

**THIRD JUDICIAL CIRCUIT
OF MICHIGAN**

TIMOTHY M. KENNY
CHIEF JUDGE

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LOCAL ADMINISTRATIVE ORDER 2019 – 01

**STATE OF MICHIGAN
THIRD JUDICIAL CIRCUIT**

SUBJECT: CRIMINAL DIVISION CASE ASSIGNMENT

This Order rescinds and replaces Local Administrative Order 2018-04.

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 open or pending cases of a defendant. An open case is one in which the judge has not signed and filed an order closing probation. A pending case is one in which a sentence has not been imposed. Cases will be packaged according to the following guidelines:
 - a. When a 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 or pending case.
 - b. When a defendant has both an open case and pending case, assignment is based on the most recent open case.
3. The same judge must adjudicate all pending 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 have a pending case, all defendants shall be assigned to the judge with the most recent open probation case (i.e. placed on probation last).
 - c. 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 that have been assigned to different judges. The judge with the lowest case number (oldest case) shall adjudicate all of the cases in accordance with section 3(a) and (b). This judge will determine whether to consolidate the cases or whether to conduct the trials at different times.
4. A reissued warrant on a previously dismissed case will be manually assigned to the judge who dismissed the earlier case.
5. The Third Circuit Court utilizes a two-tier assignment system for criminal cases. The case assignment tracks Arraignment on the Information (AOI) Dockets (which includes Felony Non-Support, Auto Theft, and Domestic Violence cases) and Trial Dockets.
6. The first tier includes:
 - a. Felony Non-Support Docket (MCL 750.161 and 750.165). A Third Circuit Court Judge assigned as a 36th District Court Judge, will waive/conduct the Preliminary Examination Hearing and will / may bind the defendant over to Circuit Court. Upon bindover, 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 agreement cannot be reached within thirty-five (35) days of the bind-over date or there is a demand for a jury trial, the case shall be assigned to a designated Trial Docket(s).
 - b. Felony Auto Theft Docket conducted by a designated AOI Judge. Cases in which the defendant is charged with an auto theft offense delineated in the applicable Docket Directive will be assigned to this docket, with the following exceptions: (1) Cases not assigned or adjudicated in paragraph 2, 6a, or 6b. 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. 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 agreement cannot be reached within twenty-eight (28) days of the bind-over date or there is a demand for a jury trial, the case shall be assigned to a designated Trial Docket.
 - c. 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. 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 agreement cannot be reached within

twenty-eight (28) days of the bind-over date or there is a demand for a jury trial, the case shall be blind drawn to a Trial Docket.

- d. The first tier further consists of Arraignment on the Information (AOI) Dockets.
 - i. All non-capital cases other than those with an included felony firearm (MCL 750.227b) will be randomly assigned to an AOI Docket.
 - ii. All non-capital cases not specifically enumerated in the previous paragraphs will be randomly assigned to an AOI Docket.

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 agreement cannot be reached within twenty-eight (28) days of the bind-over date or there is a demand for a jury trial, the case shall be blind drawn to a Trial Docket.

- 7. AOI judges shall retain and conduct trials in first tier cases (paragraph 6) that meet all of the following criteria: a) there is no plea agreement; b) there is a signed waiver of the defendant's right to a jury trial; and c) the charge is a CCW carrying a maximum penalty of 5 years or is a drug offense carrying a maximum penalty of 4 years or less. This includes resolution of all evidentiary issues (motions and hearings). If the defendant withdraws their waiver of a right to a jury trial or otherwise requests a jury trial, the case will be blind drawn to a trial docket but only after all evidentiary issues are resolved by the AOI judge. The blind draw to a trial docket must be accomplished within the time standards enunciated for the specific case types listed in paragraph 6 unless the Presiding Judge has granted an extension of time. In a multi-defendant case, if any defendant fails to meet the criteria listed above the entire case shall be blind drawn to a trial docket.

- 8. The second tier consists of Trial Dockets.

- a. All criminal offenses for which life imprisonment is the maximum sentence and are contained in one of the following crime categories: homicide; assault; criminal sexual conduct; robbery; drugs, or non-capital cases including a count of felony-firearm, will be assigned by lot to a Trial Docket at case initiation.
- b. To ensure that cases enumerated in paragraph 9 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 successor until final disposition.


- 9. All welfare fraud (MCL 400.60) and fugitive extradition (MCL 780.12) cases will be assigned to designated dockets.

10. Designated judges from both AOI and Trial Dockets supervise cases from the Adult Drug Treatment Court (ADTC), Veterans Treatment Court (VTC), and the Mental Health Court (MHC). The assigned judge for a defendant participating in the ADTC, VTC, or MHC will take the plea and reassign the case to the respective Supervising ADTC, VTC, or MHC Judge for sentence and supervision. Case Packaging Rules as indicated in this LAO apply to the Supervising ADTC, VTC, and MHC Judge(s).
11. Criminal Appeal cases (AR) from the District Court on the following District Court case types: felony-criminal (FY); felony-drunk driving (FD); and felony-traffic (FT) shall be assigned by lot to designated Trial Dockets unless there is a pending case or open probation matter (see paragraph 2). After the disposition of the appeal and a subsequent bind over of the criminal case to the Third Circuit Court, the case shall be manually assigned to the judge who disposed of the appeal.
12. Criminal Appeal cases (AR) which include the following case types from the District Court: ordinance misdemeanor-drunk driving (OD); ordinance civil infraction-traffic (OI); ordinance-parking (OK); ordinance misdemeanor-criminal (OM); ordinance civil infraction-non-traffic (ON); ordinance misdemeanor-traffic (OT); statute misdemeanor-drunk driving (SD); statute civil infraction-traffic (SI); statute-parking (SK); statute misdemeanor-criminal (SM); state civil infraction-non-traffic (SN); statute misdemeanor-traffic (ST), shall be assigned by lot to designated Trial Dockets.
13. Pre-charged habeas corpus (AH) matters and supervisory control powers of the court (AS) matters will be assigned, upon notification to the Clerk of the Court, to the judge signing or initiating the action within one (1) business day.
14. A judge shall manually reassign a case to the proper judge within fourteen (14) days of the first scheduled hearing on that judge's docket when a case was assigned in error. A judge shall not reassign a case that exceeds the fourteen (14) days.
15. 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 for the reassignment. All case reassignments shall be done by lot. When a judge is disqualified from hearing a case, it shall be exchanged for a comparable (or less serious) case from the docket of the judge receiving the reassigned case. The criteria for determining a comparable case shall include: case type and maximum sentence, the number of defendants, case age, and the potential number of witnesses. The parties may proceed to the Presiding Judge if the assigned judge denies recusal or the new judge refuses the reassignment.
16. The Presiding Judge of the Criminal Division shall consider a motion for an adjournment of trial on the day of trial only after the assigned judge has approved the adjournment.
17. After the entry of the sentence, the Chief Judge or his or her designee may enter orders remitting prisoner funds for fines, costs, and assessments ("288 orders"). Motions to

Vacate the Order to Remit shall be heard by the Chief Judge or his/her designee.

18. All cases emanating from a grand jury indictment shall be randomly assigned to a judge on the grand jury indictment panel. The grand jury indictment panel shall consist of no fewer than three judges who are appointed by the Chief Judge or his/her designee pursuant to a docket directive.
19. The Presiding Judge of the Criminal Division shall resolve court costs and fee issues for deceased defendants.

Dated: January 24, 2019



Hon. Timothy M. Kenny, Chief Judge
Third Judicial Circuit of Michigan

Date Approved by SCAO: March 4, 2019