

**CHAPTER 217—INDICTMENT AND  
INFORMATION**

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**§ 3361. Form and contents—(Rule)**

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Contents and form; striking surplusage, Rule 7(a), (c), (d).

(June 25, 1948, ch. 645, 62 Stat. 830.)

**§ 3362. Waiver of indictment and prosecution on information—(Rule)**

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Waiver of indictment for offenses not punishable by death, Rule 7(b).

(June 25, 1948, ch. 645, 62 Stat. 830.)

**§ 3363. Joinder of offenses—(Rule)**

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Joinder of two or more offenses in same indictment, Rule 8(a).

Trial together of indictments or informations, Rule 13.

(June 25, 1948, ch. 645, 62 Stat. 830.)

**§ 3364. Joinder of defendants—(Rule)**

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Joinder of two or more defendants charged in same indictment, Rule 8(b).

Relief from prejudicial joinder, Rule 14.

(June 25, 1948, ch. 645, 62 Stat. 830.)

**§ 3365. Amendment of information—(Rule)**

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Amendment of information, time and conditions, Rule 7(e).

(June 25, 1948, ch. 645, 62 Stat. 830.)

**§ 3366. Bill of particulars—(Rule)**

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Bill of particulars for cause; motion after arraignment; time; amendment, Rule 7(f).

(June 25, 1948, ch. 645, 62 Stat. 830.)

**§ 3367. Dismissal—(Rule)**

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Dismissal filed by Attorney General or United States Attorney, Rule 48.

Dismissal on objection to array of grand jury or lack of legal qualification of individual grand juror, Rule 6(b)(2).

(June 25, 1948, ch. 645, 62 Stat. 830.)

**CHAPTER 219—TRIAL BY UNITED STATES  
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3401. Misdemeanors; application of probation laws.

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**Editorial Notes**

AMENDMENTS

1979—Pub. L. 96-82, §7(c), Oct. 10, 1979, 93 Stat. 646, substituted “Misdemeanors” for “Minor offenses” in item 3401.

1968—Pub. L. 90-578, title III, §§301(c), 302(c), Oct. 17, 1968, 82 Stat. 1115, 1116, substituted “TRIAL BY UNITED STATES MAGISTRATES” for “TRIAL BY COMMISSIONERS” in chapter heading, and substituted “Minor offenses” for “Petty offenses” and struck out “fees” after “probation laws” in item 3401.

**Statutory Notes and Related Subsidiaries**

CHANGE OF NAME

“UNITED STATES MAGISTRATE JUDGES” substituted for “UNITED STATES MAGISTRATES” in chapter heading pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

**§ 3401. Misdemeanors; application of probation laws**

(a) When specially designated to exercise such jurisdiction by the district court or courts he serves, any United States magistrate judge shall have jurisdiction to try persons accused of, and sentence persons convicted of, misdemeanors committed within that judicial district.

(b) Any person charged with a misdemeanor, other than a petty offense may elect, however, to be tried before a district judge for the district in which the offense was committed. The magistrate judge shall carefully explain to the defendant that he has a right to trial, judgment, and sentencing by a district judge and that he may have a right to trial by jury before a district judge or magistrate judge. The magistrate judge may not proceed to try the case unless the defendant, after such explanation, expressly consents to be tried before the magistrate judge and expressly and specifically waives trial, judgment, and sentencing by a district judge. Any such consent and waiver shall be made in writing or orally on the record.

(c) A magistrate judge who exercises trial jurisdiction under this section, and before whom a person is convicted or pleads either guilty or nolo contendere, may, with the approval of a judge of the district court, direct the probation service of the court to conduct a presentence investigation on that person and render a report to the magistrate judge prior to the imposition of sentence.

(d) The probation laws shall be applicable to persons tried by a magistrate judge under this section, and such officer shall have power to grant probation and to revoke, modify, or reinstate the probation of any person granted probation by a magistrate judge.

(e) Proceedings before United States magistrate judges under this section shall be taken down by a court reporter or recorded by suitable sound recording equipment. For purposes of appeal a copy of the record of such proceedings shall be made available at the expense of the United States to a person who makes affidavit that he is unable to pay or give security therefor, and the expense of such copy shall be paid