

Trials

10008.1 BAILIFF RESPONSIBILITIES

It is very important for the bailiff to discuss procedures with the judge in order to coordinate and be well prepared for the coming trial, some of these procedures should include:

- (a) The seating and handling of the jury.
- (b) The seating and handling of the defendant.
- (c) The seating and handling of spectators.
- (d) Any security problems.
- (e) The handling of evidence (weapons & narcotics).
- (f) Generally, any other problems that may arise during the trial.
- (g) The courtroom is a public place, and the bailiff's authority is limited. It may be necessary for the judge to issue a special court order to assist in controlling the activity in the courtroom.

10008.2 BAILIFF MISCONDUCT DURING TRIALS

Bailiffs are among the most visible participants in a court proceeding. Everything a bailiff says and does represents the Sheriff and the Court, nothing less than an absolutely neutral and impartial position will be accepted. Extreme caution must be taken to avoid even the slightest perception of favoring one side or the other.

- (a) New trials have been granted upon motion by the defendant where it has been shown that the bailiff has, by conduct, demeanor, or statements in the presence of the jury, expressed an opinion of what verdict the jury should reach.
- (b) Failing to keep the jury together as charged by the oath given to the bailiff has been grounds for a new trial.
- (c) Misconduct could result in contempt of court charges against the bailiff as well as disciplinary action by the Sheriff's Department.

10008.3 TRIAL PROCEEDINGS

- (a) Criminal Trial Proceedings
 - 1. After the jury has been impaneled and sworn, the trial must proceed in the following order, unless otherwise directed by the court.
 - i. Prior to taking of testimony, the bailiff should be familiar with the evidence in the case.
 - 2. The bailiff shall provide jurors with notebooks and pencils and instruct them that the notes will remain in the courtroom at all times.
 - i. These materials are to be secured by the bailiff at the end of each day.
 - ii. Jurors' notes are confidential and shall not be read.

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3. The Deputy District Attorney, or other counsel for the people, must open the case and offer evidence in support of the charge.
4. The defense counsel may then open the defense and offer evidence in support of their client(s).
5. The parties may then offer rebutting testimony, unless the court permits them to offer new evidence.
6. When a witness is called to testify, the bailiff shall direct the person to come forward and be sworn, after which the bailiff will direct the person to the witness stand and adjust the microphone. The bailiff shall make sure that no witness is chewing gum or tobacco when they take the witness stand.
7. When the evidence is concluded the District Attorney, or other counsel for the people, and counsel for the defendant may argue the case to the court and jury. The District Attorney opens and closes final argument. This is avoided if the case is submitted without argument.

(b) Court Trials

1. A court trial is heard when the defendant or litigant has waived their right to a jury trial, thus enabling the judge to hear all the evidence in the case and make a decision based on the witnesses testimony.
 - i. Court trials are also used in most minor traffic infractions.
2. The order of trial is very similar to that of the jury trial. First the prosecutor or the traffic officer presents their case.
 - i. The defendant then has the opportunity to cross-examine any witnesses.
 - ii. After the prosecution has completed their case, the defense has the opportunity to present witnesses.
 - iii. At this time the prosecutor has the opportunity to cross-examine the defense witnesses.
3. After both sides have completed their testimony, they have a final chance to present a summary of their individual cases to the judge for determination.
4. After the judge makes a finding of guilty or not guilty, the bailiff should be prepared to proceed if the defendant is to be remanded to custody.
 - i. Bailiffs should keep in mind that although a court trial is usually a very simple matter, it may become very volatile.
 - ii. This is especially true in traffic matters where there is a matter of difference between the violator and the traffic officer.
 - iii. The key is to maintain control of your courtroom and all persons who are appearing.

(c) Civil Trial Proceedings

1. When the jury has been sworn, the trial must proceed in the following order, unless the court, for special reasons, directs otherwise:

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- i. The plaintiff (petitioner), after stating the issue(s) may produce evidence.
- ii. The defendant (respondent) may then open the defense and offer evidence in support thereof.
- iii. The parties may then respectively offer rebutting evidence only, unless the court, for good reason in the furtherance of justice, permits them to offer evidence upon their original case.
- iv. When the evidence is concluded, unless the case is submitted to the jury on either side or on both sides without argument, the plaintiff must commence and may conclude the argument.
- v. In trials where several defendants are represented by different counsel, the court must determine their relative order in the presentation of evidence and argument phases.

10008.4 HIGH RISK TRIALS

Trials that require an increased security presence, special security preparations and/or the use of security screening devices are usually referred to as "high risk trials".

The following guidelines have been developed to assist bailiff and supervisory personnel during the pre- planning and execution stages of those events:

- (a) Define known problems particular to the case
 1. Inmates/ Defendants
 2. How many defendants / witnesses are there (In and out of custody?)
 3. What is their gang / organization affiliation and prior history?
 4. Are they violent / non-violent?
 5. Will they be shackled or unshackled?
 6. Are they pro per, or does counsel represent them
- (b) Gallery
 1. What is the number of seats available for the public?
 2. How should the seats be partitioned for witnesses and supporters of the defendant(s)
 3. Should the seats be numbered and assigned
 4. Is it appropriate to put the press in the front row?
 5. Will it be necessary to provide a Deputy to monitor the gallery?
- (c) Community Interest
 1. Is this a high interest trial in the community?
 2. Is the community hostile to, or supportive of, the defendant?

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3. Are there "special interest" groups involved? If so, who are they and what is their background
- (d) The Press
 1. Will cameras be allowed in the courtroom? If so, where is the most secure place for them? If not, do we need a separate press area in or outside of the Justice Center?
 2. Will audio recording devices be allowed in the courtroom?
 3. Will there be a limit on the number of reporters allowed in the courtroom?
 4. Is it possible to create a special section for press seating?
 5. Should we provide a liaison officer for the press?
- (e) Conduct a pre-event meeting, request the following people be in attendance
 1. Trial Judge
 2. Prosecutor
 3. Defense attorney(s)
 4. Sheriff Incident Commander
- (f) Discuss the following
 1. Whether the inmate(s) will be shackled / unshackled
 2. The incident "Incident Action Plan", including:
 - i. The responsibilities of court participants
 - ii. The point at which contingency plans will be implemented
 - iii. Proposed security measures designed specifically for the safety / control of the defendant(s)
 - iv. Proposed security measures designed specifically for the safety/control of the gallery and other court participants (magnetometers, searching, entry ropes, restricted seating, etc.)
 - v. Media coverage, including the number of reporters, cameras, recorders, etc. allowed in the court
 3. Witnesses, including recommendations for their handling (both custody and non-custody) and transportation
 4. The issuance of a court order granting permission for all or part of the above (offer to generate the order for the judge's signature)

NOTE For additional information refer to CCOM Section [10005.5](#) - High Profile/High Risk Trials and Defendants.