Criminal

1. Before any pretrial motion is filed, compliance with Local Criminal Rule 12.1 and Local Civil Rule 7.1(a) must be observed.
2. **Cases Opened Before August 18, 2008**

   In any criminal case assigned to Judge Murphy, the government shall immediately determine whether any portion of the case or its previous investigation was opened in the United States Attorney's office for the Eastern District of Michigan prior to August 18, 2008, and if it was, shall immediately inform the Court and defense counsel of that fact. Upon its own initiative or by motion of any party, the Court may recuse itself from any matter over which Judge Murphy may have presided as United States Attorney for the Eastern District of Michigan.
3. **Pleas**

   a. The Court does not ordinarily accept a negotiated plea of guilty that contains any restrictions regarding sentencing under Federal Rule of Criminal Procedure 11, a significant reduction in the number of counts alleged, a 5K1.1 provision or any other concessions by the government that could impinge upon the Court's sentencing authority or discretion, after the final pretrial conference and change-of-plea cutoff date.
   b. The Court does not accept plea agreements under Federal Rule of Criminal Procedure 11(c)(1)(C), but readily accepts agreements under Rule 11(c)(1)(B) that include non-binding sentencing recommendations; the Court also accepts plea agreements that contemplate well thought out and supported 5K1.1 departures. Although Rule 11(c)(1)(B) sentencing recommendations are not binding, the Court does give them careful consideration and weight.
   c. At a Rule 11 hearing on a guilty plea, the Court respectfully asks that the assigned federal prosecutor summarize any applicable plea agreement in no more than one hundred and twenty seconds. The only information that an AUSA must explain at a plea hearing is (1) what the defendant is pleading to, (2) the sentencing recommendation, and (3) any forfeiture/restitution. Time taken to unnecessarily read verbatim portions of a plea agreement at the hearings has real consequences: in addition to chewing up valuable court and staff time, it ratchets up the costs of transcripts that are often incurred by taxpayers via CJA orders and requests from government lawyers.
4. **Exhibits**

   Counsel for the government are urged to make reasonable efforts to reach agreement with counsel for the defense concerning the admissibility of each intended physical exhibit prior to trial. If an agreement is reached, a list of such exhibits is to be prepared by government counsel for entry at the opening of trial, and the exhibits will be considered admitted at the outset. If defense counsel chooses to file a notice of intent to contest foundation, chain-of-custody, or scientific analysis, such notice shall be filed not later than 7 days before trial. Unless the items or exhibits are unusually voluminous, the notice shall provide a brief item-by-item or exhibit-by-exhibit description of the good-faith basis for any objection.
5. **Juries**

   a. **Selection**

      The Court uses a "struck jury" system for jury selection. The Court will select twelve regular and two alternate jurors. In most cases, the government is allowed 6 peremptory challenges and the defendant is allowed 10 peremptory challenges. Jurors will be

excused without disclosing which side excused them. Alternate jurors are not told they are alternates; they are dismissed by random draw at the conclusion of the proofs.

b. **Notes**

The jury is allowed to take notes. The Court specifically instructs the jury in advance on this issue.

c. **Redirect**

Redirect examination shall be permitted upon a showing of good cause.

d. **Motions in Limine**

Motions in limine must be filed no later than 10 days before the start of trial.

e. **Jury Instructions**

Proposed jury instructions must be submitted no later than the first day of trial. The parties are to confer with each other in an attempt to agree on all jury instructions. If the parties are unable to agree on all instructions, they shall submit a joint packet of those instructions to which they do agree, a packet for those instructions proposed by the government, and a packet for those instructions proposed by the defense. The Court will usually instruct the jury using the Sixth Circuit's pattern jury instructions when available.