas	Local Variation

D. Colo.

	<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
	7.1(D)	Rule 13. Trial Together...	Local Variation
	7.1G	Rule 47. Motions	Local Variation
	40.1	Rule 11. Pleas	Local Variation
	40.1	Rule 50. Calendars; Plans...	Local Variation
	47.2	Rule 24. Trial Jurors	Local Variation
	72.2	Rule 58. Procedure for ...	Local Variation
	72.2	Other-Duties of Magistrates	Local Variation
	72.5	Rule 58. Procedure for ...	Local Variation
	83.3	Rule 53. Regulation of ...	Local Variation
	83.4	Rule 53. Regulation of ...	Local Variation
GO	1987-5	Rule 32. Sentence and ...	Local Variation
GO	1987-5	Rule 32. Sentence and ...	Possible Inconsistency
GO	1993-5	Rule 13. Trial Together...	Local Variation
Memo		Rule 46. Release from ...	Local Variation
Orders		Rule 32. Sentence and ...	Local Variation
PA		Rule 11. Pleas	Local Variation
Plan		Rule 24. Trial Jurors	Local Variation
Plan		Rule 44. Right to and ...	Local Variation
Plan		Rule 50. Calendars; Plans...	Local Variation
Samp.		Rule 53. Regulation of ...	Local Variation

D. Conn.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
2	Rule 44. Right to and ...	Local Variation
3	Rule 43. Presence of the ...	Possible Repetition
3	Rule 43. Presence of the ...	Possible Inconsistency
4	Rule 16. Discovery and ...	Local Variation
4	Rule 17.1. Pretrial Conf.	Local Variation
5	Rule 17. Subpoena	Local Variation
6(a)	Rule 35. Correction or ...	Local Variation
6(a)	Rule 35. Correction or ...	Possible Repetition
6(a)	Rule 35. Correction or ...	Possible Inconsistency
6	Rule 38. Stay of Execution	Local Variation
6	Rule 38. Stay of Execution	Possible Repetition
6	Rule 38. Stay of Execution	Possible Inconsistency
7	Other-Duties of the Clerk	Unnecessary
8	Rule 50. Calendars; Plans...	Local Variation
9	Rule 32. Sentence and ...	Local Variation
9	Rule 32. Sentence and ...	Possible Inconsistency
10	Rule 11. Pleas	Local Variation
11	Rule 50. Calendars; Plans...	Local Variation
12	Rule 50. Calendars; Plans...	Local Variation
13	Rule 53. Regulation of ...	Local Variation
App	Rule 16. Discovery and ...	Local Variation
App	Rule 16. Discovery and ...	Possible Repetition
PA	Rule 11. Pleas	Local Variation
Plan	Rule 50. Calendars; Plans...	Local Variation

D. D.C.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
301	Rule 44. Right to and ...	Local Variation
302	Rule 6. The Grand Jury	Possible Repetition
303	Rule 46. Release from ...	Local Variation
304	Rule 16. Discovery and ...	Local Variation
305	Rule 17. Subpoena	Local Variation
306	Rule 50. Calendars; Plans...	Local Variation
307	Rule 53. Regulation of ...	Local Variation
307.1	Rule 53. Regulation of ...	Local Variation
308	Rule 53. Regulation of ...	Local Variation
309	Rule 32.1. Revocation or ...	Local Variation
309	Rule 32.1. Revocation or ...	Possible Repetition
310	Rule 56. Courts and Clerks	Local Variation
311	Rule 32. Sentence and ...	Local Variation
311	Rule 32. Sentence and ...	Possible Inconsistency
Plan	Rule 24. Trial Jurors	Local Variation

D. Del.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
2	Rule 58. Procedure for ...	Local Variation
MRs	Other-Duties of Magistrates	Local Variation
Plan	Rule 24. Trial Jurors	Local Variation
Plan	Rule 50. Calendars; Plans...	Local Variation

M.D. Fla.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
4.10	Rule 53. Regulation of ...	Local Variation
4.12	Rule 32. Sentence and ...	Local Variation
4.12	Rule 32. Sentence and ...	Possible Inconsistency
4.19	Rule 46. Release from ...	Local Variation
6.01	Other-Duties of Magistrates	Local Variation
6.03	Rule 58. Procedure for ...	Local Variation
6.04	Other-Duties of Magistrates	Local Variation
Plan	Rule 24. Trial Jurors	Local Variation
Plan	Rule 44. Right to and ...	Local Variation
Plan	Rule 50. Calendars; Plans...	Local Variation

N.D. Ga.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
105-3	Rule 18. Place of Pros...	Local Variation
115	Rule 53. Regulation of ...	Local Variation
120	Rule 24. Trial Jurors	Local Variation
125	Rule 53. Regulation of ...	Local Variation
255-2	Rule 30. Instructions	Local Variation
400-1	Rule 6. The Grand Jury	Local Variation
400-2	Rule 6. The Grand Jury	Possible Repetition
400-2	Rule 6. The Grand Jury	Possible Repetition
400-3	Rule 6. The Grand Jury	Local Variation
400-4	Rule 6. The Grand Jury	Possible Repetition
500-1	Rule 58. Procedure for ...	Local Variation
505-1(a)	Rule 40. Commitment to ...	Possible Repetition
505-1(b)	Rule 20. Transfer from...	Possible Repetition
505-2	Rule 5.1. Preliminary Exam	Possible Repetition
505-3	Rule 10. Arraignment	Local Variation
505-3(c)	Rule 10. Arraignment	Possible Repetition
505-4	Rule 11. Pleas	Local Variation
505-5	Rule 46. Release from ...	Local Variation
505-5	Rule 46. Release from ...	Possible Repetition
505-6	Rule 46. Release from ...	Local Variation
510-1	Rule 44. Right to and ...	Local Variation
515-1	Rule 12. Pleadings and ...	Local Variation
515-2	Rule 12. Pleadings and ...	Local Variation
515-2	Rule 12. Pleadings and ...	Possible Repetition
515-3	Rule 12. Pleadings and ...	Local Variation

N.D. Ga.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
515-4	Rule 12. Pleadings and ...	Local Variation
515-5	Rule 12. Pleadings and ...	Local Variation
520-1	Rule 16. Discovery and ...	Local Variation
520-2	Rule 17.1. Pretrial Conf.	Local Variation
525-1	Rule 50. Calendars; Plans...	Local Variation
525-2	Rule 23. Trial by Jury ...	Possible Repetition
525-2	Rule 24. Trial Jurors	Possible Repetition
525-3	Rule 53. Regulation of ...	Local Variation
525-4	Rule 53. Regulation of ...	Local Variation
525-5	Rule 53. Regulation of ...	Local Variation
525-6	Rule 30. Instructions	Local Variation
526	Rule 46. Release from ...	Local Variation
530-1	Rule 48. Dismissal	Local Variation
535	Rule 32. Sentence and ...	Local Variation
535	Rule 32. Sentence and ...	Possible Inconsistency
540-1	Rule 58. Procedure for ...	Possible Inconsistency
540-2	Rule 58. Procedure for ...	Possible Inconsistency
905-5	Other-Duties of Magistrates	Local Variation
910-1	Rule 50. Calendars; Plans...	Local Variation
990-1	Rule 56. Courts and Clerks	Local Variation
AppA	Rule 24. Trial Jurors	Local Variation
AppC	Rule 50. Calendars; Plans...	Local Variation
AppD	Rule 44. Right to and ...	Local Variation
Order (4/17/89)	Rule 32. Sentence and ...	Local Variation
PA	Rule 11. Pleas	Local Variation

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
201.1	Rule 1. Scope	Possible Repetition
212.1	Rule 12. Pleadings and ...	Local Variation
212.2	Rule 12. Pleadings and ...	Local Variation
212.2	Rule 12. Pleadings and ...	To Advisory Committee
212.3	Rule 16. Discovery and ...	Local Variation
212.4	Rule 16. Discovery and ...	Possible Repetition
212.5	Rule 16. Discovery and ...	Possible Repetition
212.6	Rule 16. Discovery and ...	Local Variation
212.7	Rule 12. Pleadings and ...	Local Variation
212.7	Rule 12. Pleadings and ...	To Advisory Committee
216.1	Rule 16. Discovery and ...	Local Variation
216.1	Rule 16. Discovery and ...	Possible Repetition
230.1	Rule 24. Trial Jurors	Local Variation
230.1	Rule 30. Instructions	To Advisory Committee
230.1	Rule 30. Instructions	Possible Inconsistency
232.1	Rule 32.1. Revocation or ...	Local Variation
232.2	Rule 32. Sentence and ...	Local Variation
232.2	Rule 32. Sentence and ...	Possible Inconsistency
232.3	Rule 32. Sentence and ...	Local Variation
232.4	Rule 32. Sentence and ...	Local Variation
232.5	Rule 32. Sentence and ...	Local Variation
232.6	Rule 32. Sentence and ...	Local Variation
243.1	Rule 43. Presence of the ...	Local Variation
244.1	Rule 44. Right to and ...	Local Variation
246.1	Rule 46. Release from ...	Local Variation

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
249.1	Rule 49. Service and ...	Local Variation
250.1	Rule 50. Calendars; Plans...	Local Variation
250.2	Rule 50. Calendars; Plans...	Local Variation
253.1	Rule 53. Regulation of ...	Local Variation
253.2	Rule 53. Regulation of ...	Local Variation
258	Rule 58. Procedure for ...	Local Variation

D. Haw.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
130-1	Rule 53. Regulation of ...	Local Variation
130-2	Rule 53. Regulation of ...	Local Variation
300	Other-Duties of Magistrates	Local Variation
301	Other-Duties of Magistrates	Local Variation
303-1	Rule 58. Procedure for ...	Local Variation
303-2	Rule 58. Procedure for ...	Local Variation
303-2	Rule 58. Procedure for ...	Possible Inconsistency
304	Other-Duties of Magistrates	Local Variation
304-7	Rule 44. Right to and ...	Local Variation
305	Rule 46. Release from ...	Local Variation
310	Rule 4. Arrest Warrant ...	Possible Inconsistency
310	Rule 4. Arrest Warrant ...	To Advisory Committee
312	Rule 44. Right to and ...	Local Variation
313	Rule 44. Right to and ...	Local Variation
320-1	Rule 16. Discovery and ...	Local Variation
320-1	Rule 16. Discovery and ...	Possible Repetition
320-1(e)	Rule 26.2 Production of ...	Local Variation
325-1	Rule 12. Pleadings and ...	Local Variation
325-2	Rule 12. Pleadings and ...	Local Variation
325-3	Rule 12. Pleadings and ...	Local Variation
330	Rule 30. Instructions	Local Variation
330	Rule 30. Instructions	To Advisory Committee
330	Rule 30. Instructions	Possible Inconsistency
340	Rule 17.1. Pretrial Conf.	Local Variation
350	Rule 35. Correction or ...	Local Variation

D. Haw.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
360	Rule 11. Pleas	Local Variation
360	Rule 32. Sentence and ...	Local Variation
360	Rule 32. Sentence and ...	Possible Inconsistency
370	Rule 56. Courts and Clerks	Local Variation
Order	Rule 30. Instructions	Local Variation
Plan	Rule 24. Trial Jurors	Local Variation
Plan	Rule 44. Right to and ...	Local Variation
Plan	Rule 50. Calendars; Plans...	Local Variation

C.D. III.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
3.1	Rule 32. Sentence and ...	Local Variation
3.2	Rule 16. Discovery and ...	Local Variation
3.3	Rule 32. Sentence and ...	Local Variation
3.3	Rule 32. Sentence and ...	Possible Inconsistency
3.4	Rule 44. Right to and ...	Local Variation
Plan	Rule 24. Trial Jurors	Local Variation
Plan	Rule 50. Calendars; Plans...	Local Variation
Samp.	Rule 17.1. Pretrial Conf.	Local Variation

S.D. III.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
21	Rule 50. Calendars; Plans...	Local Variation
24	Rule 32. Sentence and ...	Local Variation
24	Rule 32. Sentence and ...	Possible Inconsistency

N.D. Ind.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
100.1	Rule 46. Release from ...	Local Variation
101.1	Rule 17.1. Pretrial Conf.	Local Variation
102.1	Rule 53. Regulation of ...	Local Variation
103.1	Rule 53. Regulation of ...	Local Variation
105.1	Rule 45. Time	Local Variation
106.1	Rule 50. Calendars; Plans...	Local Variation
107.1	Rule 50. Calendars; Plans...	Local Variation
108.1	Rule 6. The Grand Jury	Local Variation
109.1	Rule 16. Discovery and ...	Local Variation
109.1(b)	Rule 12. Pleadings and ...	Local Variation
110.1	Rule 30. Instructions	Local Variation
110.1	Rule 30. Instructions	To Advisory Committee
110.1	Rule 30. Instructions	Possible Inconsistency

S.D. Ind.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
1	Rule 46. Release from ...	Local Variation
2	Rule 17.1. Pretrial Conf.	Local Variation
3	Rule 53. Regulation of ...	Local Variation
4	Rule 53. Regulation of ...	Local Variation
5	Rule 53. Regulation of ...	Local Variation
7	Rule 45. Time	Local Variation
9	Rule 50. Calendars; Plans...	Local Variation
10	Rule 3. The Grand Jury	Local Variation
10(c)	Rule 6. The Grand Jury	Possible Repetition
11	Rule 32. Sentence and ...	Local Variation
Form.	Rule 50. Calendars; Plans...	Local Variation
PA	Rule 11. Pleas	Local Variation
Plan	Rule 24. Trial Jurors	Local Variation
Plan	Rule 50. Calendars; Plans...	Local Variation
Samp.	Rule 16. Discovery and ...	Local Variation
Samp.	Rule 16. Discovery and ...	Possible Repetition
Samp.	Rule 45. Time	Local Variation

S.D. Iowa

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
24	Rule 50. Calendars; Plans...	Local Variation
25	Rule 47. Motions	Local Variation
26	Rule 44. Right to and ...	Local Variation
27	Rule 32. Sentence and ...	Possible Repetition
28	Rule 53. Regulation of ...	Local Variation
29	Rule 53. Regulation of ...	Local Variation
30	Rule 5.1. Preliminary Exam	Local Variation
31	Rule 56. Courts and Clerks	Local Variation
Plan	Rule 24. Trial Jurors	Local Variation
Plan	Rule 44. Right to and ...	Local Variation
Plan	Rule 50. Calendars; Plans...	Local Variation
Samp.	Rule 17.1. Pretrial Conf.	Local Variation

D. Kan.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
105(b)	Rule 50. Calendars; Plans...	Local Variation
125	Rule 24. Trial Jurors	Local Variation
301	Rule 44. Right to and ...	Local Variation
301.1	Rule 56. Courts and Clerks	Local Variation
302	Rule 44. Right to and ...	Local Variation
303	Rule 50. Calendars; Plans...	Local Variation
304	Rule 53. Regulation of ...	Local Variation
305	Rule 32. Sentence and ...	Local Variation
306	Rule 58. Procedure for ...	Local Variation
PA	Rule 11. Pleas	Local Variation

E.D. Ky.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
4	Rule 50. Calendars; Plans...	Local Variation
6	Rule 12. Pleadings and ...	Local Variation
7	Rule 49. Service and ...	Possible Repetition
9	Rule 46. Release from ...	Local Variation
11	Rule 53. Regulation of ...	Local Variation
12	Rule 24. Trial Jurors	Local Variation
13	Rule 56. Courts and Clerks	Local Variation
19	Rule 58. Procedure for ...	Local Variation
19	Rule 58. Procedure for ...	Possible Inconsistency
Emer. Order	Rule 24. Trial Jurors	Local Variation

W.D. Ky.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
4	Rule 50. Calendars; Plans...	Local Variation
6	Rule 12. Pleadings and ...	Local Variation
7	Rule 49. Service and ...	Possible Repetition
9	Rule 46. Release from ...	Local Variation
11	Rule 53. Regulation of ...	Local Variation
12	Rule 24. Trial Jurors	Local Variation
13	Rule 56. Courts and Clerks	Local Variation
19	Rule 58. Procedure for ...	Local Variation
19	Rule 58. Procedure for ...	Possible Inconsistency

E.D. La.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
1.08	Rule 49. Service and ...	Possible Inconsistency
1.09	Rule 49. Service and ...	Possible Repetition
2.01	Rule 47. Motions	Local Variation
2.02	Rule 47. Motions	Local Variation
2.03	Rule 47. Motions	Local Variation
2.04	Rule 47. Motions	Local Variation
2.05	Rule 47. Motions	Local Variation
2.06	Rule 47. Motions	Local Variation
2.07	Rule 47. Motions	Local Variation
2.11	Rule 16. Discovery and ...	To Advisory Committee
2.11	Rule 16. Discovery and ...	Local Variation
2.14	Rule 47. Motions	Local Variation
3	Rule 50. Calendars; Plans...	Local Variation
4	Rule 47. Motions	Local Variation
5.08	Rule 46. Release from ...	Local Variation
5.11	Rule 46. Release from ...	Local Variation
5.12	Rule 17. Subpoena	Possible Repetition
5.12	Rule 17. Subpcena	Possible Inconsistency
5.13	Rule 17. Subpoena	Local Variation
7	Rule 56. Courts and Clerks	Local Variation
9	Rule 53. Regulation of ...	Local Variation
12	Rule 53. Regulation of ...	Local Variation
13.01	Rule 23. Trial by Jury ...	Possible Inconsistency
13.02	Rule 24. Trial Jurors	Local Variation
13.03	Rule 29.1. Closing Arg.	Local Variation

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E.D. La.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
13.04	Rule 24. Trial Jurors	Local Variation
13.05	Rule 24. Trial Jurors	Local Variation
15	Rule 24. Trial Jurors	Local Variation
15	Rule 56. Courts and Clerks	Possible Repetition
16	Rule 32. Sentence and ...	Local Variation
16	Rule 32. Sentence and ...	Possible Repetition
16	Rule 32. Sentence and ...	Possible Inconsistency
19	Other-Duties of Magistrates	Local Variation
19.01	Rule 58. Procedure for ...	Local Variation
19.08	Rule 58. Procedure for ...	Local Variation
21	Rule 53. Regulation of ...	Local Variation
GO	90-1 Rule 44. Right to and ...	Local Variation
Plan	Rule 50. Calendars; Plans...	Local Variation

M.D. La

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
1.09	Rule 49. Service and ...	Possible Repetition
2.01	Rule 47. Motions	Local Variation
2.04	Rule 47. Motions	Local Variation
2.05	Rule 47. Motions	Local Variation
2.06	Rule 47. Motions	Local Variation
2.07	Rule 47. Motions	Local Variation
2.11	Rule 16. Discovery and ...	To Advisory Committee
2.11	Rule 16. Discovery and ...	Local Variation
2.14	Rule 47. Motions	Local Variation
3	Rule 50. Calendars; Plans...	Local Variation
4	Rule 47. Motions	Local Variation
5.11	Rule 46. Release from ...	Local Variation
5.12	Rule 17. Subpoena	Possible Repetition
5.12	Rule 17. Subpoena	Possible Inconsistency
5.13	Rule 17. Subpoena	Local Variation
7	Rule 56. Courts and Clerks	Local Variation
9	Rule 53. Regulation of ...	Local Variation
12	Rule 53. Regulation of ...	Local Variation
13.02	Rule 24. Trial Jurors	Local Variation
13.03	Rule 29.1. Closing Arg.	Local Variation
13.04	Rule 24. Trial Jurors	Local Variation
13.05	Rule 24. Trial Jurors	Local Variation
16	Rule 32. Sentence and ...	Local Variation
16	Rule 32. Sentence and ...	Possible Repetition
16	Rule 32. Sentence and ...	Possible Inconsistency

M.D. La.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
19	Other-Duties of Magistrates	Local Variation
19.06	Rule 58. Procedure for ...	Local Variation
19.06	Rule 58. Procedure for ...	Possible Inconsistency
21	Rule 53. Regulation of ...	Local Variation

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
1.08	Rule 49. Service and ...	Possible Inconsistency
1.09	Rule 49. Service and ...	Possible Repetition
2.01	Rule 47. Motions	Local Variation
2.05	Rule 47. Motions	Local Variation
2.06	Rule 47. Motions	Local Variation
2.07	Rule 47. Motions	Local Variation
2.11	Rule 16. Discovery and ...	To Advisory Committee
2.11	Rule 16. Discovery and ...	Local Variation
2.16	Rule 49. Service and ...	Possible Inconsistency
3	Rule 50. Calendars; Plans...	Local Variation
4	Rule 47. Motions	Local Variation
5.11	Rule 46. Release from .	Local Variation
5.12	Rule 17. Subpoena	Possible Repetition
5.12	Rule 17. Subpoena	Possible Inconsistency
5.13	Rule 17. Subpoena	Local Variation
7	Rule 56. Courts and Clerks	Local Variation
9	Rule 53. Regulation of ...	Local Variation
12	Rule 53. Regulation of ...	Local Variation
13.01	Rule 23. Trial by Jury ...	Possible Inconsistency
13.02	Rule 24. Trial Jurors	Local Variation
13.03	Rule 29.1. Closing Arg.	Local Variation
13.04	Rule 24. Trial Jurors	Local Variation
13.05	Rule 24. Trial Jurors	Local Variation
15	Rule 24. Trial Jurors	Local Variation
15	Rule 56. Courts and Clerks	Possible Repetition

W.D. La.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
16	Rule 32. Sentence and ...	Local Variation
16	Rule 32. Sentence and ...	Possible Repetition
16	Rule 32. Sentence and ...	Possible Inconsistency
19	Other-Duties of Magistrates	Local Variation
19.06	Rule 58. Procedure for ...	Local Variation
19.06	Rule 58. Procedure for ...	Possible Inconsistency
21	Rule 53. Regulation of ...	Local Variation

E.D. Mich.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
100.1	Rule 50. Calendars; Plans...	Local Variation
100.2	Rule 50. Calendars; Plans...	Local Variation
200.1	Rule 50. Calendars; Plans...	Local Variation
205.1	Rule 5. Initial Appearance..	Local Variation
205.1	Rule 5. Initial Appearance..	Possible Repetition
205.2	Other-Duties of Magistrates	Local Variation
206.1(c)	Rule 6. The Grand Jury	Local Variation
206.1(b)	Rule 6. The Grand Jury	Possible Repetition
206.1(a)	Rule 6. The Grand Jury	Local Variation
210.1	Rule 10. Arraignment	Local Variation
210.1	Rule 10. Arraignment	Possible Repetition
217.1	Rule 17. Subpoena	Local Variation
217.1(c)	Rule 17. Subpoena	Possible Repetition
232.1	Rule 32. Sentence and ...	Local Variation
232.1	Rule 32. Sentence and ...	Possible Repetition
232.1	Rule 32. Sentence and ...	Possible Inconsistency
244.1	Rule 44. Right to and ...	Local Variation
244.2	Rule 44. Right to and ...	Local Variation
246.1	Rule 46. Release from ...	Local Variation
246.1	Rule 46. Release from ...	Possible Repetition
247.1(b)	Rule 12. Pleadings and ...	Local Variation
247.1	Rule 47. Motions	Local Variation
250.1	Rule 50. Calendars; Plans...	Local Variation
255.1	Rule 10. Arraignment	Possible Repetition
258.1	Rule 58. Procedure for ...	Local Variation

E.D. Mich.

	<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
PA		Rule 11. Pleas	Local Variation
Plan		Rule 44. Right to and ...	Local Variation
Plan		Rule 50. Calendars; Plans...	Local Variation
Samp.		Rule 8. Joinder ...	Local Variation
Samp.		Rule 14. Relief from ...	Local Variation
Samp.		Rule 17.1. Pretrial Conf.	Local Variation
SO	90-010	Rule 16. Discovery and ...	Possible-Repetition
SO	90-010	Rule 16. Discovery and ...	Local Variation
SO	90-010	Rule 12. Pleadings and ...	Local Variation
SO	90-010	Rule 53. Regulation of ...	Local Variation

D. Minn.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
83.10	Rule 32. Sentence and ...	Local Variation
83.10	Rule 32. Sentence and ...	Possible Inconsistency
83.2	Rule 53. Regulation of ...	Local Variation
83.9	Rule 58. Procedure for ...	Local Variation
Order	Rule 50. Calendars; Plans...	Local Variation
Plan	Rule 50. Calendars; Plans...	Local Variation

D. Mont.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
300-1	Other-Duties of Magistrates	Local Variation
305	Rule 46. Release from ...	Local Variation
320-1	Rule 47. Motions	Local Variation
320-2	Rule 47. Motions	Local Variation
320-2	Rule 47. Motions	To Advisory Committee
325	Rule 17.1. Pretrial Conf.	Local Variation
326-1	Rule 24. Trial Jurors	Local Variation
326-1	Rule 24 Trial Jurors	Possible Repetition
326-2	Rule 30. Instructions	Local Variation
326-3	Rule 53. Regulation of ...	Local Variation
327-1	Rule 43. Presence of the ...	Local Variation
327-2	Rule 17. Subpoena	Local Variation
327-2	Rule 49. Service and ...	Local Variation
340-1	Rule 45. Time	Local Variation
340-2	Rule 45. Time	Local Variation
345-1	Rule 6. The Grand Jury	Possible Inconsistency
Plan	Rule 24. Trial Jurors	Local Variation
Plan	Rule 44. Right to and ...	Local Variation
Plan	Rule 50. Calendars; Plans...	Local Variation
SO	6 Rule 17.1. Pretrial Conf.	Local Variation
SO	7 Rule 24. Trial Jurors	Local Variation

D. Nev.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
110-2	Rule 18. Place of Pros...	Local Variation
125	Rule 53. Regulation of ...	Local Variation
150	Rule 45. Time	Local Variation
150	Rule 45. Time	Possible Repetition
170	Rule 56. Courts and Clerks	Local Variation
175	Rule 46. Release from ...	Local Variation
200	Rule 30. Instructions	Local Variation
300	Rule 1. Scope	Model Local Rule
305	Rule 44. Right to and ...	Local Variation
310	Rule 16. Discovery and ...	Local Variation
315	Rule 16. Discovery and ...	Local Variation
315(e)	Rule 12.1. Notice of Alibi	Possible Inconsistency
315(e)	Rule 12.2. Notice of	Possible Inconsistency
315(e)	Rule 12.2. Notice of ...	Local Variation
320	Rule 12. Pleadings and ...	Local Variation
320	Rule 12. Pleadings and ...	Possible Repetition
325	Rule 17. Subpoena	Local Variation
330	Rule 35. Correction or ...	Local Variation
330	Rule 35. Correction or ...	Possible Inconsistency
500	Other-Duties of Magistrates	Local Variation
500-2	Rule 58. Procedure for ...	Local Variation
510	Other-Duties of Magistrates	Local Variation

D. N.H.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
31	Rule 24. Trial Jurors	Local Variation
31(a)	Rule 23. Trial by Jury ...	Possible Repetition
35	Rule 53. Regulation of ...	Local Variation
36	Rule 53. Regulation of ...	Local Variation
37	Rule 53. Regulation of ...	Local Variation
MRs	Other-Duties of Magistrates	Local Variation
Plan	Rule 24. Trial Jurors	Local Variation
Samp.	Rule 17.1. Pretrial Conf.	Local Variation
Samp.	Rule 31. Sentence and ...	Local Variation
Samp.	Rule 32. Sentence and ...	Possible Inconsistency

D. N.J.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
8	Rule 49. Service and ...	Local Variation
11	Rule 50. Calendars; Plans...	Local Variation
12(F)	Rule 12. Pleadings and ...	Local Variation
12(F)	Rule 41. Search and Seizure	Local Variation
17	Rule 44. Right to and ...	Local Variation
18	Rule 44. Right to and ...	Local Variation
19	Rule 24. Trial Jurors	Local Variation
20	Rule 24. Trial Jurors	Local Variation
26	Rule 56. Courts and Clerks	Local Variation
35	Rule 46. Release from ...	Local Variation
36	Rule 53. Regulation of ...	Local Variation
38	Rule 32. Sentence and ...	Local Variation
40(B)	Rule 58. Procedure for ...	Local Variation
40(B)	Rule 58. Procedure for ...	Possible Inconsistency
40	Other-Duties of Magistrates	Local Variation
44	Rule 1. Scope	Possible Repetition
PA	Rule 11. Pleas	Local Variation
Plan	Rule 50. Calendars; Plans...	Local Variation
Samp.	Rule 16. Discovery and ...	Possible Repetition
Samp.	Rule 16. Discovery and ...	Local Variation

	<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
	1	Rule 44. Right to and ...	Local Variation
	2	Rule 43. Presence of the ...	Possible Repetition
	2	Rule 43. Presence of the ...	Possible Inconsistency
	3	Rule 16. Discovery and ...	To Advisory Committee
	3	Rule 16. Discovery and ...	Local Variation
	3	Rule 47. Motions	Local Variation
	4	Rule 46. Release from ...	Local Variation
	5	Rule 46. Release from ...	Local Variation
	6	Rule 32. Sentence and ...	Local Variation
	7	Rule 53. Regulation of ...	Local Variation
DOB	50.1	Rule 50. Calendars; Plans...	Local Variation
DOB	50.2	Rule 50. Calendars; Plans...	Local Variation
DOB	50.3	Rule 13. Trial Together...	Local Variation
DOB	50.4	Rule 50. Calendars; Plans...	Local Variation
DOB	50.6	Rule 50. Calendars; Plans...	Local Variation
DOB	50.7	Rule 17.1. Pretrial Conf.	Local Variation
MR	2	Rule 58. Procedure for ...	Local Variation
MRs		Other-Duties of Magistrates	Local Variation
Plan		Rule 24. Trial Jurors	Local Variation
Plan		Rule 44. Right to and ...	Local Variation
Samp.		Rule 45. Time	Local Variation

N.D. N.Y

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
1.1	Rule 1. Scope	Model Local Rule
5.1	Rule 4. Arrest Warrant ...	Possible Inconsistency
5.1	Rule 4. Arrest Warrant ...	To Advisory Committee
11.1	Rule 11. Pleas	Local Variation
12.1	Rule 47. Motions	Local Variation
17.1	Rule 17. Subpoena	Local Variation
17.1	Rule 17. Subpoena	Possible Repetition
17.1.1	Rule 17.1. Pretrial Conf.	Local Variation
20.1	Rule 20. Transfer from...	Possible Repetition
30.1	Rule 30. Instructions	Local Variation
32.1	Rule 32. Sentence and ...	Local Variation
32.1	Rule 32. Sentence and ...	Possible Inconsistency
44.1	Rule 44. Right to and ...	Local Variation
44.2	Rule 44. Right to and ...	Local Variation
45.1	Rule 45. Time	Local Variation
46.1	Rule 46. Release from ...	Local Variation
57.1	Rule 7. Indictment and...	Local Variation
57.2	Rule 46. Release from ...	Local Variation
58.1(c)	Rule 58. Procedure for ...	Local Variation
58.1	Other-Duties of Magistrates	Local Variation

S.D. N.Y.

	<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
	1	Rule 44. Right to and ...	Local Variation
	2	Rule 43. Presence of the ...	Possible Repetition
	2	Rule 43. Presence of the ...	Possible Inconsistency
	3	Rule 16. Discovery and ...	To Advisory Committee
	3	Rule 16. Discovery and ...	Local Variation
	3	Rule 47. Motions	Local Variation
	4	Rule 46. Release from ...	Local Variation
	5	Rule 46. Release from ...	Local Variation
	6	Rule 32. Sentence and ...	Local Variation
	7	Rule 53. Regulation of ...	Local Variation
DOB	10(b)	Rule 12. Pleadings and ...	Local Variation
DOB	10	Rule 47. Motions	Local Variation
DOB	15	Rule 8. Joinder ...	Local Variation
DOB	15	Rule 8. Joinder ...	Possible Repetition
DOB	27	Rule 8. Joinder ...	Local Variation
DOB	8,9,12,	Rule 50. Calendars; Plans...	Local Variation
DOB	1,2,3,6,7	Rule 50. Calendars; Plans...	Local Variation
DOB	13,14,17	Rule 50. Calendars; Plans...	Local Variation
DOB	18,19,20	Rule 50. Calendars; Plans...	Local Variation
DOB	21,22,24	Rule 50. Calendars; Plans...	Local Variation
DOB	25,26,28	Rule 50. Calendars; Plans...	Local Variation
MR	2	Rule 58. Procedure for ...	Local Variation
MRs		Other-Duties of Magistrates	Local Variation
Plan		Rule 44. Right to and ...	Local Variation

W.D. N.Y.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
6	Rule 50. Calendars; Plans...	Local Variation
7	Rule 49. Service and ...	Local Variation
17(a)	Rule 48. Dismissal	Local Variation
17(a)	Rule 48. Dismissal	Possible Inconsistency
20	Rule 24. Trial Jurors	Local Variation
27	Rule 47. Motions	Local Variation
27	Rule 47. Motions	Local Variation
28	Other-Duties of Magistrates	Local Variation
29	Rule 50. Calendars; Plans...	Local Variation
29(a)	Rule 58. Procedure for ...	Local Variation
29	Other-Duties of Magistrates	Local Variation
30	Other-Duties of Magistrates	Local Variation
33	Rule 10. Arraignm ent	Local Variation
33	Rule 17.1. Pretrial Conf.	Local Variation
34	Rule 44. Right to and ...	Local Variation
34	Rule 50. Calendars; Plans...	Local Variation
35(a)	Rule 6. The Grand Jury	Possible Repetition
35(b)	Rule 6. The Grand Jury	Possible Repetition
35	Rule 6. The Grand Jury	Local Variation
35A	Rule 23. Trial by Jury ...	Possible Repetition
35A	Rule 24. Trial Jurors	Possible Repetition
36	Rule 56. Courts and Clerks	Local Variation
37	Rule 50. Calendars; Plans...	Local Variation
38	Rule 32. Sentence and ...	Local Variation
41	Rule 58. Procedure for ...	Local Variation

W.D. N.Y.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
43	Rule 53. Regulation of ...	Local Variation
Plan	Rule 44. Right to and ...	Local Variation
Samp.	Rule 17.1. Pretrial Conf.	Local Variation

E.D. N.Car.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
1.00	Rule 1. Scope	Model Local Rule
1.00	Rule 1. Scope	Possible Inconsistency
3.03(b)	Rule 50. Calendars; Plans...	Local Variation
3.04	Rule 56. Courts and Clerks	Local Variation
3.04	Rule 56. Courts and Clerks	Possible Repetition
3.05	Rule 49. Service and ...	Local Variation
3.06	Rule 49. Service and ...	Local Variation
3.07	Rule 49. Service and ...	Local Variation
3.08	Rule 16. Discovery and ...	Possible Inconsistency
4.00	Rule 47. Motions	Local Variation
4.03	Rule 16. Discovery and ...	Local Variation
5.00	Rule 47. Motions	Local Variation
6.00	Rule 24. Trial Jurors	Local Variation
7.00	Rule 53. Regulation of ...	Local Variation
8.00	Rule 53. Regulation of ...	Local Variation
9.00	Rule 56. Courts and Clerks	Local Variation
10.00	Rule 46. Release from ...	Local Variation
41.00	Rule 43. Presence of the ...	Local Variation
42.01	Rule 10. Arraignment	Possible Repetition
42.02	Rule 46. Release from ...	Local Variation
43.00	Rule 16. Discovery and ...	Possible Repetition
43.00	Rule 16. Discovery and ...	Local Variation
44.00	Rule 12. Pleadings and ...	Local Variation
45.00	Rule 53. Regulation of ...	Local Variation
46.00	Rule 32. Sentence and ...	Local Variation

E.D. N.Car.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
47.00	Rule 17. Subpoena	Local Variation
48.00	Rule 44. Right to and ...	Local Variation
49.00	Rule 24. Trial Jurors	Local Variation
49.00	Rule 30. Instructions	To Advisory Committee
49.00	Rule 30. Instructions	Possible Inconsistency
49.00	Rule 53. Regulation of ...	Local Variation
50.00	Rule 32. Sentence and ...	Local Variation
61.00	Other-Duties of Magistrates	Local Variation
61.01	Rule 58. Procedure for ...	Local Variation
62.00	Other-Duties of Magistrates	Local Variation
62.02	Rule 58. Procedure for ...	Local Variation

M.D. N.Car.

	<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
	301	Rule 50. Calendars; Plans...	Local Variation
	302(d)	Rule 16. Discovery and ...	Local Variation
	302	Rule 12. Pleadings and ...	Local Variation
	303	Rule 44. Right to and ...	Local Variation
	304	Rule 58. Procedure for ...	Local Variation
	305	Rule 53. Regulation of ...	Local Variation
Order		Rule 24. Trial Jurors	Local Variation
Plan		Rule 50. Calendars; Plans...	Local Variation
SO	4	Rule 56. Courts and Clerks	Local Variation
SO	8	Rule 24. Trial Jurors	Local Variation
SO	11	Rule 6. The Grand Jury	Local Variation
SO	20	Rule 32. Sentence and ...	Local Variation
SO	20	Rule 32. Sentence and ...	Possible Repetition
SO	20	Rule 32. Sentence and ...	Possible Inconsistency
SO	89	Rule 44. Right to and ...	Local Variation

W.D. N.Car.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
5	Rule 53. Regulation of ...	Local Variation
.11	Rule 53. Regulation of ...	Local Variation
12	Rule 58. Procedure for ...	Local Variation
12	Rule 58. Procedure for ...	Possible Inconsistency
Order (9/24/76)	Other-Duties of Magistrates	Local Variation
Order 10/31/75	Rule 6. The Grand Jury	Local Variation
Order 10/31/75	Other-Duties of Magistrates	Local Variation
Samp.	Rule 17.1. Pretrial Conf.	Local Variation

D. N.Dak.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
7(B)	Rule 18. Place of Pros...	Local Variation
7(B)	Rule 18. Place of Pros...	Possible Repetition
8(B)	Rule 6. The Grand Jury	Local Variation
8(A)	Rule 24. Trial Jurors	Local Variation
8(B)	Rule 24. Trial Jurors	Local Variation
8(D)	Rule 24. Trial Jurors	Local Variation
8(E)	Rule 24. Trial Jurors	Local Variation
8(G)	Rule 30. Instructions	Local Variation
8(G)	Rule 30. Instructions	To Advisory Committee
8(G)	Rule 30. Instructions	Possible Inconsistency
8(F)	Rule 53. Regulation of ...	Local Variation
15	Rule 56. Courts and Clerks	Local Variation
24	Rule 46. Release from ...	Local Variation
27	Rule 32. Sentence and ...	Local Variation
27	Rule 32. Sentence and ...	Possible Inconsistency
28(A)	Rule 58. Procedure for ...	Local Variation
28	Other-Duties of Magistrates	Local Variation
29	Rule 53. Regulation of ...	Local Variation
Memo	Rule 16. Discovery and ...	Local Variation
Memo	Rule 12. Pleadings and ...	Local Variation
Plan	Rule 24. Trial Jurors	Local Variation
Plan	Rule 44. Right to and ...	Local Variation

D. N.Mar.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
300-1	Rule 46. Release from ...	Local Variation
300-2	Rule 46. Release from ...	Local Variation
300-3	Rule 46. Release from ...	Local Variation
310	Rule 17.1. Pretrial Conf.	Local Variation
320	Rule 44. Right to and ...	Local Variation
330-1	Rule 4. Arrest Warrant ...	Possible Inconsistency
330-1	Rule 4. Arrest Warrant ...	To Advisory Committee
340-1	Rule 12. Pleadings and ...	Local Variation
340-2	Rule 12. Pleadings and ...	Local Variation
340-3	Rule 12. Pleadings and ...	Local Variation
350-1	Rule 35. Correction or ...	Local Variation

N.D. Ohio

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
3:2.1	Rule 6. The Grand Jury	Local Variation
3:2.2	Rule 6. The Grand Jury	Local Variation
3:2.3	Rule 7. Indictment and...	Local Variation
3:3.1	Rule 10. Arraignment	Local Variation
3:3.2	Rule 10. Arraignment	Possible Repetition
3:3.3	Rule 17.1. Pretrial Conf.	Local Variation
3:4.1	Rule 53. Regulation of ...	Local Variation
3:5.1	Rule 16. Discovery and ...	Local Variation
3:7.1	Rule 12. Pleadings and ...	Local Variation
3:7.1	Rule 30. Instructions	Local Variation
3:8.1	Rule 32. Sentence and ...	Local Variation
3:8.2	Rule 32. Sentence and ...	Local Variation
3:8.3	Rule 32. Sentence and ...	Local Variation
3:8.4	Rule 32.1. Revocation or ...	Local Variation
3:8.5	Rule 32.1. Revocation or ...	Local Variation
3:10.1	Rule 40. Commitment to ...	Possible Repetition
3:10.1	Rule 46. Release from ...	Local Variation
3:10.2	Rule 46. Release from ...	Local Variation
Plan	Rule 24. Trial Jurors	Local Variation

S.D. Ohio

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
100	Rule 1. Scope	Model Local Rule
101	Rule 1. Scope	Model Local Rule
102	Rule 32. Sentence and ...	Local Variation
103	Rule 32. Sentence and ...	Local Variation
104	Rule 53. Regulation of ...	Local Variation
105	Rule 58. Procedure for ...	Local Variation
Plan	Rule 24. Trial Jurors	Local Variation
Plan	Rule 44. Right to and ...	Local Variation

W.D. Okla.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
8	Rule 13. Trial Together...	Local Variation
8	Rule 50. Calendars; Plans...	Local Variation
17(H)	Rule 17.1. Pretrial Conf.	Local Variation
17(G)	Rule 17.1. Pretrial Conf.	Possible Repetition
36	Rule 41. Search and Seizure	Local Variation
36	Rule 41. Search and Seizure	Possible Repetition
38	Rule 50. Calendars; Plans...	Local Variation
40	Rule 44. Right to and ...	Local Variation
41	Rule 11. Pleas	Possible Repetition
PA	Rule 11. Pleas	Local Variation
Plan	Rule 24. Trial Jurors	Local Variation
Samp.	Rule 17.1. Pretrial Conf.	Local Variation

D. Or.

	<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
PA		Rule 11. Pleas	Local Variation
Plan		Rule 50. Calendars; Plans...	Local Variation

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
1	Rule 1. Scope	Model Local Rule
2	Rule 1. Scope	Model Local Rule
3	Rule 50. Calendars; Plans...	Local Variation
4(a)	Rule 6. The Grand Jury	Local Variation
4(b)	Rule 6. The Grand Jury	Local Variation
4(c)	Rule 6. The Grand Jury	Possible Inconsistency
4(c)	Rule 6. The Grand Jury	Possible Repetition
4(e)	Rule 6. The Grand Jury	Local Variation
4	Rule 50. Calendars; Plans...	Local Variation
5	Rule 40. Commitment to ...	Local Variation
5	Rule 50. Calendars; Plans...	Local Variation
6	Rule 46. Release from ...	Local Variation
6	Rule 50. Calendars; Plans...	Local Variation
7	Rule 44. Right to and ...	Local Variation
7	Rule 58. Procedure for ...	Local Variation
7	Rule 58. Procedure for ...	Possible Inconsistency
7	Other-Duties of Magistrates	Local Variation
8	Rule 10. Arraignment	Local Variation
9	Rule 16. Discovery and ...	Possible Repetition
9	Rule 16. Discovery and ...	To Advisory Committee
9	Rule 16. Discovery and ...	Local Variation
9	Rule 17. Subpoena	Local Variation
10	Rule 17.1. Pretrial Conf.	Local Variation
11	Rule 12. Pleadings and ...	Local Variation
14	Rule 29. Motion for ...	Local Variation

E.D. Pa.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
14	Rule 47. Motions	Local Variation
15	Rule 24. Trial Jurors	Local Variation
16	Rule 41. Search and Seizure	Local Variation
17	Rule 49. Service and ...	Local Variation
17	Rule 58. Procedure for ...	Local Variation
18	Other-Duties of Magistrates	Local Variation
19	Rule 32. Sentence and ...	Local Variation
20(g)	Rule 47. Motions	Local Variation
34(a)	Rule 24. Trial Jurors	Local Variation
35	Rule 17. Subpoena	Local Variation
36	Rule 17. Subpoena	Local Variation
46	Rule 46. Release from ...	Local Variation
Plan	Rule 24. Trial Jurors	Local Variation
SO	Rule 32. Sentence and ...	Local Variation
SO	Rule 32. Sentence and ...	Possible Inconsistency

M.D. Pa.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
Plan	Rule 24. Trial Jurors	Local Variation
Plan	Rule 50. Calendars; Plans...	Local Variation -
Samp.	Rule 16. Discovery and ...	Local Variation
Samp.	Rule 16. Discovery and ...	Possible Repetition

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
10.1	Rule 10. Arraignment	Local Variation
12.1	Rule 12. Pleadings and ...	Local Variation
16.1	Rule 16. Discovery and ...	Local Variation
23.1	Rule 23. Trial by Jury ...	Local Variation
24.1	Rule 24. Trial Jurors	Local Variation
24.2	Rule 24. Trial Jurors	Local Variation
32.1	Rule 32. Sentence and ...	Local Variation
32.1	Rule 32. Sentence and ...	Possible Repetition
32.1	Rule 32. Sentence and ...	Possible Inconsistency
35.1	Rule 35. Correction or ...	Local Variation
35.1	Rule 35. Correction or ...	Possible Inconsistency
35.1	Rule 35. Correction or ...	Possible Repetition
46.1	Rule 40. Release from ...	Local Variation
57.1	Rule 50. Calendars; Plans...	Local Variation
57.1.3	Rule 53. Regulation of ...	Local Variation
58.1	Rule 58. Procedure for ...	Local Variation
72.1	Other-Duties of Magistrates	Local Variation
72.1.2	Rule 58. Procedure for ...	Local Variation
Plan	Rule 24. Trial Jurors	Local Variation
Plan	Rule 44. Right to and ...	Local Variation
Plan	Rule 50. Calendars; Plans...	Local Variation

D. P.R.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
401	Rule 46. Release from ...	Local Variation
402	Rule 44. Right to and ...	Local Variation
406	Rule 47. Motions	Local Variation
406(2)	Rule 12. Pleadings and ...	Local Variation
407	Rule 46. Release from ...	Local Variation
408	Rule 17. Discovery and ...	Local Variation
409	Rule 16. Discovery and ...	To Advisory Committee
409	Rule 16. Discovery and ...	Local Variation
410	Rule 17.1. Pretrial Conf.	Local Variation
411	Rule 17.1. Pretrial Conf.	Local Variation
412	Rule 24. Trial Jurors	Local Variation
412	Rule 30. Instructions	Local Variation
412	Rule 30. Instructions	To Advisory Committee
412	Rule 30. Instructions	Possible Inconsistency
413	Rule 17.1. Pretrial Conf.	Local Variation
414	Rule 11. Pleas	Local Variation
417	Other-Duties of Magistrates	Local Variation
418	Rule 32. Sentence and ...	Local Variation
418	Rule 32. Sentence and ...	Possible Inconsistency
427	Rule 32. Sentence and ...	Local Variation
PA	Rule 11. Pleas	Local Variation
Plan	Rule 24. Trial Jurors	Local Variation
Plan	Rule 50. Calendars, Plans...	Local Variation
Samp.	Rule 17.1. Pretrial Conf.	Local Variation
Samp.	Rule 53. Regulation of ...	Local Variation

D. P.R.

	<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
SO		Rule 53. Regulation of ...	Local Variation

E.D. Tenn.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
72.4	Other-Duties of Magistrates	Local Variation
72.4(a)	Rule 58. Procedure for ...	Local Variation
83.10	Rule 46. Release from ...	Local Variation
83.11	Rule 46. Release from ...	Local Variation
83.2(b)	Rule 53. Regulation of ...	Local Variation
83.2(c)	Rule 53. Regulation of ...	Local Variation
83.2(e)	Rule 53. Regulation of ...	Local Variation
83.9	Rule 32. Sentence and ...	Local Variation
83.9	Rule 32. Sentence and ...	Possible Repetition
83.9	Rule 32. Sentence and ...	Possible Inconsistency
Samp.	Rule 16. Discovery and ...	Possible Repetition
Samp.	Rule 16. Discovery and ...	Local Variation
Samp.	Rule 17.1. Pretrial Conf.	Local Variation

W.D. Tenn.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
5	Rule 53. Regulation of ...	Local Variation
6	Rule 53. Regulation of ...	Local Variation
12	Rule 47. Motions	Local Variation
12	Rule 47. Motions	Possible Repetition
14	Rule 16. Discovery and ...	Local Variation
17	Rule 47. Motions	Local Variation
19(b)	Rule 53. Regulation of ...	Local Variation
20(a)	Rule 58. Procedure for ...	Local Variation
20	Other-Duties of Magistrates	Local Variation
21	Rule 32. Sentence and ...	Local Variation
21	Rule 32. Sentence and ...	Possible Inconsistency
22	Rule 32. Sentence and ...	Local Variation
24	Rule 56. Courts and Clerks	Local Variation
Plan	Rule 24. Trial Jurors	Local Variation
Plan	Rule 50. Calendars; Plans...	Local Variation

E.D. Tex

	<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
GO	88-5	Rule 46. Release from ...	Local Variation
GO	88-7	Rule 32. Sentence and ...	Local Variation
GO	88-7	Rule 32. Sentence and ...	Possible Inconsistency
GO	90-8	Rule 50. Calendars; Plans...	Local Variation
GO	90-9	Rule 50. Calendars; Plans...	Local Variation
GO	91-5	Rule 6. The Grand Jury	Local Variation
GO	91-9	Other-Duties of Magistrates	Local Variation
GO	92-5	Rule 6. The Grand Jury	Local Variation
GO	92-6	Other-Duties of Magistrates	Local Variation
GO	93-1	Rule 49. Service and ...	Local Variation
GO	93-2	Rule 24. Trial Jurors	Local Variation
GO	93-3	Rule 6. The Grand Jury	Local Variation
GO	93-4	Rule 4. Arrest Warrant ...	Local Variation
GO	93-5	Rule 32.1. Revocation or ...	Local Variation
GO	93-6	Rule 50. Calendars; Plans...	Local Variation
GO	94-3	Other-Duties of Magistrates	Local Variation
GO	94-9	Rule 6. The Grand Jury	Local Variation
GO	91-10	Other-Duties of Magistrates	Local Variation
GO	92-10	Rule 50. Calendars; Plans...	Local Variation
GQ	92-11	Rule 5. Initial Appearance..	Local Variation
GO	92-14	Rule 50. Calendars; Plans...	Local Variation
GO	92-15	Rule 50. Calendars; Plans...	Local Variation
GO	92-20	Rule 44. Right to and ...	Local Variation
GO	92-25	Rule 46. Release from ...	Local Variation
GO	93-17	Rule 50. Calendars; Plans...	Local Variation

E.D. Tex.

	<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
GO	94-18	Rule 32. Sentence and ...	Local Variation
GO	94-18	Rule 32. Sentence and ...	Possible Inconsistency
GO	94-21	Rule 58. Procedure for ...	Local Variation
MR	1(B)	Rule 58. Procedure for ...	Local Variation
Plan		Rule 24. Trial Jurors	Local Variation
Plan		Rule 50. Calendars; Plans...	Local Variation
Samp.		Rule 16. Discovery and ...	Possible Repetition
Samp.		Rule 16. Discovery and ...	Local Variation
Samp.		Rule 17.1. Pretrial Conf.	Local Variation

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
1.1	Rule 1. Scope	Model Local Rule
1.1	Rule 1. Scope	Possible Inconsistency
5.1	Rule 47. Motions	Local Variation
5.1	Rule 47. Motions	To Advisory Committee
6.1	Rule 15. Depositions	Possible Inconsistency
7.2	Rule 50. Calendars; Plans...	Local Variation
8.2(b)	Rule 24. Trial Jurors	Possible Repetition
8.2(d)	Rule 24. Trial Jurors	Local Variation
8.2(e)	Rule 24. Trial Jurors	Local Variation
8.2(c)	Rule 30. Instructions	Local Variation
8.2(c)	Rule 30. Instructions	To Advisory Committee
8.2(c)	Rule 30. Instructions	Possible Inconsistency
8.29d)	Rule 23. Trial by Jury ...	Possible Repetition
9.3	Rule 11. Pleas	Possible Repetition
10.5	Rule 58. Procedure for ...	Local Variation
10.6	Rule 46. Release from ...	Local Variation
10.9	Rule 32. Sentence and ...	<u>Local Variation</u>
10.9	Rule 32. Sentence and ...	Possible Repetition
10.9	Rule 32. Sentence and ...	Possible Inconsistency
14.1	Rule 53. Regulation of ...	Local Variation
14.2	Rule 53. Regulation of ...	Local Variation
14.3	Rule 53. Regulation of ...	Local Variation
AppVI	Other-Duties of Magistrates	Local Variation
MO 9	Rule 44. Right to and ...	Local Variation
MO 12	Rule 46. Release from ...	Local Variation

N.D. Tex.

	<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
MO	26	Rule 32. Sentence and ...	Local Variation
MR	1(p)	Rule 58. Procedure for ...	Local Variation
Plan		Rule 24. Trial Jurors	Local Variation
Plan		Rule 44. Right to and ...	Local Variation
Plan		Rule 50. Calendars; Plans...	Local Variation
Samp.		Rule 17.1. Pretrial Conf.	Local Variation

S.D. Tex.

	<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
	7	Rule 12. Pleadings and ...	Local Variation
	7	Rule 12. Pleadings and ...	Possible Repetition
	11	Rule 56. Courts and Clerks	Local Variation
	12	Rule 24. Trial Jurors	Local Variation
	13	Rule 53. Regulation of ...	Local Variation
	14	Other-Duties of Magistrates	Local Variation
	15	Rule 46. Release from ...	Local Variation
	16	Rule 32. Sentence and ...	Local Variation
	19	Rule 53. Regulation of ...	Local Variation
App	C	Rule 53. Regulation of ...	Local Variation
Order	91-9	Rule 32.1. Revocation or ...	Local Variation
Order	94-4	Rule 50. Calendars; Plans...	Local Variation
Order	91-26	Rule 4. Arrest Warrant ...	Possible Inconsistency
Order	91-26	Rule 4. Arrest Warrant ...	To Advisory Committee
PA		Rule 11. Pleas	Local Variation
Plan		Rule 24. Trial Jurors	Local Variation
Plan		Rule 44. Right to and ...	Local Variation
Plan		Rule 50. Calendars; Plans...	Local Variation
Samp.		Rule 17.1. Pretrial Conf.	Local Variation

W.D. Tex.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
1	Rule 1. Scope	Model Local Rule
1	Rule 1. Scope	Possible Repetition
6	Rule 6. The Grand Jury	Local Variation
12	Rule 12. Pleadings and ...	Local Variation
12	Rule 12. Pleadings and ...	Possible Repetition
15	Rule 15. Depositions	Possible Inconsistency
24	Rule 24. Trial Jurors	Local Variation
32	Rule 32. Sentence and ...	Local Variation
49	Rule 15. Depositions	Possible Inconsistency
49	Rule 49. Service and ...	Local Variation
49	Rule 49. Service and ...	Possible Repetition
55	Rule 56. Courts and Clerks	Local Variation
61	Rule 58. Procedure for ...	Local Variation
AppD	Rule 24. Trial Jurors	Local Variation
AppF	Rule 44. Right to and ...	Local Variation
AppK	Rule 50. Calendars; Plans...	Local Variation
AT 8	Rule 44. Right to and ...	Local Variation
Order (7/1/94)	Rule 50. Calendars; Plans...	Local Variation

D. Utah

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
107(b)	Rule 13. Trial Together...	Local Variation
107(a)	Rule 50. Calendars; Plans...	Local Variation
111	Rule 53. Regulation of ...	Local Variation
112	Rule 53. Regulation of ...	Local Variation
113	Rule 23. Trial by Jury ...	Possible Repetition
113	Rule 24. Trial Jurors	Local Variation
114	Rule 30. Instructions	Local Variation
114	Rule 30. Instructions	To Advisory Committee
114	Rule 30 Instructions	Possible Inconsistency
123(b)	Rule 53. Regulation of ...	Local Variation
301	Rule 44. Right to and ...	Local Variation
302	Rule 44 Right to and ...	Local Variation
303	Rule 6. The Grand Jury	Local Variation.
304	Rule 4. Arrest Warrant ...	Local Variation
304 a	Rule 9. Warrant/Summons	Possible Repetition
304 a	Rule 9. Warrant/Summons	Possible Inconsistency
306	Rule 46. Release from ...	Local Variation
307	Rule 12. Pleadings and ...	Local Variation
308	Rule 16. Discovery and ...	Local Variation
309	Rule 16. Discovery and ...	Local Variation
310(a)	Rule 11. Pleas	Local Variation
310	Rule 32. Sentence and ...	Local Variation
310	Rule 32. Sentence and ...	Possible Repetition
310	Rule 32. Sentence and ...	Possible Inconsistency
311	Rule 20. Transfer from...	Local Variation

D. Utah

	<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
	312	Rule 21. Transfer from...	Local Variation
	313	Rule 53. Regulation of ...	Local Variation
	314	Rule 53. Regulation of ...	Local Variation
	315	Rule 24. Trial Jurors	Local Variation
	316	Rule 58. Procedure for ...	Local Variation
	316	Other-Duties of Magistrates	Local Variation
	317	Rule 47. Motions	Local Variation
	317	Rule 47. Motions	Possible Repetition
	318	Rule 50. Calendars; Plans...	Local Variation
GO	(5/28/93)	Rule 50. Calendars; Plans...	Local Variation
PA		Rule 11. Pleas	Local Variation
Plan		Rule 44. Right to and ...	Local Variation
Samp.		Rule 17.1. Pretrial Conf.	Local Variation

D. Vt.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
1	Rule 1. Scope	Model Local Rule
1	Rule 1. Scope	Possible Repetition
2	Rule 16. Discovery and ...	Possible Repetition
2	Rule 16. Discovery and ...	To Advisory Committee
2	Rule 16. Discovery and ...	Local Variation
3	Rule 32. Sentence and ...	Local Variation
4	Rule 32. Sentence and ...	Local Variation
Plan	Rule 24. Trial Jurors	Local Variation
Plan	Rule 50. Calendars; Plans...	Local Variation
Samp.	Rule 43. Presence of the ...	Possible Repetition
Samp.	Rule 17.1. Pretrial Conf.	Local Variation

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
20	Rule 6. The Grand Jury	Local Variation
27	Rule 16. Discovery and ...	Local Variation
27	Rule 12. Pleadings and ...	Local Variation
27	Rule 12. Pleadings and ...	Possible Repetition

E.D. Wash.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
1.4	Rule 53. Regulation of ...	Local Variation
7	Rule 47. Motions	Local Variation
40	Rule 50. Calendars; Plans...	Local Variation
43	Rule 53. Regulation of ...	Local Variation
47	Rule 24. Trial Jurors	Local Variation
51	Rule 30. Instructions	Local Variation
51	Rule 30. Instructions	To Advisory Committee
51	Rule 30. Instructions	Possible Inconsistency
79	Rule 56. Courts and Clerks	Local Variation
100	Rule 53. Regulation of ...	Local Variation
Order	Rule 32. Sentence and ...	Possible Inconsistency
Order (5/22/81)	Rule 32. Sentence and ...	Local Variation
PDP	Rule 46. Release from ...	Local Variation
Plan	Rule 50. Calendars; Plans...	Local Variation
Samp.	Rule 16. Discovery and ...	Possible Repetition
Samp.	Rule 16. Discovery and ...	Local Variation
Samp.	Rule 12. Pleadings and ...	Local Variation
Samp.	Rule 17.1. Pretrial Conf.	Local Variation
Samp.	Rule 46. Release from ...	Local Variation

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
5	Rule 4. Arrest Warrant ...	Possible Inconsistency
5	Rule 4. Arrest Warrant ...	To Advisory Committee
5.1(c)	Rule 5.1. Preliminary Exam	Local Variation
6	Rule 6. The Grand Jury	Possible Repetition
12	Rule 12. Pleadings and ...	Local Variation
16	Rule 16. Discovery and ...	Local Variation
17	Rule 17. Subpoena	Local Variation
18	Rule 18. Place of Pros...	Local Variation
22	Rule 22. Time of Motion ...	Possible Inconsistency
24	Rule 24. Trial Jurors	Local Variation
26	Rule 26. Taking of ...	Local Variation
26(a)	Rule 29.1. Closing Arg.	Possible Repetition
30	Rule 30. Instructions	Local Variation
30	Rule 30. Instructions	To Advisory Committee
30	Rule 30. Instructions	Possible Inconsistency
32	Rule 32. Sentence and ...	Local Variation
32	Rule 32. Sentence and ...	Possible Repetition
41	Rule 41. Search and Seizure	Local Variation
44	Rule 44. Right to and ...	Local Variation
45	Rule 45. Time	Local Variation
46	Rule 46. Release from ...	Local Variation
48	Rule 16. Discovery and ...	Possible Repetition
48	Rule 16. Discovery and ...	Local Variation
53	Rule 53. Regulation of ...	Local Variation
GO (7/1/93)	Rule 32. Sentence and ...	Local Variation

	<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
GO	(7/1/93)	Rule 32. Sentence and ...	Possible Inconsistency
GO	(12/2/93)	Other-Duties of Magistrates	Local Variation
Man.		Rule 50. Calendars; Plans...	Local Variation
Order	(5/4/92)	Rule 24. Trial Jurors	Local Variation
Plan		Rule 50. Calendars; Plans...	Local Variation
Samp.		Rule 17.1. Pretrial Conf.	Local Variation

	<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
	3.01	Rule 1. Scope	Model Local Rule
	3.02	Rule 44. Right to and ...	Local Variation
	3.04	Other-Juvenile Delin...	Possible Repetition
	3.05	Rule 10. Arraignment	Local Variation
	3.05	Rule 48. Dismissal	Possible Repetition
	3.06(d)	Rule 16. Discovery and ...	Possible Repetition
	3.06(d)	Rule 16. Discovery and ...	Local Variation
	3.06(b)	Rule 12. Pleadings and ...	Local Variation
	3.06(b)	Rule 12. Pleadings and ...	Possible Repetition
	3.06(b)	Rule 41. Search and Seizure	Local Variation
	3.06(c)	Rule 32. Sentence and ...	Local Variation
	3.06(a)	Rule 50. Calendars; Plans...	Local Variation
	3.07	Rule 53. Regulation of ...	Local Variation
	3.08	Rule 32. Sentence and ...	Local Variation
	3.09	Rule 29. Motion for ...	Local Variation
	3.09	Rule 47. Motions	Local Variation
	3.10	Rule 32. Sentence and ...	Local Variation
	3.10	Rule 32. Sentence and ...	Possible Inconsistency
	3.30	Rule 58. Procedure for ...	Local Variation
Order	50	Rule 44. Right to and ...	Local Variation
Order	97	Rule 24. Trial Jurors	Local Variation
SO	(9/9/94)	Rule 24. Trial Jurors	Local Variation

S.D. W.Va.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
1.01	Rule 16. Discovery and ...	Possible Repetition
1.01	Rule 16. Discovery and ...	Local Variation
1.02	Rule 10. Arraignment	Local Variation
1.02	Rule 48. Dismissal	Possible Repetition
2.01	Rule 30. Instructions	To Advisory Committee
2.01	Rule 30. Instructions	Possible Inconsistency
2.02	Rule 53. Regulation of ...	Local Variation
3.01	Rule 32. Sentence and ...	Local Variation
3.02	Rule 32. Sentence and ...	Local Variation
3.02	Rule 32. Sentence and ...	Possible Inconsistency
3.03	Rule 32. Sentence and ...	Local Variation

W.D. Wisc.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
2	Other-Duties of Magistrates	Local Variation
4	Rule 24. Trial Jurors	Local Variation
Order	Rule 17.1. Pretrial Conf.	Local Variation
Order (1/17/86)	Rule 50. Calendars; Plans...	Local Variation
Order (2/20/87)	Rule 9. Warrant/Summons	Local Variation
Plan	Rule 24. Trial Jurors	Local Variation
Samp.	Rule 17.1. Pretrial Conf.	Local Variation

D. Wyo.

<u>Rule</u>	<u>Location in Report</u>	<u>Project Result</u>
40	Rule 50. Calendars; Plans...	Local Variation
77	Rule 53. Regulation of ...	Local Variation
103	Rule 16. Discovery and ...	Local Variation
105	Rule 32. Sentence and ...	Local Variation
105	Rule 32. Sentence and ...	Possible Inconsistency
217	Rule 44. Right to and ...	Local Variation
310	Rule 53. Regulation of ...	Local Variation
312	Rule 53. Regulation of ...	Local Variation
Order (4/8/93)	Rule 4. Arrest Warrant ...	Local Variation
Plan	Rule 24. Trial Jurors	Local Variation
Plan	Rule 44. Right to and ...	Local Variation
Plan	Rule 50. Calendars; Plans...	Local Variation