

# Special Notes-Criminal Cases

## a. Status Conferences

The Court does not hold initial status conferences in criminal cases. Rather, about seven to ten days after arraignment, the Magistrate Judge will hold a pretrial conference and set a motion cutoff date.

## b. Exhibits

Exhibits must be premarked and lists of exhibits must be exchanged three days before trial. Actual copies of exhibits must be exchanged the morning of trial. Counsel must provide copies of exhibits for all jurors.

## c. *Alford* Pleas and *Nolo Contendere*

The Court understands that the United States Attorney's office has a policy against *Alford* pleas and, for that reason, would not accept such a plea. A *nolo contendere* plea will be accepted by the Court.

## d. Presentence Investigation and Report

The Court will not sentence a defendant until the Probation Department has prepared a Presentence Investigation Report (PIR) and the parties have had an opportunity to review it and voice any objections to the PIR.

## e. Sentencing Guidelines

The Court will give notice if it intends to sentence above the applicable guideline range. If there are disputes concerning the applicable guideline range, the Court will generally request sentencing memoranda from the parties.

## f. Sentencing Council and Sentencing Memoranda

The Court participates in Sentencing Council, and will request sentencing memoranda on matters in contention.

## g. Probation Officer

The Court meets with the probation officer before imposing sentence, and requires that the probation officer be present in Court at the sentencing hearing.

## h. Self-Reporting

The Court will often allow non-custodial defendants to self report, if there is no objection from the prosecutor.

## i. Rule 11 Plea Agreements

The Court requires that the Rule 11 Agreement include a specific, negotiated term of imprisonment, rather than a reference to "the midpoint of the applicable guideline range". The defendant will be allowed to withdraw his/her plea if the actual guideline range or the criminal history category is higher than the parties believed them to be at the time the Rule 11 was negotiated.

## j. Plea Cutoff

The plea cutoff date is generally one week before the date set for trial. Then, the Court will use the date set for the Final Pretrial Conference as the date and time to accept the plea.

k. Trial Briefs

Trial briefs must be filed three days before the commencement of trial.

l. Witness Lists

Witness lists must be filed three days before the commencement of trial.

m. *Jencks* Materials

While the Court encourages the early disclosure of *Jencks* material, it does not require disclosure sooner than is required by law.

n. Peremptory Challenges in Multiple Defendant Trials

The number of peremptory challenges in such cases may vary, depending on the number of defendants. The Court will seek the advice of counsel as to the number of peremptories and how they will be divided.

o. Jury Instructions

Jury instructions must be filed three days before the commencement of trial.

p. Bench Conferences

The Court makes every effort to minimize bench conferences. It will give counsel ample opportunity to bring matters to the Court's attention and make a record during periods when the jurors are on break, lunch, or at the beginning or end of the day.

q. Magistrate Judges

Motions are referred to the Magistrate Judges for handling. Also, Initial Status Conferences are conducted by the Magistrate Judges. When the parties consent, the Court will allow the Magistrate Judges to conduct jury selection.

r. Cutoff Dates

Three days before trial is to commence, counsel shall submit witness lists, exhibit lists, proposed *voir dire* and jury instructions. On the first day of trial, actual exhibits are to be exchanged.

s. General Comments

All counsel, but particularly those from outside of Michigan are strongly urged to familiarize themselves with the local court rules.

The Court strictly adheres to common rules of decency and civility and will not tolerate anything less than that on the part of counsel, in their treatment of staff, witnesses, jurors and opposing counsel and parties.