

## **Local Rules of Criminal Procedure**

### Rule 100. Scope of Local Rules

These local rules of criminal procedure are adopted to be applicable to the Criminal Division of the Court of Common Pleas of Beaver County, Pennsylvania as long as they are consistent with the Pennsylvania Rules of Criminal Procedure, 42 Pa.C.S.A. § 100 et seq.

### Rule 102. Citing the Local Rules of Criminal Procedure

All local rules of criminal procedure shall be known as the Beaver County Local Rules of Criminal Procedure and shall be cited as “L. R. Crim. P. No. \_\_\_\_.”

### Rule 103. Definitions

The words and phrases, when used in any Local Rules of Criminal Procedure, shall have the same meaning ascribed to it in the Pennsylvania Rules of Criminal Procedure, unless specifically defined herein or in a Local Rule of Criminal Procedure.

### Rule 104. Design of Forms

The Court Administrator of Beaver County, Pennsylvania, in consultation with the Beaver County Local Rules of Criminal Procedure Committee, shall design and publish those forms necessary to implement these rules.

### Rule 115. Transcribing Court Proceedings and Payment

(i) The court may, on its own motion, order an original or a copy of a transcript of a record or a portion thereof for its own use.

(ii) Any defendant for whom counsel has been appointed or the court has authorized to proceed in forma pauperis, may petition the trial court to transcribe the record or portions thereof with the reasons therefor. Counsel for the Commonwealth shall be notified of such motion and may then request in writing transcription of additional portions of the record stating reasons therefor. The court shall enter an appropriate order which will be filed of record and which order shall be served by the Clerk of Courts upon the Court reporter.

(iii) Expenses of all transcripts ordered under paragraph (i) and (ii) of this rule shall be paid by Beaver County at the rates provided in Pa.R.J.A. No. 5000.7 and shall be assessed as part of the record cost.

(iv) Any defendant, with private counsel and who is not entitled to proceed in forma pauperis who desires a transcript of a record shall file a written request with the Clerk of Courts setting forth the specific portions of the record to be transcribed and shall serve copies of said request upon the Trial Court, Court Administrator, Counsel for the Commonwealth and the Court Reporter. Counsel for the Commonwealth may request in writing that additional portions of the record be transcribed within seven (7) days. Said request must be filed with the Clerk of Courts, opposing counsel, Court Reporter and Trial Court.

Any transcripts ordered under paragraph 115(iv) shall require a deposit of one half the estimated charge for the transcript prior to its preparation. Defendant or counsel for the defendant shall be informed by the Court Reporter of the amount of the deposit required. Such amount shall be paid to the Clerk of Courts, who shall issue a receipt to the defendant and a copy of same shall be delivered to the Court Reporter. Upon receiving the receipt, the Court Reporter shall prepare the transcript. Upon completion of the transcript, the court reporter shall notify the defendant of the balance due for the transcript. The transcript shall be filed with the Clerk of Courts and shall not be released until the full amount due is paid to the Clerk of Courts.

#### Rule 117. Coverage Magisterial District Judges

(1) All Magisterial District Judge Offices shall be open for regular business on Mondays through Fridays from 8:30 A.M. to 4:30 P.M. prevailing time.

(2) Magisterial District Judges shall be available 24 hours per day, every day of the calendar year to provide continuous coverage for the issuance of warrants, pursuant to Pa.R.Crim.P. 203; arrest warrants pursuant to Pa.R.Crim.P. 513; requests to accept bail and to issue emergency orders under the Protection from Abuse Act. The Magisterial District Judges shall satisfy this rule by remaining on-call during non-regular business hours on a rotating basis pursuant to a schedule prepared by the Court Administrator. The schedule shall be distributed and publicized pursuant to past practice.

(3) Magisterial District Judges shall be available during non-regular business hours each day at 8:30 A.M. and 8:30 P.M. for the purpose of providing the services set forth in Pa.R.Crim.P. 117(A)(2)(a), (b), (c) and (d). The availability of each Magisterial District Judge shall be on a rotating basis pursuant to the same schedule proposed pursuant to subdivision (2) and shall be publicized pursuant to past practice.

(4) Magisterial District Judges shall be available during regular business hours for all other business.

(5) Each Magisterial District Judges shall be available to preside over preliminary hearings at the Beaver County Courthouse, or such other location that may be established

for “Central Court”, on a rotating basis pursuant to a schedule prepared by the Court Administrator.

Rule 122. Assignment of Counsel--Public Defenders Office

The Court hereby designates and appoints the Public Defender's Office of Beaver County (see 16 P.S. § 9960 et seq.) as initial counsel for all defendants required to be assigned counsel under Pa.R.Crim.P. No. 122.

Rule 123. Public Defenders Office Prohibition

The Public Defender and all full-time and part-time attorneys appointed to and employed in that office, together with all their partners, associates, employees and employers, are prohibited from representing on a private basis:

(a) any defendant in any criminal proceeding who has at anytime during the pendency of the case made application for representation by the Public Defender's Office or in which proceeding any co-defendant has made such application; and

(b) any defendant then being represented on any other proceeding through the Public Defender's Office.

This prohibition shall not apply where the defendant initially made application to and retained said attorney or his partner, associate, employee or employer, on a private basis prior to application with the Public Defender's Office.

(ii)\* In all court cases counsel shall be assigned by the Public Defender's Office to those types of cases identified at 16 P.S. § 9960.6 as well as summary appeals where there is a likelihood that imprisonment might be imposed.

(iii) In cases of conflict in the Public Defender's Office, the Court Administrator, upon Court Order, shall assign counsel to represent defendant from those attorneys appointed to handle all conflicts cases (see 16 P.S. § 9960.7).

Rule 131. Location of Preliminary Hearing/Central Court

Pursuant to the authority contained in Pa.R.Crim.P. Rule 131(B) the President Judge of the Court of Common Pleas of Beaver County, Pennsylvania, has determined that local conditions require the establishment of procedures whereby preliminary hearings in all criminal cases, filed in all magisterial districts, shall be held at the Beaver County Courthouse on dates and times assigned by the Court Administrator of Beaver County. Said Court shall hereinafter be referred to as Central Court.

#### Rule 310. Motion for Accelerated Rehabilitation Disposition

After recommendation by the Commonwealth that a defendant be placed on the ARD program, the defendant shall be scheduled for an ARD hearing before the Court of Common Pleas for consideration for ARD. The ARD hearing shall be in accordance with the provisions contained in Pa.R.Crim.P. Nos. 311, 312, and 313.

(a) At the ARD hearing the defendant shall enter on the record a duly executed ARD colloquy form.

(b) Each defendant charged under 75 Pa.C.S.A. § 3731 and/or 75 Pa.C.S.A. § 3801 et seq. (relating to Driving Under the Influence) shall, prior to the ARD hearing be evaluated by an interviewer certified under the Court Reporting Network. Any statement made by the defendant during a Court Reporting Network evaluation and screening shall be made available to the court for the limited purpose of aiding the court to consider and rule upon a motion for Nolle Pros, ARD, plea and sentencing. Such statements obtained from the defendant shall be otherwise confidential and shall not be admissible for any other purposes in any criminal proceeding.

(c) If a defendant fails to obtain a CRN evaluation prior to the ARD hearing, his/her case may be removed from the scheduled ARD hearing list by the Court.

#### Rule 506. Procedure for Filing Private Complaint

When an affiant, who is not a law enforcement officer, desires to file a criminal complaint, for other than a summary offense, he/she must appear before the District Justice of the Magisterial District where the offense is committed and request preparation of a complaint. The office of the District Justice will prepare a criminal complaint on the form prescribed by The Administrative Office of Pennsylvania Courts (AOPC) containing the information as required by Pa.R.Crim.P. No. 504.

Affiant shall submit the complaint to the attorney for the Commonwealth, who shall approve or disapprove it without unreasonable delay.

(a) If the complaint is disapproved, the affiant, may petition the Court of Common Pleas for review.

#### Rule 524. Release on R.O.R. or Nominal Bail

For the administrative purposes of the Beaver County Pre-Trial Services Agency, any release of a defendant on his or her own recognizance shall be considered as release on nominal bail. Where a defendant is released on his or her own recognizance or on nominal bail, the court or issuing authority may designate the Beaver County Pre-Trial

Services Agency as surety for the defendant and the defendant shall then become subject to the rules and regulations of that agency.

Rule 528. Percentage Cash Bail System

A defendant, for whom bail has been set with the approval of the Court or the issuing authority or on the recommendation of the Beaver County Pre-Trial Services Agency, shall execute the bail bond and deposit, or cause to be deposited by a private third party surety with the issuing authority or the Clerk of Courts a sum of money equal to ten (10%) percent of the amount of bail set, but in no event less than twenty-five (\$25.00) dollars. Corporate sureties or professional bail bondsman or agents thereof are expressly prohibited from posting the deposit for bail as provided in this rule.

Rule 530. Designation of Local Bail Agency

The Court hereby designates and appoints the Beaver County Pre-Trial Services Agency to have the exclusive duties and powers of a bail agency for the 36th Judicial District of Beaver County, as provided for the Pa.R.Crim.P. No. 530. Whenever a defendant has failed to comply with the rules and regulations of the bail bond or of the bail agency or any additional conditions of his release, he may be brought before the Court to determine if additional bail shall be set in his case or bail revoked.

Rule 542. Preliminary Hearing Scheduling; Continuances

(A) At the preliminary arraignment or at the time of the issuance of a summons, the issuing authority shall schedule the preliminary hearing on a date and time assigned by the Court Administrator. The issuing authority shall give notice to the defendant and to counsel for the defendant, if any, of the date and time selected. The issuing authority shall promptly transfer all papers to the Court Administrator.

(B) The presiding Central Court Magisterial District Judge may, for cause shown, grant a continuance and shall note on the transcript every continuance together with:

- (1) the grounds for granting each continuance;
- (2) the party requesting the continuance;
- (3) the new date and time of the preliminary hearing.

(C) Each Motion to Continue Preliminary Hearing shall contain the following information:

- (1) the grounds for requesting each continuance;
- (2) the name of opposing counsel and opposing counsel's position on the motion;
- (3) the number of prior continuances, if any.

(D) Motions to Continue Preliminary Hearing made on the date of the Scheduled Hearing shall require the following:

(1) The moving party to personally appear before the presiding Magisterial District Judge in Central Court and present a written motion after notice to opposing counsel.

(2) the Magisterial District Judge to enter a ruling after entertaining argument from both counsel.

(E) Motions to Continue Preliminary Hearing made prior to the Scheduled Hearing Date shall require the following:

(1) the moving party to personally appear before the presiding Magisterial District Judge in Central Court and present a written motion after notice to opposing counsel; or

(2) deliver either in person, mail or fax, no later than 3:00 p.m. on the business day prior to the scheduled hearing date, a written motion to continue, to Central Court staff.

(a) Central Court staff, upon receiving the motion to continue, shall relay the motion to the presiding Magisterial District Judge at Central Court.

(b) The presiding Magisterial District Judge will enter a ruling.

(F) Any Motion to Continue Preliminary Hearing received after 3:00 p.m. on the business day prior to the scheduled hearing date will require the moving party to personally appear and present the motion to the presiding Magisterial District Judge at Central Court on the day of the hearing after notice to opposing counsel.

(G) Any motion to continue a preliminary hearing must be presented to a Magisterial District Judge for disposition before any action is taken, even if both parties have no objection to the continuance.

#### Rule 546. Return of Deposits and Charges

Upon full and final disposition of the case, the issuing authority or the Clerk of Courts shall retain thirty (30%) percent of the amount deposited, but in no event less than (\$10.00) dollars as administrative costs for the percentage cash bail program. The balance shall be returned to the defendant or the third party surety. Any money not claimed within one hundred eighty (180) days from the time of full and final disposition of the case shall be deemed as fees and shall be forfeited to the use of the County of Beaver.

#### Rule 550. Pleas of Guilty Before District Justice in Court Cases

An issuing authority may accept a plea in any case authorized by statute, (42 Pa.C.S.A. § 1515(a)(6)(I)) but may not sentence without a pre-sentence investigation report. If the parties and the issuing authority agree to dispense with a pre-sentence investigation report, the defendant shall be sentenced in accordance with the procedure provided by Pa.R.Crim.P. 704. The issuing authority shall note the sentence on the transcript and transmit it to the Clerk of Courts.

#### Rule 552. Administrative Processing and Identification

(A) In all cases in which a defendant has been charged with an offense of a third degree misdemeanor or greater, the defendant shall be required to appear at the Beaver County Regional Booking Center (RBC) located in the Beaver County Jail, 6000 Woodlawn Boulevard, Aliquippa, PA, 15001.

(B) Pursuant to 18 Pa.C.S. 9112, an arresting authority shall be responsible for taking the fingerprints of persons arrested for misdemeanors, felonies or summary offenses which become misdemeanors on a second arrest after conviction of a summary offense. The Regional Booking Center shall serve as the designated fingerprinting site for all arresting authorities in Beaver County.

(C)(1) In cases in which a defendant has been arraigned at the District Justice office and fails to post bond, the defendant shall be fingerprinted and photographed at the RBC subsequent to his or her commitment at the Beaver County Jail.

(2) In cases in which a defendant has been arrested during night, weekend or holiday hours, unless the charges proceed by summons, the defendant shall be taken directly to the RBC for a video arraignment and booking procedure before being committed to the Beaver County Jail or being released on bond.

(3) In cases of private prosecutions, the defendant may only be fingerprinted and photographed after conviction of the alleged offense. An order shall be issued from the Court of Common Pleas after such conviction directing the Defendant to report to the RBC to be fingerprinted and photographed.

(4) In cases which proceed by issuance of a summons, the District Justice presiding at Central Court at the scheduled Preliminary Hearing, shall order the defendant to submit to the Regional Booking Center within five (5) days following the date of issuance of such order.

(D) A booking fee of fifty dollars (\$50.00) shall be assessed and collected by the Beaver County Clerk of Courts after sentencing upon conviction of or plea to a misdemeanor or felony offense or acceptance into the Accelerated Rehabilitation Program. This fee will

not apply to those Defendants whose cases are dismissed by the District Justice, withdrawn or nolle prossed by the Commonwealth or who enter a guilty plea to a summary offense at the time of the preliminary hearing.

Rule 600. Trial List and Notice

(a) In all cases which are not resolved at the preliminary hearing, non-judicial pre-trial conference or judicial pre-trial conference, the Court Administrator shall promptly prepare a list of trial cases for each trial term.

The Notice for trial shall contain the caption, date and time of trial. Notice shall also state that the defendant's appearance is mandatory (see Pennsylvania Rule of Criminal Procedure 602). Notice shall be served in accordance with the provisions of Pa.R.Crim.P. Nos. 577 by Clerk of Courts to:

- (a) Defendant and his/her counsel
- (b) Professional Bondsman, Surety or Bail Agency, and
- (c) Counsel for the Commonwealth, who shall be responsible to notify the Police agency, the victim and all other witnesses.