

WARRANT REVIEW HEARINGS

(a) **Purpose and Scope.** This rule governs the procedure for requesting, scheduling, and conducting warrant review hearings to quash bench warrants.

(b) **Definitions.**

(1) “Bench warrant” means a warrant of arrest issued under CrRLJ 2.2 (filing of new charges) or under CrRLJ 3.4(e) (failure to appear).

(2) “Warrant review hearing” means a hearing held to determine whether to quash a previously issued bench warrant.

(3) “Attorney of record” means either an attorney appointed by the Office of Public Defense to represent an indigent defendant or an attorney who has entered a notice of appearance in the case with the court.

(4) “Pro se defendant” means a defendant for whom there is no counsel of record. This includes defendants who have been found indigent and referred to the Office of Public Defense for assignment of counsel, but for whom counsel has not yet been appointed.

(c) **Request for Warrant Review Hearing.**

(1) When a defendant has an attorney of record and the court issues a bench warrant for the defendant’s arrest, a motion for a warrant review hearing shall only be made by the attorney of record. Such motion shall be filed electronically (i.e. e-filed) pursuant to local court rule BGR 30 unless otherwise authorized by the court.

- (2) If a represented defendant attempts to schedule a warrant review hearing, the clerk's office will notify the defendant of the name and phone number for their attorney of record,

PROVIDED THAT if the attorney of record is no longer practicing law as a result of death, retirement, suspension, disbarment, or otherwise, the defendant may request a warrant review hearing in the same way as a pro se defendant, and

PROVIDED FURTHER THAT if the attorney of record was a public defender who is no longer employed by or contracted with the Office of Public Defense, the defendant may request a warrant review hearing in the same way as a pro se defendant.

(2) When a defendant is appearing pro se and the court issues a bench warrant for the defendant's arrest, the defendant may request the court to schedule a warrant review hearing by either:

(A) appearing in person at the court clerk's office to submit a request in writing; or

(B) completing and submitting an Outstanding Warrant form available on the court's website at:

<https://bentoncountywa.municipalonline.com/forms.aspx?fid=569>

(d) Scheduling of Warrant Review Hearings.

(1) Warrant review hearings shall be scheduled on the docket from which the bench warrant originated, ensuring the presence of all relevant parties, including the prosecuting authority and probation officers.

(2) If a defendant has multiple outstanding bench warrants, each warrant shall be scheduled separately on the appropriate docket.

(e) **Deadlines for Requesting Warrant Review Hearings.** Requests for warrant review hearings must be received by the court clerk's office no later than noon on the Friday of the week prior to the docket on which the hearing is to be set.

(f) **Warrant Review Hearing.**

(1) The defendant must personally appear at the Warrant Review Hearing. The defendant may appear by WebEx only with prior written authorization from the court. If the defendant fails to appear at the warrant review hearing, the judge shall deny the motion.

(2) The court may quash a bench warrant for good cause shown. In making the decision, the court may consider factors such as the defendant's history and characteristics, the defendant's nonappearance history (including any past warrant review hearings), the defendant's warrant history, the seriousness of the charged offense(s), and the defendant's noncompliance with conditions of pretrial release or probation.

(3) If the presiding judge grants the motion to quash the warrant, the warrant will be quashed. If the presiding judge denies the motion, the defendant will be taken into custody following the hearing unless otherwise ordered by the court.

BCrRLJ 3.4

APPEARANCE OF THE DEFENDANT

(a) *Reserved.*

(b) Defendants will be allowed to sign appropriate documents (waivers, continuance forms, etc.) and be excused from court only if an appropriate record for the requested continuance is made in writing or on the record when the case is called.

(c) *Reserved.*

(d) *Reserved.*

(e) *Reserved.*

(f) **Requests for In-Person Hearing by In-Custody Defendants.** The Court recognizes the need for in custody defendants to have confidential communication with their attorneys. Current practice affords that opportunity and allows for appearances by defendants remotely from the Benton County Jail. Any defendant or defendant's attorney may request that the defendant appear in person and in court for any mandatory court appearance. Such request shall be made at least 5 court days before the scheduled appearance or less for good cause or exigent circumstances. Such demand shall be in writing to the court or orally on the record in open court to the judge presiding over the case. The Court will contact the jail and arrange for the defendant to be brought to court in person. If subsequently the need for in person hearing is no longer necessary, the Court shall notify the jail.

BCrRLJ 4.1

Arraignment

(a) *Reserved.*

(b) *Reserved.*

(c) *Reserved.*

(d) *Reserved.*

(e) *Reserved.*

(f) *Reserved.*

(g) **Arraignment after Appearance by Lawyer.** For any case other than those designated as Domestic Violence, Driving Under the Influence or Physical Control, the filing of a Notice of Appearance by an attorney five days or more prior to the scheduled Arraignment date shall continue the Arraignment to a Pretrial Hearing set by the Court. Defendant shall appear in person with his/her attorney at that Pretrial Hearing where the Court shall arraign Defendant and issue Conditions of Release.

BCrRLJ 4.2

PLEAS AND PRETRIAL DISPOSITIONS

(a) **When Heard.** If a criminal case is set for trial but is to be disposed of by a change of plea, the plea shall be heard on or before the Trial Readiness hearing unless the court authorizes a continuance or a subsequent setting on a later date. The Court may assess jury costs as sanctions if a plea is entered after trial confirmation.

CRIMINAL SPECIAL SETTINGS

(a) **General Provisions.** No request for a special setting in a criminal matter will be granted unless the request is in a filed request for special setting and order which contains:

- (1) The nature of the hearing or hearings requested;
- (2) The reason(s) the hearing or hearings cannot be set on an existing criminal docket, such as the applicable pretrial docket, trial docket or arraignment docket;
- (3) A proposed specific date or proposed earliest date for the special setting;
- (4) Whether briefing has been completed and, if not, when briefing will be complete; and
- (5) The position of the opposing party on the request for the special setting.

(b) **Pleadings.** The request for special setting and order shall state "CLERK'S ACTION REQUIRED" in the caption, and the order shall contain language whereby the Court will grant or deny the request for special setting in whole or in part, and if granted, the date on which the motion will be heard.

(c) **Procedure For Review and Decision.** Only after filing, the clerk or designee will review the request, provide the same to a judicial officer for review, and notify the parties of the decision. Absent compelling circumstances, the moving party may inquire regarding the status of the request no earlier than one week after submission.

(d) **Basis for Special Set Hearings.** The Court ordinarily may approve requests for a special setting in the following circumstances:

- (1) Any hearing that one or more of the parties believe will take more than ten minutes of testimony and/or argument.

(2) Any hearing that cannot be heard on an existing criminal docket due to the unavailability of the prosecutor, the defense attorney, or the defendant.

(3) Any hearing that must be held sooner than an existing criminal docket in order to assure the defendant is brought to trial within the time for trial under CrRLJ 3.3.

(4) Any hearing requiring enhanced courtroom security.

(5) Other good cause.

PRETRIAL HEARINGS

(a) Setting of Pretrial Dates.

(1) **Generally.** In every criminal case a pretrial hearing date will be set at the time of arraignment. Normally, the first pretrial hearing will be set for three (3) weeks from the date of arraignment, and no pretrial will be set later than three weeks before any jury trial date, without good cause shown.

(2) **After Arraignments.** A single pretrial will be set if the defendant has retained counsel, intends to retain counsel, is appointed a named OPD attorney, or after appropriate colloquy is proceeding pro se. If the defendant is appointed OPD, rather than a specifically named OPD attorney, the Court shall set a pretrial date, a pretrial order entry date, a trial readiness date, and a bench or jury trial date.

(3) **First Appearance After Warrant.** At the first appearance following the issuance of a bench warrant for failing to appear at a pretrial, trial readiness, or trial date, a single pretrial date will be set. At that first pretrial date, the Court will follow the procedures as outlined below for the setting of further dates.

(b) **General Provisions.** At the time of the pretrial hearing, it will be expected that defense counsel and Prosecuting Attorney will have already met to initiate and complete discovery, conduct further investigation of the case as needed, and that plea bargaining will have been considered. If there are any unresolved matters, they will be determined by the Court at the hearing, or, upon good cause shown, they may be set for a further hearing. If it is necessary to hold a suppression hearing, a date certain will be set for such hearing at the time of the pretrial hearing. The defendant shall be present at the pretrial hearing where a suppression date is set, unless otherwise excused by the Court.

All rulings of the Court at any hearings shall be binding on the parties and shall not be re-litigated at trial.

(c) Setting Future Dates.

At the first pretrial date, the parties may either:

- (1) set the case for trial, which will include a jury or bench trial date, a trial readiness date, a pretrial order entry date, and an additional pretrial date if desired, or
- (2) continue the case by agreement or for good cause, and set a new pretrial date, provisional trial readiness date, and a provision jury trial date.

No pretrial hearings will be reset to less than 3 weeks before trial date, without specific agreement under CrRLJ 3.3(e)(3) and (f)(1) or by good cause provided by the party seeking the continuance under CrRLJ 3.3(e)(3) and (f)(2). A record will need to be made in writing or on the record based on the moving party's reasons for requesting a continuance. Any continuance of the pretrial date that necessitates a resetting of the trial date, will result in the jury trial date, the trial readiness date and the pretrial order entry date (if applicable) also being reset to dates agreed by the parties.

"At the Defendant's Request" is an insufficient basis, by itself, for finding good cause to reset a pretrial date or to toll speedy trial. If the intention of such a tolling is intended, that intention must be clearly understood by the defendant and made clear on the record either orally or in writing. "Good Cause" for a resetting of the pretrial date is not needed if the parties are only continuing the Pre-trial date to a subsequent date that does not require the resetting of the trial date, the trial readiness date and/or the pretrial order entry date. The Court may find "Unavoidable Circumstances" (i.e. an attorney shortage) as a valid reason to reset dates consistent with this policy but may only do so if such circumstances are sufficiently provided by either of the parties at any motion or request to find a continuance or resetting of dates. Such "Unavoidable Circumstances" will be documented by the Court either in writing or on the record at the time of the request.

(d) **Joint Pretrial Order.** At a pretrial hearing, when a matter is called ready for trial, in addition to setting a trial readiness date consistent with BCrRLJ 4.9, providing the nature of the defense and indicating the anticipated length of trial, the parties shall enter the Joint Pretrial Report.

The Joint Pretrial Report will be in the form as provided on the District Court website. The proposed order shall be filed in the cause pursuant to GR30 and BGR30.

(e) **Pleadings.** All briefs, declarations, affidavits, and motions shall be served and filed in the cause pursuant to GR30 and BGR30.

For matters filed electronically, a separate bench copy need not be filed. Any paper bench copies must be submitted as soon as allowed under these local rules or the Criminal Rules for Courts of Limited Jurisdiction, but not later than twelve (12:00) o'clock p.m., one (1) court day prior to the scheduled hearing, proceeding, or trial. No paper filed bench copies shall be submitted to the Court unless prior thereto or simultaneously therewith a copy thereof has been served upon or mailed to opposing counsel.

BCrRLJ 4.7

Discovery

(a) Absent contrary notice to the prosecution, it is presumed that the defendant requests discovery pursuant to CrRLJ 4.7 at the time of arraignment.

(b) Any motions for disclosure of discovery not covered by Section (a) and (d) of CrRLJ 4.7 shall be accompanied by an affidavit or declaration setting forth in detail the reasons the requested items and information are material.

TRIAL READINESS HEARING

(a) **General Provisions.** In every criminal case, a hearing shall be held for the purpose of determining whether the parties have fully considered the possibility of disposition of the case without trial; for the purpose of entering a plea should a plea be tendered; for considering the matter of requests for continuance; and for any other appropriate matters.

The hearing shall be set on a trial readiness docket ten (10) days prior to the trial date. The Court may direct an earlier setting and enter further orders where necessary to assure that final witness and exhibit lists are filed and that exhibits are prepared and provided as directed. It shall be the responsibility of each defense attorney, upon receipt of the notice of the trial date, to notify the defendant of this hearing.

Additionally, the parties shall submit via the District Court website a Trial Confirmation Form by 12:00 pm (noon) the Thursday before the scheduled trial date to confirm the case is proceeding to trial, and if not, advising the Court as to why, proposing new dates, or advising of an anticipated plea. The filing of this form will allow for the smoother administration of justice and coordination with Superior Court for jury empanelment.

If the Trial Confirmation form is not submitted by either or both parties, or anything other than continuing to trial as currently set is selected, then the parties will need to appear at the next Trial Readiness docket immediately prior to their set trial date, to resolve, pick new trial dates, or discuss why the Trial Confirmation form was not filed.

Failure to follow this procedure may result in costs being assessed to a party and/or Sanctions to attorneys for subsequent delays, if appropriate.

(b) **Appearance at Trial Readiness.** Pursuant to CrRLJ 3.4(d), the Court finds good cause to require the appearance of all defendants at trial readiness hearings in order for the Court to properly manage the jury trial caseload and the trial readiness calendars. The Court cannot properly assess the readiness of the parties to proceed to trial in the defendant's absence.

Leaving continuances, dispositions, and confirmation of cases to the assigned trial date would unreasonably congest the trial calendar, preclude the Court from determining the need for jurors, impede the timely commencement of trials, and prevent the Court from fulfilling the responsibility to protect the time for trial rights of the parties.

Defendants represented by counsel may waive their appearance at trial readiness, as provided by other court rules, if an agreed continuance of the trial date is requested by the parties. Unrepresented and self-represented defendants must personally appear at trial readiness if a continuance of the trial date is requested by either party. A contested continuance is a critical stage of the proceeding, and the defendant has the right to appear. A contested motion to continue cannot be heard in the absence of an unrepresented or self-represented defendant.

Ex Parte Docket

(a) **Purpose.** This rule governs the procedure for filing pleadings, resets/continuances, and orders on the ex parte docket.

(b) **Definitions**

(1) “Conformed copies” means a copy of the document filed with the court that includes the clerk’s date stamp, any handwritten notations made by the judicial officer, and/or the judicial officer’s signature.

(2) Judicial officer” means a Benton County District Court judge or commissioner.

(c) **Scope.**

(1) A party may present agreed matters on the ex parte docket.

(2) A party may present matters on the ex parte docket when notice of presentation is waived by the opposing party.

(d) **Presentation – how made.**

(1) **Format.** Ex parte filings must include the term “ex parte” in the caption.

(2) **Local Attorneys and Pro Se Defendants.** Filings, that are either signed or stipulated to by the parties, may be presented on an ex parte basis to the Benton County District Court Clerk’s window from 1:00 p.m. to 1:30 p.m., Monday through Friday, and will be signed at the discretion of the judicial officer.

(3) **Non-local Attorneys and Non-local Pro Se Defendants.** Filings which have been signed by the parties, or stipulated to by the parties, may be presented via e-Filing, from 1:00 p.m. to 1:30 p.m., Monday through Friday, and will be signed at the discretion of the judicial officer.

(4) The clerk’s office shall not accept any ex parte matters where it is unclear whether notice was provided to the non-filing party. Upon request, the clerk may note up the matter on the respective motions docket.

(5) A judicial officer may not sign any ex parte matters that fail to comply with this rule. In such cases, the clerk’s office will set the case for a hearing.

(e) **Conformed Copies.** The filing party is responsible for producing any additional copies that they wish to conform.

BRALJ 6.2

Designation and Transmission of Record

(a) **Initial designation.** Designation of the record on appeal shall be made in accordance with RALJ 6.2. Upon filing of an initial designation under RALJ 6.2(a), the District Court clerk shall assemble and transmit the designated materials to the Superior Court as required by RALJ 6.2.

(b) **Supplemental designation.** When a party files a supplemental designation of record, the District Court clerk will docket the filing but will not collect or transmit the supplemental materials. The party filing the supplemental designation must:

- (1) obtain and organize the supplemental materials;
- (2) sequentially number all supplemental materials beginning with the next number following the last number used in the previously transmitted record; and
- (3) transmit the supplemental materials directly to the Superior Court clerk within the time prescribed by the RALJs.

Within 7 days after transmission, the filing party must file a certificate in the District Court stating the date and method of transmission.

(c) **Service.** The filing party shall serve all other parties with the supplemental designation and the certificate of transmission.

BGR 6

DOCKETS AND CASE SETTINGS

All hearings set before the court shall be scheduled on a regular docket of the court unless special set in accordance with these rules. Counsel and parties may contact the Court Administrator for a current schedule of the Court's dockets.

BIRLJ TBD

Motions For Contested Infractions – Written Notice and Briefing – When Required.

Motions to exclude evidence or dismiss an infraction shall be made in writing and supported by argument and authority. The prosecutor may file a written reply as a matter of right. The motion is waived and shall not be considered by the Court unless the motion is filed with the Court and served on the prosecutor five (5) court days prior to the contested hearing. Timely motions shall be addressed by the Court at the time of the contested hearing. For good cause shown, the Court may continue a hearing to allow a defense motion not timely filed to be briefed. This section shall not apply to motions to dismiss pursuant to IRLJ 2.2(d) or motions to exclude pursuant to IRLJ 3.1(b).

PROCEDURAL REQUIREMENTS FOR SUBMISSION OF ELECTRONIC EVIDENCE

(a) Pre-Trial Meeting. Once a case is set for trial, no later than the Friday proceeding the commencement of trial, the parties shall meet with court staff to ensure counsel can utilize the courtroom technology for the submission and publication of electronic exhibits. Included in this meeting, counsel shall confirm that their software, programs, storage, and devices are compatible with the court's software and hardware.

(b) In Trial Exhibit Management.

- (1) Exhibits.** Exhibits may be submitted in hardcopy, by DVD/CD, or thumb drive.
- (2) Electronic Exhibits.** Any electronic exhibits shall be labeled or submitted in an 8x10 envelope that contains the case name, case number, and electronic file name of each exhibit.
- (3) Electronic Storage Devices.** Unless otherwise ordered, electronic storage devices shall not be returned to counsel.
- (4) Hardcopy backup.** Parties shall be prepared to submit hard copies of any exhibit where electronic production is not intended or not possible.

(c) Acceptable File Types.

- (1)** Documents and images may be stored in: .pdf, .txt, .jpg.
- (2)** Video and Audio Recordings shall be stored in: .trs, . trm, .jvl, .pdf(report notes), .ogg. and .m4e,
- (3)** Consult the District Court webpage for any updates on acceptable formats.

(d) Admission of Electronic Evidence. The Parties shall have the capabilities to:

(1) Segregate admitted images and videos from any images or videos that are not admitted for filing with the court.

(2) Edit and/or shorten videos in the event that the court determines portions of any video are ruled to be inadmissible.

(e) Hearings on Admissibility. Any hearing contesting the scope or use of video or audio evidence must be noted on the Pre-Trial Order and scheduled no later than the trial readiness hearing.

(f) Jury Use of Electronic Exhibits. Electronic exhibits must be capable of being played in the jury room. The court shall provide a device for the viewing of electronic evidence in the jury room. Except as agreed by the trial judge, court staff shall not replay videos or display photos for jurors in the jury room.

(g) Failure to Comply. Once trial has commenced, in the event of a failure to present technologically compatible evidence, the evidence shall not be admitted or, in the discretion of the court, a mistrial shall be declared.