

**Berrien County Trial Court
Plan for Judicial Availability**

Administrative Order 2011- 01

Rescinds Administrative Order 1990-3

This administrative order rescinds and replaces Berrien County Circuit Court administrative order 1990-3 and establishes the judicial available assignments of the Berrien County Trial Court, effective February 1, 2011.

Pursuant to Michigan Court Rules 6.104 G (2), the Berrien County Trial Court hereby adopts the following procedure to make a judicial officer available for setting bail for persons arrested for commission of felonies each day of the year.

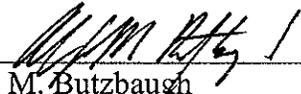
1. Those persons who are arrested on days when court is regularly in session shall be arraigned in accordance with the normal court procedures.
2. On those days when court is not in session a judge or a magistrate assigned to the Criminal Division (or judge or magistrate who volunteers to so serve) shall be given responsibility to review the circumstances surrounding all felony arrests of persons that are incarcerated for felony charges and who have not been arraigned. A judge or magistrate shall also be available to issue search warrants during non-business hours of the Court. The presiding judge of the Criminal Division shall prepare the rotation schedule.
3. Each police officer making a felony arrest on days when the person arrested cannot be arraigned on the day of the arrest or the day following the arrest shall fill out a complaint and affidavit form (copy attached) naming or describing the person charged, outlining the reasons for the arrest and indicating on what charge the person is being lodged. The officer shall sign and swear to the complaint and affidavit before a deputy court clerk who shall be present at the jail at all times.

4. The Berrien County Prosecutor shall assign an assistant prosecutor to review all felony arrests where the arrested persons are incarcerated and who have not been arraigned. On each day that the court is not in session the designated prosecutor shall review in person or via facsimile electronic communication all complaint and affidavit forms on those persons. The prosecutor shall authorize and approve a charge, note the charge in the appropriate space on the complaint and affidavit form, ensuring that the appropriate name and statutory citations of the offense are included, and return the complaint and affidavit form with the charge authorized and approved to the Berrien County Jail.
5. On each day that the court is not in session the duty judge/magistrate shall review all complaint and affidavit forms that have been authorized by the duty prosecutor. The judge/magistrate may review the forms at the jail in person or via electronic communication. The judge/magistrate shall determine if probable cause exists for arrest on the charge authorized and shall set an interim bond or take other appropriate action on the case.
6. In setting interim bond, the judge shall have available to him/her the defendant's name and address, prior criminal record, driver's license number, social security number, any alias used by the defendant, defendant's occupation, the name of defendant's employer, the name of defendant's spouse and/or next of kin, any holds on the defendant from other jurisdictions, any other offenses with which the defendant is currently charged, the recommendations of the arresting agency concerning bond, defendant's health condition, date of birth, and any monies that the defendant may have with him at the time of lodging. The judge may also

request any additional information the defendant or police officers may be able to provide in order to assist in setting an interim bond.

7. On the next court business day a regular felony file shall be prepared by the Prosecutor's Office and sent to the Court's Criminal Division where a court file will be prepared and the defendant will be arraigned in the normal manner. The affidavit and complaint form that was prepared on the non-court business day shall be retained in the file as part of the regular court record.
8. On the next court business day, in accordance with MCR 6.104(G), for any accused unable to post bond, the Sheriff shall make the accused available for in-court or video arraignment.

Entered February 1, 2011



Alfred M. Butzbaugh
Chief Judge

Reviewed, accepted and filed
by the State Court Administrator on

2-11-2011