

INDIVIDUAL RULES OF TRIAL PROCEDURE IN CRIMINAL CASES
HON. STEPHEN C. ROBINSON
UNITED STATES DISTRICT JUDGE
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TRIAL PROCEDURE IN CRIMINAL CASES

Unless otherwise ordered, criminal trials before Judge Robinson shall be conducted in accordance with the following practices:

1. Any *Voir Dire* requests, Requests to Charge or Trial Memorandum, must be filed ten (10) business days prior to trial. Two courtesy copies must be delivered to Chambers that same day.
2. Trials will generally be conducted Monday through Friday from 9:00 a.m. to 2:15 p.m. The Court will be available to meet with counsel from 8:30 a.m. to 9:00 a.m. Testimony will begin at 9:00 a.m. A brief recess will run from approximately 11:00 p.m. – 11:30 p.m. During deliberations jurors will deliberate until 5:00 p.m.
3. Jurors will be selected by the struck panel method as described below.
4. All Exhibits must be pre-marked.
5. At the start of the trial the Government must provide the Court with three copies of the exhibit list, three copies of the witness list and one set of pre-marked documentary exhibits and Section 3500 material assembled sequentially in a loose-leaf binder, or in separate manila folders labeled with the exhibit numbers and placed in a suitable container for ready reference.
6. Counsel may request sidebars to discuss matters that are inappropriate to discuss in the presence of the jury. However, counsel are expected to anticipate any problems that might require argument and to raise those issues with the Court in advance of the time that the jury will be hearing the evidence.
7. If counsel intend to distribute copies of documentary exhibits to the jury, make a separate copy for each juror.
8. Counsel should make certain that they have custody of all original exhibits. The Court does not retain original exhibits and the Clerk is not responsible for them.

Struck Panel Jury Selection

The Court will conduct a *voir dire* of the number of panelists computed by combining the number of jurors to be selected and the number of peremptory challenges. In the ordinary case with four alternate jurors, there will be a *voir dire* of 36 panelists. After the *voir dire*, we will determine whether there are any challenges for cause. Each panelist removed for cause will be replaced, so that there is a full panel before any peremptory challenges are exercised. Next, peremptory challenges are exercised against the panelists who compose the potential members of the regular jury, that is, against the first 28 panelists. Peremptory challenges will be exercised simultaneously, with the Government and the defendant/defendants each submitting a written list of the six and ten panelists, respectively, that they wish to excuse. Any overlap among the lists of challenges will not result in parties receiving additional challenges. The twelve jurors will be selected starting with the unchallenged juror with the lowest number. For example, if there was an overlap, the fifteen challenged panelists would be excused and the first twelve of the remaining thirteen would be seated. The thirteenth juror, that is, the unchallenged juror with the highest number, would now be the first potential alternate juror.

Finally, peremptory challenges are exercised against the panelists who compose the potential alternate jurors, that is in a case with 4 alternates (the Court's usual practice), against (the last juror(s) from any overlap in the regular jury panel, and) panelists twenty-nine through thirty-six. Again, peremptory challenges will be exercised simultaneously. In the event of an overlap in challenges, the jurors will be selected from those with the lowest numbers.

Conduct of Trial

Undisposed of pre-trial issues will be resolved at or prior to the beginning of the trial. However, it is the responsibility of counsel to bring them to the attention of the Court.

No paper may be delivered to the Court (or handed up to the bench during trial) unless it has been served on opposing counsel. The Court attempts to start on the time and expects counsel, witnesses and parties to be available when needed. Do not run out of witnesses. Witnesses will be taken out of order if the next witness is unavailable. Failure to have witnesses available during trial may result in preclusion of their testimony. Attorneys speaking on the record must stand. There is to be no cross-discussion on the record. Any attorney is free at any time, without asking leave, to walk to the adversary's table to confer privately with opposing counsel. Such discussion shall not be audible to the jury. Offers to stipulate shall not be made in the presence of the jury, unless they have previously been agreed to informally between the attorneys in the absence of the jury. Stipulations may be oral, but preferably should be in writing and received as an exhibit.

Questions and arguments are delivered from the lectern. Counsel may approach the witness or the Clerk without asking leave whenever it is necessary. And, if counsel is standing near the witness for the purpose of pointing something out on an exhibit, opposing counsel may also be present to observe first-hand what is being pointed out. Do not stand between the witness and the jury.

Objections

Objections are to be limited to “objection” and, if requested, a brief explanation of the rule relied upon (e.g., “Objection; Rule 403”, or “Objection: Leading”). Do not state or argue grounds of objections in the presence of the jury unless asked by the Court. If not satisfied with the ruling, raise it at the next recess. Only if counsel believes it cannot wait for a recess should counsel request to approach the bench (for a side bar conference with counsel for all parties and the court reporter present). The Court attempts to minimize the number of side bar conferences; please save for a recess any matters that do not require immediate resolution.

Court Reporter

Please respect the Court Reporter’s function. If the spelling of names of people, places or things is unusual, give a list of such names or words to the Court Reporter at the start of trial. Speak distinctly; do not speak while someone else is speaking. When referring to an exhibit, be sure to mention it by number or letter so that the record is clear as to what is being discussed. Answers given by a witness relating to distances in the courtroom or objection before the witness should be clarified by a statement for the record so that the transcript will convey a clear report of what took place at trial.

When prior testimony or documents are read, the reader should proceed slowly enough for the court reporter to record what is being said. Prior testimony is to be read by stating the word “Question” and then reading the question, then stating the word “Answer” and reading the answer.

Opening Statement

An opening statement should be a concise representation to the jury of the **facts** that your side of the case expects to prove, or the position as to facts that the other side has undertaken to prove. It is not a place for a discussion of the law or an appeal to emotion or prejudice. The contemporaneous objection requirement applies to opening and closing statement.

Closing Argument

A closing argument should be limited to the evidence and the ultimate factual conclusions or inferences that the speaker wishes to have the jury reach or reject. The Court will explain its proposed jury charges in advance, to all counsel, as required by the Rules, before the closing arguments are given. The Court, however, reserves the right to comment on any improper or unfounded red herring argument made during summation, when the jury is charged.

Miscellaneous

The Court usually permits the jurors to select the foreperson; counsel should thus refrain from addressing juror number 1 as “Mr. Foremen” or “Madam Forewoman.” The Court permits jurors to take notes.