

PART II
LOCAL RULES OF CRIMINAL PROCEDURE

(cited as L.R.Crim.P. ____)

SCOPE OF RULES, CONSTRUCTION AND DEFINITIONS

Rule 101 Construction

These rules shall be construed using the same rules of construction as are used in construing the Pennsylvania Rules of Criminal Procedure.

Rule 102 Citing the Local Rules of Criminal Procedure

These rules shall be cited as "L.R.Crim.P. ____."

BUSINESS OF THE COURTS

Rule 103 Definitions

Words and phrases defined by the Pennsylvania Rules of Criminal Procedure shall bear the same meaning when used in these rules, unless the context clearly indicates otherwise.

Rule 105 Local Rules. Noncompliance

No case shall be dismissed nor request for relief granted or denied because of failure to comply with one or more of these rules. In any case of noncompliance, the Court will alert the party to the specific provision at issue and will provide a reasonable time for subsequent compliance.

Rule 106 Continuances in Court Cases

(a) A motion seeking the continuance of any proceeding shall be substantially in the form prescribed by Appendix Y of these Rules.

(b) When appropriate, a motion seeking a continuance shall have attached thereto a waiver of Pa.R.Crim.P. 600 signed by the defendant.

(c) A proposed order substantially in the form prescribed by Appendix Z of these Rules shall be attached to the motion seeking the continuance.

Adopted January 7, 2008, effective February 26, 2008

Rule 114 Orders and Court Notices. Service

(a) Except as stated in subsection (b), below, the Clerk of Courts shall serve copies of all orders and court notices.

(b) The Court Administrator shall serve copies of all notices for criminal case status conferences, omnibus pretrial motion hearings, ARD court, plea court, trials and sentencings.

Adopted January 7, 2008, effective February 26, 2008

**Rule 117 Magisterial District Judges. Coverage. Admission
to Bail by Jail Warden or Designee**

(a) All Magisterial District Judge Offices shall be open for regular business from 8:00 A.M. to 4:30 P.M., prevailing time, Monday through Friday, except for County holidays.

(b) Magisterial District Judges shall be available twenty-four hours per day every day to provide continuous coverage for the services recited in Pa.R.Cr.P. 117(A) and for services required in any Protection from Abuse Act case. A Magisterial District Judge shall be deemed to have satisfied this directive by remaining on-call during non-regular business hours on a rotating basis pursuant to a schedule prepared by the Court. The schedule, and any amendments or alterations thereof, shall be distributed and publicized in accord with past practice.

(b.1) Notwithstanding any provision of subsection (b), above, to the contrary, the on-call magisterial district judge may preliminarily arraign, using advanced communication technology, any arrestee who has been transported to and lodged in the Armstrong County Jail (as permitted by 61 P.S. §798) in any ten-hour cycle commencing at 9:00 p.m. and ending at 7:00 a.m. prevailing time. Such on-call magisterial district judge shall make inquiry of jail personnel prior to 7:00 a.m. to determine if any preliminary arraignment need be conducted, and if so, shall forthwith conduct the same.

(c) On forms prescribed by the Court, a Magisterial District Judge may request additions or amendments to the schedule prepared by the Court in order to provide for vacations, emergencies, and the like.

(d) In addition to those persons who are authorized by statute or the Pennsylvania Rules of Criminal Procedure to admit an arrestee to bail, the Warden of the Armstrong County Jail, or the designee of the Warden, shall have the authority to do the same in accordance with and subject to the limitations of the Pennsylvania Rules of Criminal Procedure.

Amended April 4, 2016, effective May 22, 2016

COUNSEL

Rule 121 Waiver of Counsel in Guilty Plea Proceeding

After an appropriate colloquy, the Court will require a defendant who wishes to waive counsel to sign a written waiver of counsel.

Rule 123 Application for Assignment of Counsel

All applications for assignment of counsel pursuant to Pa.R.Crim.P. 122 shall be submitted to the Armstrong County Public Defender's Office. The application shall be in form prescribed from time to time by the Office. The determination of whether a defendant is without financial resources and unable to employ counsel shall be made by the Public Defender. The Public Defender shall be responsible for preparation of written eligibility guidelines biennially. All such guidelines shall be approved by the Court prior to implementation.

INVESTIGATIONS

SEARCH WARRANTS

Rule 202 Approval of Search Warrant Applications by the Attorney for the Commonwealth.

The District Attorney of Armstrong County having filed a certification pursuant to Pa.R.Crim.P. 202, no search warrant shall be issued by any judicial officer unless the search warrant application has the approval of an attorney for the Commonwealth prior to filing.

Comment

The approval of the attorney for the Commonwealth may be oral in appropriate circumstances. Whenever feasible, such oral approval should be communicated directly to the judicial officer, who should make proper notations thereof.

ACCELERATED REHABILITATIVE DISPOSITION (ARD)

COURT CASES

Rule 310 Placing Case on ARD Court List.

Upon written request delivered directly to the Court Administrator and signed by the District Attorney, the Court Administrator shall place a case on the ARD Court List.

Adopted January 7, 2008, effective February 26, 2008

Rule 313 Repealed.

PRE-TRIAL PROCEDURES IN COURT CASES

COMPLAINT PROCEDURES

Rule 507 Approval of Police Complaints by Attorney for the Commonwealth

(a) The District Attorney of Armstrong County having filed a certification pursuant to Pa.R.Crim.P. 507, criminal complaints and arrest warrant affidavits by police officers, as defined in the Pennsylvania Rules of Criminal Procedure, charging any offense set forth in subsection (b), below, shall not hereafter be accepted by any judicial officer unless the complaint and affidavit has the approval of an attorney for the Commonwealth prior to filing.

(b) Subsection (a) of this rule shall apply when any of the following offenses is charged:

- (i) Criminal homicide, in violation of 18 Pa.C.S. §2501;
- (ii) Murder in any degree, in violation of 18 Pa.C.S. §2502;
- (iii) Voluntary manslaughter, in violation of 18 Pa.C.S. §2503;
- (iv) Involuntary manslaughter, in violation of 18 Pa.C.S. §2504;
- (v) Homicide by vehicle, in violation of 18 Pa.C.S. §3732;

- (vi) Homicide by vehicle while driving under the influence, in violation of 18 Pa.C.S. §3735;
- (vii) Aggravated assault, in violation of 18 Pa.C.S. §2702(a)(1) through (6), inclusive;
- (viii) Rape, in violation of 18 Pa.C.S. §3121;
- (ix) Involuntary deviate sexual intercourse in violation of 18 Pa.C.S. §3123;
- (x) Robbery, in violation of 18 Pa.C.S. §3701(a)(1)(i) through (iv), inclusive; and
- (xi) Aggravated assault by vehicle while driving under the influence, in violation of 75 Pa.C.S. §3735.1.

Comment

The approval of the attorney for the Commonwealth may be oral in appropriate circumstances. When feasible, such oral approval should be communicated directly to the judicial officer, who should make proper notations thereof.

BAIL

Rule 528 Monetary Condition of Release on Bail. Realty as Security

(a) When realty is offered to satisfy a monetary condition of bail, in full or in combination with other forms of security, a completed affidavit of surety and surety information page (including a warrant of attorney for confession of judgment) must be submitted to the Clerk of Courts. The affidavit and the surety information page shall be in such form as the Clerk may prescribe from time to time.

(b) The affidavit of surety and the surety information page shall be signed by the defendant and by all owners of the realty being offered as security if the realty is not owned by the defendant

(c) Attached to each affidavit of surety submitted pursuant to paragraph (a), above, shall be the following:

- (i) a photocopy of the deed, decree of distribution or other instrument of record, bearing all pertinent recording data, by which title was acquired, and
- (ii) the written certification by a lawyer licensed to practice law in the Commonwealth certifying the names of the current owners of record of the realty, certifying that good and marketable title is vested in them, and further certifying the nature, holder and unpaid balance of each lien that then encumbers the realty, including, but not limited to, mortgage, judgment and tax liens. A title insurance policy with the County of Armstrong appearing as a named insured may be substituted for the lawyer's written certification.

(d) The Clerk of Courts shall make the determination of whether the net value of the property is sufficient to satisfy the monetary condition. For property located outside the Commonwealth but within the United States, the Clerk may impose reasonable conditions designed to perfect the lien. The Clerk shall not accept realty outside the Commonwealth as fulfillment of the monetary condition, in whole or in part, without special approval of Court.

(e) The Clerk of Courts shall, as final acceptance of the realty as security, cause of judgment to be confessed against all owners thereof in the appropriate county, in favor of the Commonwealth for the use of Armstrong County. The Clerk of Courts is hereby authorized to execute all judgment lien releases for property that may be encumbered by the judgment lien, but not intended to serve as security, and is further authorized to cause the judgment lien to be marked as satisfied after the full and final disposition of the case. The Clerk shall file a certificate among the papers of the criminal case certifying that judgment has been entered and setting forth the pertinent details of entry.

(f) A fee shall be paid to the Clerk of Courts at the time of the submission of the affidavit of surety. The amount of the fee shall be determined from time to time by Order of the Court. No cost arising from the perfection, release or satisfaction of a judgment lien shall be paid by the Clerk, but shall be borne by the defendant or a surety.

MOTION PROCEDURES

Rule 578 Omnibus Pretrial Motions for Relief. Cover Sheet

Every omnibus pretrial motion for relief requiring an evidentiary hearing or argument shall have attached thereto a cover sheet as a front page. The cover sheet shall be substantially in the following form:

[CAPTION]

**COVER SHEET
FOR OMNIBUS PRETRIAL MOTION REQUIRING EVIDENTIARY HEARING**

-1-

Has any judge heard this matter previously?
 ___ Yes ___ No

-2-

If yes, which judge has heard it? _____

-3-

How many witnesses do you believe will testify (combined total)? _____

-4-

How much time will be reasonably necessary to conduct the hearing?

 ___ minutes ___ hours ___ days

I hereby certify all of the above statements are true and correct to the best of my knowledge.

Attorney for

Adopted January 7, 2008, effective February 26, 2008

Rule 585 *Nolle Prosequi*

An order of *nolle prosequi* will be considered only upon motion of the attorney for the Commonwealth, either orally in open court or in writing.

PLEA PROCEDURES

Rule 590 Pleas and Plea Agreements

(a) Upon written request delivered directly to the Court Administrator and signed by both the District Attorney and defense counsel (or by a defendant if there is no defense counsel), the Court Administrator shall place a case on the Plea Court List.

(b) No written request directing that a case be placed on a Plea Court List shall be signed by the District Attorney or defense counsel (or by a defendant, if there is no defense counsel) unless the applicable plea agreement, if any, has first been signed by the District Attorney, the defendant, and defense counsel, if any.

Adopted January 7, 2008, effective February 26, 2008

TRIAL PROCEDURES IN COURT CASES

GENERAL PROVISIONS

Rule 602 Presence of the Defendant. Transportation from Current Place of Detention

If a defendant represented by counsel is in detention in any facility other than the Armstrong County Jail, and if he is scheduled for any appearance before the Court, defense counsel shall petition the court for an order causing his temporary release from his current place of confinement and his transportation to an confinement at the Armstrong County Jail pending and during his appearance before the Court. If the defendant is not represented by counsel, the attorney for the Commonwealth shall file such a petition. The petition shall have an appropriate Order attached thereto, and it shall be filed no later than ten (10) days before the date of appearance.

NON-JURY PROCEDURES

Rule 620 Waiver of Jury Trial

After an appropriate colloquy, a written waiver of jury trial shall be signed by the defendant if the Court ascertains that the defendant is knowingly and intelligently ready to waive the same.

POST-TRIAL PROCEDURES IN COURT CASES

SENTENCING PROCEDURES

Rule 700 Sentencing Judge

A sentence on a plea of guilty or *nolo contendere* may be imposed by a judge other than the judge who received the plea, if the defendant has been so notified at the time of entering the plea or if he agrees thereto at the time of sentencing.

Comment

This rule is not intended to proscribe sentencing by a judge who did not receive the plea when there are extraordinary circumstances which preclude the presence of that judge.

Rule 702 Aids in Imposing Sentence

(a) As an aid in imposing sentence, the Court will consider applications submitted to the Probation Office for the electronic monitoring of the defendant while confined to his home, and the fact of approval or disapproval thereof by the Probation Office, the attorney for the Commonwealth and the Warden of the Armstrong County Jail.

(b) Applications for electronic monitoring shall be in such form as may from time to time be prescribed by the Probation Office. Such applications shall be available at the Probation Office.

(c) A bench warrant will be issued for the arrest and confinement of a defendant who fails to appear for an interview by the Probation Office in connection with the preparation of a pre-sentence investigation report.