

## Chief Judge Directive 02-01

The following Chief Judge Directive concerns two related matters. The first concerns the interaction between the Office of the Clerk of Court in the Fremont County Courts. The second concerns the assignment of cases to the magistrates in Fremont County and related case management issues.

The genesis of this directive is a culmination of events in November 2000. At about this time, this Judge received notice of an issue concerning the return of files from Division II to the main clerk's office. The issue regarded responsibilities for re-filing the case jackets returning from the Division II Court. Would it be the responsibility of the Division Clerk or the staff of the clerk's office? Other issues concerning case processing were raised that ultimately called our whole system into question.

After some discussion, primarily with Helene Engle, a confidential Division II employee (with the permission of Judge Julie Marshall), Deborah Sather Stringari, the Clerk of Court in Fremont County, and Walter Blair, District Administrator, I determined that an independent evaluation team from the State Court Administrator's office should conduct an evaluation of the process. All three District Court Judges, the Clerk of Court and the District Administrator then signed an agreement to allow an operations review team from the SCAO to evaluate the process and make recommendations (see letter of April 5, 2001 from Gerald Marroney to Walter Blair).

This evaluation was performed and recommendations were made and presented at a meeting of September 19, 2001. Since that time, it appears to this judge that the recommendations have not been universally welcomed. The same problems that came to a head in November of 2000 are present today. There is no consensus.

Therefore this Court issues the following directive concerning procedures between the divisions and the clerk's office - and assignment of cases to the magistrates. This directive is issued by the authority of Chief Justice Directive 95-01.

### Magistrates

All DR cases shall be assigned to a magistrate. The magistrate shall set an initial status and scheduling conference in each case within 30 days of filing. The magistrate shall proceed with the case in his/her discretion. The use of a case manager is encouraged. The case shall be assigned by the Clerk of Court to a district judge if requested by a party pursuant to the Rules for Magistrates.

All JD cases shall be initially assigned to a magistrate. The case shall then proceed in accordance with the Rules of Juvenile Procedure and Rules for Magistrates. The Children's Code shall govern the choice between a magistrate and a judge at the appropriate time. In accordance with the Code, the case shall be assigned to a district judge by the Clerk of Court.

All inmate cases (such as Rule 106 matters) except writs of habeas corpus cases shall be assigned to a magistrate.

All JV cases shall be initially assigned to a district judge with the discretion to reassign such cases to a magistrate. However, support, paternity, and other non-dependency and neglect cases shall be assigned directly to a magistrate until a district judge is requested by one of the parties, pursuant to statute or rule. The Clerk of Court shall then assign the case to a district judge.

The magistrates shall have the duty to handle all initial advisements and bond hearings in criminal cases (CR). However, the District Judges and County Court Judges shall be responsible for such duties in the event of unavailability of a magistrate.

The magistrates in Fremont County shall not conduct settlement conferences. However, they may, as any judicial officer may, order mediation elsewhere where deemed appropriate.

#### Case Processing (Managing the Files)

The Special Projects Team of the SCAO filed its report in September of 2001. They made recommendations regarding paper flow as requested. Those recommendations appear to be appropriate to this judge as long as all staff operates in a cooperative manner and have a teamwork approach to the job. Where there is any doubt they shall control. They are adopted as follows:

##### Part One (Documents filed in the Main Clerk's Office)

When a document is filed in the Office of the Clerk it shall be entered on ICON within 48 hours. The receiving clerk shall initially determine if the document must go to the division immediately. The receiving clerk shall determine if the file is in the Clerk's office. If it is, and the document must go to the division immediately, the document shall be attached to the outside of the file and shall be checked out by the receiving clerk and placed in the division's mailbox. If the document does not need to go to the division immediately, it shall be filed in the case file and the case file shall be replaced in the usual place.

If a document is filed, and the receiving clerk finds that the file is in a division, that clerk shall determine which division it is in. The document shall then be placed in the appropriate division basket. As recommended, the division staff should check the division basket at least twice daily.

When a document is filed in the office of the clerk and there is a hearing within 24 hours, the receiving clerk shall enter the document on ICON forthwith and determine if the file is in the Clerk's office. If it is, the file shall be checked out and the document shall be filed in the file. If it is not in the Clerk's office, the receiving clerk shall

determine on ICON where the file is. In any event, the receiving clerk or designee in the Clerk's office shall hand carry the file or loose document to the Division forthwith. Please note that the receiving clerk must often rely on the filing party to determine whether or not the matter is to be heard within 24 hours. The clerk shall inquire as to the necessity or probability of a hearing within 24 hours, but the filing party should inform the clerk of the necessity of a hearing before the court within 24 hours. Again, flexibility and teamwork will make this system workable.

In the event that a filing party notifies the clerk that the matter is on the docket on the same day (less than 24 hours) that the document is being filed, or in the event that the clerk determines that the matter is on the docket on the day of filing the document, the receiving clerk shall time stamp the document and enter it on ICON forthwith. The receiving clerk shall then take the document to the proper division.

## Part Two (Documents filed with Division Staff)

If a document is filed with division staff and the file is in the division, then such staff shall enter the document in ICON within 48 hours and paperclip the document to the inside of the case file. If the file is not in the division then division staff shall locate the file and paperclip the document to the inside of the file. Again division staff is responsible for entering the document on ICON within 48 hours. Each division is encouraged to return files to the Clerk's office as much and as soon as possible. However, the return of files shall be discretionary with the judge, as has always been the case. Re-filing is a cooperative effort and shall be a shared effort among division staff and clerks.

If a document is filed with division staff and a hearing is to be held within 24 hours and the case file is in the division, the division staff will attach the document by paperclip outside the file. If the file is not in the division, then division staff shall locate the file and attach the document in the same manner. The file then goes to the judicial officer. Division staff shall enter the document in ICON forthwith.

### Duties Specific to Division Staff

Division staff shall be responsible to print dockets and review cases set. In the normal course of business the staff shall obtain files for set cases and all loose documents. This procedure has been followed for many years and should continue.

Division staff shall be responsible for updating all orders and loose documents to ICON as also has been the previous practice.

Upon completion of updating all orders and documents to ICON division staff shall return the case file to the Clerk's office on a daily basis unless a judicial officer deems otherwise. REFILING SHALL BE ON A COOPERATIVE BASIS BETWEEN DIVISION STAFF AND CLERK'S OFFICE STAFF.

With regard to cases that must be heard within 24 hours of the filing of a document, the division staff shall enter the document and appropriate calendaring notations on ICON forthwith. The file shall then be forwarded to the appropriate judicial officer. After judicial action, the appropriate ICON entries shall be made and the file shall be returned to the Clerk's office consistent with the procedure referred to above.

### Case Management (Statistics)

The Clerk of the Combined Courts shall be responsible for the statistical management of cases, including the opening and closing of cases on ICON. The Clerk shall work with each judicial officer and develop policies consistent with Chief Justice Directive 89-1, Colorado Standards for Case Management in the Trial Courts, Chief Justice Directive 99-2 and zero-based budgeting standards to achieve the goals set by the Chief Justice for case flow management.

## Conclusion

These procedural standards regarding clerks and division staff and magistrates are an adaptation of the recommendations of the SCAO Special Projects Team. They have been modified only slightly in this directive.

Clerks and division staff are directed to specific procedures outlined in pages 7-9 of the Review of Paper Flow Process September 2001. For further guidance this is attached.

Signed September 22, 2002

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/s/ Kenneth Plotz  
Chief Judge

Attachments (See Administrator for copy)