

THIRD JUDICIAL CIRCUIT
OF MICHIGAN

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VIRGIL C. SMITH
CHIEF JUDGE

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ADMINISTRATIVE ORDER 2012 – 05

STATE OF MICHIGAN
THIRD JUDICIAL CIRCUIT

**SUBJECT: PLAN FOR ASSIGNMENT OF COUNSEL IN THE THIRD JUDICIAL
CIRCUIT**

This Administrative Order rescinds and replaces Administrative Order 2011- 05.

Pursuant to MCR 8.112(B) and 8.123(C), the Third Judicial Circuit (the Court) adopts the following as its Plan for the Assignment of Counsel:

I. Introduction

- A. Organization of the Plan for Assignment of Counsel. The Court presently maintains a Criminal Division to adjudicate criminal cases within its jurisdiction and a Domestic Relations Section and Juvenile Section to adjudicate cases within the jurisdiction of its Family Division. In order to take into account how cases are processed and the traditional methods of assigning counsel in these different parts of the Court, the Court's Plan for Assignment of Counsel (the Plan) is organized into three parts, each of which details how assignments for appointed counsel are made in these divisions of the Court.

II. Assignment of Counsel, Family Division – Domestic Relations Section

- A. Scope. Where appointment of counsel for an indigent party is required involving personal protection matters (PPO), paternity, contempt of court show cause proceedings, or other cases within the jurisdiction of the Third Circuit Court – Family Division – Domestic Relations Section, appointment of counsel shall be made pursuant to the following provisions.

B. Attorney Eligibility.

1. Requirements. Attorneys seeking house counsel assignments for domestic relations matters are required to submit to the Case Processing Department, 770 Coleman A. Young Municipal Center or the Office of Assigned Counsel Services, 1025 E. Forest Avenue, Suite 203/204, the following:
 - a. A completed Attorney Profile/Application (Profile). Applications are available in the Case Processing Department and Assigned Counsel Services Office.
 - b. Proof of completion/certification of annual attorney training issued by the Court's designated educational entity.
 - c. All certified attorneys shall notify the Assigned Counsel Services Office of any change in business address, email address, telephone number, FAX number or pager number.
 - d. A statement of prior experience in the field of domestic relations law.
 - e. Membership in good standing in the State Bar of Michigan.
2. The Domestic Relations Attorney Review Committee. The Domestic Relations Attorney Review Committee (the Committee) includes the Presiding Judge of the Domestic Relations Section, the Executive Court Administrator (or designated representative), and two judges serving in the Domestic Relations Section. The Presiding Judge shall select these judges on a rotational basis.
 - a. The Committee shall meet periodically to review attorney profiles and determine in its sole discretion whether an attorney is qualified, under the foregoing provisions for placement on the Assigned Counsel Eligibility List. The Committee shall also designate those attorneys eligible to receive assignments as appellate counsel.
 - b. The Committee shall, following the review process noted in subsection 4, also remove attorneys in its sole discretion from the Assigned Counsel Eligibility List who violate court policy and/or do not demonstrate the ability to provide adequate representation to clients.
3. The Assigned Counsel Eligibility List. The names of all attorneys approved by the Committee shall be maintained in an automated assigned counsel program database. The database will contain all attorneys approved for assignment in the Domestic Relations Section. The database of approved attorneys shall constitute the Domestic Relations Assigned Counsel Eligibility List (Eligibility List).

- a. Printed copies of the Eligibility List shall be provided to the Bench.
- b. Payment to attorneys for services rendered who receive judicial appointments will be at the Court's discretion if they are not on the Eligibility List.

4. Removal from the Eligibility List.

- a. Complaints about attorneys who are assigned cases under the provisions of this Division shall be forwarded to the Committee using the Assigned Counsel Complaint/Request for Discipline form.
 - (1) The Attorney Review Committee and the attorney shall be notified of instances of unexcused or unreasonable tardiness or absence of assigned counsel and other policy violations.
 - (2) Upon being notified of an unexcused or unreasonable tardiness or absence of assigned counsel, the Presiding Judge shall, via first class mail, notify the attorney that another instance of unexcused or unreasonable tardiness or absence within the next six month period shall, without further notice to the attorney, result in the attorney's name being deleted from the Eligibility List. Assigned Counsel Services shall remove from the Eligibility List the names of attorneys who have failed to comply after being sent a warning letter.
 - (3) For other good cause, upon being notified of other complaints against assigned counsel, the Committee shall review the circumstances of the complaint and in its sole discretion take such action as deemed appropriate, including removal from the Eligibility List.
 - (4) If an attorney is removed from the Eligibility List, the attorney may apply for reinstatement if the attorney can otherwise satisfy the requirements of Section II(B)(1). However, the attorney may not be placed on the Eligibility List within 90 days from the removal date.
 - (5) Upon being informed that an attorney has been suspended or disbarred from the practice of law or has not completed the required training, the attorney shall be removed from the Eligibility List without further notice until the attorney demonstrates training certification, and/or membership in good standing with the State Bar of Michigan.

C. Assignment of Counsel.

- a. In order to ensure equitable distribution of assignments, House Counsel assignments are made on a rotational basis from the Assigned Counsel Eligibility List.

2. Attorneys shall be notified of assignment (type, date, time, and place of hearing) via email.
3. Scope of Appointment.
 - a. House Counsel assignments to the PPO and Show Cause dockets shall be for the purposes of that hearing day only.
 - b. Assigned Counsel assignments to a paternity case in which no order of filiation has been entered shall be through case closure or the entry of an order of filiation. Assigned Counsel shall not be removed from the case, once appointed, before an order of filiation has been entered unless upon order of the Court for good cause.

D. Removal/Replacement of Counsel.

A judge may remove an attorney who fails to appear at a scheduled hearing or for other good cause. Accepting the assigned attorney's designated stand-in shall be at the discretion of the judge.

E. Compensation.

1. Attorneys serving as house counsel for the PPO or Show Cause dockets shall submit vouchers for payment as directed by the Case Processing Department on the day of the assignment. Compensation for service as house counsel for the PPO or Show Cause Dockets is per half day based upon the Court's applicable fee schedule.
2. Assigned counsel shall submit vouchers to the Case Processing Department for pre-filiation paternity cases and appeals, under the provisions of the applicable fee schedule.
3. The Case Processing Department shall submit vouchers to the Office of Budget and Finance for review and processing.
4. Disputes. Attorneys may appeal alleged payment discrepancies by completing an Attorney Payment Inquiry Form, which is available at the Office of Budget and Finance, 707 Coleman A. Young Municipal Center. Completed Attorney Payment Inquiry Forms shall be submitted to the Office of Budget and Finance within one year of the date of the attorney's entitlement to payment, or the claimed fees will be deemed waived. Upon receipt of a timely attorney inquiry concerning an alleged payment discrepancy, personnel from the Office of Budget and Finance shall review and investigate the alleged discrepancy and make any necessary fee adjustments.

III. Assignment of Counsel, Family Division - Juvenile Section

A. Scope. Assignment of counsel for an indigent party is required for children in delinquency cases and for respondents and children in child protection proceedings or other cases within the jurisdiction of the Third Circuit Court Family Division-Juvenile Section. For purposes of this Order, assignment of counsel for a juvenile in a neglect case shall include the assignment of a lawyer guardian ad litem. The Court will enter into contracts with providers of legal services such as the Juvenile Law Group (JLG), the Michigan Children's Law Center (MCLC) and other groups of practicing attorneys to provide exclusive representation for juveniles in both delinquency and child protection proceedings, including any appeals that arise out of these proceedings. These individual contracts shall govern the provisions of assigned counsel services by these vendors. These vendors will be responsible for ongoing legal education of all attorneys within their respective groups, including ensuring that their attorneys have complied with the requirements of Section III(B)(1)(b)

Assignment of counsel for all matters not including representation of juveniles in delinquency and child protection proceedings shall be made pursuant to the following provision.

B. Attorney Eligibility.

1. Requirements: Attorneys seeking house counsel assignments in the Juvenile Section are required to submit to the Office of Assigned Counsel Services, Room 104, Building B, Lincoln Hall of Justice, 1025 East Forest Avenue, the following:

- a. A completed Attorney Profile/Application (Profile). Applications are available in the Lincoln Hall of Justice Office of Assigned Counsel Services.
- b. Annual proof of completion/certification of attorney training issued by the Court's designated educational entity.
- c. All certified attorneys shall notify the Assigned Counsel Services Office of any change in business address, email address, telephone number, FAX number or pager number.
- d. A statement of prior experience in the area of juvenile law.
- e. Membership in good standing in the State Bar of Michigan.
- f. Participation in an Attorney Mentoring Program. All attorneys newly admitted to the Bar will be paired with a mentor as a pre-requisite to receiving assignment. As part of this mentorship the new attorney will need to provide written verification of having completed the following requirements:

- 1) The attorney must accompany his/her mentor to a neglect preliminary hearing, pretrial, at least one delinquency trial and one hearing at the Juvenile Detention Facility. Observation of each event must occur within the jurisdiction of the Third Circuit Court Juvenile Section.
- 2) The attorney must accompany his/her mentor to observe and thoroughly discuss at least two permanent custody trials and provide written proof from the mentor.
- 3) The attorney will not receive compensation during this process.

2. Appeals.

In addition to the foregoing eligibility requirements, attorneys seeking appellate assignments must submit a sample brief for review by the Juvenile Attorney Review Committee. All attorneys seeking appellate assignments must have a minimum of 5 years' experience in child protection cases to be considered for appellate work.

3. Designated Cases.

In addition to the foregoing eligibility requirements, attorney groups who provide representation for juveniles on designated cases must provide proof of current Detroit-Wayne County Criminal Advocacy Program (CAP) yearly certification for capital offenses.

4. The Juvenile Attorney Review Committee.

The Juvenile Attorney Review Committee (the Committee) includes the Presiding Judge of the Juvenile Section, the Deputy Court Administrator (or designated representative), and two judges serving in the Juvenile Section. The Presiding Judge shall select these judges.

- a. Once per year, each Judge assigned to the Juvenile Section will be provided with all applications submitted by attorneys seeking assignments. Each judge will select 20 applications of those who meet the minimum qualifications set forth in this part, and submit a list of their selections to the Juvenile Attorney Review Committee.

- b. The Committee will review the application lists submitted by the Judges of the Juvenile Section. The Committee will then choose the attorneys from those lists, or choose other qualified attorneys to be placed on the Eligibility List. The Committee shall also designate those attorneys eligible to receive appointments as appellate counsel to represent parents or guardians.

5. The Assigned Counsel Eligibility List.

The names of all attorneys approved by the Committee shall be maintained in an automated rolling list in the assigned counsel program database. The database of approved attorneys shall constitute the Juvenile Assigned Counsel Eligibility List (Eligibility List). The Eligibility List will include no fewer than 100 attorneys. Should the list drop below this number, the Committee shall meet and add eligible attorneys as needed. Additionally, in an effort to promote new attorney participation, the Committee will choose at least 10 attorneys per year with under 10 years' experience for placement on the Eligibility List.

- a. All attorneys on the Eligibility List must be willing to mentor less experienced attorneys seeking assignments. Failure or refusal to participate in this program will result in removal from the Eligibility List. There will be no compensation for mentoring.
- b. Printed copies of the Eligibility List shall be provided to the Bench.
- c. Payment to attorneys for services rendered who receive judicial appointments will be at the Court's discretion if they are not on the Eligibility List.

7. Removal from the Eligibility List.

- a. Complaints about attorneys who are assigned cases under the provisions of this Part shall be forwarded to the Committee using the Assigned Counsel Complaint/Request for Discipline form.
 - (1) The Attorney Review Committee and the attorney should be notified of instances of unexcused or unreasonable tardiness or absence of assigned counsel and other policy violations.
 - (2) Upon being notified of an unexcused or unreasonable tardiness or absence of assigned counsel, the Presiding Judge shall, via first class mail, notify the attorney that another instance of unexcused or unreasonable tardiness or absence within the next six month period shall, without further notice to the attorney, result in the attorney's name being deleted from the Eligibility List. Assigned Counsel Services shall remove from the Eligibility List the names of attorneys who have failed to comply after being sent a warning letter.

- (3) Upon being notified of other complaints against assigned counsel, the Committee shall review the circumstances of the complaint and in its sole discretion take such action as deemed appropriate, including, but without limitation, removal from the Eligibility List.
 - i. Unless the need for immediate action is present, the existence of which shall be in the sole discretion of the Committee, before taking action on a complaint against an attorney on the assigned counsel list, the Committee shall notify the attorney of the substance of the complaint via e-mail or fax or first class mail. The attorney against whom a complaint is made may respond in writing to a complaint, but, must do so within 10 business days of the notification. Notification shall be deemed to have occurred on the day the e-mail or fax or letter is sent. The Committee need not consider responses made after the time specified herein for response.
- (4) If an attorney is removed from the Eligibility List, the attorney may apply for reinstatement if the attorney can otherwise satisfy the requirements of Section III(B)(1). However, the attorney may not be placed on the Eligibility List within 90 days from the removal date.
- (5) Upon being informed that an attorney has been suspended or disbarred from the practice of law or has not completed the required training, the attorney shall be removed from the Eligibility List without further notice and until such time that compliance of the previous mentioned requirements are obtained.

C. Assignment of Counsel.

1. For those cases that are not already assigned based on contracts as indicated in Section III (A), house counsel assignments are made on a rotational basis from the Eligibility List to ensure an equitable distribution of assignments. This rotation is drawn randomly by a computer program, so as to ensure equitable distribution. A sufficient number of attorneys shall be assigned to represent all indigent parties except juveniles for each daily docket. Assignments shall be made only to attorneys who are on the Eligibility List.
 - a. Under the one judge-one family rule, attorneys shall be assigned to cover the same party if there is a pending or open case as defined in the Family Division – Juvenile Section Case Assignment Rule.
 - b. Scope of Assignment. The assignment of an attorney serving as house counsel shall be scheduled in half-day intervals unless assigned to represent a party in an ongoing case as previously defined. Such assignment continues until case closure.

D. Removal of Counsel

1. A judge may remove an attorney for failure to appear at a scheduled hearing or other good cause. Accepting the assigned attorney's designated stand-in shall be at the discretion of the judge.
2. The Chief Judge may reassign counsel during the post-dispositional stage of a case in order to expeditiously implement this Plan as indicated in Section III(A) and to ensure that the interests of the children and the public are properly served.
3. Upon receiving notice of reassignment, an attorney may bring a motion before the Chief Judge to remain as the assigned counsel in one or more cases. Upon a demonstration of special circumstances, the Chief Judge retains the discretion to allow the moving attorney to remain the assigned counsel.

E. Compensation.

1. MCLC, JLG, and any other contracted attorney groups shall be compensated according to the terms of the existing contract between the Court and the attorney group. Any disputes regarding compensation shall be handled in accord with the terms of the contract.
2. Individual Assigned Counsel
 - a. Compensation for private attorneys shall be pursuant to the Court Appointed Attorney Fee Schedule that is in effect at the time that compensation is sought. Copies of the current Court Appointed Attorney Fee Schedule are available at the Office of Budget and Finance, 707 Coleman A. Young Municipal Center, and the Office of Assigned Counsel Services, Room 104, Building B, Lincoln Hall of Justice.
 - b. Verification of Services and Request for Payment Forms (MJC-910) shall be provided to court appointed counsel for completion and submission for payment for the following types of services: Stand-by counsel; appeals; show-ups; adoption hearings; guardian ad litem; extraordinary fees (subject to obtaining approval of the Chief Judge); representation of non-parent adults; AWOLP docket representation; and custody hearings.
 - c. Disputes. Attorneys may appeal alleged payment discrepancies by completing an Attorney Payment Inquiry Form, which is available at the Office of Budget and Finance, 707 Coleman A. Young Municipal Center, and the Office of Assigned Counsel Services, Room 104, Building B, Lincoln Hall of Justice. Completed Attorney Payment Inquiry Forms shall be submitted to the Office of Budget and Finance within one year of the date of the attorney's

entitlement to payment, or the claimed fees will be deemed waived. Upon receipt of a timely attorney inquiry concerning an alleged payment discrepancy, personnel from the Office of Budget and Finance shall review and investigate the alleged discrepancy and make any necessary fee adjustments.

IV. Assignment of Counsel, Criminal Division

A. Scope. The Individual contracts shall govern the provisions of Assigned Counsel Services by LADA and other groups of practicing attorneys. Appointment of counsel for representation of indigent defendants in felony cases in the Third Circuit Court Criminal Division shall be made pursuant to the following provisions.

B. Attorney Eligibility.

1. Attorneys shall qualify for assigned counsel appointments for non-capital and capital cases as specified below by submitting to the Assigned Counsel Services Office, located at the Frank Murphy Hall of Justice (FMHJ) information demonstrating the following:
 - a. A completed Attorney Profile/Application which can be found on the Court's website:
<https://www.3rdcc.org/Documents/Criminal/Links/Attorney%20Assignment%20Application.pdf>
 - b. Membership in good standing in the State Bar of Michigan.
 - c. Annual continuing legal education certification from the Detroit-Wayne County Criminal Advocacy Program (CAP); inclusive of being a member in good standing with the Wayne County Criminal Defense Bar Association (WCCDBA).
 - d. Residence or bona fide office in Wayne County.
 - e. A valid e-mail address.
 - g. A valid telephone and/or cellular number with voice mail capability.
2. All attorneys newly admitted to the Bar will be paired with a mentor as a pre-requisite to receiving assignments. As part of this mentorship the new attorney will need to provide written verification of having completed the following requirements:
 - a. The attorney must accompany his/her mentor to a pre-exam hearing, an arraignment on information, a plea, sentencing and jail visit. Observation of each event must occur within the jurisdiction of Third Circuit Court Criminal Division.

- b. The attorney must accompany his/her mentor to observe and thoroughly discuss at least two preliminary examinations.
 - c. The attorney must provide written proof of having observed at least one completed Third Circuit Court jury trial from either the attorneys' mentor.
3. Attorneys shall qualify for assigned counsel appointments for capital cases as specified below by submitting to the Assigned Counsel Services Office, located at the Frank Murphy Hall of Justice (FMHJ) information demonstrating the following:
- a. Must meet all requirements as outlined in section IV (B)(1).
 - b. Must be approved by a majority of the Judges sitting on the Attorney Review Committee.
4. All certified attorneys shall notify the Assigned Counsel Services Office within three business days of any change in business address, email address, telephone and/or cellular number or FAX number.

5. Annual Eligibility Review

- a. On an annual basis, the Assigned Counsel Services Office shall review the list of those attorneys who are certified by CAP to receive assignments and review the Michigan Bar Association membership status of all attorneys who are otherwise certified by the CAP as eligible to receive assignments. The Assigned Counsel Services Office shall then distribute a list of attorneys eligible to receive assignments to the judges of the Criminal Division and the District Judges.
- b. Payment to attorneys for services rendered who receive judicial appointments will be at the Presiding Judge's discretion if they are not on the CAP certified list.

6. Removal from the Eligibility List

- a. Complaints about attorneys who are assigned cases under the provisions of this Division shall be forwarded to the Attorney Review Committee using the Assigned Counsel Services Complaint/Request for Discipline form. The Committee shall then review the circumstances of the complaint and in its sole discretion take such action as deemed appropriate, including removal from the Eligibility List.

1. If an attorney admits to two incidents filed against him/her in trial or appellate court for ineffective counsel, within a five-year period, that attorney will be removed from the Assigned Counsel List for a period to be determined by the Attorney Review Committee.
- b. If an attorney is removed from the Eligibility List, the attorney may apply for reinstatement if the attorney can otherwise satisfy the requirements of Section IV(B)(1).
- c. Upon being informed that an attorney has been suspended or disbarred from the practice of law or that he/she is not CAP certified, the attorney shall be removed from the Eligibility List without further notice and until such time that compliance of the previous mentioned requirements are obtained.

C. Attorney Review Committee

The Attorney Review Committee (the Committee) includes the Presiding Judge of the Criminal Division, the Deputy Court Administrator (or designated representative), and at least two judges serving in the Criminal Division. The Presiding Judge shall select these judges.

- a. The Committee shall meet periodically to review attorney profiles and determine whether an attorney is qualified, under the foregoing provisions for placement on both the non-capital and capital Assigned Counsel Eligibility List.
- b. The Committee shall also meet to discuss any complaints filed against Assigned Counsel to address allegations of, including but not limited to, any violations of court policy, code of professional responsibility or the inability to provide adequate representation.
- c. Complaints about attorneys who are assigned cases under the provisions of this Division shall be forwarded to the Committee via the Manager of Assigned Counsel Services using the Assigned Counsel Complaint form.

D. House Counsel Assignment System – Arraignment on Information (AOI).

1. An eligibility list shall be maintained by the Office of Assigned Counsel Services for assignment as house counsel.
2. Attorneys serving as house counsel in an AOI courtroom will represent all probation violators, defendants arrested on a capias warrant and will replace any attorney who withdraws from a case or fails to appear. House counsel will also

serve as the replacement attorney when an AOI judge grants a defendant's request for new counsel (on non-appellate matters).

3. Approximately six weeks prior to each calendar quarter, an official notice will be posted informing attorneys that they may sign up for house counsel assignments at the Assigned Counsel Services Office. The notice will allow one week for attorneys to sign up for a maximum of ten days per month. Attorneys are encouraged to sign up for an entire week if possible.
4. Attorneys will provide specific dates when they know with reasonable certainty that they will be available.
5. Approximately one month before the beginning of each calendar quarter, AOI judges will assign available attorneys to serve as house counsel in their respective courtrooms during the next calendar quarter. AOI judges must complete their assignments within fourteen (14) days after sign-up has ended. Notification is sent to each AOI judge regarding the commencement of AOI sign-up and when their selections are due to Assigned Counsel Services.
6. LADA assigned days will be administratively entered prior to sign-up. After the assignments have been completed, an AOI house counsel calendar will be sent to each AOI judge. Calendars for all AOI courtrooms will be posted in the Continuing Legal Education Center and the Office of Assigned Counsel Services.
7. An AOI judge may assign no more than five (5) house counsel days per attorney, per quarter. If an attorney previously assigned per Section IV (D) cannot appear on any or all of the days assigned as house counsel, the AOI judge shall contact Assigned Counsel Services for a replacement. This reassignment is subject to the limitations of this section.
8. Spot assignments in AOI courtrooms shall be made from the appropriate AOI House Counsel List. Furthermore, any AOI house counsel days or regular appointments to LADA shall not be re-assigned.

E. Judge's Two-Week Assignment.

1. The Presiding Judge, trial judges and AOI judges may not make more than eight (8) appointments to any attorney during their two-week assignment. Any judge authorized for a one-week assignment may not make more than four (4) appointments to any attorney during their one-week assignment. Appointments include both 36th and out-county district court cases. The assignment schedule is based upon random assignment. Any changes to the order of the assignment schedule shall be presented to Assigned Counsel Services in writing prior to the commencement of the scheduled assignment.

If a judge is unable to complete assignments on more than two consecutive days during the two-week assignment period, then other arrangements should be made for either the Presiding Judge to complete the assignments or another designated judge. Assigned Counsel Services should be notified promptly of any changes. Failure to return assignments within a 24 hour period may result in those assignments being made by the Presiding Judge.

2. In those cases where one defendant has several cases, the first assignment shall be entered under the Judge on assignment. All subsequent cases shall be entered administratively and not count against the Judge on assignment.

F. Probation Violation Assignments.

1. A trial judge may not assign more than 26 probation violation cases per calendar year to any given attorney. There will be no compensation for handling probation violations that exceed the calendar year limit.
2. An attorney shall not receive any more than a total of 200 probation violation assignments per calendar year from the entire Third Circuit Court Criminal Division. There will be no compensation for handling probation violations that exceed the calendar year limit.
3. Judges shall be provided with a report of attorneys who have received at least 20 probation violation assignments from that judge as well as a report of attorneys who have received more than 180 probation violation assignments from the entire Third Circuit Court Criminal Division.
4. When an attorney has received at least 20 assignments during a calendar year from a trial judge and/or has received at least 180 probation violation assignments from the entire Third Circuit Court Criminal Division, the Court will notify the attorney in writing that there will be no compensation for handling probation violations that exceed the calendar year limit.
5. The Office of Assigned Counsel Services shall maintain a list of names and phone numbers of CAP certified attorneys who have indicated their availability to do probation violation and/or spot assignments. In the event an attorney is needed, the courtroom may contact Assigned Counsel Services for an available attorney.

G. Appellate Assignments.

1. Attorneys must complete all necessary requirements as outlined by the Michigan Appellate Assigned Counsel System (M.A.A.C.S.) to receive appellate assignments, including Motions for Relief from Judgment (6.500 motions). Assignments for appeals are made administratively through M.A.A.C.S. under

the Chief Judge. All attorney requests for withdrawal as the appellate attorney shall be heard by the Presiding Judge.

H. Chief Judge Assignments.

1. The Chief Judge or Presiding Judge shall make attorney assignments on ten (10) criminal cases per week. Assigned Counsel Services will identify the specific cases for assignment.
 - a. The assignments, with the exception of capital cases, are to be given to newly CAP certified attorneys, attorneys returning from extended medical leave and certified attorneys who have not received assignments for an extended period of time.
2. The Chief Judge or Presiding Judge shall make attorney assignments in instances in which a person invokes their right to counsel during a custodial interrogation and/or as deemed necessary.
3. The Chief Judge or Presiding Judge shall make no more than eight (8) assignments to any attorney during a calendar year.

I. Administrative Assignments.

1. Assignments made as a result of case packaging are to be counted as an administrative assignment under the Chief Judge. These cases do not count for purposes of regular assignment of cases.
2. Assignments made to the Legal Aid and Defender's Association (LADA) are counted as Defender's assignments. LADA assignments shall not be given to other attorneys unless prior approval has been given by the Presiding Judge.
3. Thirty-Six District Court House Counsel Assignments - Assignments will be given to attorneys to represent indigent defendants who appear at preliminary examination without counsel or where assigned counsel does not appear. A sign-up date will be posted in the Continuing Legal Education Center and in the Assigned Counsel Services Office in Frank Murphy Hall of Justice. Assignments will be made to attorneys in the order of their arrival on sign up day. An attorney shall serve only one day per quarter.
4. Show-ups - Assignments for show-ups are made on the same day as 36th District Court house counsel assignments for preliminary examinations. Attorneys cover show-ups for a 24-hour period, commencing at 8:00 a.m. During the 24 hours, an attorney is expected to be available on short notice to supervise line-ups at the designated law enforcement agency.

J. Other Assignments.

1. Out-County District Court Spot Assignments - The Manager of Assigned Counsel Services will assign an attorney from the eligibility list for a defendant in an out-county district court if the defendant initially planned to retain counsel, appears at a preliminary examination and subsequently requests an appointed attorney. The same procedure is to be followed if an assigned attorney fails to appear at a preliminary examination in an out-county district court. Spot assignments may be made by the district court judge under extenuating circumstances without prior approval from Assigned Counsel Services. District court judges are limited to no more than 12 “on-the-spot” assignments to any one attorney per calendar year.
2. Juvenile Waivers - Attorneys who are designated “capital” on the Assigned Counsel List who have completed CAP seminars on juvenile waivers or any other court-sponsored juvenile certification program may sign up once a month at Assigned Counsel Services. A calendar shall be posted for these assignments. Attorneys on the list must provide a phone number where they can be reached evenings, weekends, and holidays.
- 3 Assignments made on welfare fraud cases shall be made and counted toward the Judge conducting the docket. An attorney shall serve only one day per quarter. These cases do not count for purposes of regular assignment of cases.

K. Scope of Assignment.

1. Case Packaging. An attorney, LADA, or other attorney group who is assigned to represent a defendant in a pending case shall be assigned all additional cases involving that defendant. Such assignments shall be counted as case packaging administrative assignments.
2. Removal/Replacement of Counsel
 - a. If appointed counsel is replaced or if an attorney is otherwise removed, the Third Circuit Court judge before whom the defendant is appearing may appoint an alternate attorney. If the defendant appears after the issuance of a capias, the judge should assign the attorney originally assigned whenever practicable. The judge may, in his or her discretion, appoint an attorney other than the one originally assigned. These are termed “on-the-spot” assignments. An attorney may not receive any more than twelve (12) “on-the-spot” assignments per calendar year from any judge, either in the circuit court or district court.

- b. A judge may remove an attorney who fails to appear at a scheduled hearing or for other good cause. Accepting the assigned attorney's designated stand-in shall be at the discretion of the judge. Designated stand-ins must be CAP certified. In instances where a judge has removed an attorney from a case for failure to appear or for other good cause, the judge may also refer the matter to the Attorney Review Committee for further action.

L. Periodic Reports.

Reports shall be prepared by Assigned Counsel Services and forwarded detailing the following:

1. The number of AOI house counsel days received by each attorney quarterly to all AOI and Pre-Exam Judges;
2. The number of probation violation assignments (cases) and spot assignments made by the Criminal Bench to each attorney on a monthly basis;
3. The number of assignments (cases) made to each attorney during a judge's regular two-week or one-week assignment period (as requested);
4. The number of assignments (cases) made to each attorney over the last four weeks of assignments shall be provided to the current judge at the beginning of his or her assignment period;
5. The total number of assignments made to each attorney by the Criminal Bench on a monthly basis;
6. In the event that assignments exceed established limitations, Assigned Counsel Services shall send an exception report to the Chief Judge or designee.

M. Compliance.

1. Assigned Counsel Services shall notify the Presiding Judge or the Deputy Court Administrator of any judge who approaches assignment limits in any calendar year. Each trial judge shall be notified when an attorney has received twenty (20) probation violation assignments (limit: 26).

Each trial judge shall be notified when an attorney has received 8 "on-the-spot" assignments (limit: 12). Each judge (AOI and trial) shall receive notice when an attorney has received 6 assignments from the judge during a regular two-week assignment period (limit: 8).

2. Any judge exceeding the assignment limit or in violation of any other rule outlined in the LAO may be removed from the assignment schedule by the Presiding Judge. A judge so removed may be returned to the schedule at the discretion of the Presiding Judge.

N. Compensation.

1. Assigned counsel shall be compensated based upon the charge at the time of the Arraignment on the Warrant and on a pay-per-event basis (including those instances in which a felony is reduced to a misdemeanor). Details of the compensation system may be obtained through the Office of Budget and Finance.
 - a. Vouchers for payment of services rendered shall be submitted to the Office of Assigned Counsel Services for processing. Vouchers for payment must be in conformance with Court requirements. Failure to comply may result in the delay of voucher payment and/or removal from the assignment list.

The Office of Budget and Finance will process vouchers for payment of services in the order in which they are received. Attorneys should submit vouchers no later than sixty (60) days after the disposition of each case. For any vouchers received after 60 days, the Court reserves the right, to be exercised at its sole discretion, to decline payment. Upon receipt of a timely attorney inquiry concerning an alleged payment discrepancy, personnel from the Office of Budget and Finance shall review and investigate the alleged discrepancy and make any necessary fee adjustments.

- 2 LADA or any other contracted attorney group shall be compensated according to the terms of the existing contract between the Court and the attorney group. Any disputes regarding compensation shall be handled in accordance with the terms of the contract.

V. Judicial Appointments

A Judge shall not appoint an attorney with whom:

- A. The judge was a partner of the attorney or a member of the same law firm as the assigned attorney within the preceding two years, or
- B. The judge is the attorney's spouse, parent or child, a person within third degree of relationship to the attorney, or has a relationship with an attorney that creates an

appearance of impropriety or partiality, or which would otherwise lead to the disqualification of a judge under MCR 2.003.

VI. Reports/Records

- A. The Court shall annually report Assigned Counsel information to the State Court Administrator's Office pursuant to MCR 8.123.
- B. The Court shall maintain all Assigned Counsel records as required by MCR 8.123 and provide those records to the State Court Administrator's Office when requested.

VII. Administration of the Plan

The Executive Court Administrator shall have overall responsibility for the administration of this Plan.

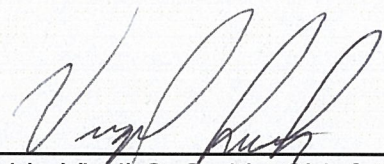
VIII. Reports to the State Court Administrator

Upon request from the State Court Administrator, the Executive Court Administrator shall provide a copy of the most recent annual report pertaining to appointments made under any or all sections of this Administrative Order or data on an individual attorney or judge for a period specified in the request.

IX. Effective Date

This Local Administrative Order shall be effective upon approval of the State Court Administrative Office.

DATED: July 23, 2012



Honorable Virgil C. Smith, Chief Judge
Third Judicial Circuit