

Arraignment Court Training Manual

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Arraignment Court Training Manual

I. Overview

Purpose: This manual is a concise, practical summary of the procedures and practice to help a presiding judge address all matters scheduled. Beginning in mid-February of 2025, the Arraignment Court (AC) seeks to have daily appearance for all individual incarcerated at the Yellowstone County Detention Facility (YCDF). The goal is to address all legal cases/matters resulting in their detention to facilitate timely appearance, judicial efficiency, and best use of jail capacity noting the difficulties of jail overcrowding. Due to the recent launch of the AC, along with other logistical reasons, Billings Municipal Court and Laurel City Court will not participate until May or June of 2025.

Time of Court: 2:30 PM, Monday through Friday

Locations of Court: Courtroom 604, Yellowstone County Justice Court, unless otherwise stated

Presiding Judges: (See SB 25-1, Thirteenth Judicial District, attached)

1. Yellowstone County Justices of the Peace - primarily
2. District Court Judges, Thirteenth Judicial District
3. Standing Masters, Thirteenth Judicial District
4. If necessary and all others unavailable, Yellowstone County Pro Tem Justices of the Peace, license/active attorneys approved by the Montana Supreme Court in accordance with statute

Nature of Appearance: Video-Conference Appearance via Zoom as directed by the Thirteenth Judicial District Court Administrator

Link:

<https://mt-gov.zoom.us/j/88360031501?pwd=24oWhssYHrDZKWb9ScUDvb7qa7m5Ec.1>

Recordings and Court Minutes: re kept by the Thirteenth Judicial District Court Administrator/Clerk of District Court in accordance with the District Court's policy. Additionally, the Yellowstone County Justice Court is creating a second (backup) recording with *Liberty* software and will be maintained at the Justice Court. All official court minutes are being kept by Justice Court personnel and delivered to the Clerk of the District Court, Thirteenth Judicial District, on a daily basis

Cases Addressed by AC:

1. Felony arraignments (newly filed Information(s), or appearance on previously filed Information(s) with appearance on bench warrant – Thirteenth Judicial District)
2. Service of felony Petitions for Revocations of Release Order
3. Service of felony Petitions for Revocation of Sentence
4. Initial Appearances on Probation Violations – Department of Correction (set of PV Bond and appearance into District Court)
5. Service of other additional felony paperwork (e.g., Trial Management Order)
6. Appearance on felony bench warrants – Thirteenth Judicial District (technically a courtesy – will notice for next appearance in law and motion before correct department/presiding judge)
7. Appearance on all out-of-county (OOC) bench warrants from both district and lower courts in Montana
8. Fugitive matters – initial appearance, 30-day review, and 90-day review
9. Misdemeanors (Justice Court) – Initial Appearances/Arraignments
10. Misdemeanors (Justice Court) – Bench Warrants
11. Misdemeanors (Justice Court) – Omnibus and Final Pretrial Hearings (if defendants are incarcerated)
12. ***Rare Exception*** – Misdemeanor Walk-In (604 Courtroom – after completion of video appearances)

II. Daily Procedure for the AC (Pretrial Services):

1. Pretrial Services (PTS) arrives at 7:30 to 8:30 AM and identifies all incarcerated individuals arrested in the last 24-hours, or early inmates rescheduled for appearance. PTS confirms appearances with the jail personnel and the Yellowstone County Attorney's Office.
2. PTS sends out a preliminary list to master distribution list of all stakeholders (See Attachment XX for review).
3. PTS accesses FullCourt Enterprise (FCE) – District Court and Justice Court – to create the following case packets, which are then compiled for each case on each respective inmate/defendant to create an “Inmate Packet”. **Please see below a detailed description of the documents compiled or generated under each type of proceeding.**
4. PTS generates the following paperwork for each inmate's appearance on the daily docket/calendar:
 - a. Release Order – Thirteenth Judicial District – provided to the Judge
 - b. Master Sheet – Thirteenth Judicial District – provided to the Judge
 - c. Referral Sheet – Pretrial Monitoring and Appointment of Public Defender – provided to the Judge
 - d. No Contact Order pursuant to §45-5-209, MCA, if applicable
 - e. Application for Public Defender – Thirteenth Judicial District – not provided to the judge (also may be utilized for application for pretrial monitoring subsidy if eligible and available)
 - f. Paperwork for each individual case (felony, misdemeanor) if applicable – See below
5. Final list is compiled (with all paperwork) and sent to all stakeholders via email
6. PTS travels to Yellowstone County Courthouse – final preparation, prints and collates all paperwork by inmate/defendant for all cases with completion of work by 2:00 PM tentative deadline – See examples provided
7. All cases carried over (if necessary, and by exception) are identified for following day
8. Upon completion of each individual case for each individual defendant Release Order (all cases), Referral Sheet (each individual arraignment – felony and misdemeanor), detention/scheduling orders (Fugitives, OCCs, other) are sent back to YCDF/courts with judge's signature during proceedings for delivery to defendants/PTS/jail staff/respective court/monitoring companies/other if needed.

III. AC Proceedings – In Court:

1. YCDF staff plays a VIDEO created by Justice Court. The video helps orient defendants for some of their matters and will assist in a guilty plea (on misdemeanors) because the constitutional rights were provided to them (and also given to them in respective paperwork). The video also addresses appointment of defense counsel, sentencing, restitution, fugitive matters, and other secondary proceedings.
2. Zoom is launch by PTS in the courtroom
3. Judge enters the courtroom with PTS staff at 2:30 PM
4. Judge confirms connection with YCDF (see and hear) – PLEASE CHECK CAMERA SHOWS THE JUDGE/BENCH – REMOTE CAMERA CONTROLS ARE ON THE BENCH
5. Judge confirms date and time, presence of prosecution, presence of defense at YCDF
6. Judge follows calendar as provided unless specific request is made (at this time can be difficult, no actual manilla files are made, and jumping around may result in confusion or lost paperwork)
 - a. Felony matters withing individual Inmate's File go first – Arraignments, Service of Paperwork, Appearance on Bench Warrants
 - b. Felony PV matters go next – DOC Hold, PV Bond, set for appearance in District Court in front of presiding judge/department
 - c. Secondary matters go next – Fugitives, OCC
 - d. Misdemeanor matters go next – Misdemeanor Arraignments, Appearance on Bench Warrants, Omnibus Hearings, Pretrial Conferences
 - i. Change of Pleas may occur at arraignment, sentencing may occur except for the following:
 1. Identified victim is not in the courtroom – set for sentencing on Justice Court's law and motion day
 - a. Department 1 – any Thursday, 10:00 AM or 2:00 PM
 - b. Department 2 – any Tuesday, 10:00 AM or 2:00 PM
 2. Restitution is not known – set for Justice Court's law and motion as noted above

IV. Summary - Proceedings in Arraignment Court

A. Felony Arraignments

Judges may have their own style and order of proceedings. Below is example for edification to assist that addresses all key points. However, each arraignment must confirm the following per statute:

- Call the individual cause number and defendant's name
- Confirm the defendant is charged by true and correct name, allows for correction by interlineation and promotes judicial efficiency
- Confirm that *leave* to file Information has previously been granted (Order Granting Leave/along with Motion should be with paperwork)
- Notify defendant of charges/penalties in the Information
- Confirm receipt of the following by the defendant at the jail:
 - Information and Affidavit in Support
 - Trial Management Order
 - Order Granting Leave
 - No Contact Order (§45-5-209) – if applicable due to charges
- Confirmation of defendant's capacity
 - Speak, read and/or understanding the English language
 - Language Link is available if needed
 - Not under the influence of alcohol/drugs affecting proceedings
 - Not suffering from a physical/mental impairment affecting the proceedings
- Entry of **NOT GUILTY** pleas to each charge in the Information
- Confirm next appearance date in District Court (date/time, department), should be filled in on the Release Order and taken from the Trial Management Order
- Request/Appointment of Public Defenders, or confirmation of private counsel

(CONTINUED ONTO NEXT PAGE)

- Argument for Bond – if the only case per individual defendant
 - Total bond – goal is to have a total bond, with most if not all “secondary” bonds running concurrent to the highest bond or total bond set by the judge (in short, most of the time the felony bond is higher, but in a few exceptions the misdemeanor bond may be higher and the felony bond amount would run concurrent if lower – e.g. domestic violence, 2nd/3rd DUI, long history of FTAs in Justice Court)
 - Conditions of release
 - Monitoring
 - Type – GPS, alcohol/drug monitoring
 - Check-ins (YCDF, or private monitoring company)
 - Company (follow PTS round robin format, See Attached – Alternative, Clean Start, Friedel, YCDF, Community Solutions, other)
 - Subsidy – if eligible and available
 - No Contact – Victims/Witnesses, in addition to any issued “No Contact Order” pursuant to §45-5-209, MCA
 - Contact Probation and Parole if applicable
 - All other conditions in release order (**two-page Release Order, defendant need to be advised to sign first page and initial second page**)
 - Confirm appearance dates for all courts (need to write in if multiple felony and/misdemeanor days)

**THE FOLLOWING PAGE CONTAINS AN
ARRAIGNMENT SCRIPT FOR ASSISTANCE
AND IS OFFERED SIMPLY AS A MODEL
FOR TRAINING**

Arraignment Script with Bond Argument – No Additional Matters

This is Cause Number DC _____, State of Montana vs. _____

Counsel, please give Appearances for the record.

The Court has previously granted leave to file the Information in this case. Mr./Ms. Defense Counsel.....

Counsel acknowledges receipt of the charging documents, had a chance to review them with the defendant, is the defendant charged by true and correct name, does the defendant wish to have the charging documents read in open court or waives; is the defendant prepared to go forward with entry of plea at this time?

- Mr./Ms. _____, Are you able to speak, read and understand the English language?
- Are you under the influence of alcohol or any drug today?
- Are you suffering from any physical or mental condition or impaired in any way that prevents you from understand these proceedings?

You have been charged by Information with the offense(s) of Count 1: _____, a felony which carries a maximum possible punishment of _____ incarceration and _____ fine or both. Count 2: _____, a felony/misdemeanor, which carries a maximum possible punishment of _____ Etc.

With regard to those charges, how do you plead, GUILTY or NOT GUILTY? (ONLY ACCEPT NOT GUILTY PLEAS)

Your NOT GUILTY pleas to each Count of the Information will be entered.

State office of public defender will be appointed to represent you (if requested).

We have a trial management order. This matter is set for Omnibus Hearing, Status Hearing and Trial by Separate Order. You must attend all of those hearings within that document, do you understand?

Bond and release condition recommendations? State? Defense? Or:

Bond has been previously set at: \$ _____. County Attorney does this need to be readdressed? Defense Counsel? Leave in effect if set by another Judge at \$10,000 or higher as District Policy.

Bond will be set at: \$ _____ - Go through release conditions that apply.

Address any special pretrial conditions and/or no contact if necessary.

B. Fugitive Matters

- Confirm Name and if they watched the video
- Tell them: Fugitive Complaint filed seeking return to demanding state (best to name actual state – Wyoming, etc.)
- Statutorily must inform them of the following rights:
 - Right to counsel
 - Right to waive extradition – if waived, no bond
 - If Fugitive does not want to waive extradition – right to have governor’s warrant issued for extradition back to demanding state and bond set
 - Right to file petition for habeas corpus in Justice Court or District Court
- Ask if they want to waive extradition
 - Yes – must sign written waiver in your presence (must be noted on the record), defense counsel usually does this, but if not, make note of it
 - **No Bond if extradition waived**
 - No – explain that authorities will seek governor’s warrant and
 - Set matter for status hearing – 30 days (will be on paperwork), including weekends and holidays
 - Explain that State may seek one 60-day extension prior to hearing, including weekends and holidays
 - Set bond – deference to demanding state’s warrant, allow argument by parties

C. Out-of-County (OCC) Courtesies –Warrants/Arrest for Other Courts

- Confirm Name and Cause Number (the Justice Court assigns a local cause number too to ensure entry into FCE)
- Explain – why the defendant is appearing - bench or arrest warrant, probation violation hold, etc. from a court outside Yellowstone County
- Maintain bond at same amount – deference to issuing judge – usually consecutive to local matters
- Explain that if bond is posted must appear in the proper court by certain date (on paperwork) or within 10 days of release.

D. Initial Appearances – Petitions (Revocation of Probationary Sentence)

Felonies:

- Confirm Defendant's Name and Cause Number (District Court, and again, assigned a local cause number in Justice Court for entry into FCE)
- Confirm receipt of DOC's Authorization to Pick Up and Hold
- Confirm receipt of secondary documentation – email from P&P requesting bond amount and facts support PV bond request
- Bond Argument – parties
- Confirm appearance date into District Court for service of formal Petitions to Revoke probationary sentence

Misdemeanors:

- Confirm Defendant's Name and Cause Number (should be the Justice Court's underlying cause number)
- Confirm actual Petition to Revoke (including any addendums)
- Bond Argument – parties
- Denial: Confirm appearance date into Justice Court's law and motion:
 - Department 1 – any Thursday, 2:00 PM
 - Department 2 - any Tuesday, 2:00 PM
- Admission – may set for disposition to Justice Court's law and motion as noted above at 2:00 PM, or alternatively, impose sentence at discretion of Judge and run concurrent with felony or other misdemeanor bonds on other cases

E. Other Matters

- Service of Petition for Revocation of Release Order
 - Felony – confirm receipt, set bond, set day into proper District Court law and motion (date provided by CA's Office)
 - Misdemeanor – set bond, Judge's discretion, confirm date for appearance if denied by Defendant to next Justice Court's law and motion:
 - **Department 1 – any Thursday, 10:00 AM or 2:00 PM**
 - **Department 2 – any Tuesday, 10:00 AM or 2:00 PM**
- Service of Felony Trial Management Order
 - Confirm Receipt
 - Confirm next date in TMO for appearance in District Court
 - Confirm if needed appearance before next TMO date

F. Misdemeanor Initial Appearance Not Guilty Pleas or Guilty Pleas

- Confirm name, ask if they saw video
- Read Defendant charges and corresponding penalties and surcharges
 - Title 45 and **all DUI** offenses - \$85 per charge
 - Title 61 traffic (non DUI) - \$35 per charge
 - Title 87 (FWP) - \$35 per charge
 - (reduce each subsequent surcharge by \$10.00 if conviction for multiple charges), in short, there is only one \$10.00 technology surcharge per case (MSC caselaw) and the surcharges noted above include the surcharge as a whole requiring modification if sentence on multiple charges to avoid double technology assessment
 - No surcharge for Seatbelt, Speeding (61-8-303 charges) and Open Container, Unlawful Possession of Marijuana in Motor Vehicle
- Ask **Guilty or Not Guilty ON ALL CHARGES** (advised against bifurcation of charges at this time to avoid confusion and FTAs)
 - **Not Guilty Plea(s)**
 - Ask if they need attorney (yes appoint PDO, no – ask who is retained counsel)
 - Read scheduled dates in misdemeanor scheduling order – *Omnibus Hearing, Non Jury Trial, Final Pretrial and Jury Trial* (AT THIS TIME THE JUSTICE COURT IS STILL MODIFYING ITS RELEASE ORDER FOR AC – ON THE BOND/CONDITIONS OF RELEASE SECTION JUST WRITE SEE AC RELEASE ORDER, BUT STILL UTILIZE THE SCHEDULING ORDER)
 - Set Bond – Amount, Conditions
 - One bond per case, concurrent to other bonds is best
 - Other conditions – no contact with victims/witnesses, monitoring, etc. – See AC Release Order
 - Pretrial Check ins
 - Sign/Issue provided No Contact Order (§45-5-209) if applicable

○ **Guilty Plea(s)**

- Confirm waiver of rights – provided to Defendant by
 - Video and/or Acknowledgment of Rights - Justice Court Form, or Written Acknowledgment/Plea Agreement provided by parties
- Confirm that agreement (if any) is between Defendant and State – does not bind court to specific sentence
- Confirm not under the influence of alcohol or drugs, and capacity/competency
- Must provide factual allocution – “Tell me what you did that makes you plead guilty today”
 - Elements of crime
 - Incident in Yellowstone County – additional element
- Accept Guilty Plea(s): KNOWINGLY and VOLUNTARILY
- Proceed to sentencing (ask if recommendation from State/Defense if not already known)
- **Impose each sentence – sign judgment**
 - If concerns arise – set to Justice Court’s law and motion:
 - Department 1 – any Thursday, 10:00 AM
 - Department 2 – any Tuesday, 10:00 AM
 - Straight Sentence or Maximum Sentence, which is then suspended or deferred (except DUI) for 6 or 12 months, or some other period of time: with following conditions:
 - Fine – possible credit for time served against fine
 - **PRACTICE POINT** – to avoid a “Failure to Pay” analysis may impose alternative sentence of community service against fine at \$10.00 per hour (e.g. 35 hours of service for a \$350.00 fine), or alternatively, other creative sentence (get liability car insurance for 5 months, waiver of all fines)
 - Jail (minimum, see also house arrest/Sheriff’s Labor Detail in lieu of jail with a 2 for 1 credit)
 - Conditions of Sentence (see provided judgment):
 - DUI – 24/7 or Soberlink or SCRAM, No Driving, Interlock, etc.
 - PFMA – Anger Mgmt and No Contact with victim(s), etc.
 - Restitution

CONTACT INFORMATION:

Yellowstone County Justice Court

Yellowstone County Courthouse
217 North 27th Street, RM 603
Billings, MT 59101

Judge David Carter: dacarter@yellowstonecountymt.gov
Judge Jeanne Walker: jwalker@yellowstonecountymt.gov
Whitney Grim, Supervisor: wgrim@yellowstonecountymt.gov
Kelsey Langford, Supervisor: klangford@yellowstonecountymt.gov

Pretrial Services

Yellowstone County Detention Facility
3165 King Avenue East
Billings, MT 59101

Lisa Ereth, Supervisor: lereth@yellowstonecountymt.gov
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