

**PROCEDURES
REGARDING COOPERATOR INFORMATION**

DOCKET SHEET HEADER (to be used in lieu of providing a cooperation statement when docket sheets are requested by inmates or others.)

NOTE: Docket header event for all criminal docket sheets. Beginning February 1, 2017, under Local Rule 13.05, it is the procedure of this Court to order the U.S. Attorney's Office to file a sealed statement in all criminal cases in which a defendant enters a guilty plea that will either explain the terms of a defendant's cooperation *or* state that a defendant did not cooperate with the government. The public will not be able to determine whether a defendant did or did not cooperate with the government by reading these docket entries.

COURT: A Bench Conference will be held in each Plea and Sentencing hearing in order to make the record on the sealed portion of the proceedings. Judge will read the following statement immediately prior to each such bench conference to ensure each one is conducted the same.

“Under Local Rule 13.05, it is the procedure of this Court to hold a bench conference in every plea and every sentencing hearing. We will now conduct the bench conference, and this portion of the transcript of this hearing will be filed under seal.”

NOTE: The Bench Conference will always occur in the Pleas and Sentencings in Felony Criminal cases. The Bench Conference may also occur in Criminal Misdemeanor Informations before the Magistrate Judge as directed by the assigned Magistrate Judge. However, unless otherwise directed by the Court, the Bench Conference will not occur in Final Revocation Proceedings or Resentencings under *Johnson*.

<p>Plea Agreement, Guidelines, Recommendation & Stipulation Public portion efiled using this Plea Agreement event.</p>	<ul style="list-style-type: none"> •Direct parties to always prepare and submit their Plea Agreement as two documents. The clerk will efile as two entries. <p>Document Restriction Level: Case Participants and Public Terminals</p>
<p>Plea Agreement, Guidelines, Recommendation & Stipulation Supplement Restricted (Applicable Party) portion efiled using the Plea Supplement event. This document will be signed by the AUSA only.</p>	<ul style="list-style-type: none"> •Docket event for Plea Supplement and docket same in addition to every Plea Agreement. •A docket entry reminder for Plea Agreement and Plea Supplement to remind docketers that two entries must be made when a Plea Agreement is filed. •If an attachment is filed with the plea supplement, it should be scanned with the plea supplement and entered as one document. <p>Document Restriction Level: Applicable Party</p>
<p>Sentencing Document (by government)</p>	<ul style="list-style-type: none"> •Sentencing Document event with a restriction of Applicable Party. •Direct AUSA's to always prepare and e file a "Sentencing Document (by government)." <i>Any reference to 5K1.1 will be made in this document and not filed in the form of a separate motion.</i> <p>Document Restriction Level: Applicable Party</p> <ul style="list-style-type: none"> •There is also an event "Sentencing Memorandum" that is a public, unsealed event that can be used in addition to the Sealed Sentencing Document in which the government can provide information and arguments re: sentencing that does not involve cooperation.
<p>Sentencing Memorandum and Motion to Seal (by defense counsel)</p>	<ul style="list-style-type: none"> •Direct defense counsel to file a separate motion to seal (indicating why the request is being made, i.e. contains personal information, medical or mental health information, if they are seeking leave to file a Sentencing Memorandum under seal. •In addition to the motion to seal, defense counsel will file said memo as a Sealed Sentencing Memorandum. <p>Document Restriction Level: Sealed</p>

<p>Sentencing Letters: Letters received by counsel or the Court as to sentencing. Letter will be docketed to the case.</p>	<p>Docket Event for Sentencing Letters created. This event will be used by counsel or docketing staff to enter on the record letters received re: sentencing.</p> <p>Document Restriction Level: Case Participants and Public Terminals.</p>
<p>Plea Transcript Public portion efiled using the Plea Transcript event.</p>	<ul style="list-style-type: none"> •Direct court reporters to always prepare and file their Plea Transcript as two documents and direct docket clerks to docket as two entries. •Direct court reporters to omit the start and stop time of the Bench Conference from both transcripts. • Pursuant to Local Rule 13.05, it is the policy of this Court that every guilty plea and sentencing transcript contain a reference to a confidential bench conference at which the lack of cooperation or cooperation is discussed, thereby making it impossible to determine from the unsealed portion of the transcript whether there was not, or was cooperation with the government. The following standard language will be added to all Plea transcripts: “Pursuant to Local Rule 13.05, a bench conference was held on the record and placed under seal, after which the following proceedings were held in open court.”
<p>Sealed Plea Transcript Sealed portion efiled using the Sealed Plea Transcript event.</p>	<ul style="list-style-type: none"> •Event for Sealed Plea Transcript and docket same with every Sealed Plea Transcript. •Create a docket entry reminder for Plea Transcript and Sealed Plea Transcript to remind docketers that two entries need to be made when a Plea Transcript is filed. <p>Document Restriction Level: Sealed</p>

Sentencing Transcript

Public portion efiled using the Sentencing Transcript event.

- Direct court reporters to always prepare and file their Sentencing Transcript as two documents and direct docket clerks to docket as two entries.
- Direct court reporters to omit the start and stop time of the Bench Conference from both transcripts.
- Pursuant to Local Rule 13.05, it is the policy of this Court that every guilty plea and sentencing transcript contain a reference to a confidential bench conference at which the lack of cooperation or cooperation is discussed, thereby making it impossible to determine from the unsealed portion of the transcript whether there was not, or was cooperation with the government. The following standard language will be added to all Sentencing transcripts: **“Pursuant to Local Rule 13.05, a bench conference was held on the record and placed under seal, after which the following proceedings were held in open court.”**

<p>Sealed Sentencing Transcript Sealed portion efiled using the Sealed Sentencing Transcript event.</p>	<ul style="list-style-type: none"> •Docket event for Sealed Sentencing Transcript and docket same with every Sealed Sentencing Transcript. •Docket entry reminder for Sentencing Transcript and Sealed Sentencing Transcript to remind docketers that two entries need to be made when a Sentencing Transcript is filed. <p>Document Restriction Level: Sealed</p>
<p>Rule 5K1.1 and Rule 35</p>	<ul style="list-style-type: none"> •Direct AUSA's to always prepare and e file a <u>Sentencing Document (by government)</u>. Any reference to 5K1.1 will be made in this document and not filed in the form of a separate motion. • <u>Motions filed pursuant to Rule 35 will be filed in the criminal case as a Sealed Motion.</u> <p>Document Restriction Level: Sealed</p>
<p>REQUESTS for copies of PSR's, sealed transcripts and other sealed documents</p>	<ul style="list-style-type: none"> •When an inmate requests copies of any SEALED or APPLICABLE PARTY case documents, the COURT should direct the requestor to speak with their Case Worker or representative at the Bureau of Prisons. •No copies of PSR's or other SEALED or APPLICABLE PARTY case documents should be provided to an inmate as it may contain cooperator information. If a Court Reporter receives a request for a SEALED transcript that request should be brought to the attention of the Judge. No SEALED transcript can be prepared without the Order of the Judge presiding over that proceeding.

Updated: Replaces all versions of this document distributed prior to 4/3/2017.