

**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.

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. 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; Rev. 1/1/2017)

**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.

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.

Attorneys using the counter arraignment option must personally appear in the clerk’s office. Attorneys who arraign a defendant pursuant to this rule, at the counter or by fax, must abide by the additional rules and criteria set forth in the Misdemeanor and Infraction Counter/Fax Arraignment Criteria (SDSC Form #CRM-140) and Misdemeanor and Infraction Counter/Fax Arraignment Form (SDSC Form #CRM-141). The clerk will assign a trial readiness and/or trial date as directed by the court.

(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; Rev. 1/1/2016)

**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**

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.

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2010; Rev. 1/1/2017)

#### **Rule 3.1.5**

##### **Trial by Declaration**

**A.** 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.

**B.** Unless otherwise ordered by the court, the court will only accept the following as exhibits or attachments submitted with a request for trial by written declaration:

1. Photographs that are 8.5 by 11 inches or smaller; or
2. Paper documents that are 8.5 by 11 inches or smaller.

**C.** Unless otherwise ordered by the court, submitted exhibits/attachments will be scanned in to the court's case management system and the originals destroyed without further notice unless the submitting party either:

1. Provides the court with a self-addressed, stamped envelope sufficient for their return; or
2. Picks them up within 60 days from the mailing of the court's decision.

**D.** Unless otherwise ordered by the court, the court will not accept for filing any media storage device, such as a Compact Disc (CD), Digital Video Disc (DVD), or flash drive. A party who would like the court to review an electronic sound, video, or sound-and-video recording for purposes of ruling on the trial by written declaration must:

1. "Lodge" the recording and, if reasonably feasible, provide a transcript of any relevant sound portions;
2. Note in Section 5 of the Request for Trial by Written Declaration (JC Form #TR-205), or in Section 8 of the Officer's Declaration (JC Form #TR-235), that a recording was lodged with the court and provide a description of the recording; and

3. Either provide the court with a self-addressed, stamped envelope sufficient for the return of the lodgment, or pick it up within 60 days from the mailing of the court's decision. The lodgment will be destroyed without further notice if the envelope is not provided and the lodgment is not picked up within the 60 days.

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Renum. 1/1/2006; Rev. 1/1/2010; Rev. 1/1/2017; Rev. 1/1/2020)

#### **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.

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