

April 28, 2010

Honorable Nancy Pelosi
Speaker of the House of Representatives
Washington, D.C. 20515

Dear Madam 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 report of 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. The Supreme Court recommitted proposed amendment to Rule 15 of the Federal Rules of Criminal Procedure to the Advisory Committee for further consideration.

Sincerely,

/s/ John G. Roberts, Jr.

April 28, 2010

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 report of 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. The Supreme Court recommitted proposed amendment to Rule 15 of the Federal Rules of Criminal Procedure to the Advisory Committee for further consideration.

Sincerely,

/s/ John G. Roberts, Jr.

April 28, 2010

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 12.3, 21, and 32.1.

[See infra., pp. — — —.]

2. That the foregoing amendments to the Federal Rules of Criminal Procedure shall take effect on December 1, 2010, and shall govern in all proceedings 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.

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

Rule 12.3. Notice of a Public-Authority Defense

**(a) Notice of the Defense and Disclosure of
Witnesses.**

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(4) *Disclosing Witnesses.*

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(C) *Government's Reply.* Within 14 days after receiving the defendant's statement, an attorney for the government must serve on the defendant or the defendant's attorney a written statement of the name of each witness — and the address and telephone number of each witness other than a victim — that the government intends to rely on to oppose the defendant's public-authority defense.

(D) *Victim's Address and Telephone Number.* If the government intends to rely on a victim's testimony to oppose the defendant's public-authority defense and the defendant establishes a need for the victim's address and telephone number, the court may:

- (i) order the government to provide the information in writing to the defendant or the defendant's attorney; or
- (ii) fashion a reasonable procedure that allows for preparing the defense and also protects the victim's interests.

* * * * *

(b) Continuing Duty to Disclose.

- (1) *In General.* Both an attorney for the government and the defendant must promptly disclose in writing to the other party the name of

any additional witness — and the address, and telephone number of any additional witness other than a victim — if:

- (A) the disclosing party learns of the witness before or during trial; and
- (B) the witness should have been disclosed under Rule 12.3(a)(4) if the disclosing party had known of the witness earlier.

(2) *Address and Telephone Number of an Additional Victim-Witness.* The address and telephone number of an additional victim-witness must not be disclosed except as provided in Rule 12.3(a)(4)(D).

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Rule 21. Transfer for Trial

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(b) For Convenience. Upon the defendant's motion, the court may transfer the proceeding, or one or more counts, against that defendant to another district for the convenience of the parties, any victim, and the witnesses, and in the interest of justice.

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Rule 32.1. Revoking or Modifying Probation or Supervised Release

(a) Initial Appearance.

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(6) Release or Detention. The magistrate judge may release or detain the person under 18 U.S.C. § 3143(a)(1) pending further proceedings. The burden of establishing by clear and convincing evidence that the person will not flee or pose a danger to any other person or to the community rests with the person.

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