

**INTERNAL OPERATING  
PROCEDURES  
OF THE  
UNITED STATES DISTRICT COURT  
FOR THE  
SOUTHERN DISTRICT OF FLORIDA**



**Adopted July 1991  
Revised October 17, 2017**

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# **INTERNAL OPERATING PROCEDURES**

## **INTRODUCTION**

These are the procedures for the Court's internal operations, compiling in summary form various administrative orders, minutes of Executive Committee and Judges' meetings, and previously unwritten customs and practices of the Court. They set out the procedures generally to be used by chambers and the Office of the Clerk of the Court in performing certain administrative tasks.

While the procedures are public and available on request, litigants acquire no rights under them. A current copy of these procedures is also available at the Court's web site <http://www.flsd.uscourts.gov/>. The judges of the Court have agreed to observe all Local Rules and these internal operating procedures in the conduct of Court business.

## **IOP 1.00.00 ADMINISTRATIVE ORDERS**

The Clerk of Court, who is responsible for the care, custody, and safekeeping of court records, shall, upon receipt of originals of administrative orders signed by the Chief Judge, file stamp and log them in. Original administrative orders shall be maintained by the Clerk's Office. Copies shall be maintained by the Circuit Librarian and made available to the public.

When an administrative order is sent to the Chief Judge for signature, it must include a date and a sequential number obtained from the Clerk of Court.

The Clerk's Office will publicize administrative orders by posting them on the Court's website.

## **IOP 1.01.00 Internal Operating Procedures**

The Clerk of Court is responsible for maintaining the original Internal Operating Procedures ("IOPs"), notifying the Court of all subsequent changes in the IOPs, and making sure all new judges receive copies of the IOPs.

## **IOP 2.00.00 RANDOM ASSIGNMENT OF NEW CASES**

### **IOP 2.01.00 Wheel Consolidation**

In an effort to ensure equitable distribution of cases, the criminal and civil wheels were consolidated effective January 1, 2002, as follows: (1) The civil A & B wheels are combined into a single wheel from which all new civil cases, but for capital habeas petitions, will now be assigned; (2) The criminal categories I-II, III, IV, and V wheels are likewise consolidated into a single criminal wheel from which all new criminal cases will now be assigned.

#### **IOP 2.01.01 Assignment of Actions and Proceedings**

(a) All civil and criminal cases, including those within a weighted category, shall be assigned on a blind random basis so that the District workload is fairly and equally distributed among the active Judges irrespective of jury division; provided that, whenever necessary in the interest of justice and expediency, the Court may modify the assignments made to active or senior Judges.

(b) The Clerk of the Court shall not have any power or discretion in determining the Judge to whom any action or proceeding is assigned, the Clerk of the Court's duties being ministerial only. The method of assignment shall assure that the identity of the assigned Judge shall not be disclosed to the Clerk of the Court nor to any other person, until after filing.

(c) The assignment schedule shall be designed to prevent any litigant from choosing the Judge to whom an action or proceeding is to be assigned, and all attorneys shall conscientiously refrain from attempting to vary this Local Rule.

(d) The District is divided into five (5) Divisions: the Fort Pierce Division (Highlands, Indian River, Martin, Okeechobee and St. Lucie Counties); the West Palm Beach Division (Palm Beach County); the Fort Lauderdale Division (Broward County); the Miami Division (Miami-Dade County); and the Key West Division (Monroe County). Cases are assigned by the Automated Case Assignment System to provide for blind, random assignment of cases and to equitably distribute the District's case load. Each Judge in the District has chambers in one (1) of three (3) Divisions (Miami, Fort Lauderdale or West Palm Beach). A Judge with chambers in one (1) Division may be assigned a case with venue in another Division.

(e) Pursuant to Administrative Orders of the Court, or other authority, the Clerk may be required to directly assign a case to a particular Judge. Types of cases directly assigned include: 1) Non-capital motions to vacate a sentence under 28 U.S.C. § 2255; multi-district cases (MDL); and non-capital actions filed under 18 U.S.C. § 2241 when there is an underlying case in the District.

### **IOP 2.01.02 Responsibility for Actions and Proceedings**

Every application for an order, including those made in connection with appellate proceedings, shall be made to the Judge to whom the action or proceeding is assigned. The assigned Judge shall have full charge thereof and no changes in assignment shall be made except by order of the Judges affected; provided, that upon the failure or inability of any Judge to act by reason of death or disability, a change in assignment may be made by the Chief Judge.

### **IOP 2.02.00 “One Division” Rule**

In the interest of reducing the expense and inconvenience to litigants and counsel associated with holding and attending court in distant locations, the Court will, to the extent possible, limit the assignment of cases outside of the division of their origination. Although the distribution of judges and filings across the District rules out a system in which each judge's caseload is equal and is composed entirely of cases originating in the division in which the judge sits, it is possible to limit case assignments to the originating division or an immediately contiguous division. Stated more simply, under this rule, when a newly-filed case must be assigned to a judge outside of the division of its origination, it will be assigned to a judge who sits in a neighboring division. Under this rule, hereafter referred to as the “one division rule,” no Miami cases will be assigned to a judge who sits in the Palm Beach division, and vice versa. When, for example, there is a need to

assign a Palm Beach case to a Judge outside that division, only Fort Lauderdale Judges will be chosen for assignment.

### **IOP 2.02.01 Implementation of One Division Rule**

The “One Division Rule” will commence with the first wheel replenishments occurring after January 1, 2002. Thereafter, every attempt will be made to assign the maximum numbers of cases arising in a particular venue to the judges who preside in that venue.

### **IOP 2.02.02 Exceptions to the One Division Rule**

The rule does not consider the Key West and Fort Pierce wheels, in which participation is voluntary, nor does it prohibit senior judges from taking assignments in any division they might prefer. Moreover, as an accommodation to the Court, active Judges may from time to time be authorized to accept new assignments in a manner contrary to the rule. For example, Judge Middlebrooks is currently, as an accommodation to the Court, taking a fixed percentage of criminal cases originating in Miami, although he now presides in West Palm Beach. Finally, there may well be unanticipated emergencies which might require some limited two-division spillover assignment to maintain equality of caseload. The existence of an emergency sufficient to require varying from the rule, however, will be determined only by the Clerk in consultation with the Court.

### **IOP 2.03.00 Calculation of Senior Judge Participation**

Senior judge participation in the case assignment system shall be calculated as a percentage of an active judge’s average.

### **IOP 2.04.00 Assignment of Cases to Newly Appointed Judges**

Newly appointed judges shall be placed on the case assignment wheel no later than fifteen (15) days after they are first sworn to perform their judicial duties.

### **IOP 2.05.00 Transfer of Cases to Newly Appointed Judges**

#### **IOP 2.05.01 Civil**

The average number of pending civil cases per active judge shall be determined by dividing all civil cases pending before active judges as of a given date by the number of active judges. **Example:** 1000 pending civil cases divided by 15 judges, equals 67 cases per judge.

The same process is then applied after adding the number of new judges to the number of active judges. Example: Two new judges are appointed. 1000 pending civil cases divided by 17 judges, equals 59 cases per judge.

Each active judge will transfer the difference in the average number of pending cases after accounting for the new judges. Example: Using the above formula, four new cases are transferred to each new judge, for a total of eight transferred cases.

The Clerk of Court will randomly select the cases to be transferred in consideration of the new judge's divisional location. Every attempt will be made to give the new judge the same proportion of "home" division cases as the other active judges in that division, as appropriate.

### **IOP 2.05.02 Criminal**

Each judge shall transfer to the new judge a number of criminal cases to be determined by the Court. The Clerk of Court will randomly select the cases to be transferred in consideration of the new judge's divisional location. The list of cases selected for transfer for each judge shall be disseminated to all judges. See IOP 2.05.04 for procedures for transferring cases from the list provided by the Clerk of Court. If a case selected by the Clerk of Court is not appropriate for transfer, the transferring judge shall select the next case in sequence on the list that is eligible for transfer and transfer that case to the new judge. The Clerk's list shall be strictly followed in the order provided. Judges may not randomly select cases to be transferred to the new judge.

### **IOP 2.05.03 Cases Excluded from Reassignment**

All Fort Pierce and Key West cases, sealed cases and cases received via transfer or recusal are excluded from the reassignment process. Criminal cases which the United States Attorney's Office has declared or which the judge anticipates will require 21 or more days to try, criminal cases involving bond jumping and criminal cases in trial or awaiting sentencing (intervals P4, P5) are excluded from the reassignment process.

Habeas corpus death cases (nature of suit 535), consolidated cases including multi-district litigation cases, 2255s, cases involving CIPA clearance, and civil cases pending 18 months or longer are also excluded from the reassignment process.

In addition, the transferring judge may exclude from transfer any case that has involved a substantial amount of judicial effort or in which any motion is pending that is ripe for disposition by that judge.

#### **IOP 2.05.04 Procedures for Reassignment**

The Clerk of Court shall furnish each transferring judge with a list of civil and criminal cases to be transferred as of a date certain (the “transfer date”). The transfer lists prepared for each judge shall be disseminated to all judges.

After receiving the list of cases to be transferred, the transferring judge shall, within 30 days, rule upon all pending ripe motions that have not been referred to the paired magistrate judge and which are fully briefed. Judges should then and transfer those cases selected by the Clerk to the newly-appointed judge. If any case on the list is excluded from transfer, pursuant to IOP 2.05.03, or is for other reasons not an appropriate case for transfer, the transferring judge shall select the next case in sequence on his or her list that is eligible for transfer and transfer it to the new judge. Thereafter, the transferring judge shall make no adjustments. Judges do not need to transfer all cases at the same time, as long as the total number of cases transferred does not exceed the total permitted.

Judges shall not issue “boiler-plate” orders denying pending motions without prejudice to review same before the new judge.

All transferring judges must complete a status sheet in the form prepared by the Clerk for every case transferred. All magistrate judges must rule on all pending motions that became ripe on or before the date of the transferring judge’s order of reassignment. Magistrate judges should also prepare a certification/order of transfer after cases with applicable ripe pending motions have been disposed.

#### **IOP 2.05.05 Recusals After Transfer**

New judges receiving transferred cases should make reasonable efforts within the first 120 days following transfer to determine if grounds exist requiring recusals. If, within the first 120 days following transfer, a new judge determines that he or she must recuse, the new judge shall enter an order of recusal, and send the case back to the transferring judge. The transferring judge shall select and transfer a substitute case. If, after the expiration of 120 days following transfer, a new judge determines that he or she must recuse, the new judge shall enter an order of recusal, and the case shall be reassigned by the Clerk following normal procedures.

#### **IOP 2.06.00 Transfer of Higher-Numbered Cases**

Each division in the Southern District of Florida has its own series of numbers which are sequentially assigned to cases. Therefore, for the purpose of higher-numbered transfers, the “lower-numbered” case refers to the earlier-filed case. The judge assigned the higher-numbered case shall prepare a proposed Order of Transfer and a Notice to the parties that the higher-numbered case is transferred to

the docket of the judge having the lower-numbered case, effective upon that judge's consent to the transfer.

The transferring judge shall forward a copy of the transfer order to the transferee judge for review. The transferee judge must respond to the proposed transfer within thirty days from the date the transferring judge forwards the file. A case will be automatically assigned to the receiving judge if that judge has not responded to the transfer request within thirty days. The transferring judge shall use a form providing for signature by the accepting judge.

Subject to the above time limitation, the transfer of the higher-numbered case must be with the consent and approval of the receiving judge.

No higher-numbered transfer shall be initiated by a judge ordering the Clerk of Court to reassign the case to another judge.

## **IOP 2.07.00 Miscellaneous Transfers and Reassignments**

Judges may confer and directly transfer all or any part of a case on the judge's docket to any consenting judge. Notice shall be provided to all parties.

### **IOP 2.07.01 Reassignment of Cases Due to Recusal, Temporary Assignment or Emergency**

(a) The procedure for reassignment of cases due to recusal, temporary assignment or emergency shall be similar to the blind filing assignment for newly-filed cases and shall be administered in a manner approved by the Court so as to assure fair and equitable distribution of all such matters throughout the District.

(b) Any emergency matter arising in a case pending before a Judge who is unavailable may, upon written certification as to each matter from the Judge's office setting forth such grounds therefore, be referred to the Clerk of the Court for reassignment under a blind random assignment procedure. Such assignment, when effected, shall be of temporary duration, limited only to the immediate relief sought, and the case for all other purposes or proceedings shall remain on the docket of the Judge to whom it was originally assigned.

(c) Uncontested matters wherein the parties cannot be prejudiced through delay occasioned by the normal course of business shall not be deemed emergency matters for referral.

(d) The Clerk of the Court shall not have any discretion in determining the Judge to whom any such matter is assigned, nor shall the Clerk of the Court disclose the name of the Judge to attorneys or other persons until after the assignment has been made.

## **IOP 2.08.00 Assignment of Cases and Referrals to Magistrate Judges**

### **IOP 2.08.01 Magistrate Judge Pairing Plan**

The judges shall be paired to individual magistrate judges by the Chief Judge in consideration of the following:

- (a) the equal distribution of workload among the magistrate judges and,
- (b) the preferences of the district judges, including senior judges, taking into consideration their seniority and their past referral practices.

The pairing shall be for a period of three years in order to promote continuity in the processing of cases, while allowing each magistrate judge to have exposure to several district judges during his or her term. The Administrative Order setting forth the new pairing assignments shall establish the mechanism for transfer of cases to the newly paired magistrate judge and for reassignment of cases where the paired magistrate judge is recused.

1. In the event of a higher-numbered case transfer or a recusal by a district judge within 30 days of a case assignment, the Clerk's Office shall concurrently reassign the case to a district judge and the magistrate judge with whom the newly-assigned district judge is paired. In the case of all other district judge recusals, the procedures set forth above shall apply.
2. District judges shall retain full discretion concerning the type and volume of matters referred. However, referrals shall be only to the "paired" magistrate judge, unless a district judge after conferring with and obtaining the agreement of the district judges with whom another magistrate judge is paired determines that a case or motions should be assigned to or remain with such other magistrate judge (e.g., because of a prior related case, because a magistrate judge has devoted substantial time to an unusually complex case, or for some other meritorious reason), and so notify the Clerk's Office in writing.
3. Any consent trial, consent motion for summary judgment, and other "consent motion" shall remain with the magistrate judge who was assigned to the case when the consent was given.

## **IOP 2.09.00 Motions for Travel Referrals to a Magistrate Judge**

Any motion for travel by a defendant released on bond will be ruled on by the district judge to whom the defendant's case is assigned unless that district judge specifically refers the matter to the magistrate judge with whom the district judge

is paired for criminal matters. Magistrate judges must have an order of referral prior to acting on such a motion.

### **IOP 2.10.00 Assignment by Reason of Disability, Disqualification, or Death of a Judge**

Reassignments necessitated by the death, retirement, resignation, or incapacity of any judge, or by any other circumstances, shall be determined at the discretion of the Chief Judge.

### **IOP 2.11.00 Assignment to Visiting Judges**

Cases may be assigned to visiting judges at the discretion of the Chief Judge.

### **IOP 2.12.00 Death Penalty/Habeas Corpus Cases**

Each active judge shall have one case assignment ballot in the death penalty/habeas corpus wheel and may not be assigned another death penalty/habeas corpus case until every other judge has received one and the wheel has been refilled. State habeas corpus matters filed under 28 U.S. §2254 and federal habeas corpus matters filed under 28 §2255 shall be assigned from the death penalty/habeas corpus wheel.

In death cases involving a stay of execution (emergency matters), an initial status conference shall be scheduled within five business days after assignment to a judge. If an evidentiary hearing is required, or if additional oral argument is scheduled, that hearing shall be conducted no later than thirty days after the initial hearing. In addition, the assigned judge will, in appropriate circumstances, enter the following:

- (a) An order directing the respondent to file a response and furnish transcripts of the trial and other hearings within five days from the date the petition is filed;
- (b) An order directing the parties to complete the habeas corpus check list recommended by the Eleventh Circuit Court of Appeals within twenty-four hours of the filing of the petition.
- (c) The judge shall render a final written opinion within five months of the conclusion of the last hearing held. All habeas corpus death cases shall be decided in the Southern District of Florida within a maximum period of six months and five days from the date of the filing of the petition. If a judge is unable to complete a final written opinion within five months of the final hearing,

that judge will notify the Chief Judge in writing. The notification shall describe the reasons for the delay and the expected completion date.

The Chief Judge may assist the assigned judge by reassigning any other criminal cases assigned to that judge until the completion of the death case. If a petition for rehearing is filed, it shall be ruled on within sixty days from the date of filing. The Clerk shall notify the assigned judge and the Chief Judge in the event the deadline is not met.

## **IOP 2.13.00 Court Policy for Scheduling Trials and Calendar Conflicts Arising in the Southern District of Florida**

In resolving any calendar conflicts among the judges of this district and between judges of this district and state judges, the following procedures and priorities are established:

- (a) Criminal cases shall prevail over civil cases.
- (b) Jury trials shall prevail over non-jury trials.
- (c) Court of Appeals arguments and hearings shall prevail over trials.
- (d) The case in which the trial date has been first scheduled in writing shall take precedence over any later written or oral order scheduling trial.
- (e) A trial in progress prevails over those that have not yet begun.
- (f) Circumstances such as cost, number of witnesses and attorneys involved, travel, length of trial, age of case, and other relevant matters may warrant deviation from this policy. Such matters should be resolved through communication between the judges involved.
- (g) Unless precluded by constitutional or statutory considerations, scheduling conflicts of Criminal Justice Act (CJA) attorneys should be given priority during any given calendar. Judges should be sensitive to the competing commitments of a Criminal Justice Act attorney's caseload absent compelling circumstances which militate against accommodating that attorney's scheduling request.
- (h) The Court should entertain motions for continuances, timely notices of scheduling conflicts, and/or notices of emergency proceedings in another court, either federal or state, on a timely basis and grant such relief when requested.

## **IOP 2.14.00 Emergency Matters**

Any emergency matter arising in a case pending before a judge who is physically absent from the Southern District of Florida, or who is on vacation, may, upon written certification of unavailability from the judge's chambers, be referred to the Clerk for reassignment under a blind random assignment procedure. Such reassignment shall be limited only to the immediate relief sought, and the case for all other purposes and proceedings shall remain on the docket of the judge to whom it was originally assigned.

## **IOP 2.15.00 Transfer of Similar Actions**

Whenever an action or proceeding is filed in the Court which involves subject matter which is a material part of the subject matter of another action or proceeding then pending before this Court, or for other reasons the disposition thereof would appear to entail the unnecessary duplication of judicial labor if heard by a different Judge, the Judges involved shall determine whether the higher-numbered action or proceeding shall be transferred to the Judge assigned to the lower-numbered action. (See IOP 2.06.00 Transfer of Higher-Numbered Cases)

## **IOP 2.16.00 Recusals**

Recusal orders may refer to Title 28 U.S.C. § 455 as grounds for recusal. Whether to recite additional reasons for recusal shall be left to the sound discretion of the recusing judge.

In the event of recusal in any matter, the assigned Judge shall enter the fact of recusal on the record and refer the matter to the Clerk of the Court for permanent reassignment to another Judge in accordance with the blind random assignment system.

### **IOP 2.16.01 Recusals in Cases Pending Two Years or More**

When a judge receives a case on reassignment from a recusing judge and the case has been in the recusing judge's inventory two years or more, the receiving judge may transfer a like case to the recusing judge.

## **IOP 2.17.00 Assignment of Cases to Chief Judge**

The Chief Judge may elect to take a reduced caseload in consideration of the increased administrative duties for which the Chief Judge is responsible.

## **IOP 2.18.00 Expedited Review of Petitions Under The Hague Convention**

Under the Hague Convention on the Civil Aspects of International Child Abduction, Oct. 25, 1980, T.I.A.S. No. 11670 (Convention), as implemented by Congress in the International Child Abduction Remedies Act (ICARA), *see* 42 U.S.C. § 11601(b)(4), petitions requesting the return of children who have been wrongfully taken or retained must be decided in an expeditious manner. Consistent with directives of the United States Supreme Court and the Eleventh Circuit Court of Appeals, *see Chafin v. Chafin*, \_\_ U.S. \_\_, 133 S. Ct. 1017, 1028 (2013), *on remand*, Chafin v. Chafin, 742 F.3d 934 (11<sup>th</sup> Cir. 2013), the Southern District adopts as a policy the goal of a six-week timeframe from the initial filing of the petition to a decision regarding return of the child. Upon the filing of a petition under the Convention and ICARA, the Clerk shall promptly bring this policy of expedited review to the attention of the Court and the parties via electronic notice filed in the CM/ECF system.

## **IOP 3.00.00 ADMINISTRATIVE DUTIES AND RESPONSIBILITIES OF THE CHIEF JUDGE**

### **IOP 3.01.00 Judicial Administration**

The Chief Judge shall have the following powers and duties:

- To convene and preside at the meetings of the judges, regular and special.
- To set and preside over all en banc and ceremonial sessions of the Court.
- To be an ex officio, voting member of each Standing or Ad Hoc Court Committee.
- To be the spokesperson for the Court to the public, the Bar, other government agencies and the judicial establishment.
- To appoint the Chief Bankruptcy Judge and the Chief Magistrate Judge and to determine the term for each.
- To promulgate duty rosters for all duty positions established by the Court.

- In the event of natural disaster or other serious emergency, to close all operations of the Court at any or all of the facilities in which the Court operates.
- To exercise such other powers and duties as may be assigned to the Chief Judge from time to time by the Court or by statute.
- Whenever an active judge retires from the Court, or a courtroom and chambers becomes available in any division of the Court, the Chief Judge shall poll the active judges to determine which, if any of them, seek assignment to the vacant position. When more than one active judge seeks assignment to a vacant or newly available position, the Chief Judge shall assign the position to the most senior active judge seeking it.
- The Chief Judge provides direction and supervision for the District's component offices including:

United States Bankruptcy Court  
 United States Magistrate Judges  
 Clerk's Office  
 United States Probation Office  
 United States Pretrial Services Office

- The Chief Judge is responsible for implementing and enforcing all administrative policies of the United States District Court for the Southern District of Florida, the Eleventh Circuit Judicial Council, and the Judicial Conference of the United States, and all statutes and regulations pertaining to administrative matters of the Court.
- The Chief Judge may appoint “any officer of the Court” (i.e., Clerk of Court and Chief Probation Officer) when a majority of the Court cannot agree on the appointment.
- The Chief Judge, or his designee, shall consider and approve annual and sick leave requests and authorize travel for the Clerk of Court, Chief Probation Officer, Chief Pretrial Services Officer and other employees as may be required by law or Judicial Conference policy.
- The Chief Judge is responsible for the review and approval of all construction projects for the Court and all architectural plans and drawings for such construction.
- In emergency situations, the Chief Judge, after consulting with the Early Dismissal Committee, will implement the Emergency Notification Procedures. Emergency situations are those deemed by the Chief Judge to be

of sufficient magnitude to cause serious and hazardous conditions to the health and safety of Federal employees. **The decision for early dismissal or closure will be at the sole discretion of the Chief Judge.** A decision by the Chief Judge for early dismissal or closure related to weather conditions affecting Miami, Fort Lauderdale, or West Palm Beach will apply to all Court locations in the District. Once the decision is made for early dismissal or closure, all Clerk's Office staff must be released.

- The Chief Judge monitors, reviews, and recommends amendments to the Local Rules of Court as well as the following District operating plans:
  - Jury Utilization
  - Jury Selection and Service Act
  - Court Reporter Management Plan
  - Speedy Trial Act
  - Attorney Admissions
  - Automation
  - Equal Employment Opportunity
  - Emergency Notification Procedures
- The budgeting process contemplates that spending plan requests submitted by judges will be solicited, compiled, and submitted to the Committee on Budget and Fiscal Management for consideration in a timely fashion.
- The Chief Judge chairs the District's Standing Committee on Court Security and Hurricane Preparedness. The United States Marshal, the Federal Bureau of Investigation, the Drug Enforcement Administration, and all other federal agencies are required to immediately notify the Chief Judge concerning any threat to the person, property, welfare, or security of any judge or court employee.
- The Chief Judge is responsible for approving requests of probation and pretrial services officers, submitted through the chiefs of those departments, for approval to carry firearms.
- The Chief Judge, in concert with the Eleventh Judicial Council, is responsible for providing Congress with specific data supporting any request to establish a location for holding court.
- The Chief Judge, or his designee, reviews the Employment Dispute Resolution Coordinator's findings as to complaints of discrimination and presides over any necessary proceedings. The Chief Judge, or his designee, sits as the appeals officer for EDR actions and terminations.
- The Chief Judge must concur in any request to the Circuit Judicial Council for additional temporary assistance based on a declaration of a judicial emergency by a district judge, bankruptcy judge, or magistrate judge.

- The Chief Judge reviews complaints of judicial misconduct or disability pursuant to Addendum Three, Local Rules of the Eleventh Circuit Court of Appeals.
- The Chief Judge certifies to the Chief Judge of the Eleventh Circuit and the Inter-Circuit Assignment Committee of the Judicial Conference of the United States, the need for visiting judges in the Southern District of Florida, and prepares and supervises the fair and equitable distribution of cases to visiting judges. The Clerk of Court shall arrange for staff, chambers, and trial-ready cases pursuant to the directions of the Chief Judge. The Chief Judge, or a designee, may conduct calendar calls for visiting judges.
- The Chief Judge is responsible for making all committee appointments. Traditionally, the Chief Judge has sought the advice and counsel of other judges respecting membership on the Court Committees.

## **IOP 3.02.00 Bankruptcy**

The Chief Judge designates a Chief Bankruptcy Judge whenever a majority of the district judges are unable to agree in the designation.

### **IOP 3.02.01 Implementation of Set Term for Chief Bankruptcy Judge**

The Chief Judge shall set the term for the Chief Bankruptcy Judge.

## **IOP 3.03.00 Case Assignments and Case Management**

The Chief Judge, or his designee, (together with the Circuit's Judicial Council and the Administrative Office) receives and reviews the Circuit Executive's separate quarterly reports on district, magistrate, and bankruptcy cases and motions held under advisement for more than sixty days.

The Chief Judge ensures the case assignment system promotes the effective disposition of protracted, difficult, or unusual cases.

The Chief Judge should be informed about and should inform the other district judges when matters concerning the district are before the Eleventh Circuit Judicial Council.

The Chief Judge oversees implementation of the Court's rules for case assignment, and ensures an equal division of the business of the Court among the judges insofar as the Court's rules and orders do not otherwise prescribe.

## **IOP 3.04.00 Jury Administration**

The Chief Judge, or his designee, is responsible for reviewing from time to time and supervising the implementation of the Court's Jury Plan.

The Chief Judge signs all orders for the summoning of jury pools for grand and petit juries in Miami, Fort Lauderdale, West Palm Beach, Key West, and Fort Pierce.

### **IOP 3.04.01 Jury Policy**

The Court has agreed that the below guidelines will be followed in connection with the utilization of jury panels:

- (a) Any judge who is willing to volunteer to commence jury selection in the afternoon (noon or later) should advise the Jury Administrator.
- (b) Judges should only request the number of jurors that can reasonably be inquired of on a particular day (e.g. with a "high-profile" case, or one that will involve extensive jury voir dire do not request all the jurors that may eventually be necessary). For example, even though a large or special panel of 200 or more may be necessary for a particular case, usually no more than 50 jurors can usually be questioned on a single day.
- (c) Judges should not unnecessarily direct the excusal of jurors (e.g., if some jurors are excused or challenged during voir dire, they should not be instructed to go home, go to lunch, or come back on a day certain as the jury staff may want to utilize those jurors in another way).
- (d) No jury panel should be summoned on Fridays. Additionally, if judges compress their jury selections on Monday through Wednesday, the Jury Administrator can more effectively "pool" jury panels for use by more than one judge.
- (e) During the winter months, the Court should be mindful of releasing jurors after dark.

## **IOP 3.05.00 United States Magistrate Judges**

The Chief Judge may appoint or reappoint United States magistrate judges if there is no concurrence among the judges.

The Chief Judge must certify that no full-time magistrate judge is available when parties request a part-time magistrate judge to preside over a civil proceeding in accordance with 28 U.S.C. § 636(c)(1).

The Chief Judge must agree to a temporary emergency assignment of a magistrate judge from one district to another.

The Chief Judge shall take such actions as the Court considers appropriate in the case of a magistrate judge whose conduct becomes the object of an official circuit council committee investigation.

The Chief Judge is responsible for certifying to the Administrative Office the names of persons selected to be United States magistrate judges and requesting FBI or other background security checks on the individuals selected by the Court.

## **IOP 4.00.00 DUTIES AND RESPONSIBILITIES OF MAGISTRATE JUDGES**

### **IOP 4.01.00 Duties of the Chief Magistrate Judge**

Serves as liaison between the district judges and magistrate judges.

Schedules and presides over meetings of the magistrate judges.

Serves on committees as the Chief Judge may determine.

Coordinates magistrate judge leave requests, duty responsibilities, and emergency assignments as necessary.

### **IOP 4.02.00 Magistrate Judges**

Conditions of Employment:

The United States magistrate judges are appointed by the Court in accordance with the provisions of 28 U.S.C. § 631. Full-time magistrate judges serve a term of eight years and part-time magistrate judges serve for four years. The procedures for the appointment or removal of a magistrate judge are governed by statute. The district judges may select one full-time magistrate judge to serve as the Chief Magistrate Judge performing administrative functions.

Duties:

The United States magistrate judges of the Southern District of Florida are authorized to perform the full range of functions permitted by the jurisdictional statute, 28 U.S.C. § 636, as implemented by the Magistrate Judge Rules of the Local Rules of Court.

When a civil or criminal case is filed the Clerk of Court assigns a magistrate judge for the purpose of handling matters referred by the assigned district judge pursuant to the Magistrate Judge Pairing Plan.

In civil and criminal matters not yet filed with the Clerk of Court, such as applications for seizure warrants, pen register and trap and trace, administrative inspection warrants, electronic transponders, and search warrants, the magistrate judges shall perform all functions within their jurisdiction. Magistrate judges may also perform duties authorized in IOP 8.01.00.

A duty magistrate judge shall be available at all times to perform such functions. The duty magistrate judge shall be reasonably available at the Courthouse during regular business hours and by telephone at all other times.

## **IOP 5.00.00 COMMITTEE ASSIGNMENTS**

The size of each Court Committee shall be determined and the Chair of each Committee shall be appointed by the Chief Judge. To create greater participation and collegiality within the Court, magistrate judges may serve as voting members of both Standing and Ad Hoc Committees.

The Chief Judge shall be an ex-officio voting member of all of the Standing Committees.

### **IOP 5.01.00 Standing Committees**

There shall be certain Standing Committees as an integral part of the Court's operation. Standing Committees shall remain in existence and operate continuously provided, however, that the Chief Judge, at any time, may terminate the existence of a Standing Committee, create one or more new Standing Committees, or combine the functions of Standing Committees already in existence.

### **IOP 5.02.00 Ad Hoc Committees**

There shall be such Ad Hoc Committees as the Chief Judge and/or the Court shall from time to time create. At the time of the creation of an Ad Hoc Committee, its purpose and function shall be defined. It shall remain in existence until the Chief Judge determines that its purpose and function have been completed or for the term set for its existence.

## **IOP 6.00.00      COURT REPORTERS**

The official court reporters of the Southern District of Florida will comply with the requirements of the Court Reporter Plan established by the Court December 1, 1982, and revised March 14, 2002, and by the Guide to Judiciary Policies and Procedures, Volume I, Chapter IV, part A, effective January 1, 1983.

Court reporters who are “in trial” should be left in trial rather than assigned to other judges.

Court reporters who are not certified for “real time” reporting cannot be paid the real time rate.

## **IOP 7.00.00      COURTROOM SCHEDULING**

The Clerk of Court will maintain a master list of courtroom assignments wherein each district judge shall be assigned his or her own courtroom.

Should a judge be involved in a trial in which his or her courtroom space is inadequate, the judge shall immediately contact the Clerk of Court and request a larger courtroom.

When a Southern District judge finds he or she must try a case in another division of the district, the judge will contact the Clerk of Court to obtain an available courtroom. If the case is expected to be protracted, the request must be in writing and signed by the judge. In the event the particular space requested has already been reserved by another judge, the Clerk of Court shall notify the requesting judge, both orally and in writing, that the space is not available.

It shall be the responsibility of any judge who has reserved space to immediately notify the Clerk of Court of the cancellation of such reservation in the event that the space is not needed.

A judge may be assigned to only one courtroom at a given time. There will be no double reservation of courtrooms unless a judge is simultaneously presiding over separate trials.

Any judge requiring additional temporary space for use by trial counsel, or for storage of sensitive trial materials, irrespective of the courtroom assigned for his or her use, shall request temporary assignment of additional space through the Chief Judge.

## **IOP 8.00.00      DUTY JUDGE**

On a monthly rotating basis, the Court shall designate from, the active resident judges, a Duty Judge for the Miami, Fort Lauderdale, and West Palm Beach Divisions.

The Duty Judge should be present in the district and available for handling Duty Judge matters at all times during the month assigned. If it is necessary for the Duty Judge to be out of the district for a short period of time during the assignment month, it is the Duty Judge's responsibility to make arrangements with another judge to handle all Duty Judge matters, and to notify the Chief Judge and Clerk of Court of his or her absence.

### **IOP 8.01.00      The Duty Judge's functions are as follows:**

- Handle all grand jury matters. This includes convening grand juries and ruling on matters affecting those grand juries during each month's duty. Grand jury matters, and all matters reasonably related to the original grand jury matter, will be handled by the district judge before whom the original matter was filed. The Clerk's Office will call the offices of the Duty Judge to attempt to arrange a time convenient to the Judge for the empanelment of the grand jury (if one is scheduled for that month), but if the jurors have already been summoned, the date will be firm and the Judge will adjust his or her schedule accordingly. Once the date for the empanelment is set by the Duty Judge in consultation with the clerk, the date will be firm and not subject to change. A Magistrate Judge may handle the empanelment of a grand jury upon referral by the Duty District Judge, (which will typically be made to the paired Magistrate Judge rather than the Duty Magistrate Judge). Rule 6(f) of the Federal Rules of Criminal Procedure makes provisions for a grand jury return to be taken by a United States Magistrate Judge, and grand jury returns will ordinarily be taken by the Magistrate Judge on duty. In addition, the Duty Magistrate Judge will ordinarily handle the issuance of writs of habeas corpus ad testificandum, hearings regarding the appointment of counsel for subjects or targets of grand jury investigations, and motions made pursuant to 18 U.S.C. § 2705(b) seeking non-disclosure orders regarding grand jury subpoenas. Until Rule 6(f) is further construed, a District Judge should handle immunization of witnesses and all matters that pertain to contempt.
- Preside over all court naturalization ceremonies and emergency naturalization matters in the Duty Judge's Division.
- Preside over matters arising from Magistrate Judges' proceedings which are not assigned to a District Judge, including but not limited to, applications for review of bonds and competency examinations.

- Transfer of Probation from foreign districts.
- Swearing in of attorneys to practice.
- Preside over wiretap applications in matters not assigned to any District Judge, with the exception that trap-and-trace and pen register orders will continue to be handled by the Magistrate Judges. All extensions, including all matters reasonably related to the original investigation, will be handled by the District Judge who granted the original application. Any wiretap applications for new communication sources discovered during the interception of a prior authorization (“spin-offs”) shall be handled by the District Judge who granted the original application.
- Approval of issuance of warrants of arrest in admiralty cases in any division where the assigned judge is out of the district or is otherwise unavailable.
- The Duty Judge may preside over emergency petitions for writ of habeas corpus involving a petitioner’s claim to immediate release, where the assigned judge is in the district, but otherwise unavailable to rule on the petition. After ruling on the emergency relief sought, and for all other purposes and proceedings, the case shall remain on the docket of the judge to whom it was originally assigned.
- The Duty Judge, his or her designee, or the Clerk's designee, as appropriate, determines the validity of juror qualifications, exemptions, or excuses.
- If the Duty Judge recuses him or herself from a Duty Judge matter, the matter will be referred to the next upcoming Judge assigned to duty matters. If that Judge is unavailable, the duty assignment roster will be followed in order until another upcoming Judge is found who can handle the matter.

## **IOP 10.00.00 DUTIES AND RESPONSIBILITIES OF COURT EMPLOYEES**

Pursuant to the Internet Policy adopted by the Court, judges are asked to look after use of the Internet resource by their staff, and to be aware of the need to adhere to the District's policy.

### **IOP 10.01.00      Release of Information in Criminal and Civil Proceedings by Courthouse Personnel**

All courthouse personnel, including the marshal, deputy marshals, the Clerk of the Court, deputy court clerks, probation officers, court reporters, law clerks, and secretaries, among others, are prohibited from disclosing to any person, without authorization by the Court, information relating to a pending criminal proceeding that is not part of the public records of the Court.

## **IOP 11.00.00      COURT REGISTRY**

### **IOP 11.01.00      Authorized Depository Banks**

- (a) Whenever attorneys, litigants or any other persons or entities are directed to deposit funds within the interest-bearing Court registry, such funds shall be placed by the Clerk of the Court with the Court-designated depository bank.
- (b) The Court-designated depository bank shall comply with all applicable statutes, orders, rules and requirements of the Court.
- (c) All funds placed by the Clerk of the Court in the Court-designated depository bank shall earn interest at a competitive market rate negotiated by the Clerk of the Court for similar deposits. However, the Chief Judge may determine from time to time a minimum amount below which funds need not be deposited in an interest-bearing account. Deposits for attorney's fees, costs and expenses required before the issuance of any writs of garnishment are exempt from this requirement and will be placed in a non-interest bearing U.S. Treasury account. At the time of disbursement of funds from the registry, the litigant shall advise the Court as to the proper recipient of any earned interest and prior to the release of funds shall provide the Clerk of the Court's Financial Administrator or other designated deputy clerk with the proper tax number or tax status of the recipient for subsequent reporting to the Internal Revenue Service.
- (d) The Clerk of the Court shall assess a user's fee as promulgated by the Judicial Conference of the United States on deposits in the interest-bearing Court registry. Such fees shall be deducted at disbursement and be deposited into a special fund established to reimburse the Judiciary for maintaining registry accounts.
- (e) Nothing in this rule shall prevent the Court from granting the motion of interested parties for special arrangements for investment of funds. If such investments are in the name of or assigned to the Clerk of the Court, the account will be subject to the collateral provisions of Treasury Circular 176 (31 C.F.R. § 202) and the requirements of Local Rule 67.1(b) as well as other applicable statutes, orders, rules and requirements of the Court.