

Title 4. Criminal and Traffic Rules

Chapter 1. General Provisions

Rule 4.1. Title

The rules in this title may be referred to as the Local Criminal and Traffic Rules.

Rule 4.1 effective January 1, 2008.

Rule 4.10. Application

The Local Criminal and Traffic Rules apply to all criminal and traffic cases in the court, unless otherwise provided in these rules or by a statute or a rule in the California Rules of Court.

Rule 4.10 effective January 1, 2008.

Chapter 2. Criminal Rules

Rule 4.100. Organization

- (a) All proceedings subject to welfare fraud court processing will be set in Department 115 of the Wiley W. Manuel Courthouse.
- (b) All indictments will be set in Department 11 of the René C. Davidson Courthouse.
- (c) All informations subject to Proposition 36 and other formalized drug court processing that begin in the Wiley W. Manuel Courthouse, the René C. Davidson Courthouse, or the George E. McDonald Courthouse will be set in Department 108 of the Wiley W. Manuel Courthouse.
- (d) All other felony informations that begin in the Wiley W. Manuel Courthouse, the René C. Davidson Courthouse, or the George E. McDonald Courthouse will be set before the Executive Judge, Northern Division in Department 11 of the René C. Davidson Courthouse.
- (e) All felony informations that begin in the Hayward Hall of Justice, the Fremont Hall of Justice, and the Gale/Schenone Hall of Justice will be set before the Executive Judge, Southern Division in Department 513 of the Hayward Hall of Justice.

- (f) Report and sentence proceedings in all felony matters not subject to Proposition 36 or other formalized drug court or welfare fraud court processing, will be set in Department 11 for cases that begin in the Wiley W. Manuel Courthouse or the George E. McDonald Courthouse; and in Department 513 for cases that begin in the Hayward Hall of Justice, the Fremont Hall of Justice, and the Gale/Schenone Hall of Justice.
- (g) Report and sentence proceedings for all felony cases assigned to a trial department will occur in the trial department.

Rule 4.100 amended and renumbered effective January 1, 2008; adopted as section 'A' of Appendix to Chapter 8 effective August 1, 2000; previously amended effective March 1, 2005.

Rule 4.110. Adoption of uniform bail schedules

Uniform countywide bail schedules for felony, misdemeanor, and infraction offenses will be revised and approved by the Executive Committee annually or at such other time the committee determines it is necessary or appropriate to do so.

Rule 4.110 amended and renumbered effective January 1, 2008; adopted as section 'F' of Appendix to Chapter 8 effective January 1, 2007.

Rule 4.120. Special circumstances cases

All informations and indictments whereupon the District Attorney's Office seeks the penalty of death must be calendared and assigned for trial out of Department 11.

Rule 4.120 amended and renumbered effective January 1, 2008; adopted as section 'D' of Appendix to Chapter 8 effective August 1, 2000.

Rule 4.130. Withdrawal of time waiver

Withdrawal of a time waiver for trial under Penal Code section 1382 in felony and misdemeanor cases must be declared in open court at either a regularly scheduled appearance or at an appearance added to the calendar for that purpose after proper notice to all parties.

Rule 4.130 effective July 1, 2009.

Rule 4.140. Deadline for filing petitions to revoke supervision

Petitions for revocation of probation, mandatory supervision, post release community supervision, and parole under Penal Code sections 1203.2, 3000.08, and 3454 must be filed no later than five court days after the arrest of the supervised person.

Rule 4.140 adopted effective August 23, 2013.

Rule 4.150. Exhibits posing security or safety problem

(a) Definitions

As used in this rule:

- (1) “Biological material” means blood, urine, human or animal tissue, other biological item requiring refrigeration or humidity controlled storage, or any material that may be subjected to forensic DNA testing under Penal Code section 1405.
- (2) “Bulky” means anything that exceeds one cubic foot in volume.
- (3) “Hazardous material” means the controlled substances enumerated in Health and Safety Code sections 11054 through 11058.
- (4) “Heavy” means anything that exceeds three pounds by weight.
- (5) “Security or safety risk” means cash, firearms, sharp objects, or any explosive, flammable or corrosive device or material.

(b) Exhibit precautions

Any exhibit that contains biological or hazardous material, or poses a security or safety risk must be securely sealed and protected against breakage so that no contents or odors can be released that may harm court personnel. Containers of biological or hazardous material must be clearly marked and identified as to type, amount and weight. The court bailiff must examine any firearm to make sure that the firearm has been secured and rendered inoperable. Any package containing cash must specifically list the total amount of cash contained and the number and amount of each denomination.

(c) Responsibility for certain exhibits

The court is not required to accept or store the following types of exhibits:

- (1) Any bulky or heavy item.
- (2) Any explosive, flammable or corrosive material.
- (3) Any item containing pressurized material.
- (4) Any material requiring refrigeration or humidity controlled storage.
- (5) Any material used for displaying exhibits except in capital case.

Following introduction of any of the above types of exhibits, the party that brought the exhibit to court will resume responsibility for it.

Rule 4.150 adopted effective July 1, 2015.

Chapter 3. [Reserved]

Chapter 4. Traffic Rules

Rule 4.300. Transfer to county seat

Motions to transfer the place of appearance for a traffic citation to the county seat under Vehicle Code section 40502(b) must be made at the time of arraignment.

Rule 4.300 amended and renumbered effective January 1, 2008; adopted as rule 9.0 effective May 19, 1998; previously amended effective July 1, 1998 and July 1, 1999.

Rule 4.310. Trial by declaration

Any defendant may request a trial by written declaration as allowed by Vehicle Code section 40902. Trials by declaration will be processed in accordance with the provisions of California Rules of Court, rule 4.210.

Rule 4.310 adopted effective January 1, 2008.

Rule 4.320. Trial by declaration in absentia

Under Vehicle Code section 40903, any person who fails to appear as provided by law may be deemed to have elected to have a trial by written declaration upon any alleged infraction, as charged by the citing officer, involving a violation of the Vehicle Code or any local ordinance adopted pursuant to that code. In eligible cases the court will conduct the trial in absentia and it will be adjudicated on the basis of the notice to appear issued under Vehicle Code section 40500 and any business record or receipt, sworn declaration of the arresting officer, or written

statement or letter signed by the defendant that is in the file at the time the trial by declaration is conducted.

If the court finds the defendant guilty, the conviction will be reported to the Department of Motor Vehicles and the court will notify the defendant, by first class mail, of the disposition of the case, the amount of imposed fines and fees, and the defendant's right to request a trial de novo within the time specified in the notice. In order to have a trial de novo, the defendant must submit a written request on Judicial Council form TR-220 and pay the total amount due within the time specified in the notice. If the defendant makes no timely request for a trial de novo and has not paid the fines and fees by the due date, the case will proceed to civil assessment as provided under Penal Code section 1214.1.

Rule 4.320 effective July 1, 2009; adopted as Trial by declaration in Photo Red Light Citation cases effective January 1, 2008; previously repealed effective February 1, 2009.

Rule 4.330. Continuances

A request to continue a traffic trial must be received by the court ten days before the date of the trial. No request for continuance received after that date will be granted unless the interests of justice require a continuance.

Rule 4.330 adopted effective January 1, 2008.

Rule 4.335. Defendant's personal appearance required at trial

The defendant must be personally present at the time of trial unless there is a stipulation regarding the issue of identity.

Rule 4.335 adopted effective January 1, 2011.

Rule 4.340. Motion to re-open case adjudicated by bail forfeiture

Any motion to reopen a conviction reported to the Department of Motor Vehicles following a bail forfeiture under Vehicle Code section 40512 or reported as a failure to complete traffic violator school under Vehicle Code section 40512.6 shall be filed with the Traffic Division no later than 180 days from the date of the bail forfeiture, unless good cause is shown.

Rule 4.340 adopted effective January 1, 2008.