

~~DUCrimR 47-2 CONSTRAINTS ON DISCLOSING PERSONAL DATA IN CRIMINAL FILINGS~~

Deleted in its entirety and replaced with DUCrim R 49.1-1

Approved by the Rules Committee on April 8, 2008 Published

for comment on the Court's website on April 11, 2008

Reporter's Note: This rule outlining material not to be included in public filings contained language from the Judicial Conference's privacy policy which was the only source for redaction information when the rule was enacted. The enactment of Federal Rule of Criminal Procedure Rule 49.1, effective December 1, 2007, created a national standard for material which must be redacted from pleadings. The committee recommends that the national standard be the applicable standard in the court and that the local rule only deal with procedures for redaction. The redaction of transcripts will be required after May 15, 2008 and the new rule addresses the time periods and responsibilities of counsel in identifying information to be redacted.

Further note: The rule has been modified to reflect new Judicial Conference policy of March 2008 which expands the time in which attorneys must notify the court that they seek redactions from five to seven calendar days. (05/06/2008)

(a). Responsibility of Counsel for Redaction of Personal Identifiers.

~~Unless otherwise provided by court order, counsel and parties shall refrain from including, or shall partially redact where inclusion is necessary, the following personal data identifiers from all criminal motions, pleadings, affidavits, exhibits, and other documents filed with the court either in paper or electronic format:~~

~~(1) Social Security Numbers. If a document requires reference to a Social Security number, only the last four digits of that number shall be included;~~

~~(2) Names of Minor Children. If a document requires reference to a minor child, only the initials of the child's name shall be included.~~

~~(3) Dates of Birth. If a document requires reference to any dates of birth, only the year shall be included.~~

~~(4) Financial Account Numbers. If a document requires reference to financial account numbers, only the last four digits of those numbers shall be included.~~

~~(5) Home Addresses. If a document requires reference to a home address, only the city and state shall be included.~~

~~Responsibility for redacting these personal identifiers rests solely with counsel and the parties. The clerk will not review any document submitted for filing to determine whether it complies with this rule.~~

(b). Submission of Unredacted Filings Under Seal.

~~Where a party deems it necessary to file a motion, pleading, document, or exhibit with unredacted personal data identifiers, the party may do so under seal pursuant to and in~~

compliance with [DUCrimR 17-1](#) or [DUCrimR 49-2\(b\)](#) of these rules. The court, may, however, still require the party to file a redacted copy for the public file.

(c). (a) Exercising Caution With Filings Containing Personal Information.

Parties are strongly encouraged to exercise caution and to inform themselves of any applicable legal prohibitions when filing any documents that contain personal information, including the following:

- (1) any personal identifying number, such as driver's license number;
- (2) medical records, treatment and diagnosis;
- (3) employment history;
- (4) individual financial information;
- (5) proprietary or trade secret information;
- (6) information regarding an individual's cooperation with the government;
- (7) information regarding the victim of any criminal activity;
- (8) national security information; and
- (9) sensitive security information as described in 49 U.S.C. § 114(s).

If any party or attorney deems it necessary to include such personal information in a document intended for filing with the clerk, they shall carefully consider filing a motion to seal such document pursuant to [DUCrimR 17-1](#) or [DUCrimR 49-2\(b\)](#).

DUCrim R 49.1 REDACTING PERSONAL IDENTIFIERS

(a) Redacting Personal Identifiers in Pleadings. The filer shall redact personal information in filings with the court, as required by Fed.R. Crim. P 49.1. The court may order redaction of additional personal identifiers by motion and order in a specific case or as to a specific document or documents.

(b) Redacting Personal Identifiers in Transcripts. Attorneys are responsible to review transcripts for personal information which is required to be redacted under Fed. R. Crim P 49.1 and provide notice to the court reporter of the redactions which must be made before the transcript becomes available through PACER. Unless otherwise ordered by the court, the attorney must review the following portions of the transcript:

1. opening and closing statements made on the party's behalf;
2. statements of the party;
3. the testimony of any witnesses called by the party; and
4. any other portion of the transcript as ordered by the court.

Redaction responsibilities apply to the attorneys even if the requestor of the transcript is the court or a member of the public including the media.

(c) Procedure for Reviewing and Redacting Transcripts. Upon notice of the filing of a transcript with the court, the attorneys shall within seven (7) business days review the transcript and, if necessary, file a Notice of Intent to Request Redaction of the Transcript. Within twenty-

one (21) calendar days of the filing of the transcript the attorneys shall file a notice of redactions to be made. The redactions shall be made by the court reporter within thirty-one (31) calendar days of the filing of the transcript and a redacted copy of the transcript promptly be filed with the clerk. Transcripts which do not require redactions and redacted transcripts shall be electronically available on PACER ninety days (90) after filing of the original transcript by the court reporter.