

TWELFTH JUDICIAL DISTRICT
DISTRICT COURT DIVISION

DISTRICT CRIMINAL CASE MANAGEMENT PLAN

*Adopted October 24, 1997
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Criminal District Court Rules

RULE 1. PURPOSE

1.1 The case management plan embodied in these rules is established to promote the fair and equitable treatment of all misdemeanor cases filed in the criminal courts of the 12th Judicial District, District Court Division and to ensure the consistent application of effective and efficient management techniques in order to maximize court utilization in Cumberland County.

1.2 At all times these rules should be construed in such a way as to minimize delay.

1.3 In the event a situation arises which is not covered by these rules, the Chief District Court Judge shall be consulted to establish any needed additional policy consistent with these existing rules.

RULE 2. ASSIGNMENT OF JUDGES

2.1 Courtroom Assignments

- (a) The Chief District Court Judge shall produce a monthly court schedule setting forth the types of court to be held daily and the particular District Court Judge assigned to preside over each session.
- (b) Copies of the monthly schedule will be available in the office of the District Court Judges.

2.2 Criminal Court Team Designation

- (a) The Cumberland County District Court Division criminal courts shall be held on second floor of the Cumberland County Courthouse in courtrooms 2A, 2B, and 2C.
- (b) The judges assigned to preside over these courtrooms shall collectively comprise the "*Criminal Court Team*."
- (c) It is the responsibility of the *Criminal Court Team* to cooperatively dispose of the daily dockets scheduled in all three courtrooms.

2.3 Criminal Court Team Leader

- (a) The judge assigned to preside over courtroom 2B shall be designated as the "*Criminal Court Team Leader*".
 - It shall be the responsibility of the *Criminal Court Team Leader* to coordinate the operation of all three criminal courts on a daily basis including the shifting of caseload among the courts as necessary to effectuate the timely disposition of the calendared cases for the day.

- (b) The judges assigned to courtrooms 2A and 2C shall keep the Criminal Court Team Leader apprised of the status of their respective court dockets and shall consult with the *Criminal Court Team Leader* prior to closing court.

RULE 3. CASE CALENDARING

3.1 Calendar Preparation

The Clerk of Superior Court shall prepare calendars for each district criminal court as directed by the District Attorney and the Chief District Court Judge.

3.2 Movement of Criminal Process

No criminal process file ("*shuck*") shall be removed from the courtroom to which it is assigned unless it is checked out with the courtroom clerk under one of the following circumstances:

- To complete a financial affidavit, upon defendant's request for court appointed counsel;
- To be transferred from Administrative Court (Room 102) to Courtroom 2A, 2B, or 2C;
- To be taken to the felony screening room (applies only to felonies and related misdemeanors);
- Upon disposition of the case, for the payment of fines or to meet with community service representatives;
- For screening by the TASC program; or
- As directed by the Chief District Court Judge, Criminal Court Team Leader, or Presiding Judge.

3.3 Case Assignment

- (a) No case shall be heard in a courtroom other than the courtroom for which it was originally calendared unless approved by the:
- Chief District Court Judge; or
 - Presiding Judge in the courtroom for which that case was originally calendared; or
 - By action of the Criminal Court Team Leader, pursuant to [Rule 2.3](#) above.

RULE 4. CONTINUANCES

4.1 Time Standards

- (a) Criminal cases should be disposed at the earliest opportunity, including the first trial setting.

(b) However, when compelling reasons for continuance are presented which would affect the fundamental fairness of the trial process, a continuance may be granted for good cause.

(c) Requests for continuances that are made after 90 days from the first calendaring in District Court shall only be granted for extraordinary cause.

4.2 Authority to Grant Continuance

- (a) Cases that are **less than 90 days** of age from the first calendaring in District Court may be:
- Continued by the office of the District Attorney in the exercise of its discretion; **or**
 - Presented to the appropriate judicial official as set forth in [Rule 4.5](#) below.
- (b) Motions to continue cases that are more than 90 days of age from the first calendaring in District Court must be addressed to the appropriate judicial official as set forth in Rule 4.5 below.

4.3 Continuance Procedure

- (a) Motions to continue may be made only:
- Outside of open court and prior to the scheduled court date [under the criteria set forth in 4.3(b) below]; or
 - In open court in the courtroom in which the case is scheduled and on the scheduled court date [*under the criteria set forth in 4.3(c) below*].
- (b) **Motions made Outside of Open Court and Prior to Scheduled Court Date**
- (1) All requests for continuance made outside of open court to a District Court Judge must be made in writing [CCLF-CR-001](#) as attached hereto **and** presented to the appropriate judicial official as set forth in [Rule 4.5](#) below.
 - (2) All information on the local form must be completed in full and the original form placed in the criminal process "*shuck*".
 - (3) It shall be the responsibility of the office of the District Attorney to place on the Local Form the correct rescheduled court date and to indicate whether officer(s) and/or witness(es) need to be subpoenaed.
 - (4) Any motion presented outside of open court must be **both** in writing on the [CCLF CR-001](#) **and** presented to the appropriate judicial official as set forth in [Rule 4.5](#) below or it shall be summarily **denied**.
- (c) **Motions made in Open Court and On the Scheduled Court Date**
- (1) Requests for continuance made in open court may be made either orally or in writing in the courtroom in which the case is calendared.
 - (2) If oral motions to continue is granted by the presiding judge, the presiding judge shall make a notation on the criminal process "*shuck*" indicating which party requested the continuance.
 - (3) It is the responsibility of the office of the District Attorney to provide the appropriate rescheduled court date and whether officer(s) and/or witness(es) should be subpoenaed in any case in which the presiding judge grants an oral motion to continued.

4.4 Position of Opposing Counsel

- (a) Opposing counsel must clearly indicate opposition, consent, or any request to be heard on each motion to continue whether such motion is oral or in writing.
- (b) *In the case of a written motion to continue*, any such motion for continuance presented without signature of opposing counsel and indication of opposition, consent or any request to be heard shall be summarily denied.

4.5 Appropriate Judicial Official

Requests for continuance presented to a District Court Judge must be directed to the appropriate judicial official as follows:

- (a) **[PRESIDING JUDGE]** Requests made prior to the scheduled session of court **and** when the District Court Judge assignment has been published for that session of court shall be presented to the presiding judge for the court session.
- (b) **CHIEF DISTRICT COURT JUDGE]** Requests made prior to the scheduled session of court **and** when the District Court assignment has **not** been published for that session of court shall be made to the Chief District Court Judge;
- (c) **[PRESIDING JUDGE]** Requests made on the day of court for the session in which the case is scheduled **shall be presented** to the presiding judge.

4.6 Court Conflicts

- (a) It is the responsibility of all counsel to notify the court and opposing counsel of any other court conflict(s) as they become known and to keep the court advised of the resolution of that conflict. The various levels of court should work together to try to move cases as expeditiously as possible.
- (b) Age of case, subject matter, and priority of setting should be given as much primacy as the level of court when resolving conflicts.

4.7 Evaluation of Motions for Continuance

Factors to be considered by the appropriate court official when deciding whether to grant or deny a motion for continuance should include:

- The opportunity to exercise the right to effective assistance of counsel;
- The age of the case and seriousness of the charge;
- The incarceration status of the defendant;
- The effect on children and spouses if the issue is not resolved;
- The impact of a continuance on the safety of any person;
- The status of the trial calendar for the session;
- The number, moving party, and grounds for previous continuances;
- The due diligence of counsel in promptly making a motion for continuance as soon as practicable and notifying opposing counsel and witnesses;
- The period of delay caused by the continuance requested;

- The presence of witnesses, including the defendant;
- The availability of witnesses for the present session or for a future session;
- Whether the basis of the motion is the existence of a legitimate conflict with another court setting;
- The availability of counsel;
- Consideration of the financial consequences to the public, the witnesses, or other parties if the case is continued;
- Any other factor that promotes the fair administration of justice.

4.8 Case Rescheduling

- (a) Upon granting a motion for continuance, the case should be rescheduled taking into consideration the availability of counsel, defendant, and witnesses. Specifically,
- Any case involving a law enforcement officer should only be rescheduled to the officer's court date with a notation made to subpoena the officer and any witness(es).
 - If the case does not involve a law enforcement officer, the case should be rescheduled to a date certain and a notation must be made to subpoena any witnesses.
- (b) The District Attorney shall be responsible for noting the appropriate reschedule date and whether officer(s) and/or witness(es) need to be subpoenaed on [CCLF-CR-001](#).

RULE 5. CALLED AND FAILED CASES

5.1 Motions to Strike Called And Failed/Recall Order for Arrest Form

- (a) All requests to Strike Called And Failed/Recall Order For Arrest must be made in writing on CCLF-CR-001 as attached hereto. All information on the local form must be completed in full and the original form placed in the criminal process "shuck".
- (b) Any motion:
- Not presented in writing on the appropriate Local Form; **and**
 - Not presented to the appropriate judicial official as set forth in [Rule 5.2](#) below **shall be summarily denied.**

5.2 Appropriate Judicial Official

- (a) Requests to *Strike Called And Failed/Recall Order For Arrest* must be directed to the appropriate judicial official as follows:
- (1) **[OUTSIDE COURT]** Motions made outside court may be presented **only** to either the:
 - District Court Judge who was the scheduled Presiding Judge in the courtroom **on the day the defendant was called and failed;** or
 - Chief District Court Judge.
 - (2) **[OPEN COURT]** Motions made in open court **must** be made:

- With the defendant present or with written verification of the defendant's physical unavailability such as medical statements or military orders; and
 - Before whichever judge is currently presiding in the courtroom in which the defendant was previously called and failed.
- (b) Any motion made in open court for which the defendant is **not** present or for which there is **not** supporting written documentation of the defendant's physical unavailability **shall be summarily denied**.

5.3 Position of Opposing Counsel

- (a) Opposing counsel must clearly indicate opposition, consent, or any request to be heard on each *Strike Called And Failed/Recall Order For Arrest* in the area indicated on [CCLF-CR-001](#).
- (b) Any motion presented **without** signature of opposing counsel **and** *without an* indication of opposition, consent, or request to be heard **shall be summarily denied**.

5.4 Case Rescheduling

- (a) If *Strike Called And Failed And Recall Order For Arrest* is made in open court:
- (1) The defendant may enter a plea of guilty.
 - (2) If the defendant enters a plea of not guilty:
 - The case shall be rescheduled for the law enforcement officer's next court date with a notation to subpoena the officer and witness(es) if needed.
 - If no law enforcement officer is involved in the case, the case shall be rescheduled to a specific date for hearing and a notation made to subpoena the witness(es).
- (b) If a *Strike Called And Failed And Recall Order For Arrest* is made outside court the case shall be rescheduled:
- For the officer's next court date; or
 - If no officer is involved, to a date certain.

A copy of the written motion shall be delivered to the Office of the District Attorney so that the appropriate officer(s) and/or witness(es) may be subpoenaed.

- (c) The District Attorney shall be responsible for noting the appropriate reschedule date and whether officer(s) and/or witness(es) need to be subpoenaed on [CCLF-CR-001](#).

RULE 6. OBSERVATION/ENFORCEMENT OF RULES

6.1 In order to ensure general uniformity throughout this judicial district, all trial judges shall observe and enforce the local rules in effect.