

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
GENERAL ORDER 20-0026

**Re: General Order Regarding the Seventeen Hour Rule /
Memorandum of Understanding on the Timing of Initial Appearances**

On January 26, 2000, the Court entered the attached *General Order Regarding Time Elapsed from Arrest to First Appearance, Commonly Referred to as the Seventeen Hour Rule*. The Rule was created to ensure that the time between the arrest and initial appearance of any person arrested in this District is kept to a minimum.

On August 31, 2020, The Executive Committee, the United States Attorney for the Northern District of Illinois and the United States Marshal Service entered into a Memorandum of Understanding entitled Memorandum of Understanding on the Timing of Initial Appearances. Therefore,

IT IS HEREBY ORDERED That the January 26, 2000 *General Order Regarding Time Elapsed from Arrest to First Appearance, Commonly Referred to as the Seventeen Hour Rule* is vacated, effective immediately.

IT IS FURTHER ORDERED That the attached *Memorandum of Understanding on the Timing of Initial Appearances* is effective immediately.

ENTER:

FOR THE COURT



Hon. Rebecca R. Pallmeyer, Chief Judge

Dated at Chicago, Illinois this 1st day of September 2020



UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
219 SOUTH DEARBORN STREET
CHICAGO, ILLINOIS 60604

THE EXECUTIVE COMMITTEE

MEMORANDUM

To: Office of the United States Attorney, Northern District of Illinois
United States Marshals Service, Northern District of Illinois

From: Executive Committee
United States District Court for the Northern District of Illinois

Re: Memorandum of Understanding on the Timing of Initial Appearances

Date: August 31, 2020

This Memorandum sets forth the District Court's understanding with the United States Attorney's Office and the United States Marshals Service (USMS) on the timing of initial appearances after arrests. The expectations in this Memorandum will ensure that the Court makes probable-cause determinations within the time constraint dictated by the Constitution, *County of Riverside v. McLaughlin*, 500 U.S. 44, 56 (1991), as well as satisfy the rule-based requirement that defendants be taken "without unnecessary delay before a magistrate judge," Fed. R. Crim. P. 5(a)(1)(A). Nothing in this Memorandum is intended to impair any constitutional, statutory, or rule-based right of the arrestee, nor is it intended to create any enforceable right.

Next Business Day at 2 p.m. The Court expects that initial appearances will take place at 2 p.m. on the next business day after an arrest. But this timing is premised on certain requirements and subject to exceptions that could require an earlier appearance.

Requirement One: Prompt Notification to the Judge. The government must promptly notify the duty magistrate judge of the arrest on the same day of the arrest, even on a weekend or holiday. But the time period during which the judge shall receive notifications runs between 9 a.m. and 8 p.m. each day, absent exceptional circumstances. So if the arrest happens any time after 8 p.m. and before 9 a.m. the next morning, then notification shall be made at 9 a.m.

Requirement Two: Notification to the Defense and Pretrial Services. If the defendant has not agreed to cooperate with law enforcement, then the government also must promptly notify the duty Federal Defender (or counsel the defendant has retained) and Pretrial Services. This notification typically would follow immediately after notifying the magistrate judge of the arrest. The government and USMS also must make

reasonable efforts to allow the defendant to communicate confidentially by phone or videoconference (or in person when available) with the duty Federal Defender and Pretrial Services, whether at the MCC or wherever the defendant is being detained.

If the defendant has agreed to cooperate or is considering cooperating, and has agreed to waive the prompt-presentment requirement under Rule 5(a), then the government need not make notifications beyond the notice to the magistrate judge.

Requirement Three: Prompt Submission of Complaint Affidavit. For a warrantless arrest, the government must provide a complaint affidavit and make the agent available to swear it out as soon as practicable after the arrest (and no later than 24 hours after the arrest) so that the magistrate judge may make a probable-cause determination. Magistrate judges may receive these affidavits via electronic mail, including after hours and during weekends.


Earlier-Appearance Exceptions. In two scenarios, an appearance may be required before the next business day. First, on a weekday, if the arrest takes place before 11:00 a.m., then the initial appearance should take place that same day at the 2 p.m. standard initial-appearance time if practicable.

Second, on a weekend (starting on Friday evenings), if the automatic detention-hearing provision of 18 U.S.C. § 3142(f)(1) does not apply, then the magistrate judge shall have the discretion to require an initial appearance before the next business day. This allows the judge to hold the initial appearance on a weekend if the judge concludes that the defendant would not ordinarily even be detained for a detention hearing.

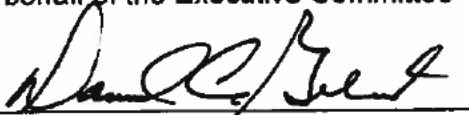
One final note: the Court expects that the government (whether the arresting agency or the USMS) shall bring the defendant to the 24th Floor Lock-Up at least two hours before the initial appearance when practicable in order to facilitate an interview with defense counsel and Pretrial Services.

The District Court appreciates your respective agencies' attention to the requirements set forth in this Memorandum.

AGREED THIS 31st day of August 2020.



Chief Judge Rebecca R. Pallmeyer
on behalf of the Executive Committee



Chief Deputy David Gelement
United States Marshals Service, Northern District of Illinois



John R. Lausch Jr.
United States Attorney,
Northern District of Illinois

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

GENERAL ORDER REGARDING TIME ELAPSED
FROM ARREST TO FIRST APPEARANCE COMMONLY
REFERRED TO AS THE SEVENTEEN HOUR RULE

To ensure that the time between the arrest and initial appearance of any person arrested in this District is kept to a minimum, the Executive Committee directs that the following procedures be put into effect and remain in effect except as modified by further order of the Court or by the subsequent promulgation of a rule or rules by the Judges of this Court:

1. For the purpose of these procedures, the term "person arrested" shall refer to all of the following persons:

(a) Any person arrested in this District on a federal warrant, issued on a criminal complaint or an indictment;

(b) Any person arrested in this District without a warrant who is alleged to have committed a federal offense against whom a criminal complaint, an information or an indictment will be filed.

2. The arresting officer without unnecessary delay shall turn over any person arrested to the United States Marshal if the turn over can be effected by 4:30 p.m. on regular business days or to the Warden of the Chicago Metropolitan Correctional Center at all other times.

3. The arresting officer or such other officer of the investigative agency who has knowledge of the arrest shall notify the Pretrial Services Agency and the Office of the United States Attorney immediately following the turning over of the person arrested to the U.S. Marshal or the Warden. The Chief Pretrial Services Officer and the United States Attorney shall keep the Clerk of the Court currently informed of the telephone numbers of persons to be called regarding newly-arrested persons.

4. Whenever the person arrested was arrested without warrant, the United States Attorney shall prepare the necessary complaint so

4. Whenever the person arrested was arrested without warrant, the United States Attorney shall prepare the necessary complaint so that the initial appearance may proceed as scheduled, provided that where a complaint has not been filed by the time of the initial appearance the Magistrate Judge may direct the arresting officer or such other officer of the investigative agency who has knowledge of the facts to complete and file such affidavits and other documents as may be necessary for the filing of a complaint.

5. Except where a criminal complaint has been filed prior to the hearing, the arresting officer or such other officer of the investigative agency who has knowledge of the facts necessary to the making of an affidavit in support of a complaint shall attend the initial appearance scheduled by the Magistrate Judge in order that the Magistrate Judge may have such officer complete and file such affidavits and other documents as may be necessary for the issuance and filing forthwith of a complaint in accordance with the requirements of Rules 4 and 5 of the Federal Rules of Criminal Procedure.

6. All persons arrested either on a warrant issued on a criminal complaint or without a warrant, who were turned over to the United States Marshal shall have an initial appearance within 17 hours, absent exceptional circumstances.

7. Whenever the person arrested was arrested on a warrant issued in this District and an amount of bond had been set at the time the warrant was issued, the person shall make bond (a) before a United States Magistrate Judge, if the warrant was on a criminal complaint and the person is in custody of the United States Marshal, (b) before the Clerk if the warrant was on an indictment and the person is in custody of the United States Marshal, or (c) before a member of the staff of the Warden of the Chicago Metropolitan Correctional Center who has been designated a deputy clerk for purposes of making bond, if the person is in the custody of the Warden. Only a bond secured by cash or signature will be accepted by the Warden. Any monies or securities to be presented as surety for the bond shall be presented to the Clerk of the District Court during normal business hours.

INSTRUCTIONS FOR COMPLETING MAGISTRATE JUDGE
REPORT REGARDING TIME ELAPSED BETWEEN
ARREST AND FIRST APPEARANCE

The Executive Committee of this court has directed the Clerk of Court to maintain reports regarding defendants covered by the seventeen hour rule for two (2) years. Accordingly, each Magistrate Judge shall report the number of hours elapsed between arrest and initial appearance of each person appearing before him or her. The Magistrate Judge Report Regarding Time Elapsed between Arrest and First Appearance is designed to accomplish this objective. The responsibility for the processing and accuracy of the form rests with the Courtroom Deputy.

Submission of Report

The report should be prepared for each criminal case held before a Magistrate Judge of this court and the report should be maintained in the Clerk's Office for two (2) years.

Magistrate Judge Report Regarding Time Elapsed Between Arrest and First Appearance

- A) Case Number _____
B) Magistrate Judge _____
C) Asst. U.S. Attorney _____
D) Arresting Agency (1) ___ ATF (2) ___ DEA (3) ___ FBI (4) ___ INS
(5) ___ IRS (6) ___ POI (7) ___ SS (8) ___ USM
(9) ___ Other (specify) _____

Specific Instructions (Refer to illustration above and Exhibit #1)

The information requested at the top of the report, items A through D should be furnished on every report, including:

- 1) CASE NUMBER (Item A). The number assigned to the action by the Clerk from the regular docket series.
- 2) MAGISTRATE JUDGE (Item B.) First name, middle initial and last name.
- 3) ASST. U.S. ATTORNEY (Item C.) First name, middle initial and last name.

4) ARRESTING AGENCY (Item D.) Indicate the arresting agency by entering an "X" in the space to the left of the appropriate abbreviation:

- (1) ATF Alcohol, Tobacco & Firearms
- (2) DEA Drug Enforcement Administration
- (3) FBI Federal Bureau of Investigation
- (4) INS Immigration & Naturalization Service
- (5) IRS Internal Revenue Service
- (6) POI Postal Inspection Service
- (7) SS Secret Service
- (8) USM United States Marshal
- (9) Other Specify

E) _____ Defendant(s) listed below processed within the 17 hour limit.

(10) DEFENDANT		(11) ARRESTED			(12) FIRST APPEARANCE			
(a) Number	(b) Name	(a) Mo. Day Yr.	(b) Time	(c) am/pm	(a) Mo. Day Yr.	(b) Time	(c) am/pm	Total Hours From Arrest to First Appearance

The defendant(s) listed above exceeded the 17 hour limit for reasons set forth below.

5) Defendant(s) listed below processed within the 17 hour limit (Item E). Enter an "X" in the space only when all reported persons arrested either on a warrant issued by criminal complaint or without a warrant have had a bail hearing within seventeen hours after being in custody of the United States Marshal.

6) Arrest to First Appearance Date

(10) DEFENDANT

- (a) Number - as listed on complaint, lowest number first.
- (b) Name - first name, middle initial and last name.

(11) ARRESTED

- (a) Mo. Day Yr. - enter the two digit calendar month, day and year date of arrest; e.g., 09/10/99.
- (b) Time - enter hour of arrest.
- (c) am/pm - enter the time of day that the arrest occurred; before or after noon.

(12) FIRST APPEARANCE

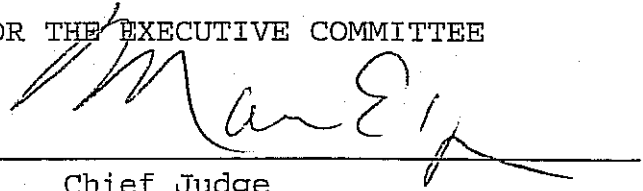
- (a) Mo. Day Yr. - enter the two digit calendar month, day and year date of first appearance; e.g., 09/10/99.
- (b) Time - enter hour of first appearance.
- (c) am/pm - enter the time of day that the first appearance occurred; before or after noon.

Total Hours From Arrest to First Appearance - enter the total number of hours; this information should be reported to the nearest half hour and should be shown in a decimal format.

- 7) The defendant(s) listed above exceeded the 17 hour limit for reasons set forth below - the reasons why the time limit requirements were not met should be noted in this space.

ENTER:

FOR THE EXECUTIVE COMMITTEE



Chief Judge

Dated at Chicago, Illinois this 26 day of January, 2000.

EXHIBIT #1

**MAGISTRATE JUDGE REPORT REGARDING TIME
ELAPSED BETWEEN ARREST AND FIRST APPEARANCE**

- A) Case Number _____
- B) Magistrate Judge _____
- C) Asst. U.S. Attorney _____
- D) Arresting Agency (1) ___ ATF (2) ___ DEA (3) ___ FBI (4) ___ INS
 (5) ___ IRS (6) ___ POI (7) ___ SS (8) ___ USN
 (9) ___ Other (specify) _____
- E) ___ Defendant(s) listed below processed within the 17 hour limit.

(10) DEFENDANT		(11) ARRESTED			(12) FIRST APPEARANCE			Total Hours From Arrest to First Appearance
(a) Number	(b) Name	(a) Mo. Day Yr.	(b) Time	(c) am/pm	(a) Mo. Day Yr.	(b) Time	(c) am/pm	

The defendant(s) listed above exceeded the 17 hour limit for reasons set forth below.
