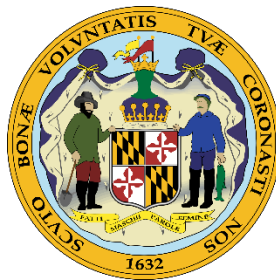


# Criminal Differentiated Case Management Plan

June 10, 2019 (Revised)



*Circuit Court for Worcester County, Maryland*

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## 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 actions 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

Criminal Court is scheduled for the first two weeks of each month. Jury trials are scheduled Mondays through Thursdays, and violation of probation hearings are set on Fridays. Motion hearings, bond hearings, and sentencing hearings are scheduled on various days during criminal court. Initial appearance hearings are set on Wednesday.

## Case Types Summary

The differentiated case management (DCM) plan for Circuit Court criminal casetypes includes both misdemeanor and felony cases. Circuit Court criminal case processing in Maryland is complex and involves multiple stakeholders, courts, and agencies. Most cases begin with a complaint filed in the District Court for one or more charges, which include a misdemeanor(s) or felony(s). For some felonies, such as homicides, an investigation may occur and an arrest made after an indictment by a grand jury. For these cases, the defendant may still first be brought before a District Court judge.

Misdemeanor cases are predominantly heard in the District Court and are filed in Circuit Court on a prayer for jury trial or an appeal of a District Court judgment. If a jury trial is prayed or an appeal is filed by the defendant in District Court, the case must then 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 day of trial, if not formally waived. 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. Appeals from the District Court are “de novo” (a new trial on the merits) in the Circuit Court.

Jury trial prayers (JTPs) 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 in order to be entitled to a jury trial in District Court is that it must be an offense that is punishable by more than 90 days in prison at the District Court level.

Felony cases that typically originate in the District Court and are filed as an indictment or information in the Circuit Court by the State’s Attorney.

## Case Events

### 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 on rare occasions 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 initial 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 of these cases will only reach the Circuit Court upon a jury trial prayer or appeal from District Court. A small number of felony charges may be initiated by summons.

### Arrest Cases

Arrests may be made of defendants based on an arrest warrant or “on-view” witness of the offense or a police 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 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.

### Filing in the Circuit Court

Cases in which a jury trial has been prayed in the District Court (JTPs) are filed with the Circuit Court by the District Court upon motion/verbal request in open court of the defendant. The District Court usually files a jury trial prayer in Circuit Court within 30 days of a request. Appeals from District Court must be filed within 30 days of entry of a judgment or order.

Petitions for violations of probation are normally filed by a probation officer. Worcester County considers a probation case as an open case until probation is terminated.

### State's Attorney

A charging document filed in the Circuit Court may be:

- Criminal information (felonies or misdemeanors);
- Criminal indictment (typically for felonies); or
- A District Court charging document for an offense on which the defendant demands a jury trial or appeal from judgment.

### 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 determine 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.

In most Indictment cases, an investigation is conducted by the State's Attorney's Office 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.

## Assignment

Following filing, JTPs and District Court appeals are immediately assigned to a specialty docket for trial according to the following guidelines:

- All JTPs and District Court appeals are scheduled for trial within 30-60 days.
- Reopened and VOP cases are generally assigned to the original active judge, and scheduled for a hearing within 30 days. The Circuit Court may delay the scheduling of a hearing in order to ensure that an omnibus hearing addresses any other VOPs or new charges that may have been filed against a defendant.

## ■ Diversion or Early Resolution

Diversion or early resolution may occur at the discretion of the State's Attorney with concurrence of the defendant and/or victim.

## Arraignment

Arraignments/Appearances are held for JTPs and incarcerable offense, District Court appeals, if no defense attorney appearance is entered in the case.

An Arraignment/ 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, or appears by written notice of counsel following a summons. The purpose of the Arraignment is to:

- Inform defendant of charges;
- Ensure that the defendant has a copy of the charging document; and
- Inform the defendant of his right to an attorney.

At the Arraignment/Appearance, if the defendant does not have counsel, the judge will advise him or her of the right to and location of the 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 (Md. Rule 7-107 (2)).

By rule, the trial date must be scheduled within 30 days after the entry of appearance of counsel or the first appearance of the defendant, whichever comes first.

## Discovery

For most JTPs and District Court appeals, formal discovery is not required since discovery took place in the District Court. Motions filed in reopened cases are typically for bail review.

## Bond Review

Bond review hearings are scheduled for the next session of court following an arrest or warrant service.

## Motions Hearings

Motions hearings may be heard in court or decided by a judicial ruling based on the written motions of counsel, without a hearing. 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 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, and
- Request for joint or separate trial of defendants or offenses.

A motion for the transfer of jurisdiction to Juvenile Court must be filed separately and is considered waived under the same time restrictions as mandatory motions.

## Plea Negotiations

Plea negotiations between the State's Attorney's Office and defense counsel may occur at any time in the process.

## Pretrial Status Conference (PSC)

In Worcester County, Pretrial Status Conferences are discretionary for non-violent felonies, and violent felonies, as determined by the assigned judge.



## Trial

Trials are conducted by the presentation of the State's case and a presentation of the defense's case and decided on the merits of the case. Jury trials may take precedent over other cases assigned to the same court room at the Court's discretion.

## Sentencing

For some cases, both pleas and trials, and depending on the status of the defendant, a sentence may be imposed by a judge immediately following disposition. Judges may also order a Pre-Sentence Investigation (PSI) to help make a sentencing decision. For reopened cases, final orders may include a modification of a prior sentence, or other outcome, as determined by a judge.

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 for the specific case in which the defendant is being sentenced will be credited toward any sentence that includes incarceration. If a pre-sentence 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 the Division of Corrections.

## Post-Judgment – All Casetypes

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 in District Court (if no appeal) or Circuit Court. A sentence modification that is granted must be conducted on the record by the original sentencing judge, if that judge is an active sitting judge, after appropriate notice has been sent.
- **Application for Sentence Review.** An application for sentence review must be filed within 30 days after imposition of a sentence.

- **Appeal Filed.** An appeal of a judgment must be filed with the Circuit Court within 30 days of issuance of the judgment or Application for Leave to Appeal.

### Violation of Probation (VOP) and Hearings

These hearings are very common in Worcester County. 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 if in fact the defendant is found in violation of his or her probation.

### Interpreters

If any party becomes aware of the need for an interpreter for any party or witness, the party shall promptly notify the court through the Clerk's Office by using the Request for Interpreter form, at least 30 days prior to the court date. A delay in notifying the Court of the need for an interpreter may result in the inability to proceed with the 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. The interpreter will submit an invoice for approval. Once signed by the court administrator, the Assignment Office is responsible for submitting the invoice to the Administrative Office of the Courts.

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 fashion, the Court may assess the interpreter costs against the party or counsel causing the unnecessary expense.

## Postponements

Pursuant to Md. Rule 4-271(a)(1) and CP§6-103(b), all postponement requests must be considered by the County Administrative Judge or his/her designee. On a motion of a party, or on the court's initiative, and for good cause shown, the court administrative judge or that judge's designee may grant a change of a circuit court trial date. If a circuit court trial date is changed, any subsequent changes of the trial date may be made only by the county administrative judge or that judge's designee for good cause shown. In ruling on postponement requests, Worcester County Circuit Court judges shall consider the case time standards for processing cases, as well as the Hicks Rule. The First Judicial Circuit has a postponement policy which includes the following requirements for litigants requesting a postponement:

- Requests shall be made as soon as counsel/party finds that a reason for postponement exists.
- Requests, except those involving an emergency shall be made within five days of the receipt of the assignment notice.
- Requests made prior to the hearing or trial date shall be made in writing, noting a copy has been forwarded to all parties.
- Requests shall include a statement that indicated the opposing party's/parties position on the request of postponement.
- Requests shall also include two suggested dates that have been agreed upon by the parties and assignment office within the time limits of the case time standards and the Hicks Rule.

### VOP and sentencing hearings postponements

Postponement 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 the case in the judge's discretion.

## 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 administrative judge or his/her designee. The defendant shall be present in open court and written waivers will not be accepted.

Please see the “Postponement/Continuance Policy-First Judicial Circuit” for the complete policy on postponements and continuances.

## Adult Drug Court

Persons may be accepted to Drug Court as a condition of their probation if they meet the qualifications as identified in the Drug Court Policies and it is ordered as a condition of probation by the sentencing judge.

## Remote Hearings

Pursuant to the Maryland Court Rules, Title 21, Remote Electronic Participation in Judicial Proceedings, remote hearings are conducted at the discretion of the presiding judge. Requests for remote hearings must be submitted in writing.