

YAKIMA COUNTY SUPERIOR COURT CRIMINAL CASE PROCESSING GUIDELINES AND DOCKET STRUCTURE

These criminal case processing guidelines and criminal docket structure were developed by the Yakima County Bench Bar Liaison Committee's "Criminal Docket Task Force". Task Force members consist of the following individuals: Judge Ruth Reukauf, Judge James Lust, Judge Blaine Gibson, Clerk Kim Eaton, Dan Fessler, Howard Hansen, Ken Ramm, Adam Moore, David Thorner, Gloria Hintze and Harold Delia.

The Task Force believes these guidelines and new docket structure can provide the "building blocks" to begin the process of systemic change in case flow management of the Superior Court criminal docket. In terms of reallocation of Superior Court personnel the Task Force recommended that the Superior Court allocate two Judges to conduct the criminal calendar five days a week and assign one Superior Court staff to monitor the progress of the project and ensure quality control. The Prosecutors Office, Department of Assigned Counsel, Clerks Office, and private attorneys will adjust personnel based on the model that is adopted.

I. ARRAIGNMENTS:

- A. Arraignments on Summons or Warrant: Persons appearing on summons or warrant who have been formally charged will be arraigned at their first appearance and the court will set an initial omnibus and trial date. Should the defendant need an Attorney Status hearing date on the issue of retained counsel, it shall be scheduled on the Preliminary Appearance /Arraignment docket approximately one (1) week after the arraignment.
- B. Arraignments on Preliminary Appearances: Persons who are arrested without formal charges will have a preliminary hearing on the next judicial day. If the person is detained in jail or released under conditions of release, a formal arraignment date will be set for approximately two weeks from the preliminary hearing. The order on preliminary appearance will specify that the person will be released from custody or conditions of release on the cause in question unless the prosecuting attorney files a charging Information within 72 hours (excluding Saturdays, Sundays, and holidays) after the defendant's detention in jail or release on conditions, whichever occurs first.[CrR 3.2.1(f)]
- C. Reappearance after failure to appear: If a defendant re-appears after a failure to appear, the court will set a new omnibus hearing date, which will serve as a status hearing if an order on omnibus has been previously entered. A trial date will also be set at arraignment. If the State seeks to add Bail Jumping charges to the currently filed information, the charges must be added with thirty (30) days of the defendant's return to Court.

- D. Reappearance after dismissal without prejudice: If the defendant is arraigned on a matter that was previously dismissed without prejudice on motion of the State, the arraignment prosecutor will advise the court and trial will be set at the time of re-appearance within the balance of the time allowed for speedy trial and the court will set a timely status hearing.

II. INITIAL OMNIBUS AND TRIAL SETTINGS:

- A. A first set omnibus and trial date will be set at arraignment.
- B. For defendants detained in jail at arraignment, the first set omnibus for will be set for approximately thirty (30)days from the date of arraignment to allow the parties to conduct discovery and client/witness interviews and the trial date set approximately forty-five (45) days from the date of arraignment.
- C. For defendants who are not detained in jail at arraignment, the first set omnibus will be set at approximately forty-five (45) days from arraignment and the first set trial date will be set at approximately seventy (70) days from the date of arraignment.
- D. A first set omnibus may be reset one time only on request of one or both of the parties, but only if there is an agreed continuance or a waiver of speedy trial that recommences the time for speedy trial. In such cases the trial date will be set no later than 15 days from the expiration of the waiver of speedy trial.
- E. Further resetting of the Omnibus will be in the discretion of the Criminal Presiding judge and will be rarely allowed, usually only for complex cases or issues. Any such further reset omnibus hearing must be within the existing trial date unless the trial date is continued.

III. A MEANINGFUL OMNIBUS HEARING (CrR 4.5)

- A. There will be one meaningful Omnibus hearing on the record on each case prior to the Trial.
- B. Obligation of Attorneys
 - 1. At the Omnibus Hearing the prosecutor shall indicate that seven (7) days before the hearing:
 - (a) S/he has provided to the defense a complete list of defendant's criminal convictions;

- (b) S/he has provided to the defense, all discovery in their possession or control, pursuant to CR 4.7(a) ;
 - (c) S/he has contacted law enforcement agencies to request and /or obtain any additional or supplemental police reports, forensic tests, or evidence and has made them available to the defense upon receipt.
 - (d) S/he has reviewed the discovery and criminal history and made an offer to the defense.
2. At the Omnibus Hearing the defense shall indicate that before the hearing:
- (a) S/he has met with the client about the current case.
 - (b) S/he has received a plea offer from the State and conveyed it to the defendant.
 - (c) S/he has reviewed the discovery and the criminal history.
 - (d) S/he has given discovery to prosecutor, pursuant to CR 4.7(b).
3. The attorneys will have an opportunity to explain to the Criminal Presiding Judge any deficiencies in discovery
4. If discovery has not been completed by the Omnibus Hearing, the Court may make such orders as required to facilitate discovery, or the Court or parties may set a Status Conference for the purpose of monitoring discovery so that the case will be ready for Trial on the trial date.
5. Omnibus Hearings will begin on time and attorneys with cases on the docket are expected to be present for the docket call. Attorneys in trial will have priority.
6. Omnibus Hearings shall be on the record and an Omnibus Order in the form attached shall be completed and filed. The Court will confirm:
- (a) That the discovery is complete.
 - (b) That the defense has met with his/her client.
 - (c) That the offer has been made and communicated to the defense.

7. If a new trial date is requested, the attorneys should agree to a meaningful trial date approved by the Quality Assurance Staff (Gloria). If they cannot agree the Criminal Presiding Judge will set the date.
8. If a plea agreement has been reached the Court may take the Plea or set a Plea date. If the defendant is in custody and requests an expedited plea date, the Plea will be set within two (2) judicial days, or as soon thereafter as required for victim notification, as long as the plea paperwork is completed.
9. All Omnibus Hearings will be on the record, except for the cases where the defendant is setting a plea date. If such a plea is set, the parties will appear at the time set to either enter the plea or schedule a new omnibus hearing, which shall be set as soon as practical, and a new trial date if requested.
10. At the time of the Omnibus Hearing, the Court will schedule Pretrial Motions, if so requested by the party.

IV. MEANINGFUL TRIAL DATES

- A. At the meaningful Omnibus Hearing the court will allow the attorneys to continue the Trial to a firm date within these guidelines:
 1. Class C felonies- 5 months from the date of Arraignment
 2. Class B felonies- 7 months from the date of Arraignment
 3. Class A felonies- 12 months from the date of Arraignment
- B. It is expected that Trials will not be continued on the day of Trial except for unforeseeable, extraordinary circumstances.
- C. If a case cannot be tried on the trial date, the attorneys should expect the case to trail in the Criminal Presiding Judge's courtroom until it is assigned to a trial department. See "Trailing" below.

V. OFFERS AND PLEA NEGOTIATIONS ON THE DAY OF TRIAL

- A. The Court will not accept Amended Information's up on the day of Trial absent good cause shown, except for technical corrections.
- B. When a case is assigned to a trial department, the department will start the Trial promptly. There will be no trial time given for additional settlement negotiations.

VI. PLEAS

- A. Plea hearings before the trial date may be set by agreement of the parties, noted, or set by the court on the request or indication of the parties that the case will be resolved by plea. Whenever a plea hearing is set, the plea paperwork and the judgment and sentence will be prepared and exchanged and reviewed at least one day before the scheduled plea hearing. The parties will set plea hearings to realistically comply with this requirement.
- B. When the defense has completed plea paperwork the defense shall provide a copy to the deputy prosecutor assigned to the case as soon as possible.
- C. The deputy prosecuting attorney assigned to the case will review that the Defendants Statement on Pleas of Guilty is accurate in the following respects:
 1. The elements are correct.
 2. The offer is accurate and complete.
 3. The listed criminal history is correct.
 4. The facts listed on the form are sufficient to support the Plea.
 5. If an Alford/Newton/Bar Plea, the defendant's statement is legally sufficient and facts contained in the Declaration for Determination of Probable Cause or in a supplement packet to be filed at the plea hearing are sufficient to support the plea.
- D. The deputy prosecuting attorney will prepare a proposed judgment and sentence and provide a copy to the defense as soon as possible so that it can be reviewed with the defendant before the plea docket.

VII. MOTIONS PRACTICE

- A. The following Pretrial Motions will be heard only in the Criminal Presiding Courtroom:
 1. Motions to Continue Trial Date;
 2. Motions to Continue an Omnibus Hearing date;
 3. Motions to Amend the Information (except to facilitate a Plea done prior to day of Trial) if the motion is to be heard after the case has had an Omnibus Hearing, unless the case has been assigned to a trial department.
 4. Motions related to discovery or to regulation of discovery (CrR 4.7); and ,
 5. CrR 3.5/3.6 motions, Knapstad or other dispositive motions.

- B. Dispositive motions will be scheduled in the Criminal Presiding Judge's courtroom on. The Criminal Presiding Judge can either send the motions to an open judicial department, or hear the motions in the Criminal Presiding courtroom.

VIII. TRIAL CONTINUANCES

- A. After the meaningful Omnibus Hearing and entry of an Order on Omnibus, cases should not be continued. If a case cannot be tried on the trial date, the attorneys should expect the case to trail in the Criminal Presiding Judge's courtroom until it is assigned to a trial department. See "Trailing" below.
- B. All continuance requests will be heard on the record in the Criminal Presiding Judges Courtroom and should be brought in advance of the Trial and as soon as practicable.
- C. If a Motion for Continuance is granted after the Omnibus Hearing, a Continuance Report Form (internal form) will be completed by the Criminal Presiding Judge.

IX. COMPLEX CASES

- A. When it appears that the case is so unusual or so complex, due to the number of defendants, the nature of the prosecution, the volume of discovery, or the existence of novel questions of fact or law, that it is unreasonable to expect adequate preparation for pretrial proceedings or for the trial itself within the time limits established by local court rule, the court may enter a finding that the case is "complex." This finding should only be entered where the ends of justice served by taking such action outweigh the public's interest and the defendant's interest in a speedy trial, and where the defendant has properly consented to a delayed trial date.
- B. If a case is declared "complex," the court may (i) pre-assign it to a designated judge before whom both the motion practice and the trial will occur; (ii) set briefing and motion schedules which shall be strictly followed, if the case is not so pre-assigned; (iii) set discovery cut-off dates; and (iv), set a firm trial date, for such time in the future as will allow for both adequate preparation, and pre-trial proceedings.

X. TRAILING

- A. A case may be designated for Trailing after the Criminal Presiding Judge receives input from the attorneys.
- B. If the deputy prosecutor or the defense is in another Trial, the Trial will trail day to day, according to the Court's Trailing Policy, or the Court may consider other options.
- C. In the event an attorney has two Trials set for the same date, the Criminal Presiding Judge may send both trials to one department, with the expectation that one case will be tried immediately and the other will trail.
- D. Trailing attorneys and defendants shall be within 60 (sixty) minutes of the County Courthouse when notified or remain at the courtroom. Trailing attorneys shall call the Court Administrators Criminal Case manager each trailing day by 10:00.
- E. The Criminal Presiding Judge may designate the number of days the case will trail and order all participants back at a designated time unless notified to report to an assigned department.

XI. MONITORING

- A. Superior Court will work with the Prosecutor's Office, Clerk's Office and the Department of Assigned Counsel to review pending cases over 270 days old every three months, to identify, reduce and eliminate the causes of case age.
- B. The Court, Bar Association, Prosecutor's Office, Clerk's Office, and the Department of Assigned Counsel will develop an internal process to monitor the progress of this new initiative.
- C. This internal monitoring process will develop measurable goals and monthly review results in meeting those goals.

XII. IMPLEMENTATION AND REVIEW

- A. The monitoring committee will be composed of representatives of the Superior Court, Court Administrator, Clerk, Prosecuting Attorney, and Department of Assigned Counsel. This workgroup will plan and implement these guidelines and docket structure for an effective date of January 1, 2009 and continue to adjust and address issues as needed for implementation.

- B. These guidelines will be continually reviewed by the monitoring committee and subject to revision as needed but are intended to remain in place for a period of at least one (1) year and formally reviewed at that time.

APPROVED:

The undersigned, without delegation or abrogation of their individual and separate roles and responsibilities in the criminal justice system, do approve and support the implementation of these criminal case processing guidelines and criminal docket structure in the best and proper interest of the administration of justice in Yakima County, WA.

YAKIMA COUNTY SUPERIOR COURT

By: _____
Hon. Ruth E. Reukauf, Administrative Judge

Harold Delia, Court Administrator

YAKIMA CLERK

By: _____
Kim Eaton, Clerk

YAKIMA COUNTY PROSECUTING ATTORNEY

By: _____
Ronald S. Zirkle, Prosecuting Attorney

Kenneth L. Ramm Jr., Chief Criminal Deputy

YAKIMA COUNTY DEPARTMENT OF ASSIGNED COUNSEL

By: _____
L. Daniel Fessler, Director

YAKIMA COUNTY BAR ASSOCIATION

By: _____
David A. Thorner, Chair -Bench Bar Liaison Committee