

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

PROTOCOL FOR ARRAIGNMENTS

1. OVERVIEW:

- a. This Protocol will identify arraignment proceedings for individuals whose arraignment date was scheduled, or would have been scheduled, during the judicial emergency (**backlog**), and to provide for arraignment proceedings moving forward (**new cases** - cases with Preliminary Hearings scheduled on or after June 1, 2020).

2. FACILITIES:

- a. During Phase I, one courtroom will be available for the Court to conduct arraignments, if necessary.
- b. The courtroom will be staffed by one Court Administration staff person.
- c. ALL Courthouse and courtroom Safety Protocol restrictions/requirements apply.

3. SCHEDULING – BACKLOG CASES:

- a. Court Administration will review all backlog cases – if a Waiver of Arraignment form was already filed, the case will be marked accordingly.
- b. Court Administration will mail arraignment scheduling notices to all defendants where a Waiver of Arraignment has not yet been filed, along with a Waiver of Arraignment form and instructions on the Arraignment/Waiver of Formal Arraignment process.
- c. Court Administration will also provide the Public Defender’s Office with an e-mailed list of upcoming scheduled arraignments for their clients, as well as unrepresented incarcerated defendants in the hopes that waivers can be obtained prior to the scheduled date.
- d. If the defendant (whether represented by counsel or not) signs the Waiver of Arraignment form and returns same to Court Administration prior to the scheduled arraignment date, the defendant does NOT need to appear on the scheduled date. The case will be marked accordingly.
- e. If the defendant does not return a signed Waiver form, he/she will be expected to appear IN PERSON for Arraignment on the scheduled date.
- f. Scheduling will be limited (15 in the morning, 15 in the afternoon) and staggered – to avoid more than 5 individuals in the courtroom at any given time.
- g. ALL Courthouse and courtroom Safety Protocol restrictions/requirements apply.
- h. Failure to appear for Arraignment or to return a signed Waiver form will result in the issuance of a bench warrant.

4. SCHEDULING – NEW CASES:

- a. Montgomery County Local Rule 571*(E) will be temporarily suspended to remove the requirement that following the preliminary hearing the issuing authority is to provide written notice of the date, place and time of Arraignment to the defendant.
- b. Magisterial District Courts will be directed to continue to provide Waiver of Arraignment Forms to defendants follow a preliminary hearing, and to process those as normal.
- c. Court Administration will schedule cases without filed Waiver of Arraignment Forms for Formal Arraignment as part of the automated process in CPCMS.
- d. Court Administration will mail arraignment scheduling notices to all defendants where a Waiver of Arraignment has not yet been filed, along with a Waiver of Arraignment form and instructions on the Arraignment/Waiver of Formal Arraignment process.
- e. Court Administration will provide the Public Defender's Office with an e-mailed list of upcoming scheduled Formal Arraignments for their clients and unrepresented incarcerated defendants so that waivers can be obtained prior to the scheduled Arraignment date.
- f. If the defendant (whether represented by counsel or not) signs the Waiver of Arraignment form and returns same to Court Administration prior to the scheduled arraignment date, the defendant does NOT need to appear on the scheduled date. The case will be marked accordingly.
- g. If the defendant does not return a signed Waiver form, he/she will be expected to appear IN PERSON for Arraignment on the scheduled date.
- h. Scheduling will be limited (15 in the morning, 15 in the afternoon) and staggered – to avoid more than 5 individuals in the courtroom at any given time.
- i. ALL Courthouse and courtroom Safety Protocol restrictions/requirements apply.
- j. Failure to appear for the Formal Arraignment or to return a signed Waiver of Arraignment form will result in the issuance of a bench warrant.

5. FORMAL ARRAIGNMENT:

- a. For defendants who appear for Formal Arraignment in the courthouse or are presently incarcerated and who demand Formal Arraignment, said arraignment will be conducted by the Deputy Court Administrator – Criminal, on the record, with a Court Reporter in the courtroom. The Defendant will appear by video. No consent is required.