

## Day 1 Schedule

### AM: Day 1 - Get file from calendar DDA in calendar courtroom

- Ask calendar DDA whether any issues or advice before reporting to courtroom;
- Review complaint and police report (sometimes as walking to courtroom);
- Print witness list ASAP (can use blank template and hand write witness list if no other way);
- Report to Courtroom for 402s & Chambers conference;
- Schedule witnesses;
- Prepare and print Voir Dire questions;
- Prepare Verdict Forms when you have time (usually at lunch or at night, if judge allows);
- Prepare Jury Instructions (usually at lunch or at night, if judge allows) - Get CalCrim for your charges ASAP

### PM: Day 1

- a. Jury Selection begins at 1:30 (sometimes lasts until next day);
- b. Be ready to give opening statement (just in case not many peremptory challenges are used);
- c. Prepare direct/cross examinations for next day

# Review Complaint and Police Report

## 1. Review Complaint:

- a. Any mistakes in charges?
- b. If you need to amend, do so immediately (i.e., before jury selection)
- c. Speak to colleagues re best way to amend for your particular courtroom and judge

1 SUPERIOR COURT OF CALIFORNIA  
2 COUNTY OF ORANGE, NORTH JUSTICE CENTER  
3  
4  
5  
6 THE PEOPLE OF THE STATE OF CALIFORNIA, ) COMPLAINT  
7 )  
8 Plaintiff, )  
9 )  
10 vs. ) No.  
11 JOSEPH ANDREW DOLAN ) CHFC 201203132  
12 DSD06933 ) SAC 10 BR  
13 AKA JOSEPH A DOLAN ) AKAHEIM  
14 Defendant(s))  
15 The Orange County District Attorney charges that in Orange  
16 County, California, the law was violated as follows:  
17 COUNT 1: On or about December 07, 2012, in violation of Section  
18 23152(a) of the Vehicle Code (DRIVING UNDER THE INFLUENCE OF  
19 ALCOHOL/DRUGS), a MISDEMEANOR, JOSEPH ANDREW DOLAN did  
20 unlawfully drive a vehicle while under the influence of an  
21 alcoholic beverage, a drug(s) and under the combined influence  
22 of alcoholic beverage and drug(s).  
23 COUNT 2: On or about December 07, 2012, in violation of Section  
24 23152(b) of the Vehicle Code (DRIVING WITH BLOOD ALCOHOL .08% OR  
25 MORE), a MISDEMEANOR, JOSEPH ANDREW DOLAN did unlawfully drive  
26 a vehicle while defendant's blood alcohol concentration was 0.08  
27 percent (%) or more by weight of alcohol in defendant's blood.  
28 COUNT 3: On or about December 07, 2012, in violation of Section  
29 31 of the Vehicle Code (FALSE INFORMATION TO A PEACE OFFICER), a  
30 MISDEMEANOR, JOSEPH ANDREW DOLAN did unlawfully give orally and  
31 in writing, information to a peace officer who was in the  
32 performance of his/her duties pursuant to the Vehicle Code, when  
33 the defendant knew that the information was false.

MISDEMEANOR COMPLAINT E-FILED (DA CASE# 12007640 01-04-2013  
OC DINA NOT ON FILE: JOSEPH DOLAN



# Scheduling

## **1. Trial DDA is responsible for all scheduling**

- a. Confer with calendar DDA - Ensure that all witnesses are available (get phone list or other #s from calendar DDA);
- b. Call liaisons - Tell liaison when officers should report (give yourself time to prep with officers);
- c. Consider asking liaison to have officers call your cell ASAP (liaisons will not give out officers' cell numbers);
- d. Keep other subpoenaed officers "on call" even if may not call them to testify

## **2. Confer with Colleagues & Calendar DDA re typical schedule in assigned courtroom**

# Witness List

1. Include name of any potential witness (even if do not plan on calling);
2. Have 3 copies ready (one for you, one for Def and one for court);
3. Generally judge reads witness list but be prepared to read if requested by judge

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Attorneys for Plaintiff:

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ORANGE, NORTH JUSTICE CENTER

THE PEOPLE

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Witness Name, Agency	
1	Officer Lucifora, La Habra Police Department
2	Officer Ratten, La Habra Police Department
3	Gilberto Villalobos, Coroner

Dated: 8/19/14

Respectfully submitted,

TONY RAKKAKAS, DISTRICT ATTORNEY  
COUNTY OF ORANGE, STATE OF CALIFORNIA

BY: Erik J. Dominguez  
Deputy District Attorney

PROPOSED WITNESS LIST



## Cal Evid Code 402 - Conference

- Usually done in chambers and later placed on record
- **Common 402's:**
  - Written if you have time (otherwise oral);
  - Motion to exclude witnesses when not testifying (usually both sides);
  - Miranda (Def attempting to exclude Def's statements);
  - Moral turpitude if Def or Def witnesses testify (if have moral turp);
  - Def will attempt to exclude anything unfavorable under Evid. Code 352;
  - Any issues related to playing audio or video
- **DUI Specific:**
  - Stipulation to blood draw?
  - admissibility of PAS or admissibility of 3rd digit of BL/BR resultS? (Ask for briefs if becomes an issue and ask for time to submit in p.m.)

## **Chambers Conference (Cont.) - Remember: Judges don't like surprises**

- **Renew request for Defense discovery** (any Defense witnesses, including experts & statements) - Must disclose per PC 1054.3
- **Ask Judge for courtroom protocol/preferences**
  - Jury Selection
    - Any "usual" questions that judge asks (also, request specific questions you want judge to ask, if any);
    - Does judge use 6 pack? Peremptory challenges from 12 or 18?
    - Time limits (first 18, subsequent groups)?
    - Ensure okay to refer to jurors by last name (instead of #)?
      - Most judges allow last names for misdos
  - Jury Instructions
    - Judge preferences re proposed jury instructions (redactions?)
    - 100s and 200s?
    - When does judge instruct (before or after closings)?
    - When needed? (Try to get until next day or later)
  - Exhibit list required? (Usually not required)
  - Closing - Any time limits?
  - Notify judge of any witness scheduling issues



# Jury Selection

State of the State of California

CASE NUMBER: 120411205 DATE: 10/28/14

PLAINTIFF: \_\_\_\_\_

ATTORNEY FOR PEOPLE: Enka Pennington

vs. DEFENDANT: \_\_\_\_\_

ATTORNEY FOR DEFENDANT: Steven McDonald

1	2	3	4	5	6
7	8	9	10	11	12
13	14	15	16	17	18

people

1. Have stickies ready;
2. Get jury selection sheet from clerk;
3. Use back of sheet for kicked jurors;
4. Decide on system you will use before starting;
5. Save jury selection sheet after JT for appellate period

## Jury Selection (Cont.)

- See CCP 223 to 231.5
- Order of Questioning:
  - Judge questions panel;
  - Defense questions;
  - DDA questions (have your Voir Dire questions ready and printed);
- For Cause Challenges
- Judge will ask whether both sides "pass for cause" - Respond with "Yes, pass for cause" or "No";
  - Most judges will then sidebar "for cause" challenges;
    - Defense usually has more "for cause" challenges - Suggest stipulating if juror is clearly biased against the Defense.
  - Both sides have unlimited number;
- Peremptory Challenges
  - Be aware of Wheeler-Batson;
  - 10 total per side -Alternate (People exercise 1st peremptory challenge, then defense, and so on)
  - Magic words: "The People would like to thank and excuse Mr./Mrs. \_\_\_\_, Juror #\_" OR "The People accept the jury" (when you're happy with jury)
    - If Defense also accepts, jurors sworn;
  - Generally more jurors needed and process begins again;
    - Can't re-question group once you already passed for cause
- Alternate jurors (CCP 234) - Number of peremptory challenges equals number of alternates (Usu. 1 or 2 for misdo)



## Day 2 - 3

- Before Court - Meet with witnesses to prep
  - Review audio/video with witnesses
  - Comply with discovery and Brady obligations
- Finish jury selection (if applicable)
- Jurors sworn
- Initial instructions (AKA 100's)
  - Some judges use their own/others want CalCrim's
- Opening statements (DDA goes first)
- Direct & Cross Examinations - Excuse your witnesses "subject to recall"
  - Officer(s)
  - Blood draw (sometimes not needed) - try to get stipulation
  - Expert from Crime Lab?
  - Any civilian witnesses?
- Defense case if any - Direct and Cross
- Rebuttal case if any
- Closings/Jury Instructions
  - Order varies depending on courtroom