

OFFICE OF
CIRCUIT JUDGE FREDERICK R. HARDT
COLLIER COUNTY COURTHOUSE
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COURTROOM 3-A (THIRD FLOOR)
LANETTE, JUDICIAL ASSISTANT
(Revised August 3, 2009)

OFFICE AND COURTROOM PROCEDURES

Other Contacts:

Court Administration - (239) 252-8800
Clerk of the Court Call Center - (239) 252-2646
Court Mediation - (239) 252-8704
Bailiff's Bureau - (239) 252-8129
Collier County Jail - (239) 793-9350

Web sites:

20 th Judicial Circuit:	www.ca.cjis20.org
Collier County Clerk of Courts:	www.clerk.collier.fl.us
Collier County Sheriff:	www.colliersheriff.org

CIRCUIT JUDGE FREDERICK R. HARDT
OFFICE AND COURTROOM PROCEDURES
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CIRCUIT JUDGE FREDERICK R. HARDT
OFFICE AND COURTROOM PROCEDURES
CRIMINAL DIVISION

CRIMINAL DIVISION

GENERAL MOTION SCHEDULING:

Regular motions will be set every third Friday (unless a change is necessary due to a holiday or vacation schedule). The cut-off for scheduling on the Motion calendar is noon Thursday of the week prior to the motion date. Non-evidentiary motions will be set on Friday morning. Evidentiary hearings will generally be set on Friday afternoon.

When calling to set a hearing, the following information is required from your office:

- 1) Case Number
- 2) Case Name
- 3) The Motion(s) to be heard
- 4) The amount of time required for both sides to present evidence, if any, and to argue the motion (*please ask your attorney as this may vary greatly from one case to another). The Judge's copy of the motion calendar will reflect the amount of time you have requested. If your hearing exceeds the time requested, the judge may order that your motion be reset to another motion docket.
- 5) Your Notice of Hearing must include the amount of time you estimated for **both** sides to present evidence and to argue the motion.

As a courtesy to the other side, the attorneys must clear the hearing time with the opposing party before booking the hearing. This is extremely important if the hearing involves testimony and the scheduling of witnesses to attend the hearing.

NO MOTIONS OR OTHER MATTERS SHALL BE FAXED TO THE COURT (WHICH INCLUDES LATE/LAST MINUTE FILING OF MOTIONS OR PLEADINGS). ONLY EMERGENCIES APPROVED BY THE COURT IN ADVANCE MAY BE FAXED.

HEARING CONFIRMATION NUMBER

On all Motions, the Judicial Assistant will give you a hearing confirmation number that must be put in your Notice of Hearing. The confirmation number is necessary because, in our absence, our recorded telephone message will give you available hearing dates. This will allow you to coordinate a date and time with the opposing party without speaking directly to us. However, in order for your case to be docketed on the court calendar, after you have coordinated a date and time with opposing side you will need to call us back to get your hearing confirmation number.

POST CONVICTION RELIEF MOTIONS

COPIES OF ALL POST CONVICTION MOTIONS (INCLUDING 3.800 AND 3.850 MOTIONS) MUST BE SENT TO THE COURT FOR REVIEW TO DETERMINE WHETHER AN EVIDENTIARY HEARING WILL BE SCHEDULED.

GENERAL MOTION REQUIREMENTS

- **Motions for Release on Own Recognizance (ROR):** (after 33 days due to State not filing an Information) Hearings on these Motions will be set for 9:00 a.m. on Monday and Wednesday when Court is in session. Defense counsel must schedule the hearing with the Judicial Assistant and shall deliver written notice to the State Attorney (by fax or hand delivery) not later than 3:00 p.m. two (2) business days prior to the date of the hearing. For example, for a 9:00 a.m. hearing on Monday, notice must be delivered to the State Attorney not later than 3:00 p.m. on the proceeding Thursday.
- **Consolidations:** Civil and Traffic Offenses will not be consolidated into felony cases.
- **Motions to Suppress:** The original Motion to Suppress should be filed with the Clerk and a copy sent to the State Attorney and the Court for review. In accordance with Rule 3.190(h), the Court will review the motion to determine if the motion is legally sufficient before a hearing date will be set. See Rule 3.190(h); State v. Hernandez, 841 So.2d 469 (Fla. 3d DCA 2002). Motions to Suppress which are not heard prior to the pretrial conference will be heard at the start of trial.
- **Telephone Hearings:** Generally, witnesses may not appear by telephone in the absence of a stipulation between the parties permitting such an appearance and with advance notice to the Court. A notary public must be available in the presence of the witness to administer the oath, or the parties may stipulate that the clerk administer the oath from the courtroom. Attorneys must appear in person for hearings. See Rule 2.530(d).
- **Submission of Case Law to the Court:** For substantive motions such as motions to dismiss or suppress, if counsel intends to rely on case authorities, those cases should be provided to the Court with an appropriate letter of transmittal and a courtesy copy of the motion at least two business days prior to the hearing. Copies of the cases must also be delivered at the same time to opposing counsel. Case authorities submitted at the time of the hearing may result in a delay in the issuance of the Court's ruling on your motion.
- **Motions for Continuance of Trial:** All motions for the continuance of a case which has been set for trial shall be timely filed in writing, and except for good cause shown, shall be signed by the party (in addition to the attorney) requesting the continuance. In the absence of exceptional circumstances which are not reasonably foreseeable and which are beyond the control of the moving party or counsel, motions for continuance of trial shall only be set for hearing on the court's regular motion calendar. Continuances shall only be granted upon a showing of good cause. See Rule 2.545(e), Florida Rules of Judicial Administration. A notice of unavailability is not a substitute for a motion and order for continuance. Delio v. Landman, 987 So.2d 733, (Fla. 4th DCA 2008).
- **Motions to Withdraw Plea:** Before setting a hearing, the Court will review a motion to withdraw a plea. The original Motion should be filed with the Clerk and a copy of the motion sent to the State Attorney and the Court with a cover letter stating how much hearing time you are requesting and include in the letter that a copy of the motion has been furnished to the State Attorney.
- **Motions for New Trial:** Motions for New Trial must be filed with the Clerk and a copy sent to the Court. Unless otherwise ordered by the Court, the Motion will be heard at the time of sentencing.
- **Request for Travel:** Pursuant to standard condition (3) contained in all probation orders, the Department of Corrections is directed by the Court to determine whether a probationer is allowed to travel to any location outside his or her county of residence. It is not the responsibility of the Court to supervise probationers. Supervision is the responsibility of the Department which is in a superior position to determine whether permission to travel should be granted and to determine what special conditions or restrictions, if any, should apply to such travel on a case by case basis. Accordingly, requests to travel will not be considered by the Court.

- **Motions for Funeral Release or Furlough:** The control and supervision of inmates in the Collier County jail is the responsibility of the Collier County Sheriff's Office. All requests for funeral release or furlough from the Collier County Jail should be submitted to the jail and must comply with the Sheriff's policies and procedures. Please refer to Chapter 7, Section 9, Jail Division Policy and Procedure Manual.
- **Motions and Orders to Transport:** If the presence of a defendant who is in custody outside of Collier County is required for a plea, hearing or trial, counsel seeking the presence of the defendant shall be responsible for timely submitting to the Court an Order to Transport. Counsel shall consider that the defendant's location of custody may lengthen the time required to transport the defendant and counsel should contact the Collier County Sheriff's Office to confirm that there is sufficient time to transport the defendant. These orders shall also provide for the return of the defendant to custody after conclusion of the plea, hearing or trial. The Order to Transport shall indicate that a copy is to be delivered by the Clerk to the Collier County Sheriff's office.
- **Motions to Set Bond or Reduce Bond:** The original Motion to Set Bond or Reduce Bond should be filed with the Clerk and a copy sent to the State Attorney and the Court for review, together with a letter of transmittal. Upon review the Court may order that a Bond Reduction Investigation report be prepared by the Department of Corrections, and if so ordered, a hearing date may not be set until after the report has been forwarded to the Court (not the Clerk) with a copy to the State Attorney and the Defense Attorney (or Defendant, if pro se).
- **Motions to Set Bond in VOP cases.** If a VOP warrant provides that the defendant be held without Bond (a "No Bond" warrant), and the defendant remains in custody, a Motion to Set Bond should be filed with the Clerk and a copy sent to the State Attorney and the Court, together with a letter of transmittal requesting a hearing. Hearings on these motions will be set for 9:00 a.m. on Monday and Wednesdays when the Court is in session. Except upon a showing of good cause, hearing time will be limited to 10 minutes. Defense counsel must schedule the hearing with the Judicial Assistant in accordance with the Court's procedures and shall deliver written notice to the State Attorney (by fax or hand delivery) not later than 3:00 p.m. two business days prior to the date of the hearing. For example, for a 9:00 a.m. hearing on Monday, notice must be delivered to the State Attorney not later than 3:00 p.m. on the preceding Thursday.

CORRESPONDENCE TO THE COURT:

Pursuant to Canon 3.B(7), Code of Judicial Conduct, the Court cannot consider any ex parte communication made to the Court outside the presence of counsel or the parties concerning a pending or impending matter.

If the submission contains a proposed order, please attach a stipulation or other writing with the signature of opposing counsel or party indicating that he or she has agreed to or has no objection to the proposed order. Otherwise, you must follow the procedure for general motion scheduling set forth above. Your proposed order must include the attorneys, agencies, and/or parties who are to receive a conformed copy. This acts as a checklist for those who are sending out the conformed copies. Please remember to also submit the required copies and self-addressed stamped envelopes for mailing

Do not submit a proposed order requesting the Court to hold the order for a certain number of days pending any objection from the opposing counsel or party. Such submissions will be returned to the sender.

Upon filing of the appropriate motion, the following orders may be submitted for consideration by the Court without a stipulation or the signature of opposing counsel:

- A. Order appointing conflict counsel
- B. Order for substitution of counsel (with stipulation signed by new counsel)
- C. Order for withdrawal of counsel (with stipulation signed by client)
- D. Order for withdrawal of counsel (newly retained private counsel has filed a Notice of Appearance.)
- E. Order for appointment of expert for mental examination of defendant
- F. Order approving court reporter fees and other due process costs (within I.S.C. authorized rates), provided notice has been given to J.A.C.
- G. Order to transport defendant
- H. Order to appoint public defender for purpose of appeal
- I. Order appointing Guardian Ad Litem

NOTE: CASES IN WHICH THE COURT ENTERS AN ORDER FOR SUBSTITUTION OF COUNSEL SHALL REMAIN SET FOR CASE MANAGEMENT, PRETRIAL CONFERENCE OR TRIAL AS PREVIOUSLY SCHEDULED.

ALL SUBMISSIONS to the Court must contain a cover letter and copies of the motions or pleadings (if applicable). **The cover letter must state the reason for the submission and state or indicate that the letter and attachments have been furnished to the opposing party.**

CASE MANAGEMENT PROCEDURES

Please refer to the Standing Order on Case Management Procedures set forth in the Appendix (pages 14-17).

At arraignment the State Attorney's Office will determine if any defendants who are out of custody and not represented by counsel intend to apply for a public defender and those defendants will be instructed to immediately prepare and submit the appropriate application form to the Clerk (at Collections on the first floor of the courthouse) and to promptly return to the arraignment courtroom.

If the Clerk has found the defendant to be indigent, the public defender is automatically appointed without further order of the Court. If the defendant has been found not indigent, the defendant may request judicial review of the Clerk's determination, in which case the arraignment judge will conduct a hearing at the conclusion of the arraignment docket. If the Public Defender has been appointed, a plea of not guilty will be entered and the defendant shall be instructed to contact the Public Defender's office within ten (10) days to schedule an appointment to meet with the assigned attorney.

If the defendant intends to hire private counsel or is determined to be not indigent, the defendant will be advised by the State Attorney's Office at the arraignment to promptly retain counsel and have that counsel file an appearance with the Clerk within ten (10) days. If the defendant intends to proceed *pro se*, the arraignment judge may conduct a **Faretta** hearing at the conclusion of the arraignment docket or set the hearing at another date and time on a motion or hearing docket of the assigned judge.

After entry of a plea at arraignment, or after defense counsel has filed a written plea of not guilty at or before arraignment, a Case Management Conference shall be scheduled by the Clerk not less than 35 days (5 weeks) nor more than 56 days (8 weeks) thereafter (excluding court holidays), and the Clerk of Courts shall deliver or send notice of the Case Management Conference to the State Attorney, defendant and Defense Counsel, if any, and the bondsman, if any.

Not later than ten (10) days after the arraignment, the State Attorney shall deliver or transmit to Defense Counsel, the following:

- A. Information/Indictment
- B. Probable cause affidavit
- C. Sworn statements of witnesses, if any
- D. Sentencing guidelines scoresheet
- E. Preliminary plea offer, if any.

The defendant is required to attend the Case Management Conference. The defendant's presence may not be waived. The presence of the defendant is required at the case management conference to enable the Court to ascertain whether a plea agreement has been offered and if so, whether it has been, or is likely to be accepted, and to otherwise facilitate plea discussions and agreements in accordance with Rule 3.171. See Cruz v. State, 822 So.2d 595 (Fla. 3rd DCA 2002)

Counsel of record for the defendant and the Assistant State Attorney shall appear in person at the Case Management Conference and shall be prepared to discuss the case with respect to:

- A. Discovery provided by the State (Rule 3.220(b)).
- B. Sentencing guideline scoresheet (Rule 3.701).
- C. Plea discussions and agreements (Rule 3.171) (Including advisability of pretrial diversion, drug court, etc.)
- D. Anticipated pretrial motions (Rule 3.190) including:
 - 1. Motions to dismiss
 - 2. Motions to suppress evidence or confession
 - 3. Motions to consolidate/sever
- E. Mental competency (Rule 3.210).
- F. Discovery depositions (Rule 3.220(h)).
- G. Scheduling date for Pretrial Conference
- H. Scheduling trial date

Counsel of record means the attorney who has filed a Notice of Appearance or any other member of that attorney's law firm. Other attorneys are not permitted to "cover" for counsel of record.

No Docket Sounding will be held after the Case Management Conference.

CASE MANAGEMENT CONFERENCE SCHEDULE

9:00 AM – Public Defender Docket

1:30 PM – Private Attorney Docket

At the Case Management Conference, the Clerk shall issue a Scheduling Notice with the dates for pre-trial conference and trial. **The defendant shall sign a receipt for the notice with the dates. Counsel of record is responsible for receiving a copy of this Notice at the Case Management Conference. Copies will not be mailed by the Clerk.**

PRESUMPTIVE TRIAL DATES

The following table of presumptive trial dates (calculated from the date of arrest) will be utilized as a standard by the Court in scheduling a trial date:

<u>Highest Felony Degree</u>	<u>Speedy Trial NOT Waived</u>	<u>Speedy Trial Waived</u>
3 rd Degree	150 Days	180 days
2 nd Degree	165 days	240 days
1 st Degree	175 days	300 days
Or Higher		

Trial dates are subject to change depending upon specific situations which may arise from time to time, and the Court, in its discretion, may shorten or lengthen any applicable time periods or deadlines. The defendant's right to a speedy trial is governed by Rule 3.191.

Cases will generally be set on a two (2) week trial docket. Counsel shall be ready for trial on the first day of the trial docket and each day thereafter unless excused by the Court. **Counsel shall notify their witnesses to stand ready for trial during the entire period of the trial docket.**

DISCOVERY AND DEPOSITIONS

All discovery, including taking of depositions, shall be completed not later than 14 days (2 weeks) prior to the pre-trial conference. No continuances on the grounds of lack of time for completion of discovery or depositions will be approved by the Court unless a motion for continuance is filed and set for hearing on a regular motion calendar prior to the pre-trial conference. **The failure of counsel to timely conduct discovery, including depositions, in anticipation of resolving the case by a plea, will not be considered good cause for a continuance of the trial date in the event a plea agreement is not reached or not accepted by the Court.**

In accordance with Rule 3.220(h)(1)(D), no deposition shall be taken in a case in which the defendant is charged only with a misdemeanor or a criminal traffic offense unless good cause can be shown to the court.

PRETRIAL CONFERENCE

A pre-trial conference will generally be scheduled for 9:00 a.m. the Wednesday immediately prior to the assigned trial docket. **The defendant and trial counsel are required to be present at the pre-trial conference. The defendant's presence may not be waived. The presence of the defendant is required at the pretrial conference to enable the Court to ascertain whether a plea agreement has been offered and if so, whether it has been, or is likely to be accepted, and to otherwise facilitate plea discussions and agreements in accordance with Rule 3.171. See Cruz v. State, 822 So.2d 595 (Fla. 3d DCA 2002). Trial counsel means the attorney who will try the case.** Cases which are tentatively resolved at the pre-trial conference by a plea agreement will be heard at the end of the docket or will be set on the plea docket for the following day (Thursday). If for any reason the plea is not concluded at that time or not accepted by the Court, counsel shall be prepared to proceed to trial as previously scheduled on that trial docket.

PRETRIAL MOTIONS

All motions, including motions for continuance, shall be timely filed and hearings held prior to the pre-trial conference. Counsel shall comply with the Court's procedure regarding motions as set forth above.

At the hearing on a motion for continuance, counsel shall submit to the Court a proposed Order with blank lines for setting new dates for pre-trial conference and trial, together with sufficient copies for counsel and the bondsman, if any, and self-addressed stamped envelopes.

PLEAS

Do NOT request the Court to set a case for plea until the State Attorney has provided an accurate sentencing guideline scoresheet and the defendant (in addition to defense counsel) has indicated his or her acceptance of the plea agreement offered by the State Attorney.

Cases which are set for plea will generally be set on the regular plea docket. Plea dockets are every third Thursday at 9:00 a.m. On cases in which a plea agreement is reached at the pre-trial conference, the plea will generally be heard at the end of the docket or will be set for the plea docket on the following day (Thursday).

Pleas to the Court (without a plea agreement) will generally be set on the plea docket at 1:30 p.m. Sentencings will also be set on the plea docket at 1:30 p.m.

The sentence will be imposed promptly upon acceptance of the plea. Except in cases involving payment of substantial restitution, do not request a deferred execution of the sentence

A PLEA AGREEMENT WORKSHEET SHALL BE FULLY COMPLETED AND SUBMITTED TO THE COURT AT THE TIME OF THE PLEA. **Defense counsel shall calculate and insert in the worksheet the number of days of jail credit, if any. Upon timely request, a minimum of 48 hours in advance, the jail will fax to counsel a printout showing the number of days of jail credit.** This will assist the Court in correctly pronouncing the sentence and the Clerk in correctly preparing the judgment. See the Plea Agreement Worksheet in the Appendix (page 20).

VOP DOCKET PROCEDURES

There is a 9:00 a.m. VOP Sounding every third Tuesday, followed by VOP hearings at 1:30 p.m.

If a plea has been negotiated, the Court will consider those cases on the morning docket. If your client is in custody and there is a negotiated plea, you must contact the jail at (239) 793-9254. You must call no later than 4:00 p.m. of the day BEFORE the scheduled court appearance. The bailiffs will not bring over clients for the purpose of case status or plea discussions with their attorneys. Attorneys should have these discussions at the jail or on the telephone beforehand. The bailiffs will not transport defendants in custody when the request is made on the same day at the scheduled court appearance, without express approval from the Court.

ORDERS SUBMITTED by your office continuing a previously set Court date should be accompanied by a Stipulation or a letter of transmittal containing agreed upon dates for consideration by the Court and shall contain blank spaces for the Court to insert new dates and times for the hearing, conference, or trial as appropriate, and state at the end of the order who is to receive a copy. Please include the following (after the attorneys names who are to receive a copy):

“Court Team Leader, Felony Division, Clerk of Courts, to reset as stated above”

This will help the Clerk in the resetting of your case to the proper docket. Please remember to include additional copies for all parties, including an extra copy for the “Court Team Leader.”

DUE PROCESS COSTS

Except in special circumstances, the Court will only approve court reporter fees and other due process costs for indigent defendants in accordance with established rates promulgated by the 20th Judicial Circuit Indigent Services Committee (I.S.C.) and under the contractual requirements of the Judicial Administrative Commission (J.A.C.). For more information log on to www.justiceadmin.org or call toll free: (866) 355-7906. Motions for approval of due process costs in excess of established rates must be set for hearing with notice to the State Attorney and J.A.C. Please refer to the Standing Order regarding Due Process Costs set forth in the Appendix (pages 18-19).

PROCEDURES FOR PRO SE PARTIES

1. A PARTY WITHOUT A LAWYER IS NOT ENTITLED TO SPECIAL TREATMENT AND MUST FOLLOW THE SAME RULES OF PROCEDURE, EVIDENCE AND LAWS, THAT GOVERN LAWYERS.
2. JUDGES AND THEIR ASSISTANTS ARE PROHIBITED FROM GIVING ANY LEGAL ADVICE, INCLUDING ANY ADVICE OR DIRECTIONS REGARDING THE PREPATAION OR PROCESSING OF COURT PAPERS.
3. JUDGES AND THEIR ASSISTANTS MUST REMAIN NEUTRAL AND IMPARTIAL.
4. JUDGES ARE PROHIBITED FROM HAVING ANY EX PARTE COMMUNICATIONS WITH ANY PARTY. REQUESTS TO SPEAK PRIVATELY WITH THE JUDGE WILL BE REFUSED.
5. DO NOT SEND LETTERS DIRECTLY TO THE JUDGE.
6. ANY MATTER TO BE CONSIDERED BY THE COURT REQUIRES THE FILING OF A WRITTEN MOTION AND NOTICE OF HEARING WITH THE CLERK AND COPIES MUST BE SENT TO THE OTHER PARTY OR THE OTHER PARTY'S LAWYER.
7. IN THE ABSENCE OF A WRITTEN STIPULATION OR AGREEMENT BETWEEN THE PARTIES, THE COURT CAN ONLY HEAR MOTIONS AND RECEIVE EVIDENCE IN OPEN COURT WITH ALL PARTIES NOTIFIED OF THE HEARING.

COURTROOM DECORUM

All counsel, parties, witnesses and other persons in the courtroom shall comply with the Standards of Courtroom Decorum as set forth in Administrative Order No. 2.13, which may be found online at www.ca.cjis20.org.

The following additional standards apply:

- Cell phones, pagers, etc. must be turned off before entering the courtroom.
- No talking during court proceedings
- No chewing of gum or tobacco
- No shorts or beachwear
- No hats or sunglasses
- Children must be quiet

APPENDIX

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT
IN AND FOR COLLIER COUNTY, FLORIDA

IN RE:

STANDING ORDER ON
CASE MANAGEMENT PROCEDURES

CRIMINAL DIVISION

In accordance with Rule 2.545, Florida Rules of Judicial Administration, the Court finds that the following procedures shall be applicable in all felony cases assigned to Judge Hardt and Judge Krier in Collier County, unless otherwise ordered by the assigned judge, and accordingly, it is

ORDERED that:

1. At arraignment the State Attorney's Office will determine if any defendants who are out of custody and not represented by counsel intend to apply for a Public Defender and those defendants will be instructed to immediately prepare and submit the appropriate application form to the Clerk (at Collections on the first floor of the courthouse) and to promptly return to the arraignment courtroom.

2. If the Clerk has found the defendant to be indigent, the Public Defender is automatically appointed without further order of the Court. If the defendant has been found not indigent, the defendant may request judicial review of the Clerk's determination, in which case the arraignment judge will conduct a hearing at the conclusion of the arraignment docket. If the Public Defender has been appointed, a plea of not guilty will be entered, the Clerk shall promptly notify the office of the Public Defender, and the defendant shall be instructed to contact the Public Defender's office within ten (10) days to schedule an appointment to meet with the assigned attorney.

3. If the defendant intends to hire private counsel or is determined to be not indigent, the defendant will be advised by the State Attorney's Office at the arraignment to promptly retain counsel and have that counsel file an appearance with the Clerk within ten (10) days. If the defendant intends to proceed *pro se*, the arraignment judge may conduct a

Faretta hearing at the conclusion of the arraignment docket or set the hearing at another date and time on a motion or hearing docket of the assigned judge.

4. After entry of a plea at arraignment, or after defense counsel has filed a written plea of not guilty at or before arraignment, a Case Management Conference shall be scheduled by the Clerk not less than 35 days (5 weeks) nor more than 56 days (8 weeks) thereafter (excluding court holidays) and the Clerk of Courts shall deliver or send notice of the Case Management Conference to the State Attorney, the defendant, defense counsel, and the bondsman, if any.

5. Within ten (10) days after the arraignment, the State Attorney shall deliver or transmit to defense counsel copies of the following:

- A. Information/Indictment
- B. Probable cause affidavit
- C. Sworn statements of witnesses, if any
- D. Sentencing guidelines scoresheet
- E. Preliminary plea offer, if any.

6. The defendant is required to attend the Case Management Conference. The defendant's presence may not be waived. Counsel of record for the defendant and the Assistant State Attorney shall appear in person at the Case Management Conference and shall be prepared to discuss the case with respect to:

- A. Discovery provided by the State (Rule 3.220(b)).
- B. Sentencing guideline scoresheet (Rule 3.701).
- C. Plea discussions and agreements (Rule 3.171) (Including advisability of pretrial diversion, drug court, etc.)
- D. Anticipated pretrial motions (Rule 3.190) including:
 - 1. Motions to dismiss
 - 2. Motions to suppress evidence or confession
 - 3. Motions to consolidate/sever
- E. Mental competency (Rule 3.210).
- F. Discovery depositions (Rule 3.220(h)).

G. Scheduling date for Pretrial Conference

H. Scheduling trial date

At the Case Management Conference, the Clerk shall issue a Case Management Scheduling Notice with the dates for the pre-trial conference and trial.

7. The following table of presumptive trial dates (calculated from the date of arrest) will be utilized as a standard by the Court in scheduling a trial date:

<u>Highest Felony Degree</u>	<u>Speedy Trial Not Waived</u>	<u>Speedy Trial Waived</u>
3 rd Degree	150 Days	180 Days
2 nd Degree	165 Days	240 Days
1 st Degree or Higher	175 Days	300 Days

Trial dates are subject to change depending upon specific situations which may arise from time to time, and the Court, in its discretion, may shorten or lengthen any applicable time periods or deadlines. The defendant's right to a speedy trial is governed by Rule 3.191.

Cases will generally be set on a two (2) week trial docket. Counsel shall be ready for trial on the first day of trial docket and each day thereafter unless excused by the Court.

Counsel shall notify their witnesses to stand ready for trial during the entire period of the trial docket.

8. All discovery, including taking of depositions, shall be completed not later than 14 days (2 weeks) prior to the pre-trial conference. No continuances on the grounds of lack of time for completion of discovery or depositions will be approved by the Court unless a motion for continuance is filed and set for hearing on a regular motion calendar prior to the pre-trial conference. **The failure of counsel to timely conduct discovery, including depositions, in anticipation of resolving the case by a plea, will not be considered good cause for a continuance of the trial date in the event a plea agreement is not reached or not accepted by the Court.**

9. A pre-trial conference will generally be scheduled for the Friday immediately prior to the assigned trial docket. **The defendant and trial counsel are required to be present at the pre-trial conference. The defendant's presence may not be waived.** Cases which are tentatively resolved at the pre-trial conference by a plea agreement will be set on the plea docket for the following Monday. If for any reason the plea is not

concluded at that time or not accepted by the Court, counsel shall be prepared to proceed to trial as previously scheduled on the trial docket.

10. All motions, including motions for continuance, shall be timely filed and hearings held prior to the pre-trial conference. At the hearing on a motion for continuance, counsel shall submit to the Court a proposed Order with blank lines for setting new dates for pre-trial conference and trial, together with sufficient copies for counsel and the bondsman, if any, and self-addressed stamped envelopes.

11. These procedures shall be effective January 1, 2008.

DONE AND ORDERED at Naples, Collier County, Florida, on this the ____ day of November, 2007.

FREDERICK R. HARDT, CIRCUIT JUDGE

ELIZABETH V. KRIER, CIRCUIT JUDGE

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT
IN AND FOR COLLIER COUNTY, FLORIDA

IN RE:

STANDING ORDER APPLICABLE TO
MOTIONS TO HAVE DEFENDANT
DECLARED INDIGENT FOR
DUE PROCESS COSTS

CRIMINAL DIVISION

This standing order applies to defense counsel seeking to have the defendant declared indigent for due process costs, including deposition-related costs, travel expenses, and defense experts or investigators to be reimbursed by the Justice Administrative Commission (“JAC”).

1. Any motion to have the defendant declared indigent for costs must be served on the JAC with timely notice prior to any hearing.
2. The JAC will only pay due process costs as authorized under Sections 29.007, 27.40 and 27.5304, Florida Statutes.
3. Section 27.52(5), Fla. Stat. (2006) outlines the requirements that must be met when privately retained counsel seek to have a client declared indigent for costs. Pursuant to Section 27.52(5), the Defendant must complete and file with the Clerk an application for criminal indigent status and must provide “an affidavit attesting to the estimated amount of attorney’s fees and the sources of payment for these fees.” §27.52(5)(a)2, Fla. Stat. (2006).
4. In considering whether to grant the motion, Section 27.52(5)(b) requires the Court to consider “[w]hen applicant retained private counsel” and “[t]he amount of any attorney’s fees and who is paying the fees.”
5. All due process costs are subject to the rates, terms and conditions approved by the Twentieth Judicial Circuit’s Article V Indigent Services committee (ISC), Florida Statutes, local administrative orders and the JAC contract, policies and procedures.
6. Due process provider rates are adopted in the Twentieth Judicial Circuit’s “Rates Adopted by Indigent Services Committee.” For investigators, the rate is up to \$100.00 per hour.
7. If the Court authorizes an investigator, the order shall reflect the hourly rate and the maximum dollar amount authorized at that time.

8. To the extent counsel may be seeking the appointment of other experts, the services of such experts must be obtained through court order. The JAC is entitled to notice and an opportunity to be heard prior to the Court approving any additional due process services.

9. Pursuant to section 27.52(5) and 29.007, Fla. Stat. (2006), counsel must execute the JAC contract and will need to follow JAC's billing and audit procedures to obtain payment on behalf of the due process providers.

10. If any due process providers desire direct payment, the JAC's procedures and Chapter 2006-25, Laws of Florida, Section 4-876 require the vendor to execute the appropriate contract and follow JAC's billing and audit procedures to obtain payment.

DONE AND ORDERED at Naples, Collier County, Florida, on this the ____ day of August, 2008.

FREDERICK R. HARDT, CIRCUIT JUDGE

ELIZABETH V. KRIER, CIRCUIT JUDGE

PLEA AGREEMENT WORKSHEET

State of Florida vs. _____
Collier Case Nos. _____ Date: ____/____/200____
ASA: _____ Defense Counsel: _____

CT	CHARGE	ADJ/WH/NP	SENTENCE (DOC/CC/DOP/SOP/SP/CCJ/CTS)
1			
2			
3			
4			
5			
6			

SCORE SHEET

_____ Points Minimum Sentence: Non-State _____ DOC _____ Months Man. Min: _____ yrs.

SENTENCING INFORMATION

- ☐ STATE PRISON ☐ COUNTY JAIL ____ ☐ Days ☐ Months ☐ Year(s) ☐ Time Served ☐ Life ☐ Death
☐ Minimum Mandatory ____ Years ☐ Jail time is a special condition of Probation/Community Control
☐ _____ Suspended upon ☐ _____ ☐ Completion of Project Recovery
☐ Credit Time Served ☐ ____ days ☐ since _____ ☐ To begin serving on _____

COMMUNITY CONTROL

- _____ ☐ Days ☐ Months ☐ Year(s) Community Control
☐ Revoked ☐ Terminated ☐ Reinstated to: _____

PROBATION

- _____ ☐ Days ☐ Months ☐ Year(s) ☐ Life Probation
☐ Revoked ☐ Terminated ☐ Reinstated to: _____

PROBATION/COMMUNITY CONTROL CONDITIONS

- ☐ State ☐ County ☐ Administrative ☐ Drug Offender ☐ Sex Offender
☐ Defendant to report to probation ☐ upon release from custody ☐ within _____ hours ☐ immediately
☐ D.L. Suspended ☐ D.L. Revoked _____ Months _____ Years ☐ May obtain work permit ☐ May not obtain work permit
☐ Random Drug/Alcohol Testing at own expense ☐ Substance abuse evaluation w/30 days, follow recommendations
☐ Psychological ☐ Psychiatric Evaluation & follow recommendations ☐ Blood Specimen ☐ Aids Test ☐ DNA Testing
☐ DUI School (appropriate phase) ☐ Victim Impact Panel ☐ Impoundment of Vehicle _____ days ☐ Ignition Interlock _____ yrs.
☐ Parenting Class ☐ Anger Management ☐ Batterers' Intervention Program
☐ _____ Hours community Service ☐ May pay off ☐ Electronic/GPS Monitoring at own expense
☐ No contact with victim _____ ☐ No Trespass _____
☐ Same Terms & Conditions previously ordered
☐ Curfew - 10pm-6am or ☐ _____. ☐ No possession or consumption of alcoholic beverages
☐ Not to enter any establishment that primary sells alcohol ☐ No alcoholic beverages in residence
☐ If not a U.S. Citizen, may be deported by I.C.E. ☐ Special conditions _____

FINES, COSTS, FEES, RESTITUTION, ETC.

- ☐ \$ _____ Fine + 5% + \$20 Crimestoppers ☐ \$ _____ Court Costs ☐ Composite Costs
☐ \$ _____ Prosecution Costs ☐ \$ _____ Investigation Costs ☐ Collections Program
☐ \$40.00 Public Defender Application Fee ☐ \$ _____ Public Defender Fees ☐ \$ _____
☐ Use Cash Bond for Fines and Fee ☐ Community Service in lieu of Fines ☐ Court Costs Waived
☐ Restitution \$ _____ to _____ at \$ _____ per month
☐ Court orders restitution and reserves Jurisdiction to determine amount
☐ All costs to be paid within first _____ days/months of probation/community control

CONSECUTIVE/CONCURRENT SENTENCES

- ☐ Consecutive Count(s): _____ Case(s): _____ ☐ any sentence now serving
☐ Concurrent with Count(s): _____ Case(s): _____ ☐ any sentence now serving