# Change to Flip Flop Procedures

Filing Charging Documents in Flip Flop Cases

Effective November 6, 2023, cases previously brought by the filing of a criminal complaint charging a felony and Class B misdemeanor/petty offense where the defendant enters a plea of guilty to the Class B misdemeanor/petty offense charge and the felony charge is dismissed (Flip Flop Cases) will **no longer be processed through plea and sentencing in the mj case**.

Prior to the indictment deadline (Phoenix); no later than four (4) days prior to the DH/PH/COP/SE (Tucson); or at the IA (Yuma), the U.S. Attorney’s Office, or defense counsel, will email, return in open court, or file in CM/ECF one of the following:

1. A two-count information (via email).
	1. The information must include the felony charge and Class B misdemeanor/petty offense charge.
2. An Indictment (returned in open court).
3. A Motion to Extend Time to Indict (file in CM/ECF).
4. A Motion Dismiss the Criminal Complaint (file in CM/ECF).
5. A status report in the mj case (file in CM/ECF).

The two-count information will be sent electronically via email. In Yuma, the information will be filed at the IA.

Phoenix: Email mccinfopackets@azd.uscourts.gov

Tucson: Email tucinfopackets@azd.uscourts.gov and USAAZ.FlipFlop@usdoj.gov.

## Filing of Indictment or Information

Upon submission of an Information or Indictment, a criminal (cr) case will be opened, and the mj case will be merged into the new cr case.

* **Phoenix**
	+ The USAO will email the plea packet to the Phoenix Clerk’s Office at mccinfopackets@azd.uscourts.gov.
		- The subject line of the email **must** include FLIP FLOP.
	+ Plea packets will include a two-count information, waiver of indictment and plea agreement.
	+ Upon receipt of the plea packet, a cr case will be assigned, opened, and the mj case will be merged into the cr case.
	+ The information and waiver of indictment will be filed on the docket immediately after case opening.
	+ The Clerk’s Office will make every effort to accommodate scheduling the COP/SE prior to the indictment deadline.
	+ If the COP does not go through, the plea hearing may be reset. If necessary, an arraignment can be set at a later date. If an arraignment is needed, a DJ should be randomly assigned to the cr case and a trial date before the assigned DJ can be set.
* **Tucson**
	+ The USAO will provide hard copies of materials to the duty AFPD at the IA.
		- Hard copies would include, the complaint, a signed two-count information charging a felony and a misdemeanor, the waiver, and a signed plea agreement to the misdemeanor and dismissing the felony count.
	+ The FPD’s office would disseminate the packets to the assigned defense attorney.
	+ No later than **four (4)** days prior to the DH/PH/COP/SE, defense counsel will email the information, waiver, and plea agreement to the Tucson Clerk’s Office at tucinfopackets@azd.uscourts.gov and USAAZ.FlipFlop@usdoj.gov.
		- The subject line of the email **must** include FLIP FLOP.
	+ The packet will include the two-count information, the waiver of indictment and the plea agreement.
	+ Upon receipt of the plea packet, a cr case will be assigned, opened, and the mj case will be merged into the cr case.
	+ The information and waiver of indictment will be filed on the docket upon case opening.
	+ If the COP does not go through, the plea hearing may be reset. If necessary, an arraignment can be set at a later date. If an arraignment is needed, a DJ should be randomly assigned to the cr case and a trial date before the assigned DJ can be set.
* **Yuma**
	+ At the IA/COP/SE, the USAO will provide:
		- A two-count information (Note: defendant’s name will be hand-written, and the information will refer to the complaint for specifics on dates and locations).
		- The short form plea agreement, updated to refer to a two-count information.
		- Waiver of Indictment.
	+ Prior to docketing minutes from the IA/COP/SE, a cr case will be, opened, and the mj case will be merged into the cr case.
	+ The information will be docketed prior to the minutes from the IA/COP/SE.
	+ If the COP does not go through, the plea hearing may be reset. If necessary, an arraignment can be set at a later date. If an arraignment is needed, a DJ should be randomly assigned to the cr case and a trial date before the assigned DJ can be set.
	+ NOTE: Per agreement of the USAO and FPD, the charge should be Improper Entry by Alien absent special circumstances which would be known to counsel.