

<p>COUNTY COURT, COUNTY OF EI PASO, STATE OF COLORADO 270 South Tejon Street Colorado Springs, CO 80903</p> <p>PEOPLE OF THE STATE OF COLORADO</p> <p>V.</p> <p>Defendant</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p> <hr/> <p>Case Number: ALL M, T, AND CR CASES</p> <p>Division C</p> <p>Courtroom: S202</p>
<p>CASE MANAGEMENT ORDER - CRIMINAL</p>	

Except for good cause, the following policies and time limits shall apply to any misdemeanor, traffic offense, petty offense, and Municipal Ordinance violation filed in Division C of the El Paso County Court.

Pretrial Settings

1. Each Defendant is entitled to two (2) pretrial conferences. At the second pretrial conference, the Defendant must make a decision whether to accept a plea bargain or set the case for trial. The Court will allow for good cause exceptions on a case-by-case basis.
2. All cases must be set for trial, on the record, in Division C. Cases may not be set for trial in the FAC. All parties must receive proper notice of a trial setting.

Plea and Sentencing

3. Plea paperwork is required for all plea agreements. The Court appreciates receiving the plea paperwork prior to the date and time scheduled for the entry of the plea of guilty for efficiency. Further, defense counsel must be prepared with calculations of presentence confinement credit at the time of plea and sentencing. The District Attorney shall be prepared with the restitution amount being requested absent good cause pursuant to People v. Weeks, 498 P.3d 142 (Colo. 2021).
4. If a case is continued for a sentencing hearing following a plea of guilty or conviction at trial, a written consent of surety stating that the bondsman agrees to remain on the bond pending sentencing will be required in order for the

Defendant to remain out of custody. This applies only to those Defendants who have posted surety bonds.

5. If a case is expected to resolve short of trial with a plea agreement, this Court prefers that the plea be entered by the Readiness Conference date. However, the Court acknowledges that this is not always possible and will accept pleas on the date of trial in certain circumstances.

Motions

6. Unless otherwise ordered, all motions must be filed no later than twenty-eight (28) days following arraignment. If opposing counsel wishes to respond in writing, all responses must be filed within fourteen (14) days of the filing date of the initial motion. It is the moving party's obligation to set all Motions for Hearing either at the arraignment date or by contacting Court Staff via email within seven (7) days following the filing of the Motion at D04_Courts_DivC@judicial.state.co.us. Opposing counsel must be included on all correspondence to the court using their direct email addresses. Failure on the part of the Moving Party to schedule a Motions Hearing will result in the Motion being deemed abandoned.
7. All Motions shall be written to clearly advise the Court of the specific relief sought and specific factual basis for the issue presented to the Court for determination. "Boiler plate" motions are strongly discouraged and each motion shall include the applicable law as applied to the specific facts at issue in the case. With the exception of newly released appellate opinions, The Parties are dissuaded from citing legal authority for the first time at the hearing. Copies of newly released caselaw upon which counsel intends to rely should be provided to opposing counsel and the Court prior to the hearing.
8. Motions *in Limine* shall be in writing and shall be filed no later than forty-eight (48) hours prior to the Pretrial Readiness Conference. This ensures that these issues can be addressed at the Pretrial Readiness Conference and not the morning of trial. Late filed Motions *in Limine* will be addressed only with good cause shown.

Sequestration

9. Pursuant to C.R.E 615, and subject to Colo. Const. Article II, Sec 16a and C.R.S §24-4.1-302.5. sequestration of witnesses is ordered for all testimony at any hearing or trial in this case. Potential witnesses shall not be present in the courtroom for the testimony of other witnesses, not discuss their testimony with any potential witnesses. Potential witnesses are not to even sit together while waiting in the hallway. All counsel, or the Defendant if pro se shall advise their respective witnesses of the sequestration order. Any violation of this Order will result in the exclusion of the witness' testimony.

Exhibits, Witnesses, and Instructions

10. All proposed jury instructions from the Prosecution and the Defense including case specific instructions, joint list of witnesses, exhibits, and an agreed upon statement of the case must be delivered to opposing counsel and the Court no later than 5:00 p.m. the day before the jury trial date.
11. If there is the possibility that electronic/digital evidence (body worn camera footage, 911 calls, et cetera) may be introduced at trial, the party challenging introduction of such or requesting redactions shall provide the opposing party with a description of the portions and the approximate time stamps for the proposed redactions. If there is a contested issue regarding redactions, the party requesting redactions shall set the matter for hearing on this issue prior to the trial date.

Discovery

12. The People and the Defendant shall comply with C.R.Crim.P. Rule 16(I)(a), (b), and (c), and (II)(b), (c), and (d), respectively. Rule 16 is self-executing, and the filing of a Motion for Discovery is prematurely made. Motions requesting discovery required by that rule are not to be filed. See Colo. R. Crim. P. 16(V)(a). Any Motion filed contrary to this Order will be summarily denied. Unless otherwise agreed upon by the Parties and approved by the Court, discovery shall be strictly controlled by Colo. R. Crim. P. 16. Pursuant to Chief Justice Directive 2006-1, the Prosecution is ordered to provide the NCIC and CCIC information available for all of its law witnesses. The Court expects the Prosecution to provide discovery not only of the information in its possession, but also of any information relevant to the case in possession of the various investigative personnel and law enforcement agencies, pursuant to R. Crim. P. 16(I)(b)(4).
13. The Court finds that the interests of justice would be served by ordering disclosure of discovery no later than thirty-five (35) days prior to trial, unless otherwise Ordered of:
 - a. The matters enumerated in R. Crim. P. 16(I)(d)(3) and (II)(b)(2) regarding experts so that counsel will have meaningful information to conduct effective cross-examination. If no report is made by the expert, then a written summary describing the expert's opinions and reasons therefore must be disclosed. The matters to be disclosed any learned treatises or studies relied upon by the expert regarding any subject at issue in the trial;
 - b. Good faith list of witnesses; nature of defense, any affirmative defenses and alibi pursuant to R. Crim. P. 16(II)(c) and (d);

- c. The Prosecution must provide written notice to Defendant of any benefit or promises given to a civilian witness in exchange for their testimony;
- d. The Prosecution must provide to the Defendant and file with the Court a written notice of any C.R.E. 404(b) materials that the Prosecution intends to introduce including any underlying police or investigative reports. Counsel are required to admonish their witnesses personally to refrain from mentioning any conduct covered by C.R.E. 404(b) that has not been specifically ruled admissible by the Court. At the request of counsel, the Court will also conduct an admonishment.

Voir Dire, Opening, and Closings

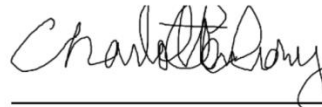
- 14. Potential jurors shall be questioned using the “modified civil” method by which all panel members are to be questioned regardless of where they are seated. Absent extraordinary circumstances, the Court will not seat an alternate juror. However, if an alternate juror is required, the last juror seated shall be designated the alternate. See People v. Tippett, 733 P.2d 1183 (Colo. 1987).
- 15. Questions to the jury panel shall be focused on bias, fairness, impartiality, and legal impairments to service. Hypothetical questions concerning potential evidence or a Party’s case theory are disallowed. Counsel shall not attempt to instruct jurors on the law, to include the burden of proof, nor shall counsel attempt to solicit promises from the jurors. See People v. Maestas, 701 P.2d 109 (Colo. App. 1985). Counsel are prohibited from mentioning or alluding to any potential sentence in this matter or the classification of the crime charged.
- 16. Preemptory challenges are to be exercised pursuant to R. Crim. P. 24(d)(4) and shall be made orally with regard only to the presumptive jury. Any challenge made pursuant to Batson v. Kentucky, 476 U.S. 79 (1986), or its progeny shall be made immediately upon the announcement of a questionable strike.
- 17. Unless otherwise Ordered, the Parties will have fifteen (15) minutes for *voir dire*, ten (10) minutes for opening statements, and fifteen (15) minutes for closing arguments. The balance of the Prosecution’s time not used during their initial closing argument shall be reserved for rebuttal.

General Provisions

- 18. In most cases, jurors will be allowed to ask questions subject to the Rules of Evidence and the Colorado Revised Statutes. The jury will be instructed concerning asking questions. The Court will consult with Counsel about any juror question that is objectionable. Jurors will be provided with written forms for questions. Any objections to permitting juror questions must be made in writing.

19. In-custody Defendants shall be dressed for trial. See Estell v. Williams, 426 U.S. 954 (1976). It is the responsibility of the defense attorney to ensure trial clothes for their client are delivered to the Criminal Justice Center in advance of the trial date consistent with the El Paso County Sheriff's Office's policies and procedures.
20. Counsel should notify their staff and associates that when entering and exiting the Courtroom during jury trial, to do so as quietly and unobtrusively as possible. Entry and exit from the Courtroom during opening, instructions, and closing is strongly discouraged.
21. The Court expects that when a party announces "ready for trial," they are in fact ready for trial. The Court will not allow the Parties to announce "conditionally ready for trial."
22. The Court recognizes the adversarial nature of these proceedings as well as counsel's obligations to zealously advocate for their respective positions. However, the Parties MUST behave with civility and treat the Court, the participants, and each other with respect at all times during the proceedings. Rudeness and general disrespect for anyone involved in the proceedings will not be tolerated by the Court.

SO ORDERED this 6th day of April 2023.



Charlotte A. Ankeny
El Paso County Court Judge