

DISTRICT COURT CITY & COUNTY OF DENVER Lindsey-Flanigan Courthouse 520 West Colfax Avenue Denver, CO 80204	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>Plaintiff:</p> <p>The People of the State of Colorado,</p> <p>v.</p> <p>Defendant:</p> <p>.</p>	
STANDING PRETRIAL AND PROCEDURAL ORDER FOR COURTROOM 4G	

NOTICE TO ALL PARTIES

APPLICABILITY

This Order applies to all cases filed in or to be heard by Courtroom 4G of the Denver District Court, regardless of whether the case was filed prior to or after the effective date of this Order.

TRIAL COMMENCEMENT DATES

In normal course, trials in 4G start on Tuesdays. Other courtrooms in the Denver District Court begin trials on Mondays. If multiple cases call ready for trial in 4G in any given week, coverage will be found. Counsel will be prepared to begin trial (voir dire and openings) on Mondays, if necessary.

PLEAS AND MANDATORY DISPOSITION

I reserve the right to not accept sentencing stipulations. If a sentencing stipulation is rejected after a plea has been taken, the defendant will be allowed to withdraw their plea.

Plea paperwork should be filed with the Court three days prior to the taking of the plea. If paperwork is tendered at the time of the plea, I may, in my discretion, either go forward with the taking of the plea or reschedule the matter

for another day. How I choose to proceed will depend upon the court's docket pressures.

Unless otherwise noted by the Court, the Monday of the week preceding the first day of trial will be the Court's mandatory disposition deadline date. If no disposition is reached by the disposition date, I will not accept any plea agreement that does not include the most serious charge. Of course, rare exceptions for good cause may be granted.

If a case isn't going, in order to call off prospective jurors, we need to know by noon of the business day before trial to have time to call off prospective jurors. If the plea includes the top count, I won't reject the plea even if it occurs on the morning of trial, but I make this request to you as a matter of courtesy to prospective jurors and accommodation to the Court.

ADDITIONAL SETTINGS

Counsel may, after consultation with opposing counsel, request additional pretrial settings from court staff. No subpoena nor subpoena duces tecum return date shall be set unless the return date has been approved by the Court.

RECIPROCAL DISCOVERY

In all cases in which a plea of "not guilty" is entered, the Court hereby orders reciprocal discovery pursuant to Crim. P. 16. The Court specifically orders the disclosure of expert, medical, and scientific reports or statements as set forth in Crim. P. 16 Part II(b)(1). The underlying facts or data supporting such opinion testimony shall also be disclosed pursuant to Crim. P. 16 Part II(b)(2). If an expert report has not been prepared, the party calling that expert shall provide a written summary of the testimony describing the witness's opinions and the bases and reasons therefor, including results of physical or mental examinations and of scientific tests, experiments, or comparisons.¹ All disclosures pursuant to Crim. P. 16 Part II (a) – (d) shall be completed no later than 35 days prior to trial. Should medical or scientific reports or statements be introduced at an evidentiary hearing, the disclosures required by Crim. P. 16 Part I and II and this Order shall be completed no less than 14 days prior to the hearing.

Counsel presenting generalized expert testimony ("blind experts") shall keep in mind the requirements of *People v. Cooper*, 2021 CO 69, *reh'g denied*

¹ This requirement is neither intended to be overly burdensome nor a "procedural trap" to preclude testimony. For "routine" experts (e.g. SBI), an endorsement that indicates the physician will testify as to the victim's injuries and consistent with discovered medical records will suffice.

(Oct. 25, 2021) (such testimony must be limited to that “which has a sufficient logical connection to the factual issues to be helpful to the jury while still clearing the ever-present CRE 403 admissibility bar”). Counsel is cautioned to be mindful of the reasons why the expert is being asked to educate the jury about certain concepts or principles and to specifically tailor endorsements and summaries of proposed testimony accordingly.

INSTRUCTIONS

Both parties shall tender proposed instructions to the Court seven (7) days prior to trial. Additionally, all instructions shall be e-mailed to the Court’s inbox: 02Courtroom4G@judicial.state.co.us.

The District Attorney shall prepare an original of all [stock instructions](#).² The proposed stock instructions shall be prepared for the Court and one (1) copy shall be provided to defense counsel. The District Attorney shall also prepare all special instructions including those relating to any reasonably foreseeable lesser included offenses and anticipated affirmative defenses. Defense counsel shall prepare an original and two copies of all special instructions including those relating to any proposed lesser-included and non-included offenses and affirmative defenses as well as any proposed theory of the case. All instructions, including instructions tendered by defense counsel, shall be in Bookman Old Style 12-point font, double spaced, and contain the heading “INSTRUCTION NO. ____” (the line is five units in length). Both counsel shall prepare verdict forms as necessary which track the proposed instructions, including verdict forms for lesser-included or non-included offenses.

By tendering such instructions, the attorney certifies that:

1. The instructions have been prepared under the attorney’s supervision;
2. The attorney has personally reviewed and proof-read the instructions and that they conform to the known facts of the case and the applicable law;
3. All necessary changes in form have been made to make the instructions grammatically correct and gender appropriate.

All non-stock instructions shall contain a copy of the law, including citation(s) of relevant cases, upon which the party tendering the special

² https://www.courts.state.co.us/Bio.cfm?Employee_ID=569

instruction relies. The law and/or citation(s) will be removed from any such instruction before giving it to the jury.

EXHIBITS AND EXHIBIT LISTS

i. General

To the extent consistent with Crim P. 16, counsel are ordered to arrange to view the opposing party's exhibits prior to trial. Ordinarily, the trial will not be interrupted for examination of exhibits.

A printout of all PowerPoint (or similar) presentations presented to the trier-of-fact during trial shall be uploaded (suppressed) to the e-file within 7 days of receiving the verdict in the case. A standard three slides per page, without line for notes, version is fine so long as the content is legible.

ii. Motions

For motions hearings, each party must provide a copy of its exhibit list and each exhibit to opposing counsel or any pro se party before the hearing.

When multiple motions and exhibits are filed, it is often difficult to be sure which attachment/exhibit goes with which motion. Thus, it is ordered that all exhibits filed in support of motions will identify the motion the exhibit belongs to and include the case number as well as the alpha-numeric identifier of the exhibit (e.g. 22CR123, People's Motion to Strike, Exhibit 1; 22CR123, D mtm supp ID, Ex. A; etc)

iii. Trial

All exhibits shall be pre-marked before trial. People's exhibits shall be marked in numerical sequence. Defendant's exhibits shall be marked in alphabetical sequence. Prosecution and Defense shall not mix numbers and letters, even for related exhibits (e.g. 1(a), 1(b), 1(c), etc.). If there are more than 26 exhibits for the defendant, exhibits shall thereafter be marked as "AA", "BB", etc. The case number shall be placed on each of the exhibit labels.

Posters, photography enlargements and large items may be used during trial. However, photographic copies shall be made of the above-mentioned items before trial; alternatively, posters may be prepared in a fashion in which the poster is removable from the poster board and is capable of being folded for storage. The original exhibits shall be withdrawn after the trial and the photographic copies and/or folded poster(s) shall be substituted for the originals within 14 days.

On the first day of trial, Counsel shall, to the extent consistent with Crim. P. 16, provide the Court (two copies), the court reporter (one copy), and opposing counsel (one copy) a list of exhibits which are expected to be offered in a format comparable to the example attached to this Order. Each exhibit, including exhibits to be admitted by stipulation, shall be included on the exhibit list. There is no requirement that exhibits be offered in sequence.

WITNESSES AND WITNESS LISTS

On the first day of trial, two (2) copies of the witness list shall be provided to the Court, one (1) copy shall be provided to the court reporter, and one (1) copy shall be provided to opposing counsel. Submission of the list of witnesses from the Complaint or Information is not sufficient. Witnesses should be listed in the proposed order of proof and be accompanied by a good faith estimate of the time each witness is expected to testify. The time estimate for each witness will individually specify the time required for direct, cross and redirect examination. Re-cross will generally not be permitted. Counsel are expected to confer regarding the time requirements for each witness, and the Court reserves the right to enforce the time limits if necessary. It is the obligation of counsel to have witnesses scheduled to prevent any delay in the presentation of testimony or running out of witnesses before the noon (12:00 P.M.) or evening (5:00 P.M.) recesses of any trial day.

If expert witnesses are to be called, and the testimony is of a technical nature, a typewritten list of technical terminology shall be provided to the court reporter at least one day prior to the expert's testimony. Be prepared to provide copies of publications which are read from or referred to during trial.

AUDIO-VISUAL EQUIPMENT

The court has built-in audio-visual equipment that may be used by the parties. Notify my Division Clerk no later than seven days before a hearing or trial if you need time to learn to use the equipment or if you need your own equipment to be brought through security for use in the courtroom.

Any party intending to use the A/V system built into the courtroom is responsible to ensuring (1) that their computer is compatible with the court's systems, and (2) that they know how to use their computer and the court's systems.

Any party intending to bring their own equipment is responsible (1) for ensuring they know how to use the equipment, (2) making the necessary arrangements for the equipment to be set up, *tested*, and operational prior to the start of the evidence phase of the trial, (3) for informing opposing counsel at least

7 days prior to trial to make arrangements for sharing the equipment and IT professionals, and (4) for informing the Court's Judicial Assistant to coordinate the setting up of the equipment. No modification or rearrangement of the courtroom is permitted without prior approval of the Court.

WEBEX PROCEEDINGS

Proceedings may be simulcast (audio and/or video) via WebEx at the sole discretion of the Court. No person wishing to monitor a proceeding (including witness coordinators, victims, or family members) should rely on WebEx being available. The Court is open to the public, and any person wishing to guarantee their ability to view the proceedings should plan on attending in person.

VOIR DIRE

The Court will ask the jury basic background questions. Upon request of counsel, the Court will also address any case specific topics or "sensitive" issues present in the case (e.g., affirmative defenses, DV, sexual violence). The attorneys should make the Court aware of any topics/issues at the pre-trial conference.

Counsel will be limited to 30 minutes on *voir dire* unless, upon request of counsel prior to trial, the Court deems that in the interests of justice additional time should be granted to counsel. Questionnaires will not be used for *voir dire*, with exceptions made for good cause shown.

COMMUNICATION WITH COURT STAFF

My Division Clerk is Andrew Streeb and my Law Clerk is Merrily Newcomb. The best way to communicate with them is to send inquiries to 02Courtroom4G@judicial.state.co.us. Only ministerial matters such as scheduling shall be addressed informally via e-mail. All substantive matters will be addressed on the record and based upon written motion. Opposing counsel shall always be copied on any communications to the Court. My staff cannot give legal advice or grant informal requests not made via motion.

For questions about the Colorado Courts E-filing System (ICCES), please contact the helpdesk at efilingsupport@judicial.state.co.us or call 1-855-264-2237.

COURTROOM ETIQUETTE

Non-distracting food and drinks are allowed in the Courtroom insofar as they are necessary for one's health, comfort, and ability to remain alert and engaged. However, steps should be taken to minimize potential mess to avoid overburdening Court cleaning staff.

No chewing gum is allowed.

Those requiring disability accommodation should contact the Courtroom 4G at 02Courtroom4G@judicial.state.co.us to make arrangements as soon as is practicable.

All parties are required to speak and act with respect towards all others. As such, parties are expected to learn and utilize the correct pronouns of every party to the case, witnesses, and all Court staff assisting with the trial.

BY THE COURT:

A handwritten signature in blue ink that reads "Eric M. Johnson". The signature is written in a cursive style with a long, sweeping underline.

Eric M. Johnson
District Court Judge

EXHIBIT LIST

People v. _____

Case No. _____

#/Ltr	Description	ID	Offer	Rec'd

WITNESS LIST

(WITH ORDER OF PROOF AND GOOD FAITH ESTIMATE OF TIME)

People v. _____

Case No. _____

<u>Party calling witness</u>	<u>WITNESS NAME</u>	<u>Proposed DIRECT</u>	<u>Proposed CROSS</u>	<u>Proposed REDIRECT</u>