

Circuit Court for Baltimore County

Update on Criminal Processes During COVID-19 Start-Up

Thank you for your patience as we work through the criminal case backlog during our phased return to normal court operations. A detailed start-up plan for the Circuit Court, which includes information concerning criminal dockets, is linked to the Baltimore County Circuit Court webpage, and is also linked to the Baltimore County Bar Association webpage. We appreciate the input we received from the State's Attorney's Office, the Office of the Public Defender, and from Andy Jaskulsky, Raphael Santini and Lenny Shapiro who were "volunteered" from the Bench Bar Committee, who helped to formulate that plan.

As we move forward, we continue to "tweak" the plan, as issues are raised. Following Week 1 of Phase II, we have the following clarifications:

New PJTs and District Court Appeals

With some District Court criminal dockets starting back up on June 22, 2020, new jury trial prayers and District Court appeals will be handled as follows:

- "Next Day" PJTs have been eliminated until 2021;
- During 2020, if a PJT is made in open Court, the Defendant will be served with a summons to appear for a Status/Scheduling Conference hearing in Circuit Court in approximately ten weeks;
- Other PJTs and District Court appeals will also be set for a Status/Scheduling Conference hearing in the Circuit Court in approximately ten weeks;
- Defendants who are not incarcerated are required to appear for Status/Scheduling Conferences, and efforts will be made to arrange remote appearances for Defendants who are incarcerated;
- Status/Scheduling Conferences will be held in staggered intervals on the daily misdemeanor docket, with the expectation that counsel will attempt to resolve the matter at that hearing;
- If the matter cannot be resolved, but can proceed by a bench trial, a trial date will be set within four to six weeks;
- If the matter will proceed by way of a jury trial, the trial date will be set in Phase V;
- PJTs and District Court appeals can also be set on the daily plea docket by contacting Phil Pokorny at 410-887-2853;
- Arrangements can be made for a remote plea hearing by contacting the Assignment Office. Both counsel and the client must be able to appear by video, either through a computer or phone link. Counsel and the client can be in separate locations. Remote hearings are currently being set through Skype for

Business, but the Court will migrate to Zoom for remote hearings over the next couple of months;

- This PJT and District Court appeal process will remain in effect through 2020.

Postponement Policy

The new postponement policy, which allows for requests to be made in writing in certain circumstances, requires that the written request be filed thirty days in advance of a scheduled hearing. Because so many cases currently being re-scheduled, that time limitation is often impractical. The thirty-day advance notice requirement is therefore waived for cases currently set in June and July. Please make every effort to provide as much advance notice as possible.

Social Distancing and Signatures on Probation and Post-Trial Rights Forms In Courtrooms

With different courtroom configurations, there is no set policy on where clients should be seated. Counsel should observe social distancing requirements with their clients. You are encouraged to ask the Court Clerk or Law Clerk for guidance in individual courtrooms. The bench recognizes the need to accommodate other seating arrangements, and that defense counsel may need to recess to have a private conversation with a client in a hallway.

If counsel appears with a client for a plea hearing, the probation, post-trial rights and other forms requiring signature will be handed to counsel to review with their client. Once signed, counsel should hand the court copies of these documents back through the document slot in the barriers that have been installed in front of the Court Clerk area. Clean pens will be available for use, and wipes and hand sanitizers are also available at counsel table.

If a remote plea is taken and the defendant is incarcerated, the probation, post-trial rights and other forms will be forwarded to the detention center for signature.

Remote Appearances With Clients Not In Custody

Any request for remote appearance for a criminal matter should be made through the Assignment Office. If the remote appearance request is for a plea hearing, it should be discussed in advance with the State to determine whether they object to a remote hearing.

While remote pleas can occur, they are not appropriate in all circumstances. For example, a remote plea is not appropriate in circumstances where the State is recommending substantial incarceration, or where victim impact testimony is anticipated, or where the Defendant's circumstances suggest that personal appearance would enhance the court's ability to assess the voluntariness of the plea. A judge may decline to hear a plea remotely and reschedule the matter for later hearing, even without objection

If a remote plea is taken and the defendant is not incarcerated, the probation, post-trial rights and other forms will be emailed to counsel. Counsel is obligated to obtain required signatures from the Defendant and email the signed form(s) back to the judge who heard the plea within seven days.

Transportation from the Detention Center, the DOC and Other Local Detention Facilities

While the COVID-19 infection risks remain elevated, many State and local detention facilities are requiring that inmates be quarantined if they are transported out and then returned to a detention facility. Additionally, with COVID-19 infection that exists in some facilities, inmate transports increase risks to counsel and to court staff. For those reasons, inmate transportation to court will only occur if necessary.

Since jury trials cannot occur until Phase V, many court appearances are status and scheduling hearings. For cases set on the regular felony, misdemeanor, and plea dockets, and for cases set for status/scheduling conferences, Defendants will not be transported for a hearing unless the need for transport is confirmed in advance by counsel. Court staff are reviewing dockets approximately a week in advance and emailing defense counsel to determine if transport is necessary if the file indicates that the Defendant is in custody. Transport will be authorized for a plea or court hearing that is not appropriate for a remote hearing. Transport will not be authorized merely to facilitate communication with counsel in the courthouse lockup, rather than through the detention or DOC facility. Writs will be canceled in advance of the hearing unless the need for transport is verified with counsel and approved by the Court. This transportation policy will be re-assessed when the Court moves to Phase III.

Judge Robert E. Cahill, Jr.
Lead Criminal Judge

Judge Kathleen Gallogly Cox
Administrative Judge