

## CHAPTER 10 - CRIMINAL

### PART ONE. General

#### **10.00 Charging Documents.**

(A) All charging documents shall be filed by the prosecuting agency with the criminal calendaring clerk in the manner and location designated by the Presiding Judge.

(B) The prosecuting agency shall place the following information in the upper-right corner of the first page of all original and amended charging documents:

(1) The arresting agency report number;

(2) The arrest or booking number as determined by the Sacramento County Sheriff's Department;

(3) The defendant's cross-reference number as determined by the Sacramento County Sheriff's Department;

(4) The court or team designation sufficient to identify in which court the matter will be filed.

(Adopted 1/1/2013)

#### **10.01 Arraignment.**

The time and place for the initial appearance by the defendant shall be in the department and at the time set forth by the Presiding Judge. For any matter where the defendant was arrested for a misdemeanor, but the prosecuting agency has determined to file a felony complaint, the complaint may be filed in open court on the day of the arraignment in the court where the matter was originally scheduled. For any matter where the defendant was arrested for a felony, but the prosecuting agency has determined to file a misdemeanor complaint, the complaint may be filed in open court on the day of the arraignment in the court where the matter was originally scheduled.

(Adopted 1/1/2013)

#### **10.02 Continuances.**

No matters will be continued, even by stipulation of the parties, except with approval by the court for good cause shown. Compliance with Penal Code section 1050 is required unless excused by the court.

(Adopted 1/1/2013)

#### **10.03 Withdrawal as Attorney of Record.**

An attorney retained to represent a client in a criminal proceeding shall not withdraw from such representation except by order of the court either upon a timely motion or by the consent of the defendant.

(Adopted 1/1/2013)

#### **10.04 Pleas to Lesser Included, Reasonably Related, or Charges Not Reflected in the Charging Document.**

Whenever a defendant enters a plea of guilty or no contest to a reasonably related charge, lesser included charge, or a charge that is not pled in the charging document, the court record shall be augmented so that there is documentation of the plea. The record shall be augmented by one of the following methods at the court's discretion:

(A) Counsel shall file a Waiver and Plea Form in open court on the day of the entry of a guilty or no contest plea;  
or

(B) The Court shall amend the current charging document by interlineation to include the charges to which a plea was entered by the defendant; or

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(C) The prosecuting agency shall file an amended charging document reflecting the charges to which a plea will be entered by the defendant.

Upon implementation of the new Criminal Case Management System (CMS), the document filed or amended by interlineation shall be scanned and uploaded into the CMS as a separate document.  
(Adopted 1/1/2019)

**(Rules 10.05-10.09, reserved)**

**PART TWO. Law and Motion for All Matters**

**10.10 Criminal Law and Motion Departments.**

The Presiding Judge shall designate the departments of the court to hear criminal law and motion proceedings. The calendars for law and motion matters will be published in the Home Court Schedule, disseminated to the Sacramento County Justice Agencies, when revisions are made, and made available on the court's website at <https://www.saccourt.ca.gov>.  
(Adopted 1/1/2013)

**10.11 Pretrial Motions not Waived.**

Any pretrial motions, including demurrers, may be made after arraignment and notwithstanding a not guilty plea.  
(Adopted 1/1/2013)

**10.12 Filing of Papers.**

(A) A law and motion matter may be set:

(1) By filing a noticed motion within the time requirements prescribed by Local Rules, rule 10.14;

(2) With oral permission of the court upon oral request of a party made in open court at a time when the case is otherwise regularly calendared; or

(3) Upon 48 hours' notice by submitting a Request for Calendaring form signed by a judge, using a form provided by the court and notifying opposing counsel of the order granting the request at least 24 hours prior to the hearing.

(B) All initial moving papers relating to pretrial motions, including those filed after obtaining an order shortening time, shall be filed with the criminal calendaring clerk in either the main courthouse or at the main jail. It is preferred that papers pertaining to motions that are to be set for hearing in the main courthouse be filed with the criminal calendaring clerk in the main courthouse, and that papers pertaining to motions that are to be set for hearing in the main jail be filed with the criminal calendaring clerk in the main jail. No matter shall be calendared prior to the filing of the moving papers and no hearing will be set contrary to the provisions of Local Rules, rule 10.14 except as approved by the court. Failure to file written documentation concerning the motion may cause the motion to be dropped from the calendar.

(C) All other papers, including opposition, reply papers, and proofs of service, if filed less than five days prior to the hearing, must be filed in the department in which the matter is to be heard.

(D) Failure to serve and file papers in opposition to a motion, other than an ex parte application may, in the court's discretion, be deemed a waiver of any objections and an admission that the motion or other application is meritorious.

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A party who has not timely filed written opposition to a noticed motion may, in the court's discretion, be precluded from offering oral argument at the hearing.

(E) All opposition and reply papers shall be served upon opposing counsel by personal delivery, telecopy, express mail, federal express, or other means designed to ensure that the opposition and reply papers are received by opposing counsel within 24 hours of filing. The motion shall not be heard unless the above-mentioned documents have been served on all parties to the proceeding within the time limits specified.

A party shall not be deemed to have been served until that party receives actual notice of the motion; or if the notice of motion is mailed through the U.S. mail, a party shall be deemed to have been served five calendar days after the posting of the notice of motion.

(F) Failure, without good cause, to comply with the requirements of this rule concerning the time for filing and serving initial papers may, in the discretion of the court, be deemed an admission that the motion is without merit. Failure, without good cause, to comply with the requirements of this rule concerning the time for filing and serving opposing and reply papers may, in the discretion of the court, be deemed cause for acting on the matter without consideration of the document filed in violation of the rule.

(G) The above filing rules, paragraphs (A) through (D), do not apply to motions for continuance.  
(Adopted 1/1/2013)

**10.13 Format of Motions; Citations.**

(A) Caption. The caption of all law and motion papers must contain the department, date and time of the hearing, and the trial date. The moving papers shall provide spaces for the insertion of the dates on which opposition and reply are due.

Required format as follows:

No. Dept.  
MOTION TO  
(CAPTION)  
Opposition Due :  
Moving Party Reply :  
Hearing Date :  
\_\_\_\_\_/ Trial Date:

(B) Citations. Citations to California cases must be by reference to the official reports and should indicate the year of the decision, the volume number, the first page of the case, and the specific page or pages on which the pertinent matters appear.

(C) If counsel relies on other than California state statutory or case authority, a copy of such authority shall be provided upon request of the court. This rule applies to Attorney General opinions, local ordinances, law review articles, citations to other state cases and statutes, and to all federal cases, other than United States Supreme Court decisions.  
(Adopted 1/1/2013)

**10.14 Time Limits on Notice of Motion.**

(A) Waiver of Notice.

The notice requirements as specified in subdivision (B) of this section will be strictly enforced unless:

- (1) The opposing parties waive the right to be served in a timely manner; or
- (2) The court grants an order shortening the time for service; or

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(3) The court finds good cause for failure of the moving party to comply with the time limits for service.

(B) Notice Requirements.

(1) Fifteen Calendar Days (all cases):

- (a) Motion to set aside conviction; Penal Code section 1203.4.
- (b) Bail bond motions.

(2) Ten Calendar Days (five calendar days for misdemeanor cases):

- (a) Motion to amend complaint/information.
- (b) Motion to consolidate.
- (c) Motion to sever.

(3) Ten Calendar Days (all cases):

- (a) Motion for new trial.
- (b) Motion for sentence in absentia.
- (c) Motion to compel disclosure of confidential informant.
- (d) Motion for conditional examination of witnesses.
- (e) Demurrers.
- (f) Motion for discovery.
- (g) Motion to dismiss information or count pursuant to Penal Code section 995.
- (h) Motion for handwriting exemplar and/or prints.
- (i) Motion to join defendants.
- (j) Motion to withdraw plea.
- (k) Request to set a restitution hearing.
- (l) Motion to suppress in felony cases (except motion made at preliminary hearing).

(4) Five Court Days (all cases):

- (a) Motion to strike prior convictions for enhancement, including driving under the influence matters.
- (b) Motion to suppress to be made at the preliminary hearing.

(5) Two Court Days (May use Request for Calendaring Form):

- (a) Motion to reduce/increase/set bail.
- (b) Motion to stay/recall bench warrant.
- (c) Motion to continue trial date.

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- (d) Motion to enter plea.
- (e) Faretta motion (request for in pro per status).
- (f) Request for juror personal identifying information.
- (g) Motion for line up.
- (h) Motion to modify sentence.
- (i) Motion for plea negotiation conference.
- (j) Motion for release on own recognizance.
- (k) Motion to be relieved as attorney of record.
- (l) Motion for substitution of attorney.

(Adopted 1/1/2013)

### **10.15 Failure of Counsel to Appear in Law and Motion.**

A failure of the moving party to appear when called may, in the court's discretion, cause the matter to be ordered off calendar. In the event of an unavoidable schedule conflict, the attorney with the conflict can avoid having the matter dropped by calling the court at any time prior to the scheduled hearing and reporting the conflict.

(Adopted 1/1/2013)

### **10.16 Taking Matters off Calendar.**

A matter may be dropped up to 48 hours before the calendar appearance date by notifying opposing counsel and the court. Within 48 hours of the calendar appearance, the moving party must appear, unless excused by the court.

(Adopted 1/1/2013)

### **10.17 Setting Evidentiary Hearing Motions.**

Motions requiring the testimony of witnesses, including but not limited to a motion to suppress evidence or motions seeking discovery or disclosure of personnel records including but not limited to Discovery Motions (Pitchess) shall not be set for an evidentiary hearing except on a date as selected by the court with both sides present and after conferring with the law enforcement agency. A motion to set such an evidentiary hearing date may be brought within the time requirements prescribed by Local Rules, rule 10.14.

(Adopted 1/1/2013)

### **10.18 Setting Evidentiary Hearing on Discovery Motions (Pitchess).**

Motions seeking discovery or disclosure of personnel records including but not limited to a Discovery Motion (Pitchess) shall not be set for an evidentiary hearing except on a date as selected after conferring with opposing party and law enforcement agency. A motion to set such an evidentiary hearing may be brought within the time requirements prescribed by Local Rules, rule 10.14.

(Adopted 1/1/2013)

**(Rule 10.19, reserved)**

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**PART THREE. Discovery**

**10.20 Discovery Requests.**

(A) At the time of the defendant's first appearance on a felony or misdemeanor matter, an informal request for continuing discovery shall be deemed to have been made by the defendant requesting the prosecuting attorney to disclose all materials and information set forth in Penal Code section 1054.1 and as required to be disclosed by the state and federal Constitutions, including exculpatory information regarding guilt or innocence and sentencing mitigation covered by *Brady v. Maryland* (1963) 373 U.S. 83 and its progeny.

(B) At the time the prosecuting attorney provides the discovery of items in compliance with subparagraph (A) above, the prosecuting attorney shall provide a written receipt showing the date of compliance and shall include a written notice that either an informal request is made that the defense disclose all materials and information set forth in Penal Code section 1054.3 or that no informal request is being made.

(C) Upon receipt of the original request as specified above or any other informal request, the receiving party shall respond by either providing the information requested or specifying the items the party refuses to produce and the reason for the refusal.

(Adopted 1/1/2013)

**10.21 Numbering of Discovery Documents and Tapes.**

Any discovery material provided to the opposing side, including documents, photographs, audio, or video tape recordings, shall be recorded in a document retained by the party providing the discovery memorializing the specific items provided and the date they were provided to the opposing side.

(Adopted 1/1/2013)

**10.22 Discovery Motions.**

(A) When a party's compliance with an informal discovery request under Local Rules, rule 10.20 is considered insufficient in some particular by the requesting party, the requesting party shall make an informal request for the particular items sought prior to making a formal discovery motion.

(B) A formal motion for an order to compel discovery shall be supported by a declaration stating facts showing a failure by the opposing party to comply with the informal request for discovery. The declaration shall specify in particular those items not disclosed in response to any informal request for discovery.

(Adopted 1/1/2013)

**(Rules 10.23-10.29, reserved)**

**PART FOUR. Matters Applicable to Felony Cases**

**10.30 Filing of Information.**

At the conclusion of the preliminary hearing, if the magistrate issues an order holding the defendant to answer, either the prosecuting attorney shall immediately produce a document to be filed as the Information in the case or the magistrate, in his or her capacity as a Superior Court judge, shall deem a copy of the complaint on file to be the Information. The defendant shall then be immediately arraigned on the Information and a mandatory trial readiness conference and trial date will be set along with any other appropriate court appearance dates for a felony case. For good cause shown, the filing of the information and/or the arraignment may be delayed to a later date.

(Adopted 1/1/2013)

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**10.31 Bail Schedule.**

The court shall review, approve, and post an annual bail schedule on the court's website at <https://www.saccourt.ca.gov> Criminal Division.  
(Adopted 1/1/2013)

**10.32 Pre-Assignment Requests.**

Counsel may move the Presiding Judge to assign a case to a trial judge for all purposes based on complexity of issues or scheduling. The motion must be joined by all parties, with express approval of the supervisor of each assigned counsel, if applicable, and must state the particular need for such assignment. If the motion is granted, the court shall notify the parties by minute order of the specific judge to which the case is assigned. Peremptory challenges pursuant to Code of Civil Procedure section 170.6 shall be lodged with the Presiding Judge.  
(Adopted 1/1/2017)

**10.33 Matters Requiring Review of Privileged or Confidential Records.**

Upon arraignment after issuance of a holding order or indictment, a party anticipating the use of privileged or confidential records shall issue and serve a *Subpoena Duces Tecum* seeking production of such records to the applicable Home Court department. A party seeking production of juvenile records shall file a Petition for Disclosure of Juvenile Case Files in accordance with Sacramento Superior Court Standing Order SSC-JV-99-021. If it is apparent in the discretion of the Home Court Judge that review of the records pursuant to Welfare and Institutions Code section 827 and/or *People v. Hammon*, 15 Cal.4<sup>th</sup> 1117, will require substantial commitment of trial court resources, the Home Court Judge shall direct the attorneys to move the Presiding Judge to assign the case to a judge for all purposes in accordance with Local Rules, rule 10.32.  
(Adopted 1/1/2017)

**(Rules 10.34-10.39, reserved)**

**PART FIVE. Matters Applicable to Misdemeanor Cases and Infractions**

**10.40 Law and Motion; Trial Date.**

After arraignment no law and motion matter may be heard unless a trial date has been set for a misdemeanor case. Upon concluding the law and motion matter, unless dispositive, the case shall be confirmed for trial and the trial date shall not be continued except pursuant to Penal Code section 1050.  
(Adopted 1/1/2013)

**10.41 Trial Readiness Conference.**

At the Trial Readiness conference hearing, a defendant shall appear personally with an attorney or through an attorney provided the attorney has been authorized to accept or reject a settlement offer from the prosecution. Authority to act and accept a settlement offer on behalf of the defendant shall be evidenced by way of a fully executed Waiver and Plea and Plea In Absentia form and the Work Project Supplement form (if applicable). At the court's discretion, a continuance may be granted when defendant or the attorney fails to comply with the requirements of this section and the attorney is authorized to appear on the defendant's behalf as evidenced by an executed waiver pursuant to Penal Code section 977.  
(Adopted 1/1/2013)

**(Rules 10.42-10.49, reserved)**

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**PART SIX. Trial**

**10.50 Assignment for Trial.**

Each case set for trial shall be assigned to the criminal courts master calendar and shall then be assigned to a department for trial.

(Adopted 1/1/2013)

**10.51 Jury Instructions.**

In criminal jury trials, the court shall, insofar as is practicable, use those instruction forms obtained from Judicial Council of California Criminal Jury Instructions (CALCRIM). In proposing any instruction to the court, counsel shall provide in writing the number and text of the proposed instruction with appropriate modifications. Instructions other than CALCRIM shall be numbered consecutively, show the name of the party offering same, and contain citations of authority therefore. The court, in its discretion, may allow counsel to provide a list of the numbered CALCRIM instructions desired in lieu of providing the text.

(Adopted 1/1/2013)

**10.52 Mandatory Trial Readiness Conference for Criminal Cases.**

For any criminal case that is set for trial, a mandatory Trial Readiness Conference (TRC) must be set in the week preceding the trial date as set forth in the Home Court Schedule. The TRC date shall not be set less than two court days before the trial date.

(Adopted 1/1/2013)

**10.53 Purpose of Trial Readiness Conference.**

The purpose of trial readiness conferences is to attempt to negotiate resolution of pending cases and to confirm the readiness of pending trials.

(Adopted 1/1/2013)

**10.54 Trial Readiness Notification.**

All counsel shall notify the court of their readiness to begin trial. If the case is set for trial on Monday or Tuesday following a Monday holiday, all counsel shall notify the court by 3:00 p.m. two court days prior to the trial date. For all other cases, all counsel shall notify the court by 3:00 p.m. one court day prior to the trial date. Such notification shall be done electronically by accessing the "Criminal Trial Readiness Notification" link on the court's website at <https://www.saccourt.ca.gov>. Upon accessing the website, all counsel shall provide information as to the status of the case.

Notification by this method does not abrogate compliance with Penal Code section 1050.

(Adopted 1/1/2013)

**10.55 Obtaining Web-Based Application Login.**

(A) Counsel in all criminal cases set for trial in the Sacramento Superior Court shall obtain a web-based login and password in order to post their respective trial readiness status (Local Rules, rule 10.54). Counsel must complete an Account Registration Form available on the court's website at <https://www.saccourt.ca.gov>.

(B) The following information is required for the Account Registration: First Name, Last Name, Bar Number, Current Phone Number (Area code + Phone Number), and Current E-mail Address. Presentation of a current



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California Driver's License or Identification card (private counsel) or authentication by affiliated agencies (PD, DA, CCD, AG, Sac City Attorney) will be required prior to account activation.  
(Adopted 1/1/2013)

**(Rules 10.56-10.59, reserved)**

**PART SEVEN. Miscellaneous**

**10.60 Probable Cause Hearings.**

Upon the booking of any person into the county jail, except pursuant to an arrest warrant, the arresting agency shall present a declaration to the Criminal Division, Jail Support Unit establishing probable cause for the detention. The declaration shall be on a form approved by the court.

(Adopted 1/1/2013)

**10.61 Temporary Release from Jail.**

(A) Except as indicated below, applications by or on behalf of inmates confined in the county jail, as sentenced or committed prisoners, for temporary release from custody (in the custody of the sheriff or without such custody) for medical, family emergency, education, employment, and related purposes shall be made to the sheriff and not to the court.

(B) Only the following applications shall be made to the court:

(1) Orders to produce an inmate to testify as a witness in court.

(2) Applications to the court by affidavit of the sheriff for removal of an inmate who requires medical or surgical treatment necessitating hospitalization, which treatment cannot be furnished or supplied at county jail pursuant to Penal Code section 4011;

(3) Commitment of inmate to mental facility pursuant to Penal Code section 4011.6.

(4) Removal of inmate for mental health services pursuant to Penal Code section 4011.8.

(Adopted 1/1/2013)

**10.62 Standing Income Deduction Order.**

This local rule creates a Standing Income Deduction Order which shall apply in any case in which the court at time of sentencing orders that the defendant pay restitution to the victim and/or the Restitution Fund pursuant to Government Code section 13967(c) and/or Penal Code section 1203.04 and also orders an income deduction from all income due and payable to the defendant pursuant to Government Code section 13967.2. This Standing Income Deduction Order shall be effective so long as the order for restitution upon which it is based is effective or until further order of the court.

The terms of the Standing Income Deduction Order are:

(A) The matter is referred to the Sacramento County Department of Revenue Recovery (D.R.R.) for an evaluation and recommendation regarding the defendant's ability to pay restitution and ability to pay through an income deduction. If the defendant does not consent to the amount of the income deduction recommended by D.R.R., the matter shall be set for a hearing before the court. The court shall determine the total amount of income to deduct for each pay period and shall determine all applicable fees and interest.

(B) All payers of income due and payable to the defendant are directed to deduct from those amounts that sum of money fixed by the court according to paragraph (A) above.

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- (C) This order applies to all current and subsequent payers and periods of employment.
- (D) A copy of this order shall be served on the defendant's payer(s).
- (E) This order is stayed until D.R.R. determines that the defendant has failed to meet his/her obligation under the restitution order and the defendant has failed to provide D.R.R. with good cause for the failure according to the procedure below.
- (F) If D.R.R. determines that the defendant has failed to meet his/her obligation under the restitution order, D.R.R. shall request the defendant to provide evidence indicating that timely payments have been made or provide information establishing good cause for the failure.
- (G) If, within five days of the request, the defendant fails to provide D.R.R. with the evidence required in paragraph (F) or fails to establish good cause, D.R.R. shall immediately inform the defendant of that fact and shall inform the court that the stay on the income deduction order should be lifted and a notice to payer should be issued.
- (H) If the Clerk of the Court receives information from D.R.R. as provided in paragraph (G) above, the clerk shall prepare and endorse an income deduction order and notice to payer. Unless the defendant applies within a 15-day period for a hearing to contest the lifting of the stay and enforcement of the income deduction order, the clerk shall forward the order and notice to D.R.R. for service on the defendant's payers.
- (I) The defendant, within 15 days after being informed by D.R.R. pursuant to paragraph (G) above that the order staying the income deduction order shall be lifted, may apply for a hearing to contest the enforcement of the income deduction order only (1) on the ground of mistake of fact regarding the amount of restitution owed, or (2) on the ground that the defendant has established good cause for the nonpayment.
- (J) Upon the filing of defendant's request pursuant to paragraph (I) above within the 15-day period, the matter shall be set for a hearing before the court to determine whether the enforcement of the income deduction order is proper.
- (K) The defendant shall provide to D.R.R. the address of his/her current and subsequent payers and within seven days shall notify D.R.R. of any change of payer.
- (L) The defendant shall notify D.R.R. within seven days of his/her change of address.  
(Adopted 1/1/2013)

### **10.63 Incompetence Finding.**

At the time a defendant is found incompetent on a felony or misdemeanor matter pursuant to Penal Code sections 1370 or 1370.01, the prosecuting agency shall provide the court with copies of the defendant's criminal history report (RAP Sheet) and related arrest reports no later than two court days prior to the next hearing.  
(Adopted 1/1/2021)

### **10.64 Submission of Exhibits.**

For any criminal case, all non-documentary exhibits offered by any party for evidentiary hearings, including trials, shall be submitted to the court as a full and complete photographic record in lieu of actual physical evidence as prescribed in Penal Code section 1417.3. If a party wishes to submit non-documentary evidence a formal request shall be made to the magistrate which completely describes the item(s) and the reasons a photographic record cannot be submitted alternatively.  
(Adopted 1/1/2021)