

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
ADMINISTRATIVE ORDER 08-14**

(Performance Measure – Trial Date Certainty)

WHEREAS, Strategy 6.2.3 of *Delivering Justice, Strategic Plan of the District of Columbia Courts, 2008-2012*, calls for the implementation of courtwide performance measures adopted by the Joint Committee on Judicial Administration; and

WHEREAS, *trial date certainty* is a case processing measure which assesses whether cases disposed by trial are tried on the first date they are set or are continued for one or more times before they actually begin; and

WHEREAS, *trial date certainty* standards help to establish and execute credible trial dates, inspire proper preparation by all parties, assist with efficient case processing, further the interests of litigants and the public in timely justice, help to assure effective utilization of resources, and promote high quality justice; and

WHEREAS, a Performance Standards workgroup recognized the need for a system-wide approach to successfully implement *trial date certainty* standards and therefore consulted with many different institutions, agencies, and individuals having key roles in case processing to develop time standards in Superior Court;

WHEREAS, the Court recognizes while these standards may take several years to achieve, it is important to establish ‘aspirational’ standards and to set interim goals in order to measure and improve performance;

NOW, THEREFORE, it is by the Court,

ORDERED, that *trial date certainty* standards, issued herewith (copy is attached to this Order, with Supplemental Information), are hereby adopted for use until further Order of the Court; and it is further,

ORDERED, these standards shall apply to all cases disposed by trial filed in all divisions on and after October 1, 2008; and it is further,

ORDERED, that the standards will be disseminated to the District of Columbia Bar and all agencies and institutions involved in trial case processing to encourage their establishment of practices to help achieve the Court’s *trial date certainty* standards; and it is further,

ORDERED, that the standards will be incorporated in interim reports and in fully automated *trial date certainty* reports as soon as development of the Court's Integrated Justice Information System permits.

SO ORDERED.

BY THE COURT

September 23, 2008

/s/
Rufus G. King, III
Chief Judge

Attachments:

Trial Date Certainty: Performance Standards for Cases Disposed by Trial

Trial Date Certainty: Supplemental Information

Copies to:

Judges

Senior Judges

Magistrate Judges

Executive Officer

Clerk of the Court

Division Directors

Director, Office of Strategic Management

Library

Daily Washington Law Reporter

DC Bar Webmaster

**Trial Date Certainty: Performance Standards for Cases Disposed by Trial
Superior Court of the District of Columbia
September 23, 2008**

Division/Case Type/Trial Type	Standard: % of Cases Disposed Within 2 Settings
Civil:	
Jury:	
Civil I Complaints	85%
General Civil II Complaints	85%
Landlord Tenant (Note: Many of the trial continuances in the Landlord and Tenant Branch are not attributable to the Court since litigants may, pursuant to the rules of that Branch, agree to continue cases set for trial without consent of the Court. See Super. Ct. L&T R. 7 (d) ("Cases shall be set for trial by the Court or by consent of the parties after consultation with the Clerk about available trial dates.")	85%
Small Claims	85%
Bench:	
Civil I Complaints	90%
Collection & Subrogation	90%
General Civil II Complaints	90%
Landlord Tenant (See Note above for Landlord Tenant)	85%
Small Claims	90%
Criminal:	
Jury:	
D.C. Misdemeanor	70%
D.C. Traffic	70%
Felony I	70%
Felony II	70%
Accelerated Felony Trial Calendar (AFTC)	70%
U.S. Misdemeanor	70%
Bench:	
D.C. Misdemeanor	80%
D.C. Traffic	80%
Felony	80%
U.S. Misdemeanor	80%
Domestic Violence:	
Jury:	
Misdemeanor	85%
Bench:	
Civil Protection Order (CPO)	80%
Misdemeanor	85%
Family Court:	
Jury:	
Juvenile Traffic	80%
Mental Health	75%

Bench:	
Adoptions	95%
Abuse & Neglect	98%
Juvenile Delinquency	85%
Juvenile Traffic	80%
Domestic Relations – Custody	95%
Domestic Relations – Divorce	95%
Child Support	95%
Mental Health	95%
Probate:	
Bench:	
Large Estates	90%
Small Estates	90%
Conservatorships (Old Law)	90%
Guardianships of Minors	90%
Intervention	90%
Trusts	90%
Probate Miscellaneous	90%
Tax:	
Bench:	
Civil	90%
Criminal	80%

Trial Date Certainty: Supplemental Information
Superior Court of the District of Columbia
September 23, 2008

Trial Date Certainty is one of several performance measures adopted by the District of Columbia Courts' Joint Committee on Judicial Administration in 2005 to assess timeliness and efficiency in case processing.¹ The Trial Date Certainty measure provides a tool to evaluate the effectiveness of court calendaring and continuance practices, which in turn impacts judicial workloads, case processing efficiency, and public trust and confidence in the court system. The intent of measuring and monitoring trial date certainty is to inspire a practice of establishing and executing firm trial dates.

Background: The National Center for State Courts identified Trial Date Certainty as a key measure in its nationally-recognized Trial Court Performance Standards system and, most recently, in "CourTools" which is a set of 10 performance measures recommended for state courts. CourTools states that "credible trial dates require a firm and consistently applied policy to limit the number of trial day continuances. If continuance practices are too lenient, attorneys are less likely to be properly prepared on the trial date, which increases the likelihood of a breakdown in the trial calendar. The result is judge and court staff time are wasted."²

Definition of the "Trial Date Certainty Measure": For cases disposed by trial, the number of trial settings.

Universe of Cases To Be Included in Measure: ONLY cases disposed by trial (i.e., a bench/jury trial decision/verdict) are included. "Jury trials are of particular interest because they require a greater expenditure of resources and impose a greater burden on local citizens (jurors) than do bench trials. Evaluating the degree of jury trial date certainty, therefore, should be given a somewhat higher priority. (Note: A hearing on a motion for summary judgment should not be counted as a bench trial; nor should a default or show cause hearing be counted as a bench trial. A bench trial is defined as a hearing at which the parties contest the facts in the case and present evidence before a judge in open court and at which the judge renders a decision that disposes of the case.)"³

Deleted: ¶

The measure does not include cases which plea on the day of trial (performance in these cases is captured in the "time to disposition" measure). Therefore, the universe of cases to be included in this measure is "narrow," excluding non-trial means of case resolution.

Definition of Performance Standard: The percentage (%) of cases disposed by trial within two (2) trial settings.

¹ The other 3 case processing time measures include: time to disposition, clearance rate, and age of active pending caseload.

² Brian Ostrom and Daniel Hall, "Trial Date Certainty, Measure 5," CourTools, 2005, <http://www.ncsconline.org/D_Research/CourTools/Images/courtools_measure5.pdf>, <May 22, 2008>.

³ Commission on Trial Court Performance Standards, Trial Court Performance Standards and Measurement System, January 23, 2005, <http://www.ncsconline.org/D_Research/TCPS/Standards/stan_2.1.htm>, <June 11, 2008>.

Definition of Trial: a final dispositive event in a case; the parties' next available remedy is an appeal. In a criminal case, the final dispositive event is defined as the verdict (not the sentencing). This definition includes cases disposed at juvenile/neglect adjudication hearings, paternity determination hearings, and the like, and excludes cases disposed at settlement conferences, status hearings, mediations, as well as sentencing hearings.

Definition of Continuance: a re-setting of a previously scheduled trial date that constitutes a delay in the START of a case. The D.C. Superior Court counts a case as "held on the first scheduled date" if it commences within three (3) business days of that date (i.e., the scheduled date plus the two immediately succeeding business days). (Note: this is consistent with Rule 16(h) of the Superior Court Rules of Civil Procedure.)

Definition of Trial Recess: Once a trial has started, breaks are considered "recesses" rather than continuances. Trial recesses are not counted in the Trial Date Certainty measure, but are accounted for in the Time to Disposition performance measure.

Data to Collect on Trial Continuances: Superior Court operating divisions are to collect data on the source of trial continuances granted (who requested) and the primary reason for the continuance (why needed), as articulated by the judicial officer, and enter this information as result codes (as opposed to mere docket entries that are narrative) into CourtView. While the divisions may have different continuance codes reflecting their unique business processes, the courtwide reports will use a common set of reporting categories approved at a May 14, 2008 Performance Standards meeting convened with the presiding judges by Chief Judge Rufus King. Individual division codes will be "mapped" to these categories for division and enterprise reporting.

Continuance Policies: Although specifically referring to criminal cases, the American Bar Association recommends that:

Effective management of caseloads involves a capacity to hold trials, motion hearings, and other court events on the dates that they are scheduled, thus minimizing continuances and non-productive court appearances. When lawyers and litigants understand that events will take place when scheduled, they are more likely to be prepared, thus increasing the likelihood of a productive court session and either resolving the case or moving it closer to resolution.

Continuances should be granted only by a judicial officer, on the record. The court should grant a continuance only upon a showing of good cause and only for so long as is necessary. In ruling on requests for continuances, the court should take into account not only the request or consent of the prosecution or defense, but also the public interest in timely resolution of cases.⁴

⁴ ABA Criminal Justice Standards Committee 2005-2006, "Speedy Trial and Timely Resolution of Criminal Cases, Standard 12-4.5, Court Responsibility for Management of Calendars and Caseloads," ABA Standards for Criminal Justice, Third Edition, 2006, <<http://www.abanet.org/crimjust/standards/speedytrialtext.pdf>>, <May 22, 2008>.

Inasmuch, divisions are documenting existing continuance policies and practices in their divisions and identifying modifications necessary to achieve trial date certainty performance standards.

Interim Goals: As needed, operating divisions may establish interim performance goals to further the attainment of Trial Date Certainty standards established by the Chief Judge. Divisions should report annually on their progress in reaching such interim goals in the pursuit of approved Trial Date Certainty standards.