



THIRD JUDICIAL CIRCUIT
OF MICHIGAN

701 COLEMAN A. YOUNG MUNICIPAL CENTER
2 WOODWARD AVENUE
DETROIT, MICHIGAN 48226-3413

VIRGIL C. SMITH
CHIEF JUDGE

(313) 224-5430

LOCAL ADMINISTRATIVE ORDER 2009-01

STATE OF MICHIGAN
THIRD JUDICIAL CIRCUIT

SUBJECT: CRIMINAL DIVISION CASE ASSIGNMENT

This Order rescinds and replaces Administrative Order 2007-02.

IT IS ORDERED:

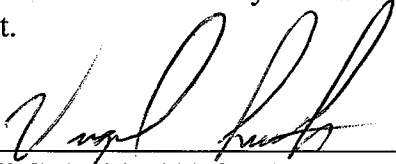
1. This local administrative order, issued in accordance with Michigan Court Rules 8.110 and 8.111, sets forth the method to be used for assigning criminal cases within the Third Circuit Court.
2. The same judge must adjudicate all pending or open cases of a defendant. A pending case is one in which 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 involving the same defendant, the new case will be assigned to the judge who has the open case or pending case.
 - b. When a defendant has both a pending case and an open case, assignment is based on the most recent open case.
3. 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, all defendants shall be assigned to the judge with the oldest pending case (i.e. the lowest case number).

- b. If none of the defendants has a pending case, all defendants shall be assigned to the judge with the most recent open probation case (i.e. placed on probation last).
4. The Third Circuit Court utilizes a two-tier assignment system for criminal case processing. The case assignment tracks are AOI Dockets (which includes the Pre-Exam Docket, Felony Non-Support Docket, Auto Theft Docket, and Domestic Violence Docket), and Trial Dockets.
5. The first tier includes the Pre-Exam Docket (Expedited Plea Program). Every warrant request (within the jurisdiction of 36th District, Detroit) that is presented will be reviewed by the Prosecutor's Office to determine eligibility for the program and will be identified as such. A Third Circuit Court Judge assigned as a 36th District Court Judge, or a 36th 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 and blind draw to a trial docket. 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.
6. The first tier also includes the Felony Non-Support Docket (MCL 750.161 and 750.165). A Third Circuit Court Judge assigned as a 36th District Court Judge, or a 36th District Court Judge assigned as a Third Circuit Court Judge, in his or her capacity as a 36th District Court Judge, will waive/conduct the preliminary examination and will/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 within **63 days** of the bind-over or there is a demand for a jury trial, the case shall be assigned to designated trial docket(s).
7. The first tier also includes a Felony Auto Theft Docket handled by a designated Arraignment on the Information (AOI) judge. Cases in which the defendant is charged with an auto theft offense delineated in Docket Directive 2007-06 will be assigned to this docket, including those with a felony firearm count with the following exceptions: (a.) Cases not assigned or adjudicated in paragraph 5 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. If there is a jury demand on those offenses without a felony firearm, the case shall be immediately assigned to a designated trial docket. If there is a jury demand on those offenses with a felony firearm, the case shall be blind drawn to a trial docket.
8. Non-capital domestic violence related charges will be identified as such by the Prosecutor's Office at the warrant request and will be assigned to a designated AOI docket.

9. 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 randomly assigned to an AOI docket.
 - 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 offenses outlined in Docket Directive 2007-07. The AOI judge assigned to the case shall accept the plea and the defendant shall be sentenced and supervised during drug treatment probation by a designated supervising drug court judge. Cases not reaching disposition by the assigned AOI judge shall be blind drawn to a trial docket and can enter the drug treatment program thereafter.
10. All non-capital cases not specifically enumerated in the previous paragraphs will be randomly assigned to an AOI docket.
11. If a plea agreement cannot be reached in paragraphs enumerated in 7, 8 and 9 (AOI dockets) and there is no jury demand, the case may remain on the AOI docket for a bench 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 granted an extension. For the purposes of judicial efficiency, a blind draw must occur on the entire case when there are multiple defendants, unless a plea is reached on one defendant. Cases assigned to a trial docket beyond the 21-day period should be monitored and brought to the attention of the Presiding Judge, immediately by the trial Judge receiving the case. 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 there is a jury demand, the case shall be immediately blind drawn to a trial docket.
12. All welfare fraud (MCL 400.60) and fugitive extradition (780.12) cases will be assigned to designated AOI docket(s).
13. 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.
14. To ensure that cases enumerated in paragraph 13 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.

15. Criminal appeal cases (AR) which include the following case types from the district court: 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 designated trial dockets.
16. Criminal appeal cases (AR) from the district court, prior to bind-over and/or before assignment of the trial judge on the following district court case types: felony criminal (FY), felony drunk driving (FD), and felony traffic (FT), shall be assigned to the Presiding Judge of the Criminal Division.
17. Pre-charged habeas corpus (AH) matters will be assigned in accordance with LAO 2006-04.
18. It is the responsibility of the Prosecutor's Office to immediately move for consolidation upon knowing of cases that arise out of the same transaction or occurrence. Other parties or the judge may move for consolidation for the purpose of efficiency as well. The motion to consolidate shall be heard by the judge with the lowest case number (oldest case).
19. 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 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 fourteen (14) days for a comparable (or less) case from the docket of the judge receiving the reassigned case. The parties may proceed to the Presiding Judge if the assigned judge denies recusal and/or refuses the reassignment.
20. A reissued warrant on a previously dismissed case will be assigned to the judge who dismissed the earlier case.
21. When a judge is assigned a case in error, the case shall be reassigned to the proper judge immediately. A comparable (or less) case will be exchanged within fourteen (14) days of the determination of the error. The criteria for determining a comparable case includes identical or similar charges, number of defendants, potential number of witnesses, and the anticipated length of trial.
22. The Presiding Judge shall consider a motion for an adjournment on the day of trial only after the assigned judge has approved the adjournment.

Dated: January 21, 2009



Virgil C. Smith, Chief Judge
Third Judicial Circuit