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## UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON

IN RE:

USE OF RESTRAINTS ON IN-CUSTODY PERSONS IN THE COURTROOM

**GENERAL ORDER 05-24** 

This Court consults with the United States Marshals Service, under 28 U.S.C. § 566, to coordinate the security needs of the courthouses, the Judges, and of all persons who attend proceedings in the courtrooms. The purpose of this General Order is to address security with respect to persons who are defendants in criminal cases, or other individuals who are participating in a criminal or civil case, when they are in custody at the time of a proceeding. This Order applies to proceedings both in and outside the presence of a jury.

It is the policy of this Court that the United States Marshal should not routinely bring incustody defendants in criminal cases, or other in-custody individuals, to court in shackles or similar restraints, whether full-body or partial. *See Deck v. Missouri*, 544 U.S. 622 (2005); *Claiborne v. Blauser*, 934 F.3d 885 (9th Cir. 2019); *United States v. Howard*, 480 F.3d 1005 (9th Cir. 2007). Instead, the use of restraints will be based on an individualized determination by the presiding District or Magistrate Judge, with input as the Judge deems necessary by the United States Marshals Service and counsel for the parties. The Court hereby ORDERS that the

following procedures will apply to cases where an in-custody defendant in a criminal case, or another individual who is in-custody, is brought to court for criminal or civil proceedings:

- 1. With respect to any proceeding in which the United States Marshals Service believes restraints are justified, the Deputy U.S. Marshal (the Marshal) will (1) notify the presiding Judge's Courtroom Deputy as soon as practicable before the beginning of the proceeding that the Marshal intends to bring an individual who is in-custody to the courtroom in restraints; and (2) provide the Courtroom Deputy with information about the specific circumstances that cause the Marshal to recommend that restraints are necessary and the type of restraints the Marshal recommends.
- The Courtroom Deputy will expediently provide the presiding District Judge or Magistrate Judge, the parties, and Probation and Pretrial Services with the information received from the Marshal.
- 3. The presiding Judge will then make an individualized determination of whether the proceeding should be conducted with the individual in restraints. This individualized determination may involve a hearing, briefing from the parties and Probation and Pretrial Services, or other processes as the presiding Judge deems appropriate.
- 4. Relevant circumstances for such an individualized determination may include, but are not limited to:
  - Whether the individual has a history of conduct that would warrant increased security measures, and whether there are any less restrictive means for mitigating dangerousness or risk of flight;
  - Whether the restraints would interfere with the individual's ability to communicate with counsel and participate in their case;

- If the proceeding is a jury trial, whether the restraints would be visible to the jury, and whether the restraints would have an influence on the jury's ability to be fair and impartial;
- If there are multiple defendants, whether the presence of multiple defendants creates a heightened security risk.

This is not an exclusive or mandatory list, and the Judge may consider any circumstance relevant to the individual. After considering the relevant circumstances, the Judge will provide the determination to the Marshal and the parties prior to the start of the scheduled proceeding.

5. The presiding judge retains the discretion to initiate the process of making an individualized determination even if the Marshal has not made a request.

## ACCORDINGLY, THE COURT HEREBY ORDERS:

- (1) This Order is effective immediately and shall remain in effect until further notice.
- (2) The Court reserves the right to rescind this General Order entirely as the Court determines necessary in light of experience.
- (3) The Clerk shall post a copy of this General Order on the Court's website, and shall distribute copies as the Clerk deems appropriate.

Dated this 3rd day of May, 2024.

David G. Estudillo

Chief United States District Judge