

DISTRICT OF MAINE

**MEMORANDUM OF UNDERSTANDING
REGARDING PROCEDURE AND SURRENDER OF PASSPORTS**

Purpose

The purpose of this Memorandum of Understanding (MOU) is to set forth the agreement between U.S. Probation & Pretrial Services Office and U.S. District Court Clerk's Office concerning the procedures to be followed when a defendant is ordered to surrender his passport as a condition of release.

Procedures

1. If the Court orders a defendant to surrender his passport as a condition of release, the Order Setting Conditions of Release shall reflect that the Clerk's Office will have custody of the defendant's passport until final disposition of the case; or

If a Probation Officer in another district receives a defendant's passport, the U.S. Probation Office for the District of Maine will propose a new Order Setting Conditions of Release for the Court prior to the defendant's first court appearance in the District of Maine. The new order shall require the defendant to surrender his passport to the Clerk's Office in Maine, unless otherwise ordered.

2. Upon receipt of the defendant's passport, the Clerk's Office will reflect on the docket that the passport has been surrendered and include the passport number. The Probation Office will receive electronic notification of the docket entry.
3. Upon notice from the Clerk's Office that the defendant has surrendered his passport, or has been ordered by the court not to obtain a passport, the Probation Office will complete form PS40 or PS40A and forward the form to the appropriate agency.
4. After disposition of the criminal case, the Clerk's Office will:
 - a. If the defendant was acquitted or the Court has dismissed the case, the passport will be returned to the defendant's attorney. Following return of the passport, the Clerk's Office will make a docket entry indicating the passport has been returned to the defendant's attorney. The Probation Office will complete form PS40 or PS40A and forward the form to the appropriate agency; or
 - b. If the defendant is convicted and following entry of judgment, the Clerk's Office will forward the defendant's passport together with a copy of the Judgment and Statement of Reasons to the U.S. Probation Office. The Clerk's Office will also make a docket entry reflecting that the passport has been

forwarded to Probation. The Probation Office will complete form PS40 or PS40A and send the passport and the form to the appropriate agency.

5. After disposition of the criminal case AND when the Court orders the passport to be returned to the defendant, the Clerk's Office will:
 - a. If the defendant is sentenced to time served or probation: the Clerk's Office will reflect on the docket the Court's Order returning the passport to the defendant or his/her attorney. The Clerk's Office will also make a docket entry indicating the passport has been returned to the defendant or his/her attorney. The Probation Office will complete form PS40 or PS40A and forward the form to the appropriate agency; or
 - b. If the defendant is sentenced to a period of incarceration: The Clerk's Office will make a docket entry reflecting the Court's Order. The Clerk's Office will also forward the defendant's passport to the U.S. Probation Office, and make a docket entry reflecting that the passport has been forwarded to Probation. The Probation Office will return the passport to defense counsel, unless the period of incarceration is impractical, in which case it will be held by the Probation Office until the defendant's release. Following the defendant's release, the Probation Office will return the passport to the defendant. The Probation Office will complete form PS40 or PS40A and notify the appropriate agency.

Date: September 13, 2012



Christa K. Berry
Clerk of Court

Date: September 10, 2012



Karen-Lee Moody
Chief Probation Officer

Rev: 9/2012