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**ADMINISTRATIVE ORDER**

**2005-05**

**STATE OF MICHIGAN  
THIRD JUDICIAL CIRCUIT**

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**SUBJECT: CRIMINAL DIVISION CASE ASSIGNMENT**

This Order rescinds and replaces Administrative Order 2003-02.

**IT IS ORDERED:**

1. This administrative order, issued in accordance with Michigan Court Rules 8.110 and 8.111, 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 (which includes the Auto Theft Docket, Felony Non Support Docket, Domestic Violence Docket, Pre-Exam Docket), and Trial Docket.
4. The first tier includes the Pre-Exam Docket (Expedited Plea Program). Every warrant request (within the jurisdiction of 36<sup>th</sup> District, Detroit) that is presented will be reviewed by the Prosecutor's Office to determine eligibility for the program. A Third Circuit Court Judge assigned as a 36<sup>th</sup> District Court Judge, or a 36<sup>th</sup> District Court Judge assigned as a Third Circuit Court Judge, will conduct the Pre-Exam Hearing. In his or her capacity as a District Court Judge, the 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 conduct the AOI and accept the plea or set a next action date after a blind draw. If a guilty plea is entered and accepted, a sentencing date shall be set. 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 an Arraignment on the Information (AOI) judge. Cases in which the defendant is charged with an auto theft offense delineated below will be assigned to this docket with the following exceptions: (a.) Cases not assigned and adjudicated in paragraph 4 or (b.) If a complaint includes a second offense, which carries a penalty of greater than 10 years, the case will be assigned to a regular AOI docket. Otherwise, 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 750.535-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 and there is no demand for jury, the case may be assigned to a designated docket. If there is a jury demand, the case shall be assigned to a designated trial docket.
6. The first tier further consists of Arraignment on the Information (AOI) Dockets.
  - a. All non-capital cases other than those with an- included felony firearm (MCL 750.227b) 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 (waiver only) or blind draw the case to a trial docket. The blind draw must be conducted within 21 days of the AOI date. The Presiding Judge must grant any blind draw exceeding the 21-day period. Cases assigned to a trial docket beyond the 21-day period will be monitored and brought to the attention of the Presiding Judge. 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 treatment program. A defendant is eligible for the drug treatment program if he or she is assessed as an identifiable drug user, and is charged under the Controlled Substances Act or with one of the following related 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)], manufacture of schedule 5 controlled substance [MCL 33374012(E), manufacture official or counterfeit prescription form 33374012(F), possession of methamphetamine 33374032B(1), possession of certain schedule 1, 2, 3, or 4 controlled substances or controlled substance analogue 33374032(B)-(A), manufacture imitation controlled substance 33374022(E), 33374012(B)(1), obtaining controlled substance by fraud, 33374071(C), possession of counterfeit prescription form 33374071(G), Retail fraud statute (MCL 750.356), Uttering and Publishing (MCL 750.249), Obtaining Money Under False Pretenses (750218), Larceny (750365). 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 supervising drug court judge. Cases not reaching disposition by the assigned AOI judge shall be randomly assigned to a trial docket and can enter the drug treatment program thereafter.

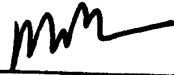
7. All non-capital domestic violence related charges will be assigned to a designated AOI docket. If a plea agreement cannot be reached and no jury demand has been entered, the AOI judge may either retain the case for trial or blind draw the case to a trial docket. The blind draw must be conducted within 21 days of the AOI date unless the Presiding Judge has extended the time. If there is a jury demand, the case shall be immediately blind drawn to a trial docket.
8. All welfare fraud (MCL 400.60) and fugitive extradition (780.12) cases will be assigned to designated AOI docket(s).
9. All Felony Non Support cases (MCL 750.161 and 750.165) will be assigned to a designated docket in the Family Division – Domestic Relations Section. A Third Circuit Court Judge, in his or her capacity as a 36<sup>th</sup> District Court Judge, will conduct the Preliminary Examination and may bind the defendant over to Circuit Court. After the preliminary examination has been held or waived and the defendant bound over, the judge in his or her capacity as a Circuit Court judge will conduct an AOI. The same judge shall accept the plea or set a next action date. If a guilty plea is entered and accepted, a sentencing date shall be set. If a guilty plea is not entered, the judge shall schedule the next court action. If a plea cannot be reached and there is a demand for a trial, a trial date will be set on that judge's docket in the Family Division.
10. All non-capital cases not specifically enumerated in the above paragraphs will be randomly assigned to an AOI docket.
11. The second tier consists of trial dockets. All criminal offenses for which life imprisonment is the maximum sentence or the non-capital offense with a felony firearm are included in one of the following six crime categories: homicide; assault; criminal sexual conduct; robbery; drugs, and non-capital with a felony firearm. Criminal offenses in these categories are assigned by lot at case initiation to a trial docket.

12. To ensure that cases enumerated in paragraph 11 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 that 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.
13. All criminal appeal cases (AR) which include the following case types from the district court: extradition/detainer (EX); ordinance misdemeanor criminal (OM); statute misdemeanor criminal (SM); ordinance misdemeanor drunk driving (OD); ordinance civil infraction traffic (OI); ordinance misdemeanor traffic (OT); statute misdemeanor drunk driving (SD); statute civil infraction traffic (SI); statute misdemeanor traffic (ST); ordinance parking (OK); ordinance civil infraction non-traffic (ON); statute parking (SK) and state civil infraction non-traffic (SN), are assigned by lot to a trial docket.
14. 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 open or pending 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 as enumerated in paragraph 11 is assigned to the trial 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 most recent open case.

15. The same judge must adjudicate all pending or open cases when there are multiple defendants. Cases will be packaged according to the following guidelines.
- a. When a new case (same prosecutor's number) has multiple defendants and is bound over on the same or different dates, 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 (i.e. placed on probation last), receives all defendants.
  - b. When defendants on a multiple-defendant offense are bound over on different dates, it is the responsibility of the Prosecutor's Office to move for consolidation. Other parties may move for consolidation for the purpose of efficiency. 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 the lowest case number.
16. If a judge is disqualified or for other good cause including cases assigned in error cannot undertake an assigned case, the Presiding Judge shall assign it to another judge by 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. The parties may proceed to the Presiding Judge on trial court's denial of recusal.
17. An adjournment on the day of trial shall only be granted by the Presiding Judge of the Criminal Division in consultation with the trial judge.

Effective Date: May 1, 2005

Dated: 4-27-05

  
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MARY BETH KELLY  
CHIEF JUDGE  
THIRD JUDICIAL CIRCUIT