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**OFFICE AND COURTROOM PROCEDURES**

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Court Administration - (239) 252-8800

Clerk of the Court Call Center - (239) 252-2646

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Collier County Jail - (239) 793-9350

Web sites:

20<sup>th</sup> Judicial Circuit:

[www.ca.cjis20.org](http://www.ca.cjis20.org)

Collier County Clerk of Courts:

[www.clerk.collier.fl.us](http://www.clerk.collier.fl.us)

Collier County Sheriff:

[www.colliersheriff.org](http://www.colliersheriff.org)

**CIRCUIT JUDGE ELIZABETH V. KRIER  
OFFICE AND COURTROOM PROCEDURES  
CRIMINAL /DOMESTIC VIOLENCE DIVISIONS  
(Revised February 2008)**

***CASE SCHEDULING/ MANAGEMENT(Effective January 1, 2008)***

- Beginning January of 2008, only two (2) sounding-type proceedings will be held: the first at the beginning of the case called a “case management conference” and a second immediately preceding trial or other resolution titled a “pre-trial conference.”

Case Management Conferences

- After entry of a plea of not guilty at arraignment (after filing of Information), or after defense counsel has filed a written plea of not guilty at or before arraignment (after filing of Information), a Case Management Conference shall be scheduled by the Clerk not less than 35 days (5 weeks) nor more than 56 days (8 weeks) thereafter (excluding court holidays), and the Clerk of Courts shall deliver or send notice of the Case Management Conference to the defendant and defense counsel, if any, and the bondsman, if any.
- Within ten (10) days after arraignment, the State Attorney shall deliver or transmit to Defense Counsel, the following:
  - A. Information or Indictment
  - B. Probable cause affidavit
  - C. Sworn statements of witnesses, if any
  - D. Sentencing guidelines score-sheet
  - E. Preliminary plea offer
- **The defendant is required to attend the Case Management Conference. The defendant’s presence may not be waived.**
- The Court will NOT grant automatic continuances of Case Management Conferences. Counsel of record for the defendant and the Assistant State Attorney shall appear in person at the Case Management Conference and shall be prepared to discuss the case with respect to:
  - A. Discovery provided by the State (Rule 3.220(b)).
  - B. Sentencing guideline score-sheet (Rule 3.701).
  - C. Plea discussions and agreements (Rule 3.171) (Including advisability of pretrial diversion, drug court, etc.)
  - D. Anticipated pretrial motions (Rule 3.190) including:
    - 1. Motions to dismiss
    - 2. Motions to suppress evidence or confession
    - 3. Motions to consolidate/sever
  - E. Mental competency (Rule 3.210).

- F. Discovery depositions (Rule 3.220(h)).
  - G. Scheduling a date for **Pretrial Conference**. The attorneys will inform the Court as to how long they estimate that they need to properly prepare their cases for trial (or other resolution). This will determine the date of the Pretrial Conference.
  - H. Scheduling a **trial date**. Cases will be scheduled for trial for the two (2) week trial period immediately following the Pretrial Conference.
- **No Docket Soundings will be held after the Case Management Conference.**
  - At Case Management Conferences, cases will be called on a first-come first-serve basis. **Counsel are encouraged to determine the dates that are appropriate for their cases, in advance of being called for their conference.** (See Krier Court Calendar available on the 20<sup>th</sup> Circuit web-site or by contacting Judge Krier's office and submitting a stamped self-addressed envelop.) Case Management Conferences will generally be held on every third Monday as follows:
    - 9:00 AM – Public Defender Docket
    - 1:30 PM – Private Attorney Docket
  - The Court will accept pleas towards the end of the docket, IF time permits.

#### Pre-trial conferences and trials

- A Pre-trial Conference will generally be scheduled for the Friday immediately prior to the assigned trial docket. At this conference, cases should be either:
  1. Ready for trial – Counsel will inform the court:
    - i. The amount of time required for trial
    - ii. Any unique scheduling, technology (e.g. DVD or CD players), and/ or translation needs. If the defendant requires a translator, a second translator is needed if witnesses need this assistance also.
    - iii. Plea offer and guideline recommendation.
  2. Ready for a plea. (Some pleas may be taken by the Court at Pre-Trial Conference at the Court's discretion. Otherwise, pleas will be scheduled on plea dates – See 2008 Calendar)
- **The defendant and trial counsel are required to be present at the Pre-Trial Conference. The defendant's presence may not be waived.**
- Cases may be continued off of the Pre-trial docket IF:
  - The Defendant has accepted a plea offer extended by the State; and
  - The State and Defense enter into a written stipulation requesting a continuance to a plea date and that sets forth that the Defendant has accepted a plea offer. The plea date requested should not be too far from the pre-trial date and can include the already scheduled pre-trial conference date thereby taking it off the pre-trial list.

- Cases which are tentatively resolved at the Pre-Trial Conference by a plea agreement will be set on the plea docket for the following Monday. However, the Court will accept pleas at the conclusion of the Pre-trial Conference docket if time permits. If for any reason the plea is not concluded or not accepted by the Court by the Monday prior to the trial period, **counsel shall be prepared to proceed to trial as previously scheduled on that trial docket.**
- The following table of presumptive **trial dates** (calculated from the date of arrest) will be utilized as guidelines by the Court and counsel in scheduling a trial date:

<b>Highest Felony Degree</b>	<b>Speedy Trial Not Waived*</b>	<b>Speedy Trial Waived</b>
3 <sup>rd</sup> Degree	150 days	180 days
2 <sup>nd</sup> Degree	165 days	240 days
1 <sup>st</sup> Degree	175 days	300 days
Higher		

- Trial dates are subject to change depending upon specific situations which may arise from time to time, and the Court, in its discretion, may shorten or lengthen any applicable time periods or deadlines.
- Cases will generally be set on a two (2) week trial docket. Counsel should be ready for trial on the first day of the trial docket and each day thereafter unless excused by the Court. (Limited date-certain dates may be assigned, but only by the Court.) **Counsel shall notify their witnesses to stand ready for trial during the entire period of the trial docket, unless otherwise specifically authorized by the Court.**
- Except for good cause shown, **continuances** of pre-trial and trial dates will be considered by the Court only on regular motion-days and upon written Motion, signed by counsel pursuant to Rule 3.190(a) & (g) of the Florida Rules of Criminal Procedure. Such Motions should be heard no later than the Wednesday prior to the relevant Pre-Trial Conference. Counsel are encouraged to file such Motions as soon as they determine that they will require a continuance. Continuances will only be granted upon a showing of good cause.
- All discovery, including taking of depositions, should be completed no later than 14 days (2 weeks) prior to the Pre-Trial Conference. No continuances on the grounds of lack of time for completion of discovery or depositions will be approved by the Court unless a motion for continuance is filed and set for hearing on a regular motion calendar prior to the Pre-Trial Conference. **The failure of counsel to timely conduct discovery, including depositions, in anticipation of resolving the case by a plea, will not be considered good cause for a continuance of the trial date in the event a plea agreement is not reached or not accepted by the Court.**

## **PLEAS**

- Between the time of the Case Management Conference and the Pre-Trial Conference, pleas may be scheduled on the designated days by calling the Judge's Judicial Assistant. (See 2008 Calendar)
- Plea agreements occurring on the day of Pre-trial Conferences, will be scheduled for the following Monday.

- The Court may take some pleas on Case Management and Pre-trial Conference days as time permits. Generally, such pleas will occur at the conclusion of the docket.
- Cases in which the Defendant has accepted the State's plea offer prior to Pre-Trial Conference may be continued off the Pre-Trial Conference date to a latter plea date per the procedure set forth above under "Pre-trial conferences and trials".
- **Prior to appearing for a plea, please obtain an accurate calculation of the number of days served that the defendant will be credited against any sentence. This calculation or the arrest date if the defendant has remained in custody since that time, is required for the sentencing judgment.**

### ***PRE-TRIAL MOTIONS***

- All Motions, including Motions for Continuance, shall be timely filed and heard prior to the Pre-trial Conference. Counsel should comply with the Court's procedure regarding motions as set forth herein.

### ***MOTIONS GENERALLY***

- The Court's 2008 docket provides two(2) motion-days per three(3) week period (See 2008 Calendar). Regular Motions may be scheduled every third Wednesday (unless a change is necessary due to a holiday or vacation schedule) in the morning or afternoon. Special set hearing times (long hearings & special sets approved by the Court) are generally reserved for the last Friday of the Court's two week trial period.
- When calling to schedule a hearing, the following information is needed from your office:
  - 1) Case Number
  - 2) Case Name
  - 3) The Motion(s) to be heard
  - 4) The amount of time required for both sides to argue the motion
- As a courtesy to the other side, the attorneys must clear the hearing time with the opposing party before booking the hearing.
- Please do not fax motions or other matters (which includes late/last minute filing of motions or pleadings), except for emergencies approved by the court.
- **Hearing confirmation number:** On all Motions, our office will give you a hearing confirmation number that must be put in your Notice of Hearing. After obtaining possible hearing dates from our office and having coordinated a date and time with opposing side, you will need to call us back to obtain your hearing confirmation number.
- **Telephone Hearings:** Generally, witnesses may not appear by telephone in the absence of a stipulation between the parties and with notice to the Court. A notary public must be available in the presence of the witness to administer the oath, or the parties may stipulate that the clerk administer the oath from the courtroom (though there must be some way of confirming the identity of the witness). Attorneys must appear in person for hearings, except with leave of Court.
- **Submission of Case Law to the Court:** For substantive Motions such as Motions to

Dismiss or Suppress, if counsel intends to rely on case authorities, those cases should be provided to the Court with an appropriate letter of transmittal and a courtesy copy of the Motion at least two business days prior to the hearing. Copies of the cases must also be delivered at the same time to opposing counsel. Case authorities submitted at the time of the hearing may result in a delay in the issuance of the court's ruling on your motion.

## **POST CONVICTION RELIEF MOTIONS**

- Prior to scheduling a hearing, copies of all post conviction motions (including 3.800 and 3.850 motions) must be sent to the Court for review to determine whether an evidentiary hearing will be scheduled.

## **OTHER MOTIONS**

- **Motions to Set Bond or Reduce Bond:** Upon the filing of a Motion to Set or Reduce Bond, the Court will order a Bond Reduction Investigation report to be prepared and shall schedule a hearing to be held after the completion of said Report. The original of such Motions should be filed with the Clerk and copies sent to the State Attorney and the Court. Attorneys' offices may contact the Judge's Judicial Assistant to coordinate hearing time after such Motions have been filed.
- **Motions to Withdraw Plea:** Before setting a hearing, the Court needs to review your Motion to Withdraw a Plea. Please file the original and send a copy of the Motion to the Court with a cover letter stating how much hearing time you are requesting and include in the letter that a copy of the packet has been furnished to the State.
- **Motions for New Trial:** Motions for New Trial must be filed with the clerk and a copy sent to the Judge. Unless otherwise ordered by the Court, the Motion will be heard at the time of sentencing.
- **Motions to Suppress:** File your Motion to Suppress with the Clerk and send a copy to the court for review. In accordance with Rule 3.190(h), the Court will review the motion to determine if the motion is legally sufficient before a hearing date will be given.
- **Request for Travel:** Pursuant to standard condition (3) contained in all probation orders, the Department of Corrections is directed by the Court to determine whether a probationer is allowed to travel to any location outside his or her county of residence. Supervision is the responsibility of the Department which is in a superior position to determine whether permission to travel should be granted and to determine what special conditions or restrictions, if any, should apply to such travel on a case by case basis. Accordingly, requests to travel will not be considered by the Court.
- **Motions for Funeral Release and /or Furloughs:** The control and supervision of inmates in the Collier County jail is the responsibility of the Collier County Sheriff's Office. All requests for funeral release and/ or furloughs from the Collier County Jail should be submitted to the jail and must comply with the Sheriff's policies and procedures.
- **Motions for Release on Own Recognizance (ROR):** (after 33 days due to State not filing an Information) Motions will be reviewed and disposed of without a hearing. Please submit you Motion and Order to the Court.
- **Motions and Orders to Transport:** If the presence of a defendant who is in custody outside of Collier County is required for a plea, hearing or trial, counsel seeking the presence of the defendant shall be responsible for timely submitting an Order to Transport to the Court. Counsel should consider that the defendant's location of custody may lengthen the time required to transport the defendant and counsel should contact the Collier County Sheriff's Office to confirm that there is sufficient time to transport the

defendant. These Orders should also provide for the return of the defendant to custody after conclusion of the plea, hearing or trial. The Order to Transport shall indicate that a copy is to be delivered by the Clerk to the Collier County Sheriff's office.



- **Motions for attorney fees:** If such are not opposed, the Court will consider such Motions without hearing if requested to do so. Counsel requesting fees should submit an Order AND an Affidavit or some other sworn statement as to the amount of fees requested along with or in the body of the Motion.
- **Motions for consolidation:** Upon stipulation of counsel to the consolidation, the Court will consider these Motions without a hearing.
- **Motions for substitution of counsel** will be considered without a hearing. Please be advised however, substitute counsel is expected to submit a Motion and/ or Stipulation for substitution **AND an Order** and comply with any already existing Case Management Scheduling Order(s), unless good cause is shown.
- **Motions for withdrawal of counsel** should be scheduled for a hearing unless a stipulation for such is submitted signed by the defendant in addition to the attorneys AND if it is not being requested within 30 days of the scheduled trial. **If the Motion to Withdraw is incident to other counsel filing a Notice of Appearance, the latter attorney should submit the Order for the withdrawal.**
- Upon filing of the appropriate Motion, the following Orders may be submitted for consideration by the Court without a stipulation or the signature of opposing counsel:
  - 1) Order appointing conflict counsel
  - 2) Order for withdrawal of counsel (with stipulation signed by client, except as set forth above)
  - 4) Order for withdrawal of counsel (defendant retained private counsel)
  - 5) Order for appointment of expert for mental examination of defendant
  - 6) Order approving court reporter fees and other due process costs (within I.S.C. authorized rates)
  - 7) Order to transport defendant
  - 8) Order to appoint public defender for purpose of appeal
  - 9) Order Appointing Guardian Ad Litem
  - 10) Referrals to diversion programs, with agreement of the State and when accompanied by documentation that reflects such agreement. (Copy of an e-mail will be sufficient.)
- Please do not submit a proposed Order requesting the Court to hold said Order for a certain number of days pending any objection from the opposing counsel or party. Such submissions will be returned to the sender.

### ***VOP DOCKET PROCEDURES***

- VOP Sounding Docket is at 9:00 a.m. on every third Tuesday beginning January of 2008. The purpose of this docket is to:
  1. Schedule the case for a hearing (see below)
  2. Accept a plea
- VOP hearings are at 1:30 p.m. on every third Tuesday, beginning January of 2008.
- If a plea has been negotiated, the Court will accept such during the morning docket.

- Presence of defendants is not required unless a plea is to be entered:
  - For **private attorneys**, if your client is in custody and there is a negotiated plea, you must contact Corporal Stephen Smith or leave him a message at the Bailiff's Bureau with your request and the name of the defendant. The Bailiff's Bureau is located in the Courthouse and their telephone number is (239)252-8129. You must call no later than 4:00 p.m. of the day BEFORE the scheduled court appearance.
  - For **public defenders**, all defendants in custody will be brought over to court UNLESS the Bailiff's Bureau is contacted to the contrary. **Please call if you don't need your client at the VOP Sounding Docket.**

### ***CORRESPONDENCE SENT TO THE COURT:***

- Pursuant to Canon 3.B(7), Code of Judicial Conduct, the Court cannot consider any communication made to the court outside the presence of counsel or the parties concerning a pending or impending matter.
- All correspondence sent to the Court by defendants, is forwarded to the Assistant State Attorney assigned to the case and defendant's counsel of record. Such correspondence is not considered by the Court if defendant is represented by counsel, unless it is a request for a Faretta and/or Nelson hearing.
- If the submission contains a proposed Order, please attach a Stipulation or other writing with the signature of opposing counsel or party indicating that he or she has agreed to or has no objection to the proposed Order. Otherwise, you must follow the procedure for general motion scheduling set forth above. Your proposed Order should include the attorneys, agencies, and/or parties who are to receive a conformed copy. **Please remember to also submit the required copies and self-addressed stamped envelopes for the return.**

## DOMESTIC VIOLENCE DIVISION

### HEARING PROCEDURES

- At these hearings, the Court will first determine which cases can be disposed of quickly by agreement or otherwise. Then the Court will begin the hearings for the remaining cases.
- These hearings are the final proceeding regarding the requested Injunction. Bring all witnesses, documents, photographs, recordings, or other evidence to the hearing. **Remember**, a person can not testify about what someone else said, unless that person is the opposing party or other legal exceptions apply. Letters, police reports, and affidavits are hearsay and are generally not admissible into evidence.
- Continuances of these proceedings are generally discouraged. If a temporary Injunction has been granted by the Court, the Respondent has a right to a hearing within 15 days subject to a continuance by the Court for good cause, pursuant to Section 741.30(5)(c) of the Florida Statutes (2006)
- Petitioners have the right to withdraw their Petition at any time prior to the entry of a Final Judgment of Injunction. Prior to taking such action however, the Court encourages those persons to consult with a qualified professional such as an attorney, clergy person, licensed counselor, a representative of the Shelter for Abused Women (Phone: (239) 775-3862), or a family member.
- If an Injunction is entered, it is the responsibility of the Respondent to comply with its orders, NOT the Petitioner. This means that the Respondent can not initiate any contact with the Petitioner directly or through someone else. **Violations of temporary Injunctions and Final Judgments for Injunctions should be reported to law enforcement.** Pursuant to Florida law (Section 741.31(4)), violations include the following:
  - Refusing to leave the dwelling if the parties share one (if ordered to do so by the court);
  - Going to or being within 500 feet of the Petitioner's residence, place of employment, school or other place specified by the Court;
  - Committing an act of violence against the Petitioner;
  - Intentionally threatening by word or act to do violence to the Petitioner;
  - Telephoning, contacting or otherwise communicating with the Petitioner (unless the Injunction specifically allows it);
  - Knowingly and intentionally coming within 100 feet of Petitioner's vehicle regardless as to whether it is occupied; or
  - Defacing or destroying the Petitioner's property.
- The Court is a mandatory reporter of child and elder abuse. If information is alleged in a Petition or during the final hearing that could be construed as such, the Court will report such to the Department of Children and Families.

- These Injunctions are extraordinary legal proceedings designed to keep people safe. **Do not** use these proceedings as a substitute for dissolution of marriage, paternity or dependency proceedings. If a dissolution of marriage proceeding has been filed or will be filed immanently, the Court will refer support and non-emergency child-related issues to that Court. Orders regarding children and support issued by the dissolution of marriage Court take precedence over such orders of the Injunction Court. Fla.Stat. §741.30(1)(c) (2006) These Injunctions are similarly not intended to establish paternity and a permanent child support and visitation schedule. Such should be addressed in a paternity action.
- In order to consolidate an Injunction case with a dissolution of marriage case, a Final Judgment for Injunction must be executed. Consolidation can not occur during the temporary phase of the Injunction proceeding.
- **Temporary Injunctions are not intended to be continued for any significant length of time.**
- The Injunction Court does NOT have jurisdiction over the division or titling of property. Fla.Stat. §741.30(1)(h)(2006) Such is the jurisdiction of the dissolution of marriage Court if the parties are married and dissolving their marriage, or civil Courts such as small claims Court, if they are not married. The Injunction Court has jurisdiction over emergency child support and/ or alimony issues only.

### ***MOTIONS TO DISSOLVE OR MODIFY INJUNCTIONS***

- Motions to dissolve or modify a permanent Injunction or Final Judgment for Injunction must allege facts which demonstrate a change in circumstances since the issuance of the said Injunction and should not reargue the merits of the issuance of the original Injunction. See Simonik v. Patterson, 752 So.2d 692 (Fla. 3<sup>rd</sup> DCA 2000) and Elias v. Steele, 940 So.2d 495 (Fla. 3<sup>rd</sup> DCA 2006).
- Such Motions should be served on the opposing party via personal service, pursuant to Rules 12.070(a) 12.080(a)(2), 12.610(a) of the Family Law Rules of Procedure and Rule 1.070 of the Rules of Civil Procedure.

## **PROCEDURES FOR PARTIES NOT REPRESENTED BY AN ATTORNEY**

1. A party without a lawyer is not entitled to special treatment and must follow the same rules of procedure, evidence and laws, that govern lawyers.
2. Judges and their assistants are prohibited from giving any legal advice, including any advice or directions regarding the preparation or processing of court papers.
3. Judges and their assistants must remain neutral and impartial.
4. Judges are prohibited from having any communications with any party except in Court. Requests to speak privately with the judge will be refused.
5. Do not send letters directly to the judge.
6. Any matter to be considered by the court requires the filing of a written motion and notice of hearing with the clerk and copies must be sent to the other party or the other party's lawyer.
7. In the absence of a written stipulation or agreement between the parties, the court can only hear motions and receive evidence in open court with all parties notified of the hearing.

## COURTROOM DECORUM

All counsel, parties, witnesses and other persons in the courtroom shall comply with the Standards of Courtroom Decorum as set forth in Administrative Order No. 2.13, which may be found online at [www.ca.cjis20.org](http://www.ca.cjis20.org).

The following additional standards apply:

- Cell phones, pagers, etc. must be turned off before entering the courtroom.
- Attorneys should restrict their discussions amongst themselves in Court to business and maintain an appropriate volume. All other persons should refrain from talking in Court unless before the Court.
- No chewing of gum or tobacco
- No shorts or beachwear
- No hats or sunglasses
- Children must be quiet