

**CRIMINAL CASE PROCESSES:
EXPLORING THE RELATIONSHIP BETWEEN CONTINUANCE OF MOTION
HEARINGS AND TRIAL CONTINUANCES IN
PRINCE GEORGE'S COUNTY, MARYLAND**

**Institute for Court Management
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**Sondra D. Battle
Deputy Court Administrator
7th Judicial Circuit
Upper Marlboro, Maryland**

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Abstract

The goal of this research paper is to study the scheduling of criminal motions hearings in Prince George's County, Maryland to determine if there is a correlation between the continuance of motion hearings and the continuances of trial. This study will discuss the following measurable objectives. **Objective 1:** whether there is a nexus between motions that are continued resulting in trials being continued and, **Objective 2:** whether the scheduling of criminal motions on Fridays have reduced the number of requests for continuance of motions hearings. This study is significant because it will give the court conclusive data to determine if changes are needed in the area of continuances of criminal motions. This study will also show real data and the relationship between data collected versus the perception of judges and attorneys surveyed.

In 1995, the Prince George's County Court developed a Differentiated Case Management Plan to enhance the caseflow of criminal cases. This study will also highlight the various policies and procedures implemented in this area.

The methodology used for this study was qualitative data – a survey distributed to judges and attorneys, and quantitative data – data collected from the years 1994 and 2003 cases where motions were continued. Primary and secondary variables were used to compile data and will be discussed in the *Methodology Section* of this research paper. Data was collected by courthouse IT staff and entered into the Statistical Program Software System (SPSS) by the court research analyst.

1994 data was selected to analyze because the Differentiated Case Management plan and the scheduling of motions on Fridays had not yet been implemented.

Historically, the criminal motions' docket was scheduled randomly on a daily basis but due to continued scheduling conflicts with the State's Attorney's Office, Public Defender's Office, Police Officers and the Private Bar, criminal motions hearings were scheduled exclusively on the Friday docket. The current criminal coordinating judge requested that 2003 data be analyzed as this was the first full year that he served as coordinating judge and he wanted to make an analysis.

Based on this study and the results of the quantitative and qualitative data, recommendations to keep the current motions system in place as it is managing cases effectively. Further studies, however, in the area of timely discovery, could only enhance the current motions system.

Introduction

The sixth amendment of the Constitution of the United States declares,

“In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial.....

The right to a speedy trial is one of the constitutional rights that forms the basis for public trust and confidence in the Courts. The focus of this research paper is criminal caseload management which is a mechanism for ensuring a speedy trial. It is the process by which cases are monitored for timeliness from filing to disposition and establishes how well the court will achieve its goal of providing speedy trials. Caseload Management, an essential component in court management, is one of the ten core competencies for courts developed by the National Association for Court Management (NACM). The purpose of the ten core competencies was to establish criteria for what court managers should know and be able to perform within the courts. Other core competencies developed by NACM that are important to court management, include Budget, Information and Technology (IT), Vision and Strategic Planning, Leadership, Human Resource Management, Ancillary Services and Programs, Employee Training and Development, Public Information and Media Relations.

This study will focus on criminal motions hearings in Prince George’s County, Maryland, to determine whether the continuance of motions hearings prior to the trial date results in the continuance of the scheduled trial date. A motion is a request by the parties for a non-dispositive order in a case or a request for modification of an existing order or judgment. A continuance is a postponement of a session, hearing, trial or other proceeding to a subsequent day or time. Information and data were gathered by the Office of Calendar Management, and the Information and Technology (IT) staff and compiled by the court’s research analyst.

A. **Operations of the Court**

The Prince George's County Court is a court of general jurisdiction ¹ in the Seventh Judicial Circuit of Maryland, serving a population of 838,716. Twenty-three circuit court judges preside in Prince George's County, Maryland. The Court Administrator and the Administrative Judge work closely together to provide strong leadership and effective case management.

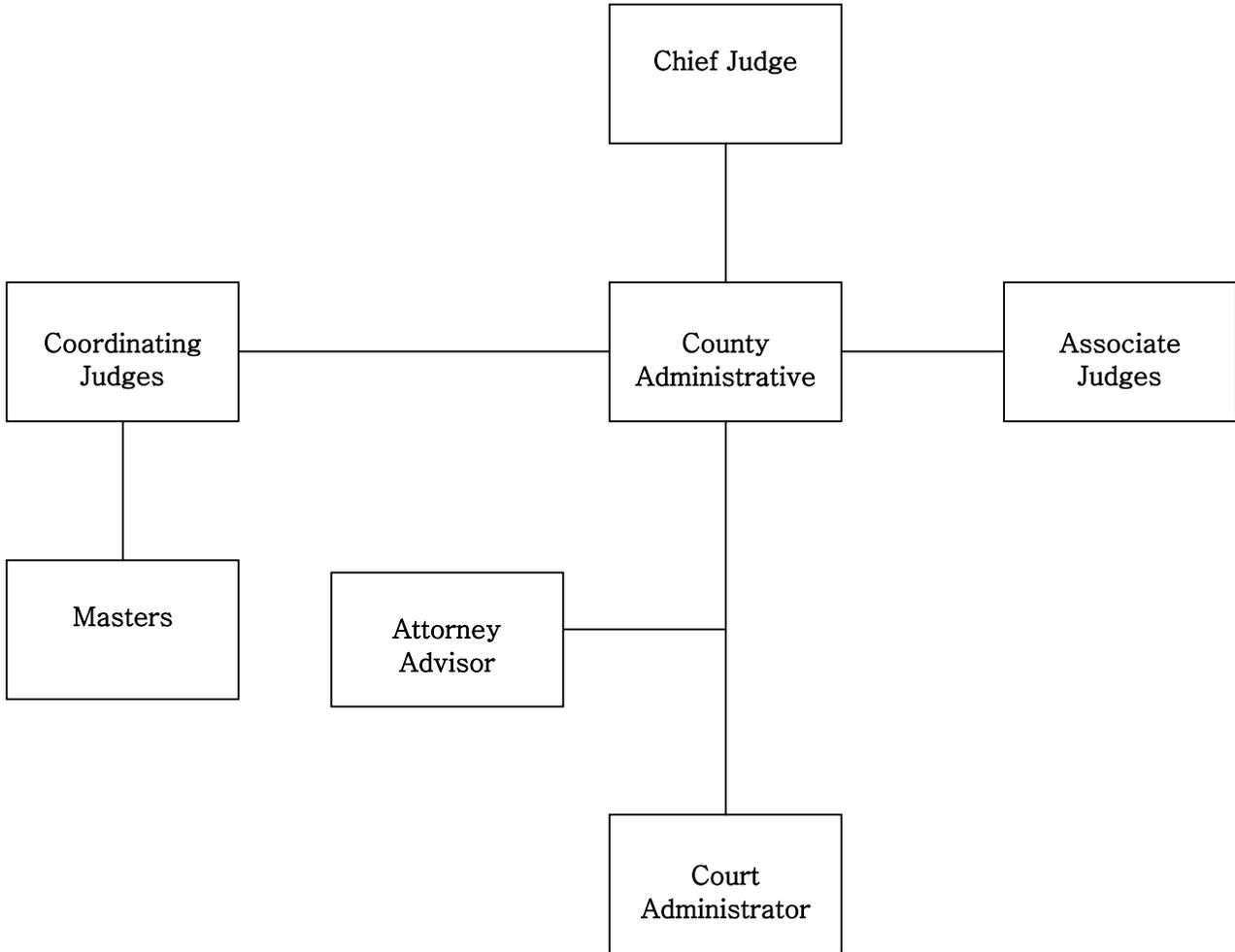
In order to achieve close oversight of caseload, the Administrative Judge appointed Coordinating Judges in the areas of Criminal, Civil, Family and Juvenile. These Coordinating Judges, serve an approximate two-year term. Since the creation of the Coordinating Judges in 1995, five judges in Prince George's County have been assigned as Criminal Coordinating Judge. Clearly, Coordinating Judges have the responsibility of assessing whether or not caseload management is effective in their area and also whether time standards are being met. The current Criminal Coordinating Judge has five backup judges to assist with the motions and trial dockets and these judges have the authority to continue motions and trials.

The flowchart on following page depicts the relationship between the Administrative Judge, Coordinating Judges, and Court Administrator.

¹ General Jurisdiction – All controversies that may be brought before a court within legal bounds of rights and remedies.

Chart 1

CIRCUIT COURT ORGANIZATION CHART

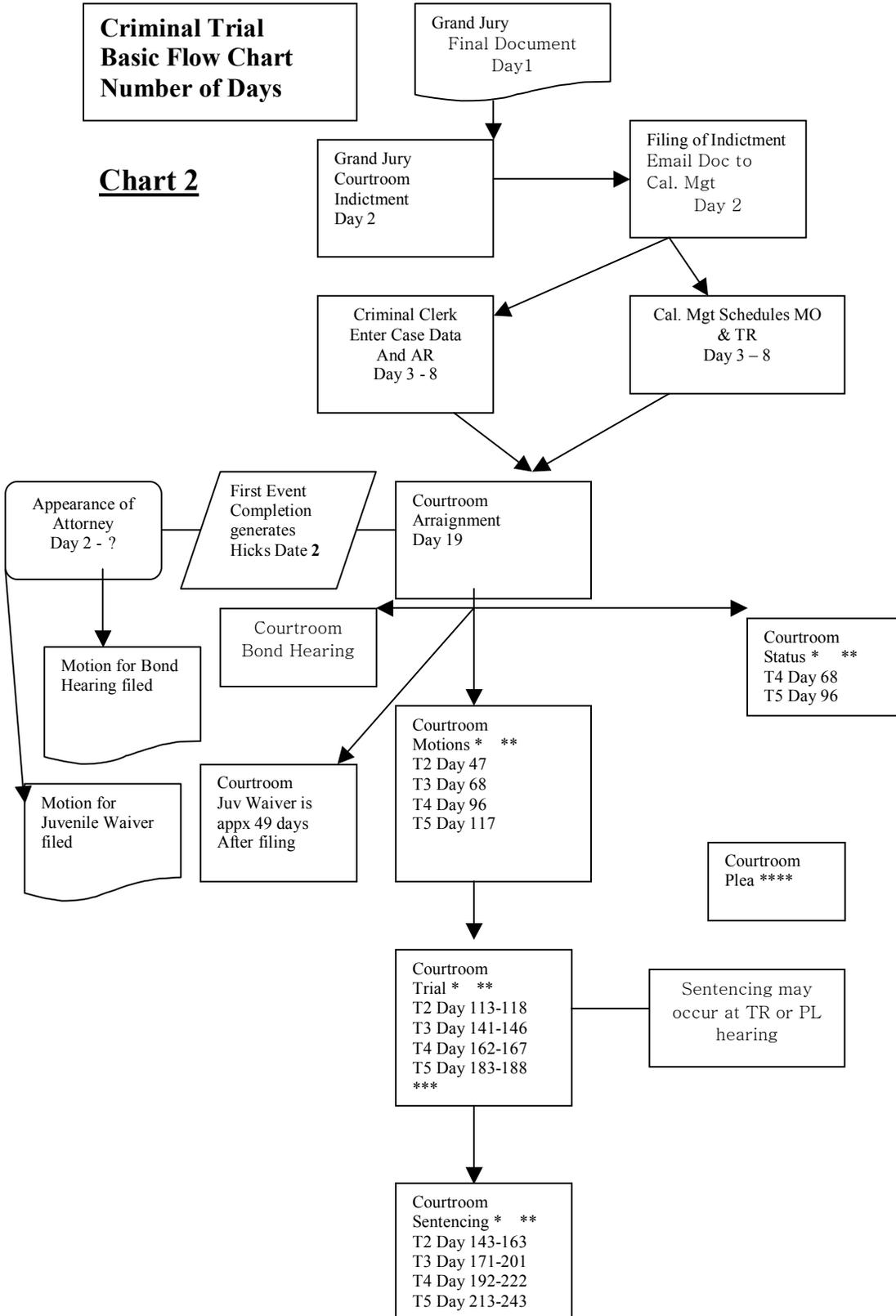


Crucial to effective caseflow management is the Office of Calendar Management. This office consists of the Director of Calendar Management and staff, who are responsible for the assignment of criminal cases to judges under the master calendaring system. The master calendar system allows for cases to be evenly distributed among judges and promotes team spirit with other judges to ensure completion of dockets.

A typical criminal motions docket is scheduled on Fridays with cases set at 8:30 a.m. and 1:30 p.m. On March 14, 2003, the Friday motions docket had 80 cases scheduled. Out of the 80 cases scheduled for motions that day, 36 motions were postponed, 29 motions were moot (motions that were previously decided or settled), 13 were completed, 1 plea and 1 bench warrant was issued. **Chart 2** on page 7 depicts the basic life cycle of a criminal trial and time between events. The time of events in a criminal case begins at the arraignment hearing or when an attorney enters an appearance on a case.

**Criminal Trial
Basic Flow Chart
Number of Days**

Chart 2



² Hicks Date – The date for trial in the Circuit Court shall be set within thirty days after the earlier appearance of counsel or the first appearance of the defendant before the circuit court pursuant to Rule 4-213 and shall be not later than 180 days after the earlier of those events.

The Circuit Court for Prince George's County, Maryland, developed policies that would enhance the caseload management process. Those policies include, the implementation of the Differentiated Case Management (DCM) plan and the Maryland Time Standards.

B. Differentiated Case Management

In 1995, as a result of the implementation of Maryland Rule 1211b, the Administrative Judge in Prince George's County Maryland established a committee to implement a Differentiated Case Management plan (DCM). Maryland Rule 1211b(1) states that the County Administrative Judge shall develop and, upon approval by the Chief Judge of the Court of Appeals, implement and monitor a case management plan for the prompt and efficient scheduling and disposition of actions in the circuit Court. The plan shall include a system of differentiated case management in which actions are classified according to complexity and priority and are assigned to a scheduling category based on that classification.³ With the implementation of DCM, the court categorized cases into 5 different tracks from least to most serious according to the complexity of cases. (**See Chart 3**) The Director of Calendar Management randomly assigns criminal cases according to the Differentiated Case Management (DCM) tracks. The Administrative Judge assigns all Track 5 cases and the complex T4 cases (Murder, Rape). For the purposes of this study, data was collected for criminal cases in tracks 2 through 5. Track 1 is categorized as Criminal Appeals cases which are not a part of this study. **See Appendix A.**

³ Prince George's County DCM Report, Revised April 24, 2002.

Chart 3

Category of DCM Tracks

<p><u>TRACK II</u> First Offense Distribution PWID Under Mandatory Amount Prescription Drugs Non CDS Forgery and Uttering Burglary and B&E Escape Reckless Endangerment</p>	<p>SA Discovery Motions/Plea Defense Discovery Trial</p>	<p><u>3 Months</u> 45 Days after Arraignment 67 Days after Arraignment 75 Days after Arraignment 90 Days after Arraignment</p>
<p><u>TRACK III</u> Multiple Indictments Mandatory Sentencing First Degree Assault Robbery (T/A) Robbery with Deadly Weapon (T/A) Physical Child Abuse (with non-life threatening injuries) Third Degree Sexual Offense Attempts Accessories Conspiracies</p>	<p>SA Discovery Motions/Plea Defense Discovery Trial</p>	<p>4 months 60 Days after Arraignment 90 Days after Arraignment 90 Days after Arraignment 120 Days after Arraignment</p>
<p><u>TRACK IV</u> Economic Crimes Auto Manslaughter Attempt Murder/Rape Child Abuse Abduction/Kidnap Rape Sexual Offense (First and Second Degree) Arson</p>	<p>SA Discovery Status Defense Discovery Motions/Plea Trial</p>	<p>4 ½ months 60 Days after Arraignment 90 Days after Arraignment 110 Days after Arraignment 120 Days after Arraignment 140 Days after Arraignment</p>
<p><u>TRACK V</u> Murder DNA Disputed Expert Testimony NCR Serial Rapes and Serial Sexual Offenses Closed Circuit TV Cases Juvenile Waiver Domestic Violence Crimes Against the Person</p>	<p>SA Discovery Status Defense Discovery Motions/Plea Trial</p>	<p>6 months 75 Days after Arraignment 110 Days after Arraignment 120 Days after Arraignment 140 Days after Arraignment 160 Days after Arraignment</p>

In NACM's analysis of caseload management, there are various fundamental issues that are essential to caseload management (e.g., firm trial dates, early dispositions, control of continuances). Many courts throughout the nation have developed various fundamentals such as the differentiated case management system to ensure effective caseload and trial management. Courts in Tacoma, Washington; St. Joseph, Michigan and Philadelphia, Pennsylvania have implemented successful criminal DCM programs.⁴

Differential Case Management is a system by which cases are categorized according to case type to help move cases through the process in a timely manner. Maureen M. Solomon, a court management consultant has defined the elements of DCM as the following:

- Early case screening for complexity based on established criteria
- Assignment of cases to unique processing tracks based on screening assessment
- Differential court management procedures for each track
- Variety of case assignment systems, best suited to each track⁵

B. Time Standards

Also relevant to this study are the Trial Court Performance Standards, developed by the National Center for State Courts (NCSC) and the Bureau of Justice Assistance (BJA). The 22 standards were developed to assess and improve the performance of the courts. Specifically, Standard 2: Expedition and Timeliness, discusses effective case processing and holds the court accountable by enforcing certain standards.

In the year 2000, the Maryland Judicial Council and Council of Circuit Judges adopted statewide caseload time standards for the four major case types:

⁴ Steelman, David, The Heart of Court Management in the New Millennium, 2004.

⁵ Solomon, Maureen, National Center for State Courts.

Criminal, Civil, Family and Juvenile Causes. The Maryland Time Standards represent the measure by which our case management system is held accountable. In 2001, the Judicial Council revised the Circuit Court Caseflow Time Standards.⁶ **Chart 4** details the revised standards to show the selected case time standards and the case time start, stop and suspension events in criminal cases:

Chart 4

Criminal cases

Case Type	Definition of Terms			Time Standards	Additional Measurements	
	Case Time Start	Case Time Suspension				Case Time Stop
		Suspend	Re-start			
Criminal	First Appearance of defendant or entry of appearance by counsel (Rule 4-213)	Bench Warrant, Failure to Appear (FTA), Mistrial, NCR evaluation, petition for reverse waiver, competency evaluation, PSI ordered, pre-sentencing treatment program	Reappears, Retrial, Determined to be criminally responsible, denial of reverse waiver, finding of competency, receipt of PSI, unsuccessful completion of pre-sentencing treatment program	Disposition Verdict/PSI order PBJ Stet NP NG Sentencing	6 mon. (98%) 1. Arrest/Service of Summons or Citation Date to Filing in Circuit Court 2. Filing to First Appearance 3. Verdict to Sentence Date	

In May, 2002, the Criminal Coordinating Judge circulated a memorandum to the judges, on the Court’s continuance policy. This policy outlines to the judges the continuances of trials on their docket or specially assigned trials and discusses the continuances of motions on Fridays. The policy was written in order to move criminal cases quickly throughout the system. The continuance policy allows for Judges who preside over Friday motions, the authority to deny continuances of motions when necessary. However, if the motions judge had any reservations about the continuance of a motion, the judge is directed to see the Criminal Coordinating Judge. **(Appendix B).**

⁶ Maryland Circuit Courts Time Standards, December 31, 2004.

The continuance policy also discusses the role of the Assistant Public Defenders and Assistant State's Attorneys and the scheduling of motions on Fridays. As stated, the motions docket is scheduled on Fridays to help the scheduling of the Assistant Public Defenders and Assistant State's Attorneys. The policy details how and when the cases get to the various motions judges. Maureen Solomon, a court consultant, states that a lax continuance policy is tantamount to allowing the bar or prosecutor to control the progress of cases.⁷

Prince George's County submits annually to the State Judicial Council, state case management improvement plans based on outcomes of case time assessments. The Prince George's County Circuit Court Caseflow Assessment Report (submitted November, 2004) for cases closed in calendar year 2003, states that in criminal cases, there was a slight decline in the percentage of cases meeting time standards.

In 2002, 93% met standard, however in 2003, 86% met standards. The decrease is attributed to the election of a new State's Attorney in November, 2002 and resulting change in the political atmosphere in the State's Attorney's Office. Changes in leadership brought new prosecutors working under new policies. Another concern was the State's Attorney's office failure to provide timely discovery, which this study found to be a cause for continuances and is discussed further in the *Methodology* section of this paper. Due to the decrease in cases closed within time standards, the Case Assessment Report makes the following recommendations on improving the timeliness of closed cases:⁸

- (1) Order discovery (not provided) at earliest available date; impose sanctions if not in compliance; give greater scrutiny to such continuance requests.
- (2) Review the criminal trial calendars
- (3) Grant no continuance longer than six weeks in non-specially assigned cases

⁷ Solomon, Maureen, Caseflow Management in the Trial Court, ABA Commission on Standards of Judicial Administration 1973. pg. 33

⁸ Case Assessment for Cases Closed in Calendar 2003, Prince George's County Circuit Court, Submitted November, 2004.

- (4) Put the state on notice that no case will be continued because of a conflict in a police officer's leave or training activities for trials already scheduled
- (5) Shorten the trial cycle for tracks 1 through 5
- (6) Continue detailed tracking of continuances reasons

The Criminal Coordinating Judge stresses the importance of cases not being continued because of conflict in a police officers 's leave or in training requirements. This has been a problem with the courts and the coordinating judge has advised the Chief of Police of this reoccurring issue.

In November, 2002, the Seventh Circuit and County Administrative Judges and the Prince George's County Coordinating Judges held a two-day Caseflow Management Workshop which was coordinated through a private consultant, Aequitas, Inc. The purpose of this workshop was to bring judges, court managers, and case management staff together to discuss issues of timeliness and case management and to look at areas that were working effectively and areas that needed improvement. Dr. Geoff Gallas presented case management principles and discussed proven concepts and techniques. Breakout sessions were conducted by Coordinating Judges to discuss best practices and discuss implementation planning. Based on evaluation forms by the participants, the two-day workshop proved to be worthwhile and informative. The workshop was an opportunity for the Seventh Judicial Circuit of Maryland to come together and brainstorm about current policies and to discuss what management principles were effective.

This study will analyze data to determine the effectiveness of the Court's continuance policy. Relating to criminal motion hearings, the measurable objectives are: **(1)** to find whether there is a correlation between the continuance of motions hearings resulting in the continuance of trial dates and if a correlation exist, what is the percentage? **(2)** to determine whether the scheduling of criminal motions on Fridays have reduced the number of requests for continuance motions hearings. Quantitative data, which is the statistical data collected and qualitative data, which is the surveys used, was gathered to determine outcomes for this study.

Review of Literature

The historical literature on caseload management is quite extensive. Pioneers Maureen Solomon, Ernest Friesen and Roscoe Pound lay a historical foundation in the analysis of caseload management. In *The Heart of Court Management, Caseload Management*, David Steelman, researched the past and present, and discussed the future of caseload management. *Steelman* discussed early court intervention and continuous control of the case process, all an integral part of effective caseload management.⁹ Adding to the historical perspective is the article written by Carl Baar, “*The Scope and Limits of Court Reform.*” Dr. Baar wrote that the modern era of court reform in America dates back to 1906, when Roscoe Pound, a law professor, addressed the American Bar Association on “The Causes of Popular Dissatisfaction with the Administration of Justice.” Jethro and Pound both “focused on delay, inadequate resources and inefficient organization and both assumed that administrative reform rather than reform of the substantive law was central to the struggle of justice.” P133 Baar. Administrative reform can be linked to the efficiency of caseload management. Dr. Baar states, “What do litigants expect when they go to court? What should they expect? First a notion of public service includes many of the traditional goals of court reform such as speedy trials, accurate record keeping and efficient information.”¹⁰ Pound’s thoughts on court reform still hold true of the twenty-first century courts with the growth of administrative reform. The present day court is responsible for providing the most effective and efficient management of caseload.

⁹ Steelman, David, *The Heart of Court Management in the New Millennium*, 2004.

¹⁰ Baar, Carl, “*The Scope and Limits of Court Reform*” p. 1-133., CEDP 2004 Phase II Readings, Leadership and management in Courts and Justice System.

“Continuances in the Cook County Criminal Courts”, a study in Chicago conducted by Laura Banfield and C. David Anderson proved that continuances were disruptive to the criminal justice system and that courts needed to implement control of continuance policies. This study identified the types of continuances which clog the system and identifies the delay associated with pre-trial motions.¹¹ For the purposes of this study in the Prince George’s County Circuit Court, motions include: motions to dismiss, suppress physical evidence, suppress statement, suppress identification, for severance, and change of venue. Banfield and Anderson discuss the issue of cost as a factor in re-occurring continuances. For example, when motions and trials are continued (for various reasons), the numerous trips that witnesses and attorneys make to court is a cost. Also, there is an issue of cost with salaried police officers that are taken away from the department for court and the issue of private citizens that incur lost of earnings. In the Cook County study, the demanding schedule of the attorneys accounted for a large number of continuances. In Prince George’s County, Maryland, the conflict of scheduling among attorneys and assistant state’s attorneys lead to the implementation of the Friday motions docket. Banfield and Anderson conclude in their research that some continuances are clearly necessary; others are clearly abusive. Attorneys must be able to support a continuance request with a legitimate reason. Action should be taken to make it difficult to obtain an unjustifiable continuance.

In Caseload Management in the Trial Court, Now and For the Future, Maureen Soloman and Douglas K. Somerlot examined the control of continuances and stressed the

¹¹ Banfield, Laura and Anderson, David, *Continuances in the Cook County Criminal Courts*, University of Chicago Law Review, Vol. 35, No. 2, pp. 259-316, November, 1968.

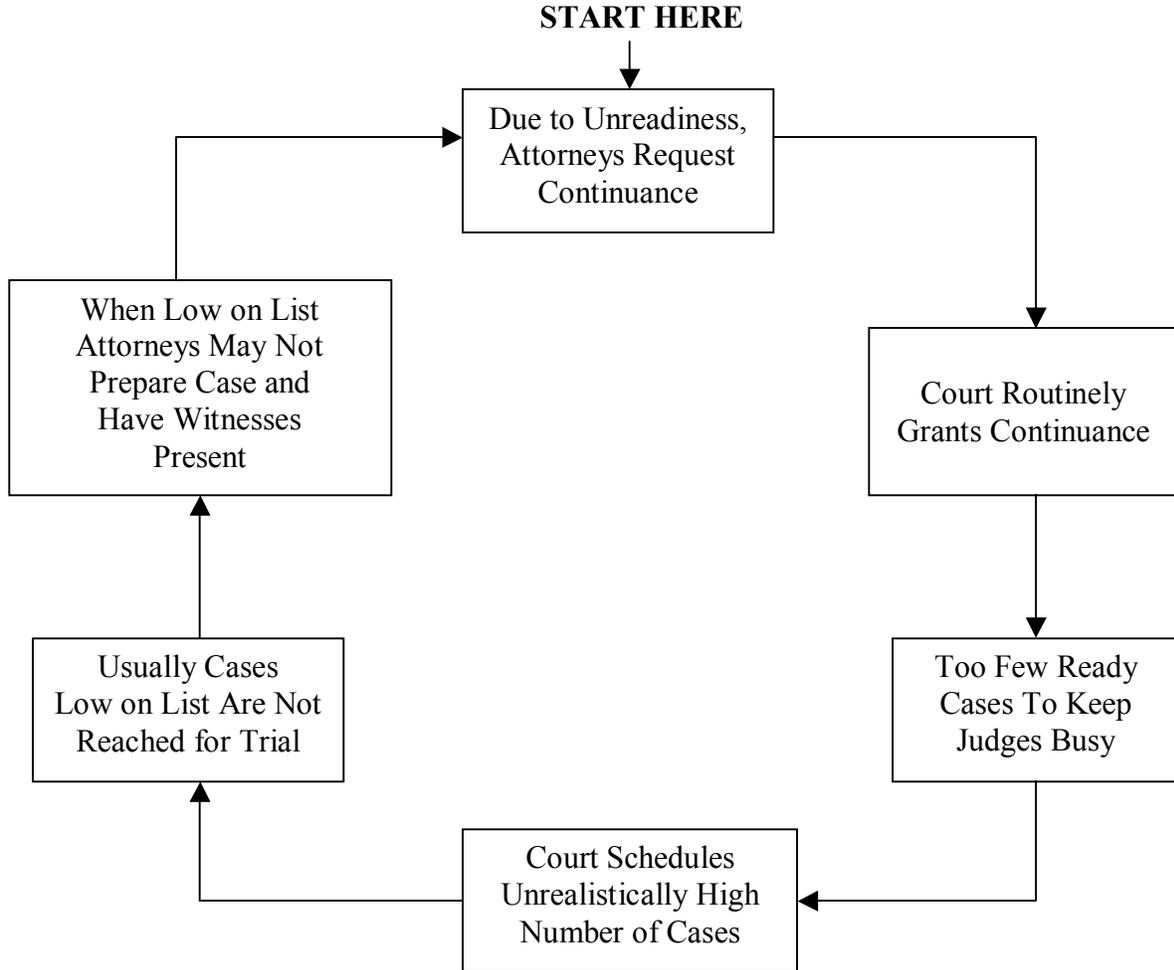
need to adopt and apply a restrictive continuance policy.¹² This report emphasized that a court's policy on continuances reflects its commitment to the philosophy for case progress. Solomon and Somerlot stated that one of the fundamental elements of caseflow management is "control of continuances."

In Caseflow Management in the Trial Court (1973), Maureen Solomon outlines basic principles of caseflow management and re-emphasizes the importance of a continuance policy and examines attorney reaction. Solomon observed that a lenient attitude toward continuances reinforces attorneys tendencies to delay case preparation, which in turns leads to attorneys not being prepared and judges wasting time. Maureen Solomon depicts this cycle on the following page.

¹² Solomon, Maureen and Somerlot, Douglas K., Caseflow Management in the Trial Court: Now and For the Future of Chicago: American Bar Association, 1987.

Chart 5¹³

EFFECT ON CONTINUANCE AND SCHEDULING POLICY ON ATTORNEY READINESS



¹³ Solomon, Maureen, Caseflow Management in the Trial Court, ABA Commission on Standards of Judicial Administration, 1973, pp. 50.

In the Prince George's County's Circuit Court, the Criminal Coordinating Judge distributed a memorandum in May 2003, to remind the Public Defender's Office and States' Attorney's Office about the continuance request procedures. **Appendix B.**

In essence, the practice in Prince George's County is to prevent what Maureen Solomon depicted as the effect of a lax enforcement of continuance and scheduling policy on attorney readiness. When looking at Solomon's depiction of continuances on page 17 (**Chart 5**), the judges surveyed for this study stated that the number one reason for continuances were witness problems, followed by the parties being unprepared. The attorneys' surveyed, stated that the number one reason was the lack of discovery.

Barry Mahoney and Dale Anne Sipes discussed the techniques of management in their article, "*Toward Better Management of Criminal Litigation.*" Mahoney and Sipes stated that there are a number of litigation management practices and techniques that are commonly used in jurisdictions that are effective. Mahoney and Sipes argue that early resolution of motions are often crucial to the outcome of a case. Rulings on suppression motions may determine, whether a defendant's exculpatory statement can be introduced by the prosecution at trial, whether evidence seized by the police can be used, and whether eyewitnesses testimony identifying the defendant from a police lineup is admissible.¹⁴ Early resolution of motions is only possible, if the system is one in which defense counsel is appointed early and can obtain prompt disclosure of the prosecution's case.¹⁵

Mahoney and Sipes based their study on a follow up to the National Center's 1976–1978 *Justice Delayed* study. In analyzing effective case management, Sipes and

¹⁴ Mahoney, Barry and Sipes, Dale, Toward Better Management of Criminal Litigation, National Center articles. p. 30

¹⁵ Mahoney, Barry, and Sipes, Dale, p.31

Mahoney, concluded that their findings were similar to that of the authors of *Justice Delayed* in that the “use of case management systems that enable courts to monitor and control the progress of cases from filing to disposition and through sound continuance and trial setting policies – create an exception that the trial will commence on the date scheduled in the absence of exceptional circumstances.”¹⁶

In 1988, Dr. Mahoney did a follow up to the Justice Delayed study and wrote “Changing Times in Trial Courts” which further analyzed caseflow management. In 1990, Dr. Mahoney wrote “Courts that Succeed” which emphasizes successful courts in caseflow management.

In 1991, Maureen Solomon, Ernest Friesen and Dr. Barry Mahoney, then faculty members of the Institute for Court Management (ICM), produced an educational program on video titled, Caseflow Management. In this video, Dr. Mahoney outlined ten key elements that successful courts share in effective caseflow management. These ten key elements are also outlined in Mahoney’s, Changing Times in Trial Courts. The ten key elements that most successful courts share are: ¹⁷

- (1) Leadership
- (2) Case Processing of time goals or standards
- (3) Information
- (4) Communication
- (5) Caseflow policies and procedures
- (6) Commitment
- (7) Staff involvement
- (8) Education and Training
- (9) Mechanisms for Accountability
- (10) Backlog Reduction and Inventory Control

Further research studies conducted by Brian Olstrom and Roger Hanson in,

¹⁶ Mahoney, Barry and Sipes, Dale, Toward Better Management of Criminal Litigation, National Center Articles.

¹⁷ Friesen, Ernest, Mahoney, Barry and Solomon, Maureen, Caseflow Management Principles and Practices: How to Succeed in Justice, Institute for Court Management, Videotape, 1991.

Efficiency, Timeliness and Quality, “A New Perspective From Nine State Criminal Trial Courts,” indicate that: “timeliness in felony case processing occurs in contexts that also are conducive to the achievement of case processing quality. The more serious, more complicated and difficult cases take a longer amount of time to resolve than do less serious, complicated or less difficult cases. This pattern suggests that courts generally adhere to a norm of proportionality, which states that the amount of attention that each case receives should be in proportion to the amount that it warrants. The difference is that in the more expeditious courts, the work gets done within tighter time frames.”¹⁸

¹⁸ Olstrom, Brian J., and Hanson, Roger, Efficiency, Timeliness and Quality: A News Perspective From Nine State Criminal Trial Courts, National Center for State Courts, 1999.

Methodology

The purpose of this study is to determine whether there is a correlation between motions hearings continued resulting in the trial date being continued. Quantitative data was gathered from criminal statistical information. Qualitative data was gathered by sending out 29 questionnaires.

The approval process for this study involved three steps. It began with the Court Administrator, then included the Criminal Coordinating Judge, and concludes with final approval granted by the County Administrative Judge.

The research design and questionnaire survey was sent to 23 judges, two prosecutors, two public defenders and members of the private bar. **(Appendix C& D)** The questionnaire was sent in memorandum form and asked five specific questions. The response rate to the questionnaire/survey was (79%). Out of 29 questionnaires sent to judges and attorneys, 23 questionnaires were returned completed. Questions that were asked dealt with the judges' and attorneys' perception of the number one reason why motions hearings are continued, and whether there is a relationship between motions hearings being continued and trials being continued.

The questionnaire was pre-tested by giving a draft to the Court Administrator, the Criminal Coordinating Judge and the County Administrative Judge. Feedback was received from the draft, few changes were made as a result of the pre-test and then copies were given to the judges and attorneys. Participants were given two weeks to respond to the survey. The response from the judges was relatively quick. Within the two week response time, 10 surveys were completed. The remaining seven judges responded within the three week period. Two members of the private bar responded within a week, one member of the prosecutor's office responded within one week, one member of the Public Defender's Office responded within one

week and the other two participants (one from the Public Defender's Office, and one from the State's Attorney's Office) took four weeks to respond.

The questionnaires sent to judges and attorneys basically asked five questions. Two of the questions were phrased differently depending on the respondent. For example, in the judges' survey, Question 1 asked, "In your opinion has the scheduling of motions hearings on Fridays reduced the number of requests for continuance motions hearings? Likewise, has the scheduling of motions on Fridays reduced the number of requests for trial continuances?" In the attorney's survey, Question 1 asked, "In your opinion, has the scheduling of motions hearings on Fridays reduced the number of requests for continuances in cases in which you were participating?" Also, Question 2 in the judge's survey asked, "What is the number one reason why motions hearings are continued in your courtroom?" For the attorney survey, Question 2 asked, "Based on your caseload, what is the number one reason why Motions hearings are continued?" Responses to these questions and other qualitative data will be discussed in the Findings section of this research paper.

Statistical data was collected by two members of the Information and Technology (IT) staff. Members who collected the data are located in the Office of Calendar Management and the Court Administrative Office. The statistical data collected will be shown in the *Findings Section* of this research paper and demonstrate whether a correlation exists between motions being continued and trials being continued.

The Criminal Coordinating Judge selected data from year 2003 (first full year judge served as Coordinating Judge). The IT staff began compiling the data between August, 2004 and September, 2004. Organization and clean up of the data were done in November and December, 2004. Statistical data from 1994 was gathered to determine whether the scheduling of criminal motions on Fridays reduced the number of requests for continuance of motions hearings. This was the second measurable objective of the study.

For the year 2003, statistical data from 2,541 cases was compiled. The following depicts the data that was collected from the IT staff. The primary variables are: motion and trial dates.

Secondary variables used for this study are stated below:

Secondary Variables

- ❑ DCM tracks
- ❑ Initial scheduled event
- ❑ Initial event
- ❑ Final scheduled event
- ❑ Final event
- ❑ Case number
- ❑ Pro Se (yes/no)
- ❑ Sex
- ❑ Race
- ❑ Start date
- ❑ End date
- ❑ Motions (yes/no)
- ❑ Trials (yes/no)
- ❑ Final action
- ❑ Presiding judges' name
- ❑ Number of events heard before the court

The IT staff provided the following documentation on data extraction. All data was extracted from the Adult Criminal PROMIS mainframe database system for the Prince George's County Circuit Court. A database querying tool called General Inquiry Package (GIP) was used for this report. Because of the limitations of how many database fields may be returned in a single query result by GIP, the IT staff used several queries to generate the needed data.

The pseudo code for the primary query selection process is listed below:

```
SELECT IF Court division equals "Criminal Trial"  
AND Case track number equals "002" or "003" or "004" or "005"  
AND Scheduled event equals "Motions" or Trial" or "Special Motions" Or Special Trials  
AND Scheduled date is between and including "Jan. 1, 2003 and Dec. 31, 2003"
```

The above query generates the set of cases that best matches its criteria and that set then becomes the basis of this report. This set will be referred to as primary variables. All subsequent queries being used in this report are simply to acquire additional information about the primary set of cases (e.g. race, gender, etc.). These will be referred to as secondary variables. Secondary variables may contain additional or fewer case records than the primary variables, however the case numbers that do not match the case numbers found in the primary variables are discarded for the purposed of this analysis.

All query results are then placed into a Microsoft Excel file.

Findings

Several judges expressed an interest in this study based on the fact that since the implementation of the continuance policy there has never been a study conducted to see if the policy was effective. The measurable objective was to identify from statistical data whether or not the continuation of motions hearings affected the continuation of trials. The second measurable objective is to determine, based on statistical data, whether scheduling criminal motions on Fridays have in fact reduced the request for continuances of motions and trials. After compiling data from the IT staff, the research analyst used software called **Statistical Program Software System (SPSS)**, a statistical program which is used for data reports to produce the data analysis.

As mentioned in the *Methodology Section* of this research paper, primary and secondary variables were collected for this study. Statistical data gathered from 2,541 cases for the year 2003 showed that based on a relationship of 1 being the highest, that there is a .310 Pearson correlation between criminal motion hearings being continued and the trial date being continued (**Table 1**). Hence, 10% of the relationship between these two variables is explained with that relationship. The following table reflects the total number of cases studied and the correlation between motions and trials.

Table 1
2003 Data

Is there a correlation b't motions continued and trials continued?

	MOTIONS CONT?	TRIALS CONT?
MOTIONS CONT?		
Pearson Correlation	1	.310**
Sig. (2-tailed)		.000
N	2541	2541
TRIALS CONT?		
Pearson Correlation	.310**	1
Sig. (2-tailed)	.000	
N	2541	2541

** . Correlation is significant at the 0.01 level (2-tailed).

The Pearson correlation was used for this study because it showed the measure between the two variables, it can also be used to show relationships between more than two variables.

Looking at the numbers in the correlation box in Table 1, .310 is the correlation coefficient. For behavioral sciences, correlation coefficients of .10, .30 and .50, irrespective of sign, are typically interpreted as small, medium, and large coefficients, respectively. To obtain the percent of variance accounted for between variables it is necessary to square the coefficient. The .10 correlation coefficient is interpreted as a significant number but a very small relationship exists between the two variables, motions and trials. Thus, only 10% of cases where motions are continued, trials were also continued.

In a pre-interview with the current Criminal Coordinating Judge, the judge believed that there was a correlation between these two primary variables (motions and trials), but wanted a study conducted to determine the exact correlation. Secondary variables used for this study were discussed in the Methodology section of this paper.

The results of this study indicate that this court has implemented procedures and policies that attempt to control continuances and track criminal cases. More variables need to be examined to determine the other influences of cases being continued.

Table 2 shows the judges' perception of the relationship between motions being continued and trials(Question 3): **See Appendix C.**

Table 2

Do you think that there is a relationship between motions being continued and trials being continued?	
<u>Judges' Response</u>	
Yes	9
No	4
Maybe	2
Occasionally	2

It is interesting to review **Table 2** to see what the judges' perception were. The qualitative data shows that a majority of the judges that responded to the survey felt that there was a relationship between the two variables. Though a relatively small relationship, the 10% correlation validates the judges' perception on this question.

Table 3 reflects the Attorney response to Question 3: **See Appendix D.**

Table 3

Do you think that there is a relationship between motions being continued and trials being continued?	
<u>Attorney Response</u>	
Yes	4
No	2

The attorney responses were split. Four out of six attorneys felt that there was a relationship between motions being continued and trials being continued.

Table 4 reflects the response from the judges regarding Question 1:
See Appendix C.

Table 4

<u>Judges' Response to Question 1</u>	
In your opinion, has the scheduling of motions hearings on Fridays reduced the number of requests for the continuance of motions hearings?	
17 Judges Responding	
Yes	4
Don't Know	8
No	3
Never tracked	1
Court never tracked	1

The Attorney response to Question 1 which was worded a little differently:

See Appendix D. Table 5 reflects the response:

Table 5

<u>Attorney Response to Question 1:</u>
In your opinion, has the scheduling of motions hearings on Fridays reduced the number of requests for continuances in cases in which you are participating?
Not necessarily but it serves the purpose of getting both parties together to work out cases and serves as a "tickler" about the approaching trial date
I believe it has increased the requests for continuances because attorneys cannot cover all courtrooms
I have not noticed any change
Yes.
There has not been a reduction

The attorney response to question 1 was slightly different from the judges' responses.

Overall, the attorneys felt that there was an increase in continuances whereby the judges were not quite sure of the answer.

Table 6 depicts the responses from 17 judges as to what they feel is the number one reason why motions hearings are continued in their courtrooms (Question 2): **See Appendix C.**

Table 6

What is the number one reason why motions hearings are continued in your courtroom?	
<u>Reason for Continuance of Motions</u>	<u>Judges' Response</u>
Witness Problems	6
Incomplete Discovery	2
Parties unprepared	4
Conflict with Attorney schedules	1
Defendant not transported	2
Unable to answer (See Coordinating Judge)	2

Table 7 depicts the responses to question 2 from prosecutors, public defenders and the private Bar. **See Appendix D.**

Table 7

Based on your caseload, what is the number one reason why motions hearings are continued?	
<u>Attorney Response</u>	
Scheduling Conflicts	1
Lack of Discovery	4
Motions are specially set	1

The demographics of the six attorneys surveyed are as follows:

Attorney one

21 years as Assistant State's Attorney
8 ½ years in private practice

Attorney two

3 ½ years as Assistant State's Attorney
6 years in private bar

Attorney three

15 years in Public Defender's Office
4 years in private practice

Attorney four

16 years in the Public Defender's Office

Attorney five

25 years in the State's Attorney's Office

Attorney six

14 years in the State's Attorney's Office
2 years in private practice

The demographics of the judges range from two years to seventeen years on the bench.

Question 4 on the survey asked to Judges and Attorneys: "How do you think the current motions hearings system could be improved?" **See Appendix C & D.** Some of the responses by the judges are as follows:

- *Improve coordination between the State's Attorney's Office to have witnesses present*
- *If Attorneys report immediately to the courtroom the case is sent to and from the motions courtroom*
- *Perhaps judges to whom motions are referred for hearings could be designated in advance so as not to have any other motions on their docket*

- *Timeliness of appearance of all parties including transportation of defendant*
- *If Attorney's communicate with each other well in advance of motions date regarding witnesses, evidence and possible plea offers and alert the criminal coordinating judge*

Some of the responses to question 4 by Attorneys: **See Appendix D.**

- *Having stricter requirements on attorneys appearing at 9.a.m. to clear the docket and to determine the number of actual hearings*
- *If counsel for the state and defense could adhere to the discovery schedule and attempt to resolve more motions issues (and hopefully more cases as a whole) before the motions date. That would hopefully save motions day for cases that will actually be proceeding to litigation motions and trials.*
- *The main problem is volume. Some motions could be set on other days of the week so that when the scheduled trials fall out or plea the time could be used for motions*
- *I think that the current system is appropriate given the caseload.*
- *I think reserving Friday mornings for the litigation of any motions and leaving everything else such as VOP's, reconsiderations, or sentencing until the afternoon could improve the current motions hearing system.*

Very few responses were received from the judges in question 5, however, the comments are worth mentioning, "Please provide any other information that would be helpful regarding the continuance of motions hearings? **See Appendix C.**

- *Denial of continuances for non or late appearance Of law enforcement*
- *Hold firm on designated motions date – deny or dismiss motion if counsel is not prepared to go forward. Be consistent in adhering a set policy*

- *Judges assigned to Friday motions should not have split courtroom assignments or overly heavy dockets*

Attorney responses to questions 5: **See Appendix D.**

- *having discovery in a timely manner*
- *having more cooperation from police in accepting defense attorney's subpoenas*
- *Volume of cases assigned to Assistant State's Attorneys is a problem. It is difficult to keep ahead of the paper flow and schedule*
- *Motions hearings are often continued to save time litigating the case when a plea is being negotiated. If the plea falls through, motions can be litigated prior to trial.*

1994 and 2003 Data

Two members of the IT staff gathered the 1994 data that was extracted into the SPSS for analysis by the research analyst. The data that was gathered from the 1994 cases showed that there was a 10% correlation between motions and trials (**Table 8**).

The 1994 data is pre-DCM implementation and before the scheduling of motions on Fridays. The results are as follows:

Table 8
1994 Data

Correlations

		MOTIONS CONT?	TRIALS CONT?
MOTIONS CONT?	Pearson Correlation	1	.317**
	Sig. (2-tailed)		.000
	N	3295	3295
TRIALS CONT?	Pearson Correlation	.317**	1
	Sig. (2-tailed)	.000	
	N	3295	3295

** . Correlation is significant at the 0.01 level (2-tailed).

For 1994 data, the Pearson correlation shows .317 or a 10% relationship between the motions and the trial dates being continued. Once again, the relationship is significant but relatively small. To obtain the 10%, .317 was squared to show the correlation coefficient.

Other descriptive statistics used in the survey to analyze data were the DCM tracks, race and gender. **Table 9** reflects the DCM variable. Out of the 2,541 cases compiled for year 2003, 51.1% of cases were placed in the 90 day category (track 2), 32.1% were placed in the 120 day category (track 3 cases), 12.8% were selected for the 130 day category (track 4 cases) and 3.9% of cases were categorized into the 160 day category (Track 5). DCM tracks had not been implemented in 1994.

The DCM table below is analyzed from 2003 data.

Table 9
2003 Data

DCM

Days		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Track 2-90 days	1299	51.1	51.1	51.1
	Track 3-120 days	816	32.1	32.1	83.2
	Track 4-130 days	326	12.8	12.8	96.1
	Track 5-160 days	100	3.9	3.9	100.0
	Total	2541	100.0	100.0	

Table 10
2003 Data

time standard levels

Days		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	90	483	19.0	21.5	21.5
	120	570	22.4	25.4	46.9
	130	144	5.7	6.4	53.3
	160	324	12.8	14.4	67.8
	over 160	724	28.5	32.2	100.0
	Total	2245	88.4	100.0	
Missing	System	296	11.6		
Total		2541	100.0		

Table 10 shows the 2003 data and the time standards relationship. For track 2 cases, 19% were within standards, track 3, 22.4% were within standards, track 4, 5.7% were within standards and track 5, 28.5% were within standards.

Tables 11 and **12** depict secondary data of race for the 1994 and 2003 data collected and analyzed for this study.

Table 11
1994 Data

Race of Defendant

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	white	522	15.8	16.7	16.7
	black	2582	78.4	82.5	99.1
	other	27	.8	.9	100.0
	Total	3131	95.0	100.0	
Missing	System	164	5.0		
Total		3295	100.0		

Table 12
2003 Data

Race of Defendant

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	white	268	10.5	12.0	12.0
	Black	1937	76.2	87.0	99.0
	Other	22	.9	1.0	100.0
	Total	2227	87.6	100.0	
Missing	System	314	12.4		
Total		2541	100.0		

In **Table 11**, out of 3,295 cases studied for 1994, 15.8% were white, 78.4% were African American and 8% as other. In **Table 12**, out of the 2,541 cases studied for the year 2003, 10.5% were white, 76.2% were African American and 9% were listed as other.

Tables 13 and 14 depict the gender for cases pulled in 1994 and 2003.

Table 13
1994 Data

Gender of Defendant

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	female	270	8.2	8.5	8.5
	male	2925	88.8	91.5	100.0
	Total	3195	97.0	100.0	
Missing	System	100	3.0		
Total		3295	100.0		

Table 14
2003 Data

Gender of Defendant

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	male	2076	81.7	92.2	92.2
	female	175	6.9	7.8	100.0
	Total	2251	88.6	100.0	
Missing	System	290	11.4		
Total		2541	100.0		

For **Tables 13 and 14**, for the year 1994, out of 3,295 cases pulled, 8.2% were female, 88.8% were male. Out of 2,541 cases in 2003, 81% of cases were male and 6.9% were female.

Based on the primary motions data and secondary gender data that was collected for 1994 and 2003, there is a small relationship between gender and the continuance of motions. See **Tables 15 and 16**.

Table 15
1994 Data

Correlations

		MOTIONS CONT?	Gender
MOTIONS CONT?	Pearson Correlation	1	.047**
	Sig. (2-tailed)		.007
	N	3295	3195
sexrecoded	Pearson Correlation	.047**	1
	Sig. (2-tailed)	.007	
	N	3195	3195

**. Correlation is significant at the 0.01 level (2-tailed).

Looking at the numbers in the correlation box above, the correlation coefficient is .047. As stated earlier, correlation coefficients of .10, .30 and .50, irrespective of sign, are typically interpreted as small, medium, and large coefficients, respectively. To obtain the percent of variance accounted for between variables it is necessary to square the coefficient. For example in **Table 15**, motions is one variable and gender (sex recoded) is another variable and the correlation between these variables is .047 (the number in the graph), we can conclude that 2% of the variance (.047 squared) of the gender variable is accounted for by its relationship with motions. Therefore, relationship between motions and gender is thus small.

Table 16
2003 Data

Is there a correlation b't motions continued and gender of defendant?

		MOTIONS CONT?	Gender
MOTIONS CONT?	Pearson Correlation	1	-.056**
	Sig. (2-tailed)		.008
	N	2541	2251
gender	Pearson Correlation	-.056**	1
	Sig. (2-tailed)	.008	
	N	2251	2251

**. Correlation is significant at the 0.01 level (2-tailed).

The same analysis for **Tables 16** and **17** can be used to find the correlation between motions and gender (2003 data) and **Table 17** (1994 data) motions and race are relatively small. The correlation for **Table 16** is $-.06$ (number in the graph), we can conclude that -3% of the variance ($-.06$) of the gender variable is accounted for by its relationship with motions. The correlations between the two variables (gender and race for 1994 data are very small.)

Likewise for **Table 17** in 1994, there was a small correlation between motions being continued and the race of the defendant. **See Table 17.**

Table 17
1994 Data

Correlations

		MOTIONS CONT?	Race
MOTIONS CONT?	Pearson Correlation	1	.095**
	Sig. (2-tailed)		.000
	N	3295	3131
racerecoded	Pearson Correlation	.095**	1
	Sig. (2-tailed)	.000	
	N	3131	3131

** . Correlation is significant at the 0.01 level (2-tailed).

The correlation between race and motions for 1994 data is $.09$ (the number in the graph), we conclude that 8% of the variance ($.09$ squared) of the race variable is accounted for by its relationship with motions. According to the data in the graph, there is a correlation for race and motions being continued but the relationship is small.

Table 18
2003 Data

Is there a correlation b't motions continued and race of defendant?

		MOTIONS CONT?	Race
MOTIONS CONT?	Pearson Correlation	1	.046*
	Sig. (2-tailed)		.031
	N	2541	2227
racerecoded	Pearson Correlation	.046*	1
	Sig. (2-tailed)	.031	
	N	2227	2227

*. Correlation is significant at the 0.05 level (2-tailed).

In **Table 18**, the 2003 data collected also showed a small correlation .05(number in the graph) to motions being continued. As stated earlier, the relationship is very small.

Data collected for 1994 and 2003, showed no significance between trials and race and trials and gender.

As stated earlier in the paper, the measurable objectives were to: **(1)** to find if there was a correlation between motions continued and resulting in trials being continued and, **(2)** to determine whether the scheduling of criminal motions on Fridays has reduced the number of requests for continuance of motions hearings. The results of the analysis indicate that based on the quantitative and qualitative data collected and the results of this data, both objectives have been met.

Conclusion

Based on the quantitative data collected in the *Findings* section of this research paper, there is a 10% correlation between motions that are continued and trials that are continued. The quantitative data was based on 2,541 cases in 2003 where motions were continued resulting in trials being continued. The primary variables used for this study were motions and trials. Similarly, the qualitative data collected from a survey of 23 judges, 17 of them believed there was a relationship between motions and trials. Accordingly, the data collected proved a relationship, though a relatively small relationship of motions continued resulting in trials continued (10% for the year 2003).

This study was conducted because the current criminal coordinating judge believed that there was a relationship between the two variables (continuance of motions and trials) and believed that the relationship was relatively small but the judge was not quite sure. He therefore wanted this study conducted. Based on data collected, his assumptions were correct. The court is satisfied with the findings of this study and concludes that the 10% correlation is not significant enough to change the current criminal motions system.

Based on data from 1994, 3,295 cases which tracked motions and trials that were continued before the implementation of the criminal DCM and before motions were scheduled on Fridays, showing a 10% correlation between motions and trials.

<u>Year</u>	<u>Cases studied</u>
1994	3295
2003	2541

Therefore, there is a 754 case difference in motions continued and trials continued and trials (23% reduction) from 1994 to 2003. What is the significance of this number? The reduction is in the number of cases studied based on the continuance of motions. One could conclude that with motions being scheduled on Fridays, there has been a positive impact based on the decrease in motions continued resulting in trials continued from 1994 to 2003. However, a further study is needed analyzing 1994 data that would give the court an insight into the evaluation of criminal motions and thereby showing a further impact of scheduling motions on Fridays.

The data gathered for 1994 and 2003 shows that with the implementation of various fundamentals, the implementation of DCM, the continuance policy, and the Friday motions docket have made a positive impact on motions hearings being continued. The DCM plan is a mechanism by which cases are assigned and tracked according to severity. The DCM plan allows for the State's Attorney's Office and the Public Defender's Office to follow certain guidelines in order to stay within time standards set by the court. Also, looking at the data from 1994 and 2003, the Criminal Coordinating Judge has played a crucial role in maintaining an effective caseflow management system. The coordinating judge is responsible for tracking continuances. The continuance policy has impacted this study because it allows for judges to deny request for continuances within their court, thus allowing for efficient caseflow management.

Examining the ten key elements of successful caseflow management courts, as stated in the *Literature Review*, the Prince George's County court show all key elements in caseflow management. Since 1995 when the Administrative Judge appointed a criminal coordinating judge, strong leadership has been visible in the area of caseflow management. The DCM plan was implemented along with scheduling of motion hearings on Fridays.

A commitment to improving the system existed based on the overall continuance rate. The leadership role of the coordinating judge soon carried over to other judges appointed in this position, setting case processing of time goals, and implementing policies on continuances. Information sharing increased between the Clerk's Office, Judges, State's Attorney's Office, the Police Department, Private Bar, Public Defender's Office and other court house staff. The Administrative Judge and Court Administrator are also committed to investing in the education and training of staff and creating mechanisms for accountability. The Administrative Judge holds monthly local council meetings that include the attendance of coordinating judges, Court Administrator, Deputy Court Administrator, IT Director, Director of Calendar Management, and the Clerk of the Court. Issues from case management to problem solving are discussed during these meetings. The Administrative Judge also schedules monthly judicial meetings to discuss pertinent issues facing the court. At this meeting, coordinating judges report to the bench an update in their given area.

What would be done differently in this study? The approach to the data collection would be conducted differently. For example, more qualitative data regarding reasons for continuance of motions would be collected. A review of case files and docket entries would also be strengthened. Data would be gathered on possible links between a particular judge and the time span cases. Other variables would also be explored.

Recommendations

The current criminal coordinating judge believes there exists a correlation between motions to continue and trials continued, and examined the system for possible changes. However, this study found that there was a relatively small correlation of 10% of motions continued, affecting the trials being continued. Therefore, the court accepts the findings of this study and recommends that changes are not necessary because the current caseflow management of motions for continuances are effective. Most judges surveyed were satisfied with the current motions system and believed that the system was managed effectively. Based on responses from the surveys, we need to continue to stress the importance of holding firm trial dates and adhere to the continuance policy. Further studies, however are needed in the areas of the 1994 data . By expanding and examining the secondary variables, it could give the court more documentation of how implementing the DCM plan and scheduling of motions on Fridays have enhanced the criminal motions system.

BIBLIOGRAPHY

Differentiated Case Management Plan of Criminal Cases for the Circuit Court For Prince George's County, Maryland. Revised, 2002.

Memorandum on Continuance Policy, May, 2002.

Prince George's County Circuit Court, 2003 Caseflow Assessment Report for Cases closed. July, 2003.

Prince George's County Circuit Court, 2003 Caseflow Assessment Report for Cases closed, November, 2004.

Banfield, Laura and Anderson, David, Continuances in the Cook County Criminal Courts, University of Chicago Law Review, Vol. 35, No. 2, pp. 259-316, Nov. 1968.

Baar, Carl, The Scope and Limits of Court Reform, CEDP 2004 Phase II Readings, Leadership and Management in Courts and Justice System, National Center for State Courts.

Friesen, Ernest C., Mahoney, Barry, Solomon, Maureen, Caseflow Management, Principles and Practices: How to Succeed in Justice, Institute for Court Management (Videotape, 1991).

Mahoney, Barry and Sipes, Dale Anne, Toward Better Management of Criminal Litigation, National Center articles.

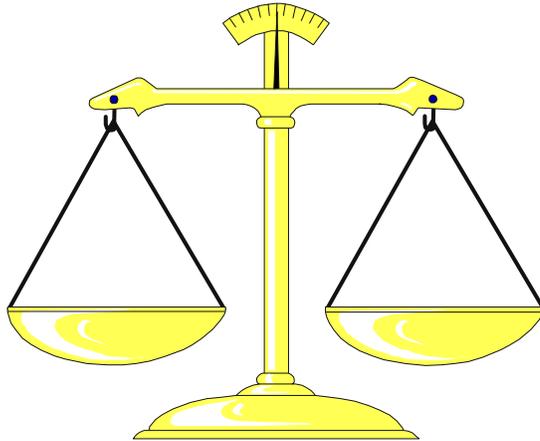
Olstrom, Brain J. and Hanson Roger, Efficiency, Timeliness and Quality: A New Perspective from Nine State Criminal Trial Courts, National Center for State Courts, 1999.

Solomon, Maureen, Caseflow Management in the Trial Court, American Bar Association, 1973.

Solomon, Maureen, and Somerlot, Douglas, Caseflow Management in the Trial Court: Now and For the Future, Chicago, American Bar Association, 1987.

Steelman, David C., John A. Goerdts and James E. McMillan, Caseflow Management: The Heart of Court Management in the New Millennium. Williamsburg, Va: National Center for State Courts, Revised 2004.

Appendix A



**DIFFERENTIATED CASE MANAGEMENT PLAN
OF CRIMINAL CASES
FOR THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY**

Confronted with growing numbers of criminal indictments, increasingly more voluminous and complex civil litigation, and ever mounting backlogs, along with diminishing resources and the high cost of new judicial appointments with attendant entourage, the courts and the professionals concerned with litigation management have sought to develop innovative means of handling and disposing of the influx. The concept of differentiated case management was developed as part of those vigorous efforts.

Differentiated case management contemplates identifying cases by a "track" designation based on certain specified criteria, and passing like cases through the court system with similar time and event specifications. As an example, a criminal case where the most serious offense is the distribution of a small amount of a controlled dangerous substance to an undercover police officer might be designated as a Track 2 case because of the simplicity of issues and the relatively small amount of discovery, while a rape case with DNA evidence might be designated as a Track 5 case because of the length of time needed to complete scientific testing, provide discovery, complete investigations, and prepare experts for trial.

The Track 2 case would be expected to be disposed of and out of the system in a much shorter period of time than the Track 5 case. The two cases would be channelled through the system with trial and motion dates, plea acceptance dates, and other event dates appropriate for their particular complexity.

Differentiated case management became mandatory in Maryland with the promulgation of Md. Rule 1211b(1):

The County Administrative Judge shall develop and, upon approval by the Chief Judge of the Court of Appeals, implement and monitor a case management plan for the prompt and efficient scheduling and disposition of actions in the Circuit Court. The plan shall include a system of

differentiated case management in which actions are classified according to complexity and priority and are assigned to a scheduling category based on that classification.

In compliance with the requirements of the rule, a committee was appointed by the administration of the Circuit Court for Prince George's County to devise a differentiated case management system and to apply its concepts to the work of this Court. Subcommittees were established to make recommendations in such categories as tracking designations and specifications and revisions to current assignment practices, and methods of handling plea negotiations and discovery.

The committee's recommendations were reviewed and discussed by the Circuit Court Judges at three separate luncheon meetings.

Track 1: The present system of moving criminal appeals is an efficient, computerized, time tested system, which should be continued, in its present format. All pretrial matters and plea negotiations are considered by one judge. Those cases which do not plead are set for trial. Criminal appeal court days are set approximately seven times a year. Seven or eight courtrooms and judges are dedicated to criminal appeals on those days. Any cases not reached are heard the following day. Thus, 49-56 judges' days a year are devoted to criminal appeals. It is not feasible, considering the great numbers of these cases, to do with less or to change the method by which they are processed.

Tracks 2-6: It is the responsibility of the Office of the Criminal Clerk of the Circuit Court to designate the track to which a case is assigned, based upon the above-computerized criteria. The State's Attorney's Office agrees that the first count of an Indictment will be the most serious charge for tracking purposes. The track number should be stamped on the front of the jacket on Tracks 2 and 3 immediately after the Grand Jury returns.

With Track 5 and 6 Cases: The Criminal Clerk's Office will assign the case to a particular judge directly after indictment based upon the established criteria. The assignment will be made by computer without input from any Clerk's Office employee.

**DCM PLAN
(Criminal Cases)**

Tracks 2 and 3: At arraignment, give Defendant a sheet stating:

- 1. Motions/Plea Date**
- 2. Trial Date**
- 3. Discovery Cut-off Dates**
- 4. Discovery Cut-off Dates**

For Track 2 and 3 cases, no assignment to a judge will be made.

For Track 4, 5, and 6 cases, status conferences will be utilized to determine whether or not there are viable motions to be heard pre-trial. At status conference, other matters will be taken up and resolved such as:

- 1. Intentions to file:**
 - a. suggestions for removal**
 - b. severances**
 - c. juvenile waivers**
 - d. insanity pleas**
 - e. recusals**
- 2. Extraordinary discovery disputes**
- 3. Time estimates for motions and trial**
- 4. Need for language or deaf interpreters**
- 5. Witness problems**
- 6. Jury considerations (such as sequestration)**
- 7. Other considerations affecting trial time, time to be expended on motions**
- 8. Any other considerations which will effect court and agency resources, such as a need for extra security, witness protection, segregation of Defendants/witnesses, likely media coverage**

It will be the responsibility of the attorney to notify the Assignment Office 48 hours ahead of the time the plea is to be entered so that the State's Attorney's files can be brought to court and the jail will know which prisoners to bring to court. In order to ensure that Defendants are transported to court for any proceedings, the Correctional Center must be notified if a case is going to be set in within 48 hours. A computer generated list is printed the evening prior to this scheduled court session. If an individual's court date is not entered into the PROMIS System database, the individual will not be identified nor transported to the courthouse which will result in proceedings being delayed. Track 2 and 3 pleas should be set with judges who have no philosophical aversion to Alford or ABA pleas.

Pleas will be held before the Chambers Judge any day of the week. Friday should be used for miscellaneous matters such as status conferences, violations of probation, reconsideration of sentences, and motions hearings of less than one hour. There will be both a 9:00 a.m. and a 1:30 p.m. docket. All motions will be scheduled in one courtroom.

The motions docket will be called at 8:30 a.m. and 1:30 p.m. If motions are withdrawn or continued, it will be accomplished in that courtroom. If motion hearings are to be held, they will be assigned to other courtrooms. Motions lasting more than one hour will be heard on a day other than a Friday.

Trials would theoretically proceed quickly because there would be no interruptions for violations of probation, reconsiderations, etc. assuming jurors would be available. Counsel should report to the assigned judge by 9:00 a.m. for preliminary matters. Jury selection will commence at 9:30 a.m.

Within the listed time constraints, the defense counsel will be provided discovery and a plea offer. If no counsel has entered by that time, the discovery and plea offer will not be conveyed until counsel enters, unless the Defendant waives counsel and elects to proceed pro se, in which case the Defendant will be provided the discovery and plea offer.

It will be the responsibility of the State to timely notify the defense within a reasonable time, not to exceed 15 days after arraignment, of the costs of the discovery. It will be the responsibility of the defense attorney to remit the referred fee promptly. For Public Defender cases, discovery will be provided without payment notifications.

Track 5 and 6: Cases will be assigned to a judge prior to arraignment. At arraignment, the Defendant will be given:

1. Status Conference date
2. Motions/Plea date
3. Trial date
4. The name of the judge to whom the case is assigned

(The same 48-hour notice to assignment prior to plea is required). Requests for continuances and other enlargements of time shall be presented to the County Administrative Judge or his or her designee except for the continuance of a Track 5 or 6 case where the new date is within the 180 days mandated by Rule 4-271. All requests to continue any matter will be accompanied by an Order containing a new date cleared through the Assignment Office and all other counsels' calendar.

For all tracks:

Judges will not involve themselves in plea negotiations as to amount of time or counts to be pled. It will be up to defense counsel to get an affirmative commitment or an agreement to stand silent from the State of matters involving special programs for Defendants, such as home confinement or home detention, reconsideration of sentences, restitution, right to request reconsideration of sentence. Court costs, public defender fees, and probation supervision fees will be imposed in all cases unless the Defendant is found to be indigent. It will be the responsibility of the defense to schedule starting dates for home confinement/detention prior to sentencing. To avoid any delays at the sentencing stage, it is suggested that prior to considering any alternative to incarceration program, *i.e.*, HIDTA, home confinement/detention, Day Reporting,

Residential Drug Treatment Programs, an eligibility report must be requested prior to sentencing or entering any type of plea agreement (when a program is being offered in conjunction with the plea). Upon submitting the eligibility report to the court, a copy should be forwarded to the State's Attorney and defense counsel. The sentencing start date for Defendants being placed in an alternative to incarceration program should be coordinated with the agency overseeing the program to ensure the availability of equipment, bed space, etc.

Pleas will be of the following nature:

1. ABA
2. Cap of time to be served
3. Both State and defense free to allocute

Where there is a failure of the State to provide a plea offer within the time constraints of this program, the court may, on Track 2 and 3 cases, offer a disposition.

DISCOVERY

All Officers will be reminded to bring all required information to their screening appointments with the State's Attorneys Office. If Officers fail to bring some (or all) documents needed at the time of their screening appointments, the State's Attorneys Office must provide written notification to the Prince George's Police Department Court Liaison Officer or to the Office of the Chief.

The discovery procedures followed by the courts will be distributed to all Prince George's County Police Commands. Commanders will be responsible for sharing this information with all Officers under their command.

OFFICER UNAVAILABILITY FOR CIRCUIT COURT

Bi-annually, the Court Liaison Officer will provide the State's Attorneys Office with copies of the Officer availability dates that are sent to Annapolis, Maryland for District Court case scheduling. By having these dates, the State's Attorneys Office will be aware of the dates that Officers have previously set aside for court appearances.

The Prince George's County Police Department Court Liaison Officer will provide copies of all received notices of an Officer's unavailability for court. These notices are utilized by Officers when they are scheduling long-term or unanticipated leave. The State's Attorneys Office can use these notices to better schedule Circuit Court cases.

Every week, the Prince George's County Police Department Court Liaison Officer will contact the Office of the State's Attorney and Judge Steven I. Platt to identify and correct any Officer attendance/availability issues occurring in Circuit Court.

Bi-annually, the Prince George's County Police Department Court Liaison Officer will provide the State's Attorneys Office with a current copy of District Station rosters, work telephone numbers, and shift schedules. With this information, the State's Attorneys Office will know when and how to contact a particular Officer and/or his/her supervisor or commander to resolve a particular court issue.

Every week, the Prince George's County Police Department Court Liaison Officer will obtain a current calendar of scheduled Circuit Court cases planned for the next 30 days (preferably the next 60 days). This calendar should indicate the Prince George's County Police Department Officers needed for trial. The Prince George's County Police Department Court Liaison Officer will provide each District/Division Commander with a current calendar of scheduled Circuit Court cases. With these calendars, Commanders can ensure that the Officers either attend or that the State's Attorneys Office is promptly notified of the Officer's impending unavailability. All responses to the State's Attorneys Office from District/Division Commanders will be in writing.

PROCEDURES FOR IMPLEMENTING THE DNA STATUTE, CP § 8-201

- 1. The Criminal Coordinating Judge will determine if the matter is a Motion for New Trial, Petition for Post Conviction, or Motion to Reopen Post Conviction where DNA testing is requested by a pro se Defendant.**
- 2. In Post Conviction Cases, the matter will still be referred to Scott Whitney, who will in turn assign the Post Conviction an attorney, as well as notify Ms. Michele Nethercott of the DNA issue. The assigned Public Defender to the Post Conviction and Ms. Nethercott will determine if the DNA issue or the other issues in the Post Conviction should be pursued within 5 months of referral.**
- 3. In Motions to Reopen or Motions for New Trial, the matter will be referred to Ms. Michele Nethercott with a copy to the State's Attorneys Office.**
- 4. The State's Attorneys Office will file an informal report within 30 days of the referral as to whether any evidence exists.**
- 5. Ms. Michele Nethercott will file a Line with the Court within 5 months of the referral stating if she intends to pursue the DNA issue.**
- 6. The State's Attorneys Office will have 30 days from the filing of said Line to file a formal Answer to the request for DNA testing.**
- 7. A date for a hearing before the Criminal Coordinating Judge on whether the DNA testing should be done will be determined and cleared with the Office of Calendar Management by the State's Attorney and Ms. Nethercott.**
- 8. The Criminal Coordinating Judge will be advised of the date assigned for this hearing.**
- 9. If testing produces a favorable result, Ms. Nethercott will generate letter to schedule the Motion for New Trial before the trial judge.**
- 10. The State will have 30 days to file an Answer.**

If a post conviction is filed raising failure to file a reconsideration and/or belated appeal along with other issues, all issues originally filed will need to be disposed of in that one Petition, unless otherwise ordered by the Court. Each case will need to be evaluated on its own merit. If a belated Motion for Reconsideration or a belated Notice of Appeal is granted, it will not automatically entitle the Defendant to a Motion to Reopen the Post Conviction.

Appropriate sanctions, including exclusion of evidence and dismissal of charging documents, may, in the court's discretion, be imposed for failure of the State to comply with discovery time constraints. In it's discretion, the court may exclude evidence where

the defendant has failed to provide timely discovery/notice as required by law, such as alibi witnesses and expert witnesses.

Sanctions for matters which first become apparent in trial will be imposed by the trial judge. Pretrial sanctions in criminal appeal cases will be imposed by the Criminal Appeal Coordinating Judge or his or her designee. Pretrial sanctions in assigned cases will be imposed by the assigned judge. Pretrial sanctions in unassigned cases will be imposed by the Coordinating Judge of the Criminal Docket or his or her designee.

It is expected that special matters will be pled within 30 days of arraignment -- e.g., severance, recusal, not criminally responsible, juvenile waiver, so that no trial will be unduly delayed.

This proposal is not and cannot, in its initial stages, be conceived as the panacea to end all problems related to the disposition of criminal cases. The project must be reviewed and adjusted continuously after its implementation, in order to evaluate:

- 1. the effectiveness of the project.**
- 2. the effect the project has upon the resources, work flow, and availability of attendant agencies such as: The Sheriff's Operation, Circuit Court Mental Hygiene, Consultation Services, the Department of Parole and Probation, the various offices and programs within the Detention Center and the Department of Corrections, the housing capacity of prison facilities, the resources of the prosecutors office, the Office of the Public Defender, and the police department.**
- 3. whether and the extent to which the project effects the workflow of court offices, e.g., Assignment, the Clerk's Office, juror availability and cost, the Bailiff's Office, the court reporters, and courtroom clerks.**

Criteria must be devised to make those evaluations and adjustments.

This committee shall meet at six (6) month intervals, after the implementation of the plan, for the purpose of monitoring, evaluating, and suggesting improvements to the plan.

Appendix B

***CHAMBERS OF JUDGE MICHAEL P. WHALEN
CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND
COURTHOUSE ROOM 276B
UPPER MARLBORO, MARYLAND 20772
301-952-4520***

MEMORANDUM

To: All Resident Judges

From: Judge Michael P. Whalen
Criminal Coordinating Judge

Date: May 21, 2003

Re: Continuances/Specially Assigned Cases

Some confusion has apparently arisen with some members of the public defender and state's attorney's offices over our continuance request procedures relating to specially assigned cases. The procedure in place has required that the continuance request should first be directed to the judge specially assigned who can either deny the request or refer it to the criminal coordinating judge should same merit consideration.

Attached is a copy of the full continuance policy put in place by Judge Platt in May 2002. These materials will again be sent to the appropriate offices.

**Seventh Judicial Circuit of Maryland
Chambers of Steven I. Platt
P. O. Box 1600
Upper Marlboro, Maryland 20772
(301) 952-3142**

MEMORANDUM

TO: All Resident Judges

FROM: Judge Steven I. Platt
Criminal Coordinating Judge

DATE: May 29, 2002

RE: Continuances

This memorandum is a short reminder to you of the Court's policy approved in Conference regarding oral and written motions for continuance of both trials and motions. When a motion for continuance is requested in a motion or trial on your docket, please be reminded of the following:

I. Continuances of Trials on Your Docket or Specially Assigned Trials

When either an Assistant State's Attorney or defense counsel makes an oral or written motion for continuance of a case that is "**on your docket**" and/or "**specially assigned**" to you, you have the authority to deny that continuance. It need not be sent to me as the Administrative Judge's Designee unless you believe that the motion has merit, or at least should be considered in a manner that would preclude summary denial.

If you determine that the motion for continuance "**may**" have merit or should at least be further considered and you have an opinion as to whether the motion should be granted, I would appreciate hearing from you since, if I deny the continuance, you will have to hear it and potentially your name will be up in lights with mine.

If witnesses are unavailable or must be staged due to their availability, since this case is on your docket, it would be incumbent upon you to make the decision whether or not to accommodate the State or defense counsel mid not send it to me because a continuance may not and/or probably will not be granted.

Some reasons that I will never consider to be meritorious or justification for a continuance:

1. We are in plea negotiations
2. I thought it was a plea, and so I am not prepared
3. It is a plea, so it can be heard at any time

II. Continuances of Motions on Fridays

If you are on the list of designated judges to have criminal motions referred on Fridays, you will receive these motions on a rotating basis. That means that motions will generally be sent to you as soon as we are aware by the filing of the appropriate Line that the motions are in fact to be litigated. The exception to this rule is when the same Assistant State's Attorney or Assistant Public Defender is assigned to more than one case scheduled for a motions hearing. If I can, I will be assigning all of that particular Assistant State's Attorney's or Assistant Public Defender's motions to you so that other judges will not be kept waiting.

I also want to again draw to your attention the fact that many of the Assistant State's Attorneys or Assistant Public Defenders that have motions on Fridays may also be assigned to you for your miscellaneous docket. It would be appreciated if you will allow that Assistant State's Attorney or Assistant Public Defender to be in my courtroom first in order to get their motions assigned to a judge as soon as possible at 8:30 ant, rather than in your courtroom where, if they are detained, they hold up the assigning of motions to a courtroom. While I understand this may delay certain proceedings in your courtrooms, keeping the Assistant State's Attorneys or Assistant Public Defenders will delay other judges much more. I promise I will get their various cases assigned to an appropriate courtroom and direct them to return to your miscellaneous docket as soon as possible.

Once I have assigned motions to be litigated in your courtroom when you are a designated motions judge and the attorneys find a reason to request a continuance of these motions, I again remind you have the authority to deny those motions for continuances. Again, if you determine that the motion for continuance may have merit, then please refer them back to inc. If you feel strongly about what the disposition of the motion for continuance should be, I would appreciate hearing from you, since if I deny the continuance, the case will be returned to you for the hearing.

If some motions can go forward and others cannot, I again urge you to dispose of as many motions assigned to you as you can and refer back to me only what is left.

By copy of this memorandum, I am directing both the Office of the State's Attorney and the Office of the Public Defender to have each of their Assistants advise your courtroom if they are assigned to handle your miscellaneous docket that they are in my courtroom or whatever other location they are assigned so that you will know where they are at all times. I am also directing that if the Assistant

State's Attorney or Assistant Public Defender feels it is necessary to go to your courtroom first, that they advise my courtroom as to where they are and a time when they will return as per the policy and priorities of this Court.

If there are any questions regarding these policies and procedures, please do not hesitate to contact me. Thank you for your attention to this matter.

cc: Honorable William D. Missouri
Administrative Judge

Appendix C

**COURT ADMINISTRATIVE OFFICE
SEVENTH JUDICIAL CIRCUIT
ROOM 268M
COURT HOUSE
UPPER MARLBORO, MD 20772
301-952-3708**

To: Circuit Court Judges

From: Sondra D. Battle
Deputy Court Administrator

Re: Questionnaire

Date: October 27, 2004

I am currently completing a course of study with the Institute for Court Management. As part of the Phase III Court Executive Program, I am required to evaluate a program within our court. After conferring with Judge Whalen, I have chosen to study continuance of criminal motions hearings and the relationship to the continuance of subsequent criminal trials. I would appreciate your help in completing the following questionnaire. Please complete and return to me by October 29, 2004. Your assistance is greatly appreciated. If you would like copies of my completed study, please let me know. Thank you.

1. In your opinion, has the scheduling of motions hearings on Fridays reduced the number of requests for continuance motions hearings? Likewise, has the scheduling of motions on Fridays reduced the number of requests for trial continuances?
2. What is the number one reason why motions hearings are continued in your courtroom?
3. Do you think that there is a relationship between motions hearings being continued and trials being continued?
4. How do you think the current motions hearings system could be improved?

5. Please provide any other information that would be helpful regarding the continuance of motions hearings.

cc: Judge Missouri
Judge Whalen
Suzanne James

Appendix D

**COURT ADMINISTRATIVE OFFICE
SEVENTH JUDICIAL CIRCUIT
ROOM 268M
COURT HOUSE
UPPER MARLBORO, MD 20772
301-952-3708**

To: Attorneys

From: Sondra D. Battle
Deputy Court Administrator

Re: Questionnaire

Date: October 27, 2004

I am currently completing a course of study with the Institute for Court Management. As part of the Phase III Court Executive Program, I am required to evaluate a program within our court. After conferring with Judge Whalen, I have chosen to study continuance of criminal motions hearings and the relationship to the continuance of subsequent criminal trials. I would appreciate your help in completing the following questionnaire. Please complete and return to me by December 15, 2004. Your assistance is greatly appreciated. If you would like copies of my completed study, please let me know. Thank you.

1. In your opinion, has the scheduling of motions hearings on Fridays reduced the number of requests for continuances in cases in which you were participating?
2. Based on your caseload, what is the number one reason why motions hearings are continued?
3. Do you think that there is a relationship between motions hearings being continued and trials being continued?

3. How do you think the current motions hearings system could be improved?

4. Please provide any other information that would be helpful regarding the continuance of motions hearings.

cc: Judge Missouri
Judge Whalen
Suzanne James