

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 an action in the Circuit Court.

Statement of Purpose

From the commencement of litigation to its resolution, whether by trial or plea agreement, 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 defendants, should control the pace of litigation. A strong judicial commitment is essential to reducing delay and, once achieved, maintaining a current docket.¹

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. Outside of this prescribed timeframe, jury trial prayers and *de novo* appeals from the District Court should be concluded within 60 days of being transferred to the Circuit Court.

General Information

This Criminal DCM Plan outlines policies and procedures for the management of all criminal cases in the Circuit Court for Baltimore County, including jury trial prayers and appeals from the District Court.

The process begins with a felony or misdemeanor that typically is first filed as a complaint in the District Court. Felony cases typically originate in the District Court and are filed as an indictment or information case 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 (PJT) at the discretion of the defense. If a jury trial is requested at any stage of the process, up to the day of

¹ ABA Standards of Judicial Administration: Standards Relating to Trial Courts, Rule 2.50 (1992)

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trial, the case must be heard in Circuit Court. In addition, a conviction from a District Court criminal case can also be appealed and heard *de novo* in the Circuit Court by paying the appropriate fee in the District Court. The DCM plan also includes guidelines for handling post-judgment collateral matters including violations of probation (VOP), post-conviction, *coram nobis*, sentencing and modification hearings.

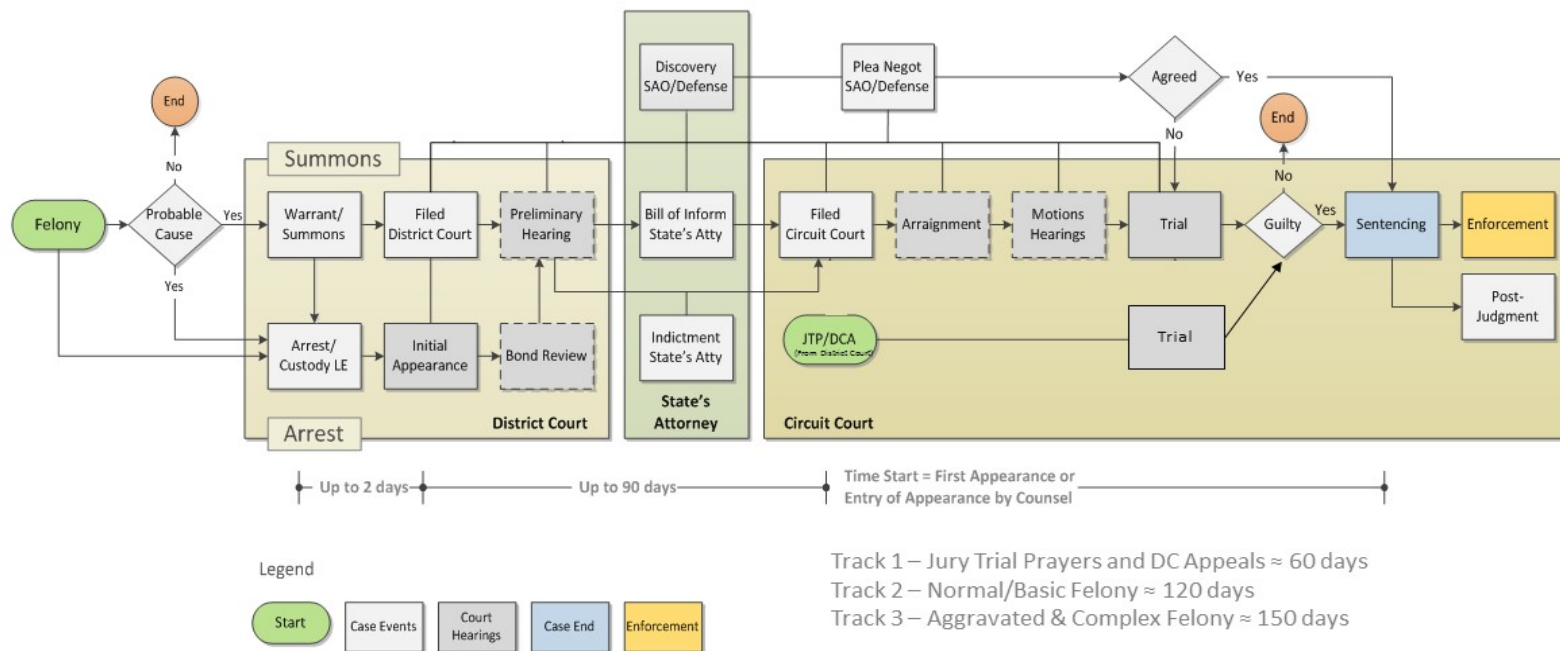
Criminal Tracks

A criminal case may follow one of three distinct tracks to resolution. Tracks are defined at filing of the complaint, upon the SAO’s recommendation, or judicial review 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 case flow 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 disposition for 98% of cases. For criminal case tracks, expected case durations are based upon the Court’s assessment of time needed to reach disposition, which may be less than the time standard. Expected case duration is not a time standard.

**Table 1.1 – Baltimore County Circuit Court Criminal Tracks by Case type
 & Anticipated Outcomes**

<i>Track</i>	<i>Case Types</i>	<i>Expected Case Duration and Notes</i>
Track 1 Prayers for Jury Trial, District Court Appeals, and Collateral Matters	1. Misdemeanors 2. Felonies with District Court jurisdiction 3. Administrative Violations of Probation	60 days to sentencing; track defined at filing.
Track 2 Basic Felony Cases	Vast majority of felony charges; other than those placed in Track 3	120 days to sentencing; track defined at filing by highest charge. Cases downgraded to a misdemeanor remain Track 2.
Track 3 Complex Felony Cases	Murder; manslaughter; protracted multi-defendant cases; cases with complex expert testimony; prosecutions arising out of a wiretap	150 days to sentencing; custom managed; track defined at filing; or after filing by SAO recommendation or court review; Cases will remain Track 3 regardless of charging decisions by SAO.

Figure 1.1 – Criminal Case Processing



Track 1 – Prayer for Jury Trial (PJT), District Court Appeals, and Collateral Matters

Event	Timing
Case Initiation	Case filing by State’s Attorney in Circuit Court
Arraignment	Not required*
Discovery	In District Court or no period required
Trial	Next day for PJT w/o civilian witnesses; W/in 6-8 weeks of filing for PJT w/ civilian witnesses; W/in 4-6 weeks for District Court Appeals; W/in 6 weeks for all other matters
Sentencing (if guilty)	Same day or 30 days after verdict typically

Track 2 – Basic Felony Cases

Court Event	Timing
Case Initiation	Case filing by State’s Attorney in Circuit Court
Arraignment	Within 30 days of filing
Motions Hearings (Discovery) Complete	30 days prior to trial
Trial	Within 120 days of filing
Sentencing (if guilty)	Same day or 60 days after trial typically

Track 3 – Aggravated Felony Cases & Complex Felony Cases

Court Event	Timing
Case Initiation	Case filing by State’s Attorney in Circuit Court
Arraignment	Within 15 days of filing
Initial Scheduling Conference	Within 30 days of filing
Motions Hearings (Discovery) Complete	30 days prior to trial
Trial	Within 150 days of filing
Sentencing (if guilty)	Same day or 60 days after trial typically

**Pro se* (self-represented) PJT cases that are not heard the following day in Circuit Court will receive a summons to appear for a Circuit Court arraignment the following Monday.

All Tracks – Case Management

Lead Criminal Judge

In order to promote expeditious and fair criminal case resolution, the County Administrative Judge designates a Lead Criminal Judge to oversee the management of the criminal portion of the Court’s docket. The Lead Criminal Judge is responsible for overseeing the internal court processes that

impact criminal cases and proposing any modifications to those procedures that would enhance criminal case management. This arrangement provides flexibility when adapting to changes in substantive or procedural law and changes in technology. In addition, the Lead Criminal Judge is identified as a resource for the SAO, the Office of the Public Defender (OPD), the private defense bar, and courthouse staff as being universally available and accessible to address and resolve overly complicated, difficult or problematic cases or groups of cases to the end of judicial economy.

Criminal Case Manager

The Criminal Case Manager (CCM) is a full-time member of the Circuit Court staff who is assigned to assist in overseeing the flow of the criminal docket. The CCM maintains and schedules cases on the Plea Docket; coordinates between counsel and the Criminal Assignment Office to facilitate efficient case resolution; assists judges with the electronic warrant process and MAGS (Maryland Automated Sentencing Guidelines) implementation; tracks special case assignments; and serves as a liaison to Clerk's Office staff to identify and address case management issues. The CCM is responsible for evaluating the feasibility of any changes to the criminal case processes to help make the Court more efficient. The CCM is also identified to the SAO, the OPD, and the private defense bar as being a contact point for suggestions or concerns regarding criminal case management. The CCM consults with the Lead Criminal Judge for direction regarding the resolution of any suggestion or concern.

Case Management and Assignment Responsibilities

The Criminal Assignment Office coordinates the criminal case dockets. Criminal Assignment sets trial and hearing dates except in specially set cases. The Criminal Assignment Office also coordinates re-set dates when a non-specially assigned hearing/event is postponed.

The Criminal Clerks' Office manages all criminal case files. The Criminal Clerks' Office initiates the criminal file, docket pleadings and orders, and maintains file integrity.

The Central Assignment Office manages docket and case assignment on the hearing or trial date. The Central Assignment Office also approves scheduling in specially set cases to ensure there are sufficient resources to cover all dockets and specially assigned matters.

Docket Structure

The Circuit Court hears criminal matters daily. The regularly scheduled docket events include:

- **Video Hearings** – Video hearings can include returns on bench warrants, bail reviews and hearings on petitions for writ of habeas corpus related to bail. These hearings are held daily at 9:00 a.m. before the designated Postponement Judge.
- **Criminal Administrative Docket** – This docket is overseen by the Lead Criminal Judge on the first court day of each week to manage routine matters, to include arraignments, re-arraignments, and requests to discharge counsel.
- **District Court PJT Dockets** – Misdemeanor PJT dockets are scheduled weekly. The trial date of the majority of cases on the PJT docket are scheduled when the jury trial request is made in the District Court. Cases postponed from a PJT docket are re-set on another PJT docket, unless consolidated with another case for the same defendant.
- **District Court Appeal Dockets** – District Court appeal dockets are set every other week and are typically heard by the designated Postponement Judge.
- **Felony Dockets** – Cases that originate in the Circuit Court and are not specially assigned to a judge are assigned to a felony docket. Within the felony docket category, cases that originate out of the Investigations Division of the SAO are heard on a separate docket from general felony cases.
- **Plea Docket** – Felony cases in which a plea has been agreed to may be advanced to the Plea Docket on a date selected by counsel. The Plea Docket is assigned only to a designated group of judges identified in advance to counsel.
- **Motions Docket** – Any criminal motion that requires a hearing is set on a Criminal Motions Docket in the afternoon, with the exception of requests to transfer a case to juvenile court, which are set in the morning.
- **Incompetency Case Docket** – Cases in which a defendant has been found incompetent to stand trial are set for periodic review on a monthly docket before the designated Mental Health Judge.

Postponement Procedures

Postponement Judge

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. Pursuant to the Rule, only one judge may be designated to have postponement authority at a time.

Clearing New Dates

Any party requesting a postponement of a trial or any other hearing shall promptly notify opposing counsel. The party requesting the postponement must coordinate a proposed re-set date with the opposing party and the Criminal Assignment Office. The re-set date for any trial must be within the Hicks deadline unless there is a compelling circumstance to extend beyond that deadline and the defendant is willing to make a knowing and intelligent waiver of his/her right to speedy trial. Failure to coordinate a re-set date may result in the postponement not being considered. Compliance with this procedure does not guarantee that any continuance will be granted and will not be interpreted by the Court as constituting consent to the postponement.

Good Cause Findings

The following are examples that are usually considered “good cause” for postponement:

- Trial date conflict: The first case set takes precedence (See Chief Judge Robert C. Murphy’s Revised Administrative Order for Continuances for Conflicting Case Assignments or Legislative Duties effective May 15, 1995.)
- Serious illness or death in the family of a party, counsel or necessary witness;
- Vacation(s) scheduled prior to any assigned trial date; Requests for postponement must be made within ten (10) calendar days of notification of the conflicting event;
- An ongoing trial in another court that carries over to cause a conflict with the Baltimore County trial date.

The following are generally NOT “good cause” for postponement:

- Vacations(s) scheduled after establishing a trial or motion date;
- Consent of SAO and defense counsel with no substantive basis;
- The request for postponement being a first request;
- Any matter known or which should have been known when the trial date became finalized;
- Change of counsel for non-meritorious reason;
- Ongoing plea negotiations;
- Law enforcement officer training;
- Investigation ongoing;
- Postponement requested to consolidate with a matter pending in the District Court as to which a jury trial may be prayed.

Hicks Issues

If the postponement of any event will, in any way, implicate the Hicks Rule, a Hicks waiver and/or finding of good cause must be made in open court by the designated Postponement Judge. The defendant shall be present in open court; a written waiver alone will not be accepted. If necessary,

counsel may coordinate a postponement/Hicks hearing through the chambers of the designated Postponement Judge or the Lead Criminal Judge.

Advance Postponement of Trial Dates

If counsel becomes aware that a postponement of a trial date will be requested, they shall promptly notify opposing counsel. At the earliest availability of counsel, the case should be set before the designated Postponement Judge as a pre-set postponement request.

Day of Trial Postponements

Counsel requesting postponement of a case on the day of trial shall notify opposing counsel as soon as the basis for the request is known. Whenever possible, the request should be communicated before the day of trial so the opposing side has the option of placing witnesses on call until a ruling is made on the postponement request. The case shall be promptly referred to the designated Postponement Judge for consideration on the morning of trial. If the postponement request is denied, the case shall be referred back to the criminal docket judge so the case may proceed.

“Next Day” PJTs

If counsel of record for a “next day” PJT has good cause to seek a postponement, a fax or email (centralassignment@baltimorecountymd.gov) setting forth the basis for the postponement may be sent to the Central Assignment Office, copied to the SAO, seeking a postponement in advance of trial. Written requests to postpone a “next day” PJT will be forwarded to the Lead Criminal Judge for ruling. The Central Assignment Office will notify counsel by telephone of the Lead Criminal Judge’s ruling on the request.

Specially Assigned Cases

If a 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 are made by the County Administrative Judge. The County Administrative Judge will confer with the specially assigned judge for a recommendation as to the postponement as well as clear new court dates on the assigned judge’s calendar, if granted. The Central Assignment and the Jury Offices must be notified upon the scheduling or re-scheduling of all specially assigned cases in order to ensure judicial and juror availability.

VOP and Sentencing Hearings

The limitations related to the Postponement Judge do not apply to post-judgment collateral matters including VOP, post-conviction, *coram nobis*, sentencing or modification hearings. In these matters, the judge to whom the case is assigned may schedule and postpone them at the judge's discretion. Any hearing anticipated to last more than two hours must be cleared through the Central Assignment Office. Reopened cases for violations of probation may be initiated by a probation officer or the SAO.

Writs

In the event that a defendant is incarcerated in a facility other than the Baltimore County Detention Center, the issuance of a writ is necessary to secure that defendant's presence in Court. The Criminal Assignment Office is responsible for handling requests for writs and the issuance of writs. Once known to counsel that a writ will be needed, counsel should notify the Criminal Assignment Office with the necessary identifying information and location of the defendant by emailing (ccbaltcoclerkcriminalassignment@mdcourts.gov), calling (410-887-2694) or submitting a written request. *Pro se* defendants can use the same procedure outlined above to request a writ be issued in their case. Upon verifying a defendant's location, the Criminal Assignment Office will issue the writ. Given the variation in processing times at different County and State corrections facilities, it is imperative that counsel give the Criminal Assignment Office as much advance notice as possible, but not less than two weeks advance notice.

Requests to Strike Appearance of Counsel

Any request to strike the appearance of defense counsel must be made in the presence of the defendant in open court or in writing. Counsel must provide written notice to the defendant of the intent to withdraw his/her appearance at least ten days in advance of filing a written request to withdraw, pursuant to Md. Rule 4-214(d). All written requests to strike an appearance are forwarded to the County Administrative Judge for review. If no objection is filed and other counsel has entered an appearance, the request will be ruled upon without the need for a hearing. If the request is made by the appropriate motion and there is an outstanding bench warrant for the defendant, the request will be ruled upon without a hearing. In all other instances, when no other counsel has entered on defendant's behalf, the Motion to Strike will be set for hearing on the criminal administrative docket.

Interpreters

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If there is a need for an interpreter for a party or witness in a Criminal case, the party or his/her attorney shall promptly notify the Court by using the Request for Spoken Language Interpreter form found on the Maryland Judiciary's website here:

<http://www.courts.state.md.us/courtforms/joint/ccdc041.pdf> or, if a sign language interpreter is needed, the Request for Accommodation for Person with Disability form found here: <http://www.courts.state.md.us/courtforms/joint/ccdc049.pdf> Requests should be made no less than ten (10) days prior to a scheduled Court event, absent extraordinary circumstances. 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 or signing system that may be needed. The request must also specify for whom the interpreter is needed. The court events covered by the policy can be found here: <http://www.courts.state.md.us/courts/pdfs/interpretersforrelatedevents.pdf>

The Request for Spoken Language Interpreter form shall be filed with the Clerk's Office. The Clerk's Office shall forward the Request for Spoken Language Interpreter form to the Spanish Interpreter Coordinator in the Clerk's Office (any requests for interpreters that are filed in motion form shall also be directly forwarded to the Interpreter Coordinator immediately when filed). The Spanish Interpreter Coordinator will enter that an interpreter is an Involved Party to the case in the computer system and then coordinate with the Court Administrator's Office to ensure a certified court interpreter will be scheduled for all court events. A party, or his/her attorney, must indicate the length of the scheduled court event. Unless the Court is advised of a case's specific duration, the Court will only hire interpreters for a single morning or afternoon session.

Once an Interpreter has been appointed in a case, there is no need for the party or his/her attorney to submit a new request for each court event. Clerk's Office staff and court staff who vacate, postpone or reschedule a court event in a case where an interpreter has been appointed are required to inform the Court Administrator's Office that the event was vacated, postponed or rescheduled by sending an e-mail to CourtInterpreter@baltimorecountymd.gov.

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 it becomes necessary to cancel an interpreter for a court scheduled event, then the party or his/her attorney should complete a Cancellation of Interpreter form found here:

<http://resources.baltimorecountymd.gov/Documents/Circuit/cancelinterpreterform.pdf> and either mail it to the Court Administrator's Office (County Courts Building, Room 421, 401 Bosley Avenue, Towson, MD 21204) or send it to the Court Administrator's e-mail address here: CourtInterpreter@baltimorecountymd.gov. 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 as a result 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 manner, the Court may assess the interpreter costs against the party or counsel causing the unnecessary expense.

Baltimore County has the benefit of a Spanish-speaking interpreter who is employed by the Clerk's Office. The interpreter, or a supplemental Spanish-speaking back-up interpreter, is available on a daily basis when Court is in session. The interpreter's regular presence in the courthouse allows some Spanish-speaking matters to go forward without delay. The fact that a Spanish-speaking interpreter may be available does not obviate attorneys and parties of the requirement to make a timely request for an interpreter's presence in court by filling out and submitting the Request for Spoken Language Interpreter form.

All Tracks – 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 initiated by summons. 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

The arrest of a defendant may be based on an arrest warrant or by a peace officer 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 most often established by the peace officer. Alternatively, the SAO may investigate a case after the commission of a crime and seek an arrest warrant following indictment before the Grand Jury.

Following arrest on a warrant, the defendant must be taken before a judicial officer of the District Court within 24 hours after arrest, or if the warrant so specifies, before a Circuit Court judge without unnecessary delay and no later than the next Circuit Court session, to determine eligibility for pretrial release and provide advice of rights.

Video Review Docket

The Circuit Court schedules a daily video review docket at 9:00 a.m. before the designated Postponement Judge to conduct bench warrant, bail review and habeas hearings. This docket utilizes a video system linked to the Baltimore County Detention Center to help conserve court and jail resources. The OPD assigns a public defender to provide representation at the jail for eligible defendants who request representation at a bail or habeas hearing.

Bail in a new criminal case is initially set by a commissioner and then reviewed by a District Court judge, unless the defendant is arrested on a bench warrant issued in the Circuit Court that prohibits review by a judicial officer other than a Circuit Court judge. A defendant may seek further review of a bail set in the District Court by filing a habeas corpus petition under Md. Rule 15-303(b)(1). Any *pro se* defendant filing a habeas petition will be set promptly for hearing on the daily video review docket. A defendant filing a habeas petition through counsel will be set on a regular trial docket before a Circuit Court judge. A defendant who is arrested on a bench warrant issued by the Circuit Court is set for a bench warrant hearing on the daily video review docket within 48 hours of his/her arrest, unless the bench warrant was issued in a reopened or specially assigned criminal case. If the bench warrant was issued in a reopened criminal case, most typically for violation of probation (VOP) or in a specially assigned case, the issuing judge will be notified immediately following the arrest, so the bench warrant hearing can be scheduled on that judge's calendar.

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

PJTs and District Court appeals, primarily for misdemeanor and serious traffic cases, are a constitutionally guaranteed right for most criminal charges in Maryland. The rule-based standard threshold for a PJT is an offense which is punishable by more than 90 days in jail. Md. Courts and Judicial Proceedings § 4-302(e) (2)

A District Court defendant on misdemeanor charges can request a jury trial in an eligible case at any time during the process, up to and including the trial date in District Court. Appeals from the District Court are *de novo* trials in the Circuit Court.

Track 1 also includes post-judgment collateral matters. Most of these cases are violations of probation (VOPs) following a guilty verdict and sentencing. A case may be reopened on a motion for modification of the sentence, a motion to recall a case on the Stet docket or for an expungement request.

Filing

PJTs are filed in the District Court upon motion/verbal request of the defense. The District Court typically forwards the PJT file to the Circuit Court the same day the request is made. Appeals from District Court sentences must be filed within 30 days of entry of judgment.

Charging Document

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 appeals from a judgment.

Assignment

PJTs and District Court appeals are immediately assigned to a docket for trial according to the following guidelines:

- PJTs filed in advance of trial in the District Court are scheduled within six to eight weeks after the file is forwarded to the Circuit Court.

- PJTs made on the day of trial in the District Court with no civilian witnesses are scheduled for trial the next day in the Circuit Court. The defendant will be served in the District Court with a summons to appear the following day.
- PJTs made on the day of trial in the District Court with civilian witnesses are scheduled for trial within six to eight weeks. The defendant will be served in the District Court with a summons for the Circuit Court trial date.
- *Pro se* PJTs with civilian witnesses are also arraigned the Monday following the prayer in District Court. The defendant is served in the District Court with a summons to appear for that arraignment.
- District Court appeals are set for trial on an appeals docket within six weeks.
- Post-judgment collateral matters, such as VOPs, motions to correct an illegal sentence, and other post-sentencing proceedings, are referred back to the original assigned judge or his/her successor, and are typically scheduled for hearing within 45 days. The Circuit Court may delay scheduling a VOP hearing until other pending matters are resolved.

Arraignment

An arraignment is scheduled on the criminal administrative docket in PJT cases with civilian witnesses if the defendant is not represented by counsel in the District Court.

Discovery /Motions Hearings

For most PJTs and District Court appeals, formal discovery requests are not filed, as discovery was previously provided in the District Court. An exception exists when a defendant or defendant's counsel demands a jury trial in writing pursuant to Md. Rule 4-301(b)(1)(A). When this occurs, formal discovery is conducted in the Circuit Court pursuant to Md. Rule 4-301(c). Any mandatory motions in a PJT or District Court appeal must be filed within 30 days after the earlier of the appearance of counsel or the first appearance of the defendant, except when discovery discloses the basis for the motion, in which case motions are to be filed within five days after discovery is furnished, pursuant to Md. Rule 4-252. In District Court cases where a jury trial is prayed in open court, any mandatory motions will be heard upon transfer to the Circuit Court. While non-mandatory motions may be filed at any time, they should be filed in advance of trial in accordance with Md. Rule 4-252(d).

Trial

For PJTs, upon transfer to the Circuit Court the appearance of the attorney of record in District Court is automatically entered in the Circuit Court case. Md. Rule 4-214(a). For District Court appeals, an attorney's entry of appearance is automatically entered in the Circuit Court case only if he/she was the attorney responsible for filing the underlying appeal in the District Court.

Since the implementation of next-day PJT process in May 2016, most PJTs and District Court appeals are resolved by plea. PJT cases are set on Track 1 (misdemeanor) dockets, with a target range of 20 to 22 cases per docket. Next day cases will be added to the docket as needed. District Court appeal cases are set on a separate docket on alternating Fridays. The District Court appeal docket will typically be assigned to the designated Postponement Judge.

Sentencing

In the majority of Track 1 cases, a sentence is imposed by a judge immediately following adjudication. However, a judge may order a pre-sentence investigation (PSI), a Md. Health Gen. Code Ann. ("HG") 8-505 assessment of drug and/or alcohol treatment needs or a psychiatric evaluation to assist with sentencing decisions. In these instances, the sentencing hearing will be postponed approximately 45 to 60 days.

Violation of Probation (VOP) hearings

VOP hearings are heard by the sentencing judge² or his/her successor. Since VOPs often occur as the result of the commission of a new offense, the defendant, counsel and the prosecutor often seek to consolidate the VOP with a plea on the new offense. Coordinating plea and VOP hearings is problematic, since the VOP must presumptively be heard by the original assigned judge. The CCM can assist counsel to facilitate consolidation. The judge handling the VOP can agree to accept the plea on the new offense, or alternatively, with the agreement of the VOP judge and consent from the defendant, the VOP case can be consolidated with the plea on the new offense. The CCM is responsible to ensure there is approval from the involved judge(s) and to coordinate rescheduling with the Criminal Assignment Office. If after sentencing a subsequent VOP occurs, the case will be set on the docket of the judge who most recently sentenced the defendant.

Tracks 2 and 3 – Basic and Complex Felony Cases.

² Md. Rule 4-347(e). The wording of the rule is that "whenever practicable, the hearing shall be held before the sentencing judge."

Circuit Court Tracks 2 and 3 are felony cases under the jurisdiction of the Circuit Court. All of these cases are initiated in the Circuit Court by the SAO or Maryland Attorney General's Office 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 Grand Jury for an indictment.

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 is advised of the nature of the charges, the possible consequences, and their right to a preliminary hearing. The District Court also conducts a hearing to determine whether the defendant should be held in custody or released on bail or other condition to ensure their appearance at subsequent 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 SAO. In Baltimore County, most felonies are indicted by the Grand Jury.

Following indictment, either a summons or writ is issued to schedule the defendant for arraignment or a bench warrant is requested, pursuant to Md. Rule 4-212. A bench warrant may be issued based upon a finding of probable cause and that there is a substantial likelihood that the defendant will not respond to a summons. A bench warrant may also be issued for a defendant in custody for 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 the right to appear before a judicial officer to determine eligibility for release, the right to a lawyer, and representation through the OPD, 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.

Arraignment

An arraignment is required in Circuit Court unless waived by the entry of an appearance by defense counsel. An arraignment is scheduled by summons issued to the defendant immediately after charges are filed unless the defendant is in Baltimore County's custody. In this case, an arraignment is set on the next video review docket. If the defendant is in custody elsewhere, a writ will be issued.

The purpose of the arraignment is to:

- inform defendant of charges and the possible consequences;
- ensure that defendant has a copy of the charging document; and
- advise the defendant of the right to counsel and potential right to representation through the OPD.

At the arraignment, the judge will provide information to the defendant concerning the location of the OPD and the time needed to complete the OPD application process. An information sheet is provided if the defendant is arraigned in open court. Additionally, a form is provided to defendants upon their release from the jail with a map to the Baltimore County Office of the Public Defender and instructions regarding necessary documents to bring to the OPD in order to secure representation.

Once the defendant is arraigned, he/she will be given notice to appear at a re-arraignment hearing on the administrative criminal docket in three weeks. If counsel enters an appearance on behalf of the defendant in advance of that hearing, it will be vacated. At the subsequent re-arraignment hearing, the Court will review the efforts of the defendant to obtain counsel. Unless the defendant states a clear intent to waive counsel, the case will be set once again in three weeks for a re-arraignment hearing, which will be vacated if counsel enters an appearance. If the defendant is still without counsel without satisfactory explanation at the third hearing, or if the defendant states an intent to proceed without counsel, an initial waiver of counsel hearing will be conducted pursuant to Md. Rule 4-215. If the defendant expressly waives his/her right to counsel, or does so by inaction, the SAO will serve discovery on the defendant in open court as required pursuant to Md. Rule 4-263 and the case will be set for trial.

Discovery

While not considered a significant event in terms of the use of judicial time, discovery and the issues surrounding it are critical to early plea negotiations, docketing of dispositions, 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. In Baltimore County, the plea docket (discussed below) is an early disposition opportunity utilized by the SAO in collaboration with the Circuit Court and the defense bar.

Assignment and Scheduling

The trial date must be set within 180 days after the entry of appearance of counsel or the first appearance of the defendant, whichever comes first, pursuant to Md. Rule 4-271. When the trial date is set at the arraignment, the defendant is served with a summons to appear. If the arraignment has been waived for defendants represented by counsel, a summons is served by mail or in person for the next scheduled event. In Baltimore County, the following guidelines apply for the assignment and scheduling of felony cases:

- All felony cases are set for an arraignment within 30 days of filing unless an attorney has entered his/her appearance with the Circuit Court as part of the filing process. An attorney may enter his/her appearance up to and including the first arraignment hearing. If an attorney enters his/her appearance, the arraignment is waived.
- All cases are set for trial at the arraignment or within 30 days of the entry of appearance by counsel.
- Track 2 felony cases are scheduled for a trial date within 120 days. No specific judge is assigned to hear the case until the day before the trial date.
- Track 3 cases are specially assigned to a trial judge by the County Administrative Judge. If the defendant is not already represented by counsel, the assigned judge will promptly set the case for arraignment. A scheduling conference will be set by the assigned judge within 30 days of assignment, and a motions and trial date will be selected at that time.

Motions Hearings

Motions hearings may be heard in court or decided by a judicial ruling without a hearing. A response to a motion, if made, must be filed within 15 days after service of the motion, pursuant to Md. Rule 4-252(f). Hearings 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.

Dispositive and evidentiary motions must be heard in open court. In Baltimore County, counsel are strongly encouraged to litigate motions in advance of the trial date to avoid delays in jury selection,

thereby potentially lengthening the time required for juror service. Motions filed in advance of trial that require a hearing will be scheduled on an afternoon motions docket, with the exception for motions to transfer to juvenile court, which will be set on the morning criminal docket. A motions hearing date should not be requested unless counsel believes there are motions to be litigated. If a motions hearing date is set and no written motion is filed, the hearing will be vacated. The judge that hears the motion may not be the judge who is ultimately assigned as trial judge.

Mandatory motions 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 review and filed within five days of receipt of discovery, pursuant to Md. Rule 4-252(a). 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; and
- 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. Motions to transfer to juvenile court are immediately forwarded to the County Administrative Judge so that a waiver summary is ordered from the Department of Juvenile Services. Transfer motions are set on the morning docket so that, in the event a transfer is ordered, a juvenile petition can be filed and the respondent can be scheduled for a detention hearing on the same day so as not to risk unnecessary detention.

Plea Negotiations, Early Resolution and the Plea Docket

Plea dockets are scheduled every Wednesday and Thursday of each week before an identified group of plea docket judges. In order to schedule a case on the plea docket, counsel should call or email the CCM and coordinate a date for a hearing. The case is set on the plea docket based on the scheduling preferences of counsel; however, cases must be added on to the plea docket at least one day before the scheduled trial date. Additionally, at least ten business days advance notice is required if a writ is required to transport the defendant from a facility other than the Baltimore County Detention Center. Plea negotiations between the SAO and defense counsel may occur at any time in the process. While

most cases are resolved on the date of trial, early negotiation and pretrial case resolution are strongly encouraged. If a plea is reached in a Track 2 case in advance of trial, it is placed on the plea docket by contacting the CCM. Any plea in a Track 3 case is heard by the assigned judge.

Trial - Track 2

Track 2 felony trials are assigned a trial date following the entry of appearance by counsel, or at a re-arraignment hearing if the defendant waives counsel. The Criminal Assignment Office will contact counsel in an effort to obtain a mutually agreeable trial date. If counsel do not respond to the Criminal Assignment Office within five business days, a date will be assigned based upon the Court's schedule. Absent good cause, the trial date should be set within 120 days of the entry of appearance by counsel.

Track 2 cases are scheduled on a trial docket. Judges are assigned to these dockets one day before trial. The docket judge will conduct the plea and sentencing proceeding for any case on the docket that is resolved without the need of trial. If a trial election is made in open court, counsel should advise the docket judge by 10:00 a.m. so the Central Assignment Office can refer the matter to the appropriate trial judge. If an election is known in advance of the trial date, the Central Assignment Office should be notified immediately to ensure appropriate resources will be available. Counsel should notify the docket judge of the estimated length of trial, whether it will proceed by court or jury, and the number of strikes needed for a jury trial.

Postponements on the day of trial are strongly discouraged. Any postponement will be heard by the designated Postponement Judge. If a postponement is granted, a new trial date will be assigned, with a copy of the notice served upon the defendant in open court. If the postponement is denied, the case will return to the original docket judge for trial.

Trial- Track 3

Murder and manslaughter cases, along with cases arising out of a wiretap, are automatically assigned to Track 3. Other complex cases, such as those requiring extensive expert testimony or protracted multi-defendant cases, may be assigned to Track 3 by the Administrative Judge sua sponte or based on a request by counsel.

The SAO notifies the County Administrative Judge when a murder, manslaughter or wiretap case is indicted, and the Track 3 case is then assigned to a judge. The assigned judge will set a Scheduling

Conference within 30 days to set both a motions and trial date. Modifications to the case schedule, including changes to any motions dates, are handled by the assigned judge. Any request to postpone the trial date is referred back to the County Administrative Judge.

Sentencing

In many instances, sentence is imposed by the assigned judge immediately following adjudication. However, a judge may order a PSI, a Md. Health Gen. Code Ann. (“HG”) 8-505 assessment of drug and/or alcohol treatment needs, or a psychiatric evaluation to assist with a sentencing decision. In those instances, the sentencing will be postponed approximately 45 to 60 days.

Maryland Automated Guidelines System (MAGS)

In most Track 2 cases and in all Track 3 cases, the SAO is required to initiate a MAGS worksheet, to determine the sentencing guidelines that apply in the case. A printed copy of the MAGS worksheet must be provided to the assigned judge at the time of sentencing, and the judge will complete the MAGS worksheet following the sentencing hearing. In order to complete the MAGS worksheet, time spent in custody must be subtracted from the sentence imposed to compute the remaining sentence. Any dispute concerning the sentencing credit should be resolved at the sentencing hearing. The CCM works with involved parties to ensure 100% compliance with Baltimore County’s MAGS reporting requirements.

Post-Judgment

Post-judgment actions may include the following:

- **Appeal** – An appeal of a judgment or a request for leave to appeal following a plea must be filed within 30 days of issuance of the final judgment, pursuant to Md. Rule 8-202.

- **Motion for Modification of Sentence** – A motion for modification of a sentence pursuant to Md. Rule 4-345(e) may be filed within 90 days after the imposition of a sentence; however, an illegal sentence can be corrected at any time, pursuant to Md. Rule 4-345(a). A sentence modification is assigned to the original sentencing judge. A hearing must be held, with notice provided to any victim, in order for the Court to modify a sentence.

- **Request for Review of Sentence by Three Judge Panel** – An application for sentence review must be filed within 30 days after imposition of a sentence, pursuant to Md. Rule 4-

344(f). The County Administrative Judge will assign the panel of review, which cannot include the sentencing judge. A hearing must be held, with notice provided to any victim, in order for the panel to modify the sentence.

- **Post-Conviction Petition** – A petition for post-conviction must be filed within ten years of the date of judgment. However pursuant to *Lopez v. State*, 205 Md. App. 141 (2012), the ten year time limit does not apply to sentences imposed before October 1, 1995. The petition will be specially assigned to a judge and cannot be assigned to the original trial or plea judge. A hearing must be scheduled on any post-conviction petition unless the State stipulates that the facts alleged in the petition are true and consents to the request for relief, pursuant to Md. Rule 4-406.
- **Petition for Writ of Error *Coram Nobis*** – A *coram nobis* petition filed under Md. Rule 15-1202 will be referred to the original trial judge, if that judge is still an active judge. If not, the case will be specially assigned to an active judge.
- **Petition for Writ of Actual Innocence** – A petition for writ of actual innocence will be referred to the original trial judge, if that judge is still an active judge. If not, the case will be specially assigned to an active judge. Under Md. Rule 4-332(c), a petition for writ of actual innocence can be filed at any time.

Expungements

Pursuant to Maryland Criminal Procedure § 10-105, an individual charged with a crime can petition to have a police record, court record, or other record maintained by the State expunged in the following situations: individual was acquitted; charges were dismissed; successfully completed a probation before judgment (except charged with a violation of § 21-902 of the Transportation Article or Title 2, Subtitle 5 or § 3-211); case was a not prosecuted (*nolle prosequi*); case was not prosecuted (*nolle prosequi*) due to successful completion of drug or alcohol treatment; case was indefinitely postponed on a Stet docket (see Maryland Criminal Procedure § 10-105(a) for additional qualifying events as this list is not exhaustive.) Individuals with subsequent convictions for offenses other than minor traffic or new pending charges are likely ineligible for expungement. If the case also satisfies the Time of Filing requirements found in § 10-105(c), the petition can be filed in the Circuit Court if the case originated there or if the case was transferred to the Circuit Court from the District Court.

Upon receipt of a valid petition for expungement, the Circuit Court shall serve a copy on the SAO. The SAO shall have 30 days to respond by filing an objection. If the SAO files an objection, the matter will be set for hearing. If no objection is received within 30 days of service on the SAO, the petition is referred to a designated expungement judge to enter an order requiring the expungement of all police and court records related to the charge, pursuant to Maryland Criminal Procedure § 10-105(d)