

## LOCAL CRIMINAL RULE 12.4

### FINANCIAL DISCLOSURE

**(A) Required Disclosure.** A nongovernmental corporation, partnership, trust, other similar entity that is a party to, or that appears in, an action or proceeding in this Court shall:

- (1) file ~~two (2) copies of~~ a statement that
  - a. identifies all its parent, subsidiary or affiliate entities (corporate or otherwise) that have issued stock or debt securities to the public and also identifies any publicly held entity (corporate or otherwise) that owns 10% or more of its stock, and
  - b. identifies all parties in the partnerships, general or limited, or owners or members of non-publicly traded entities such as LLCs or other closely held entities, or
  - c. states that there is nothing to report under Local Criminal Rule 12.4(A)(1)(a), ~~and (b),~~ and ~~(2)~~.

**~~(2) Organizational Victim. Unless the government shows good cause, it must file a statement identifying any organizational victim of the alleged criminal activity. If the organizational victim is an entity described in Local Criminal Rule 12.4(A), the statement must also disclose the information required by Local Criminal Rule 12.4(A) to the extent it can be obtained through due diligence.~~**

~~(2)(3)~~ file a ~~supplemental later~~ statement containing such additional information as may be from time to time required by the Judicial Conference of the United States or this Court.

**(B) Time for Filing.** A statement or form required by Local Criminal Rule 12.4(A) shall be filed upon the party's first appearance, pleading, petition, motion, response, or other request addressed to the Court. A ~~supplemental later~~ statement or form shall be filed promptly upon any change in the circumstances that Local Criminal Rule 12.4(A) requires the party to identify.

~~**(C) Statement Delivered to Judge.** The Clerk shall deliver a copy of the Local Criminal Rule 12.4(A) disclosure to each judge acting in the action or proceeding.~~

### JUSTIFICATION FOR CHANGES TO LOCAL CRIMINAL RULE 12.4

Because Local Criminal Rule 12.4 has not included aspects of Federal Rule of Criminal Procedure 12.4, adopted in 2002, our side-by-side rule comparison chart, includes the 2002 version of the Federal Rule (as adopted and still used), the 2018 proposed changes, and our Local Criminal Rule.

An explanation of the Court's recommended changes follow:

**Local Criminal Rule 12.4(A)(1):** Because we now operate under electronic filing, we recommend striking the requirement to file two copies of any statement.

**Local Criminal Rule 12.4(A)(1)(b) and (c):** These are not in the Federal Rule of Criminal Procedure 12.4, but we recommend keeping them in our Local Criminal Rule.

(b) **Subsection (A)(1)(b)** requires statements as to LLCs, all parties in partnerships, owners or members of non-public entities such as LLCs, or other closely held entities.

(c) **Subsection (A)(1)(c)** requires entities to state that there is nothing to report.

**Our only suggested change for subsection (A)(1)(c) would be to add a reference to a new subsection (A)(2), which, as discussed below, we propose adding.**

**Local Criminal Rule 12.4(A)(2):** This would be a new subsection requiring, absent good cause, the government to disclose Organizational Victims of an alleged crime. We recommend adding the 2018 version of Federal Rule of Criminal Procedure 12.4(a)(2), which includes the good cause language.

This provision was in the original version of Federal Rule of Criminal Procedure 12.4, adopted in 2002, and was meant to alert the court that a possible ground for disqualification might exist. When adopted, it was meant to track Federal Rule of Appellate Procedure 26.1 and Federal Rule of Civil Procedure 7.1.

**Local Criminal Rule 12.4(A)(3):** What is currently Local Criminal Rule 12.4(A)(2) would become Local Criminal Rule 12.4(A)(3) when we add the requirement for a statement from the government.

**The updated version of Federal Rule of Criminal Procedure 12.4(b)(2) proposes changing the requirement to file a “supplemental” statement to filing a “later” statement. We propose adopting that change.**

The Advisory Committee Notes indicate that the change to “later” sought, in part, to confirm that entities had an ongoing duty to report at all times, even if there was no earlier statement to “supplement.” We had already eliminated any confusion by adding the requirement for parties to confirm they had nothing to report in our Local Criminal Rule 12.4(A)(1)(c).

Still, we recommend adopting the change from “supplemental” to “later.” First, it more closely tracks Federal Rule of Criminal Procedure 12.4(b). Second, it permits another full filing, rather than just listing, as a supplement, the new entities.

**Local Criminal Rule 12.4(B) Time for filing:** Our Local Criminal Rule, as to timing, never directly tracked Federal Rule of Criminal Procedure 12.4. We recommend we do not

**change our Local Criminal Rule 12.4(B) except to replace the word “supplemental” with “later.”**

The 2002 version of Federal Rule of Criminal Procedure 12.4(b) first required the filing of a financial disclosure statement upon the defendant’s initial appearance.

The 2018 proposed Federal Rule of Criminal Procedure 12.4(b) changes the timing to “within 28 days after the defendant’s initial appearance.” The Advisory Committee Notes do not explain the basis for the change that would delay the deadline to file.

Our Local Criminal Rule 12.4(B) not only contemplates our general compliance with Speedy Trial dictates, but it also thoughtfully adds other possible appearances: pleadings; petitions; motions; responses; or, other requests addressed to the Court.

**Local Criminal Rule 12.4(C) Statement Delivered to Judge: This provision has never had an analogue in the Federal Rules. Given e-filing, we recommend striking this requirement.**

Local Criminal Rule 12.4(C) requires delivery of the Local Criminal Rule 12.4(A) disclosure to each judge acting in the case. With electronic filing, an ECF notice should generate automatically, presumably eliminating the need for this requirement.

Should any judge wish to receive delivery of the statement as formerly commanded by Local Rule, he or she could require that by separate order.

## Rule Comparison Chart

<b>Current(2002) Fed. R. Crim. P. Rule 12.4</b>	<b>Proposed Fed. R. Crim. P. 12.4</b>	<b>LOCAL CRIMINAL RULE 12.4: Financial Disclosure</b>
<p><b>(a) Who Must File.</b></p> <p><b>(1) Nongovernmental Corporate Party.</b> Any nongovernmental corporate party to a proceeding in a district court must file a statement that identifies any parent corporation and any publicly held corporation that owns 10% or more of its stock or states that there is no such corporation.</p> <p><b>(2) Organizational Victim.</b> If an organization is a victim of the alleged criminal activity, <i>the government must file a statement identifying the victim.</i> If the organizational victim is a corporation, the statement must also disclose the information required by Rule 12.4(a)(1) to the extent it can be obtained through due diligence.</p> <p><b>(b) Time for Filing; Supplemental Filing.</b> A party must:</p> <p><b>(1)</b> file the Rule 12.4(a) statement <i>upon the defendant's initial appearance</i>; and</p>	<p><b>(a) Who Must File.</b></p> <p><b>(1) Nongovernmental Corporate Party.</b> Any nongovernmental corporate party to a proceeding in a district court must file a statement that identifies any parent corporation and any publicly held corporation that owns 10% or more of its stock or states that there is no such corporation.</p> <p><b>(2) Organizational Victim.</b> <i>Unless the government shows good cause, it must file a statement identifying any organizational victim of the alleged criminal activity.</i> <b>If the organizational victim is a corporation, the statement must also disclose the information required by Rule 12.4(a)(1) to the extent it can be obtained through due diligence.</b></p> <p><b>(b) Time to File; Later Filing.</b> A party must:</p> <p><b>(1)</b> file the Rule 12.4(a) statement <i>within 28 days after the</i></p>	<p><b>(A) Required Disclosure.</b> A nongovernmental corporation, partnership, trust, other similar entity that is a party to, or that appears in, an action or proceeding in this Court shall:</p> <p><i>We recommend striking the requirement for two copies.</i></p> <p>(1) file <del>two (2) copies of</del> a statement that</p> <ul style="list-style-type: none"><li>a. identifies all its parent, subsidiary or affiliate entities (corporate or otherwise) that have issued stock or debt securities to the public and also identifies any publicly held entity (corporate or otherwise) that owns 10% or more of its stock, and</li></ul> <p><i>Sections (b) and (c) are not in the Federal Rules. We recommend retaining them, with one minor change.</i></p> <ul style="list-style-type: none"><li>b. identifies all parties in the partnerships, general or limited, or owners or members of non-publicly traded entities such as LLCs or other closely held entities, or</li><li>c. states that there is nothing to report under Local Criminal Rule 12.4(A)(1)(a) and (b); and <b>we suggest adding (2).</b></li></ul> <p><i>(2) We recommend adding a requirement to have the government file a statement, absent good cause not to.</i></p> <p><i>We recommend changing “supplemental” to “later” in section (3) and section (B).</i></p> <p><del>(2)</del><b>(3)</b> file a <b>supplemental later</b> statement containing such additional information as may be from time to time required by the Judicial Conference of the United States or this Court.</p> <p><i>We do not recommend adopting the Federal Rule language for Section (B).</i></p> <p><b>(B) Time for Filing.</b> A statement or form required by Local Criminal Rule 12.4(A) shall be filed upon the party’s first appearance, pleading, petition, motion, response, or other request addressed to the Court . A <b>supplemental later</b> statement or form shall be filed promptly upon any change in the circumstances that Local Criminal Rule 12.4(A) requires the party to identify.</p>

(2) promptly file a supplemental statement upon any change in the information that the statement requires.

*defendant's initial appearance; and (2) promptly file a later statement if any required information changes.*

**We recommend striking Subsection (C).**  
~~(C) Statement Delivered to Judge. The Clerk shall deliver a copy of the Local Criminal Rule 12.4(A) disclosure to each judge acting in the action or proceeding.~~

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