

RULE 83.7

COURT PROCEEDINGS RELEASE OF INFORMATION

(a) Court Supporting Personnel

Court personnel, including the United States Marshal, Deputy United States Marshals, the Clerk of Court, deputy clerks, probation officers, assistant probation officers, bailiffs or court security officers, official court reporters, court staff interpreters, and employees or subcontractors retained by the court-appointed official reporters, judges' secretaries and law clerks and student assistants, and other employees, are prohibited from publicly or privately disclosing, without authorization by the Court, any information related to pending grand jury proceedings or non-public information related to any case, civil or criminal, or mediation processes, without the Court's express authorization. Divulging information concerning *in camera* hearings or conferences is also prohibited.

(b) Duty of Attorneys Not to Release or Authorize Release of Information

As officers of this Court, it is the duty of the United States Attorney and all assistants, as well as all attorneys engaged in the practice of law before this Court, to refrain from releasing, or authorizing anyone within his or her control to release, information for public use or dissemination in connection with pending or imminent criminal litigation, if there is a reasonable likelihood that such use or dissemination will interfere with a fair trial or otherwise prejudice the due administration of justice.

(c) Duty of Attorneys Not to Make Extrajudicial Statements

With respect to a grand jury or other pending investigation of any criminal matter, the United States Attorney, all assistants and any attorney participating in or associated with the investigation shall refrain from making any extrajudicial statement for public use or dissemination if such statement goes beyond the public record or is not necessary to inform the public that the investigation is under way, to describe the general scope of the investigation, to obtain assistance in the apprehension of a suspect, to warn the public of any dangers, or otherwise to aid in the investigation.

(d) Duty of Attorneys Not to Release or Authorize the Release of Extrajudicial Statements

From the time of arrest, issuance of an arrest warrant or the filing of a complaint, information or indictment in any criminal matter until the commencement of trial or disposition without trial, the United States Attorney and assistants or any attorney associated with the prosecution or defense, shall be prohibited from releasing or authorizing the release of any extrajudicial statement which a reasonable person would expect to be disseminated by any means of public communication, relating to the matter and concerning:

- (1) The prior criminal record (including arrest, indictment, or other charges of crime), or the character or reputation of the accused, except that the attorney may make a factual statement of the accused's name, age, residence, occupation and family status and, if the accused has not been apprehended,

the United States Attorney may release any information necessary to aid in his or her apprehension or to warn the public of any dangers he or she may present;

- (2) The existence or contents of any confession, admission or statement given by the accused, or the refusal or failure of the accused to make any statement;
- (3) The performance of any examinations or tests or the accused's refusal or failure to submit to an examination or test;
- (4) The identity, testimony, or credibility of prospective witnesses, except that the lawyer or law firm may announce the identity of the victim if the announcement is not otherwise prohibited by law;
- (5) The possibility of a plea of guilty to the offense charged or a lesser offense;
- (6) Any opinion as to the accused's guilt or innocence or as to the merits of the case or the evidence in the case.

The foregoing shall be not construed to preclude the United States Attorney's Office or any defense lawyer during this period, in the proper discharge of his, her or its official or professional obligations, from announcing the fact and circumstances or arrest (including time and place of arrest, resistance, pursuit, and use of weapons), the identity of the investigating and arresting officer or agency, and the length of the investigation; from making an announcement, at the time of seizure of any physical evidence other than a confession, admission or statement, which is limited to a description of the evidence seized; from disclosing the nature, substance, or text of the charge, including a brief description of the offense charged, from quoting or referring without comment to public records of the court in the case; from announcing the scheduling or result of any stage in the judicial process; from requesting assistance in obtaining evidence; or from announcing without further comment that the accused denies the charges made against him or her.

(e) During Trial

During the course of any jury trial of a criminal matter, including during the period of selection of the jury, no United States Attorney, assistant or attorney associated with the prosecution or defense shall give or authorize any extrajudicial statement or interview on the trial or the parties or issues in the trial, which a reasonable person would expect to be disseminated by means of public communication, if there is a reasonable likelihood that such dissemination will interfere with a fair trial, except that the United States Attorney, assistant or defense lawyer may quote from or refer without comment to public records of the Court in this case.

(f) Application of Rules Under Special Circumstances

Nothing in this Rule is intended to preclude the information or application of more restrictive rules relating to the release of information about juvenile or other offenders, to preclude the holding of hearings or the lawful issuance of reports by legislative, administrative, or investigative bodies, or to preclude any attorney from replying to charges of misconduct, that are publicly made against him or her.

(g) Special Orders in Appropriate Cases

In widely publicized or sensational cases, the Court on motion of either party or in its own motion, may issue a special order governing such matters as extrajudicial statements by parties and witnesses likely to interfere with the rights of the accused or the parties to a fair trial by an impartial jury, the seating and conduct in the courtroom or spectators and news media representatives, the management and sequestration of jurors and witnesses, and any other matters which the Court may deem appropriate for inclusion in such an order. Such special order may be addressed to some or all of the following subjects:

- (1) A proscription of extrajudicial statements by participants in the trial, including attorneys, parties, witnesses, jurors, and judicial matter not of public record in the case, including statements concerning the evidence in the case.
- (2) Specific directives regarding the clearing of entrances to and hallways in the courthouse and respecting the management of the jury and witnesses during the course of the trial so as to avoid their mingling with or being in the proximity of reporters, photographers, parties, attorneys and others, both in entering and leaving the courtroom and courthouse, and during recess in the trial.
- (3) Specific direction that the jurors refrain from reading, listening to, or watching news reports concerning the case, and that they similarly refrain from discussing the case with anyone during the trial and from communicating with others in any manner during their deliberations.
- (4) Sequestration of the jury on motion of either party or the court, without disclosure of the identity of the movant.
- (5) Direction that the names and addresses of jurors or prospective jurors not be publicly released except as required by statute, and that no photograph be taken or sketch made of any juror within the environ(s) of the court.
- (6) Insulation of witnesses from news interviews during the trial period.
- (7) Specific provisions regarding the seating of spectators and representatives of news media, including:
 - (A) An order that no member of the public or news media representative be at any time permitted within the bar railing;
 - (B) The allocation of seats to news media representatives in cases where there is an excess of requests, taking into account any pooling arrangement that may have been agreed to among the news(s) persons.

The list of subjects mentioned above is not intended to be exhaustive, but it is merely illustrative of some of the matters which might appropriately be dealt with in such order. In an appropriate civil case the Court may enter a special order governing the same matters.