

# Arraignment Process - Rule 5(4)

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October 20, 2000

It appears that the requirement in Rule 5(4), that cases remain in the initial appearance phase until the arraignment report is filed, is in some cases causing additional appearances, and frustrating the objective of allowing counsel sufficient time to prepare for the arraignment hearing. Pending a full review of the Criminal Caseflow Management Rules, I am satisfied that some interim modification of the process is warranted. Accordingly, the following practice direction is issued pursuant to Rule 3:

Where at an initial appearance the justice is satisfied that defence counsel has assumed conduct of a proceeding and received particulars, the justice may, notwithstanding that arraignment reports have not been filed, adjourn the proceedings to an appropriate date for arraignment hearing.

In setting an arraignment hearing in accordance with this practice direction, the justice shall, in addition to considering the parties' availability as required by Rule 5(4)(b), consider counsel's opinion as to the amount of time required to accommodate discussions between counsel, preparation and filing of arraignment reports, and preparation for the arraignment hearing.

Where a justice has set an arraignment hearing in accordance with this practice direction, the prosecutor and the accused's legal counsel shall file arraignment reports with the trial coordinator or trial scheduler for that court location no later than 7 days prior to the arraignment hearing, and must bring copies of their arraignment reports to the arraignment hearing.

Carol Baird Ellan  
Chief Judge