

TRANSFER OF MISDEMEANOR CASES

BETWEEN CENTRAL COURTHOUSE AND EAST COUNTY COURTHOUSE

ORS 3.014 governs assignment of cases in Multnomah County and provides as follows:

Special provisions for fourth judicial district (Multnomah County).

- (1) One of the judges of the fourth judicial district shall hold court in the City of Gresham, Multnomah County, as directed by the Chief Justice of the Supreme Court but in no event less than one day a week. All proceedings resulting from alleged state traffic offenses or misdemeanors occurring east of 122nd Avenue extended to the north and south boundaries of Multnomah County shall be conducted in the court in Gresham unless the accused at first appearance in each action requests trial in Portland.

- (2) A proceeding to be conducted in Gresham as provided in subsection (1) of this section shall be transferred without further order of the court to a court facility in Portland for all purposes if:
 - (a) The accused person is in the custody of a county sheriff or the Department of Corrections at the time set for any scheduled proceeding; or
 - (b) A circuit court in the fourth judicial district issues a bench warrant or a warrant of arrest against the accused for any criminal action pending before the court.

- (3) Multnomah County shall provide facilities in the City of Gresham for a court judge to hold court as described under subsection (1) of this section.

PROCEDURES PURSUANT TO ORS 3.014:

Based on the requirements of the statute, the Court will make assignments for all misdemeanor cases in which the charges arise from an incident occurring east of 122nd Avenue¹ as follows:

- I. **People cited to appear at the East County Courthouse:**

Assignment shall be made to the East County Courthouse for all purposes. Assignment may be made downtown to the Central Courthouse² if at the time of the initial appearance, defendant or the defense attorney requests the matter be set downtown

- II. **People arrested and released to appear for a Justice Center arraignment:**
 - A. People not in custody includes people who have bailed out or have been released by the DCJ recog unit and appear at the initial appearance out of custody.
 - B. Assignment of dates for out of custody defendants shall be made to the East County Courthouse.

¹ For most purposes, "East of 122nd" begins at the east side of the street where the street meets the sidewalk.

² "Downtown" includes either the Central Courthouse or Justice Center as applicable.

- C. If a setover of the arraignment is requested to hire an attorney or to accommodate a later entry into DUII diversion, arraignment may be setover to occur at ECC, currently set on Tuesdays at 1:30 p.m. Otherwise, arraignment will proceed at the Justice Center.
- D. Assignment of dates is made downtown to the Central Courthouse if at the time of the initial appearance, defendant or the defense attorney requests the matter be set downtown.

III. **People in custody at the time of initial appearance:**

Assignment of dates shall be downtown even if the person would be out of custody at the time of the next court date. An initial appearance counts as an appearance in custody even if defendant is not arraigned at the initial appearance.

IV. **Proceedings held in Gresham:**

- A. For cases falling under ORS 3.014, all post-arraignment proceedings up to and including sentencing are to be held at the East County Courthouse. For people sentenced to formal probation, probation intake is to occur in Room 232 of the Multnomah County Courthouse. For people participating in a treatment court, the Treatment First docket, or the Ex-DUII docket, sentencing may be setover before the judge presiding over that docket if the parties agree.
- B. The District Attorney's office will designate at the time of initial appearance which domestic violence cases result from offenses occurring east of SE or NE 122nd Ave.
- C. For trials that will last longer than two days, assignment should be made on the first week of the month during which a downtown judge is assigned to ECC to hear any pending cases. In the event of a conflict between a civil trial and a criminal trial, ECC will contact Presiding Court, who will make the decision regarding priority.

V. **People who fail to appear at any East County Courthouse proceeding:**

- A. Upon a person's failure to appear, an ECC judge may in their discretion issue a bench warrant, order an "appearance or bench warrant," for a future date at ECC, or issue a citation in lieu of a warrant (cite in lieu) that can summons the defendant to a new date at ECC. However, the court shall not order an "appearance or bench warrant" or "cite in lieu" if the court is aware the defendant is in custody or has any pending bench warrants or arrest warrants.
- B. Upon issuance of a bench warrant, that case will be transferred back downtown without further order of the court. A warrant is considered "issued" once it is signed and filed. Upon execution of the warrant, the case will receive dates downtown. A case in which a warrant has issued at any time may not be referred back to ECC.
- C. An officer serving a cite in lieu may issue a date to appear at ECC. However, the case must be assigned downtown if the person is arrested on any other case or if the officer or court is aware the defendant has any pending bench warrants or warrants of arrest.

- D. If the defendant is requesting a warrant lift:
 - 1. No warrant lifts may occur at ECC.
 - 2. If the rules otherwise permit, ECC may set a date at CPC or Community Court downtown for defendant's motion to vacate the warrant. Thereafter, the case is to be assigned court dates downtown.
 - 3. A court has discretion to vacate a "cite in lieu" and assign future dates at ECC. However, a court may not vacate the cite in lieu if the court is aware the defendant is in custody or has any pending bench warrants or arrest warrants.

VI. People in custody on any case at the time of a scheduled hearing at ECC:

- A. If the court learns that a defendant is or will be in Multnomah County custody at the time of the scheduled ECC hearing, any case scheduled for that time shall be transferred back downtown. Court staff will assign the case/cases to downtown CPC court for new dates or may set the case on the same day as the Trial Readiness date for a new case. No case may be setover for another appearance at ECC pending the defendant's release from custody.
- B. If the court is notified at the time of the scheduled hearing that the defendant is in custody in any other county or is in state or federal custody, the court may issue a warrant, or upon determining there is a known release date, may assign the case/cases to downtown CPC court for new dates. No case may be setover for another appearance at ECC pending the defendant's release from custody.
- C. For purposes of setting dates, attorneys need not wait for the scheduled time of the hearing and may appear before the ECC judge for an ex parte hearing at 2:30 on Tuesdays.
- D. If a warrant issues based on defendant's failure to appear, follow the process set forth in Section V.

VII. People in warrant status on any Multnomah County case who also have an open case at ECC:

- A. If any Multnomah County judge issues a bench warrant or warrant of arrest on any case against the defendant, any open East County Courthouse case will be transferred downtown without further order of the court upon the court learning or being notified of the warrant. If the person fails to appear at a scheduled ECC proceeding, the court may follow the process set forth in Section V, however the court shall not issue an appearance or bench warrant if the court is aware the defendant is in custody or has any pending bench warrants or warrants of arrest.
- B. Upon intake of any new custody case, defense attorneys should check for whether there are any open ECC cases. Attorneys may request the CPC court or the ECC judge presiding over the FP docket on Tuesdays at 2:30 to set dates on the new case downtown.

- C. The court, upon learning a defendant was taken into custody on a subsequent case, even if defendant was subsequently released, shall transfer the open ECC case downtown.

VIII. Court operations staff will develop the necessary dockets and procedures to effectuate these processes, which may include:

- A. Procedures for designating which cases are to be assigned to East County Courthouse.
- B. Processes for transferring cases back to the Central Courthouse or Justice Center based on custody status or warrants.
- C. Creation of dockets or hearings for FP or other procedural matters related to ECC cases.
- D. Procedures and forms required for defendants to enter Expedited DUII pleas at East County Courthouse.
- E. Procedures and forms required for defendants to enter DV DSP pleas and to appear for status checks at East County Courthouse.
- F. Procedures for scheduling trials expected to last longer than two days.