

THE COURTS

Title 246—MINOR COURT RULES

PART I. GENERAL

[246 PA. CODE CH. 300]

Order Amending Rule 313 of the Rules of Conduct, Office Standards and Civil Procedure for District Justices; No. 121; Magisterial Doc. No. 1; Book No. 2

Order

Per Curiam:

Now, this 5th day of February, 2001, upon the recommendation of the Minor Court Rules Committee, it is hereby *Ordered* that Order No. 121 (dated December 6, 1999) amending Pa. R.C.P.D.J. No. 313, is hereby corrected as follows:

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective immediately.

Annex A

TITLE 246. MINOR COURT RULES

PART I. GENERAL

CHAPTER 300. CIVIL ACTION

Rule 313. Service Outside the Commonwealth.

When service of the complaint is to be made upon a defendant outside the Commonwealth, it shall be made:

* * * * *

(2) by certified or registered mail as provided by Rule 308, 309 or 310, whichever is applicable;

(a) if the registered or certified mail is returned with a notation by the postal authorities that receipt was refused, then the district justice may serve the complaint by sending a copy of the complaint by ordinary mail to the same address on the envelope. Service by ordinary mail is complete if the mail is not returned to the sender [with] within fifteen days after the mailing; or

* * * * *

[Pa.B. Doc. No. 01-263. Filed for public inspection February 16, 2001, 9:00 a.m.]

Title 255—LOCAL COURT RULES

ADAMS COUNTY

Local Rules of Court; Administrative Order No. 4 of 2001

And Now, this 5th day of February, 2001, local rules of criminal procedure are amended and renumbered to correlate with Pa. R.Crim.P. Local Rules 123, 529, 571.3 and 708.1 shall become effective thirty days after publication in the *Pennsylvania Bulletin*. Otherwise, the rules will be effective April 1, 2001. The rules shall continuously be available for inspection in the offices of Protho-

notary and Clerk of Courts of this court. Copies may be purchased at the Prothonotary's Office for \$10.00. If the Prothonotary mails the copy, the cost will be \$13.00. Certified copies in the numbers listed shall be provided as follows:

1. Seven to the Administrative Office, Pennsylvania Courts. In addition, a 3.5 computer disk with the rules therein shall be provided that office.

2. Two to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. A 3.5 computer disk with the rules contained therein shall also be provided.

3. One (1) and a 3.5 computer disk to the Criminal Procedural Rules Committee.

By the Court

OSCAR F. SPICER,
President Judge

Rule 105.1. Citation and applicability.

These Rules may be cited as Adams C.R.Crim.P. (number), or Local Crim. Rule (number). Unless the context indicates otherwise, or it would be manifestly inappropriate to do so, Local Civil Rules that pertain to business of the Court shall apply to Local Criminal Rules. As used in these rules, "Clerk" shall mean the Clerk of Courts.

Rule 105.2. Appeals.

(A) Appeals from District Justice decisions shall be listed for hearing by the Clerk for a Criminal Business Court Day at least twenty-one (21) days later than the time of filing of the docket transcript.

(B) Appeals from summary convictions by persons under the age of eighteen (18) years shall be treated the same as appeals by adults, except that either the Commonwealth or the appellant may request that the case be transferred to Juvenile Court. The Court may, either upon such request or sua sponte, order that the case be transferred and thereafter be treated as a juvenile proceeding and appellant subject to all provisions of the Juvenile Act, 42 Pa.C.S.A. § 6301 et. seq.

Rule 105.3. Requests for closed hearings.

Except as otherwise provided by law or state rule, a party to a criminal action intending to request that a proceeding be closed to the public, must give notice as follows:

(Caption)

Take notice that the undersigned intends to present a request to the Court on _____, 20____, at _____ in Courtroom No./Chambers that proceedings concerning _____ be closed to the public.

The notice shall be posted in the Clerk of Courts' office and shall be mailed to every newspaper in general circulation in Adams County at least ten (10) days prior to presentment.

The moving party will be required to file proof of service at the time the request is made.

Comment: It is not intended that this Rule apply when a statute or general rule requires a private, or in camera hearing. It is intended to apply in situations where a judge has discretionary authority to bar the public from a proceeding.

Rule 105.6. Local Fees.

In addition to fees and charges imposed by statute or by the Supreme Court, the Court may impose fees as a condition of sentence or the Accelerated Rehabilitative Disposition Program (ARD). Until changed by administrative order, the following shall be assessed a defendant by general wording in an order, to the effect, "the defendant shall pay fees established by Local Rule of court,"

(A) *all cases:*

Public service fee: \$25.00

Drug and alcohol test fee: \$10.00

Law enforcement fund fee: \$10.00

(B) *all cases except where the charges relate to public welfare fraud:*

Local offenders' supervision fee: \$25.00 per month

The sentencing judge may give a defendant the right to request an evaluation by the Probation Office of defendant's financial condition, and a recommendation by that office of suspension or waiver of the supervision fee.

(C) *driving under the influence cases:*

CRN fee: \$35.00

(D) *driving under the influence cases, when the Probation Office assumes responsibility for conducting the alcohol safe driving program, (all first offenders and ARD participants):*

Educational fee: \$150.00

(E) *ARD:*

Court cases: Administrative fee: \$300.00 per year, or portion thereof, of the program's duration.

Summary cases: Administrative fee: \$25.00 per month, or portion thereof, of the program's duration.

An order may state, "the defendant shall pay fees established by Local Rule of Court except (listed exceptions)", in which instance all fees shall be included except those fees or that fee excepted.

Rules 106—122. Reserved.**Rule 123. Unusual District Justice Proceedings.**

Whenever cases pending before a district justice

a. involve a greater number of persons expected to attend a hearing, than can be reasonably accommodated in the district justice's facility, and/ or

b. coordination of witnesses, attorneys and prosecuting officers can best be accomplished at a centralized location, the district justice may request the President Judge to direct that hearings be conducted in a courtroom in the County's Judicial Center; in addition if

c. efficient administration of justice requires special scheduling of a pending case, the President Judge may direct that proceedings be held in a courtroom designated by the Court Administrator,

Rules 124—201. Reserved.**Rule 202.**

The District Attorney of Adams County having filed a certification pursuant to Pa. R. Crim. P. § 202(A), search warrants in all cases except those involving exigent circumstances 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.

Rules 203—299. Reserved.**Rule 300. Participation in the Accelerated Rehabilitative Disposition Program (ARD) in Summary Proceedings.**

Unless and until the District Attorney elects to certify that ARD cases proceed in Court, applications for admission into the ARD program shall be submitted to a District Justice on the same Application, Waiver and Agreement form as is used in court cases. The following procedure shall be followed and the following conditions apply:

(A) In order to be considered eligible, a defendant must specifically waive all appropriate statutes of limitations and defendant's right to a speedy trial under any applicable Federal or State constitutional provision, statute or rule of court during the period of enrollment in the program, and agree to abide by all terms, conditions and monetary obligations imposed by the District Justice.

(B) The District Justice shall establish the duration and conditions of defendant's probation, and transmit the original application, together with three copies, to the District Attorney for approval. If the District Attorney approves the application, he shall retain one copy, transmit one copy each to the Clerk and to the Probation Office and return the original to the District Justice.

(C) The District Justice may require that the defendant's probation be supervised by either the prosecuting police officer, in which case the District Justice shall set and defendant shall pay a lump sum supervision fee to the municipality employing the officer; or by the Probation office, in which case, defendant shall pay a \$25.00 per month local offender's supervision fee.

(D) If the District Justice requires probation to be supervised by the Probation Office, he shall notify defendant to report to that office at a designated time on a day when the office is open to the public. The ARD program shall commence when defendant reports.

(E) If the District Attorney disapproves the application, prosecution will proceed in the normal manner.

(F) If the Probation Office provides supervision, it shall report any infractions, or successful completion, to the District Justice. A copy of the notification shall be provided the Clerk and District Attorney.

(G) If defendant violates the conditions of the program, the District Justice may, after giving defendant notice and an opportunity to be heard, revoke defendant's admission, in which case prosecution shall proceed in normal fashion.

(H) If defendant successfully completes the program, the District Justice shall dismiss the prosecution and send certified copies of the dismissal to the District Attorney, Clerk, and Probation Office. The Clerk shall report dismissals in the same manner and to the appropriate authorities as is now done in Court ordered ARD cases.

(I) A defendant shall be required to pay costs, supervision and administrative fees established in these Adams County Rules of Criminal Procedure. The District Justice shall disburse costs as provided by law, and fees to the Clerk, who shall keep a record of them, and in turn disburse the same as if ARD had been ordered by the Court.

(J) The Chief Probation Officer shall be responsible for monitoring ARD programs conducted by District Justices and shall report irregularities both to the District Attorney and President Judge.

(K) The District Justice shall collect and disburse an administrative fee, the amount of which may be set by administrative order. Until changed, the fee shall be \$55.00.

Rule 301—506. Reserved.

Rule 507. Approval of Certain Police Complaints by Attorney for the Commonwealth.

The District Attorney of Adams County having filed a certification pursuant to Pa. R. Crim. P. 507, criminal complaints and arrest warrant affidavits by police officers charging any of the following felony crimes:

a. 18 Pa. C.S. Section 3121 - Rape (graded as a felony of the first degree)

b. 18 Pa. C.S. Section 3122.1 - Statutory Sexual Assault (graded as a felony of the second degree)

c. 18 Pa. C.S. Section 3123 - Involuntary Deviate Sexual Intercourse (graded as a felony of the first degree)

d. 18 Pa. C.S. Section 3124.1 - Sexual Assault (graded as a felony of the second degree)

e. 18 Pa. C.S. Section 3125 - Aggravated Indecent Assault (graded as a felony of the second degree)

shall not hereafter be accepted by a judicial officer unless the complaint and affidavit has the approval of an attorney for the Commonwealth prior to filing.

Rules 508—523. Reserved.

Rule 524. Supervised Bail.

With or without a motion, and pursuant to local rules and Pa. R.Crim. P. 524, 527 and 530, a judge or district justice may, in addition to setting regular bail, authorize supervised bail and impose conditions in accordance with Local Rules 527 and 530. Supervised bail shall be an alternative to regular bail, and shall continue until revoked, rescinded or modified. The following provisions shall apply to supervised bail:

a. The judge or district justice shall contemporaneously set regular bail.

b. Supervised bail shall have the effect of suspending the need for posting regular bail for as long as defendant complies with the conditions of supervised bail, or until such time as the bail remains in effect. Nothing in this rule shall prevent the bail authority from modifying, rescinding or revoking such bail for sufficient reasons other than noncompliance, upon such notice as the judge or district justice deems appropriate. Defendant shall have the right to appear and contest rescission, modification or revocation.

c. Unless regular bail has also been revoked, defendant shall have the right to post it when supervised bail has been revoked or rescinded.

d. In order to be eligible for supervised bail, defendant must acknowledge in writing that he or she understands and consents to the conditions of supervised bail, including conditions relating to rescission, revocation and modification of such bail and being subject to immediate arrest without a warrant for violation of any bail condition. The form of the application, acknowledgement and consent shall explain that a violation may result in revocation of regular bail, as well, but until such revocation regular bail shall continue and defendant may post such bail until an order of revocation is entered by a judge or district justice.

e. Any probation officer of this court who has reasonable cause to believe that defendant has breached or is

breaching any condition of supervised bail shall have authority to declare supervised bail rescinded and to arrest defendant with or without a warrant.

f. Upon arrest and/or rescission, defendant shall be committed to prison pending the posting of regular bail, or reinstatement of supervised bail by a judge or district justice.

g. Defendant, the Commonwealth and the Adams County Probation Office shall each have the right to a hearing before a judge or, for cases pending before a district justice, a district justice. Defendant may request reinstatement of supervised bail, or modification of standard bail. Commonwealth and/or the Probation Office may request forfeiture of any monetary conditions of supervised bail and/or revocation of regular bail.

h. Unless the obligation is suspended or modified by the bail authority, defendant shall be required to pay supervision fees established by administrative order. Until changed, fees are set at \$25.00 per month general supervision fee, and \$6.00 per day fee for electronic monitoring. Defendant may request an evaluation of his or her financial condition and a reduction or suspension of supervision fees. The bail authority may reduce the fee to reflect defendant's ability to pay, or suspend the obligation entirely. In either case, defendant shall be under a continuing obligation to keep the Probation Office informed of any changes in his or her employment status and/or financial condition.

i. Forms as part of the Supervised Bail Program shall be adopted periodically in accordance with Local Rules of Criminal Procedure 527 and 530, by administrative order. Until changed, applications and orders setting bail shall be substantially in the form published as part of Local Rule 527.

j. A defendant, who has otherwise not been considered eligible for supervised bail, may request an order directing the Probation Office to assess his or her eligibility for supervised bail. Assessment will be made in accordance with Local Rule 527, with recommendations submitted by the Probation Office to the judge designated by the President Judge, via the District Attorney. An application, acknowledgement and consent, signed by defendant, shall be attached to the recommendation.

Rules 525—526. Reserved.

Rule 527. Conditions of Supervised Bail.

Nonmonetary conditions of bail shall be as established by Pa. R.Crim.P. 527, this rule and Local Rule 524. A bail supervision program is established. Procedures, protocol, forms and conditions of bail shall be as described by the program. Until changed by administrative order, description and scope of the program, protocol, procedure and conditions of bail shall conform to the following (numbering is for purposes of organization):

ADAMS COUNTY SUPERVISED BAIL PROGRAM

(A) Purpose.

The supervised bail program is meant to alleviate overcrowding in Adams County Prison by allowing qualified defendants to remain free on bail pending resolution of charges. The aim of the program is to ensure public safety and a defendant's appearance and compliance with conditions of his or her bail bond. The program is not intended as a rehabilitative tool, but rehabilitative conditions may be imposed when there is a substantial likelihood that:

(1) Conduct, which shall include substance abuse as well as particular mental or emotional states, which is addressed by particular rehabilitative conditions contributed to the charges, and

(2) Without intervention, such conduct is likely to continue and cause a violation of defendant's reporting requirements or other conditions of his or her bail bond.

(B) Goals and Objectives.

(1) To maximize the release of defendants on bail by identifying defendants most likely to meet reporting requirements and conditions of bail bonds through supervision.

(2) To help facilitate judicial decisions regarding bail by providing the issuing authority and/or Court with factual information about the defendant in a timely manner.

(3) To monitor defendants who have been placed on the supervised bail to ensure compliance with the conditions of release.

(4) To establish a process that would increase the release of qualified defendants from the Adams County Prison pending resolution of charges.

(5) To identify defendants with substance abuse problems, and when appropriate, to refer them to appropriate treatment facilities.

(6) To promote defendant's accountability through community supervision and treatment.

(7) To monitor defendants to ensure compliance with bail conditions.

(8) To provide information regarding a defendant's compliance with conditions, treatment requirements and overall progress on the program when plea agreements are presented to the Court and/or as aids to sentencing.

(9) To establish forms, protocol, procedure and reasonable rules and regulations to enable the Adams County Probation Office to administer and operate a supervised bail program and to inform defendants of bail conditions and consequences of violations thereof.

(10) To ensure public safety.

(C) Intake.

Intake procedure by the Probation Office involving supervised bail may be categorized as follows:

(1) Low risk supervision, where conditions are initially set by the bail authority, and defendant is immediately released subject to compliance with those conditions and an obligation to report to the Probation Office no later than 2:00 p.m. the following business day.

(2) Regular or more restrictive supervision, where the bail authority authorizes supervised bail, subject to establishment of conditions and execution of all necessary documents.

(3) The bail authority refers defendant to the Probation Office for assessment and recommendation of eligibility or non-eligibility for supervised bail.

Normally, judges and district justices should not authorize release on supervised bail prior to a defendant's referral to the Probation Office. Otherwise, a hiatus may occur in supervision. However, in exceptional cases, when the Probation Office is not open and when the judge or district justice determines that a defendant presents a low risk of violating conditions of the bail bond, a defendant may be released on supervised bail. All defendants shall be referred to the Probation Office for evalua-

tion, execution of necessary papers and supervision, and that office shall assess and process the defendant.

If a judge or district justice admits a defendant into the program when the Probation Office is open, defendant shall be referred to the office before being released. When the office is closed, low risk defendants may be temporarily released, after signing all necessary acknowledgements, agreements and consents, on condition that he or she report to the Probation Office no later than 2:00 p.m. the next business day following release. In all cases, the Probation Office shall provide the District Attorney with an opportunity to comment upon bail and to request conditions.

(D) Classification and Entitlement.

Classification and entitlement to supervised bail shall differ between low risk assessments and regular and more restrictive supervision as follows:

(1) Low risk assessments: The Probation Office shall submit its assessment and recommendation to the District Attorney, who shall approve, disapprove or approve with additional conditions. The application will then be returned to the Probation Office and defendant given an opportunity to agree to additional conditions and/or a higher level of supervision. If defendant agrees, he or she shall sign necessary forms, which will be forwarded to a judge or district justice for entry of an order. If defendant does not agree, the matter shall be listed for hearing. Defendant shall remain on supervised bail in the interim.

(2) Other assessments: The Probation Office shall follow the same procedure as in low risk cases. However, defendant shall not be entitled to supervised bail until he or she has either agreed to recommended or requested conditions, or after hearing.

(3) A defendant may agree conditionally with conditions and level of supervision, while requesting a hearing to consider modification. In such case, defendant may be released on supervised bail subject to the recommended conditions and level pending consideration of defendant's request for modification.

When defendant has been referred for an assessment, the Probation Office shall evaluate the defendant, confer with the District Attorney and promptly notify the referring judge or district justice of its recommendations. The report shall include: (a) when the bail authority has not yet authorized supervised bail, that defendant either be granted or denied supervised bail, and (b) when supervised bail is recommended or has been authorized, that a specific level of supervision and identified special conditions be imposed. If admission is recommended, defendant's signed application, acknowledgement and consent containing proposed conditions of supervision will be included. An order may then be entered releasing defendant on supervised bail. If defendant requests modification of any condition, a hearing shall be set.

No defendant shall be released on supervised bail until he or she has read, acknowledged understanding, agreed to comply with and signed supervised bail conditions and rules. Failure to do so will be deemed a rejection of supervised bail. The Probation Office shall promptly notify the appropriate judge or district justice of defendant's rejection, when the refusal occurs in the Probation Office.

District Justices shall notify the Probation Office by phone or fax when they have placed a low risk defendant on supervised bail. Copies of all orders and forms shall be promptly provided. Efforts should be made to avoid

having defendants "just show up" at the Probation Office without the prior knowledge of that office. District Justices shall also promptly provide the Probation Office with copies of orders in all cases where supervised bail is authorized, or where assessments are ordered.

The Probation Office shall periodically review admissions to the Adams County Prison to determine if any prisoners may be eligible for supervised bail. A probation officer may contact the President Judge or appropriate district justice with pertinent information and recommendations. In appropriate cases, a probation officer may assist prisoners in preparing and submitting bail applications, acknowledgements and consents. The District Attorney shall be provided an opportunity to agree or object to supervised bail.

(E) Assessment and supervision levels.

The Probation Office shall assess defendants to determine the level of necessary supervision and, after input from the District Attorney, shall recommend a particular level and special conditions, if any, to the bail authority. Levels may subsequently be changed upon recommendation of the Probation Office and approval of the bail authority. When restrictions are decreased, defendant's consent shall not be required. When restrictions are increased, defendant must agree, after being notified that failure to agree will be considered a rejection and rescission of supervised bail.

Levels will generally conform to the degree of supervision provided defendants released on probation or parole. In assessments for purposes of recommending a particular level, the Probation Office shall consider bail factors listed in Pa. R.Crim.P. 4002, impressions garnered during interviews, and other factors as may be set forth in this document. The office shall recommend one of four levels, which are:

1. Low risk supervision
2. Regular supervision
3. Intensive supervision
4. House arrest, with or without electronic monitoring

(F) Documentation.

The Probation Office shall maintain regular and appropriate records regarding defendant's supervision and compliance with bail conditions.

(G) Initial field/home contact.

The initial home visit/field contact shall take place within 3 working days of receipt of the case. The purpose of this contact is to verify the residence, obtain a layout of the residence, verify all occupants of the residence, and determine whether the possibility exists that weapons or illegal contraband might exist within the residence and determine whether the residence is a suitable environment.

(H) Collateral contacts.

Contact with local law enforcement authorities as well as treatment providers shall be encouraged in order to enhance the community supervision and monitoring of the defendant. Information shall be sought concerning adjustment in the community and compliance with bail conditions

(I) Standard conditions of supervision.

The following conditions, as set forth in Local Crim. Rule 705.1.d, shall apply to all defendants. 1a. b.; 3a. b. c.

d. e. f.; 4a. b. c.; 7a. c. d.; 8. Other conditions shall apply if specifically ordered. If defendant is under the age of 21, condition 1 c shall apply.

(J) Levels.

(1) Low risk supervision

This type of supervision will be ordered when a defendant presents a low risk of violating bail conditions and does not pose a threat to the community, but regular bail without monetary conditions may not guarantee defendant's required appearances, and defendant is unable to post such regular bail. Defendants under the age of 21 shall be subject to special condition 1c. Typically, defendant shall be required to report frequently by telephone and to periodically appear either at the Probation Office or to a local police department. Defendant shall be required to submit to random tests of blood, breath or urine to detect the presence of controlled substances and to pay a \$10.00 test fee. The right to travel beyond a 150-mile radius of the Adams County Courthouse shall be subject to at least ten days prior notice to the Probation Office. The Probation Office shall then notify defendant within three working days if it forbids, or approves such travel as well as any conditions it imposes.

Notice given orally to defendant shall suffice.

(2) Regular Supervision

This type of supervision will be ordered when defendant presents a moderate risk of non-compliance and will typically conform to supervision provided persons released on probation or parole for non-violent crimes, which are relatively minor in nature. Some felonies, such as forgery, may be included and some misdemeanors, such as indecent assault, may be excluded. Simple assaults may be included, depending upon the circumstances. Gradation of the offense shall not, in itself, be dispositive. Reporting requirements may not significantly differ from low risk supervision, but other conditions, such as prohibition of alcohol consumption, and drug and alcohol assessment may be added. The following are additional considerations:

- minimal or no prior delinquent or criminal history
- some history of mental or emotional disorders or drug/alcohol abuse but no present indications of such issues
- defendant has responded favorably to previous supervision
- defendant is employed or provides care for children

(3) Regular supervision contact requirements

There will be bi-weekly personal contact with the defendant. Telephone contact shall occur on a more frequent basis, as needed. Contact may either be with the Probation Office or a local police department, if authorized by court order or by the Probation Office.

The Probation Office shall conduct a minimum of one curfew check weekly and one home visit per month.

If bail conditions prohibit consumption of alcoholic beverages, defendant must pay a test fee and submit to random tests of his or her blood, breath or urine to detect the presence of controlled substances and/or alcohol. Test indication of the presence of alcohol or illegal controlled substances shall be grounds for rescission of supervised bail. Defendant may be ordered to undergo a drug and alcohol assessment/evaluation to determine the need for

appropriate treatment and to participate in recommended treatment. Standard conditions hereinafter recited shall be modified as follows:

Curfew—11:00 PM - 6:00 AM, unless special permission granted by Probation Officer or defendant is working at approved employment.

Travel limitations—Unless his or her bail conditions specify otherwise, a defendant may travel freely within a one hundred fifty-mile radius of the Adams County Courthouse, so long as the defendant remains within Pennsylvania and no approval is necessary. A defendant may request, as a part of his or her application, permission to travel beyond Pennsylvania, and if the request is granted, not further authorization will be needed. Otherwise, defendant must have the bail authority or a Probation Officer's permission to leave the Commonwealth. In any event, he or she must have such approval to travel beyond a one hundred and fifty-mile radius measured from the Adams County Courthouse.

Employment/Education/Training—If employed, must maintain employment. If unemployed, and if health permits, defendant must actively seek employment. The Probation Officer may require completion and weekly submission of job search applications. Defendant must continue schooling and/or job training if enrolled.

(4) *Special conditions of supervision*

The following criteria shall be considered in determining whether special conditions of probation as set forth in Local Crim. Rule 705.1(d) and being 1 c. d. e; 2 b. d., (which relate to consumption of alcoholic beverages, counseling and evaluation), should be imposed are:

- defendant has a history of criminal involvement with alcohol or controlled substances, such as a prior DUI conviction.

- police information indicates that alcohol or drug consumption was involved in the crime charged. This factor includes indications that defendant may have committed the crime while under the influence or was motivated by a desire to procure controlled substances and/or alcoholic beverages, or that the crime involves the use of controlled substances.

- defendant is charged with DUI and his or her blood alcohol concentration was .20 percent or greater.

- defendant has indicated symptoms of mental or emotional impairment, such as disorientation, confusion, incoherence, or inability to focus, think and speak rationally.

(5) *Intensive supervision*

(a) All conditions of regular supervision, except as changed or modified by more restrictive conditions, shall apply to intensive supervision.

(b) The following may be considered in determining whether defendant's bail should be intensively supervised:

- crimes which involve possible classification as a dangerous offender or violent sexual predator.

- the victim of the alleged crime is a child, or someone to whom defendant has convenient access, or whom defendant may have previously harassed, stalked or threatened.

- defendant has a significant history of delinquent and/or criminal behavior.

- defendant has a history of mental/emotional disorders or displays chronic alcohol or drug abuse.

- defendant did not comply with less restrictive conditions of the bail supervision.

- the Probation Officer's experience with the defendant or his or her prior criminal history gives the officer reasonable grounds to believe that more restrictive supervision is necessary.

The Probation Office shall maintain one face to face contact, either in the office or community setting, and one collateral contact weekly with the defendant. [Collateral contact is communication with the defendant by the telephone or communication in some manner with another person having regular contact with defendant, such as a local law enforcement officer, treatment specialist/provider, family member, etc.] The probation officer shall conduct a minimum of one curfew check per week as well as a minimum of two home visits per month on defendant.

The following conditions shall apply:

Drug testing/breathalyzer—minimum of one Breathalyzer and one urinalysis test per week. Random testing as deemed appropriate by the Pretrial Officer

Curfew—10:00 PM - 6:00 AM Sunday through Thursday unless working at approved employment 11:00 PM - 6:00 AM Friday and Saturday unless working at approved employment

Travel limitations—Within Adams County there shall be no restrictions as to travel and no approval is necessary, as long as defendant complies with other conditions, such as curfew. Outside County - Defendant must have Probation Officer's permission to leave Adams County. Requests for deviation must be submitted at least ten days in advance and the Probation Office shall have three working days to approve, with or without conditions, or disapprove the request.

Employment/Education/Training—Must maintain employment. If unemployed, and if physically able, must actively seek employment and complete job search forms. [Minimum of one per week] Must continue schooling if enrolled in school and continue educational pursuits as appropriate.

If ordered, the following condition will apply:

Evaluation and treatment Services - Defendant will undergo a drug and alcohol and/or mental health evaluation to determine the need for appropriate treatment, and shall follow the recommendations resulting from the evaluation.

(6) *House Arrest*

House arrest, with or without electronic monitoring is the most restrictive form of supervised bail. All conditions of restrictive supervision shall apply, as modified by more restrictive conditions. Defendant shall be confined to his or her residence and shall not be permitted to leave except for purposes and at such times as specifically authorized by the Probation Office. Defendant must keep the Probation Office informed of his or her whereabouts at all times.

House arrest may be ordered when charges involve serious crimes, where defendant has failed to comply with less restrictive conditions, or presents a threat to commit other crimes or to abscond. It involves situations where supervised bail would not normally be considered, but defendant's employment or family situation provides a degree of assurance that defendant will comply with

conditions of his bail. It may also be ordered when defendant's trial has been delayed, and regular bail imposes a financial hardship on defendant and/or his family. All travel must be approved by the defendant's Probation Officer.

(K) *Forms.*

Until changed by administrative order, the following forms are adopted.

APPLICATION, ACKNOWLEDGEMENT AND CONSENT

I hereby apply for release on supervised bail. I agree to pay fees associated with the Supervised Bail Program. I understand that I will be subject to supervision by Adams County Probation Office. I acknowledge that conditions of supervised bail have been explained to me and that I understand them. I also understand that additional conditions may be imposed in the future, and agree to comply with all conditions. I understand that if I refuse to agree to additional conditions or an increase in my supervision level, supervised bail may be rescinded and I shall be subject to imprisonment until I have posted regular bail.

I further acknowledge specific understanding of the following:

- If an Adams County Probation Officer has reasonable grounds to believe that I have violated conditions of supervised bail, the officer has absolute authority to declare supervised bail rescinded and to arrest and commit me to prison.

- If this happens, I have the right to post regular bail that has been set in addition to supervised bail, and to request a hearing to ask that the rescission be set aside, or that regular bail be modified or changed.

- The Probation Officer may also request a hearing to ask that monetary conditions of my supervised bail be forfeited, and/or that both supervised and regular bail be revoked.

- Conditions of supervised bail shall include conditions of probation and parole, 1a. b.; 3a. b. c. d. e. f; 4a. b. c.; 7a. c. d.; 8; and _____

I agree to comply with all conditions of supervised bail, including conditions of my bail bond.

I also agree:

1. To cooperate with the Probation Office at all times, and agree to follow all orders given by any probation officer. I will appear before the issuing authority or Court at all required times until full and final disposition of the criminal proceedings in this case.

2. I understand that my regular bail is set at \$ _____, and that I have the right to post regular bail, until and unless it is revoked.

3. If conditions 2b. or 2d. are included as conditions, I agree to cooperate in obtaining an evaluation and assessment, and if directed by the Probation Office, to participate in any treatment program [drug, alcohol or mental health program], educational program, psychiatric counseling, life skills programming, AA, NA or any other "Treatment" Program deemed appropriate by the Probation Officer during the period I am under supervision. I will follow all directives and recommendations made by the treatment and/or program provider. I understand that failure to complete a recommended "Treatment" Program or refusal to abide by the conditions of the program is a violation of my bail conditions and will result in rescis-

sion of supervised bail and my incarceration in the Adams County Prison until I post regular bail.

4. I agree to sign all appropriate "Release of Information" forms allowing the Probation Officer access to the "Treatment Program" information necessary to monitor my progress and compliance with all program conditions.

5. I agree to maintain my residence at _____, Phone # _____ and will not change my residence without the prior written permission of the Probation Office. I understand that I am not permitted to reside with or have any contact in any manner with non-family members who are codefendants, victims, persons on probation or parole or any person with a known criminal record.

6. I authorize the Adams County Adult Probation Department to search my person, property and/or residence at any time with or without a search warrant for the period I am on the supervised bail. Any items, the possession of which constitute a violation of the bail supervision rules/conditions and/or bail/bond conditions, may be seized and used as evidence before the Court in the Bail revocation process.

7. I agree that I may not own, possess, use, carry, or transport any firearm or deadly weapon while on the supervised bail. I understand that if there is any question about whether a particular article is a deadly weapon, I must seek the Probation Office's approval for such possession, use, or ownership.

8. I understand that I may not travel beyond a radius of 150 miles measured from the Adams County Courthouse. In addition, restrictions imposed in 8a and 8b shall apply if checked. I may not travel beyond designated areas without prior Probation Office approval. I also understand that I must request Probation Office approval for a deviation from any restriction at least 10 days in advance, and that the office shall approve or disapprove my request within three working days after receiving it. Lastly, I understand I must comply with all conditions imposed by the Probation Office regarding such travel.

- 8a. I understand that I may not leave the Commonwealth of Pennsylvania.

- 8b. I understand that I may not travel beyond Adams County.

9. I understand that condition 3a. requires me to comply with all municipal, county, state and Federal laws; and to live as a law-abiding citizen while on supervised bail. I understand that condition 3b. requires me to notify the Probation Office within 48 hours of receiving a criminal summons or citation, or of any arrest.

10. I understand that I am not permitted to associate or have any type of contact with any person with a criminal record without the prior approval of the Probation Office.

11. If condition 1c. is included as a condition of my supervised bail, I understand that I may not consume beverages containing alcohol. If 1e. is included, I may not consume alcoholic beverages without permission of the Probation Office.

12. I understand I must refrain from the unlawful possession, use, or distribution of illegal drugs and controlled substances.

13. If condition 1d. is included as a condition of my supervised bail, I understand that without prior approval

of the Probation Office I am not permitted to be present in any establishment that serves alcoholic beverages.

14. I agree to submit to blood, breath, or urinalysis testing at any time. Any positive results indicating the presence of a prohibited drug, drug metabolites, and/or a non-prescribed drug and/or alcohol (if I am subject to condition 1c. or 1e.) shall be a violation of supervised bail and will result in rescission of supervised bail and incarceration in the Adams County Prison. I understand that I will be given two [2] hours to produce a urine specimen of sufficient quantity for testing. Failure to produce a specimen of sufficient quantity and quality for laboratory testing within that time will be deemed a violation of supervised bail and can also result in my incarceration in the Adams County Prison.

15. I agree to comply with a curfew of _____ as imposed by the Probation Officer. During this period, I must live at the approved residence at all times.

16. I agree to pay fees as ordered, which are: \$25.00 per month supervision fee; an electronic monitoring fee of \$6.00 per day; or \$ _____.

17. I agree to sign a form waiving my rights to formal extradition, and/or the right to be produced before a judicial officer should I be arrested within another jurisdiction.

Defendant Date Probation Officer
Form of Order
(Caption)

And Now, _____, 20____, bail is set in the sum of \$ _____. Cash percentage bail is is not available. Bail shall be subject to requirements of local and state rules of Court and law, and the following special conditions (if none, write none):

A copy of this order shall be provided defendant, Adams County Prison and the Adams County Probation Office. The following apply, if checked:

Defendant is released on supervised bail, subject to conditions in his application, acknowledgement and consent and subject further to his appearance at Adams County Probation Office no later than 2:00 p.m. on _____.

Defendant is notified that he/she may be required to agree to additional conditions after assessment by the Probation Office, in order for supervised bail to continue.

Defendant may be released on supervised bail after arrangements and proper paper work are completed with the Probation Office, and defendant has signed all necessary forms.

Defendant is referred to the Probation Office for evaluation and recommendation of eligibility for supervised bail.

Defendant's obligation to post regular bail as a condition of release is; shall upon execution of all forms be, suspended and defendant may be released on alternative supervised bail for as long as defendant complies with conditions of supervised bail, and/or until such bail is rescinded, modified, or revoked. Supervised bail shall be subject to conditions of law, state and local rules of Court, as well as all other conditions incorporated

in defendant's application, acknowledgement and consent. In addition, supervised bail shall be subject to the following conditions, as checked:

ROR monetary condition in the sum of \$ _____, with cash percentage bail available not available; Special conditions:

_____ payment by defendant of a supervision or monitoring fee of \$ _____ per _____.

defendant shall be under a continuing obligation to keep the Probation Officer informed of his employment and financial status.

house arrest

electronic monitoring

Any probation officer having reasonable cause to believe that defendant has violated any condition of supervised bail may declare supervised bail to be rescinded and arrest defendant with or without a warrant. Upon arrest, defendant shall be committed to prison pending the posting of regular bail. The probation officer shall promptly file a notice of rescission and arrest with the appropriate court or district justice office and may request revocation of supervised and regular bail, as well as forfeiture of monetary conditions of supervised bail.

Defendant may request that supervised bail be reinstated or that regular bail be modified.

By the Court,

Judge or District Justice

Order of Referral
(to be used when a request for supervised bail is submitted after bail has been set)

(Caption)

And Now, _____, upon motion of the defendant, the request for supervised bail is referred to the Probation Office. That office shall evaluate defendant, explain the contents of the application, acknowledgement and consent, and when defendant has signed that form, submit a recommendation to this court via the District Attorney, with the form attached.

By the Court,

Judge

Notice of Rescission and Order

(Caption)

To the defendant:

Your supervised bail has been rescinded and you are subject to imprisonment until you have posted regular bail or until supervised bail is reinstated. You have the right to post regular bail unless and until that bail is revoked. Both you and the Probation Office have the right to demand a hearing. You may either demand that hearing immediately, or file your request promptly with either the court or the district justice who set your bail.. Promptness will be determined in light of all circumstances, but generally requires filing within ten days. You may request that supervised bail be reinstated and/or that regular bail be modified or changed. The Probation

Office may request that regular bail be revoked and/or that any monetary conditions of your supervised bail be forfeited.

Dated: _____
Probation Officer

I acknowledge receipt of this notice. I do; do not request a hearing.

Dated: _____
Defendant

And Now, _____, a hearing is scheduled for _____, in a courtroom to be designated. The Probation Office shall notify all interested persons.

By the Court,

Judge

Forms for internal use may be adopted by the Probation Office at any time.

Probation Office Report

Defendant has signed all necessary papers and has been released on supervised bail.

Defendant has signed all necessary papers and has not been released on supervised bail.

Defendant has either not agreed to all conditions, has not signed all necessary papers, or has not appeared as directed by order and supervised bail has been rescinded.

The Probation Office recommends that special conditions _____ be added before defendant is released on supervised bail. Defendant has has not agreed to additional conditions.

(The next items to be checked when defendant has been referred to the Probation Office for evaluation and recommendation.)

The Probation Office recommends that defendant be considered eligible for supervised bail subject to standard conditions of the supervised bail program and additional conditions _____.

The Probation Office recommends that defendant be considered ineligible for supervised bail.

Dated: _____
Probation Officer

District Attorney's Acknowledgment
(In all cases)

I acknowledge that I have received notice of defendant's supervised bail status. (For referral cases only) I acquiesce in supervised bail I oppose supervised bail I do not oppose supervised bail if condition(s) _____ are added.

Dated: _____
District Attorney

If defendant conditionally agrees to conditions and level of supervision, but requests that the court modify or change either of them, check here and have him sign.

Dated: _____ Signed (by defendant) _____

Order
(after referral)
caption

AND NOW,

The following apply, if checked:

Defendant's request for supervised bail is denied.

Defendant may be released on supervised bail subject to conditions in the application, acknowledgment and consent. The court will consider defendant's request for modification on _____, 200 , at _____ o'clock ____M. (if applicable).

Defendant's obligation to post regular bail as a condition of release is; shall upon execution of all forms be, suspended and defendant may be released on alternative supervised bail for as long as defendant complies with conditions of supervised bail, and/or until such bail is rescinded, modified, or revoked. Supervised bail shall be subject to conditions of law, state and local rules of Court, as well as all other conditions incorporated in defendant's application, acknowledgment and consent. In addition, supervised bail shall be subject to the following conditions, as checked:

ROR monetary condition in the sum of \$ _____, with cash percentage bail available not available; Special conditions:

_____ payment by defendant of a supervision or monitoring fee of \$ _____ per _____.

defendant shall be under a continuing obligation to keep the Probation Officer informed of his employment and financial status.

house arrest

electronic monitoring

Any probation officer having reasonable cause to believe that defendant has violated any condition of supervised bail may declare supervised bail to be rescinded and arrest defendant with or without a warrant. Upon arrest, defendant shall be committed to prison pending the posting of regular bail. The probation officer shall promptly file a notice of rescission and arrest with the appropriate court or district justice office and may request revocation of supervised and regular bail, as well as forfeiture of monetary conditions of supervised bail. Defendant may request that supervised bail be reinstated or that regular bail be modified.

By the Court,

Judge

Rule 527.1. Realty Bail.

(A) In cases where realty is posted as bail, the following procedures shall be applied to determine the value of the realty and the equity in it:

(1) The fair market value of the realty shall be established by a written appraisal report prepared by a real estate broker duly licensed in Pennsylvania, within three (3) months of the date of presentation of the report; or by multiplying the assessed value of the realty (land and improvements) by the common level ratio factor prescribed by the Pennsylvania Department of Revenue from time to time for transfer tax purposes.

(2) The equity in realty shall be determined by considering the appraisal and a lien certificate signed by any attorney at law authorized to practice in this Common-

wealth, including the solicitor of the Recorder of Deeds, Prothonotary, Tax Claim Bureau, or a duly authorized agent of a title insurance company licensed to do business in Pennsylvania. The certificate must identify all liens against the property and the face amounts thereof. Statements from lienholders about current balances may also be considered.

(B) Certificates and appraisals shall be presented to the District Justice or to the Clerk for determination of the acceptability of the realty for bail purposes. A defendant may appeal any adverse ruling to the Court.

(C) The official with whom bail is posted shall collect a fee to enter and satisfy judgment in an appropriate office in the county in which the realty is situated. Until changed, the fee for judgments in Adams County shall be \$14.50. Defendant must produce proof of the fee for any county other than Adams.

(D) If a District Justice accepts such bail, he/she shall transmit the judgment and satisfaction fee and a certified copy of the bail bond to the Clerk's office. In all instances when realty is accepted, the Clerk shall transmit to the Court a certified copy of the bail bond, together with a proposed order directing that judgment be entered against both the defendant and surety in favor of the Commonwealth of Pennsylvania, to the use of the County of Adams.

(E) Upon receipt of an order signed by a judge, the Clerk shall transmit a certified copy of the order, the judgment and satisfaction fee, and a certified copy of the bail bond to the appropriate office for entry of judgment.

(F) In Adams County, the appropriate office for entry of judgment shall be the Prothonotary's office.

(G) The order shall be substantially in the following form:

(CAPTION)

ORDER

And Now, this _____ day of _____, _____, it is ordered that judgment in the amount of \$ _____ be entered in favor of the Commonwealth of Pennsylvania, to the use of the County of Adams, and jointly against _____ and _____. No execution shall proceed against the judgment defendants without leave of court. No interest shall accrue on the judgment unless and until an order forfeiting bail is entered against judgment defendants in the criminal case. When the bail obligation is satisfied, the Clerk of Courts shall promptly direct the appropriate officer to satisfy the judgment.

By the Court,

_____ J.

Rule 528 Reserved.

Rule 529. Bail Modification.

Defendants' motions for reduction or modification of bail must, in the absence of extraordinary circumstances, be presented in duplicate to the Court Administrator, who shall then 1) consult with the District Attorney to establish a suitable date for hearing, 2) set a hearing, and 3) provide the District Attorney with the duplicate copy of the motion and court order setting the hearing. The motion and its copy must be accompanied by the following completed form:

BAIL INFORMATION

Name: _____ Date of birth: _____

List any aliases you may use or have used: _____

1. State your address: _____
Street

City State Zip

For how long have you resided there? _____

List other places you have lived within the past five (5) years:

2. State your telephone number: () _____

3. Where do you work? _____

4. How long have you worked there? _____

5. What is your take home pay? _____

6. Name the persons who are dependent upon you for support:

NAME	AGE	RELATIONSHIP	ADDRESS (If the same as yours, write same)

7. State your marital and living status: married; living with spouse; married, but separated; divorced; living with girl/boyfriend.

8. Prior employment within 5 years:

EMPLOYER'S NAME	PERIOD OF EMPLOYMENT	REASON FOR TERMINATION

9. Do you own your own home; rent a home or apartment; live with a friend.

10. Do you have family members or a girl/boyfriend living in Adams County?

Yes; No

State names and relationship: _____

11. Do you consume alcoholic beverages? Yes; No. If yes, beer; wine; whiskey; How many drinks per day?

11(a) (Optional) Have you ever had a drug dependency? (yes or no) _____

12. Have you ever missed work because of alcohol consumption? Yes; No

Have you been counseled or treated for alcohol abuse? Yes; No If yes, when and by whom: _____

13. Have you ever been convicted of an alcohol or drug related crime? Yes; No. If yes, when and where: _____

14. What are you charged with? _____

15. Who is the prosecuting police officer? _____

16. Where is your case? at the District Justice In Court

17. What is your present bail? _____

18. If you have posted bail in any other case, state when, where and the amount of bail: _____

19. Have you ever failed to appear as directed in any criminal proceeding, or have you ever been charged with escape? (yes or no) _____. Explain: _____

20. Give the name of a person who can verify your address:

Name

Address

Phone # _____

Give the name of a person who can verify your employment:

Name

Address

Phone # _____

21. What bail are you requesting? _____

22. Where are you in jail? _____

23. Who is your attorney? _____

Signature _____ Date: _____

Comment: This rule is intended to apply not only to motions clearly designated as requests for bail reductions, but also petitions for writs of habeas corpus where the obvious relief sought is bail reduction.

Rule 530. Bail Agency.

For purposes of administering the supervised bail program, the Adams County Probation Office is designated as the bail agency for this court.

Rules 531—534. Reserved.

Rule 535. Fees Upon Return of Deposits.

The costs of administering cash bail, including costs of the percentage-cash bail program, shall be set by administrative order. Until changed, the Clerk or District Justice shall retain \$25.00 as costs, when returning cash deposits to the persons entitled thereto. The amount retained shall then be paid to the County of Adams.

Rules 536—569. Reserved.

Rule 570. Informal Pre-Trial Conference.

(A) The Attorney for the Commonwealth may require defendants and/or counsel to appear at an informal pre-trial conference. A defendant, who has been notified to appear, may request that a judge excuse his/her appearance. An attorney may make a similar request. The Attorney for the Commonwealth may seek sanctions against any attorney, who is notified to appear and fails to do so without an excuse. Absent written stipulation to the contrary, no conference shall be conducted in the absence of an attorney who has entered an appearance in a case. The Attorney for the Commonwealth shall advise unrepresented defendants that they may decline to discuss the case without an attorney being present. At the time of arraignment, whether formal or informal, the Attorney for the Commonwealth may direct defense counsel, or a pro se defendant, to appear for a pre-trial conference at the time, date and place set forth in the notice. The conference shall be scheduled at least thirty-five (35) days after arraignment. The purpose of the conference held pursuant to this Rule is to consider:

- (1) Disclosure of information pursuant to informal pre-trial discovery;
 - (2) The simplification of stipulation of factual issues, including the admissibility of evidence;
 - (c) The scheduling of a trial date or date for other disposition of the proceedings;
 - (3) Such other matters as may aid in the disposition of the proceedings.
- (B) A defendant who is represented by counsel may waive his or her right to be present with the consent of the Commonwealth. Waiver shall be assumed if counsel appears without his/her client.

(C) Upon request by either party and arrangement with the Court, informal conferences may be stenographically recorded.

(D) The parties shall reduce to writing and file with the Clerk of Courts all agreements or stipulations reached during the pre-trial conference. Such agreements or stipulations shall bind the parties unless modified at trial to prevent injustice.

(E) If defendants who are required to appear, fail to do so either personally or through counsel, bail may be revoked and forfeited and a bench warrant may issue for the defendant's arrest

(F) One day per month will be designated on the Court Calendar for pre-trial conferences.

(G) Informal conferences shall be held outside the presence of the Court. However, either party may request within thirty (30) days after arraignment, that the pre-trial conference proceed pursuant to Pa.R.Crim.P. 570.

Rule 571. Notice of Arraignment.

(A) In all cases where defendants are held for court, the District Justice shall provide notice of the date of

arraignment to the defendant, and counsel of record. Notices shall be given at the conclusion of the preliminary hearing, or at the time the hearing is waived. The notice shall be in the form set forth in Rule 571.1 and shall be acknowledged by the defendant and counsel, if any. The defendant, and defense counsel of record, shall be given a copy of the notice at the time of acknowledgement. No further notice of arraignment shall be required.

(B) The date of arraignment will be set in accordance with Local Rule 571.2.

(C) The issuing authority shall transmit the original notice of arraignment, along with the transcript, to the Clerk of Court's Office within five (5) days of the defendant being held for court.

Rule 571.1. Form of Notice

The notice shall substantially be in the following form:

**IN THE COURT OF COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA
CRIMINAL**

COMMONWEALTH OF PENNSYLVANIA	:	CR-
	:	
VS.	:	CHARGES:
	:	
	:	

NOTICE OF ARRAIGNMENT

You must appear for formal arraignment at 8:30 a.m. _____, 20____, in Courtroom #1, 4th floor, Adams County Courthouse, 111-117 Baltimore Street, Gettysburg, Pennsylvania, UNLESS you file an informal arraignment as described below.

1. You and your attorney MUST appear on the date and time above OR you and your attorney MUST file a written waiver of arraignment by appearing at the District Attorney's Office BEFORE the above specified date and time.

2. If you do not appear or do not file a written waiver of arraignment as directed, a bench warrant will be issued for your arrest and bail will be forfeited.

FOR YOUR ASSISTANCE, IF YOU DO NOT HAVE AN ATTORNEY OR CANNOT AFFORD ONE, TELEPHONE THE COURT ADMINISTRATOR'S OFFICE AT 337-9846, OR 1-888-337-9846.

I, the undersigned Defendant, acknowledge that I have received a copy of the above Notice of Arraignment.

Defendant's Name (please type)		Defendant's Signature
Date		District Justice

THIS WILL BE YOUR ONLY NOTICE!

Rule 571.2. Time of Arraignment.

(A) The date on which defendant shall be directed to appear for arraignment shall be the first arraignment date, as established by the Court Calendar, which follows the date on which the defendant is held to court by at least twenty-one (21) days.

(B) The Clerk of Courts shall annually prepare a schedule from the Court Calendar, which shall list dates of arraignment, and the cut-off date for each arraignment date. On or before December 1 of the preceding year, the Clerk shall post the schedule, and provide copies to the

Court Administrator, each District Justice, the District Attorney, and the Public Defender.

(C) The District Justice shall enter the date of arraignment in the notice required by this rule, in accordance with the schedule established by the Clerk.

Rule 571.3. Arraignment.

(A) *Appearance.* Unless appearance has been waived in accordance with Pa.R.Crim.P. 571 (C), all defendants must appear at formal arraignment. Defendants shall appear at 8:30 a.m. on the fourth floor of the Courthouse, and report to Courtroom number one, or such other courtroom as designated by court personnel, on the day of scheduled arraignment.

(B) *Informal arraignment.* If a waiver is filed pursuant to Pa.R.Crim.P. 571(C), and arrangements are made with the District Attorney's office, defendants and their counsel may appear for arraignment in that office

(C) *Acknowledgement.* In all instances, defendants must acknowledge receipt of copies of the Information and written instruction sheet, and acknowledge an understanding of the material described therein.

(D) *Instruction Sheet and Information.* Defendant shall be provided a copy of the Information and a copy of written instructions at arraignment, whether formal or informal.

(E) *Minimum Requirements.* Written instructions shall be on a form approved by the Court. Whether defendant is formally or informally arraigned, he/she shall be informed of the following:

(1) the nature, elements and seriousness of the charges and possible consequences of conviction, including the permissible range of sentences and/or fines;

(2) the contents of written instructions;

(3) if he/she is required to appear at an informal pre-trial conference, the time and date thereof, and that failure to appear may result in forfeiture of bail and the issuance of an arrest warrant;

(4) if the case is listed for trial, the dates and times defendant must appear, and that failure to appear may result in a forfeiture of bail, the issuance of an arrest warrant and trial occurring in the absence of defendant.

(F) *Procedure.* At formal arraignment, a judge shall read the arraignment instructions. Defendants shall then be individually called before a judge, at which time the attorney for the Commonwealth shall read and explain the Information.

(G) Any defendant who is not represented by counsel shall be informed of the following:

(1) that he or she has the right to be represented by counsel and the right to have free counsel appointed if defendant is indigent

(2) that if defendant waives the right to counsel, he or she will be bound by the normal rules and procedure and that counsel would be familiar with those rules

(3) that possible defenses to the charges may be lost permanently if not raised at trial and that counsel may be aware of those defenses

(4) that in addition to defenses, there may be rights which may be permanently lost if not asserted in a timely manner

(5) that if errors occur and are not objected to in a timely manner, those errors may be lost permanently, and

(6) failure to obtain counsel shall not necessarily be grounds for a continuance of any part of the proceedings, including trial.

Rules 572—699. Reserved.

Rule 700.1. Sentencing by any Judge.

In addition to the judge who received the defendant's plea of guilty or of nolo contendere, any judge may sentence that defendant if the defendant was notified of that possibility at the time the plea was entered.

Rules 702—704. Reserved.

Rule 705. Rehabilitative Programs.

The Chief Probation Officer and Chief Juvenile Probation Officer shall submit a list of rehabilitative, treatment or therapy programs their respective offices propose to use as part of IPP, probation or parole to the President Judge, who may, after consulting with other judges of this court, approve the list either in whole or in part. Additions or deletions from the list may be proposed from time to time. Lists or amendments to the lists shall be filed with the Clerk, along with the administrative order of approval. Approval of a specific agency, such as Adams Hanover Counseling Service, shall serve to approve all therapists, counselors, psychologists and psychiatrist associated and in good standing with that agency.

Rule 705.1. Conditions of Probation, Intermediate Punishment and Parole.

(A) *General:*

Conditions of probation and/or parole may be established or changed by either local rule, specific order relating to a particular case or by administrative order. In addition to other filing requirements, all orders or rules shall be filed in the Clerk's office, and with each District Justice. Conditions identified as standard, by an asterisk, shall apply to all probation, parole or intermediate punishment supervision, unless specifically waived by court order. Special conditions, that is those without an identifying asterisk, shall apply only if checked. Special conditions may be ordered either at the time of sentence, or by order of modification thereafter. Any interested person, including probation officers, the District Attorney, or the defendant may request a modification of conditions at any time. The court may modify conditions after notice to interested parties, and an opportunity to be heard, but requests for modification may be denied without a hearing or prior notice. Interested parties may waive their right to hearing at the time a request is submitted.

(B) *Programs:*

Probation officers may require defendants to participate in approved programs, or to engage in therapy or counseling with approved counselors and other personnel, in accordance with Local rule 705. Programs and counselors may also be specially approved by order for specific cases.

(C) *Sexual Offenders:*

A judge, either when imposing sentence or upon later request, may direct that the defendant be classified as a sexual offender (SO) and be subject to special conditions identified as SO conditions. Conviction of any of the following crimes shall indicate a need for such classification:

(All references are to the Crimes Code, 18 Pa.C.S.A)

§ 2709(b), Stalking;

§ 2910, Luring a Child into a Motor vehicle;

§ 3121, Rape;

- § 3122.1, Statutory Sexual Assault;
- § 3123.1, Involuntary Deviate Sexual Intercourse;
- § 3124.1, Sexual Assault;
- § 3124.2, Institutional Sexual Assault;
- § 3125, Aggravated Indecent Assault;
- § 3126, Indecent Assault;
- § 3127, Indecent Exposure,
- § 5506, Loitering and Prowling at Night;
- § 5901, Open Lewdness;
- § 6301, Corruption of Minors (if defendant's conduct was sexual in nature);
- § 6312, Sexual Abuse of Children.

Unless the order provides otherwise, the classification shall be effective for a period of six months, during which time the Probation Office shall evaluate the defendant. The office shall recommend to the sentencing judge, or such other judge designated by the President Judge, that defendant's classification and supervision as a sexual offender be either continued or terminated. The period may be extended additional 6 month- periods at the request of the office.

Notwithstanding the above list of crimes, a judge may classify a defendant convicted of other crimes as a sexual offender, if the judge determines that the defendant will be benefited or the community be protected by SO conditions, or if the crime involved sexual overtones.

(C) *Conditions:*

Until changed by rule or administrative order, conditions of probation, parole and intermediate punishment are established in accordance with the following form:

(Caption)

Instructions to defendant: You must comply with all conditions identified as standard by an asterisk (*) and all special conditions which have been checked. You have; have not been classified as a sexual offender and are; are not required to comply with SO conditions.

COUNSELING

and

ALCOHOL AND CONTROLLED SUBSTANCES

1. YOU MUST NOT:

- *a. Use non-prescribed controlled substances.
- *b. Become drunk or publicly intoxicated.
- _____ c. Consume alcoholic beverages.

*d. Enter or remain in any bar, tavern, or other drinking establishment, or any establishment selling alcoholic or malt beverages, including State Liquor Stores, without consent from the Probation Office

*e. Consume alcoholic beverages until this condition (e) has been waived in writing by the Probation Office.

2. YOU MUST:

*a. Agree to have your blood, breath, or urine tested as directed by the Probation Office or Prison Officials to determine if you are alcohol and/or drug free.

_____ b. Attend counseling or therapy sessions related to drug and alcohol abuse as directed by the Probation Office.

_____ c. Complete the alcohol safe driving school.

_____ d. Attend mental health counseling and therapy programs as the Probation Office directs.

PERSONAL CONDUCT

3. YOU MUST:

- *a. Avoid any violation of the law.
- *b. Report any arrest to your Probation Officer.
- *c. Avoid association with persons having serious criminal records and reputations for criminal conduct.
- *d. Report to the Probation Office when directed.
- *e. Obey all directions given by any Probation/Parole Officer.
- *f. Avoid any contact which might cause fear, annoyance, or alarm to the victim of any case where charges have been filed against you.
- *g. Be in your home and obey any curfew established by the Probation Office.
- *h. Obey all Prison rules, including those imposed while participating in the work release program.

4. YOU MUST:

- *a. If directed by your Probation Officer as soon as possible you must obtain and maintain a steady job.
- *b. Avoid causing the loss of any job you get.
- *c. Notify the Probation Office of any change in your present employment status.

FINANCIAL OBLIGATIONS

5. YOU MUST:

- *a. Pay your debts, especially court ordered for the support of any other person.
- *b. Pay court costs, fines and restitution on such payment plan as may be established by the Probation Office.
- *c. Pay the costs of required counseling, therapy and treatment programs.

PUBLIC SERVICE

6. YOU MUST:

- *a. Unless this condition is waived by a judge, perform public service. If no other period is designated, you must perform forty (40) hours. If another period is designated, you must perform that amount. Service shall be arranged by Public Service Director for Adams County
- _____ b. Perform _____ hours of public service.

RESIDENCE

7. YOU MUST:

- *a. Notify the Probation Office of any change of mailing address or physical residence.
- *b. Obtain prior written permission from the Probation Office to leave Adams County or county of legal residence for any period of time in excess of twenty-four (24) hours unless prior permission is obtained by the Probation Office.
- *c. Consent, as a condition of Probation/Parole, to warrantless searches of your residence by any Probation/Parole Officer based upon any suspicion that the residence contains contraband or other evidence of probation or parole violations.
- *d. Waive extradition procedures and rights, including the right to be taken before a judge in another state, with respect to violations of probation or parole conditions.

WEAPONS

8. YOU MUST NOT:

- *a. Possess a firearm or any other deadly weapon if:
 - i. You have been convicted of a felony and/or are prohibited by Federal and State Law.
 - ii. Your current offense is for a firearms or deadly weapon violation.
 - iii. Possession is prohibited by a court order.
- SO Conditions:
- all conditions apply
 - all conditions apply except

9. YOU MUST NOT POSSESS ANY OF THE FOLLOWING ITEMS, WITHOUT THE APPROVAL OF YOUR PROBATION OFFICER:

- i. Badges, uniforms, weapons or other indicia of official authority,
- ii. Chains, handcuffs, ropes or lines intended or designed as restraints,
- iii. Children's clothing,
- iv. Masks and disguises,
- v. Photographs, video or films depicting or showing nudity,
- vi. Photographs of the victim,
- vii. Pornography.

10. YOU MUST NOT WITHOUT YOUR PROBATION OFFICER'S APPROVAL:

- i. use fictitious names, other than those registered for legitimate business purposes.
- ii. have any contact with children, other than those specifically authorized by your probation officer, and subject to conditions imposed by your probation officer,
- iii. enter or remain upon school property, playgrounds or places where children congregate,
- iv. linger, loiter or prowl in the vicinity of schools, playgrounds or places where children congregate.
- v. use a public street or sidewalk that passes such a location, except for legitimate purposes of travel, or movement. In such a case, your use shall be limited in time and purpose to expeditiously traveling from one legitimate location to another.
- vi. Rent or maintain a post office box, or receive mail at any location that does not identify your actual residence, without authorization from your probation officer

 Witness Defendant Date

Rule 708.1. Violation of Probation, Intermediate Punishment, or Parole.

Unless otherwise specifically noted, procedures established by this Rule shall apply to violations of probation, intermediate punishment, and/or parole, regardless of which particular form of supervision is involved.

(A) *Gagnon I Hearing Master*: The President Judge shall appoint an attorney authorized to practice before the Court to conduct Gagnon I hearings.

(B) *Gagnon I Hearings*: Normally, monthly hearings shall be scheduled by Court order at least three (3) weeks in advance. When a defendant has been committed to Adams County prison because of a violation, and no other

detainers require commitment, hearings may be more promptly scheduled. The master shall promptly file with the Court preliminary findings and recommendations.

(C) *Gagnon II Hearings*: Gagnon II hearings shall be conducted on Revocation Day and normally scheduled by Court order at least three (3) weeks in advance. As in the case of Gagnon I hearings, hearings may be more promptly scheduled when a defendant is incarcerated.

(D) *Failure to appear*: A judge may order that a bench warrant issue for the arrest of any defendant who fails to appear at a hearing. If possible, any person so arrested shall be produced before a judge within 72 hours after being placed in Adams County prison. If holidays or court business cause a delay, the defendant shall be produced before a judge at the first available opportunity after being placed at Adams County Prison. The judge shall explain the reasons defendant is being held, the right to counsel and to hearing(s) on the charges and the possible consequences of being found in violation.

(1) Normally, when defendant has been arrested for failure to appear at a Gagnon I hearing, appearance before a judge shall suffice and be in lieu of that hearing. However, a Gagnon I hearing may be scheduled at defendant's request.

(2) Defendant may admit some or all of the alleged violations, but shall be under no obligation to deny them.

(3) If bail is set, it shall be conditioned on the defendant appearing at the next regularly scheduled Gagnon I or Gagnon II hearing date that follows arrest by at least twenty-one (21) days.

Comment: Although scheduling pursuant to this local rule is intended to reflect a balance between the necessity to prepare for hearings and defendant's interest in prompt disposition of charges, considerations of reasonableness may dictate either earlier or later hearings. Nothing in these rules shall preclude requests for special scheduling.

(E) *Commencement of proceedings*: Revocation proceedings may be commenced by petition and rule to show cause or by arrest. When commenced by arrest, defendant shall be produced before a judge without unnecessary delay. If possible, defendant shall be produced within 72 hours of his placement at Adams County Prison.

Rule 708.2. Intermediate Punishment Revocation Procedures.

(A) *General*

Because of considerations that are unique to intermediate punishment sentences, usually arising out of restrictive phases of the program, special or "fast-track" procedures applicable to revocation may be employed at the request of the Probation Office. To describe these and place them in perspective, the following provisions are adopted:

Conditions of the program shall be established by the appropriate Intermediate Punishment Board and by the Court. Until changed, the program shall consist of six (6) phases, with Phase III divided into two (2) aspects, as follows:

1. Phase I, partial confinement-work release.
2. Phase II, house arrest-electronic monitoring.
3. Phase III, intensively supervised probation.
4. Phase III, temporary, intense supervision awaiting entry into Phase I or Phase II.

- 5. Phase IV, modified intensive supervision.
- 6. Phase V, general supervision.

(B) General conditions of probation and parole, as set forth in Local Rule 705.1, shall apply to Phases III, IV and V.

(C) Revocation procedures established in Local Rule 708.1 shall be followed when a defendant is not incarcerated.

(D) When a defendant is incarcerated, the following procedure shall be followed:

(1) Within a reasonable time after incarceration occurs, the Probation Office shall transmit a request for an IPP review hearing to the District Attorney.

(2) As part of the request, the Probation Office may recommend that bail be set in a specified amount and be subject to any special conditions requested by the Probation Office. The Probation Office may also recommend that no bail be set.

(3) The District Attorney shall promptly submit an application to the court requesting that defendant's entry into the intermediate punishment program be revoked, that a hearing be scheduled and requesting that either that no bail be set, or that bail in a specified sum, subject to any requested conditions be set.

(4) The judge to whom the application is submitted shall schedule a hearing within fifteen (15) days of the defendant's arrest and may set bail, subject to any special conditions that are ordered. If defendant posts bail and is released prior to the scheduled hearing, the hearing may be rescheduled in accordance with Local Rule 708.1. Fast track revocation hearings will be conducted by a judge assigned by the President Judge to handle such intermediate punishment violations.

Rule 708.3. Intermediate Punishment Revocation Forms.

(A) Standard forms shall be used in IPP revocation proceedings, whenever possible. The District Attorney shall be responsible for drafting and utilizing petition forms. The Court may, by administrative order, change and adopt forms.

(B). Until changed, the initial order shall be substantially in the following form:

(CAPTION)
ORDER

AND NOW, this ____ day of _____, ____ , at the recommendation of the Probation Office, no bail is set bail is set at \$ _____, with cash percentage bail _____ available, subject to conditions requested by the District Attorney. Defendant is notified that he/she has the right to petition the court for bail or for a modification of the bail set. Until modified, the bail herein set shall apply.

A revocation hearing is hereby set for ____ .M. on the _____ day of _____ , 20____ in Courtroom No. 2.

Judge

(C) Until changed, defendants shall be given notice in substantially the following form:

NOTICE

DEFENDANT: _____ CASE NUMBER: _____
FILE NUMBER: _____

You have been charged with violating the conditions of your sentence to Intermediate Punishment. If the Court finds that you violated those conditions, you may be resentenced. If no plea agreement affects resentencing, the sentence could be the maximum authorized by law. You have the following important rights:

1. You have the absolute right to be represented by a lawyer. If you are too poor to hire a lawyer, a lawyer will be appointed to represent you at the cost of the County and at no cost to you. However, you must file an application with the Public Defender's Office and you must qualify before free counsel will be provided. It is your responsibility to file the application *promptly*. Your failure to have counsel will not be cause to continue or postpone the hearing.

2. You have the absolute right to a hearing, at which the Probation Office must prove that you violated the conditions set forth in this notice.

3. You may request that a judge set bail in this matter. If bail has already been set, you have the right to request that bail be lowered or that certain conditions be changed. The Adams County Probation office has recommended that you should not be allowed to post bail that bail be set at \$ _____ with cash percentage bail _____ available. **It is your responsibility** to petition the court for bail or for a bail reduction hearing. A hearing on this matter will be scheduled promptly and you will be notified by your Probation/Parole Officer as to the time and date.

Specific Rules Violated:

I have read or have had read to me the above rights of a person charged with a violation of IPP Probation and have had the specific rules violated explained by a Probation/Parole Officer.

Witness _____ Defendant: _____
Date: _____ Date: _____

Rules 709—et seq. Reserved.

[Pa.B. Doc. No. 01-264. Filed for public inspection February 16, 2001, 9:00 a.m.]

DAUPHIN COUNTY

Promulgation of Local Rules; No. 1793 S 1989

Order

And Now, this 31 day of January 2001, Dauphin County Local Rule of Civil Procedure 215.4 is promulgated as follows:

Rule 215.4. Complex Litigation Designation; Appointment of Single Judge.

At any time after service of the complaint, any party to a case may petition the Court for complex litigation designation. The petition shall set forth the parties, the causes of action, the nature of cross or counter claims, and a brief statement of the perceived complexities of the case. The petition shall further aver that all other parties have been contacted and shall state whether or not they concur in the petition. Where concurrence has not been obtained, a rule to show cause, returnable within 10 days of service, shall be attached to the petition.

The matter shall thereafter be referred to the Civil Calendar Judge who, upon review of the petition and any answer filed thereto, shall determine whether complex

litigation designation is appropriate. If such status is granted, the Civil Calendar Judge shall by order assign the case to a member of this Court. This assignment shall be considered permanent for all pre-trial, trial, and post-trial matters.

A denial by the Civil Calendar Judge of complex litigation designation shall be without prejudice to refile after the pleadings are closed.

Comment: The Court is seeing an increased number of cases that will benefit from the early involvement of a judge, such as complicated commercial and medical malpractice cases, multiple motor vehicle/fatality cases, and novel product liability cases. This rule allows council to bring to the attention of the Court those cases that may require early judicial attention. The assigned judge can provide sustained and consistent pretrial management and preside at trial with a thorough understanding of the case, presumably expediting its conclusion through mediation or trial.

This amendment shall be effective 30 days after publication in the *Pennsylvania Bulletin*.

By the Court

JOSEPH H. KLEINFELTER,
President Judge

[Pa.B. Doc. No. 01-265. Filed for public inspection February 16, 2001, 9:00 a.m.]

NORTHUMBERLAND COUNTY

Transportation of Prisoners, NCR-308; No. 01-18

Order

And Now, this 25th day of January 2001, in order to better utilize judicial resources and address problematic issues with the transportation of prisoners, it is hereby *Ordered and Directed* that Local Rule NCR-308 is amended as follows:

The Attorney representing a defendant who is incarcerated is responsible for obtaining a Transportation Order to secure the defendant's appearance at a trial or hearing. If a defendant is unrepresented by Counsel or is proceeding Pro-Se, the District Attorney shall arrange for the transporting of the defendant for a trial or hearing.

All transportation Orders must be filed with the Court and served upon the Sheriff of Northumberland County, a minimum of seven (7) working days prior to the scheduled date of hearing or trial when the defendant is incarcerated in an out of county facility. If the defendant is incarcerated in a facility located in the county, a minimum of forty-eight (48) hours notice is required. The transportation Order shall be in the same format as previously prescribed.

The Northumberland County Court Administrator is *Directed* to file copies of this Order with the appropriate agencies.

By the Court

ROBERT B. SACAVAGE,
President Judge

[Pa.B. Doc. No. 01-266. Filed for public inspection February 16, 2001, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice Of Disbarment

Notice is hereby given that Carol Marie Gordon having been indefinitely suspended from the practice of law in the State of Maryland, by Order dated June 26, 1997, and also having been disbarred from the practice of law in the District of Columbia by Order dated November 5, 1998, the Supreme Court of Pennsylvania issued an Order on February 5, 2001, disbaring Carol Marie Gordon from the Bar of this Commonwealth. In accordance with Rule 217(f), Pa. R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,
*Executive Director & Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 01-267. Filed for public inspection February 16, 2001, 9:00 a.m.]