

AMENDED ADMINISTRATIVE ORDER IMPLEMENTING A DISTRICT CRIMINAL CASE MANAGEMENT PLAN FOR THE 26TH JUDICIAL DISTRICT

This District Criminal Case Management (DCCM) Plan is established pursuant to N.C.G.S. 7A-146 which authorizes the Chief District Judge to set schedules of the district court and the inherent constitutional authority of the court to establish rules for the management of litigation to prevent undue delays, preserve court resources, and assure fair treatment of all parties. This plan further preserves the authority of the District Attorney to prepare the trial dockets pursuant to N.C.G.S. 7A-61. This plan further recognizes the constitutional and statutory authority of the District Attorney. Nothing contained in this plan limits, restricts or cedes such authority.

1 Statement of Purpose

The purpose of the DCCM Plan is to provide a structured system for the timely and efficient management of criminal cases in the district court of the 26th Judicial District. The DCCM does not apply to district criminal cases that have been classified by the District Attorney as intimate partner violence matters. Intimate partner violence cases are scheduled and managed according to a separate plan and state and local rules.

The 26th Judicial District recognizes responsibility for managing case progress, the defendant's right to a speedy trial, and the public's, including victims and witnesses, interest in a timely, fair and just resolution of criminal cases by application of uniform and consistent time standards for the conduct of criminal cases in the district court.

The objectives of the DCCM Plan include:

1. Early Court Intervention: The start of each case triggers the effort to resolve the case as early in the process as reasonable and to reduce the time and costs for the parties and the court without sacrificing rights or interests.
2. Continuous Court Control: For each case, realistic pretrial schedules are established so that progress to each scheduled event is appropriate and can be monitored to minimize unnecessary delay.
3. Controlling Continuances: While courts must allow adequate time to accomplish necessary tasks, events should also be scheduled sufficiently soon to maintain awareness that the court wants reasonable case progress and will not allow continuances simply because participants are not prepared.
4. Meaningful Pretrial Court Events: The court communicates to all participants in the legal process the purpose, deadlines and possible outcomes of all proceedings to ensure all events occur as scheduled and contribute substantially to the reasonable resolution of the case.
5. Firm and Credible Trial Dates: Trials regularly commence on the first date scheduled after the court determines no other case resolution options are possible.

A strong judicial commitment is essential to improving predictability, efficiency and timely disposition in criminal cases. Collaboration between the Court, the District Attorney, the Public Defender and the private defense bar is necessary to achieve just and efficient disposition of criminal cases. The Court is ultimately responsible for ensuring compliance with the North Carolina Criminal Procedure Act, through early and continuous judicial management to promote procedural justice.

Further, the DCCM Plan implements the Supreme Court of North Carolina’s Time Guidelines for Trial Court Cases, as published by the North Carolina Administrative Office of the Courts.

Table 1-District Court Time Guidelines

Case Time Suspension Begins	Case Time Suspension Ends
Criminal Non-Motor Vehicle	75% disposed within 60 days of filing 90% disposed within 90 days of filing 98% disposed within 120 days of filing 100% disposed within 365 days of filing
Criminal Motor Vehicle	75% disposed within 60 days of filing 90% disposed within 120 days of filing 100% disposed within 180 days of filing
Infractions	75% disposed within 60 days of filing 90% disposed within 120 days of filing 100% disposed within 180 days of filing
Felonies	100% disposed within 90 days of filing

2 Case Management

The policies and procedures outlined in the DCCM Plan shall be implemented by the Chief District Judge in collaboration from the offices of the District Attorney, the Clerk of Court, and the Trial Court Administrator. The Chief District Judge Shall monitor implementation and effectiveness of the DCCM with the assistance of the Trial Court Administrator (TCA). Implementation issues and performance outcomes will be addressed at regularly scheduled case management meetings chaired by the Chief District Judge.

All judges and court staff are responsible for compliance with the DCCM Plan and the effective management of the cases assigned to them, adherence to time standards and compliance with local rules for Criminal District Court.

Roles and Responsibilities

Chief District Judge

The Chief District Judge shall prepare and publish a schedule of Criminal District Court sessions for the calendaring of court events consistent with the DCCM Plan. The Chief District Judge shall assign district judges to the criminal division who are engaged and committed to the administration of the DCCM Plan and shall provide orientation, resources and training on the DCCM Plan to all district judges assigned to the criminal division of district court.

Trial Court Administrator

Under the supervision of the Chief District Judge, the TCA will prepare regular reports which measure case processing performance and the use of court resources.

District Attorney

Pursuant to N.C.G.S. 7A-61, "The district attorney shall prepare the trial dockets, prosecute in a timely manner in the name of the State all criminal actions and infractions requiring prosecution in the...district court."

It is the policy of the District Attorney that his office will work in collaboration with the Chief District Judge, and Clerk of Superior Court in the scheduling of court events.

The District Attorney is responsible for issuing subpoenas to state's witnesses.

Clerk of Superior Court

Under the supervision of the Clerk of Superior Court (CSC), the CSC-Criminal Division maintains all case information, creates the dockets of the court and serves as the official custodian of the record for court proceedings. The CSC-Criminal Division issues all notices and orders in the name of the court for all case hearings and trials.

Assignment and Docketing

All criminal complaints are assigned to a district court trial courtroom, according to a plan developed by the District Attorney and the Chief District Court Judge. Officer-assigned court dates are used to schedule trial settings for which a law enforcement officer has been identified by the state as a necessary witness. Cases which do not have law enforcement officer witnesses are randomly assigned to trial courtrooms in a manner that balances the workload among the courtrooms.

1. Companion and Related Actions

When practical, all actions involving substantially the same parties, or substantially the same subject matter, or substantially the same factual issues, whether pending simultaneously or not, shall be assigned to the same judge.

2. Calendars

The Chief District Court Judge shall publish an annual calendar of sessions for the district criminal court at least ninety (90) days prior to the start of each year. The sessions will be configured in the eCourts integrated case management system (Enterprise Justice) by the Trial Court Administrator. A weekly calendar of sessions for the district criminal court will be published each Friday for the following week.

The District Attorney has calendaring authority and matters will be scheduled according to the DCCM plan.

Dockets will be created by the Clerk of Superior Court and published according to the Rules of Record Keeping on eCourts [Portal](#).

The presiding judge, in consultation with the Assistant District Attorney assigned to a case, is responsible for the resetting of cases on a calendar on a timely basis in the eCourts integrated case management system for motions to continue advanced on the day of court (on-docket) and motions to continue advanced by one party in advance of the scheduled court date (off-docket) not consented to by the parties and scheduled for hearing on the motion. The Clerk of Superior Court will enter the reset dates into the integrated case management system and re-docket the cases for these continuance matters.

The District Attorney is responsible for resetting matters that must be rescheduled due to the cancellation of a court session by the Chief District Judge and motions to continue advanced by one party in advance of the scheduled court date (off-docket) that are consented to by the parties. The District Attorney will enter the reset dates into the integrated case management system and re-docket the cases for these continuance matters.

3. Reopened Cases

Any post-adjudication motions and actions, including probation violations, shall be considered reopened cases. Reopened cases shall be assigned, whenever possible, to the courtroom where the judgment was issued.

Reports

Under the direction of the Chief District Judge, the Trial Court Administrator and/or designees will provide regular case management reports. Reports shall be shared with the DA Misdemeanor Unit Chief, PD Misdemeanor Unit Chief, Defense Bar Representative, Presiding Judges, and Chief District Judge.

Filing and Assignment

Cases are initiated in the District Court by the filing of a citation by law enforcement or by the issuance of criminal process by a magistrate upon the complaint of law enforcement or civilian. A first appearance is scheduled for defendants who are still in custody pursuant to NCGS 15A-601 or within seventy-two (72) in the next scheduled session of district court hours whichever is

sooner. First appearances for defendants who are not in custody should be scheduled within thirty (30) days of service of the criminal process.

Probation Violation Filings. Probation Violation hearings for defendants who are in custody shall be scheduled before the first appearance judge for advisement on right to counsel and calendaring. These cases shall be calendared for hearing on Monday afternoons in the assigned courtroom.

First Appearance (FA)

In-Custody First Appearance. The first appearance for in-custody defendants charged with misdemeanor offenses shall be scheduled in accordance with Subchapter VI of Chapter 15A of the North Carolina General Statutes.

The presiding judge shall:

- Advise the defendant of the nature of the charges against them;
- Determine the defendant's eligibility for court appointed counsel;
- Determine that the defendant or counsel has been furnished a copy of the process or order;
- Determine or review the defendant's eligibility for release under state law and the local bail policy.

Cases will be assigned to one of the district court trial courtrooms in accordance with the officer court date scheduling plan prepared by the District Attorney.

Out-of-Custody First Appearance. The first appearance for out-of-custody defendants charged with a misdemeanor offense shall be scheduled within thirty (30) days of the issuance of the criminal process.

The judicial official shall:

- Advise the defendant of the nature of the charges against them;
- Determine the defendant's eligibility for court appointed counsel;
- Determine that the defendant or counsel has been furnished a copy of the process or order;

Represented defendants, by counsel, and unrepresented defendants who have executed a knowing and voluntary waiver of the assistance of counsel may accept an offer of diversion or plea agreement to be entered before the available district judge.

Cases that are not disposed at FA will be assigned to one of the three (3) district court criminal trial courtrooms in accordance with the officer court date scheduling plan prepared by the District Attorney.

Forensic Evaluations. Upon the filing of an order for Forensic Evaluation, the matter shall be scheduled for a Case Management Conference (CMCR) in an administrative session on the calendar for the courtroom in which the matter is scheduled. The status of the Forensic Evaluation shall be reviewed and any orders necessary to effectuate the resolution of the case shall be entered at the CMCR. Upon the submission of the Forensic Evaluator's Report, the case shall be scheduled for the next CMCR session on the courtroom calendar at which the court shall enter appropriate orders and schedule future proceedings as necessary.

Case Management Conference (CMCR)

The CMCR is a case management strategy to manage cases involving forensic evaluations or multiple pending cases filed against a defendant in the District Court. The CMCR will be conducted in the assigned district court trial courtroom on Monday afternoons and will include all of the defendant's then pending cases. Later cases filed against a defendant will be scheduled with the earlier filed cases. The objectives of the CMCR are the following in sequential, prioritized order:

- Extension of a global plea offer if deemed appropriate by the District Attorney
- Modify the case management order
- Address and review pretrial issues
- Finalize deadlines for obtaining case investigation information
- Issue final case management order

Defense attorneys shall make reasonable efforts to communicate with the client about the status of pending cases, legal and factual defenses, pretrial issues and any plea offers extended by the state. If plea agreement is reached, the matter should be scheduled for a plea slot.

If no plea agreement is reached, then a CMCR shall be conducted. The court shall determine, based upon individual case factors, whether the schedule for a case needs to be extended after consultation with the parties. The schedule may be modified by adopting a more complex case track or by custom setting subsequent events. The court shall determine whether any previously entered order requires amendment based upon individual case factors. Counsel shall be prepared to discuss all aspects of case management and scheduling, to include, without limitation, the following:

1. Any issues with obtaining evidence, including setting deadlines;
2. Any expert witness issues;
3. Any pretrial motions, pending or contemplated.
4. Any conflict issues concerning representation;
5. Any competency issues;
6. Anticipated time to prepare for and conduct a trial (trial length);
7. Pretrial conference scheduling;
8. Plea possibilities and any applicable expiration on offers;

9. Diversion court requests; and,
10. Any other issue affecting a timely resolution of the case.

An Order shall be issued, which shall set forth expectations for the next scheduled event, including, but not limited to, evidence exchange, final plea negotiation and appearances of trial counsel and the defendant.

Trial (TRL)

The District Attorney sets matters on the trial docket. Cases will be scheduled by the District Attorney's Office for the first available trial date that is at least thirty (30) days from the First Appearance. Limits on the number of cases that may be scheduled for trial in each session of district criminal court will be set by the Chief District Judge in consultation with the District Attorney, defense bar and the TCA. Limits on the number of cases that may be scheduled will be set to ensure efficient use of court resource to reach timely disposition of calendared matters without unnecessary continuance or delay.

In advance of trial settings, attorneys are expected to review all documents in the court file, including probable cause worksheets, witness affidavits completed by law enforcement officers or civilian witnesses and presented to the magistrate. Attorneys are expected to engage in reasonable and timely efforts to obtain information necessary to the preparation of a defense in advance of the scheduled trial date.

Probation Hearing (PROB)

Probation Violation cases shall be scheduled within fourteen (14) days during the sessions of court designated for probation violation hearings. Probation violation hearings will be held during the afternoon session on Mondays. Defendants who remain in custody on a probation violation after the FA, shall be scheduled for a probable cause hearing within seven (7) days.

New cases that are filed against a defendant against whom a probation violation is filed shall be assigned to the same trial courtroom for a CMCR prior to the scheduling of any other case event required by this plan.

Misdemeanor Bond Hearings

Motions to modify conditions of release in misdemeanor cases pending in district court will be heard in the morning session of each court on Mondays and Thursdays.

Reviews (REV)

Certain judgments are required to be reviewed by the judge who entered the order, including, 15A Conditional Discharge Judgments. These matters should be scheduled for review during sessions of court designated for probation violation and review hearings. These may be scheduled at intervals in the discretion of the assigned judge.

3 Policies and Other Procedures

Notice of Appearance

Private defense attorneys who have been retained on a case filed in district court shall enter a Notice of Limited or General Appearance with the Clerk of Superior court no less than thirty (30) days prior to the next scheduled court event or within seven (7) days of being retained whichever is sooner.

Attorneys are required to use state form AOC-G-312 Notice of Appearance by Counsel¹.

Appointed and privately retained attorneys shall comply with all duties of diligent case investigation and preparation prescribed by the DCCM. Appointed and privately retained attorneys shall appear for all scheduled court events unless granted leave by the assigned judge in advance of the scheduled event.

Continuances

It is the policy of the 26th Judicial District to provide justice for citizens without unnecessary delay and without undue waste of the time and other resources of the Court, the litigants, and other case participants. To protect the credibility of scheduled trial dates, trial-date continuances are especially disfavored.

The court will resolve scheduling conflicts when an attorney has conflicting engagements in different courts in accordance with Rule 3.1 of the General Rules of Practice for the Superior and District Courts.

All continuances shall be scheduled no later than thirty (30) days after the original setting, except for extraordinary circumstances.

Even where both parties agree, the circumstances warranting a continuance must be captured in the official record and made docketable and viewable to the public in the integrated case management system.

Motions to continue cases advanced on the day of court may be made orally or in writing and addressed to the presiding judge. The Assistant District Attorney will send a task to the courtroom clerk that includes the moving party and a proposed new date. The presiding judge shall enter written findings and its ruling into the integrated case management system and send to clerk. The clerk shall make the court's findings and ruling docketable, and enter the new trial date.

¹ All state forms are available in the Forms Directory on the North Carolina Judicial Branch website at: <https://www.nccourts.gov/documents/forms>.

Motions to continue advanced by one party in advance of the scheduled court date and consented to by opposing counsel may be effectuated without approval of the presiding judge. The District Attorney shall capture the circumstances warranting a continuance in the integrated case management system, make that information viewable to the public, and enter the new trial date. Where agreement is not reached, the motion shall be scheduled for hearing, and presented to the presiding judge for a ruling.

For all continuances, the Clerk of Superior Court will enter the appropriate events in the integrated case management system for recordkeeping and tracking purposes.

Good cause reasons for continuances of events, requested within the deadlines in the DCCM order, include the following:

- Reasonable scheduling conflicts for the defendant;
- Religious holidays for the defendant or necessary witnesses, with affidavit;
- Lack of notice to defendant within three days of an event, absent court documentation of notice being provided to counsel;
- Reasonable scheduling conflicts for counsel, except the DA and defense counsel shall be requested, when known in advance, to assign associate counsel for non-trial events, where required by the court, and for the associate counsel to meet the requirements for preparation for each non-trial event;
- Unavailability of a witness for trial or other dispositive event;
- Unavailability of a victim for trial or other event for which the victim has a right to be present and/or heard; and
- Any other good cause reason as determined by the presiding judge.

Extraordinary cause reasons for granting continuances or an extension of time of matters scheduled for trial, include the following:

- The party is absent, and counsel are present to substantiate a good cause for his or her absence, including, but not limited to, illness or injury;
- Absence or serious illness of counsel;
- Absence of witness more than 100 miles from the court;
- Party, leading attorney, or material witness in attendance on active duty as member of National Guard or component of armed forces of the United States, with or without motion of the parties; and
- Case not reached during trial week.

Effective Date

The rules and policies proscribed in the amended DCCM shall supersede all previous versions and become effective on the 11th day of November, 2024 and shall supersede any prior rules of procedure.



Honorable Roy H. Wiggins
Chief District Court Judge