

RULE 83.16 PRODUCTION AND DISCLOSURE OF DOCUMENTS AND TESTIMONY OF JUDICIAL PERSONNEL IN LEGAL PROCEEDINGS

- A) The purpose of the rule is to implement the policy of the Judicial Conference of the United States with regard
- 1) to the production or disclosure of official information or records by the federal judiciary, and
 - 2) the testimony of present or former judiciary personnel relating to any official information acquired by any such individual as part of the individual's performance of official duties, or by virtue of that individual's official status, in federal, state, or other legal proceedings.

Implementation of this Rule is subject to the regulations established by the Judicial Conference of the United States which are incorporated herein (a copy of such regulations can be obtained from the Clerk of the Court.)

- B) Requests covered by this Rule include an order, subpoena, or other demand of a court or administrative or other authority, of competent jurisdiction, under color of law, or any other request by whatever method, for the production, disclosure, or release of information or records by the federal judiciary, or for the appearance and testimony of federal judicial personnel as witnesses as to matters arising out of the performance of their official duties, in legal proceedings. This includes requests for voluntary production or testimony in the absence of any legal process.
- C) This Rule does not apply to requests by members of the public, when properly made through the procedures established by the court for records or documents, such as court files or dockets, routinely made available to members of the public for inspection or copying.
- D) Any request for testimony or production of records shall set forth a written statement by the party seeking the testimony or production of records containing an explanation of the nature of the testimony or records sought, the relevance of the testimony or records sought to the legal proceedings, and the reasons why the testimony or records sought, or the information contained therein, are not readily available from other sources or by other means. This explanation shall contain sufficient information for the determining officer to decide whether or not federal judicial personnel should be allowed to testify or the records should be produced. Where the request does not contain an explanation sufficient for this purpose, the determining officer may deny the request or may ask the requester to provide additional information.

federal judicial personnel from whom testimony or production of records is sought at least fifteen (15) working days in advance of the time by which the testimony or production of records is to be required. Failure to meet this requirement shall provide a sufficient basis for denial of the request.

- E) In the case of a request directed to a district judge, or magistrate judge, or directed to a current or former member of such a judge's personal staff, the determining officer shall be the district judge or magistrate judge.
- F) In the case of a request directed to an employee or former employee of a court office, such as the office of the clerk of court or the probation office, the determining officer shall be the unit executive of the particular office. The unit executive shall consult with the chief judge of the district court for determination of the proper response to a request.
- G) In the case of presentence reports:
 - 1) In all criminal cases in which sentence is imposed, the presentence report shall be made a part of the official court record. The original report, including the recommendation to the court and statement of reasons, shall be placed under seal in the record. In the event of an appeal, the report, the recommendation, and the statement of reasons shall be sent to the reviewing court under separate seal.
 - 2) A copy of the presentence report shall be made available to appellate counsel on request, under the same terms and conditions as apply to use of the report by counsel in the trial court.