

April 25, 2014

Honorable John A. Boehner  
Speaker of the House of Representatives  
Washington, D.C. 20515

Dear Mr. Speaker:

I have the honor to submit to the Congress the amendments to the Federal Rules of Criminal Procedure that have been adopted by the Supreme Court of the United States pursuant to Section 2072 of Title 28, United States Code.

Accompanying these rules are excerpts from the Reports of the Committee on Rules of Practice and Procedure to the Judicial Conference of the United States containing the Committee Notes submitted to the Court for its consideration pursuant to Section 331 of Title 28, United States Code.

Sincerely,

/s/ John G. Roberts, Jr.

April 25, 2014

Honorable Joseph R. Biden, Jr.  
President, United States Senate  
Washington, D.C. 20510

Dear Mr. President:

I have the honor to submit to the Congress the amendments to the Federal Rules of Criminal Procedure that have been adopted by the Supreme Court of the United States pursuant to Section 2072 of Title 28, United States Code.

Accompanying these rules are excerpts from the Reports of the Committee on Rules of Practice and Procedure to the Judicial Conference of the United States containing the Committee Notes submitted to the Court for its consideration pursuant to Section 331 of Title 28, United States Code.

Sincerely,

/s/ John G. Roberts, Jr.

April 25, 2014

SUPREME COURT OF THE UNITED STATES

ORDERED:

1. That the Federal Rules of Criminal Procedure be, and they hereby are, amended by including therein amendments to Criminal Rules 5, 6, 12, 34, and 58.

[See infra., pp. — — —.]

2. That the foregoing amendments to the Federal Rules of Criminal Procedure shall take effect on December 1, 2014, and shall govern in all proceedings in criminal cases thereafter commenced and, insofar as just and practicable, all proceedings then pending.

3. That THE CHIEF JUSTICE be, and hereby is, authorized to transmit to the Congress the foregoing amendments to the Federal Rules of Criminal Procedure in accordance with the provisions of Section 2072 of Title 28, United States Code.

**PROPOSED AMENDMENTS TO THE FEDERAL  
RULES OF CRIMINAL PROCEDURE**

**Rule 5. Initial Appearance**

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**(d) Procedure in a Felony Case.**

- (1) *Advice.* If the defendant is charged with a felony, the judge must inform the defendant of the following:

\* \* \* \* \*

- (D) any right to a preliminary hearing;
- (E) the defendant's right not to make a statement, and that any statement made may be used against the defendant; and
- (F) that a defendant who is not a United States citizen may request that an attorney for the government or a federal law enforcement official notify a consular officer from the

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defendant's country of nationality that the defendant has been arrested — but that even without the defendant's request, a treaty or other international agreement may require consular notification.

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**Rule 6. The Grand Jury**

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**(e) Recording and Disclosing the Proceedings.**

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**(3) *Exceptions.***

\* \* \* \* \*

(D) An attorney for the government may disclose any grand-jury matter involving foreign intelligence, counterintelligence (as defined in 50 U.S.C. § 3003), or foreign intelligence information (as defined in Rule 6(e)(3)(D)(iii)) to any federal law enforcement, intelligence, protective, immigration, national defense, or national security official to assist the official receiving the information in the performance of that official's duties. An

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attorney for the government may also disclose any grand-jury matter involving, within the United States or elsewhere, a threat of attack or other grave hostile acts of a foreign power or its agent, a threat of domestic or international sabotage or terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by its agent, to any appropriate federal, state, state subdivision, Indian tribal, or foreign government official, for the purpose of preventing or responding to such threat or activities.

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**Rule 12. Pleadings and Pretrial Motions**

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**(b) Pretrial Motions.**

- (1) ***In General.*** A party may raise by pretrial motion any defense, objection, or request that the court can determine without a trial on the merits. Rule 47 applies to a pretrial motion.
- (2) ***Motions That May Be Made at Any Time.*** A motion that the court lacks jurisdiction may be made at any time while the case is pending.
- (3) ***Motions That Must Be Made Before Trial.*** The following defenses, objections, and requests must be raised by pretrial motion if the basis for the motion is then reasonably available and the motion can be determined without a trial on the merits:



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(A) a defect in instituting the prosecution,  
including:

- (i) improper venue;
- (ii) preindictment delay;
- (iii) a violation of the constitutional right to  
a speedy trial;
- (iv) selective or vindictive prosecution; and
- (v) an error in the grand-jury proceeding  
or preliminary hearing;

(B) a defect in the indictment or information,  
including:

- (i) joining two or more offenses in the  
same count (duplicity);
- (ii) charging the same offense in more than  
one count (multiplicity);
- (iii) lack of specificity;
- (iv) improper joinder; and

- (v) failure to state an offense;
- (C) suppression of evidence;
- (D) severance of charges or defendants under Rule 14; and
- (E) discovery under Rule 16.

**(4) *Notice of the Government's Intent to Use Evidence.***

(A) *At the Government's Discretion.* At the arraignment or as soon afterward as practicable, the government may notify the defendant of its intent to use specified evidence at trial in order to afford the defendant an opportunity to object before trial under Rule 12(b)(3)(C).

(B) *At the Defendant's Request.* At the arraignment or as soon afterward as practicable, the defendant may, in order to

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have an opportunity to move to suppress evidence under Rule 12(b)(3)(C), request notice of the government's intent to use (in its evidence-in-chief at trial) any evidence that the defendant may be entitled to discover under Rule 16.

**(c) Deadline for a Pretrial Motion; Consequences of Not Making a Timely Motion.**

**(1) *Setting the Deadline.*** The court may, at the arraignment or as soon afterward as practicable, set a deadline for the parties to make pretrial motions and may also schedule a motion hearing. If the court does not set one, the deadline is the start of trial.

**(2) *Extending or Resetting the Deadline.*** At any time before trial, the court may extend or reset the deadline for pretrial motions.

**(3) *Consequences of Not Making a Timely Motion***

*Under Rule 12(b)(3).* If a party does not meet the deadline for making a Rule 12(b)(3) motion, the motion is untimely. But a court may consider the defense, objection, or request if the party shows good cause.

**(d) Ruling on a Motion.** The court must decide every pretrial motion before trial unless it finds good cause to defer a ruling. The court must not defer ruling on a pretrial motion if the deferral will adversely affect a party's right to appeal. When factual issues are involved in deciding a motion, the court must state its essential findings on the record.

**(e) [Reserved]**

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**Rule 34. Arresting Judgment**

(a) **In General.** Upon the defendant's motion or on its own, the court must arrest judgment if the court does not have jurisdiction of the charged offense.

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**Rule 58. Petty Offenses and Other Misdemeanors**

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**(b) Pretrial Procedure.**

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**(2) *Initial Appearance.*** At the defendant's initial appearance on a petty offense or other misdemeanor charge, the magistrate judge must inform the defendant of the following:

\* \* \* \* \*

- (F) the right to a jury trial before either a magistrate judge or a district judge – unless the charge is a petty offense;
- (G) any right to a preliminary hearing under Rule 5.1, and the general circumstances, if any, under which the defendant may secure pretrial release; and

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(H) that a defendant who is not a United States citizen may request that an attorney for the government or a federal law enforcement official notify a consular officer from the defendant's country of nationality that the defendant has been arrested — but that even without the defendant's request, a treaty or other international agreement may require consular notification.

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