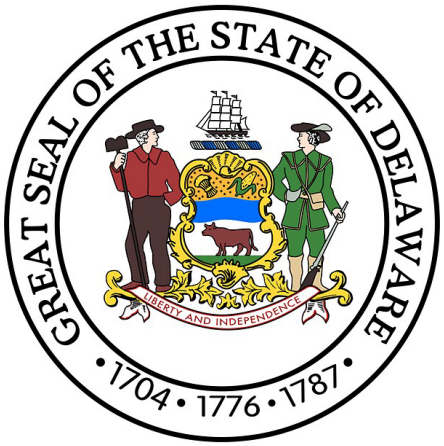

SUPERIOR COURT OF THE STATE OF DELAWARE

SUSSEX COUNTY CRIMINAL CASE MANAGEMENT PLAN

Adopted: July 2024

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The following Criminal Case Management Plan is adopted by the Superior Court of the State of Delaware to ensure the orderly and prompt disposition of criminal cases in Sussex County.

Arraignment

Rule 10(c) forms may be executed by counsel on behalf of a defendant after counsel conducts a telephone or video conference with the defendant to explain the arraignment process. The Prothonotary will include a case review date on the 10(c) form. Arraignment must be scheduled within 20 days of indictment or the filing of an information. Case review will be scheduled within 4-8 weeks of the arraignment date.

To prevent confusion and to provide for the orderly administration of cases, the Court requires that any attorney who represents a defendant in the Court of Common Pleas for a preliminary hearing must represent the defendant in this Court unless, within two weeks from the date of the preliminary hearing or waiver, the attorney informs the Court, the Attorney General's Office, and the client in writing that the attorney represented the defendant for preliminary hearing only.

Any conflicts regarding representation and waiver thereof should be determined by the time of arraignment. The Office of Defense Services shall communicate and give notice of conflicts as quickly as possible.

Discovery

Rule 16 discovery needs to be exchanged before the initial case review date so that it can be meaningful. Defense counsel must have the opportunity to digest the discovery materials before entering plea negotiations. Discovery must be provided consistent with Rule 16 and no later than one week before case review.

Case Review

Every case is scheduled for a case review unless disposed of earlier. Case reviews will be scheduled at 9:00 a.m. on Mondays of the 1st and 3rd weeks of the month (except for holidays).

If a second case review date is requested at the initial case review, it will be scheduled on the added case review calendars that are scheduled on the Tuesdays of the 2nd and 4th weeks of the month (criminal trial weeks). Any additional case review

dates requested after the second case review date will also be given final case review and trial dates.

First case review waivers may be filed with the Court prior to the scheduled case review date. Waivers shall be filed with the Court no later than two days prior to the scheduled case review date. Once received, case scheduling will notify counsel and schedule final case review and trial dates.

If the case is not resolved at case review, the defendant will be given notice to appear for final case review and trial and will be advised to come to final case review prepared to make final decisions about the case. After final case review, absent unusual circumstances, limitations will be placed on what plea offers will be accepted by the Court. The final case review and trial dates will be scheduled within 120 days of indictment.

One week prior to case review, the State should have provided all discovery or have responded to written Rule 16 requests made by the defendant. One week before case review, the State shall provide a substantive plea offer to defense counsel, who must inform the defendant of the offer.

The Court expects 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.

Providing timely, substantive, and realistic plea agreements, and communicating these offers to defendants prior to a case review, is critical to any effective case management effort. This objective can only be accomplished if discovery and plea offers are communicated to defense counsel sufficiently before case review to permit defense counsel to digest the information and communicate with the client. The Court recommends that appropriate management oversight and systems be implemented in the Attorney General and defense counsel offices to ensure compliance with the Court's expectations.

For trials expected to last longer than one week, counsel must notify case scheduling at the time of case review. These cases will be specially assigned. If there are unusual issues with a case, the parties should request an office conference with a judge.

Pleas by Appointment

Any pleas that are ready before the next scheduled court date may be scheduled with case scheduling for a plea by appointment ("PBA"), also known as a control plea. Attorneys are encouraged to use PBA dates to minimize the delay to their clients and themselves, to assist in relieving court congestion, and to avoid scheduling conflicts.

PBAs will be scheduled on control plea calendars on the 2nd and 4th Wednesdays of each month. If a plea is not entered on a control plea date, final case review and trial dates will be given, even if a second control plea date is requested.

Pretrial Motions

Pretrial motions, including motions to suppress, and all motions under Rules 12, 14, 16 and 41 of the Superior Court Criminal Rules must be filed within 20 days after the initial case review unless otherwise permitted by the Court. These motions must be timely filed to allow the scheduling of any evidentiary hearings before 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 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. The Court intends to resolve all pretrial motions before final case review.

Other Motions

All routine criminal motions filed by noon on Wednesday will be placed on the upcoming Friday's motion calendar with the criminal office judge. All miscellaneous motions will be addressed at that time. If a motion requires a written response by the opposing party, the motion may be passed for a later date. Uncontested motions may be granted before the motion calendar at the judge's discretion. Requests for continuances are not filed under this procedure (see continuances and rescheduling).

Rule 35 motions for modification of sentence will be assigned to the sentencing judge and considered by that judge without presentation, hearing, or argument unless ordered by the Court.

Final Case Review

Final Case Review is the final courtroom event prior to trial. The Court expects counsel to be thoroughly familiar with their case and to have reviewed with the defendants the plea offers and the consequences of the defendant's acceptance or rejection of the plea. The State will be expected to have contacted any victims prior to Final Case Review. 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 restitution is being requested, absent extraordinary circumstances, the State will be expected to provide the restitution amount at the time of final case review.

If the assigned deputy cannot participate in final case review, he/she is expected to engage defense counsel in plea negotiations before final case review (likewise as to defense counsel) and delegate authority to another deputy so that negotiations may continue at final case review to resolve the case. This rule applies to case review as well as final case review.

At 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-related problems.

If the case is not resolved at Final Case Review, the judge will address the defendant in open court and advise him/her of the following:

1. Absent exceptional and unforeseen circumstances, the Court will not accept a plea bargain after this date.
2. If the defendant desires to enter a plea on the day of trial, the Court will accept a plea only to all charges set forth in the indictment/information with no limitation placed upon the Court regarding sentencing.

Trial

Case Scheduling will issue the trial priority list for the trial week after Final Case Review. Counsel must immediately notify the Court about any issues that

might delay jury selection. The Court expects counsel to be ready for trial by 9:00 a.m. on the date that trial is scheduled. While awaiting jury selection, counsel must keep the bailiffs advised as to counsel's location.

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 substance abuse disorder and mental illness.

There are three problem-solving courts in Sussex Superior Court: TASC Status Hearings, Mental Health Court, and Veterans Treatment Court.

TASC Status Hearings

When a defendant is sentenced to be monitored by TASC for substance abuse, he/she is evaluated by TASC and placed on a TASC status hearing calendar. Status hearings are held twice a month on the 1st and 3rd Tuesdays of each month. Violations of probation are also addressed on the same days.

Mental Health Court

Mental Health Court has a probationary track and a diversionary track. Defendants may be referred to Mental Health Court by the Attorney General's Office or by Probation & Parole.

Mental Health Court is a voluntary program for individuals involved in the criminal justice system. The defendant must have a qualifying AXIS 1 diagnosis to enter Mental Health Court. The program may accept participants who have co-occurring diagnoses of mental health and substance abuse disorders if the mental health disorder is primary.

Status hearings are held twice a month on the 1st and 3rd Thursdays of each month.

If the Attorney General's Office offers a defendant a plea to Mental Health Court Diversion, and the defendant successfully completes the program, the State will submit a nolle prosequi on the charges.

Veterans Treatment Court

Veterans Treatment Court is a voluntary program for justice-involved veterans. A defendant who is a veteran can be referred to the Veterans Treatment Court by the Veteran Outreach Specialist, Probation & Parole, TASC, the Attorney General's Office, the Office of Defense Counsel, the Court, or a Correctional Facility.

Once referred, the Veteran Justice Outreach Specialist will confirm the defendant's military status. Veterans Treatment Court has a probationary track and a diversionary track.

Upon entry into the Veterans Treatment Court, the defendant must attend monthly status hearings. The status hearings are held the last Thursday of each month.

Sentencings

Sentencings are scheduled on a Friday calendar within six weeks of conviction.

Violations of Probation

The Court's goal is to schedule violation of probation hearings within two weeks of the defendant being returned on a capias or administrative warrant, or from the date that Probation & Parole files the summons requesting a violation hearing be scheduled.

Continuances and Rescheduling

All requests for continuances of arraignments, case reviews, final case reviews, trials, and sentencings must be set forth in writing using the Court's approved form and to the attention of case scheduling. Only if the case scheduler is absent from the office should counsel file such a request with chambers. No letter requests will be accepted. The forms are to be filed with the Prothonotary's Office and **must** provide the position of the other party. All questions on the form must be answered and as much information as possible should be provided. Continuance forms may be sent to the Superior Sussex Criminal.Proth resource mailbox OR placed in the criminal box located in the Prothonotary's Office. The parties will be

responsible for confirming availability with all police officers and necessary witnesses prior to case scheduling assigning a new trial date.

Special Assignment Cases

The President Judge will specially assign all murder cases. Once assigned, the trial judge will schedule a scheduling conference.

Scheduling Goals and Criteria

At least 90% of criminal cases should be adjudicated as to guilt or innocence or otherwise disposed of within 120 days from the date of indictment/information, 98% within 180 days, and 100% within one year. The following time periods shall not be included:

1. For all cases in which a capias was ordered, the time between the date the capias was issued and the date the 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 prosequi, 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.

All murder in the first-degree cases shall be tried and/or otherwise adjudicated within one year from the date of indictment.

THIS PLAN IS HEREBY ADOPTED BY THE PRESIDENT JUDGE OF THE SUPERIOR COURT OF THE STATE OF DELAWARE THIS ____ DAY OF JULY 2024.

_____
Jan R. Jurden, President Judge

_____
Craig A. Karsnitz, Resident Judge

_____
Mark H. Conner, Judge

_____
Robert H. Robinson, Judge