

# TABLE OF CONTENTS

## Volume I: Criminal and Traffic

|             | <b>Page</b>  |
|-------------|--|
| <b>CR 1</b> | <b>Victims' Rights</b>   |
| 1.          | Selected Definitions..... CR 1-1   |
| 2.          | Constitutional Rights ..... CR 1-2   |
| 3.          | Consultation Requirements ..... CR 1-3   |
| 4.          | Court Action..... CR 1-3   |
| 5.          | Standing..... CR 1-4   |
| <br>        |  |
| <b>CR 2</b> | <b>Interpreters</b>  |
| 1.          | When Should an Interpreter Be Appointed? ..... CR 2-1                            |
| 2.          | Suggested Voir Dire to Establish Need for an Interpreter ..... CR 2-2            |
| 3.          | Who Is a Qualified Interpreter? ..... CR 2-3                                     |
| 4.          | Interpreter Oaths ..... CR 2-4   |
| 5.          | Costs of Interpreters ..... CR 2-4   |
| 6.          | Use of Interpreters ..... CR 2-5   |
| 7.          | Introducing Recorded Evidence in English or<br>Non-English Language ..... CR 2-8 |
| 8.          | Court Interpreter Code of Ethics..... CR 2-9                                     |
| 9.          | Suggested Voir Dire of Interpreter Qualifications ..... CR 2-10                  |
| 10.         | Jury Instructions..... CR 2-11   |
| <br>        |  |
| <b>CR 3</b> | <b>Counsel</b>   |
| 1.          | Right to Counsel ..... CR 3-1  |
| 2.          | Appointment of Counsel..... CR 3-3   |
| 3.          | SPD Appointment of Counsel ..... CR 3-4  |
| 4.          | Judicial Appointment of Counsel ..... CR 3-4                                     |
| 5.          | Managing Conflict of Interest..... CR 3-6  |
| 6.          | Procedure for Ct Determination of Indigency ..... CR 3-7                         |
| 7.          | Substitution or Discharge of Counsel ..... CR 3-9                                |
| 8.          | Waiver of Right to Counsel..... CR 3-10  |
| 9.          | Standby Counsel..... CR 3-13   |
| 10.         | Out-of-State Counsel..... CR 3-13  |
| <br>        |  |
| <b>CR 4</b> | <b>Remote Proceedings</b>  |
| 1.          | Live Audiovisual/Telephonic Proceedings ..... CR 4-1                             |
| 2.          | Requirements of Videoconferencing Technology ..... CR 4-2                        |

|    |   |        |
|----|---|--------|
| 3. | Criteria to Consider When Ct Exercises Discretion to Allow Videoconferencing Technology ..... | CR 4-3 |
|----|---|--------|

**CR 5 Public Trial**

|    |   |        |
|----|---|--------|
| 1. | Open Court in General .....                   | CR 5-1 |
| 2. | Right to Attend .....                         | CR 5-1 |
| 3. | Motion to Close Pretrial Proceedings .....    | CR 5-2 |
| 4. | Restriction of Extrajudicial Statements ..... | CR 5-6 |
| 5. | Cameras in Courtroom .....                    | CR 5-6 |
| 6. | Sealing Court Records .....                   | CR 5-9 |

**CR 6 Issuing Warrants/Subpoenas**

**Warrants**

|    |   |        |
|----|---|--------|
| 1. | Arrest Warrant .....  | CR 6-1 |
| 2. | Search Warrant .....  | CR 6-3 |
| 3. | Probable Cause Necessary for Arrest or Search Warrant ..... | CR 6-6 |

**Subpoenas**

|    |   |         |
|----|---|---------|
| 1. | Definition .....                        | CR 6-7  |
| 2. | Statutory Authority .....               | CR 6-8  |
| 3. | Constitutional Compulsory Process ..... | CR 6-9  |
| 4. | Subpoena <i>Duces Tecum</i> .....       | CR 6-10 |
| 5. | Subpoena for Documents .....            | CR 6-11 |
| 6. | Electronic Records and Devices .....    | CR 6-11 |

**CR 7 Initial Appearance**

|    |  |        |
|----|--|--------|
| 1. | Probable Cause Finding Before Initial Appearance—<br><i>Riverside</i> Review ..... | CR 7-1 |
| 2. | Conducting the Initial Appearance .....  | CR 7-2 |
| 3. | DNA at Arrest Violations .....   | CR 7-5 |

**CR 8 Bail/Bond/Conditions of Release**

|    |  |         |
|----|--|---------|
| 1. | Setting Bail/Bond .....                                  | CR 8-1  |
| 2. | Reviewing Bail .....                                     | CR 8-7  |
| 3. | Revocation of Bail for Commission of Serious Crime ..... | CR 8-7  |
| 4. | Revocation of Bail for Victim/Witness Intimidation ..... | CR 8-8  |
| 5. | Forfeiture of Bail .....                                 | CR 8-8  |
| 6. | Denial of Bail (Preventative Detention) .....            | CR 8-9  |
| 7. | Bail After Conviction .....                              | CR 8-11 |
| 8. | Disbursement of Bail After Conviction .....              | CR 8-13 |

|    |   |         |
|----|---|---------|
| 9. | List of Violent Crimes for Purposes of Bail Under § 969.001(3)..... | CR 8-13 |
|----|---|---------|

**CR 9 Prelim/Arrestment**

**Preliminary Examination**

|    |   |         |
|----|---|---------|
| 1. | Nature of Preliminary Examination ..... | CR 9-1  |
| 2. | Waiver .....                            | CR 9-3  |
| 3. | Time Limitations .....                  | CR 9-4  |
| 4. | Procedure .....                         | CR 9-5  |
| 5. | Conclusion of Hearing .....             | CR 9-11 |
| 6. | Juveniles .....                         | CR 9-12 |
| 7. | Review .....                            | CR 9-12 |
| 8. | Errors .....                            | CR 9-12 |

**Arrestment**

|    |                             |         |
|----|-----------------------------|---------|
| 1. | Information Filed .....     | CR 9-12 |
| 2. | “Instant Arrestments” ..... | CR 9-13 |
| 3. | Duties at Arrestment .....  | CR 9-13 |
| 4. | Presence of Defendant.....  | CR 9-14 |

**CR 10 Discovery and Inspection**

|    |  |          |
|----|--|----------|
| 1. | General.....                               | CR 10-1  |
| 2. | Timing of Discovery Motions .....          | CR 10-2  |
| 3. | Types of Discovery.....                    | CR 10-2  |
| 4. | Other Specific Discovery Rights .....      | CR 10-7  |
| 5. | Exculpatory Information.....               | CR 10-10 |
| 6. | Preservation of Exculpatory Evidence ..... | CR 10-15 |
| 7. | Postconviction Discovery Issues .....      | CR 10-16 |

**CR 11 Depositions of Witnesses**

|    |   |         |
|----|---|---------|
| 1. | Adult Witnesses.....                                  | CR 11-1 |
| 2. | Child Witness—Audiovisually Recorded Depositions..... | CR 11-1 |
| 3. | Audiovisually Recorded Statements of Children.....    | CR 11-5 |
| 4. | Confrontation.....                                    | CR 11-5 |

**CR 12 Competency to Proceed**

|    |   |         |
|----|---|---------|
| 1. | Definitions .....                           | CR 12-1 |
| 2. | Raising Issue of Competency to Proceed..... | CR 12-2 |
| 3. | Determination of Probable Cause .....       | CR 12-3 |
| 4. | Examinations.....                           | CR 12-4 |

|     |   |          |
|-----|---|----------|
| 5.  | Competency Hearing.....   | CR 12-8  |
| 6.  | Competency Hearing Disposition (For Postconviction,<br>See <b>Sec. 11</b> ) ..... | CR 12-10 |
| 7.  | Procedures upon Appeal .....  | CR 12-14 |
| 8.  | Subsequent Hearings to Reevaluate Def's Competency .....                          | CR 12-14 |
| 9.  | Discharge from Criminal Commitment .....  | CR 12-16 |
| 10. | Transfer to Civil Proceedings .....   | CR 12-17 |
| 11. | Postconviction Relief Proceedings .....   | CR 12-18 |
| 12. | Probation Revocation Proceeding.....  | CR 12-20 |

**CR 13 Taking a Plea**

|    |  |          |
|----|--|----------|
| 1. | Procedure for Taking a Plea .....  | CR 13-1  |
| 2. | Vacating Plea After Acceptance .....   | CR 13-12 |
| 3. | Effects of Pleas.....  | CR 13-12 |
| 4. | General Rule: Guilty, No Contest, and <i>Alford</i> Pleas<br>Waive All Nonjurisdictional Defects ..... | CR 13-14 |

**CR 14 Substitution of Judge/Recusal**

|    |                                   |         |
|----|-----------------------------------|---------|
| 1. | Substitution of Prelim Judge..... | CR 14-1 |
| 2. | Substitution of Trial Judge.....  | CR 14-2 |
| 3. | Sua Sponte Recusal by Judge.....  | CR 14-6 |
| 4. | Recusal for Prejudice.....        | CR 14-8 |

**CR 15 Challenges to Sufficiency of Complaint/Double Jeopardy**

|    |   |          |
|----|---|----------|
| 1. | Timeliness of Motion Challenging Complaint .....                                    | CR 15-1  |
| 2. | Standards for Review of Sufficiency of Complaint .....                              | CR 15-1  |
| 3. | Specific Challenges to Complaint.....   | CR 15-4  |
| 4. | Motion to Dismiss Based on Critical Misstatements or<br>Omissions in Complaint..... | CR 15-11 |
| 5. | Double Jeopardy .....   | CR 15-12 |

**CR 16 Speedy Trial**

|    |                                |         |
|----|--------------------------------|---------|
| 1. | Constitutional Protection..... | CR 16-1 |
| 2. | Statutory Protection.....      | CR 16-4 |
| 3. | Interstate Detainers.....      | CR 16-6 |

**CR 17 Personal Jurisdiction/Place of Trial**

**Personal Jurisdiction**

|    |   |         |
|----|---|---------|
| 1. | Personal Jurisdiction Depends on Physical Presence<br>Before Court..... | CR 17-1 |
| 2. | Challenge to Personal Jurisdiction of Court.....                        | CR 17-3 |

**Place of Trial**

1. Venue ..... CR 17-4  
2. Change of Place of Trial ..... CR 17-5  
3. Factors to Be Considered by Court When Motion for  
Change of Place of Trial Made..... CR 17-6  
4. Consequences of Granting Motion ..... CR 17-7  
5. Renewing Motion for Change of Place of Trial ..... CR 17-8

**CR 18 Motion for Joinder (Consolidation) or Severance**

1. General Principles of Joinder and Severance  
Essentially the Same..... CR 18-1  
2. Joinder of Crimes ..... CR 18-1  
3. Severance of Crimes ..... CR 18-3  
4. Joinder of Defendants ..... CR 18-5  
5. Severance of Defendants..... CR 18-5  
6. Trial Practice Option..... CR 18-8

**CR 19 Suppression—Search and Seizure**

1. Warrant Requirement..... CR 19-1  
2. Procedure ..... CR 19-4  
3. Use of Suppressed Evidence ..... CR 19-4  
4. Expectation of Privacy (Standing)..... CR 19-5  
5. Challenges to Warrants ..... CR 19-11  
6. Warrant Execution Issues ..... CR 19-13  
7. Searches Pursuant to Arrest Warrants ..... CR 19-17  
8. Exceptions to Warrant Requirement ..... CR 19-17

**CR 20 Suppression—Identification**

1. General..... CR 20-1  
2. Right to Counsel ..... CR 20-1  
3. Procedure on Suppression Motion..... CR 20-2  
4. One-on-One Show-Ups ..... CR 20-5  
5. Jury Instruction..... CR 20-5

**CR 21 Suppression—Confessions/Witness Statements**

1. Suppression Motion Procedure..... CR 21-1  
2. Voluntariness Standards Generally..... CR 21-4  
3. Involuntary Confessions—Police Tactics ..... CR 21-5

|     |   |          |
|-----|---|----------|
| 4.  | Involuntary Confessions—Suspect’s Personal Characteristics.....             | CR 21-8  |
| 5.  | Involuntary Statements of Witnesses, Not Suspects .....                     | CR 21-9  |
| 6.  | <i>Miranda</i> Rights Generally.....  | CR 21-9  |
| 7.  | <i>Miranda</i> Rights Inapplicable—Suspect Not in Custody.....              | CR 21-11 |
| 8.  | <i>Miranda</i> Rights Inapplicable— Suspect Not Being Interrogated.....     | CR 21-15 |
| 9.  | Determining Whether Suspect Effectively Invoked <i>Miranda</i> Rights ..... | CR 21-16 |
| 10. | Other Grounds for Suppression.....  | CR 21-20 |

**CR 22 Jury Waiver**

|    |  |         |
|----|--|---------|
| 1. | Waiver of Jury .....                   | CR 22-1 |
| 2. | Withdrawal of Waiver of Jury .....     | CR 22-4 |
| 3. | Trial by Jury of Less Than Twelve..... | CR 22-4 |

**CR 23 Selection of Jury**

|    |  |          |
|----|--|----------|
| 1. | Challenge to the Array.....                    | CR 23-1  |
| 2. | Role of Court and Parties.....                 | CR 23-2  |
| 3. | Form and Extent of Questions.....              | CR 23-3  |
| 4. | Judge’s Voir Dire—Suggested Script .....       | CR 23-5  |
| 5. | Individual Voir Dire .....                     | CR 23-6  |
| 6. | Challenges for Cause.....                      | CR 23-7  |
| 7. | Purposeful Discrimination Against Jurors ..... | CR 23-11 |
| 8. | Peremptory Challenges.....                     | CR 23-14 |
| 9. | Additional Jurors.....                         | CR 23-16 |

**CR 24 Jury Management**

|     |   |         |
|-----|---|---------|
| 1.  | Swearing in Jury .....                                    | CR 24-1 |
| 2.  | Jury Sequestration.....                                   | CR 24-1 |
| 3.  | Postsentencing Questions About Juror Qualifications ..... | CR 24-2 |
| 4.  | Juror Conduct.....  | CR 24-3 |
| 5.  | Jury View .....   | CR 24-3 |
| 6.  | Note-Taking by Jurors .....                               | CR 24-5 |
| 7.  | Jurors’ Questions.....                                    | CR 24-5 |
| 8.  | Jury Deliberations.....                                   | CR 24-6 |
| 9.  | Hung Jury .....   | CR 24-8 |
| 10. | Discharge of Jurors .....                                 | CR 24-9 |

**CR 25 Preliminary Instructions/Opening Statements**

**Preliminary Instructions**

- 1. Procedure ..... CR 25-1
- 2. Standard Preliminary Instructions..... CR 25-1
- 3. Common Preliminary Instructions..... CR 25-2

**Opening Statements**

- 1. Manner and Purpose ..... CR 25-2
- 2. Scope ..... CR 25-3
- 3. Interruption of Opening Statements and Curative Instructions..... CR 25-3

**CR 26 Witnesses**

- 1. Oaths ..... CR 26-1
- 2. Competency of Witnesses..... CR 26-2
- 3. Compulsory Process/Right to Present a Defense (See also **CR 11**) ..... CR 26-3
- 4. Exclusion of Witnesses from Hearing or Trial ..... CR 26-6
- 5. Compelling Testimony—No 5th Amendment Privilege..... CR 26-7
- 6. Compelling Testimony—5th Amendment Privilege..... CR 26-8
- 7. Plea Bargains and Testimony..... CR 26-10
- 8. Confrontation..... CR 26-11
- 9. Child’s and Child-Victim’s Statements ..... CR 26-16
- 10. Elder-Person Victims or Witnesses ..... CR 26-21
- 11. Use of Former Testimony..... CR 26-21
- 12. Out-of-Court Translators ..... CR 26-21
- 13. Privileges ..... CR 26-22
- 14. Rape Shield Statute: § 972.11 ..... CR 26-24
- 15. Attorney as Witness ..... CR 26-28
- 16. Defendant Perjury..... CR 26-30
- 17. Rebuttal Witness..... CR 26-30

**CR 27 Expert Witnesses**

- 1. Expert Witnesses..... CR 27-1
- 2. Opinion Concerning Witness’s Credibility or State of Mind ... CR 27-7
- 3. Expert Testimony on Capacity to Form Intent ..... CR 27-10
- 4. Expert Testimony on Intoxication..... CR 27-10
- 5. Expert Testimony on Post-assault Conduct ..... CR 27-11
- 6. Expert Testimony on Character ..... CR 27-12
- 7. Procedure If Challenge Raised ..... CR 27-12

**CR 28 Hypnosis/Polygraph/DNA**

**Hypnosis**

- 1. Per Se Ban Unwarranted in Criminal Trials ..... CR 28-1
- 2. Procedure for Determining Admissibility ..... CR 28-2
- 3. Procedure When Testimony Found Admissible..... CR 28-4

**Polygraph**

- 1. Discovery of Polygraph Results ..... CR 28-5
- 2. Polygraph Results Not Admissible in Any Criminal Proceeding..... CR 28-6
- 3. Postpolygraph Statements..... CR 28-7
- 4. Offer to Take Polygraph Examination ..... CR 28-8

**DNA**

- 1. Definition ..... CR 28-9
- 2. Introduction of DNA Evidence at Trial..... CR 28-9
- 3. Offer to Undergo DNA Testing..... CR 28-10
- 4. DNA Sampling..... CR 28-11
- 5. Search and Seizure of DNA Evidence ..... CR 28-11

**Volume IA: Criminal and Traffic**

**CR 29 Closing Arguments**

- 1. Purpose..... CR 29-1
- 2. Order of Argument ..... CR 29-1
- 3. Scope of Argument ..... CR 29-1
- 4. Improper Argument ..... CR 29-5

**CR 30 Jury Instructions**

- 1. General Principles Governing Giving of Instructions..... CR 30-1
- 2. Instructions Conference ..... CR 30-2
- 3. Defense-Requested Instructions..... CR 30-4
- 4. Lesser Included Offenses ..... CR 30-5
- 5. Instructions re: Presumptions ..... CR 30-8
- 6. Party to Crime Instruction ..... CR 30-9
- 7. *Falsus in Uno*..... CR 30-9
- 8. Venue ..... CR 30-9
- 9. Multiple Counts..... CR 30-10
- 10. Instructions Following Final Argument ..... CR 30-10
- 11. Instructions After Commencement of Jury Deliberations..... CR 30-11
- 12. Discharge of Jury on Deadlock ..... CR 30-12

|              |  |          |
|--------------|--|----------|
| <b>CR 31</b> | <b>Verdicts</b>  |          |
| 1.           | Verdict Conference .....   | CR 31-1  |
| 2.           | Form of Verdict.....   | CR 31-1  |
| 3.           | Return of Verdict.....   | CR 31-2  |
| 4.           | Jury Nullification .....   | CR 31-5  |
| <br>         |  |          |
| <b>CR 32</b> | <b>Impeaching Jury Verdict</b>   |          |
| 1.           | General Rules .....  | CR 32-1  |
| 2.           | Evidentiary Hearing .....  | CR 32-3  |
| 3.           | Instances of Misconduct.....   | CR 32-4  |
| <br>         |  |          |
| <b>CR 33</b> | <b>Defendant Presence/Disruption</b>   |          |
| 1.           | Presence of Defendant.....   | CR 33-1  |
| 2.           | Physical Restraints .....  | CR 33-5  |
| 3.           | Uniformed Security Personnel .....   | CR 33-6  |
| <br>         |  |          |
| <b>CR 34</b> | <b>Mental Disease or Defect</b>  |          |
| 1.           | Pretrial Procedure.....  | CR 34-1  |
| 2.           | Trial Procedure.....   | CR 34-3  |
| 3.           | Commitment If Defendant Found NGI.....   | CR 34-7  |
| 4.           | Defendant Committed to Institutional Care .....  | CR 34-9  |
| 5.           | Commitment on Conditional Release.....   | CR 34-15 |
| 6.           | Violation/Revocation of Conditional Release,<br>Recommitment for Defendants Adjudicated NGI<br>on or After January 1, 1991 ..... | CR 34-16 |
| 7.           | Nonfulfillment of Conditional Release, Recommitment for<br>Defendants Adjudicated NGI Before January 1, 1991.....                | CR 34-17 |
| 8.           | Reexamination of Defendants Adjudicated NGI for<br>Offenses Committed on or After January 1, 1991.....                           | CR 34-18 |
| 9.           | Reexamination of Defendants Adjudicated NGI for<br>Offenses Committed Before January 1, 1991<br>is governed by § 971.17(8).....  | CR 34-22 |
| 10.          | Expiration of Commitment Orders .....  | CR 34-24 |
| <br>         |  |          |
| <b>CR 35</b> | <b>Mistrial</b>  |          |
| 1.           | Motion Directed to Sound Discretion of Court .....   | CR 35-1  |
| 2.           | Before Declaring a Mistrial, Consider Alternatives.....  | CR 35-1  |
| 3.           | Potential Grounds for Mistrial .....   | CR 35-1  |
| 4.           | Before Granting Mistrial, Consider Whether Double<br>Jeopardy Will Bar State from Retrying the Case.....                         | CR 35-3  |

**CR 36 Other Trial Problems**

1. Last-Minute Motions for Adjournment ..... CR 36-1  
2. Stipulation by Def to Element of Crime..... CR 36-1  
3. Motion to Dismiss at Close of State’s Case..... CR 36-2  
4. Colloquy with Def about Testifying or Not Testifying ..... CR 36-2  
5. Motion to Dismiss at Conclusion of All the Evidence ..... CR 36-2  
6. Questioning by the Court..... CR 36-3  
7. Sidebar Conferences..... CR 36-3

**CR 37 The Sentencing Hearing**

1. Conducting the Hearing..... CR 37-1  
2. Habitual Criminality (Repeater) Penalties ..... CR 37-4  
3. Persistent Repeater ..... CR 37-6  
4. Exercising Sentencing Discretion..... CR 37-6  
5. Read-Ins ..... CR 37-12  
6. Presentence Reports..... CR 37-13  
7. Stating Sentencing Decision Reasons ..... CR 37-15  
8. Pronouncing Sentence for Felonies Committed After  
12/31/99 and Misdemeanors Committed After 2/1/03..... CR 37-17  
9. Sentence Credit ..... CR 37-19  
10. Restitution ..... CR 37-22  
11. Judgment of Conviction ..... CR 37-30  
12. Notice of Right to Appeal ..... CR 37-30  
13. Stay of Execution..... CR 37-31  
14. Return of Seized Property..... CR 37-31  
15. Reconfinement ..... CR 37-32

**CR 38 Options for Sentencing**

1. Deferred Prosecution..... CR 38-1  
2. Expunction..... CR 38-2  
3. Fines..... CR 38-4  
4. Probation..... CR 38-5  
5. Electronic Monitoring ..... CR 38-12  
6. Confinement ..... CR 38-12  
7. Sex Offender Registry ..... CR 38-14

**CR 39 Modification of Sentence/Resentencing**

1. Time Constraints for Motion to Modify Sentence ..... CR 39-1  
2. Motions Filed After Time Expires ..... CR 39-2

|    |   |         |
|----|---|---------|
| 3. | Grounds for Motion to Modify Sentence .....     | CR 39-3 |
| 4. | Standards of Review.....                        | CR 39-6 |
| 5. | Resentencing.....                               | CR 39-7 |
| 6. | Sentencing Adjustment—Truth in Sentencing ..... | CR 39-9 |

**CR 40 Motion for a New Trial**

|     |   |          |
|-----|---|----------|
| 1.  | Time Constraints for Motion .....   | CR 40-2  |
| 2.  | Trial Court’s Duty at Sentencing as to Postconviction Relief .....            | CR 40-3  |
| 3.  | Appeal May Be Taken Without Filing of Postconviction Relief by Defendant..... | CR 40-4  |
| 4.  | Defendant’s Right to Be Present at Motion Hearing .....                       | CR 40-4  |
| 5.  | Issue of Competency Raised When Postconviction Relief Sought .....            | CR 40-5  |
| 6.  | Standards of Review for Motion Based on Claim of Error.....                   | CR 40-5  |
| 7.  | Motion Based on Claim of Newly Discovered Evidence.....                       | CR 40-9  |
| 8.  | Motion Based on Claim of Denial of Fair Trial .....                           | CR 40-11 |
| 9.  | Postconviction Discovery.....   | CR 40-13 |
| 10. | Granting New Trial in Interests of Justice.....                               | CR 40-14 |
| 11. | Procedure When Transcripts Are Missing.....                                   | CR 40-15 |

**CR 41 Ineffective Assistance of Counsel**

|    |  |          |
|----|--|----------|
| 1. | Constitutional Right to Counsel Means Effective Assistance of Counsel..... | CR 41-1  |
| 2. | Specific Areas of Attorney Performance .....                               | CR 41-6  |
| 3. | Disciplinary Implications of Finding Attorney Ineffective .....            | CR 41-13 |
| 4. | Ineffective Assistance of Appellate Counsel .....                          | CR 41-14 |

**CR 42 § 974.06 Motions**

|    |  |          |
|----|--|----------|
| 1. | Nature of Motion .....                             | CR 42-1  |
| 2. | Conditions Precedent .....                         | CR 42-3  |
| 3. | Authorized Grounds for Motion.....                 | CR 42-5  |
| 4. | Form of Motion .....                               | CR 42-8  |
| 5. | Preliminary Procedure for Examining Petition ..... | CR 42-8  |
| 6. | Summary Dismissal .....                            | CR 42-10 |
| 7. | Granting a Hearing.....                            | CR 42-15 |
| 8. | Hearing Procedures.....                            | CR 42-17 |
| 9. | Appeal .....                                       | CR 42-19 |

|              |   |          |
|--------------|---|----------|
| <b>CR 43</b> | <b>Withdrawal of Plea</b>   |          |
|              | 1. Withdrawal of Plea Based on Breach of Plea Agreement.....            | CR 43-1  |
|              | 2. Withdrawal of Plea Before Sentencing or After Sentence Vacated ..... | CR 43-3  |
|              | 3. Withdrawal of Plea of Guilty or No Contest After Sentencing .....    | CR 43-4  |
| <b>CR 44</b> | <b>Extradition/Detainers</b>  |          |
|              | <b>Extradition</b>  |          |
|              | 1. Nature and Purpose of Proceedings .....                              | CR 44-1  |
|              | 2. Controlled by Federal Law .....                                      | CR 44-1  |
|              | 3. Arrest Before Governor’s Warrant or Requisition.....                 | CR 44-2  |
|              | 4. Arrest Under Governor’s Warrant or Requisition.....                  | CR 44-4  |
|              | 5. Scope of Habeas Corpus Review .....                                  | CR 44-6  |
|              | 6. Findings .....   | CR 44-9  |
|              | <b>Detainers</b>  |          |
|              | 1. Definition .....   | CR 44-9  |
|              | 2. Interstate Procedure .....   | CR 44-10 |
|              | 3. Intrastate Detainer Procedure .....                                  | CR 44-12 |
| <b>CR 45</b> | <b>Electronic Surveillance</b>  |          |
|              | 1. Constitutionality .....  | CR 45-1  |
|              | 2. Procedure .....  | CR 45-1  |
|              | 3. Recording Interceptions .....  | CR 45-5  |
|              | 4. Inventory (Notice) to Person Monitored.....                          | CR 45-5  |
|              | 5. Pretrial Use of Intercepted Communications .....                     | CR 45-6  |
|              | 6. Trial Use of Intercepted Communications.....                         | CR 45-6  |
|              | 7. Effect of Consent of One Party to the Communication .....            | CR 45-7  |
| <b>CR 46</b> | <b>Writs</b>  |          |
|              | 1. Certiorari: <i>See Civil Benchbook CV 26</i> .....                   | CR 46-1  |
|              | 2. Habeas Corpus: <i>See Civil Benchbook CV 27</i> .....                | CR 46-1  |
| <b>CR 47</b> | <b>Contempt of Court</b>  |          |
|              | 1. Power of Court .....   | CR 47-1  |
|              | 2. Definition of Contempt.....  | CR 47-2  |
|              | 3. Summary Proceedings.....   | CR 47-3  |
|              | 4. Non-Summary Proceedings .....  | CR 47-6  |

**CR 48 Grand Jury/John Doe Proceedings**

**Grand Jury**

- 1. Purpose ..... CR 48-1
- 2. Powers ..... CR 48-1
- 3. Convening ..... CR 48-2
- 4. Participants ..... CR 48-2
- 5. Secrecy ..... CR 48-3
- 6. Witnesses ..... CR 48-4
- 7. Indictment ..... CR 48-6

**John Doe Proceedings**

- 1. Definition and Initiation ..... CR 48-7
- 2. Role of Judge in John Doe Proceedings ..... CR 48-8
- 3. Disposition ..... CR 48-13
- 4. John Doe Problems ..... CR 48-14

**CR 49 Inquests**

- 1. Purpose and Venue ..... CR 49-1
- 2. Who May Order ..... CR 49-1
- 3. Hearing Procedure ..... CR 49-2
- 4. Juror Selection ..... CR 49-2
- 5. Inquest Witnesses ..... CR 49-3
- 6. Compelled Testimony ..... CR 49-3
- 7. Jury Instructions ..... CR 49-4
- 8. Verdict ..... CR 49-4
- 9. Confidentiality of Record ..... CR 49-4

**CR 50 Sexually Violent Person Commitment**

- 1. General Provisions ..... CR 50-1
- 2. Procedure ..... CR 50-3
- 3. Petition for Supervised Release ..... CR 50-13
- 4. Petition for Discharge ..... CR 50-17
- 5. Collateral Attack ..... CR 50-20
- 6. Notice Concerning Release or Discharge ..... CR 50-20

**CR 51 Juvenile/Adult Matters**

- 1. Original Jurisdiction of Adult Court ..... CR 51-1
- 2. Jurisdiction by Waiver from Juvenile Court to Adult Court ..... CR 51-3

|    |   |         |
|----|---|---------|
| 3. | Adult Court Options for Sentencing Under Juvenile Justice Code..... | CR 51-4 |
| 4. | Expunction.....   | CR 51-5 |

**TR 1 Pretrial Proceedings**

|     |  |         |
|-----|--|---------|
| 1.  | Jurisdiction .....   | TR 1-1  |
| 2.  | Venue .....  | TR 1-2  |
| 3.  | Criminal Traffic Violations.....   | TR 1-3  |
| 4.  | Initial Appearance—Defendant Appears.....  | TR 1-4  |
| 5.  | Initial Appearance—Defendant Does Not Appear .....   | TR 1-6  |
| 6.  | Juveniles in Traffic Court.....  | TR 1-7  |
| 7.  | Substitution of Judge .....  | TR 1-8  |
| 8.  | Discovery Motions .....  | TR 1-10 |
| 9.  | Operating a Motor Vehicle While Intoxicated.....   | TR 1-11 |
| 10. | Motions: In General.....   | TR 1-14 |
| 11. | Motions Challenging Elements of “Operation,”<br>“Operating on Premises Held out to the Public,”<br>and “Motor Vehicle” ..... | TR 1-16 |
| 12. | Suppression Motions .....  | TR 1-17 |
| 13. | Motions: Relating to “Informing the Accused” Form .....  | TR 1-22 |
| 14. | Implied Consent and Refusals.....  | TR 1-23 |
| 15. | Administrative Suspension.....   | TR 1-26 |
| 16. | Commercial Motor Vehicle Law .....   | TR 1-30 |

**TR 2 Trial Procedures**

|    |                                      |        |
|----|--------------------------------------|--------|
| 1. | Motions.....                         | TR 2-1 |
| 2. | Civil Forfeiture Trials .....        | TR 2-3 |
| 3. | Criminal Traffic Trials.....         | TR 2-4 |
| 4. | Admissibility of Driver Records..... | TR 2-4 |
| 5. | Forms of Verdict .....               | TR 2-5 |
| 6. | Municipal Court Appeals .....        | TR 2-5 |

**TR 3 Sentencing—Postconviction Issues**

|    |   |         |
|----|---|---------|
| 1. | Civil Traffic Forfeitures .....               | TR 3-1  |
| 2. | OWI .....                                     | TR 3-4  |
| 3. | Operating Without a Valid License (OWL).....  | TR 3-14 |
| 4. | Operating While Suspended (OWS).....          | TR 3-15 |
| 5. | Operating After Revocation (OAR).....         | TR 3-16 |
| 6. | Criminal—Habitual Traffic Offender (HTO)..... | TR 3-17 |
| 7. | Civil Postconviction Motions .....            | TR 3-18 |