

Standing Orders
228th Criminal District Court
Harris County, Texas

The following Standing Orders are in effect as of September 5, 2007. Attorneys practicing in the 228th shall comply with these Orders.

Standing Order No.1 Court Settings:

The Defendant is required to appear at all court settings. Each case will be set for arraignment, non-issue, and motions (28.01). After the motion setting if a case is not resolved it will be set for either a trial or plea.

Arraignment Setting: Cases will be set for arraignment 30 days from initial appearance. In the case of a person in custody for a State jail felony drug case that has not been indicted in 30 days, the case will be set for an examining trial.

Non-issue Setting: Cases will receive a 30-day non-issue setting after indictment. The purpose of the non-issue setting is to review the file, investigate the case and negotiate with the State. Parties should sign the Court's agreed discovery order at the non-issue setting.

Motions/ 28.01 hearing: Cases will be given a 30-day motion setting. This setting will satisfy Article 28.01 Code of Criminal Procedure, which requires parties to present all pre-trial motions to the Court 10 days prior to the 28.01 date.

- a. Motions must be filed 10 days prior to motion date.
- b. Parties must confer on motions prior to filing.
- c. In the Court's "Agreed Discovery Motion" the parties must agree on a compliance date, otherwise it is deemed waived.**

Standing Order No.2 Motions to Revoke/Motions to Adjudicate:

Motions to Revoke Probation and Motions to Adjudicate Guilt will proceed to a hearing 10 days after the initial appearance.

Parties are encouraged to negotiate with the State prior to a hearing. The State and the Defense may approach the bench to discuss relevant factors concerning a probationer in an effort to resolve the case without a formal hearing.

Standing Order No.3 Order of Trial and Continuances:

The State and the Defense will make a formal announcement of "Ready" or "Not Ready" on trial day. Motions for continuance will be considered after announcements. The Court will use its discretion in ruling on motions for continuance.

The Court, in its discretion, will call cases to trial on the docket. All cases not called will be carried on the trial docket. Lawyers (State and Defense) will be on 24-hour call.

On Call Procedures: Cases not called for trial on the day set will be on 24-hour call. The Attorneys will give the court coordinator several contact numbers to ensure the court is able to reach them the day before the trial will commence. After receiving notice of the trial date, the attorney and defendant must appear in court at 9:00 a.m. on that day. The parties are responsible for notifying their witnesses of the trial date.

Witness availability: When a case is set for trial, the witnesses must be available that day in the event the schedule permits testimony to start on the day the case is called to trial. If the case is not called to trial, the witnesses will be on standby until the case is called to trial. It is the duty of the attorneys to inform witnesses what day and time they must appear in court for trial. (see: on call procedures above.)

Standing Order No.4 Defendant's Attire at Trial (Jail Cases):

The defendant's lawyer is responsible for ensuring that the defendant has clothes for trial. They must inform the defendant's family of the Harris County jail procedures for providing clothes to defendants in custody. Lawyers should make this a part of their standard practice in representing defendants in custody in the 228th. Therefore, attorneys must become familiar with the Harris County jail procedures in this regard.

It is the opinion of this Court that trials are set far enough in advance for Attorneys to coordinate this matter before trial day. Motions for continuance will not be granted for an attorney's failure to ensure that his client "dressed out" for trial. It may result in an unreasonable delay of court proceedings.

Standing Order No.5 Sexual Harassment:

The Court will not tolerate sexual harassment. Attorneys and staff will conduct themselves in a professional manner and treat each other with respect.

Court Staff and Harris County employees should refer to the Harris County Policy Manual and Procedures for reporting sexual harassment. All others should report these matters to the Court.

Standing Order No.6 Motions to Suppress:

Generally, all motions to suppress will be carried with trial. Motions to suppress will be heard prior to trial when they are dispositive, meaning the State agrees to dismiss the case if the motion is sustained and the Defense agrees to plead guilty with a right to appeal if the motion is denied.

Generally, the Court will not decide issues of fact or credibility by affidavit. The parties may stipulate to facts when the issue is a matter of law.

Standing Order No.7 Docket Call and Announcements for Trial:

Effective January 1, 2005, the 228th Criminal District Court will require all Defendants on bond to appear in court at 8:30 a.m. for docket call. At least one attorney from the District Attorney's Office must be present for docket call.

Attorneys that have cases on the trial docket must appear in court by 9:00 a.m. to make a formal announcement of either Ready or Not Ready when the trial docket is called. Parties that are not ready and want a continuance must present a formal motion for continuance at that time.

HAND WRITTEN MOTIONS WILL NOT BE ACCEPTED.

Standing Order No. 8 Trial Settings withdraw and Substitution

Once a case is set for trial a lawyer will not be permitted to withdraw. Any decision to withdraw must be done BEFORE the case is set for trial. Lawyers that substitute in on a case that is set for trial WILL NOT be granted a continuance on the basis that they need additional time to prepare. If you sign on for a **trial**, be prepared to try the case on the date set.

Signed this the 5th day of September, 2007.

Marc Carter, Judge Presiding