



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 2012- 04

STATE OF MICHIGAN
THIRD JUDICIAL CIRCUIT

SUBJECT: CRIMINAL DIVISION CASE ASSIGNMENT

This Order rescinds and replaces Local Administrative Order 2009-01.

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 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).
 - 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 are Arraignment on the Information (AOI) Dockets (which includes Pre-Exam, Felony Non-Support, Auto Theft and Domestic Violence cases); and Trial Dockets.
6. The first tier includes the Pre-Exam Docket (Expedited Plea Program). Every warrant request (within the jurisdiction of 36th District Court, 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. If the defendant demands a Preliminary Examination Hearing, the case will be returned to the District Court for further proceedings. 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 the 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. If a guilty plea is entered and accepted, a sentencing date shall be set. If a plea cannot be reached within twenty-one (**21**) 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. 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, will waive/conduct the Preliminary Examination Hearing 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 sixty-three (**63**) 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).

8. The first tier also includes a 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: (a.) Cases not assigned or adjudicated in paragraph 6 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. 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 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.
9. 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 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.
10. 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. All non-capital cases not specifically enumerated in the previous paragraphs will be randomly assigned to an AOI Docket.

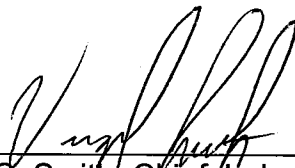
The same judge shall accept the plea or set a next action date. If a guilty plea is entered and accepted, a sentencing date shall be set. If a guilty plea is not entered, the judge shall schedule the next court action. If a plea cannot be reached within twenty-eight (**28**) days of the bind-over date or there is a demand for a jury trial, the case shall be blind-drawn to a Trial Docket.

11. If a plea agreement cannot be reached on assigned cases enumerated in paragraphs, 6, 7, 8, 9 and 10 (AOI Dockets) and there is no jury demand, the case may remain on the AOI Docket for a bench trial. The blind-draw or the manual assignment to a Trial Docket must be concluded within the applicable days of the bind over to Circuit Court, of 21, 28, or 63 days respectively and as indicated previously, unless the Presiding Judge has granted an extension. For the purposes of judicial efficiency, a blind-draw or manual assignment to a Trial Docket must occur on the entire case when there are multiple defendants, unless a plea is accepted on one defendant. Cases assigned to a Trial Docket beyond the limit shall 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 time limit unless the Presiding Judge approves the return.

12. The second tier consists of Trial Dockets. 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.
13. To ensure that cases enumerated in paragraph 12 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.
14. All welfare fraud (MCL 400.60) and fugitive extradition (MCL 780.12) cases will be assigned to designated dockets.
15. Designated judges from both AOI and Trial Dockets supervise cases from the Adult Drug Treatment Court (ADTC) and the Mental Health Court (MHC). The assigned judge for a defendant participating in the ADTC or MHC will take the plea and reassign the case to the respective Supervising ADTC or MHC Judge for sentence and supervision. Case Packaging Rules as indicated in this LAO apply to the Supervising ADTC and MHC Judge(s).
16. 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. 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.
17. 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.
18. 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.
19. 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.

20. 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) 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.
21. 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: April 20, 2012



Virgil C. Smith, Chief Judge
Third Judicial Circuit