

**LOCAL RULES OF THE COURT OF COMMON PLEAS OF
ALLEGHENY COUNTY, PENNSYLVANIA (FIFTH JUDICIAL DISTRICT),
GOVERNING THE PRACTICE AND PROCEDURES IN CRIMINAL MATTERS**

RULE 100.1 SCOPE OF RULES

These rules are adopted in accordance with the Pennsylvania Rules of Criminal Procedure (Pa.R.Crim.P.) and govern criminal proceedings in the Criminal Division of the Court of Common Pleas, as well as the magisterial district courts and Pittsburgh Municipal Court, of Allegheny County, Pennsylvania.

RULE 101.1 CONSTRUCTION OF RULES

All rules of construction adopted by the Supreme Court of Pennsylvania shall apply to local rules adopted by the Court of Common Pleas of Allegheny County that govern the practice and procedure in criminal matters.

RULE 102.1 CITATION OF LOCAL RULES

These rules shall be known as the Allegheny County Rules of Criminal Procedure and shall be cited as “All.C.R.Crim.P.”

RULE 103.1 DEFINITIONS

Definitions contained in Pa.R.Crim.P. 103 shall apply to all local rules heretofore and hereafter adopted which govern practice and procedure in criminal matters.

RULE 105.1 RULES AND ADMINISTRATIVE ORDERS OF COURT

(a) The Clerk of Courts shall maintain a consolidated set of local rules, fully updated, for public inspection during business hours.

(b) The Clerk of Courts shall establish and maintain a docket to be known as the Administrative Docket, in which shall be filed and recorded all Administrative Orders indexed by year, number and caption.

**RULE 112.1 PITTSBURGH MUNICIPAL COURT; PUBLICITY, BROADCASTING,
AND RECORDING OF PROCEEDINGS; ELECTRONIC DEVICES**

(a) Except as provided for in Pa.R.Crim.P. 542(C)(5), the broadcasting, televising, recording of proceedings, or the taking of photographs, is prohibited in all courtrooms in the Pittsburgh Municipal Court.

(b) Except as provided for in Pa.R.Crim.P. 542(C)(5), all persons present at hearings at the Pittsburgh Municipal Court who are in possession of any electronic device including, but not limited to, cellular telephones, beepers, personal data assistants, and the like, must turn such devices off before entering the courtroom.

(c) If any electronic device is enabled or in any way disrupts court proceedings, the Sheriff is authorized to confiscate the device until the conclusion of the proceedings and/or to remove the person in possession of the device from the courtroom.

RULE 114.1 LEGAL ADVERTISING

(a) In all actions, proceedings, or other matters, where by law or Rule of Court, notice is required to be given by advertisement in a newspaper, such publication shall be in a newspaper of general circulation in Allegheny County and proof of publication shall be on the affidavit of the publisher or the agent of the publisher, filed of record before the entry of final order, decree or judgment.

(b) The daily edition of the *Pittsburgh Legal Journal* is designated as the legal newspaper of the Court for the publication of legal notices. All advertisements or notices required by law or Rule of Court to be advertised in a newspaper of general circulation shall also be advertised in the *Pittsburgh Legal Journal* daily edition, unless dispensed with by an order of the Court filed of record.

RULE 116.1 COURT SESSIONS

(a) Court shall be in session on Monday through Friday throughout the calendar year except for legal holidays, unless otherwise ordered by the President Judge.

(b) For each day of court sessions, the Administrative Judge shall designate a Motions Judge, who will be available to hear motions on matters wherein a judge has not been assigned, all bail hearings pursuant to All.C.R.Crim.P. 529.1, all bench warrant hearings pursuant to All.C.R.Crim.P. 150.1, all consent and default forfeiture orders entered pursuant to 42 Pa.C.S. §§6801 and 6802, and other matters of a miscellaneous nature as determined by the Administrative Judge.

RULE 117.1 COVERAGE FOR ISSUING WARRANTS, PRELIMINARY ARRAIGNMENTS AND SUMMARY TRIALS, AND SETTING AND ACCEPTING BAIL

(a) All magisterial district judges' offices shall be open for regular business on Mondays through Fridays from 8:30 a.m. until 4:30 p.m. prevailing time except court holidays or as otherwise published on the website of the Fifth Judicial District of Pennsylvania at www.alleghenycourts.us.

(b) Continuous coverage for issuance of search and arrest warrants, acceptance of criminal complaints, conduct of preliminary arraignments, setting and acceptance of bail, holding of

summary trials or setting of collateral therefor shall be provided at Pittsburgh Municipal Court Arraignment Court, Municipal Courts Building, 660 First Avenue, Pittsburgh, PA 15219. Arraignment Court shall be staffed by an on-duty issuing authority and support personnel during all off-hours and during regular business hours, if circumstances prevent utilization of the established magisterial district judge office.

(c) Magisterial district judges and the Clerk of Courts shall be authorized to accept bail in accordance with the provisions of the Pa.R.Crim.P. and as between both entities shall provide continuous coverage to do so.

COMMENT: Arraignment Court provides off-hours coverage for Protection from Abuse Act cases pursuant to 23 Pa.C.S. §6110 and Rule 1203 the Pennsylvania Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges, and issuance of arrest warrants pursuant to Rules 210 and 211 of Pennsylvania Rules of Juvenile Court Procedure (Pa.R.J.C.P.), as well.

RULE 120.2 COUNSEL; CHANGE OF ADDRESS OR TELEPHONE

Defense counsel shall promptly file in the Clerk of Courts written notice of any change of address and/or telephone number and give prompt written notice thereof to the Attorney for the Commonwealth and co-counsel, if any.

RULE 122.1 COURT APPOINTED COUNSEL; GENERAL GUIDELINES

(a) The Office of the Public Defender of Allegheny County may petition the Court for the appointment of counsel at any time.

(b) If, in any court case, prior to arraignment and the assignment of a judge, the Office of the Public Defender of Allegheny County asserts a conflict in representation, the Office of the Public Defender shall refer a request to the Office of Conflict Counsel, which shall accept the case or appoint counsel under the authority of the Administrative Judge.

(c) After a judge has been assigned to a case, the Public Defender shall file a petition to withdraw. The court shall make a determination on the record as to whether a valid conflict exists precluding the Public Defender's representation. If the judge grants the petition, the Office of Conflict Counsel shall accept the case or appoint counsel.

(d) In homicide cases and cases deemed by the Administrative Judge to be of a complex nature, the provisions of (b) and (c) shall not apply and, in those cases, the appointment of counsel shall be at the discretion of the Administrative Judge or a designee.

(e) The Administrative Judge of the Criminal Division shall maintain a list of eligible attorneys available for appointments. Attorneys interested in appointments shall submit a request for consideration to the Office of Conflict Counsel.

(f) Upon appointment by the Office of Conflict Counsel, private counsel will receive an appointment order with information concerning the date and time of the next court appearance. Counsel must be available on the next court appearance date.

(g) Attorneys requesting and accepting court appointments should be familiar with the procedures for consideration as court appointed counsel, the Court Appointed Counsel Fee Schedule, Billing Guidelines and Billing Procedures set forth by the Administrative Judge of the Criminal Division which are available in the Clerk of Courts Office and published on the website of the Fifth Judicial District of Pennsylvania at www.alleghencourts.us.

**RULE 131.1 DESIGNATION OF PITTSBURGH MUNICIPAL COURT;
HOMICIDE CASES; COURT REPORTERS**

(a) Pittsburgh Municipal Court is designated as the central location for all preliminary arraignments, whether live or by use of advanced communication technology, wherein the defendant is charged with Criminal Homicide (18 Pa.C.S. §2501), Murder (18 Pa.C.S. §2502), Voluntary Manslaughter (18 Pa.C.S. §2503), Involuntary Manslaughter (18 Pa.C.S. §2504), Drug Delivery Resulting in Death (18 Pa.C.S. §2506), Homicide by Vehicle (75 Pa.C.S. §3732), Homicide by Vehicle While Driving Under Influence (75 Pa.C.S. §3735), Homicide by Watercraft (30 Pa.C.S. §5502.2), Homicide by Watercraft While Operating Under Influence (30 Pa.C.S. §5502.1), Criminal Homicide of Unborn Child (18 Pa.C.S. §2603), Murder of Unborn Child (18 Pa.C.S. §2604) and/or Voluntary Manslaughter of Unborn Child (18 Pa.C.S. §2605) for a criminal incident arising within the jurisdiction of Allegheny County, Pennsylvania, and for all preliminary hearings for criminal complaints wherein the defendant is charged with Criminal Homicide (18 Pa.C.S. §2501), Murder (18 Pa.C.S. §2502), Voluntary Manslaughter (18 Pa.C.S. §2503), Involuntary Manslaughter (18 Pa.C.S. §2504), Drug Delivery Resulting in Death (18 Pa.C.S. §2506), Homicide by Vehicle (75 Pa.C.S. § 3732), Homicide by Vehicle While Driving Under Influence (75 Pa.C.S. §3735), Homicide by Watercraft (30 Pa.C.S. §5502.2), Homicide by Watercraft While Operating Under Influence (30 Pa.C.S. §5502.1), Criminal Homicide of Unborn Child (18 Pa.C.S. §2603), Murder of Unborn Child (18 Pa.C.S. §2604) and/or Voluntary Manslaughter of Unborn Child (18 Pa.C.S. §2605) for a criminal incident arising within the jurisdiction of Allegheny County, Pennsylvania.

(b) The President Judge shall assign a magisterial district judge to preside in Pittsburgh Municipal Court for any preliminary hearing wherein one or more of the aforementioned charges are brought.

(c) The Allegheny County Court Reporters Office is designated as the official court reporting entity for and shall record and transcribe all notes of testimony at all preliminary hearings in cases heard at Pittsburgh Municipal Court pursuant to this rule.

RULE 131.2 DESIGNATION OF PITTSBURGH MUNICIPAL COURT; ACT 33 CASES

(a) This rule is applicable only to cases involving any child, as that term is defined in Subsection (1) of the definition of “Child” in 42 Pa.C.S. §6302, who is excluded from the Juvenile Act in accordance with Subsection (2)(ii) and (iii) of the definition of “Delinquent act” in 42 Pa.C.S. §6302 (hereinafter “excluded actor”).

(b) Pittsburgh Municipal Court is designated as the central site for all filings of criminal complaints, all preliminary arraignments, whether live or by use of advanced communication technology, and for all preliminary hearings for excluded actors.

(c) Magisterial district judges and senior magisterial district judges assigned to Pittsburgh Municipal Court are authorized to conduct preliminary arraignments and preliminary hearings wherein an excluded actor is charged with:

(1) Any of the following prohibited conduct where the child was 15 years of age or older at the time of the alleged conduct and a deadly weapon as defined in 18 Pa.C.S. §2301 (relating to definitions) was used during the commission of the offense, which, if committed by an adult, would be classified as:

- (A) Rape as defined in 18 Pa.C.S. §3121.
- (B) Involuntary deviate sexual intercourse as defined in 18 Pa.C.S. §3123.
- (C) Aggravated assault as defined in 18 Pa.C.S. §2702(a)(1) or (2).
- (D) Robbery as defined in 18 Pa.C.S. §3701(a)(1)(i), (ii) or (iii).
- (E) Robbery of motor vehicle as defined in 18 Pa.C.S. §3702.
- (F) Aggravated indecent assault as defined in 18 Pa.C.S. §3125.
- (G) Kidnapping as defined in 18 Pa.C.S. §2901.
- (H) Voluntary manslaughter as defined in 18 Pa.C.S. §2503.
- (I) An attempt, conspiracy or solicitation to commit murder or any of these crimes, as provided in 18 Pa.C.S. §§901, 902 and 903.

(2) Any of the following prohibited conduct where the child was 15 years of age or older at the time of the alleged conduct and has been previously adjudicated delinquent of any of the following prohibited conduct which, if committed by an adult, would be classified as:

- (A) Rape as defined in 18 Pa.C.S. §3121.
- (B) Involuntary deviate sexual intercourse as defined in 18 Pa.C.S. §3123.
- (C) Robbery as defined in 18 Pa.C.S. §3701(a)(1)(i), (ii) or (iii).
- (D) Robbery of motor vehicle as defined in 18 Pa.C.S. §3702.
- (E) Aggravated indecent assault as defined in 18 Pa.C.S. §3125.
- (F) Kidnapping as defined in 18 Pa.C.S. §2901.
- (G) Voluntary manslaughter as defined in 18 Pa.C.S. §2503.
- (H) An attempt, conspiracy or solicitation to commit murder or any of these crimes as provided in 18 Pa.C.S. §§901, 902 and 903.

(d) The complaint and/or affidavit of probable cause, if applicable, shall include the basis for the arresting officer’s determination that an offense is excluded from the Juvenile Act in accordance with Subsection (2)(ii) and/or (iii) of the definition of “Delinquent act” in 42 Pa.C.S. §6302.

(e) Excluded actors shall be afforded preliminary arraignments pursuant to Pa.R.Crim.P. 540.

(f) The magisterial district judge may determine at the preliminary arraignment or at the preliminary hearing that the child is not an excluded actor. In such a case, the affiant may elect to proceed with a delinquency case based upon the same conduct of the child by contacting the Allegheny County Juvenile Probation Office Intake Division or, if the delinquency case implicates issuance of an arrest warrant, the affiant may submit a written allegation to the magisterial district judge, pursuant to Pa.R.J.C.P. 231, and request an arrest warrant, pursuant to Pa.R.J.C.P. 210. The arresting officer shall then comply with the dictates of Pa.R.J.C.P. 220.

RULE 150.1 BENCH WARRANTS

(a) In any court case when a bench warrant issued by a judge of the Criminal Division is executed, or the subject of the warrant has surrendered, the bench warrant hearing shall be conducted in open court and on the record by the Motions Judge.

(b) If the defendant is incarcerated in the Allegheny County Jail, these proceedings may be conducted using two-way simultaneous audio-visual communication, in the discretion of the Motions Judge.

(c) If bail is set as a result of the bench warrant hearing, the requirements of All.C.R.Crim.P. 529.1 must be met.

RULE 202.1 APPROVAL OF SEARCH WARRANT APPLICATIONS BY ATTORNEY FOR THE COMMONWEALTH IN HOMICIDE CASES

The District Attorney, Stephen A. Zappala, Jr., having filed a certification pursuant to Pa.R.Crim.P. 202, search warrants in the following circumstances: wherein the search warrant is relative to the investigation or prosecution of the following criminal offenses: Criminal Homicide (18 Pa.C.S. §2501), Murder (18 Pa.C.S. §2502), Voluntary Manslaughter (18 Pa.C.S. §2503), Involuntary Manslaughter (18 Pa.C.S. §2504), Drug Delivery Resulting in Death (18 Pa.C.S. §2506), Homicide by Vehicle (75 Pa.C.S. §3732), Homicide by Vehicle While Driving Under Influence (75 Pa.C.S. §3735), Homicide by Watercraft (30 Pa.C.S. §5502.2), Homicide by Watercraft While Operating Under Influence (30 Pa.C.S. §5502.1), Criminal Homicide of Unborn Child (18 Pa.C.S. §2603), Murder of Unborn Child (18 Pa.C.S. §2604) and Voluntary Manslaughter of Unborn Child (18 Pa.C.S. §2605) shall not hereafter be issued by any judicial officer unless the search warrant application has the approval of an Attorney for the Commonwealth prior to filing.

RULE 202.2 APPROVAL OF SEARCH WARRANT APPLICATIONS BY ATTORNEY FOR THE COMMONWEALTH IN FELONY SEXUAL ASSAULT CASES

The District Attorney of Allegheny County, Stephen A. Zappala, Jr., having filed a certification pursuant to Pa.R.Crim.P. 202, search warrants in the following circumstances: wherein the search warrant is relative to the investigation or prosecution of the following criminal offenses:

Rape (18 Pa.C.S. §3121), Statutory Sexual Assault (18 Pa.C.S. §3122.1), Involuntary Deviate Sexual Intercourse (18 Pa.C.S. §3123), Sexual Assault (18 Pa.C.S. §3124.1), Institutional Sexual Assault (18 Pa.C.S. §3124.2), or Aggravated Indecent Assault (18 Pa.C.S. §3125), shall not hereafter be accepted by any judicial officer unless the search warrant applications have the approval of an Attorney for the Commonwealth prior to filing.

RULE 454.1 SUMMARY OFFENSES; COUNTY INTERMEDIATE PUNISHMENT

Magisterial district judges are authorized to sentence appropriate and eligible offenders to participate in the Allegheny County Intermediate Punishment Program by undergoing house arrest, electronic monitoring, and drug and alcohol treatment upon conviction for violations of 75 Pa.C.S. §1543(b)(1) and (b)(1.1)(i).

RULE 507.1 APPROVAL OF POLICE COMPLAINTS AND ARREST WARRANT AFFIDAVITS BY ATTORNEY FOR THE COMMONWEALTH IN HOMICIDE CASES

The District Attorney, Stephen A. Zappala, Jr., 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 Criminal Homicide (18 Pa.C.S. § 2501), Murder (18 Pa.C.S. § 2502), Voluntary Manslaughter (18 Pa.C.S. § 2503), Involuntary Manslaughter (18 Pa.C.S. § 2504), Drug Delivery Resulting in Death (18 Pa.C.S. § 2506), Homicide by Vehicle (75 Pa.C.S. § 3732), Homicide by Vehicle While Driving Under Influence (75 Pa.C.S. § 3735), Homicide by Watercraft (30 Pa.C.S. §5502.2), Homicide by Watercraft While Operating Under Influence (30 Pa.C.S. §5502.1), Criminal Homicide of Unborn Child (18 Pa.C.S. § 2603), Murder of Unborn Child (18 Pa.C.S. § 2604) and Voluntary Manslaughter of Unborn Child (18 Pa.C.S. § 2605) shall not hereafter be accepted by any judicial officer unless the criminal complaint and arrest warrant affidavit have the approval of an Attorney for the Commonwealth prior to filing.

Rule 507.2 APPROVAL OF POLICE COMPLAINTS AND ARREST WARRANT AFFIDAVITS BY ATTORNEY FOR THE COMMONWEALTH IN FELONY SEXUAL ASSAULT CASES

The District Attorney of Allegheny County, Stephen A. Zappala, Jr., 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 Rape (18 Pa.C.S. §3121), Statutory Sexual Assault (18 Pa.C.S. §3122.1), Involuntary Deviate Sexual Intercourse (18 Pa.C.S. §3123), Sexual Assault (18 Pa.C.S. §3124.1), Institutional Sexual Assault (18 Pa.C.S. §3124.2), or Aggravated Indecent Assault (18 Pa.C.S. §3125), shall not hereafter be accepted by any judicial officer unless the criminal complaint and arrest warrant affidavit have the approval of an Attorney for the Commonwealth prior to filing.

RULE 523.1 BEHAVIOR CLINIC EVALUATION AS CONDITION OF BAIL

(a) In any court case, wherein the defendant is preliminarily arraigned and the issuing authority has a good faith doubt as to the defendant's adjudicative competency or has reason to believe that the defendant is severely mentally disabled and may be in need of eventual court-ordered treatment upon a determination of clear and present danger pursuant to the definitions in the Mental Health Procedures Act (50 P.S. §7101, et seq.), the issuing authority may make it a condition of bail that the defendant be examined by the Behavior Clinic within forty-eight (48) hours if the preliminary arraignment occurs on Monday through Friday, otherwise within seventy-two (72) hours.

(b) In any court case, at the time of the preliminary hearing, if the issuing authority has a good faith doubt as to the defendant's adjudicative competency or has reason to believe that the defendant is severely mentally disabled and may be in need of eventual court-ordered treatment upon a determination of clear and present danger pursuant to the definitions in the Mental Health Procedures Act (50 P.S. §7101, et seq.), the issuing authority, when permitted by the Pa.R.Crim.P., may make it a condition of bail that the defendant be examined by the Behavior Clinic within seventy-two (72) hours of the preliminary hearing.

RULE 525.1 AUTHORIZED AGENTS OF BONDSMAN OR SURETY TO SIGN BAIL BONDS

(a) Only authorized agents of a professional bail bondsman or surety company may sign as surety on any bail bond posted by said professional bail bondsman or surety company.

(b) The Clerk of Courts shall require proper identification and proof of authorization by any agent of a professional bail bondsman or surety company before allowing him to sign as surety on any bail bond.

RULE 528.1 PERCENTAGE CASH BAIL

The bail authority, after consideration of the criteria set forth in Pa.R.Crim.P. 523, may issue an order allowing the defendant to post as bail a cash deposit of a sum of money equal to ten percent (10%) of the amount of bail set.

RULE 529.1 MODIFICATION OF BAIL ORDER PRIOR TO VERDICT

(a) All motions concerning bail before verdict pursuant to Pa.R.Crim.P. 529(C) shall be heard by the Motions Judge of the Criminal Division in open court and on the record.

(b) Notice of hearing concerning bail before verdict must be given to the Attorney for the Commonwealth, defense counsel of record and the Bail Agency Unit and no hearing shall be conducted unless the Attorney for the Commonwealth and a representative of the Bail Agency Unit are present.

(c) In cases of emergency, if defense counsel of record could not be notified of the bail hearing, defense counsel shall be promptly notified by the Bail Agency Unit of the Motions Judge's disposition on the motion and if, upon such notification, defense counsel requests an opportunity to be heard, another hearing will be scheduled by the Bail Agency Unit.

RULE 530.1 DESIGNATION OF BAIL AGENCY

The Division of Pre-Trial Services, Bail Agency Unit, is designated as the bail agency of the Court of Common Pleas of Allegheny County.

RULE 531.1 QUALIFICATIONS OF SURETIES AND PROFESSIONAL BONDSMEN

(a) No surety company shall be qualified to act as surety in Allegheny County in criminal cases except upon petition to and approval by the Administrative Judge of the Criminal Division of the Court of Common Pleas.

(b) Upon presentation of such petition, the Administrative Judge shall direct the District Attorney of Allegheny County to conduct an investigation of the allegations of fact contained in the petition, to report the results of such investigation and to make any recommendations to the Administrative Judge at such time as may be set for hearing with notice to the petitioner.

(c) After hearing on the petition, the Administrative Judge shall enter an appropriate order. Denial of the authority to act as surety in Allegheny County shall be deemed a final order.

RULE 543.1 DISPOSITION OF CASE AT PRELIMINARY HEARING

(a) When a defendant has been held for court, after either a preliminary hearing or a waiver thereof, the issuing authority shall serve the defendant with a subpoena directing his/her appearance for arraignment at the Court Arraignment Office in accordance with the provisions of

All.C.R.Crim.P. 571.2. Defendant or defendant's counsel shall indicate receipt of notice by signing a copy thereof.

(b) When a defendant has been held for court, pursuant to Pa.R.Crim.P. 543(D)(2), the subpoena for the defendant's required appearance for arraignment at the Court Arraignment Office shall be included in defendant's notice of the results of the preliminary hearing by first class mail, as set forth in Pa.R.Crim.P. 543(D)(2)(b) and (c).

(c) When either the provisions of (a) or (b) of this rule apply, the date and time of the arraignment shall be duly recorded by the issuing authority in the Magisterial District Judge System (MDJS).

RULE 570.1 PRETRIAL CONFERENCE

At the pretrial conference, the assigned judge shall ascertain whether the parties wish to proceed by jury or non-jury trial, or by plea, and shall fix a date and time certain for necessary proceedings. The defendant shall be issued a hearing notice directing the defendant to appear on that date and at such time as the Court shall designate.

RULE 570.2 INDIVIDUAL JUDICIAL CALENDARS

(a) Judges of the Court of Common Pleas of Allegheny County, Criminal Division, shall maintain individual judicial case calendars and, pursuant to the procedures established by the Administrative Judge, cases shall be assigned and recorded in the Common Pleas Case Management System (CPCMS).

(b) With the exception of those matters specified in All.C.R.Crim.P. 116.1(b), 582.1 and 582.2, once assigned to a case, the judge shall preside throughout all proceedings, unless reassigned by Order of Court.

RULE 570.3 BEHAVIOR CLINIC ORDERS AND RECORDS

In any court case, the facilities and staff of the Behavior Clinic shall be available for the examination of a defendant upon the order of a judge of this Court. The records and reports of the Behavior Clinic are confidential records of the court to be used only as directed by the court. In the event, however, that the reports of the Behavior Clinic or testimony by any representative thereof be used by the court, such shall be made available to counsel for both sides.

RULE 571.1 ARRAIGNMENT; MATERIAL TO BE PROVIDED TO DEFENDANT

At arraignment, the defendant or counsel for defendant shall be given and shall execute a receipt for a copy of the criminal information, a hearing notice for the next court appearance, and a notice advising the defendant of the time period within which pretrial motions must be filed.

RULE 571.2 ARRAIGNMENT; PRESENCE OF DEFENDANT AND COUNSEL

A defendant whose charges are held for or waived to court shall appear in person on the date and at the time ordered for arraignment at the Court Arraignment Office, accompanied by counsel who must file an appearance at that time in accordance with Pa.R.Crim.P. 120, provided that:

(a) If defense counsel has entered an appearance, either personally or by mail prior to the date set for the arraignment, defense counsel shall not be required to be present at arraignment if the defendant appears personally.

(b) If defense counsel secures an Order of Court authorizing defense counsel to appear on behalf of the defendant at arraignment, defense counsel may appear in lieu of the defendant at arraignment, accept and acknowledge receipt of the materials specified in All.C.R.Crim.P. 571.1, and defense counsel shall be responsible for notifying the defendant of the next required court appearance.

(c) Such order shall not excuse a defendant from any personal interview required by the Attorney for the Commonwealth for evaluating the eligibility of the defendant for Accelerated Rehabilitative Disposition.

(d) If such an order has been obtained and arraignment cannot be completed due to a delay of a criminal information being filed by the Attorney for the Commonwealth or for other good reason and it is necessary to schedule a subsequent arraignment, the defendant shall not be required to appear in person at such later arraignment if the attorney of record appears on the defendant's behalf. Counsel may do so without further Order of Court.

(e) If the defendant appears for scheduled arraignment without the defendant's counsel of record and it is necessary to schedule a subsequent arraignment, the defendant must appear personally at the rescheduled arraignment, unless an order of the court is obtained authorizing the defendant's attorney to appear on the defendant's behalf.

(f) A defendant shall not be required to appear in person at a scheduled arraignment if all charges have been dismissed or withdrawn, or an order of *nolle prosequi* or return to magisterial district judge for further proceedings prior to arraignment or for such other reason granted by order of the court has been entered.

RULE 571.5 PDQ; FAST TRACK PLEAS

When an attorney representing a defendant whose case has been approved for PDQ (fast track plea) disposition elects not to appear at arraignment with the defendant, the proposed PDQ order shall be given to the defendant for completion with counsel. The defendant shall be rescheduled for a subsequent arraignment within ten (10) business days. If, on the subsequent arraignment date, the PDQ forms have been completed by the defendant and counsel indicates acceptance of PDQ disposition by the defendant, the defendant's case shall be scheduled for the first available PDQ hearing date. If PDQ disposition is rejected by the defendant, the defendant and the case file shall be directed to Court Arraignment for scheduling of a pretrial conference.

RULE 576.1. ELECTRONIC FILING AND SERVICE OF LEGAL PAPERS

(A) General Scope and Purpose of the Rule

Pursuant to Pennsylvania Rule of Criminal Procedure 576.1, Electronic Filing and Service of Legal Papers, electronic filing of legal papers through the PACFile electronic filing system is permissive in the Fifth Judicial District, as of November 12, 2019. The Administrative Office of Pennsylvania Courts and the Fifth Judicial District have agreed upon an implementation plan for PACFile in Allegheny County.

(B) PACFile.

(1) The exclusive system for electronic filing in the Criminal Division of the Allegheny County Court of Common Pleas is the PACFile System, developed and administered by the Administrative Office of the Pennsylvania Courts and located on Pennsylvania's Unified Judicial System Web Portal.

(2) Pursuant to Pa.R.Crim.P. 576.1(D)(2), establishment of a PACFile account constitutes consent to participate in electronic filing, including acceptance of service electronically of any document filed on the PACFile system in any judicial district that permits electronic filing.

(3) Any party who declines to participate in the electronic filing system, or who is unable to electronically file or accept service of legal papers which were filed electronically, or who is otherwise unable to access the PACFile system, shall be permitted to file legal papers in a physical paper format and shall be served legal papers in a physical paper format whether electronically filed or otherwise, as required by Pa.R.Crim.P. 576.

(C) Legal Papers.

(1) "Legal papers" which may 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, but excluding:

(a) applications for search warrants;

(b) applications for arrest warrants;

(c) any grand jury materials, except the indicting grand jury indictment or the investigating grand jury presentment;

(d) submissions filed *ex parte* as authorized by law,

(e) submissions filed or authorized to be filed under seal, and

(f) Requests for Continuances.

(2) Third party filing of amicus briefs or other third party filings shall not be permitted to be filed

electronically.

(3) The applicable general rules of court and court policies that implement the rules shall continue to apply to all filings of legal papers regardless of the method of filing.

(4) Any legal paper submitted for filing to the Department of Court Records, Criminal Division in a physical paper format shall be accepted by the Department of Court Records in that format and shall be retained by the Department of Court Records as may be required by applicable rules of Court and record retention policies. The Department of Court Records shall convert such physical paper to electronic format and add it to the system, except those legal papers excluded from electronic filing pursuant to Pa.R.Crim.P. 576.1(C) and this rule.

(D) Filing Fees. Applicable filing fees shall be paid through procedures established by the Department of Court Records and at the same time and in the same amount as required by statute, Court rule or order, or published fee schedule.

(E) Confidential Information. Counsel and unrepresented parties must adhere to the Public Access Policy of the Unified Judicial System of Pennsylvania and Allegheny County Local Rules of Judicial Administration 6001.7 and 6001.10 and refrain from including confidential information in legal papers filed with the Department of Court Records or the Court whether filed electronically or in a paper format.

RULE 580.1 DISPOSITION OF PRETRIAL MOTIONS; TIMING

All outstanding pretrial motions shall be heard and disposed of prior to the selection of a jury.

RULE 580.2 PROCEDURE FOLLOWING RECUSAL

In the event that any assigned judge shall recuse himself or herself from trial of any case, the case shall forthwith be referred to the Administrative Judge for reassignment to any available judge, including the Administrative Judge.

RULE 580.3 TRANSFER OF JUVENILE FROM CRIMINAL PROCEEDINGS

(a) This rule is applicable only to cases involving any child, as that term is defined in Subsection (1) of the definition of “Child” in 42 Pa.C.S. §6302, who is excluded from the Juvenile Act in accordance with Subsection (2)(ii), (iii), and (v) of the definition of “Delinquent act” in 42 Pa.C.S. §6302 (hereinafter “excluded actor”).

(b) Should any excluded actor seek transfer of a case from Criminal Division to the Juvenile Section of the Family Division, such excluded actor shall file a petition to transfer (hereinafter “petition”) with the Clerk of Courts within twenty (20) days after the excluded actor’s preliminary hearing.

(c) The Clerk of Courts shall identify and segregate all case files maintained on excluded actors and, upon request, make such files available to the Judge designated to hear petitions at any time such files are necessary for the orderly administration of justice.

(d) If the excluded actor’s petition is denied, the case shall proceed in the Criminal Division.

(e) If the excluded actor’s petition is granted, and barring an appeal by the Commonwealth, the criminal proceeding shall halt immediately. The case shall be transferred to the Juvenile Section of the Family Division together with a copy of the accusatory pleading and other papers, documents, and transcripts of testimony related to the case. If the child is incarcerated in the Allegheny County Jail, the child shall be transferred immediately to Shuman Center. The Court may release the child to the custody of a parent, guardian or custodian, or other person legally responsible for the child. The Court shall direct completion and transmission of written notification of the transfer to the Juvenile Section of the Family Division and, if applicable, to the Sheriff.

(f) Upon receipt of the order of court transferring the case to the Juvenile Section of the Family Division, the Clerk of Courts shall immediately transfer the case file to the Prothonotary.

RULE 582.1 JOINDER; TRIAL OF SEPARATE INDICTMENTS OR INFORMATIONS

In the event that all cases to be joined for trial have been assigned to the same judge, that assigned judge shall rule on any motion for joinder. In all other cases, the Administrative Judge shall rule on such motion.

RULE 582.2 CONSOLIDATION OF CASES

(a) When one or more defendants are charged in more than one criminal information and those cases have been assigned to different judges, in the interest of judicial economy, at the request of either party, or on the Court's own motion, such cases shall be consolidated in the following manner:

- (1) The judge assigned to the most serious criminal information(s) as reflected by the grade of the offense(s) shall dispose of all criminal informations.
- (2) If all the criminal informations are of the same grading, the judge assigned to the criminal information(s) scheduled for the earliest original pretrial conference date shall dispose of all the criminal informations.
- (3) If a defendant is incarcerated, the judge assigned to the criminal information(s) scheduled for the earliest original pretrial conference date shall dispose of all criminal informations irrespective of whether that Judge is assigned to the most serious criminal information.

(b) Nothing herein prohibits the assigned judges from agreeing to modify this procedure, where the interest of judicial economy so dictates, nor do these provisions prohibit any of the assigned judges from denying consolidation of any one or all of the criminal informations.

RULE 602.1 WAIVER OF RIGHT TO TESTIFY BY DEFENDANT

In all cases, the defendant may waive the right to testify. The judge shall ascertain from the defendant whether the waiver is a knowing, voluntary and intelligent waiver. A waiver colloquy, on the record, should be conducted by defense counsel, but may be supplemented by the Court and/or the Attorney for the Commonwealth. In a jury trial, the colloquy shall be held outside the presence of the jury before the defense rests its case.

RULE 602.2 WAIVER OF CHARACTER DEFENSE

In all cases, the defendant shall have the right to call character witnesses in the defendant's defense. Where the defendant chooses not to call character witnesses, the trial judge shall ascertain from the defendant whether this is a knowing, voluntary and intelligent waiver. A waiver colloquy, on the record, should be conducted by defense counsel, but may be supplemented by the Court and/or the Attorney for the Commonwealth. In a jury trial, the colloquy shall be held outside the presence of the jury before the defense rests its case.

RULE 630.1 REQUESTS FOR INFORMATION CONCERNING PROSPECTIVE JURORS

All requests for lists of prospective jurors, requests for juror qualification forms and any other requests for information concerning prospective jurors pursuant to Pa.R.Crim.P. 630 shall be made in writing to the President Judge.

RULE 701.1 PLEAS TO MULTIPLE INFORMATIONS

When a defendant is charged in more than one criminal information and the cases have been assigned to different judges, the provisions of All.C.R.Crim.P. 582.2 shall apply when the defendant seeks to consolidate all criminal informations before one judge for purposes of entering a general plea of guilty to all cases, a negotiated plea, a plea of nolo contendere or any combination of the foregoing pleas.

RULE 705.1 FINES, COSTS AND RESTITUTION

- (a) In any matter in the Criminal Division, wherein fines, costs and/or restitution are ordered by the Court, all monies shall be paid to and be collected by the Clerk of Courts.
- (b) The Clerk of Courts shall keep proper records of the collection and disbursement of any court-ordered fines, costs and/or restitution and make appropriate payment to parties entitled to same.

RULE 720.1 POST-SENTENCE MOTIONS

- (a) Counsel filing post-sentence motions shall indicate thereon in writing whether or not a transcript is required for the hearing of the motion and whether the same, if required, has been ordered from the court reporter.
- (b) In the event that one or more claims of ineffective assistance of trial counsel is raised in post-sentence motions, counsel filing the motions shall indicate thereon in writing that an evidentiary hearing on the matter is requested and attach thereto a preliminary order of court scheduling said hearing for action by the judge.
- (c) In the event that one or more claims of after-discovered evidence is raised in post-sentence motions, counsel filing the motions shall indicate thereon in writing that an evidentiary hearing on the matter is requested and attach thereto a preliminary order of court scheduling said hearing for action by the judge.

RULE 720.2 BRIEFS REQUIRED; TIME FOR FILING; COPIES TO BE SERVED

- (a) Upon receiving notice of an order that, pursuant to Pa.R.Crim.P. 720(B)(2)(a), briefs are required for a resolution of the motion, the defendant shall file a brief not later than twenty-one (21) days prior to the day scheduled for argument. The Commonwealth shall file a brief not later

than seven (7) days after service of the defendant's brief. A reply may be filed by defendant two (2) days after service of the Commonwealth's brief, and by the Commonwealth two (2) days after service of defendant's reply brief.

(b) One copy of each brief shall be filed with the Clerk of Courts, one copy shall be served on each co-defendant separately represented, one copy shall be served on the Attorney for the Commonwealth, and one copy shall be served on the Court Administrator of the Criminal Division.

RULE 902.1 FORM AND FILING OF PCRA PETITIONS

Petitions under the Post Conviction Relief Act shall be docketed to the case number of the conviction which the defendant is challenging, with a cross-reference to companion cases, if any.

RULE 903.1 TIME FOR PRELIMINARY ORDER

Except where summary dispositions may be made pursuant to Pa.R.Crim.P. 907, the judge shall review the petition and enter a preliminary order thereon, within twenty (20) days following its receipt.

RULE 904.1 WAIVER OF POST-CONVICTION COUNSEL

If the petitioner indicates that he wishes to proceed without the assistance of post-conviction counsel, the judge shall schedule a date to place a waiver colloquy on the record, at which time the petitioner, appointed or retained counsel, and the Attorney for the Commonwealth shall be present.

RULE 905.1 AMENDED PETITIONS

(a) Counsel for petitioner shall file an amended petition within thirty (30) days of the entry of the order directing the filing of an amended petition, or within the time otherwise set forth in the order of the court.

(b) The amended petition shall plead specific facts which are the basis of the relief requested in the petition, and either point to the place in the record where such are found or attach supporting affidavits or other proffers of evidence.

(c) For good cause shown, the judge may extend the time for filing an amended petition.

RULE 906.1 ANSWERS TO PETITIONS

(a) If an amended petition is ordered by the judge or if deemed necessary by the Commonwealth's attorney, the Commonwealth shall have thirty (30) days from the filing of the amended petition to file an answer, or such time as is otherwise set forth by order of the court.

(b) For all petitions, when the judge has ordered the Commonwealth to file an answer and the Attorney for the Commonwealth fails to file an answer within the time permitted in the preliminary order or in any extension(s) which may be granted, counsel for the petitioner may move the Court that the requested relief be granted. The judge shall forthwith enter an order either directing the Attorney for the Commonwealth to file an answer or fixing the time for a hearing or argument.

RULE 907.1 DISPOSITION WITHOUT HEARING

If, after reviewing the petition and any amendments and answers thereto, the judge determines that there are no genuine issues of material fact, a notice and order comporting with the requirements of Pa.R.Crim.P. 907 shall be entered and served upon the petitioner, by certified mail, and upon counsel, as prescribed by Pa.R.Crim.P. 114.

RULE 908.1 HEARING

(a) If the judge determines that a hearing is required under Pa.R.Crim.P. 907 and 908, the judge shall set a hearing date within sixty (60) days of the filing of the answer by the Commonwealth.

(b) The judge shall render a decision within ninety (90) days following the close of the evidentiary hearing or following the submission of post-hearing briefs.