

## Criminal Differentiated Case Management Plan

### **Purpose**

This Criminal Differentiated Case Management Plan (the Plan) is established pursuant to Md. Rule 16-302(b) and with the approval of the Chief Judge of the Court of Appeals in order to facilitate the fair, prompt and efficient scheduling and resolution of criminal cases in the Circuit Court for Harford County.

### **Time Standards**

Section 6-103 of the Criminal Procedure Article and Md. Rule 4-271 require criminal cases to be brought to trial within 180 days of the earlier of the entry of appearance of counsel or the first appearance of the defendant before the Circuit Court. The purpose of the rule is to avoid delays in scheduling cases and to eliminate unjustifiable postponements. Under the time standard promulgated by the Judicial Council 98% of all criminal cases shall be concluded within the 180 day window.

### **Case Management**

The County Administrative Judge has the ultimate authority and responsibility for the supervision of all aspects of criminal case management. Each of the sitting judges participates in implementation of the Plan when acting as the designee of the County Administrative Judge in ruling on requests for postponement and in presiding at scheduling conferences, pre-trial conferences, trials and hearings. The staff of the Criminal Assignment Office will identify dates for case events that are within the Plan's time standards, promulgate these dates on a daily basis to judges and attorneys, and monitor the scheduling of cases to insure that daily dockets are of manageable size. The staff of the Clerk of the Court cooperates in entering cases into the UCS system and in issuing timely notices of various case events. The Jury Commissioner summons an adequate number of prospective jurors to accommodate jury selection for each case which remains in trial posture on the trial date.

### **Case origination**

Criminal cases are filed in the Circuit Court via four different procedural paths. Pursuant to Rule 4-201, an offense may be tried:

1. on an indictment returned by a grand jury;
2. on an information filed by the State's Attorney for
  - a. a misdemeanor;
  - b. a felony within the jurisdiction of the District Court; or
  - c. any other felony and lesser included offense if the defendant requests and consents in writing to be charged by information, or if the defendant has been charged with the felony in the District Court and a preliminary hearing pursuant to Rule 4-221 either has resulted in a finding of probable cause or has been waived by the defendant;
3. on a charging document filed in the District Court for an offense within its jurisdiction if the defendant is entitled to and demands a jury trial; and
4. on a charging document filed in the District Court if the defendant has been convicted in the District Court and files an appeal to the Circuit Court.

In general, criminal cases which originate in the Circuit Court involve more serious charges, are more complex in their preparation and presentation, and, therefore, require more time to conclude than the prayers for jury trial and appeals from the District Court. The initial scheduling targets and re-set windows for the different categories of cases reflect this reality. Once filed in the Circuit Court, criminal cases proceed under four different tracks.

## **Track I - Indictments and Informations**

### **Case initiation**

The State's Attorney formally charges the defendant by presenting the case to the grand jury, which meets every two weeks, or by preparing a criminal information. The State's Attorney files the indictment or information and a completed case information form (which details the estimated length of trial, number of peremptory challenges, need for an interpreter and other pertinent case information) with the Clerk. The State's Attorney

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distributes copies of the indictment/information list to the Criminal Department of the Clerk's Office and to the Criminal Assignment Office. The Criminal Department enters each case in UCS and assigns a case number.

### **Initial Appearance**

When the defendant has been served with an arrest warrant which has been issued by the Circuit Court pursuant to Rule 4-212(e) or (f)(2), a hearing is scheduled before the administrative judge or the primary criminal judge at 2:30 P.M on the next court day following service of the warrant. The judge informs the defendant of each offense charged; insures that the defendant has a copy of the charging document; determines the defendant's eligibility for pre-trial release pursuant to Rule 4-216; and, if the defendant has no attorney or has an attorney for the pre-trial release hearing only, advises the defendant of his right to counsel and complies with Md. Rules 4-213 and 4-215. A scheduling conference is set for 8:30 a.m. on the fourth Monday following the filing of the charging document; the defendant is served with notice of the scheduling conference date at the pre-trial release hearing.

When the State's Attorney does not request an arrest warrant pursuant to Md. Rule 4-212(d)(2), the Clerk issues a summons pursuant to Md. Rule 4-212(b) which requires the defendant to appear in the Circuit Court for an arraignment and a scheduling conference at 8:30 a.m. on the fourth Monday following the filing of the charging document. If counsel enters an appearance in writing before that date, the defendant need not appear for arraignment, but the attorney must attend the scheduling conference, unless otherwise excused in accordance with the protocol set forth below. If no attorney enters, the judge who oversees the scheduling conference conducts a hearing on the record to advise the defendant of his right to counsel and to comply with Md. Rules 4-213 and 4-215. The defendant is ordered to return for re-arraignment at 8:30 a.m. on Monday two weeks later. The defendant may be excused from the re-arraignment if an entry of appearance from an attorney is received prior to the re-arraignment hearing.

### **Scheduling**

The designee of the administrative judge, assisted by the Criminal Assignment Clerk, conducts a scheduling conference at 8:30 a.m. on the fourth Monday following the filing of the indictment or information. In compliance with Md. Rule 4-271, the conference to select a trial date is conducted within 30 days of the earlier of the defendant's initial appearance in the Circuit Court or defense counsel's entry of appearance.

In preparation for the scheduling conference, the staff of the Criminal Assignment Office identifies the 180th day following the date of the defendant's initial appearance in court pursuant to Md. Rule 4-213 or defense counsel's entry of appearance, whichever is earlier, and assembles a list of available dates which will permit the case to be concluded within the time frame established by Md. Rule 4-271 and the time standards established by the Judicial Council. The assigned prosecutor and attorney for the defendant are required to attend the scheduling conference and must have available not only their own calendars, but also those of the defendant and any witnesses or other individuals who are necessary for a motions hearing or trial on the merits. Counsel agree on dates for the following:

- (1) pre-trial motions hearing;
- (2) pre-trial conference (primary docket);
- (3) trial;
- (4) reserve pre-trial conference (primary docket) date; and
- (5) reserve trial date.

- (1) Pre-trial motions. The State and the defendant respectively file State's initial discovery and defense mandatory motions pursuant to Md. Rule 4-252 within 30 days of the earlier of the entry of appearance of counsel or the first appearance of the defendant.

- (2) Pursuant to Md. Rule 4-213(c). In order to permit necessary preparation and the issuance of witness subpoenas, the pre-trial motions hearing is scheduled 60 days from the entry of appearance of counsel or the first appearance of the defendant.
  - a. If a plea agreement is reached, the motions hearing date may be used for a guilty plea and sentencing hearing.
- (3) Pre-trial conference (primary docket). The pre-trial conference is scheduled before the primary docket judge on the court day immediately preceding the trial date. A subpoena or writ is issued for the defendant. The defendant and/or defense attorney and the assigned prosecutor insure that all individuals necessary to negotiate a resolution of the case short of trial are present in court.
- (4) Trial. The initial trial date is set 120 days from the earlier of the entry of appearance of counsel or the first appearance of the defendant pursuant to Md. Rule
- (5) 4-213(c). All witness subpoenas for trial are issued for this date.
- (6) Reserve pre-trial conference date. The reserve pre-trial conference is scheduled before the primary judge on the court day immediately preceding the reserve trial date. A subpoena or writ is issued for the defendant. The defendant and/or defense attorney and the assigned prosecutor insure that all individuals necessary to negotiate a resolution of the case short of trial are present in court.
- (7) Reserve trial date. The reserve trial date is set 170 days from the date of the earlier of the entry of appearance of counsel or the first appearance of the defendant pursuant to Md. Rule 4-213(c). No subpoenas for witnesses are issued for this reserve trial date unless and until the initial trial date is postponed for good cause by the administrative judge or the administrative judge's designee.

A scheduling order incorporates the agreed dates for the case events set forth above and is signed by the prosecutor, the defense attorney and, if represented and present or if unrepresented, the defendant. As the parties are afforded considerable latitude in the selection of the dates for case events, the Court expects the defendant, the attorneys, and the witnesses to be available as scheduled. Counsel must obtain the commitment of their

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witnesses for the full time frame which any hearing or trial will require, i.e. if a trial is expected to require three days of trial time, all witnesses are expected to be available to testify at whatever point they may be called during the full three days.

If the State and the defense reach a plea agreement following the date for pre-trial motions and wish to conclude the case in advance of the date for the pre-trial conference, counsel may ask the Criminal Assignment staff to add the case for the purpose of a guilty plea and sentencing to an earlier primary criminal docket on a date which is mutually agreeable to the attorneys.

The prosecutor and the defense attorney may agree in advance to dates for the five case events set forth above and may submit a proposed scheduling order to the Criminal Assignment staff, who will then verify that the dates chosen meet the time standards and may excuse the attorneys and the defendant from attending the scheduling conference.

### **Discovery**

The State provides to the defense initial discovery pursuant to Rule 4-263(d) within thirty (30) days after the earlier of the appearance of counsel or the first appearance of the defendant before the court pursuant to Rule 4-213(c).

The defense provides to the State initial discovery pursuant to Md. Rule 4-263(e) no later than 30 days before the first scheduled trial date.

The State and the defense supplement discovery as needed in accordance with the continuing obligation to produce discoverable material and information to the opponent pursuant to Md. Rule 4-263(j).

### **Pre-trial motions**

Mandatory motions pursuant to Md. Rule 4-252(a) and motions to transfer to the juvenile court pursuant to Md. Rule 4-252(c) shall be filed within 30 days after the earlier of the appearance of counsel or the first appearance of the defendant before the court pursuant to

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Md. Rule 4-213(c). A response, if made, shall be filed within 15 days after service of the motion.

A motion to compel based on the failure to provide discovery shall be filed within 10 days of after the date the discovery was due. A motion to compel based on inadequate discovery shall be filed within 10 days after the date the discovery was received.

Pre-trial motions are heard as set in the scheduling order. If a hearing is required for motions which are filed after the motions hearing date for the case, the Criminal Assignment office will coordinate a date in advance of the scheduled trial date.

Motions *in limine* regarding evidentiary and logistical issues for trial are brought to the attention of the primary judge at pre-trial conference and are decided by the trial judge.

#### **Pre-trial Conference/ Primary Docket**

On Monday through Friday, the primary criminal judge presides over the pre-trial settlement conference docket of cases which are scheduled for trial the following day. For ease of reference, this pre-trial conference docket is known as the primary docket and the judge who presides is referred to as the primary judge. The primary judge is also the administrative judge's designee for criminal postponements for that day.

All attorneys and defendants arrive at the courtroom promptly at 8:30 a.m., confer with one another if necessary, and are ready for the docket call to begin promptly at 9:00 a.m. The primary judge calls every case at 9:00 a.m. When called on, counsel and self-represented defendants state briefly whether the case 1) involves a postponement request; 2) may be resolved in a brief hearing on the record by *nolle prosequi* pursuant to Md. Rule 4-247, by indefinite postponement (marking the case "stet" on the criminal docket) pursuant to Md. Rule 4-248 or other abbreviated disposition; 3) whether a plea agreement has been reached; 4) whether discussion with the Court would assist with plea

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negotiations; or 5) whether the case is definitely in trial posture and is ready to proceed to trial as scheduled on the following court day.

The primary judge then prioritizes the cases in the order each will be called on the primary docket with a view to moving through the cases to be addressed efficiently so that court time is used effectively and counsel may be released in a timely manner. Generally, the primary judge first calls on the record and addresses the cases in categories (1) and (2) (see preceding paragraph) which may be resolved with a brief hearing. The trial judge then meets with counsel in the cases in which a plea agreement has been reached and then conducts the plea hearing and sentencing on the record.

The primary judge conducts a pre-trial conference with counsel in the cases which remain in trial posture. If counsel indicate that the judge's input might assist in the resolution of the case, the judge participates in discussion of a possible plea agreement. If a resolution is not reached, the judge reviews all items on the trial readiness checklist with counsel (discovery is completed; motions requiring pre-trial ruling have been resolved; availability of all witnesses has been confirmed; good faith plea negotiations have proved unsuccessful; both sides are prepared for trial; special needs such as for an interpreter or particular courtroom equipment have been addressed), discusses any evidentiary or logistical issues, and instructs counsel to present their *voir dire*, motions *in limine* and proposed jury instructions to the trial judge by the end of the day.

The primary judge prioritizes the cases for trial the next day after considering factors such as the age of the case, whether the defendant is incarcerated while awaiting trial, the seriousness and complexity of the case and any special witness or logistical issues.

## **Trial**

On Monday through Friday, whenever possible, two judges are available to preside over trials.

Prospective jurors report to Jury Assembly Room at 8:00 a.m. The jury commissioner conducts orientation and dispatches the necessary panels to the trial courtrooms by 9:00 a.m. The courtroom clerk calls the roll and assigns numbers to the prospective jurors.

In order to accommodate prospective jurors with child care or other issues which make the 8:00 a.m. report time problematic, an online orientation and/or afternoon orientation session in advance of the report day is offered by the jury commissioner. Jurors who have verified their completion of the orientation in advance are permitted to report at 8:45 a.m. and are sent directly to the courtroom.

The prosecutor, defense attorney and defendant for each case which remains in trial posture following the pre-trial conference on the preceding day (primary docket) report for trial to the courtroom designated on the trial docket. Witnesses are in the courthouse or on standby and are available to report promptly for their testimony.

At 8:30 a.m., the trial judge meets with counsel to discuss *voir dire* and any motions *in limine* and to sign any necessary clothing order for the defendant.

Trial begins at 9:00 a.m.

Any defendant who elects to accept a plea offer on the morning of trial which was declined the previous day at the pre-trial conference proceeds with the guilty plea before the trial judge, if that case is the only case remaining on the docket for trial. If there are other cases for trial, the case in which the defendant is electing to plead guilty is returned to the primary judge for the plea and the trial judge moves to the next case for trial. If there are more cases in trial posture than there are available trial judges and courtrooms, trial begins in the case(s) with the highest priority and the remaining cases return to the primary judge for postponement.

### **Sentencing**

When a case is resolved by a guilty plea, sentencing typically takes place at the same hearing. When a judge or jury returns a guilty verdict following a trial, sentencing immediately follows, if appropriate. When a pre-sentence investigation is requested or a deferred sentencing date is requested and deemed to be appropriate in the discretion of the sentencing judge, the judge schedules sentencing in accordance with the calendars of all necessary participants.

Motions for new trial or to set aside a guilty plea are scheduled before the judge who presided at trial or who accepted the guilty plea.

### **Post-trial hearings**

Judges schedule post-verdict motion (motion for new trial and motion to withdraw a guilty plea), violation of probation, deferred sentencing, sentence modification and post-conviction/ petition for writ of error *coram nobis* hearings in the afternoon on their primary docket days and on two to three full-day motions dockets per month during their weeks as a trial judge in the criminal rotation. The proximity of one of these one-day

dockets for post-trial hearings does not render a judge assigned to the criminal trial rotation unavailable to begin a trial.

## **Track II - Prayers for Jury Trial from the District Court**

### **Case initiation**

Pursuant to Md. Rule 4-301, a demand in the District Court for a jury trial is made either in writing no later than 15 days before the scheduled trial date or in open court on the trial date by the defendant or the defendant's counsel. In either circumstance, the Administrative Clerk of the District Court promptly transmits the file to the Clerk of the Circuit Court.

When a defendant who is not represented and is not in custody prays a jury trial in advance of the trial date, upon receipt of the file from the District Court, the Criminal Assignment Office in the circuit court issues to the defendant a summons for arraignment as well as a summons for initial pre-trial conference. When an attorney prays a jury trial in advance of the District Court trial date on behalf of a defendant who is not in custody, the Criminal Assignment Office notifies the attorney of the initial pre-trial conference date and issues a separate summons to the defendant for that date.

When a self-represented defendant prays a jury trial on the trial date in District Court, the courtroom clerk and/or bailiff in the District Court serves on the defendant a circuit court summons for separate dates for arraignment and for initial pre-trial conference. The defendant signs the summons to acknowledge notice of both dates.

When counsel prays a jury trial on the trial date in District Court on behalf of a defendant, the courtroom clerk and/or bailiff in the District Court serves on the defendant a Circuit Court summons for initial pre-trial conference and provides a copy to counsel. Both

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counsel and the defendant sign the summons to acknowledge notice of the initial pre-trial conference date.

### **Initial Appearance in the Circuit Court**

If a defendant who remains unrepresented appears for arraignment on the scheduled date, the judge proceeds in accordance with Md. Rule 4-215.

If counsel enters an appearance in writing before that date, the defendant need not appear for arraignment, but the attorney and the defendant must attend the initial pre-trial conference.

### **Discovery**

When a prayer for jury trial has been made in writing in advance of the District Court trial date pursuant to Md. Rule 4-301(b)(1)(A), discovery in the circuit court is governed by Md. Rule 4-263 which is otherwise applicable only to cases originating in the circuit court.

When a prayer for jury trial has been made on the trial date in the District Court pursuant to Rule 4-301(b)(1)(B), discovery in the circuit court is governed by Md. Rule 4-262 which is otherwise applicable to cases in the District Court.

### **Initial Pretrial Conference**

The judge re-arraigns any defendant who remains unrepresented. The defendant is ordered to return for a further re-arraignment hearing at 8:30 a.m. on Monday two weeks later. The defendant may be excused from the further re-arraignment hearing if an entry of appearance from an attorney is received prior to the hearing.

When a plea agreement is reached, the judge conducts the guilty plea hearing and sentencing on the record. When a plea agreement is not reached, counsel and/or the self-represented defendant agree on dates for: (1) a motions hearing, if necessary, which is 30 days after the pre-trial conference; (2) pre-trial conference (primary docket) and trial dates which are 60 days after the initial pre-trial conference; and (3) reserve pre-trial conference (primary docket) and trial dates which are not later than 90 days after the initial pre-trial conference.

**Pre-trial conference (Primary docket); Trial; Sentencing; Post-trial hearings** A prayer for jury trial moves through these case events according to the protocol set forth above for indictments/informations (Track I).

### **Track III - Appeals from the District Court**

#### **Case initiation**

Appeals from the District Court without a right to jury trial are scheduled by the Criminal Assignment Office for a court trial on a date 45 days after the date the file is received from the District Court.

Cases which are entitled to a *de novo* trial before a jury are scheduled for initial pre-trial conference and proceed to trial according to the protocol for prayers for jury trial from the District Court (Track II).

Defendants who are in custody as a result of a sentence of incarceration in the District Court must direct any motion for a stay of the sentence pending the appeal in the first instance to the sentencing judge in the District Court. Motions for stay of the District Court sentence filed in the circuit court pursuant to Md. Rule 4-348 shall be directed to the

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administrative judge. No action is taken on any such request until the District Court file has been transmitted to the Clerk of the Circuit Court, a circuit court file has been prepared and the matter has been scheduled for hearing before the administrative judge. When possible, the attorneys who handled the case in the District Court shall be available for the hearing on the request for stay of sentence before the administrative judge.

**Initial Pretrial Conference; Pretrial Conference (Primary Docket); Trial; Sentencing; Post-trial Hearings**

These stages proceed according to the protocol for prayers for jury trial from the District Court (Track II) set forth above.

**Track 1V - Specially Assigned Cases**

The administrative judge specially assigns a judge to a case in which at least one count carries a potential penalty of life imprisonment (thereby entitling the defendant to the exercise of 20 peremptory challenges pursuant to Md. Rule 4-313). Within seven business days of the assignment, the assigned judge conducts a scheduling conference with counsel, the Criminal and Civil Assignment staff, and the jury commissioner in order to assure that time standards are met and adequate court facilities and sufficient jurors are available for each case event in consideration of the overall calendar of the circuit court. The assigned judge remains with the case through all case events.

At the discretion of the administrative judge, additional cases which present complex evidentiary questions or logistical challenges may also be specially assigned. Requests for special assignment shall be directed to the administrative judge.

When a judge has a specially assigned case for trial, that judge is placed in the rotation as one of the two judges with responsibility for criminal trials.

Although specially assigned cases follow the case management plan set forth above for indictments/informations (Track I), additional time may be permitted between case events to accommodate the particular requirements of the case.

### **Competency to Stand Trial**

If the defendant in a criminal case or violation of probation proceeding alleges incompetence to stand trial, or appears to the Court to be incompetent to stand trial, the Court orders a competency evaluation by the Health Department pursuant to Sections 3-104 and 3-105 of the Criminal Procedure Article. Upon receipt of the evaluator's report, the judge who signed the order for the evaluation schedules and conducts a hearing on the record pursuant to Section 3-104 and 3-106 of the Criminal Procedure Article to determine whether the defendant is incompetent to stand trial. If the defendant is found competent, the case proceeds to trial or other resolution according to the applicable time standards. If the defendant is found incompetent, the case proceeds in accordance with Title 3 of the Criminal Procedure Article.

### **Plea of Not Criminally Responsible**

In addition to the permitted pleas of guilty, not guilty and (with the permission of the Court) *nolo contendere*, a defendant in a criminal case may enter a plea of not criminally responsible by reason of insanity pursuant to Md. Rule 4-242 and Section 3-110 of the Criminal Procedure Article. When a plea of not criminally responsible is filed, the Court orders a pre-trial evaluation of the defendant by the Health Department and the case then proceeds in accordance with Title 3 of the Criminal Procedure Article. If a defendant has entered both pleas of not guilty and not criminally responsible and has elected a jury trial, the defendant or the State may move for a bifurcated trial in which the issue of guilt is heard and determined separately from the issue of criminal responsibility. Pursuant to Md. Rule 4-314, a motion for bifurcation of trial must be filed no later than 15 days before trial.

### **Postponement Policy in Criminal Cases**

Requests for postponement of a *pre-trial* conference or hearing or of a *trial date* shall be filed in writing in advance as soon as the need for postponement is identified. The prosecutor, defense attorney, and any self-represented defendant shall use the postponement form, which is available on the website for the Circuit Court for Harford County or in hard copy from the Clerk of the Court (*see attached*). The party seeking the postponement must discuss the need for the postponement with the opposing party and clearly state the latter's position on the postponement form. If the postponement request fails to clearly state the opposing party's position, it will be held for 15 days (plus three days to account for service by mail, if appropriate) in order to permit the opposing party to respond.

The postponement form requires and must contain the following information:

- (1) the date and type of case event the party wants to postpone;
- (2) the proposed new date to which the opponent either has agreed in the initial scheduling order or one which was not previously reserved, but to which the opponent has agreed during the discussion of the postponement request *and which has been cleared with Criminal Assignment*;
- (3) the date of the 180<sup>th</sup> day from the earlier of the entry of appearance of counsel or the first appearance of the defendant pursuant to Md. Rule 4-213(c);
- (4) if the defendant is making the postponement request **or** if the proposed trial date will take the case beyond the 180 day window, the defendant's signed waiver of his right to be tried within 180 days pursuant to Md. Rule 4-271;
- (5) a statement of the position of the opposing party regarding the postponement request;
- (6) the signature of the attorney or party requesting the postponement; and
- (7) a completed and signed certificate of service of a copy of the request on the opposing party.

Only the administrative judge or the primary criminal judge who is serving as the designee of the administrative judge for criminal postponements rules on a request for a postponement of a pre-trial hearing or a trial date. If a case has been specially assigned to a particular judge who is to preside over all case events (Track IV), the specially assigned judge consults with the administrative judge or designee, who then rules on the postponement request. The postponement request should be filed with the Clerk of the Court who then attaches it to the court file and forwards it to the attention of the appropriate judge.

When the need for a postponement is not apparent in sufficient time to request it in writing in advance, the request shall be made on the record in open court to the primary criminal judge at the time the case is called on the pre-trial conference docket the day before trial.

The administrative judge or the primary criminal judge as designated makes a finding of good cause pursuant to Md. Rule 4-271 and postpones the case or denies the postponement.

The following **are generally** considered to be good cause for a postponement:

- (1) serious illness of, or death in the family of, the prosecutor, the defendant, defense attorney or a necessary witness, either accompanied by documentation or with the permission of the Court to supplement with documentation within ten days of the ruling;
- (2) the assigned prosecutor or defense attorney is in trial in another case which either began on an earlier trial date and carried over to the trial date in question, or in an older case which is scheduled on the same trial date and takes precedence on the docket due to the age of the case;

- (3) a family event or mandatory professional commitment and/or training which could not have been anticipated at the time of the scheduling conference and which cannot be re-scheduled due to the nature of the event or obligation; or
- (4) conflict with a trial date of which counsel was unaware at the time the scheduling order was signed and which was chosen by another court without counsel's participation, accompanied by documentation that the other trial was scheduled before the scheduling order was signed (*see attached Chief Judge Robert C. Murphy's Revised Administrative Order for Continuance for Conflicting Case Assignments or Legislative Duties, effective May 15, 1995*).

The following **are unlikely** to constitute good cause for a postponement unless additional factors are present:

- (1) leave/vacation of the prosecutor, the defendant, defense attorney or a necessary witness, particularly a necessary professional witness, which was scheduled after the scheduling order was signed and disseminated;
- (2) trial date conflict of which counsel was, or with the exercise of due diligence should have been, aware at the time the scheduling order was signed (*see attached Chief Judge Robert C. Murphy's Revised Administrative Order for Continuance for Conflicting Case Assignments or Legislative Duties, effective May 15, 1995*);
- (3) the mere fact that there have been no previous requests for postponement in the case;
- (4) outstanding motions at the date of the hearing or trial;
- (5) ongoing plea negotiations;
- (6) change of counsel;

- (7) further investigation, unless a very compelling reason having to do with ineffective assistance of counsel, fundamental fairness or recently discovered evidence which could not have been identified earlier is offered;
- (8) consent of the State and the defense with no substantive basis; or
- (9) any reason which was known, or with the exercise of due diligence would have been known, at the time the scheduling order was signed.

The earlier a postponement request is made, particularly with regard to scheduling conflicts, the more likely it is that a trial event can be re-scheduled within the applicable time standards and the postponement can be granted. This is particularly the case if enough time is allowed to choose an earlier date or one which is close in time to the date which must be changed.

Except in extraordinary circumstances, only postponements necessitated by unforeseeable emergencies, the closing of court due to some weather or catastrophic event, or the lack of sufficient judges or jurors to address all of the cases in trial posture will be granted on the day of trial.

Postponement requests for a *post-trial* hearing may be directed by motion to the assigned judge. Any such request should be discussed with opposing counsel in advance and the position of the opponent regarding the postponement should be included in the request. If the postponement is granted by the assigned judge, the judicial assistant of the judge coordinates a new date with counsel and/or a self-represented defendant.

### **Interpreters**

A prosecutor, defense attorney or a self-represented defendant who becomes aware of the need for an interpreter for any party or witness shall promptly complete and file with the Clerk of the Court the Request for Interpreter Form (*see attached*). Requests for

interpreters must be specific as to the language and, if appropriate, the particular dialect in which fluency is required. The request must also identify the individual who is in need of the interpreter's services.

The party requesting an interpreter shall remain responsible for confirming that the interpreter has been ordered by the Clerk of the Court and shall notify the Clerk immediately if the need for the interpreter changes. The Court is billed for the interpreter's services unless the request is cancelled at a minimum of 48 hours before the trial or hearing. If counsel or a self-represented defendant fails to timely notify the Clerk of any change in the need for an interpreter, or if additional costs for the interpreter are incurred due to the failure of an attorney or the defendant to timely appear in court, the cost may be assessed against the attorney or party causing the unnecessary expense. The clerk reserves an interpreter only for a single morning or afternoon session unless notified that a hearing or trial will have a longer duration.