

United States District Court



District of Maine

**Criminal Practice Frequently Asked Questions**

**What happens to a passport when it is surrendered as a condition of bail?**

The United States District Court Clerk's Office and the United States Probation and Pretrial Services Office have entered into a memorandum of understanding concerning the procedures to be followed when a defendant is ordered to surrender a passport as a condition of release. For more information, please review the [Memorandum of Understanding](#).

**How does a defendant post cash bail?**

When the Court requires a defendant to post cash bail as a condition of release, the Clerk of Court will accept cash, money orders and certified bank checks. The Clerk will not accept personal checks or credit card payments unless authorized by a judicial officer. The Court will not accept foreign currency, third party checks or stale or post-dated checks.

**Can I visit a defendant in U.S. Marshals' custody at the Courthouse?**

When court proceedings are scheduled, defendants in custody are ordinarily in the building in the U.S. Marshals' holding cells one (1) hour prior to the court proceeding except that defendants are generally not in the Courthouse prior to 8:00 a.m. Defendants in custody may meet with their attorneys in designated interview rooms in the U.S. Marshals Service Office. Defendants in custody may not meet with family or friends while at the Courthouse. Family and friends should contact the detention facility housing the defendant for visitation information.

If counsel needs to meet with a defendant following a court proceeding, counsel should contact the Marshals Service to determine if the defendant will be available for a meeting in one of the Marshals' interview rooms.

**Does the U.S. Marshals Service provide clothing for defendants in custody?**

When a defendant is in custody, the jail or United States Marshals Service does not provide civilian clothing to be worn for trial. Defendants in custody will appear before the Court in their jail-issued uniforms for all proceedings except for jury trials. For jury trials, a defendant's lawyer or family should make arrangements with the U.S. Marshals Service to provide clothing for the defendant prior to trial. Defendants are discouraged from wearing their jail-issued uniforms in jury trials.

## **Where can CJA Counsel find more information about CJA appointments in the District of Maine?**

The Court's Plan for the Adequate Representation of Defendants Pursuant to the Criminal Justice Act of 1964, as Amended and the District of Maine's CJA Reference Manual are available [here](#).

## **How do I schedule a Rule 11 change of plea for a case on a trial list?**

It is this Court's practice to schedule all changes of plea prior to any scheduled jury impanelment to avoid the unnecessary cost of summoning jurors for impanelment. Counsel should contact the [Clerk's Office](#) in advance of impanelment to schedule a change of plea or notify the Court if the case is firm for trial. If the case is on a trial list, please consult the trial list for the deadline to notify the Court if there will be a change of plea or trial.

## **When should the prosecution version and/or plea agreement be filed with the Court?**

It is the Court's local practice that prosecution versions and plea agreements shall be filed with the Court at least two (2) business days prior to the Rule 11 hearing.

## **Are the Judges' courtroom scripts for criminal proceedings available online?**

Many of the [scripts](#) used by the Judges during criminal proceedings in this District are available on the Court's website including scripts for a Rule 11 plea, waiver of indictment, sentencing and juvenile admission.

## **How are jury trials handled in this District?**

There are a number of things to note with respect to how trials are scheduled and conducted in this District.

- 1. Scheduling:** The Court ordinarily publishes criminal trial lists thirty (30) days prior to jury selection. The [District of Maine Speedy Trial Plan](#) requires that the trial of those defendants in custody solely because they are awaiting trial or those defendants designated as high risk be given preference over other criminal cases.
- 2. Trial Day:** In the District of Maine, jury trials are ordinarily conducted from 8:30 a.m. to 2:30 p.m. with two (2) fifteen-minute breaks and no luncheon recess.
- 3. Juror Questionnaires:** Jurors summoned for impanelment are required to complete a questionnaire containing questions that will not be asked during jury impanelment. These questionnaires will be available to counsel in CM/ECF seven (7) days prior to impanelment, and counsel are to review those questionnaires prior to impanelment. Only those questionnaires that are not available in CM/ECF will be available for

review on the day of jury selection. Counsel will be provided access to these documents in CM/ECF through the date of jury selection, after which the questionnaires will not be available for review.

4. **Filings:** Any requested voir dire interrogatories, requested jury instructions and trial briefs must be filed prior to jury impanelment. Please consult the Court's Trial List for the deadlines and details regarding these filings.
5. **Conferences of Counsel Prior to Jury Impanelment:** In cases scheduled for jury impanelment before United States Magistrate Judge John H. Rich III, a conference of counsel with Judge Rich will be held on the day of jury impanelment, for the purpose of reviewing requested voir dire questions. These conferences can be scheduled as early as 7:30 a.m. Counsel should arrive before 8:00 a.m. for these conferences so as not to delay jury selection. United States Magistrate Judge John C. Nivison holds similar conferences, but the conferences scheduled for a date prior to impanelment.
6. **Juror Notebooks:** Jurors are permitted to take notes during trial. At the end of each trial day, the jurors' notes are collected by the Court and stored to maintain their confidentiality. Following conclusion of trial, the jurors' notes are destroyed by the Court.
7. **Pattern Criminal Jury Instructions:** [Pattern Criminal Jury Instructions](#) for the District Courts of the First Circuit are available on the Court's website.
8. **Post-Trial Contact with Jurors:** Lawyers and parties may not have contact with any member of the jury without prior written permission of the Court pursuant to the First Circuit's decision in United States v. Kepreos, 759 F.2d 961 (1<sup>st</sup> Cir. 1985). Any lawyer or party who becomes aware of such contact shall immediately report it in writing to the Clerk of Court. Following a jury's verdict, the Court will issue a "Kepreos" order prohibiting post-contact verdict with jurors.

More information about jury notebooks, electronic evidence presentation, rules for opening and closing statements and jury trials is available on the Court's [website](#).

### **How are sentencing proceedings scheduled in the District of Maine?**

The Judges of this Court have varying practices for scheduling sentencing proceedings. For more information, please contact the presiding Judge's case manager in the [Clerk's Office](#).

### **When should Motions for Downward Departure be filed?**

In accordance with Local Rule 132, motions for downward departure shall be filed with the Court at least five (5) business days prior to the sentencing hearing.

### **What if a defendant cannot afford to file an appeal?**

If a defendant cannot afford to file an appeal, the defendant may ask the Clerk of the Court to file the appeal for the defendant without cost to the defendant.

### **How does the Court know when something is filed in CM/ECF?**

The Clerk's Office reviews docket activity reports throughout the business day – generally at 8:00 a.m., 10:00 a.m., Noon, 2:00 p.m. and 4:00 p.m. These reports identify all pleadings filed in CM/ECF. If you filed something that requires the Court's immediate attention, please contact the [Clerk's Office](#) to let them know the document has been filed and requires immediate attention. It is the Clerk's Office practice to review all filings within 24 hours of filing.

### **What is a Speedy Trial order?**

A Speedy Trial order is an order that grants a continuance in a criminal case. The length of the continuance tolls the time within which the trial of a defendant shall commence pursuant to Title 18 U.S.C. §3161 *et seq.* and this Court's [Speedy Trial Plan](#). When a Speedy Trial order is required, the U.S. Attorney's Office, or the Federal Defender if the defendant is represented by the Federal Defender, should send a proposed Speedy Trial order to the Clerk's Office for consideration by the Judge. Proposed Speedy Trial orders should be emailed in **Microsoft Word** format to [newcases.portland@med.uscourts.gov](mailto:newcases.portland@med.uscourts.gov).

### **What is the Court's policy regarding interpreters?**

When defendants in criminal proceedings need an interpreter for court proceedings because they speak a primary language other than English, or because they are hearing-impaired or have communication disabilities, the Court will appoint and pay for an interpreter for the court proceeding. If counsel needs the services of an interpreter outside the Court's hearing (for example: consultation sessions, trial strategy consultations, presentence interviews, and discussion and review of bail reports, presentence reports or sentencing exhibits) then counsel must coordinate with an interpreter separately, request approval from the Court using a CJA 21 voucher for the interpreter's services. For more information, please consult the Court's [CJA Reference Manual](#).

### **Does the Court provide wireless Internet access in the Courthouse?**

Wireless Internet access is available at both of the District Court's locations. Access is provided to members of the Bar of this Court, attorneys appearing *pro hac vice*, and their legal staffs. Parties appearing *pro se* may be granted use of the Court's wireless Internet service if approved by the Court. Counsel should register with the Clerk's Office in advance to obtain a password to the network that provides Internet access. More information about wireless Internet access is available at <http://www.med.uscourts.gov/wireless-access-plan>.

### **What is the District Court Criminal Law Committee?**

The District Court Criminal Law Committee is comprised of judges, members of the Bar and other members of the criminal justice system who meet to discuss issues involving federal criminal practice in this District. Issues regarding federal criminal practice in the District of Maine may be addressed to any member of the [Committee](#).