

TITLE 4
CRIMINAL

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TITLE 4 CRIMINAL

RULE 4001 WHERE TO FILE DOCUMENTS

General Directions

- A. All criminal indictments, complaints, notices to appear constituting complaints, and all other documents initiating a criminal proceeding are to be filed at the courthouse designated in the Administrative Order – Where to File Criminal Documents. The order can be located on the court's website at <http://www.riverside.courts.ca.gov/> by clicking on *Local Rules* under the *General Information* tab. Documents are to be filed according to the zip code in which the alleged crime occurred. Alternatively, such documents are to be filed according to the zip code in which the relevant event occurred or the nearest zip code thereto as provided in Penal Code sections 182, 184, 777a through 792, inclusive, 795, 4701, 4702, or any other applicable statute governing venue. All petitions for writ of habeas corpus shall be filed at the courthouse specified in the administrative order referenced above. Criminal and habeas corpus cases shall usually be heard in the courthouse in which they were filed or in another courthouse in the same geographical region. For good cause, and to maximize efficient use of court resources, actions or proceedings may also be assigned for hearings in other regions.
- B. All subsequent documents related to the case shall also be filed at the same specified courthouse, unless the case is transferred to another courthouse in which event all subsequent documents shall be filed at that other courthouse.
- C. Self-represented litigants may visit a self-help center at any court location in the county for assistance in filing documents at the proper courthouse.

(Adopted 11-4-11, effective 1-1-12; amended 10-19-12, effective 1-1-13; amended 5-13-13, effective 7-1-13)

RULE 4005 DECLARATION IN SUPPORT OF ARREST WARRANT

Upon receipt of a request for a Declaration in Support of Arrest Warrant from a judicial officer, the Clerk's Office shall immediately forward the request to the arresting agency.

The arresting agency will have thirty (30) days to comply with the request. If the arresting agency does not provide the Court with the Declaration in Support of Arrest Warrant in a timely manner, the clerk shall place the case on calendar for an OSC Re: Submission of Declaration in Support of Arrest Warrant approximately thirty (30) days

thereafter. The Clerk's Office shall notify the District Attorney of the hearing with a copy of Discovery.

(Added 4-17-99, effective 7-1-99; Moved from Title 7 and renumbered from Rule 7.0018, 8-1-11, effective 1-1-12; amended 11-4-11, effective 1-1-12)

RULE 4007
WALK-THROUGH ARREST WARRANTS

A law enforcement officer seeking an arrest warrant on a walk-through basis shall complete and submit to the court the Declaration by Law Enforcement for Walk-Through Arrest Warrant and Order form.

(Adopted 10-19-12, effective 1-1-13)

RULE 4010
PAYMENT OF INVESTIGATORS AND EXPERTS

1. Penal Code Section 987.9 provides at county expense for payments of investigators, experts, and other costs that are reasonably necessary for the preparation or presentation of defense. Qualifying cases are:
 - 187 PC with special circumstances alleged where the District Attorney has not decided to forgo the Death Penalty; and
 - Second Degree Murder, wherein the defendant has served a prior prison term for murder in the first or second degree [Penal Code 190.05(a)].

The Presiding Judge shall annually appoint judicial officers to serve as the Pay Judge Panel, which shall independently review requests for investigative funds in cases pursuant to Penal Code Section 987.9. The trial judge shall not review such requests. In the event of differing responses, a simple majority of Pay Judges concurring shall determine the court's ruling.

Upon the filing of a criminal complaint wherein the defendant is exposed to the death penalty, defense counsel is eligible for funding for investigative costs upon written application to the court. Initial requests shall be made by motion and supported by declaration or affidavit of counsel specifying:

- a) Defendant is indigent and the prosecution is seeking (or may seek) death as a penalty. An express finding of indigency must be made on the record in court by the trial judge, if the defendant is either represented by private counsel but claims to be indigent or the defendant is self-represented (a copy of the minute order must be attached to the motion in these instances).
- b) Purposes for which funds are reasonably necessary;

- c) Names, rate of pay (or fee), other costs and services required for investigators, experts, consultants, or others;
 - d) Specific information as to travel expenses, or other claimable costs for parties referenced in c) above.
 - e) Additional supporting statements may be requested of counsel to clarify questions. An oral in-camera explanation may also be requested.
2. Approval for funds must occur prior to the hiring and utilization of such investigators and/or experts.

All documents pertaining to application and order for Penal Code Section 987.9 funds will be confidential and secured in the Court's Executive Office until such time as the record is certified to the Supreme Court, or the defendant no longer may be sentenced to death as a penalty.

3. Accounting. At the termination of the proceedings, the attorney shall furnish to the court a complete accounting of all money received and disbursed.

(Adopted 1-1-86; amended 10-24-08, effective 1-1-09; Moved from Title 7 and renumbered from Rule 7.0070, title of rule amended, 8-1-11, effective 1-1-12)

RULE 4015 BAIL REDUCTIONS OR INCREASES

When bail has been set, all requests for an increase or reduction of said bail shall be made to the judge who set such bail in accordance with Sections 1269c, 1270, 1270.1, 1270.2, 1289, of the Penal Code except as follows:

1. Bail set ex parte by any judge of this Court shall be subject to modification by the judge before whom the defendant appears for arraignment.
2. Applications for reduction or increase of bail shall be made by defendant's attorney of record or the defendant appearing in propria persona, or the District Attorney.
3. A request to increase bail pursuant to section 1269c of the Penal Code shall be made on the Declaration in Support of Increased Bail form.

(Added 10-23-93, effective 1-1-94; amended 10-24-08, effective 1-1-09; Moved from Title 7 and renumbered from Rule 7.0100, 8-1-11, effective 1-1-12; Amended 10-19-12, effective 1-1-13)

RULE 4017

FELONIOUS SOURCE OF BAIL

A request for a hold on the release of an arrestee / defendant from custody pursuant to section 1275.1 of the Penal Code shall be made on the Declaration re: Felonious Source of Bail form.

(Adopted 10-19-12, effective 1-1-13)

RULE 4020 FORFEITURE, REINSTATEMENT AND EXONERATION OF BAIL

A. Forfeiture of Bail.

When a defendant who has posted a bail bond fails to appear for their scheduled court appearance, the judicial officer shall order a bench warrant to be issued and shall order the bail bond to be forfeited. The courtroom assistant shall reflect in the minute order that said orders were made.

When relief from the bail bond forfeiture has been ordered in accordance with PC 1305, the judicial officer shall impose a \$100 administrative fee pursuant to PC 1306(a) as a condition of relief, unless good cause is shown to waive the fee.

B. Reassumptions.

In all instances wherein the Court orders bail reinstated, such order shall be made on the official form entitled "Reassumption of Liability by Surety."

C. Motions.

Motions to reinstate and exonerate bail bonds or bail deposits in all criminal cases where the defendant is not surrendered in Court and shall be supported by appropriate declarations, affidavits, and points and authorities. Time for filing, Proof of Service, and Responding Papers will conform to California Rule of Court 4.111.

(Adopted 10-23-93, effective 1-1-94; amended 10-17-98, effective 1-1-99; amended 4-28-06, effective 7-1-06; amended 10-24-08, effective 1-1-09; Moved from Title 7 and renumbered from Rule 7.0150, 8-1-11, effective 1-1-12)

RULE 4025 COUNTER/FACSIMILE ARRAIGNMENT

- A. In misdemeanor cases, private counsel, prior to a defendant's scheduled appearance date, may enter a plea of "Not Guilty" and set a trial readiness calendar and jury trial date with the clerk of the court pursuant to Penal Code Section 977(a). Counter Facsimile Arraignments are permitted for misdemeanor cases with no outstanding warrants and will not be permitted on failures to appear when arrest warrants have been issued, defendants charged with

violation of Penal Code section 192(c), 243.4, 273a, 273d, 273.5, 273.6, or 647.6, or violations of Vehicle Code section 23152 and 23153 (second or subsequent offenses is evidenced by Department of Motor Vehicle records) have been charged, or on violations of probation.

B. At the time of such Counter/Facsimile Arraignment, counsel must file the following documents:

1. A signed "O.R." release form unless bail has previously been posted;
2. A completed 977 Waiver
3. If appearing by facsimile transmission, the attorney must complete and submit the Fax Arraignment form to the Clerk's office at the location in which the case is scheduled to be heard.
4. If appearing by facsimile transmission pursuant to local rule 1050, the Judicial Council Facsimile Transmission Cover Sheet (form MC-005) must accompany documents filed via facsimile. Facsimile numbers may be located on the court's website at <http://riverside.courts.ca.gov/faxlist.shtml>.
5. Parties shall complete form RI-M01 to register for the court's direct fax filing program. The form is located on the court's website at <http://riverside.courts.ca.gov/faxlist.shtml>.

The above listed documents must be received prior to 4:00pm the day before the date of the scheduled appearance.

(Adopted 10-23-93, effective 1-1-94; amended 10-22-94, effective 1-1-95; amended 4-20-96, effective 7-1-96; amended 4-19-97, effective 7-1-97; amended 4-25-98, effective 7-1-98; amended 1-1-03; amended 7-1-03; area code corrected 1-1-05; amended 10-24-08, effective 1-1-09; updated credit cards info 7-1-09; updated websites 7-1-11; Moved from Title 7 and renumbered from Rule 7.0210, 8-1-11, effective 1-1-12; Amended 10-19-12, effective 1-1-13)

RULE 4030 MISDEMEANOR AND FELONY ARRAIGNMENTS

A. All misdemeanor and felony complaints received for in-custody arraignment shall be filed no later than 11:00 a.m. on the day that the arraignment is scheduled. Example: If the arraignment is scheduled for 1:30 p.m. on a Thursday, the complaint must be filed by 11:00 a.m. that same day.

B. All misdemeanor and felony complaints received for out of custody arraignment shall be filed no later than 4:00 p.m. two business days before the date of the arraignment. Example: If the arraignment is scheduled for a Friday, the complaint must be filed by 4:00 p.m. on the preceding Wednesday.

(Added 9-29-01, effective 1-1-02; amended 10-24-08, effective 1-1-09; Moved from Title 7 and renumbered from Rule 7.0215, 8-1-11, effective 1-1-12)

**RULE 4035
APPEARANCE IN MISDEMEANOR PROCEEDINGS
BY COUNSEL/OWN RECOGNIZANCE RELEASE**

- A. An attorney appearing on behalf of an absent misdemeanor defendant pursuant to Penal Code Sections 977(a), and/or 1043(e), in order to enter a plea of guilty or no contest, must have written authorization from the defendant to do so, and that document must authorize the attorney to accept imposition of judgment on behalf of defendant, including probation terms, monetary orders, and custody. Further, if the attorney is appearing on behalf of an absent defendant at trial, pursuant to Penal Code section 1043(e), then the written waiver must specifically authorize the defense attorney to conduct the trial in defendant's absence. The written waivers mentioned herein must be filed with the court prior to a defense attorney appearing on behalf of an absent defendant pursuant to Penal Code sections 977(a), and/or 1043(e). If a written waiver is not filed with the court, then the defendant shall appear in court at all pretrial hearings and trial.
- B. Nothing in this rule abrogates the requirement that the defendant be personally present if the charges involve domestic violence or driving under the influence as required in Penal Code sections 977(a)(2) or 977(a)(3).

(Added 10-23-93, effective 1-1-94; amended 10-21-09, effective 1-1-10; Moved from Title 7 and renumbered from Rule 7.0250, 8-1-11, effective 1-1-12)

**RULE 4040
REQUEST TO ADD A CASE ONTO CALENDAR**

- A. Outstanding Warrants
1. Arraignment Locations
All initial arraignment cases shall be heard at the court location where the defendant was cited/ordered to appear. Defendants with cases in multiple court locations may appear at any location with at least one open case.
 2. Violations of Probation
On cases where there is a warrant outstanding for a violation of probation, the defendant and/or attorney may check in at the Clerk's Office to be added onto that day's calendar. Check in times for all court locations: 7:30 a.m.
 - a. Desert Region

Blythe
Indio

b. Mid County Region

Murrieta

c. Western Region

Banning

Riverside

3. Non-Violations of Probation

On cases where there is a warrant outstanding for a reason other than a violation of probation, each court will calendar the hearing on the earliest available court day. The defendant and/or attorney shall complete a Request to Calendar form (Form #OTS01).

B. Probation or Diversion

On probation or diversion cases where the defendant, probation officer, or attorney is seeking to modify probation or reinstate a program prior to a warrant being issued, a Request to Add onto Calendar form (Form #OTS01) shall be completed and the hearing will be set within 10 court days.

C. Extenuating Circumstances

If a case has no warrant and there are extenuating circumstances, to add the case onto the morning calendar, the Clerk's Office must obtain approval from the Judicial Officer in the department where the case will be assigned. The Judicial Officer will have the discretion to approve or deny the request.

D. In-Custody Defendants

If the defendant's attorney or probation officer indicates that the defendant is in local custody on the Request to Add onto Calendar form, they shall also indicate the location where the defendant is being housed.

Three days notice is required for defendants who are in local custody and the hearing will be set within three to 10 court days.

Request to Add onto Calendar forms may be faxed.

(Added 9-29-01, effective 1-1-02; amended 5-20-05, effective 7-1-05; amended 4-25-08, effective 7-1-08; amended 10-21-09, effective 1-1-10; amended 10-22-10, effective 1-1-11; Moved from Title 7 and renumbered from Rule 7.0255, 8-1-11, effective 1-1-12; Amended 10-19-12, effective 1-1-13)

**RULE 4042
EVALUATION FOR VETERANS COURT**

A defendant who wishes to be evaluated for transfer of his or her case to Veterans Court must first complete and submit to the court the Veterans Court Program Referral form.

(Adopted 10-19-12, effective 1-1-13)

RULE 4045
ACCEPTANCE OF PLEAS AND IMPOSITION OF SENTENCE IN
THE ABSENCE OF DEFENDANT

- A. A defendant who absents himself from a misdemeanor proceeding wherein a plea is entered through counsel and the pronouncement of immediate judgment is requested, must do so with full knowledge of the pendency of criminal proceedings. Further, the Court must be confident that the waiver of all rights, including the right to be present, is made knowingly and intelligently, and that acts of counsel are authorized by the defendant.

- B. To implement the foregoing policy, a declaration shall have been executed by the defendant and his attorney, and shall be filed at the time of entry of the plea and prior to pronouncement of judgment. Said declaration shall contain:
 - 1. An acknowledgment that the declarant is the defendant in the criminal proceedings and that declarant is aware of the charge(s);
 - 2. An express waiver of the defendant's presence for the entry of the plea of guilty or nolo contendere;
 - 3. An acknowledgment that the defendant has read and considered and the attorney has explained to the defendant each and every legal and constitutional right which the defendant is waiving. Further, an acknowledgment that the defendant understands each of the rights being waived. A written waiver of defendant's legal and constitutional rights which shall be attached as an exhibit to the Declaration.
 - 4. An acknowledgment that the defendant has been informed of, and understands, the provisions of 1016.5 of the Penal Code.
 - 5. A statement that the defendant is entering a plea of guilty or nolo contendere to specified charges.
 - 6. Sentencing

- a. If defense counsel and the district attorney have negotiated a proposed sentence involving probation to be considered by the Court, the Declaration shall contain:
 1. An acknowledgment that the defendant understands that he/she is being placed on probation;
 2. A written acceptance of the terms and conditions of probation which shall be an attachment to the Declaration;
 3. An express waiver of defendant's right to be present at the pronouncement of sentence; and
 4. An express waiver of time for imposition of sentence.
- b. If a proposed sentence has not been negotiated with the district attorney, and the Court grants probation, it shall be the responsibility of counsel to obtain the defendant's written acceptance of the terms and conditions of probation. This acceptance shall be filed by the date ordered by the Court.

C. The Clerk of the Court shall maintain an adequate supply of the Declaration and other forms required above and shall provide them to counsel upon oral or written request.

(Added 10-23-93, effective 1-1-94; Moved from Title 7 and renumbered from Rule 7.0260, 8-1-11, effective 1-1-12)

RULE 4050

CRIMINAL LAW AND MOTION

A. Memoranda of Points and Authorities, exclusive of notice, declarations, evidentiary attachments and exhibits, shall not exceed ten (10) pages in length, except by permission of the Court upon ex parte application. Such application shall be accompanied by an attorney declaration setting forth good cause why the motion or opposition requires additional documentation, and setting forth the number of pages declarant believes necessary.

B. All pretrial motions filed on behalf of defendants incarcerated in State Prison where the defendant's presence is required by law or requested by counsel, shall be accompanied by a transportation order directing said defendant(s) to be brought to Court for the hearing.

(Added 10-23-93, effective 1-1-94; amended 4-25-98, effective 7-1-98; amended 10-24-08, effective 1-1-09; Moved from Title 7 and renumbered from Rule 7.5000, 8-1-11, effective 1-1-12)

RULE 4055
MOTIONS TO QUASH OR TRAVERSE WARRANTS

Motions to Quash Search or Arrest Warrants shall contain a certified copy of the warrant and affidavit in support of the warrant. Motions shall be heard in the same manner as outlined in Penal Code § 1538.5.

(Added 10-23-93, effective 1-1-94; amended 10-24-08, effective 1-1-09; Moved from Title 7 and renumbered from Rule 7.5150, 8-1-11, effective 1-1-12)

RULE 4060
SPEEDY TRIAL MOTIONS

Motions to dismiss a complaint or information for lack of speedy trial must be supported by a declaration or affidavit of the defendant specifically stating the circumstances of the delay, the defendant's state of knowledge concerning the pending charges prior to the date of his/her arrest, the defendant's residence during the delay period, and any good cause which justifies the granting of the motion.

(Added 1-1-94; Moved from Title 7 and renumbered from Rule 7.5200, 8-1-11, effective 1-1-12)

RULE 4065
MOTIONS TO DISMISS PURSUANT TO P.C. 995

A. Where motion to dismiss an information pursuant to Penal Code Section 995 is made and the judge assigned to the case presided as the magistrate at the preliminary examination, the case shall be referred to another judge to hear the motion. If the motion is denied in whole or in part after a hearing on the merits, the case shall be assigned back to the original judge.

B. All motions to dismiss an indictment or information pursuant to Penal Code Section 995 shall include:

1. A brief summary of the facts, with references to the transcripts of prior proceedings by page and line number.
2. A statement of the issues, specifically identifying in what regard the People's case is defective.
3. A memorandum of legal points and authorities upon which defendant(s) relies. (Mere citation to section of the California Penal Code or United States Constitution will be considered insufficient.)

C. Responding points and authorities shall specify in what respects the alleged

deficiencies are met or covered by the evidence, with references to the transcripts of prior proceedings by page and line number.

D. Time for filing, Proof of Service, and Responding Papers will conform to Penal Code § 995 and California Rule of Court 4.111

(Added 10-23-93, effective 1-1-94; amended 10-17-98, effective 1-1-99; amended 10-24-08, effective 1-1-09; Moved from Title 7 and renumbered from Rule 7.5400, 8-1-11, effective 1-1-12)

RULE 4070
EXTENSIONS OF MINOR OFFENSE VIOLATIONS

A one-time sixty-day extension from the original date to appear shall be granted by the Clerk's Office on violations processed in the Minor Offense Divisions. An additional 30-day extension may be granted by the clerk's office if the defendant makes the request in-person. For an extension beyond 90 days from the original appearance date, the defendant must appear in court to make the request.

(Added 4-25-98, effective 7-1-98; amended 10-22-10, effective 1-1-11; Moved from Title 7 and renumbered from Rule 7.6005, 8-1-11, effective 1-1-12)

RULE 4075
ORDER RE: CONVICTION SET ASIDE PLEA/DISMISSED PURSUANT 1203.4 & 1203.4a OF THE PENAL CODE (FELONY/MISDEMEANOR)

(Added 4-25-98, effective 7-1-98; Moved from Title 7 and renumbered from Rule 7.7000, 8-1-11, effective 1-1-12; deleted 11-4-11, effective 1-1-12)

RULE 4080
PETITION TO SEAL AND DESTROY ARREST RECORDS

A petition to the court to seal and destroy arrest records pursuant to section 851.8 of the Penal Code shall be made on the Petition to Seal and Destroy Arrest Records form.

(Adopted 10-19-12, effective 1-1-13)

RULE 4082
EXPUNGEMENT

- (a) All petitions for dismissal pursuant to Penal Code sections 1203.4 or 1203.4a must be served on the District Attorney. Proof of service must be filed with the clerk's office at the time the petition is filed.
- (b) If the case has been destroyed pursuant to statute (see Government Code sections 68152 and 68153) or is more than 10 years from the date of disposition,

the defendant must, along with the petition, provide a copy of the probation order or his or her criminal history record. Information on how to obtain a copy of a criminal history record can be found on the self-help page of the court's web site.

(Adopted 10-19-12, effective 1-1-13)