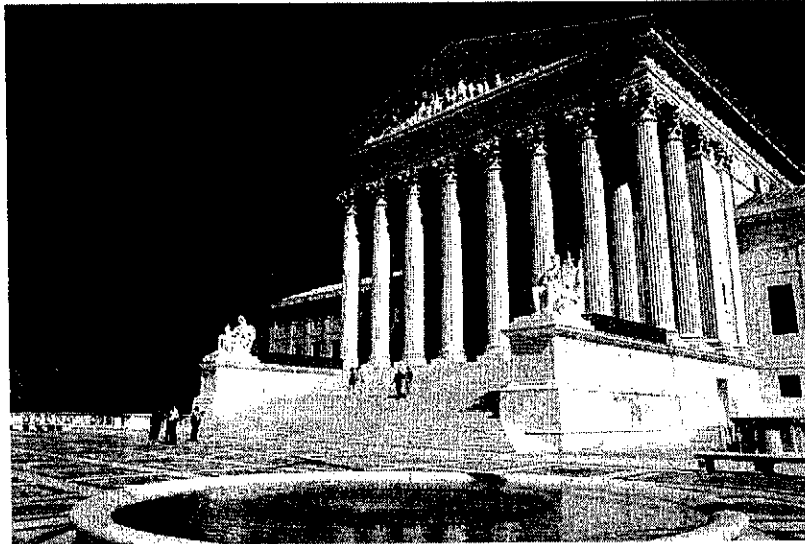


WASHINGTON COUNTY CIRCUIT COURT



EARLY CASE RESOLUTION PROGRAM (ECR)

July 11, 2008

WASHINGTON COUNTY CIRCUIT COURT

UPDATED: EARLY CASE RESOLUTION (ECR) PROGRAM

The goal of the Early Case Resolution Program is the swift, efficient, and fair resolution of new criminal cases deemed eligible by the District Attorney's Office, along with certain probation violation matters. The District Attorney's Office (DA), Defense Counsel, the Probation Office, and a court cashier will all be available at the Law Enforcement Center (LEC) to facilitate this process.

MORNING DOCKET AND OUT OF CUSTODY ARRAIGNMENTS

The LEC docket breakdown will be as follows:

- 8:15am Overflow ECR pleas and other LEC court matters.
- 8:30am Arraignment for out of custody defendants.

Court staff will make sure that all defendants on the 8:15am docket are present in the courtroom. This 8:15am docket is expected to start at 8:30am.

Out of custody defendants will arrive at 8:30am for arraignment. Verifiers will seek out ECR eligible defendants. If a defendant is ECR eligible and has retained counsel, negotiations with the DA may begin immediately. If defendant and retained counsel reject the ECR offer, or request an ECR set over, or if defendant is **not** ECR eligible and has retained counsel, then court staff will seek out the defendant and retained counsel for arraignment immediately after the 8:15am docket and before the out of custody advice of rights.

Out of custody defendants will be split into two groups, A and B. Group A will be defendants who are **not** eligible for ECR. Group B will be defendants who are eligible for ECR. The main reason for this delineation is to facilitate arraignments. Defendants will be scattered in the hall between the time of their arrival and when they are called into court. When it is time to distribute paperwork, call roll and play the video rights, court security will make an announcement in the hall that defendants in group A should enter the courtroom. Those in Group B will be told by their attorney's or court security when they should enter the courtroom. If a defendant is eligible for ECR but waives their right to counsel, or is not eligible for court appointed counsel, or has retained counsel who is not present at arraignment, the defendant will be moved to group A.

(Note: ECR eligible defendants who are represented by counsel at arraignment will be expected to waive reading of the charging instrument and advice of rights.)

At approximately 9:00am the Probation Office will e-mail the LEC Judge a list of defendants on probation who are on the docket and a suggested resolution of their cases.

At approximately 9:15am, defendants in Group A will enter the courtroom. Court staff will distribute paperwork and conduct roll call. The video rights will be played after roll call. The Judge will take the bench after the video at approximately 10:00am and the docket will usually be called in this order:

- ◆ Non-eligible ECR defendants
- ◆ ECR eligible defendants who are **declining** the DA's ECR offer.
- ◆ ECR eligible defendants who are **requesting a continuance** of the proceeding.
- ◆ ECR eligible defendants who are **accepting** the DA's ECR offer and will enter a plea and be sentenced.
- ◆ ECR eligible defendants who failed to appear.

VERIFIER'S PREPARATION OF OUT OF CUSTODY ECR DOCKET:

The Court Appointed Attorney (CAA) firms will pick up the discovery at the DA's Office at 11:30am the day prior to arraignments based on the submitted rotation schedules. Discovery will be distributed to the CAA firms randomly but the number of cases will be based on percentages per contract.

The out of custody docket will be finalized by approximately 3:00pm the day prior to arraignments. Each case that is ECR eligible will be noted on the docket. The verifiers will then research each day's out of custody docket to check for conflicts. Defense counsel will submit a list of cases for which they have received discovery to the verifiers by 4:00pm the day prior to arraignments.

The verifiers will attempt to process all ECR eligible defendants first. Defense counsel can begin working with clients after CAA applications are submitted. The verifiers will check for eligibility. If defendant qualifies for CAA, the order appointing will be signed when the defendant is before the Judge. If defendant does not qualify for CAA, court staff will notify defense counsel. Defense counsel will stop working with defendant and defendant will be moved to Group A. The defense counsel will then return the discovery to the DA's Office.

NON-ELIGIBLE ECR DEFENDANTS:

Arraignments for non-eligible ECR defendants will proceed as in the past. Whatever appearances are appropriate to set for each case will be set in accordance with current procedures.

ECR ELIGIBLE DEFENDANTS:

Defendants who **decline** the DA's ECR offer will have a not guilty plea entered and the matter will be set for case assignment and trial, or the case will be set for a Preliminary Hearing if the Preliminary Hearing is not waived.

Defendants who are **unsure** regarding the DA's ECR offer at the time of arraignment will enter a not guilty plea and the court will set an appearance approximately two **Mondays** out at **1:30pm** (referred to as an ECR set over). Also, case assignment and trial dates will be set. If the charging document is a Complainants Information, the defendant will waive the Preliminary Hearing and is arraigned on a D.A. Information to enter the not guilty plea. If the case will resolve according to the DA's ECR offer, the appearance approximately two Mondays out will be used as the time for a change of plea and sentencing. At arraignment, counsel should set an appointment to meet the defendant prior to the ECR conference to discuss the ECR offer. If defense counsel determines that the case is not going to settle at the ECR Conference, counsel **SHALL** cancel the ECR appearance by calling the calendaring office before the ECR Conference. Counsel **SHOULD NOT** appear at the ECR Conference and at that time **REJECT** the ECR offer.

Defendants who **accept** the DA's ECR offer and want to resolve the case will be given the appropriate plea petition. If defendant is represented by counsel, the standard three page plea petition should be used. If defendant wants to waive the right to counsel, the one page pro-se plea petition should be used with the waiver of counsel form.

Ideally, all ECR eligible defendants who want to resolve their cases will be sentenced that day. The court will hear pleas on a first come first served basis and will alternate between the two members of defense counsel working that day. If the court runs out of time, the court will set over the arraignment and plea at LEC or at the courthouse.

When the out of custody docket is too large to complete all the ECR cases and another Judge at the Courthouse has been assigned to handle the arraignments and pleas, a General Purpose Order (GPO) will be generated resetting the arraignment and plea. Arraignment will take place before the Judge hearing the plea. If booking is necessary it will occur at the main courthouse. The GPO order will instruct the defendant to report to the appropriate Courtroom at a time that has been set for the arraignment and plea.

AFTERNOON DOCKET AND IN CUSTODY ARRAIGNMENTS

The LEC docket breakdown will be as follows:

- 1:30pm Overflow ECR pleas and other LEC court matters.
- 3:00pm Arraignment for in custody defendants.

Jail staff will have all in custody defendants taken to the LEC holding area at or before 11:30am. Court Security will provide each defendant a court appointed attorney form. Once completed, Court Security will review the forms to ensure they are filled out correctly, and will deliver the completed forms to the Verification Office and act as a liaison, if the verifiers need any additional assistance. A Sheriff's Office Corporal will ensure the verifiers are getting all required forms in a timely manner.

Defendants will be split into two groups, A and B. Group A will be defendants who are **not** eligible for ECR. Group B will be defendants who are eligible for ECR. The DA's Office will provide a list of eligible defendants by 10:00am to the court. The court will distribute the list to jail staff. From this list jail staff will bring ECR eligible defendants to the Jail Lobby area where they are accessible to defense counsel by 1:30pm.

The in custody arraignment docket will be called in this order:

- ◆ Non-eligible ECR defendants
- ◆ ECR eligible defendants who are **declining** the DA's ECR offer.
- ◆ ECR eligible defendants who are **requesting a continuance** of the proceeding.
- ◆ ECR eligible defendants who are **accepting** the DA's ECR offer and will enter a plea and be sentenced.

VERIFIER'S PREPARATION OF IN CUSTODY ECR DOCKET:

The CAA applications collected by the jail will be submitted to the verifiers by 11:00am. When the forms have been submitted to the Verification Office, the verifiers will research all ECR eligible cases for conflicts and process those attorney applications first.

The CAA firms will pick up the discovery at the DA's Office at 11:30am the day of arraignments based on the submitted rotation schedules. Discovery will be distributed to the CAA firms randomly but the number of cases will be based on percentages per contract.

The CAA firms will contact their ECR clients at approximately 1:30pm each day. Before counsel meet with their clients, they will submit a list of the cases for which they have received discovery to the verifiers.

NON-ELIGIBLE ECR DEFENDANTS:

Arraignments for non-eligible ECR defendants will proceed as in the past. Whatever appearances are appropriate to set for each case will be set in accordance with current procedures.

ECR ELIGIBLE DEFENDANTS:

Defendants who **decline** the DA's ECR offer will have a not guilty plea entered and the matter will be set for case assignment and trial, or the case will be set for a Preliminary Hearing if the Preliminary Hearing is not waived.

Defendants who are **unsure** regarding the DA's ECR offer at the time of arraignment will enter a not guilty plea and the court will set an appearance approximately two **Mondays** out at **1:30pm** (referred to as an ECR set over. Also, case assignment and trial dates will be set. If the charging document is a Complainants Information, the defendant will waive the Preliminary Hearing and is arraigned on a D.A. Information to enter the not guilty plea. If the case will resolve according to the DA's ECR offer, the appearance approximately two Mondays out will be used as the time for change of plea and sentencing. At arraignment, counsel should set an appointment to meet the defendant prior to the ECR conference to discuss the ECR offer. If defense counsel determines that the case is not going to settle at the ECR Conference, counsel **SHALL** cancel the ECR appearance by calling the calendaring office before the ECR Conference. Counsel **SHOULD NOT** appear at the ECR Conference and at that time **REJECT** the ECR offer.

Defendants who **accept** the DA's ECR offer and want to resolve the case will be given the appropriate plea petition. If defendant is represented by counsel, the standard three page plea petition should be used. If defendant wants to waive the right to counsel, the one page pro-se plea petition should be used with the waiver of counsel form.

Ideally all ECR eligible defendants who want to resolve their cases will be sentenced that day. The court will hear pleas on a first come first served basis and will alternate between the two members of defense counsel working that day. If the court runs out of time, the court will set over the plea and sentencing at LEC or at the courthouse. Any further overflow will be set the following **Monday at 1:30pm** at the courthouse.

PROBATION VIOLATION MATTERS

Probation violation Show Cause Arraignments on bench probations involving failure to complete Community Service, failure to pay fines, and failure to attend Theft Talk will be set at 1:00pm on Tuesdays, Thursdays, and Fridays on the Position One docket. All other probation violation Show Cause Arraignments will be set at 8:30am in LEC. Defendants who are arrested on probation violation warrants and released from jail before arraignment will be scheduled to appear at 8:30am at LEC. The defendant's release agreement will reflect this next court date.

A Probation Officer reviews the in custody cases with the Judge prior to the 3:00pm Arraignments. This assistance allows the court to resolve some of the formal probation violation matters at arraignment.

There are several scenarios that can play out for defendants with probation violation matters at LEC. A short list of those scenarios is as follows:

- ◆ Defendant has only **bench** probation and no new charges, the court will attempt to resolve these cases.
- ◆ Defendant has only **formal** probation and no new charges, the court will attempt to resolve on a case by case basis with the help of the Probation Office. If the court is unable to resolve the case, it will be set for a probation violation hearing.
- ◆ Defendant has non-eligible ECR charges and has bench or formal probation, the court will probably set a probation violation hearing.
- ◆ Defendant has eligible ECR charges and has bench or formal probation, the court will attempt to resolve on a case by case basis. If the court is unable to resolve, the case will be set for a probation violation hearing.

DUII DIVERSION ELIGIBLE DEFENDANTS:

In and out of custody defendants who are eligible for the DUII diversion program will be arraigned, given advisory counsel (or court appointed counsel if there are additional charges), and given a diversion appearance in the normal course. Court staff will mark the "DUII Advisory Counsel" box on the GPO. All defendants who use DUII Advisory Counsel or decide to represent themselves will be scheduled for 9:00am on the diversion entry date. If defendant has retained counsel or has court appointed counsel, the diversion entry appearance will be scheduled for 1:30pm.

Defendant will fill out the diversion petition and a verifier will swear defendant to the petition. Defendant will be given the next court date and court staff will forward sworn diversion petitions to the traffic department for processing.

Historically defendants have been told to complete the diversion petitions and turn it in at the traffic counter where traffic staff swore defendants to their petitions. Because traffic arraignments are now at LEC, defendants will be encouraged to submit their petitions to the verifiers, who will swear defendants to their petitions.



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Structure of Washington County Early Case Resolution

We looked at all the crimes we charge and created a list of eligible cases, primarily misdemeanors (approx. 75%) and low level felonies; all drug possession cases are included (the list is attached). Our list projects about 4000 new cases this year (plus about 2000 probation violations). The only exclusion is if you have a pending non ECR case in our county, although a case can be removed from the program by the charging DA. ECR cases are fast tracked through the office-both in custody and out of custody.

EXAMPLE: An in custody Theft 1 (C felony) would progress through our office as follows:

1. Jail log created and case identified as ECR eligible based upon the arrest that the officer made;
2. Reports to office and DDA reviews and makes charging decision; if the theft 1 is charged, the attorney prepares in initial charging document (complainant's information), a charging document is created in case defendant waives preliminary hearing (district attorney's information) and a plea offer (plea offers are standardized for ECR although the charging attorney has the authority to make any offer as they deem fits the case and the ECR DDA retains the authority to alter any plea offer.). Goal for completion of all in custody intake is 11:30 am
3. Discovery is prepared along with plea offer and charging document and made available for pick-up at DA's office by ECR defense counsel (11:30 am is the goal).
4. The file goes to Victim Assistance for victim contact and determination of restitution. Sheet created for ECR attorney and court if restitution sum is determined and includes victim input info (DA sheet only).
5. At 1pm ECR attorney collects ECR files for court and goes to the ECR workroom outside the courtroom to meet with ECR defense counsel as needed. Cases are reviewed by the ECR attorney, including any probation violations that may be associated with the defendant and the probation department provides info about all PV cases The ECR DDA prepares the felony DA's information anticipating that the ECR def will waive preliminary hearing and plea.
6. At 3pm arraignments begin, non ECR cases go first to allow defense counsel to continue to meet with clients. ECR def's plead guilty, ask for an ECR set over or reject the program. ECR set-overs and rejections receive trial dates. Data entry is completed on the cases at the time of appearance in court.

The process for out of custody (citations and recogs) is similar with an extended time frame. Charging documents, plea offer and intake are required to be completed by the DDA 4 days prior to arraignment, victims assistance get the case for two days, discovery is ready to ECR def counsel the day before arraignment.

CRIMES ELIGIBLE FOR PROPOSED EARLY CASE RESOLUTION (ECR) PROGRAM

(Sorted by Statute Number)

Statute	Charge	Felony/Misd			
			323482	Unlaw Distrib Cigarettes	M
			339020	Unlaw Maintain Child School	M
162315	Resist Arrest	M	411630	Unlaw Obtain Public Assist	F
162375	Initiate False Report	M	411840	Unlaw Use Food Stamps	F
162385	False Info to Police on Cite	M	443725	Op Unlicensed Care Facility	M
163195	Reckless Endangering	M	466100	Unlaw Disposal Haz Waste	M
163208(1)	Assault on Police Ofc.	M	468943	Water Pollution 2	M
163245	Custodial Interference 2	M	468951	Environmental Endangerment	F
163709	Point Laser Light at Officer	M	471360	Serve Alcohol w/o Permit	M
164043	Theft 3	M	4714101	Furn Liquor Intox Person	M
164045	Theft 2	M	4714102	Furn Liquor Minor - Misd	M
164055	Theft 1	F	4714103	Furn Liquor Minor - Viol	M
1641255a	Theft of Services <\$50	M	4714301	Minor Poss/Purch Liquor	M
1641255b	Theft of Services \$50-\$749	M	4714303	Minor Enter Liq Premises	M
1641255c	Theft of Services \$750-\$9999	F	471475	Unlic Serve Liquor	M
164135	UUV	F	471478	Remove Keg ID	M
1641404a	Crim Poss Rent Prop <\$500	M	475981	Falsify Drug Test Records	M
1641404b	Crim Poss Rent Prop >\$500	F	475991	Del Imitation Control Subst	M
164162	Mail Theft	M	475994	Obtain CS Unlawfully	M
1641621e	Receive Stolen Mail	M	4759992b	PCS MJ near School	M
164215	Burglary 2	F	476715	Throw Lighted Material	M
164235	Poss Burglary Tools	M	477740	Unlaw Use of Fire	M
164245	Crim Trespass 2	M	477515	Burn in Restricted Area	M
164255a	Crim Trespass 1	M	478960	Unlaw Burn Commmerc. Waste	M
164255b	Crim Trespass 1 - reentry	M	480120	Unlaw Sale/Use Fireworks	M
164272	UEMV	M	496162	Fish & Game Violation	M
164345	Crim Mischief 3	M	496162a	Fish & Game Misd	M
164354	Crim Mischief 2	M	4961621a	Take F/G Prohib Method	M
164365	Crim Mischief 1	F	496695	Aid in F/G Violation	M
1643772	Unlaw Use Computer	F		All Fish & Game	M
164383	Unlaw Apply Graffiti	M	607045	Livestock at Large	M
164386	Unlaw Poss Graffiti Implmt	M	624320	Opr Commissary/Vend No Lic	M
1647751	Deposit Trash Near Water	M	6471251	Countrft Mark/Manuf/Sel-Mis	M
1647752	Deposit Trash In Water	M	647150	Trademark Counterfeit 1	F
1647851	Place Pollution Sub in Water	M	7010551	Contract w/o Registration	M
1647852	Place Poll Sub Highway/Prop	M	701990	No Valid Builder Registr	M
164805	Offensive Littering	M	803230	Forged Title or Registration	F
164813	Cut/Transp Spec Forest Prod	M		ALL TRAFFIC	M
164865	Unlaw Sound Recording	M	803505	Fail Carry Registration Card	M
164868	Unlaw Label Sound Recrdng	F	803540	Fail Display License Plate	M
165007	Forgery 2	M	803550	Illegal Alter/Display Plates	M
165013	Forgery 1	F	806010	Driving Uninsured	M
165017	Poss Forged Instr 2	M	806012	Fail Carry Proof Insurance	M
164022	Poss Forged Instr 1	F	806050	Falsify Finan. Responsibility	M
165032	Poss Forgery Device	F	8060501	False Cert Finan Resp	M
1650554a	Fraud Use Credit Card <\$750	M	806055	False Liab Ins Info to Police	M
1650554b	Fraud Use Credit Card >\$750	F	8070101	No Op License	M
1650653a	Negotiate Bad Check Misd	M	807430	Misuse ID Card	M
1650653b	Negotiate Bad Check Fel	F	807520	False Swear to Receive Lic	M
165070	Poss Fraud Commun Device	F	807530	False Application DL	M
165107	No Metal Purchase Records	M	807570	Fail Carry/Present ODL	M
165540	Obtain Contents Communic	M	807580	Use Invalid License	M
165570	Improper Use of 911	M	807590	Lend ODL to Another	M
165572	Interfere w/ Making Report	M	807600	Use Another's ODL	M
165692	False Claim Health Care Pymt (Identity Theft deleted from list)	F	807620	False Info to Police	M
			809500	VBR	M
165805	Misrep Age by Minor	M	811135	Careless Driving	M
165813	Unlaw Poss Fictitious ID	F	811140	Reckless Driving	M
166025	Disorderly Conduct	M	811150	Interf w/ Emergency Veh	M
166076	Abuse of a Memorial	M	8111823	DWS Felony	F
166090	Telephonic Harassment	M	8111824	DWS Misd	M
166095	Miscond Emerg Phone Call	M	8111824R	DWR Misd	M
166116	Interfere Public Transportation	M	811182FR	DWR Felony	F
1662201b	Unlaw Discharge Weapon	F	811265	Fail Obey Traffic Control Dev.	M
166240	Carry Concealed Weapon	M	8115401b	Attempt to Elude - Foot	M
166250	Unlaw Poss Weapon	M	811700	Hit & Run - Misd.	M
166385	Poss Hoax Destr Device	M	819300	Possess Stolen Vehicle	F
166425	Unlaw Purchase Firearm	M		PCS Meth	F
166429	Furnish Firearm/Further Fel	F		PCS Cocaine	F
166450	Obtnt ID Marks Firearm	F		PCS Heroin	F
167007	Prostitution	M		PCS MJ	F
167212	Tamper w/ Drug Records	F		PCS MJ <oz	V
167222	Freq Place Cntrld Sub Used	M		PCS Ecstasy	F
167340	Animal Abandonment	M		PCS Sched 1	F
167385	Unauth Use Livestock	M		PCS Sched 2	F
1678085a	Unlawful Inhalent Use	M		PCS Sched 3	M
3140752	Make False Tax Return	F		PCS Sched 4	M
3234802	Distrib Cigarettes w/o License	F		PCS Sched 5	M