

Criminal Differentiated Case Management (DCM) Plan

This Criminal 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 Judge of the Maryland Court of Appeals, implement and monitor a case management plan for the prompt and efficient scheduling and disposition of action in the Circuit Court.

Statement of Purpose

From the commencement of litigation to its resolution, whether by trial or settlement, any elapsed time other than reasonably required for pleadings, discovery, and court events, is unacceptable and should be eliminated. To enable just and efficient resolution of cases, the Court, not the lawyers or litigants, should control the pace of litigation. A strong judicial commitment is essential to reducing delay and once achieved, maintaining a current docket.

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 all criminal cases, jury and non-jury, be concluded within 180 days of the date of first appearance of the defendant or his/her counsel, whichever is earlier. In order to achieve this goal, the Circuit Court is committed to resolving different categories of cases within a regular and predictable time frame warranted by the needs of those cases. For simpler cases, the warranted time frame may be shorter than 180 days.

Case Management

Until such time as this Court may hire a Criminal Case Administrator, the policies and procedures outlined in this Plan shall be implemented by the County Administrative Judge and/or Court Administrator and his/her back-up and their respective staffs. The Court Administrator reports to the County Administrative Judge. 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 designates certain judges to hear the various criminal matters, and makes final decisions about whether and to whom a case should be specially assigned, when necessary.

The Administrative Judge shall have and exercise authority over such criminal case issues and matters and shall monitor the implementation and effectiveness of the Criminal DCM Plan.

DCM Plan

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 and the Jury Office. Specially assigned cases should be managed to the extent possible consistent with the provisions of this plan, including adherence to the Case Time Standards.

Case Types Summary

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's Office (SAO). Misdemeanor cases are predominantly heard in the District Court and are filed in Circuit Court on a prayer for jury trial at the discretion of the defense. 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. A jury trial may be requested at any stage of the process, up to the trial and judgment.

Criminal Tracks

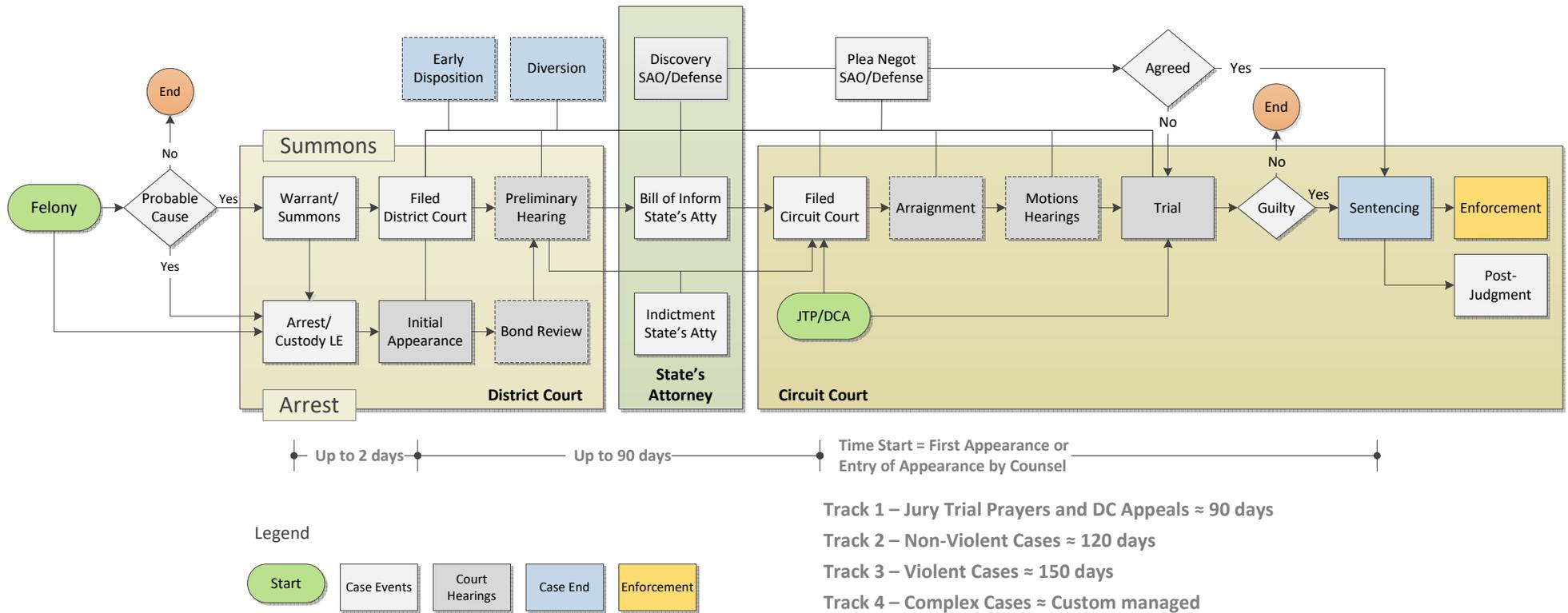
A criminal case may follow one of four (4) distinct tracks to resolution. Tracks are defined based on the case type or highest charge. See Table 1.1 below and Diagram 1.1 on the following page. Tracks define expected case processing events, the timing of events, assignment, and the expectations for case duration. The caseload time standard for Circuit Court criminal cases is 180 days from the first court appearance of defendant or the entry of appearance by counsel to disposition¹ for 98% of cases. For criminal case tracks, expected case durations are based on a consensus of needed time to reach disposition, which may be less than the time standard. Expected case duration is not an established time standard.

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

Table 1.1 – Criminal Tracks by Case Types/Highest Charge Types and Outcomes

<i>Track</i>	<i>Case Types or Highest Charge Types</i>	<i>Expected Case Duration and Notes</i>
Track 1 Jury Trial Prayers, District Court Appeals, and Reopened Cases	1. Misdemeanors 2. Felonies with District Court jurisdiction 3. Administrative Violations of Probation	90 days to sentencing; track defined at filing.
Track 2 Non-Violent Felony Cases	Non-violent felony charge(s); qualifying charges to be identified.	120 days to sentencing; track defined at filing by highest charge. Cases downgraded to a misdemeanor remain Track 2.
Track 3 Violent Felony Cases	Violent felony charge = highest charge; qualifying charges to be identified.	150 days to sentencing; track defined at filing by highest charge. Cases downgraded to a non-violent charge will be changed to Track 2 cases.
Track 4 Complex Cases	Homicide, multi-victim, multi-defendant; qualifying charges and conditions to be identified.	180 days; custom managed; track defined at filing; or after filing by SAO recommendation or court review. Cases will remain Track 4 regardless of charging decisions by SAO.

Figure 1.1 – Criminal Case Processing



Track 1 – Jury Trial Prayers, District Court Appeals, and Reopened Cases

Event	Timing
Case Initiation	Case filing by SAO in Circuit Court
Arraignment	Not required
Discovery	In District Court or no period required
Appeal cases only	Initial appearance scheduled approximately 30-days after receipt of case in Circuit Court; status conference and trial date scheduled at IA hearing
Status Conference	Scheduled within 45-days of receipt of case in Circuit Court
Trial	Scheduled within one week of status conference hearing; notice of IA and JT dates are assigned simultaneously
Sentencing (if guilty)	Same day or as soon as possible after verdict

Track 2 – Non-Violent Felony Cases

Court Event	Timing
Case Initiation	Case filing by SAO in Circuit Court
Arraignment	Held at the District Court
Motions Hearings (Discovery) Complete	30 days prior to trial
Status Conference	Scheduled within 45-days of receipt of case in Circuit Court
Trial	Scheduled within one week of status conference hearing; notice of IA and JT dates are assigned simultaneously
Sentencing (if guilty)	Same day or as soon as possible after verdict

Track 3 – Violent Felony Cases

Court Event	Timing
Case Initiation	Case filing by SAO in Circuit Court
Arraignment	Held at the District Court
Motions Hearings (Discovery) Complete	30 days prior to trial
Status Conference	Scheduled within 45-days of receipt of case in Circuit Court
Trial	Scheduled within one week of status conference hearing; notice of IA and JT dates are assigned simultaneously
Sentencing (if guilty)	Same day or as soon as possible after verdict

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Track 4 – Complex Cases

Court Event	Timing
Case Initiation	Case filing by SAO in Circuit Court
Arraignment	Held at the District Court
Motions Hearings (Discovery) Complete	30 days prior to trial
Status Conference	Scheduled within 45-days of receipt of case in Circuit Court
Trial	Scheduled within one week of status conference hearing; notice of IA and JT dates are assigned simultaneously
Sentencing (if guilty)	Same day or as soon as possible after verdict

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 rarely 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 occasionally they are used for felonies. Most will only reach the Circuit Court upon a jury trial prayer or appeal from District Court. A small number of felony charge types may be initiated by summons.

Arrest Cases

Arrests may be made on defendants based on an arrest warrant or “on-view” immediately following a crime. Arrest warrants are issued by District Court commissioners at the request of a law enforcement officer and are based on probable cause usually established by the officer in verbal testimony.

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 of court in Circuit Court to determine eligibility for pretrial release and advising of rights to counsel.

Track 1 –Jury Trial Prayers, District Court Appeals, and Reopened Cases

JTPs and District Court Appeals, primarily for misdemeanor and serious traffic cases, are a constitutionally guaranteed right for most criminal charges in Maryland. The history of jury trial prayers 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 rule-based standard threshold is an offense that is punishable by more than 90 days in prison or a \$500 fine.

A District Court defendant on misdemeanor charges can request a jury trial at any time during the process, up to and including the trial date in District Court. Many defendants with summary or citation offenses do not generally have a right to a jury trial, simply because the punishment is

below the minimum threshold for a jury trial. Appeals from the District Court are for trials *de novo* (a new trial on the merits) in the Circuit Court.

Track 1 also includes reopened cases. Most reopened cases are violations of probation (VOPs) following a guilty verdict and sentencing. Infrequently, a case may be reopened on a motion for modification of the sentence, or for an expungement request.

Filing

JTPs are filed by the District Court upon motion/verbal request of the defense. The District Court usually files a jury trial prayer in Circuit Court within three (3) business days of a request. Appeals from District Court must be filed by the defense within 30 days of entry of a judgment or order. Reopened cases for violations of probation may be filed by law enforcement or a probation officer. In addition to the filing by the District Court or defense, the SAO must file a charging document.

State's Attorney

A charging document filed in the Circuit Court may be:

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

Assignment

All cases are forwarded to the Assignment Office for scheduling as outlined on Pages 5 and 6.

Arraignment

No arraignment is held for JTPs, District Court appeals, or reopened cases. Violations of probation that include new charges shall be reopened cases that will be heard under the Track guidelines of the new case and its associated charges.

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. Motions filed in reopened cases are typically for bail review.

Bond Hearing

In matters where a defendant is entitled to a bond hearing, i.e., failure to appear warrant, VOP warrant or service of Grand Jury indictment, a bond hearing is scheduled upon the Court's receipt of the notice of arrest. The bond hearing is scheduled on the same day or the next business day.

Pre-Trial Diversion – Adult Drug Court

The Circuit Court is currently operating a pilot drug court program. Recommendations for candidates for the program are made to the Drug Court Judge. Drug Court stakeholders meet weekly with the Drug Court Judge and hearings for the candidates are also held weekly.

Trial

For Jury Trial Prayers, the attorney of record in District Court is automatically entered into in the Circuit Court.²

Most JTPs and District Court appeals are not resolved by a jury trial. Many are resolved by way of a plea agreement. In most cases, pleas are usually consistent with what was offered in the District Court. However, Circuit Court judges exercise the authority to reach a verdict and sentence that addresses the merits of a case and the law.

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 reopened cases, final orders may include a modification of a prior sentence, or other outcome, as determined by a judge. 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 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.

² MD Rule 4-214(a).

Previous convictions are considered in the sentencing guidelines. Time spent in custody must be subtracted from any sentence that includes incarceration. The critical path issue for sentencing is a PSI. If a presentence investigation 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.

Violation of probation (VOP) hearings are common. VOPs are generally heard by the sentencing judge. The primary purpose of a VOP hearing is to determine revocation of probation and other appropriate punishments. A caseflow challenge for the Circuit Courts is that a VOP often occurs as a result of the commission of a subsequent crime. The defendant, counsel and prosecutor often seek to consolidate VOPs from previous sentences into plea agreements for subsequent crimes.

Tracks 2, 3, 4 – Non-Violent, Violent and Complex Felony Cases.

Circuit Court, Tracks 2, 3, and 4 are primarily felony cases under the jurisdiction of the Circuit Court. All are initiated in the Circuit Court by the SAO by Criminal Information or Criminal Indictment. The rules of procedure are the same following filing in Circuit Court. Both a Criminal 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 includes the words “against the peace, government, and dignity of the State” and must be signed by the State’s Attorney or his or her representative.

Criminal Information

Criminal information cases are primarily criminal felony cases for which the Circuit Court has exclusive jurisdiction and which originate in District Court, usually by arrest. In felony cases, the primary function of the District Court is to establish probable cause and ensure a speedy initial appearance at which a defendant hears the charges read in open court, is advised of his or her right to an attorney and other rights including a jury trial, and determination is made about whether the defendant should be held in custody or released on bail or other condition to ensure his or her appearance at trial or other court hearings.

Criminal Indictments

Criminal Indictments are cases that have been brought before a Grand Jury for determination of probable cause and indictment. The type and number of cases assigned to a Grand Jury are determined by the office of the State's Attorney.

Following a Grand jury indictment, a defendant is served with a summons to appear in Circuit Court (Md. Rule 4-212). An arrest warrant is issued by a Circuit Court judge upon request of the State's Attorney, and a finding 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 statement of charges. An information or indictment may be signed by the State's Attorney or other authorized authority.

Discovery

In most indictment cases, an investigation is conducted by the SAO working with the police, 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 should be conducted as early as possible in the process to increase communication and a just resolution as early as possible.

Case Filing in the Circuit Court

A charging document filed in the Circuit Court may be:

- A Criminal Information
- A Criminal Indictment; or
- A District Court charging document for an offense on which the defendant demands a jury trial or appeal from judgment.

Initial Appearance

An initial appearance is required in Circuit Court, unless waived by defense counsel, when a defendant has been arrested on a warrant and brought directly to Circuit Court, appears by written notice of counsel following a summons, or prays a jury trial out of the District Court. The purpose of the initial appearance is to:

- Inform defendant of charges;
- Ensure that defendant has a copy of the charging document;
- Potentially plead a case; and,
- To set motions and/or trial date(s)

At the initial appearance, if the defendant does not have counsel, the judge will advise the defendant of his or her rights to counsel and notify him or her of the availability and/or location of the Public Defender's Office. For most felony cases, attorneys who have entered their appearance in District Court must reenter their appearance in Circuit Court.

Assignment and Scheduling

The trial date shall not be set later than 180 days after these events (Md. Rule 4-271(a)). When the trial date is set at the initial appearance, the defendant is given notice of the trial date. If the initial appearance has been waived for defendants represented by counsel, a summons is served by mail or in person for the next scheduled event.

Motions Hearings

Motions hearings may be heard in 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.

Mandatory motions (Md. Rule 4-252(a)) include matters that must be raised, or are automatically waived by the court if not filed within 30 days after the first appearance of the defendant or the entry of appearance by counsel, except as a result of discovery and filed within five days of discovery. Mandatory motions include:

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

A motion for transfer to juvenile court, though not considered mandatory, must be filed separately and is considered waived under the same time restrictions as mandatory motions. 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 SAO and defense counsel may occur at any time in the process.

Status Conference

A Status Conference is scheduled in all cases for the Tuesday prior to the trial date. At that time, the Court is made aware of the status of the upcoming trial. If the matter will be resolved by way of plea agreement, the plea may be taken at that time or the case may be called on the day scheduled for trial and taken then.

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, 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. If a PSI is ordered, sentencing is scheduled shortly after receipt of the report from the Department of Parole and Probation.

Post-Judgment

Post-judgment actions may include the following:

- **Motion for Relief.** A motion for modification of a sentence may be filed within 90 days after the imposition of a sentence. A sentence modification must be conducted on the record after appropriate notice and can be conducted by the sentencing judge.
- **Three Judge Panel.** If a sentence of more than two years is imposed, a defendant can make an application for sentence review (Md. Rule 4-406) by a three-judge panel within 30 days from the sentence imposition date. The sentencing judge cannot be a member of the three-judge panel. The three-judge panel does not need to conduct a hearing, but must file a decision within 30 days after the application is filed. Sentence increases require that the defendant be brought before the Review Panel.
- **Appeal Filed.** An appeal of a judgment must be filed with the Court of Special Appeals within 30 days of issuance of the judgment.

Interpreters

If any party becomes aware of the need for an interpreter for any party or witness, the party shall promptly notify the Court by using the Request for Interpreter form (CC-DC-41), which is available on the Court's website. A delay in notifying the Court of the need for an interpreter may result in the inability to handle a case on the scheduled date. Requests for interpreters must be specific as to the language and, if appropriate, the particular dialect that may be needed. The request must also specify for whom the interpreter is needed.

The party requesting an interpreter shall remain responsible for confirming that an interpreter has been ordered and shall notify the Court immediately if the need for the interpreter changes. If a request for interpreter is not cancelled at least 48 hours in advance of the trial or hearing, the Court will be billed for the interpreter's services. If the Court is billed for an interpreter needlessly because of counsel's failure to advise the Court that the interpreter will not be needed, or because counsel or a litigant does not appear in court in a timely fashion, the Court may assess the interpreter costs against the party or counsel causing the unnecessary expense.

Postponements

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Pursuant to Md. Rule 16-105, all postponement requests must be considered by the County Administrative Judge or his/her designee. The designated postponement judge shall be authorized to make good cause findings and to rule on waivers of the Hicks requirement.

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

In some cases, counsel may contact the Assignment Office prior to filing a request for postponement to obtain date(s) when the case can be rescheduled. Counsel then notifies the Court in their motion for postponement of this communication with the Assignment Office.

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 as soon as possible. The sitting judge shall make a ruling on the motion and if a postponement is granted, the judge will provide counsel with a new date or refer the matter to the Assignment Office for rescheduling. If the motion is denied, the case shall go forward.

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. The Defendant shall be present in open court and written waivers will not be accepted.

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