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State of North Carolina
General Court of Justice
Fifth Prosecutorial District
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June 1, 2015

To: New Hanover and Pender County Defense Attorneys and Public Defenders

Please find attached an update to the administrative rules. The changes become effective July 1, 2015 and are an Update to Docket Management Systems for Criminal Court for New Hanover and Pender County.

A few simple, but significant changes have been made to the existing rules. The changes are made in an effort to improve the efficiency of our system, and provide for the orderly, prompt, and just disposition of criminal cases. In general, the changes are as follows:

1. A priority calendar will now be published not less than ten (10) days before trial containing the first cases the District Attorney will call for trial, which will put defense attorneys on notice.

2. All court sessions will be mixed sessions. Cases appearing on the published trial or priority calendars may be called for trial in any courtroom whether designated criminal or civil.

3. Probation first appearances will be held on Monday morning.

4. Probation Week in New Hanover County will be held Monday through Thursday. Probation Day in Pender County will be held on Friday of New Hanover County Probation Week.

We continue to monitor and try to keep the jail population under control, and diligently administer justice in our judicial district. All of us in the District Attorney's Office look forward to continuing to work with you as these rules are implemented.

Sincerely,

Benjamin R. David
District Attorney

State of North Carolina
General Court of Justice
Fifth Judicial District

FILED

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NEW HANOVER CO. C.S.C.
BY _____

After review of the Fifth Judicial District Docket Management System for Criminal Superior Court in New Hanover County; and after review of the Rules For Docket Management For Criminal Superior Court In Pender County;[1] and in an effort to improve efficiency in the judicial district, the following rules are hereby amended, effective July 1, 2015:

NEW HANOVER COUNTY TRIAL WEEK

1. The district attorney shall publish a trial calendar[2] scheduling cases for trial, which will be called at 10:00 a.m. on the first day of the session.[3]

2. Beginning Monday, July 20, 2015, and continuing on each first day of successive sessions, the district attorney shall publish a printed "priority calendar"[4] from cases on the trial calendar, which will be called immediately after the trial calendar.

    a. The priority calendar shall be distributed (electronically, by hand delivery, US mail, or by placement in a distribution folder maintained in the courthouse) to attorneys with cases thereon not less than ten (10) business days before trial (Saturdays, Sundays, and state holidays excluded).
    b. The priority calendar shall contain cases the district attorney reasonably expects to call for trial, listed in bulleted order, and evenly distributed by workload, district attorney, defense attorney, and defendant.
    c. Any case on the priority calendar shall be subject to call for trial, notwithstanding its bulleted position.
    d. If a defendant whose case is called for trial objects, continuances shall require approval by the presiding judge; but the defendant may not object if all cases on the priority calendar have been disposed of or delayed with the judge's approval.
    e. After receipt of the priority calendar, a district attorney, defense attorney, or defendant is entitled to move that his or her case be continued from the calendar for compelling reasons which would affect the fundamental fairness of the trial process, or because the continuance is clearly in the interest of justice.
        i. The MOVING PARTY must fully complete form AOC-CR-410 and distribute it to all attorneys of record and/or unrepresented parties before presenting it to the appropriate judicial official.

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[1] New Hanover County and Pender County rules were amended and effective January 1, 2015.
[2] G.S. § 7A-49.4(e); and the Constitution of North Carolina, Article IV, Section 18(1).
[3] Monday is the first day of each session (trial, administrative, and probation). If Monday is a state holiday, the first day of the session will be Tuesday. If another day of the week is a state holiday, court will resume the next day. Such might cause a lost day of court. In such event, the Trial Court Administrator shall request reassignment of another judge to preside over the lost day.
[4] G.S. 7A-49.4(e) and (f).

A TRUE COPY
CLERK OF SUPERIOR COURT
NEW HANOVER COUNTY
BY _____
Assistant/Deputy Clerk Superior Court

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ii. Before the opening of court for the session at which the case is calendared, the appropriate judicial official is the Senior Resident Superior Court Judge or designee. The Senior Resident Superior Court Judge by these rules appoints the Trial Court Administrator for the Fifth Judicial District (TCA) as designee. Decisions of the TCA shall be final.
iii. Following the opening of court, the appropriate judicial official is the presiding judge.
iv. Upon receipt, the OPPOSING PARTY must immediately communicate any objections to the appropriate judicial official.

f. Cases on the priority calendar shall be the first cases called for trial. If all priority cases have been disposed of or delayed, the district attorney may call any case appearing on the published trial calendar.

g. After the 10:00 a.m. calendar call on the first day of each trial session, and after pleas or other dispositions, the district attorney shall, before 12:30 p.m., post on the courtroom door the numerical order of cases to be called for trial during the balance of the week.

3. Probation first appearances and guilty pleas shall be held after the call of the trial and priority calendar, until 12:30 p.m.

4. Jury selection for the first trial shall begin at 2:00 p.m. on the first day of the session (unless otherwise agreed to by the commissioned judge, after consultation with the assigned district attorney and defense attorney).

5. All court sessions are mixed. Cases appearing on the published trial calendar or priority calendar may be called for trial in any courtroom whether designated criminal or civil, in consultation with the commissioned judge(s) assigned.[5]

6. Guilty pleas (not reached on the first day of the session), hearings, motions, and other matters in cases already arraigned shall be taken at any time during the week after the jury in the last trial retires to deliberate (in any courtroom, subject to the judge's availability). If trials consume the entire week, all pleas, hearings, motions, and other matters not reached shall be rescheduled pursuant to these rules.

NEW HANOVER COUNTY ADMINISTRATIVE WEEK

7. Administrative Week shall be held during the second full week of each month.

8. Two weeks prior to Administrative Week, the administrative calendar shall be posted on nccourts.org (including all indicted cases not yet added to a trial calendar).

9. Only matters appearing on the administrative calendar are eligible to be resolved during the Administrative Week.

10. Retained or appointed defense attorneys, public defenders, and district attorneys shall schedule a time for guilty pleas, plea conferences, status conferences, arraignments, or waivers of arraignment by contacting Stacy Haines, Docket Manager (stacy.g.haines@nccourts.org, 910-772-6904), by **noon Wednesday prior to the Administrative Week.** Defendants shall report at the designated time, or risk having an order for arrest and/or order of forfeiture issue.

11. Once a case is scheduled it shall not be continued, except by the presiding judge. If a defendant's scheduled plea is not entered, the defendant shall be arraigned instead.

[5] G.S. § 7A-49.2(a).

First Day of Session

12. A calendar call shall be held at 10:00 a.m. on the first day of the session for all defendants with retained or appointed counsel, or unrepresented defendants who have not scheduled a time with the assigned district attorney for a guilty plea, conference, status conference, arraignment, or waiver of arraignment pursuant to ¶s 7, 8, and 9, above, or who have cases otherwise on the administrative calendar at settings S1 or S2. A calendar call shall be held at 11:00 a.m. on the first day of the session for all defendants represented by the Public Defender's Office who have not so scheduled a time with the assigned district attorney or docket manager.

    a. A defendant's appearance at calendar call shall be excused if defendant, or his/her attorney, has agreed with the assigned district attorney regarding the status of defendant's case by **noon Wednesday preceding Administrative Week.** If agreement is reached, the district attorney shall update the status of defendant's case on the calendar.

    b. If no agreement is reached, or if defendant, or his/her attorney, fails to contact the assigned district attorney by deadline, defendant's appearance at calendar call shall be mandatory, and the presiding judge shall:

        i. Be apprised by a defense attorney or public defender whether they represent any defendant on the unrepresented administrative calendar.

        ii. Be apprised by a defense attorney or public defender as to the status of their defendant's case and determine any contested matters.

        iii. Be apprised by a defense attorney or public defender as to the reason for their defendant's absence from calendar call.

12. A Probation First Appearance Calendar shall be held at 2:00 p.m.

13. If a Public Defender and assigned district attorney agree by **noon Wednesday preceding Administrative Week** that a case will be resolved by guilty plea, then those pleas shall be disposed of beginning at 2:00 p.m. on the first day of the session. Public Defenders and the assigned district attorney shall provide Stacy Haines with the name of any inmate scheduled for guilty plea by **12:00 noon Friday preceding Administrative Week.**

Second Day of Session (a.m.)

14. Video arraignments for in-custody defendants shall be held on the second day of the session at 9:30 a.m. Arraignments for out-of-custody defendants, not otherwise scheduled pursuant to ¶s 7, 8, and 9, above, shall be held upon completion of video arraignments (no arraignments shall be held during the calendar call on the first day of the session).

15. Attorneys may file waivers of arraignment, which must be signed by a defendant and filed with the clerk of court by **noon Wednesday preceding Administrative Week.** A copy shall be provided to the assigned district attorney.

    a. A Defendant's appearance at calendar call shall be excused if his/her attorney has filed a waiver and has agreed with the assigned district attorney regarding the status of defendant's case by **noon Wednesday preceding Administrative Week.** If agreement is reached, the district attorney shall update the status of defendant's case on the calendar.

    b. If no agreement is reached, a defendant and his/her attorney shall appear for arraignment pursuant to ¶14, above.

Second Day of Session up to and including Thursday

16. The balance of the second day of the session, and all days up to and including Thursday shall be for pleas, plea conferences, status conferences, or arraignments pursuant to ¶s 7, 8, and 9, above.

Last Day of Session

17. The commissioned judge in New Hanover County Administrative Week shall preside over Administrative Day for Pender County, beginning at 9:30 a.m.

NEW HANOVER COUNTY PROBATION WEEK

18. Probation Week shall be held during the first full week of each month.

First Day of Session up to and including Thursday

19. Probation Week shall begin at 10:00 a.m. on the first day of the session, and at 9:30 a.m. on all days thereafter, up to and including Thursday.

Last Day of Session

20. The commissioned judge in New Hanover County Probation Week shall preside over Pender County Probation Day, beginning at 9:30 a.m. on the last day of the session.

PENDER COUNTY TRIAL WEEK

21. Criminal jury trials shall be held during the last full workweek of each month except December.

22. Guilty pleas shall be taken on the first day of the session after calendar call, until 12:30 p.m.

23. Jury selection for the first trial shall begin at 2:00 p.m. on the first day of the session (unless otherwise agreed to by the commissioned judge, after consultation with the assigned district attorney, and defense attorney).

24. Probation first appearances shall be held on the second day of the session at 9:30 a.m. If a jury trial is in progress, the presiding judge shall use his or her best efforts to schedule and conduct probation first appearances at some point during the second day of the session.

25. Guilty pleas (not reached on the first day of the session), hearings, motions, and other matters in cases already arraigned shall be taken at any time during the week after the jury in the last trial retires to deliberate (subject to the judge's availability). If trials consume the entire week, all pleas, hearings, motions, and other matters not reached shall be rescheduled pursuant to these rules.

26. In order to alleviate overcrowding conditions existing in the Pender County jail, after the jury in the last trial retires to deliberate (subject to the judge's availability), district attorneys and retained or appointed defense attorneys shall endeavor to negotiate and take acceptable guilty pleas for incarcerated defendants. If plea negotiations fail, then such cases shall be placed on the next appropriate trial calendar.

PENDER COUNTY ADMINISTRATIVE DAY

27. Administrative Day for Pender County shall be held at 9:30 a.m. on the last day of New Hanover County Administrative Week (second full week of each month).

28. Two weeks prior to Pender County Administrative Day, the entire administrative calendar shall be posted on nccourts.org (including all indicted cases not yet added to a trial calendar).

29. Only matters appearing on the administrative calendar are eligible to be resolved during the Administrative Day.

30. Retained or appointed defense attorneys and district attorneys shall schedule a time for guilty pleas, plea conferences, status conferences, arraignments, or waivers of arraignment by contacting Susan Rivenbark (susan.h.rivenbark@nccourts.org, 910-663-3950), by **noon Wednesday prior to Administrative Day**. Defendants shall report at the designated time, or risk having an order for arrest and/or order of forfeiture issue.

31. Once a case is scheduled it shall not be continued, except by the presiding judge. If a defendant's scheduled plea is not entered, the defendant shall be arraigned instead.

32. Retained or appointed defense attorneys with cases on the administrative calendar shall attend calendar call on Administrative Day at 9:30 a.m. At calendar call, the presiding judge shall:

    a. Release those attorneys who have previously scheduled a time for a plea, conference, status conference, or arraignment pursuant to ¶ 30 and ¶ 31 above.

    b. Be apprised by defense attorneys if they represent any defendant on the unrepresented portion of the administrative calendar.

    c. Be apprised by defense attorneys as to the reason for their defendant's absence from calendar call, or other status.

    d. Schedule pleas, plea conferences, status conferences, or arraignments for defendants not present at calendar call.

PENDER COUNTY PROBATION DAY

33. Probation Day for Pender County shall be held at 9:30 a.m. on the last day of New Hanover County Probation Week (first full week of each month).

34. The commissioned judge in New Hanover County Probation Week shall preside over Pender County Probation Day.

SUPERSECESSION

These rules supersede and amend any other local rules previously in effect governing management of criminal cases that are inconsistent with these rules. If these rules conflict with the General Statutes of North Carolina, the Constitution of North Carolina, or the United States Constitution, the conflicts are inadvertent and the local rules are superseded.

Amended and filed in the Office of the Clerk of Court of New Hanover County and in the Office of the Clerk of Court of Pender County this ~~30th~~ 29th day of ~~June~~ May 2015, effective July 1, 2015

W. Allen Cobb, Jr.
Senior Resident Superior Court Judge
Fifth Superior Court District

Benjamin R. David
District Attorney
Fifth Prosecutorial District

(Administrative Court Rules, 5-26-15.doc)

State of North Carolina
General Court of Justice
Fifth Judicial District

2015 MAY 29 AM 8:46
PENDER COUNTY C.S.C.
BY

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NEW HANOVER COUNTY TRIAL WEEK

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2. Beginning Monday, July 20, 2015, and continuing on each first day of successive sessions, the district attorney shall publish a printed "priority calendar"[4] from cases on the trial calendar, which will be called immediately after the trial calendar.

    a. The priority calendar shall be distributed (electronically, by hand delivery, US mail, or by placement in a distribution folder maintained in the courthouse) to attorneys with cases thereon not less than ten (10) business days before trial (Saturdays, Sundays, and state holidays excluded).
    b. The priority calendar shall contain cases the district attorney reasonably expects to call for trial, listed in bulleted order, and evenly distributed by workload, district attorney, defense attorney, and defendant.
    c. Any case on the priority calendar shall be subject to call for trial, notwithstanding its bulleted position.
    d. If a defendant whose case is called for trial objects, continuances shall require approval by the presiding judge; but the defendant may not object if all cases on the priority calendar have been disposed of or delayed with the judge's approval.
    e. After receipt of the priority calendar, a district attorney, defense attorney, or defendant is entitled to move that his or her case be continued from the calendar for compelling reasons which would affect the fundamental fairness of the trial process, or because the continuance is clearly in the interest of justice.
        i. The MOVING PARTY must fully complete form AOC-CR-410 and distribute it to all attorneys of record and/or unrepresented parties before presenting it to the appropriate judicial official.

A TRUE COPY
CLERK OF SUPERIOR COURT
PENDER COUNTY
BY: _____
ASSISTANT CLERK SUPERIOR COURT

[1] New Hanover County and Pender County rules were amended and effective January 1, 2015.
[2] G.S. § 7A-49.4(e); and the Constitution of North Carolina, Article IV, Section 18(1).
[3] Monday is the first day of each session (trial, administrative, and probation). If Monday is a state holiday, the first day of the session will be Tuesday. If another day of the week is a state holiday, court will resume the next day. Such might cause a lost day of court. In such event, the Trial Court Administrator shall request an assignment of another judge to preside over the lost day.
[4] G.S. § 7A-49.4(e) and (f).

ii. Before the opening of court for the session at which the case is calendared, the appropriate judicial official is the Senior Resident Superior Court Judge or designee. The Senior Resident Superior Court Judge by these rules appoints the Trial Court Administrator for the Fifth Judicial District (TCA) as designee. Decisions of the TCA shall be final.

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f. Cases on the priority calendar shall be the first cases called for trial. If all priority cases have been disposed of or delayed, the district attorney may call any case appearing on the published trial calendar.

g. After the 10:00 a.m. calendar call on the first day of each trial session, and after pleas or other dispositions, the district attorney shall, before 12:30 p.m., post on the courtroom door the numerical order of cases to be called for trial during the balance of the week.

3. Probation first appearances and guilty pleas shall be held after the call of the trial and priority calendar, until 12:30 p.m.

4. Jury selection for the first trial shall begin at 2:00 p.m. on the first day of the session (unless otherwise agreed to by the commissioned judge, after consultation with the assigned district attorney and defense attorney).

5. All court sessions are mixed. Cases appearing on the published trial calendar or priority calendar may be called for trial in any courtroom whether designated criminal or civil, in consultation with the commissioned judge(s) assigned.[5]

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NEW HANOVER COUNTY ADMINISTRATIVE WEEK

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[5] G.S. § 7A-49.2(a).

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    a. A defendant's appearance at calendar call shall be excused if defendant, or his/her attorney, has agreed with the assigned district attorney regarding the status of defendant's case by **noon Wednesday preceding Administrative Week.** If agreement is reached, the district attorney shall update the status of defendant's case on the calendar.

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        i. Be apprised by a defense attorney or public defender whether they represent any defendant on the unrepresented administrative calendar.

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Second Day of Session (a.m.)

14. Video arraignments for in-custody defendants shall be held on the second day of the session at 9:30 a.m. Arraignments for out-of-custody defendants, not otherwise scheduled pursuant to ¶s 7, 8, and 9, above, shall be held upon completion of video arraignments (no arraignments shall be held during the calendar call on the first day of the session).

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Senior Resident Superior Court Judge
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(Administrative Court Rules, 5-26-15.doc)