

**CIRCUIT COURT
FOR
MONTGOMERY COUNTY,
MARYLAND**



**CRIMINAL
DIFFERENTIATED CASE MANAGEMENT
PLAN**

**FIRST EDITION: JANUARY 1993
REVISED: JULY 2010**

CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

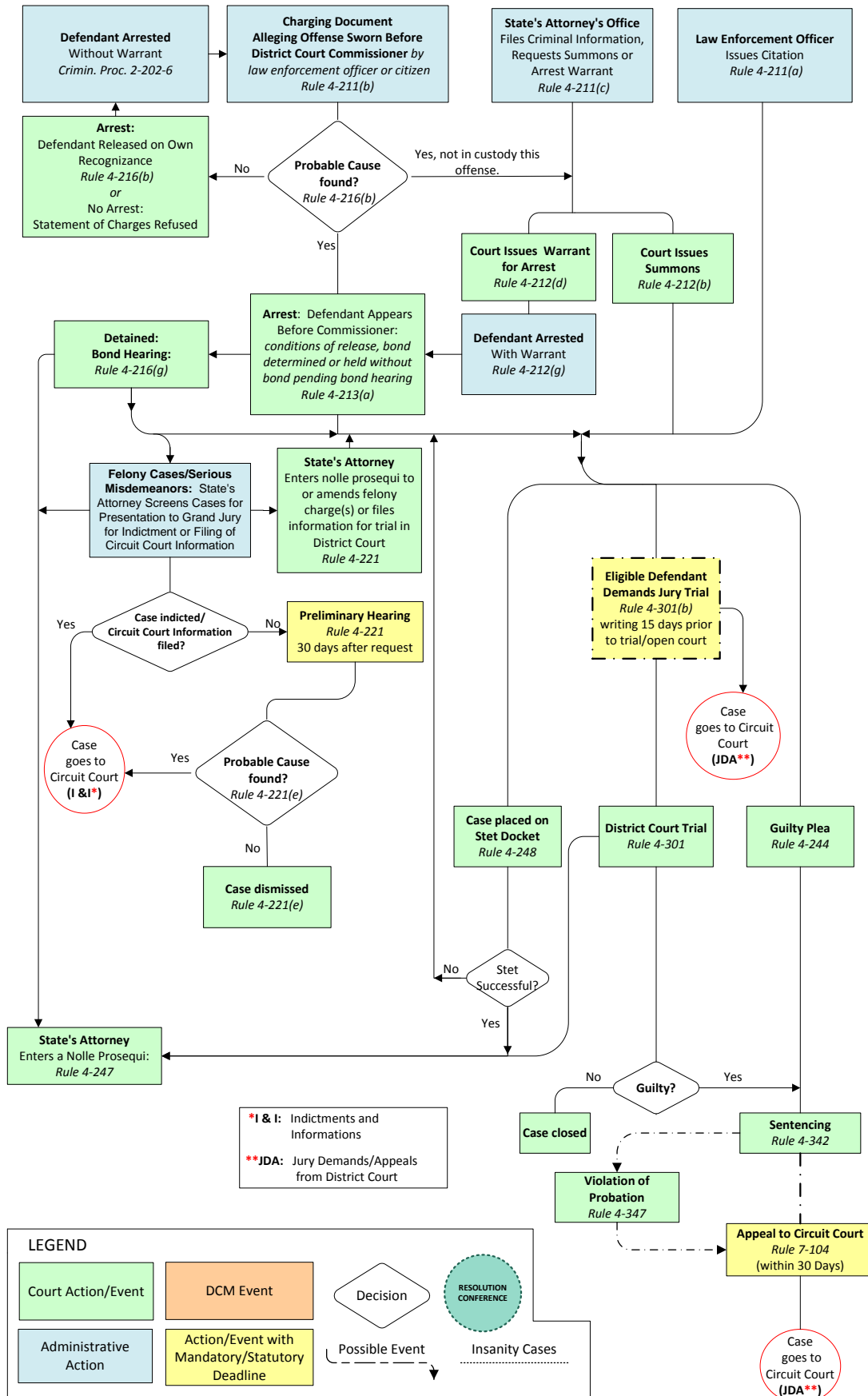
CRIMINAL DIFFERENTIATED CASE MANAGEMENT PLAN

TABLE OF CONTENTS

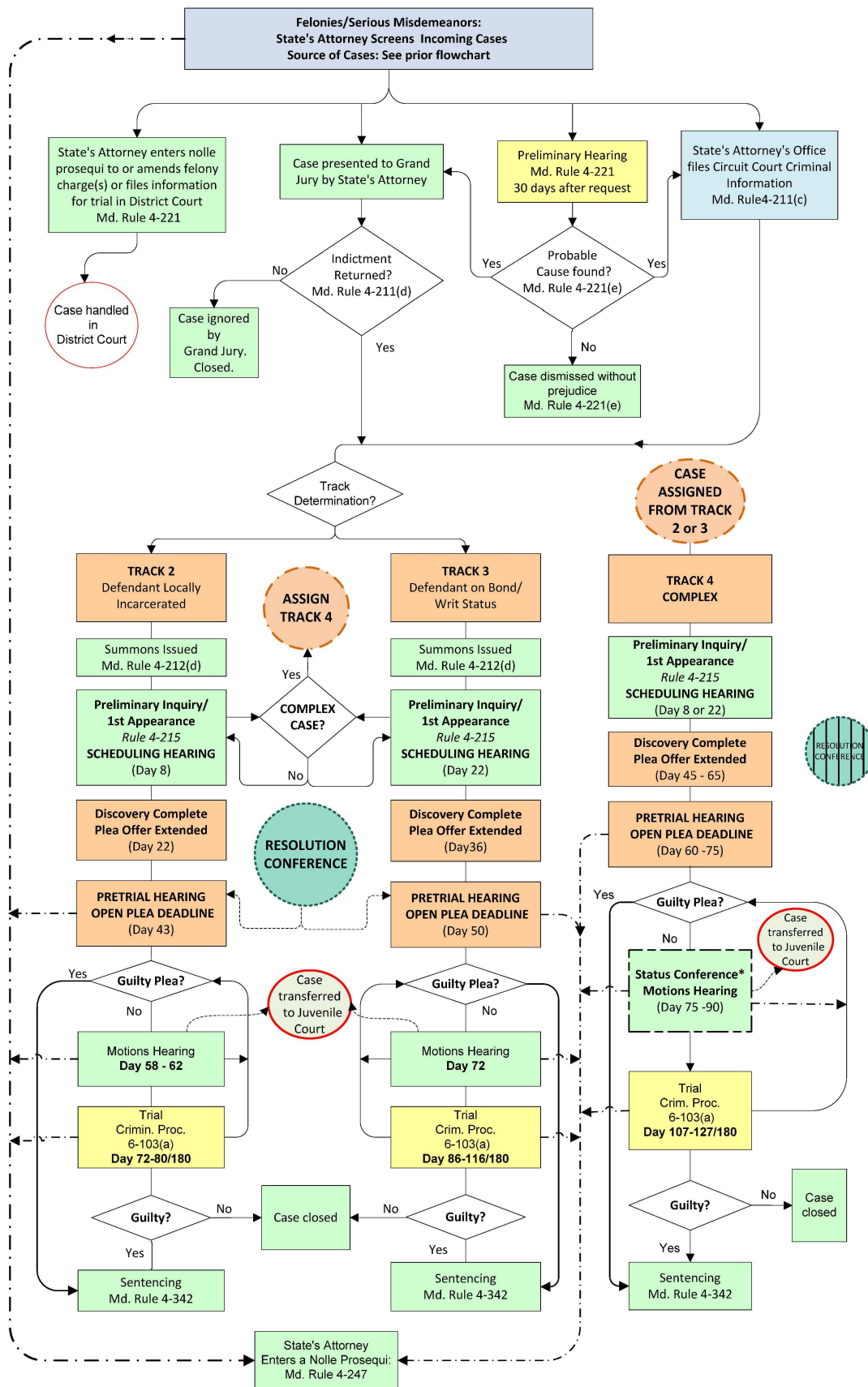
	<u>SECTION</u>
Overview/Procedural Flowcharts	A
Criminal Track Information Forms	B
Consent Scheduling Order in Lieu of 4-215/Scheduling Hearing	C
DCM Tracking Guidelines	D
<i>Criminal Track 1 -- Jury Demands</i>	JURY DEMANDS/ TRACK 1
Instant Jury Demands from District Court (Rockville and Silver Spring)	
<i>Criminal Track 1 -- Appeals</i>	APPEALS/ TRACK 1
Instructions for Cases Appealed to the Circuit Court	
<i>Criminal Track 2 -- Routine</i>	TRACK 2
Scheduling Order	
<i>Criminal Track 3 -- Routine</i>	TRACK 3
Scheduling Order	
<i>Criminal Track 4 -- Complex</i>	TRACK 4
Scheduling Order	
<i>Criminal DCM Policy and Procedures</i>	E
Procedures	
<ul style="list-style-type: none"> ▪ Dismissal of Criminal District Court Appeals ▪ Criminal Pretrial Docket ▪ Criminal Motions ▪ Procedure for Filing Plea Agreements ▪ Miscellaneous Petitions 	
Policy for Postponements in Criminal Matters	
Policy for Postponements in Criminal Track 4 Cases	
Criminal Responsibility/Competency Orders	
Administrative Order on Administrative Joinder in Lieu of Rule 4-203(b)	

CRIMINAL CASE FLOW:

Sources of Criminal/Incarcerable Traffic Cases in the Circuit Court



CASE FLOW: Indictments and Informations in the Circuit Court*



*Note: The Track 1 case flow for Jury Demands and Appeals from the District Court is found on a separate overview.

OVERVIEW

Criminal Differentiated Case Management¹ Plan for Montgomery County, Maryland

INTRODUCTION

In January 1993, the Circuit Court for Montgomery County implemented its initial Criminal Differentiated Case Management (DCM) Plan, transforming a caseload long challenged by delay into a caseload characterized by prompt, predictable, and timely disposition for more than a decade. Over time, changes in the criminal statutes and rules and in the volume of various types of cases resulted in the ad hoc adjustment of various policies and procedures of the DCM plan to respond to these challenges and needs.

By 2009, however, it had become clear that a systematic review of the entire plan was needed to address the diminishing effectiveness of the DCM plan in achieving the timely resolution of cases; in November, a Working Group was convened by the Honorable John W. Debelius III, Administrative Judge, to do just that. The revised Criminal DCM Plan presented in this Manual, was developed with the assistance of the Montgomery County Circuit Court bench, the State's Attorney's Office, the Public Defender's Office, members of the private defense bar, and other key criminal justice stakeholders, including the Clerk of the Court, and represents the consensus recommendations of the leaders of the Montgomery County criminal justice system to ensure the timely and appropriate resolution of criminal cases.

The goal of Montgomery County's Criminal DCM Plan is to provide a structured system for the management of cases that, through early intervention and ongoing control of the progress of cases, provides sufficient resources, including time for preparation, meaningful pretrial events,

¹ **Differentiated Case Management (DCM)** emerged as a best practice for courts in the early 1990s concurrent with the development of time standards for the resolution of cases by organizations such as the American Bar Association (e.g. ABA Standards). DCM provides a structured and active approach to caseload management to drive the early and appropriate resolution of the 90 percent or more cases that can be resolved without a trial while preserving adjudication time, court and public resources for those cases that require trial. DCM is characterized by the early differentiation of cases entering the justice system in terms of the nature and extent of judicial/justice system resources they will require. Each case is assigned to the appropriate case track established within the court system that allows for the performance of pretrial tasks and allocates the appropriate level of judicial and other system resources, minimizing processing delays. Established mechanisms avoid multiple court appearances and assure the timely provision of resources for the expeditious processing and resolution of cases on each track.

and firm and credible trial dates, for the timely resolution of the entire spectrum of the criminal caseload, ranging from jury demands and appeals from the District Court to routine and complex cases originating in the Circuit Court.

DCM PLAN OBJECTIVES:

The Criminal DCM Plan's objectives include:

- 🕒 realistic case assignment and scheduling of events, alleviating the need for excessive continuances;
- 🕒 early resolution of the cases that are not resolved by trial;
- 🕒 expedited disposition for incarcerated offenders;
- 🕒 judicial supervision consistent with the complexity of each case;
- 🕒 firm and credible trial dates and calendars; and
- 🕒 effective and efficient use of judicial system resources.

DESCRIPTION OF THE CIRCUIT COURT CRIMINAL CASELOAD

Cases involving criminal and incarcerable traffic offenses begin any of four ways:

- A warrantless arrest by a police officer pursuant to Sections 2-202 through 6 of the Maryland Criminal Procedure Article.
- An arrest pursuant to a warrant issued by a District Court Commissioner based on a sworn Statement of Charges (complaint) by a police officer or other individual alleging a criminal offense for which the Commissioner finds probable cause that the offense occurred. In most minor, non-violent offenses, the Commissioner typically issues a summons ordering the defendant (accused) to appear in court.
- An information filed either in the District Court or the Circuit Court by the Office of the State's Attorney. The Court determines whether to issue a summons or an arrest warrant based on the State's Attorney's Office request.
- A citation written by a law enforcement or peace officer alleging an offense.

The State's Attorney's Office reviews felony and serious misdemeanor cases to determine whether they should be handled in the Circuit Court or kept in the District Court. Such cases are

then either presented to the Grand Jury for Indictment or a Circuit Court Information is filed. This is the caseload typically thought of as “originating” in the Circuit Court. In addition to constitutional speedy trial protections afforded defendants in criminal prosecutions, Maryland law requires that defendants in these Circuit Court cases be brought to trial within 180 days of the earlier of their or their lawyer’s first appearance in court.

Another group of criminal cases handled by the Circuit Court are cases that are originally charged in the District Court but are brought to the Circuit Court for trial in two different ways:

- A defendant “prays” or demands a jury trial when charged with an offense that carries a potential penalty of imprisonment.
- A defendant appeals the disposition of a District Court criminal case, including the disposition of petitions alleging violations of probation in District Court cases.

Cases involving a demand for a jury trial also must reach trial within 180 days unless the Chief Judge of the Court of Appeals exempts the jurisdiction from this requirement if the jurisdiction can show that the large volume of cases is having a critical impact upon the efficient operation of the circuit court, Maryland Rule 4-271(a)(2).

While trials may be the most familiar means by which criminal cases reach a verdict, the vast majority of cases do not go to trial, but rather are resolved via a plea agreement, in which the defendant agrees to plead guilty to some or all charges. A limit on the total incarceration may be part of the agreement; such a cap may reflect the recommended guidelines for a sentence for a person, which varies depending not only on the current charges but also on the defendant’s criminal record (or lack of one). Plea agreements can be reached before a case is even filed or may occur as late as the day of trial—or in rare circumstances—after the trial begins, but before the verdict is announced. One of the objectives of the revised DCM plan is to encourage the earliest possible resolution of cases that will resolve via a plea agreement, allowing the court to reserve trial time on the calendar for those cases that actually will go to trial. When a plea agreement is reached, a hearing is scheduled for the taking of the guilty plea and the case moves directly to sentencing either the same day or at separate hearing, obviating the need for any of the remaining scheduled events on a Scheduling Order.

In a minority of cases, where evidence may be insufficient or other interests of justice may require, cases may also be resolved by the entry of a *nolle prosequi* by the State's Attorney's Office, in which the State declines to proceed with the prosecution of the case by announcing in open court its reasons for doing so. The State's Attorney's Office may also resolve the case by placing a case on the "*stet*" docket, in which the case is inactivated for a specific period of time in order to allow the defendant to demonstrate the ability to abide by a series of conditions. Successful completion of the conditions during the *stet* period typically results in the entry of a *nolle prosequi*; noncompliance/failure to complete results in the reactivation of the case for prosecution.

In a tiny proportion of cases, the issue of a defendant's mental competency to stand trial may be raised at any point in the case, including during trial. Where a defendant is found incompetent, that is, unable to assist in his/her defense, the case must be inactivated while regular reviews occur to determine whether the defendant has regained competency; where this does not occur within statutorily defined time periods (which vary depending on the seriousness of the charge), the case must be dismissed (see Sections 3-104 through 108, Criminal Procedure Article).

CIRCUIT COURT CASELOAD MANAGEMENT

Under the revised Montgomery County Criminal DCM Plan, cases are assigned to one of four² tracks according to the Court's standards and guidelines set for disposition and complexity of the case. These tracks, developed through the recommendations of the Criminal DCM working Group, provide the differing levels of criminal cases with adequate court resources and schedules for prompt and timely disposition³:

TRACK 1 (Jury Demands/Appeals): All cases that have come from the District Court because the defendant has appealed the outcome of the case or has demanded a jury trial. These cases are tried *de novo*, that is, the case starts anew in the Circuit Court. Several different strategies are employed for Track 1 cases, including the immediate availability of a jury trial on the same day as

² Effective July 1, 2010, Track 0 will be omitted. All cases previously filed in Track 0 will be filed as either Track 2 or Track 3 cases.

³The Court, through the Administrative Judge, retains the authority to make scheduling changes within a track and to change the assigned track to accommodate unforeseen complexities or to correct the assignment.

the demand for a jury trial is made. Track 1 cases that do not immediately go to trial are scheduled for either a Pretrial Hearing, in order to allow potential resolution of the case without a trial or to the 8:30 AM docket for trial or both.

For all *written* demands for jury trials filed in the District Court case at least fifteen (15) days prior to the trial date pursuant to Maryland Rule 4-301(b)(1)(A), the trial date scheduled for the District Court case will become the Circuit Court trial date. Parties will receive a notice under the new Circuit Court case number.

Demands for jury trials made on the record in open court on the trial date will proceed immediately to the Circuit Court for trial. Jury demands made after 4:30 PM in Rockville and after 4:00 PM in Silver Spring will be scheduled for a jury trial the following business day.

Appeals from the District Court are set for a Pretrial Hearing within four (4) weeks. If a final disposition is not reached at the Pretrial Hearing, a trial date will be scheduled within forty-five (45) days. Track 1 cases have a disposition time goal of 1 - 74 days.

TRACK 2 (Indictments & Informations/Defendant Locally Incarcerated): All cases originating in the Circuit Court (indictment or information) in which the defendant is locally incarcerated at the time the charging document is filed will be assigned to Track 2. (In cases involving multiple co-defendants who will be tried together and at least one of the co-defendants is on bond status or incarcerated in another jurisdiction, those cases with locally incarcerated co-defendants will be assigned to Track 3, rather than Track 2.) Track 2 cases include offenses from low to medium complexity. Examples: Robbery, Burglary, Daytime Housebreaking, Storehousebreaking, CDS (drug), Theft, Forgery, Uttering, and Aggravated Assaults.

Track 2 provides for a combined **Rule 4-215/Scheduling Hearing** on an expedited basis the Friday following indictment or filing of the information. At the Scheduling Hearing held in Track 2 cases, the Court will screen each case with the input of the State's Attorney's Office and defense counsel to determine whether it requires enhanced judicial supervision and resources. If the case is sufficiently complex and a trial is anticipated, the Court will assign the case to Track 4. Unrepresented defendants are advised of the right to and need for representation by counsel

and the Scheduling Hearing is reset within 2 weeks. Trial dates and other key events, including a Pretrial Hearing Date, a possible Resolution Conference, and a Motions Hearing are set in cases in which the defendant is represented. Where a defendant continues to be unrepresented, the trial date will be set no later than 29 days after the filing of the case. Track 2 cases have a disposition time goal of 72 to 80 days from the filing of the indictment or information to trial.

TRACK 3 (Indictments & Informations/Defendant on Bond or Writ Status): All cases originating in the Circuit Court (indictment or information) in which the defendant is on bond status or is incarcerated outside Montgomery County (and therefore needs to be brought to Montgomery County via a writ issued by the Court) will be assigned to Track 3. Track 3 cases include the same offenses as Track 2, low to medium complexity cases.

Track 3 provides for a combined **Rule 4-215/Scheduling Hearing** on a Friday three weeks following indictment or filing of the information. At the Scheduling Hearing held in Track 3 cases, the Court will screen each case with the input of the State's Attorney's Office and defense counsel to determine whether it requires enhanced judicial supervision and resources. If the case is sufficiently complex and a trial is anticipated, the Court will assign the case to Track 4. Unrepresented defendants are advised of the right to and need for representation by counsel and the Scheduling Hearing is reset for one (1) week. Trial dates and other key events, including a Pretrial Hearing Date, a possible Resolution Conference, and a Motions Hearing are set in cases in which the defendant is represented. Where a defendant continues to be unrepresented, the trial date will be set no later than 29 days after the filing of the case. Track 3 cases have a disposition time goal of 86 to 115 days from the filing of the indictment or information to trial.

TRACK 4 (COMPLEX Indictments & Informations): Track 4 is reserved for complex cases, regardless of whether the defendant is incarcerated, that are identified by counsel and the Court as requiring enhanced judicial supervision and resources, including those charging Homicide, Rape, First and Second Degree Sex Offenses, Child Abuse, Major Fraud, Arson; in addition, NCR cases; joined cases involving multiple co-defendants or related criminal events or cases relying upon the results of DNA evidence should be presumed to be Track 4 assignment unless the case is in a posture to resolve without extensive motions or trial. All indictments and informations are

initially tracked as Track 2 or 3 cases; cases will be screened for Track 4 based upon the DCM Information Sheets filed by **both** the State's Attorney's Office⁴ and defense counsel, together with information about the case obtained from counsel at the Scheduling Hearing and assigned to Track 4 as appropriate.

When a case is designated as a Track 4 case, the plea judge is assigned the case for litigation of motions and trial as well; these dates will be cleared with that judge's chambers at the Scheduling Hearing. **All further events** are to be handled by the assigned judge. The disposition time goal for Track 4 cases is 110 to 140 days from the indictment or information to trial. Please note the procedure for handling postponements of trials in Track 4 cases below. Wherever possible, the case will remain with the original assigned judge; however, in some instances, if a case must be postponed to a new trial date beyond the assigned judge's rotation and the judge's assignments in the new rotation prevent the handling of that trial, **the case may need to be reassigned to the next judge in the criminal /general rotation on the new date**. A strong effort should be made to stay within the track guidelines. If status conferences are held in chambers the final results **MUST** be put on the record.

⁴ Criminal cases may also be filed by the Attorney General's Office

GENERAL INFORMATION FOR ALL TRACKS

JUDICIAL ASSIGNMENT:

The Administrative Judge is responsible for the administration of the Criminal DCM Plan and its implementation and for ensuring that the DCM policies and procedures are consistently applied. The five (5) Judges assigned to the Criminal/General rotation have the primary responsibility for the handling of the criminal caseload as well as the other assignments that comprise that rotation. Two (2) judges in the criminal/general rotation will be assigned primary responsibility for the handling of criminal cases (indictments and informations) for a period of 4 weeks per assignment. The two (2) criminal trial judges will also serve as back-up judges for the 8:30 AM docket. Where the daily docket requires additional judicial resources, judges within the criminal/general rotation and those assigned to other rotations may be utilized to the extent that they are available.

On the filing of Track 2 and 3 cases, a plea judge from among the five (5) judges assigned to the criminal/general rotation will be assigned to the case on a random basis by the automated case management system. Plea judges in cases moved to Track 4 will become the judge assigned to handle that case. To the extent that the major rotations allow, once assigned, a Track 4 case will remain with the judge. Please see plea policy and Track 4 description below for further information.

Related cases (co-defendants), if linked, are assigned the same plea judge unless several weeks pass between the filing of cases. With the exception of those cases with multiple co-defendants that could otherwise be filed as a single case under Maryland Rule 4-203(b) but are filed separately per the procedure in the Court's Administrative Order of June 8, 2005 administratively joining these cases for joint trial under Rule 4-253, all other Track 1, 2, and 3 motions to join cases are forwarded to the Administrative Judge's Administrative Aides for review. The Aides will ascertain whether the Motion is opposed. If opposed, the Aides will return the file to the Assignment Office to schedule a hearing on the Criminal Motions docket. If the motion is unopposed, the Administrative Aides will forward the file to the Administrative Judge for ruling.

Where such motions are granted in Tracks 2 and 3, all such cases will be assigned to the plea judge assigned in the lowest case number (oldest case) in the group of cases joined. Where motions to join cases are filed in Track 4 cases, the assigned Track 4 judge will rule on the motion; in the unlikely situation in which more than one Track 4 judge may have been assigned, the Administrative Judge will determine which judge will rule on the motion and re-assign cases if necessary.

Pending motions will be scheduled on Friday at 9:30 AM before one of the judges in the criminal/general rotation. Motions in Track 4 cases will be heard by the assigned trial judge.

When a Track 2 or 3 case goes to trial, it will be assigned to any of the judges assigned to handling criminal trials, with judges in the other assignments within the criminal rotation and from other rotations serving when needed and available.

CRIMINAL DCM POLICIES

SCHEDULING HEARING:

Trial dates will be set at the combined 4-215/Scheduling Hearing held on a Friday 8 or 22 days depending on the Track following indictment or filing of the information. At the Scheduling Hearing, the Court will screen each case with the input of the State's Attorney's Office and defense counsel to determine whether it requires enhanced judicial supervision and resources. If the case is sufficiently complex and a trial is anticipated, the Court will assign the case to Track 4. Unrepresented defendants are advised of the right to and need for representation by counsel and the Scheduling Hearing is reset within two weeks. Trial dates and other key events, including a Pretrial Hearing Date, a possible Resolution Conference, and a Motions Hearing are set in cases in which the defendant is represented. Where a defendant continues to be unrepresented, the trial date will be set no later than 29 days after the first appearance of the defendant, Maryland Rule 4-271(a).

Counsel are encouraged to clear dates prior to hearing to expedite the scheduling process. Stand-ins for counsel whose line is entered in the case will be allowed only for schedules

previously cleared. Assignment Office staff will be available during the week prior to the Scheduling Hearing and will be present in court beginning at 8:00 AM to allow clearing of dates prior to the case being called.

Attendance may be waived at the combined 4-215/Scheduling Hearing **only** when defendant actually signs a consent scheduling order indicating he/she has been apprised of scheduled events, including the trial date **and** the order is filed with the court at least 24 hours prior to hearing, so that the consent scheduling order may be verified and the case scheduled and removed from the docket. **Where a case is proposed to be assigned to Track 4, the Administrative Judge must approve the assignment prior to the case being removed from the docket.** PLEASE SEE THE CONSENT SCHEDULING FORM at the end of this section.

CONTINUANCE POLICY:

Trial dates in Track 2, 3, and 4 cases are set with counsel present at the Scheduling Hearing or via the Agreed Scheduling Order in Lieu of Scheduling Conference. Once a trial date has been set, it may be moved only for good cause by the Administrative Judge or his/her designee (Maryland Rule 4-271(a)). **ALL Motions to Postpone Trial Dates MUST BE RULED ON BY THE ADMINISTRATIVE JUDGE in all Track 1, 2, 3 and 4 cases.** Trial dates may not be removed until a plea agreement has been accepted by the Court or the case is otherwise resolved.

Any adjustment to the trial date in Track 4 cases shall follow the procedure outlined in the Memorandum from the Administrative Judge dated October 2, 2000, Policy and Procedure Section.

Pretrial Hearings may be reset **once** by one week by consent of the Office of the State's Attorney and defense counsel. A joint line must be filed with the Assignment Office as soon as possible, but no later than the day before the scheduled Pretrial Hearing. Under no circumstances may the Pretrial Hearing be set beyond the trial date, nor may the trial date be removed in order to set a Pretrial Hearing.

PLEA AGREEMENTS

PLEA POLICY: Track 1 (Jury Demands and Appeals):

Jury Demands: The defendant may plead guilty before the Administrative Judge or the assigned trial judge; where a Pretrial Hearing may be scheduled, before the judge handling that docket; a Resolution Conference Judge, if available; or the trial judge. If a defendant is already on probation before a Circuit Court judge, the defendant may seek leave to plead guilty before and/or be sentenced by that judge.

Appeals: The defendant may plead guilty before the judge assigned to handle the Pretrial Hearing docket or the judge assigned to the 8:30 AM Trial Docket. If a defendant is already on probation before a Circuit Court judge, the defendant may seek leave to plead guilty before and/or be sentenced by that judge.

PLEA POLICY: Tracks 2, 3 & 4:

Under the revised Criminal DCM Plan, plea agreements in **Track 2, 3 and 4** may be accepted by any “plea active”⁵ judge in the criminal/general rotation or a judge who is available via a resolution conference up to the Pretrial date, which may be continued once for the purposes of reaching a plea agreement, or by the administrative judge on the pretrial hearing date. **Once the Pretrial Hearing has been held and the trial and motions dates confirmed, the only judge available for the taking of a plea is the assigned plea judge.** In Track 4 cases, the plea judge is also the trial judge. (NOTE: Current State’s Attorney’s Office (SAO) policy precludes participation in resolution conferences in Track 4 cases. Should the policy be modified, the potential for participation has been anticipated.) On the trial date, the defendant may plead guilty before the trial judge only with consent of the assigned plea judge. The sentencing date will be set before the plea judge.

It is the Administrative Judge’s policy that all pleas should be heard and disposed of prior to the originally scheduled trial date. Trial dates will not be removed until the completion of the

⁵ To prevent a disproportionate caseload of plea agreements among judges, judges with a disproportionate number of pleas will be inactivated for new plea agreements other than those cases in which they are the assigned plea judge until the caseload balances among the judges in the assignment.

hearing in which the plea agreement is executed. Trial dates may not be moved to accommodate a guilty plea (without a finding of good cause by the Administrative Judge).

Plea hearings in “pre-indictment plea” cases, that is, cases in which a plea agreement has been reached prior to the case being filed in the Circuit Court, must be scheduled within 30 days of the filing of the case; where this is not possible, a trial date must be set in addition to the plea hearing.

Where a plea agreement is reached with a judge other than the assigned plea judge, but that judge’s calendar prevents the taking of the plea prior to the Pretrial date, a memorandum detailing the plea agreement must be filed prior to or at the Pretrial Hearing to preserve the availability of that judge.

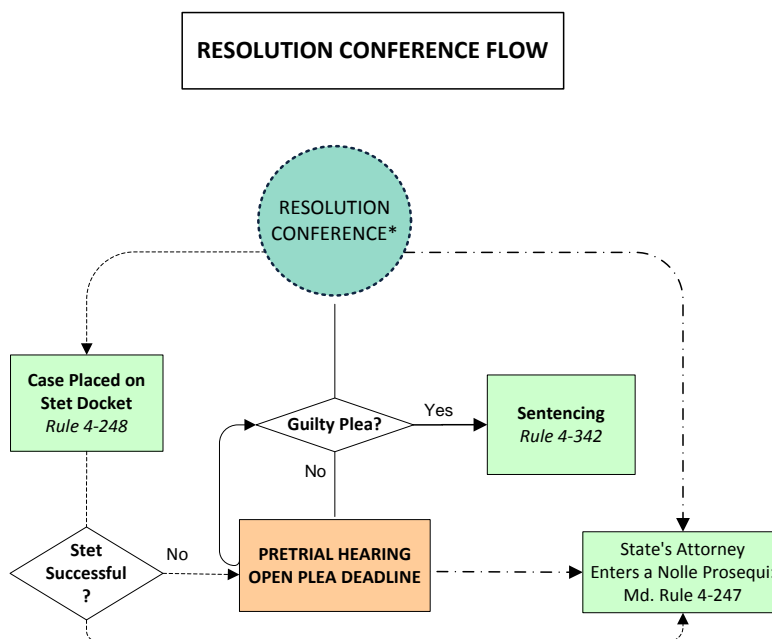
Binding plea agreements must be cleared with the judge who is proposed to be bound.

Where a plea agreement has been reached, a Plea Memorandum, which includes the plea date cleared with the chambers of the judge who is taking the plea, must be filed as soon as practicable, with a copy delivered to the Assignment Office, but no later than 48 hours before the proposed plea date.

PLEA ACTIVE JUDGES: To prevent a disproportionate caseload of plea agreements among judges, judges with a disproportionate number of pleas will be inactivated for new plea agreements other than those cases in which they are the assigned plea judge until the caseload balances among the judges in the assignment. Per the County Administrative Judge, effective July 1, 2010, all plea active judges in the criminal general rotation are available for the taking of a plea up to the Pretrial date. Any judge who exceeds by a percentage to be determined by the Administrative Judge the average number of plea agreements handled among the criminal general rotation judges during any 4 week period will be considered “plea inactive” and will not be available to take new plea agreements other than those cases in which he or she is the assigned plea judge until the rotation average reaches the number of plea agreements handled by that judge. The Assignment Office will provide information on a weekly basis identifying the “plea active” judges. PLEASE NOTE that where a written, dated plea offer naming a specific judge

or judges has been extended to the defendant during a week in which the named judges are “plea active”, the defendant may plead guilty before the named judge even if the judge subsequently is deemed plea inactive within the period up to the completion of the pretrial hearing as noted above. However, where only a verbal plea offer is made, the current status as to whether the judge is plea active or inactive at the time the plea memo is filed will guide availability of that judge.

RESOLUTION CONFERENCES (Track 2 & 3): The assessment and review of a case by a retired judge may be helpful in reaching a plea agreement. To this end, a limited number of retired judges are available for Resolution Conferences, which are voluntary. Counsel seeking a Resolution Conference must clear the time and date on the Resolution Conference Judge’s Schedule. To the extent resources and availability allow, a limited number of Resolution Conference slots may be available on the pretrial hearing date; HOWEVER, this cannot be guaranteed and counsel are urged to set Resolution Conferences at the Scheduling Hearing or prior to the Pretrial Hearing date. **Counsel should not rely on Resolution Conference availability on the day of Pretrial Hearings.**



* Must be scheduled and completed by Pretrial Hearing.

PRETRIAL HEARING: Pretrial Hearings will be held before the Administrative Judge in all Track 2 and 3 cases for which a plea agreement has not been reached on Thursdays from 8:30 to 9:30 AM and on Fridays from 9:30 to 10:30 AM, with Thursday serving as primary Pretrial Hearing day for Tracks 2 and 3. In addition to providing an opportunity for the resolution of these cases, the Court will resolve discovery disputes, confirm that motions hearing are still required, and verify that the cases that do not resolve by the Pretrial Hearing are in a motions- and trial-ready posture.

MOTIONS DATES: Pending motions will be scheduled on Thursdays and Friday at 9:30 AM before one of the judges in the criminal/general rotation. Motions in Track 4 cases will be heard by the assigned trial judge.

CASE TRACKING INFORMATION SHEET: STATE'S ATTORNEY'S OFFICE

CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND CASE TRACKING INFORMATION

DATE: ___/___/___

CASE #: _____

STATE V. _____

DEFENDANT'S DOB: ___/___/___

IS DEFENDANT CURRENTLY INCARCERATED? YES / NO

WHERE? _____

WRIT ISSUED? YES / NO

LEAD (MOST SERIOUS) CHARGE: _____

RELATED CASES:

CO-DEFENDANTS TO BE ADMINISTRATIVELY JOINED?: YES / NO

[PLEASE NOTE THAT WHERE DEFENDANTS ARE ADMINISTRATIVELY JOINED AND ONLY SOME ARE INCARCERATED, ALL ARE INITIALLY ASSIGNED TRACK 3.]

CO-DEFENDANTS (INCLUDE CIRCUIT CASE #s IF AVAILABLE): _____

DISTRICT COURT TRACKING NUMBERS: _____

TRACK REQUESTED: (CIRCLE ONE TRACK: PLEASE NOTE THAT ALL CASES WILL BEGIN AS TRACK 2 or 3 CASES UNTIL THE COURT APPROVES ASSIGNMENT TO TRACK 4.)

2 DEFENDANT LOCALLY INCARCERATED.

3 DEFENDANT ON BOND/WRIT STATUS.

4 COMPLEX.

PRESUMED ROUTINE: AGGRAVATED ASSAULT, ROBBERY, CDS, THEFT, BURGLARY, FORGERY, UTTERING.

PRESUMED COMPLEX: HOMICIDE, RAPE, 1ST & 2ND DEGREE SEX OFFENSES, CHILD ABUSE, MAJOR FRAUD, CONSOLIDATED/JOINED CASES, ARSON, DNA CASES, NCR CASES.

REASONS FOR ASSIGNING CASE TO TRACK OTHER THAN PRESUMED TRACK:

_____/240-_____
ASSISTANT STATE'S ATTORNEY/PHONE #

INITIAL DCM ADMINISTRATION TRACK DESIGNATION: _____

CASE TRACKING INFORMATION SHEET: DEFENSE COUNSEL

CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND CASE TRACKING INFORMATION

DATE: ____/____/____

CASE #: _____ STATE V. _____

Initial Track Assignment: ____

TRACK REQUESTED: (CIRCLE ONE TRACK: PLEASE NOTE THAT ALL CASES WILL BEGIN AS TRACK 2 or 3 CASES UNTIL THE COURT APPROVES ASSIGNMENT TO TRACK 4.)

- 2 DEFENDANT LOCALLY INCARCERATED.
- 3 DEFENDANT ON BOND/WRIT STATUS.
- 4 COMPLEX.

PRESUMED ROUTINE: AGGRAVATED ASSAULT, ROBBERY, CDS, THEFT, BURGLARY, FORGERY, UTTERING.

PRESUMED COMPLEX: HOMICIDE, RAPE, 1ST & 2ND DEGREE SEX OFFENSES, CHILD ABUSE, MAJOR FRAUD, CONSOLIDATED/JOINED CASES, ARSON, DNA CASES, NCR CASES.

REASONS FOR ASSIGNING CASE TO TRACK OTHER THAN PRESUMED TRACK:

Interpreter needed? YES / NO. If yes, you must complete Form 1-332, available from the Clerk's Office and on line <http://www.courts.state.md.us/courtforms/>.

DEFENSE COUNSEL

PHONE #: _____

DCM ADMINISTRATION TRACK RECOMMENDATION: _____

PLEASE GIVE ALL ENCLOSED PAPERS TO YOUR ATTORNEY.

POR FAVOR, DELE A SU ABOGADO TODOS ESTOS DOCUMENTOS.

Consent Scheduling Order in Lieu of 4-215/Scheduling Hearing:

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

THE STATE OF MARYLAND

VS.

CASE NO: _____ - C

DEFENDANT

CONSENT SCHEDULING ORDER IN LIEU OF SCHEDULING CONFERENCE
MAY BE ACCEPTED ONLY WITH THE ORIGINAL SIGNATURE OF THE DEFENDANT.
ALL DATES MUST BE WITHIN DCM GUIDELINES FOR THE TRACK BELOW AND CLEARED WITH AO.

_____ DCM TRACK

THIS ORDER IS YOUR OFFICIAL NOTICE OF SCHEDULED DATES AND REQUIRED COURT APPEARANCES. IT MAY NOT BE MODIFIED EXCEPT BY LEAVE OF THE COURT UPON A SHOWING OF GOOD CAUSE; STIPULATIONS BETWEEN COUNSEL SHALL NOT BE EFFECTIVE TO CHANGE ANY DEADLINES IN THE ORDER ABSENT COURT APPROVAL. PARTIES SHALL COMPLY WITH DISCOVERY OBLIGATIONS PURSUANT TO RULE 4-263. SANCTIONS SHALL APPLY FOR FAILURE TO COMPLY WITH THE TERMS OF THIS ORDER.

DISCOVERY COMPLETED/PLEA OFFER EXTENDED ____/____/____.

RESOLUTION CONFERENCE BEFORE JUDGE ____/____/____ : ____ AM/PM
ATTENDANCE REQUIRED.

PRETRIAL HEARING/OPEN PLEA DEADLINE* ____/____/____ : ____ AM/PM....ATTENDANCE REQUIRED.

MOTIONS HEARING**.....____/____/____.....ATTENDANCE REQUIRED.**

TRIAL: [JURY/COURT ____ DAY(S)].....____/____/____ : ____ AM/PM....ATTENDANCE REQUIRED.

I, _____, AM THE DEFENDANT IN THE ABOVE CASE. I HAVE RECEIVED A COPY OF THIS CONSENT

SCHEDULING ORDER ON _____ AND UNDERSTAND THAT I MUST APPEAR IN CIRCUIT COURT ON THE

FOLLOWING DATES: _____.

DEFENDANT'S SIGNATURE (REQUIRED)

STATE: _____ DEFENSE COUNSEL: _____

* NOTE: PLEA AGREEMENTS REACHED AFTER THE PRE-TRIAL HEARING MAY ONLY BE TAKEN BY THE ASSIGNED PLEA JUDGE.

**NOTE: THE MOTIONS HEARING DATE WILL NOT BE IN EFFECT UNLESS MOTIONS ARE FILED AND THE NEED FOR A HEARING IS CONFIRMED AT THE PRE-TRIAL HEARING.

APPROVED: _____

CRIMINAL CASE TRACKING GUIDELINES

EVENT	TRACK 1 Instant Jury Demands 8:30 AM/PT	TRACK 2 Locally Incarcerated	TRACK 3 On bond/ Writ	TRACK 4 Complex FROM TRACKS 2 or 3
	DAY	DAY	DAY	DAY
Jury Demand/Appeal	1			
Indictments/Information Filed with DCM TRACK Request		1*	1*	[1]
4-215/ Scheduling Hearing		8	22	8 22**
Discovery Completed/ Plea Offer Extended		22	36	45 65
Pretrial Hearing	29	43	50	60 75
Status Conference ⁺		If needed	If needed	75 90
Motions, if Needed		58 - 62	72	75 90
Trial	1- 74	72 - 80	86 - 115	110 - 140

* Screen for assignment to Track 4. Trial date to be set no later than Day 29.

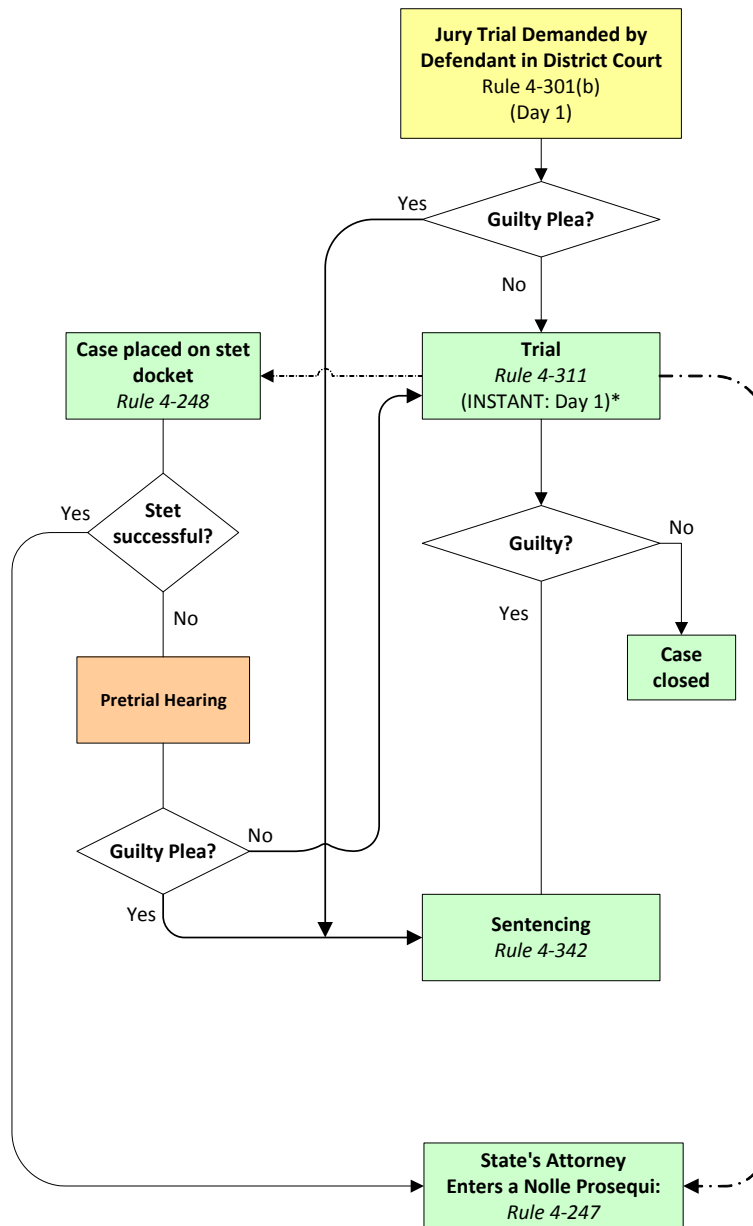
**Case assigned to Track 4; trial and motions date to be cleared with the assign Track 4 judge.

⁺A defense attorney, on entering a line of appearance after the trial date has been scheduled, may request a status hearing to address scheduling issues. A Track 4 Status Conference may be waived with certification by counsel that there are no pending issues and that the case is ready for trial.

NOTE: Effective July 1, 2010, Track Zero has been abolished; cases previously filed in Track 0 are filed as Track 2 or 3 cases.

Criminal Track 1

District Court Jury Demands



*Written Jury Demands timely filed are scheduled so the Circuit Court trial date is the same as the scheduled District Court Trial date. In rare cases in which a jury demand occurs late in the day, the trial may be scheduled for the next court.

CRIMINAL TRACK 1

JURY DEMANDS

All Demands for Jury Trials from the District Court are assigned to Criminal Track 1. Jury demands filed fifteen (15) days prior to the District Court trial date are assigned that trial date as the Circuit Court trial date. Demands for jury trials made in open court on the trial date will proceed immediately to the Circuit Court for trial on the same day. If a jury demand occurs after 4:30 PM in the District Court in Rockville or after 4:00 PM in the District Court in Silver Spring, the case will be scheduled for trial the next day the Court is in session.

The defendant may elect to plead guilty instead of going to trial by either pleading guilty to all of the charges or to those charges negotiated in a plea agreement. The State's Attorney may also elect to place a case on the *stet* (inactive or stayed) docket, with conditions that the defendant is required to fulfill or face prosecution. If the conditions associated with the *stet* are fulfilled or complied with, the case is removed from the *stet* docket and the State's Attorney enters a *nolle prosequi*. If the conditions are not met or violated, the case is reactivated and a Pretrial Hearing is set to determine how it will be handled—by trial, plea, a *nolle prosequi*, etc.

If a case does go to trial and a mistrial is declared, either for an error that occurs during the trial or where a jury cannot reach a verdict, then the case is scheduled for a Pretrial Hearing as above unless the State's Attorney enters a *nolle prosequi* at the declaration of the mistrial.

Track 1 Jury Demand cases have the following disposition time goals:

**Written Jury Demands: Number of days to Scheduled District Court Trial date
(15 days to 30 days)**

In Court Jury Demands: 1 day

CRIMINAL TRACK 1 -- JURY DEMANDS

Cases that are jury demanded from the District Courts in Rockville and Silver Spring

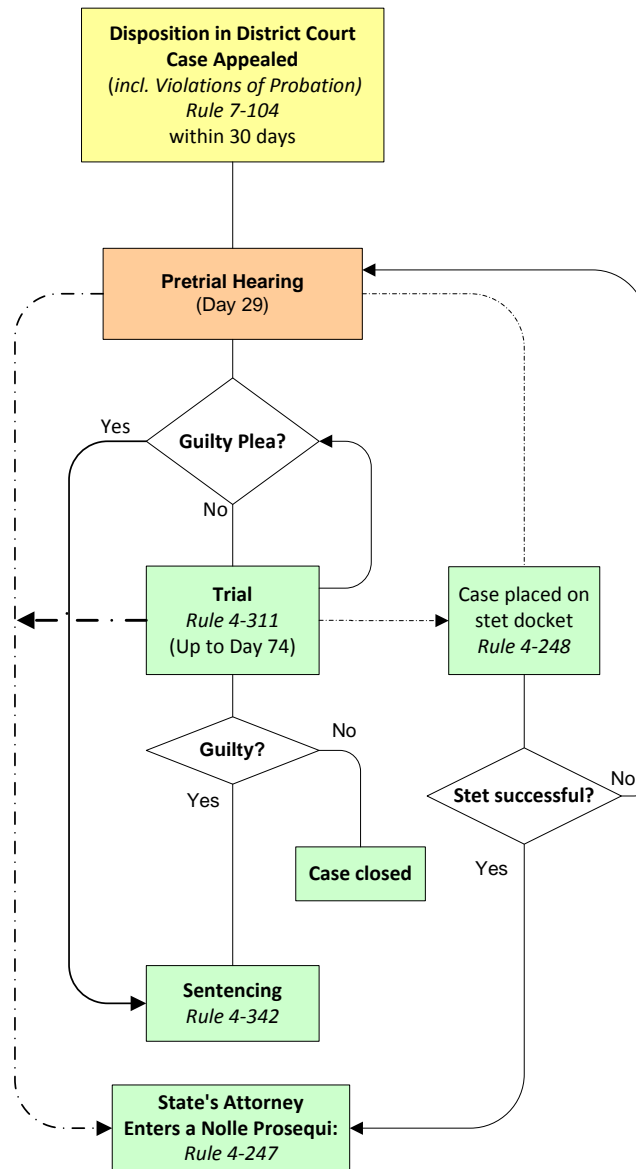
=====

DAY

1		JURY DEMAND
		These cases are scheduled according to the following schedule. When a written demand for jury trial is filed at least fifteen (15) days prior to the trial date, the trial date scheduled before District Court will become the Circuit Court trial date. When an oral demand for jury trial made in open court on the trial date the case will proceed immediately to the Circuit Court for trial. Jury demands made after 4:30 PM in Rockville and after 4:00 PM in Silver Spring will be scheduled for a jury trial the following business day.
1 / 15 - 30	+ 0/ +14 - 29	TRIAL DATE
		The defendant may enter a plea before the Administrative Judge, the assigned trial Judge, or proceed to trial.

Criminal Track 1

District Court Appeals



CRIMINAL TRACK 1 - APPEALS

Cases that have been appealed from the District Court

All Appeals from the District Court are assigned to Criminal Track 1. Appealed cases are tried *de novo* in the Circuit Court and are set for a Pretrial Hearing within four (4) weeks. The defendant may elect to plead guilty instead of going to trial by either pleading guilty to all of the charges or to those charges negotiated in a plea agreement. If a plea agreement is not reached by the Pretrial Hearing, a trial date will be scheduled within forty-five (45) days.

The State's Attorney may elect to place a case on the *stet* (inactive or stayed) docket, with conditions that the defendant is required to fulfill or face prosecution. If the conditions associated with the *stet* are fulfilled or complied with, the case is removed from the *stet* docket and the State's Attorney enters a *nolle prosequi*. If the conditions are not met or violated, the case is reactivated and a Pretrial Hearing is set to determine how it will be handled—by trial, plea, a *nolle prosequi*, etc.

If a case does go to trial and a mistrial is declared, either for an error that occurs during the trial or when a jury cannot reach a verdict, then the case is scheduled for a Pretrial Hearing as above unless the State's Attorney enters a *nolle prosequi* at the declaration of the mistrial.

Track 1 appealed cases have a disposition time goal of 29 - 74 days.

CRIMINAL TRACK 1 - APPEALS

Cases that have been appealed from the District Courts in Rockville and Silver Spring

=====

DAY

1		APPEAL	
			District Court assigns the pretrial date when the appeal is filed.
29	+28 days	PRETRIAL HEARING	
			A plea may be entered by the defendant, or a trial date will be set within forty-five (45) days.
Up to 74	+ 45 days max	TRIAL DATE	
			The trial will proceed on this date before the 8:30 AM Judge, or the defendant may enter a plea.

INSTRUCTIONS FOR DEFENDANTS WITH CASES APPEALED TO THE CIRCUIT COURT

STATE OF MARYLAND

WARRANT NO.: _____

vs.

CRIMINAL/TRAFFIC NO.: _____

INSTRUCTIONS FOR DEFENDANTS WITH CASES APPEALED TO THE CIRCUIT COURT

Your appeal from the decision of the District Court of Maryland has been noted and all further proceedings in your case will be conducted by the Circuit Court for Montgomery County, Judicial Center, 50 Maryland Avenue in Rockville. **YOU WILL NO LONGER BE REQUIRED TO APPEAR BEFORE THE DISTRICT COURT FOR PROCEEDINGS IN THE CASE CITED ABOVE.**

A pre-trial hearing in your case has been set in the Circuit Court for 8:30 a.m. on Friday, _____. The purpose of the pre-trial hearing is to ensure that you understand the charge(s) against you and that you are prepared for trial, which will be set by the Circuit Court at the pre-trial hearing. **FAILURE TO APPEAR AT THE PRE-TRIAL HEARING WILL RESULT IN THE FORFEITURE OF YOUR BOND, THE ISSUANCE OF A BENCH WARRANT FOR YOUR ARREST AND THE DISMISSAL OF YOUR APPEAL.**

If you do not already have an attorney and cannot afford one, you should contact the Public Defender's Office, telephone (301) 279-1660, immediately so that an attorney may be appointed for you and the trial can take place on the scheduled date.

Should any problem develop concerning your appearance in the Circuit Court, advise your attorney without delay. If you do not have an attorney, advise the Assignment Office of the Circuit Court for Montgomery County, telephone (240) 777-9000, immediately, of any problem which may affect your appearance.

I have read the above instructions and understand them.

DATE _____

Defendant's Signature _____

WITNESS _____

Address (Please print or type) _____

TELEPHONE NUMBER _____

THIS PORTION TO BE MAILED OR DELIVERED TO THE CLERK OF THE CIRCUIT COURT

RE: WARRANT NO.: _____

CRIMINAL/TRAFFIC NO.: _____

Please enter my appearance as defense counsel in the case of State of Maryland vs. _____. My client enters a plea of not guilty and demands an appeal. I will be present with my client at _____.

(NO WAIVER ACCEPTED. PERSONAL APPEARANCE REQUIRED.)

I understand that the pre-trial hearing is set in the Circuit Court at 8:30 a.m. on Friday, _____. Trial will be set by the Circuit Court at the pre-trial hearing. The pre-trial hearing date can be changed only by written petition and Order of Court.

DATE _____

Name of Defense Counsel _____

Address (Please print or type) _____

TELEPHONE NUMBER _____

TE-Circuit Court

GREEN-Defendant

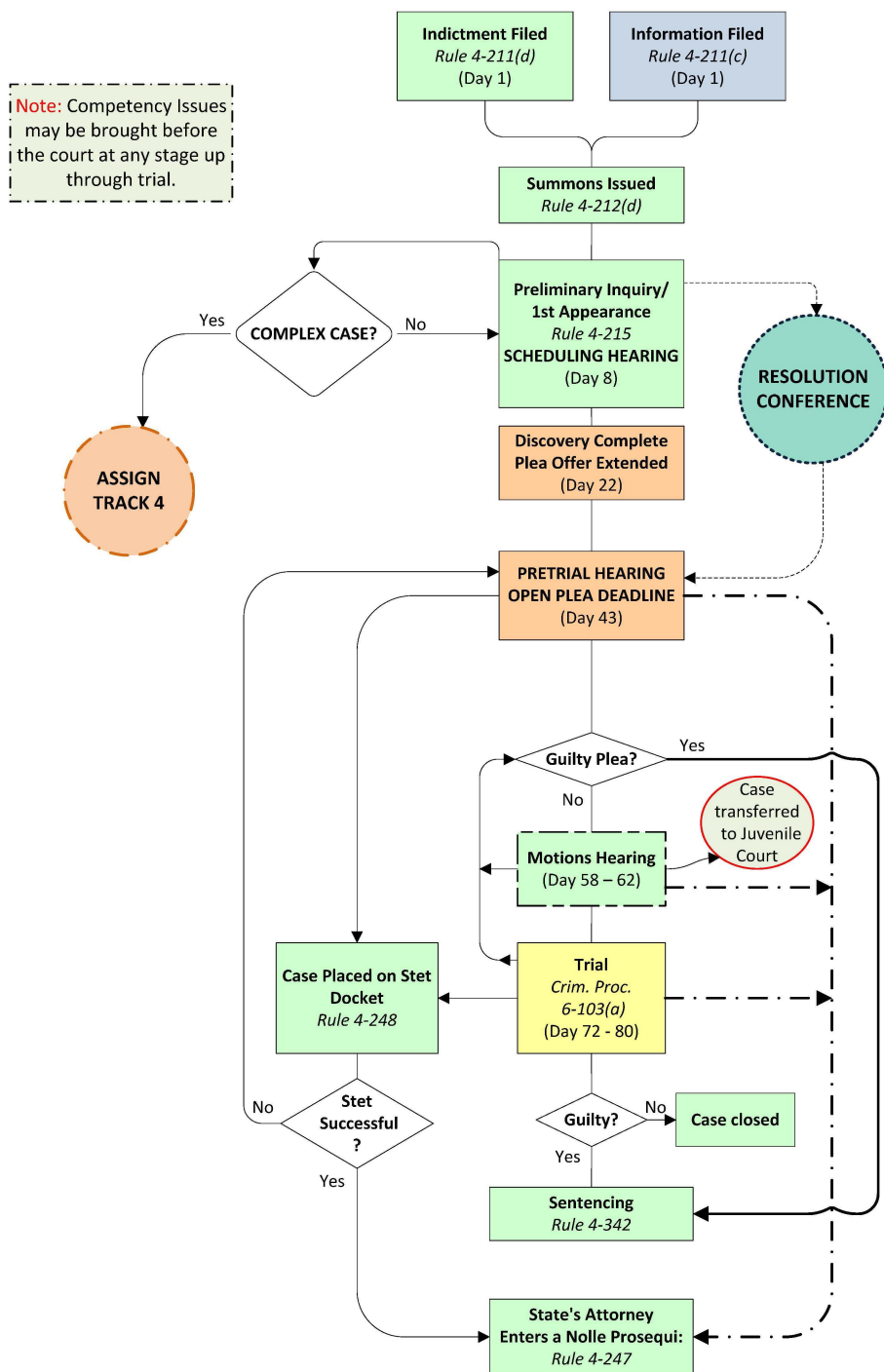
YELLOW-Defense Attorney

PINK-State's Attorney

GOLD-District Court

Criminal Track 2

Defendant Locally Incarcerated



CRIMINAL TRACK 2

Defendant is Locally Incarcerated

Aggravated Assaults, Robbery, Burglary, Daytime Housebreaking, Storehousebreaking, CDS, Theft, Forgery, Uttering

All cases originating in the Circuit Court (indictment or information) in which the defendant is locally incarcerated at the time the charging document is filed will be assigned to Track 2. (In cases involving multiple co-defendants who will be tried together and at least one of the co-defendants is on bond status or incarcerated in another jurisdiction, those cases with locally incarcerated co-defendants will be assigned to Track 3, rather than Track 2.) Track 2 cases include offenses from low to medium complexity. Examples: Robbery, Burglary, Daytime Housebreaking, Storehousebreaking, CDS (drug), Theft, Forgery, Uttering, and Aggravated Assaults.

Track 2 provides for a combined **Rule 4-215/Scheduling Hearing** on an expedited basis the Friday following indictment or filing of the information. At the Scheduling Hearing held in Track 2 cases, the Court will screen each case with the input of the State's Attorney's Office and defense counsel to determine whether it requires enhanced judicial supervision and resources. If the case is sufficiently complex and a trial is anticipated, the Court will assign the case to Track 4.

Trial dates and other key events, including a Pretrial Hearing date, possible Resolution Conference and Motions Hearing dates are set in cases in which the defendant is represented. Unrepresented defendants are advised of the right to and need for representation by counsel and the Scheduling Hearing is reset within 2 weeks. Where a defendant continues to be unrepresented and the Court determines another Scheduling Hearing will not be set, the trial date will be set at the instant Scheduling Hearing. A trial date must be set within 30 days after the first appearance of the defendant. A defense attorney on entering a line of appearance after the trial date has been scheduled may request a status hearing to address scheduling issues. While ongoing discovery obligations continue, all known discovery is to be completed 3 weeks after filing. (The State's Attorney's Office policy is for an initial package that is as complete as possible to be available at the time of filing, which is essential for early resolution of cases.) The deadline for a

plea offer, where a plea offer will be extended, coincides with the discovery deadline. Track 2 cases have a disposition time goal of 72 to 80 days from the filing of the indictment or information to trial.

If a separate motions hearing is necessary, then a motions hearing is scheduled no later than 6 weeks from the filing date. If the defendant is a juvenile, the Court may find at a motions hearing that the transfer of the case to the Juvenile Court is in the interest of the child or society. The case is transferred upon such a finding to the Juvenile Court, ending the proceedings in the Circuit Court. (Section 4-202 of the Criminal Procedure Article)

The State's Attorney may elect to place a case on the *stet* (inactive or stayed) docket, with conditions that the defendant is required to fulfill or face prosecution. If the conditions associated with the *stet* are fulfilled or complied with, the case is removed from the *stet* docket and the State's Attorney enters a *nolle prosequi*. If the conditions are not met or violated, the case is reactivated and a Pretrial Hearing is set to determine how it will be handled—by trial, plea, a *nolle prosequi*, etc.

If a case does go to trial and a mistrial is declared, either for an error that occurs during the trial or when a jury cannot reach a verdict, then the case is scheduled for a Status Conference as above unless the State's Attorney enters a *nolle prosequi* at the declaration of the mistrial.

Track 2 cases have a disposition time goal of 72 to 80 days from the filing of the Indictment or Information to trial.

CRIMINAL TRACK 2 - ROUTINE

Defendant is Locally Incarcerated

Aggravated Assaults, Robbery, Burglary, Daytime Housebreaking, Storehousebreaking, CDS, Theft, Forgery, Uttering

=====

DAY

1		INFORMATION / INDICTMENT
		Charging documents, DCM information sheet and scheduling notice with trial date window served with summons. Plea judge assigned.
8	+7 days	4-215 HEARING/SCHEDULING HEARING
		Scheduled on Friday at 9:00 AM before the Administrative Judge. The case will be screened for possible assignment to Track 4. A trial date will be set, with counsel present, within the DCM guidelines. If a defendant is not yet represented, advised of right and need to obtain counsel. Scheduling Hearing may be reset within 2 weeks in order for defendant to obtain counsel; however as a trial date must be set within 30 days, a trial date will be set no later than the 29 th day. Where appropriate, Resolution Conference and Motions Hearing dates will also be set.
22	+14 days	DISCOVERY TO BE COMPLETED/PLEA OFFER EXTENDED
		Line for non-compliance may be filed, as the State has agreed to provide discovery. Where a plea offer will be extended, deadline to coincide with discovery deadline.
43	+21 days	PRETRIAL HEARING/OPEN PLEA DEADLINE
		Scheduled on Thursdays and Fridays at 8:30 AM. Cases reaching a plea agreement will be taken on this date. Same day Resolution Conference slots may be available on a very limited basis or not at all; please schedule Resolution Conferences prior to the Pretrial Hearing date. If not already taken by the Court, plea agreements

CRIMINAL TRACK 2 - ROUTINE (CONTINUED)

DAY

reached before a “plea active” judge must be filed and scheduled no later than the pretrial hearing date. The Pretrial Hearing date may be rescheduled once in order to allow a plea agreement to be finalized. Pending motions, if any, are resolved or confirmed. Trial date is confirmed. Plea agreements may be before the assigned plea judge only from this point forward.

58 - 62 +15 – 22 days MOTIONS HEARING DATE

The motions hearing date will not be in effect unless motions are filed, and the hearing date is confirmed at the Pretrial Hearing.

72 - 80 +14 – 22 days TRIAL DATE

Case will proceed to trial. On the trial date, the defendant may plead guilty before the trial judge only with consent of the assigned plea judge. The sentencing date will be set before the plea judge.

TRACK 2 -- CRIMINAL SCHEDULING ORDER:

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

THE STATE OF MARYLAND

vs.

CASE NO: #####- C

DEFENDANT

DEFENDANT

SCHEDULING ORDER - TRACK II

THIS ORDER IS YOUR OFFICIAL NOTICE OF SCHEDULED DATES AND REQUIRED COURT APPEARANCES. IT MAY NOT BE MODIFIED EXCEPT BY LEAVE OF THE COURT UPON A SHOWING OF GOOD CAUSE; STIPULATIONS BETWEEN COUNSEL SHALL NOT BE EFFECTIVE TO CHANGE ANY DEADLINES IN THE ORDER ABSENT COURT APPROVAL. PARTIES SHALL COMPLY WITH DISCOVERY OBLIGATIONS PURSUANT TO RULE 4-263. SANCTIONS SHALL APPLY FOR FAILURE TO COMPLY WITH THE TERMS OF THIS ORDER.

FILING DATE 07/01/2010:

4-215/SCHEDULING HEARING.....07/09/2010, 9:00 AM, ATTENDANCE REQUIRED.

DISCOVERY COMPLETED/PLEA OFFER EXTENDED...07/23/2010.

RESOLUTION CONFERENCE.....08/04/2010, 1:30 PM, ATTENDANCE REQUIRED.

PRETRIAL HEARING/OPEN PLEA DEADLINE*.....08/13/2010, 8:30 AM, ATTENDANCE REQUIRED.

MOTIONS HEARING**.....08/30/2010, ATTENDANCE REQUIRED**.

TRIAL.....09/15/2010, 9:30 AM, ATTENDANCE REQUIRED.

ASSIGNED PLEA JUDGE:_____

JOHN W. DEBELIUS III
COUNTY ADMINISTRATIVE JUDGE

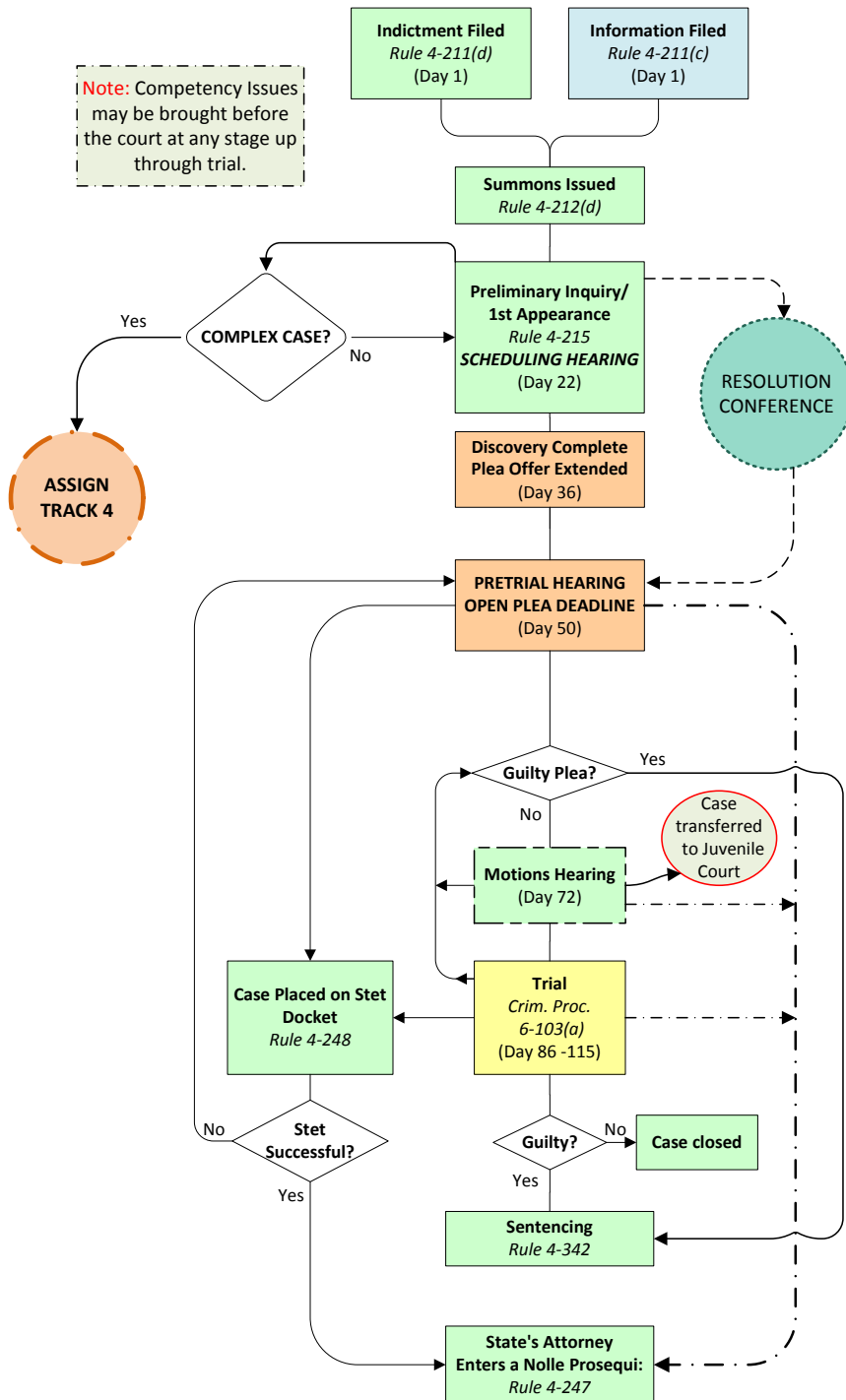
* NOTE: PLEA AGREEMENTS REACHED AFTER THE PRE-TRIAL HEARING MAY ONLY BE TAKEN BY THE ASSIGNED PLEA JUDGE.

**NOTE: THE MOTIONS HEARING DATE WILL NOT BE IN EFFECT UNLESS MOTIONS ARE FILED AND THE NEED FOR A HEARING IS CONFIRMED AT THE PRE-TRIAL HEARING.

PLEASE GIVE ALL ENCLOSED PAPERS TO YOUR ATTORNEY.
POR FAVOR, DELE A SU ABOGADO TODOS ESTOS DOCUMENTOS.

Criminal Track 3

Defendant on Bond or Writ Status



CRIMINAL TRACK 3 - ROUTINE

Defendant is on Bond or Writ Status

Aggravated Assaults, Robbery, Burglary, Daytime Housebreaking, Storehousebreaking, CDS, Theft, Forgery, Uttering.

Track 3 cases include offenses from low to medium complexity, such as: Robbery, Burglary, Daytime Housebreaking, Storehousebreaking, CDS, Theft, Forgery, Uttering, and Aggravated Assaults in which the defendant is either free on bond or is incarcerated elsewhere and must be brought to the jurisdiction on a writ. (In cases involving multiple co-defendants who will be tried together and at least one of the co-defendants is on bond status or incarcerated in another jurisdiction, those cases with locally incarcerated co-defendants will be assigned to Track 3, rather than Track 2.)

Track 3 provides for a combined **Rule 4-215/Scheduling Hearing** on the third Friday following indictment or filing of the information. At the Scheduling Hearing held in Track 3 cases, the Court will screen each case with the input of the State's Attorney's Office and defense counsel to determine whether it requires enhanced judicial supervision and resources. If the case is sufficiently complex and a trial is anticipated, the Court will assign the case to Track 4.

Trial dates and other key events, including a Pretrial Hearing date, possible Resolution Conference and Motions Hearing dates are set in cases in which the defendant is represented. Unrepresented defendants are advised of the right to and need for representation by counsel and a Scheduling Hearing may be reset within two weeks. If the defendant continues to be unrepresented at the next Scheduling Hearing date, a trial date must be set no later than 29th day after the defendant's first appearance. Where another Scheduling Hearing is not scheduled, a trial date must be set at the Scheduling Hearing; the case may not proceed beyond the Scheduling Hearing stage without a trial date. A defense attorney on entering a line of appearance after the trial date has been scheduled may request a status hearing to address scheduling issues.

While ongoing discovery obligations continue, all known discovery is to be completed within 3 weeks after filing. (The State's Attorney's Office policy is for an initial package that is as complete as possible to be available at the time of filing, which is essential for early resolution of cases.) The deadline for a plea offer, where a plea offer will be extended, coincides with the

discovery deadline. Please see the Court's plea policy, section E, for guidance on when judges other than the assigned plea judge may take plea agreements.

If a separate motions hearing is necessary, then a motions hearing is scheduled no later than 6 weeks from the filing date. If the defendant is a juvenile, the Court may find at a motions hearing that the transfer of the case to the Juvenile Court is in the interest of the child or society. The case is transferred upon such a finding to the Juvenile Court, ending the proceedings in the Circuit Court. (Section 4-202 of the Criminal Procedure Article)

The State's Attorney may elect to place a case on the *stet* (inactive or stayed) docket, with conditions that the defendant is required to fulfill or face prosecution. If the conditions associated with the *stet* are fulfilled or complied with, the case is removed from the *stet* docket and the State's Attorney enters a *nolle prosequi*. If the conditions are not met or violated, the case is reactivated and a Pretrial Hearing is set to determine how it will be handled—by trial, plea, a *nolle prosequi*, etc.

If a case does go to trial and a mistrial is declared, either for an error that occurs during the trial or when a jury cannot reach a verdict, then the case is scheduled for a Status Conference as above unless the State's Attorney enters a *nolle prosequi* at the declaration of the mistrial.

Track 3 cases have a disposition time goal of 86 to 115 days from the filing of the Indictment or Information to trial.

CRIMINAL TRACK 3

Defendant is on Bond or Writ Status

Aggravated Assaults, Robbery, Burglary, Daytime Housebreaking, Storehousebreaking, CDS, Theft, Forgery, Uttering.

=====

1		INFORMATION / INDICTMENT Charging documents, DCM information sheet and scheduling notice with trial date window served with summons. Plea judge assigned.
22	+21 days	4-215 HEARING/SCHEDULING HEARING Scheduled on Friday at 9:00 AM before the Administrative Judge. The case will be screened for possible assignment to Track 4. A trial date will be set, with counsel present, within the DCM guidelines. If a defendant is not yet represented, advised of right and need to obtain counsel. Scheduling Hearing may be reset within 2 weeks in order for defendant to obtain counsel; however as a trial date must be set within 30 days, a trial date will be set no later than the 29 th day. Where appropriate, Resolution Conference and Motions Hearing dates will also be set.
36	+14 days	DISCOVERY TO BE COMPLETED/PLEA OFFER EXTENDED Line for non-compliance may be filed, as the State has agreed to provide discovery. Where a plea offer will be extended, deadline to coincide with discovery deadline.
50	+14 days	PRETRIAL HEARING/OPEN PLEA DEADLINE Scheduled on Thursdays and Fridays at 8:30 AM. Cases reaching a plea agreement will be taken on this date. Same day Resolution Conference slots may be available on a very limited basis or not at all; please schedule Resolution Conferences prior to the Pretrial Hearing date. If not already taken by the Court, plea agreements reached before a “plea active” judge must be filed and scheduled no later than the pretrial hearing date. The Pretrial Hearing date

CRIMINAL TRACK 3 (cont.)

DAY

may be rescheduled once in order to allow a plea agreement to be finalized. Pending motions, if any, are resolved or confirmed. Trial date is confirmed. Plea agreements may be before the assigned plea judge only from this point forward.

72 +22 days MOTIONS HEARING DATE

The motions hearing date will not be in effect unless motions are filed, and the hearing date is confirmed at the Pretrial Hearing.

86 - 115 +14 – 43 days TRIAL DATE

Case will proceed to trial. On the trial date, the defendant may plead guilty before the trial judge only with consent of the assigned plea judge. The sentencing date will be set before the plea judge.

TRACK 3 -- CRIMINAL SCHEDULING ORDER

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

THE STATE OF MARYLAND

VS.

CASE NO: #####- C

DEFENDANT

DEFENDANT

SCHEDULING ORDER - TRACK III

THIS ORDER IS YOUR OFFICIAL NOTICE OF SCHEDULED DATES AND REQUIRED COURT APPEARANCES. IT MAY NOT BE MODIFIED EXCEPT BY LEAVE OF THE COURT UPON A SHOWING OF GOOD CAUSE; STIPULATIONS BETWEEN COUNSEL SHALL NOT BE EFFECTIVE TO CHANGE ANY DEADLINES IN THE ORDER ABSENT COURT APPROVAL. PARTIES SHALL COMPLY WITH DISCOVERY OBLIGATIONS PURSUANT TO RULE 4-263. SANCTIONS SHALL APPLY FOR FAILURE TO COMPLY WITH THE TERMS OF THIS ORDER.

FILING DATE 07/01/2010:

4-215/SCHEDULING HEARING.....07/23/2010, 9:00 AM, ATTENDANCE REQUIRED.

DISCOVERY COMPLETED/PLEA OFFER EXTENDED...08/06/2010

RESOLUTION CONFERENCE.....08/14/2010, 1:30 PM, ATTENDANCE REQUIRED.

PRETRIAL HEARING/OPEN PLEA DEADLINE*.....08/20/2010, 8:30 AM, ATTENDANCE REQUIRED.

MOTIONS HEARING**.....09/10/2010, ATTENDANCE REQUIRED**.

TRIAL.....10/06/2010, 9:30 AM, ATTENDANCE REQUIRED.

ASSIGNED PLEA JUDGE: _____

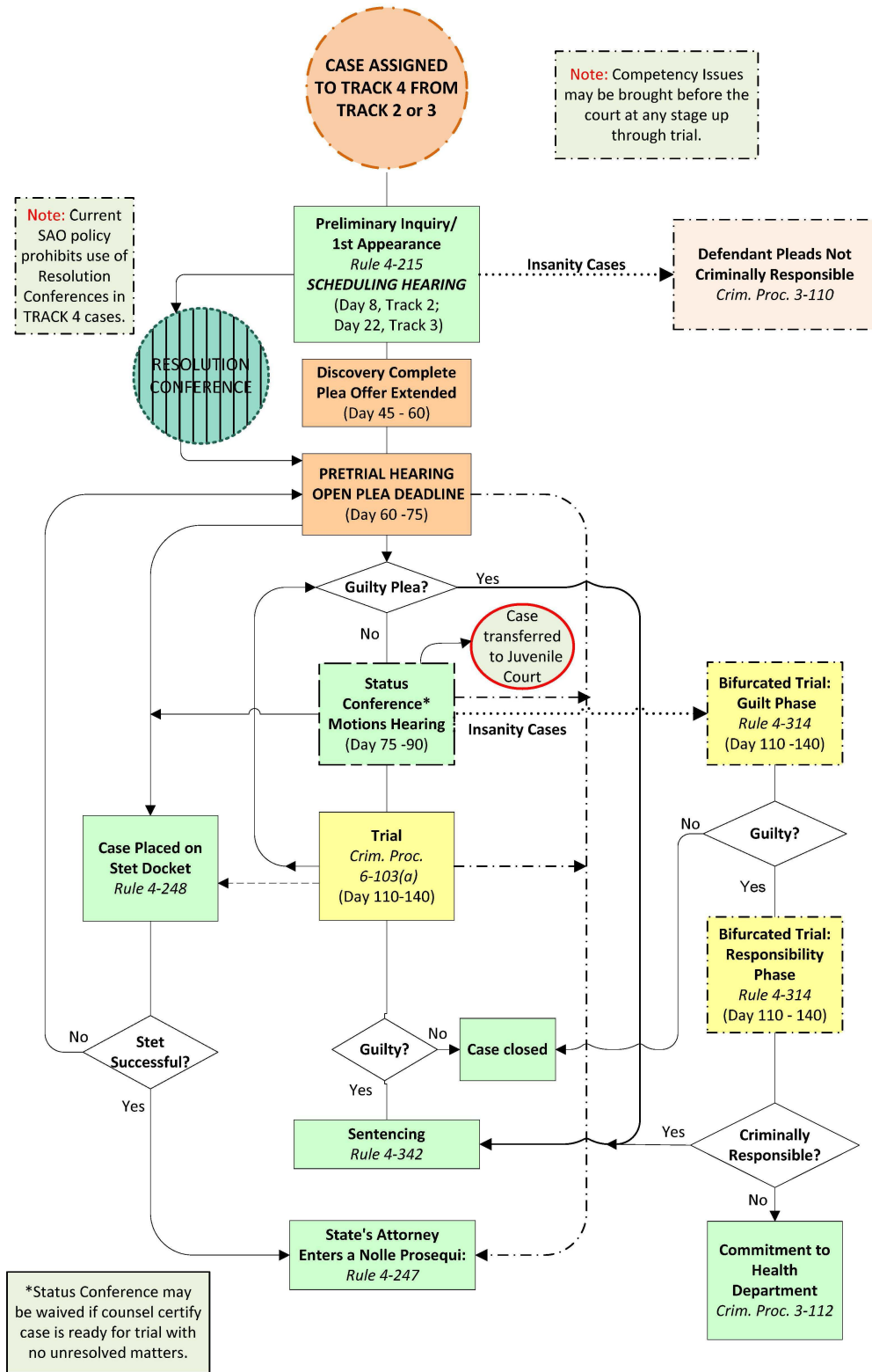
JOHN W. DEBELIUS III
COUNTY ADMINISTRATIVE JUDGE

* NOTE: PLEA AGREEMENTS REACHED AFTER THE PRE-TRIAL HEARING MAY ONLY BE TAKEN BY THE ASSIGNED PLEA JUDGE.

**NOTE: THE MOTIONS HEARING DATE WILL NOT BE IN EFFECT UNLESS MOTIONS ARE FILED AND THE NEED FOR A HEARING IS CONFIRMED AT THE PRE-TRIAL HEARING.

PLEASE GIVE ALL ENCLOSED PAPERS TO YOUR ATTORNEY.
POR FAVOR, DELE A SU ABOGADO TODOS ESTOS DOCUMENTOS.

Criminal Track 4 COMPLEX CASES



CRIMINAL TRACK 4 - COMPLEX

Defendant may be on Bond, Writ Status, or Incarcerated

Homicide, Rape, First and Second Degree Sex Offenses, Child Abuse, Major Fraud, Arson, , Kidnapping, Attempted Homicide, Consolidated cases; DNA Cases; NCR cases.

Track 4 is reserved for complex cases including: Homicide, Rape, First and Second Degree Sex Offenses, Child Abuse, Major Fraud, and Arson, as well as DNA and insanity (NCR) cases. While such charges are presumed to be appropriate for Track 4 assignment, all Circuit Court original cases (indictments and informations) are first assigned to Track 2 and 3 and screened for possible assignment to Track 4 at the 4-215/Scheduling Hearing based upon the DCM Information Sheets and information obtained about the case's posture from counsel. (Where a proposed Consent Scheduling Order seeks Track 4 assignment, the Court must approve such a designation before waiving the appearance of the defendant and counsel at the 4-215 Scheduling Hearing.) Once a case is assigned to Track 4, the plea judge already assigned in the case becomes the Track 4 judge assigned to the case. **All events** are to be handled by the assigned judge with the exception of the **Rule 4-215/Scheduling Hearing**, which is scheduled either 8 days or 3 weeks after the filing date, depending on the originating track.

Track 4 cases have trial and other scheduled events assigned as guideline dates for the cases to be disposed within the statutory timeframe of 180 days. Trial dates and other key events, including a Pretrial Hearing date and a Motions Hearing date are set in cases in which the defendant is represented. Unrepresented defendants are advised of the right to and need for representation by counsel and a Scheduling Hearing may be reset within two weeks. If the defendant continues to be unrepresented at the next Scheduling Hearing date, a trial date must be set no later than 29th day after the defendant's first appearance. Where another Scheduling Hearing is not scheduled, a trial date must be set at the Scheduling Hearing; the case may not proceed beyond the Scheduling Hearing stage without a trial date. A defense attorney on entering a line of appearance after the trial date has been scheduled may request a status hearing to address scheduling issues.

While ongoing discovery obligations continue, all known discovery is to be completed within 45 to 65 days after filing. Track 4 cases may involve forensic tests, including DNA, which take time and discovery deadlines may need to be adjusted where a significant delay is encountered beyond the control of the prosecution and defense. (The State's Attorney's Office policy is for an initial package that is as complete as possible to be available at the time of filing, which is essential for early resolution of cases.) The deadline for a plea offer, where a plea offer will be extended, coincides with the discovery deadline. Please see the Court's plea policy, section E, for guidance on when judges other than the assigned Track 4 judge may take plea agreements.

At the Pretrial Hearing, those cases reaching a plea agreement may be taken on this date. If not already taken by the Court, plea agreements reached before a "plea active" judge must be filed and scheduled no later than the pretrial hearing date. The Pretrial Hearing date may be rescheduled once in order to allow a plea agreement to be finalized. Pending motions, if any, are resolved or confirmed. The trial and pending motions dates will be confirmed and number of days and date adjusted if necessary. Plea agreements may only be before the assigned Track 4 judge from this point forward.

Complex cases typically require at least one separate motions hearing. At least one motions hearing is scheduled no later than 75 to 90 days from the filing date. A Status Conference is scheduled concurrent with the last Motions date. The Status Conference may be waived if counsel file a line certifying that the case has no remaining unresolved issues and is ready to proceed to trial.

If the defendant is a juvenile, the Court may find at a motions hearing that the transfer of the case to the Juvenile Court is in the interest of the child or society. The case is transferred upon such a finding to the Juvenile Court, ending the proceedings in the Circuit Court. (Section 4-202 of the Criminal Procedure Article)

If the defendant files a pleading indicating a defense of "not criminally responsible" by reason of mental illness or disability (insanity), a bifurcated trial procedure may be followed involving two separate proceedings to determine guilt first and criminal responsibility second.

The State's Attorney may elect to place a case on the *stet* (inactive or stayed) docket, with conditions that the defendant is required to fulfill or face prosecution. If the conditions associated with the *stet* are fulfilled or complied with, the case is removed from the *stet* docket and the State's Attorney enters a *nolle prosequi*. If the conditions are not met or violated, the case is reactivated and a Pretrial Hearing is set to determine how it will be handled—by trial, plea, a *nolle prosequi*, etc.

If a case does go to trial and a mistrial is declared, either for an error that occurs during the trial or where a jury cannot reach a verdict, then the case is scheduled for a Status Conference as above unless the State's Attorney enters a *nolle prosequi* at the declaration of the mistrial.

The disposition time goal for Track 4 cases is 110-140 days from the filing of the Indictment or Information to trial.

CRIMINAL TRACK 4 - COMPLEX

Defendant may be on Bond, Writ Status, or Incarcerated

Homicide, Rape, First and Second Degree Sex Offenses, Child Abuse, Major Fraud, Arson, ,
Kidnapping, Attempted Homicide, Consolidated cases; DNA Cases; NCR cases

=====

DAY

1		INFORMATION / INDICTMENT
		Case initially assigned to Track 2 or 3. Charging documents, DCM information sheet and scheduling notice with trial date window served with summons. Plea judge assigned.
8 or 22	+7 +21 days	4-215 HEARING/SCHEDULING HEARING
		Scheduled on Friday at 9:00 AM before the Administrative Judge. Once assigned to Track 4, the plea judge becomes the Track 4 judge. The Track 4 judge's chambers will be consulted to clear dates for the Pretrial, Motions and Trial dates. Where the Track 4 judge is available, the case is transferred to that judge's courtroom to complete the Scheduling Hearing
45 or 65	+37 +65 days	DISCOVERY TO BE COMPLETED/PLEA OFFER EXTENDED
		Line for non-compliance may be filed, as the State has agreed to provide discovery. Where a plea offer will be extended, deadline to coincide with discovery deadline.
60 or 75	+15 +10 days	PRETRIAL HEARING/OPEN PLEA DEADLINE
		Scheduled on Thursdays and Fridays at 8:30 AM. Cases reaching a plea agreement will be taken on this date. If not already taken by the Court, plea agreements reached before a "plea active" judge must be filed and scheduled no later than the pretrial hearing date. The Pretrial Hearing date may be rescheduled once in order to allow a plea agreement to be finalized. Pending motions, if any, are resolved or confirmed. The trial date and estimated time is confirmed. Plea agreements may be before the assigned Track 4 Judge only from this point forward.

CRIMINAL TRACK 4 (cont.)

DAY

75 or 90	+15 days	MOTIONS AND STATUS HEARING DATE
		The motions hearing date will not be in effect unless motions are filed, and the hearing date is confirmed at the Pretrial Hearing. Complex cases typically require at least one separate motions hearing. At least one motions hearing is scheduled no later than 75 to 90 days from the filing date. A Status Conference is scheduled concurrent with the last Motions date. The Status Conference may be waived if counsel file a line certifying that there are no remaining unresolved issues and the case is ready to proceed to trial.
110 - 140	+35 – +65 days	TRIAL DATE
		Case will proceed to trial.

TRACK 4 -- CRIMINAL SCHEDULING ORDER

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

THE STATE OF MARYLAND

vs.

DEFENDANT

DEFENDANT

CASE NO: #####- C

sample

SCHEDULING ORDER - TRACK 4 COMPLEX

THIS ORDER IS YOUR OFFICIAL NOTICE OF SCHEDULED DATES AND REQUIRED COURT APPEARANCES. IT MAY NOT BE MODIFIED EXCEPT BY LEAVE OF THE COURT UPON A SHOWING OF GOOD CAUSE; STIPULATIONS BETWEEN COUNSEL SHALL NOT BE EFFECTIVE TO CHANGE ANY DEADLINES IN THE ORDER ABSENT COURT APPROVAL. PARTIES SHALL COMPLY WITH DISCOVERY OBLIGATIONS PURSUANT TO RULE 4-263. SANCTIONS SHALL APPLY FOR FAILURE TO COMPLY WITH THE TERMS OF THIS ORDER.

FILING DATE 07/01/2010:

4-215/SCHEDULING HEARING.....07/23/2010, 9:00 AM. ATTENDANCE REQUIRED.

DISCOVERY COMPLETED/PLEA OFFER EXTENDED...09/04/2010.

PRETRIAL HEARING/OPEN PLEA DEADLINE*09/14/2010, 8:30 AM. ATTENDANCE REQUIRED.

MOTIONS HEARING (1) STATUS CONFERENCE**...09/29/2010. ATTENDANCE REQUIRED**.

TRIAL.....11/08/2010, 9:30 AM. ATTENDANCE REQUIRED.

ASSIGNED JUDGE: _____

JOHN W. DEBELIUS III
COUNTY ADMINISTRATIVE JUDGE

* NOTE: PLEA AGREEMENTS REACHED AFTER PRE-TRIAL HEARING MAY ONLY BE TAKEN BY THE ASSIGNED PLEA JUDGE.

**NOTE: THE MOTIONS HEARING DATE WILL NOT BE IN EFFECT UNLESS MOTIONS ARE FILED AND THE NEED FOR A HEARING IS CONFIRMED AT THE PRE-TRIAL HEARING.

THE STATUS CONFERENCE MAY BE WAIVED IF COUNSEL CERTIFY THAT THERE ARE NO OUTSTANDING ISSUES TO BE RESOLVED AND THE CASE IS READY TO PROCEED TO TRIAL.

PLEASE GIVE ALL ENCLOSED PAPERS TO YOUR ATTORNEY.
POR FAVOR, DELE A SU ABOGADO TODOS ESTOS DOCUMENTOS.

GENERAL CRIMINAL INFORMATION AND PROCEDURE

DISMISSAL OF CRIMINAL DISTRICT COURT APPEALS

In accordance with Maryland Rule 7-112, when a District Court Appeal is dismissed, the case is to be remanded to the District Court.

- ⦿ Please see Policy and Procedure Section for procedure for dismissal of District Court appeals with pending sentences of incarceration in the underlying District Court case.
- ⦿ Please see Policy and Procedure Section for procedure when a line is filed dismissing an appeal.

CRIMINAL PRETRIAL DOCKET

Each case will only be allowed one pretrial date. No resets of the PT date will be allowed unless the State and Defense Counsel agree that the matter can be disposed of by the next pretrial date.

Cases that are not resolved at the pretrial level will be set for trial within thirty (30) days. The Public Defender's Office acknowledges that this may mean double booking on its calendar. Should a problem arise with a case that is double booked, the Court will accommodate the problem by trailing one of the cases.

CRIMINAL MOTIONS CALENDAR (9:30 AM FRIDAY)

Any continuances that are requested on the scheduled hearing date shall be sent to the Administrative Judge for consideration. A preliminary call of the docket should be made at 9:30 AM for continuance requests to be sent to the Administrative Judge and to take care of any preliminary matters. The Assignment Office is to be notified when cases are sent to the Administrative Judge and for any assistance that may be needed.

The criminal motions calendar is set at 9:30 AM. It is requested that all judges refrain from scheduling violations of probation, pleas, and sentencings at this time on Fridays in order for the State's Attorney's Office and Public Defender's Office to be available for the criminal motions, status conference, and pretrial calendars.

MISCELLANEOUS PETITIONS: CORAM NOBIS

- ⦿ Please see Policy and Procedure Section for procedure for Coram Nobis petitions in Circuit Court original cases as well as appeals from the District Court.

DCA Dismissals: Maryland Rule 7-112(f)

Recent discussions concerning District Court Criminal Appeals (DCAs) and their disposition have prompted an internal review of the Circuit Court's procedures in dismissing such appeals. According to Maryland Rule 7-112(f)(1), "An appellant may dismiss an appeal at any time before the commencement of trial. The court *shall* [emphasis added] dismiss an appeal if the appellant fails to appear as required for trial or any other proceeding on the appeal."

Rule 7-112(f)(4) further requires:

If the appeal of a defendant in a criminal case who was sentenced to a term of confinement and released pending appeal pursuant to Rule [4-349](#) is dismissed, the circuit court *shall* [emphasis added] (A) issue a warrant directing that the defendant be taken into custody and brought before a judge or commissioner of the District Court or (B) enter an order that requires the defendant to appear before a judge or commissioner. The warrant or order shall identify the District Court case by name and number and shall provide that the purpose of the appearance is the entry of a commitment that conforms to the judgment of the District Court.

The following procedures have been developed in consultation with the Clerk's Office, the Sheriff's Office, and the District Court for cases where an actual term of confinement was imposed as part of the District Court sentence:

- A warrant complying with the requirements of the Rule was developed some time ago and is available via the HP Form Menu (Form MCC9). A standard order has also been developed and is also available on the HP Forms Menu. A WORD form of the Order may also be accessed in the Criminal Orders folder found on the Public Folder. Samples of the automated DCA Dismissal Warrant and Order to Appear are attached, as is.
- In cases where the Defendant has been sentenced to confinement in the underlying District Court case withdraws/dismisses the appeal AND is present in court, a warrant or order must be issued.
 - Where a warrant is issued, please also revoke the appeal bond [this will prevent the erroneous setting of a bond by the Commissioner].
 - The Courtroom Clerk will need to generate the warrant or order on the computer terminal often used by the Law Clerk as it cannot be generated from the CourtSmart terminal.
 - *The warrant will be handed to the Sheriff's Deputy, who will take the Defendant into custody to be transported to appear before the Commissioner. Copies to CASE FILE, Defense Counsel, SAO.*
- OR
- *The order will be handed to the Defendant. The District Court's preference is for the Defendant to report to a Commissioner's Office. Copies to CASE FILE, Defense Counsel, SAO.*
 - The District Court Criminal Office has asked that a copy of the warrant or order, as well as the original District Court commitment order, be faxed to 301-279-1564 to allow the District Court to generate a new commitment order. The Clerk's Office has agreed to do this on an expedited basis.
- In cases where the Defendant has been sentenced to confinement in the underlying District Court case and fails to appear in court, the case must be dismissed under Rule 7-112(f)(1).
 - Please revoke the appeal bond and direct that a DCA warrant be issued. This will be done AFTER the hearing by the Clerk's Criminal Department in the same manner as Bench Warrants are now being issued.
- In cases where cases where the Defendant has been sentenced to confinement in the underlying District Court case AND the Defendant withdraws/dismisses his/her appeal in a written motion prior to an appearance, a warrant or order must be issued on dismissal of the appeal.
- PLEASE NOTE: WHERE NO TERM OF CONFINEMENT IS PENDING AND THE DEFENDANT FAILS TO APPEAR, THE DCA WARRANT OR ORDER OPTIONS UNDER SUBSECTION 4 ARE NOT AUTHORIZED AND SHOULD NOT BE ISSUED.

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND
STATE OF MARYLAND, MONTGOMERY COUNTY TO WIT:

STATE OF MARYLAND

Circuit Court Case No. 1 [REDACTED] C

vs.

Tracking No. _____

District Court Case No. FR01801 FR01802

FR01805 FR01806

FR01803 FR01804

Judge JOE BROWN

WARRANT

THE STATE OF MARYLAND, TO ANY DULY AUTHORIZED PEACE OFFICER, GREETINGS:

DEFENDANT FAILED TO APPEAR FOR OR WITHDREW HIS/HER APPEAL IN THE CIRCUIT COURT AND WAS SENTENCED IN THE DISTRICT COURT OF MARYLAND TO A TERM OF CONFINEMENT AND RELEASED PENDING APPEAL.

THEREFORE, YOU ARE HEREBY COMMANDED TO TAKE THE DEFENDANT,

BEFORE A JUDGE OR COMMISSIONER OF THE DISTRICT COURT FOR ENTRY OF A COMMITMENT THAT CONFORMS TO THE JUDGMENT OF THE DISTRICT COURT PURSUANT TO MARYLAND RULE 7-112(f)(4).

DATE ISSUED: 11/19/2009

RACE:

SEX:

DATE OF BIRTH: 05/01/1973



Loretta E. Knight

Loretta E. Knight, CLERK
of the Circuit Court for
Montgomery County, Maryland
50 Maryland Avenue
Rockville, MD 20850-2393

RETURN OF SERVICE

INVESTIGATING OFFICER:

DB HDQ. #:

CEPI:

DATE:

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

STATE OF MARYLAND :
VS : Case No. _____
:
Defendant :

ORDER TO APPEAR BEFORE A JUDGE OR COMMISSIONER OF THE DISTRICT
COURT UPON THE DISMISSAL OF APPEAL
Maryland Rule 7-212(f)(4)
()

The DEFENDANT, having been found guilty of an offense under the
Maryland Code in Maryland District Court Case #: _____
and further having been sentenced by that Court to a term of confinement and
released pending appeal pursuant to Maryland Rule 4-349, and that appeal having
been dismissed on _____, it is on this _____ day of
_____ by the Circuit Court for Montgomery County, Maryland,

ORDERED, that the DEFENDANT report OPTIONS: FORTHWITH, TODAY, on DATE _____ to
appear before a judge or commissioner of the District Court for the purpose of
the entry of a commitment that conforms to the judgment of the District Court,
and it is further

ORDERED, that the release pending appeal shall expire at midnight on the
date of appearance and that the release and any associated bond shall be revoked
if the DEFENDANT fails to appear, and it is further

ORDERED, that the Clerk of this Court shall promptly deliver a copy of this
Order to the District Court of Maryland for Montgomery County, and by first
class mail, State's Attorney's Office and Defense Counsel.

JUDGE OF THE CIRCUIT COURT FOR
MONTGOMERY COUNTY, MARYLAND

STATE OF MARYLAND :
VS : CRIMINAL NO.
----- :
Defendant :

Maryland Rule 7-212(f)(4)
(###)

ORDERED that the Clerk of this Court shall promptly deliver a copy of this Order to the District Court of Maryland for Montgomery County, and by first class mail, State's Attorney's Office and Defense Counsel.

JUDGE OF THE CIRCUIT COURT FOR
MONTGOMERY COUNTY, MARYLAND

Maryland Rule 7-112. Appeals heard de novo.

(f) Dismissal of appeal; entry of judgment.-

- (1) An appellant may dismiss an appeal at any time before the commencement of trial. [REDACTED]
- (2) Upon the dismissal of an appeal, the clerk shall promptly return the file to the District Court. Any statement of satisfaction shall be docketed in the District Court.
- (3) On motion filed in the circuit court within 30 days after entry of a judgment dismissing an appeal, the circuit court, for good cause shown, may reinstate the appeal upon the terms it finds proper. On motion of any party filed more than 30 days after entry of a judgment dismissing an appeal, the court may reinstate the appeal only upon a finding of fraud, mistake, or irregularity. If the appeal is reinstated, the circuit court shall notify the District Court of the reinstatement and request the District Court to return the file.
- (4) [REDACTED] (A) issue a warrant directing that the defendant be taken into custody and brought before a judge or commissioner of the District Court or (B) enter an order that requires the defendant to appear before a judge or commissioner. The warrant or order shall identify the District Court case by name and number and shall provide that the purpose of the appearance is the entry of a commitment that conforms to the judgment of the District Court.

Rule 4-349. Release after conviction

- c) *Conditions of release.-* The court may impose different or greater conditions for release under this Rule than had been imposed upon the defendant pursuant to Rule [4-216](#) before trial. When the defendant is released pending sentencing, the condition of any bond required by the court shall be that the defendant appear for further proceedings as directed and surrender to serve any sentence imposed. When the defendant is released pending any appellate review, the condition of any bond required by the court shall be that the defendant prosecute the appellate review according to law and, upon termination of the appeal, surrender to serve any sentence required to be served or appear for further proceedings as directed [REDACTED].
- (d) [REDACTED]

CRIMINAL DCA PROCEDURE: Dismissal of Appeal by Defendant by Line

Maryland Rule 7-112(f)(1) provides that an appellant may dismiss an appeal at any time before the commencement of trial. The Defendant may file a line seeking dismissal. While a *nolle prosequi* may only be entered in a case on the record in open court, there is no such limitation on the dismissal of an appeal of a District Court case. However, Rule 7-112(f)(4) requires the issuance of a summons or bench warrant where the underlying District Court case includes a sentence to a term of confinement that ensures the defendant appears before the District Court for entry of a commitment conforming to the judgment of the District Court. [SEE PROCEDURE ISSUED 11/24/09 for 7-112(f) warrants and summonses]. The following procedure will ensure that these requirements are met, while expediting the dismissal of appeals in which there is no pending sentence of confinement.

PROCEDURE:

- 1. CLERK'S OFFICE:** Defense files line of dismissal. The defense's Line should be docketed using **DE 1521** (not the generic DE code 488 for Line _____) and the case file forwarded to the DCM Coordinator for review. If the case is scheduled for the next or following day, please docket and **RUSH** file to DCM Coordinator.
- 2. DCM Coordinator:** Reviews the case file to determine whether the underlying sentence includes a period of confinement.

A. Where there is no such sentence, the DCM Coordinator will recommend that a dismissal order be issued.

3. Administrative Judge review/approval:

- On approval, the dismissal order is generated and brought with the memo and file to the Clerk's Office, Criminal Department, which docket the order using DE code 1694, which reads:

ORDER, DISMISS DISTRICT COURT APPEAL

Long Description:

ORDER OF COURT (_____, J.) THAT THE DEFENDANT'S APPEAL FROM THE DISTRICT COURT IS HEREBY DISMISSED AND REMANDED TO THE DISTRICT COURT PURSUANT TO THE LINE OF DISMISSAL FILED AT ENTRY #____, ENTERED.
(COPIES MAILED)

and automatically removes pending events and notifies the Assignment Office via a report that is compiled daily listing the appealed cases that have been dismissed and associated events that have been removed. The order is docketed in the case file and copies are distributed.

- The normal closure/remand process for criminal DCA cases is followed, i.e. file forwarded also to **Accounting Department** to address costs/fees.

B. Where there is such a sentence, the DCM Coordinator will contact defense counsel to determine whether counsel is willing to ensure that the Defendant reports to the District Court.

If the Defense Attorney undertakes this responsibility, the DCM Coordinator will recommend a 7-112(f)(4) summons be issued in addition to a dismissal order. On the Administrative Judge's approval, the dismissal order is generated and brought with the memo and file to the Clerk's Office, Criminal Department, which docket the order using DE code 1694, which automatically removes pending events, and notifies the Assignment Office via a report that is compiled daily listing the appealed cases that have been dismissed and associated events that have been removed. The order is docketed in the

case file and copies of the order are distributed and the summons issued(copy to attorney). The normal closure/remand process for criminal DCA cases is followed, i.e. file forwarded also to **Accounting Department** to address costs/fees; incl. copy of summons faxed to District Court.

- If the Attorney is unwilling or unable or is not in touch with the Defendant, the DCM Coordinator will recommend that the case be scheduled within 2 weeks on the Pretrial Docket unless an event is already scheduled within that time frame. On the Administrative Judge's approval:
 - The case file will be forwarded to the Assignment Office, which will set the hearing on a PT within two weeks, unless an already scheduled event occurs sooner; that event will be reactivated. The DCM Coordinator will advise Defense Counsel of the defendant's need to appear.
 - A notice will issue if a new hearing is scheduled. Normal procedures for docketing will be followed.
- If the defendant is self-represented and an underlying sentence of confinement exists, a hearing will be scheduled as above. All other procedures as above.

Associated documents (attached):

Order of Dismissal, 1694

Docket Entry Text: DE Code 1694, Order, Dismiss District Court Appeal

DCA Dismissal Worksheet Template

(AO Report)

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

STATE OF MARYLAND

v.

Criminal No. C _____

ORDER OF DISMISSAL
(1694)

The Defendant, having filed a Line of Dismissal on _____, 20__, in the above captioned case, an appeal from the District Court, it is on this _____ day of MONTH, YEAR, by the Circuit Court for Montgomery County, Maryland,

ORDERED, that the appeal be, and hereby is, DISMISSED and the case REMANDED to the District Court.

(Administrative) Judge

**PROCEDURE FOR THE DOCKETING AND ASSIGNMENT
OF
PETITIONS FOR WRITS OF CORAM NOBIS
AND FOR
APPEALS FROM DISTRICT COURT OF
JUDGMENTS ENTERED IN PETITIONS FOR WRITS OF CORAM NOBIS**

Petitions for Writs of Coram Nobis are filed pursuant to Title 15, Chapter 1200 of the Maryland Rules in both the Circuit and District Court. (Rule 15-1202 directs that the petition be filed in the court where the conviction took place and, *to the extent practicable*⁶[emphasis added], in the criminal action.) Once filed, the Clerk of the Court shall notify the State's Attorney's Office of the filing of the petition and indicate the case to which it relates (Rule 15-1204). Amendment of the petition may be freely allowed when justice so permits (Rule 15-1201(e)). Voluntary dismissal is governed by civil procedure Rules 2-506 and 3-506 (per Rule 15-205). Per Rule 15-1206, the court may deny the petition without a hearing, but may grant a petition only if a hearing is held.

Appeals of the District Court judgments on these petitions are filed with the Circuit Court. A committee note to Rule 15-207 indicates that "[a]n appeal from a District Court judgment under this Rule proceeds in accordance with the Rules in Title 7, Chapter 100 applicable in *civil* [emphasis added] actions." Rule 7-102(a) provides that appeals of criminal and civil actions shall be tried *de novo*; exceptions to be heard on the District Court record are listed in Rule 7-102(b), with petitions for writs of coram nobis not being such an exception.

The following procedures and associated automation are approved, effective immediately:



Petitions originating in cases with Circuit Court criminal convictions:

1) The petition is to be docketed in the criminal case by the Clerk's Office (Criminal Department) using **Docket Entry 1620**, which reads:

Petition for Writ of Coram Nobis filed.

Completion of **Docket Entry 1620** automatically generates the required notice to the State's Attorney (attached), which, in turn, automatically generates **Docket Entry 1686**, to read:

Clerk's Notice of Filing of Petition for Writ of Coram Nobis to State's Attorney's Office issued.

2) The Clerk's Office forwards the file to the Assignment Office, Criminal Desk.

3) The Assignment Office will assign Coram Nobis petitions using the following protocol:

- Petition will be assigned to the judge before whom the conviction was obtained **EXCEPT WHEN THE PETITION ALLEGES MISCONDUCT ON THE PART OF THAT JUDGE** [Questions to AO Commissioner→ DCM Coordinator→ Administrative Judge].
- If that judge has since retired or is otherwise unavailable, the matter will be assigned to the judge who supervised any probation;

⁶The docketing of the appeal in the Circuit Court in a District Court criminal action is an instance in which this is not practicable.

- In the absence of that judge, the judge who heard any post-conviction matters;
- In the absence of any of the above judges, the Assignment Commissioner will assign the matter to a judge in the criminal rotation on a rotating basis.

4) If filed, State's Response (Rule 15-204, due within 30 days notice above), use **Docket Entry 1687**:

State's Attorney's response to the Defendant's Petition for Writ of Coram Nobis filed.

5) Possible outcomes:

No Hearing (Docket entry 1692, Coram Nobis Statement/Order):

Defendant's Petition for Writ of Coram Nobis denied without a hearing. Court's Statement and Order denying Petition for Writ of Coram Nobis filed.

IF A JUDGE GRANTS THE PETITION FOR CORAM NOBIS WITHOUT A HEARING, PLEASE ALERT CHAMBERS/ADMIN JUDGE SO THAT THIS MAY BE CORRECTED AND A HEARING SCHEDULED.

Hearing Scheduled (Docket entry 1513) [Hearings to be scheduled within 60 days of filing.]:

Hearing on Petition for Writ of Coram Nobis held.

DENIED (Docket entry 1692): Defendant's Petition for Writ of Coram Nobis denied. Court's Statement and Order denying Petition for Writ of Coram Nobis filed/entered.

GRANTED (Docket entry 1692):

Defendant's Petition for Writ of Coram Nobis granted. Court's Statement granting Petition for Writ of Coram Nobis entered/filed.

Order granting Writ of Coram Nobis relief, to wit: [rearraignment, new trial, custody, bail, discharge, correction of sentence, or other relief].

Copies to Petitioner, Petitioner's Counsel, and SAO.

Appeals of District Court Judgments entered in Petitions for Writs of Coram Nobis:

1) The appeal is to be docketed by the Clerk's Office (**CIVIL DEPARTMENT**) as a **District Court Appeal**, using **Subtype 22 DCA-De Novo, Issue 2843: Appeal/DC Coram Nobis Decision** and **Docket entry 1684**, which reads:

_____’s Appeal from the District Court Judgment entered in the Petition for Writ of Coram Nobis filed.

Completion of **Docket Entry 1684** automatically generates the required notice to the State's Attorney (attached), which, in turn, automatically generates **Docket entry 1686**:

Clerk's Notice of Filing of Appeal of Judgment entered in Petition for Writ of Coram Nobis to State's Attorney's Office issued.

THE DISTRICT COURT CASE NUMBER OF THE CRIMINAL CASE THE CORAM NOBIS PETITION ADDRESSES MUST BE ENTERED IN THE REFERENCE FIELD FOR THE ABOVE NOTICE TO CONTAIN THE CORRECT REFERENCE REQUIRED BY RULE 15-204.

2) The **Clerk's Office** forwards the file to the **Assignment Office, Criminal Desk**.

3) The **Assignment Office** will assign these cases using the following protocol:

- District Coram Nobis Appeals will be screened by the DCM Coordinator, who, after receiving any response, will make recommendations to the Administrative Judge, who may either rule on the appeal without a hearing or indicate that the case should be scheduled before the criminal motions judge **ON A FRIDAY VM CIVIL DOCKET** within 45 days, with no more than 2 such hearings being scheduled on any such docket.

3) If filed, State's Response (Rule 15-204, within 30 days notice above), use **Docket Entry 1687**:

State's Attorney's response to the Defendant's Petition for Writ of Coram Nobis filed.

4) Possible outcomes:

No Hearing (Docket entry 1692):

Defendant's Appeal of Judgment and Petition for Writ of Coram Nobis denied without a hearing.

Court's Statement and Order denying Petition for Writ of Coram Nobis filed/entered.

IF A JUDGE GRANTS THE PETITION FOR CORAM NOBIS WITHOUT A HEARING, PLEASE ALERT CHAMBERS/ADMIN JUDGE SO THAT THIS MAY BE CORRECTED AND A HEARING SCHEDULED.

NOTE: WHERE STATE IS THE APPELLANT, PETITION IS STILL HEARD DE NOVO; IF THE COURT UPHOLDS DISTRICT COURT'S DECISION (GRANTS THE PETITION/DENIES STATE'S APPEAL), THEN A HEARING MUST BE HELD.

Hearing Scheduled: (Docket entry 1513):

Hearing on Petition for Writ of Coram Nobis held.

DENIED (Docket entry 1692):

Defendant's Petition for Writ of Coram Nobis denied. Court's Statement and Order denying Petition for Writ of Coram Nobis filed/entered.

GRANTED (Docket entry 1692):

Defendant's Petition for Writ of Coram Nobis granted. Court's Statement granting Petition for Writ of Coram Nobis entered/filed.

Order granting Coram Nobis relief, to wit: [rearraignment, new trial, custody, bail, discharge, correction of sentence, or other relief]

CASE FILE TO BE RETURNED TO CLERK'S **CIVIL DEPARTMENT** FOR PROCESSING.

Copies to Petitioner, Petitioner's Counsel, and SAO. Copy to DISTRICT COURT (along with docket entries).

PLEA AGREEMENT POLICY AND PROCEDURE

PLEA POLICY: Track 1 (Jury Demands and Appeals:

Jury Demands: The defendant may plead guilty before the Administrative Judge or the assigned trial judge; where a Pretrial Hearing may be scheduled, before the judge handling that docket; a Resolution Conference Judge, if available; or the trial judge. If a defendant is already on probation before a Circuit Court judge, the defendant may seek leave to plead guilty before and/or be sentenced by that judge.

Appeals: The defendant may plead guilty before the judge assigned to handle the Pretrial Hearing docket or the judge assigned to the 8:30 AM Trial Docket. If a defendant is already on probation before a Circuit Court judge, the defendant may seek leave to plead guilty before and/or be sentenced by that judge.

PLEA POLICY: Tracks 2, 3 & 4:

Under the revised Criminal DCM Plan, plea agreements in **Track 2, 3 and 4** may be accepted by any “plea active”⁷ judge in the criminal/general rotation or a judge who is available via a resolution conference up to the Pretrial date, which may be continued once for the purposes of reaching a plea agreement, or by the administrative judge on the pretrial hearing date. **Once the Pretrial Hearing has been held and the trial and motions dates confirmed, the only judge available for the taking of a plea is the assigned plea judge.** In Track 4 cases, the plea judge is also the trial judge. NOTE: Current State’s Attorney’s Office (SAO) policy precludes participation in resolution conferences in Track 4 cases. Should the policy be modified, the potential for participation has been anticipated.) On the trial date, the defendant may plead guilty before the trial judge only with consent of the assigned plea judge. The sentencing date will be set before the plea judge.

It is the Administrative Judge’s policy that all pleas should be heard and disposed of prior to the originally scheduled trial date. Trial dates will not be removed until the completion of the hearing in which the plea agreement is executed. Trial dates may not be moved to accommodate a guilty plea (without a finding of good cause by the administrative judge).

Plea hearings in “pre-indictment plea” cases, that is, cases in which a plea agreement has been reached prior to the case being filed in the Circuit Court, must be scheduled within 30 days of the filing of the case; where this is not possible, a trial date must be set in addition to the plea hearing.

Where a plea agreement is reached with a judge other than the assigned plea judge, but that judge’s calendar prevents the taking of the plea prior to the Pretrial date, a memorandum detailing the plea agreement must be filed prior to or at the Pretrial Hearing to preserve the availability of that judge.

Binding plea agreements must be cleared with the judge who is proposed to be bound.

⁷ To prevent a disproportionate caseload of plea agreements among judges, judges with a disproportionate number of pleas will be inactivated for new plea agreements other than those cases in which they are the assigned plea judge until the caseload balances among the judges in the assignment.

Where a plea agreement has been reached, a Plea Memorandum, which includes the plea date cleared with the chambers of the judge who is taking the plea, must be filed as soon as practicable, with a copy delivered to the Assignment Office, but no later than 48 hours before the proposed plea date.

PLEA ACTIVE JUDGES: To prevent a disproportionate caseload of plea agreements among judges, judges with a disproportionate number of pleas will be inactivated for new plea agreements other than those cases in which they are the assigned plea judge until the caseload balances among the judges in the assignment. Per the County Administrative Judge, effective July 1, 2010, all plea active judges in the criminal general rotation are available for the taking of a plea up to the Pretrial date. Any judge who exceeds by a percentage to be determined by the Administrative Judge the average number of plea agreements handled among the criminal general rotation judges during any 4 week period will be considered “plea inactive” and will not be available to take new plea agreements other than those cases in which he or she is the assigned plea judge until the rotation average reaches the number of plea agreements handled by that judge. The Assignment Office will provide information on a weekly basis identifying the “plea active” judges. PLEASE NOTE that where a written, dated plea offer naming a specific judge or judges has been extended to the defendant during a week in which the named judges are “plea active”, the defendant may plead guilty before the named judge even if the judge subsequently is deemed plea inactive within the period up to the completion of the pretrial hearing as noted above. However, where only a verbal plea offer is made, the current status as to whether the judge is plea active or inactive at the time the plea memo is filed will guide availability of that judge.

RESOLUTION CONFERENCES (Track 2 & 3):

The assessment and review of a case by a retired judge may be helpful in reaching a plea agreement. To this end, a limited number of retired judges are available for Resolution Conferences, which are voluntary. Counsel seeking a Resolution Conference must clear the time and date on the Resolution Conference Judge’s Schedule. To the extent resources and availability allow, a limited number of Resolution Conference slots may be available on the pretrial hearing date; HOWEVER, this cannot be guaranteed and counsel are urged to set Resolution Conferences at the Scheduling Hearing or prior to the Pretrial Hearing date. **Counsel should not rely on Resolution Conference availability on the day of Pretrial Hearings.**

PROCEDURE:

A plea will not be added to the docket until a formal Plea Agreement is filed. The exception to this is: a plea is agreed to at the 8:30 AM status conference for Track 1 cases. It will then be posted in the computer with a notation “Plea agreement to be filed.”

1. All plea agreements are to be brought directly to the Assignment Office. **PLEASE DO NOT SEND PLEA AGREEMENTS TO THE CRIMINAL DEPARTMENT.**
2. If a plea agreement is filed the day before the scheduled plea, the State’s Attorney’s Office must walk the file through the Assignment Office.

STEPS TO BE TAKEN WHEN FILING A PLEA AGREEMENT

- A. A courtesy copy of the Plea Agreement should be taken to the Assignment Office in order for the case to be added to the docket and computer system.
- B. The original Plea Agreement should be taken to the Administrative Judge's chambers to have the plea stamped.
- C. The Court file should then be taken to the Criminal Department to have it worked.
- D. The file should then be taken to the judge who has been assigned the case or who will be hearing the plea.

PLEASE HAVE STEPS A THROUGH D ACCOMPLISHED BY 3:00 PM SO THAT THE PLEA WILL BE REFLECTED ON THE NEXT DAY'S DOCKET.

- 3. The plea agreement should list both the **DATE** and **TIME** of the plea, which has been cleared with the judge's chambers or cleared in open court. If a date has not been cleared, the Assignment Office will contact the judge's chambers and get a date convenient to the court and prior to the trial date. It is preferable for the State to list a date that has been cleared since the Assignment Office will NOT clear the date with counsel of record.
- 4. If a plea agreement is given to the judge on the bench, please make sure it has been signed by that judge.
- 5. Should a plea be taken in open court without a written plea agreement, no follow-up will be done by the Assignment Office with respect to whether that plea agreement has been entered in the file.

PROCEDURES FOR CONTINUANCES IN CRIMINAL MATTERS

Pursuant to Maryland Rule 4-271 and 16-101(d)(3)(ii), and Maryland Code, Article 27, Section 591(b), the following is the policy for continuances of criminal matters in the Circuit Court for Montgomery County, Maryland:

1. Due to the duties associated with the administration of the court, personal trial calendar, leave status, or any other activity that would require the absence of the County Administrative Judge, a designation order will be signed by the County Administrative Judge assigning an Acting County Administrative Judge for a specified time period to handle the associated administrative functions (see attached).
2. All changes in trial dates and trial postponements in criminal matters, including the 8:30 AM Track 1 Jury Demands and Appeals criminal docket, are to be referred to the County Administrative Judge or the designated Acting County Administrative Judge in their absence.
3. All motions for postponements filed in advance of the trial date are referred to the Administrative Aides for review and ruling by the County Administrative Judge or the designated Acting County Administrative Judge in the Administrative Judge's absence.
4. All criminal motions dates have been cleared with counsel at the pretrial hearing. If a continuance of a criminal motions date is requested on the scheduled hearing date, the matter is to be referred to the County Administrative Judge or the designated Acting County Administrative Judge in the Administrative Judge's absence.

PROCEDURES FOR POSTPONEMENTS IN CRIMINAL TRACK 4 CASES

The procedure for **TRACK 4—CRIMINAL POSTPONEMENTS** is as follows:

1. The Track 4 judge will initially hear or review the Motion for Postponement.
2. **RULING WITHOUT HEARING**: The Track 4 judge will review the motion and determine if a postponement is necessary. Where the judge determines a postponement is not appropriate, the judge may deny the motion. Where the judge concludes a postponement may be necessary, he or she should determine whether the trial can be rescheduled on that particular judge's calendar. The new date **MUST** be cleared through the Assignment Office and the Track 4 judge must be sitting in the criminal rotation if it is going to stay on his/her calendar. If it is **recommended** that the motion be granted, the Track 4 judge is to complete the attached Order with the new dates. The law clerk will **immediately** walk the Order and the Continuance Reason Form to the Administrative Judge's chambers for final signature. The Administrative Judge's staff will send the Assignment Office a copy of the executed Order, and make a notation on the back of the original Order that a copy was delivered to the Assignment Office and initial it. The law clerk will then walk the original Order back to their chambers and place it in the court file.
3. **RULING FROM THE BENCH**: If an oral motion for postponement is made in Court (i.e., at the Scheduling Conference), the Track 4 judge will state on the record that, "it is **recommended** that the Administrative Judge grant the continuance of the trial date to _____ (the agreed upon date **MUST** be cleared with the Assignment Office)." The Track 4 judge will then complete the attached Order and the Track 4 judge's law clerk will walk it **immediately** to the Administrative Judge's chambers for final signature. The Administrative Judge's staff will then send the Assignment Office a copy of the completed Order, and make a notation on the back of the original Order that a copy was delivered to the Assignment Office and initial it. The law clerk will then walk the original Order back to their chambers and place it in the court file.
4. 180 Day postponements, as all other postponements of criminal trials, **must** be sent to the Administrative Judge or Acting Administrative Judge for ruling.

TRACK 4 – PLEASE NOTE

To the extent possible, Track 4 criminal cases should stay with the assigned Track 4 judge. However, this must be balanced with the fact that criminal assignments rotate every 4 weeks. Judges postponing cases must avoid scheduling trials when they have other assignments unless they first obtain coverage for those assignments with the concurrence of the Administrative Judges. Where it is not possible for a judge to reschedule a case within a reasonable time, the case may need to be reassigned, including motions and trial. This may be particularly true as the 18 month rotation comes to an end.

PROCEDURE FOR CRIMINAL RESPONSIBILITY/COMPETENCY ORDERS

All criminal files (including Track 4 cases) requiring an Order for an evaluation are to be submitted to the Administrative Judge's Administrative Aides for review, and the following procedure will be followed:

1. The Administrative Aides will review the case and attach the appropriate Order to the court file.
2. Track 4 cases will be forwarded to the Track 4 judge's chambers for signature.
3. The Track 4 judge's secretary/law clerk **must** fax a copy of the Order to the facility the same day the Order is signed.
4. All other criminal cases will be reviewed and submitted to the Administrative Judge for signature.
5. The Administrative Judge's staff **must** fax a copy of the Order to the facility the same day the Order is signed.

Fax No. (410) 970-7101

Springfield/Office of Forensic Services
Attn: Dr. Lawrence J. Raifman

Fax No. (410) 724-3179

Perkins/Office of Forensic Services
Attn: Dr. Richard Ortega

These steps ensure that the doctors are notified as soon as possible when a particular defendant needs to be evaluated. There are specified time limits in the Orders that need to be followed.

6. The files will be sent to the Criminal Department to be processed.