

RULE CR-46. RELEASE FROM CUSTODY; REPORTS OF DETAINED MATERIAL WITNESSES.

(a) Management By Pretrial Services Officers of Defendants Working As Informants.

The following procedures apply to a defendant under supervision of pretrial services working as an informant for a law enforcement agency:

(1) The law enforcement agency using a defendant as an informant must promptly notify the defendant's pretrial services officer.

(2) The pretrial services officer must provide the law enforcement agency a copy of the defendant's conditions of release and the pretrial services officer's intended supervision activities.

(3) The law enforcement agency must advise the pretrial services officer of any requirements of the investigation that will affect supervision activities or require a change in the conditions of release.

(4) The law enforcement agency must inform the pretrial services officer of any violations by the defendant of any conditions of release.

(b) Reports of Detained Material Witnesses.

(1) **Government Report.** Unless otherwise ordered by the court, government reports regarding detained witnesses under Federal Rule of Criminal Procedure 46(h) must be sent to:

(A) the judge presiding over the case in which the detainee is a witness;

(B) the judge who ordered the witness detained; and

(C) the Pretrial Services Office.

(2) **Pretrial Services Office Recommendation.** Unless otherwise ordered by the court, the Pretrial Services Office, within 7 days of receiving a government report regarding detained witnesses, must provide a recommendation as to each witness's continued detention or release. The recommendation must be provided to:

(A) the judge presiding over the case in which the detainee is a witness;

(B) the judge who ordered the witness detained; and

(C) if the Pretrial Services Office recommends a change in status, the attorneys for the detainee and for the parties to the case in which the detainee is a witness.

Committee Note

1. Rule CR-46 is a new rule that prescribes procedures for release from custody of informants and for making reports on detained material witnesses.
2. Subsection (a) incorporates into the local rules the terms of the July 18, 1995 Standing Order Regarding Management by Pretrial Services Officers of Defendants who are Confidential Informants.
3. Disclosure of a recommendation for change of status under (b)(2)(C) does not require that the basis for the recommendation be disclosed.