

UNITED STATES DISTRICT COURT

DISTRICT OF HAWAII
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HONOLULU, HAWAII 96850

JILL A. OTAKE
UNITED STATES DISTRICT JUDGE

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GENERAL CRIMINAL CASE PROCEDURES BEFORE JUDGE OTAKE

(Last Revised: 1/2/2020)

I. Courtroom Activity

Continuances:

If a party seeks a continuance of a **suppression hearing**, an email will suffice so long as the continuance is not opposed and the parties seek a continuance to a date not less than one week prior to trial. Otherwise, a motion is required.

If a party seeks a continuance of a **sentencing hearing**, a phone call will suffice, so long as it is: (1) the first continuance; (2) unopposed; and (3) the continuance would not exceed one month. All other circumstances require an email to the courtroom manager. After reviewing the email, the judge may order the parties to file a motion to continue sentencing.

Parties seeking the first continuance of **trial** may do so by **stipulation and proposed order**. If seeking an **additional continuance**, the parties must submit a **motion and proposed order**. The motion should include how many prior continuances have been granted. The parties will be expected to confer with the courtroom manager before filing the motion, to obtain a possible new trial date.

Use of Electronic Devices:

Pursuant to the Order Adopting Electronic Device Policy, effective March 18, 2014, any person may bring into the courthouse an electronic device, such as a cellular phone, smartphone, laptop, tablet, or similar device having

wireless communications capability. Any such device is subject to security inspection.

Inside Judge Otake's courtroom, no person may use an electronic device for any purpose, except attorneys of record and members of their litigating team, who are authorized to use electronic devices only in connection with a then ongoing, case-related proceeding. Examples of such appropriate usage include: paralegals texting other staff regarding *immediate* witness logistics; lawyers using a legal research database to search for caselaw mentioned by opposing counsel; lawyers referring to notes on a tablet regarding arguments for the hearing. Examples of inappropriate usage include: lawyers texting other litigation team members about courtroom events that do not require immediate attention; lawyers emailing or communicating with family members about personal matters; paralegals searching the internet to investigate witnesses who are on the stand. If counsel are in doubt as to whether the use of an electronic device is permissible, they should ask Judge Otake for permission.

Under no circumstances shall an electronic device disrupt any court proceedings. Under no circumstances shall any camera or audio/video recording equipment be used in Judge Otake's courtroom or chambers.

Judge Otake may modify these general provisions at her discretion in specific cases or for specific proceedings. Anyone found to be in violation of these provisions will be subject to sanctions.

II. Trials

Trial Procedures:

1. Trial Schedule

Trials start on Mondays, unless Monday is a holiday. Judge Otake will not hold trials on Fridays, unless she directs otherwise. Jury trials will start at 8:45 a.m. and end at 2:30 p.m. except on days of jury selection, in which case the day will end at 4:30 p.m.

Matters that need to be addressed outside the presence of the jury will take place at 8:30 a.m. and at 2:30 p.m. The judge expects that attorneys will raise

issues at 2:30 p.m. that must be addressed prior to the jury returning to court the next day and will determine a briefing deadline (with appropriate page limits) if needed.

Bench trials will start at 8:30 a.m. and end at 4:30 p.m.

There will be at least two breaks in the trial day, at the following approximate times:

10:30 a.m.- 15 minutes

12:00 p.m.- 20 minutes

The Court will likely take “stretch breaks” in the middle of the trial, during which everyone can stand up, but no one may leave the courtroom.

2. Jury Selection

Judge Otake will use the computerized system of randomly determining the order of jurors for jury selection. The Court will provide attorneys with an alphabetized list of prospective jurors.

Judge Otake will first address general requests to be excused. She will then conduct voir dire and will allow counsel to conduct voir dire. Each party will typically be allowed 10 minutes for voir dire, but that timeframe may be expanded upon request. During voir dire, Judge Otake will ask jurors to stand up and answer questions given to them on a sheet of paper. Those questions are available. If counsel wish to review them prior to trial, they are directed to contact the courtroom manager.

If the government utilizes any databases that are typically more easily accessible by government employees or law enforcement (e.g., the National Crime Information Center) to conduct research on jurors, the government shall provide the information obtained from the databases to the Court and defense counsel and, in cases where a defendant represents him/herself, to the defendant unless otherwise indicated. The government must redact the following from the information provided: address, social security number, phone number, and taxpayer identification number. The information provided does not need to be in its original form—the government can supply the information in a spreadsheet

created by the government so long as a declaration is attached attesting to the accuracy of the spreadsheet.

3. Jury Instructions

During trial, the Court will schedule a hearing to resolve jury instruction disputes. After ruling on the disputed issues, the Court will prepare a draft set of jury instructions for the parties' review. A further hearing will be held, if necessary, to address any concerns with the draft set of instructions. The Court will not entertain substantive arguments at the further hearing. Before the jury instructions are presented to the jury, the Court will provide hard copies to the parties. Jurors will also receive hard copies of the instructions.

Exhibits

All trial exhibits shall be marked with the exhibit number and placed in a 3-ring binder(s) with tabs. The spine of the 3-ring binder(s) shall be clearly marked and labeled with the case name, binder volume, and range of exhibits contained in the binder.

Physical exhibits do not need to be present in the courtroom until they will be shown to a witness.