

RULES PART 200: CRIMINAL.

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CHIEF ADMINISTRATOR = includes designee.

CLERK = Chief Clerk, or Clerk of Court.

TERM = 4 week session, 13 per year, date set by Chief Administrator.

PART = designated unit for court business, provided for by Chief Administrator; conducted by judge or quasi-judicial officer.

All papers must comply with CPLR 2101 if not exhibits or printed forms; and must also have writing on only one side, 1 inch margins, and if typed: must be double-spaced except for quotes and attorney's name/address.

Papers are submitted to CLERK; *may* be submitted to Judge upon directive - or in Clerk's absence - must then file copy with Clerk. Papers shall specify Judge to whom addressed, as well as: nature; title; index/docket #; assigned judge (if any); name of submitting attorney; and return date of any motion to which referring.

Attorney must file Notice of Appearance on or before first actual appearance, or within 10 days of appointment; whichever soonest. Notice specifies attorney's: name; office address; telephone #; name of defendant appearing on behalf of; and index #. No adjournments shall be granted due to attorney's engagement in other court/part except pursuant to Rules of Chief Administrator, Part 125.

Part Clerks handling dispositions of cases (even if not comprise whole of duty) - as well as other individuals designated by Presiding Judge - can administer oaths, take acknowledgments, and sign court process under seal. Any person expressly authorized to do so pursuant to NYC Criminal Court Act shall file required written authorization with the Clerk of Court.

Criminal forms shall be in compliance with uniform statewide templates.

Pre-sentence reports shall address defendant's eligibility for immediate Relief from Disability, and a recommendation regarding the appropriateness thereof. If sentencing court does not grant such discretionary relief, shall advise defendant of future rights thereto. Should defendant on Probation be eligible for relief, Probation Officer must inform him/her of rights and provide necessary paperwork before probation expires. Any failure herein does NOT affect sentence.

SUPERIOR COURT:

Cases are assigned randomly by Clerk to Individual Assignment System (IAS)

judge. However, Chief Administrator may designate an Arraignment/Conference Part to handle all filings; case must thereafter be randomly assigned to IAS judge if no guilty plea taken within 14 days. Chief Admin can suspend any IAS judge from new assignments for heavy caseloads; and can also hold trial judges in reserve. Cases requiring immediate disposition can be re-assigned in absence of original judge. Chief Admin can also provide for transferring cases from one judge to another.

A soon as possible after assignment, judge shall set a preliminary conference; may also hold further such conferences by discretion. Prelim conf: set timetable for discovery/motions/trial commencement. All directives of Court at prelim conf - and any stipulations of counsel - shall either be on record or else reduced to writing. Failure of party to comply therewith may be sanctioned.

GRAND JURY = impaneled for a term; Chief Admin can impanel additional as necessary for "public interest".

With authorization of Chief Admin: any *non*-NYC indictment can be removed - before guilty plea, or commencement of trial - either from Supreme to County or vice-versa.

Party can apply to Superior Court for assignment of Special District Attorney, shall file such request with Chief Admin. Chief Admin in consultation with Presiding Justice of court where filed shall designate a Superior Court judge to hear such application.

LOCAL CRIMINAL COURT:

Rules by local courts, or proscribed in the Criminal Procedure Law.

Chief Admin shall designate manner of judge assignment.

Records of Town/Village Courts:

Town/Village courts shall maintain Case File (including all papers), as well as an Index of cases, and a Chronological Cashbook itemizing receipts/disbursements.

Except for Parking Violations, must also record: Defendant's name/address (and date of birth if under 19); Section and description of charged offense; arrest date; arresting officer; arraignment date; name/address of D.A. + defendant's counsel; Record of Arraignment [Record = whether charges were read; whether defendant was advised of rights; whether defendant was assigned counsel; what plea entered; summary of proceedings; form of release, including bail amount; & next adjourn date]; defendant's NYSID # (for fingerprintable offenses); Summary of pre-trial proceedings; name/address of sworn witness(es); whether jury trial waived; disposition [+ reasons for if non-trial]; whether pre-sentence report ordered, and whether made available to counsel; sentence; summary of post-dispositional proceedings. Office of Court Administration (OCA) shall

promulgate Model Recordkeeping System.

City Courts may keep records pursuant to Uniform City Court Act.

Guilty Plea by Mail:

Chief Admin can designate certain non-Penal Law petty offenses by Information to be allowed guilty plea by mail; together with sentence and fine/surcharge without defendant's personal appearance. This can be done ONLY upon appearance ticket returnable in NYC Criminal Court Summons Part; NOT where defendant arrested! Appearance Ticket shall specify exact amount of fine which will be imposed upon guilty plea, as well as the manner of payment and date due. Ticket must advise defendant that: plea waives right to trial; plea has the same effect as trial verdict; that defendant agrees to imposition of fine upon plea; and that defendant understands that Court may reject plea (for instance due to prior legal history), and may then proceed with case generally, which could result in conviction and greater sentence. Defendant pleading guilty shall sign ticket, and mail back by 1st class - certified or registered - together with payment. Court can accept plea only upon FILING of Information. If Court won't accept plea, shall written notice defendant of next date. If Court should instead dismiss the Information, must refuse guilty plea as nullity; shall also so inform defendant and return money.

Certain arrests (including upon Warrant), where defendant brought to Town/Village Court: Court must hear defendant before Securing. If defendant does not have an attorney, Court shall provide free telephone call to obtain one; also must allow telephone call to inform relative/friend. Court must also determine if defendant is eligible for assigned counsel; EXCEPT: if defendant immediately posts bail as set. If defendant unable to afford own attorney, Court must notify Director of County Law section 722 Assigned Counsel to provide attorney from list; else Legal Aid or Public Defender, OR any Court-designated attorney. Court shall then give defendant name, business address, and telephone number of such assigned attorney. If it appears that defendant CAN afford to retain own counsel: Court shall inquire if defendant has specific attorney in mind; if so, Court shall give defendant the telephone number (if readily available). Court may then proceed even in absence of any such attorney; but must notify assigned attorney within 24 hours, in no event more than 48! Court shall also notify 722 Panel Director/Legal Aid/Public Defender of determination, regardless if defendant will retain own counsel; as well as the head of any pre-trial service agency (i.e. Probation). Notification shall be by telephone, followed up in writing or by fax. Notification = name of defendant; any co-defendants; charges; docket #; adjourn date/time (if available); terms of securing order. Court shall also provide copy of accusatory instrument to any attorney or attorney agency. OCA shall develop forms for use herein. Courts shall keep a record of all such correspondence, and make them available to District Attorney and defendant's counsel. Town/Village Courts shall obtain attorney telephone numbers to assist with these provisions. Courts can terminate attorney assignments as otherwise. Courts can otherwise bail/RoR defendant if not commit at securing hearing.

COUNTY COURT:

Appeal of Local Criminal Court case is taken to County Court. Stays/Suspensions of sentence execution may be either by such County Court, or by Supreme Court of same Judicial District; also allowed by City Court when appeal taken therefrom by right. All stays expire if appeal not perfected within 120 days; only COUNTY COURT can extend.

Appellant shall copy Notice of Appeal to County Clerk. Local Criminal Court shall file transcript with County Court Clerk within 10 days of receiving 2 copies of same; shall also file Notice of Appeal, accusatory instrument, and any decision(s) on pre-trial motion(s). Local Criminal Court shall then notify Appellant and Respondent of such filing. If transcript not be so filed, County Court can order Local Criminal Court to do so within designated time; if it is defective, can also direct parties to settle before Local Criminal Court within reasonable timeframe. Within 20 days of Notice of Appeal or Affidavit of Errors having been filed with County Court: Appellant shall notice appeal to be heard for next term; or County Court can allow extension for a subsequent term, for which Appellant shall then notice. Notice = file Brief & Notice of Argument, + proof of service on Respondent, at least 14 days before term date. County Court may dismiss appeal if Appellant not so file. If defendant appeals, must serve District Attorney regardless whether D.A. ever appeared on Local Criminal Court case. Respondent shall then serve/file brief within 12 days. oral arguments not necessary unless so ordered. Application for re-argument shall be made within 30 days of service of determining order upon moving, together with Notice of Entry.

If Local Criminal Court should suppress evidence; dismiss case; set aside verdict/sentence; vacate judgment, etc... - where People can then appeal as of right - OR where People have informed Court of believe that sentence was legally invalid, and that they intend to appeal = Court shall advise defendant of: People's right to appeal; Defendant's right to counsel, pr to proceed pro-se; defendant's right to apply to Appellate Court for assigned counsel if cannot afford own; and that defendant must provide contact address to court and attorney.