

**CHAPTER 10
PROCEDURAL RULES
CRIMINAL AND TRAFFIC**

RULE 10.00

FILING CRIMINAL COMPLAINTS AND CITATIONS

(a) Filing

All criminal complaints, informations, and citations filed in the Superior Court of California, County of San Luis Obispo, must comply with the Court Filing Procedures.

(Amended 7/1/15)

RULE 10.01

BAIL

(a) Requests for Increase or Reduction

When bail has been set by a Judge out of Court, all subsequent out-of-court requests for an increase or reduction of bail must be made to the judge who set such bail.

(b) More than One Request

Any person requesting a reduction or increase in bail must disclose all other applications for an increase or reduction.

(c) Notice to District Attorney

(1) No applications may be made without prior notification to the District Attorney to allow a representative to be present.

(2) When a request for bail or OR is made after normal court hours the requesting party must contact the "on-call" deputy district attorney to determine his or her recommendation. The "on-call" deputy district attorney will notify the requesting party of the bail recommendation and furnish a phone number where the party can contact the deputy district attorney to discuss the recommendation.

(d) Relief From Forfeiture

A surety, surety insurer, bail agent, or a depositor of money or property may bring a motion to vacate a forfeiture and exonerate a bond pursuant to the provisions of Penal Code section 1305, subdivision (i). The motion shall be filed within 180 days of the date of forfeiture, or if notice of forfeiture was sent by mail, then within 185 days of the date of forfeiture.

(1) Form of Motion

A motion filed pursuant to this provision and the provisions of Penal Code section 1305 shall be in the form required by California Rules of Court, Rule 3.1112, or, in the alternative, may be brought by way of a properly completed Court approved form entitled Notice Requesting Discharge of Forfeiture and Exoneration of Bond, which may be obtained through the clerk of the San Luis Obispo Superior Court, Criminal Division. Unless the grounds for relief from forfeiture are those provided for in Penal Code section 1305, subdivisions (c)(1) or (2), the motion or notice requesting discharge shall be supported by proper affidavit(s).

(2) Hearing Procedure

The motion or notice requesting discharge of forfeiture shall be considered by the assigned judge in chambers and may be calendared as provided for in paragraph (3) of this rule. Except as otherwise provided in paragraph (3), no appearance is required by the moving party or the prosecuting agency.

(3) Notice Requirements

If, after review of the motion or notice requesting discharge of forfeiture and the supporting affidavits, the Court believes that discharge of forfeiture and exoneration of the bond is not warranted, the Court will calendar the matter for hearing and the Clerk of the Court shall provide 10 days prior notice to the prosecuting agency.

(4) Assessment of Costs

(A) The Court shall assess the sum of \$100.00 as a condition to exoneration of bail in all cases (said sum representing the Court's costs in processing the forfeiture and other matters related to the defendant's failure to appear).

(B) Where applicable the following assessments shall be made when a defendant has been transported back to San Luis Obispo County at public expense (said sums representing the actual costs of returning the defendant to custody, in accordance with the Penal Code section 1306):

- (1) Los Angeles County Sheriff's bus service shall be assessed at \$26.00;
- (2) Security Air Transport Air Service shall be assessed at \$226.00;
- (3) Other transportation costs shall be assessed at actual cost.

(e) Extensions of Time

A surety, surety insurer, bail agent, or a depositor of money or property may bring a motion to extend the 180-day relief from forfeiture period provided for in Penal Code section 1305. The motion shall be filed within 180 days of the date of forfeiture, or if notice of forfeiture was sent by mail, then within 185 days of the date of forfeiture. The motion shall be supported by proper affidavit(s) showing "good cause" for the extension. The matter shall be calendared for hearing within 30 days from the expiration of the 180 day period, conditioned upon the moving party providing 10 days prior notice to the prosecuting agency.

(f) Source of Bail -- PC 1275 -- Procedure

When a Source of Bail Order pursuant to Penal Code Section 1275 has been signed by a judge in a case, the following procedure must be followed by the defendant in calendaring the matter for hearing to show that "no portion of the consideration, pledge, security, deposit, or indemnification paid, given, made, or promised for its execution was feloniously obtained:"

(1) Declarations and Proof Required

The Request for Hearing must be accompanied by a declaration or offer of proof setting forth the following:

- (A) The bail bondsman,
- (B) The source of the bond premium, including name and address of person(s) proposing to pay said premium, and
- (C) The source of the security or pledge, including the name and address of the owner, and description of the property.

(2) Time for Filing

The declaration or offer of proof must be filed and personally served on the District Attorney not later than three court days before the hearing; for example, for a hearing on Friday at 8:30 a.m., the declaration or offer of proof must be served and filed by Tuesday at 5:00 p.m.

(3) Persons Required at Hearing

At the hearing the defendant must produce the bail bondsman, the person proposing to pay the premium, and the person proposing to provide the security for examination and cross-examination. (Amended 7/1/03)

RULE 10.02

ARREST AND SEARCH WARRANTS

All requests for arrest and search warrants must be presented to the District Attorney's Office for review prior to being presented to a judge and must be approved as to form by a prosecutor who has reviewed and approved the request. Search warrants for driving under the influence (DUI) cases which use the pre-approved template for a DUI blood draw search warrant do not require District Attorney approval. (Adopted 1/1/17)

RULE 10.03

CALENDARING CRIMINAL PROCEEDINGS

(a) Location of Arraignment

- (1) **In-Custody**

The initial court appearance or arraignment for defendants who are in custody in the County Jail will be held at the San Luis Obispo Court location.

(2) Out-of-Custody

The initial court appearance or arraignment for defendants who are not in custody at the county jail and are charged with a felony offense, must be arraigned at the San Luis Obispo Court location. The initial court appearance or arraignment for defendants who are not in custody and are charged with a misdemeanor offense that was committed in the jury district of Paso Robles or the jury district of San Luis Obispo must be arraigned at the San Luis Obispo Court location.

(3) Felony Cases

All defendants charged with a felony offense regardless of where the offense occurred must be arraigned at the San Luis Obispo Court location. Felonies on entry of a plea of not guilty will be set for a preliminary hearing. This hearing will be set within 10 court days of the entry of plea if the defendant is in custody and within 14 to 16 court days if he or she is not.

(b) Date of Arraignment

(1) Arresting agencies releasing persons prior to an arraignment calendar hearing must fix the date of the appearance of the person arrested in the proper location of this Court at a regularly scheduled arraignment calendar not more than two weeks for felony defendants and 30 days (or closest court day not to exceed 32 days due to holidays and weekends) for all other defendants from the date of such release. If a further appearance date has been set by the Court then the date of appearance fixed by the law enforcement agency must be that date.

(2) Whenever an arresting agency releases a defendant and sets a court appearance date it must notify the clerk of the court in which the defendant is to appear.

(c) Multiple Cases

(1) Felony Defendants:

(A) Probation Violations

If a defendant is charged with a felony offense, all pending misdemeanor probation violations will be transferred to the San Luis Obispo Branch where the felony case is pending. If a defendant is released upon posting bail on a warrant issued for a misdemeanor probation violation and a felony is pending, the defendant will be directed to appear in the San Luis Obispo Branch on all of these cases.

(B) Pending Misdemeanor Cases

If a defendant in custody is charged with a felony offense and a separate misdemeanor offense, all pending misdemeanor cases will be transferred to the San Luis Obispo Branch. The defendant will appear in this branch on all these cases.

(2) Misdemeanor Defendants

When a misdemeanor defendant is in custody, the defendant will be arraigned on all pending cases in the San Luis Obispo Branch. However, should the defendant be released on bail or citation prior to the appearance the defendant will be directed to appear in the branch from which the warrant was issued or in which the case is pending. (Amended 7/1/10)

RULE 10.05

CALENDAR EVENTS: MISDEMEANORS

(a) Arraignments

The defendant or counsel will be given a copy of reports and complaint at the arraignment. Stipulations for independent blood analysis should be made at arraignment. Pleas will be entered. Since the District Attorney and Public Defender may be present, some plea negotiation may be accomplished at this event. Following entry of a not guilty plea case will be set for a Pretrial Conference ~~and Trial Setting Conference.~~

(1) Counter Arraignment by Counsel

a. The Clerk's office is authorized to accept local form Counter Arraignment by Counsel on misdemeanor and infraction cases from retained attorneys. Eligible

cases must have an arraignment date not less than two days in the future. Cases involving charges of violence that might result in a criminal protective order are not eligible.

- b. Counter Arraignment by Counsel forms cannot be modified. Modified forms will not be accepted.
- c. No motions may be submitted with a Counter Arraignment by Counsel form.
- d. Counter Arraignment by Counsel will include the following actions on the defendant's behalf:
 - i. Waiver of formal arraignment
 - ii. Waiver of time for trial
 - iii. Entry of not guilty plea on all charges and denials of all priors and probation violations.
 - iv. Agreement to contact the Deputy District Attorney or City Attorney assigned to the department five days before the pre-trial conference
- e. The Clerk's office will off calendar the arraignment and set the matter for pre-trial conference two to four weeks in the future.

(b) Motions

Any motions, except in limine motions where a stipulation cannot be obtained, must be noticed and heard prior to the Trial Setting Conference. No further motions will be heard on the case. If a motion to strike a prior cannot be heard at this time because of lack of documentation it will be heard at the time of sentencing. VC 41403(c). In Limine Motion: Any in limine motion must be filed in writing five days before the Readiness Conference. The motion will be heard at the Readiness Conference. Any pleadings submitted to the court that have any confidential documents must conform with PC964. If not, they will be rejected. The Court, at its discretion, may require an unredacted/sealed version.

(c) Pre - Trial Conferences

The District Attorney and defense counsel must discuss the case and attempt to resolve the case at the pre trial conference.

(d) Trial Setting Conference

If there is not a disposition of the case, a Readiness Conference and Trial will be set. All discovery is to be complete by this conference and all additional investigation such as blood re-analysis, is to have been completed.

(e) Court Trial

If a Court Trial is requested at arraignment this will be set and a Pre Trial Conference will only be set upon request. Trial will be set within four weeks.

(f) In Custody Defendant

Pre Trial Conferences for in custody defendants will be set on the in-custody-arraignment calendar.

(g) Readiness Conference

The purpose of this conference is simply to confirm the matter for trial the following day. No negotiated pleas will be accepted unless good cause is shown. Once the matter is confirmed, no negotiated pleas will be accepted. On the date of trial the case will be either tried, dismissed or a defendant will be required to plead to all counts, unless good cause is shown.

(h) Continuance by Clerk

(1) A clerk of this Court may upon the request of the defendant or counsel, continue the initial arraignment of a defendant for up to 14 calendar days.

(2) This authorization does not apply to any case in which a defendant has been charged with a felony.

(3) This authorization does not apply to any case in which a defendant has been released on bail or is charged with a crime of violence that may result in the issuance of a PC136.2 order.

(i) Appearance by Counsel

Pursuant to statutory authority (Penal Code Section 977(a)(1)) and case law, a defendant may appear by counsel if the accused is charged with a misdemeanor only, except as provided in Penal Code Section 977(a)(2), which states “If the accused is charged with a misdemeanor offense involving domestic violence, as defined in Section 6211 of the Family Code, or a misdemeanor violation of Section 273.6, the accused shall be present for arraignment and sentencing.”

Appearance by counsel without the defendant being present shall be deemed an appearance on behalf of the defendant. The failure of counsel to have all necessary authority and authorization to act for the defendant at any appearance is grounds for the Court to order the defendant’s personal presence at the next appearance. If a represented defendant is not present when the case is calendared for trial or other evidentiary hearing, the attorney of record shall notify the defendant of the date, time, and place of the trial or hearing. (Amended 7/1/15)

RULE 10.06

CALENDAR EVENTS: FELONIES

(a) **Criminal Team:** ~~All felony cases, including probation violations,~~ All felony arraignments, including probation violation arraignments, will be heard in the Felony Early Disposition Department. Cases that do not settle will be assigned to a specific department in the criminal team. The team will be such judges as are assigned by the presiding judge. (Amended 1/1/08)

(b) **Case Assignments:** ALL ASSIGNMENTS MUST BE FOR ALL PURPOSES.

(1) **Assignment for all Purposes:** Assignment to a judge for all purposes means assignment for all proceedings in the matter after initial arraignment on the complaint through trial and sentencing.

For all purposes includes all court proceedings that apply in each case.

Any motions under Code of Civil Procedure § 170.6 must be filed within ten (10) days after the appearance of a party.

Any motion under Code of Civil Procedure § 170.6 filed after being held to answer will be considered untimely, unless it is shown that the party did not have the opportunity to file it earlier.

(c) **Calendar of Events:**

(1) **Arraignment on Complaint**

Arraignment must proceed in accordance with P.C. §§ 858, 859, 859a, 859b and 860. The district attorney provides initial discovery with the complaint. Disposition discussions are encouraged. Seven to ten days will normally be allowed for a defendant to retain counsel of his or her choice. Following entry of a not guilty plea, the case will be set for a pre-preliminary hearing and preliminary hearing. These hearings will be held at the courts located in San Luis Obispo unless the court, for good cause, orders otherwise.

(2) **Pre-preliminary Hearing**

A pre-preliminary hearing will be held to confirm readiness for the preliminary hearing and to provide an opportunity for discussions of case disposition. At this hearing, the parties should consider applicable diversion procedures.

(3) **Preliminary Hearing**

The preliminary hearing must be held pursuant to Title 3, Chapter 7 of the Penal Code.

(4) **Trial Setting Conference**

A trial setting conference will be set. The prosecution and defense are encouraged to discuss disposition and scheduling of future case events with the court. In the absence of a disposition the matter will be set for jury trial and readiness conference.

(5)(a) **Motions**

Counsel must consult the court (clerk) for available dates for motions requiring an evidentiary hearing. Motions must be calendared at least one week before the readiness conference.

(b) Motion to Set Aside Information

A motion to set aside the information pursuant to Penal Code § 995 will be heard by an assigned judge.

(6) Readiness Conference

A readiness conference must occur prior to trial. The purpose of this conference is simply to confirm the matter for trial the following week.

(7) Jury Trial

Trial will proceed pursuant to Title 7, Chapter 2 of the Penal Code. No negotiated pleas will be accepted. The case must either be tried, dismissed or the defendant must plead to all counts. The trial will be set, except for good cause, no later than 60 days from the date of the not guilty plea. (Amended 1/1/08)

(8) Probation Violation Hearings

Hearings on violations must be heard as early as possible. (Amended 7/1/15)

RULE 10.07

LAW AND MOTION PROCEEDINGS

(a) Location

All motions except Penal Code section 995 motions will be held before the judge to whom the case is assigned. Upon filing a Penal Code section 995 motion, counsel must, if denied, request such motion be assigned to another judge on the criminal team.

(b) Notice of Motion

All motions and notices must be in writing and an original must be filed for each case when multiple cases are listed. In addition, it must specify the date, department, time of the hearing and the grounds of the motion. All motions must be in writing and give not less than ten (10) calendar days' notice unless such requirement is shortened by court order or waived. The papers intended to be used by the moving party must be attached to, and served and filed with, the notice of motion. All citations of authority must include the official reporter citation and the West Publishing (unofficial) citation. Failure of either party to file and serve the points and authorities may be deemed by the court to be a concession to the motion and/or that the motion is without merit. Where the review of a transcript is necessary, the pertinent transcript testimony must be summarized with a specific page and line reference cited.

(c) Date of Hearing

Any motion requiring a hearing must be noticed for a date certain after confirming such date with the court clerk prior to noticing the motion. The motion must be noticed and heard prior to the Trial Setting Conference for misdemeanors and prior to the readiness conference for felonies.

(d) Format

The first page of each motion must specify immediately below the number of the case:

- (1) The date, time and location, if ascertainable, of any scheduled or noticed hearing;
- (2) The nature or title of any attached document other than an exhibit; and
- (3) The trial date, if set.

Documents bound together must be consecutively paginated.

(e) 1538.5 Motion

(1) Felony

Motions by defendant to suppress or return evidence may be heard in conjunction with and at the same time as a Preliminary Hearing or on a date set. (Amended 1/1/08)

(A) A written noticed motion is not required if a motion based upon Penal Code section 1538.5 is to be heard at the Preliminary Hearing. The prosecutor must be prepared at all such hearings to justify, legally and factually, all seizures of proffered evidence; however, upon a showing of surprise the case may be continued. If a Penal Code section 1538.5 motion is made other than at a preliminary hearing, a written notice that complies with Rule 10.07(b) is required.

(B) A written noticed motion pursuant to Penal Code section 1538.5 must specifically describe and list the evidence which is the subject of the motion to suppress; and must specifically state the theory or theories which must be relied upon and urged for the suppression of the evidence; and cite the specific authority or authorities which will be offered in support of

the theory or theories and must set forth a statement of facts upon which such theory(ies) is based upon which suppression of the evidence is urged. It must also conform to Rule 10.07(b).

(2) Misdemeanors

Motions by defendant to suppress or return property will be heard at least 10 calendar days in advance of the trial date (PC 1538.5(g)). Notice of the date of such hearing must be given in compliance with Rule 10.07(b) above and must specifically list and describe the evidence sought to be suppressed or returned, must state specifically the theory(ies) which will be relied on and urged for suppression or return of the evidence, must set forth a statement of facts upon which such theory(ies) is based, and must cite the specific authority(ies) which supports the theory(ies) for such suppression.

(3) Hearing

Defendant must be prepared to prove standing to object, and in instances of warrantless searches, must be prepared to prove

- (a) That a seizure of the evidence took place, and
- (b) That it was done so without a warrant.

(Amended 7/1/10)

RULE 10.08

CONTINUANCE POLICY

The welfare of the People of the State of California requires that all proceedings in criminal cases must be set for trial and heard at the earliest possible time. (PC 1050). Therefore it is the policy of this court to maximize the use of judicial time and avoid continuances, resetting and unnecessary trailing of cases. Any motion to continue in a criminal proceeding must comply with Penal Code Section 1050. Further this Court adheres to a no trial continuance policy -- when a courtroom event is scheduled that event should take place as scheduled.

(1) Responsibilities of Counsel

(A) Counsel's attention is directed to Rule 6-101 of the Rules of Professional Conduct of the State Bar of California "Failing to Act Competently"

(B) A member of the State Bar must not

(1) Accept employment or continue representation in a legal matter when the member does not have sufficient time, resources, and ability to perform the matter with competence, or

(2) Repeatedly accept employment or continue representation in legal matters when the member reasonably should know that the member does not have or will not acquire before performance is required, sufficient time, resources and ability to perform the matter with competence . . . "

(C) Counsel should not set a case if they are committed to another trial during that period or if they are going to be on vacation. This includes cases set in Superior Court and cases in different branches and departments of this Court. Counsel should not schedule other cases to begin if they have another matter set in this Court. Neither reason constitutes "good cause" for a continuance.

(D) Motions, pre-trials and trials are to be heard at the time and date set.

(E) Substitute Counsel

An attorney who appears for another attorney is representing the defendant then before the Court. An attorney who makes such an appearance is required to do so competently. Calif. Rules of Professional Conduct 6-101(A)(1). Such an attorney is expected to be prepared to carry out and perform any duties required at that calendar event; should a continuance be required it is counsel's responsibility to have complied with this policy and to know when the other attorney will be available to appear; if a case is not to be tried, counsel should have authority to dispose of the case. Should these rules not be complied with, sanctions may be applied against this attorney. (CCP 128.5, CCP 177.5, Calif. Rules of Court 2.30.) At the next scheduled calendar event, the counsel of record must file a declaration with the Court explaining the inability to be present at the last calendar event.

(F) Counsel should not delay in filing and serving proper motions. Failure timely to file or serve without good cause may result in the imposition of sanctions.

(G) Counsel should subpoena witnesses as soon as a case is set for hearing or trial.

(H) Counsel should not accept representation of a defendant unless there is sufficient time to adequately prepare before the next scheduled event.

(2) Motions to Continue

Motions to continue must comply with Penal Code Section 1050 and must be submitted in duplicate. Courtroom events will be continued only when extraordinary circumstances, not within the control of the parties and which were not foreseeable at the time of setting the date of the event, necessitate a continuance. In ruling on motions to continue, the following factors will be taken into consideration:

(A) The time when the need for the continuance arose, and the diligence of counsel in bringing the need for a continuance to the attention of the Court and opposing counsel at the earliest possible date and in attempting to avoid a continuance;

(B) The proximity of trial, the age of the case, the established time limits for processing cases, and the nature of any previous continuances or prior orders entered in the case;

(C) The earliest possible date all parties and the court will be read to proceed;

(D) Whether the continuance may be avoided by substitution of attorneys or witnesses, or by the use of stipulations as to testimony, and

(E) The injury or inconvenience caused to the party not requesting the continuance.

(3) Good Cause

Continuances will only be granted on the showing by competent evidence of good cause. The facts proven justifying good cause and the length of continuance must be set forth on the record. Good cause is NOT shown by the following:

(A) Counsel's vacation or commitment to another trial or proceeding except as provided in PC 1050(g),

(B) Failure of a client to adhere to a financial agreement with his attorney,

(C) Failure to expeditiously prepare for trial,

(D) A witnesses' vacation or attendance at school unless this is accompanied by a showing of the witnesses' unavailability, that the testimony is material and necessary and that the party seeking the attendance exercised due diligence to secure the presence of the witness,

(E) Informal diversion,

(F) A civil compromise pursuant to PC 1378,

(G) Other pending cases,

(H) Negotiations not yet completed.

(Misdemeanor cases coming within (E) and (F) can be conditionally dismissed on waiver of the prohibition against refiling).

(4) No Stipulated Continuances

No continuance will be granted solely because all parties agree thereto.

(5) Sanctions

The failure to adhere to this policy will result in the imposition of sanctions and the assessment of reasonable costs. CCP 128.5, CCP 177.5, Calif. Rules of Court 2.30.

(6) 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, 4:30 and the next day at 8:30. When a case is trailing the defendant and counsel, except in extraordinary circumstances, must be present when the case is called. (Amended 7/1/01)

RULE 10.09

PHOTOGRAPHING OR RECORDING COURT PROCEEDINGS

All photographing, recording and broadcasting in the courtrooms of this Court will be in accordance with California Rule of Court 1.150 as modified by the following:

(a) Prohibition of Camera Use in Courthouse.

No one may use a camera to take pictures in any portion of the courthouse except as permitted by Rule 1.150 of the California Rules of Court, or in such area, as designated by the Presiding Judge, located in the common area on the third floor above the Jury Commissioner's Office

known as the Third Floor Rotunda, or as permitted by order of a judge as set forth herein. This applies not only to the use of cameras, but also to the use of camera devices such as camera-enabled cellular telephones and other camera-enabled or digital image-capture devices of any kind.(Amended 1/1/10)

RULE 10.10

TRIALS

(a) Location

(1) Defendant in Custody

If the defendant is in custody the trial of any criminal case will be held at the court located in San Luis Obispo unless for good cause the court transfers the trial to another location.

(2) Defendant Out of Custody

If the defendant is not in custody the trial of any criminal case will be held at the San Luis Obispo court location in the jury district in which the offense is alleged to have occurred. (Amended 1/1/09)

(3) Change of Location

Upon a showing of good cause, a change in court location may be requested in writing and served upon the opposing party as will be honored providing that such request is made at least ten (10) calendar days before the hearing. However, in no case will a request be honored if a jury panel has already been notified to appear. The opposing party shall have the right to request a hearing on the question of whether the matter should be transferred. The Court may, on its own motion, order any trial transferred to any court location.

(b) Pretrial Conference -- Misdemeanor Defendants

All cases in which a jury trial is not waived must be set for a pre trial conference and a trial setting conference before a jury trial is set if time for trial is waived. If time for a jury trial is not waived a pre trial conference will be set at the time a jury trial is set. (Amended 7/1/02)

RULE 10.11

SENTENCING

(a) Probation Modification

(1) Notice Requirements

The court requires not less than 10 days' notice to calendar a motion for modification of probation. The request to place the motion on calendar must be made by the defendant in person or by counsel.

(2) Jail Time Modifications

Request for "modification" of jail time may be calendared provided that not more than seven days have elapsed since the failure to appear at the jail and/or probation has not been revoked and a bench warrant issued. (Amended 1/1/08)

~~**(3) Multiple Modification Request**~~

~~If a case is twice scheduled for modification and there is no appearance, the case cannot be placed on calendar for the same modification.~~

(b) Fine Payments

(1) Fine Payments by Installment

The Court will accept partial payments on criminal fines as ordered by a judicial officer. Court ordered payment plans will include specified due dates and minimum amounts of the payments. Criminal fines paid by installments will be subject to ~~an nominal administrative fee installment fee of \$30~~ pursuant to PC1205(e). In addition, a request for payment extension will be assessed an administrative fee, as determined by the court.

(2) Cash Bail

In all cases wherein the defendant has posted cash bail and the court imposes a sentence which includes a fine payable in installments, any cash bail must be applied toward the fine. This must not relieve a defendant of making payment at such time and in such amount as ordered by the court, but must be credited to reduce the fine balance.

(3) Failure to Pay Fine

Fines due on traffic cases and criminal cases with summary or bench probation without Victim Restitution orders will be subject to the addition of a \$300 Civil Assessment pursuant to PC1214.1 if the fine becomes delinquent. In instances when the Court has contracted with a collection agency for the purpose of collecting delinquent court accounts, all payments for the cases referred to the collection agency will be made to the collection agency and remitted to the Court in accordance with the terms of the contract.

(c) Conditional Sentence

Informal probation, summary probation or bench probation are conditional sentences as defined in Penal Code Section 1203.

(d) Proof of Compliance with Conditions of Probation

In criminal and traffic cases in which a defendant has been placed on informal, summary, or bench probation with a requirement by a certain date that the defendant show:

- (1) Proof of completion of alternate work service;
- (2) Proof of obtaining a license;
- (3) Proof of payment of restitution;
- (4) Proof of fine payment;
- (5) Proof of completion of [DWIUI School](#) or AA attendance;

or reappear in court on a certain date; the clerk is authorized to receive and file the appropriate proof and to take the matter off calendar.

In cases where there is some question as to whether the proof is appropriate, the clerk will so notify the defendant and advise the defendant to reappear in court.

(e) Jail Sentences - Credit for Time Served

Unless otherwise indicated by a sentencing judge, when a defendant is ordered to serve time in the County Jail either as a sentence or condition of probation, the defendant must be deemed entitled to credit for any days actually served in custody. Where possible, the sentencing judge must determine the total number of actual days to be credited to a defendant's time so that the date of admission and release from custody can be specified. (Amended 1/1/11)

RULE 10.12

TRAFFIC ~~AND ILLEGAL PARKING~~

(a) Traffic School

(1) Eligibility

This Court will permit those eligible pursuant to California Rules of Court, Rule 4.104, to attend a California Department of Motor Vehicle approved traffic school as a means of obtaining a confidential traffic school conviction.

(2) Procedure

The traffic citation or complaint will be reported to the Department of Motor Vehicles as a confidential traffic school conviction upon the presentation of any required fees by the date specified for completion.

(A) A defendant must be given 13 weeks to attend and provide proof of completion and payment of required fees.

(B) Traffic School may not be attended unless authorized by the Court.

(b) Continuance by Clerk

A clerk of this Court may upon the request of a defendant or counsel continue the initial arraignment of a defendant except for defendants released on bail. (Amended 1/1/12)

[\(c\) Counter Arraignment by Counsel](#)

[\(1\) The Clerk's office is authorized to accept local form Counter Arraignment by Counsel on infraction cases from retained attorneys.](#)

- (2) Counter Arraignment by Counsel forms cannot be modified. Modified forms will not be accepted.
- (3) No motions may be submitted with a Counter Arraignment by Counsel form.
- (4) Counter Arraignment by Counsel will include the following actions on the defendant's behalf:
 - a. Waiver of formal arraignment.
 - b. Waiver of time for trial.
 - c. Entry of not guilty plea on all charges.
- (5) The Clerk's office will take the arraignment off calendar and notify parties.

RULE 10.13

TIME STANDARDS

It will be the goal of the Court to dispose of cases within the following time limits.

Preliminary Hearing concluded within 30 days of first appearance and conviction or acquittal within 60 days of the date of filing the information or indictment.

Misdemeanor: Conviction or acquittal of defendant or dismissal of case within 90 days of first appearance. Attorneys substituting into a case will be expected to handle the case within these time standards. (Amended 7/1/02)

RULE 10.14

TRIAL BY DECLARATION

~~(Repealed 1/1/08)~~

As provided in Vehicle Code Section 40902, a defendant may elect to have a trial by written declaration upon any alleged infraction violation of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, which does not require a mandatory appearance.

RULE 10.15

COUNTER ARRAIGNMENTS

(a) Counter Arraignment Defined

A counter arraignment is a procedure whereby a defendant charged with violations of law may offer a plea of guilty at the office of the clerk without the necessity of appearance in court. When an appropriate waiver of rights form has been executed by defendant and approved by a ~~judge or commissioner~~ clerk of the court, it is a judgment of the court.

(b) Charges Eligible for Counter Arraignment

Any infraction ~~or misdemeanor charge whereby an appearance is not~~ not requiring a mandatory appearance is eligible for a counter arraignment.

(c) Bail and Fine

The fine imposed after a counter arraignment must be equal to the bail as set in the bail schedule.

(d) Delayed Payments and Work Service

- a. Upon entering a guilty plea ~~and paying mandatory fees, the balance of the fine will the fine can~~ be deferred for 90 days or the defendant can request monthly payments of \$100 per month. Clerk's have discretion to reduce the payment to \$50 per month if defendant sas he or she cannot afford the higher payment.—The balance of the fine may be satisfied in whole or in part by performing community service at a rate of \$10 for every hour worked.

- ~~(1) Fines less than \$300.00 must have a due date 13 weeks from the date of counter arraignment,~~
- ~~(2) Fines of \$300.00 or more shall be given a due date in the future that allows for \$100 per month payments (i.e., \$900 fine = 9 months) from the date of counter arraignment, with a cap of 12 months.~~

(e) Responsibility for Community Service

A person choosing to perform community service ~~as full or partial satisfaction of to satisfy a fine must make their own arrangements through the following agency:~~ Pucciarelli Consulting.

~~(f) Pay or Reappear Sentence~~

~~—The sentence for infractions must require the payment of the fine or the return to court by the due date. Failure to pay or reappear must result in an additional charge pursuant to Penal Code §853.7, increased bail and issuance of a bench warrant.~~

~~(g) Pay or Serve Sentence~~

~~—The sentence for misdemeanor violations must be imposed pursuant to Penal Code §1205 and require the defendant to pay the fine by the due date or serve the sentence at the rate of \$50.00 per day. (Amended 7/1/10)~~

RULE 10.16

APPLICATION FOR WRIT OF HABEAS CORPUS OR CORAM NOBIS

An application for writ of habeas corpus, coram nobis, mandamus or prohibition in a criminal proceeding must be presented to the Criminal Department except petitions for writs of mandamus, prohibition, or review (certiorari) in a case charging a misdemeanor or infraction must be addressed to the Appellate Division of the court pursuant to Rule 14.05. (Amended 7/1/10)

RULE 10.17

PETITIONS FOR DISMISSAL PURSUANT TO PENAL CODE SECTION 1203.4, 1203.4a, 1203.41, 1203.43, 1203.49

(a) Applicable fees

a. For all case levels, a processing fee as outlined in the is required.

(b) Misdemeanors and Infractions

a. Petitions are initially handled ex parte. The matter will be placed on calendar only by order of the reviewing bench officer.

b. Judicial Council forms CR180 and CR181 are required.

c. Clerk will review the documents for completeness. If complete, the prosecuting attorney will be notified. The prosecuting attorney has 30 days to respond. After 30 days, the petition will be submitted to the assigned Bench Officer for review and signature.

d. Notification is provided by email to attorneys or unrepresented defendants. If email is not available for an unrepresented defendant, a self addressed, stamped envelope must be provide.

(c) Felonies

a. A formal motion placing the matter on calendar is required on Penal Code Section 17(b), 1203.4, 1203.4a, 1203.41, 1203.43, 1203.49 requests.

b. The CR180 and CR181 Judicial Council forms can accompany the formal motion but cannot substitute for the motion.