

**LANCASTER COUNTY**

**RULES OF CRIMINAL PROCEDURE**

## **RULE 1. Title and Citation of Rules**

These rules shall be known as the Lancaster County Rules of Criminal Procedure and may be cited as “L.C.R. Crim.P. No. ”.

## **RULE 2. Business Judge**

The District Court Administrator shall designate the daily Business Judge. Motions and petitions, not otherwise covered by these Rules for presentation to the Court, shall be forwarded to the Business Judge by the Clerk of Courts or may be presented by counsel directly to the Business Judge by appointment.

Revised 9-30-13

Effective 12-9-13

## **Rule 112. Photography, Recording, Broadcasting and Electronic Equipment**

- A. The taking of photographs, including video pictures and recording, and the use of audio and video broadcast and audio recording equipment and any other device capable of capturing or transmitting sound or images, in a courtroom or hearing room or its environs during the progress of or in connection with any action, whether or not court is actually in session, is prohibited.
- B. Environs Defined: Environs of a courtroom or hearing room shall include the entire floor on which is located any courtroom, hearing room, jury room, grand jury room, sheriff’s office or station, Prothonotary’s or Clerk of Courts office, office of the District Attorney, or any lockup or prisoner holding area. Environs also includes the corridor or lobby on the main floor or street floor, any elevator area and any area constituting an interior entrance area to the building of any courtroom, hearing room or grand jury room.
- C. Recording Devices and Cellular Telephones Prohibited: Cameras, cellular telephones, portable electronic data devices and any other device capable of capturing or transmitting images or sound are prohibited inside of the Lancaster County Courthouse (hereafter “Courthouse”), Adult Probation and Parole offices (40 East King Street), Domestic Relations lobby and offices, and inside a Magisterial District Court office at the discretion of the Magisterial District Judge.
  - 1. Employee Exception: The prohibition in Section C above shall not apply to those individuals employed by the Court or County in the Courthouse, a Magisterial District Court, Adult Probation and Parole offices, or Domestic Relations lobby and offices, who clearly display an identification badge issued by the County of Lancaster, provided, however, that the device shall be in a “silent” or “vibrate only” mode when the employee enters a courtroom, hearing room, or grand jury room.

2. Attorney Exception: The prohibition to those facilities enumerated in Section C above shall not apply to an attorney at law who enters the Courthouse or a Magisterial District Court on business related to the representation of a client, provided, however, that the device shall have the power switched “off” when the attorney enters a courtroom, hearing room, or grand jury room.
  3. Emergency Responder Exception: The prohibition to those facilities enumerated in Section C above shall not apply to emergency medical or other personnel responding to a call within the Courthouse, Office of Adult Probation, or Magisterial District Court.
  4. Juror Exception: The prohibition in Section C above shall not apply to jurors summoned by Court Administration during their period of service as a juror.
  5. Evidence Exception: The prohibition in Section C above shall not apply to the use of such devices for the purpose of presenting evidence in any court proceeding.
  6. Law Enforcement Exception: The prohibition to those facilities enumerated in Section C above shall not apply to a member of law enforcement who provides proper identification and is on business related to a case before the court and/or a meeting with the Office of the District Attorney. However, the device shall have the power switched “off” when the member of law enforcement enters a courtroom, hearing room, or grand jury room.
- D. Special Proceedings: In the discretion of the President Judge, photographing, making video or audio recordings, televising or broadcasting any special proceedings such as investiture, naturalization, or ceremonial proceedings, in a courtroom or its environs may be permitted under such conditions as the President Judge may prescribe.
- E. Stenographic Recordings: Except as permitted by law or rule of court, the recording by any means of any judicial proceedings by anyone other than the official court stenographer in a court case, for any purpose, is prohibited.
- F. Special Permission: The President Judge may, upon application, make exception to the prohibitions contained in this Rule under such circumstances and subject to such conditions as the President Judge may prescribe.

1. The application shall include the reason for the request, the type of electronic medium intended to be used, the locations at which the electronic medium is to be used, and the date and times of the day for which the exception is being sought.
2. If the exception is being sought in connection with any judicial proceeding, the caption and case number of the proceeding shall be included in the application.

G. Special Cases: The court may make such orders as may be necessary in connection with any specific case to protect the rights of all parties and the public

Effective: 01/09/2017

**Rule 117. Magisterial District Court Coverage: Hours and Availability; System; and Duties**

**I. Coverage Hours and Availability**

**A. Judicial Coverage During Regular Business Hours**

1. Magisterial District Court Offices within the Second Judicial District shall be open for regular business Monday through Friday, excluding County Holidays, during such hours as are established by the President Judge, and as may be modified with the approval of the President Judge to meet the needs of the public and the Court. The coverage required under Rule 117 and as set forth in this Order shall be provided by the Magisterial District Judge with jurisdiction over the matter during regular business hours, if available.

2. When a Magisterial District Judge who has jurisdiction over a particular matter is unavailable during regular business hours, coverage shall be provided by other Magisterial District Judges in the 2<sup>nd</sup> Judicial District in accordance with a Business Hours Assignment schedule approved by the President Judge and amended from time to time as necessary.

**B. Judicial Coverage During Non-Business Hours (Duty Court Hours)**

During those hours when the Magisterial District Courts are not normally open for business (Duty Court Hours), the coverage required under Rule 117 and as set forth in this rule shall be provided by Magisterial District Judges in accordance with a Duty Court Assignment schedule approved by the President Judge and amended from time to time as necessary.

C. Availability of Duty Court Judge

During Duty Court Hours, the Duty Court Judge shall be available at or about 7 A.M and 8 P.M. each day, either in person at the Lancaster City Public Safety Building or by video conference from his or her court office, to perform any pending judicial duties. In addition to these two designated times, the Duty Court Judge shall be available at any time during Duty Court Hours to perform those duties requiring continuous coverage as set forth below in Section III. A. of this local rule.

**II. Coverage System during Duty Court Hours  
Regional Booking/Centralized Arraignment System**

A. Live Scan/CPIN Booking

A Countywide Regional Booking and Centralized Arraignment system is hereby implemented in Lancaster County to be in effect during Duty Court Hours. All criminal Defendants apprehended during Duty Court Hours are required to be processed and booked through Live Scan and CPIN equipment at a Lancaster County Police Department possessing this technology, and which Police Department has been approved and designated as a Regional Booking Center in accordance with the Lancaster County Countywide Booking Center Plan.

B. Regional Booking Center Fee

The Lancaster Countywide Regional Booking Center Plan having been approved by PCCD, a Regional Booking Center fund fee of three hundred dollars (\$300) is imposed on any Defendant processed and booked through a Lancaster County Regional Booking Center at any time if the person:

1. Is placed on probation without verdict pursuant to Section 17 of the Act of April 14, 1972 (P.L.233, No. 64), known as The Controlled Substance, Drug, Device and Cosmetic Act.
2. Received Accelerated Rehabilitative Disposition for, pleads guilty or nolo contendere to, or is convicted of, a crime under the following:
  - a. 18 Pa.C.S. ' 106(a) (relating to classes of offenses)
  - b. 75 Pa.C.S. BOL 39 \f "WP TypographicSymbols" \s 12 3735 (relating to homicide by vehicle while driving under influence).
  - c. 75 Pa.C.S. '3802 (relating to driving under influence of alcohol or controlled substance).
  - d. A violation of The Controlled Substance, Drug, Device and Cosmetic Act.

**C. Centralized Arraignment**

After being processed and booked at a Lancaster County Regional Booking Center during Duty Court Hours, Defendants are required to be either:

1. Transported by the arresting police department to the Lancaster City Public Safety Building to be held there for detention until preliminary arraignment is conducted by the assigned Duty Court Magisterial District Judge, either in person or by video conference, or,

2. Held by the arresting police department at a location designated by the Court as an approved Advanced Communication Technology Site for the purpose of video conferencing until preliminary arraignment is conducted by the assigned Duty Court Magisterial District Judge by video conference.

**III. Required Coverage Duties**

**A. Search Warrants and Arrest Warrants; Protection From Abuse Petitions, and Acceptance of Bail**

Magisterial District Judges with jurisdiction during regular business hours and the Duty Court Judge during Duty Court hours shall be available to provide continuous coverage for the issuance of search warrants pursuant to Pa.R.Crim.P. 203, arrest warrants pursuant to Pa.R.Crim.P. 513, requests to accept bail pursuant to Pa.R.Crim.P. 520(B), and requests for emergency relief under the Protection From Abuse Act.

**B. Preliminary Arraignments, Accepting Criminal Complaints and Setting Bail**

Magisterial District Judges with jurisdiction during regular business hours and the Duty Court Judge during Duty Court Hours shall be available without unnecessary delay to conduct preliminary arraignments pursuant to Rule 516, to set bail pursuant to Rule 517(A), and to accept criminal complaints and conduct preliminary arraignments pursuant to Rule 519(A)(1).

**C. Summary Offense Arrest Warrants and Arrests Without a Warrant**

Magisterial District Judges with jurisdiction during regular business hours and the Duty Court Judge during Duty Court Hours shall be available without unnecessary delay for the purpose of providing the services set forth in Pa.R.Crim.P.117(A)(2)(a) requiring conducting summary trials or setting collateral in summary cases under Rule 431(B)(3) and Rule 441(C).

**D. Summary Offense Bench Warrants**

If a summary Bench Warrant is executed during regular business hours, the Magisterial District Judge with jurisdiction shall be available without unnecessary delay to

conduct a bench warrant hearing. If a Bench Warrant is executed during Duty Court Hours, the Duty Court Judge may conduct a bench warrant hearing.

#### **IV. Acceptance of Bail**

Magisterial District Judges, the Clerk of Court or his designees, and the Warden of the Lancaster County Prison or his designees, shall be authorized to accept bail in accordance with the provisions of the Pennsylvania Rules of Criminal Procedure.

Revised 10-13-09      Effective 1-5-10

#### **RULE 120. Attorneys - Appearances and Withdrawals**

##### **A. Entry of Appearance**

1. Counsel for defendant shall file an entry of appearance with the Clerk of Courts promptly after being retained, and serve a copy of the entry of appearance on the attorney for the Commonwealth.

a. If a firm name is entered, the name of an individual lawyer shall be designated as being responsible for the conduct of the case.

b. The entry of appearance shall include the attorney's address, phone number, attorney ID number, and e-mail address.

2. When counsel is appointed pursuant to Pa. R. Crim. P. 122 (Appointment of Counsel), the filing of the appointment order shall enter the appearance of appointed counsel.

3. Counsel shall not be permitted to represent a defendant following a preliminary hearing unless an entry of appearance is filed with the clerk of courts.

4. An attorney who has been retained or appointed by the court shall continue such representation through direct appeal or until granted leave to withdraw by the court pursuant to paragraph (B).

5. After a case has been returned to the Court of Common Pleas, the filing of any motion or petition on behalf of the defendant shall be deemed to be an entry of appearance by the filing attorney on behalf of the defendant as to all matters pertaining to the case in which the filing is made, notwithstanding any statement contained in the filing which purports to limit the scope of the filing attorney's representation.

B. Withdrawal of Appearance

Counsel for a defendant may not withdraw his or her appearance except by leave of court.

1. A motion to withdraw shall be:

a. Filed with the clerk of courts, and a copy concurrently served on the attorney for the Commonwealth and the defendant; or

b. Made orally on the record in open court in the presence of the defendant.

2. Upon granting leave to withdraw, the court shall determine whether new counsel is entering an appearance, new counsel is being appointed to represent the defendant, or the defendant is proceeding without counsel.

C. Once an appearance has been entered, counsel shall represent the defendant through sentencing.

D. Except as provided in E, after a case has been returned to Court, any motion filed by counsel shall be deemed an entry of appearance.

E. In any ancillary proceeding such as a bail petition, motion for return of seized property, probation or parole violation or ARD revocation, an appearance of counsel shall be limited to that proceeding if the appearance so indicates.

Revised 9-30-13

Effective 12-9-13

**RULE 150. Bench Warrants**

A. In all cases where a bench warrant is executed, the case shall proceed in accordance with the following procedures:

1. In all cases where the Defendant is lodged in the Lancaster County Prison pursuant to the bench warrant, the Warden or his designee shall notify the District Court Administrator within twelve hours of commitment.

2. After notice from the Warden or his designee, the District Court Administrator shall schedule a hearing within the time permitted by Pa.R.Crim.P. 150.

3. The District Court Administrator shall give prompt notice of the hearing to the Office of the Public Defender, District Attorney's Office, and the Clerk of Courts for Lancaster County. The District Attorney and Public Defender

shall each assign an attorney for the hearing.

4. The daily Business Judge shall conduct hearings on bench warrants held pursuant to this Rule.

This Rule shall be effective for individuals detained on or after August 1, 2006.

Revised 6-30-06

**RULE 202. Approval of Search Warrant Applications by Attorney for the Commonwealth - Local Option**

The District Attorney having filed a certification pursuant to Pa.R.Crim.P. 202, search warrants for the crimes listed below, shall not hereafter be issued by any judicial officer, unless the search warrant applications have the approval of an attorney for the Commonwealth before filing:

A. A violation of any criminal offense listed in any title of the Pennsylvania Statutes and/or Pennsylvania Consolidated Statutes Annotated. Prior approval is not required when the search warrant is solely seeking any one of the following:

1. The release of blood alcohol content test results based on any subsection of 75 Pa. C.S.A. 3802,
2. Financial records,
3. Medical records,
4. Phone records of a person described as a victim or witness within the four corner of the affidavit of probable cause on the application.

Revised 1-18-12

Effective 3-5-12

**RULE 202.1. Approval of Search Warrant Application by Attorney for the Commonwealth - Local Option**

The District Attorney, having filed a certification pursuant to Pa.R.Crim.P. 202, search warrants applied for by an Officer of the Pennsylvania Game Commission for the crimes listed below, shall not hereafter be issued by any judicial officer, unless the search warrant applications have the approval of an attorney for the Commonwealth before filing:

A violation of any criminal offense listed in any title of the Pennsylvania Statutes and/or Pennsylvania Consolidated Statutes Annotated.

Adopted 7-7-10

Effective 8-16-10

## **RULE 311A. ARD Application Process**

A. Accelerated Rehabilitative Disposition (ARD) applications shall be submitted to the Office of the District Attorney using the approved form. A defendant shall simultaneously submit a Motion for Trial Continuance and Waiver using the approved form. A defendant shall be notified by first class United States mail of acceptance or rejection. A defendant whose application has been accepted shall be listed for an ARD hearing on the first available date. A defendant whose application has been rejected shall be placed on the next Pretrial conference list.

B. Application for non-DUI related ARD may be made at any time, but no later than the date of the Status Conference.

C. Applications for DUI related ARD shall be submitted to the Office of the District Attorney within thirty days of the filing of the criminal complaint. Additionally, within thirty days of the filing of the criminal complaint, a defendant shall waive the preliminary hearing and schedule a Court Reporting Network evaluation. Qualification information and further application requirements may be obtained by contacting the Office of the District Attorney.

Revised 9-30-13

Effective 12-9-13

## **RULE 316A. Additional Condition of the Accelerated Rehabilitative Disposition Program (A.R.D.) when a summary offense(s) is/are included on the A.R.D. Order.**

In addition to fees and charges imposed by statute or by the Supreme Court, fees which relate to the expense of administering the A.R.D. program may be imposed as a condition of the A.R.D. Program. Until changed by administrative order, the following shall be assessed a defendant, a twenty-five dollars (\$25.00) processing fee for each individual summary offense listed on the court case A.R.D. Order to cover expenses related to the administration of the A.R.D. program.

The reasonable costs associated with administering the program shall be collected in the same manner as cost of prosecution and shall be payable to the County of Lancaster general fund.

Adopted 7-7-10

Effective 8-16-10

## **RULE 421A. Approval of Private Criminal Complaints for Summary Bad Check Charges by Attorney for the Commonwealth**

The District Attorney having filed a certification pursuant to Pa.R.Crim.P. 421 and its Comments, summary private criminal complaints, in which the affiant is not a law enforcement officer, as defined in Pa.R.Crim.P. 103, and which charge the crime of BAD CHECKS, 18 Pa.C.S.A. §4105, shall not be submitted to any issuing authority unless the

private criminal complaint has been reviewed and has been approved by an attorney for the Commonwealth.

**RULE 507. Approval of Police Complaints and Arrest Warrant Affidavits by the Attorney for the Commonwealth – Local Option**

The District Attorney, having filed a certification pursuant to Pa.R.Crim.P. 507, criminal complaints and arrest warrant affidavits by police officers, as defined in the Rules of Criminal Procedure, charging the crimes listed below, shall not hereafter be accepted by any judicial officer, unless the complaints and affidavits have the approval of an attorney for the Commonwealth before filing:

- A. Criminal Homicide in violation of 18 Pa. C.S.A. Section 2501;
- B. Murder in any degree in violation of 18 Pa. C.S.A. Section 2502;
- C. Voluntary Manslaughter in violation of 18 Pa. C.S.A. Section 2503;
- D. Involuntary Manslaughter in violation of 18 Pa. C.S.A. Section 2504;
- E. Homicide by Vehicle in violation of 75 Pa. C.S.A. Section 3732;
- F. Homicide by Vehicle While Driving Under Influence in violation of 75 Pa. C.S.A. Section 3735;
- G. Rape in violation of 18 Pa. C.S.A. Section 3121;
- H. Statutory Sexual Assault in violation of 18 Pa. C.S.A. Section 3122;
- I. Involuntary Deviate Sexual Intercourse in violation of 18 Pa. C.S.A. Section 3123;
- J. Aggravated Indecent Assault in violation of 18 Pa. C.S.A. Section 3125;
- K. Sexual Assault in violation of 18 Pa. C.S.A. Section 3124.1;
- L. Crimes Against Unborn Child in violation of 18 Pa. C.S.A. Chapter 26;
- M. Arson in violation of 18 Pa. C.S.A. Section 3301;
- N. Obscene and Other Sexual Materials in violation of 18 Pa. C.S.A. Section 5903;
- O. Violation of the Controlled Substance, Drug, Device and Cosmetic Act, 35P.S. Section 780-113 (30)(Delivery or Possession with Intent to Deliver a Controlled Substance); and
- P. Cruelty to Animals in violation of any offense listed in any section or subsection of 18 Pa. C.S.A. Sections 5533, 5534, 5535, 5536, 5539, 5542, 5543, 5544, 5548 and 5549.

**RULE 507.1. Approval of Police Complaint brought by the Warden, any Deputy Warden or Major of the Lancaster County Prison**

The District Attorney having filed a certification pursuant to Pa.R.Crim.P. 507, criminal complaints and arrest warrant affidavits by police officers, as defined in the Rules of Criminal Procedure, charging the crimes brought by the Warden, any Deputy Warden or Major of the Lancaster County Prison listed below, shall not hereafter be accepted by any judicial officer, unless the complaints and affidavits have the approval of an attorney for the Commonwealth before filing:

A. Any offense brought under 18 Pa. C.S.A.;

B. Any offense brought as a violation of the Controlled Substance, Drug Device and Cosmetic Act, 35 P.S. Section 780-113;

Adopted 5-06-09

Effective 06-29-09

**RULE 528. Use of Realty to Satisfy Monetary Condition of Release on Bail**

A. When realty located in Lancaster County is offered as security for bail of \$10,000 or less, such security must include an affidavit of all record owners and must recite the fair market value of the realty, all liens and the balance of each lien.

B. When realty located in Lancaster County is offered as security for bail greater than \$10,000, such security must include a certification of an attorney, a title insurance company or a title abstracting company and must identify all record owners, all liens and the balance of each lien. The certification must be accompanied by an appraisal by a licensed appraiser conducted within thirty days of the date the realty is offered as security.

C. When realty located outside Lancaster County is offered as security for bail in any amount, such security must include the certification and appraisal described in B.

**RULE 529. Modification of Bail Order Prior to Verdict**

A. Any unopposed motion to modify or reinstate bail may be presented to the business judge at any time provided that it contains written verification by the opposing party of lack of opposition. Any such motions shall be presented in person by the moving party. Thereafter, any executed order shall be immediately filed with the Clerk of Courts.

B. All opposed motions to modify or reinstate bail shall be filed with the Clerk of Courts Office. The Clerk of Courts Office shall send a copy of the motion to Court Administration for scheduling. Hearings relative to these motions will be scheduled during sessions of Rule 150 hearings, which are generally scheduled on Monday, Wednesday, and Fridays at 1:30 p.m. Counsel will be provided with not less than forty-eight (48) hours'

notice of the scheduled hearing. Such notice will also be provided to the Office of Bail Administration and Pre-Trial Services with respect to any defendant under their active supervision. Moving party shall include the Office of Bail Administration as a party to be served if the defendant is under active supervision with their office. Court Administration will then present the business judge with the motion and scheduling order for signature. The motion and signed scheduling order will be sent to the Clerk of Courts Office for service.

C. The Clerk of Courts Office will serve a copy of the motion and scheduling order to counsel for all parties, or upon any unrepresented parties, including notice of the date, time, and place of the scheduled hearing.

D. All orders modifying or reinstating bail shall be filed immediately with the Clerk of Courts. In cases pending in Court or in an appellate court, the Clerk of Courts shall immediately serve the Lancaster County Prison a copy of the order by facsimile or other electronic means when the order accomplishes any of the following:

1. Reinstates bail to a monetary condition where the bail has previously been posted and not withdrawn;
2. Reinstates bail to ROR, unsecured or a non-monetary condition; or
3. Modifies bail to ROR, unsecured or a non-monetary condition.

In all other cases pending before the Court or in an appellate court, the Clerk of Courts, unless the Court explicitly orders to the contrary, shall not be required to serve the Lancaster County Prison a copy of the order until the actual satisfaction of the full amount of any monetary condition of bail.

E. In cases pending before a magisterial district judge, service of an order on the magisterial district judge, may be effected by any of the following:

1. The Clerk of Courts' delivery of a certified copy by regular or interdepartmental mail;
2. The moving party's personal service of a certified copy at the regular office of the magisterial district judge; or
3. The moving party's transmitting a copy to the magisterial district judge by facsimile or other electronic means and simultaneously sending a certified copy to the magisterial district judge by regular or interdepartmental mail.

F. In cases pending before a magisterial district judge when the Court has modified bail, the magisterial district judge shall issue a new bail bond in either of the following:

1. The magisterial district judge's directing a constable to transport the

defendant to the office of the magisterial district judge, whereupon the defendant can execute the new bail bond; or

2. Where the modified bail does not have a monetary condition, the magisterial district judge shall transmit by facsimile or other electronic means a new bail bond to the Lancaster County Prison, whereupon prison personnel shall act as the authorized agent of the magisterial district judge and secure the defendant's execution of the new bail bond.

A defendant proceeding under F(2) shall comply with E(3) and shall serve a certified copy of the order on the Lancaster County Prison.

### **RULE 530. Duties and Powers of a Bail Agency**

A. Pursuant to Pa.R.Crim.P. 530, the Court designates the Office of Bail Administration and Pre-Trial Services as the bail agency.

B. The bail agency, after investigating and concluding that a defendant is appropriate for release on bail, may present a motion to modify or reinstate bail. The bail agency may act on behalf of defendants who are incarcerated on bench warrants or who are unable to post the monetary amount of bail.

C. If the issuing authority sets bail which includes supervision by the bail agency, the issuing authority shall require the defendant to complete the bail agency's supervision form.

### **RULE 531. Qualifications of Surety**

A. Approved Bondsman List

1. The Clerk of Courts shall compile, maintain, and make available for public inspection a list of approved bondsman (professional or fidelity/surety agent), hereinafter referred to as the "Approved Bondsman List", qualified to act as bail sureties in Lancaster County.

2. A bondsman (professional or fidelity/surety agent) is not permitted to act as a bail surety in Lancaster County unless he/she appears on the Approved Bondsman List on the date the bond is signed.

3. The Clerk of Courts shall promptly notify the District Attorney's Office, Solicitor's Office, Prison Warden, Bail Administration, the Office of the Prothonotary, and Court Administration of the addition or removal of any bondsman to the Approved Bondsman List.

B. Professional Bondsman

A professional bondsman shall not be included on the Approved Bondsman List unless he/she:

1. Provides the Clerk of Courts with a currently valid registration and license from the Commonwealth of Pennsylvania, Department of Insurance pursuant to 42 Pa.C.S.A. § 5742;

2. Provides the Clerk of Courts with proof that he/she maintains an office within Lancaster County, Pennsylvania, from which he/she conducts business pursuant to 42 Pa.C.S.A. § 5744, and;

3. Posts and maintains as security with the Clerk of Courts, a Reserve Account in the amount of twenty-five thousand dollars (\$25,000.00) in United States currency.

C. Fidelity/surety Company and Agent

1. A fidelity/surety company shall not be permitted to have agents on the Approved Bondsman List unless a currently valid registration and license from the Commonwealth of Pennsylvania, Department of Insurance pursuant to 40 P.S. § 831 et. seq. is provided to the Clerk of Courts.

2. Each agent of the fidelity/surety company must post and maintain as security with the Clerk of Courts a Reserve Account in the amount of twenty-five thousand dollars (\$25,000.00) in United States currency.

D. Removal from Approved Bondsman List

1. A bondsman (professional or fidelity/surety agent) may be removed from the Approved Bondsman List for any of the following reasons:

a. Failure to comply with any of the rules as set forth herein;

b. Failure to comply with any applicable law or regulation of the Commonwealth of Pennsylvania or Rule of Court of Pennsylvania or of Lancaster County;

c. Suspension or revocation of a license or registration by the Commonwealth of Pennsylvania, Department of Insurance or by any Court of Common Pleas;

d. Failure to maintain a Reserve Account in the amount of twenty-five thousand dollars (\$25,000.00);

e. The amount of the professional bondsman's outstanding bail

forfeitures exceeds three hundred thousand dollars (\$300,000.00) as determined by the Lancaster County Solicitor's Office;

f. Failure to pay a bail obligation into the Bail Judgment Account, referred to in Rule 536.1, as required, or;

g. Failure to file quarterly reports with the Clerk of Courts within thirty (30) days of the end of each quarter.

2. A fidelity/surety company and its agents may be removed from the Approved Bondsman List if the aggregate amount of outstanding bail forfeitures for the fidelity/surety company exceeds five hundred thousand dollars (\$500,000.00) as determined by the Lancaster County Solicitor's Office.

3. Prior to the removal of a bondsman or fidelity/surety company from the Approved Bondsman List, the bondsman or fidelity/surety company shall be notified in writing of the intent to remove the bondsman or fidelity/surety company from the Approved Bondsman List and the reason(s) for removal and shall be provided with ten (10) days to remedy the basis for removal.

#### E. Reserve Account

1. The Clerk of Courts shall create and maintain a separate account known as the "Reserve Account" for each bondsman or fidelity/surety company on the Approved Bondsman List.

2. The bondsman or fidelity/surety company shall be solely responsible for making the deposits into his/her/its respective Reserve Account as required by this Rule.

Adopted 06-28-11

Effective 8-22-11

### **RULE 536. Bail Pieces; Exoneration of Surety**

A. In all cases where a bail piece is lodged, the case shall proceed in accordance with the following procedures:

1. In all cases where the Defendant is lodged in the Lancaster County Prison pursuant to a bail piece, the Warden or his designee shall notify the District Court Administrator within twelve (12) hours of commitment.

2. After notice from the Warden or his designee, the District Court Administrator shall schedule a hearing to take place within seven (7) days of the date the bail piece was lodged

3. The District Court Administrator shall give prompt notice of the

hearing to the Office of the Public Defender, District Attorney's Office, the Clerk of Courts of Lancaster County, and any surety involved in the matter. The District Attorney and Public Defender shall each assign an attorney for the hearing.

4. The daily Business Judge shall conduct hearings on bail proceedings held pursuant to this Rule.

5. A copy of the Court's Order following the hearing shall be promptly forwarded to the Lancaster County Prison.

6. At any hearing conducted pursuant to [this] Rule 536(A), the only determination shall be whether to dismiss the bail piece or whether bail shall be reset. No decision regarding the exoneration or remittance of any surety shall be made at a hearing conducted pursuant to [this] Rule 536(A). Rule 536(B) shall be the exclusive process to request exoneration or remission of any bondsman or fidelity/surety company.

B. If a defendant is apprehended and returned to the Lancaster County Prison, the bondsman or fidelity/surety company or agent, may petition the Court of Common Pleas for full or partial exoneration or remittance of the amount of the bail bond under the following procedures:

1. All petitions for exoneration or remittance must be made in writing.

2. All petitions for exoneration or remittance must be served on the Office of the District Attorney, who shall have ten (10) days to respond to the petition.

3. A hearing on the petition shall be conducted upon the request of either party or by the Court *sua sponte*.

4. No hearing shall be conducted until the expiration of the ten (10) day response period, unless agreed to by both parties.

5. A petition for exoneration or remittance will not be considered if the funds in the Bail Judgment Account referred to in Rule 536.1 have been transferred to the General Fund as outlined in Rule 536.1(D).

Revised 6-28-11

Effective 8-22-11

### **RULE 536.1 Bail Judgment Account**

A. The Solicitor's Office shall create and maintain a separate account known as the "Bail Judgment Account."

B. If a bail bond remains forfeited for a period of six (6) months, the Solicitor's Office shall notify the bondsman or the fidelity/surety company that the full amount of the bail bond must be placed in the Bail Judgment Account within twenty (20) days of the notice.

C. If the bondsman or fidelity/surety company fails to place the appropriate funds into the Bail Judgment Account, any funds in the bondsman's or fidelity/surety company's Reserve Account, up to the amount of the forfeited bail bond, may be transferred to the Bail Judgment Account at the discretion and direction of the Solicitor's Office.

D. Upon expiration of a one year period from the date of the forfeiture of the bail bond, any amount in the Bail Judgment Account, up to the amount of the forfeited bail bond, shall be transferred to the County's General Fund at the discretion and direction of the Solicitor's Office. The Solicitor's Office shall notify the bondsman or the fidelity/surety company of the transfer.

Adopted 6-28-11

Effective 8-22-11

## **RULE 570A. Status Conference**

### **A. Scheduling of Status Conference**

1. Within 45 days of the arraignment conducted in accordance with Local Rule 571, each case in which an Information has been issued and which has not already been disposed of by, *nolle prosequi*, or other final action, shall be assigned to a judge and scheduled for a status conference.

2. The District Court Administrator shall provide notice of the status conference to counsel no later than seven days before the conference and shall provide notice to pro se defendants pursuant to Pa. R. Crim. P. 114.

3. The appearance of the assigned attorney for the Commonwealth and the defense attorney or the *pro se* defendant shall be mandatory. The status conference shall take place in open court, unless agreed by the defendant to be in chambers.

4. No status conference may be continued or rescheduled absent compelling reasons and with the approval of the judge to whom the case has been assigned.

### **B. Information Provided at Status Conference**

1. The general purpose of the status conference is to determine the likely

disposition of the assigned case prior to the Pretrial conference conducted in accordance with Local Rule 570B. Accordingly, at the time of the status conference the parties shall be prepared to provide, at a minimum, the following information: (1) whether the case is scheduled, or will be scheduled, for a guilty plea or Accelerated Rehabilitative Disposition; (2) whether all discovery has been provided in accordance with the Pennsylvania Rules of Criminal Procedure; (3) whether all Pretrial motions have been timely filed; and (4) any additional information necessary for the court to complete the Status Conference Order.

2. A *pro se* defendant who does not intend to remain *pro se* throughout the pendency of the case shall advise the court at the status conference of the status of the defendant's efforts to secure legal representation.

#### C. Failure to Appear for Status Conference

1. If a *pro se* defendant fails to appear for a duly scheduled and noticed status conference, the court may, in its discretion, issue a bench warrant and forfeit bail.

2. If an attorney for the Commonwealth or defense attorney fails to appear for a duly scheduled and noticed status conference, the court may take such disciplinary action as it deems appropriate, including, but not limited to, disciplinary action under the Rules of Professional Conduct or instituting proceedings for contempt.

#### D. Order Following Status Conference

1. At the conclusion of the status conference the court shall enter a Status Conference Order reflecting the disposition of the case as represented by the parties (*e.g.*, guilty plea, *nolo contendere* plea, ARD or *nolle prosequi*), or if the matter shall be scheduled for a subsequent Status Conference, or if the matter is to be listed for trial, or if a bench warrant has been issued and bail has been forfeit.

2. The completed Status Conference Order shall be filed with the Clerk of Courts at the conclusion of the status conference.

#### E. Listing Matter for Trial

1. Any case to be listed for trial shall be scheduled for the Friday immediately preceding the anticipated trial week.
2. A Call of the Criminal Trial List shall occur for cases remaining on the trial list as of the Friday immediately preceding the trial week. The purpose of this call of the list shall be to establish a trial priority for the following week as well as to dispose of any outstanding cases by way of guilty plea, *nolo contendere* plea, ARD or *nolle prosequi*.

3. Any case not resolved by the date of its initial Call of the Criminal Trial List shall thereafter remain exclusively with the assigned judge for disposition.
4. The appearance of the assigned attorney for the Commonwealth, the defense attorney, and the defendant, whether pro se or represented by counsel shall be mandatory unless excused by the assigned judge. The Call of the Criminal Trial List shall take place in open court, unless agreed by the defendant to be in chambers.

Revised 9-19-16            Effective 3-13-17

**RULE 570B.** [This rule has been rescinded in its entirety.]

Revised 9-19-16            Effective 3-13-17

**RULE 570C.** [This rule has been rescinded in its entirety.]

Revised 9-19-16            Effective 3-13-17

**RULE 570D. Assignment and Trial of Homicide Cases**

A. The assignment and trial of any criminal case in which one or more of the offenses charged is any grade or type of homicide, including homicide by vehicle and homicide by vehicle while driving under the influence, shall be conducted in accordance with the provisions of this rule.

B. Homicide cases shall be assigned to a trial judge by the President Judge. All matters thereafter shall be the responsibility of the assigned trial judge.

C. Status, Pretrial, and case management conferences shall be scheduled at the discretion of the assigned trial judge.

D. The trial judge shall issue a final Pretrial order establishing a firm trial date and containing any further final instructions. Once set, the firm trial date shall not be continued except for extraordinary circumstances. Copies of all Pretrial orders shall be provided to the President Judge, the District Court Administrator and counsel.

E. Copies of all pre-trial orders shall be provided to the President Judge, the District Court Administrator and counsel.

Adopted 9-30-13            Effective 12-9-13

## **RULE 571. Arraignment**

A. The District Attorney shall conduct arraignment pursuant to Pa.R.Crim.P. 571(C). A plea of not guilty shall be entered on behalf of the defendant unless the defendant states an intent to enter a plea of guilty.

B. Arraignment shall take place at least thirty days prior to trial, unless a defendant and defense counsel agree otherwise.

C. A defendant and defense counsel may waive arraignment and enter a plea of either guilty or not guilty by filing a written waiver of arraignment. The form for the waiver is available in the Office of the District Attorney. To waive arraignment, the written waiver must either be filed in the Clerk of Courts Office or be delivered to the Office of the District Attorney by noon on the day before the scheduled arraignment date or at the time of arraignment. An unrepresented defendant must appear at arraignment.

D. The District Attorney shall provide a written Arraignment Rights form to each defendant, whether represented or not, who appears at arraignment. The approved Arraignment Rights form required by this Rule shall be published as a part of these Local Rules as Local Rule 571-1.

Revised 9-30-13

Effective 12-9-13

## **RULE 575A. Motions Other Than Bail**

Motions not otherwise governed by Pennsylvania Rules of Criminal Procedure or these rules shall be submitted as follows:

A. Upon filing any motion requiring a conference in the Court, the moving party shall schedule the conference with the business judge by communicating directly with such judge's chambers. An unopposed motion may be presented to the business judge at any time provided that it contains written verification by the opposing party and, if applicable, the probation or parole officer, of the lack of opposition.

B. The conference may occur in chambers or in the courtroom at the discretion of the business judge.

C. At least twenty-four hours before the conference, the moving party shall serve a copy of the motion on the opposing party or counsel for the opposing party, including notice of the date, time and place of the conference. In emergency matters in which it is not possible to provide twenty-four hours notice, the moving party shall provide opposing counsel with a copy of the motion as soon as possible prior to the scheduling of the conference.

D. For purposes of this rule, "business judge" is the assigned business judge

on the date of the scheduled conference.

E. After decision on the motion, the motion and order shall be filed immediately with the Clerk of Courts.

F. Motions which may be submitted *ex parte* pursuant to the Pennsylvania Rules of Criminal Procedure and which require a Court order shall be submitted directly to the business judge or the judge assigned to the case.

#### **RULE 575B. Uncontested and *Ex-parte* Motions**

A. If the relief requested in a motion is not opposed, counsel for the moving party shall certify that opposing counsel and, if applicable, the probation or parole officer, do not object to the relief requested. The motion shall be submitted to the business judge or judge to whom the case has been assigned.

B. Motions which may be submitted *ex-parte* shall be submitted to the business judge or the judge to whom the case has been assigned.

#### **Rule 576.1. Electronic Filing of Legal Papers**

A. The electronic filing of motions and other legal papers in the Lancaster County Court of Common Pleas – Criminal Division is authorized as specifically provided in this rule. Parties shall electronically file documents using the PacFile electronic filing system developed by the Administrative Office of the Pennsylvania Courts. The application of general rules of court and court policies that implement the rules, shall continue to apply to all filings regardless of the method of filing.

B. Legal Papers Defined. The “legal papers” which shall be filed electronically shall encompass all written motions, written answers and any notices or documents for which filing is required or permitted, including orders, exhibits and attachments, except for the following:

1. Legal papers filed or authorized to be filed under seal;
2. Applications for a search warrant;
3. Applications for an arrest warrant;
4. Grand jury materials;
5. Subpoenas;

6. Petitions and/or motions presented during criminal business court;
7. Wiretap Act, cell phone, tracker and Internet petitions; and
8. Documents required to be filed upon disposition in DUI Central Court.

C. All attorneys shall establish a PacFile account using the Unified Judicial System of Pennsylvania Web Portal. Parties who are proceeding without counsel are not required to establish a PacFile account and are not required to file legal papers using the electronic PacFile system.

D. Applicable filing fees shall be paid electronically through procedures established by the clerk of courts and at the same time and in the same amount as required by statute, court rule or order, or established by a published fee schedule.

E. Use of the PacFile system shall constitute as the filer's certification that the electronic notice and service of other documents through the Pacfile system will be accepted by the filer. The submission of an electronic filing shall satisfy the service requirements of Pa.R.Crim.P. 576 on any attorney or party who has established an account as provided in subsection C. Service of electronic filings on any party proceeding without counsel shall be made by the traditional methods required under Pa.R.Crim.P. 576.

Adopted 8-8-18

Effective 9-25-18

## **RULE 590. Pleas and Plea Agreements**

A. Guilty pleas and pleas of *nolo contendere* shall be scheduled through the Office of the District Attorney using the forms designated by that office for the scheduling of pleas. When scheduling the plea, counsel shall inform the guilty plea secretary if and where the defendant is incarcerated.

B. A completed Plea Scheduling Form, the form of which shall be published as a part of these Local Rules as Local Rule 590-1, shall be presented to the District Attorney before a plea is scheduled.

C. Once a plea is scheduled, it may only be rescheduled by submitting a completed Request to Reschedule Plea form to the judge before whom the plea is scheduled. If the request to reschedule is granted by the judge before whom the plea is scheduled, the form will be forwarded to the District Court Administrator, who will

schedule the matter on that judge's next available plea date or on the date specified by the judge and indicated on the Request to Reschedule Plea form.

D. Any plea which is withdrawn shall be placed on the trial list of the judge before whom the plea was scheduled at the time it was withdrawn. The case will be deemed to be trial ready and will be assigned a trial date by the judge, who shall determine trial priority in accordance with Local Rule 570C.

E. Rejected pleas shall be handled as follows:

1. If the case has not previously had a pretrial conference under Rule 570B, the District Court Administrator shall schedule the case for a pretrial conference on the next available date with a judge other than the judge who rejected the plea.

2. If the case has previously had a pretrial conference, the plea shall be rescheduled. Counsel shall note on the Request to Reschedule Plea form that the plea was rejected, the form will be forwarded to the District Court Administrator and the plea will be rescheduled by the District Court Administrator with a different judge on the next available plea date.

F. Prior to entering a guilty plea or plea of *nolo contendere*, a defendant shall complete and sign a written plea colloquy on the form provided by the District Attorney. The form shall be presented to the Court at the time of the plea hearing, together with the completed Plea Scheduling form required by this Rule.

Revised 9-30-13

Effective 12-9-13

#### **RULE 604. Opening Statements and Closing Arguments**

A. Opening statements shall be limited to a brief statement of the party's case and the facts to be adduced in support thereof and shall not include any argument concerning the facts or the law applicable thereto.

B. The length of closing arguments may be regulated by the trial judge, but any time limitation shall be made known to all counsel before the closing arguments begin.

#### **RULE 620. Waiver of Jury Trial**

A waiver of jury trial shall be in compliance with Pa.R.Crim.P. 620 and on the form provided by the District Attorney.

**RULE 631. Examination and Challenges of Trial Jurors**

Unless a specific method is required by statute or general rule, the trial judge shall determine the method of examination and challenges of trial jurors, giving due consideration to the nature and circumstances of the case.

**RULE 647. Requests for Instructions, Charge to the Jury and Preliminary Instructions**

Written requests for instructions to the jury shall contain citations to the authority relied upon and shall be submitted at the time set by the trial judge. Case and article citations shall be pinpoint. The failure to submit written requests for instructions to the jury at the time set may be deemed a waiver of the right to do so unless the trial judge determines otherwise in the interests of justice.