

APR 25 2024

C/E

**CA02db CourtBallots**

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**From:** CA02db CourtBallots  
**Sent:** Wednesday, April 24, 2024 12:13 PM  
**To:** Brenda Sannes; Debra Livingston; Elizabeth Wolford; Geoffrey Crawford; Joseph Bianco; Laura Swain; Margo Brodie; Michael Park; Michael Shea; Raymond Lohier; Richard Sullivan; Steven Menashi; William Nardini  
**Cc:**  
**Subject:** Proposed Changes to Local Rules - District of Connecticut - ACTION REQUESTED  
**Attachments:** 4-24-24 - Local CR Rule 57 clean.pdf; 4-24-24 - Local CR Rule 57 redlined.pdf

Dear Judicial Council:

The District of Connecticut seeks Judicial Council approval for proposed changes to its local rules for criminal procedure.

The proposed changes have been published on the Court's website for comment and counsel has been notified via CM/ECF. Clean and redline versions of the proposed changes are attached for your review.

Kindly reply with your vote by May 1.

Thank you,  
Aisha D. Parks



Office of the Circuit Executive  
Thurgood Marshall U.S. Courthouse  
40 Foley Square, Room 2904  
New York, NY 10007  
(212)-857-8700

**RULE 57**  
**RULES BY DISTRICT COURTS**  
**APPEARANCES**

(Amended ~~March 22, 2019~~ \_\_\_\_\_)

**(a) Appearances**

Attorneys representing defendants named in an information or indictment shall file a notice of appearance. Such appearance shall contain the attorney's name, address, zip code, federal bar number, telephone number, fax number and e-mail address, if available.

**RULE 57.1**

**(b) \_\_\_\_\_ SEALED PROCEEDINGS AND DOCUMENTS**

**(a) (1) Sealed Proceedings.**

**(1) (A) Orders to Seal Proceedings, Findings.** The court may exclude the public from court proceedings to which a public right of access attaches only if it makes particularized findings on the record that closure is essential to preserve compelling interests, and that the closure is narrowly tailored to serve those interests, unless a different standard applies. The court may make those findings in camera and under seal, only if there are compelling reasons to do so.

**(2) (B) Advance Notice on Public Docket of Closed Proceedings.** Any motion or order to exclude the public from proceedings to which there is a presumption of access under the First Amendment must be immediately entered on the public docket, except as provided in section (b)(10) of this Rule. The public docketing of any such motion or order must be made as far in advance of the pertinent proceeding as possible to permit any member of the public to intervene for the purpose of challenging any such order.

**(b) (2) Sealing of Criminal Complaints, Arrest Warrants, and Indictments.** A criminal complaint, arrest warrant, or indictment, and any supporting applications or affidavits, may be filed under seal if the court finds that sealing is necessary for the safety of any person or for any compelling law enforcement reason. During the time that any such documents remain sealed, the existence of the case must be reflected on the public docket by the notation: "Sealed Case." Unless otherwise ordered by the court based upon particularized findings sufficient to support further sealing, upon the initial appearance of the first defendant arrested in the case, the entire case must be unsealed and the full caption must be entered on the docket sheet. The court may make any findings under this paragraph in camera and under seal, only if there are compelling reasons to do so.

**(c) (3) Orders to Seal Documents.**

**(1) (A) Common-Law Right of Access.**

Any document that a party presents to the court, which is relevant to the performance of a judicial function and useful to the judicial process, is a judicial document to which the public has a presumptive right of access under the common law.

The court may seal a document, or any part of a document, subject to the common-law right of public access only if it makes particularized findings on the record that the presumption of access to the particular document is outweighed by countervailing factors in favor of sealing, such as the danger of impairing law enforcement or judicial efficiency, and privacy interests.

**(2)(B) First Amendment Right of Access.**

The court may seal a document, or any part of a document, to which the First Amendment right of access attaches only if it makes particularized findings on the record demonstrating that sealing is essential to preserve compelling interests, and that sealing in whole or in part is narrowly tailored to serve those interests.

**(3)(C) Duration of Sealing Orders.**

Any order sealing a document, or any part thereof, shall specify that sealing is for a specified duration, until the occurrence of a specific event, or until further order of the court but only upon a determination by the court that no fixed date or period of time can be ascertained at the time of the order or is required by law. A statute mandating the non-disclosure of a class of documents (e.g., personnel files, health care records, or records of administrative proceedings) provides sufficient authority for an order sealing such documents, until further order of the court without a set duration. The court may seal an order to seal documents and the related findings, only if sealing the order meets the standard for sealing the underlying document. No document may be sealed merely by stipulation of the parties. Any document or part of a document that is filed under seal in the absence of a court order to seal is subject to unsealing without prior notice to the parties if the court concludes that sealing is not warranted.

**(d)(4) Motions to Seal Documents; Procedures.** A party may file a motion to seal a document in whole or in part. A party may seek to seal an entire document only if sealing of the entire document (apart from the case caption and signature block) meets the relevant standard for sealing in paragraph (b)(3). A party seeking an order to file a document under seal in whole or in part may choose among the following procedures:

**(1)(A)** A party may e-file (i) a motion to seal, which may be e-filed as a public motion or a sealed motion, (ii) a redacted version of each document sought to be sealed, which must be e-filed as a public document, (iii) unredacted copies of each document sought to be sealed, which must be e-filed as sealed documents, and (iv) any memorandum or other documents supporting the assertion that grounds exist for sealing all or part of the documents sought to be sealed, which may be e-filed as public or sealed documents. Upon e-filing by the party of a motion to seal, the contents of any sealed motion or sealed document must be treated as sealed unless the motion to seal is denied or until otherwise directed by the court.

**(2)(B)** A party may e-file a motion to seal, which may be e-filed as a public motion or a sealed motion, along with a memorandum and supporting documents, without the documents sought to be sealed. If the court grants the motion to seal in whole or in part, the party must e-file as public documents redacted copies of any documents required by the

sealing order, and must e-file as either sealed motions or sealed documents, unredacted copies of any motions or documents ordered sealed but not previously e-filed.

**(3)(C)** A party may seek the court's permission to submit documents sought to be sealed for in camera consideration. If the court agrees to review documents in camera, the party must submit to the court and must serve on all parties of record copies of the documents sought to be sealed and must e-file a motion to seal, a memorandum, and supporting documents. If a party wants the motion to seal, memorandum, or supporting documents to be considered as documents to be sealed, the party must e-file those submissions as sealed motions and/or sealed documents, and their contents must be treated as sealed unless the motion to seal is denied or until otherwise directed by the court. If the court grants the motion to seal in whole or in part, the party must e-file any redacted copies of the documents required by the court's sealing order and must e-file the unredacted documents as sealed documents.

**(e)(5) Motions to Seal; Docketing.** A motion to seal must be e-filed as either a "Motion to Seal" or a "Sealed Motion to Seal" along with a description of the items sought to be sealed (e.g., "Motion to Seal Sentencing Memorandum"). The documents sought to be sealed must be entered on the docket using the same title of the pleading or description of the documents used in the motion to seal.

A party seeking to file a sealed document without a docket label description of the document (e.g., "Sealed Motion") must make a particularized showing of good cause. If the court finds that a docketing entry without description is unjustified, it must strike the filing and direct the moving party to file the sealed document with a docket label description that describes the item(s) sought to be sealed. If the court finds that a docketing entry without a description is justified, the document may be entered on the docket simply as "Sealed Document" or "Sealed Motion."

**(f)(6) Opposing Motions to Seal.** Any party may oppose a motion to seal a case or document. Any non-party who seeks to oppose a motion to seal a case or document may move for leave to intervene in a criminal case for the limited purpose of pursuing that relief. Motions for leave to intervene for purposes of opposing sealing and objections to motions to seal must be decided expeditiously by the court.

**(g)(7) Physical Custody of Sealed Documents.** Except as otherwise required by federal statute or the Federal Rules of Criminal Procedure (e.g., grand jury matters), and except as otherwise provided by this Rule, all documents ordered sealed by the court must be e-filed as sealed motions or sealed documents. Custody of the original documents filed under seal must remain with the filing party, unless ordered otherwise by the court, subject to the following exceptions:

**(A)(1) Cooperation Agreements and Related Filings.** When a defendant's plea agreement has been filed and the court has ordered that the associated cooperation agreement be sealed, the executed cooperation agreement must be maintained by the judge who will sentence the defendant. Before the time of sentencing, the United States Attorney's Office must retrieve the original cooperation agreement from the court, and the United States Attorney's Office must file a copy of the cooperation agreement on the docket under seal, either separately

or as an attachment to the government's substantial assistance motion or sentencing memorandum.

**~~(B)~~(2) Wiretap Applications.** The United States Attorney's Office or its designee must maintain all wiretap applications, supporting documents or affidavits, all orders addressing wiretap applications, and the fruits of all wiretap authorizations.

**~~(C)~~(3) Pen Registers and Trap and Trace Devices.** An application for a pen register or for trap and trace devices must be filed after review by the court. Any orders authorizing pen registers or trap and trace devices, along with related applications and supporting documents, must be e-filed in accordance with 18 U.S.C. 3123(d) with the case caption, "In re Pen Register/Trap and Trace."

**~~(D)~~(4) Search Warrants.** Any application for a search warrant must be filed after review by the court. The original paper copies of any reviewed search warrant, application, affidavit, and other supporting documents must be maintained by the officer or attorney seeking the warrant. Copies of those documents must be e-filed with the case caption, "In Re Search Warrant." Such documents, as well search warrant returns, must be e-filed as unsealed documents, unless the court has ordered them sealed.

**~~(E)~~(5) Other Ex Parte Motions.** Ex parte motions filed in an existing case must reflect the general nature of the request, and must be e-filed by the applicant with the docket entry, "Ex Parte Motion Filed by [Party]." If the submission of an ex parte motion will result in the opening of a new matter, any materials submitted in connection with the ex parte motion must be submitted to the judicial officer. The motion and related materials must be docketed after review by the judicial officer. A party may also move to seal any such motion or request. In the event that materials for which the applicant seeks ex parte review are not appropriate for filing (i.e. due to volume or format), the ex parte submission must include a Notice of Manual Filing Under Seal that generally describes the material and the need for filing the material manually. Any material submitted in connection with the ex parte motion must be e-filed after review as an exhibit to the motion.

**~~(F)~~(6) Presentence Investigation Reports.** Presentence investigation reports must be e-filed by the Probation Office and access to them must be restricted to counsel of record for the government, counsel of record for the defendant, and the defendant, and may be disclosed only as permitted by law.

**~~(h)~~(8) Disposition of Sealed Paper Filings.** Any sealed paper filing submitted to the clerk for filing under seal, once uploaded to the electronic docket as a sealed document, must be destroyed by the clerk unless the filing party requests that it be returned.

**~~(i)~~(9) Unsealing.** Any case or document ordered sealed by the court must remain sealed as directed in the court's order.

**~~(A)~~(1) Motions To Unseal.** A party may at any time file a motion to unseal a case or document that has been sealed. A non-party who seeks to unseal a document may move for leave to intervene for the limited purpose of pursuing that relief. Motions for leave to intervene for purposes of unsealing a document must be decided expeditiously by the court.

~~(B)~~(2) **Notice of Motions To Unseal.** Any party filing a motion to unseal or a response thereto must state whether there are non-parties who should be served with notice of the motion to unseal.

~~(C)~~(3) **Intervention and Objections By Non-Parties To Motions To Unseal.** A non-party having an interest in the matter who wishes to object to a motion to unseal may move for leave to intervene in the proceeding for the limited purpose of pursuing that relief.

~~(D)~~(4) **Disposition of Motions To Unseal.** Absent an objection, the court must grant the motion to unseal upon a finding that sealing is no longer appropriate under the law and these Rules.

~~(j)~~(10) **Delayed Docketing.** Notwithstanding the docketing provisions above, in extraordinary situations where even a contemporaneous notation in the docket would create a substantial risk of harm to an individual, the defendant's right to a fair trial, the integrity of ongoing criminal investigations, or the secrecy of grand jury proceedings, the court may order docketing of any document or minutes of any proceeding to be delayed for a reasonable time, but must place particularized findings supporting that delay on the record, under seal if appropriate. When such delayed docketing is employed, the delayed docket entry must reflect the fact that the motion was made, or proceeding held; the fact that any supporting or opposing papers were filed under seal; the time and place of any hearing on the motion; the occurrence of such hearing; the disposition of the motion; and the fact and extent of courtroom closure.

~~(k)~~(11) The requirements of this rule for the court to make a finding prior to ordering the sealing of proceedings or documents shall not apply to any proceeding or document to which there is no constitutional, statutory, or common law right of public access.

## ~~RULE 57.2 PUBLIC STATEMENTS BY COUNSEL~~

### ~~OPENING STATEMENTS~~

#### ~~(c) Opening Statements~~

The presiding judge shall determine in his or her discretion whether or not to allow opening statements.

## ~~RULE 57.3~~

### ~~PUBLIC STATEMENTS BY COUNSEL~~

#### ~~(a) Statements Permitted During Investigation~~

A ~~prosecutor~~lawyer participating in or associated with the investigation of a criminal matter shall not make or participate in making an extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication and that does more than state without elaboration:

1. Information contained in a public record.
2. That the investigation is in progress.

3. The general scope of the investigation including a description of the offense and, if permitted by law, the identity of the victim.
4. A request for assistance in apprehending a suspect or assistance in other matters and the information necessary thereto.
5. A warning to the public of any dangers.

**(b)(e) Statements Prohibited After Commencement of Proceedings**

A lawyer associated with the prosecution or defense of a criminal matter shall not, from the time of the filing of a complaint, information, or indictment, the issuance of an arrest warrant, or arrest until the commencement of the trial or disposition without trial, make or participate in making an extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication and that relates to:

1. The character, reputation, or prior criminal record (including arrests, indictments, or other charges of crime) of the accused, unless the accused's prior convictions are expressly charged in the complaint, information, or indictment.
2. The existence, nature or scope of plea negotiations, possibility of a plea of guilty to the offense charged or to a lesser offense.
3. The existence or contents of any confession, admission, or statement given by the accused or his any refusal or failure to make a statement.
4. The performance or results of any examinations or tests or the refusal or failure of the accused to submit to examinations or tests.
5. The identity, testimony, or credibility of a prospective witness.
6. Any opinion as to the guilt or innocence of the accused, the evidence, or the merits of the case.

**(c)(f) Statements Permitted After Commencement of Proceedings**

Rule 57(c) does not preclude a lawyer during such period from disclosing publicly announcing:

1. The name, age, residence, occupation, and family status of the accused.
2. If the accused has not been apprehended, any information necessary to aid in his apprehension or to warn the public of any dangers the accused might may present.
3. A request for assistance in obtaining evidence.
4. The identity of the victim of the crime, if otherwise permitted by law.
5. The fact, time and place of arrest, resistance, pursuit, and use of weapons.
6. The identity of investigating and arresting officers or agencies and the length of the investigation.
7. At the time of any seizure, a description of the physical evidence seized, other than a confession, admission, or statement.
8. The nature, substance, or text of the charge.
9. Quotations from or references to public records of the Court in the case.
10. The scheduling or result of any step in the judicial proceedings.
11. That the accused denies the charges made against him.



**(d) (g) Statements Prohibited During Jury Selection and Trial**

During the selection of a jury or the trial of a criminal matter, a lawyer associated with the prosecution or defense of a criminal matter shall not make or participate in making an extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication and that relates to the trial, parties, or issues in the trial or other matters that are reasonably likely to interfere with a fair trial, except that ~~he~~the lawyer may quote from or refer without comment to public records of the Court in the case and defense counsel may state that the accused denies the charges.

**~~(h) Statements Prohibited Prior to Sentencing~~**

~~After the completion of a trial or disposition without trial of a criminal matter and prior to the imposition of sentence, a lawyer or law firm associated with the prosecution or defense shall not make or participate in making an extrajudicial statement that a reasonable person would expect to be disseminated by public communication and that is reasonably likely to affect the imposition of sentence.~~



**RULE 57**  
**RULES BY DISTRICT COURTS**  
**APPEARANCES**

(Amended April 25, 2024)

Attorneys representing defendants named in an information or indictment shall file a notice of appearance. Such appearance shall contain the attorney's name, address, zip code, federal bar number, telephone number, fax number and e-mail address, if available.

**RULE 57.1**

**SEALED PROCEEDINGS AND DOCUMENTS**

**(a) Sealed Proceedings.**

**(1) Orders to Seal Proceedings, Findings.** The court may exclude the public from court proceedings to which a public right of access attaches only if it makes particularized findings on the record that closure is essential to preserve compelling interests, and that the closure is narrowly tailored to serve those interests, unless a different standard applies. The court may make those findings in camera and under seal, only if there are compelling reasons to do so.

**(2) Advance Notice on Public Docket of Closed Proceedings.** Any motion or order to exclude the public from proceedings to which there is a presumption of access under the First Amendment must be immediately entered on the public docket, except as provided in section (b)(10) of this Rule. The public docketing of any such motion or order must be made as far in advance of the pertinent proceeding as possible to permit any member of the public to intervene for the purpose of challenging any such order.

**(b) Sealing of Criminal Complaints, Arrest Warrants, and Indictments.** A criminal complaint, arrest warrant, or indictment, and any supporting applications or affidavits, may be filed under seal if the court finds that sealing is necessary for the safety of any person or for any compelling law enforcement reason. During the time that any such documents remain sealed, the existence of the case must be reflected on the public docket by the notation: "Sealed Case." Unless otherwise ordered by the court based upon particularized findings sufficient to support further sealing, upon the initial appearance of the first defendant arrested in the case, the entire case must be unsealed and the full caption must be entered on the docket sheet. The court may make any findings under this paragraph in camera and under seal, only if there are compelling reasons to do so.

**(c) Orders to Seal Documents.**

**(1) Common-Law Right of Access.**

Any document that a party presents to the court, which is relevant to the performance of a judicial function and useful to the judicial process, is a judicial document to which the public

has a presumptive right of access under the common law. The court may seal a document, or any part of a document, subject to the common-law right of public access only if it makes particularized findings on the record that the presumption of access to the particular document is outweighed by countervailing factors in favor of sealing, such as the danger of impairing law enforcement or judicial efficiency, and privacy interests.

## **(2) First Amendment Right of Access.**

The court may seal a document, or any part of a document, to which the First Amendment right of access attaches only if it makes particularized findings on the record demonstrating that sealing is essential to preserve compelling interests, and that sealing in whole or in part is narrowly tailored to serve those interests.

## **(3) Duration of Sealing Orders.**

Any order sealing a document, or any part thereof, shall specify that sealing is for a specified duration, until the occurrence of a specific event, or until further order of the court but only upon a determination by the court that no fixed date or period of time can be ascertained at the time of the order or is required by law. A statute mandating the non-disclosure of a class of documents (e.g., personnel files, health care records, or records of administrative proceedings) provides sufficient authority for an order sealing such documents, until further order of the court without a set duration. The court may seal an order to seal documents and the related findings, only if sealing the order meets the standard for sealing the underlying document. No document may be sealed merely by stipulation of the parties. Any document or part of a document that is filed under seal in the absence of a court order to seal is subject to unsealing without prior notice to the parties if the court concludes that sealing is not warranted.

**(d) Motions to Seal Documents; Procedures.** A party may file a motion to seal a document in whole or in part. A party may seek to seal an entire document only if sealing of the entire document (apart from the case caption and signature block) meets the relevant standard for sealing in paragraph (b)(3). A party seeking an order to file a document under seal in whole or in part may choose among the following procedures:

**(1)** A party may e-file (i) a motion to seal, which may be e-filed as a public motion or a sealed motion, (ii) a redacted version of each document sought to be sealed, which must be e-filed as a public document, (iii) unredacted copies of each document sought to be sealed, which must be e-filed as sealed documents, and (iv) any memorandum or other documents supporting the assertion that grounds exist for sealing all or part of the documents sought to be sealed, which may be e-filed as public or sealed documents. Upon e-filing by the party of a motion to seal, the contents of any sealed motion or sealed document must be treated as sealed unless the motion to seal is denied or until otherwise directed by the court.

**(2)** A party may e-file a motion to seal, which may be e-filed as a public motion or a sealed motion, along with a memorandum and supporting documents, without the documents sought to be sealed. If the court grants the motion to seal in whole or in part, the party must e-file as public documents redacted copies of any documents required by the sealing order, and must e-file as either sealed motions or sealed documents, unredacted copies of any motions or documents ordered sealed but not previously e-filed.

**(3)** A party may seek the court's permission to submit documents sought to be sealed for in camera consideration. If the court agrees to review documents in camera, the party must submit to the court and must serve on all parties of record copies of the documents sought to be sealed and must e-file a motion to seal, a memorandum, and supporting documents. If a party wants the motion to seal, memorandum, or supporting documents to be considered as documents to be sealed, the party must e-file those submissions as sealed motions and/or sealed documents, and their contents must be treated as sealed unless the motion to seal is denied or until otherwise directed by the court. If the court grants the motion to seal in whole or in part, the party must e-file any redacted copies of the documents required by the court's sealing order and must e-file the unredacted documents as sealed documents.

**(e) Motions to Seal; Docketing.** A motion to seal must be e-filed as either a "Motion to Seal" or a "Sealed Motion to Seal" along with a description of the items sought to be sealed (e.g., "Motion to Seal Sentencing Memorandum"). The documents sought to be sealed must be entered on the docket using the same title of the pleading or description of the documents used in the motion to seal.

A party seeking to file a sealed document without a docket label description of the document (e.g., "Sealed Motion") must make a particularized showing of good cause. If the court finds that a docketing entry without description is unjustified, it must strike the filing and direct the moving party to file the sealed document with a docket label description that describes the item(s) sought to be sealed. If the court finds that a docketing entry without a description is justified, the document may be entered on the docket simply as "Sealed Document" or "Sealed Motion."

**(f) Opposing Motions to Seal.** Any party may oppose a motion to seal a case or document. Any non-party who seeks to oppose a motion to seal a case or document may move for leave to intervene in a criminal case for the limited purpose of pursuing that relief. Motions for leave to intervene for purposes of opposing sealing and objections to motions to seal must be decided expeditiously by the court.

**(g) Physical Custody of Sealed Documents.** Except as otherwise required by federal statute or the Federal Rules of Criminal Procedure (e.g., grand jury matters), and except as otherwise provided by this Rule, all documents ordered sealed by the court must be e-filed as sealed motions or sealed documents. Custody of the original documents filed under seal must remain with the filing party, unless ordered otherwise by the court, subject to the following exceptions:

**(1) Cooperation Agreements and Related Filings.** When a defendant's plea agreement has been filed and the court has ordered that the associated cooperation agreement be sealed, the executed cooperation agreement must be maintained by the judge who will sentence the defendant. Before the time of sentencing, the United States Attorney's Office must retrieve the original cooperation agreement from the court, and the United States Attorney's Office must file a copy of the cooperation agreement on the docket under seal, either separately or as an attachment to the government's substantial assistance motion or sentencing memorandum.

**(2) Wiretap Applications.** The United States Attorney's Office or its designee must maintain all wiretap applications, supporting documents or affidavits, all orders addressing wiretap applications, and the fruits of all wiretap authorizations.

**(3) Pen Registers and Trap and Trace Devices.** An application for a pen register or for trap and trace devices must be filed after review by the court. Any orders authorizing pen registers or trap and trace devices, along with related applications and supporting documents, must be e-filed in accordance with 18 U.S.C. 3123(d) with the case caption, "In re Pen Register/Trap and Trace."

**(4) Search Warrants.** Any application for a search warrant must be filed after review by the court. The original paper copies of any reviewed search warrant, application, affidavit, and other supporting documents must be maintained by the officer or attorney seeking the warrant. Copies of those documents must be e-filed with the case caption, "In Re Search Warrant." Such documents, as well search warrant returns, must be e-filed as unsealed documents, unless the court has ordered them sealed.

**(5) Other Ex Parte Motions.** Ex parte motions filed in an existing case must reflect the general nature of the request, and must be e-filed by the applicant with the docket entry, "Ex Parte Motion Filed by [Party]." If the submission of an ex parte motion will result in the opening of a new matter, any materials submitted in connection with the ex parte motion must be submitted to the judicial officer. The motion and related materials must be docketed after review by the judicial officer. A party may also move to seal any such motion or request. In the event that materials for which the applicant seeks ex parte review are not appropriate for filing (i.e. due to volume or format), the ex parte submission must include a Notice of Manual Filing Under Seal that generally describes the material and the need for filing the material manually. Any material submitted in connection with the ex parte motion must be e-filed after review as an exhibit to the motion.

**(6) Presentence Investigation Reports.** Presentence investigation reports must be e-filed by the Probation Office and access to them must be restricted to counsel of record for the government, counsel of record for the defendant, and the defendant, and may be disclosed only as permitted by law.

**(h) Disposition of Sealed Paper Filings.** Any sealed paper filing submitted to the clerk for filing under seal, once uploaded to the electronic docket as a sealed document, must be destroyed by the clerk unless the filing party requests that it be returned.

**(i) Unsealing.** Any case or document ordered sealed by the court must remain sealed as directed in the court's order.

**(1) Motions To Unseal.** A party may at any time file a motion to unseal a case or document that has been sealed. A non-party who seeks to unseal a document may move for leave to intervene for the limited purpose of pursuing that relief. Motions for leave to intervene for purposes of unsealing a document must be decided expeditiously by the court.

**(2) Notice of Motions To Unseal.** Any party filing a motion to unseal or a response thereto must state whether there are non-parties who should be served with notice of the motion to unseal.

**(3) Intervention and Objections By Non-Parties To Motions To Unseal.** A non-party having an interest in the matter who wishes to object to a motion to unseal may move for leave to intervene in the proceeding for the limited purpose of pursuing that relief.

**(4) Disposition of Motions To Unseal.** Absent an objection, the court must grant the motion to unseal upon a finding that sealing is no longer appropriate under the law and these Rules.

**(j) Delayed Docketing.** Notwithstanding the docketing provisions above, in extraordinary situations where even a contemporaneous notation in the docket would create a substantial risk of harm to an individual, the defendant's right to a fair trial, the integrity of ongoing criminal investigations, or the secrecy of grand jury proceedings, the court may order docketing of any document or minutes of any proceeding to be delayed for a reasonable time, but must place particularized findings supporting that delay on the record, under seal if appropriate. When such delayed docketing is employed, the delayed docket entry must reflect the fact that the motion was made, or proceeding held; the fact that any supporting or opposing papers were filed under seal; the time and place of any hearing on the motion; the occurrence of such hearing; the disposition of the motion; and the fact and extent of courtroom closure.

**(k)** The requirements of this rule for the court to make a finding prior to ordering the sealing of proceedings or documents shall not apply to any proceeding or document to which there is no constitutional, statutory, or common law right of public access.

## **RULE 57.2**

### **OPENING STATEMENTS**

The presiding judge shall determine in his or her discretion whether or not to allow opening statements.

## **RULE 57.3**

### **PUBLIC STATEMENTS BY COUNSEL**

#### **(a) Statements Permitted During Investigation**

A prosecutor participating in or associated with the investigation of a criminal matter shall not make or participate in making an extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication and that does more than state without elaboration:

1. Information contained in a public record.
2. That the investigation is in progress.

3. The general scope of the investigation including a description of the offense and, if permitted by law, the identity of the victim.
4. A request for assistance in apprehending a suspect or assistance in other matters and the information necessary thereto.
5. A warning to the public of any dangers.

**(b) Statements Prohibited After Commencement of Proceedings**

A lawyer associated with the prosecution or defense of a criminal matter shall not, from the time of the filing of a complaint, information, or indictment, the issuance of an arrest warrant, or arrest until the commencement of the trial or disposition without trial, make or participate in making an extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication and that relates to:

1. The character, reputation, or prior criminal record (including arrests, indictments, or other charges of crime) of the accused, unless the accused's prior convictions are expressly charged in the complaint, information, or indictment.
2. The existence, nature or scope of plea negotiations.
3. The existence or contents of any confession, admission, or statement given by the accused or any refusal or failure to make a statement.
4. The performance or results of any examinations or tests or the refusal or failure of the accused to submit to examinations or tests.
5. The identity, testimony, or credibility of a prospective witness.
6. Any opinion as to the guilt or innocence of the accused, the evidence, or the merits of the case.

**(c) Statements Permitted After Commencement of Proceedings**

Rule 57(c) does not preclude a lawyer during such period from disclosing publicly:

1. The name, age, residence, occupation, and family status of the accused.
2. If the accused has not been apprehended, any information necessary to aid in apprehension or to warn the public of any dangers the accused might present.
3. A request for assistance in obtaining evidence.
4. The identity of the victim of the crime, if otherwise permitted by law.
5. The fact, time and place of arrest, resistance, pursuit, and use of weapons.
6. The identity of investigating and arresting officers or agencies and the length of the investigation.
7. At the time of any seizure, a description of the physical evidence seized.
8. The nature, substance, or text of the charge.
9. Quotations from or references to public records of the Court in the case.
10. The scheduling or result of any step in the judicial proceedings.
11. That the accused denies the charges.

**(d) Statements Prohibited During Jury Selection and Trial**

During the selection of a jury or the trial of a criminal matter, a lawyer associated with the prosecution or defense of a criminal matter shall not make or participate in making an extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication and that relates to the trial, parties, or issues in the trial or other matters that are reasonably likely to interfere with a fair trial, except that the lawyer may quote from or refer without comment to public records of the Court in the case and defense counsel may state that the accused denies the charges.