

99.5 INDUCING VIOLATIONS OF, AND MODIFYING, CONDITIONS OF BAIL, PROBATION, OR SUPERVISED RELEASE

- (a) **Applicability.** This Rule applies to persons released on bail, on probation, on supervised release, or in one or more of those circumstances concurrently, provided that:
1. The supervision of the probation or supervised release is being conducted by the United States Probation and Pretrial Services Office; or
 2. The order fixing the conditions of bail has been entered by a judge or by the Court of Appeals in an appeal from a judgment in a criminal action entered in the District.
- (b) **Generally.** No attorney, officer, agent, or employee of the United States may request, cause, or attempt to cause any person specified in Rule 99.5(a) to violate any condition of bail, probation, or supervised release, including using such a person under circumstances that violate one or more of the conditions of bail, probation, or supervised release.
- (c) **Requesting a Modification of Conditions of Bail, Probation, or Supervised Release.** An attorney, officer, agent, or employee of the United States may submit a request for modification of one or more conditions of bail, probation, or supervised release to the Court or to the appropriate probation officer. This request may be submitted informally or formally, and may be submitted ex parte. The request must state the exceptional facts which justify such a request. In an emergency, any judge may grant such a request.
- (d) **Granting of Request for Modification of Conditions of Bail, Probation, or Supervised Release.** If possible and if time permits, prior to granting any request under Rule 99.5(c), the judge must consult with the Chief United States Probation and Pretrial Services Officer or the probation officer assigned to supervision of the person. If the judge or probation officer grants the request, he or she must issue a sealed order modifying the conditions of bail, probation, or supervised release, as the circumstances require.
- (e) **Procedures Not Prohibited by Rule.** With regard to persons under arrest, in custody, on bail pending trial, sentencing or appeal, on probation, or supervised release, this Rule does not prohibit:
1. On the initiative of the person or his or her attorney, an officer, agent, or employee of the United States, interviewing, “debriefing,” questioning, or taking a voluntary statement from the person concerning intelligence or information on any subject, whether or not it relates to the offense or offenses of which the person was convicted, or to the alleged offense or offenses on which the person is awaiting trial, sentencing, or appeal;
 2. Making searches and seizures, determined by an attorney, officer, agent, or employee of the United States to be lawful, including searches or seizures from the person, subject to later determination by the Court of lawfulness thereof; and

3. Appearances and testimony by the person in any lawful discovery or investigative proceedings as a witness, formally or informally, including appearance or appearances as a witness before a grand jury.