



Circuit Court for Cecil County  
**Differentiated Case Management Plan**  
**Criminal Cases**

June 23, 2017



The Second Judicial Circuit of Maryland  
Circuit Court for Cecil County

KEITH A. BAYNES  
COUNTY ADMINISTRATIVE JUDGE


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ADMINISTRATIVE ORDER

In accordance with Maryland Rule §16-302(b), the Case Management Plan attached hereto shall be applied and interpreted in such a manner as to effect the prompt and efficient scheduling and disposition of all actions now pending or hereafter filed in the Circuit Court for Cecil County.

7-17-17

Date

  
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Hon. Keith A. Baynes  
County Administrative Judge  
Circuit Court for Cecil County, Maryland

## **PART VI CRIMINAL DIFFERENTIATED CASE MANAGEMENT PLAN**

### **1. General Information**

From the commencement of a criminal prosecution to its conclusion by adjudication or otherwise, 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 Circuit Court for Cecil County, not counsel or the litigants, shall control the pace of litigation. Counsel for the State and the defendant have a responsibility as officers of the Court to eliminate unnecessary delay consistent with their ethical obligations to their clients.

The goal of this plan is to comply with The Maryland Circuit Court Time Standard: 98% of all cases are resolved within 180 days of the defendant's first appearance in the Circuit Court or the filing of an entry of appearance by counsel.

### **2. Initial Appearances/Arraignments**

2.1 Conflict – Upon entering their appearance in a criminal matter the attorney(s) should notify the court in writing of any defendant and/or witness(es) that have a conflicting relationship or past history with and may require recusal by any member of the bench.

2.2 Initial appearances/arraignments in indictment cases are scheduled by the Assignment Office in accordance with Maryland Rule §4-213 and this plan.

2.3 When a defendant appears, unrepresented, in the District Court and elects a jury trial he/she will be served by the District Court Clerk with a notice for an initial appearance/arraignment in the Circuit Court. The defendant must appear for initial appearance/arraignment on the specified date or a warrant will be issued for his/her arrest.

2.4 When defendant appears with counsel in the District Court and elects a jury trial he/she will be served by the District Court Clerk with a notice to appear for trial, on a specified date, in Circuit Court. The defendant must appear for the trial on that date or a warrant will be issued for his/her arrest.

2.5 When a defendant, with or without counsel, files a written election of jury trial or appeal by mail or at the District Court Clerk's counter, without appearing in court, the defendant will be notified of his or her Circuit Court appearance date by mail.

2.6 Except for the most compelling of ethical reasons, in criminal cases, appearances of counsel will not be stricken without a substitution of counsel or affirmative, voluntary, intelligent waiver of counsel by defendant. Consent of the defendant must be on the record, in open court.

2.7 Indigency reviews in criminal cases are conducted by the assigned trial judge. If the trial judge finds that the defendant is not indigent or though indigent, not entitled, on the merits, to a postponement, the trial judge may deny the relief sought as appropriate. Any trial judge may deny

a postponement and/or continuance, but only the administrative judge or the previously authorized acting administrative judge has the authority to grant one.

### 3. **Scheduling Status Conferences, Motions, Pre-Trial Conferences, and Trials**

3.1 After an initial appearance is held, or after the entry of appearance of counsel for the defendant, the case is forwarded to the Assignment Office for scheduling in accordance with Maryland Rule §4-271. If any party wishes to reschedule this event date, they must contact all opposing parties and arrange a conference call with the Assignment Office within 15 calendar days of the date of the notice to set a new date. If a request to reschedule the event is more than 15 calendar days from the date of the notice, a postponement request must be filed in accordance with MD Rule §2-508 and the court's DCM postponement policy.

3.2 In jury prayers and appeals cases from the District Court where the defendant is unrepresented, at the arraignment/initial appearance, the Clerk shall serve on the defendant a notice to appear for a trial. If the defendant fails to appear at the trial, on the specified date, a warrant shall be issued for his/her arrest. The Assignment Office shall prepare said notice for distribution by the Clerk.

3.3 Indictment cases are scheduled within 120 days.

3.4 Jury trial prayers, and appeals from District Court, are scheduled within 90 days.

3.5 Status conferences will be held 45 days from first appearance/entry of appearance by counsel.

### 4. **Pre-Trial Conferences**

4.1 Pre-trial conferences are held in all criminal cases which are scheduled for a trial, except for jury trial prayers. The purpose is to reduce the number of juries called in unnecessarily because the defendant accepts a plea offer on the day of trial or because the jury trial will not take place due to some other reason. If a case is to proceed to trial, a pre-trial conference also allows the Judge to be sure that all preliminary matters have been resolved.

4.2 The defendant is required to appear for the pre-trial conference whether or not he/she is represented by counsel. All victims and any counsel who are going to try the case, or who have authority to enter into plea agreements, are also required to appear for the pre-trial conference.

4.3 Counsel shall have discussed the case prior to coming to the pre-trial conference. The State's Attorney is required to make an offer before the pre-trial conference and to communicate with the defense. If the defendant is not represented by counsel, then the State's Attorney will communicate with the defendant directly. Defense counsel shall explain the offer to his/her client and make a decision on whether or not to accept the State's Attorney's offer before the pre-trial conference.

4.4 At pre-trial conference, counsel are required to inform the judge how the case will be resolved. If the case will be resolved without trial, the resolution should be put on the record immediately. If no agreement has been reached the pre-trial conference judge shall inquire into the communications between the parties and the reasons for non-agreement.

4.5 If a jury case settles for any reason before trial, counsel must inform the court at least 24 hours prior to the scheduled date and time for trial not to call in jurors. Failure to do so will expose counsel to appropriate sanction(s).

## 5. **Trial**

5.1 Requests for voir dire questions, with witness lists, shall be filed by counsel no later than the day preceding the start of the trial.

5.2 In cases where the defendant wishes to enter a guilty plea, counsel is expected to have reviewed with the defendant the examination of defendant, prior to the beginning of the court session.

5.3 Counsel are expected to be in the courtroom 15 minutes prior to trial to pre-mark any exhibits.

## 6. **Assignment of Trial Judge**

To the greatest extent possible, consistent with timeliness and availability of judges, the Court will assign cases for trial to the same judge who conducted the pre-trial conference.

## 7. **Postponements**

7.1 The Circuit Court for Cecil County has a strict postponement policy. This policy reflects Maryland Judicial Council's definitions, as follows:

*Postponement* – a proceeding that was not held and is being rescheduled

*Continuance* – a proceeding that has begun and is extended for additional day(s)

The purpose of this policy is to promote timely disposition and the avoidance of unnecessary delay of cases in the Circuit Court for Cecil County in accordance with the Maryland Annotated Code and the Maryland Rules of Procedure.

Postponement of any previously set court date greatly increases the court's challenge to manage its cases expeditiously. It has a rippling effect on the court staff, assignment of judicial time, and allocation of resources generally. All dates, once set, are important dates. Trial dates which extend the case duration beyond the Maryland Time Performance Standards are violations by the court of the standards. Postponements will be granted only for substantial, unforeseen and unforeseeable reasons, for which reasons the denial of a postponement would make the possibility of a fair trial remote or non-existent.

In consideration of all postponement requests, the court shall carefully apply all relevant sections of the Maryland Annotated Code and the Maryland Rules of Procedure, review possible effects of a postponement on the parties and witnesses, and evaluate future scheduling issues. The court will meet the Maryland Circuit Court Time Standards for processing cases. This will require a strict and uniformly applied postponement policy.

7.2 Requirements for litigants in making a request for postponement include the following:

- Requests for postponements shall be made as soon as counsel/party is aware that a reason for postponement exists.
- Requests, except those involving an emergency, shall be made within fifteen (15) days of the receipt of the Assignment notice.
- Requests made prior to the hearing or trial date shall be filed with the Clerk of the Court, and include a certificate of service.
- Requests shall include a statement that indicates the position of the opposing party and/or parties, on the request for postponement.
- Requests for postponements made by counsel as a result of a conflicting court date shall be accompanied by a copy of the assignment notice of the conflicting case. A conflicting case scheduled subsequently to the scheduling in Cecil County will not be a basis for postponement. (Court of Appeals Administrative Order)
- Unless impossible due to emergency, requests shall include an alternate date agreed upon by the parties and the Assignment Office which is within the applicable Maryland Circuit Court Time Performance Standards. No request for postponement which does not include the alternate date will be considered. Requests for postponement which include the alternate date will not, by that fact alone, be successful; the reason(s) for the postponement must still meet the other criteria set forth herein. Requests to reschedule a court date to a date sooner than the original date will be accommodated when possible.
- On its own initiative, or if all parties are not in agreement to the postponement and/or dates for rescheduling the case, the Court may act upon the request without a hearing or issue an order requiring the parties to attend a scheduling conference.

7.3 Postponement.

Except in jury trial prayers, no postponement requests in criminal cases shall be granted except by the County Administrative Judge or his/her designee, pursuant to specific written designation. In jury trial prayers, the presiding Judge may rule on postponement requests.

7.4 All postponement requests will be considered in accordance with Rule §4-271 in criminal cases, for good cause shown. The court will also apply the *Administrative Order for Continuances, for Conflicting Case Assignment, or Legislative Duties of the Court of Appeals*.

7.5 Any trial Judge or Magistrate, including a visiting Judge, has the authority to deny a postponement. Only the Administrative Judge has the authority to grant one in any case, criminal, civil, or juvenile, except pursuant to specific, advance, written authorization issued by the Administrative Judge, to grant postponements.

7.6 Requests for postponement which would take the trial date beyond the Maryland Time Performance Standard will generally be denied. Postponements will not be granted for failures of discovery, vacation or training plans made after the trial date was set or not made known to the Court when the trial date was set, conflicts with other cases set after the trial date was scheduled, and/or last minute entry of appearance by counsel which creates a conflict with a previously set case in this or another jurisdiction.

7.7 There will be no indefinite postponements of any case. If and when a postponement is granted, the Judge granting the postponement shall do so either in writing, or on the record. If the need for the postponement or continuance arises in open court or, because of emergency circumstances, an approved alternate date could not be provided in the request for postponement or continuance, the court shall direct the parties to get a new trial date from the Assignment Office before leaving the courthouse or, if, because of the emergency one of the attorneys is not present, within 48 hours.

#### 7.8 Twenty-Five Day Postponement Plan

On motion of any party for a postponement filed within twenty-five (25) days of the scheduled hearing and/or trial, such motion shall fully comply with all requirements for requesting a postponement outlined herein. Upon receipt such motion shall immediately be forwarded to the Assignment Office for verification of the proposed alternative date(s) submitted by counsel. Once the alternative date(s) has/have been verified the Assignment Office will forward the request to the appropriate judge for consideration and ruling. Opposing Counsel is encouraged to file an immediate response to the request for postponement. The Court may grant or deny such request, with or without a hearing, as justice may require.

**If a postponement is granted, all other provisions of the scheduling order shall remain in effect.**

### 8. Continuance

8.1 Trial Judges have authority to deny a continuance and limited authority to grant one.

8.2 Cases which start but do not finish as scheduled should be continued by the trial Judge to the next trial day, and from day to day thereafter until completed, unless impossible because of the unavailability of the trial Judge. The next day's dockets do not create unavailability. As soon as

the trial Judge knows the case will carry over, he or she will notify the Assignment Office so that planning for the next days' docket can commence as soon as possible.

8.3 Where a continuance is granted for a specific, substantial reason other than not finishing, it must be continued to a date certain, approved by all counsel and the Assignment Office and expressed in a written order, signed by the Judge, which date will permit the case to conclude within the original time standard (180-days) for that case.

Only the Administrative Judge has the authority to grant a continuance for any reason other than carry over if the case is already outside the applicable time standard or the continuance will cause the case to conclude beyond the time standard.

The Judge granting the continuance will communicate with Judges in other cases as necessary to deal with conflicts. Where a carried over case creates a conflict with a case scheduled for trial in another court, the Circuit Court Judge will communicate with the Judge in the other court, to reach an accommodation which creates the least inconvenience for the parties and witnesses involved in the two cases.

## 9. **Open Case Report**

At the beginning of each month the Assignment Commissioner prepares a report of all open criminal cases showing case number, initial appearance date, Hicks date, date case was set for trial, trial date and/or sentencing date. A copy of this report is promptly given to the County Administrative Judge and State's Attorney each month. The status of each case noted on this report is updated daily. Frequent review of this report by the Administrative Judge, the State's Attorneys, and the Assignment Clerk will ensure that all cases are handled properly.