

SUPERIOR COURT OF CALIFORNIA - COUNTY OF KERN
OPERATING POLICY AND PROCEDURES

Policy #: Crim 2010-1A	Title: Informal Arraignments (Counter & Fax)	Effective Date: 9-1-10
Approved by:	 Terry McNally, CEO Michael B. Lewis, PRESIDING	Prepared by: Tricia McCoy, Marie Castaneda, Julie Griffith

I PURPOSE:
To provide counsel with a convenient and efficient method for misdemeanor arraignment and setting of a pretrial date.

II AUTHORITY: Penal Code section 977(a)

III POLICY:
On Misdemeanor cases subject to certain exceptions noted below attorneys who are in good standing with the State Bar and the Court, no later than five (5) court days before defendant's in-court appearance date, may enter a plea of "not guilty" and set a pretrial date with the clerk of the court.

IV PROCEDURES - Informal Arraignments

A. Exceptions to Informal Arraignments

In misdemeanor cases, subject to the following exceptions noted below, attorneys who are in good standing with the State Bar and the Court, no later than five (5) court days before a defendant's in-court appearance date, may enter a plea of "Not Guilty" and set a pretrial date with the clerk of the court pursuant to Penal Code section 977(a):

1. When a defendant has failed to appear;
2. When a warrant is outstanding;
3. When a violation of Penal Code section 166(a)(4) has been charged;
4. When a violation of Penal Code section 192(c) has been charged;
5. When a misdemeanor offense involving domestic violence, as defined in Family Code section 6211, or a misdemeanor violation of Penal Code section 273.6 has been charged;
6. When a violation of Vehicle Code sections 23152 and/or 23153 has been charged and a prior conviction of either offense has been alleged;
7. When an attorney's eligibility to use the informal arraignment procedures is revoked; or
8. When a court case number has not been issued.



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IV PROCEDURES - Informal Arraignments - Continued

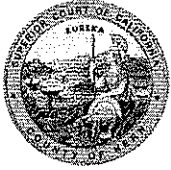
B. Representation of Counsel

By utilizing the informal arraignment procedure the attorney represents and agrees as follows:

1. That he or she is counsel for the defendant;
2. That the client has expressly authorized the attorney to appear on the client's behalf pursuant to Penal Code section 977(a);
3. That the counter or facsimile arraignment constitutes that the attorney is the attorney of record and that he or she represents the defendant;
4. That the client has specifically authorized the attorney to act as the client's agent for the purpose of receiving notice from the court of the pretrial date;
5. That the client and attorney have agreed that notice of the date to the attorney shall be deemed full, complete and valid notice to the client;
6. That the attorney's use of any informal arraignment procedure constitutes a representation to the Court that the attorney has specifically advised the client that failure of the client to appear timely on the court date set for pretrial, upon order of the Court, may constitute the crime of failure to appear, and a bench warrant may be ordered.

C. Methods of Informal Arraignment

Attorneys who represent misdemeanor defendants who have no outstanding warrants and who are not in custody may arraign their clients by facsimile (FAX) machine, or by personally appearing at the Clerk's Office at the location where the case is initially scheduled to be heard. Facsimile and counter arraignments will be accepted from attorneys only.



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IV PROCEDURES - Informal Arraignments – Continued

D. Counter Arraignments

1. An **Informal Arraignment by Attorney** form is to be completed **IN FULL** by the attorney and the original delivered to the Court. The form is available at the court and on the court's website at www.kern.courts.ca.gov by selecting: Criminal Case Information and Calendar Schedule.
2. The attorney for the defendant must submit the **Informal Arraignment by Attorney** form in duplicate and must submit a suitable self-addressed stamped envelope at the time the form is filed with the Clerk's Office.
3. Forms received after 2:00 p.m. on any court day, or received on any non-court day, will be deemed to have been received on the next court day.
4. The attorney must complete the information on the **Informal Arraignment by Attorney** form **IN FULL**. If any information is omitted the form will be rejected and returned to the attorney.
5. Counter arraignments will be conducted between 8:00 a.m. and 2:00 p.m. daily (excluding holidays and weekends), no later than five (5) court days prior to the scheduled in-court arraignment date.
6. The **Informal Arraignment by Attorney** form will be submitted to the judicial officer for approval. Upon approval the entries will be made in CJIS by the assigned JCA or designee. If approved by a judicial officer, the clerk will set the case for pretrial in the normal course of the Court's business: pretrial within twenty-one (21) days from the date of the informal arraignment. The completed paperwork and file will be returned to the Unit who will distribute the documents. The CSS will file the original **Informal Arraignment by Attorney** form and notify the prosecuting attorney of the pretrial date set by the court. Notification to the prosecuting attorney shall be by copy of a CJIS minute order placed in the prosecuting attorney pickup bin. A rejection by the judicial officer will be processed by the Unit as part of the notification process.
7. The attorney for the defendant must confirm the pretrial date set by the Court by accessing the Court's website at www.kern.courts.ca.gov by selecting: Criminal Case Information and Calendar Schedule.



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8. Any bail bond or cash bail posted, cite and release or O/R release must remain in force from the date of the counter arraignment to the next appearance date in the matter. The attorney agrees that any bail bond or cash bail posted, cite and release or O/R release issues are reserved for the next hearing date.
9. Notice of a rejected counter arraignment will be mailed to the submitting attorney by 5:00 p.m. on the court day following the date the **Informal Arraignment by Attorney** form is signed by the judicial officer. If a counter arraignment is rejected, the defendant and his or her attorney are required to appear in Court on the originally scheduled in-court arraignment date.

E. Facsimile Arraignments

1. **Informal Arraignment by Attorney** form is to be completed IN FULL by the attorney and the original faxed to the Court. The form is available at the court and on the court's website at www.kern.courts.ca.gov by selecting: Criminal Case Information and Calendar Schedule.
2. FAX arraignments must be received between 8:00 a.m. and 2:00 p.m. daily (excluding holidays and weekends), no later than five (5) court days prior to the scheduled in-court arraignment date.
3. Forms faxed and received after 2:00 p.m. on any court day, or received on any non-court day, will be deemed to have been received on the next court day.
4. The attorney must complete the information on the **Informal Arraignment by Attorney** form IN FULL. If any information is omitted the form will be rejected and returned to the attorney.
5. The **Informal Arraignment by Attorney** form will be submitted to the judicial officer for approval. Upon approval the entries will be made in CJIS by the assigned JCA or designee. If approved by the judicial officer the clerk will set the case for pretrial in the normal course of the Court's business: pretrial within twenty-one (21) days from the date of the informal arraignment. The completed paperwork and file will be returned to the Unit who will distribute the documents. The CSS will file the original **Informal Arraignment by Attorney** form and notify the prosecuting attorney of the pretrial date set by the court. Notification to the prosecuting attorney shall be by copy of a CJIS minute order placed in the prosecuting attorney pickup bin. A rejection by the judicial officer will be processed by the Unit as part of the notification process.



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6. The attorney for the defendant must confirm the pretrial date set by the Court by accessing the Court's website at www.kern.courts.ca.gov by selecting: Criminal Case Information and Calendar Schedule.
7. Any bail bond or cash bail posted, cite and release or O/R release must remain in force from the date of the FAX arraignment to the next appearance date in the matter. The attorney agrees that any bail bond or cash bail posted, cite and release or O/R release issues are reserved for the next hearing date.
8. Notice of a FAX arraignment will be faxed to the submitting attorney by 5:00 p.m. on the court day following the date the **Informal Arraignment by Attorney** form is signed by the judicial officer. The clerk will attach a copy of the facsimile confirmation to the Informal Arraignment by Attorney form. If a facsimile arraignment is rejected, the defendant and his or her attorney are required to appear in Court on the originally scheduled in-court arraignment date.
9. All FAX **Informal Arraignment by Attorney** forms must be transmitted to the Division where the defendant is scheduled to appear. The facsimile numbers for each location are as follows:

Metro – Bakersfield	661-868-2695
Delano	661-721-1237
Kern River	760-549-2120
Lamont	661-845-9142
Mojave	661-824-7089
Ridgecrest	760-384-5899
Shafter	661-746-0545
Taft	661-763-8603

F. Failure to Comply

Failure to comply with any of the provisions of the Informal Arraignment Rule may result in:

1. Imposition of sanctions pursuant to Code of Civil Procedures section 177.5.
2. The Presiding Judge or his/her designee's entering an order revoking the attorney's eligibility to use informal arraignment procedures at the Court.

