

RULES OF PRACTICE FOR THE GENERAL SESSIONS COURT FOR KNOX COUNTY, TENNESSEE

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RULE 1. AUTHORITY AND ABROGATION OF FORMER RULES

The rules of General Sessions Court of Knox County, Tennessee, are adopted under the authority of Tenn. Code Ann. § 16-15-406 and § 16-15-714. All former rules are abrogated except as readopted herein.

RULE 2. CODE OF PROFESSIONAL CONDUCT

The ethical standards for the practice and the administration of law in General Sessions Court shall be governed by the *Tennessee Court Rules Annotated, Rules of the Supreme Court*, Rule 8, "Code of Professional Conduct."

RULE 3. GENERAL SESSIONS COURT RECORDS

The Clerk of Court of General Sessions, Criminal Division, shall be responsible for the custody, control, and safekeeping of all General Sessions Criminal court records and documents.

The Clerk of Court of General Sessions, Civil Division, shall be responsible for the custody, control, and safekeeping of all General Sessions Civil court records and documents

Only the Court Clerk or the Clerk's representative shall remove civil warrants, criminal warrants, or any other court documents from the courtrooms, or the clerk's office.

All written pleadings, orders, judgments, and executions shall be filed with the appropriate Court Clerk. Documents submitted for filing shall be in compliance with forms provided by the Clerk as to:

- a. Information contained
- b. Paper size
- c. Print size
- d. Color
- e. Number of copies

Documents not meeting these criteria will not be accepted for filing.

RULE 4. GENERAL SESSIONS COURT DOCKETS

The dockets for the criminal divisions of General Sessions Court shall be posted daily in a conspicuous place at the office of the Clerk of Court of General Sessions, Criminal Division, in the City-County Building. The dockets for the civil division of General Sessions Court shall be posted daily in a conspicuous place at the office of the Clerk of Court of General Sessions, Civil Division, in the Old Courthouse. Docket scheduling shall be done through the offices of the General Sessions Court Clerks, Criminal and Civil Divisions. Unless changed by the Presiding Judge because of necessity or convenience, the schedules of the courts are:

1. General Sessions Court operates five courtrooms Monday through Friday. First, Second, Third and Fourth Sessions Courtrooms are located on the main floor of the City-County Building. The Fifth Sessions Courtroom is located on the third floor of the Old Courthouse.
2. Courts open at 9:00 a.m. (except Bonded Arraignment Court) for the daily docket. A lunch recess may be taken at noon.
3. Misdemeanor Court is held in First Sessions Courtroom. The Domestic Violence docket is heard daily at the start of the misdemeanor docket.
4. DUI Court is conducted in Second Sessions Courtroom.
5. Felony Court is held in Third Sessions Courtroom. The Domestic Violence docket is heard on a priority basis. Drug cases are heard on Wednesday. The Compliance docket is held daily at 11:00 AM, at the Cost Collection Counter.
6. Cited Court is located in the Fourth Sessions Courtroom. This Court hears environmental cases as well as county ordinances and traffic dockets. Mental health hearings are conducted on Tuesday and Thursday afternoons at Lakeshore Mental Health Institute.
7. Civil Court is located in the Fifth Sessions Courtroom on the third floor of the Old Courthouse. Civil and Detainer cases are conducted in this Court. All collections cases should be scheduled for Monday or Wednesday. Detainer cases should be scheduled for Tuesday. Thursday and Friday are designated special hearing days. Mediation services (free of charge) are available for most cases and are conducted during court on the scheduled docket day.
8. Bonded Arraignment Court is held daily at 10:00 AM in the Fourth Sessions Courtroom.

RULE 5. COURTROOM DECORUM AND PROCEDURES

Each division of General Sessions Court shall have at least one (1) Court Officer, one (1) deputy clerk and one (1) computer clerk in attendance at all times while in session. The bailiff and other officers serving General Sessions Court shall be responsible for compliance to courtroom procedures and decorum.

At the opening of each session of court, everyone shall rise and remain standing until the bailiff formally opens the court. The area within the bar is reserved for the participants in the

case before the court, witnesses for the case, and court officers. All other people shall be seated outside of the bar.

The behavior of all participants, attorneys, witnesses, and spectators shall conform to strict standards of decency, dignity, etiquette, and propriety. Everyone shall remove hats, overcoats, raincoats, and sunglasses before entering the courtroom. Demonstrations, acts of misconduct, loud talking, or noise will not be permitted inside or outside the courtroom if it is near enough to interfere with or disrupt orderly court proceedings. Loitering, loafing, or congregating of spectators will not be permitted outside the courtrooms or in the halls adjacent to the courtrooms when court is in session.

While in the Courtroom, cellular/digital telephones and pagers shall not be utilized and shall be turned off or placed in an audio silenced mode.

The conduct and attire of all attorneys and court attendants shall conform to the professional dignity expected of officers of the court.

All attorneys shall note their representation on civil warrants and criminal warrants. Attorneys will insure the orderly behavior of their clients and be personally accountable to the court for all acts of misconduct or unruly behavior of their clients.

Attorneys shall rise and remain standing when addressing the court, making a statement, argument, or objection to the court or questioning a witness.

People conducting business with the court and their immediate relatives (i.e., spouses, children, parents, sisters, and brothers) shall occupy audience seats first.

When possible, people testifying for the defense should sit on the side of the courtroom directly behind the defendants and their attorneys;

People testifying for the prosecution should sit on the side of the courtroom directly behind the prosecutors.

The defendant shall be seated at the defense table during any hearing or trial, unless waived by the defendant in writing, and ordered by the presiding judge. Issues of identification shall be resolved with the court before any proceedings.

Spectators may use unoccupied seats on first come, first served basis. When all audience seats are filled, the bailiff shall not admit anyone into the courtroom without the court's permission. Standing will not be permitted in the audience unless absolutely necessary.

RULE 6. REPRESENTATION AND ATTORNEYS

Representation in General Sessions Court may be by licensed attorneys, attorneys representing legal entities, owners of single proprietorships or litigants representing themselves.

Attorneys representing litigants must be residents of and licensed to practice law in Tennessee pursuant to the *Tennessee Court Rules Annotated, Rules of the Supreme Court*, Rule 7 and qualified and registered with the State Board of Professional Responsibility pursuant to the *Tennessee Court Rules Annotated, Rules of the Supreme Court*, Rule 9.

Nonresident attorneys who do not wish to practice law regularly in Tennessee may be associated with a resident attorney in good standing. Then, as a matter of courtesy, nonresident attorneys may be allowed to appear in a case before the court without procuring a Tennessee license, after being introduced by the associated attorney, **if** all courts of the nonresident attorney's state grant a similar courtesy to attorneys licensed in Tennessee.

RULE 7. COURTROOM SECURITY

The Judge of each division of General Sessions Court shall require all persons entering the courtroom to consent to a search of their person and belongings to insure the safety of

participants, court personnel, and government property. Sheriff Deputies will deny admission into the courtroom of anyone refusing to be searched.

RULE 8. SECURITY OF CHAMBERS AND ADJACENT AREAS

The purpose of Court security access control measures is to prevent movement of unauthorized persons into the areas occupied by Judges of the Criminal Courts, General Sessions Courts and the Fourth Circuit Court. The Knox County Sheriff's Department shall enforce these policies and procedures to ensure the integrity of the secured area.

Access Methods and Procedures

1. Proximity Card

Access into the secured area can be gained by use of a proximity card which, when presented to a surface mounted card reader, will unlock the doorway into the area. All requests for proximity cards will be submitted, in writing, to the Court Security Committee. The Court Security Committee is comprised of the following members: Knox County Executive, Knox County Criminal Court Clerk, Knox County General Sessions Court Clerk, District Attorney General, Sheriff of Knox County and Presiding Judge. The Committee will review these applications and approve or deny. Upon approval, the Committee will submit a written request to the Public Building Authority authorizing them to activate and distribute the card. Authorization for these cards is generally limited to the Judges and their staff, court clerk personnel and employees of the Knox County Sheriff's Department who provide daily support services to the courts.

2. Photo Identification Badges

Photo identification badges will be available for issue to individuals frequenting the secured areas. These are only identification badges and are not affixed to a proximity card. The purpose of these identification badges is to identify individuals who have been approved to enter the secured area thereby expediting their access. The bearer must display the badge to the officer at the Entry Control Point. Upon seeing the badge the officer will release the door for entry. The badge must be displayed at all times while inside the secured area. Failure to comply with this requirement may result in verbal warning and/or expulsion from the secured area. The District Attorney General and staff, the Public Defender and staff, attorneys, Court mediators, State and County Probation Officers and media personnel will access the secured area by this method.

3. Visitor Badge

A person seeking access to the secured area but having neither proximity card nor an identification badge may request a numbered Visitor Badge from the officer on duty at the Entry Control Point. It is the responsibility of the officer to inquire as to which office the visitor wishes to access. The officer will admit the visitor only upon approval of the Judge or member of the Judge's staff with whom the person wishes to see. Under no circumstances shall a visitor be admitted inside the secured area without prior approval of a Judge or member of the Judge's staff. Log entries of all visitors into secured areas shall be maintained. It is mandatory that visitors properly display the Visitor Badge on their person while in the secured area. Upon exit, the visitor will return the badge to the officer at the Entry Control Point and be logged out. In the event a visitor fails to return

the Visitor Badge, the officer will attempt to contact the individual to whom the badge was issued and request return. Any visitor who fails to provide a proper explanation as to why a Visitor Badge was not returned may be denied future access into the secured area.

4. Media Personnel

Upon request, members of the media will be issued a photo identification card that will expedite their access into the secured area within one of the following procedures:

a. The officer at the Entry Control Point contacts the Judge or a member of the Judge's staff to authorize admittance.

OR

b. Each Judge within the secured area may issue a standing order allowing media personnel general access to their chambers. If media personnel request access under such an order, they must enter and exit through the Entry Control Point. The officer at the Entry Control Point shall allow entry into the secured area without contacting the Judge directly.

All members of the media shall properly display their photo I.D. badge while in the secured area. Failure to comply with this requirement may result in verbal warning, expulsion from the secured area and/or revocation of badge and privileges.

5. Special Instructions

Only persons with proximity cards can enter or exit the secured area at all entrances. All other persons must enter and exit through the Entry Control Point. In an emergency, all persons can exit the secured area by holding down the emergency panic bar for 15 seconds. The door will then release and activate the security alarm.

It shall be the responsibility of each authorized user to discourage and prevent "piggybacking" into the secured area by unauthorized personnel. Under no circumstances will an approved user allow entry by another on an authorized card reader activation. Should there be any questions as to an individual's authorization the approved user will direct the party in question to the nearest Entry Control Point. Only the bearer of the badge shall have access. No others shall be permitted to enter with the bearer of the badge.

It shall be the responsibility of the Bailiffs to ensure that access from the courtrooms into secured area does not occur. Any individual having a need to access the secured area from the courtroom must be approved for access by the Judge and be properly badged.

Uniformed law enforcement officer of this jurisdiction will be the only users of the secured area not required to display an identification badge, provided they are in uniform and display proper credentials.

In the event an issued badge is lost or stolen it must be immediately reported to the System Administrator. Failure to timely report this occurrence compromises the integrity of the system and can result in revocation of badge and privileges.

Upon termination or retirement, each badge holder shall return their badge to their supervisor. The supervisor or office holder is responsible for notifying the System

Administrator, in writing, when the status of an employee changes and ensure prompt return of the badge to the System Administrator.

RULE 9. CIVIL CASE DOCKETS

Civil cases shall be docketed not less than seven (7) days from the date of issuance of the civil warrant, unless an earlier date is agreed upon by all participants, or mandated by law.

Civil warrants filed on a pauper's oath shall be accompanied by a completed Affidavit of Indigency, which is available at the court clerk's office. The court may require the affiant to appear and answer questions before ruling on the application.

Motions to set installment payments on judgments and motions to stay executions of garnishments shall be filed in duplicate by the defendant or defense counsel, signed by the defendant and sworn to before a notary or the court clerk. The hearing will be set not less than five (5) days after the filing date, and a copy of the motion immediately mailed to the adversary party by the defendant or defense counsel.

Process shall be accomplished as soon as possible after receipt of the civil warrant by the serving officer and return made not less than five (5) days before the trial date to the court clerk, unless otherwise provided for by law.

Attorneys' preference to a particular day must be noted on the top of the civil warrant.

RULE 10. CIVIL CASE CONTINUANCES

When both parties fail to appear for a trial, the case will be continued and rescheduled for trial in five (5) weeks by the Court's motion. If neither party appears at the second scheduled trial, and the Clerk of Court of General Sessions, Civil Division, does not receive a request for a continuance from either party, the case shall be dismissed and costs assessed to the plaintiff.

The plaintiff's proof will be heard and a judgment entered by the court when the plaintiff appears and the defendant fails to appear at the first scheduled trial.

The defendant's proof will be heard and a judgment entered by the court when the defendant appears and the plaintiff fails to appear at the first scheduled trial.

The plaintiff may have a continuance to present evidence through witnesses in collection cases filed on sworn statements if a defendant enters a sworn denial in the present of the Judge on the trial date.

RULE 11. MEDIATION

Persons can request information on the Court's mediation program during initial contact with the Clerk of Court of General Sessions, Civil Division or a Judicial Commissioner. If any person wishes to exercise the mediation option, the Court Clerk or Judicial Commissioner will direct the requestor to the Sessions Court Mediation Director or the Community Mediation Center. If all parties in a case agree to mediation, the Court's Mediators will conduct the mediation process for these cases, whenever possible, prior to the scheduled court dates. Persons with settled mediated agreements will present them to the Court for review and appropriate disposition as per the mediated agreement. If the agreement is reached prior to the scheduled Court date, and Court is in session, the parties have the option of disposing of the matter on that date.

Criminal cases will be coordinated with and approved by the District Attorney General, Defense Attorney, Affiant(s)/Complainant(s), and Defendant(s) prior to being scheduled for mediation.

At the start of the Civil Sessions docket the Court will inform eligible cases of the mediation option. Mediators will present a mediation orientation each day in the civil sessions courtroom prior to the official opening of Court. Parties that are eligible and willing to mediate will be taken to the mediation work area. Mediation is voluntary and can be terminate by any of the parties or the mediators at any phase of the mediation process. When a mediated agreement is reached, the parties will return to Court and present the written agreement to the Judge for appropriate action. If the parties do not reach an agreement, but wish to continue mediating, the case will be reset through the Court Clerk. If an agreement cannot be reached, the parties and mediators will return to Court and the case will be called and disposed of in its turn.

Mediation is not a right and is subject to the availability of Court Mediators.

RULE 12. GARNISHMENTS

An execution may be issued only on the written garnishment application by the plaintiff, the plaintiff's attorney or agent of record.

Applications must:

- (1) Be completely filled out to be accepted by the court clerk.
- (2) Show the amount of the unpaid judgment for each case.
- (3) Interest may be claimed.

Garnishments shall be released on authorization of a judge or the court clerk.

The court clerk shall dismiss all garnishments at the plaintiff's cost when:

- (1) The amount sought is more than the amount owned.
- (2) The defendant shows proof of payment after judgment indicating a balance less than the amount sought; or
- (3) The docket or receipts indicate the plaintiff received monies and failed to pay court costs.

Second or subsequent Petitions to Pay by Installments shall be set for a court hearing to determine good cause. The court clerk shall not issue any Stay of Garnishment until the court determines good cause and approves the Petition to Pay by Installments.

Motions to stay executions of garnishments shall be:

- (1) Filled out in duplicate by the defendant or defense counsel.
- (2) Signed by the defendant.
- (3) Sworn to before a notary or the court clerk before filing.
- (4) May be set for hearing not less than five (5) days after the filing date.

The defendant or defense counsel must immediately mail a copy of the motion with the hearing date to the adversary.

All monies received through garnishments shall be paid to the Clerk of Court.

RULE 13. CRIMINAL CASE DOCKETS

All defendants have the duty to:

- (1) Know when they are scheduled to appear in court.
- (2) Appear at each hearing, trial setting, subsequent settings, trial, and report back dates.
- (3) Be physically present during each hearing or trial unless:
 - (a) Waived in advance by the defendant in writing.
 - (b) Ordered by the court.
- (4) Appear at each scheduled mediation session.

Failure to appear shall constitute contempt of court.

Issues of defendants' identification shall be resolved with the court before any proceedings.

All defendants shall behave in an orderly, dignified manner. Failure to do so may result in the removal of the defendant from the courtroom pursuant to the *Tennessee Court Rules Annotated, Rules of Criminal Procedure*, Rule 43.

As officers of the court, all attorneys shall be held accountable for the orderly behavior of their clients.

RULE 14. CRIMINAL CASE CONTINUANCES

The first time a case is set for trial it may be continued for good reason within the sound discretion of the Judge. The second or subsequent time it is set for trial it will be continued only for compelling reasons and reasons that will generally not be found to be compelling will include:

- (1) The client has not paid the fee;
- (2) The client has not been to see the attorney;
- (3) Lack of preparation;
- (4) Any other reason that was known or should have been known to the attorneys at the time of the first continuance.

Clerks of Courts are not authorized to grant continuances.

Motions for continuance will be acted upon in open court whenever practicable.

Witnesses shall be notified as far in advance as possible of any continuance granted by the court.

In ruling on continuances, consideration will be given to attorneys who communicate with opposing counsel in advance of the trial date, who move the court for continuance in advance of the trial date, and who communicate with the witnesses to prevent needless inconvenience. [Amended February 1, 2005; July 1, 2005]

RULE 15. COMPLIANCE DOCKET

The Court shall place criminal cases on a Compliance Review Docket after pronouncing judgment, if:

- (1) The defendant does not immediately pay into the Court Clerk's Office all fines levied and court costs assessed and due in full.
- (2) The defendant has been ordered into treatment, to make restitution, or must complete a program or school as a condition of probation.
- (3) The defendant has been placed on supervised probation.

If the defendant has been found by the Court to have a present financial inability to pay in full all fines and costs due, the Court may order the defendant to set up a pay plan with the Clerk's Office with a full payment by a date certain.

Failure of a defendant to make monthly payments or complete any other condition of probation as ordered may result in the defendant being charged with a violation of probation. The case shall be set back on the Court's regular docket for a hearing before the Judge sentencing the violation and may result in the defendant serving the jail sentence.

RULE 16. AUDIOVISUAL INITIAL APPEARANCE

Judicial Commissioners may conduct arrestee initial appearances using audiovisual equipment (closed-circuit television) located in the City-County Building Jail and at the Detention Facility.

Indigent Fund Orders:

- (1) Indigent fund order forms shall be completely filled out and include:
 - (a) the name of the appointing judge; and
 - (b) the signature of the appointed attorney.

[Effective December 1, 1995; amended effective December 1, 1996; July 1, 1998; July 1 2000; July 1, 2002; July 1, 2004; February 1, 2005; July 1, 2006]

RULE 20. JUDICIAL COMMISSIONERS

Initial application for a criminal warrant or criminal summons must be made to a Judicial Commissioner.

Judicial Commissioners may sign criminal warrants or criminal summons for prosecutions initiated by private citizens.

Bad check prosecutions may be initiated through the District Attorney General's Office.

Judicial Commissioners will not sign search warrants until the warrants have been reviewed and approved by the District Attorney General's Office.

Judicial Commissioners may conduct prisoner initial appearances using the interactive closed-circuit television link to the jail and the detention facility. [Amended effective July 1, 2004; March 22, 2006]

RULE 21. FEE PETITIONS FOR COURT APPOINTED ATTORNEYS

All fee petitions shall be submitted directly to the General Sessions Court's Judicial Administrative Assistant. A copy of the Order appointing counsel for an indigent defendant will be attached to the warrant provided by the Court Clerk to each appointed attorney. If the Public Defender is initially appointed but cannot represent the defendant due to a conflict of interest, the Order will be amended to correctly show the appointed attorney.

Claims for attorney fees submitted pursuant to Tenn. Code Ann. § 40-14-201, et seq., Tenn. Ct. Rules Ann., *Rules of the Supreme Court*, Rule 13, and 1983 Tenn. Priv. Acts 77, by attorneys appointed by the court to represent indigent criminal defendants shall be accompanied by:

- (1) The signed court order appointing them as legal counsel.
- (2) A completed order stating the Public Defender's office has a conflict of interest in the case.
- (3) A copy of the JIMS screen "Cases for Person - Detail."

Claims for attorney fees submitted pursuant to Tenn. Code Ann. § 33-3-503, Tenn. Ct. Rules Ann., *Rules of the Supreme Court*, Rule 15, and 1976 Tenn. Pub. Acts 763, by attorneys appointed by the court to represent indigent clients in proceedings under Chapter 3 through 8 of Title 33 of the *Mental Health Act*, shall be accompanied by a signed court order appointing them as legal counsel.

General Sessions Court Judges will not sign fee petitions unless they are accompanied by the above-required documentation.

Special Judges and Judicial Commissioners are not authorized to sign fee petitions.

[Amended effective July 1, 2004)

RULE 22. MEDIA COVERAGE

Pursuant to Tennessee Supreme Court Rule 30, the following procedures have been adopted by the General Sessions Court for Knox County in order to facilitate the media coverage contemplated by the rules.

1. Requests for Media Coverage

Media requests for coverage of a particular proceeding shall be made in writing to both the Presiding Judge and Clerk of Court not later than 4:30 PM on the third business day before the event to be covered. The Clerk shall immediately notify all counsel of record of the request for coverage.

2. Media Liaison

Upon receipt of a second media request for coverage of the same proceeding, the Court Clerk shall require the second medium to provide the name, business address, telephone number, and FAX number of the media liaison responsible for organizing all medium that wish to cover the proceeding. Failure of the media to name and cooperate with a media liaison may result in the prohibition of any photographic or recording equipment in the courtroom (except small hand held battery operated tape recorders.) The Clerk of Court shall immediately notify all counsel of record of the name, address, phone number, and FAX number of the media liaison.

3. Pooling Arrangements

Not later than 4:30 PM on the business day before the proceeding to be covered, the media liaison shall provide in writing, to the Presiding Judge, notice of the pooling arrangements that have been made. This shall include specific descriptions of all equipment intended for use in the courtroom, its intended location in the courtroom, and the name of each media entity that operate said equipment.

4. Operation of Equipment

All equipment should be battery powered to eliminate the use of wires, cables, and leads that pose a hazard for people to trip over. If the anticipated length of the proceeding is so great as to make battery powered equipment impractical, all wires, cables, and leads shall be placed against baseboards of walls, taped down, or otherwise placed to minimize or eliminate the hazard of tripping over them.

All equipment requiring installation shall be installed before the Court commences the proceeding to be covered. All equipment take down or dismantling shall take place during recess or after the Court has adjourned for the day.

All photographic equipment shall be situated so as to produce the point of view of the audience. Under no circumstances, unless expressly permitted by the Presiding Judge, are any cameras, still or otherwise, to be taken beyond the Bar of the Court.

5. Courtroom Decorum

All media personnel will conduct themselves quietly and respectfully in the Courtroom. In the event the Presiding Judge orders that a particular witness, juror, or other not be photographed, or that one or more cameras be turned off, said order will be followed without debate. Arguing with the Judge as well as disobeying the Judge will constitute grounds for terminating any or all photography of the proceeding.

6. Incorporation of Tennessee Supreme Court Rule 30

In all remaining aspects, media coverage of Courtroom proceedings shall be governed by the letter and intent of Tennessee Supreme Court Rule 30.

RULE 23. LEGAL ADVICE BY COURT PERSONNEL

All non-attorney Court personnel are prohibited from interpreting any rules of procedure or giving legal advice. Notice is hereby given to all persons that Court personnel assume no responsibility for any misinformation regarding substantive law, procedural rules, local rules or local customs.

RULE 24. REVIEW PROCEDURES IN THE EVENT JUDICIAL COMMISSIONERS DECLINE TO ISSUE CRIMINAL WARRANTS OR CRIMINAL SUMMONS FOR FAILURE OF PROBABLE CAUSE

It is the express purpose of this Rule to provide affiants, particularly law enforcement officers, and Judicial Commissioners, guidance and an orderly procedure for review and reconsideration when the Judicial Commissioner finds initially that probable cause doesn't exist to issue a criminal warrant or criminal summons in a particular case. It is also the Court's express intention to discourage "forum shopping" (ie: approaching multiple judicial commissioners or judges) when a particular Judicial Commissioner declines to issue a criminal warrant or criminal summons.

1. Criminal warrants, criminal summons, search warrants and seizure warrants are issued after a judicial proceeding that occurs upon application of the affiant to the Judicial Commissioner on duty. In the event the Judicial Commissioner, in the exercise of his or her independent judicial discretion, declines to issue the criminal warrant or criminal summons for lack of probable cause, the affiant may not re-apply to the same or another Judicial Commissioner until after the following conditions are met:

- a) The affiant shall consult with the District Attorney or his or her assistant who may be available and on duty at the time, and shall conduct whatever additional fact-gathering or investigation the District Attorney or his or her assistant recommends prior to approaching the Judicial Commissioner for the second time;
- b) The District Attorney shall indicate, by conference with the Judicial Commissioner, either in person or by telephone, that the District Attorney has reviewed the allegations with the affiant, that the state intends to prosecute the case, and that based on their review they believe probable cause exists to allow the criminal warrant or criminal summons to issue;
- c) The affiant shall volunteer the information to Judicial Commissioners that the affiant is applying for a warrant to issue for the second time based on the same incident.

2. If, after the above procedures are followed, the Judicial Commissioner still believes that probable cause doesn't exist, the affiant may apply to one Sessions judge to seek out issuance of the criminal warrant or criminal summons, with the assistance of the District Attorney or his or her assistant, who shall confer with the judge as described in (1)(b) above; the judge responsible for supervising Judicial Commissioners is to be contacted for this purpose, and only in the event that that judge is unavailable shall any other judge be contacted.

3. In the event the law allows for discretion to issue a criminal warrant or criminal summons, and the affiant disagrees and believes the Judicial Commissioner chose the charging instrument which is inappropriate under the circumstances, the decision to issue a criminal warrant or criminal summons is, nevertheless, not subject to review.
4. Under no conditions shall it be appropriate for any affiant to approach a Judicial Commissioner three or more times to request that a criminal warrant or criminal summons issue based on the same facts.
5. In all contacts between affiants and Judicial Commissioners, the proceedings shall be conducted with the decree of civility, professionalism and mutual respect as befits a judicial proceeding.
6. Any party seeking to video or audio record any proceeding before a Judicial Commissioner shall first obtain approval from the Judicial Commissioner presiding; such permission shall not be unreasonably withheld, however. [Revised June 3, 2004]