



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

IN RE:)
)
PROCEDURES FOR)
APPOINTING COUNSEL TO)
HOSPITALIZED DEFENDANTS)
_____)

GENERAL ORDER NO. 95-1

WHEREAS, circumstances exist from time to time wherein defendants who, by virtue of their medical condition, cannot be transported to the court for arraignment and other preliminary proceedings under Rule 5 of The Federal Rules of Criminal Procedure,

IT IS HEREBY ORDERED, following the agreement of the Federal Public Defender's and United States Attorney's Offices, that the following procedures shall apply:

1. Notification by U.S. Attorney's Office: An Assistant United States Attorney shall notify the Clerk's Office in the event that a defendant has been arrested, either with or without a warrant, and the defendant cannot be brought to the court for arraignment due to a medical condition.

2. Appointment of Counsel: The Clerk's Office shall promptly appoint the Office of the Federal Public Defender to represent the defendant for purposes of insuring compliance with Rule 5 of the Rules of Criminal Procedure and this

Order. In the event the Public Defender's Office is not available or has a conflict of interest, the Clerk shall appoint a CJA panel attorney.

3. Remand to U.S. Marshals Service: The defendant shall be remanded to the custody of the U.S. Marshals Service as of the date the Clerk's Office appoints counsel for the defendant or otherwise ordered by the Court, without prejudice to subsequent review by the Court.

4. Hospital Arraignments: The Court, on its own motion or upon the request of the U.S. Attorney's Office or upon the request of defense counsel in its discretion, may conduct a hospital arraignment.

5. Probable Cause Determinations: When a hospitalized defendant is arrested without a warrant, the U.S. Attorney's Office shall submit without unnecessary delay to the magistrate judge assigned criminal duty, a complaint and affidavit in support of a finding of probable cause. If the magistrate judge does not find probable cause, the case shall be dismissed.

6. Probable Cause Challenge/Bail Hearings: In the event that the defendant seeks to challenge the probable cause determination or requests a bail hearing, the attorney for the defendant shall notify the Clerk. The attorney shall also notify the Clerk whether a Waiver of Appearance will be filed. Upon the filing of a Waiver of Appearance, the Court shall hold the hearing within 24

business hours in the absence of the defendant. If no Waiver of Appearance is filed, the Court may conduct a telephonic first appearance at the request of defense counsel and with the concurrence of government counsel. If no such agreement between parties is made, the Court shall determine whether circumstances exist that would necessitate the hearing to be held in the hospital.

7. Notification of Defendant's Ability to Travel: It shall be the responsibility of the U.S. Marshal and the attorney for the defendant to monitor the defendant's medical condition and to notify the Criminal Complaints Section of the U.S. Attorney's Office and the Clerk when the defendant has received medical clearance to be released from the hospital or be transported to the Court for preliminary proceedings. The U.S. Attorney's Office shall contact the Clerk and the Pretrial Services Agency and arrange for the matter to be placed on calendar. The U.S. Marshal's Service shall be responsible for transporting the defendant from the hospital.

8. List of Hospitalized Defendants: The Clerk's Office shall maintain a list of hospitalized defendants and shall review this list every thirty (30) days to verify the present status of each defendant with the attorney for the defendant, the attorney for the government, or both.