

# Case Docketing Plan

*for the Twentieth Prosecutorial District  
Kenneth Walter Honeycutt, District Attorney*

## 1.0 General Provisions

1.1 **Authority** - Pursuant to N.C.G.S. 7A-49.4, the District Attorney hereby establishes this Criminal Case Docketing Plan (hereinafter referred to as the "Plan").

1.2 **Scope** - This Plan shall include all criminal cases in superior court with indictment dates on or after January 1, 2000, or which come within the jurisdiction of the superior court on or after January 1, 2000. Cases pending within the Superior Court Division on January 1, 2000 may be integrated into the Plan in the discretion of the District Attorney.

## 2.0 Discovery

2.1 The State will voluntarily comply with statutory discovery in any case where:

- a. Counsel:
  1. has made a general appearance; or,
  2. has been appointed; AND,
- b. Counsel has filed a written request for voluntary discovery.

2.2 The Court may set deadlines by which the State must begin discovery compliance and by which time the Defendant must comply with reciprocal discovery. In all applicable cases, discovery shall be complied with by the District Attorney pursuant to N.C.G.S. 15A-901 et. seq. and applicable case law.

2.3 This Plan is a guide to be used for case management purposes, nothing in this Plan shall be construed to provide any further discovery rights to a defendant than current discovery statutes and case law.

## 3.0 Calendaring Prior to Trial

3.1 Timing of Administrative Settings:

- a. Unless consented to by the State and the Defendant, felonies and misdemeanors shall have at least one administrative hearing.
- b. Felony cases shall have an Administrative Hearing:
  1. During the week of indictment if the Defendant had a Probable Cause Hearing or Waived Probable Cause in District Court; or,
  2. Within 60 days of service of notice of indictment or service of an Order for Arrest on the defendant following Indictment (this would include

cases which are sent directly to the Grand Jury or sent to the Grand Jury as sealed bills).

- c. Unless there are exceptional circumstances, misdemeanors shall be set on the Working Calendar within 60 days of the Superior Court Division obtaining jurisdiction of the case.
- d. In the event that a regular term of superior court is not held within the time limits specified in Rule 3.1b, then the first administrative hearing shall be held at the next available regular criminal superior court term.
- e. Whenever practical, Administrative Hearings shall be held by a Superior Court Judge residing in the District, but may otherwise be held by any Superior Court Judge. Administrative Hearings may be heard at times other than regularly scheduled terms of Criminal Superior Court, and may be held in any county of the Twentieth Prosecutorial District for the purposes of complying with this plan, or if necessary to ensure the fair administration of justice.
- f. Administrative hearings shall be held in the presence of the defendant; unless, the hearings are held in another county of the Twentieth District for the purpose of complying with the terms of this Plan.

3.2 **Administrative Hearings:** The following matters may be considered by the Court; however, at subsequent Administrative Hearings the Court need not revisit matters already considered:

- a. The status of the Defendant's representation by Counsel.
- b. The Court may consider the need for a competency evaluation.
- c. If the Defendant has not filed motions, the Court may set a date for filing of Motions.
- d. If motions have been filed the Court may
  - 1. Hear the motions; or,
  - 2. Set a date for hearing the motions; or,
  - 3. Defer the motions to the trial court.
- e. The Court should inquire about the status of the State and the Defendant's compliance with the discovery statutes.
- f. The Court should inquire as to whether the State has made a plea offer.
- g. Where the State has made a written plea offer, then the Court shall read the plea offer into the record and shall inquire:
  - 1. As to whether the defendant's attorney has communicated this plea offer to the defendant; and,
  - 2. As to whether the defendant understands the plea offer and,
  - 3. If the defendant and defense counsel understand the significance of the deadline.
- h. The Court may conduct a plea conference if supported by the interest of justice.
- i. The Defendant may enter a guilty plea.
- j. Arraignment of the Defendant, if timely requested.
  - 1. Set a time limit for filing any motions; and

2. Before the end of that Court session, set a tentative trial date by the following procedure:
  - a) The District Attorney shall announce a proposed trial date; and,
  - b) The Court shall set this date as a tentative trial date unless the Court, after hearing from the parties, determines in the interest of justice that a different date is required.
  - c) If the Court determines a different trial date is required, the District Attorney shall set another tentative trial date.
  - d) However, the trial date shall occur NO SOONER than 30 days after the Final Setting except by agreement of the State and the Defendant.
  - e) However, if a case is not scheduled for trial within 120 days of indictment, then upon motion by the defendant, the Senior Resident Superior Court Judge, or his designee, may hold a hearing for the purpose of establishing a trial date for the defendant.
- k. An Administrative Setting may be rescheduled,
  1. if requested by the parties; or,
  2. by the Court, if the Court finds it necessary.

### 3.3 Misdemeanor Cases:

- a. Misdemeanor cases shall be calendared on the Working Calendar at least once.
- b. However, at that setting, the Court may consider any matters relevant to the case described in the administrative hearings above; and,
- c. Remands must be made while the case is on the Working Calendar; if a misdemeanor case is placed on the Trial Calendar NO REMAND will be allowed [SEE, NCGS 15A-1431(H)]; and,
- d. Nothing in this Plan shall be construed to provide a defendant any discovery rights not specifically granted to defendant under NCGS 15A or existing case law.

### 3.4 Non-Jury Matters:

- a. Non-Jury Matters include Probation Violations, Show Cause Orders, Contempt Hearings, Motions for Appropriate Relief, DWI Vehicle Forfeitures, Bond Forfeitures or other matters which may reach final disposition without a jury.
- b. Non-Jury matters are not subject to Administrative Hearings.
- c. Non jury matters shall be heard when they appear on the Working Calendar, unless the Court, for good cause shown continues them.

## 4.0 Printed Calendars

### 4.1 Calendar Preparation:

- a. Sessions of Superior Court where no Grand Jury meets shall have a Working Calendar and a Trial Calendar printed.

- b. Sessions of Superior Court where a Grand Jury meets shall have an additional Bill of Indictment Calendar.

#### 4.2 Bill of Indictment Calendar

- a. This calendar:
  - 1. Shall contain all cases which are set for action by the Grand Jury, including any related misdemeanors and probation violations; and,
  - 2. Shall contain all cases which are set for an administrative hearing pursuant to Rule 3.1b; and,
  - 3. May contain unrelated cases against the same defendant regardless of age or their progression through the Plan; and,
  - 4. May contain cases against co-defendant(s), both related and unrelated to cases going to the Grand Jury regardless of age or their progression through the Plan.
- b. Calendar Organization [Reserved for Future Codification]

*(NOTE: It is the intent of the District Attorney to Implement an alphabetical listing of cases by attorney's name once current Plan problems are resolved.)*

#### 4.3 Working Calendar

- a. This calendar shall contain:
  - 1. Felony cases which have had their first administrative hearing as calendared by the District Attorney or previously set by the Court; and,
  - 2. Misdemeanor cases as calendared by the District Attorney or previously set by the Court; and
  - 3. Non-Jury Matters.
- b. Calendar Organization [Reserved for Future Codification]

#### 4.4 Trial Calendar

- a. The trial calendar shall be published no less than 10 working days before the cases are calendared for trial and should not contain cases the District Attorney reasonably does not expect to be called for trial.
- b. The trial calendar shall schedule cases in the order the District Attorney anticipates calling the cases for trial.

## 5.0 Calendar Management

### 5.1 Calling the Calendar:

- a. The District Attorney shall begin the term of Superior Court by calling the trial calendar and determining which cases are available for trial.
- b. Upon the Court's request, the parties shall indicate to the Court the approximate length of time required to try the case.

- c. The District Attorney shall then call the Working Calendar and hear administrative hearings and non-jury matters. The District Attorney shall also take pleas and determine which cases are for plea later in the week.
- d. Following the return of the Indictments by the Grand Jury, the District Attorney shall call the Bill of Indictment Calendar and have administrative hearings for each newly indicted case, take pleas and determine which cases are for plea later.
- e. After all administrative matters have been heard, and all pleas taken that are then ready, the District Attorney shall provide the Court with a Trial List.

#### 5.2 Trial List

- a. When all administrative hearings have been held and all pleas taken from the Administrative and Working Calendars, then the District Attorney shall provide the Court with a Trial List of the cases in the order in which the District Attorney intends to call the cases for trial.
- b. Deviations from this Order require the approval of the Presiding Judge if the defendant objects.
- c. However, a defendant may not object to his case being called for trial if all the cases scheduled to be heard before his case has been disposed, called and failed, delayed with the Judges approval or by consent of the defendant and the State.

#### 5.3 Continuances from the Trial Calendar

- a. Cases may be continued from the Trial Calendar only by consent of the State and the Defendant: or,
- b. Upon Order of the Presiding Judge or Resident Superior Court Judge for good cause shown.
- c. Cases not reached on the trial calendar shall be given a new proposed trial date by the District Attorney, after discussing the setting of a new trial date with the parties.

## **6.0 Plea Offers and Conferences**

6.1 The State will make a written plea offer in felony cases to defense counsel meeting with the District Attorney prior to a case having a trial date set at the final administrative hearing.

6.2 If the State's offer is rejected, or not plead during the time allowed in the offer, a tentative trial date will be set and the case will be calendared for trial.

6.3 If a case is placed on the Trial Calendar, there will be no further plea offers from the State. The State will also oppose any effort by misdemeanor defendants to remand cases from the Trial Calendar.

6.4 Plea Conferences may be requested by the State or the Defendant at any time. Such Conferences may be held immediately, or scheduled by the Court at a convenient time during that term of court.

## **7.0 Plan Changes**

7.1 The District Attorney, in his discretion, may make changes to this plan, after consultation with the resident Superior Court Judges in the Twentieth Prosecutorial District.

7.2 Subsequent changes to this plan shall be effective immediately, unless otherwise stated.

**The Case Docketing Plan, listed on the above pages 1 through 6, is hereby adopted by the undersigned Senior Resident Superior Court Judges for Judicial Districts 20A and 20B and shall be included as part of the local bar rules for Judicial Districts 20A and 20B.**

This the 26<sup>th</sup> day of June, 2000.

Honorable William H. Helms  
Senior Resident Superior Court Judge 20B

This the 26<sup>th</sup> day of June, 2000.

Honorable Michael E. Beale  
Senior Resident Superior Court Judge 20A