

April 28, 2016

Honorable Paul D. Ryan
Speaker of the House of Representatives
Washington, D.C. 20515

Dear Mr. 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 2075 of Title 28, United States Code.

Accompanying these rules are the following materials submitted to the Court for its consideration pursuant to Section 331 of Title 28, United States Code: a transmittal letter to the Court dated October 9, 2015; a redline version of the rules with Committee Notes; an excerpt from the September 2015 Report of the Committee on Rules of Practice and Procedure to the Judicial Conference of the United States; and an excerpt from the May 6, 2015 Report of the Advisory Committee on Criminal Rules.

Sincerely,

/s/ John G. Roberts

April 28, 2016

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 2075 of Title 28, United States Code.

Accompanying these rules are the following materials submitted to the Court for its consideration pursuant to Section 331 of Title 28, United States Code: a transmittal letter to the Court dated October 9, 2015; a redline version of the rules with Committee Notes; an excerpt from the September 2015 Report of the Committee on Rules of Practice and Procedure to the Judicial Conference of the United States; and an excerpt from the May 6, 2015 Report of the Advisory Committee on Criminal Rules.

Sincerely,

/s/ John G. Roberts

April 28, 2016

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 4, 41, and 45.

[*See infra* pp. __ __ __.]

2. That the foregoing amendments to the Federal Rules of Criminal Procedure shall take effect on December 1, 2016, and shall govern in all proceedings in criminal cases 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 2075 of Title 28, United States Code.

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

Rule 4. Arrest Warrant or Summons on a Complaint

- (a) **Issuance.** If the complaint or one or more affidavits filed with the complaint establish probable cause to believe that an offense has been committed and that the defendant committed it, the judge must issue an arrest warrant to an officer authorized to execute it. At the request of an attorney for the government, the judge must issue a summons, instead of a warrant, to a person authorized to serve it. A judge may issue more than one warrant or summons on the same complaint. If an individual defendant fails to appear in response to a summons, a judge may, and upon request of an attorney for the government must, issue a warrant. If an organizational defendant fails to appear in response to a summons, a judge may take any action authorized by United States law.

* * * * *

(c) Execution or Service, and Return.

(1) **By Whom.** Only a marshal or other authorized officer may execute a warrant. Any person authorized to serve a summons in a federal civil action may serve a summons.

(2) **Location.** A warrant may be executed, or a summons served, within the jurisdiction of the United States or anywhere else a federal statute authorizes an arrest. A summons to an organization under Rule 4(c)(3)(D) may also be served at a place not within a judicial district of the United States.

(3) **Manner.**

(A) A warrant is executed by arresting the defendant. Upon arrest, an officer possessing the original or a duplicate

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original warrant must show it to the defendant. If the officer does not possess the warrant, the officer must inform the defendant of the warrant's existence and of the offense charged and, at the defendant's request, must show the original or a duplicate original warrant to the defendant as soon as possible.

- (B) A summons is served on an individual defendant:
- (i) by delivering a copy to the defendant personally; or
 - (ii) by leaving a copy at the defendant's residence or usual place of abode with a person of suitable age and discretion residing at that location and by

mailing a copy to the defendant's last known address.

- (C) A summons is served on an organization in a judicial district of the United States by delivering a copy to an officer, to a managing or general agent, or to another agent appointed or legally authorized to receive service of process. If the agent is one authorized by statute and the statute so requires, a copy must also be mailed to the organization.
- (D) A summons is served on an organization not within a judicial district of the United States:
 - (i) by delivering a copy, in a manner authorized by the foreign jurisdiction's law, to an officer, to a

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managing or general agent, or to an agent appointed or legally authorized to receive service of process; or

(ii) by any other means that gives notice, including one that is:

(a) stipulated by the parties;

(b) undertaken by a foreign authority in response to a letter rogatory, a letter of request, or a request submitted under an applicable international agreement; or

(c) permitted by an applicable international agreement.

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Rule 41. Search and Seizure

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(b) **Venue for a Warrant Application.** At the request of a federal law enforcement officer or an attorney for the government:

* * * * *

(6) a magistrate judge with authority in any district where activities related to a crime may have occurred has authority to issue a warrant to use remote access to search electronic storage media and to seize or copy electronically stored information located within or outside that district if:

(A) the district where the media or information is located has been concealed through technological means; or

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(B) in an investigation of a violation of 18 U.S.C. § 1030(a)(5), the media are protected computers that have been damaged without authorization and are located in five or more districts.

* * * * *

(f) Executing and Returning the Warrant.

(1) *Warrant to Search for and Seize a Person or Property.*

* * * * *

(C) *Receipt.* The officer executing the warrant must give a copy of the warrant and a receipt for the property taken to the person from whom, or from whose premises, the property was taken or leave a copy of the warrant and receipt at the place where the officer took the property. For a warrant to

use remote access to search electronic storage media and seize or copy electronically stored information, the officer must make reasonable efforts to serve a copy of the warrant and receipt on the person whose property was searched or who possessed the information that was seized or copied. Service may be accomplished by any means, including electronic means, reasonably calculated to reach that person.

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Rule 45. Computing and Extending Time

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(c) Additional Time After Certain Kinds of Service.

Whenever a party must or may act within a specified time after being served and service is made under Federal Rule of Civil Procedure 5(b)(2)(C) (mailing), (D) (leaving with the clerk), or (F) (other means consented to), 3 days are added after the period would otherwise expire under subdivision (a).

Judge Marsha J. Pechman

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UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

BRUCE LORENTE,

Defendant.

NO. CR15-00274MJP

UNITED STATES' RESPONSE TO
DEFENDANT'S MOTION TO DISMISS
INDICTMENT

The United States of America, by and through Annette L. Hayes, United States Attorney for the Western District of Washington, Matthew P. Hampton and André M. Peñalver, Assistant United States Attorneys for said District, and Keith A. Becker, Trial Attorney, hereby files this response to the defendant's motion to dismiss the Indictment.

I. BACKGROUND

The United States charged Bruce Lorente with receipt and possession of child pornography following a search warrant executed at his home during which the FBI seized several digital devices containing illegal child pornography. Lorente also agreed to an interview during which, among other things, he admitted that he had been using the Internet, including the Tor network, to view and download child pornography for years.

The charges arise from an FBI investigation into a child pornography website, "Playpen," operating on the anonymous Tor network. In late February 2015, the FBI

