

25TH JUDICIAL DISTRICT – RULES OF COURT

ARTICLE 3. POLICIES FOR CRIMINAL/TRAFFIC COURT

Crim Rule 1. Special Continuance Policies.

- a) Ninety day limit. Except as otherwise provided by law, for good cause, upon proper motion and upon consideration of the factors set forth in **Gen Rule 4**, cases in Criminal/Traffic Court may be continued *once for a period not to exceed 90 days* from the original setting. With the permission of the Court a longer period may be allowed as provided in a Deferred Prosecution Agreement.
- b) When made. Whenever possible, motions to continue should be made before or during calendar call during each scheduled session.
- c) Victim notice mandatory. If a matter involving an alleged victim falling within the parameters of the Victim's Rights Act is scheduled on a day when the alleged victim has no notice, it shall be continued and the alleged victim notified in writing by the District Attorney's office of the new date. Written notice of continuance dates must be given to alleged victims or prosecuting witnesses in cases where the Victim's Right Act applies
- d) Use of officer's court dates. In cases where the State's primary witness is a law enforcement officer with regular court dates, such cases should be set on the officer's soonest court date when all the parties can be ready for trial.
- e) When officers unavailable. Continuance motions by the State due to the unavailability of an officer shall be determined by the standards of **Gen Rule 4** and **Crim Policy 1** herein but must be addressed to a Judge.
- f) Limits on second and subsequent continuances. In any case, the second case setting shall be the date when such matter should be tried except upon a showing of *extraordinary cause*. What constitutes *extraordinary cause* is within the discretion of the presiding judge. *Extraordinary cause* shall not include the need of a defendant for more time to get money to hire counsel or to pay sums due under the Court's judgement.
- g) DA may continue some cases. The Court may, in its discretion, allow the District Attorney to continue cases in accordance with the provisions of **Gen Rule 4** and **Crim Policy 1, a-e** herein.
- h) No continuance if whereabouts of defendant unknown. Notwithstanding any other provision of these Local Rules, no attorney shall request a continuance nor shall one be allowed in any instance where the whereabouts of the defendant in such matter is unknown to such attorney. The attorney shall inform the Court of such fact at or before the call of the calendar.
- i) No continuances for 20 day failures. Cases added on to a Criminal/Traffic calendar for disposition where a 20-day failure has previously been issued should not be continued.

Crim Policy 2. Defendants to Appear In Court

- a) Appearance required. Except where authorized below or by law and duly executed waiver of appearance, defendants are expected to be in Court at the designated time and place.
- b) Standby. A defendant may be placed on immediate standby where counsel appears on his/her behalf and moves for a first continuance pursuant to **Crim Policy 1** above. In the event such motion is denied, the defendant shall appear as soon as possible.
- c) Order for arrest upon FTA. Defendants who fail to appear contrary to the provisions of this rule shall be subject to the issuance of a Warrant or Order for Arrest at any time during the session. In appropriate cases the Court may direct that the case be designated as a “20 day failure.”

Crim Rule 3. Duties of Law Enforcement Officers, Generally.

- a) Regularly scheduled court dates. Except as provided below, law enforcement officers appearing as witnesses in cases shall have regularly scheduled court dates and shall appear on such dates at the beginning of the session and shall remain until cases in which they are involved are disposed or continued.
- b) Standby. Officers may arrange to be placed on immediate standby through the office of the District Attorney or an assigned Court liaison officer as long as such officer remains available to come to Court within a reasonable time.
- c) Must supply clerk, DA with schedule. Law Enforcement Agencies shall publish and maintain with the Clerk and District Attorney’s office a schedule of Court dates for each law enforcement officer in the agency who regularly arrest or summons people to Court. Said schedule shall be updated continuously so that the Clerk has record of the Court dates of each officer up to **ninety (90) days** in advance.
- d) Monthly scheduling required. Unless the officer regularly has fewer than five (5) cases per month, attempt should be made by the agency to schedule said officer to Court at least once per month. Efforts should also be made to schedule officers so as not to coincide with the officer’s vacation time or times of educational training sessions.
- e) Officers to subpoena witnesses. In cases where criminal process is initiated by a law enforcement official which involves private witnesses, the investigating law enforcement official shall cause subpoenas to be issued for all of such witnesses for each scheduled Court session.
- f) Witness standby. For the first scheduled session only, the officer may make arrangements to have the witness placed on telephone standby through himself/herself of the District Attorney’s office on the Court date. Any witness placed on standby, upon notification, shall appear as soon as possible.

Crim Rule 4. Attorneys Representing Indigent Clients: Duties.

- a) Court to be notified of appointed status. An attorney appointed to represent an indigent defendant shall notify the Court at the time the case is disposed that he/she is court-appointed so that the Court may set an appropriate fee.
- b) Time limits on submission of fee applications. Court-appointed attorneys shall execute fee applications on appropriate AOC (Administrative Office of the Courts) forms and submit them to the Court for approval no later than **one hundred twenty (120) days** from the final disposition of the case. The completed form should state the amount of the fee ordered to be paid at the time of disposition.
- c) Remands; notice required in some cases. In the event a matter is appealed and later remanded to the District Court and the attorney desires to submit a request for a fee greater than that ordered at the time of the original disposition, the attorney must file a motion requesting such additional fee and notice the defendant for hearing and cause such matter to be scheduled during any regularly scheduled session of Criminal/Traffic Court. The Judge presiding over such session shall have the authority to impose any greater fee deemed appropriate in addition to the original amount ordered.
- d) Consequences of failure to comply. Failure of an attorney to comply with these rules may result in a denial or reduction of the fee request.

Crim Rule 5. Requests, Motions to Strike Warrant, Order for Arrest

- a) Good cause required to strike. Warrants and Orders for Arrest due to the nonappearance of a defendant should not be stricken except for good cause..
- b) To whom motions addressed. Upon issuing an order for arrest, a Judge may direct that any request to strike be addressed before her/him. In such cases, requests to strike should be addressed to that Judge who issued the process, whenever possible. Where the defendant was incarcerated at the time that the process was issued the Clerk may recall and strike the Order for arrest upon receiving satisfactory information indicated such.
- c) Adding on motions to strike.. Motions to strike or recall a Warrant or Order for Arrest may be added on to any Criminal/Traffic calendar by permission of the office of the District Attorney. Such permission should be in writing and the Clerk should cause such file to be delivered to the Courtroom. No case should be added on to a calendar without such written permission. If the District Attorney refuses to give such permission, the request to add the matter onto the calendar may be addressed to the Court, in open Court.
- d) Procedure. With the consent of the office of District Attorney, once a matter has been properly added on a docket pursuant to **Crim Policy 5(c)** above, counsel for the defendant may request the appropriate Judge to strike the process. If the Judge is other than the Presiding Judge, counsel may contact the appropriate Judge by phone or otherwise to comply with **Crim Policy 5(b)** above. If the issuing Judge consents, another Judge presiding may sign the Order striking or recalling the process.

- e) Strike order of forfeiture if OFA stricken. If process is stricken or recalled, any Order forfeiting bond due to the nonappearance should be stricken immediately and a new Court date be set.

Crim Rule 6. Adding on Cases.

- a) Victim notice required. In no event should a case involving an alleged victim falling within the parameters of the Victim's Rights Act be added on for disposition to a Criminal/Traffic calendar on a date different from a date upon which the alleged victim has been noticed.
- b) Outstanding OFA must be served or stricken. In no event should a case be added onto a Criminal/Traffic calendar for disposition where a warrant or order for arrest has been previously issued for the defendant in such case for nonappearance and said warrant or order for arrest has not been served, stricken or recalled.
- c) 20 day failure. In no event should a case in which a 20-day failure has previously been issued be added on to a Criminal/Traffic calendar for any purpose other than immediate disposition.
- d) DA to coordinate with clerks. Except as provided in **Crim Policy 6(a-c)** above, cases may be added on with the written permission of the office of the District Attorney. In exercising this discretion, effort should be made by the office of District Attorney to coordinate the adding on of such cases with the office of the Clerk so as to cause the least inconvenience to the Clerk staff.

Crim Rule 7. Effective date.

The Rules in this Article shall be effective on the date specified in the Order adopting them signed by the Chief District Court Judge.