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**From:** Bruce Mannikko <MannikkoB@baycounty.net>  
**Sent:** Wednesday, February 10, 2016 8:32 AM  
**To:** ADMcomment  
**Subject:** ADM File No. 2015-27

Dear Administrator,

I wanted to offer input on the proposed Standard 4, Counsel at First Appearance and other Critical Stages.

Concern: MCR 6.005 dictates that at arraignment the court has certain obligations that include determining qualification for the appointment of an attorney for those unable to retain one. MCR 6.005(a).

\* How will appointed counsel know who they are representing at the arraignment if qualification is not made until the arraignment?

\* At what point will appointed counsel be given an opportunity to perform a conflicts check between a perspective new client and an existing client base? Appointed counsel will need to comply with MRPC 1.7.

Concern: MCR 6.104(E)(3) indicates the accused is to be advised of the right to a lawyer at all "subsequent" court proceedings.

\* Will that court rule be modified to include the arraignment itself?

Concern: MCR 6.106(F) provides an outline of relevant considerations for the court to consider in setting bail. Will appointed counsel be provided an opportunity for pre arraignment discovery to be in a position to competently (MRPC 1.1) represent an indigent accused?

\* Without review of the charging document and supporting reports appointed counsel will not be able, among other factors, to competently address the "probability of conviction" and "likely sentence" bail considerations.

Without pre arraignment discovery and a rule change to bifurcate the arraignment process or some other solution, I'm not sure its possible a local compliance plan can be tailored to accomplish the goals of Standard 4 without jeopardizing an attorneys professional responsibilities in providing effective representation at time of arraignment.

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