

RULE 8 RULES APPLICABLE TO CRIMINAL TRIAL PROCEEDINGS

8.1 CRIMINAL COURTS: ASSIGNMENT OF CASES

All criminal felony matters, with the exception of 1210 PC Court, shall be initially set in the designated Early Case Resolution Department (ECR). If a felony case is not resolved in the Early Case Resolution Department, it shall be assigned for “all purposes” to another department on a predetermined alphabetical split basis.

All criminal misdemeanor matters, with the exception of misdemeanor Domestic Violence and 1210 PC cases, shall be assigned for “all purposes” to a misdemeanor department on a predetermined alphabetical split basis.

A copy of the Criminal Division Schedule may be obtained from the Superior Court Clerk’s Office Criminal Division, or on our website: sonomasuperiorcourt.com . (Eff. 1/1/1997; Rev. 1/1/2005, 7/1/2009)

8.2 VIOLATION OF PROBATION

A. Assignment of Cases

All violations of probation shall be assigned to a criminal department on an alphabetical split basis.

B. Disclosure of Non-Confidential VOP Probation Records

The Court authorizes the Sonoma County Probation Department to produce copies of non-confidential probation records that form the basis of allegations contained in a Request Probation be Summarily Revoked (aka, the “Universal Memo”) to the defense and prosecution in any violation of probation proceeding.

Any request for confidential records, or records of probation not otherwise produced by the Probation Department, may be sought through the Court in any Violation of Probation proceeding after providing reasonable notice to the Probation Department and District Attorney’s Office.” (Eff. 1/1/1997; Rev. 1/1/2005, 1/1/2008)

8.3 CRIMINAL PRETRIAL LAW AND MOTION

Criminal pretrial law and motion hearings shall be heard by the judge assigned the case at such time and place scheduled by the judge.

A. Written Motion Procedures

1. All motions shall be made in writing. With the exception of 1050 PC continuance motions and motions to vacate bail bond forfeitures, or upon order of the court, **ALL** motions must be filed in court, except that the judge may authorize filing of a motion in the Clerk’s Office by minute sheet entry. 1203.4 PC motions to expunge/reduce will be received in the Clerk’s Office and filed in court.

The court shall set a hearing date for all motions. Appearances for filing of motions in court may be calendared through the Clerk's Office.

2. All moving papers and all responding documents shall have the hearing date prominently displayed and underlined in red on the documents together with the moving party's estimates of the time required for the hearing.
3. Courtesy copies of all pleadings shall be delivered to the assigned judge's judicial assistant or courtroom clerk at the time of filing. (Eff. 1/1/1997; Rev. 1/1/2005, 7/1/2007, 7/1/2008, 1/1/2010)

8.4 PRETRIAL DISCOVERY

The District Attorney's Office and the Public Defender's Office shall disclose and make available to the opposing counsel those materials described in the Stipulation and Agreement re: Reciprocal Discovery Duties between the Sonoma County District Attorney's Office, the Public Defender's Office, and the Sonoma County Superior Court, dated November 8, 2002. (Eff. 1/1/1997; Rev. 1/1/2005)

8.5 APPOINTMENT AND PAYMENT OF COUNSEL IN CONFLICT CASES

- A. In cases where the Public Defender's Office declares a conflict in Adult and Juvenile criminal matters, the Court shall appoint conflicts counsel. (Penal Code section 987.2) The County of Sonoma may provide a list of contract conflict counsel for the court to make appointments. If any attorneys from the contract list declare a conflict, the Court shall appoint the next attorney on the list. If the list is exhausted, the Court in its discretion shall appoint other competent conflict counsel outside of the contract conflicts list.
- B. In cases where the Public Defender's Office declares unavailability, the Court shall appoint conflicts counsel. (Penal Code section 987.2) The County of Sonoma may provide a list of contract conflict counsel for the court to make appointments. If any attorneys from the contract list declare a conflict, the Court shall appoint the next attorney on the list. If the list is exhausted, the Court in its discretion shall appoint other competent conflict counsel outside of the contract conflicts list.
- C. "Reasonable necessary ancillary defense services" shall also be ordered upon request by conflicts counsel. (Penal Code section 987.8(g), and section 987.9; Evidence Code section 730) These requests are confidential and may be made ex-parte to the Superior Court. The application for appointment and funds shall be accompanied by an affidavit and other supporting documents that specifically outline the reasonableness of the request and the appropriate amount of funds requested.
- D. After the appointments are made and applications for other defense services fees are approved, bills for payment shall be forwarded to the County of Sonoma for review and payment, if appropriate. (Penal Code section 987.3). (Eff. 1/1/1997; Rev. 1/1/2006, 1/1/2007, 7/1/2007, 7/1/2010)

8.6 APPOINTMENT OF SECOND COUNSEL

Applications for second counsel in special circumstances cases shall be made to the "P.C. 987.9" judge of the Superior Court. The application shall specify how the lead counsel intends to use the second counsel. (Eff. 1/1/1997; Rev. 1/1/2005, 7/1/2007)

8.7 EX PARTE APPLICATIONS FOR ORDERS

- A.** All applications involving criminal matters shall be presented to the assigned criminal department.

- B.** All applications for a court order for the temporary release of inmates from the Sonoma County Jail shall be filed and presented in writing along with a proposed order to the assigned criminal department.
 - 1.** Each application shall include a written declaration showing that notice of the application has been given to the District Attorney and to the Sonoma County Sheriff's Office not less than forty-eight (48) hours before the application is presented to the Court.

 - 2.** Unless the District Attorney agrees in writing, the application shall be heard and decided by the Court after considering the views of all parties. The Court may under appropriate circumstances consider in camera declarations concerning the merits of the request.

 - 3.** Any order granting the application shall include an order that the Sonoma County Sheriff shall provide security and transportation for the applicant. Alternatively, the Court may choose to release the inmate on his own recognizance or supervised own recognizance if there is good cause to do so.

 - 4.** Upon submission of a declaration of indigence, the order may include a waiver of costs or fees by the Sheriff for transportation and security.

 - 5.** In the event that the defendant requests confidentiality the court order may include a protective order to preserve confidentiality, upon a showing of good cause.
(Eff. 1/1/1997; Rev. 1/1/2005, 7/1/2007)

8.8 CONTINUANCES

- A.** No trial or preliminary hearing may be continued, except upon written motion establishing good cause as required by P.C. 1050, unless otherwise required by statutory or decisional law.
 - 1.** The uniform P.C. 1050 form, available at the Criminal Division of the Clerk's Office, is to be used by the moving party. (Eff. 1/1/1997; Rev. 1/1/2005, 7/1/2007)

8.9 COURT SYSTEM

It is the goal of Sonoma County Superior Court that each department handle its assigned cases from start to finish regardless of the custodial status of the defendant. A copy of the Criminal Division

Schedule may be obtained from the Clerk's Office, Criminal Division, or visit the court's website at www.sonomasuperiorcourt.com. (Eff. 1/1/1997; Rev. 1/1/2005, 7/1/2007)

8.10 ARRAIGNMENTS

Arraignments will be assigned alphabetically. The alphabetical designation will be determined by Superior Court and is subject to change, with the exception of Domestic Violence Court and 1210 PC Court cases.

In multiple defendant cases, the assignment shall be made by the first defendant listed on the complaint. Once assigned, the case remains with the assigned judge until it is completed. (Eff. 1/1/1997, Rev. 1/1/2005, 7/1/2007)

8.11 CALENDARING SYSTEM

A. First Appearance Date

First appearance date for out of custody felony defendants will be two weeks after arrest.

First appearance date for out of custody misdemeanor defendants will be four (4) weeks after arrest except in cases where defendant is charged with violations of §§11550 and 11377 of the Health and Safety Code in which the first appearance date shall be ten (10) days after arrest. See, Penal Code §853.6

When a defendant is charged with violations of Penal Code §§243(e)(1), 273.5, 273.6, 166(a)(4) or 422, the first appearance date shall be fourteen (14) days after date of arrest when the defendant is not in custody.

B. Arraignments

Public Defender and District Attorney shall be present at all arraignments.

Any person appointed an attorney shall be assessed fees if that person is found able to pay them.

C. Schedule of Events

Misdemeanors: After the entry of a plea of not guilty, the case shall be set for a settlement conference. If there is no settlement and no motions to be filed, the next event set shall be a readiness conference and jury trial.

D. Calendar Events

1. Arraignments

The District Attorney shall give a defendant, designated by the court as in pro per, or an attorney appearing generally, a copy of all police and laboratory reports and the complaint.

District Attorney shall file P.C. 1000 declarations if applicable.

2. Jury Trials

Defendant is to be present at jury trial unless waived. Each judge shall conduct a pretrial conference to discuss in limine motions, jury instructions, witness schedules and voir dire procedures. (Eff. 1/1/1997; Rev. 1/1/2006, 7/1/2007)

8.12 VACATING CIVIL ASSESSMENT

- A.** After a case is referred to Court Collections or GC Services for failure to appear, and a civil assessment is imposed, the agency shall issue a ten (10) day warning notice plus five (5) days for mailing, pursuant to Penal Code §1214.1.
- B.** A petition must be obtained from and filed with Court Collections or GC Services to request that the civil assessment be vacated. A money order or cashier's check in the amount of the original total bail, which includes base fines plus applicable penalty assessments and fees, shall be attached to the petition.
- C.** The judicial officer will grant or deny the petition. If the petition is granted, the civil assessment shall be vacated, and the judicial officer shall rule on the underlying violations. The money order or cashier's check shall be applied to the court ordered fine amount. If the petition is denied, all or a portion of the civil assessment shall remain, and the judicial officer may rule on the underlying violations. The account shall remain with Court Collections or GC Services, and money posted shall be applied to the account balance.
- D.** Defendant has five (5) days, upon receipt or denial of the petition, in which to notify the court to set the matter for a further hearing or the denial becomes final. (Eff. 1/1/1997; Rev. 1/1/2005, 7/1/2007)

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