

DIVISION III CRIMINAL

CHAPTER 1 GENERAL

Rule 3.1.1

Police Reports Containing Confidential Personal Information

In accordance with Penal Code section 964 and the public policy set forth therein, prosecutors and law enforcement agencies should not submit police reports, arrest reports or investigative reports containing “confidential personal information” (as defined in subd. (b) of Pen. Code, § 964) of victims or witnesses to the court in support of a criminal complaint, indictment, or information; or in support of a search or arrest warrant. Rather, prosecutors and law enforcement agencies should present the court with written declarations from law enforcement officers that are devoid of this confidential personal information.

In the alternative to providing declarations to the court, the parties may submit copies of police reports, arrest reports or investigative reports that are redacted of all “confidential personal information” of victims and/or witnesses. The redacted copies of these reports provided to the court must be attached to a declaration attesting to the fact that all “confidential personal information” of victims and/or witnesses has been effectively redacted from the reports.

All agencies should bear in mind that the court will not undertake the task of redacting any confidential personal information of victims or witnesses from documents submitted for the court’s consideration. Rather, the burden to ensure that this information is not included within any documents presented falls squarely on the agencies preparing and presenting them to the court. In this respect, the court may exercise its discretion to accept or reject a police, arrest or investigative report containing confidential personal information that is submitted in support of a criminal complaint, indictment, or information; or in support of a search or arrest warrant.
(Adopted 1/1/2006)

Rule 3.1.2

Arraignment Options on Misdemeanors and Infractions

Attorneys appearing in propria persona or who are retained to represent defendants charged with misdemeanors or infractions may, in lieu of a court appearance, arraign matters informally, at the counter or by fax, if the attorney, as authorized by the defendant, enters a plea of not guilty and waives time for trial.

Attorneys using the counter arraignment option must personally appear in the clerk’s office. Forms and other rules governing counter and fax arraignment procedures may be obtained from the clerk’s office or the court’s website.

The clerk will assign settlement conference, trial readiness conference, and trial dates as directed by the court.

Exceptions. These arraignment options are not available for:

- A.** Defendants in custody on this or any other matter.
- B.** Cases charging child abuse or domestic violence.
- C.** Cases prosecuted by the consumer fraud or code enforcement divisions of the San Diego City Attorney’s Office.
- D.** Cases on which a victim has elected to exercise the right to be present at the arraignment.
- E.** Cases on which any previously posted cash bail or bond has been forfeited.

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 7/1/2002; Rev. & Renum. 1/1/2006; Rev. 1/1/2007; Rev. 1/1/2011)

Rule 3.1.3

Failure to Appear in Misdemeanor “Notify Letter” Cases

If a defendant fails to appear in court for arraignment after a notify letter has been issued by the prosecutor in a misdemeanor case, the court will set a date 90 days in the future by which time the prosecutor will decide if he or she will file an Affidavit In Support of Arrest Warrant. If the prosecutor files an affidavit within this 90-day period, the case will be referred to the designated criminal department for issuance of a warrant. If no affidavit is filed within 90 days, the case will be dismissed for lack of prosecution unless the prosecutor petitions the court within this 90-day period and shows good cause for an extension of time to either send a notify letter or to file an Affidavit in Support of Arrest Warrant.

This rule does not apply to domestic violence, drug court and Penal Code section 1210 et seq. cases.

(Adopted 1/1/2006)

Rule 3.1.4

Bail Reductions or Increases and Confidentiality of Pretrial Services Records

A. Bail Reductions or Increases. When bail has been set by a judge, all requests for an increase or reduction of said bail must be made to that judge, except that any judge to whom a criminal matter is assigned for any stage of the proceedings may, in his or her discretion, on the court’s own motion, or on the motion of any party, modify the amount of bail set.

B. Confidentiality of Pretrial Services Records and Information. Information supplied by a defendant to a representative of the San Diego Superior Court Pretrial Services Department during the defendant's initial interview or subsequent contacts, or information obtained by Pretrial Services as a result of the interview or subsequent contacts, will be deemed confidential and will not be subject to subpoena or to disclosure, and will not subject any employee or attaché of the Pretrial Services Department to subpoena, with the following exceptions:

1. Information relevant to the imposition of conditions of release must be presented to the court, the prosecutor, the defendant, and the defendant's attorney, on a standardized form when the court is considering what conditions of release to impose, and if the information given is false or misleading, it may be used for prosecution or impeachment;

2. Information concerning compliance with any conditions of release imposed by the court must be furnished to the court, the prosecutor, the defendant and the defendant's attorney, for prosecution, impeachment, or for consideration of modification of conditions of release;

3. As otherwise ordered by the court in the interest of justice, upon noticed motion of the party seeking disclosure and a showing of good cause.

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2010)

Rule 3.1.5

Trial by Declaration

A defendant may elect to have a trial by written declaration as provided under Vehicle Code section 40902 on an alleged infraction, unless the offense involves alcohol or drugs pursuant to Article 2, Chapter 12, Division 11 of the Vehicle Code.

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Renum. 1/1/2006; Rev. 1/1/2010)

Rule 3.1.6

Juror Questionnaires

If juror questionnaires are proposed by counsel, they must be accompanied by a Juror Questionnaire Cover Sheet which will be provided by the court.

(Adopted 1/1/1999; Rev. 1/1/2000; Renum. 7/1/2001; Renum. 1/1/2006)

Rule 3.1.7

Prohibition Against Ex Parte Contacts

The court will not entertain or engage in any ex parte communications with any party or a party's attorney regarding the merits of a pending criminal case, a motion, a petition for writ of habeas corpus, or an extraordinary writ. However, a party or a party's attorney and the court's staff attorney may discuss procedural matters ex parte.

(Rev. & Renum. 1/1/2006)