Chapter 10 - Hearings

Hearings take on many forms and situations in a courtroom, they may be a simple civil hearing to criminal hearing where an individual may be going to jail or prison. The bailiff should be aware that all court proceedings have a potential for a violent outbreak.

• 3-10/000.05 - Defendants In-Custody

In-custody defendants shall normally be seated next to their attorney. Custodies shall use a chair without wheels and the inmate should be secured. A secured inmate generally means being handcuff to the rear or in waist chains, when permitted by the court. In the event the defense attorney makes a motion to remove the handcuffs, it is up to the bailiff, with the assistance of the prosecutor, to show cause why the defendant should remain handcuffed during the hearing. If the judge makes an order to remove the handcuff, the bailiff shall contact their supervisor. Refer to CSDM, 3-04/050.00 - Inmate Restraint Motion / Court Declaration.

Custody defendants have a right to make notes with materials supplied by the bailiff, any materials given to the defendant by defense counsel shall first be given to the bailiff for a visual inspection.

Attorneys may only give their clients a business card, no other items or notes may be passed directly between an in-custody defendant and an attorney.

Attorneys shall be advised of potential weapons at counsel table when they are dealing with custodies.

• 3-10/000.10 - Defendants Out of Custody

While out of custody defendants do not pose the potential problems that a custody defendant does, they may still create a problem by having large numbers of supporting friends or the victim's family could try to get retribution in the hall. If a bailiff is informed of a witness intimidation situation by the defendant or the defendant's relatives or friends, the prosecutor shall be immediately informed. Necessary action may be taken by the investigating officer or the bailiff.

• 3-10/000.15 - Defendant Remanded

When an out of custody defendant is going to be "remanded into the custody of the Sheriff," by the bench officer, it is essential that the bailiff has forewarning from the bench officer of the impending remand. The bailiff and bench officer shall have a pre-arranged signal or code word that advises the bailiff of the bench officer’s intention to remand an individual into custody. The use of the signal or code word will allow the bailiff to place themself in a position of tactical advantage to safely take the defendant into custody and potentially dissuade the defendant from attempting an escape or an assault upon the bailiff or other court representative.

In the event that a defendant is being placed into custody, the defendant shall be handcuffed and removed, as soon as possible, from the courtroom to a court holding area. The defendant shall immediately be given a pat down search before being moved through the lockup system.

If the defendant's attorney wishes to talk to his client, it should be done in the lockup area, not in the courtroom.

The court's remand order shall accompany the defendant to the main lockup in the court facility.

• 3-10/000.20 - Defendant on Bail/O.R.

If the defendant is on bail or on their own recognizance, the judge will set the next date for arraignment in the superior court and release the defendant. The bailiff may give the defendant a written reminder.

• 3-10/010.00 - Misdemeanor Arraignment

The defendant(s) is brought before a magistrate to be informed of their constitutional rights and be advised of the charges filed against them by the court. Defendants may be in custody or may have bailed out and walked in. In either case the bailiff must be aware of the charges for a particular defendant. The arraignment, being the initial appearance of the defendant on a misdemeanor charge, can be just as dangerous as a felony arraignment in a courtroom. The bailiff should notify his/her branch supervisor of a specific case that may require additional security.

• 3-10/015.00 - Felony Arraignment

The defendant(s) is brought before a magistrate to be informed of their constitutional rights and be advised of the charges filed against them by the prosecutor. Defendants may be in custody or may have bailed out and walked in. In either case the bailiff must be aware of the charges for a particular defendant. The arraignment, being the initial appearance of the defendant on a felony charge, can be the most dangerous situation in a courtroom. The bailiff should notify his/her branch supervisor of a specific cases that may require additional security.

• 3-10/020.00 - Preliminary Hearings

A preliminary hearing is the initial presentation of evidence by the prosecutor in a felony case, when there is no Grand Jury Indictment. Normally the only evidence presented at this hearing is by the prosecutor. The prosecution will present a prima fascia case to the magistrate to bind the defendant over for a trial in the superior court.

• 3-10/020.05 - Defendant Held to Answer

At the conclusion of testimony in a preliminary hearing the judge will decide if there is sufficient evidence to bind the defendant over to the superior court for a trial on the charges alleged by the prosecutor. If the judge decides there is sufficient evidence to hold the defendant for trial, an arraignment date will be set for the defendant in the superior court.

• 3-10/025.00 - Probation and Sentencing Hearings

This type of hearing is usually held after a defendant has been found guilty of committing the crime alleged by the prosecutor. At the conclusion of the trial the judge will normally request, from the probation department, a probation report to ascertain what recommendations for sentencing the prosecutor and the probation department desire. When the defendant is called before the judge, if the defendant is on bail, the bailiff should be alerted by the judge if the sentence includes a commitment to a jail facility. In this instance the bailiff should be in a position that will block any effort by the defendant to leave the courtroom.

Immediately on sentencing to a jail term, the bailiff shall remove the defendant from the courtroom to a court holding facility. Once in the holding facility, the bailiff shall immediately conduct a pat down search for weapons and contraband. Bailiffs shall follow the procedures for handling new remands in CSDM, 3-14/040.00 - New Remands. Defendants who are already in custody should be returned to the court holding facility for transportation back to county jail.

When the defendant is on bail, and is released on probation without a jail sentence, the bailiff may simply give the defendant a copy of the terms and conditions of probation, prepared by the clerk, and release the defendant from the court. In custody defendants shall not be released from the courtroom, they shall be returned to the main lockup facility for processing.

• 3-10/030.00 - Order to Show Cause

An order to show cause hearing may involve a contempt matter, restraining order or a motion by an attorney to have evidence produced etc. Since there are many types of order to show cause matters, it is imperative that a bailiff, in a courtroom that hears these types of orders, be familiar with the proceedings. Restraining order hearings may involve domestic violence, harassment, child custody or divorce hearings. All of these hearings are potentially violent; a bailiff must be aware of all persons in the courtroom and not be distracted by outside influences.

• 3-10/035.00 - Family Law

Matters in this type of hearing usually involve separation, divorce, or order to show cause matters involving families. The very nature of this court involves conflict between two parties; this can create situations that will be volatile. Bailiffs should be knowledgeable and vigilant of any situations of violence against either party. This knowledge can prevent a violent outbreak in court.