

**JMI COMMITTEE
CRIMINAL CASE MANAGEMENT
PROTOCOLS
PROPOSAL**

December 12, 2007

Rev. 12/15/07, 12/17/07, 1/14/08 & 2/4/08

PREAMBLE

Pierce County Superior Court has rededicated itself to meeting its obligation to the public and those accused of crimes to provide swift and efficient resolution of criminal cases. Participants in criminal cases have ended up spending too long in Court waiting for something to happen on their case and not enough time seeing cases move forward. These case management protocols represent a combined effort of the Court and Bar to improve the timing and efficiency of the criminal justice system. Judges and attorneys are recognized as professionals who appear in Court prepared, on time and ready to accomplish the task at hand. Defendants and victims alike, have the right to expect the speedy resolution of their case. The public expects all the participants in the court process to efficiently and effectively do their jobs and that justice will be the outcome.

I. Arraignments

- A. At the Arraignment the Court will set a Pretrial Conference date in fast track cases, Omnibus date and trial date.
1. Pretrial Conference and Omnibus Hearing will be set per days identified by individual trial team leaders.
 2. Omnibus Hearings for individual trial teams will need to be set over the course of two (2) days.
 - a) Attorneys may adjust the Omnibus Hearing date with the approval of Differentiated Case Management (DCM) staff.
- B. Should the defendant need a Return with Attorney date, it shall be scheduled on the Pretrial Conference date or a date approximately two (2) weeks past the Arraignment for cases where no Pretrial Conference is set.

1. The Return with Attorney hearing will be scheduled in CD1¹ or CD2².

II. A Meaningful Omnibus Hearing RULE 4.5

- A. There will be one meaningful hearing on the record on each case prior to the Trial. This hearing will be the Omnibus Hearing.
 1. Omnibus Hearings will be staggered in time according to Trial Unit (see Section II.C.1.f).
- B. The Omnibus Hearing will be set out approximately 40 days, in order to give the parties enough time to conduct discovery and conduct client/witness conferences/interviews.
- C. Obligations Of Attorneys
 1. At the Omnibus Hearing the prosecutor shall indicate that seven (7) days before the hearing:

¹ Criminal Division 1

² Criminal Division 2

- a) S/he has provided to defense a complete list of defendant's criminal convictions.
- b) S/he has provided to defense counsel all discovery required to be provided by CR 4.7(a) in their possession or control and had made it available to defense counsel upon receipt.
- c) S/he has contacted law enforcement agencies to request and/or obtain any additional or supplemental police reports, forensic tests, or evidence and had made them available to defense counsel upon receipt.
- d) S/he has reviewed the discovery and criminal history and made an offer to the defendant.
 - (1) At the Omnibus Hearing the defense shall indicate that two (2) days before the hearing:
 - (a) S/he has met with the client about the current case.

- (b) S/he has received a Plea offer from the state.
- (c) S/he has reviewed the discovery and the criminal history.
- (d) She/he has given discovery to prosecutor.
- e) If discovery has not been completed by the Omnibus Hearing, the Court may make such orders as required to facilitate discovery, or the Court or parties may request a Review Hearing for the purpose of monitoring discovery so that the case will be ready for Trial on the trial date. The attorneys will have an opportunity to explain to CDPJ³ any deficiencies in discovery.
- f) Omnibus Hearings in CDPJ will begin at 8:45; 10:30 and 1:30; 2:45 and the attorneys in trial will have priority. Attorneys will not be required to remain in CDPJ after

³ Criminal Division Presiding Judge

checking in only if they can be contacted immediately and will appear in CDPJ within 10 minutes of such contact.

g) High security defendants will have their Omnibus Hearings heard before a judge in the CD 2 Court until completion of the new criminal division courtrooms.

h) Omnibus Hearings shall be on the record, and an Omnibus Order shall be completed and filed. The Court will confirm:

1. That the discovery is complete.

2. That the defense attorney has met with his/her client.

3. That the offer has been made and communicated to the defense.

i) If a new trial date is requested, the attorneys should agree to a

meaningful trial date approved by DCM. If they cannot agree, the Court will set the date.

j) If a Plea agreement has been reached the Court may take the Plea or set a Plea date. If the defendant is in custody and requests a quick Plea date, the Plea will be set within two judicial days or as soon thereafter as required for victim notification as long as the Plea paperwork is completed.

k) All Omnibus Hearings will be on the record, except for the cases where the defendant is setting a Plea date. If such a Plea date is set the parties will also schedule a new Omnibus Hearing as soon as practicable and a new trial date if requested.

l) At the time of the Omnibus Hearing, the Court will set a schedule for pretrial motions, if so requested by a party.

m) Applicants for Drug Court consideration should schedule a Drug Court Screening as soon as possible after Arraignment. Applicants must meet the criteria for Drug Court (based on criminal record or current charge) in order to schedule an oral hearing. Those interested in Drug Court admission shall have a Drug Court Screen Hearing no later than 60 days after Arraignment or such longer time as the CDPJ approves. No case shall be continued based solely on the fact that a screening has been scheduled in the future.

III. Pretrial Conferences

- A. Pretrial Conferences will be set on the following cases:
1. All Trial Unit 2 (fraud, arson, ID theft),
 2. All Trial Unit 3 (theft and burglary),
 3. Drug – Trial Unit 5 (except manufacture of methamphetamine and firearm enhanced cases),

4. All Class C sexual assault unit (SAU) cases,
 5. Felony Elude - Trial Unit 9,
 6. And all cases where the defendant is out of custody or released on personal recognizance at the time of Arraignment,
 7. Or at the request of counsel at Arraignment.
- B. Only one (1) Pretrial Conference will be scheduled on any case except for TU 5 cases which will be allowed two (2) Pretrial Conferences. Other cases may request a continuance on the record in the CD Courts.

IV. Offers and Plea Negotiations

- A. The Court will not accept Amended Informations on the day of Trial absent good cause shown.
- B. When a case is assigned to a trial department, the department will start the trial promptly.

There will be no trial time given for additional settlement negotiations.

V. Pleas

- B. Plea paperwork must be filled out before the Court will schedule a Plea in all cases except for the Plea that is set at the Pretrial date. The Court will provide/guarantee an in-custody defendant a Plea date within two (2) Court days or as soon thereafter as required for victim notification.
1. When defense counsel has completed Plea paperwork defense counsel shall provide a copy to the deputy prosecutor assigned to the case as soon as possible.
 2. The deputy prosecuting attorney assigned the case will review that the Defendant's Statement on Plea of Guilty is accurate in the following respects:
 - a) The elements are correct.
 - b) The offer is accurate and complete.

- c) The facts listed on the form are sufficient to support the Plea.
- d) If an Alford/Newton/Barr Plea, the defendant's statement is legally sufficient and the facts contained in the Declaration for Determination of Probable Cause are sufficient to support the Plea.

VI. Motion Practice

- A. Dispositive motions will be scheduled in CDPJ Wednesday and Thursday in the mornings. CDPJ can either send the motions to open trial departments, or hear the motion in CDPJ. Adhere to the Motions Protocol.
- B. The following pretrial motions will be heard only in CDPJ:
 - 1. Motions to Continue Trial Date or an Omnibus Hearing date;
 - 2. Motions to Amend the Information (except to facilitate a Plea done prior to day of Trial) if the motion is to be heard after the case has had an

Omnibus Hearing; unless assigned to a trial department.

3. motions related to discovery or to the regulation of discovery (CrR 4.7); and,
4. CrR 3.5/3.6 motions, Knapstad or other dispositive motion shall be set in CDPJ who may hear the motion or assign it to an available judicial department.

VII. Trial Continuances

- A. All current continuance policies will be repealed.
- B. After the Omnibus Hearing, cases should not be continued. If a case cannot be tried on the trial date, the attorneys should expect the case to trail in CDPJ until it is assigned to a trial department. See “Trailing” below.
- C. All continuance requests will be heard on the record in CDPJ and should be brought in advance of the Trial and as soon as practicable.

- D. If a continuance is granted after the Omnibus Hearing, a Continuance Report Form (internal form) will be completed by the CDPJ judge.

VIII. TRAILING

- A. A case may be designated for trailing after CDPJ receives input from the attorneys.
- B. Trailing attorneys and defendants shall be within 30 minutes of the County-City Building/CDPJ when notified.
- C. CDPJ will designate number of days to trail, order all back at that designated time unless ordered earlier to an assigned department. Trailing attorneys shall call in each trailing day by 10 a.m.

IX. Failures to Appear

- A. If a defendant fails to appear after an Omnibus Hearing, the case will be set for Trial upon the defendant's return to Court. The trial date will be no later than 55 days from the date of the defendant's return.

- B. If the state seeks to add Bail Jumping charges to the currently filed information, the charges must be added within 30 days of defendant's return to Court.

X. Meaningful Trial Dates

- A. The Court will continue to set trial dates at Arraignment, but at the Omnibus Hearing, allow the attorneys to continue the Trial to a firm date within guidelines. (Class C felonies 5 months, Class B felonies, 7 months, Class A felonies 12 months from the date of Arraignment.)
- B. It is expected that trials will not be continued on the day of Trial except for unforeseeable, extraordinary circumstances.
- C. If the deputy prosecutor or defense counsel is in another trial, the Trial will trail day to day, according to the Court's trailing policy or the Court may consider other options.
- D. In the event an attorney has two Trials set for the same date, CDPJ may send both Trials to one department, with the expectation that one

case will be tried immediately and the other will trail.

XI. Reallocation of Judges to Increase Criminal Trials

- A. The judges will immediately increase their availability to try criminal cases.
 - 1. Superior Court will hire pro-tem judges for civil cases to preside in the courtrooms of the judges currently in the CD rotations.

XII. Criminal Court Forms

- A. All forms used in criminal cases shall be two-part forms except as noted below. The Court will file the original and the defendant will receive the copy.
 - 1. Three (3) part form for Statement of Defendant on Plea of Guilty.
- B. The Court will work toward developing electronic Conditions of Release, Statement of Defendant on Plea of Guilty and Judgment and Sentence forms.

XIII. Monitoring

- A. Superior Court will work with DAC and the Prosecutor's Office to take steps to review pending cases over 270 days old every three months, in an attempt to identify and eliminate or reduce the causes of case age.
- B. Superior Court, DAC and the Prosecutor's Office, Criminal Law Section of the Bar will review resolution rates. The goal for Superior Court overall and for individual Trial Units is a 100% or better resolution rate over a 3 month period.
- C. It is the goal of Superior Court, DAC, the Prosecutor's Office and Criminal Law Section of the Bar to reduce the pending cases by an average of 40 cases per month until the pending cases are 1,500.
- D. Court internal process. Prosecutor Office, DAC and Bar will name a contact person for personnel issues that may arise.

XIV. IMPLEMENTATION

March 31, 2008.