

SUPERIOR COURT

KENT COUNTY

CRIMINAL CASE

MANAGEMENT PLAN

The following plan is adopted by the Superior Court of the State of Delaware in order to ensure the orderly and prompt disposition of criminal cases in Kent County.

Effective October 4, 2017

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INTRODUCTION

The Superior Court in Kent County processes cases on two different case tracks. Primary responsibility for track assignment rests with the Attorney General. All tracks focus on improving case processing time, with one of the tracks being tied to the range of treatment and case management services for offenders who are using illicit drugs and who can benefit from prison or community-based treatment.

Problem-Solving Courts

These specialized courts have been driven by the desire of judges, prosecutors, defense attorneys, and our other justice partners to respond more effectively to crime problems as well as individual problems that often fuel crime, such as drug addiction and mental illness.

[Problem-solving court](#) initiatives are not new to Superior Court. Our [Drug Court](#) began full operation in April 1994 and expanded into the country's first statewide program in 1997. Our most recent problem-solving court, the [Veterans Treatment Court](#) marks another first for Superior Court: it is the first statewide Veterans Court in the nation.

Since the implementation of our statewide Drug Court, Superior Court has expanded our problem-solving courts with the addition of [Mental Health Court](#) and its newest problem-solving court, Veterans Treatment Court.

The mission of problem-solving courts is to divert defendants who meet strict requirements from the traditional criminal justice system and provide them with the tools to lead a productive and law-abiding life.

- [Drug Court](#)
- [Mental Health Court](#)
- [Veterans Treatment Court](#)

Trial Track

Indictment

Upon indictment, an arraignment is scheduled within thirty (30) days. The arraignment can be held independently or at the same time as initial case review.

Arraignment

Unrepresented Defendants. Prior to receiving a Case Review date, Arraignment shall be scheduled within 10 days of indictment or the filing of the information. Unrepresented defendants shall appear and meet with the Offices of Defense Services to determine whether the defendant qualifies for representation.

Any conflicts regarding representation and waiver thereof should be determined by the time of arraignment. The Office of Defense Services and Office of Conflicts Counsel shall communicate and provide the Court with notice of conflicts as soon as possible.

If the Offices of Defense Services determines that the defendant qualifies for their services and bail does not need to be addressed, a Rule 10(c) form which is available in the courtroom shall be signed by both the defendant and defense counsel and filed with the clerk in the courtroom. The 10(c) form shall include the case review, final case review and trial dates for the defendant's case.

If the Office of Defense Services determines that there is a conflict, the Office of Conflicts counsel will appoint counsel to represent the defendant. The defendant may sign a Rule 10(c) form along with defense counsel if bail does not need to be addressed. The Rule 10(c) form shall include the case review, final case review and trial dates for the defendant's case.

Unrepresented Defendants who appear at Arraignment without having been to the Public Defender. When the defendant appears *pro se* at the Arraignment, the Commissioner will have a brief colloquy with the defendant to determine if they wish to waive the reading of the indictment

and plead not guilty. If so the Arraignment will proceed and the Commissioner will instruct the defendant to go immediately to the Office of Defense Services to determine if they qualify for representation. The Commissioner will not make any final determination concerning a defendant proceeding *pro se* for any purpose other than Arraignment. Colloquy concerning proceeding *pro se* will be done by a judge at the case review or later when and if a defendant makes a request to proceed *pro se*.

Video Arraignments. During a video arraignment, an incarcerated defendant and counsel from the Office of Defense Services are present at a correctional facility. The Commissioner, the Case Manager and private attorney, if any, representing an incarcerated defendant may be present in the courtroom.

If the defendant is represented by private counsel, that counsel is present in the courtroom and, on the record, enters his/her appearance and will usually waive the reading of the indictment, enter a plea of not guilty and request a trial by jury. In this instance, no 10(c) form is filed. The Case Manager would instead provide private counsel with a case review date in court. If bail is set or is otherwise modified, the bail paperwork (which includes the case review date) is sent via fax to the correctional institution. At the conclusion of the arraignment calendar, all completed 10(c) forms are filed with the Prothonotary's Office.

Requests to continue or reschedule are addressed later in the Case Management Plan.

Discovery

Discovery needs to be exchanged before case review will be meaningful. Defense counsel must have the opportunity to digest the discovery materials before entering into plea negotiations. The State is expected to provide discovery at least one week prior to the case review. Counsel is only required to provide the court with notice that discovery has been requested or sent to opposing counsel.

Criminal Scheduling Order

Prior to case review in each case, the Administrative Judge will issue a Criminal Scheduling Order setting forth the case review, final case review and trial dates. Counsel shall take all necessary steps to notify and/or subpoena witnesses and the defendant of the assigned dates. Within two weeks of the date of the order counsel shall notify the Prothonotary staff if there are any scheduling problems. Notification of scheduling problems within the two week time frame, provided the rescheduled trial date can be accomplished within 120 days of indictment, will automatically result in the rescheduling of the trial. Failure to notify the Court of any witness concerns during the two week time frame will be a factor that the Criminal Assignment Judge will consider in any subsequent request for continuance and/or dismissal.

The defendant and counsel must attend all scheduled events.

Motions relating to discovery or suppression must be filed within twenty (20) days after the first Case Review. The Response to the motion to suppress must be filed within twenty (20) days, thereafter.

All other pre-trial motions, other than non-dispositive motions in limine, must be filed no later than thirty (30) days before the final case review.

If applicable to the case, Medical Examiner or Laboratory reports are due ten (10) days prior to the Final Case Review. In the event that the State fails to comply with the Scheduling Order, absent good cause shown, any such reports and supporting testimony shall be inadmissible at trial. See Exhibit A.

Case Review

Every case is scheduled for a Case Review unless disposed of earlier. Case Review calendars are scheduled Tuesdays and Thursdays during the 2nd and 4th full weeks of each month at 9:00 a.m.

One week prior to Case Review, the State shall provide all automatic discovery or respond to written Rule 16 requests and *Brady* requests made by the defendant. Within a reasonable time before the Case Review, the

State shall provide a substantive plea offer to defense counsel, who shall inform the defendant of the offer. The Court expects the Case Review to be utilized by counsel to discuss the status of the case with the client and the plea offer that has been tendered by the Attorney General. The Court encourages the Office of Defense Services to use the videophone technology available in their office to accomplish this contact.

Providing timely, substantive, and realistic plea offers, and communicating these offers to defendants prior to Case Review is critical to any effective case management efforts. Compliance in this area will be inquired into routinely by the Court. It is recommended that the appropriate management oversight and review of this system be implemented in both the Attorney General's office and Office of Defense Services to ensure compliance with the Court's expectations.

If parties cannot agree to a plea, counsel for the parties are expected to set forth the circumstances pertaining to any plea offer made by the State and address the following:

- Status of discovery;
- Any particular or unique problems that may require judicial assistance; and
- Any outstanding motions that need to be addressed.

If the matter is not resolved at Case Review, the defendant will be given notice to appear for a Final Case Review and Trial. Defendant will be advised to come to the Final Case Review prepared to make final decisions about the case, as after the Final Case Review significant limitations may be placed on plea offers that will be accepted by the Court. The Final Case Review and Trial will be scheduled **within 120 days of the indictment.**

Pretrial Motions

Pretrial motions, including motions to suppress, and all motions under Rule 12, 14, 16, and 41 of the Superior Court Criminal Rules are to be filed within twenty (20) days following Initial Case Review unless otherwise ordered by the Court. It is required that these motions be timely filed to allow the scheduling of any evidentiary hearings prior to Final Case Review. The motion must state with particularity the specific legal and factual grounds that

counsel in good faith believes support the motion, as well as any controlling legal authorities. Failure to comply with this requirement may result in the motion being denied without further hearing or argument. In addition, any applicable motion filed after the deadline must include a motion for leave to file out of time, which must specifically set forth the justification for the delay. Any undue delays solely due to negligence can result in sanctions.

All routine criminal motions except for motions related to bail are heard on Fridays at 10:00 a.m. Counsel must notice the motion with date and time of hearing. Such motions must be filed ten (10) days prior to the scheduled hearing date and shall not exceed six (6) pages.

All responses must be filed 4 days prior to the scheduled hearing date. Responses shall include a Notice page indicating date and time of hearing, and shall not exceed six (6) pages. If no response is filed by the due date, the motion may be deemed unopposed.

Bail Motions are heard on Thursdays at 10:00 a.m. Counsel must notice the motion with date and time of hearing. The motions must be filed by 12:00 p.m. Tuesday to be scheduled for Thursday.

Final Case Review

This is the final courtroom event prior to Trial. The Court expects counsel to have thoroughly reviewed with the clients and victims the plea offer extended by the Deputy Attorney General and the consequences of accepting or rejecting the plea. Counsel for both sides shall have thoroughly discussed the case and have made a good faith effort to resolve the matter without the necessity of trial.

If the assigned deputy cannot participate at Final Case Review, he/she is expected to:

- a. Engage defense counsel in plea negotiations before Final Case Review; or
- b. Delegate authority to another deputy so that negotiations may continue at Final Case Review in an effort to resolve the case.

At the Final Case Review, counsel shall advise the Court of the following:

1. The status of the plea negotiations;
2. Any evidentiary problems that either side reasonably anticipates will arise during the trial;
3. Any changes in the scheduled number of trial days and any anticipated witness problems; and
4. Any outstanding issues to be presented to the court.

At all stages of the proceeding, counsel will be expected to have authority to resolve cases in a timely manner as justice requires.

Trial

To minimize delaying jury selection, a calendar call is set at 9:00 a.m. the date of trial to handle the remaining trials which are scheduled for that day. It is expected that all trials which are scheduled for jury selection will begin promptly at 10:00 a.m., unless directed to be at a different time by the trial judge. Counsel are expected to be in the assigned courtroom at the designated time prepared to proceed with jury selection. Cases pending in this Court take precedence over other matters pending in the lower courts.

Counsel must immediately notify the Court about any issues that may delay jury selection. Failure to notify the Court as required may result in the Court's deciding that the issue has been waived. While awaiting jury selection, counsel must keep the Court Security Officers advised as to their whereabouts.

The Court expects cases that have reached this point to be ready for trial.

The Criminal Assignment Judge shall ensure that all available resources are used to try all cases assigned for trial that week including the availability of a sufficient number of judges.

Sentencing

Sentencing calendars are scheduled during the 2nd and 4th full weeks of each month.

Violation of Probation Hearings

Violation of Probation Hearings are assigned to the first available opening on the first available calendar. Violation of Probation Hearings are scheduled Mondays and Fridays each week.

Proof Positive Motions

In connection with either a secured release or unsecured release of any person charged with any violent felony, if after such release the accused is charged by arrest, warrant, indictment or information with the commission of a subsequent offense, the court shall revoke the bail to which the person was admitted in connection with the original offense.

The Prothonotary's Office upon notice will revoke the bail as to the original offense and prepare a commitment to the Department of Correction.

The Attorney General's Office shall file with the Court a Proof Positive Motion as soon as possible. These motions are scheduled by the Court on Fridays at 9:15 a.m. and are heard by the Commissioner.

Continuances and Rescheduling

All requests for continuances and rescheduling of violation of probation hearings must be submitted in writing using the Court's approved form. No letter request will be accepted unless attached to the Court's approved form. The forms must be filed with the Prothonotary's Office. The Criminal Assignment Judge rules on continuance requests. See Exhibit B.

Special Assignment Cases

A request to assign a criminal case outside of the procedures established by this plan must be directed to the President Judge. Once an assignment is made all pleadings will include the judge's initials following the Case ID number.

Conflict Counsel

Effective, November 1, 2011, the Office of Conflicts Counsel was established to handle and monitor the assignment of conflict counsel. When the Office of Defensive Services establishes that a conflict exists, that office must file the conflict letter with the Prothonotary and submit a copy to the Office of Conflicts Counsel. The Office of Conflicts Counsel will assign counsel and input the information into the court criminal case management system (CMS/JIC).

Motions for Attorney Fees and/or Motions for Expenditure of Funds must be sent directly to the Office of Conflicts Counsel. The Court does not process these motions.

Scheduling Goals and Criteria

At least 90% of all criminal cases shall be adjudicated as to guilt or innocence or otherwise disposed of within 120 days from the date of indictment/information, 98% within 120 days and 100% within one year. The following time periods shall not be included: 1) For all cases in which a Capias is ordered, the time between the date the Capias was issued and the date Capias was executed; 2) For all cases in which a Presentence Investigation has been ordered by the Court, the time between the ordering of the presentence investigation and sentencing; 3) For all *nolle prosequis*, the time between the scheduled trial date and the filing of the *nolle prosequi*; 4) For all cases in which a mental examination has been ordered by the Court, the time between the date of said order and the receipt by the Court

of the Examination/Evaluation report; 5) For all cases in which a defendant has been evaluated as incompetent to stand trial, the time during which the defendant remains incompetent; and 6) All murder in the first degree cases shall be tried and/or otherwise adjudicated within one year from the date of indictment, unless this time frame is extended for good cause shown by the assigned judge.

Duties of Criminal Assignment Judge

1. Criminal Trial Calendars
2. Case Review/Final Case Review Calendars
3. Criminal Motion Calendars
4. Criminal Continuance Requests
5. Operation Safe Streets

Duties of Criminal Backup Judge

1. Grand Jury
2. Administrative Warrants
3. Search Warrant – a Deputy Attorney General shall accompany any law enforcement officer before a Superior Court Judge.
4. Any other duties assigned by Criminal Assignment Judge.

**THE ABOVE PLAN IS HEREBY ADOPTED BY THE PRESIDENT JUDGE
OF THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR KENT COUNTY**

THIS 4th DAY OF October, 2017

**/s/ Jan R. Jurden
President Judge**

**/s/ William L. Witham, Jr.
Resident Judge**

**/s/ Jeffrey J Clark
Judge**

**/s/ Noel Eason Primos
Judge**

Exhibit A

**SUPERIOR COURT OF DELAWARE
CONTINUANCE REQUEST FORM**

Final ☐

Trial ☐ Case Review ☐ Diversion ☐ Motion ☐ Sentencing ☐ VOP ☐ Other ☐ County: N K S

State v. _____ Arrest Date: _____ Detained: Yes / No

Assigned Judge: _____ ID No. _____ Prior Rescheduling's _____

Scheduled Date: _____ New **Agreed Upon** Date: _____

Opposing Counsel: ☐ Opposes ☐ Does not oppose (**One must be marked**)

Requested by: AG / Defense

Please attach Overview Screen & Schedule History Screen.

☐ Deputy _____
Print Name Signature & Date

☐ Defense _____
Print Name & Phone Number Signature & Date

Reason(s): _____

If continuance request is due to scheduling conflict with another Court appearance:

Court & County: _____ Case Name: _____

ID No. _____ Time: _____ Judge: _____

Date other court appearance was set: _____

NOTICE: It is the responsibility of the submitting party to send a copy of this request to opposing counsel. In the event of the approval of this request, it is the responsibility of the attorneys to notify their clients and witnesses of new dates.

FOR ADMINISTRATIVE USE ONLY

Recommendation: ☐ Approve ☐ Deny Charge to: ☐ State ☐ Defense ☐ Mutual ☐ Court

Comments: _____

Reviewing Authority: _____ Date: _____

COURT ACTION: ☐ Approve ☐ Deny Charge to: ☐ State ☐ Defense ☐ Mutual ☐ Court

Comments: _____

Judge: _____ Date: _____

Distribution: Prothonotary & File Court Reason Code: _____

Exhibit B

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE

v.

DEFENDANT.

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)
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)

ID NO. [REDACTED]
KENT COUNTY

SCHEDULING ORDER

It is hereby ORDERED this 11TH DAY OF SEPTEMBER, 2026, that:

1) The following Court dates are established:

- (A) Arraignment on 09/23/2026, at 8:30 A.M.
- (B) First Case Review on 10/20/2026 at 08:30 AM
- (C) Final Case Review on 01/04/2027 at 08:30 AM
- (D) Trial on 01/11/2027 at 08:30 AM

Counsel and Defendant must attend all scheduled events.

- 2) Counsel should immediately notify their witnesses and the Defendant of these dates. If there are issues regarding the unavailability of witnesses or any other scheduling problems, counsel shall notify the Court (Attn: Prothonotary) within two weeks from the date of this order of these concerns. If this occurs, the case will be rescheduled by the Prothonotary Office. Otherwise the dates will remain as previously scheduled absent exceptional circumstances.
- 3) Motions relating to discovery or to suppress must be filed within twenty (20) days after the first case review. If motion to suppress is opposed, written responses by the State must be filed within twenty (20) days after receipt.
- 4) All other pre-trial motions must be filed not later than (20) days before the final case review.
- 5) If applicable to the case, Medical Examiner or laboratory reports are due ten (10) days prior to the final case review.

Reneta L. Green-Streett
Criminal Administrative Judge

cc: [REDACTED], Deputy Attorney General
[REDACTED] Defense Counsel