

Invitation to Comment

Title	Criminal Procedure: Application of Penal Code Section 654 (amend Cal. Rules of Court, rule 4.424)
Summary	The proposed amendments to rule 4.424 clarify that courts must apply Penal Code section 654 by imposing sentence on all counts and staying execution of sentence as necessary to prevent multiple punishments.
Source	Criminal Law Advisory Committee Hon. Steven Z. Perren, Chair
Staff	Arturo Castro, Committee Counsel, 415-865-7702, arturo.castro@jud.ca.gov

Penal Code section 654 generally proscribes multiple punishments for a single act, omission, or indivisible course of conduct. Rule 4.424 is designed to instruct courts regarding how to stay sentences under Penal Code section 654. Currently, the rule states:

Before determining whether to impose either concurrent or consecutive sentences on all counts on which the defendant was convicted, the court must determine whether the proscription in section 654 against multiple punishments for the same act or omission requires *a stay of imposition of sentence* on some of the counts. (Italics added.)

Recent case law has clarified that instead of staying *imposition* of sentence on some of the counts, courts must apply section 654 by imposing sentence on all counts and staying *execution* of sentence as necessary to prevent multiple punishments. (*People v. Alford* (2010) 180 Cal.App.4th 1463.) Because the rule instructs courts to apply section 654 by staying imposition of sentence on some of the counts, the rule is “invalid and must be revised.” (*Id.* at 1473.)

The proposed amendments clarify that courts must apply section 654 by imposing sentence on all counts and staying execution of sentence as necessary to prevent multiple punishments.

Rule 4.424 of the California Rules of Court would be amended effective January 1, 2011, to read:

1 **Rule 4.424. Consideration of applicability of section 654**

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3 Before determining whether to impose either concurrent or consecutive sentences
4 on all counts on which the defendant was convicted, the court must determine
5 whether the proscription in section 654 against multiple punishments for the same
6 act or omission requires a stay of ~~imposition~~ execution of the sentence imposed on
7 some of the counts.

Item SPR10-25 Response Form

Title: **Criminal Procedure: Application of Penal Code Section 654** (amend Cal. Rules of Court, rule 4.424)

- Agree** with proposed changes
- Agree** with proposed changes **if modified**
- Do not agree** with proposed changes

Comments: _____

Name: _____ **Title:** _____

Organization: _____

- Commenting on behalf of an organization**

Address: _____

City, State, Zip: _____

To Submit Comments

Comments may be submitted online, written on this form, or prepared in a letter format. If you are *not* commenting directly on this form, please include the information requested above and the proposal number for identification purposes. Please submit your comments online or email, mail, or fax comments. You are welcome to email your comments as an attachment.

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DEADLINE FOR COMMENT: 5:00 p.m., Friday, June 18, 2010

Circulation for comment does not imply endorsement by the Judicial Council or the Rules and Projects Committee. All comments will become part of the public record of the council's action.