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CRIMINAL DEPARTMENT

14.01 FILING OF CRIMINAL COMPLAINTS

New felony charges shall be filed no later than 11:00 am the day set for arraignment, unless otherwise directed by the presiding judge.

New misdemeanor charges shall be filed no later than 2:00 pm for the next day's arraignment calendar, unless otherwise directed by the presiding judge.

(Adopted July 1, 2009; Amended July 1, 2017)

14.02 REPEALED

(Adopted July 1, 2009; Adding cases to criminal calendar - Repealed July 1, 2017)

14.03 DEADLINES PLACING MATTERS ON CALENDAR

A party seeking to set a criminal matter on calendar shall submit a memorandum or pleading to the clerk's office no later than two (2) court days before the requested hearing date unless an earlier date is otherwise noted in these Local Rules. Exceptions to this rule must be approved by the judge hearing the case.

For felony "in custody" defendants, matters to be heard on the felony grist calendar must be submitted by 11:00 am, the day prior to next available grist day.

For felony "out of custody" defendants, matters to be heard on the felony grist calendar must be submitted by 11:00 am, two (2) court days prior to the requested hearing date.

For "out of custody" defendants appearing at the counter, requests for arraignment on a warrant must be submitted by 2:00 pm for the next day's calendar. Matters may not be set on Monday for any calendar or Friday for Department 11.

(Adopted July 1, 2009; Amended July 1, 2017)

14.04 PENAL CODE SECTIONS 995 AND 1538.5 MOTIONS

Except for good cause shown, a Motion to Set Aside the Indictment or Information must be noticed within ten (10) court days of the date of arraignment.

Except for good cause shown, a Motion to Suppress Evidence must be noticed:

1) within ten (10) court days of the date of arraignment on the information in felony matters;
2) within ten (10) court days of the date of the first pre-trial hearing in a misdemeanor case where time is waived;
3) within ten (10) court days of the date of arraignment in a misdemeanor case where time is not waived.

(Adopted October 1, 1998; Amended July 1, 2015; Amended July 1, 2017)

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14.05 OTHER PRETRIAL AND DISCOVERY MOTIONS

All other pretrial and discovery motions must be heard prior to the jury trial readiness calendar (Cal. Rules of Court, rule 4.112(b)).

At the time of the defendant's first appearance on a criminal matter, an informal request for continuing discovery shall be deemed to have been made by the defendant requesting the prosecutor to comply with Penal Code section 1054.1, and by the prosecutor requesting the defendant to comply with Penal Code section 1054.3.

(Adopted October 1, 1998; Amended July 1, 2002; Amended January 1, 2009)

14.06 PRE-TRIAL CONFERENCE CALENDAR

In order to reasonably predict the business of the court, anticipate assignments of judges, and to eliminate unnecessary inconvenience to parties, witnesses, and trial jurors, a pre-trial conference shall be held in every criminal case in which a trial by jury has been demanded.

A. Procedures. The judge in each felony department, except the felony arraignment department, shall, at the time of arraignment and entry of plea, set the date for the pre-trial conference. The judge in Department 11 shall, at the time of arraignment and entry of plea in misdemeanor cases, set the date for the pre-trial conference.

B. Date Set for Pre-Trial. Once a case is set on the pre-trial conference calendar, it may not be changed without the approval of the judge before whom it is assigned.

C. Failure to Appear at Pre-trial Conference. Any failure of an attorney to prepare for, appear at, or participate in, a pre-trial conference, unless good cause is shown for any such omission, is an unlawful interference with the proceedings of the court and may be punished as contempt.

D. Trial Brief Requirement. In all criminal matters where the case does not settle at the pre-trial conference and the matter remains set for trial, trial counsel shall file a brief no later than 12:00 noon on Friday for all felony cases and no later than 3:00 p.m. on Friday for all misdemeanor cases immediately preceding the trial date (in most instances the following Monday) unless an earlier date is ordered by the court. The only exception to the timely filing of a trial brief is by authorization of the presiding judge, designee of the presiding judge, or the trial judge.

   The trial brief shall include the following:

   - A brief factual statement of the case that can be read to the jury
   - Proposed jury instructions
   - All in limine motions along with supporting points and authorities
   - Proposed voir dire questions that are being requested
   - A list of any witness problems that may interfere with the timely conduct of the trial
   - Any other issues that will have to be dealt with by the trial judge
   - Witness list
   - Exhibit list
   - Proposed verdict form

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(Adopted October 1, 1998; Amended July 1, 2001; Amended January 1, 2004; Rule 14.05 renumbered as 14.03 and amended January 1, 2009; Amended July 1, 2017)

14.07 JURY TRIAL READINESS CALENDAR

There shall be a jury trial readiness calendar for all criminal and traffic misdemeanor cases at which all trial counsel must be present. If the trial attorney fails to appear, the court may, in its discretion, find him/her in contempt.

A. Procedures. Upon the calling of such readiness calendar, all motions for continuance, waiver of jury, change of plea, reductions, or other procedural matters shall be presented. In the event the case is not disposed of at the trial readiness conference and a trial date is confirmed, all offers on either side will be deemed withdrawn and the case will be tried on all counts. No further amendments to pleadings or continuances will be granted except for good cause shown.

B. Date Set for Trial - Duties. When the parties announce they are ready for trial, the parties announce that:

- The respective attorneys are prepared to commence the trial immediately.
- All pre-trial motions and discovery have been completed.
- All witnesses are readily available and have been interviewed by the respective attorneys.
- The attorneys' calendars permit them to commence the trial immediately and see it to conclusion.

C. Proposed Jury Questionnaires. Unless waived by the trial judge, counsel shall submit proposed jury questionnaires to the court no less than fifteen (15) court days in advance of the trial date. Upon receipt, the questionnaires shall not be officially filed by the clerk of the court, but shall be immediately forwarded by the clerk to the trial judge for review.

D. Continuance Policy. The welfare of the People of the State of California requires that all proceedings in criminal cases shall be set for trial and heard at the earliest possible time (Pen. Code, § 1050). Any motion to continue in a criminal proceeding must comply with Penal Code section 1050.

1. No continuance will be granted solely because all parties agree thereto.
2. Trailing. Should it be necessary that cases be trailed for hearing or trial, they will be trailed day by day. The case will be called each day at 11:30 a.m., 4:30 p.m., and the next day at 8:30 a.m. When a case is trailing, the defendant and counsel, except in extraordinary circumstances, must be present when the case is called.

(Adopted October 1, 1998; Amended July 1, 2002; Amended January 1, 2004; Amended January 1, 2007; Rule 14.06 renumbered as 14.04 and amended January 1, 2009; Amended July 1, 2017)

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14.08 EVIDENTIARY PRE-TRIAL MOTIONS

All misdemeanor pre-trial motions requiring the presentation of evidence shall be noticed in writing with proof of service of opposing parties and filed no later than ten (10) court days prior to the date of hearing, unless, for good cause shown, and upon order of court, time is shortened for the filing of said pre-trial motion.

A. Motion to Suppress Evidence. In misdemeanor Penal Code Section 1538.5 motions to suppress evidence the moving party shall file written points and authorities at least ten (10) days prior to the date of the hearing which shall:

1. Identify with particularity the evidence sought to be suppressed;

2. Specifically state the legal theories relied upon; and

3. Cite the specific authorities offered in support of the motion.

(Adopted October 1, 1998; Rule 14.07 renumbered as 14.05 and amended January 1, 2009, Amended July 1, 2015; Amended July 1, 2017)

14.09 MODIFICATION OF SENTENCE ADJUDGED

The judge who admits a defendant to probation shall, as far as practicable, hear any application for modification, change, or termination of probation, except for applications under Penal Code sections 1203.4 or 1203.45 or unless otherwise assigned by the Presiding Judge.

Any request for modification of sentence imposed must be filed in writing on a form provided by the court.

(Adopted October 1, 1998; Rule 14.08 renumbered as 14.06 January 1, 2009; Amended July 1, 2017)

14.10 COURT APPOINTED COUNSEL

Only the Office of the Public Defender shall be appointed as counsel in all appointments authorized under Penal Code section 987 et al. In situations involving conflict of interest filed by the Office of the Public Defender of Monterey County, referral will be made to the Alternate Defender's Office for appointment of counsel.

(Adopted October 1, 1998; Amended January 1, 2004; Rule 14.09 renumbered as 14.07 January 1, 2009)

14.11 REPEALED

(Adopted October 1, 1998; Appeals in misdemeanor cases that were electronically recorded - Repealed January 1, 2011)

14.12 POSTING OF A PROPERTY BOND IN A CRIMINAL CASE

Requirements

A hearing is required if equity in real property is submitted as security. At the hearing, at which witnesses may be called or examined, the magistrate will determine the value of such equity. If the magistrate finds that the value of the equity is equal to twice the amount of the cash deposit required he or she shall allow such bail. (Pen. Code, § 1298.)

Procedure

A. To set the matter for hearing, a noticed motion for real property equity bond with proof of service to the Office of District Attorney and Monterey County Counsel must be filed with the clerk's office at least five (5) days prior to the date set for the hearing. The following documents must be submitted as attachments to the motion:

   1. Declaration of property owner(s).

   2. A notarized promissory note in the amount of the required bond.

   3. Copy of the deed of trust proposed to be recorded securing the promissory note naming Monterey County as beneficiary and Court Executive Officer of Superior Court of California, County of Monterey, as trustee.

   4. Current preliminary title report including legal description of property, location and all encumbrances from a recognized California title company dated within thirty (30) days prior to the application for property bond.

   5. Appraisal Report of the fair market value of the property, completed by a certified real estate appraiser. The report should be dated no more than thirty (30) days prior to the application for property bond.

   6. Proof of insurance coverage for the property. Must have an adequate amount of coverage to cover all encumbrances. Must show County of Monterey on the insurance policy.

   7. Order approving property bond and order for release of defendant. (Pen. Code, § 1281.)

B. All documents submitted for filing must conform to the form/format requirements set forth in California Rules of Court, rule 2.100(b) et. seq.

C. The clerk's office will review all forms and paperwork to ensure that all necessary items have been presented for court approval.

D. The court may require additional evidence in order to ascertain the true equity in the property held by the applicants. (Pen. Code, § 1280.)

E. If the court approves the property bond, the applicant shall record the deed of trust with the county recorder's office where the property is located to be recorded, and shall deliver to the clerk of the court a copy of the recorded deed of trust. The original deed of trust shall be returned by mail from the county recorder's office to the clerk of the court. All costs incurred to process the property bond and to comply with this rule shall be borne by the applicant.

F. The clerk of the court will present the order approving property bond and order for release of defendant to the magistrate. Magistrate signs order(s) if not previously signed.

G. The clerk of the court will send a duplicate copy of order approving property bond and order for release of defendant with court seal affixed, to the county jail.

H. The clerk of the court will place the promissory note and newly recorded deed of trust in a sealed envelope and store the envelope in a secured area.

I. In the event the property bond is ordered exonerated, the attorney of record must do the following:

1. Prepare a full reconveyance form.

2. Schedule an appointment with the Court Executive Officer or designee.

   a. Court Executive Officer or designee shall sign the full reconveyance in the presence of a notary public provided and paid for by the defendant.

   b. Signed full reconveyance form, cancelled recorded deed of trust, and cancelled promissory note shall be given to the attorney of record.

3. In the event the property bond is ordered forfeited, upon entry of summary judgment and order of the court, the clerk shall prepare an appropriate form of order for the court's signature directing the clerk to release the original deed of trust and promissory note to County Counsel for the commencement of foreclosure proceedings. (Pen. Code, § 1280.1, subd. (b).)

(Adopted January 1, 2008; Rule 14.11 renumbered as 14.09 January 1, 2009; Amended July 1, 2010; Amended July 1, 2012; Amended July 1, 2017)

14.13 LOCAL CRIMINAL BAIL SCHEDULE

This rule sets forth a schedule and procedure for adoption of the local bail schedule pursuant to Penal Code section 1269b, subdivisions (c) and (d), and California Rules of Court, rule 4.102. This bail schedule will be used for setting bail at all times provided by law.

A. The local bail schedule will be reviewed annually.

B. Judicial officers of this court designated by the presiding judge will review and consider revision of the local bail schedule annually and submit their proposed revisions to the presiding judge. The proposed revised local bail schedule will then be reviewed for adoption by a majority of the judicial officers.

C. Copies of the local bail schedule shall be sent to the officer in charge of the county jail and of each city jail within the county, to each judicial officer of this court, to the Judicial Council and posted on the court's public website. (Pen. Code, § 1269b, subd. (f); Cal. Rules of Court, rule 4.102.)

Bail shall be set according to the Uniform Bail Schedule established by the Judicial Council per California Rules of Court, rule 4.102 for those charges addressed in said schedule except when

a judge determines in his or her discretion that factors in aggravation of mitigation justify a different amount in a specific case.

(Adopted January 1, 2009)

14.14 TRIALS BY DECLARATION

The court adopts the trial by declaration process, defined in Vehicle Code section 40902 and California Rules of Court, rule 4.210.

(Adopted July 1, 2010)

14.15 NIGHT COURT

Night court is held the last Monday of every month (excluding holidays) for traffic arraignments and special sets from the court. No pre-trial or court trials will be set for night court. (Veh. Code, §42006, subd. (a).)

(Adopted July 1, 2013)

14.16 TRAFFIC SCHOOL

The court does not allow installment payments on cases where the defendant is requesting to attend traffic school. (Veh. Code, § 42007, subd. (a)(2).)

(Adopted July 1, 2013)

14.17 MOTION TO RE-OPEN CASE ADJUDICATED BY BAIL FORFEITURE

Any motion to re-open a conviction reported to the Department of Motor Vehicles following a bail forfeiture under Vehicle Code section 40512 or reported as a failure to complete traffic violator school under Vehicle Code section 40512.6 shall be filed with the Traffic division no later than ninety (90) days from the date of the bail forfeiture.

(Adopted July 1, 2013)

14.18 REQUEST FOR EXTENSION

Upon written or verbal request for an extension of time to take care of an infraction traffic or infraction non-traffic matter, the clerk of the court or designee is authorized to grant a one (1) time sixty (60) day extension from the original pay or appear date (appearance date on citation).

(Adopted July 1, 2013)