

THE COURTS

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CHS. 1, 2, 5, 8 AND 10]

Order Adopting New Rule 518, Amending and Renumbering Present Rule 518 as Rule 519, Amending Rules 103, 112, 130, 131, 203, 513, 516, 540, 571, 582, 801, and 1003, and Revising the Comments to Rules 514, 515, and 517; No. 281 Criminal Procedural Rules; Doc. No. 2

The Criminal Procedural Rules Committee has prepared a Final Report explaining new Rule of Criminal Procedure 518, amendments to and renumbering of present Rule 518 as Rule 519, amendments to Rules 130, 131, 203, 513, 516, 540, 571, and 1003, the revision of the Comments to Rules 514, 515, and 517, and correlative changes to Rules 103, 112, 582, and 801. These changes provide for the use of advanced communication technology in criminal proceedings, including inter alia, preliminary arraignments and arraignments, and search warrant and arrest warrant procedures. The Final Report follows the Court's Order.

Order

Per Curiam:

Now, this 10th day of May, 2002, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been published before adoption at 28 Pa.B. 3934 (August 15, 1998), 29 Pa.B. 2665 (May 22, 1999), 29 Pa.B. 4426 (August 21, 1999), 29 Pa.B. 4429 (August 21, 1999), and 29 Pa.B. 4539 (August 28, 1999), and in the *Atlantic Reporter* (Second Series Advance Sheets, Vols. 712, 727, 728, 733, and 734), and a Final Report to be published with this Order:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that:

- (1) new Rule of Criminal Procedure 518 is adopted, and present Rule 518 is amended and renumbered Rule 519;
- (2) Rules 103, 112, 130, 131, 203, 513, 516, 540, 571, 582, 801, and 1003 are amended; and
- (3) the Comments to Rules 514, 515, and 517 are revised, all in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective September 1, 2002.

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE CHAPTER 1. SCOPE OF RULES, CONSTRUCTION AND DEFINITIONS, LOCAL RULES

PART A. Business of the Courts

Rule 103. Definitions.

The following words and phrases, when used in any Rule of Criminal Procedure, shall have the following meanings:

ADVANCED COMMUNICATION TECHNOLOGY is any communication equipment that is used as a link between parties in physically separate locations, and includes, but is not limited to: systems

providing for two-way simultaneous communication of image and sound; closed-circuit television; telephone and facsimile equipment; and electronic mail.

ADVANCED COMMUNICATION TECHNOLOGY SITE is any approved location within Pennsylvania designated by the president judge, or the president judge's designee, with advanced communication technology equipment that is available for parties in a criminal matter to communicate with others in physically separate locations as provided in these rules.

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COPY is an exact duplicate of an original document, including any required signatures, produced through mechanical or electronic means, and includes, but is not limited to: carbon copies; copies reproduced by using a photocopy machine, by transmission using facsimile equipment, or by scanning into and printing out of a computer.

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Official Note: Previous Rules 3 and 212 adopted June 30, 1964, effective January 1, 1965, suspended January 31, 1970, effective May 1, 1970; present Rule 3 adopted January 31, 1970, effective May 1, 1970; amended June 8, 1973, effective July 1, 1973; amended February 15, 1974, effective immediately; amended June 30, 1977, effective September 1, 1977; amended January 4, 1979, effective January 9, 1979; amended July 12, 1985, effective January 1, 1986; January 1, 1986 effective date extended to July 1, 1986; amended August 12, 1993, effective September 1, 1993; amended February 27, 1995, effective July 1, 1995; amended September 13, 1995, effective January 1, 1996. The January 1, 1996 effective date extended to April 1, 1996; the April 1, 1996 effective date extended to July 1, 1996; renumbered Rule 103 and Comment revised March 1, 2000, effective April 1, 2001; **amended May 10, 2002, effective September 1, 2002.**

Committee Explanatory Reports:

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Final Report explaining the May 10, 2002 amendments concerning advanced communication technology published with the Court's Order at 32 Pa. B. 2591 (May 25, 2002).

Rule 112. Publicity, Broadcasting, and Recording of Proceedings.

(A) The court or issuing authority shall:

(1) prohibit the taking of photographs, **video**, or motion pictures of any judicial proceedings or in the hearing room or courtroom or its environs during the judicial proceedings; and

(2) prohibit the transmission of communications by **[telegraph,]** telephone, radio, **[or]** television, **or advanced communication technology** from the hearing room or the courtroom or its environs during the progress of or in connection with any judicial proceedings, whether or not the court is actually in session.

* * * * *

(B) The court or issuing authority may permit the taking of photographs, or radio or television broadcasting, or broadcasting by advanced communication technology, of judicial proceedings, such as naturalization ceremonies or the swearing in of public officials, which may be conducted in the hearing room or courtroom.

(C) Except as provided in paragraph (D), the stenographic, mechanical, or electronic recording, or the recording using any advanced communication technology, of any judicial proceedings by anyone other than the official court stenographer in a court case, for any purpose, is prohibited.

(D) In a judicial proceeding before an issuing authority, the issuing authority, the attorney for the Commonwealth, the affiant, or the defendant may cause a recording to be made of the judicial proceeding as an aid to the preparation of the written record for subsequent use in a case, but such recordings shall not be publicly played or disseminated in any manner unless in a court during a trial or hearing.

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Comment

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The prohibitions under this rule are not intended to preclude the use of advanced communication technology for purposes of conducting court proceedings.

Official Note: Former Rule 27, previously Rule 143, adopted January 31, 1970, effective May 1, 1970; renumbered Rule 27 September 18, 1973, effective January 1, 1974; amended February 15, 1974, effective immediately; Comment revised March 22, 1989, effective July 1, 1989; amended June 19, 1996, effective July 1, 1996; rescinded March 1, 2000, effective April 1, 2001, and replaced by Rule 112. Former Rule 328 adopted January 25, 1971, effective February 1, 1971; amended June 29, 1977 and November 22, 1977, effective as to cases in which the indictment or information is filed on or after January 1, 1978; Comment revised March 22, 1989, effective July 1, 1989; rescinded March 1, 2000, effective April 1, 2001, and replaced by Rule 112. New Rule 112 adopted March 1, 2000, effective April 1, 2001; amended May 10, 2002, effective September 1, 2002.

Committee Explanatory Reports:

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NEW RULE 112:

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Final Report explaining the May 10, 2002 amendments published with the Court's Order at 32 Pa.B. 2591 (May 25, 2002).

PART C. Venue, Location, and Recording of Proceedings before Issuing Authority

Rule 130. Venue; Transfer of Proceedings.

(A) VENUE

All criminal proceedings in summary and court cases shall be brought before the issuing authority for the magisterial district which in the offense is alleged to have occurred or before an issuing authority on temporary assignment to serve such magisterial district, subject, however, to the following exceptions:

* * * * *

(4) Whenever an arrest is made without a warrant for any summary offense arising under the Vehicle Code, which allegedly occurred on a highway of the Pennsylvania Turnpike System or any controlled or limited access highway, or any right-of-way of such System or highway, or any other highway or highways of the Commonwealth, the defendant shall be taken and the proceeding shall be brought either where the offense allegedly occurred, or before the issuing authority for any other magisterial district within the same judicial district which, in the judgment of the arresting officer, is most convenient to the place of arrest without regard to the boundary line of any magisterial district or [county] judicial district.

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Comment

[Except as otherwise provided in paragraph (A)(3), paragraph (A) of this rule governs venue between magisterial districts within the same judicial district, i.e., the matter of where a proceeding is to be brought within the judicial district having jurisdiction.]

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Venue is not altered when an issuing authority conducts a proceeding from an advanced communication technology site outside the issuing authority's magisterial district or judicial district.

See Rule 134 (Objections to Venue) for the procedures to challenge a transfer of proceedings under this rule.

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Official Note: Formerly Rule 154, adopted January 16, 1970, effective immediately; section (a)(3) adopted July 1, 1970, effective immediately; renumbered Rule 21 September 18, 1973, effective January 1, 1974; amended July 1, 1980, effective August 1, 1980; amended January 28, 1983, effective July 1, 1983; renumbered Rule 130 and amended March 1, 2000, effective April 1, 2001; amended April 20, 2000, effective July 1, 2000; amended September 19, 2000, effective January 1, 2001; amended May 10, 2002, effective September 1, 2002.

Committee Explanatory Reports:

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Final Report explaining the May 10, 2002 amendments concerning advanced communication technology published with the Court's Order at 32 Pa.B. (May 25, 2002).

Rule 131. Location of Proceedings Before Issuing Authority.

(A) An issuing authority within the magisterial district for which he or she is elected or appointed shall have jurisdiction and authority at [any time other than during his established office hours] all times to receive complaints, issue warrants, hold preliminary arraignments, [fix and take] set and receive bail, [and] issue commitments to jail, and hold hearings and summary trials. [at his residence within the magisterial district, but all hearings and trials before such issuing authority shall be held publicly at his established office, or at another location, within or without the magisterial district, designated by the President judge, unless an emergency exists or the number of persons lawfully assembled and entitled to be present is too great to be accommodated in such place, in which event the hearing

or trial may be adjourned as quickly as may be, to a suitable place, within the magisterial district.]

(1) Except as provided in paragraph (A)(2), all preliminary arraignments shall be held in the issuing authority's established office, a night court, or some other facility within the Commonwealth designated by the president judge, or the president judge's designee.

(2) Preliminary arraignments may be conducted using advanced communication technology pursuant to Rule 540. The preliminary arraignment in these cases may be conducted from any site within the Commonwealth designated by the president judge, or the president judge's designee.

(3) All hearings and summary trials before the issuing authority shall be held publicly at the issuing authority's established office. For reasons of emergency, security, size, or in the interests of justice, the president judge, or the president judge's designee, may order that a hearing or hearings, or a trial or trials, be held in another more suitable location within the judicial district.

(4) The issuing authority may receive complaints, issue warrants, set and receive bail, and issue commitments to jail from any location within the judicial district, or from an advanced communication technology site within the Commonwealth.

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Comment

The 2002 amendments to paragraph (A) divided the paragraph into subparagraphs to more clearly distinguish between the locations for the different types of proceedings and business that an issuing authority conducts.

Paragraph (A)(3) permits the president judge, or the president judge's designee, to order that a hearing or hearings be held in a location that is different from the issuing authority's established office. Nothing in this rule is intended to preclude the president judge, or the president judge's designee, from issuing a standing order for a change in location. For example, this might be done when a state correctional institution is located in the judicial district and the president judge determines that, for security reasons, all preliminary hearings of the state correctional institution's inmates will be conducted at that prison.

See Rule 540 and Comment for the procedures governing the use of advanced communication technology in preliminary arraignments.

See Rule 130 concerning the venue when proceedings are conducted by using advanced communication technology.

Paragraph (B) of this rule is intended to facilitate compliance with the requirement that defendants be represented by counsel at the preliminary hearing. *Coleman v. Alabama*, 399 U. S. 1, 90 S.Ct. 1999 (1970).

Paragraph (A)(4) permits issuing authorities to perform their official duties from an advanced communication technology site within the Commonwealth. The site may be located outside the magisterial district or judicial district where the issuing authority presides.

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Official Note: Formerly Rule 156, paragraph (a) adopted January 16, 1970, effective immediately; paragraph (a) amended and paragraph (b) adopted November 22, 1971, effective immediately; renumbered Rule 22 September 18, 1973, effective January 1, 1974; renumbered Rule 131 and amended March 1, 2000, effective April 1, 2001; amended March 12, 2002, effective July 1, 2002; **amended May 10, 2002, effective September 1, 2002.**

Committee Explanatory Reports:

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Final Report explaining the May 10, 2002 amendments concerning advanced communication technology published with the Court's Order at 32 Pa.B. 2591 (May 25, 2002).

CHAPTER 2. INVESTIGATIONS

PART A. Search Warrant

Rule 203. Requirements for Issuance.

(A) In the discretion of the issuing authority, advanced communication technology may be used to submit a search warrant application and affidavit(s) and to issue a search warrant.

(B) No search warrant shall issue but upon probable cause supported by one or more affidavits sworn to before the issuing authority **in person or using advanced communication technology.** The issuing authority, in determining whether probable cause has been established, may not consider any evidence outside the affidavits.

(C) Immediately prior to submitting a search warrant application and affidavit to an issuing authority using advanced communication technology, the affiant must personally communicate with the issuing authority by any device which, at a minimum, allows for simultaneous audio-visual communication. During the communication, the issuing authority shall verify the identity of the affiant, and orally administer an oath to the affiant.

[(B)] (D) At any hearing on a motion for the return or suppression of evidence, or for suppression of the fruits of evidence, obtained pursuant to a search warrant, no evidence shall be admissible to establish probable cause other than the affidavits provided for in paragraph [(A)] (B).

[(C)] (E) * * *

Comment

Paragraph (A) recognizes that an issuing authority either may issue a search warrant using advanced communication technology or order that the law enforcement officer appear in person to apply for a search warrant.

[This rule] Paragraph (B) does not preclude oral testimony before the issuing authority, but it requires that such testimony be reduced to an affidavit prior to issuance of a warrant. All affidavits in support of an application for a search warrant must be sworn to before the issuing authority prior to the issuance of the warrant. "Sworn" includes "affirmed." See Rule 103. The language "sworn to before the issuing authority" contemplates, when advanced communication technology is used, that the affiant would not be in the physical presence of the issuing authority. See paragraph (C).

Paragraph [(B)] (D) changes the procedure discussed in *Commonwealth v. Crawley*, 223 A.2d 885 (Pa. Super. 1966), *aff'd per curiam* 247 A.2d 226 (Pa. 1968). See *Commonwealth v. Milliken*, 300 A.2d 78 (Pa. 1973).

The requirement in paragraph [(C)] (E) of a showing of reasonable cause for a nighttime search highlights the traditional doctrine that nighttime intrusion into a citizen's privacy requires greater justification than an intrusion during normal business hours.

An affiant seeking the issuance of a search warrant, when permitted by the issuing authority, may use advanced communication technology as defined in Rule 103.

When advanced communication technology is used, the issuing authority is required by this rule to (1) determine that the evidence contained in the affidavit(s) establishes probable cause, and (2) verify the identity of the affiant.

The "visual" requirement in paragraph (C) must allow, at a minimum, the issuing authority to see the affiant at the time the oath is administered and the information received.

Official Note: Rule 2003 adopted March 28, 1973, effective for warrants issued 60 days hence; renumbered Rule 203 and amended March 1, 2000, effective April 1, 2001; **amended May 10, 2002, effective September 1, 2002.**

Committee Explanatory Reports:

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Final Report explaining the May 10, 2002 amendments concerning advanced communication technology published with the Court's Order at 32 Pa. B. 2591 (May 25, 2002).

CHAPTER 5. PRETRIAL PROCEDURES IN COURT CASES

PART B(3). Arrest Procedures in Court Cases

(a) Arrest Warrants

Rule 513. Requirements for Issuance.

(A) In the discretion of the issuing authority, advanced communication technology may be used to submit a complaint and affidavit(s) for an arrest warrant and to issue an arrest warrant.

(B) No arrest warrant shall issue but upon probable cause supported by one or more affidavits sworn to before the issuing authority in person or using advanced communication technology. The issuing authority, in determining whether probable cause has been established, may not consider any evidence outside the affidavits.

(C) Immediately prior to submitting a complaint and affidavit to an issuing authority using advanced communication technology, the affiant must personally communicate with the issuing authority by any device which, at a minimum, allows for simultaneous audio-visual communication. During the communication, the issuing authority shall verify the identity of the affiant, and orally administer the oath to the affiant.

[(B)] (D) At any hearing on a motion challenging an arrest warrant, no evidence shall be admissible to establish probable cause for the arrest warrant other than the affidavits provided for in paragraph [(A)] (B).

Comment

Paragraph (A) recognizes that an issuing authority either may issue an arrest warrant using advanced communication technology or order that the law enforcement officer appear in person to apply for an arrest warrant.

This rule does not preclude oral testimony before the issuing authority, but it requires that such testimony be reduced to an affidavit prior to issuance of a warrant. All affidavits in support of an application for an arrest warrant must be sworn to before the issuing authority prior to the issuance of the warrant. **The language "sworn to before the issuing authority" contemplates, when advanced communication technology is used, that the affiant would not be in the physical presence of the issuing authority. See paragraph (C).**

This rule carries over to the arrest warrant the requirement that the evidence presented to the issuing authority be reduced to writing and sworn to, and that only the writing is subsequently admissible to establish that there was probable cause. In these respects, the procedure is [now] similar to that applicable to search warrants. See Rule 203.

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The affidavit requirements of this rule are not intended to apply when an arrest warrant is to be issued for noncompliance with a citation, with a summons, or with a court order.

An affiant seeking the issuance of an arrest warrant, when permitted by the issuing authority, may use advanced communication technology as defined in Rule 103.

When advanced communication technology is used, the issuing authority is required by this rule to (1) determine that the evidence contained in the affidavit(s) establishes probable cause, and (2) verify the identity of the affiant.

The "visual" requirement in paragraph (C) must allow, at a minimum, the issuing authority to see the affiant at the time the oath is administered and the information received.

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Official Note: Rule 119 adopted April 26, 1979, effective as to arrest warrants issued on or after July 1, 1979; Comment revised August 9, 1994, effective January 1, 1995; renumbered Rule 513 and amended March 1, 2000, effective April 1, 2001; **amended May 10, 2002, effective September 1, 2002.**

Committee Explanatory Reports:

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Final Report explaining the May 10, 2002 amendments concerning advanced communication technology published with the Court's Order at 32 Pa.B. 2591 (May 25, 2002).

Rule 514. Duplicate and Alias Warrants of Arrest.

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Comment

This rule permits the use of advanced communication technology for the issuance of duplicate and alias arrest warrants.

Under this rule, warrant information transmitted by using advanced communication technology has the same force and effect as a duplicate or alias arrest warrant. This rule does not require that the transmitted warrant information be an exact copy of the original warrant for purposes of execution under Rule 515. Nothing in this rule, however, is intended to curtail the Rule 540(C) requirement that the issuing authority provide the defendant with an exact copy of the warrant at the preliminary arraignment. See Rule 513 (Requirements for Issuance).

Official Note: Original Rule 113 adopted June 30, 1964, effective January 1, 1965; suspended January 31, 1970, effective May 1, 1970. New Rule 113 adopted January 31, 1970, effective May 1, 1970; renumbered Rule 121 September 18, 1973, effective January 1, 1974; amended August 9, 1994, effective January 1, 1995; renumbered Rule 514 and amended March 1, 2000, effective April 1, 2001; **Comment revised May 10, 2002, effective September 1, 2002.**

Committee Explanatory Reports:

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Final Report explaining the May 10, 2002 Comment revision concerning advanced communication technology published with the Court's Order at 32 Pa.B. 2591 (May 25, 2002).

Rule 515. Execution of Arrest Warrant.

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Comment

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For purposes of executing an arrest warrant under this rule, warrant information transmitted by using advanced communication technology has the same force and effect as an original arrest warrant. This rule does not require that the transmitted warrant information be an exact copy of the original warrant. Nothing in this rule, however, is intended to curtail the Rule 540(C) requirement that the issuing authority provide the defendant with an exact copy of the warrant. See Rule 513 (Requirements for Issuance).

Official Note: Formerly Rule 124, adopted January 28, 1983, effective July 1, 1983; amended July 12, 1985, effective January 1, 1986; January 1, 1986 effective date extended to July 1, 1986; renumbered Rule 122 and Comment revised August 9, 1994, effective January 1, 1995; renumbered Rule 515 and amended March 1, 2000, effective April 1, 2001; **Comment revised May 10, 2002, effective September 1, 2002.**

Committee Explanatory Reports:

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Final Report explaining the May 10, 2002 Comment revision concerning advanced communication technology published with the Court's Order at 32 Pa.B. 2591 (May 25, 2002).

Rule 516. Procedure in Court Cases When Warrant of Arrest is Executed Within Judicial District of Issuance.

(A) When a defendant has been arrested in a court case, with a warrant, within the judicial district where the warrant of arrest was issued, the defendant shall be afforded a preliminary arraignment by the proper issuing authority without unnecessary delay.

(B) When a preliminary arraignment is conducted using advanced communication technology pursuant to Rule 540(A), the defendant shall be taken to an advanced communication technology site that, in the judgment of the arresting officer, is most convenient to the place of arrest without regard to the boundary of any magisterial district or judicial district.

Comment

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This rule is intended to permit the use of advanced communication technology (including two-way simultaneous audio-visual communication and closed circuit television) in preliminary arraignments. See Rule 540 and Comment for the procedures governing the use of advanced communication technology in preliminary arraignments.

This rule permits a defendant to be transported to an advanced communication technology site that is located outside the judicial district of arrest for preliminary arraignment. The arresting officer should determine which site is the most convenient to the place of arrest without regard to the boundary of any magisterial district or judicial district.

Official Note: Original Rule 116 adopted June 30, 1964, effective January 1, 1965; suspended January 31, 1970, effective May 1, 1970. New Rule 116 adopted January 31, 1970, effective May 1, 1970; renumbered Rule 122 September 18, 1973, effective January 1, 1974; amended January 28, 1983, effective July 1, 1983; Comment revised July 12, 1985, effective January 1, 1986, effective date extended to July 1, 1986; renumbered Rule 123 and Comment revised August 9, 1994, effective January 1, 1995; renumbered Rule 516 and Comment revised March 1, 2000, effective April 1, 2001; **amended May 10, 2002, effective September 1, 2002.**

Committee Explanatory Reports:

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Final Report explaining the May 10, 2002 amendments concerning advanced communication technology published with the Court's Order at 32 Pa.B. 2591 (May 25, 2002).

Rule 517. Procedure in Court Cases When Warrant of Arrest is Executed Outside Judicial District of Issuance.

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Comment

Nothing in this rule prevents a defendant from consenting to dispense with the procedures in paragraph (A) if the defendant is afforded a preliminary arraignment without unnecessary delay in the judicial district where the warrant was issued.

See Rule 518 for using advanced communication technology following execution of arrest warrant outside the judicial district of issuance.

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Official Note: Original Rule 117 adopted June 30, 1964, effective January 1, 1965; suspended January 31, 1970, effective May 1, 1970. New Rule 117 adopted January 31, 1970, effective May 1, 1970; renumbered Rule 123 September 18, 1973, effective January 1, 1974; amended January 28, 1983, effective July 1, 1983; renumbered Rule 124 and amended August 9, 1994, effective January 1, 1995; amended December 27, 1994, effective

April 1, 1995; renumbered Rule 517 and amended March 1, 2000, effective April 1, 2001; **Comment revised May 10, 2002, effective September 1, 2002.**

Committee Explanatory Reports:

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Final Report explaining the May 10, 2002 Comment revision concerning advanced communication technology published with the Court's Order at 32 Pa.B. 2591 (May 25, 2002).

(b). Arrests Without Warrant

(Editor's Note: The following rule is new and is printed in regular face to enhance readability.)

Rule 518. Using Advanced Communication Technology in Court Cases When Warrant of Arrest is Executed Outside Judicial District of Issuance.

(A) When a defendant has been arrested in a court case, with a warrant, outside the judicial district where the warrant of arrest was issued, the defendant may be taken for a preliminary arraignment or the posting of bail to an advanced communication technology site that, in the judgment of the arresting officer, is most convenient to the place of arrest without regard to the boundary of any magisterial district or judicial district; and

(1) the defendant must be taken to the advanced communication technology site without unnecessary delay.

(2) The preliminary arraignment may be conducted pursuant to Rule 540 by the proper issuing authority in the magisterial district or judicial district in which the warrant was issued; or

(3) the defendant may post bail as permitted by law with the proper issuing authority in the judicial district in which the defendant was arrested.

(B) If a preliminary arraignment is conducted pursuant to paragraph (A)(2), and the defendant does not post bail, the issuing authority who conducted the preliminary arraignment shall commit the defendant to the jail in the judicial district in which the defendant was arrested or the judicial district in which the warrant was issued.

(1) The issuing authority may transmit to the jail any required documents by using advanced communication technology.

(2) When a monetary condition of bail is set by the issuing authority who conducted the preliminary arraignment, the payment of the monetary condition shall be made to either the issuing authority who imposed the monetary condition or the proper issuing authority in the judicial district in which the defendant was arrested.

(C) Pursuant to paragraph (A)(3), when the defendant appears via advanced communication technology before the proper issuing authority in the judicial district in which the defendant was arrested, the procedures set forth in Rule 517 shall be followed.

Comment

This rule sets forth the procedures for using advanced communication technology when a defendant is arrested with a warrant outside the judicial district in which it was issued: when advanced communication technology is available, the defendant could be preliminarily arraigned by the issuing authority who issued the warrant, or the "on-duty" issuing authority in that judicial district, or "appear" via advanced communication technology before the proper issuing authority for the purpose of posting bail.

See Rule 130 concerning venue.

See Rule 132 concerning the continuous availability and temporary assignment of issuing authorities.

When advanced communication technology is available only in the judicial district of arrest, the case would proceed under paragraph (A)(3), unless the defendant consents to dispense with the procedures in paragraph (A)(3), and the defendant is afforded a preliminary arraignment without unnecessary delay in the judicial district in which the warrant was issued.

See Rule 540 and Comment for the procedures governing the use in preliminary arraignments of two-way simultaneous audio-visual communication, which is a form of advanced communication technology.

This rule permits a defendant to be transported to an advanced communication technology site that is located outside the judicial district of arrest. The arresting officer should determine which site is the most convenient to the place of arrest without regard to the boundary of any magisterial district or judicial district.

Official Note: New Rule 518 adopted May 10, 2002, effective September 1, 2002.

Committee Explanatory Reports:

Final Report explaining the May 10, 2002 adoption of new Rule 518 published with the Court's Order at 32 Pa.B. 2591 (May 25, 2002).

Rule [518] 519. Procedure in Court Cases Initiated by Arrest Without Warrant.

(A) PRELIMINARY ARRAIGNMENT

(1) Except as provided in paragraph (B), when a defendant has been arrested without a warrant in a court case, a complaint shall be filed against the defendant and the defendant shall be afforded a preliminary arraignment by the proper issuing authority without unnecessary delay.

(2) When a preliminary arraignment is conducted by advanced communication technology pursuant to Rule 540(A), the defendant shall be taken to an advanced communication technology site that, in the judgment of the arresting officer, is most convenient to the place of arrest without regard to the boundary of any magisterial district or judicial district.

(B) RELEASE

(1) When the arresting officer deems it appropriate, the officer may promptly release from custody a defendant who has been arrested without a warrant, rather than taking the defendant before the issuing authority, when the following conditions have been met:

[(1)] (a) * * *

[(2)] (b) * * *

[(3)] (c) * * *

[(4)] (d) * * *

[(5)] (e) * * *

[(C)] (2) When a defendant is released pursuant to paragraph (B)(1), a complaint shall be filed against the defendant within 5 days of the defendant's release.

Thereafter, a summons, not a warrant of arrest, shall be issued and the case shall proceed as provided in Rule 510.

Comment

Paragraph (A) requires that the defendant receive a prompt preliminary arraignment. See Rule 540 (Preliminary Arraignment).

Under paragraph (A), following arrest, the officer may file the complaint with the issuing authority using advanced communication technology.

Paragraph (A) is intended to permit the use of advanced communication technology (including two-way simultaneous audio-visual communication equipment and closed circuit television) in preliminary arraignments. See Rule 540 and Comment for the procedures governing the use of advanced communication technology in preliminary arraignments.

Paragraph (A)(2) permits a defendant to be transported to an advanced communication technology site that is located outside the judicial district of arrest for preliminary arraignment. The arresting officer should determine which site is the most convenient to the place of arrest without regard to the boundary of any magisterial district or judicial district.

Paragraph (B)(1) provides an exception to the requirement that a defendant be afforded a preliminary arraignment after a warrantless arrest. It permits an arresting officer, in specified circumstances, to release a defendant rather than take the defendant before an issuing authority for preliminary arraignment. Prior to 1994, this exception applied to all DUI cases, but in other cases was only available at the election of individual judicial districts. With the 1994 amendments, the exception is now an option available to arresting officers statewide and may not be prohibited by local rule.

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Appropriate circumstances for following the procedure under paragraph (B)(1) may vary. Among the factors that may be taken into account are whether the defendant resides in the Commonwealth, and whether he or she can safely be released without danger to self or others.

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With reference to the provisions of paragraph [(C)] (B)(2) relating to the issuance of a summons, see also Part B(2) of this Chapter, Summons Procedures.

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Official Note: Original Rule 118 and 118(a) adopted June 30, 1964, effective January 1, 1965, suspended January 31, 1970, effective May 1, 1970. New Rule 118 adopted January 31, 1970, effective May 1, 1970; renumbered Rule 130 September 18, 1973, effective January 1, 1974; amended December 14, 1979, effective April 1, 1980; amended April 24, 1981, effective July 1, 1981; amended January 28, 1983, effective July 1, 1983; Comment revised July 12, 1985, effective January 1, 1986; January 1, 1986 effective date extended to July 1, 1986; renumbered Rule 102 and amended August 9, 1994, effective January 1, 1995; Comment revised September 26, 1996, effective immediately; renumbered Rule 518 and amended March 1, 2000, effective April 1, 2001; **renumbered Rule 519 and amended May 10, 2002, effective September 1, 2002.**

Committee Explanatory Reports:

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Final Report explaining the May 10, 2002 renumbering and amendments concerning advanced communication technology published with the Court's Order at 32 Pa.B. 2591 (May 25, 2002).

PART D. Proceedings in Court Cases Before Issuing Authorities

Rule 540. Preliminary Arraignment.

(A) **In the discretion of the issuing authority, the preliminary arraignment of the defendant may be conducted by using two-way simultaneous audio-visual communication. When counsel for the defendant is present, the defendant must be permitted to communicate fully and confidentially with defense counsel immediately prior to and during the preliminary arraignment.**

(B) At the preliminary arraignment, a copy of the complaint accepted for filing pursuant to Rule 508 shall be given to the defendant.

[(B)] (C) * * *

[(C)] (D) If the defendant was arrested without a warrant pursuant to Rule [518] 519, unless the issuing authority makes a determination of probable cause, the defendant shall not be detained.

[(D)] (E) * * *

[(E)] (F) Unless the preliminary hearing is waived by a defendant who is represented by counsel, the issuing authority shall:

(1) fix a day and hour for a preliminary hearing which shall not be less than 3 nor more than 10 days after the preliminary arraignment, unless:

(a) extended for cause shown [,] ; or
* * * * *

[(F)] (G) * * *

[(G)] (H) * * *

Comment

A preliminary arraignment as provided in this rule bears no relationship to arraignment in criminal courts of record. See Rule 571.

Within the meaning of Rule 540, counsel is present when physically with the defendant or with the issuing authority.

Under paragraph (A), the issuing authority has discretion to order that a defendant appear in person for the arraignment.

Under paragraph (A), two-way simultaneous audio-visual communication is a form of advanced communication technology.

See Rule 130 concerning venue when proceedings are conducted using advanced communication technology.

Paragraph [(B)] (C) requires that the defendant receive copies of the arrest warrant and the supporting affidavit(s) at the time of the preliminary arraignment. See also Rules 513(A), 208(A), and 1003.

Paragraph [(B)] (C) includes a narrow exception which permits the issuing authority to provide copies of the arrest warrant and supporting affidavit(s) on the first business day after the preliminary arraignment. This exception applies only when copies of the arrest warrant

and affidavit(s) are not available at the time the issuing authority conducts the preliminary arraignment, and is intended to address purely practical situations such as the unavailability of a copier at the time of the preliminary arraignment.

* * * * *

When a defendant has not been promptly released from custody after a warrantless arrest, the defendant must be afforded a preliminary arraignment by the proper issuing authority without unnecessary delay. See Rule [518(A)] 519(A).

Under paragraph [(C)] (D), if a defendant has been arrested without a warrant, the issuing authority must make a prompt determination of probable cause before a defendant may be detained. See *Riverside v. McLaughlin*, 500 U.S. 44 (1991). The determination may be based on written affidavits, an oral statement under oath, or both.

Official Note: Original Rule 119 adopted June 30, 1964, effective January 1, 1965; suspended January 31, 1970, effective May 1, 1970. New Rule 119 adopted January 31, 1970, effective May 1, 1970; renumbered Rule 140 September 18, 1973, effective January 1, 1974; amended April 26, 1979, effective July 1, 1979; amended January 28, 1983, effective July 1, 1983; rescinded August 9, 1994, effective January 1, 1995. New Rule 140 adopted August 9, 1994, effective January 1, 1995; amended September 13, 1995, effective January 1, 1996. The January 1, 1996 effective date extended to April 1, 1996; the April 1, 1996 effective date extended to July 1, 1996; renumbered Rule 540 and amended March 1, 2000, effective April 1, 2001; **amended May 10, 2002, effective September 1, 2002.**

Committee Explanatory Reports:

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Final Report explaining the May 10, 2002 amendments concerning advanced communication technology published with the Court's Order at 32 Pa.B. 2591 (May 25, 2002).

PART F. Procedures Following Filing of Information

Rule 571. Arraignment.

(A) Except as otherwise provided in paragraph [(c)] (D), arraignment shall be in such form and manner as provided by local court rule. Notice of arraignment shall be given to the defendant as provided in Rule 113 or by first class mail. Unless otherwise provided by local court rule, or postponed by the court for cause shown, arraignment shall take place no later than 10 days after the information has been filed.

(B) **In the discretion of the court, the arraignment of the defendant may be conducted by using two-way simultaneous audio-visual communication. When the counsel for the defendant is present, the defendant must be permitted to communicate fully and confidentially with defense counsel immediately prior to and during the arraignment.**

(C) At arraignment, the defendant shall be advised of:

* * * * *

[(C)] (D) A defendant may waive appearance at arraignment if the following requirements are met:

* * * * *

(2) the defendant and counsel sign and file with the clerk of courts a waiver of appearance at arraignment that acknowledges the defendant:

* * * * *

(b) understands the rights and requirements contained in paragraph [(B)] (C) of this rule; and

* * * * *

Comment

* * * * *

Within the meaning of paragraph (B), counsel is present when physically with the defendant or with the judicial officer presiding over the arraignment.

Under paragraph (B), the court has discretion to order that a defendant appear in person for the arraignment.

Under paragraph (B), two-way simultaneous audio-visual communication is a form of advanced communication technology.

Paragraph [(C)] (D) is intended to facilitate, for defendants represented by counsel, waiver of appearance at arraignment through procedures such as arraignment by mail. For the procedures to provide notice of court proceedings requiring the defendant's presence, see Rule 9024.

Official Note: Formerly Rule 317, adopted June 30, 1964, effective January 1, 1965; paragraph (b) amended November 22, 1971, effective immediately; paragraphs (a) and (b) amended and paragraph (e) deleted November 29, 1972, effective 10 days hence; paragraphs (a) and (c) amended February 15, 1974, effective immediately. Rule 317 renumbered Rule 303 and amended June 29, 1977, amended and paragraphs (c) and (d) deleted October 21, 1977, and amended November 22, 1977, all effective as to cases in which the indictment or information is filed on or after January 1, 1978; Comment revised January 28, 1983, effective July 1, 1983; amended October 21, 1983, effective January 1, 1984; amended August 12, 1993, effective September 1, 1993; rescinded May 1, 1995, effective July 1, 1995, and replaced by new Rule 303. New Rule 303 adopted May 1, 1995, effective July 1, 1995; renumbered Rule 571 and amended March 1, 2000, effective April 1, 2001; amended November 17, 2000, effective January 1, 2001; **amended May 10, 2002, effective September 1, 2002.**

Committee Explanatory Reports:

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Final Report explaining the May 10, 2002 amendments concerning advanced communication technology published with the Court's Order at 32 Pa.B. 2591 (May 25, 2002).

PART F(1). Motion Procedures

Rule 582. Joinder—Trial of Separate Indictment or Informations.

* * * * *

(B) PROCEDURE

(1) **[Written notice] Notice** that offenses or defendants charged in separate indictments or informations will be tried together **shall be in writing and filed with the clerk of courts. A copy of the notice shall be**

served on the defendant at or before arraignment. [A copy of the notice shall be filed with the clerk of courts.]

* * * * *
Comment
* * * * *

See Rule 571 concerning arraignment procedures.

Although most references to indictments and indicting grand juries were deleted from these rules in 1993 since the indicting grand jury was abolished in all counties (see PA. CONST. art. 1, § 10 and 42 Pa.C.S. § 8931(b)), the reference was retained in this rule because there may be some cases still pending that were instituted prior to the abolition of the indicting grand jury.

Official Note: Rule 1127 adopted December 11, 1981, effective July 1, 1982; amended August 12, 1993, effective September 1, 1993; amended August 14, 1995, effective January 1, 1996; renumbered Rule 582 and amended March 1, 2000, effective April 1, 2001; amended May 10, 2002, effective September 1, 2002.

Committee Explanatory Reports:

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Final Report explaining the May 10, 2002 amendments to paragraph (B) published with the Court's Order at 32 Pa.B. 2591 (May 25, 2002).

CHAPTER 8. SPECIAL RULES FOR CASES IN WHICH DEATH SENTENCE IS AUTHORIZED

Rule 801. Notice of Aggravating Circumstances.

The attorney for the Commonwealth shall file a Notice of Aggravating Circumstances that the Commonwealth intends to submit at the sentencing hearing and contemporaneously provide the defendant with a copy of such Notice of Aggravating Circumstances. Notice shall be filed at or before the time of arraignment, unless the attorney for the Commonwealth becomes aware of the existence of an aggravating circumstance after arraignment or the time for filing is extended by the court for cause shown.

Comment

* * * * *

For purposes of this rule, the notice requirement is satisfied if the copy of the notice to the defendant sets forth the existing aggravating circumstances substantially in the language of the statute. See 42 Pa.C.S. § 9711(d). The extent of disclosure of underlying evidence is governed by Rule 573.

[For time of arraignment, see Rule 571.] See Rule 571 concerning arraignment procedures.

* * * * *

Official Note: Previous Rule 352 adopted July 1, 1985, effective August 1, 1985; renumbered Rule 353 February 1, 1989, effective July 1, 1989. Present Rule 352 adopted February 1, 1989, effective as to cases in which the arraignment is held on or after July 1, 1989; Comment revised October 29, 1990, effective January 1, 1991; amended January 10, 1995, effective February 1, 1995; renumbered Rule 801 and amended March 1, 2000, effective April 1, 2001; amended May 10, 2002, effective September 1, 2002.

Committee Explanatory Reports:

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Final Report explaining the May 10, 2002 amendments published with the Court's Order at 32 Pa.B. 2591 (May 25, 2002).

CHAPTER 10. RULES OF CRIMINAL PROCEDURE FOR THE PHILADELPHIA MUNICIPAL COURT

Rule 1003. Procedure in Non-Summary Municipal Court Cases.

* * * * *

(B) CERTIFICATION OF COMPLAINT

Before [a Municipal Court judge] an issuing authority may issue process or order further proceedings in a Municipal Court case, the [judge] issuing authority shall ascertain and certify on the complaint that:

* * * * *

The [Municipal Court judge] issuing authority shall then accept the complaint for filing, and the case shall proceed as provided in these rules.

(C) SUMMONS AND ARREST WARRANT PROCEDURES

When an issuing authority [a Municipal Court judge] finds grounds to issue process based on a complaint, the [judge] issuing authority shall:

* * * * *

(2) issue a warrant of arrest when:

* * * * *

(b) the [Municipal Court judge] issuing authority has reasonable grounds for believing that the defendant will not obey a summons;

* * * * *

(3) when the offense charged does not fall within the categories specified in paragraph (C)(1) or (2), the [judge] issuing authority may, in his or her discretion, issue a summons or a warrant of arrest.

(D) PRELIMINARY ARRAIGNMENT

(1) When a defendant has been arrested within Philadelphia County in a Municipal Court case, with or without a warrant, the defendant shall be afforded a preliminary arraignment by [a Municipal Court judge] an issuing authority without unnecessary delay. If the defendant was arrested without a warrant pursuant to paragraph (A)(1)(a) or (b), unless the [Municipal Court judge] issuing authority makes a determination of probable cause, the defendant shall not be detained.

(2) In the discretion of the issuing authority, the preliminary arraignment of the defendant may be conducted by using two-way simultaneous audiovisual communication. When counsel for the defendant is present, the defendant must be permitted to communicate fully and confidentially with defense counsel immediately prior to and during the preliminary arraignment.

(3) At the preliminary arraignment, the [Municipal Court judge] issuing authority:

* * * * *

[(3)] (4) * * *

Comment

Former Rule 6003 was rescinded and replaced in 1994 by new Rule 6003, renumbered Rule 1003 in 2000. Although Rule 1003 has been extensively reorganized, only paragraphs (D)(1) and [(D)(2)(c)] (D)(3)(c) reflect changes in the procedures contained in the former rule.

* * * * *

The procedure set forth in paragraph (C)(3) allows the [**Municipal Court judge**] **issuing authority** to exercise discretion in whether to issue a summons or an arrest warrant depending on the circumstances of the particular case. Appropriate factors for issuing a summons rather than an arrest warrant will, of course, vary. Among the factors that may be taken into consideration are the severity of the offense, the continued danger to the victim, the relationship between the defendant and the victim, the known prior criminal history of the defendant, etc.

* * * * *

[**Paragraph (D) (Preliminary Arraignment) is intended to permit closed circuit television preliminary arraignments.**]

* * * * *

Within the meaning of paragraph (D)(2), counsel is present when physically with the defendant or with the issuing authority.

Under paragraph (D)(2), the issuing authority has discretion to order that a defendant appear in person for the preliminary arraignment.

Under paragraph (D)(2), two-way simultaneous audio-visual communication is a form of advanced communication technology.

See Rule 130 concerning venue when proceedings are conducted pursuant to this rule using advanced communication technology.

Paragraph [(D)(2)(c)] (D)(3)(c) requires that the defendant receive copies of the arrest warrant and the supporting affidavits at the preliminary arraignment. This amendment parallels Rule 540(B). See also Rules 513(A) and 208(A).

Paragraph [(D)(2)(c)] (D)(3)(c) includes a narrow exception which permits the issuing authority to provide copies of the arrest warrant and supporting affidavit(s) on the first business day after the preliminary arraignment. This exception applies only when copies of the arrest warrant and affidavit(s) are not available at the time the issuing authority conducts the preliminary arraignment, and is intended to address purely practical situations such as the unavailability of a copier at the time of the preliminary arraignment.

* * * * *

Under paragraph [(D)(3)] (D)(4), after the preliminary arraignment, if the defendant is detained, the defendant must be given an immediate and reasonable opportunity to post bail, secure counsel, and notify others of the arrest. Thereafter, if the defendant does not post bail, he or she must be committed to jail as provided by law.

Official Note: Original Rule 6003 adopted June 28, 1974, effective July 1, 1974; amended January 26, 1977, effective April 1, 1977; amended December 14, 1979, effective April 1, 1980; amended July 1, 1980, effective

August 1, 1980; amended October 22, 1981, effective January 1, 1982; Comment revised December 11, 1981, effective July 1, 1982; amended January 28, 1983, effective July 1, 1983; amended February 1, 1989, effective July 1, 1989; rescinded August 9, 1994, effective January 1, 1995. New Rule 6003 adopted August 9, 1994, effective January 1, 1995; amended September 13, 1995, effective January 1, 1996. The January 1, 1996 effective date extended to April 1, 1996; amended March 22, 1996, effective July 1, 1996; the April 1, 1996 effective date extended to July 1, 1996; amended August 28, 1998, effective immediately; renumbered Rule 1003 and amended March 1, 2000, effective April 1, 2001; **amended May 10, 2002, effective September 1, 2002.**

Committee Explanatory Reports:

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Final Report explaining the May 10, 2002 amendments concerning advanced communication technology published with the Court's Order at 32 Pa.B. 2591 (May 25, 2002).

FINAL REPORT¹

New Pa.R.Crim.P. 518; Amendments to Rules 131, 203, 513, 516, 540, 571, 1003; Amendments to and Renumbering of Present Rule 518 as Rule 519; Revision of the Comments to Rules 130, 514, 515, and 517; Correlative Changes to Rules 103, 112, 582, and 801;

ADVANCED COMMUNICATION TECHNOLOGY: IN PRELIMINARY ARRAIGNMENTS AND ARRAIGNMENTS; IN PROCEDURES FOLLOWING ARREST OF DEFENDANT; AND IN SEARCH WARRANT AND ARREST WARRANT PROCEDURES

On May 10, 2002, effective September 1, 2002, upon the recommendation of the Criminal Procedural Rules Committee, the Court:

- adopted new Rule 518 (Using Advanced Communication Technology in Court Cases When Warrant of Arrest is Executed Outside Judicial District of Issuance), amended and renumbered present Rule 518 (Procedures in Court Cases Initiated by Arrest Without Warrant) as Rule 519,² amended Rules 131 (Location of Proceedings Before Issuing Authority), 516 (Procedure in Court Cases When Warrant of Arrest is Executed Within Judicial District of Issuance), 540 (Preliminary Arraignment), 571 (Arraignment), and 1003 (Procedure in Non-Summary Municipal Court Cases), and approved the revision of the Comment to Rule 517 (Procedure in Court Cases When Warrant of Arrest is Executed Outside Judicial District of Issuance). These changes provide for the use of advanced communication technology, including two-way simultaneous audio-visual communication and closed-circuit television, in procedures following the arrest of a defendant, including preliminary arraignments, and in arraignments;

- amended Rules 130 (Venue; Transfer of Proceedings), 203 (Requirements for Issuance), and 513 (Requirements for Issuance), and approved the revision of the Comments to Rules 514 (Duplicate and Alias Warrants of Arrest), and 515 (Execution of Arrest Warrant). These changes provide for the use of advanced communication technology in search warrants and arrest warrant procedures, and require that the type of advanced communication technol-

¹ The Committee's Final Reports should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the Committee's explanatory Final Reports.

² For purposes of the discussion of these rule changes, "Rule 519" refers to the changes to present Rule 518 that has been renumbered Rule 519 as part of the changes adopted by the Court on May 10, 2002.

ogy used must be capable of two-way simultaneous audio-visual communication; and

- made correlative changes to Rules 103 (Definitions), 112 (Publicity, Broadcasting, and Recording of Proceedings), 582 (Joinder—Trial of Separate Indictments or Informations), and 801 (Notice of Aggravating Circumstances). These changes conform the rules to the new advanced communication technology provisions, update the rules, and make technical corrections and editorial changes.

A. BACKGROUND

Since 1983 when the Court revised the Comments to Rules 516 and 1003 and Rule 519 “to permit closed circuit television in preliminary arraignments,” the Committee from time to time has considered expanding the scope of the “closed circuit television” provisions to provide in the Criminal Rules a comprehensive scheme for the use of advanced communication technology (ACT) in criminal proceedings. In 1998, we resumed our consideration of ACT in view of 42 Pa.C.S. § 8703 that provides for arraignment of a defendant by two-way electronic audio-visual communications, and correspondence we received suggesting that ACT provisions would promote judicial efficiency and economy. Initially, the Committee’s focus on ACT was narrow, considering only the rules that provide the procedures for preliminary arraignments and arraignments. However, after we learned that several judicial districts already are moving forward and experimenting with ACT in various criminal proceedings, our narrow focus quickly expanded to encompass consideration of the use of ACT in other procedures, including inter alia, search warrant and arrest warrant procedures, and procedures following the arrest of a defendant.

Recognizing that ACT equipment is expensive and not uniformly available statewide, the rule changes 1) encourage the use of ACT while maintaining the non-ACT provisions of the present rules, 2) accommodate the localities within the Commonwealth that do not have access to ACT systems and equipment, and 3) provide for those situations in which the judicial officer conducting a criminal proceeding may want an individual to appear in person, rather than conduct judicial business using ACT. In addition, the new provisions:

- further the Court’s goal to promote uniform, statewide procedures;
- provide for the prompt and efficient administration of justice;
- bring convenience to the parties; and
- protect the rights of the defendant.

The following discussion of the new ACT provisions is divided into four separate parts: (1) preliminary arraignments and arraignments, Part B below; (2) procedures following arrest of defendant, Part C below; (3) search warrants and arrest warrants, Part D below; and (4) correlative changes, Part E below.

B. PRELIMINARY ARRAIGNMENTS AND ARRAIGNMENTS

1. Background

In 1998, 42 Pa.C.S. § 8703 providing for arraignment of a defendant using two-way electronic audio-visual communications was enacted. During the same time period, the Committee received correspondence requesting that the rules be amended to permit the use of ACT, such as closed circuit television, in criminal proceedings, particularly for preliminary arraignments and arraignments.

The correspondents commented that many types of technology are readily available, and, when used, increase the efficiency of court proceedings. They also pointed out that many judicial districts already use forms of ACT in various criminal proceedings, including preliminary arraignments and arraignments. The correspondents’ experience with ACT has shown that the use of ACT reduces delays and costs, and, when ACT is used for the preliminary arraignment, the defendant is not unnecessarily detained because of the unavailability of an issuing authority. The concern noted by the correspondents was that, other than the Comment references to closed circuit television preliminary arraignments in Rules 516, 519, and 1003, the Criminal Rules do not specifically include such practices, so there is no uniformity in the ACT procedures that already are being used. In addition, many judicial districts are not using ACT because the rules do not authorize its use.

The Committee reviewed Pennsylvania case law addressing the use of technology in criminal proceedings generally, and found that the courts have upheld the use of electronic and mechanical devices in preliminary arraignments, as long as the defendant is not prejudiced or deprived of constitutional rights. See, e.g., *Commonwealth v. Terebieniec*, 408 A.2d 1120 (Pa. Super. 1979). The Committee also surveyed rules, statutes, and case law of other jurisdictions, and found that the use of ACT in criminal proceedings is widespread and continually expanding.

In view of the 1998 statutory enactment, the points outlined in the correspondence, the fact that the existing rules do not include procedures specifically providing for the use of ACT in preliminary arraignments and arraignments, and the growing use of ACT in criminal proceedings in Pennsylvania and other jurisdictions, the Committee agreed that the rules providing the procedures for preliminary arraignments and arraignments should be amended to authorize the use of ACT for these proceedings.

2. Discussion of Rule Changes

a. Preliminary Arraignments

i. Rule 540 (Preliminary Arraignment)

Rule 540 provides the procedures governing preliminary arraignments in all cases except in Philadelphia, which is governed by the Municipal Court Rules, see Rule 1003. Rule 540 has been amended by the addition of new paragraph (A), which provides that (1) preliminary arraignments, in the discretion of the issuing authority, may be conducted by using two-way simultaneous audio-visual communication, and (2) when the counsel for the defendant is present, the defendant must be permitted to communicate fully and confidentially with defense counsel immediately prior to and during the preliminary arraignment.³ By using “two-way simultaneous audio-visual communication,” the rule requires that the defendant and the issuing authority be able to see and communicate with each other during the proceeding. The new ACT provisions precede the present provisions concerning the conduct of preliminary arraignments to emphasize the new ACT provisions, thereby encouraging the use of communication technology when available in the judicial districts, and making it clear that the decision whether to use ACT is within the issuing authority’s discretion.

Several correlative changes have been made in the Rule 540 Comment. First, a new second paragraph has been

³ Comparable changes also have been made to Rules 571 and 1003. See discussion below.

added to explain that counsel is “present” when physically with the defendant or with the issuing authority. A new third paragraph emphasizes that the issuing authority has the discretion not to use ACT and to order that a defendant appear in person for the preliminary arraignment. Because Rule 540 uses “two-way simultaneous audio-visual communication,” a new fourth paragraph explains that type of communication is a form of advanced communication technology as defined in Rule 103. Finally, a new fifth paragraph cross-references Rule 130 (Venue; Transfer of Proceedings) to emphasize that when an issuing authority conducts the preliminary arraignment from an ACT site that is outside the magisterial district or judicial district, the venue does not change.

ii. *Rule 1003 (Procedure in Non-Summary Municipal Court Cases)*

Rule 1003 provides, inter alia, the procedures for the conduct of preliminary arraignments in Philadelphia Municipal Court. Rule 1003(D) and Comment have been changed to mirror the Rule 540 changes concerning two-way simultaneous audio-visual communication discussed in Section B.2.a.i. above.

b. *Arraignments: Rule 571 (Arraignment)*

Rule 571 has been amended by the addition of a new paragraph (B) that authorizes the use of two-way simultaneous audio-visual communication for the conduct of arraignments. These changes accomplish the same goals as the changes to Rule 540 by giving the judicial officer presiding over the arraignment the discretion to use ACT in an arraignment proceeding, and requiring that the defendant be permitted to communicate fully and confidentially with defense counsel prior to and during the arraignment. In addition, the “two-way simultaneous audio-visual” language makes the rule clear that the defendant and the issuing authority must be able to see and communicate with each other during the proceeding. In addition, correlative changes to the Comment, comparable to the changes to the Rule 540 Comment described in Section B.2.a.i., have been made.

C. PROCEDURES FOLLOWING ARREST OF DEFENDANT

1. *Background*

During the development of the rule changes concerning the use of ACT in preliminary arraignments and arraignments, the Committee received correspondence questioning the propriety of law enforcement officers transporting a defendant out of county for a preliminary arraignment when the out-of-county site is set up to conduct the preliminary arraignment using ACT. The correspondent:

- pointed out that the Criminal Rules are silent in this regard, and requested that the Committee consider amending the rules specifically to permit this procedure;
- indicated that when ACT procedures are used and the ACT sites are established, there may be a site that is located outside of the judicial district in which an arrest occurred, but is closer to the location of the arrest;
- suggested that the benefits of allowing the law enforcement officers to transport a defendant to an “out-of-county” site would: “relieve police officers from outlying communities from costly and time-consuming trips” that are caused by the requirement that the defendant be brought to appear before the proper issuing authority, or to an ACT site that is not convenient; and speed up the processing of a defendant; and
- made it clear that “a defendant would still be arraigned by the proper issuing authority in the jurisdiction

of the alleged criminal incident”—the officers merely would be using out-of-county facilities as the technological link between the defendant and the issuing authority for the preliminary arraignment.

In considering this correspondence, the Committee acknowledged that when developing the proposed rule changes providing the procedures for using ACT in preliminary arraignments, we had not considered whether a law enforcement officer may transport a defendant to an out-of-judicial district ACT site for the preliminary arraignment, but as worded, the proposed changes do not preclude the procedure. After further discussion, we agreed that as long as the proper issuing authority conducts the preliminary arraignment, we did not foresee any disadvantages or prejudice of such a procedure, and agreed that the practice should be permitted. However, because the concept of permitting a law enforcement officer to transport a defendant to a site outside the territorial limits of the officer’s jurisdiction seems contrary to accepted procedures, the Committee agreed that the rules specifically should authorize the procedure.

Accordingly, the changes adopted by the Court provide when a preliminary arraignment is conducted by ACT pursuant to Rule 540, the defendant must be taken to the ACT site most convenient to the place of arrest without regard to the boundary of any magisterial district or judicial district. Under these changes, once ACT sites are established, an arresting officer may transport the defendant to a site outside the magisterial district or judicial district of arrest for the preliminary arraignment. This procedure is intended to promote the primary goals of ACT procedures—the prompt and efficient administration of justice, and convenience to the parties.

2. *Discussion of Rule Changes*

a. *Rule 516 (Procedure in Court Cases When Warrant of Arrest is Executed Within Judicial District of Issuance) and Rule 519⁴ (Procedure in Court Cases Initiated by Arrest Without Warrant)*

Rule 516 provides the procedures in court cases when a warrant of arrest is executed within the judicial district of issuance, and Rule 519 provides the procedures in court cases when a defendant is arrested without a warrant. Rules 516 and 519 have been amended to (1) reference the preliminary arraignment procedures found in Rule 540, and (2) make clear that when the preliminary arraignment is conducted using two-way simultaneous audio-visual communication, which is a form of ACT, the defendant shall be taken to an ACT site which, in the judgment of the arresting officer, is most convenient to the place of arrest without regard to the boundary of any magisterial district or judicial district. Once ACT sites are established, a police officer will have several options: the officer could take a defendant for the preliminary arraignment to:

- (1) the proper issuing authority where the defendant was arrested;
- (2) an approved ACT site in the judicial district of arrest; or
- (3) an approved ACT site outside the judicial district in which the defendant was arrested. The changes are worded broadly to encompass all three possibilities, as well as others that may arise once ACT is more widely used throughout the Commonwealth.

The Comments to Rules 516 and 519 have been revised to include a cross-reference to Rule 540 to highlight that

⁴ Rule 518 was renumbered Rule 519 as part of the changes adopted by the Court on May 10, 2002.

an issuing authority may conduct a preliminary arraignment by using forms of ACT other than closed circuit television as long as the requirements of Rule 540 are satisfied. The Comments also emphasize that under the new provision in the rules, the arresting officer may transport a defendant to an ACT site that is outside of the judicial district in which the defendant was arrested.

In addition to the changes described above, Rule 519 has been separated into two paragraphs to make it clear that after a defendant is arrested without a warrant, the arresting officer has two options: take the defendant without unnecessary delay for a preliminary arraignment (see Rule 540); or release the defendant. The first new paragraph in the Comment explains that under paragraph (A), when an arresting officer is required to file a complaint, the officer may use ACT to file the complaint with the proper issuing authority.

b. New Rule 518 (Using Advanced Communication Technology in Court Cases When Warrant of Arrest is Executed Outside Judicial District of Issuance)

When developing the procedures for the use of out-of-judicial district ACT sites for preliminary arraignments, the Committee agreed that the procedures in Rule 517 for cases in which the warrant is executed outside the county of issuance needed to be modified to accommodate ACT. Initially, when we tried to work the ACT procedures into Rule 517, we experienced great difficulty with this approach and were unable to come up with a comprehensible procedure. Accordingly, new Rule 518 provides the procedures for using ACT when a warrant of arrest is executed outside the judicial district in which it was issued, and Rule 517 has been retained in its current form for cases in which ACT is not used.

The new rule is divided into three paragraphs. Paragraph (A) provides the defendant may be taken, for a preliminary arraignment or for the posting of bail, to an ACT site convenient to the place of arrest without regard to the boundary of any magisterial or judicial district. This paragraph also includes the requirement that the defendant must be taken to the ACT site without unnecessary delay. See paragraph (A)(1).

Paragraph (A)(2) provides that when the defendant is taken to the ACT site, the preliminary arraignment may be conducted in accordance with the requirements set forth in Rule 540 by the issuing authority in the judicial district in which the warrant was issued.

Paragraph (A)(3) provides when the defendant is taken to the ACT site, the defendant may post bail with the issuing authority in the judicial district in which the defendant was arrested.

Paragraph (B) provides that when a preliminary arraignment is conducted pursuant to paragraph (A)(2)—by the proper issuing authority in the judicial district in which the warrant was issued—and the defendant does not post bail, the issuing authority who conducted the preliminary arraignment is authorized to commit the defendant to the jail in the county in which the defendant was arrested or the county in which the warrant issued, and that the issuing authority, by using ACT, may transmit to the jail any required documents. The Committee considered this provision at length, and agreed that a provision to permit the issuing authority who issued the warrant to conduct the preliminary arraignment would promote judicial economy and be more efficient. In addition, because issuing authorities have statewide jurisdic-

tion,⁵ the issuing authority who conducts the preliminary arraignment may issue the paperwork required to have the defendant lodged in a jail in the county of arrest.

Paragraph (B)(2) provides that when bail is set by the issuing authority who conducted the preliminary arraignment, the payment of bail may be made to either the issuing authority who imposed the condition or to the proper issuing authority in the judicial district in which the defendant was arrested. The Committee anticipates that this requirement will facilitate the posting of bail so the defendant is released in a timely manner.

Paragraph (C) provides that when the defendant appears via ACT before the proper issuing authority in the judicial district in which the defendant was arrested, the procedures set forth in Rule 517 must be followed. In other words, although the proper issuing authority in the judicial district of issuance may not be available, if ACT is available between the defendant and the issuing authority in the county of arrest, ACT may be used to proceed pursuant to Rule 517.

The Rule 518 Comment explains that (1) the rule sets forth the procedures for using ACT when a defendant is arrested outside the judicial district in which a warrant was issued, and explains that when ACT is available, the defendant may be preliminarily arraigned by the issuing authority who issued the warrant, or the “on-duty” issuing authority in that judicial district, or “appear” via ACT before the proper issuing authority for the purpose of posting bail; (2) when ACT is available only in the judicial district of arrest, the case would proceed under paragraph (A)(3), unless the defendant consents to dispense with the paragraph (A)(3) requirement and is afforded a preliminary arraignment without unnecessary delay in the judicial district in which the warrant was issued; and (3) under new Rule 518, a defendant may be transported to an ACT site that is located outside the judicial district of arrest, and suggests the arresting officer should determine the ACT site most convenient to the place of arrest.

c. Rule 130 (Venue; Transfer of Proceedings)

The Comment to Rule 130 has been revised by (1) deleting the first paragraph, and (2) adding as a new fourth paragraph language explaining that venue is not altered when an issuing authority conducts a proceeding from an ACT site outside the issuing authority’s magisterial district or judicial district.

d. Rule 131 (Location of Proceedings Before Issuing Authority)

Rule 131 governs the location(s) from which an issuing authority may conduct official duties. The Committee agreed, in view of new Rule 518 and the amendments to Rules 516, 517, and 519 discussed above, that some changes to Rule 131 were necessary to explain that: 1) an issuing authority may conduct official duties from an ACT site; and 2) under paragraph (A), the ACT site may be located at any site within the Commonwealth designated by the president judge or the president judge’s designee. Accordingly, paragraph (A) has been restructured, and the changes concerning ACT are included as new paragraphs (A)(2) and (4). In addition, to update the rule, the language in paragraph (A) “fix and take” has been changed to “set and receive.”

The Comment to Rule 131 has been revised to make it clear that an ACT site located outside of the magisterial district or judicial district is contemplated by paragraph (A). The Comment also has been revised by adding a

⁵ See *Commonwealth v. Gessler*, 307 A.2d 892 (Pa. 1973) and 42 Pa.C.S. § 1515.

cross-reference to Rule 540 concerning the procedures to conduct preliminary arraignments and Rule 130 concerning venue, and making some editorial changes and technical corrections.

D. USING ADVANCED COMMUNICATION TECHNOLOGY FOR SEARCH AND ARREST WARRANTS

1. Background

During our consideration of the use of ACT in criminal proceedings, the Committee discussed whether the arrest and search warrant procedures in Pennsylvania also could be streamlined by including in the warrant rules provisions allowing the use of ACT to obtain a warrant.

The Committee's research into this issue revealed that the substantive meaning of the provisions of the Fourth Amendment of the U.S. Constitution⁶ and article I, section 8 of the Pennsylvania Constitution⁷ are seemingly identical. These similarities support the concept of using ACT to request and issue warrants particularly since federal case law has construed this constitutional provision as permitting some forms of ACT. See *U.S. Turner*, 558 F.2d 46 (2d Cir. 1977), *People v. Snyder*, 449 N.W.2d 703 (Mich. Ct. App. 1989), *State v. Andries*, 297 N.W.2d 124 (Minn. 1980). In the Pennsylvania Constitutional provision, however, there is the additional language "subscribed to by the affiant." The Committee agreed that this provision requiring the affiant's signature, without more, would not bar the use of ACT to obtain a warrant as long as the technology employed captures the signature.

The Committee looked at other jurisdictions and found that although not widespread across the country, there are a few jurisdictions that have specific procedures for using advanced technology communication equipment in warrant procedures as an alternative to the traditional method of the "in person, face-to-face" appearance before the magistrate. F.R.Crim.P. 41 permits a federal magistrate or judge to issue a warrant based upon sworn testimony communicated by telephone or other appropriate means of communication, including electronic transmission. We also examined the case law, which indicates that the use of electronic communications to obtain warrants is permitted as long as the constitutional requirements and spirit of the law are satisfied. See, e.g., *U.S. v. Richardson*, 943 F.2d 547 (5th Cir. 1991); *State v. Evans*, 822 P.2d 1198 (Or. Ct. App. 1991); *State v. Myers*, 815 P.2d 761 (Wash. 1991); *State v. Lindsey*, 473 N.W.2d 857 (Minn. 1991); *People v. Snyder*, 449 N.W.2d 703 (Mich. Ct. App. 1989).

The Committee recognizes that there are a sufficient number of "warrant" situations in which time and convenience are important, and expects that the new ACT provisions will (1) reduce the amount of time it takes to obtain a warrant, and (2) increase the convenience to both affiant and issuing authority. In addition, the Committee agreed with the concept that proceeding with a warrant is favored over proceeding without a warrant, and using ACT will reduce the number of warrantless arrests and seizures.

2. ACT in Pennsylvania Search Warrant and Arrest Warrant Procedures

⁶ The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." U.S. CONST. amend 4.

⁷ The people shall be secure in their persons, houses, papers and possessions from unreasonable searches and seizures, and no warrant to search any place or to seize any person or things shall issue without describing them as nearly as may be, nor without probable cause, supported by oath or affirmation subscribed to by the affiant." PA.CONST. art. I, sec. 8.

In devising the new ACT procedures, the Committee agreed that the rules should continue to require the "written" affidavits, yet allow for the writing to be submitted using ACT equipment. In addition, we agreed that an important concept for the new procedure would be to require the issuing authority to verify the identity of the affiant, and to maintain the requirement that the issuing authority administer an oath to the affiant. Under the new procedure, the issuing authority and the affiant may communicate from separate locations, and the issuing authority will be able to use ACT to verify the identity of the affiant and administer the oath before the required documentation is transmitted.

In addition, under the new procedures, the use of ACT in warrant procedures is discretionary with the issuing authority. The new ACT provisions do not: 1) mandate the use of ACT for every situation in which an affiant requests a warrant; 2) preclude the issuing authority from requiring the affiant to appear before the issuing authority to obtain the warrant, and 3) preclude the technology from being used at any time. The Committee considered that there also will be situations in which the issuing authority cannot readily identify the affiant or verify the identity of the affiant, and when these instances arise, the issuing authority is required to have the affiant appear in person.

a. Requirements for Issuance: Rules 203 and 513

Rule 203 sets forth the requirements for the issuance of search warrants, and Rule 513 sets forth the requirements for the issuance of arrest warrants. Noting that Rule 513 parallels Rule 203, the Committee agreed that the parallel structure should be maintained with the new ACT provisions; the following explanation of the rule changes applies to both Rule 203 and 513. New paragraph (A) provides that in the discretion of the issuing authority, an affiant may use ACT to submit an affidavit of probable cause (Rule 203) or a complaint (Rule 513) to the issuing authority, and the issuing authority may use ACT to issue the warrant. Former paragraph (A) has become paragraph (B), and includes the additional language "in person or using advanced communication technology" to make it clear that the "sworn to before the issuing authority" requirement contemplates the use of ACT under the rules. The rules also require that the issuing authority be able to verify the identity of the affiant who is requesting an arrest warrant or a search warrant, and administer an oath to the affiant. See paragraph (C).

Similar to Federal Rule of Criminal Procedure 41, these new provisions make it clear that when the new procedures are followed, the rules do not require that an affidavit in support of the warrant be sworn to in the physical presence of the issuing authority. Unlike the provisions in Federal Rule 41 that permit oral requests for warrants without the requirement of a "face-to-face" encounter, Rules 203 (Requirements for Issuance) and 513 (Requirements for Issuance) do not permit a warrant to issue based on oral testimony alone, and require that the issuing authority using ACT must be able to see the affiant when the oath is administered.

Former paragraph (B) has been "relettered" as new paragraph (D), without modification. Finally, Rule 203 maintains its provision for searches conducted at nighttime as new paragraph (E).

The Comments to Rules 203 and 513 have been revised to 1) reiterate that simultaneous audio-visual communication is permitted to obtain both arrest warrants and

search warrants; 2) explain that the probable cause requirement has not been altered; 3) make it clear that when ACT is used, the language “sworn to before the issuing authority” contemplates that the affiant would not be in the physical presence of the issuing authority; 4) emphasize that the issuing authority is required to verify the identity of the affiant; and 5) require that when ACT is used in warrant procedures, the issuing authority must be able to see the affiant.

b. *Rules 514 (Duplicate and Alias Warrants of Arrest) and 515 (Execution of Arrest Warrants)*

Rule 514 provides the procedures for issuing duplicate and alias warrants of arrest and Rule 515 provides the procedures for the execution of arrest warrants. The Comments to both rules have been revised to:

- 1) make it clear that ACT is permitted for the issuance of duplicate and alias warrants;
- 2) explain that when warrant information is transmitted, the information does not have to be an exact copy of the warrant;
- 3) clarify that the rule does not modify the Rule 540(C) requirement that the issuing authority provide the defendant with an exact copy of the warrant at the time of the preliminary arraignment; and
- 4) provide a cross-reference to Rule 513.

E. CORRELATIVE CHANGES

As noted above, several correlative changes have been made to make it clear that the new provisions have been designed to encourage the use of ACT. Terms that are new to the rules, or meanings that have changed because of the new ACT provisions, are included in Rule 103. In addition, editorial changes and technical corrections have been made to the rules to conform them to the new ACT provisions.

1. *Rule 103 (Definitions)*

Because the concept of ACT in criminal practice is novel to the Criminal Rules, Rule 103 has been amended to include definitions of the terms “advanced communication technology,” “advanced communication technology site,” and “copy.” The definition of “advanced communication technology” is intentionally broad in anticipation of future changes in technology, and includes examples of ACT.

“Advanced communication technology site” is a term of art developed by the Committee to define the parameters concerning the locations where the judicial officers and other parties would be located when using ACT. The definition requires the site be approved by the president judge or the president judge’s designee, located within Pennsylvania, and equipped with ACT equipment that satisfies the ACT requirements as provided in the Criminal Rules.

The Committee also recognized that by authorizing ACT, further clarification was necessary concerning whether a document received through a transmission by ACT constitutes a valid “copy” for purposes of the Criminal Rules. We agreed that the salutary benefits of ACT would be frustrated if the rules were not made clear that “copy” as used in the rules includes documents received by transmission through technological equipment. Accordingly, Rule 103 has been amended to define “copy” as “an

exact duplicate of an original document, including any required signatures, produced through mechanical or electronic means.” The definition also includes examples of types of equipment that may be used for the reproduction of documents.

2. *Rule 112 (Publicity, Broadcasting, and Recording of Proceedings)*

Rule 112 has been amended to update the rule and clarify that the prohibitions in the rule are not intended to apply to the use of ACT in court proceedings. The changes also expand the rule to include more contemporary means of recording and transmitting to accommodate ACT.

3. *Rule 582 (Joinder—Trial of Separate Indictments or Informations)*

Rule 582 provides the procedures for joinder of separate indictments or informations. Rule 582 has been amended to require the original joinder notice be filed with the clerk of courts and a copy of the notice served on the defendant. The Rule 582 Comment also has been revised to include a cross-reference to Rule 571 concerning arraignment procedures.

[Pa.B. Doc. No. 02-930. Filed for public inspection May 24, 2002, 9:00 a.m.]

Title 249—PHILADELPHIA RULES

PHILADELPHIA COUNTY

Deferment of Legion Indemnity Company Cases by Reason of Order of Rehabilitation; Administrative Doc. 05 of 2002

Order

And Now, this 7th day of May, 2002, upon consideration of the Order of Conservation of the Circuit Court of Cook County, Illinois, Chancery Division, entered April 8, 2002, in *People of the State of Illinois, ex rel. Nathaniel S. Shapo, Director of Insurance of the State of Illinois v. Legion Indemnity Company*, No. 02CH06695, authorizing and directing the Director of Insurance to take possession and control of the property and assets of Legion Indemnity Company and enjoining, inter alia, the payment of any claims, judgments or attachments, it is hereby *Ordered and Decreed* that all cases in which Legion Indemnity Company, or an insured of Legion Indemnity Company, is a party shall be placed in deferred status until further Order of the Court.

It is further *Ordered and Decreed* that all actions currently pending against an insured of Legion Indemnity Company shall be placed in deferred status until further Order of the Court.

WILLIAM J. MANFREDI,
Supervising Judge

[Pa.B. Doc. No. 02-931. Filed for public inspection May 24, 2002, 9:00 a.m.]

Title 255—LOCAL COURT RULES

SCHUYLKILL COUNTY

Amendment to Civil Rules of Procedure; S-912-02

Order of Court

And Now, this 10th day of May, 2002, at 10:45 a.m., Schuylkill County Civil Rule of Procedure No. 2039(b) is amended for use in the Court of Common Pleas of Schuylkill County, Pennsylvania, Twenty-First Judicial District, Commonwealth of Pennsylvania, effective thirty days after publication in the *Pennsylvania Bulletin*.

The Prothonotary of Schuylkill County is Ordered and Directed to do the following:

- 1) File ten (10) certified copies of this Order and Rule with the Administrative Office of Pennsylvania Courts.
- 2) File two (2) certified copies of this Order and Rule with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* together with a diskette reflecting the text in the hard copy version.
- 3) File one (1) certified copy of this Order and Rule with the Pennsylvania Civil Procedural Rules Committee.
- 4) Forward one (1) copy to the Schuylkill County Law Library for publication in the *Schuylkill Legal Record*.
- 5) Keep continuously available for public inspection copies of this Order and Rule.

It is further Ordered that said rule as it existed prior to the amendment is hereby repealed and annulled on the effective date of said rule as amended, but no right acquired thereunder shall be disturbed.

By the Court

WILLIAM E. BALDWIN,
President Judge

Sch.R.C.P.2039. Compromise, Settlement, Discontinuance and Distribution.

(b) The distribution issue of civil case settlements involving minors or estates shall be forwarded to the President Judge. The petition will be filed with the Prothonotary and shall be accompanied by a praecipe to transmit pursuant to Sch.R.C.P.205.3.

[Pa.B. Doc. No. 02-932. Filed for public inspection May 24, 2002, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Suspension

Notice is hereby given that Patrick M. Casey, having been suspended from the practice of law in the State of New Jersey for a period of three months, the Supreme Court of Pennsylvania issued an Order dated May 8, 2002 suspending Patrick M. Casey from the practice of law in this Commonwealth consistent with the Order of the Supreme Court of New Jersey. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 02-933. Filed for public inspection May 24, 2002, 9:00 a.m.]