

King County Superior Court Criminal Department Manual

Revised April 2021

Revisions to the Criminal Department Manual:

- Chief Judge approval: The Chief Criminal Judge and Chief MRJC shall determine if immediate revisions to the Criminal Department Manual are required.
- Executive Committee: The Chief Criminal Judge and Chief MRJC shall determine if revisions to the Criminal Department Manual must be brought to the Executive Committee for approval per LCR 0.7(c).

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1 STATEMENT OF PURPOSE

The purpose of this manual is to advise King County Superior Court judges and attorneys, pursuant to Local Rules of the Superior Court for King County, [LCrR 1.1](#), of current procedures for handling and processing criminal cases in King County Superior Court.

1.1 CRIMINAL DEPARTMENT NEWS AND INFORMATION DISTRIBUTION

The Criminal Department regularly distributes important procedural information, new forms, caseload data, and monthly trial calendar information to criminal case practitioners.

To subscribe to Superior Court's Criminal Department News and Information distribution list, click on the following link and follow the instructions on the subscription page: [Criminal Department News and Information](#)

2 ORGANIZATION OF CRIMINAL DEPARTMENT

The Presiding Judge of the King County Superior Court will appoint judges to the Criminal Department in Seattle to serve for a designated term in accordance with the court's rotation policy. Trial judges assigned to the MRJC, and not assigned to Unified Family Court, are considered Criminal Department Judges for purposes of this manual.

2.1 CRIMINAL DEPARTMENT JUDGE RESPONSIBILITIES

The judges in the Criminal Department shall be responsible for the case management and trial of all adult criminal cases within the King County Superior Court.

Sentencing hearings from the Plea Calendar shall be assigned to sentencing calendars spread among the judges assigned to the Criminal and Civil Departments. The following departments will not be assigned sentencing calendars:

- Presiding Judge
- Assistant Presiding Judge
- Chief MRJC Judge
- Chief Civil Judge
- Chief Criminal Judge
- Assistant Chief Criminal Judge
- Unified Family Court (UFC) Judges
- Juvenile Department Judges
- Drug Diversion Court Judge(s)

Each judge shall be responsible for handling his or her own sentencing hearings following trials or guilty pleas that were assigned as trials, except that pleas accepted by a judge on the plea calendar shall be assigned to another sitting judge for post sentencing supervision.

When sentencing hearings are continued, they shall be heard at a later date by the judge to whom the sentencing was originally assigned.

2.2 CHIEF CRIMINAL JUDGE/ASSISTANT CHIEF CRIMINAL JUDGE/CHIEF MRJC JUDGE RESPONSIBILITIES

Cases with a SEA Designation: The Chief Criminal Judge will conduct the expedited motions calendar, case scheduling calendar, the omnibus calendar, and the in and out of custody SRA modification calendar.

The Assistant Chief Criminal Judge will conduct the competency calendar, arraignment calendar, the bond calendar, the criminal motions calendar, the DOSA calendar, and other assignments at the direction of the Chief Criminal Judge.

The Chief Criminal Judge will assign a Seattle criminal judge to the plea calendar. The judge assigned to the plea calendar will hear the anti-harassment calendar on Tuesday.

Cases with a KNT Designation: The Chief MRJC Judge will conduct arraignments, the expedited motion calendar, the bond calendar, the case scheduling calendar, and the omnibus calendar.

The Chief MRJC Judge will assign a Kent judge to the plea calendar, the criminal motions calendar and the in-custody SRA calendar. The judge assigned to the plea calendar will hear the anti-harassment calendar on Tuesday.

The Chief Criminal Judge and the Chief MRJC Judge, or their designees, will make probable cause determinations in the filing of new cases and will resolve any other matters as needed in the absence of a trial or sentencing judge.

2.3 DRUG DIVERSION COURT

A Drug Diversion Court Judge will hear the Drug Diversion Court Calendars in both Seattle and Kent.

The King County Drug Diversion Court (KCDDC) provides eligible defendants charged with felony drug and property crimes the opportunity for drug treatment and access to other ancillary services. Eligible defendants can elect to participate in the program or proceed with traditional court processing. After choosing to participate in the program, defendants come under the court's supervision and are required to attend treatment sessions, undergo random urinalysis, and appear before the KCDDC judge on a regular basis. KCDDC is a pre-adjudication program. If defendants meet the requirements of each of the four phases of KCDDC, they graduate from the program and their charges are dismissed. If defendants fail to make progress, having stipulated to the facts of the police report at opt-in, they are terminated from the program and sentenced on their original charge following a bench trial.

King County Drug Diversion Court's (KCDDC) current eligibility criteria are available on the KCDDC website:

<http://www.kingcounty.gov/courts/DrugCourt.aspx> The King County Prosecuting Attorney's Office screens all police referrals for KCDDC eligibility. When the Prosecutor determines a defendant to be KCDDC eligible, the case is filed directly into KCDDC for arraignment. Defendants whose cases have been filed mainstream may ask to have the case reviewed again by the Prosecutor. Defense attorneys are to provide a completed transfer request and any supporting documents to the Drug Court Prosecutor for his/her review. A copy of the transfer request should also be provided to the Drug Court Prosecutor's paralegal. The transfer request form is also available on the DDC website.

Rules Regarding Eligibility:

1. The eligibility criteria are published; not open to discretion by the defense bar, the prosecutor's office, or the court (except as noted in Rule #4); and will be adhered to strictly. Criteria were agreed upon by the Superior Court, the defense bar, the prosecuting attorney, chemical dependency experts, and law enforcement.
2. The court will not make exceptions to eligibility criteria. In cases where the prosecutor has deemed a defendant to be ineligible, a defendant may petition the court for acceptance to the program. In making a determination on the defendant's request, the court will consider only whether drug court eligibility criteria were appropriately applied.
3. There must be a reasonable basis to believe the defendant can successfully complete the KCDDC program after taking into consideration factors such as: the defendant's mental and/or physical health, past performance in KCDDC, and living situation. The court will make the ultimate determination regarding eligibility when a "reasonable basis" for successful completion is in question.
4. Juvenile history may be considered at the discretion of the court.

2.4 DISTRICT COURT'S MENTAL HEALTH COURT

King County District Court operates a Mental Health Court (MHC) for misdemeanor defendants suffering from mental illness. Defendants are referred to the MHC from a variety of sources. In some instances,

a defendant's case may begin as a felony charge in Superior Court but subsequently may be negotiated to a misdemeanor plea with supervision and treatment in the MHC. When this happens – and if District Court finds that the defendant meets the eligibility requirements for the MHC – the case may be refiled as a misdemeanor in District Court. For more information about the MHC, please visit District Court's MHC webpage at:
<http://www.kingcounty.gov/courts/DistrictCourt/MentalHealthCourt.aspx>.

2.5 RALJ APPEALS

RALJ appeals are assigned at the time of filing to individual judges in the Criminal, Civil, and UFC Departments in Seattle and Kent. Criminal RALJ judge re-assignments after initial filing shall be made by the Seattle Chief Criminal Judge for Seattle appeals or the MRJC Chief Judge for Kent appeals.

2.6 CRIMINAL DEPARTMENT STAFF

Seattle

Criminal Department Manager II (primary location)
Court Department Supervisor
Criminal Calendar Technician
Information Processing Technician
Court Program Technician

Kent

Criminal Department Supervisor
Criminal Calendar Technician
Information Processing Technician

3 CRIMINAL DEPARTMENT SCHEDULE

3.1 KCCH/SEATTLE

Calendar	Day of the Week	Time	Location
Expedited Motions	Mon – Thursday	8:30 – 9:00	E-955
Motions to Continue	Mon – Thursday	8:30 – 9:00	E-955
Extradition Waivers	Mon – Thursday	8:30	E-955
Arraignment	Mon – Thursday (TUE – DV ONLY)	9:00 – 11:00	E-955
Arraignment via Zoom (prior notice to PAO and Court required)	Mon – Thursday	10:00 – 11:00	
Bond / Warrant Quash (including TR requests, modify conditions or lift/modify NCO)	Mon – Thursday (DV SAU on Tuesdays. DV overflow can be set on Thursdays) Limit to 5 bond hearings on each calendar.	11:00 – 12:00	E-955
Plea	Monday	9:00 – 12:00	Rotates
		1:00 – 4:00	Rotates
	Tuesday	1:00 – 4:00	Rotates
		Wednesday	9:00 – 12:00
	Thursday		1:00 – 4:00
			9:00 – 12:00
		1:00 – 4:00	Rotates
Competency (including returns); Cont.	Mon – Thursday	9:00	E-955
Contested Competency Status Conference	Mon – Thursday	9:00	E-955
Contested Competency Hearing (less than 3 hours)	Mon – Thursday	1:00	Assistant Chief Criminal Courtroom
Contested Competency Hearing (over 3 hours)	Mon – Thursday	9:00	Assigned to Trial Judge
Case Scheduling	Mon – Thursday (No mainstream on Tues.- only DV/SAU)	1:00	E-955
Trial Call (Suspended)	Mon – Thursday	After Case Setting	E-1201
	Friday	After SRA	E-1201
Criminal Motions	Mon-Thursday	1:30	Assistant Chief Criminal

			Courtroom
Bond Forfeiture	2 nd Thursday of each month	3:15	E-955
Pre-trial Omnibus	Mon – Thursday (No mainstream on Tues.- only DV/SAU)	1:00	E-955
Trial track Omnibus	Friday	8:30	E-955
Sentencing	Friday	1:00–4:30	Rotates
SRA Mod – In and out of custody	Friday	1:00	E-955
DOSA Review Calendar	Friday	8:30	Assistant Chief Criminal Courtroom

3.2 MRJC/KENT

Calendar	Day of the Week	Time	Location
Expedited Motions	Mon – Thursday	8:30	GA
Contested Competency	Wednesday	8:30	GA
Extradition Waivers	Mon – Thursday	8:30	GA
Arraignment	Mon, Tues, Thurs Only DV on Tuesdays. Note: during holiday weeks, there will be an arraignment calendar on Wednesday.	9:00 – 11:00	GA
Anti-Harassment	Tuesday	8:30–12:00	Rotates
Plea Calendar	Monday	1:00–4:30	Rotates
	Tuesday	1:00–4:30	Rotates
	Wednesday	9:00–4:30	Rotates
	Thursday	9:00–12:00	Rotates
Bond	Mon – Thursday Limit to 8 bond hearings on each calendar. DV on Tues and Thurs. SAU on Wed.	11:00	GA
Warrant Quash	Mon – Thursday	1:15	GA
Case Scheduling	Mon – Thursday (No mainstream on Thurs.- only DV. SAU on Tues.)	1:00	GA
Trial Call (Suspended)	Mon – Wednesday	1:10	GA
	Friday	1:30	GA
Pre-trial Omnibus	Mon – Thursday (No mainstream on Thurs.- only DV. SAU on Tues.)	1:00	GA
Trial track Omnibus	Friday	8:30	GA
Criminal Motions / Pleas off Omnibus	Friday	9:00–12:00	Rotates
Sentencing	Friday	1:00 – 4:30	Rotates

SRA Mod – In-Custody	Friday	1:30	GA
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3.3 DRUG DIVERSION COURT

Calendar	Day of the Week	Time	Location
Drug Court Calendar	Monday, Tuesday, Thursday	9:00-12:00	Seattle
		1:30-4:00	E-912
	Friday	10:00- 12:00	Kent – 4F
1:30-4:00		Kent – 4F	

4 CRIMINAL DEPARTMENT CONTACT INFO

4.1 KCCH/SEATTLE

Trial Information	(206) 477-1481
Criminal Department Staff	(206) 477-1481
Scheduling Pleas and Sentencings	(206) 477-1482
Pleas and sentencings also may be set by emailing: pleacourtseattle@kingcounty.gov	
Scheduling 8:30 Expedited Motions and Bond Hearings	(206) 477-3720
These hearings also may be set by emailing: seacriminalmotions@kingcounty.gov	
Interpreters	(206) 477-1415
Scheduling Criminal Motions	(206) 477-1361
These hearings also may be set by emailing: seacriminalmotions@kingcounty.gov	
Transcripts and Recordings of Proceeding for Criminal Department Calendars	(206) 477-1451

4.2 MRJC/KENT

Trial Information	(206) 477-2730
Criminal Department Staff	(206) 477-2730
Scheduling Pleas and Sentencings	(206) 477-2741
Pleas and sentencings also may be set by emailing: pleacourtMRJC@kingcounty.gov	
Scheduling Criminal Motions & Bond Hearings	(206) 477-2733
These hearings also may be set by emailing: kentcriminalmotions@kingcounty.gov	
Access to Clerk in Courtroom GA	(206) 205-2513
Interpreters: interser@kingcounty.gov	(206) 477-1372

4.3 DRUG DIVERSION COURT

King County Drug Diversion Court Services	(206) 477-0788
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Forms and instructions for ordering CD's of hearings in E-1201 or criminal motions calendars are located at <http://www.kingcounty.gov/courts/Clerk/Records/Copies%20of%20Hearings%20NEW/Ordering%20CDs.aspx>.

5 ARRAIGNMENT

The arraignment calendars are scheduled by the Prosecuting Attorney's office. Arraignments are scheduled within 14 days of filing.

The defendant must be present in person for arraignment.

Defendants who do not appear for their scheduled arraignment must contact the Prosecuting Attorney's office to get a new court date.

Failure to appear at arraignment may result in the court's issuance of a bench warrant.

5.1 PROCEDURE

At Arraignment, the Deputy Prosecuting Attorney shall advise the defendant of the charge and provide a copy of the information to defense counsel. The defendant shall enter a plea, make any objection to the date of arraignment, and may request a personal recognizance release or a reduction of bail or reserve such argument to the Bond Calendar.

- "Guilty" pleas are generally not taken at time of Arraignment. Due to the large number of arraignments each day, time does not allow for taking a guilty plea at arraignment and defendants often do not have assigned counsel at this time.

At arraignment, the following presumptive dates are set:

	<u>In custody</u>	<u>Out of custody</u>
Pre-trial Omnibus	Arraignment date+ 28 (4 weeks)	Arraignment date + 56 (8 weeks)
Trial date	Arraignment date + 56 (8 weeks)	Arraignment date + 84 (12 weeks)
Expiration date	Arraignment date + 60	Arraignment date + 90

The court may also set an optional Case Setting hearing date within 15 days of arraignment.

These dates are based on setting the pre-trial omnibus hearing and trial date a certain number of weeks after arraignment, so that that arraignment, pre-trial omnibus hearing, and trial date are all on the same day of the week. The trial date is set as the maximum number of weeks post-arraignment that can be set without going past the expiration date.

Forms Available Online at

www.kingcounty.gov/courts/scforms/criminal.aspx

5.2 UNREPRESENTED DEFENDANTS

The Court shall advise unrepresented defendants of the procedure for obtaining counsel and shall set a hearing one week out to confirm counsel.

5.3 BAIL

If a request to address bail or other condition of release is made at arraignment, a subsequent motion should set forth a change of circumstances. Upon receipt of such a motion, the court will determine whether a subsequent bond hearing will be set.

Forms Available Online at

www.kingcounty.gov/courts/scforms/criminal.aspx

6 APPOINTMENT OF COUNSEL

Prior to assignment of counsel, the Department of Public Defense (DPD) is to screen the case to identify conflicts of interest in the prior or current representation of parties or witnesses.

As soon as discovery is provided, the assigned attorney (or his or her designee) shall again screen for conflicts. All conflicts shall be resolved before the first case scheduling hearing.

Forms Available Online at

www.kingcounty.gov/courts/scforms/criminal.aspx

6.1 CONFLICT OF INTEREST

When the court determines that there is a conflict of interest disqualifying assigned defense counsel from representing the defendant, the Department of Public Defense shall assign new counsel.

6.2 MOTION TO WITHDRAW OR SUBSTITUTE COUNSEL

Once the trial date has been set, any motion for change of attorney shall be heard by the Chief Criminal Judge or Chief MRJC Judge, with notice to opposing counsel.

6.3 CHALLENGE TO DETERMINATION OF FINANCIAL INELIGIBILITY

When a defendant disputes DPD's determination that he or she is not eligible for appointment of counsel at public expense, the defendant may request court review of the decision. If the court makes a finding of indigency, the court may order DPD to appoint counsel for the defendant with, or without, the requirement that the defendant execute a promissory note payable to DPD for the cost of representation.

6.4 PUBLIC DEFENDER CERTIFICATIONS

The Washington Supreme Court adopted Standards for Indigent Defense Services which mandate the filing of a certification of compliance with the courts by public defenders practicing in adult criminal and juvenile offender case types. These new standards became effective October 1, 2012.

In King County Superior Court, the Clerk's Office will be the repository for these certifications. For 2021, the case number in which to file these certificates is: **21-0-12055-4**. Each year, the Clerk will announce the new case number for the year.

Attorneys are required to e-file the certificates. The Supreme Court certification form is available as an e-form in the clerk's e-Filing application with the appropriate case number already inserted. Per the standard, attorneys are to submit one certificate per quarter. You may access the clerk's e-Filing application from the Clerk's E-Filing News and Information web page (<http://www.kingcounty.gov/courts/Clerk/E-Filing.aspx>). Log in then select the "Use e-Form Template" link, enter the case number, select the "Certification of Defense Counsel" New Form/Order Template, complete the template by entering your information via the Data Entry tab, save the document and complete the e-filing process. Please note: King County District Court, Seattle Municipal Court and all other courts will have a different process for accepting certifications.

7 BOND HEARING CALENDAR

7.1 CALENDAR

Motions to address bail or other conditions of release, prior to trial or plea, are heard by the Assistant Chief Criminal Judge in Seattle or the Chief MRJC Judge in Kent. Bond Motions are scheduled as follows:

Calendar	Day of the Week	Time	Location
Seattle	Mon – Thurs	11:00	E-955
Kent	Mon – Thurs	11:00	GA

7.2 SETTING A BOND HEARING

Counsel may schedule the motion by obtaining an available hearing date from the Chief Criminal Judge’s Bailiff in Seattle, or the Criminal Department Supervisor in Kent.

Parties may note bond motions by using the following contact information:

- Seattle: seacriminalmotions@kingcounty.gov.
- Kent: kentcriminalmotions@kingcounty.gov.

The moving party shall notify opposing counsel of the date and time for the bond hearing, [CrR 8.1](#), [CR 6](#); [CrR 8.2](#), [CR 7](#). If there is no assigned prosecutor, notice shall be sent to the EPU deputies or supervisors.

Bond hearings may be set on the bond calendar as soon as possible (shorter than six days), as long as notice is given. If a party needs more time, they may ask for more time. DV or SAU hearings will still require six days’ notice. The Court will strike hearings where there is no notice.

For proper identification of an inmate, the following information is needed to note a bond hearing:

- The name of the defendant
- The defense attorney's name
- The CCN (Computer Control Number)
- The charges
- Date of arraignment
- Trial date
- Current bail amount

- Cause number

The bailiff shall forward a copy of the bond calendar by email to the Prosecuting Attorney's Office and to the Department of Adult and Juvenile Detention Court Services Office. At a bond hearing, counsel must provide the court with the certification for determination of probable cause, Prosecutor bail request, criminal history, and the Court Services pretrial release interview form.

7.3 BOND HEARING AFTER PLEA OR FINDING OF GUILTY

Once a defendant has been found guilty, all other matters, including bail or release, shall be heard by the sentencing judge, provided that a judge not serving as judge pro tempore who takes a plea of guilty may make a bail or release decision at plea.

With the consent of the sentencing judge, or under special circumstances, such as when the sentencing judge is unavailable, a motion regarding conditions of release may be heard by the Chief Criminal Judge, Assistant Chief Criminal Judge or Chief MRJC Judge.

Motions subsequent to a sentence imposed by a pro tem judge (including release) shall be heard by the supervising judge assigned at the time of sentencing.

Release decisions in King County Drug Diversion Court are made with regard to community safety considerations, failure to appear history, and availability of appropriate treatment and housing placement.

Forms Available Online at
www.kingcounty.gov/courts/scforms/criminal.aspx

8 INTERPRETERS

8.1 STATUTORY REQUIREMENT

When available, the court shall use a certified court interpreter.

8.2 EXAMINATION OF QUALIFIED INTERPRETER

When a certified interpreter is unavailable, the court may qualify an interpreter. The court may conduct a colloquy to determine whether the interpreter is qualified and is familiar with the Code of Conduct for Court Interpreters ([GR 11.2](#)), or the court may require that an interpreter submit an Interpreter Declaration of Qualifications for this purpose.

Certified and registered interpreters file an oath of interpreter with AOC. Other interpreters must be sworn by the court at the beginning of each proceeding. The Interpreter Oath shall be administered as follows:

Spoken Language: Do you swear (affirm) that you will make a true interpretation to the person being examined of all the proceedings in the _____ language, and that you will repeat the statements of the person being examined to this court in the English language, to the best of your skill and judgment?

Deaf / Hearing Impaired: Do you swear (affirm) that you will make a true interpretation to the person being examined of all the proceedings in a manner which the person understands, and that you will repeat the statements of the person being examined to this court, to the best of your skill and judgment?

For more information about the court's Office of Interpreter Services, please visit their webpage at:

<http://www.kingcounty.gov/courts/SuperiorCourt/InterpSrv.aspx>.

9 COMPETENCY EVALUATION

Upon motion of either party, or upon the court's own motion, the court shall decide if there is reason to doubt the defendant's competency to stand trial.

If the court finds reason to doubt the competency of a defendant, the court shall order a competency evaluation. Alternatively, if the court determines at the outset that the defendant is incompetent, the court may directly commit the defendant for competency restoration.

9.1 CONTESTED DETERMINATION REGARDING COMPETENCY

Upon completion of an evaluation, the court will determine whether defendant is competent. Should either party contest the determination, a hearing shall be scheduled before a trial judge in Kent or on the criminal motions calendar in Seattle.

At Seattle location, all contested competency hearings shall be set at 9:00 in E-955 to hold status hearings. Contested competency hearings of less than three hours will be scheduled before the Criminal Motions Judge; contested competency hearings expected to last more than three hours will be placed on the trial calendar for assignment to an available trial judge.

9.2 HEARING AFTER RESTORATION

A defendant who is found to be incompetent is committed for a period of up to 90 days for restoration or 45 days for all cases in which the highest charge is a Class C felony or a Class B felony that is not classified as a violent offense under [RCW 9.94A.030](#). If not restored, he may be committed for an additional 90 days. If still not restored, the charges shall be dismissed without prejudice, unless the court or jury determine that the defendant is a substantial danger to other persons or presents a substantial likelihood of committing criminal acts jeopardizing public safety or security and there is a substantial probability that the defendant will regain competency within a reasonable time. If these findings are made, the court may extend the period of commitment for an additional six months. At the end of the six-month period, if the defendant has not been restored to competency, the case shall be dismissed without prejudice. The court may refer to a court-designated mental health professional for evaluation for civil commitment.

A defendant who has been restored should be seen on the relevant calendar within at most two court days after his return from Western

State Hospital. Counsel should not wait for the pre-scheduled hearing date.

9.3 SEALING

Upon motion, the court will determine whether none, some or all of the competency evaluation report shall be placed under seal in the court file in accordance with relevant law.

Forms Available Online at

www.kingcounty.gov/courts/scforms/criminal.aspx

10 SERVICES AT PUBLIC EXPENSE

In addition to assignment of counsel at public expense, other services may be provided at public expense to indigent defendants who are determined to be eligible.

Provisions for other services at public expense, such as expert witnesses and investigation services, must be requested through the King County Department of Public Defense (DPD). Such applications may be heard *ex parte*.

10.1 REVIEW OF DPD DECISION

Should the request for services be denied in whole or in part for any reason, defendant may move for review de novo before the Chief Criminal Judge or Chief MRJC Judge, in accordance with [LCrR 3.1](#). Such a motion shall be in writing, and shall include a declaration of indigency; appointment of counsel does not establish indigency per se. The motion shall also include all documents that were presented to DPD and a copy of DPD's denial and documents regarding indigency. When a case has been pre-assigned to a judge, an appeal from DPD's denial of services shall be directed to the Chief Criminal Judge or Chief MRJC Judge.

Trial judges can authorize expert services during a trial up to a maximum of \$250 per individual expert. Authorization for these services will be granted only if the urgency of the request is demonstrated. The judge's order authorizing expert services at public expense must be submitted to DPD

10.2 MOTIONS TO SEAL

It shall be the responsibility of defense counsel to present a motion and proposed order for sealing, if defense counsel is seeking to have the order and supporting pleadings sealed. The order sealing, itself, may not be sealed.

If no motion to seal is sought, defense shall present to DPD a motion and proposed order for expert or other services other than counsel, [CrR 3.1\(f\)](#), [LCrR 3.1\(f\)](#), [JuCR 9.3](#). If the proposed order is accompanied by a motion to seal, defense shall send the documents first to the Chief Criminal Judge or Chief Juvenile Judge. Proposed orders with motions to seal must be submitted by e-mail to the Chief Criminal Judge (seacriminalmotions@kingcounty.gov) or Chief Juvenile Bailiff unless the attorney receives specific permission from the judge

to submit as a hard copy. The proposed order to seal and proposed protective order must be separate documents in the e-mailed packet. When submitting a proposed order sealing documents, counsel must assure that the name of the document contained in the proposed order to seal and a proposed protective order, if any, must exactly match the name of the document in the caption and the date submitted; the clerk will not seal a document without an exact matching title; the document will be filed unsealed. The motion for expert services date is the date counsel signs and dates the motion. The date of the proposed order to seal will have two dates: submitted date and date OPD signs it. The submitted date for the order must be on the order to seal. Failure to do so may result in the clerk not sealing the documents in spite of an order to seal.

If the Chief Criminal Judge or Chief Juvenile Judge grants the proposed order to seal, the judge will electronically sign and e-file the order to seal and the protective order. The bailiff will send via encrypted e-mail, a copy of the order to seal and the protective order along with all of the attachments in the original request to DPD (DPDexpertservices@kingcounty.gov); defense counsel will be copied by encrypted e-mail. DPD will, upon ruling on the motion for services, send all of the documents, including the copy of the order to seal, to DJA for procedural review and filing. If DJA detects an error, DJA may return the document to the Chief Judge or may file the documents unsealed.

If the Chief Criminal Judge or Chief Juvenile Judge denies the proposed order to seal, the court will file the order denying sealing and return the motion and a copy of the order denying sealing to defense counsel. Defense may then submit the pleadings to DPD without a proposed order to seal or submit an amended motion and proposed order with a motion to seal to the Chief Judge.

10.3 RETAINED COUNSEL

When retained counsel seeks appointment of expert services at public expense, the request to DPD shall be accompanied by the retainer agreement between counsel and defendant or between counsel and any party to the agreement, and a sworn declaration setting forth defendant's assets, income and liabilities.

Forms Available Online at

<http://www.kingcounty.gov/courts/OPD/Partners/Policies.aspx>:

- [Request for Services at Public Expense](#)

11 PRE-TRIAL TRACK: PRE-TRIAL OMNIBUS AND CASE SCHEDULING

At arraignment the court shall enter an order setting an omnibus date pursuant to CrR 4.5 and may enter an optional Case Scheduling hearing date. The term "pre-trial" or "pre-trial track" used below is used to describe the class of cases where the parties are not yet ready to declare ready for trial

11.1 CONTINUANCE OF PRE-TRIAL OMNIBUS HEARING

Prior to pre-trial omnibus hearing, the parties will consult and decide whether the case needs to continue on the "pre-trial track" or is ready to proceed to the "trial track." The term "trial track" is used for the class of cases where it appears significantly likely that the case is going to go to trial.

Reasons to remain on the "pre-trial track" include, but are not limited to, outstanding discovery, negotiations, gathering and presentation of mitigation materials, etc.

The protocol for a pre-trial omnibus continuance is as follows:

New pre-trial omnibus	New trial date minus 28 days
New trial date	Agreed by the parties, but typically continued 4-8 weeks from current trial date
New expiration date	New trial date plus 30 days

The dates are based on setting the new trial date and then calculating the new pre-trial omnibus hearing and expiration date from there. Pre-trial omnibus hearings will be at 1:00 p.m. (Monday through Thursdays) 4 weeks prior to the trial date, which means it will be on the same day of the week as the trial date. The expiration date will be set 30 days after the trial date (for most cases) per CrR 3.3(b)(5).

As long as the case has a Mon-Thurs pre-trial OH, it will be considered to be on the "pre-trial track" and the State will not generally issue subpoenas for its witnesses and neither side will be expected to necessarily have met the affirmative obligations required to complete omnibus under the rules.

11.2 DEFENDANT'S PRESENCE AT PRE-TRIAL OMNIBUS HEARINGS

For pre-trial omnibus hearings, the defendant must either appear in-person, remotely, or through counsel. To appear through counsel, counsel must provide a waiver signed by the Defendant or counsel

must affirm that the Defendant prefers to appear through counsel. If a Defendant appears through counsel, notices provided to counsel are presumed to be provided to the Defendant.

If the defendant does not appear at pre-trial omnibus hearing in one of the manners prescribed by CrR 3.4, then the court will note a failure to appear (FTA), strike the trial date, and roll the pre-trial omnibus hearing to another Monday through Thursday at 1:00 p.m. with a finding of good cause for the defendant to appear in person. If the defendant does not appear in person at the next pre-trial omnibus hearing, the court will entertain a motion for a bench warrant.

11.3 CASE SCHEDULING HEARINGS

Case Scheduling hearings are optional and may continue to be set Mon-Thurs at 1:00 p.m. on the same calendar as pre-trial omnibus hearing track. Case Scheduling hearings may be appropriate where a hearing needs to be set and it would be impractical to set an omnibus hearing and trial date without having an intervening hearing and/or where there is an obvious issue that needs to be addressed prior to the omnibus hearing. This includes, but is not limited to:

- Cases where the defendant has been arrested on a bench warrant (Return on Warrant or ROW) and no omnibus or trial date is set;
- Cases returning for a new trial following a successful appeal and no omnibus or trial date is set;
- Cases returning to court after having been stayed while on interlocutory appeal and no omnibus or trial date is set;
- Cases where competency has been raised and an evaluation has been ordered.

11.4 AGREED CRIMINAL ORDER E-FILING QUEUE

AGREED Case Scheduling, Omnibus, Dismissal, Bench Warrant Quash, Competency continuances and Trial Setting Orders will be the only orders to be e-filed in the Criminal Order Queue. All orders for any particular date must be filed no later than Noon the prior court day. If orders are not received by this time, they will be rejected and parties are expected to address their case on the record at the scheduled time.

Please visit <https://dja-efsp.kingcounty.gov/EFiling/Logon/Logon.aspx> to sign up for an e-filing account and for contact information for e-filing assistance.

Forms Available Online at
www.kingcounty.gov/courts/scforms/criminal.aspx

12 TRIAL TRACK: FRIDAY OMNIBUS CALENDAR

If the parties agree that the case needs to move from the “pre-trial track” to the “trial track” or if one party or the court “forces” it to the “trial track,” then the next omnibus hearing will be rolled approximately two weeks to Friday Omnibus Calendar at 8:30 a.m., two weeks prior to the week of the trial date (i.e. to the Friday that is 10-13 days prior to the trial date). This roll will not change the existing trial date or expiration date.

Cases on the “Trial Track” will typically have the following dates:

	<u>In custody</u>	<u>Out of custody</u>
Omnibus hearing	Friday two weeks prior to week of trial date (i.e. 10-13 days prior to trial date)	Friday two weeks prior to week of trial date (i.e. 10-13 days prior to trial date)
Trial date	Trial date set at arraignment or previous omnibus hearing	Trial date set at arraignment or previous omnibus hearing
Expiration date	Arraignment date + 60 <i>or</i> trial date + 30 <i>(Depending on whether the trial date is still the one set at arraignment or has been subsequently continued)</i>	Arraignment date + 90 <i>or</i> trial date + 30 <i>(Depending on whether the trial date is still the one set at arraignment or has been subsequently continued)</i>

Whether done via the agreed order queue or following a hearing, in the case of a continuance, the dates will be based on setting the new trial date and then calculating the new omnibus hearing and speedy trial expiration date. Trial omnibus will be on the Friday morning two weeks prior to the week of the trial date. Speedy trial expiration will be set per CrR 3.3(b)(5).

12.1 TRIAL TRACK OMNIBUS PROCEDURE

Prior to the trial track Omnibus Hearing date, counsel shall meet, prepare a proposed Omnibus Hearing order, identify unresolved motions to be heard at trial, and exchange any additional discovery.

The parties shall propose an Omnibus Hearing Order at the Omnibus Hearing. Counsel will certify, on the record, that the trial date will be met and that no foreseeable issues will result in future requests for a continuance of the trial date.

The following procedures are to be followed:

- An agreed Order on Omnibus Hearing may be entered at the Omnibus Hearing if the parties agree that the parties have met, all discovery including witness interviews, is complete, the information will not be amended, all necessary witnesses are available for trial, and that the parties will be prepared for trial on the assigned date.
- Motions to continue omnibus and motions to continue trial shall be heard by the court.
- In accordance with [CrR 4.7](#), all discovery is expected to have been completed by the omnibus hearing.

It is the expectation of the court that the date originally set for trial will be the trial date, absent unforeseeable circumstances.

12.2 THE JUDGE'S ROLE AT THE TRIAL TRACK OMNIBUS HEARING

At the Omnibus Hearing, the parties will inform the court of any issues affecting the readiness of the case for trial.

If investigation is incomplete, the court may continue the Omnibus Hearing and sign an order to keep attorneys on schedule so that the case is prepared to begin on the assigned trial date.

12.3 THE OMNIBUS HEARING ORDER

At the conclusion of the Omnibus Hearing, an Order on Omnibus Hearing shall be entered memorializing the agreements of counsel and the rulings of the court.

The Omnibus Hearing Order shall be in substantially the same form as specified in [CrR 4.5\(h\)](#). The order shall be signed by the court.

Forms Available Online at
www.kingcounty.gov/courts/scforms/criminal.aspx

13 DISCOVERY CONFERENCE

At the time trial is set or any time thereafter, the court may order a discovery conference on its own motion or on request of counsel. The conference shall be heard by the pre-assigned judge, the Assistant Chief Criminal Judge, the Chief MRJC Judge, or a designated judge. The defendant may attend but is not required to do so.

The purpose of the conference is to assure that discovery is proceeding in a timely and efficient manner and to develop a schedule of discovery events. Before the conference, counsel shall meet and confer and be prepared to discuss all discovery necessary for the proper resolution of the case. At the conclusion of the discovery conference, the court shall issue an Order on Discovery Conference.

The court may order multiple discovery conferences as needed.

Forms Available Online at

www.kingcounty.gov/courts/scforms/criminal.aspx:

- [Order on Discovery Conference](#)

14 EXPEDITED MOTIONS CALENDAR

14.1 CALENDAR

The Expedited Motions Calendar is heard by the Chief Criminal Judge in Seattle and the Chief MRJC Judge in Kent and is scheduled as follows:

Location	Calendar	Day of the Week	Time	Room
Seattle	Expedited Motions	Mon – Thursday	8:30	E-955
Seattle	Motions to Continue	Mon – Thursday	8:30	E-955
Kent	Expedited Motions	Mon – Thursday	8:30	GA

The Expedited Motions Calendar is limited to motions for withdrawal and substitution of counsel, motions to amend, change case designation, proceed pro se, motions to discharge, motions for continuance of the trial date, motion to request pre-assignment, and some limited discovery issues.

Other motions:

Order Vacating Conviction. These motions shall be noted before the judges to whom post sentencing motions have been assigned. The motion is to be noted pursuant [LCR 7](#). [LCR 40\(b\)\(6\)](#).

Restoration of Right to Possess Firearm. A petition to restore the right to possess a firearm shall be noted before the King County Superior Court judge to whom post-sentencing motions have been assigned if the conviction resulting in loss of the right occurred in King County Superior Court. If the conviction resulting in loss of the right occurred in a court of limited jurisdiction or the Superior Court of another county, the petitioner must file an original cause of action in King County Superior Court and the motion shall be noted without oral argument before the Assistant Chief Criminal Judge or the Chief Maleng Regional Justice Center Judge pursuant to [LCR 7](#). [For cases in which loss of firearms resulted in a juvenile matter refer to the Juvenile rules.] [LCR 40\(b\)\(16\)](#).

14.2 SETTING AN EXPEDITED MOTION

Seattle expedited motions are set directly with the Criminal Department bailiff. Parties may note expedited criminal motions in

person although the preference is to send an e-mail to the following address.

- Seattle: (206) 477-3720, seacriminalmotions@kingcounty.gov.
- Kent: (206) 477-2733, kentcriminalmotions@kingcounty.gov.

The following information is needed to set an expedited motion: The strikethroughs are all in KCMS.

- The case name
- Cause number
- Prosecutor and defense attorneys' names
- The type of motion

Counsel who have a matter on the Expedited Motions Calendar and have an 8:30 Motion in a trial court shall report first to the trial court. Motions noted on the Expedited Calendar that are not ready to be heard by 9:00 because all counsel and the defendant are not present may be stricken at the discretion of the judge presiding over the expedited motion calendar.

14.3 NOTICE

The party who schedules the motion must notify opposing counsel, [CrR 8.2](#), [CR 7\(b\)](#).

Forms Available Online at
www.kingcounty.gov/courts/scforms/criminal.aspx

15 CRIMINAL MOTIONS

15.1 CALENDAR

Criminal motions are set according to the following schedule:

Calendar	Day of the Week	Time	Location
Seattle	Monday- Thursday	1:30	Assistant Chief Criminal Courtroom
Kent	Friday	9:00	Rotates

15.2 SETTING A CRIMINAL MOTION

To set a motion, please use the following contact information:

- Seattle: (206) 477-1361, seacriminalmotions@kingcounty.gov.
- Kent: (206) 477-2733, kentcriminalmotions@kingcounty.gov.

Special settings can be made available for lengthy motions and to accommodate attorneys in trial. The moving party must file a Note for Criminal Motion and must provide notice to opposing counsel.

The following information is needed to set a criminal motion:

- The case name
- Cause number
- Prosecutor and defense attorneys' names
- Custody status
- Trial date
- Expiration date
- The computer Control Number (CCN) if defendant is in custody
- Type and length of motion

Motion documents must be filed before a motion can be set. Motions will be set no sooner than 6 court days from the date the motion is filed or within 6 days of the trial date absent an order shortening time. Orders shortening time should be presented to the criminal motions judge. The moving party shall comply with [LCR 7\(b\)\(10\)](#), [CrR 8.2](#), [CR 7\(b\)](#).

15.3 MOTIONS CALENDAR LIMITED

Motions that are brought pursuant to [CrR 3.5](#) and [CrR 3.6](#) and require witness testimony are reserved to the trial judge unless otherwise permitted by the Assistant Chief Criminal Judge or Chief MRJC Judge.

Except for expedited motions heard by the Chief Criminal Judge or Chief MRJC Judge, all other criminal motions are heard by the Assistant Chief Criminal Judge in Seattle or the Criminal Motions Judge in Kent on the Criminal Motions Calendar. These include:

- Motions for discovery.
- Motions to amend (may also be heard at case-scheduling or omnibus).
- Motions to sever or join counts or join defendants.
- Contested motions to establish the competency of the defendant to stand trial.
- Motions for forced medication.
- Extraordinary Writs from Criminal or Infraction calendar and the Certificates of Rehabilitation.
- Motions to compel disclosure of a confidential informant.
- Motions to dismiss (other than State's motion to dismiss).
- Other motions referred to the calendar by the Chief Criminal Judge or Chief MRJC Judge.

Counsel shall not be excused from a trial in progress to attend a motion argument. Rather, they must arrange for coverage of the motion if they are in trial.

Forms Available Online at
www.kingcounty.gov/courts/scforms/criminal.aspx:

16 GUILTY PLEAS

Except in a capital case, a guilty plea may be entered at the time of arraignment or at any time thereafter before trial. However, if the plea is not heard during a case scheduling or omnibus calendar, the plea must be set by contacting the sentencing coordinator or designee. The trial judge will hear the guilty plea after a case has been assigned to court for trial.

At the taking of the plea, or shortly thereafter, the Criminal Department Sentencing Coordinator(s) shall assign a date and a time for sentencing, unless sentencing is to occur directly following entry of a plea.

If a guilty plea is entered after the setting of the trial date, an order striking the trial date shall be entered with the court clerk.

Once a guilty plea has been entered, any request for bail reduction or personal recognizance release pending sentencing shall be referred to the sentencing judge, provided that a judge not serving as a judge pro tempore who takes a plea of guilty may make a bail or release decision at plea.

16.1 SCHEDULING A PLEA ON THE PLEA CALENDAR

For Kent designated cases, a plea can be scheduled by e-mailing pleacourtMRJC@kingcounty.gov

For Seattle designated cases, a plea can be scheduled by e-mailing pleacourtseattle@kingcounty.gov

Prior to receiving a plea date, counsel must affirm that they have reviewed plea paperwork with their client via e-mail confirmation to the plea coordinator.

16.2 MOTIONS TO WITHDRAW GUILTY PLEA

Motions to withdraw a guilty plea shall be presented to the judge who took the plea or to the sentencing or supervising judge if the plea judge is not available or was a judge pro tem.

If the defendant expresses a desire to withdraw his/her plea before or at sentencing, the sentencing court should continue the sentencing to give defense time to file a written motion and declaration to be served on the judge who took the guilty plea or the sentencing judge if the plea judge is not available or was a judge pro tempore. If the plea

judge determines that there is an insufficient basis to withdraw the plea, either on the pleadings or after a hearing, the judge should enter an order denying the motion and advise the sentencing judge that the motion was denied.

If the judge that hears the plea grants the motion to withdraw the guilty plea, then it is the prosecutor's responsibility to place the case back on the pre-trial omnibus calendar and to notify defense counsel of the next scheduled hearing date.

If the motion for withdrawal is made after judgment, it shall be governed by [CrR 7.8](#).

Forms Available Online at
www.kingcounty.gov/courts/scforms/criminal.aspx

17 TRIALS

The Criminal Trial Calendar is prepared by the Criminal Department staff. The Chief Criminal Judge or Chief MRJC Judge, in consultation with staff, decides which cases are assigned to trial. On the court day before trial, staff shall notify counsel by e-mail and/or telephone of the courtroom and time the trial is to commence. Trials may also be placed on standby status for the next court day, which means counsel and the defendant may be notified to commence trial on one-half hours' notice if an earlier trial resolves.

It is presumed that the parties are ready for trial and will proceed to trial without recesses if a party does not notify the court the day before trial that it will be seeking a continuance or recess. Trials are expected to proceed continuously until concluded. If the trial judge finds that a case requires a recess longer than one day, the trial judge shall first consult with the Chief Criminal Judge or Chief MRJC Judge about the proposed recess.

17.1 AGREED CERTIFICATE OF TRIAL READINESS

The Criminal Department may send the parties an Agreed Certificate of Trial Readiness for the parties to certify that they are ready for trial and that there are no issues which needs to be resolved that would prevent trial from starting on its scheduled trial date. The Certificate of Trial Readiness should be completed and signed by the parties, filed with the clerk's office and copy provided to the Criminal Department Supervisor of the respective courthouse of the case's designation. Readiness should be submitted to the court no later than the close of business one week prior to the date the case is scheduled for trial.

- [Agreed Certificate of Trial Readiness Form](#)

Forms Available Online at

www.kingcounty.gov/courts/scforms/criminal.aspx:

17.2 TRIAL CONTINUANCE

It is expected that trial will occur on the date set at the pre trial omnibus hearing and confirmed at the trial track omnibus hearing and that the defendant(s) and witnesses will be available at the designated time.

It is the Criminal Department's goal to assign to trial as many cases as possible each day in an effort to assure trial date certainty and reduce the present backlog of criminal cases.

Once a trial date is confirmed, any change in the trial date will be granted, only upon motion, by the Chief Criminal Judge or the Chief MRJC Judge, for good cause on the basis of unforeseen circumstances.

If a case has been assigned to a courtroom for trial and the judge believes a continuance may now be warranted, the case shall be immediately returned to the Chief Criminal or Chief MRJC Judge for ruling on the motion. Continuance motions are not properly heard by the trial judge, except if authorized in an order of pre-assignment.

17.3 CASE ASSIGNED TO TRIAL

In assigning cases for trial, the court will endeavor to give priority to cases where time will expire under the speedy trial rule, to in-custody defendants over out-of-custody defendants, to earlier-filed cases over later-filed cases, to cases involving interpreters, to cases where defendant has never waived his or her right to a speedy trial, and to cases with witness availability and other scheduling limitations.

Counsel can expect to be assigned to a judge as soon as a court and counsel are available.

If counsel or defendant are not ready to proceed when a case is assigned to a judge, the case shall immediately be returned to the Chief Criminal Department for reassignment and a case that is ready will be assigned to that court room.

Any motion to continue the trial date or motion for substitution of counsel shall be heard by the Chief Criminal or Chief MRJC Judge.

The staff shall advise by telephone or e-mail each trial court of its assignment for the next day, shall advise the jail of defendants who are required to appear in court, shall advise the office of interpreter services if an interpreter is needed, shall advise the jury room of

anticipated jury trials, and shall advise counsel of the courtroom and time the trial shall commence.

17.4 CASE ON STANDBY

The Criminal Department staff closely monitors all standby cases. As soon as an attorney clears, the standby case is immediately assigned to a judge by the Criminal Department staff.

Should the case be placed on standby, the defendant(s) and any necessary witnesses must be available for trial within 30 minutes or at the time assigned by the Court.

In the event that an attorney is scheduled for trial for more than one case, priority is given to the following cases:

- In-custody over out-of-custody defendants
- Cases with earliest arraignment date
- Co-defendant cases
- Cases with attorney, interpreter or witness availability problems
- Cases with the earliest expiration date.

When an attorney is assigned to trial, his or her other cases are put on standby status. In the event the priority case is resolved, the case on standby is immediately assigned to an available judge.

An attorney who has a case scheduled on the calendar and who will complete another trial during the scheduled trial day is put on a standby status or may be assigned to an available judge.

If the attorney does not conclude another trial and become available, a Criminal Department staff member will prepare an order continuing trial, stating the reason for the continuance, and present the order to the Chief Criminal Judge or Chief MRJC Judge for signature.

The Criminal Department staff stays in contact with all assigned judges obtaining updated information on trial status. Interested persons may contact the Criminal Department Staff for updated information.

17.5 TRIAL CALL (Suspended as of January, 2015)

~~The Court will conduct a "Trial Call," for all criminal cases scheduled to begin trial the next court day. The Court will announce which cases are to be assigned out for trial, and the reasons for any that are continued. Only those defendants representing themselves will routinely be brought to court for the Trial Call. The Court will continue~~

~~to notify counsel of the results of the Trial Call by way of the court's website, but counsel may appear at the Trial Call and be heard if they desire.~~

Seattle:

~~In Seattle, the Trial Call will take place in E-1201, immediately following the case setting calendars on Monday through Thursday, and immediately after the SRA calendar on Fridays.~~

Kent:

~~In Kent, the Trial Call will take place in GA, at the beginning of the case setting calendars (approximately 1:10 p.m.) Monday through Wednesday, and at the beginning of the SRA calendar (1:30 p.m.) on Fridays.~~

17.6 MISTRIAL

Hung Jury

If the case is to be re-tried, it is the prosecutor's responsibility to place the case back on the case scheduling calendar for new omnibus, trial and expiration dates, and to notify defense counsel of such hearings.

During Trial

The trial judge shall contact the Chief Criminal Judge or Chief MRJC Judge to determine how to proceed following the declaration of a mistrial. The following may occur after a mistrial is declared during trial:

- If there are no scheduling issues, the Chief Judge may immediately send the trial back to the same trial judge for retrial.
- The Chief Judge may pre-assign trial back to same trial judge.
- If it is determined that the trial will go back to the Criminal Department for case management, the trial judge will enter an order sending parties immediately back to Chief Criminal or Chief MRJC for new pre-trial hearing dates.

17.7 NEW TRIAL FOLLOWING ORDER, WITHDRAW OF PLEA, OR REMAND

Following the granting of a motion for new trial, withdraw of guilty plea, or remand from the Court of Appeals, the prosecuting attorney shall immediately note the matter for a case scheduling hearing. The case will be assigned for trial consistent with the above procedures.

Forms Available Online at
www.kingcounty.gov/courts/scforms/criminal.aspx

18 FAILURE TO APPEAR/MOTION TO QUASH

If a defendant fails to appear for a hearing or trial, the process for rescheduling the hearing and addressing any outstanding warrants will depend on the hearing that was missed.

18.1 ARREST WARRANT/ARRAIGNMENT

Defendants or defense counsel must contact the Prosecuting Attorney's office to reschedule an arraignment.

18.2 BENCH WARRANT AT CASE SCHEDULING

A defendant or defense counsel must contact Criminal Department staff and the Prosecuting Attorney's office to reschedule a case scheduling hearing and address any outstanding bench warrants.

If the defendant is arrested on the bench warrant, the Prosecuting Attorney's office will reschedule the case scheduling hearing.

18.3 BENCH WARRANT AT OMNIBUS OR TRIAL

Defense counsel may move to quash a warrant issued on or before the trial date by scheduling a motion to quash the warrant before the Chief Criminal or Chief MRJC Judge. The defendant shall be present at the hearing or the motion shall not be considered, absent extraordinary circumstances.

If the defendant is arrested on the bench warrant, the Prosecuting Attorney's office will set a case scheduling hearing to set a new trial date.

18.4 BENCH WARRANT AT SENTENCING

Defense counsel must contact the sentencing judge to schedule a motion to quash the warrant and re-set the sentencing date.

If the defendant is arrested on the bench warrant, defense counsel may contact the sentencing court or the Sentencing Coordinator to reschedule the hearing. The Prosecuting Attorney's Sentencing Unit will also notify the Sentencing Coordinator of defendants who have been arrested on a warrant issued at sentencing.

Other Forms:

- Order Quashing Bench Warrant

19 PRE-ASSIGNED CASES

The Chief Criminal Judge and Chief MRJC Judge may pre-assign a case to a judge for pretrial management and/or for trial, on motion by a party (written motion and declaration) or on the court's own motion.

Once a case is pre-assigned, all pre-trial management is handled by the assigned judge including discovery conferences, the omnibus hearing, and all pre-trial motions, except that motions to continue trial are reserved to the Chief Criminal Judge and Chief MRJC Judge, unless otherwise agreed.

If a motion to continue trial date or withdraw and substitute counsel is granted by the pre-assigned judge, the bailiff shall notify the Criminal Department staff.

Other Forms:

- Order of Pre-assignment

20 SENTENCING

If a defendant pleads guilty in the plea court, at omnibus or at case scheduling, the case shall be assigned a sentencing judge by the Criminal Department Sentencing Coordinator(s). It is expected that sentencing will be completed at the time of plea for the following case types:

- VUCSA
- Attempt to Elude
- VUFA
- Failure to Register as a Sex Offender
- Escape
- Bail Jumping
- Other cases by agreement of the parties if the victim can be given appropriate notice.

Sentencings in other case types generally will be set within two (2) weeks of plea or finding of guilt.

Sentencings may be set more than two (2) but not more than four (4) weeks after plea or finding of guilt if:

- Statutory notice must be given to a victim
- The court has ordered a Pre-Sentencing Investigation Report
- Defendant requires additional time to complete an evaluation for Residential DOSA, FOSA, or for a SSOSA
- Either party requires additional time to prepare a request and proposed findings of fact and conclusions of law for an exceptional sentence.

Longer continuances of sentencing may be granted only by the assigned sentencing judge, the Chief Criminal Judge, or the Chief MRJC Judge.

Sentencing hearings are set by the Sentencing Coordinators for Friday afternoons at three times: 1:00, 1:45, and 2:45 p.m. An average of four sentencing hearings are set in each time slot. Sentencings may be scheduled for an upcoming Friday but no later than the immediately preceding Wednesday. However, credit for time served (CFTS) agreed recommendation pleas that occur as late as Wednesday afternoon may be scheduled that Friday for sentencing so long as there is judicial availability

A defendant who pleads guilty in the courtroom after the matter is assigned for trial, or who is found guilty by either judge or jury, shall be sentenced by the trial judge. Sentencings for cases in which the defendant pled guilty after assignment for trial or who is found guilty by either judge or jury may be held at 8:30 a.m., 1:00 p.m., or 4:00 p.m. as determined by the trial judge and counsel.

When a sentencing is continued, the assigned judge will keep the case. The sentencing should be continued to that judge's next scheduled Friday afternoon sentencing calendar or to an 8:30 a.m., 1:00 p.m., or 4:00 p.m. setting. Avoid continuing sentencings of in-custody defendants to Friday afternoons when your department does not have a sentencing calendar, as DAJD Court Detail will have difficulty delivering the defendant.

NOTE: Once a defendant is sentenced on a case, that case remains with the sentencing department or department of assignment if it comes from the plea calendar (even if a judge retires and a new one takes over) for any matters requiring judicial review, except those noted on the SRA calendar. Unlike civil cases, criminal cases remain with the judge/department, even when they rotate to another courthouse. However, if the judge rotates to Juvenile Court or ITA Court, the case may have a temporary reassignment for the purposes of a hearing.

20.1 SENTENCING AUTHORIZATION FOR JUDGES PRO TEMPORE

The following criteria were adopted by the Executive Committee of King County Superior Court on December 4, 2007.

1. Judges pro tem may sentence on misdemeanors, excluding domestic violence and sex offenses.
*Please note: Misdemeanor failure to register is not a sex offense.
2. Judges pro tem may sentence on VUCSA cases, whether felony or misdemeanor, unless there is a request for either a prison based or residential DOSA.
3. Judges pro tem may sign an order for a DOSA evaluation but shall not impose a DOSA. If there is a request for a DOSA, or if the judge pro tem, after reviewing the case, believes a DOSA would be appropriate, the matter shall be placed on the calendar of an elected judge.
4. Both parties must agree for the judge pro tem to sentence even if they have agreed that the judge pro tem can take the plea.
5. If a judge pro tem takes a plea, but the case is not to be sentenced on the day that the plea is taken, the matter shall be assigned to an elected judge for sentencing.

6. If a judge pro tem imposes sentence, a supervision judge shall be appointed.
7. A judge pro tem has the discretion to decline to impose sentence, even when authorized by this policy, if the judge pro tem believes the case presents issues more appropriately addressed by the judge who will be supervising the case. In such a situation, the judge pro tem shall direct that the matter be scheduled on the sentencing calendar of an elected judge.
8. A judge pro tem cannot order release pending sentence, even if agreed. The issue shall be referred to the sentencing judge, or if the sentencing judge is unavailable, to the Chief Criminal Judge (Seattle) or Chief MRJC Judge (Kent).
9. The Chief MRJC Judge and the Chief Criminal Judge may expand this sentencing authority for specific cases.

20.2 POST TRIAL/PLEA RELEASE

Once a defendant has been found guilty, all other matters, including bail or release, shall be heard by the sentencing judge, provided that a judge not serving as judge pro tempore who takes a plea of guilty may make a bail or release decision at plea.

A criminal commissioner, employed by the court, may, but need not, enter fully agreed orders of release pending sentencing immediately following a guilty plea. This does not include a prosecutor's position of "no objection" or "defer to the court," nor can there be any disputes about conditions of release. If the commissioner denies an agreed order of release defendant may follow the statutory revision procedure.

20.3 SENTENCING CALENDARS

Sentencing calendars are held Friday afternoons between 1:00 p.m. and 4:30 p.m.

The Sentencing Coordinators shall endeavor to assign sentencing hearings equally among all criminal and civil department judges and will assign each judge no more than twelve defendants for mainstream sentencing hearings or ten for domestic violence sentencing calendars.

A judge will notify the Sentencing Coordinator of scheduled leaves before the preparation of the annual sentencing assignment rotation schedule.

Once a judge is assigned to a sentencing calendar, he or she will arrange for coverage if he or she becomes unavailable, except that the

Sentencing Coordinator will find a replacement if the judge is unexpectedly on Family or Medical Leave.

20.4 SCHEDULING SENTENCING HEARINGS

The Sentencing Coordinator assigns a sentencing judge and a sentencing date immediately after the defendant enters a guilty plea or is found guilty.

The Sentencing Coordinator selects sentencing dates to meet the timely sentencing requirements of [RCW 9.94A.500](#) and the court's sentencing policies as described above.

Any change in sentencing date must first be approved by both parties and by the assigned sentencing court. If one party is seeking a continuance of sentencing to which the other party objects, the matter shall be noted for a motion to continue sentencing before the assigned judge. A copy of the Notice of Change of Sentencing Date form must be given to the Criminal Department Sentencing Coordinator to avoid oversetting the sentencing judge.

When a sentencing hearing is continued, it will be heard at a later date by the judge to whom the sentencing was originally assigned.

20.5 DEPARTMENT OF CORRECTIONS PRESENTENCE REPORT

Unless specifically waived by the Court, the Court shall order the Department of Corrections to complete a chemical dependency screening report before imposing a sentence upon a defendant who has been convicted of a violation of the uniform controlled substances act under chapter [69.50](#) RCW, a criminal solicitation to commit such a violation under chapter [9A.28](#) RCW, or any felony where the court finds that the offender has a chemical dependency that has contributed to his or her offense, [RCW 9.94A.500](#).

In addition, the Court shall, at the time of plea or conviction, order the Department of Corrections to complete a Presentence Investigation Report (PSI) before imposing a sentence upon a defendant who has been convicted of a felony sexual offense, [RCW 9.94A.500](#).

- **At the time of plea**, the Plea/Sentencing Coordinator prepares the cover page of the Order for Presentence Investigation Report (in cases for which a PSI is required by statute) and routes to the Department of Corrections PSI unit. The original order is routed by the Plea/Sentencing Coordinator to the assigned sentencing court- The original will be signed by the sentencing judge and then filed.

The Department of Corrections report and reports by the State and defense counsel are required by King County [LCrR 7.1\(a\)](#) to be submitted to the sentencing judge at least three days prior to sentencing.

20.6 EXCEPTIONAL SENTENCES

Counsel who move for an exceptional sentence shall follow the following procedures:

- Give notice to the court and opposing counsel that counsel will be presenting a motion for an exceptional sentence;
- Prepare Findings of Fact and Conclusions of Law supporting the exceptional sentence and submit them to the sentencing judge and opposing counsel with the pre-sentence report;
- If sentencing is anticipated to take more than 15 minutes, reschedule the sentencing date with the sentencing court;
- Notify opposing counsel of the rescheduled time and date.

20.7 COURT COSTS

At the sentencing, the Department of Judicial Administration will provide a computer printout of costs incurred by the case.

20.8 CREDIT FOR TIME SERVED

The Department of Adult Detention will provide a certification of jail time and other custody credit (EHD, Enhanced CCAP) already served by the defendant. It is preferable to indicate on the sentencing form that DAJD shall calculate credit for time served, as the court may not be aware at sentencing of all factors that affect the amount of credit.

20.9 INFORMATIONAL FORMS

A number of informational forms must be provided to the defendant at sentencing, depending on the sentencing options used:

Forms Available Online at

www.kingcounty.gov/courts/scforms/criminal.aspx:

21 SENTENCING VIOLATION HEARINGS

Sentence violation hearings are sometimes referred to as sentence modification or probation violation hearings.

Unless the assigned sentencing or supervising judge chooses to hear the matter, all hearings are handled on the out of custody SRA (Sentencing Reform Act) calendar in Seattle, or the in-custody SRA calendars in Seattle and Kent every Friday. If the defendant denies the allegations, the hearing will be stricken from the SRA calendar and set before the sentencing or supervising judge. Below is a table of the calendars:

Calendar	Day of the Week	Time	Location
Seattle SRA Calendar – Out-of-Custody	Friday	1:00	E-955
Seattle SRA Calendar – In-Custody	Friday	1:00	E-955
Kent SRA Calendar – In-Custody	Friday	1:30	GA

Post sentencing remands of WER/EHD/CCAP are heard on the in-custody SRA calendar unless the sentencing judge specifically requests a hearing.

SODA (Stay out of Drug Area) violation hearings alleging a defendant's failure to comply with the terms of the SODA are to be heard on the SRA calendar.

Post sentencing modification or probation violation hearings in residential DOSA cases should ordinarily be handled by the Drug Diversion Court Judge.

22 MATERIAL WITNESS WARRANT/HEARING

22.1 IN-STATE WITNESSES

Upon motion of the prosecuting attorney or defense counsel, a judge may issue a warrant, subject to reasonable bail, for the arrest of a material witness, [CrR 4.10](#).

The attorney requesting the material witness warrant shall advise the trial judge (or if pre-trial, the Chief Criminal Judge or Chief MRJC Judge) as soon as the witness is taken into custody. The judge shall hold a hearing no later than one judicial day after the witness is arrested and present in the county from which the warrant is issued, [CrR 4.10\(b\)](#).

If the witness is indigent, counsel shall be appointed for the hearing. The court will notify the Department of Public Defense (DPD) when a material witness warrant is signed so that initial screening for conflicts can be completed by DPD. The Prosecuting Attorney shall contact DPD upon arrest to assure that the witness is represented. Counsel will not be appointed until after DPD has been notified that the witness has been taken into custody.

Upon determination that the testimony of the witness is material and that one of the three conditions in [CrR 4.10\(a\)](#) exists, the judge shall set conditions for the witness to be released in accordance with [CrR 3.2](#).

The judge may hold the witness if the testimony cannot be secured adequately by deposition and if further detention is necessary to prevent a failure of justice.

22.2 OUT-OF-STATE WITNESSES

Requests for a certificate requesting an out-of-state material witness to attend a trial or hearing in this state will be made to the trial judge (of if at pre-trial, the Chief Criminal Judge or Chief MRJC Judge), consistent with [RCW 10.55.060](#).

The certificate requesting an out-of-state witness to attend a trial in Washington State shall be presented to the court in the county in which the witness is found.

It shall state the facts upon which the certificate is based and specify the number of days the witness will be required to attend.

An out-of-state witness who has appeared in this state shall not be required to remain longer than the period mentioned in the certificate unless otherwise ordered by the Court.

The issuance of such a certificate is not mandatory upon the receiving court. Granting or denying such a certificate is largely discretionary with the out-of-state court.

The person requesting court assistance in procuring witnesses has the burden of establishing to the satisfaction of the court that the witness is material. The mere assertion that the witness is material is insufficient.

If the witness fails, without good cause, to attend and testify at the hearing or trial, the witness may be punished by the Court for violation of the summons.

23 PRO SE DEFENDANT

A defendant charged with a crime has a federal and state constitutional right to represent himself. The court must engage in a detailed colloquy with any defendant who requests pro se representation. The Criminal Benchbook contains a proposed colloquy. The trial court must make oral findings that the defendant's decision is a knowing, intelligent, and voluntary waiver of his right to counsel. The court must also make findings if the court denies the request for pro se representation.

The defendant must be competent; i.e., must understand the charges, the proceedings, and be able to assist his lawyer. There is no requirement that the defendant's decision be wise and the court may not deny the request simply because the court believes the defendant will do a poor job of self-representation.

The court may deny the request of a competent defendant only in very limited circumstances, for example if the defendant has demonstrated that he will disrupt trial proceedings, or if he is making the request on the eve of trial, or if he has repeatedly changed his mind about self-representation.

Pro se defendants shall receive a copy of the Criminal Department Manual.

Other Forms:

- [Notice of Appearance Pro Se](#)
- [Pro Se Packet](#)

24 RALJ

Appeals of District Court and Municipal Court criminal convictions are governed by RALJ (Rules of Appeal from Courts of Limited Jurisdiction). Appeals from Municipal Courts are filed in the Seattle or Kent case designation area according to the location of the originating court. All appeals from District Courts are filed in Seattle.

At filing, the Clerk issues a case schedule that governs all case events from filing through hearing. Criminal RALJ judge re-assignments after initial filing shall be made by the Seattle Chief Criminal Judge for Seattle appeals or the MRJC Chief Judge for Kent appeals.

Forms Available Online at

www.kingcounty.gov/courts/scforms/criminal.aspx:

- [Motion to Amend Case Schedule](#)
- [Stipulation Re: Briefing Dates in RALJ Appeal](#)

25 SCHOOL NOTIFICATION REQUIREMENT

Pursuant to RCW 13.04.155, whenever a minor enrolled in any common school is convicted in adult criminal court, or adjudicated or entered into a diversion agreement with the juvenile court on any of the following offenses, the court be responsible for ensuring the principal of the student's school is notified of the disposition of the case, after first notifying the parent or legal guardian that such notification will be made:

- (a) A violent offense as defined in RCW 9.94A.030;
- (b) A sex offense as defined in RCW 9.94A.030;
- (c) Inhaling toxic fumes under chapter 9.47A RCW;
- (d) A controlled substances violation under chapter 69.50 RCW;
- (e) A liquor violation under RCW 66.44.270; and
- (f) Any crime under chapters 9.41, 9A.36, 9A.40, 9A.46, and 9A.48 RCW.

Upon conviction of a juvenile in adult criminal court (at both KCMS and MRJC locations) for charges listed in RCW 13.04.155, the Criminal Department Manager, or delegate will immediately notify the King County Juvenile Court contact via e-mail to ensure school notification is provided. King County Juvenile Court has a well-established protocol for ensuring notification is provided.