

WESTERN DIVISION PLAN FOR CRIMINAL ROTATION DOCKET CALENDAR

Annual Rotation Docket Calendar. The first two full weeks of every month are designated criminal rotation trial weeks with two judges assigned to try the criminal rotation cases. A criminal case will be designated as a "rotation case" if it can be tried in five days or less. Prior to March 1 each year, the chief judge will determine the availability of the district judges and will develop a calendar designating two judges to handle the criminal rotation trials each month. The annual calendar will also set the criminal report dates for each judge. The calendar will then be distributed to the district judges, magistrate judges, case managers, clerk's office, marshal's office, probation office, pretrial services office, United States Attorney, and Federal Defender.

Notice at Arraignment. At arraignment, the magistrate judges will set trial dates and report dates in accord with the rotation calendar, or alternatively, will inform the parties that the district judge assigned to the case will send notice to counsel of record of the trial date and report date. Written notice of the trial and report dates will be sent to counsel of record after the arraignment. Copies of the notice are distributed to the assigned judge, case manager, rotation coordinator, and clerk's records department. As provided in the Civil Justice Reform Plan, the trial setting will be for the

first Monday during a criminal rotation docket that falls at least forty days after the date of arraignment, unless the Speedy Trial Act requires an earlier setting. Report dates will generally be held on the Thursday, Friday, and Monday, one week prior to the first Monday of the two week rotation calendar.

Report Date Conflicts. To the extent possible, no other criminal matters should be set in conflict with criminal rotation docket report dates, and no criminal matters involving in-custody defendants should be set for the same day as any judge's criminal rotation report dates. The only exception to this is in the event of a lengthy criminal trial before a judge not handling report dates. Any criminal settings during the criminal rotation docket weeks will yield to criminal rotation docket trials, except lengthy criminal trials which are not a part of the rotation docket.

Trials Longer Than Five Days. The assigned judge should determine at the earliest possible report date those cases which will require more than five days to try. When a case has been so identified, the judge should schedule the case for trial so that it does not conflict with that judge's assigned weeks of duty on the rotation docket. If conflict is unavoidable, the judge should trade rotation docket duty weeks with another active Western Division judge.

Preparation for Report Dates. Report dates will be conducted by the judge to whom the case is assigned. Counsel should be prepared to provide the following information at the

report date: estimated number of trial days; precise information regarding any potential scheduling conflicts; and whether there are any out-of-town witnesses. If, at the initial report date, one or more parties move the court for a continuance of the trial, the parties at that time shall provide the court with a realistic trial date. If the court grants the motion, the court will set a firm trial date and will schedule a final report date no less than seven (7) calendar days prior to the trial date.

Resolution of Pretrial Matters. The judge to whom the case is assigned will handle all pretrial matters, including any motions for continuance or other pending motions, or changes of plea tendered prior to trial. If a change of plea is entered in a case prior to trial, the judge to whom the case is assigned will handle the sentencing. Cases will not be removed from the docket until they have been continued orally on the record or by a signed order. After report dates, the judges will not grant continuances on any basis that could have been known and raised at the report date (such as witness or scheduling conflicts, need for additional time to prepare, etc.). If a case requiring five days or less for trial is continued, the judge will reset the case for the next applicable rotation calendar and report date. If a motion is pending after the report date, the judge will resolve the motion prior to the first Monday of the rotation calendar.

Pretrial Matters Assigned to Magistrate Judges. Magistrate judges should conduct hearings on motions to suppress within thirty days of the reference and make their reports within sixty days of the reference. The judges will continue cases in which motions to suppress are pending from their original settings with this time frame in mind. Magistrate judges should be familiar with the trial setting and should make every effort to file their reports early enough for objections to be filed and resolved before the report date.

Calendar Considerations. The order of cases to be tried and the judge who will try the cases will be determined by the rotation coordinator, subject to the approval of the chief judge and/or the trial judges, and will be set out in a "calendar" which will be circulated no later than Wednesday before the first Monday of the criminal rotation. The order of the cases tried will be determined by the age of the case, custody status of defendants or witnesses, speedy trial considerations, witness or attorney availability conflicts, or other circumstances peculiar to the case. Any particular circumstances relating to trial scheduling should be reported at the report date, and should be noted in the minutes. The rotation coordinator will not honor requests for special placement on the docket. THE ROTATION CALENDAR IS SUBJECT TO CHANGE AND ATTORNEYS ARE EXPECTED TO BE READY AS SET FORTH IN THE COURT'S NOTICE LETTER TO ATTORNEYS: FOUR HOURS NOTICE if the defendant is not in custody and resides

in the Western District of Tennessee or within a two-hour drive of court and if the prosecution has no out-of-town witnesses, otherwise TWENTY-FOUR HOURS NOTICE. Any request for exception to these rules must be directed to the judge to whom the case is assigned at the report date. If emergency circumstances develop after the report date, any special request must be made immediately to the judge to whom the case is assigned. The judges will give special settings within the docket only under extraordinary circumstances. When the first two cases have been set for trial, the rotation coordinator will notify the attorneys, the jury administrator, and the U. S. Marshal by phone, advising them of the date, time, and judge assigned to try the case.

Continuity of the Calendar. The trial judge's case manager will stay in daily contact with the rotation coordinator to advise of the progress of trial, so that when closing arguments begin, the rotation coordinator can begin the process of calling in the next case on the calendar. The rotation coordinator is responsible for notifying all parties of the setting of the next case to be tried.

Trials will be conducted five days a week. To the extent possible, judges on rotation docket duty will be available for the entire two week calendar period, and will minimize interruptions during the trial week.

Jury Notification. Jury notification will be handled by the jury administrator. Upon notification of a trial setting by the rotation coordinator, the jury administrator will provide a jury pool to the judge trying the case.

Sentencing. If a case is tried to a guilty verdict, the judge who tried the case will handle the sentencing. If a change of plea is entered on the day of trial or after trial has commenced, the plea will be taken by the judge before whom the case is to be tried, and that judge will also sentence the defendant.

Transferring Rotation Cases. When a rotation docket case is tried by a judge other than the one to whom the case was originally assigned, the chambers of the originally assigned judge will prepare an order transferring the case to the trial judge. For a multiple-defendant case, only the defendants who go to trial will be reassigned to the trial judge for sentencing. If there is a reason the trial judge should sentence co-defendants who did not go to trial (e.g., the trial judge was able to evaluate testimony of a cooperating defendant), the trial judge will contact the original judge and they will determine the appropriateness of transferring the additional defendants.