

**MONTGOMERY COUNTY COURT OF COMMON PLEAS
CRIMINAL DIVISION**

PROTOCOL FOR PLEA DAY

1. OVERVIEW

- a. The purpose of this program is to provide for an orderly method for the Court to accept negotiated and open guilty pleas in pending criminal matters. In developing this Protocol, the Court is fully cognizant of its Constitutional obligation to provide open access to courts and the importance of the same relating to criminal cases, in particular. We have attempted to balance these obligations with the need to provide for public safety.

2. CASE REVIEW

- a. **Review by Office of District Attorney (ODA):** Individual Assistant District Attorneys will review their files for the purpose of identifying cases where a plea agreement is likely to be reached and will extend offers to defense counsel of record. Additionally, the ODA will provide discovery, as long as the same has been made available by the local police departments and will make inquiry to local police departments to obtain discovery where it has not been delivered.
- b. **Requests initiated by Defense Counsel:** Defense counsel can make a request to the ODA for an offer or convey the Defendant's offer by sending an email to a dedicated email address as follows: DAPleas@montcopa.org. Upon receipt, the Office of the District Attorney will direct the email to the assigned Assistant District Attorney, who will be responsible for responding promptly. In the event that Counsel is dissatisfied with the response or does not receive a timely response, defense counsel may send an email directly to First Assistant District Attorney Edward F. McCann, Jr. at emccann2@montcopa.org or Chief of Trials Thomas W. McGoldrick at tmcgoldr@montcopa.org.

3. PROCEDURE UPON AGREEMENT

- a. If an agreement is reached as to all matters related to the Defendant (including any outstanding Gagnon hearings), the case shall be scheduled for a plea to be entered on a specified date and a specified time.
- b. The Court will also accept open pleas.

4. SCHEDULING

- a. The Court will provide the ODA with available dates and times. The assigned

attorney from the ODA will discuss scheduling with defense counsel, and they shall select a mutually convenient date and time. The ODA shall advise the Court of the names, docket numbers and counsel of all cases scheduled and shall maintain the daily schedule for Plea Days.

5. **SCHEDULING NOTICES**

- a. Scheduling notices will **NOT** be issued, to minimize the involvement of additional personnel needed in the office of Court Administration.
- b. Upon agreement by the ODA and defense counsel as to the date and time, it shall be defense counsel's obligation to notify his or her client of the date and time of the proceeding.
- c. The Court will allow counsel for the defendant and/or the Defendant to appear by way of video using the Zoom platform, in accordance with the following procedure:
 - i. Counsel for the Defendant shall certify by email to the ODA that counsel and/or the defendant will appear via Zoom; and
 - ii. Counsel for the defendant shall provide by email to the ODA valid email addresses for individuals who will appear by Zoom; and
 - iii. Counsel for the defendant shall deliver a fully executed colloquy by email to the ODA; and
 - iv. All of the requirements listed above must be completed **BEFORE** the case is placed on the schedule; and
 - v. The ODA shall provide to the Deputy Court Administrator for the Criminal Division the scheduled plea date and the contact information; and
 - vi. The Court will forward the Zoom invitation for the proceeding to the email addresses provided.
 - vii. The ODA shall print and deliver the executed colloquy at the time of the proceeding. The guilty plea colloquy and Gagnon stipulation colloquy shall be made a part of the record of each proceeding.

6. **ATTENDANCE**

- a. Defendants who are incarcerated will appear by video from the Montgomery County Correctional Facility. The court cannot guarantee that defendants held at other institutions will be made available.
- b. Defendants who are not incarcerated will appear in the courtroom, unless arrangements have been made in advance for the Defendant and/or defense counsel to appear by video, pursuant to the provisions of paragraph 6, i-iv, above.
- c. The attorney from the ODA, defense counsel and the Judge, will participate in the courtroom, unless otherwise ordered by the Court. The Court Clerk and Court stenographer may participate in the courtroom or remotely as determined by the Court.

7. COLLOQUY:

- a. Defense counsel shall complete the required colloquies in advance. For defendants appearing in person, defense counsel may execute the colloquy immediately before the proceeding, but all parties shall be prepared to commence the hearing at the scheduled time.

[Guilty Plea Colloquy Form](#)

- b. If the defendant is incarcerated, arrangements can be made with the MCCF to have the colloquy delivered to the defendant for review and execution in advance of the date of the proceeding.

8. ASSIGNED JUDGE:

- a. If the defendant enters an open plea, sentencing will be before the Judge who accepts the plea.
- b. In the event of a negotiated plea, the defendant will be advised that the sentencing Judge will not necessarily be the Judge if a violation hearing is scheduled.

9. INITIAL REPORTING:

- a. Following the entry of plea, the defendant will be instructed to contact the Adult Probation Office to arrange for an intake interview.
- b. Contact with Adult Probation will be accomplished with safety precautions.

10. ADDITIONAL SAFETY PRECAUTIONS:

- a. All parties, counsel and participants shall comply in full with the Montgomery County Court of Common Pleas Safety Protocol. This includes health screening and temperature checks at the entrance and the obligation of all people coming into the building to wear facemasks. Attendance in the courtrooms will be limited and social distancing will be strictly enforced.

- b. This protocol has been drafted in a way that minimizes the transfer of documents.
- c. It is anticipated that Plea Hearings will take place in one of the numbered courtrooms on the Courthouse Plaza Level. These courtrooms are immediately adjacent to the sole open entrance to the Montgomery County Courthouse. This will minimize the distance and time that any participant will be within the building. All surfaces within the courtroom will be disinfected between each proceeding.
- d. The proceedings will be scheduled to allow for sufficient time for parties to leave the building before the participants for the next scheduled proceeding will arrive. This time will also be sufficient to allow time for surfaces to be disinfected between proceedings.
- e. The ODA and Office of the Public Defender shall each designate provide a single attorney to attend court hearings on each day to address these matters. This will to avoid any possibility of multiple public defenders or multiple Assistant District Attorneys being present in the same courtroom or in the Courthouse on the same day. When necessary, an additional attorney may be permitted to participate remotely via Zoom.