

COMMONWEALTH OF MASSACHUSETTS

At the Supreme Judicial Court holden at Boston within and for said Commonwealth on
the twenty-seventh day of February, in the year two thousand and twelve:
present,

HON. RODERICK L. IRELAND)
)
HON. FRANCIS X. SPINA)
)
HON. ROBERT J. CORDY)
)
HON. MARGOT BOTSFORD)
)
HON. RALPH D. GANTS)
)
HON. FERNANDE R.V. DUFFLY)
)
HON. BARBARA A. LENK)

ORDERED: That the Massachusetts Rules of Criminal Procedure adopted by order dated
October 19, 1978, as amended, to take effect on July 1, 1979, are hereby amended as follows:

Rule 7:

By striking Rule 7 and inserting the new
Rule 7 attached hereto.

The amendments accomplished by this order shall take effect on June 1, 2012.

<u>RODERICK L. IRELAND</u>)	Chief Justice
)	
<u>FRANCIS X. SPINA</u>)	
)	Justices
<u>ROBERT J. CORDY</u>)	
)	
<u>MARGOT BOTSFORD</u>)	
)	
<u>RALPH D. GANTS</u>)	
)	
<u>FERNANDE R.V. DUFFLY</u>)	
)	
<u>BARBARA A. LENK</u>)	

Rule 7. Arraignment

(a) Time of Arraignment; Probation Interview; Indigency and Bail Reports

(1) *Upon Arrest or Summons.* A defendant who has been arrested and is not released shall be brought for arraignment before a court if then in session, and if not, at its next session. A defendant who receives a summons or who has been arrested but is thereupon released shall be ordered to appear before the court for arraignment on a date certain.

(2) *Arrest of a Juvenile.* Upon the arrest of a juvenile, the arresting officer shall notify the parent or guardian of the juvenile and the probation office.

(3) *Probation Interview.* On the day of the arraignment, the probation department shall interview the defendant; the probation department shall report to the court the pertinent information reasonably necessary to determine the issues of bail and indigency.

(b) Arraignment Procedure.

(1) *Notice; Plea; and Bail.* The court shall:

(A) read the charges to the defendant in open court, except that the reading of the charges in open court may be waived by the defendant if he or she is represented by counsel;

(B) enter the defendant's plea to the charges;

(C) inform the defendant of all warnings and advisories required by law; and,

(D) determine the conditions of the defendant's release, if any.

(2) *Appointment of Counsel.* If the court finds that the defendant is indigent or indigent but able to contribute and has not knowingly waived the right to counsel under the procedures established in Supreme Judicial Court Rule 3:10, the Committee for Public Counsel Services shall be assigned to provide representation for the defendant.

(3) *Provision of Criminal Record; Preservation of Evidence.* The court shall ensure that at or before arraignment, (i) a copy of the defendant's criminal record, if any, as compiled by the Commissioner of Probation is provided to the defense and to the prosecution, and (ii) the parties are afforded an opportunity to move for the preservation of evidence pursuant to Rule 14(a)(1)(E).

(4) *Order Scheduling Pretrial Proceedings.* At a District Court arraignment on a complaint which is outside of the District Court's final jurisdiction or on which jurisdiction is declined, the court shall schedule the case for a probable cause hearing. In all other District and Superior Court cases the court shall issue an order at arraignment requiring the prosecuting attorney and defense counsel to (1) engage in a pretrial conference on a date certain, and (2) appear at a pretrial hearing on a specified subsequent date.

(c) Appearance of Counsel.

(1) *Filing.* An appearance shall be entered by the attorney for the defendant and the prosecuting attorney on or before the arraignment. The appearance may be entered either by personally appearing before the clerk or by submitting an appearance slip, which shall include the name, Board of Bar Overseers number, address, and telephone number of the attorney. An attorney appearing on behalf of an organization shall also file with the court proof of the attorney's authorization to represent the organization.

(2) *Effect; Withdrawal.* An appearance shall be in the name of the attorney who files the appearance and shall constitute a representation that the attorney shall represent the defendant for trial or plea or shall prosecute the case, except that, if at the arraignment such a representation cannot be made and no contrary legal restriction applies, (1) the court may permit an appearance to be entered by an attorney to represent the defendant or prosecute the case for such time as the court may order, and (2) the court shall permit an appearance in the name of the prosecuting agency, which shall constitute representations that the agency will prosecute the case, will ensure that throughout the duration of the appearance a prosecutor is assigned to the case, and upon request of the court or a party will identify the prosecutor assigned to the case. If the attorney who files an appearance for the defendant on or before the arraignment wishes to withdraw the appearance, he or she may do so within fourteen days of the arraignment, provided that the attorney who shall represent the defendant at trial files an appearance simultaneously with such withdrawal; thereafter no appearance shall be withdrawn without permission of the court. The appearance of the prosecuting officer shall be withdrawn only with permission of the court.

(3) *Notice.* A copy of all appearances and withdrawals of appearance shall be filed and shall be served upon the adverse party pursuant to Rule 32.