

POLICIES, PROCEDURES AND EXPECTATIONS FOR CRIMINAL DIVISION CR-A

Judge Lindsay L. Tygart

Effective May 20, 2024

- 1) Court will start between 9:00 a.m. and 9:30 a.m. (unless notified of a different time). All attorneys shall be available and prepared to handle their assigned cases as called by the State, pursuant to #3 below.
- 2) Judge Tygart is available in Chambers beginning promptly at 8:45 a.m. on a first-come, first-served basis. Both the State and Defense must be present when discussing any case.
- 3) The State shall announce the cases to be called during the morning docket, in the following order (with some exceptions – see #4, #6 and #7 below):
 - 1) Out-of-custody defendants, in alpha order
 - 2) Female inmates, in alpha order
 - 3) Male inmates, in alpha order

The courtroom bailiffs are aware of this procedure and shall have the inmates available and ready to be called in the above order.

- 4) For private counsel, specialty counsel (major crimes, special prosecution unit, sexual assault division, etc.) and RCC, cases may be called out of order to accommodate the attorneys' needed presence in other courtrooms before other judges. Those attorneys have the responsibility to timely notify the courtroom bailiffs of the needed presence of the inmate, once both attorneys are available and ready for the case to be called. You may not request the defendant and have him/her placed in a holding cell, while you await the arrival of opposing counsel.
- 5) There shall be NO TALKING in the courtroom while courtroom proceedings are in progress unless a recess has been called. Conference rooms are available to conduct any negotiations or discussions with opposing counsel, or discussions with out-of-custody defendants or witnesses. Conversations between or amongst attorneys and/or defendants and victims must be conducted outside of the courtroom to minimize noise and maintain the required decorum. Conversations with defendants, if detained, must have occurred prior to the defendant being brought to the courtroom, unless specifically authorized otherwise by the Court.

- 6) If there are any in-custody defendants who are creating a disturbance or acting out prior to being called, please notify the Court. These inmates may be called out of order in an effort to minimize/eliminate any further disruption of courtroom proceedings.
- 7) If there are any out-of-custody defendants who are not represented by counsel, he/she may be called earlier and out of order so to provide the defendant with the Affidavit of Indigency for completion, and for a determination on whether or not he/she qualifies for appointment of the Public Defender, and if an appointment is then made, for time to consult with the Public Defender prior to Arraignment or Plea.
- 8) Defense counsel shall not waive the presence of any in-custody defendant, who has been transported to the courthouse from the jail, without prior approval of the Court or absent good cause. Any waivers of appearance of the defendant shall be in writing and filed with the clerk. However, there shall be no waiver of defendant's appearance at Final Pre-Trial Conference.
- 9) Speak clearly and loudly into the microphone at each podium to assure that the court reporter, opposing counsel, the defendant and this Court can hear you. Always identify yourself and whom you represent for the record.
- 10) Side Bar conferences during morning docket are discouraged and shall be kept to a minimum - i.e., for the following type of issues:
 - 1) Defendant's cooperation with law enforcement/SAO;
 - 2) Defendant's mental or physical health matters;
 - 3) Scheduling conflicts due to personal reasons of counsel.
- 11) The Court shall schedule cases as follows:

Mondays: Final Pre-Trial conferences and Jury Selections

Tuesdays: All Arraignments and VOP Appearances in the morning/ Hearings or Trial in the afternoon

Wednesdays: All Pre-Trial conferences in the morning/ Hearings or Trial in the afternoon

Thursdays: All Pre-Trial conferences and To Be Sets (for the following week) in the morning/ Hearings or Trial in the afternoon

Fridays: Reserved for Trial or Hearings
- 12) At Arraignment, the State shall be prepared to advise the Court of the following:
 - a) the Defendant's sentencing guidelines;
 - b) the State offer, if one is to be made;

- c) the speedy trial date;
 - d) whether discovery has already been provided, and if not, the reason why it has not already been provided;
 - e) the number of Category A witnesses expected; and
 - f) whether the Defendant has any prior Felony convictions (if the Defendant does not score mandatory prison)
- 13) After Arraignment, the Court shall pass the case for 1 Pre-Trial (PT) conference, approximately 3-4 weeks later, and then at that first PT conference, the Court shall set the matter for trial sometime within the 5th month after arrest, absent good cause shown or unless there is a waiver of speedy trial filed. Intervening PT conferences or hearings on any motions may be scheduled, if needed.
- 14) At the time the case is set for trial, the Court will announce the Final Pre-Trial (FPT) and Motion in Limine (MIL) deadlines on the record in open court. The Final Pre-Trial (FPT) conference shall be scheduled in each case which has been scheduled for jury selection. FPTs shall be held one (1) week before jury selection, i.e. the Monday before the Monday jury selection. The Motion in Limine (MIL) deadline shall be the Wednesday prior to the Final Pre-Trial (FPT), roughly 1.5 weeks prior to jury selection.
- 15) At Final Pre-Trial Conference, the Defendant shall be present (there shall be no waiver of Defendant's appearance at FPT), as well as the attorneys who are to try the case. Counsel for each party shall be prepared to report on the following:
- a) whether each party is ready for trial;
 - b) any state offers made, and rejected by the Defendant;
 - b) any defense counteroffers made, and rejected by the State;
 - c) the number of jury panelists needed for jury selection;
 - d) the number of peremptory strikes allotted to each side;
 - e) the estimated length of the total trial;
 - f) any date/time restrictions in scheduling due to witnesses or attorneys;
 - g) whether an interpreter or any other accommodation will be necessary; and
 - h) whether there are any outstanding motions, late disclosed witnesses or evidence requiring a *Richardson* hearing.
- 16) All Motions to Continue Trial shall be in writing and shall be filed with the Clerk. The Motion must be on the docket for the Court to hear any arguments on the Motion. The Motion must affirm that counsel has conferred with opposing counsel and opposing counsel's position on the Motion.

- 17) At least forty-eight (48) hours prior to any hearing on a Motion, counsel for the parties must email (bbowen_1@coj.net) copies of any case law or other legal authority the party will rely upon at the hearing. The Court will review the case law/legal authority prior to the hearing.
- 18) In the event of the entry of a Plea by a Defendant, either to a negotiated disposition or straight up to the Court, the State shall be prepared to report on the following, if asked to do so by the Court:
 - a) any minimum and maximum sentences, as charged in the Information; and
 - b) the factual basis for the plea.
- 19) If an attorney wishes to add, remove or pass a case to another scheduled date, that attorney shall consult with opposing counsel about same, and if agreed to by both parties, shall then notify the Court's judicial assistant, Brittany Bowen, VIA EMAIL at bbowen_1@coj.net (cc'ing opposing counsel) **NO LATER THAN 2:00 PM THE DAY PRIOR TO THE REQUESTED DATE**. Every Administrative Pass request should state whether speedy trial has been waived and, if not, the date of the expiration of speedy trial date.
- 20) If an attorney wishes to effectuate an "in court add-on" of another case not on the docket, the attorney shall notify the Deputy Clerk of Court before the Judge takes the bench or prior to the case being called, so as to allow sufficient time for the necessary paperwork to be prepared by the clerk. "In court add-ons" should not occur with frequency and shall be kept to a minimum.
- 21) If an attorney or Defendant cannot appear in person for a pre-trial conference, for good cause and in certain limited circumstances, the Court will allow appearance via Zoom. Before any such appearance is permitted, counsel shall obtain the Court's consent prior at least 24 hours before the scheduled appearance, by filing a Motion with the Court and sending a courtesy copy of said Motion to the Court, along with a proposed Order. The Motion should state the reasons for the request.