

# FREDERICK COUNTY CIRCUIT COURT



## CRIMINAL DIFFERENTIATED CASE MANAGEMENT PLAN

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January 2023

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This Plan has been approved by the County Administrative Judge of the Circuit Court for Frederick County, upon authority of the Chief Justice of the Supreme Court of Maryland.

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# Criminal Differentiated Case Management Plan

## OVERVIEW

This Criminal Differentiated Case Management (DCM) Plan is established in accordance with Md. Rule 16-302(b), which requires the County Administrative Judge to develop, and upon approval by the Chief Justice of the Supreme Court of Maryland, implement and monitor a case management plan for the prompt and efficient scheduling and disposition of actions filed in the Circuit Court.

## Statement of Purpose

This Criminal DCM Plan has been created to provide effective case management in compliance with the Maryland Rules, while also providing a predictable course of action and timely resolution for all criminal cases. To enable just and efficient resolution of cases, without compromising due process, the Court will schedule meaningful events, included in several tracks to facilitate timely disposition. Postponement requests are governed by a written policy approved by the County Administrative Judge, with a view to curbing delay wherever possible.

It is the purpose of this DCM Plan to provide an effective case management system which will assure:

- Equal treatment of all defendants by the Court;
- Timely disposition consistent with the circumstances of the individual case;
- Enhancement of the quality of the criminal case process;
- Effective and efficient use of judicial system resources; and
- Public confidence in the Court as an institution.

## Case Management

The policies and procedures outlined in this plan shall be implemented by all judges, the Deputy Court Administrator, and various Assignment Office and Clerk's Office staff. The County Administrative Judge supervises all aspects of criminal case management and is ultimately responsible for the implementation of this Criminal Case Management Plan, pursuant to Md. Rule 16-302(b). The County Administrative Judge may designate certain judges to hear various criminal matters and makes final decisions about whether and to whom a case should be specially assigned, when necessary.

All judges are responsible to comply with and implement in their rulings the provisions of this plan. Individual judges are responsible for the effective management of cases specially assigned to them; however, the scheduling of specially assigned cases must always be coordinated with the Assignment Office. Specially assigned cases should be managed to the extent possible consistent within the provisions of this plan, including adherence to the case time standards.

## **CASE PROCESSING – ALL CRIMINAL CASE TYPES**

Circuit Court criminal case processing in Maryland is complex and involves multiple stakeholders, courts, and agencies. It begins with a felony or misdemeanor that typically is first filed as a complaint in the District Court. For some felonies, including homicides, an investigation may occur and an arrest made after an indictment by a grand jury. Even for these cases, the defendant is first brought before a District Court judge.

The DCM Plan for Circuit Court criminal case types includes both felony and misdemeanor cases. Felony cases typically originate in the District Court and are filed as an indictment or information in the Circuit Court by the State’s Attorney. Misdemeanor cases are predominantly heard in the District Court and are filed in Circuit Court on a prayer for jury trial (JTP) at the discretion of the defense. A jury trial may be requested at any stage of the process, up to the trial and judgment. If a jury trial is requested, the case must be heard in Circuit Court. (In addition, the DCM Plan includes reopened cases for violations of probation and modifications.)

### **All Tracks – District Court Case Initiation**

Criminal cases can be initiated by a summons or by arrest and the filing of a complaint in District Court. Most felony cases are initiated by arrest but may be issued by summons. See District Court case processing for the procedures and steps required for a case to reach the Circuit Court. A very small number of cases are initiated at the Circuit Court by indictment and first appearance, without initial arrest and review for probable cause by the District Court.

#### *Summons Cases*

A summons is a notice to appear in court to face charges at a trial. Summons cases are primarily for misdemeanors, but can be used for felonies. Most will only reach the Circuit Court upon a JTP or

appeal from District Court. A small number of felony charge types may be initiated by summons.

### *Arrest Cases – Initial*

Arrests may be made on defendants based upon an arrest warrant or “on-view” immediately following a crime. Arrest warrants are either issued by District Court commissioners at the request of a law enforcement officer, and are based on probable cause, or by a Circuit Court judge after a grand jury indictment.

Following arrest on a warrant, the defendant must be taken before a District or Circuit Court judicial officer within 24 hours for the District Court and no later than the next session held in Circuit Court to determine eligibility for pretrial release and advising of rights to counsel.

## **CRIMINAL CASE TRACK DESIGNATIONS**

A criminal case may follow one of four distinct tracks to resolution. Tracks are defined at the time of filing, based on the case type or highest charge, as well as estimated length of trial. See Table 1.1 and Diagrams 1.1 through 4.1. Tracks define expected case processing events, the timing of events, assignment, and the expectations for case duration.

Consistent with the case time standards adopted by the Judicial Council, Constitutional requirements, and applicable Maryland Rules, it is the goal of this plan to ensure that time standards are met whenever possible. *The time standard for all Circuit Court criminal cases is 180 days from the first court appearance of defendant or the entry of appearance by counsel to disposition<sup>1</sup>. It is the goal of the Circuit Court to conclude 98% of cases within these case time standards.* In order to achieve this goal, the Circuit Court is committed to resolving different categories of cases within regular and predictable time frames warranted by the needs of the individual case. Expected case duration is based on a consensus of needed time to reach disposition, which may be less than the time standard.

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<sup>1</sup> Disposition may include a number of verdicts, judgments, or other outcomes. It is not sentencing.

**Table 1.1 – Criminal Tracks, Case Type/Highest Charge, and Outcomes**

<b>Track</b>	<b>Case Types or Highest Charge Types</b>	<b>Expected Case Duration and Notes</b>
<b>Track 1:</b> Jury Trial Prayers, District Court Appeals	<ol style="list-style-type: none"> <li>1. Misdemeanors</li> <li>2. Felonies w/ District Court jurisdiction</li> <li>3. Motor Vehicle cases</li> </ol>	96 days to disposition; track designated upon transfer from District Court, based upon Appeal, or Prayer for Jury Trial
<b>Track 2:</b> Standard Criminal Cases	Indictment or Information cases with estimated trial length of 3 days or less (with the exception of charges involving a death, possible life sentence or multiple defendants)	150 days to disposition; track designated at filing based upon highest charge and estimated trial length contained in Memorandum from State’s Attorney’s Office.
<b>Track 3:</b> Complex Cases	Indictment or Information cases with charges involving a death, possible life sentence, multi-defendant, and any case with an estimated trial length of 4 or more days.	180 days to disposition; track designated at filing based upon highest charge and estimated trial length contained in Memorandum from State’s Attorney’s Office. Cases custom managed by judge specially assigned to each case.
<b>Track 4:</b> Reopened Cases	<ol style="list-style-type: none"> <li>1. Violations of Probation</li> <li>2. Modifications</li> <li>3. Post Convictions</li> <li>4. Sentence Review Panels</li> </ol>	90 days to disposition

*Track Designations Set at Filing*

The Clerk’s Office staff will be responsible for designating and assigning the appropriate track at case initiation or reopening, based upon the information above. Any adjustments to track designation that may need to be made at a later date will be the responsibility of the Assignment Office and/or the Deputy Court Administrator.

If there is any confusion or question as to the appropriate track designation by any of the above-mentioned staff, the matter may be sent to the County Administrative Judge for review and recommendation of track designation.

## **TRACK 1 – JURY TRIAL PRAYERS and DISTRICT COURT APPEALS**

### **General Overview**

JTPs and District Appeals, primarily for misdemeanor and serious traffic cases, are a constitutionally guaranteed right for most criminal charges in Maryland. The history of JTPs and appeals and their scope of access to defendants have been debated at length with several recent, unsuccessful attempts at narrowing its scope through legislation. The standard threshold is an offense that is punishable by incarceration (CP §6-101) or a \$500 fine.

### *Filing*

JTPs are filed by the District Court upon motion/verbal request of the defense. The District Court usually files a JTP in Circuit Court within 30 days of a request. Appeals from District Court must be filed by the defense within 30 days of entry of a judgment or order.

### *State's Attorney*

A charging document filed in the Circuit Court may be:

- An indictment (see Tracks 2 & 3 below);
- An information (see Tracks 2 & 3 below); or
- A District Court charging document for an offense on which the defendant demands a jury trial or appeal from judgment.

### *Assignment*

Following filing, JTPs and District Court appeals are assigned to a specialty docket for pre-trial and/or trial according to the following guidelines, and the Clerk's Office will enter the "Criminal Track 1" event code in the case management system upon receipt of the filing from the District Court.

- All JTPs and District Court appeals are scheduled for trial within 60-90 days
- Pre-Trial Conferences are often, but not always, scheduled in JTPs and District Court appeal cases, but if they are scheduled, they are scheduled to be held within five weeks

### *Arraignment*

All defendants in JTPs are given dates in the District Court to appear in Circuit Court. The initial date is for Arraignment/Pre-Trial Conference, and the trial date gets assigned, as well.

### *Discovery (Motions Hearings)*

For most JTPs and District Court appeals, formal discovery is not required, with the assumption that discovery took place in the District Court.

Bail Review motions are sent to the County Administrative Judge for a ruling. The motion is either denied or is sent to the Assignment Office for scheduling of a hearing within a week.

### *Pre-Trial Conference*

In JTP cases, where a Pre-Trial Conference is set, it is held approximately five weeks after the jury demand is received by the Circuit Court. In appeal cases there is no Pre-Trial Conference set, unless the offense appealed carries the possibility of incarceration. A Pre-Trial Conference is set approximately four weeks after the filing of the appeal on offenses that carry the possibility of incarceration.

### *Trial*

For JTP and Criminal Appeal cases, upon transfer, the attorney of record in District Court is automatically entered into in the Circuit Court.<sup>2</sup> In Frederick County, most JTPs and District Court appeals are not resolved by a jury trial. Many are resolved by plea. The following is the Frederick County Circuit Court guideline for plea agreements in JTPs and District Court appeals:

### *Plea Policy: Track 1*

**Jury Demands:** The defendant may plead guilty before the assigned trial judge; where a Pre-Trial Conference may be scheduled, before the judge handling that docket; or the trial judge. If a defendant is already on probation before a Circuit Court judge, the defendant may seek leave to plead guilty before and/or be sentenced by that judge.

**Appeals:** The defendant may plead guilty before the judge assigned to handle the Pre-Trial Conference docket or the judge assigned to the Trial Docket. If a defendant is already on probation before a Circuit Court judge, the defendant may seek leave to plead guilty before and/or be sentenced by that judge.

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<sup>2</sup> Md. Rule 4-214(a).

### *Sentencing*

For some cases, both plea bargains and trials, and depending on the status of the defendant, a sentence is imposed by a judge immediately following adjudication. Although not common in Track 1 cases, judges may also order a presentence investigation (PSI) to help make a sentencing decision.

For JTPs and District Court Appeals, a PSI is rarely ordered by the judge. If ordered, the sentencing hearing may be postponed to a later hearing date. In most cases, a judge will require that the State's Attorney provide a criminal history of the defendant in order to determine an appropriate sentence. Previous convictions are considered in the sentencing guidelines. Time spent in custody must be considered when any sentence includes incarceration. The critical path issue for sentencing is a PSI. If a PSI is required to determine criminal history, mental capacity, or for any other reason, the judge may postpone the sentencing. In most courts, sentencing may be postponed up to 60 or more days. The outcome of a guilty verdict may include a fine and/or probation, and/or a period of incarceration in the county jail or in state prison.

### **Jury Trial Prayed – Process Summary**

When a defendant appears in District Court and prays a jury trial, the defendant is immediately given a Pre-Trial Conference date (or arraignment date if not represented by counsel) and a trial date, which has been supplied by the Assignment Office. The Pre-Trial Conference/Arraignment Hearing is set five weeks later on a Friday with the trial date being set on a Monday, five weeks after the Pre-Trial Conference.

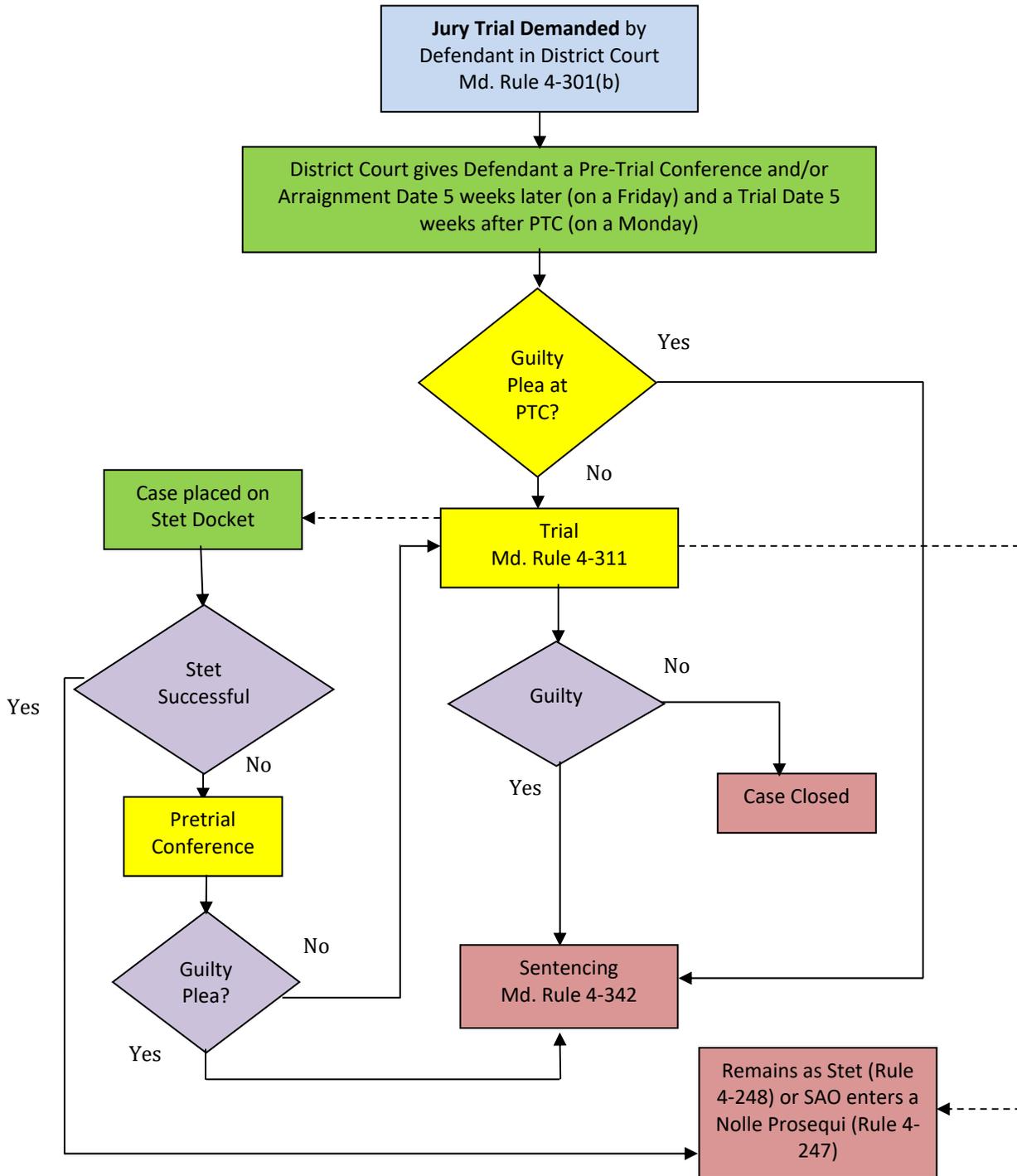
The defendant may elect to plead guilty instead of going to trial by either pleading guilty to all of the charges or to those charges negotiated in a plea agreement. The State's Attorney may also elect to place a case on the Stet (inactive or stayed) docket, with conditions that the defendant is required to fulfill or face prosecution. If the conditions associated with the Stet are fulfilled or complied with, the case is removed from the Stet docket and the State's Attorney enters a *Nolle Prosequi*. If the conditions are not met or violated, the case is reopened and a pre-trial hearing is set to determine how it will be handled – by trial, plea, a *Nolle Prosequi*, etc.

*Jury Trial Prayed – Timeline*

Discovery	Completed in District Court
Pre-Trial Conference	Within 40 days of filing (if needed)
Trial	Within 90 days of filing
Sentencing	Usually same day or 30 – 60 days after verdict

**DISPOSITION TIME GOAL WITHIN 96 DAYS**

*Diagram 1.1 – Jury Trial Prayed*



**Note:** Pleas, Stets, and Nolle Prosequi’s may be taken at the Pre-trial Conference and do not need to wait for the Trial Date. Trial Dates may also be expedited for the same reason.

## **District Court Appeals – Process Summary**

Appealed cases from District Court are tried *de novo*.

Non-jailable appeals (criminal and motor vehicle) receive a *trial date only* and do not receive a Pre-Trial Conference or Arraignment. The trial date is set by the Clerk's Office on a Monday at 9 a.m., five weeks from receipt of the filing, pursuant to a schedule provided by the Assignment Office.

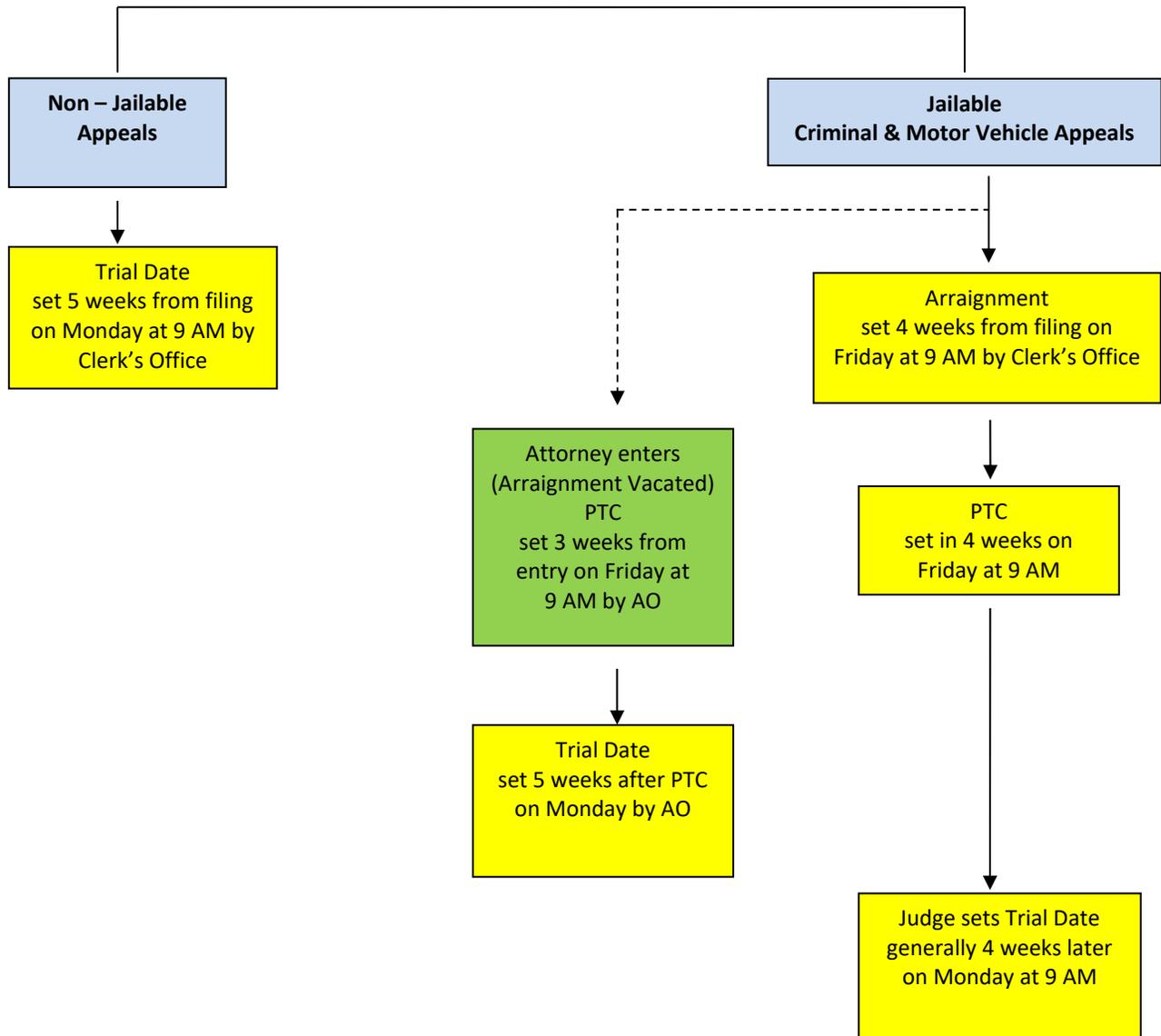
If the appeal is for an offense which carries jail time, an Arraignment/Pre-Trial Conference is set by the Clerk's Office at 9 a.m. on a Friday, which is four weeks after the filing. At the Arraignment, the judge will give the trial date to the defendant, generally four weeks later on a Monday at 9 a.m. If an attorney enters for the defendant, the Arraignment is vacated by the Clerk's Office, the file is forwarded to the Assignment Office for them to clear dates for a *Pre-Trial Conference*, which is set generally three weeks later on a Friday at 9 a.m. after Assignment Office receives the file. The *trial date* is set 5 weeks after the Pretrial Conference/Arraignment, on a Monday at 9 a.m.

### *District Court Appeals – Timeline*

Discovery	Completed in District Court
Pre-Trial Conference	Within 40 days of filing (if needed)
Trial	Within 90 days of filing
Sentencing	Usually same day or 30 – 60 days after verdict

### **DISPOSITION TIME GOAL WITHIN 96 DAYS**

*Diagram 1.2. – District Court Appeals*



**Note:** Pleas, Stets, and Nolle Prosequi's may be taken at the Pre-Trial Conference and do not need to wait for the Trial Date. Trial Dates may also be expedited for the same reason. If one of these events occurs, the same procedures will apply as for Jury Trial Prayed.

## **TRACKS 2 and 3 – STANDARD AND COMPLEX FELONY CASES**

### **General Overview**

Circuit Court Criminal Tracks 2 and 3 are primarily felony cases under the jurisdiction of the Circuit Court. All are initiated in the Circuit Court by the State's Attorney either by Criminal Information or Criminal Indictment. The rules of procedure are the same following filing in Circuit Court. Both an Indictment and a Criminal Information are forms of a charging document. The primary distinction is that probable cause is determined by the District Court for a criminal information and by a grand jury for an indictment. A Criminal Indictment must be signed by the State's Attorney or representative.

### *Criminal Information*

Criminal Information cases are primarily criminal felony cases for which the Circuit Court has exclusive jurisdiction. These originate in District Court, where the initial appearance, bond review, and arraignment all occur. If the defendant requests one, a preliminary hearing is held, where a District Court order determines if probable cause exists to forward charges to the Circuit Court.

### *Criminal Indictments*

Criminal Indictments are cases that have been brought before a grand jury for determination of probable cause and indictment. The number of cases presented to a grand jury are determined by the Office of the State's Attorney. In most felony cases, following an arrest, the State's Attorney's Office investigates and proceeds with an indictment of suspects before the grand jury. A grand jury indictment obviates the need for a preliminary hearing in District Court.

### *State's Attorney*

Indictments may take place while a defendant is being processed in District Court, following an arrest. Following a grand jury indictment, a defendant is served with a summons to appear in Circuit Court (Md. Rule 4-212). An arrest warrant may be issued by a Circuit Court judge upon request of the State's Attorney and a finding by a Circuit Court judge of probable cause and that there is a substantial likelihood that the defendant will not respond to a summons. A warrant may also be issued for a defendant in custody for the same or another offense for which the defendant has previously been determined ineligible for release. A detainer is issued on a defendant who is incarcerated on another offense.

A charging document must include the name of the defendant, the facts of the offense, and a citation of the statute or other authority. In addition, the charging document advises the defendant of basic rights, including: to appear before a judicial officer to determine eligibility for release, to a lawyer, and to a lawyer from the Public Defender's Office, if eligible. A peace officer or a judicial officer must sign a sworn statement of charges. An information or indictment may be signed by the State's Attorney or other authorized authority as well as the foreperson of the Grand Jury.

### *Discovery*

In most indictment cases, an investigation is conducted by the State's Attorney's Office, working with law enforcement, following a crime. The investigation may occur at any time, both before the filing of an information or indictment, or during the Circuit Court case. The purpose of an investigation is to gather evidence and information relating to a crime and the possible involvement of a person. Time limits on investigations are generally governed by statutes of limitations on prosecuting a crime.

While not considered a significant event in terms of the use of judicial time, discovery and the issues surrounding it are critical to the challenge of early dispositions, diversion, and trial readiness. Effective, transparent discovery promotes procedural justice. Plea negotiations are a key component of early dispositions, and diversion and should be conducted as early as possible in the process in order to increase communication and a just resolution as early as possible.

### *Arraignment*

An Arraignment Hearing is required in Circuit Court, unless an attorney enters his or her appearance on behalf of the defendant. The purpose of the arraignment is to:

- Inform the defendant of the charges, their right to an attorney, and the possible penalty;
- Ensure that the defendant has a copy of the charging document; and
- Ensure future court proceedings are scheduled.

At the Arraignment Hearing, if the defendant does not have counsel, the judge will advise the defendant of the right to counsel and notify the defendant of the availability and/or location of the Office of the Public Defender. Additionally, the Court advises the defendant that the District Court Commissioner determines eligibility for the services of the Office of the Public Defender.

For most felony cases, attorneys who have entered their appearance in District Court must reenter their appearance in Circuit Court.

### *Assignment and Scheduling*

By rule, the trial date must be set within 30 days after the entry of appearance of counsel or the first appearance of the defendant, whichever comes first. The trial date shall not be set later than 180 days after these events.<sup>3</sup> If an Arraignment Hearing has been waived for defendants represented by counsel, a notice is served by mail or in person for the next scheduled event.

- All felony cases are set for an arraignment within 30 days of filing, unless an attorney has entered an appearance with the Circuit Court as part of the filing process. An attorney may enter his or her appearance up to and including at the Arraignment Hearing. If an attorney has entered an appearance, the arraignment is waived.
- All cases are set for a Pre-Trial Conference. If arraignment is held, the Pre-Trial Conference will be set approximately 30 days following. If arraignment is waived, due to entry of counsel, a Pre-Trial Conference is set to occur within 45 days of the arraignment being waived.
- All cases are set for trial at the arraignment or within 30 days of the entry of appearance by counsel. Trial will be set within 120 – 150 days in cases designated as Track 2 and no later than 180 days in cases designated as Track 3.

### *Motions Hearings*

Motions may be heard in open court or decided by a judicial ruling on paper, without a hearing. A response to a motion, if made, must be filed within 15 days after service of the motion. Rulings on motions are required, where practical, to be heard before the day of trial, although a motion to dismiss pursuant to the speedy trial rule may be deferred until the day of trial. Most dispositive and evidentiary motions must be heard in open court. In Frederick County, motions may be heard by a judge, who may not be the assigned trial judge, except in Track 3 cases.

### *Mandatory motions<sup>4</sup> (as outlined by Rule)*

Mandatory motions include:

- Defect in the institution of the prosecution;
- Defect in the charging document;
- Unlawful search and seizure, wiretap, or pre-trial identification;
- Unlawfully obtained admission, statement, or confession; and
- Request for joint or separate trial of defendants or offenses.

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<sup>3</sup> Md Rule 4-271(a).

<sup>4</sup> Md. Rule 4-252(a).

A Motion for Transfer to Juvenile Court, though not considered mandatory, must be filed separately and within 30 days of the arraignment or appearance of counsel (Md. Rule 4-252(c)). Subsequent hearing dates, other than the trial date, are not defined by the Maryland Rules, but may include scheduling conference, motions hearings, status conferences, pretrial hearings, and plea hearings.

### *Plea Negotiations*

Plea negotiations between the State's Attorney's Office and defense counsel may occur at any time in the process. Plea agreements may be accepted by any judge, with the exception of Track 3 cases, which may only be accepted by the judge specially assigned to hear all matters in that case.

### *Pre-Trial Conference (PTC)*

Pre-Trial Conferences are mandatory for Track 2 Standard cases and discretionary for Track 3 Complex cases, as determined by the assigned judge. Pre-Trial Conferences will generally be set within 60 - 70 days of the case filing. At the Pre-Trial Conference, the following will be addressed and discussed:

- All discovery has been completed;
- All required motions, other than permitted dispositive motions, have been submitted;
- Number and names of witnesses for trial;
- Both sides have negotiated in good faith any pleas offered by the State's Attorney; and
- Both sides are prepared to go to trial.

The defendant shall be present at the PTC and, if necessary, writs for the defendant shall be issued sufficiently in advance. If the defendant is represented by counsel, the principal attorney responsible for the representation of the defendant and the prosecutor who is assigned the case shall be present. Except for extraordinary reasons, stand-in counsel shall not appear for a party. If principal counsel is not available, the party should request to reschedule the PTC in advance. The parties may not waive attendance at a previous hearing.

If the parties require a Motions Hearing on any issue, including motions to suppress evidence, in advance of trial, the Assignment Office shall clear a date on the Court's calendar for the hearing and send notice to the parties.

If it appears to the presiding judge that the parties have not concluded discovery, have open motions, have not completed meaningful plea negotiations or are unprepared for trial for any other reason,

the Court may require the parties to appear at another PTC approximately 15 -21 days prior to the scheduled trial date.

In order to minimize adverse impacts on witnesses, jurors, judicial resources, and other cases on the Court's dockets, it is the policy of this Court that cases that remain on the trial docket, or in which a postponement has been denied, are ready for trial and will be actually tried on the trial date. By effectuating this policy, the Court can more accurately predict the number of cases to be heard, can schedule the appropriate number of jurors, and parties and counsel can be assured that their case will proceed to trial on the scheduled day.

It is the intent of this policy to minimize last-minute dispositions or postponements that needlessly take up judicial resources that could be used for other matters pending in this Court.

### *Trial*

The trial date is cleared well in advance with all counsel either by the Assignment Office or in open court at an Arraignment Hearing. Postponements will only be granted for good cause. All jury trials will take precedence, followed by bench trials, and then plea hearings.

### *Sentencing*

For some cases, both plea bargains and trials, and depending on the status of the defendant, a sentence is imposed by a judge immediately following adjudication. For a significant minority of cases, a PSI is ordered by the judge, and the sentence is continued to a later hearing date. In most cases, a judge will require that the State's Attorney provide a criminal history of the defendant in order to determine an appropriate sentence. Previous convictions are considered in the sentencing guidelines. Time spent in custody must be subtracted from any sentence that includes incarceration. If a PSI is required to determine criminal history, mental capacity, or for any other reason, the judge may postpone the sentencing.

## **Track 2 – Process Summary**

Criminal Track 2 cases will be designated as such by the Clerk's Office entering the event code "Criminal Track 2" into the case management system, based on the information contained in Table 1.1. These cases will be given an Arraignment Hearing by the Clerk's Office, based upon available dates provided by the Assignment Office. The arraignment is scheduled within 30 days after the file is created, generally on a Friday at 9 a.m. At the Arraignment Hearing, if the defendant is unrepresented,

the judge will set a PTC within 30 days, generally on a Monday at 2 p.m.

If an **attorney enters prior to** the arraignment date, the Arraignment Hearing will be vacated and a PTC will be set by the Assignment Office within 50 days, generally on a Monday at 2 p.m. If an attorney enters for a defendant **after** the arraignment, the original PTC remains. The appearance of both counsel and the defendant is required at the PTC, but witnesses are not needed. The Assignment Office will clear dates with any cases involving attorneys.

Discovery is to be provided within thirty (30) days of arraignment. The State is to make any plea offer to the defense at least 7-10 days prior to the PTC.

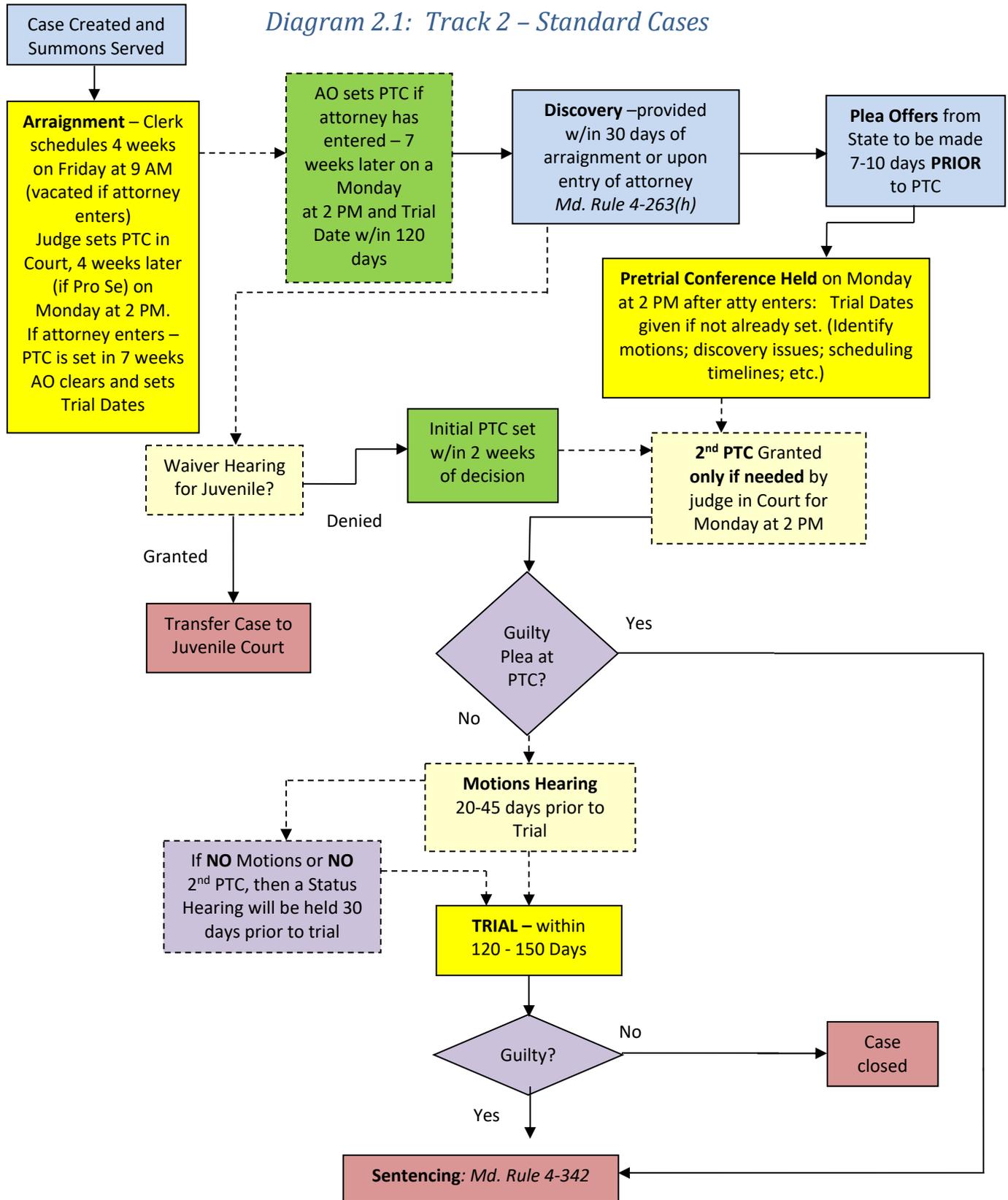
Motions Hearings will be held no later than 20-45 days prior to the trial date. If there are no motions or no need for a second PTC, a status conference may be set no later than 30 days prior to trial to ensure the case will be ready to proceed on its designated trial date.

### *Track 2 – Timeline*

Arraignment	within 30 days
Discovery to be Completed	within 30 days of arraignment or appearance of counsel
Pre-Trial Conference	within 60 – 75 days
Motions Hearing	20-45 prior to Trial
2 <sup>nd</sup> Pre-Trial/Status Conference	15-30 days prior to Trial
Trial	within 150 days
Sentencing	usually within 60 days of guilty verdict

**DISPOSITION time GOAL WITHIN 150 DAYS**

*Diagram 2.1: Track 2 – Standard Cases*



At any time in the process, the case may be expedited by taking a Stet, Plea, or Nolle Prosequi. Competency issues may be brought before the Court at any point. **PTC's are held to identify any motions needed; to ensure discovery is complete; to ascertain timelines for DNA/Forensic Evidence; schedule amount of time necessary for the trial; and to identify other issues.** Attorneys and Defendants must be present for PTC but witnesses are not needed. If an attorney enters for a pro se defendant after the arraignment, the original PTC remains. Disposition is to occur w/in **150 days**.

### **Track 3 – Process Summary**

Criminal Track 3 cases will be designated as such by the Clerk’s Office entering the event code “Criminal Track 3” into the case management system, based on the information contained in Table 1.1. These cases will be given an Arraignment Hearing by the Clerk’s Office, based upon available dates provided by the Assignment Office. The arraignment is scheduled to be held within 30 days after the file is created, generally on a Friday at 9 a.m. At the Arraignment Hearing, if the defendant is unrepresented, the judge will set a PTC within 45 days, generally on a Monday at 2 p.m.

If an **attorney enters prior to** the arraignment date, the Arraignment Hearing will be vacated, and a PTC will be set by the Assignment Office within 60 days on a Monday at 2 p.m. If an attorney enters for a defendant after the arraignment, the original PTC remains. The appearance of both counsel and the defendant is required at the PTC, but witnesses are not needed. The Assignment Office will clear dates with any cases involving attorneys.

Discovery is to be provided within 60 days of arraignment. The State is to make any plea offer to the defense at least 7-10 days prior to the PTC.

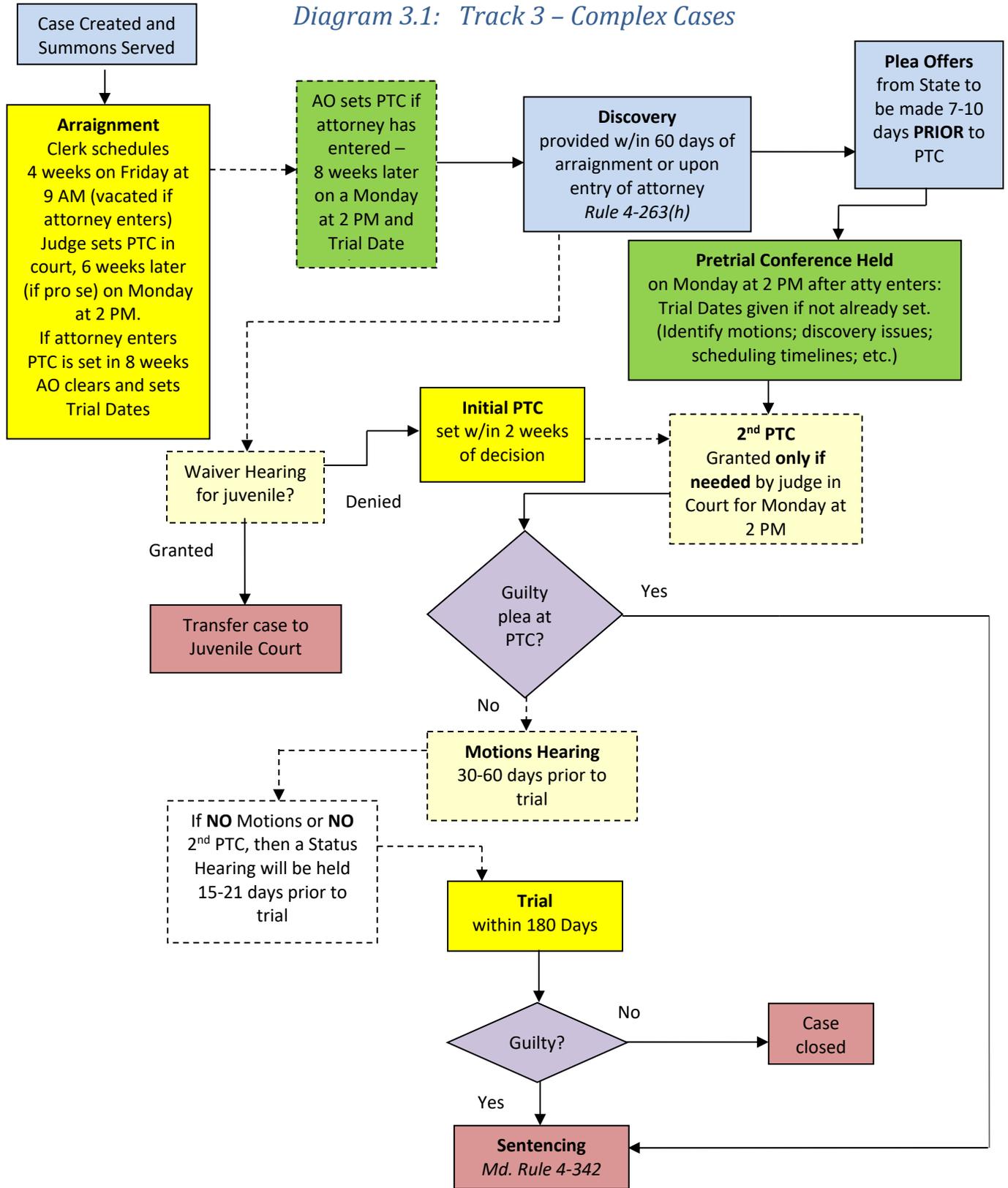
Motions Hearings will be held no later than 30 - 60 days prior to the trial date. If there are no motions or no need for a second PTC, a status conference may be set no later than 15 – 21 days prior to trial to ensure the case will be ready to proceed on its designated trial date.

### *Track 3 – Timeline*

Arraignment	within 30 days
Discovery to be Completed	within 60 days of arraignment or appearance of counsel
Pre-Trial Conference	within 75 – 90 days
Motions Hearing	30-60 prior to Trial
2 <sup>nd</sup> Pre-Trial/Status Conference	15-21 days prior to Trial
Trial	within 180 days
Sentencing	usually within 60 days of guilty verdict

**DISPOSITION time GOAL WITHIN 180 DAYS**

*Diagram 3.1: Track 3 – Complex Cases*



At any time in the process, the case may be expedited by taking a Stet, Plea, or Nolle Prosequi. Competency issues may be brought before the Court at any point. **PTC's are held to identify any motions needed; to ensure discovery is complete; to ascertain timelines for DNA/Forensic Evidence; schedule amount of time necessary for the trial; and to identify other issues.** Attorneys and Defendants must be present for PTC but witnesses are not needed. If an attorney enters for a pro se defendant after the arraignment, the original PTC remains. Disposition is to occur w/in **180 days**.

## **TRACK 4 – POST-JUDGMENT/REOPENED CASES**

### **Reopened Cases – Process Summary**

Most reopened cases are violations of probation (VOPs) or requests for modification following a guilty verdict and sentencing. Infrequently, a case may be reopened on an expungement request, request for sentence review, post-conviction or Writ or Error Coram Nobis.

#### *Appeal*

An appeal of a judgment must be filed with the Appellate Court of Maryland within 30 days of the issuance of the judgment.

#### *Violations of Probation*

Upon receipt of a violation report from the Division of Parole and Probation or a Petition from the State with attached violation report, the Clerk's Office shall send the report/petition with the file to a judge for further instruction. Whenever possible, it will be sent to the sentencing judge. The judge will then decide whether a warrant is to be issued, a summons with a Show Cause Order is to be issued, or no action is to be taken. If a warrant is to be issued, the judge will sign the warrant. When the warrant is served upon the defendant, the defendant will be taken into custody and then taken before the Court for a Bond Review Hearing on the same day or next day the Court is open. At that time, bond will be set, and arraignment will take place, with the Court scheduling the merits hearing on the violation before the sentencing judge within 60-90 days whenever possible.

If a summons with a Show Cause Order is issued a service date of 30-60 days is entered (dependent upon place of residence), then an Arraignment Hearing is scheduled approximately 15 days after service, with the VOP Hearing scheduled 30 days after the arraignment. If an attorney enters his or her appearance for the defendant prior to the Arraignment Hearing, it is removed and the VOP hearing remains. Ultimately, the VOP Hearing should be concluded in 75-105 days with all court appearances being held by the sentencing judge whenever possible.

#### *Request for Sentence Review Panel*

Requests for Sentence Review must be filed within 30 days of the imposition of sentence. Immediately upon filing, the Clerk's Office shall send the file to the County Administrative Judge for the appointment of the Sentence Review Panel, consisting of three judges, excluding the sentencing

judge or any other judge who may have a conflict. A proposed order appointing the panel is sent to the Circuit Administrative Judge for approval and signature. The panel of judges, through the judge deemed chair of said panel, will notify the State and defense of any filing deadlines and will meet to decide if the matter is appropriate for ruling without a hearing. If a hearing is deemed necessary, the panel will send the file to the Assignment Office with instruction for scheduling a hearing within 90 days of the previously noted filing cutoff date, whenever possible. Otherwise, a ruling may be made by issuance of an Order signed by all members of the panel.

### *Petitions for Post-Conviction Relief or Writ of Error Coram Nobis*

Petitions for Post-Conviction Relief are filed after the time for direct review has elapsed. Once a petition is filed, the Clerk's Office is to hold the file until a response is received from the State or the time to respond has expired. The Clerk's Office will also send a copy of the petition to the Office of the Public Defender, Collateral Review Division, if the petition is being filed by the Defendant, not represented by counsel. The file will then be sent directly to the Assignment Office, which will assign the matter and send the file to the next judge in rotation (any judge other than the trial/sentencing judge). The judge will instruct the Assignment Office to either set an Arraignment Hearing, a Scheduling Conference, or a full hearing on the merits. Arraignment Hearings will be cleared with the State and set at least 60 days out.

If an attorney's appearance is filed with the Clerk's Office, the file will immediately be sent to the Assignment Office for purposes of cancelling the Arraignment Hearing. A full hearing on the merits may be set, without the need for an Arraignment Hearing upon instruction of the assigned judge.

A Writ of Error Coram Nobis is handled in the same manner as a Petition for Post-Conviction Relief.

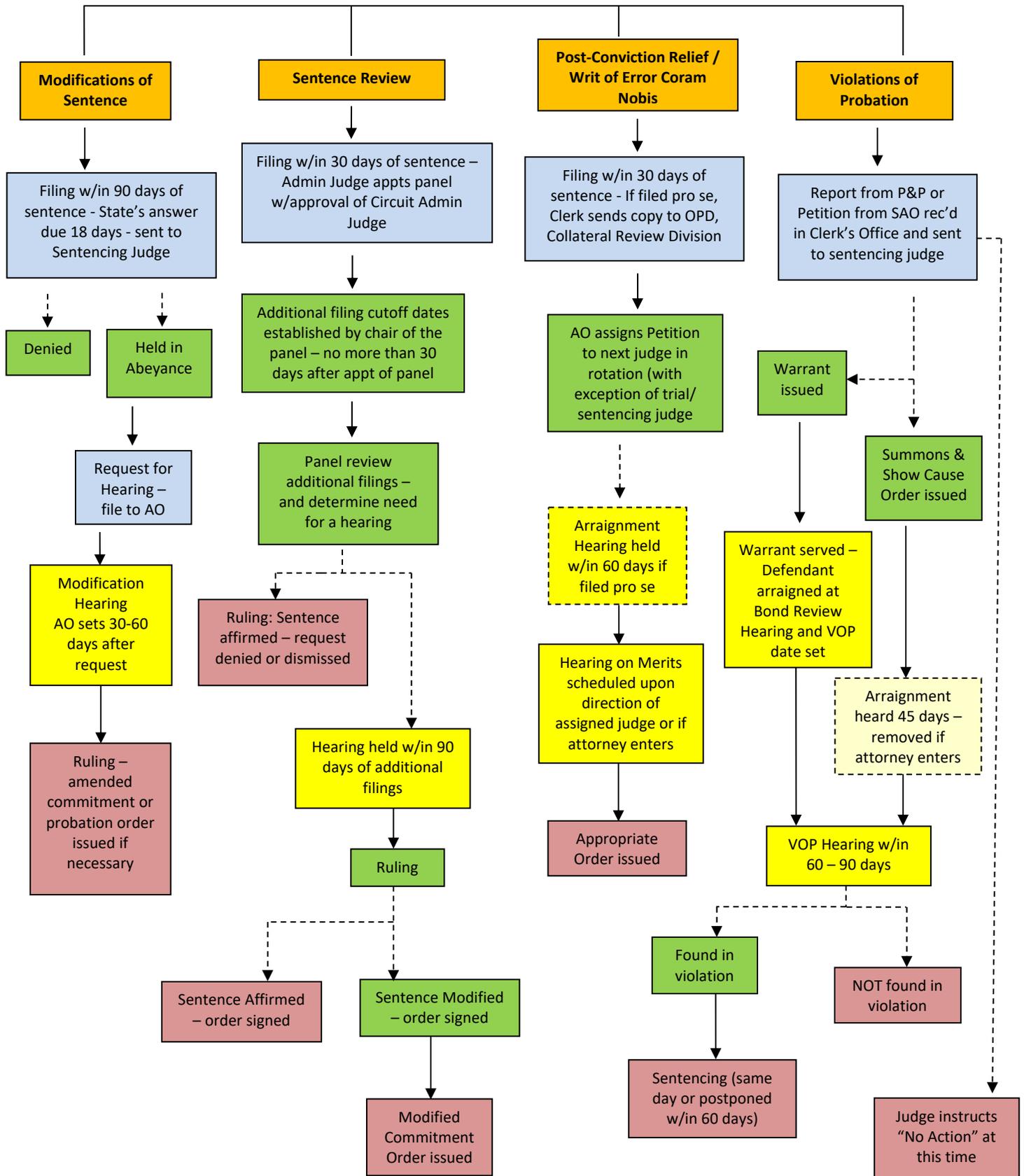
### *Request for Modifications of Sentence*

Requests for Modification of Sentence must be filed within 90 days of imposition of sentence. Once an answer is filed or the time for the State to file an answer has passed, the file is sent to the sentencing judge by the Clerk's Office. The judge can deny the request for modification without a hearing, but more often rules to hold the request in abeyance or sub curia, for determination at a later date.

When a request is held in abeyance/sub curia, the defendant will at a later date file a request for hearing on their request for modification. At that time the Clerk's Office sends the file to the sentencing judge for instruction with regard to scheduling a hearing. These hearings are generally

scheduled to be held within 30 to 60 days of the request for hearing. There are a few instances, though rare, when the judge may grant the request for modification without holding it in abeyance/sub curia or without scheduling a hearing.

*Diagram 4.1 – Post-Judgment/Reopened Cases*



## **VARIOUS PROGRAMS, PROCEDURES, and INFORMATION**

### **Drug Treatment Court Program**

The Frederick County Drug Treatment Court (DTC) is a voluntary, non-adversarial judicial response to non-violent, drug addicted offenders charged in Circuit Court. The DTC is a post-plea, pre-sentence program. In order to enter the DTC, the defendant must plead guilty and sentencing is deferred during participation in the treatment/program. The defendant must participate fully with all prescribed treatment and instructions of the DTC staff. Sentencing will occur upon graduation or termination from DTC.

The DTC provides a comprehensive program of supervision and treatment, which includes substance abuse treatment, education, and vocational and rehabilitative services. The DTC focuses on assisting the participants in achieving self-sufficiency and becoming responsible members of the community by living drug-free in an environment filled with life's obstacles and pressures.

#### *Who is Eligible*

The DTC is committed to helping non-violent, drug-dependent residents of Frederick County who are age 18 or older. Many of these residents will be unemployed, indigent, single parents who have educational, job training, housing and social issues. The eligibility requirements are blind to race, ethnicity, gender and/or religious orientation.

#### *Drug Treatment Court Agency Partners*

- Frederick County Circuit Court
- Frederick County State's Attorney's Office
- Office of the Public Defender
- Frederick County Behavioral Health – Services – Substance Abuse Services
- Department of Public Safety & Correctional Services – Division of Parole and Probation
- Frederick County Law Enforcement Agencies

For more information, including the Policy & Procedures Manual, Participant's Handbook and Referral Form, please visit: <https://www.frederickcountymd.gov/5508/Drug-Treatment-Court>

## **Interpreters and Disability Accommodations**

If any party or witness requires an Interpreter or accommodation due to disability for a court proceeding, a Request for Spoken Language Interpreter (form CC-DC-041) or Request for Accommodation for Person with Disability (form CC-DC-049), whichever applies, should be filled out and filed in the Clerk's Office 30 days prior to a scheduled court proceeding or scheduled court-ordered service. Once a party files a Request Form, the Court should provide an appropriate interpreter or accommodation for any future court proceeding or court-ordered service. However, a separate form must be filed for each individual court proceeding needed on behalf of a witness. Information, instructions and the forms can be found on the Maryland Judiciary website <http://www.Courts.state.md.us/Courts/Courtlanguageservices.html>.

The party requesting an interpreter or accommodation shall remain responsible for confirming that an interpreter or accommodation has been ordered and shall notify the Court immediately if the need for an interpreter or accommodation changes, whether for a party or witness. If a request for interpreter or accommodation is not cancelled at least 24 hours in advance of a court proceeding, the Court will be billed for the services. If the Court is billed for an interpreter or accommodation needlessly as a result of counsel's failure to advise the Court that the interpreter or accommodation will not be needed, or because counsel, the defendant, or witness does not appear in court in a timely fashion, the Court may assess the interpreter and/or accommodation costs against the party or counsel causing the unnecessary expense.

## **Procedure for Competency/Criminal Responsibility Evaluation Orders**

All criminal files in which a Motion for Competency and/or Criminal Responsibility Evaluation has been filed are to be sent to the County Administrative Judge for review, and the following procedure will be followed:

1. The County Administrative Judge will review the case and the judicial assistant will prepare the appropriate order for signature and attach it to the case.
2. Track 3 cases will be forwarded to the specially assigned judge's chambers for signature.
3. All other tracks will be signed by the County Administrative Judge.
4. The files will be immediately sent to the Clerk's Office for processing and immediate faxing of the Order of Evaluation to the appropriate facility(ies).

## **Postponement Policy and Procedure**

Pursuant to Md. Rule 16-105, all postponement requests must be considered by the County Administrative Judge or designee. The designated postponement judge shall be authorized to make good cause findings and to rule on waivers of the Hicks requirement. Pursuant to the Rule, only one judge may be designated to have postponement authority at a time. This and the below information is outlined in the Administrative Orders concerning the Postponement Policy for the Circuit Court for Frederick County at:

[https://www.mdcourts.gov/sites/default/files/import/clerks/frederick/pdfs/postponementofalot\\_hercases20220826.pdf](https://www.mdcourts.gov/sites/default/files/import/clerks/frederick/pdfs/postponementofalot_hercases20220826.pdf)

**AND**

<https://www.mdcourts.gov/sites/default/files/import/clerks/frederick/pdfs/actingadminjudge20220826.pdf>

### *Specially Assigned Cases*

Except as stated below, this limitation on postponement authority applies to all cases in the Circuit Court, including cases that are specially assigned to a judge. The procedures for postponing specially assigned cases are set forth below.

If the case is specially assigned, subsequent case management decisions and scheduling will be initiated by the specially assigned judge consistent with the case time standards. However, pursuant to Md. Rule 16-105, all postponements or scheduling that affects the trial date or the 180-day Hicks period, must be made by the judge who is designated by the County Administrative Judge to rule on postponements. The designated postponement judge will confer with the specially assigned judge for a recommendation as to the postponement and to clear new court dates on the assigned judge's calendar. The scheduling or re-scheduling of all specially assigned cases must also be cleared in advance with the Assignment Office and the Jury Office in order to ensure judicial and juror availability.

### *VOP and Sentencing Hearings*

These limitations do not apply to VOP, post-conviction, coram nobis, sentencing, or modification hearings. In those matters, the judge to whom the case is assigned, may schedule and postpone them in the judge's discretion.

### *Clearing New Dates*

Any party requesting a postponement of a trial or any other hearing shall coordinate a proposed re-set date with the opposing party and the Assignment Office consistent with case time standards. Failure to coordinate a re-set date may result in the postponement being denied. Compliance with this procedure does not guarantee that any postponement will be granted and will not be interpreted by the Court as constituting consent to the postponement.

### *Same Day Postponements*

Counsel requesting postponement of a case on the day it is set for trial or hearing shall bring it to the Court's attention at the beginning of the criminal docket and shall promptly be referred to the Designated Postponement Judge for consideration. If the postponement request is denied, the case shall be referred back to the criminal docket judge for further handling.

The above-mentioned procedure shall not apply to VOP, post-conviction, coram nobis, sentencing, or modification hearings. In those cases, requests for postponement shall be made to the judge to whom the case is assigned.

### *Hicks Issues*

If the postponement of any event will, in any way, implicate the Hicks Rule, a Hicks waiver or finding of good cause must be made in open court, by the designated postponement judge. The defendant shall be present in open court and written waivers will not be accepted. If necessary, counsel may coordinate a postponement/Hicks hearing with the chambers of the Criminal Case Management Judge.

## **Plea Agreement Policy**

### *Track 1 – Jury Demands and District Court Appeals*

**Jury Demands:** The defendant may plead guilty before the administrative judge or the trial judge; where a Pre-Trial Hearing may be scheduled, before the judge handling that docket. If a defendant is already on probation before a Circuit Court judge, the defendant may seek leave to plead guilty before and/or be sentenced by that judge.

**Appeals:** The defendant may plead guilty before the judge assigned to handle the Pre-Trial Hearing docket or the judge assigned to the Trial Docket. If a defendant is already on probation before a Circuit Court judge, the defendant may seek leave to plead guilty before and/or be sentenced by that judge.

### *Tracks 2 and 3 – Felony Charges*

Under the revised Criminal DCM Plan, plea agreements in cases designated Track 2 may be accepted by any judge up to and including the Pre-Trial Conference date, which may be postponed once for the purposes of reaching a plea agreement, or by the administrative judge on the Pre-Trial Conference date. If the parties reach a plea agreement on the hearing date of a pretrial motion, the judge assigned to hear that motion will take the plea. The parties may request that a case be scheduled for a plea at any time prior to the scheduled trial date.

**In Track 3** cases, a plea agreement may **only be accepted by the specially assigned judge**, who is also the trial judge.

The sentencing date will be set before whichever judge accepted the plea agreement.

It is the County Administrative Judge's policy that all pleas should be heard and disposed of prior to the originally scheduled trial date. Trial dates will not be removed until the completion of the hearing in which the plea agreement is executed. Trial dates **may not** be moved to accommodate a guilty plea (without a finding of good cause by the administrative judge).