

# **LOCAL RULES OF THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, CRIMINAL DIVISION**

## **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; Consistency With Statewide Rules**

**(a)** 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.

**(b)** Any requirement imposed by these rules is in addition to, and not in lieu of, the requirements under the Pennsylvania Rules of Criminal Procedure.

**(c)** No pleading or other legal paper shall be refused for filing by the clerk of courts based upon a failure to comply with a requirement imposed by these rules. No case shall be dismissed nor request for relief granted or denied because of a failure to comply with such a requirement. If a party fails to comply with such a requirement, the court shall notify the party of the failure and provide a reasonable time for the party to comply with the requirement.

## **Rule 102.1. Citation of Local Rules Currentness**

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**

**(a)** 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.

**(b)** The following words and phrases, when used in any Allegheny County Rule of Criminal Procedure, shall have the following meanings:

*Bail Enforcement Agent* is an individual who performs services or takes action for the purpose of enforcing the terms and conditions of a defendant's release from custody on bail, including locating, apprehending and surrendering a defendant released from custody on bail who has failed to appear at a specified time and place pursuant to Order of Court. The term does not include police officers, sheriffs, court officers or law enforcement personnel who execute warrants of arrest for bail forfeitures pursuant to their official duties.

*Clerk of Courts* is the Director of the Allegheny County Department of Court Records, Criminal Division.

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*Corporate Surety* is any corporation, limited liability corporation or partnership which engages in the business of providing bail, providing or soliciting bail undertakings, or providing or soliciting indemnity or counter-indemnity to others on bail undertakings. The term applies to any and all surety bail bond businesses and their agents and fidelity companies and their agents in addition to surety businesses authorized by Order of Court.

*Professional Bail Bondsman* is any person other than a fidelity or surety company or any of its officers, agents, attorneys, or employees authorized to execute bail bonds or to solicit business on its behalf who: (1) engages in the business of giving bail, giving or soliciting undertakings, or giving or soliciting indemnity or counter-indemnity to securities on undertakings; or (2) within a period of thirty (30) days has become a surety or has indemnified a surety, for the release on bail of a person, with or without a fee or compensation, or promise thereof; in three or more matters not arising out of the same transaction (see 42 Pa.C.S.A. § 5741 et seq.).

*Surety Business* is any corporate surety, fidelity company, surety company authorized by Order of Court, professional bail bondsman licensed by the Pennsylvania Department of Insurance to do business in the Commonwealth of Pennsylvania, or agents and employees thereof.

## **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.

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## **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. 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.allegenycourts.us](http://www.allegenycourts.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

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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 appointment of counsel for criminal cases shall be at the discretion of each Judge of the Fifth Judicial District and shall require a written motion by the Office of the Public Defender of Allegheny County setting forth the basis for the conflict.

(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 if rejecting the case, refer the request to appoint to 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 refer the case to the assigned Judge for the appointment of 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 his or her 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 Administrative Judge.

(f) Upon appointment by either the Administrative Judge or Trial Judge, 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 and 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 Department of Records Office and published on the website of the Fifth Judicial District of Pennsylvania at Allegheny Courts - Fifth Judicial District of Pennsylvania.

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## **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

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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

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(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.

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## **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 316.1. ARD Administration Fee**

(a) Every person placed into the Accelerated Rehabilitative Disposition (“ARD”) program, shall, as a condition of placement into the program, pay an administrative fee of four hundred, fifty dollars (\$450.00) per case.

(b) This fee shall be imposed to defray the expense of the District Attorney in administering the program in the amount of two hundred dollars (\$200.00) per case, and to defray the expense of the Pretrial Services Department in administering the program in the amount of two hundred, fifty dollars (\$250.00) per case.

(c) This fee shall be in addition to the cost of prosecution, restitution, fees and other costs imposed as conditions of placement into the program.

(d) The funds collected pursuant to this rule shall be deposited into the General Fund of the County of Allegheny, but shall be separately identified in the County's records so that the amounts collected may be readily ascertained.

## **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

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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 507.3. Approval of Police Complaints and Arrest Warrant Affidavits by Attorney for the Commonwealth in Cases Where Victims Are 65 Years Old or Older**

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), Aggravated Indecent Assault (18 Pa.C.S. § 3125), Neglect of a Care Dependent Person (18 Pa.C.S. § 2713), Aggravated Assault (18 Pa.C.S. § 2702), Robbery (18 Pa.C.S. § 3701), Theft by Deception (18 Pa.C.S. § 3922--Felony grade), Identity Theft (18 Pa.C.S. § 4120), Misapplication of Entrusted Property and Property of Government or Financial Institutions (18 Pa.C.S. § 4113), and Home Improvement Contracts (73 P.S. § 517.7), and Criminal Attempt (18 Pa.C.S. § 901), Criminal Conspiracy (18 Pa.C.S. § 903) or Criminal Solicitation (18 Pa.C.S. § 902) to commit any of the offenses listed above, where the victim is 65 years old or older, shall not hereafter be accepted by any judicial officer unless the criminal complaint and probable cause affidavit have the approval of an attorney for the Commonwealth prior to filing.

### **Rule 507.4. Approval of Police Complaints and Arrest Warrant Affidavits by Attorney for the Commonwealth in Felony 1 Robbery and Robbery of Motor Vehicle Cases**

The District Attorney of Allegheny County, Stephen A. Zappala, Jr., having filed a certification pursuant to

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Pa.R.Crim.P. 507, criminal complaints and arrest warrant affidavits by police officers, as defined in the Rules of Criminal Procedure, charging Robbery (18 Pa.C.S. § 3701(a)(1)(i), (ii), or (iii)) and Robbery of Motor Vehicle (18 Pa.C.S. § 3702(a)) 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 507.5. Approval of Police Complaints and Arrest Warrant Affidavits by Attorney for the Commonwealth in Wiretapping 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 Interception, Disclosure or Use Of Wire, Electronic or Oral Communications (18 Pa.C.S. § 5703), or Possession, Sale, Distribution, Manufacture or Advertisement of Electronic, Mechanical or Other Devices and Telecommunication Identification Interception Devices (18 Pa.C.S. § 5705) 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 507.6. Approval of Certain Police Agency Complaints and Arrest Warrant Affidavits by Attorney for the Commonwealth for Designated Felony Crimes**

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 filed by police officers in the designated police agencies listed as follows, as defined in the Rules of Criminal Procedure, charging the following designated felony crimes 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.

### **DESIGNATED FELONY CRIMES**

- a) Aggravated Assault of unborn child--18 Pa.C.S. § 2606(a)
- b) Aggravated Assault--18 Pa.C.S. § 2702(a)(1) through (9)
- c) Aggravated assault of law enforcement officer 18 Pa.C.S. § 2702.1(a)
- d) Stalking--18 Pa.C.S. § 2709.1(a)(1) and (c)(2)
- e) Stalking--18 Pa.C.S. § 2709.1(a)(2) and (c)(2)
- f) Threat to use weapons of mass destruction--18 Pa.C.S. § 2715(a)(3) and (b)(2) and (b)(4)
- g) Threat to use weapons of mass destruction--18 Pa.C.S. § 2715(a)(4) and (b)(2) and (b)(4)

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- h) Weapons of mass destruction--18 Pa.C.S. § 2716(a)
- i) Weapons of mass destruction--18 Pa.C.S. § 2716(b)
- j) Terrorism--18 Pa.C.S. § 2717(a)
- k) Kidnapping--18 Pa.C.S. § 2901(a)
- l) Unlawful restraint of minor--18 Pa.C.S. § 2902(b) and (c)
- m) False imprisonment of a minor--18 Pa.C.S. § 2903(b) and (c)
- n) Trafficking in individuals--18 Pa.C.S. § 3011(a) and (b)
- o) Involuntary Servitude--18 Pa.C.S. § 3012(a)
- p) Patronizing a victim of sexual servitude--18 Pa.C.S. § 3013(a)
- q) Unlawful conduct regarding documents--18 Pa.C.S. § 3014
- r) Causing or risking catastrophe--18 Pa.C.S. § 3302(a) and (b)
- s) Burglary--18 Pa.C.S. § 3502(a)
- t) Criminal trespass--18 Pa.C.S. § 3503(a)
- u) Forgery--18 Pa.C.S. § 4101(a)
- v) Intimidation of witness--18 Pa.C.S. § 4952(a) and (b)(1) through (4)
- w) Retaliation against witness/victim--18 Pa.C.S. § 4953(a) and 4952(1) through (5)
- x) Retaliation against prosecutor/judicial official--18 Pa.C.S. § 4953.1(a) and (b)(1) through (5)
- y) Intimidation, retaliation or obstruction in child abuse cases--18 Pa.C.S. § 4958(a)(b), (b.1) and (c)(1)
- z) Disarming law enforcement officer--18 Pa.C.S. § 5104.1(a)
- aa) Recruiting criminal gang member--18 Pa.C.S. § 5131(a) and (b)(1)(iii) and (2)
- bb) Riot--18 Pa.C.S. § 5501
- cc) Animal Fighting--18 Pa.C.S. § 5511(h.1)(1) through (7)
- dd) Facsimile weapons of mass destruction--18 Pa.C.S. § 5516(a)
- ee) Operation of methamphetamine laboratory--18 Pa.C.S. § 7508.2

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- ff) Criminal use of communication facility--18 Pa.C.S. § 7512(a)
- gg) Aggravated assault by watercraft while operating under influence--30 Pa.C.S. § 5502.3(a)
- hh) Manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance--35 P.S. § 780-113(a)(30)
- ii) Unlawful manufacture of methamphetamine--35 P.S. § 780-113(a)(38)
- jj) Operating a methamphetamine laboratory--35 P.S. § 780-113.4(a)(1)(2)(3) and (b)(1)
- kk) Aggravated assault by vehicle--75 Pa.C.S. § 3732.1(a)
- ll) Aggravated assault by vehicle while driving under the influence--75 Pa.C.S. § 3735.1(a)
- mm) Accidents involving death or personal injury-- 75 Pa.C.S. § 3742(a) and (b)(2) and (3)(i)
- nn) Accidents involving death or personal injury while not properly licensed--75 Pa.C.S. § 3742.1(a) and (b)(2)

### DESIGNATED POLICE AGENCIES TO WHICH THIS RULE APPLIES

Pittsburgh Bureau of Police  
Allegheny County Police Department  
Braddock Borough Police Department  
Braddock Hills Borough Police Department  
Chalfont Borough Police Department  
Clairton City Police Department  
Churchill Borough Police Department  
Duquesne City Police Department  
East McKeesport Police Department  
East Pittsburgh Police Department  
Edgewood Borough Police Department  
Elizabeth Borough Police Department  
Elizabeth Township Police Department  
Forest Hills Borough Police Department  
Forward Township Police Department  
Glassport Borough Police Department  
Homestead Borough Police Department  
Liberty Borough Police Department

# **LOCAL RULES OF THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, CRIMINAL DIVISION**

Lincoln Borough Police Department  
McKeesport City Police Department  
Monroeville Borough Police Department  
Munhall Borough Police Department  
North Braddock Borough Police Department  
North Versailles Township Police Department  
Oakmont Borough Police Department  
Penn Hills Township Police Department  
Penn State Greater Allegheny Police Department  
Pitcairn Borough Police Department  
Plum Borough Police Department  
Port Vue Borough Police Department  
Rankin Borough Police Department  
Swissvale Borough Police Department  
Trafford Borough Police Department  
Turtle Creek Borough Police Department  
Verona Borough Police Department  
Versailles Police Department  
Wall Borough Police Department  
West Homestead Borough Police Department  
West Mifflin Borough Police Department  
Whitaker Borough Police Department  
White Oak Borough Police Department  
Wilkins Township Police Department  
Wilkinsburg Borough Police Department  
Wilmerding Borough Police Department

## **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.

# **LOCAL RULES OF THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, CRIMINAL DIVISION**

(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.

# **LOCAL RULES OF THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, CRIMINAL DIVISION**

## **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 531.2. Regulation of Surety Businesses**

- (a) Requirements to Become Qualified. To become qualified to post bond, the surety business must:
  - (1) Fully comply with all laws, statutes, local rules and rules of court as may be established from time to time.
  - (2) Deliver to the Clerk of Courts and the District Attorney satisfactory proof, on the approved form, that the surety business is licensed by the Pennsylvania Department of Insurance to do business in the Commonwealth of Pennsylvania;
  - (3) Deliver satisfactory proof of the agency relationship between the surety business and its agents to the District Attorney and Clerk of Courts. The execution of any bail bond by such agents shall be a valid and binding obligation of the surety business;
  - (4) Deliver satisfactory proof to the Clerk of Courts and the District Attorney that any agent designated to act on behalf of the surety business is duly licensed by the Pennsylvania Department of Insurance;
  - (5) Deliver satisfactory proof to the Clerk of Courts and the District Attorney that the surety business maintains an office in Allegheny County from which its business is conducted and where service of notices may be made. Every surety business, shall keep at its office in Allegheny County the usual and customary records pertaining to transactions authorized by its license and/or the license of any of its agents, including, but not limited to, such records of bail bonds executed or countersigned by the surety business, to enable the court to obtain all necessary information concerning such bail bonds for at least three (3) years after the liability of the surety has been terminated. Such records shall be open at all times to examination, inspection or copying by the Court or its representative. Any and all information shall be furnished in such manner or form as the Court requires;
  - (6) Certify to the Clerk of Courts and the District Attorney that no agent or employee of the surety business

## **LOCAL RULES OF THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, CRIMINAL DIVISION**

*has been convicted of any criminal offense. The certification must be based on a criminal history records check conducted by the Pennsylvania State Police for each employee and agent, and a copy of the search results must be attached to a list of employees and agents and certification submitted with the petition required by subsection (c) of this rule. Conviction of an agent or employee of a surety business will render the surety business ineligible to conduct business in the Fifth Judicial District;*

*(7) Post with the Clerk of Courts as security the minimum sum of \$250,000 in United States currency or unencumbered securities of the United States Government, which will entitle the surety business, to post bond in the aggregate sum of*

*\$1,000,000, and by further posting the sum required for each individual bond or undertaking with the bail authority. Provided, however, that the surety business must post additional security with the Clerk of Courts in the event the surety business intends to post bond in excess of \$1,000,000. The additional security to be posted with the Clerk of Courts must be in units of \$250,000 which will entitle the surety business to post bond in the additional sum of \$1,000,000 per \$250,000 unit;*

*(8) Provide to the Clerk of Courts and the District Attorney a financial statement certified by a Certified Public Accountant which verifies that the surety business has sufficient assets to satisfy all bail obligations undertaken by or on behalf of the surety business in the Fifth Judicial District and in other jurisdictions in which the surety business conducts business. A current certified statement must be filed with the petition required in subsection (c) of this rule;*

*(9) Certify to the Clerk of Courts and the District Attorney that only the surety business which is approved by the President Judge upon petition as provided in this rule, may post bail for defendants, in the name exactly as it appears on the surety's license, and not in the name of any agent or other business entity;*

*(10) Certify to the Clerk of Courts and the District Attorney a schedule of the fees to be charged Criminal Division defendants for issuing the bail bond. Such fees may not change unless notice is given to the President Judge and Administrative Judge at least thirty (30) days prior to the effective date of the proposed revised fees (see 42 Pa.C.S.A. § 5748);*

*(11) Upon approval of the petition required in subsection (c) of this rule, register with the Clerk of Courts and the District Attorney and pay to the Clerk of Courts an initial registration fee of \$1,000.00, or such amount as may be established from time to time by the Clerk of Courts with the approval of the President Judge;*

*(12) Certify that the surety business will not represent itself, directly or indirectly, as an employee or agent of the Commonwealth of Pennsylvania or Fifth Judicial District or the County of Allegheny. Agents and employees of a surety business must not wear clothing or present badges or any other form of law enforcement credentials that create the impression of employment of the Commonwealth of Pennsylvania, the Fifth Judicial District or any of its units, including the Pretrial Services Unit or the Warrant Unit of the Fifth Judicial District or the County of Allegheny;*

**(b) Requirements to Remain Qualified.** To remain qualified to post bond, the surety business must:

*(1) Maintain compliance with the requirements specified in subsection (a) of this rule;*

## **LOCAL RULES OF THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, CRIMINAL DIVISION**

- (2) Provide quarterly statements certified by the surety business that it is in compliance with the security posting requirements specified in subsection (a)(7) of this rule to the Clerk of Courts and the District Attorney as required by 42 Pa.C.S.A. § 5747;
- (3) Provide to the Clerk of Courts and the District Attorney, on a quarterly basis, or as often as requested by the President Judge or the Administrative Judge, a financial statement certified by a Certified Public Accountant which verifies that the surety business has sufficient assets to satisfy all bail obligations undertaken by the surety business in the Fifth Judicial District and in other jurisdictions in which the surety business conducts business;
- (4) Satisfy in full any forfeiture order entered against a defendant or the surety business for a defendant's violation of a bail bond within ninety (90) days of the issuance of the order. In the event the surety business fails to satisfy such forfeiture order, the order will be satisfied from the funds posted with the Clerk of Courts pursuant to subsection (a)(7) of this rule. In that event, the surety business will be prohibited from posting additional bail until such time as all forfeiture orders entered against the surety business are satisfied in full;
- (5) Immediately notify, in writing, the President Judge, the Administrative Judge and the District Attorney if an agent or employee of a surety business has been charged with any criminal offense, or if the license of an agent or employee has been revoked, suspended or not renewed in the Commonwealth of Pennsylvania or any other jurisdiction;
- (6) Cease posting bonds if the aggregate maximum amount of unsettled and outstanding bail forfeitures, as determined by the Clerk of Courts and the District Attorney, equals or exceeds \$250,000. The Clerk of Courts, or a designee, shall promptly notify the Common Pleas Court President Judge, and Administrative Judge, Pretrial Services, Pittsburgh Municipal Court, the District Attorney, and the applicable surety business of the occurrence of having reached this maximum limit. Immediately upon notification, no further bonds by the surety business are authorized or acceptable for posting. When full financial settlement has been made of the outstanding bail forfeitures, the Clerk of Courts, or a designee, shall promptly notify the Common Pleas Court President Judge and the Administrative Judge, Pretrial Services, Pittsburgh Municipal Court and the District Attorney, and the applicable surety business that the posting of bonds may resume;
- (7) Not represent or identify itself, directly or indirectly, as employees or agents of the Commonwealth of Pennsylvania or Fifth Judicial District or the County of Allegheny. The agents and employees of a surety business must not wear clothing or present badges or any other form of law enforcement credentials that create the impression of employment by the Commonwealth of Pennsylvania, the Fifth Judicial District or any of its units, including the Pretrial Services Unit or the Warrant Unit of the Fifth Judicial District or the County of Allegheny;
- (8) Annually renew their registration with the Fifth Judicial District, provide all certifications required by this rule and pay to the Clerk of Courts an annual renewal registration fee of \$250.00, or such amount as may be established from time to time by the Clerk of Courts with the approval of the President Judge;

## **LOCAL RULES OF THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, CRIMINAL DIVISION**

(9) Fully comply with all laws, statutes, local rules, rules of court and procedures as may be established from time to time.

(c) Seeking Approval as a Corporate Surety. Any surety business which is licensed by the Pennsylvania Department of Insurance may seek approval to post bail in the Fifth Judicial District by filing a petition with the Clerk of Courts and the District Attorney. The petition must provide the information, documents and certifications set forth in subsection (a) of this rule. Upon filing, the petition will be assigned to the Administrative Judge for determination.

(d) Opportunity to Be Heard. A surety business whose petition seeking approval to post bail in the Fifth Judicial District is denied will be provided an opportunity to be heard and to contest the denial. Any surety business seeking to contest the denial of its petition for approval to post bail in the Fifth Judicial District must file a petition with the Clerk of Courts and serve District Attorney within thirty (30) days of the date of denial of its initial petition, and set forth the relief requested and the factual basis therefor. Similarly, a surety business, which has received approval to post bail in the Fifth Judicial District as provided in this rule, but which has been prohibited from posting additional bail, or is otherwise ineligible to post bail in the Fifth Judicial District, will be provided an opportunity to be heard. Any surety business, seeking to contest its prohibition from posting additional bail in the Fifth Judicial District, or any other ineligibility subsequent to its initial approval hereunder, must file a petition with the Clerk of Courts and District Attorney within thirty (30) days of the date of the prohibition or determination of ineligibility, and set forth the relief requested and the factual basis therefor.

(e) Prohibited Conduct. A surety business and agents and employees thereof may not engage in prohibited conduct, which includes the violation of any applicable laws, statutes, local rules, rules of court, or the commission of any of the following acts:

- (1) having a license as a surety business revoked in this or any other state;
- (2) being involved in any transaction which shows unfitness to act in a fiduciary capacity or a failure to maintain the standards of fairness and honesty required of a fiduciary;
- (3) having any judgment entered which would reduce the surety business' net worth below the minimum required for licensure;
- (4) being convicted of any criminal offense;
- (5) failing to promptly advise the Administrative Judge, the District Court Administrator and the District Attorney of any change in circumstances which would materially affect any of the statements, information or certifications required by this rule;
- (6) using an unregistered agent to post bail or provide any bail undertaking on behalf of the surety business;
- (7) using an individual or entity not contracted and appointed by the surety business to post bail or provide bail undertaking on behalf of the surety business;
- (8) signing, executing or issuing bonds by a person or entity which is not registered as an agent of the surety business and/or for which there is no satisfactory proof of an agency relationship with the surety business;
- (9) executing a bond without the appropriate counter signature by a licensed and/or authorized agent at time of

# **LOCAL RULES OF THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, CRIMINAL DIVISION**

issue;

- (10) failing to account for or pay any premiums held in a fiduciary capacity;
- (11) misstating or misrepresenting any material fact in the initial petition or any subsequent petitioners, required by this rule, or in any of the statements, information or certifications required by this rule;
- (12) failing to preserve, and to retain separately, any collateral obtained as security on any bond;
- (13) failing to return collateral taken as security on any bond to the depositor of such collateral, or the depositor's designee, within ten (10) business days of having been notified of the exoneration of the bond and upon payment of all fees owed to the surety business, whichever is later;
- (14) offering or providing any consideration or gratuity to any person employed by, or incarcerated in, a jail facility, any person who has the power to arrest or to hold any person in custody, or to any court officers and attorneys to obtain or secure business;
- (15) failing to deliver to the defendant, and any person providing collateral on the defendant's behalf, prior to the time the defendant is released from jail, a one-page disclosure form which, at a minimum, must include:
  - (A) the amount of the bail;
  - (B) the amount of the surety's fee, including bail bond premium, preparation fees, and credit transaction fees;
  - (C) the collateral that will be held by the surety;
  - (D) the defendant's obligations to the surety and the court;
  - (E) the conditions upon which the bond may be revoked;
  - (F) any additional charges or interest that may accrue;
  - (G) any co-signors or indemnitors that will be required; and
  - (H) the conditions under which the bond may be exonerated and the collateral returned;
- (16) failing to provide the Pretrial Services Unit of the Fifth Judicial District the fully executed one-page disclosure form required by subsection (e)(15) of this rule at the time bond is posted;
- (17) charging excessive fees or other unauthorized charges;
- (18) requiring unreasonable collateral as security;
- (19) failing to provide an itemized statement of any and all expenses deducted from collateral, if any;
- (20) advising, requiring or suggesting that, as a condition of posting a bail bond by a surety business, a defendant engage the services of a particular law firm or attorney;
- (21) preparing or issuing a fraudulent or forged bail bond, power of attorney or other document;

# **LOCAL RULES OF THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, CRIMINAL DIVISION**

- (22) knowingly violating, advising, encouraging, aiding, abetting or assisting the violation of any applicable law, statute, local rule or rule of court;
- (23) soliciting or procuring sexual favors as a condition of obtaining, maintaining or exonerating a bail bond, regardless of the identity of the person who performs such favors;
- (24) providing legal advice or a legal opinion in any form; and
- (25) holding themselves out by their manner of dress as being a public official.

## **Rule 536.1. Forfeitures and Bail Pieces**

### **(a) Forfeitures.**

- (1) If a bail bond is ordered to be forfeited pursuant to Pa.R.Crim.P. 536, execution of the order shall be delayed until ninety (90) days from the date of the filing of the forfeiture order.
- (2) If a defendant whose bail has been ordered forfeited surrenders within ninety (90) days of the date of the entry of the order, the Administrative Judge or a designee may set aside the forfeiture order and either reinstate bail or set a new bail without the necessity of the filing of a petition as hereinafter provided.
- (3) Unless the forfeiture order has been set aside as provided for in subsection (2), in order for a surety to have the forfeiture order set aside or remitted in whole or in part, the party seeking remission, set aside or exoneration shall present a petition to the Administrative Judge or a designee, file the petition with the Clerk of Courts, and serve a copy thereof upon the District Attorney. The petition shall set forth in detail the reasons for seeking the set aside, remission or exoneration. In order to facilitate the assessment and investigation of petitions requesting remittance, the surety is required to delineate within the petition the following:
  - (A) A recitation of the history of the case including the charges, the date the bond was set, the amount of the bond, and the name and district of the issuing authority;
  - (B) The date of forfeiture and nature of the proceeding at which forfeiture occurred;
  - (C) A statement establishing the fact that the defendant was apprehended including the date of apprehension and the agency responsible for the apprehension;
  - (D) A detailed summary of all efforts by the petitioner to apprehend the defendant including the name, phone number and address of all agents hired or assigned to effectuate the apprehension, and all times, dates, and locations searched;
  - (E) A declaration that the apprehension or return of the defendant was effected by the efforts of the surety or that those efforts at least had a substantial impact on the defendant's apprehension; and a clear and specific factual recitation in support of the above declaration.

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**(b) Bail Pieces.** After a bail piece is issued pursuant to Pa.R.Crim.P. 536 and the defendant is apprehended by or on behalf of the surety, the defendant must be brought before the Administrative Judge or a designee in accordance with Pa.R.Crim.P. 150. Bail pieces shall not be utilized to exonerate the surety.

## **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

# **LOCAL RULES OF THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, CRIMINAL DIVISION**

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.

# **LOCAL RULES OF THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, CRIMINAL DIVISION**

## **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;

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- (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.

# **LOCAL RULES OF THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, CRIMINAL DIVISION**

## **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.

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(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.

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## **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.

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## **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.

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**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.

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## **ALLEGHENY COUNTY RULES OF JUDICIAL ADMINISTRATION CRIMINAL DIVISION: CUSTODY OF EXHIBITS IN COURT PROCEEDINGS**

### **RULE 5101.3 CRIMINAL DIVISION CUSTODY OF EXHIBITS. DEFINITIONS**

- (a) The following words and phrases when used in these rules shall have the following meanings, unless the context clearly indicates otherwise, or the particular word or phrase is expressly defined in the chapter in which the particular rule is included:
  - 1. “Court proceeding.” Any trial, hearing, argument or similar event before a judge, panel, or hearing officer where evidence, if entered, is on the record. It does not include a proceeding before a Magisterial District Court.
  - 2. “Custodian.” The custodian shall be the proponent of the exhibit. Custodian shall also include the custodian’s designee. However, where circumstances occur that the proponent is unable to serve as custodian, either a member of court staff, court reporter, clerk of court, and/or hearing officer may serve as custodian, as designated by the presiding judge, consistent with Rule of Judicial Administration 5103(d).
  - 3. “Exhibit.” A document, record, object, photograph, model or similar item offered into evidence whether or not admitted, in a court proceeding.
  - 4. “Proponent.” A party seeking the admission of an exhibit into the record in a court proceeding.
  - 5. “Records office.” The Allegheny County Department of Court Records, Criminal Division (“Department of Court Records”) will serve as the records office for the Allegheny County Court of Common Pleas Criminal Division.
- (b) For any words and phrases not defined by these rules, meaning may be discerned through examination of its dictionary definition and its legal meaning may be gleaned from its use in an application body of law.

### **RULE 5102.3 CRIMINAL DIVISION CUSTODY OF EXHIBITS. GENERAL PROVISIONS**

- (a) In all Criminal Division court proceedings, the trial judge must designate an individual who shall serve as that party’s custodian of exhibits throughout the court proceedings and until such time as the court proceedings conclude.
  - 1. The custodian of exhibits shall be identified at the outset of the court proceedings, and all parties’ custodian’s names shall be placed on the record. The default custodian shall be the trial for each party who enters an appearance in the particular proceeding.
  - 2. The Court shall identify a Court custodian whose role during the court proceedings shall be limited to locking the Courtroom at the conclusion of each day of the court proceedings and opening the Courtroom at the beginning of each day of the court proceedings. The default court custodian shall be the courtroom tipstaff.
  - 3. If the Court determines that a *pro se* party is unable to perform the duties of a custodian, stand-by counsel will serve as the custodian. In the event that stand-by counsel has not been appointed, the Public Defender’s Office will be appointed as custodian.

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- (b) During and throughout the court proceedings, including breaks and recesses, the custodians shall secure and maintain all exhibits, unless otherwise provided in Pa. R.J.A. 5103(c)-(d).
- (c) The trial court judge shall maintain a paper record of all exhibits along with an index, using the number or letter used by the proponent, noting whether the exhibit was admitted or rejected.
- (d) After court proceedings the exhibit custodian(s) shall:
  - 1. Retain or take custody of all documentary exhibits, photographs, and photographs of non-documentary exhibits accepted or rejected during the court proceedings. All other physical evidence, including but not limited to weapons, drugs and biological material will remain in the custody of the affiant.
  - 2. File all documentary exhibits, photographs, and photographs of non-documentary exhibits with the Department of Court Records office within five (5) business days of the conclusion of the court proceedings unless otherwise directed by the Court;
    - a. Prior to the filing, the exhibit custodians shall reconcile the exhibit index with the Court.
    - b. The custodians filing exhibits shall include an index of exhibits.
    - c. The index shall identify the exhibit using the number or letter used by the proponent during the court proceedings, whether the exhibit was admitted or rejected from evidence, and provide a description of the exhibit.
    - d. A stamped copy of the filed index of exhibits shall also be provided to the court custodian after filing with the Department of Court Records.
  - 3. Secure and maintain all other non-documentary exhibits as directed by the Court, or as agreed to by the parties.
  - 4. If one or both parties fails to file the exhibit index, the Court, sua sponte or at the behest of either party, may issue an order granting appropriate relief and/or schedule a hearing.
    - a. If a custodian determines that another party's custodian has not filed the exhibits pursuant to this rule within five (5) business days, the complying party or parties may seek appropriate relief with the Court regarding the non-compliant custodian's failure to file their exhibits.

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### **RULE 5103.3 CRIMINAL DIVISION CUSTODY OF EXHIBITS. SPECIAL PROVISIONS**

- (a) Oversized exhibits and large photographs exceeding 8 ½ x 11 inches shall be reduced in size and/or photographed so that the copy or photograph of the physical exhibit can be photocopied/scanned on to 8 ½" x 11" inch paper for filing. This shall be done by the custodian of such exhibits.
  - 1. In addition to photocopying the oversized physical exhibit the party seeking to admit said physical exhibit shall be responsible for maintaining said physical exhibit until the conclusion/completion of the trial, all post-trial events, appeals and appellate procedures.
  - 2. A proponent who provides a reduced copy of an oversized exhibit shall ensure that the reproduced document is clear and capable of further reproduction or transfer to digital media.
- (b) Use of Digital Media. A proponent shall ensure that an exhibit in digital format entered into the record is in a format compatible with court equipment.
- (c) Duplicates. The Court may direct that the original item and not a duplicate, be entered into the record.
- (d) Exhibits Under Seal. If an exhibit offered into evidence contains confidential information or confidential documents as defined by the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* (“Policy”), the proponent shall file a copy of the exhibit and a certification prepared in compliance with the Policy, and Department of Court Records requirements, with the Department of Court Records.
  - 1. Any exhibit sealed by the Court during the court proceedings shall not be accessible to the public.
- (e) Exclusion. This Rule does not apply to record hearings that may be appealed *de novo* to the Court of Common Pleas, Criminal Division.
- (f) Parties shall provide copies of exhibits to the trial judge, at the time of the trial, however, neither the Court custodian of the exhibits, nor the trial judge shall be responsible to file exhibits.
- (g) The Court of Common Pleas, Criminal Division will not store or maintain exhibits following the conclusion of the trial or court proceedings for which the exhibits were used.