

08-CR-001



CHAIR: Stephen Saltzburg
CHAIR-ELECT: Anthony Joseph
DIRECTOR: Jack Hanna

AMERICAN BAR ASSOCIATION

Criminal Justice Section
740 15th Street, NW
Washington, DC 20005-1022
202/662-1500 (Fax:202/662-1501)
crimjustice@abanel.org

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The Honorable Lee H. Rosenthal
Chair Committee on the Rules of Practice and Procedure
Judicial Conference of the United States
Washington, D.C. 20544

Dear Judge Rosenthal:

I am writing to express the support of the Section of Criminal Justice of the American Bar Association for the proposed legislation of Criminal Rule 45(a) of the Federal Rules of Criminal Procedure. The proposed legislation has been referred to the Committee on Rules of Practice and Procedure, and was the subject of a Committee hearing in May of 2008. The views herein are presented on behalf of the Section of Criminal Justice. They have not been approved by the ABA House of Delegates or Board of Governors, and should not be construed as representing the views of the Association.

The proposed legislation amending criminal rule 45(a) will simplify the process of calculating days for court deadlines less than 30 days. The approach titled, "days are days" would use the same method used to calculate longer deadlines by counting all days including holidays and weekends. To prevent time periods becoming shorter the proposed legislation changes 5 day periods to 7 days and 10 day periods to 14 days. If a time period ends on a holiday or a weekend the time period will be extended to the next non weekend or non holiday day. The day of the event that triggers the deadline will not be counted.

The proposed legislation is an attempt to address the inconsistencies in the rules and prevent confusion for all parties involved in criminal litigation. It would create a consistent method for defense attorneys, defendants, prosecutors and the court to calculate deadlines. The rule does not effect sentencing calculations. We believe this to be a neutral constructive approach to eliminating confusion within the criminal justice system, and we therefore support the proposed legislation to the criminal rules of federal procedure.

Sincerely,

Section of Criminal Justice