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**ADMINISTRATIVE ORDER**

**2003-02**

STATE OF MICHIGAN  
THIRD JUDICIAL CIRCUIT

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**SUBJECT: CRIMINAL DIVISION CASE ASSIGNMENT**

This Order rescinds Third Circuit Local Administrative Order 2002-03.

**IT IS ORDERED:**

1. This administrative order, issued in accordance with Michigan Court Rules 8.110(D)(3), 8.111, and 8.112(B), sets forth the method to be used for assigning criminal cases within the Third Circuit Court.
2. It is the policy of the Third Judicial Circuit of Michigan to utilize a modified Individual Calendar (IC) System to efficiently manage its Criminal Division cases. The IC format ensures that each judge's docket receives a proportionate share of the division's caseload and new case filings. This format requires an equal distribution of cases to all judges who are then responsible for all proceedings for each case from assignment through final disposition.
3. The Third Circuit Court utilizes a Differentiated Case Management System (DCM) in which all cases are assigned by case type according to the DCM tracks. To maintain the basic principles of an IC system and comply with the "by lot" case assignment requirements of MCR 8.111, the Third Circuit utilizes a two-tier assignment system for criminal case processing. The case assignment tracks are AOI Docket, Auto Theft Docket, Pre-Exam Docket, and Trial Docket.
4. The first tier includes the Pre-Exam Docket (Expedited Plea Program). Every warrant request that is presented will be reviewed to determine eligibility for the program. A Wayne County Circuit Court Judge assigned as a district court judge, or a 36<sup>th</sup> District Court Judge assigned as a circuit court judge, will conduct the Pre-Exam Hearing. In his or her capacity as a district judge, the assigned judge shall preside over the waiver of the exam and bind the defendant over to Circuit Court. In his or her capacity as a circuit court judge, the same judge shall accept the plea or set a next action date after a blind draw. At the hearing, the preliminary exam will be waived, defendant bound over, and AOI conducted. If a guilty plea is entered and accepted, a sentencing date shall be set. If a guilty plea is not entered, the next action date shall be set after a blind draw. If the defendant demands a preliminary examination, the case will be returned to the district court for further proceedings.
5. The first tier also includes a Felony Auto Theft Docket handled by one Arraignment on the Information (AOI) judge. All cases in which the defendant is charged with an auto theft offense delineated below will be assigned to this docket with one exception. If a complaint includes a second offense that carries a penalty of greater than 10 years, the case will be assigned to a regular AOI


docket. Otherwise, all cases in which the defendants are charged with operating a chop shop (MCL 750.535A2), receiving and concealing stolen property (MCL 750.535) et seq., receiving and concealing stolen property less than \$100 (MCL 750.535-B), receiving and concealing stolen property \$100 or more (MCL 750.5353-A), receiving and concealing stolen property \$1,000 or more but less than \$20,000 (MCL 750.5353A), receiving and concealing stolen property \$20,000 or more (MCL 750.5352A), receiving and concealing stolen property less than \$100 - 3<sup>rd</sup> offense (MCL 750.535-C), unlawfully driving away an automobile (MCL 750.413), unlawfully taking and using of a motor vehicle (MCL 750.414), concealing or misrepresenting the identity of a motor vehicle (MCL 750.4152), possession of stolen motor vehicle with intent to pass title (MCL 257.254), false statement in application for title (MCL 257.254), forgery of license documents, or plates (MCL 257.257), false certification (MCL 257.903), insurance fraud [MCL 500.4511(1)], and conspiracy to commit insurance fraud [MCL 500.4511(2)] will be assigned to this docket. If a plea cannot be reached, the AOI judge shall retain the case for trial if there is no jury demand. If there is a jury demand, the case shall be randomly assigned to a trial docket.

6. The first tier consists of Arraignment on the Information (AOI) Dockets with a “regular” track and a “drug” track.
  - a. All non-capital cases other than those with charges of manslaughter (MCL 750.321), felony firearm (MCL 750.227b), assault with intent to do great bodily harm less than murder (MCL 750.84), negligent homicide (MCL 750.324) and any non-capital with an included felony firearm charge will be initially assigned to an AOI docket on the regular track. At the AOI, parties may negotiate a plea. If a plea agreement cannot be reached and no jury demand has been entered, the AOI judge may either retain the case for trial or blind draw the case to a trial docket. The blind draw must be conducted within 21 days of the AOI date unless the Presiding Judge has extended the time. A case assigned to a trial docket may not be returned to an AOI docket because it was assigned outside of the 21-day limit, unless the Presiding Judge approves the return. If a jury demand is made, the case shall be blind drawn to a trial docket immediately following the arraignment on the information.
  - b. The AOI Dockets also include a “drug” track that provides for a drug treatment program. A defendant is eligible for the drug treatment program if he or she has no prior criminal history, is an admitted or identifiable drug user, and is charged under the Controlled Substances Act with one of the following violations: possession with intent to deliver under 50 grams [MCL 333.7401(2)(A)(4)], possession under 50 grams [MCL 333.7403(2)(A)(4)], possession under 25 grams [MCL 333.7403(2)(A)(5)], and retail fraud statute (MCL 750.356). The AOI judge assigned to the case shall accept the plea and the defendant shall be sentenced and supervised during drug treatment by a designated Criminal Division judge. Cases not reaching disposition by the assigned AOI judge and entering the drug treatment program shall be randomly assigned to a trial docket.
7. All domestic violence and welfare fraud cases (MCL 400.60) will be assigned to a designated AOI docket. Cases not reaching disposition will be scheduled for trial on the designated AOI docket and may be reassigned on the trial date to the docket of an available Criminal Division judge.

8. All cases not specifically enumerated in the above paragraphs will be randomly assigned to an AOI docket.
9. The second tier consists of trial dockets. All criminal offenses for which life imprisonment is the maximum sentence or the designated highly assaultive offenses enumerated in paragraph four are included in one of the following six crime categories: homicide; negligent homicide; assault; criminal sexual conduct; robbery; and, drugs. Criminal offenses in these categories are assigned by lot at case initiation to a trial docket.
10. To ensure that cases enumerated in paragraph nine are equally distributed to all trial dockets, no docket shall receive a second case within a designated category until all trial dockets have received one case within the designated category. The trial docket judge shall conduct the AOI for these charges and the case remains with that judge or his/her docket successor until final disposition.
11. The same judge must adjudicate all pending or open cases of a defendant. A pending case is one in which a sentence has not been imposed. An open case is one in which the judge has not yet signed and filed an order closing probation. Cases will be packaged according to the following guidelines.
  - a. When a new criminal case is filed and there is an pending or open case before an AOI judge involving the same defendant, the new case will be assigned to the AOI judge who has the open case or pending case. If the open or pending case is before a trial judge, the new case will be randomly assigned to an AOI judge for an arraignment on the new charge. If no disposition is reached before the AOI judge, the case will be reassigned to the docket of the trial judge assigned to the open or pending case.
  - b. When a packaged case includes an open probation, the AOI judge assigned the new case may hear the violation if the defendant waives his or her right to have the violation heard before the sentencing judge. If the new case and or the violation do not reach disposition before the AOI judge, the judge who sentenced the defendant to probation is to be assigned the new case and the probation violation within 21 days. The probation violation should be referred to the sentencing judge forthwith if there is no disposition.
  - c. A new case is assigned to the judge who has a pending or open case as of the bind over of the case to Circuit Court.
  - d. When a defendant has both a pending case and an open case, assignment is based on the open case.
  - e. When a new case has multiple defendants, the judge with the oldest pending case, i.e., the lowest docket number, shall receive all defendants. If none of the defendants has a pending case, the judge with the most **recent** open probation case receives all defendants.
  - f. When defendants on a multiple-defendant case are bound over on different dates, it is the responsibility of the Prosecutor's Office to move for consolidation. For cases at the Arraignment on the Information stage, the AOI judge will hear the motion to consolidate. If the cases have proceeded beyond the arraignment stage, the motion to consolidate shall be heard by the judge with lowest case number.

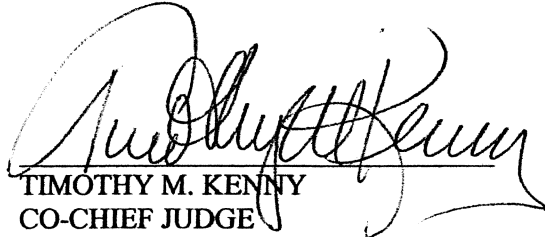
12. If a judge is disqualified or for other good cause cannot undertake an assigned case, the presiding judge shall assign it to another judge by a written order stating the reason. All case reassignments shall be done by lot. When a judge is disqualified from hearing a case, it shall be exchanged, within seven (7) days for a comparable case on the docket of the judge receiving the reassigned case. If a trial judge denies the motion for recusal, the parties may proceed to the Chief Judge on trial court's denial of recusal.
  
13. An adjournment on the day of trial may only be granted by the Chief Judge of the Criminal Division or the Chief Judge's designee.

Effective Date: March 24, 2003



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MARY BETH KELLY  
CO-CHIEF JUDGE  
THIRD JUDICIAL CIRCUIT COURT



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TIMOTHY M. KENNY  
CO-CHIEF JUDGE  
THIRD JUDICIAL CIRCUIT COURT

Dated: February 25, 2003