

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN

In re: Plan for the Administration  
of the Magistrate Judge System

Administrative Order

No. 07-AO- 015

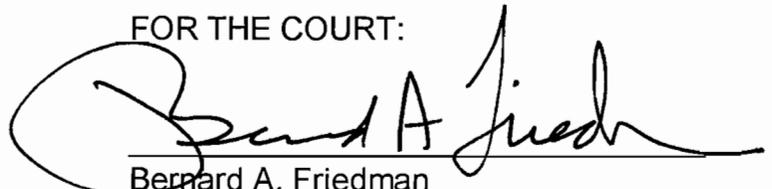
**ADMINISTRATIVE ORDER**

At their regular meeting on June 4, 2007, the Judges of the United States District Court for the Eastern District of Michigan approved the attached Plan for the Administration of the Magistrate Judges System. The Plan has been revised to reflect the action taken by the Court at its December 2006 meeting when it approved the district-wide assignment of social security cases and special civil cases to magistrate judges for a period of 18 months, or until further order of the Court.

This Administrative Order supersedes Administrative Order No. 02-AO-018.

IT IS ORDERED.

FOR THE COURT:

  
Bernard A. Friedman  
Chief Judge

Attachment

**F I L E D**  
JUL 26 2007  
CLERK'S OFFICE  
DETROIT

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN

**PLAN FOR THE ADMINISTRATION OF THE MAGISTRATE JUDGE SYSTEM**

The Judges of the United States District Court for the Eastern District of Michigan have adopted this Plan for the Administration of the Magistrate Judge System which supplements the assignment of duties and responsibilities found in 28 U.S.C. § 631 et seq. and local court rules.

**1. Appointment and Tenure of Magistrate Judges**

Magistrate Judges are judicial officers appointed by a majority vote of the district judges in active service for eight-year terms (28 U.S.C. § 631 et seq.). As judicial officers, magistrate judges are subject to a recusal statute (28 U.S.C. § 455), and the Code of Conduct for United States Judges.

**2. Number and Location of Magistrate Judges**

The number of magistrate judges to be appointed within a district and their respective locations are determined by the Judicial Conference of the United States upon the recommendation of the Director of the Administrative Office of the United States Courts (28 U.S.C. § 633). Full-time magistrate judge positions are authorized for Detroit and Bay City. The magistrate judge positions at Ann Arbor and Flint are authorized at Detroit, but have been relocated by court designation.

**3. Authority for the Adoption of Local Rules**

Pursuant to 28 U.S.C. § 636(b)(4), this Court has adopted E.D. Mich. LR 72.1, United States Magistrate Judges, and E.D. Mich. LR 73.1, Special Designation to Exercise Civil Consent Authority.

**4. Designation of Magistrate Judges**

Magistrate judges in this district were designated to exercise civil consent jurisdiction under 28 U.S.C. § 636(c) effective December 2, 1996.

**5. Assignment of Cases to Magistrate Judges**

a. Civil Cases

(1) All general civil cases assigned in the Southern Division (except social security cases, special civil cases and motions to vacate sentence) will be assigned by random method to a magistrate judge in Detroit/Ann Arbor or Flint at the same time the case is assigned to a district judge. The district judge may thereafter refer any civil case to the assigned magistrate judge in accordance with 28 U.S.C. § 636.

(2) All general civil cases assigned in the Northern Division (except social security cases and special civil cases) will be assigned to the magistrate judge in Bay City and may be referred to that magistrate judge in accordance with 28 U.S.C. § 636.

b. Criminal Cases

(1) All criminal cases assigned in Ann Arbor, Detroit and Port Huron will

be assigned by random method to a magistrate judge in Detroit/Ann Arbor at the same time the case is assigned to a district judge. The district judge may thereafter refer any criminal case to the assigned magistrate judge in accordance with 28 U.S.C. § 636.

- (2) All criminal cases assigned in Flint will be assigned to the magistrate judge in Flint and may be referred to that magistrate judge in accordance with 28 U.S.C. § 636.
- (3) All criminal cases assigned in the Northern Division will be assigned to the magistrate judge in Bay City and may be referred to that magistrate judge in accordance with 28 U.S.C. § 636.

c. Social Security Cases

Social security cases will be assigned by random method to all magistrate judges in the Eastern District of Michigan at the time the case is filed. (On December 4, 2006, the Court approved the district-wide assignment of social security cases to magistrate judges for a period of 18 months, or until further order of the Court.)

d. Special Civil Cases

Special civil cases, as defined in E.D. Mich. LR 83.11, will be assigned by random method to all magistrate judges in the Eastern District of Michigan at the time the case is filed. (On December 4, 2006, the Court approved the district-wide assignment of special civil cases to magistrate judges for a

period of 18 months, or until further order of the Court.)

e. **Motions to Vacate Sentence**

Motions to vacate sentence will be assigned to the magistrate judge who was assigned to the underlying criminal case. If the magistrate judge is no longer with the Court, the motion will be assigned by random method,

**6. Duty Magistrate Judge (Detroit)**

- a. The duty magistrate judge schedule is compiled by the Executive Magistrate Judge after consultation with the other magistrate judges.
- b. Each magistrate judge in Detroit/Ann Arbor will serve as the duty magistrate judge in Detroit for a period designated by the Court, for the purpose of considering requests made outside of normal business hours to issue warrants or hold initial appearances under Rule 5, Fed. R. Crim. P.
- c. The duty magistrate judge will preside at the Theodore Levin United States Courthouse in Detroit on weekdays at 1:00 p.m. and at other times during normal business hours as may be necessary for the purposes set forth in (d) and (e) below. The duty magistrate judge will be present in the Courthouse during business hours when assigned as the duty magistrate judge.
- d. If the duty magistrate judge is not or will not be available, he or she is responsible for getting a replacement and notifying the appropriate parties.
- e. Consistent with 28 U.S.C. § 636, the duty magistrate may:
  - (1) Accept criminal complaints;

- (2) Issue arrest and search warrants;
  - (3) Conduct initial appearances (includes setting and denying bail; holding detention hearings under 18 U.S.C. § 3142; and appointing counsel under § 3006A);
  - (4) Conduct preliminary examinations;
  - (5) Accept grand jury returns;
  - (6) Conduct arraignments;
  - (7) Conduct pretrial conferences;
  - (8) Conduct removal proceedings;
  - (9) Conduct petty offense hearings;
  - (10) Dismiss complaints; and
  - (11) Issue writs.
- f. The duty magistrate judge may accept guilty pleas and conduct trials of misdemeanors under 18 U.S.C. § 3401 in cases which have not been assigned to a district judge.
- g. The duty magistrate judge is responsible for notifying the presiding judge of mass arrests and special circumstances.

**7. Unavailability of Magistrate Judge**

- a. In the event a magistrate judge is unavailable to select a jury or perform an urgent assignment on behalf of a district judge, the Executive Magistrate Judge will designate another magistrate judge for that purpose.

- b. In the event of recusal or disqualification of a magistrate judge, another magistrate judge will be assigned by random method. If a party files an affidavit of bias or prejudice concerning a magistrate judge pursuant to 28 U.S.C. § 144, the district judge to whom the case has been assigned will hear the proceeding.

**8. Meetings**

The magistrate judges will:

- a. Meet with the Chief Judge at least quarterly to discuss matters of concern to the administration of justice within the Eastern District of Michigan, and
- b. Convene at least eight times a year at the call of the Executive Magistrate Judge to discuss matters of concern to the administration of justice within the Eastern District of Michigan.

**9. Absence of Magistrate Judge**

Whenever a magistrate judge expects to be absent for more than one day, he or she must notify the Chief Judge and the Executive Magistrate Judge in writing. Magistrate judges in Ann Arbor, Bay City and Flint must also notify the district judges at their court location.

**10. Executive Magistrate Judge**

- a. The Executive Magistrate Judge is appointed by the Judges of the United States District Court for the Eastern District of Michigan to serve at the pleasure of the Court.

- b. The Executive Magistrate Judge will have the following additional duties:
  - (1) Serve as the principal spokesperson for the magistrate judges.
  - (2) Convene all meetings of the magistrate judges.
  - (3) Make arrangements for quarterly meetings of magistrate judges with the Chief Judge.
  - (4) Provide general supervision of staff attorneys.
  - (5) Compile the duty magistrate judge schedule.
  - (6) Designate a magistrate judge to assume Executive Magistrate Judge responsibilities in is or her absence.
  - (7) Perform such other duties as may be assigned by the Chief Judge or the Court.

**11. Evaluation of Magistrate Judges**

- a. Magistrate judges will be evaluated by a committee of district judges appointed by the Chief Judge using criterion approved by the Court. The committee shall discuss the results of its evaluation with the magistrate judge. The committee shall then file a report with the Chief Judge containing the results of the evaluation, the items discussed with the magistrate judge and any areas requiring improvement. The committee's report shall provide the chief judge with information describing any comments or direction given to the magistrate judge which could be used as a benchmark for future evaluations.

- b. Magistrate judges serving their first term will be evaluated three times during their eight-year term:
  - (1) End of second year
  - (2) End of fourth year
  - (3) End of sixth year
- c. Magistrate judges serving their second term (and beyond) will be evaluated twice during their eight-year term:
  - (1) End of third year
  - (2) End of sixth year
- d. The end of sixth year evaluation will be used as the primary basis for the Court determining whether it wishes to consider a magistrate judge's request for reappointment.
- e. In addition to the evaluations called for under (b) and (c) above, or, depending on the results of an evaluation described in (a), a magistrate judge may be evaluated at any time.

**12. Effective Date**

This Plan becomes effective June 4, 2007 and supersedes the previous Plan covered by Administrative Order 02-AO-018.

gt