

Denver County Court, City and County of Denver, Colorado 520 West Colfax Ave. Denver, CO 80204	
STANDING PRETRIAL ORDER FOR COURTROOM 3C	

APPLICABILITY

This Pretrial Order (“Order”) applies to all cases in Courtroom 3C of the Denver County Court.

DISPOSITION, PRETRIAL CONFERENCE AND JURY TRIAL

Following a plea of not guilty the Court will set dates for disposition hearing (in approximately 30 days), a pretrial conference, and jury trial.

Prior to scheduling for jury trial, the parties shall notify the court whether they anticipate the trial will last more than one day.

Disposition Hearing

At the disposition hearing, one of the following will occur: 1) a plea will be entered, 2) the matter will be set for a disposition/motions date, or 3) the matter will proceed to the pretrial conference and jury trial. Unless otherwise ordered, all evidentiary motions, 404(b) notices, and motions in limine that require evidence or proffers of evidence, or that otherwise could not be resolved during a pretrial conference are due **no later than the date of the disposition hearing**. If the case proceeds to a disposition/motions hearing, **notices and summaries of expert testimony and reciprocal discovery notices** under Colo. R. Crim. P. 16, Part I(d)(3) and II(b)-(c) are due no later than **7 days before** the disposition/motions hearing. If no disposition/motions hearing is set, such filings are due not less than 35 days prior to trial. Notice of Alibi is due 35 days before trial. Remaining motions in limine requiring argument must be filed by noon the day prior to the pre-trial conference. Routine motions in limine such as sequestration motions may be raised the morning of trial. Late motions will not be accepted without leave.

On all motions, the parties are ordered to confer with counsel and state opposing counsel’s position in the motion in all except constitutional suppression motions and pursuant to this Court’s standing order on Motions. Failure to comply with this order may result in the motions being stricken or denied.

Disposition/Motions Hearing Day

If motions are filed at the disposition hearing, a disposition/motions day will be set. The disposition portion will occur at 8:30 a.m. and the motion hearing will occur at 1:30 p.m. At the morning's disposition hearing, one of the following will occur: 1) a plea will be entered, 2) motions will be withdrawn and the case will proceed to the pretrial conference and trial, or 3) the matter will proceed to motions hearing in the afternoon. The Court is generally disinclined to continue disposition/motions hearings. The parties are ordered to confer prior to the morning's disposition hearing and will inform the Court on the morning whether the matter will proceed to motions hearing that afternoon. If the parties proceed to the afternoon motions hearing, the parties are ordered to appear promptly at 1:30 p.m. If the defendant fails to appear in the morning and the parties cannot advise the Court with certainty that the matter will proceed to motions hearing that afternoon, a warrant for the defendant's arrest will be issued, the motions hearing will be vacated, and the parties will be permitted to release their witnesses.

Pretrial Conference

Pretrial conferences are scheduled at 10:00 a.m., usually the Friday before the jury trial. At the pretrial conference, the parties will state whether they are proceeding to jury trial as scheduled, the approximate number of witnesses, any requests for interpreters, preferred pronouns of witnesses, and any other pertinent trial issues. With the exception of motions in limine requiring evidence or offers of proof, the court will also take up any non-routine motions in limine at that time as well.

The pretrial conference is the final deadline for any plea bargains. The Court does not intend to accept a plea agreement after that date.

DISCOVERY AND REQUIREMENT TO CONSULT ON MOTIONS

The purpose of the following procedure on discovery motions is to ensure expedited resolution of disputes, to encourage communication between the parties, and to avoid clogging the docket with unnecessary filings. The Court finds these procedures save the Court valuable time and resources.

Rule 16 of the Colorado Rules of Criminal Procedure ("Crim. P. 16") is self-executing and binding on all parties. **NO WRITTEN DISCOVERY MOTIONS WILL BE ACCEPTED** unless the below procedures are followed. The Court will address any discovery disputes, including allegations of destruction of evidence, only after the parties have determined they cannot resolve the issue by consultation. The party seeking discovery must then file a motion outlining the discovery dispute, efforts to resolve the dispute, and the opposing party's position on the motion. The opposing party may file a response within a reasonable time, but not to exceed 3 business days. The Court will either rule on the papers or set the matter for hearing. Failure to comply with this order may result in motions being stricken or denied.

Failure to adhere to disclosure requirements, including insufficient or untimely disclosure of statements, documents, or opinions, is a potential violation of Crim. P. 16. Similarly, delaying discovery until the eve of deadlines is a potential violation of Crim. P. 16. On the other hand, failure of one party to timely bring discovery issues to the opposing party's attention when on notice of a discovery issue, or to the Court's attention after meaningful consultation, could result in a waiver of sanctions for any such violation.

RECIPROCAL DISCOVERY and EXPERTS

In all cases in which a plea of not guilty has entered, the Court orders reciprocal discovery pursuant to Crim. P. 16. **The Court specifically orders both parties to disclose medical and scientific reports or statements as set forth in Colo. R. Crim. P. 16 Part I(d)(3) and II(b)(1).** The underlying facts or data supporting such opinion testimony shall also be disclosed pursuant to Crim. P. 16 Part I(d)(3) and Part II(b)(2). The parties are required to endorse all expert witnesses clearly and shall include the expert's area of expertise on the endorsement. The parties shall provide a curriculum vitae for the expert witness along with the expert's report. 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. All such disclosures shall be made pursuant to the above deadlines unless leave is otherwise granted.

If either party does not stipulate to expert's qualifications, to the adequacy of the reports, documents, or summaries of expert testimony required by 702 and its Rule 16 counterparts, or if either party anticipates the other intends to offer testimony they believe is expert, **that party must file a motion for a pre-trial *Daubert/Schreck* hearing no later than the date of the disposition/motions hearing, or no later than 21 days before trial, whichever is earlier.** Failure to file a timely motion for such a pre-trial hearing may constitute a waiver of objections to admission of the expert testimony.

JURY INSTRUCTIONS

Unless otherwise ordered, the parties shall track identically the language in the most current stock Colorado Jury Instructions. The parties are ordered to consult on the jury instructions ahead of their submission to eliminate unnecessary argument or repetition. Unless the parties reasonably anticipate the case will not proceed to trial, the Deputy District Attorney shall prepare all proposed instructions and special instructions including reasonably foreseeable lesser-included offenses and affirmative defenses. The Deputy may propose non-stock instructions as well as proposed amendments to the stock instructions with supporting authority. Except a theory of the case instruction, counsel for Defendant shall submit any proposed competing or special instructions as well as any objections or amendments to stock instructions with supporting authority. If either party proposes amendments to the stock instructions, those proposed amendments must be clearly identified. The parties shall email their instructions to the judge, the clerk at dcccourtroom3C@denvercountycourt.org, and opposing counsel **by close of business the Monday immediately before trial.** Any proposed theory of the case instruction is due no later than the close of the People's case at trial.

All proposed instructions shall be in 12-point Times New Roman, double spaced, and contain the heading "INSTRUCTION NO _____". Both parties shall prepare verdict forms as necessary that track the proposed instructions, including verdict forms for lesser or non-included offenses.

The instructions shall refer to the Defendant as "Mr." or "Ms." (or other preferred prefix), followed by the Defendant's last name.

By tendering proposed instructions, the attorney certifies that:

1. 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.

2. All necessary changes in form were made to ensure that the instructions are grammatically correct and gender or gender-neutral as appropriate.

EXHIBITS

On the morning of trial, the parties are to provide exhibit lists to the opposing party, the clerk, and the judge. The list shall include a brief description of the exhibit (E.g., Exhibit 1: map of scene). The exhibit list will not be submitted to the jury.

All exhibits shall be marked before trial. People's exhibits shall be marked in numerical sequence. Defendant's exhibits shall be marked in alphabetical sequence. If there are more than 26 exhibits for the defendant, exhibits shall thereafter be marked as "AA", "BB", "CC", etc.

Prior to trial, Defense counsel is ordered to view the People's exhibits and trial will not be interrupted for examination of exhibits. The parties are to confer on whether there are stipulated exhibits that can be admitted pre-trial. Posters, and other large items may be used during trial. If admitted into evidence, either electronic copies or photographs must be made of such items and provided to the Court after the case is submitted to the jury along with other admitted exhibits. Immediately after the case is submitted to the jury, the parties shall confer and review the exhibits to ensure accuracy as to the admitted exhibits. They shall then confer with the Court or the clerk to ensure the Court is in possession of all the exhibits for the jury's use during deliberations. The exhibits must be presented for the jury's use in some form that the jury can view and must be correctly marked. If the exhibits are in an electronic form on a flash drive or disc or other electronic media, they shall have file names consistent with their exhibit number (E.g.: Exhibit 1.pdf; Exhibit A.pdf). Any such device must clearly be marked as either People's or Defendant's along with the Defendant's name and case number.

WITNESSES

The parties must comply with Colo. R. Crim. P. 16, including timing for exchange of witness lists. On the morning of trial, the parties are to provide witness lists of those expected to testify to the opposing party, the clerk, and the judge. The lists shall include the witnesses' pronouns. The parties must have witnesses present for trial to prevent any delay in the presentation of testimony.

VOIR DIRE

The Court will ask the jury background and disqualification questions pursuant to C.R.S. § 13-71-105 and Crim. P. 24(a)(3). The parties will be limited to 15 minutes of voir dire unless the Court otherwise orders.

AUDIO-VISUAL EQUIPMENT

Any party intending to use courtroom equipment, such as video, audio, movies, slides, or computer presentations, is responsible for making the necessary arrangements for the equipment to be set up, tested, and operational before the start of trial. No modification or rearrangement of the courtroom is permitted without prior approval of the Court.

COMMUNICATION WITH CLERKS OF COURT

Only ministerial matters such as scheduling may be addressed via electronic mail and must include the opposing party. All substantive matters will be addressed on the record and based upon written motion(s).

SO ORDERED: April 22, 2022

BY THE COURT:

Judge Judith A. Smith

**Judith A. Smith
Denver County Court Judge
Courtroom 3C**

