

# THE COURTS

## Title 225—RULES OF EVIDENCE

[225 PA. CODE ART. VI]

### Rule 601 Comment Changes

The Committee on Rules of Evidence is planning to recommend that the Supreme Court of Pennsylvania approve the revision of the Comment to Rule of Evidence 601. This Comment Revision is being proposed to alert the bench and bar to the adoption by the Supreme Court of the concept of "taint" in child competency hearings.

This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

The following explanatory Report highlights the Committee's considerations in formulating this proposal. Please note that the Committee's Report 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 explanatory Report.

The text of the proposed Comment changes precedes the Report. Additions are bold.

We request that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through counsel:

Richard L. Kearns  
Staff Counsel  
Supreme Court of Pennsylvania  
Committee on Rules of Evidence  
5035 Ritter Road, Suite 700  
Mechanicsburg, PA 17055

no later than July 15, 2004.

By the Committee on Rules of Evidence

CHARLES B. GIBBONS,  
Chair

### Annex A

## TITLE 225. RULES OF EVIDENCE

### ARTICLE VI. WITNESSES

#### Rule 601. Competency.

\* \* \* \* \*

#### Comment

\* \* \* \* \*

The competency of a child witness may be impaired or tainted by the implantation of false memories or the distortion of real memories caused by improper interview techniques, suggestive questioning, vilification of a party, or interview bias. *Commonwealth v. Delbridge*, \_\_\_ A.2d \_\_\_ (Pa. 2003). *Delbridge* is consistent with Pa.R.E. 601(b)(3). If a party challenges the competency of a child witness and offers some evidence that the child's memory may have been impaired or tainted in this way, the trial court must explore this question in the competency hearing. *Commonwealth v. Delbridge*, supra. The party challenging the competency of the child witness must establish that the

child is incompetent by clear and convincing evidence. *Commonwealth v. Delbridge*, supra.

Pa.R.E. 601(b) does not address the admissibility of hypnotically refreshed recollection. In *Commonwealth v. Nazarovitch*, 496 Pa. 97, 436 A.2d 170 (1981), the Supreme Court rejected hypnotically refreshed testimony, where the witness had no prior independent recollection. Applying the test of *Frye v. United States*, 293 F. 1013 (D.C. Cir. 1923) for scientific testimony, the Court was not convinced that the process of hypnosis as a means of restoring forgotten or repressed memory had gained sufficient acceptance in its field. *Commonwealth v. Nazarovitch*, supra; see also *Commonwealth v. Romanelli*, 522 Pa. 222, 560 A.2d 1384 (1989) (when witness has been hypnotized, he or she may testify concerning matters recollected prior to hypnosis, but not about matters recalled only during or after hypnosis); *Commonwealth v. Smoyer*, 505 Pa. 83, 476 A.2d 1304 (1984) (same). Pa.R.E. 601(b) is not intended to change these results. For the constitutional implications when a defendant in a criminal case, whose memory has been hypnotically refreshed, seeks to testify, see *Rock v. Arkansas*, 483 U.S. 44 (1987).

### REPORT

#### *Proposed Revision of the Comment to Pa.R. E. 601*

#### Comment Changes

The Committee on Rules of Evidence is planning to recommend that the Supreme Court of Pennsylvania approve the revision of the Comment to Pa.R.E. 601.

This Comment revision is being proposed to alert the bench and bar to the introduction of a new concept in Pennsylvania for determining the competency of a child witness. Heretofore, evidence that the child's testimony had been influenced by improper suggestive techniques was admissible on the issue of credibility only. In *Commonwealth v. Delbridge*, \_\_\_ A.2d \_\_\_ (2003), the Supreme Court recognized that suggestive techniques could "taint" the child's testimony to such a degree as to render the child incompetent to testify.

[Pa.B. Doc. No. 04-997. Filed for public inspection June 11, 2004, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### BEAVER COUNTY

Objections to the Consolidated Return of the Tax Claim Bureau of Beaver County from an Upset Sale for Delinquent Taxes and Petitions to Disapprove a Private Sale; No. 10949 Misc. 2004

#### Standing Order of Court

The provisions set forth in this order shall govern the procedure in (a) all Objections to the Consolidated Return

of the Tax Claim Bureau of Beaver County from an Upset Sale for Delinquent Taxes, (b) all Petitions to Disapprove a Private Sale of Property Not Sold Because of Insufficient Bid at the Upset Sale, (c) all Applications for Judicial Sale of Real Property, (d) all Requests to Prohibit Judicial Sales of Real Property, and (e) all Requests to Set Aside Judicial Sales of Real Property.

As used in this Standing Order, an "Objection" is an Objection to the Sale of a Property at an Upset Sale for Delinquent Taxes (See 72 P. S. §§ 5860.601 through 5860.607), a "Petition" is a Petition to Disapprove a Private Sale of Property Not Sold Because of Insufficient Bid at the Upset Sale (See 72 P. S. §§ 5860.613 through 5860.615), "Application" is an Application to Sell Real Property at Judicial Sale (See 72 P. S. §§ 5860.610 through 5860.612), and "Request" is a Request to Prohibit a Judicial Sale of Real Property or a Request to Set Aside a Judicial Sale of Real Property (See 72 P. S. §§ 5860.610 through 5860.612).

1. The Prothonotary shall establish a special, separate numbering system and sequence to assign separate case numbers to the Consolidated Return of the Tax Claim Bureau of Beaver County from an Upset Sale for Delinquent Taxes, Objections, Petitions, Applications and Requests. The docketing of these matters shall be at the number assigned within this system and sequence. All Objections, Petitions, Applications, and Requests shall be assigned the next available docket number within this special, separate numbering system.

2. All Objections and Petitions shall contain a caption which designates it as an "Objection" or a "Petition" and which includes the identity of the delinquent taxpayer,

the property address, the tax parcel number of the property and the name of the purchaser at the Upset or Private Sale. All Applications and Requests shall contain a caption which designates it as an "Application" or a "Request" and which includes the identity of the delinquent taxpayer, the property address, the tax parcel number of the property and the name of the purchaser, if any, at the Judicial Sale. These captions shall be substantially in the form set forth in Paragraphs 6, 7, 8, 9 and 10 of this Order.

3. The Prothonotary shall initiate and maintain an individual file folder for each Objection, Petition, Application, and Request as defined herein. The Prothonotary shall also continue to initiate and maintain an individual file folder for the Consolidated Return of the Tax Claim Bureau of Beaver County from an Upset Sale for Delinquent Taxes. Henceforth, these files will be maintained in the filing sequence and system specified herein.

4. The Court requests the Court Administrator, the County Solicitor and the Law Librarian co-operate to have this order and its attachments appended to the Local Rules that are published on-line.

5. If the County Solicitor, Tax Claim Bureau or any interested party correctly notifies a filer of a Petition, Objection, Application, or Request that the same is not in compliance with this Standing Order and provides a copy of this Standing Order with that notice, the filer will have 10 working days in which to file an amended Petition, Objection, or Application that complies. If such amendment is not filed, the filer may be subject to sanctions.

6. Illustration of Caption for Objections:

IN THE COURT OF COMMON PLEAS OF BEAVER COUNTY, PENNSYLVANIA	
JOHN DOE,	: CIVIL DIVISION
	: :
Objector	: :
	: Upset Tax Sale
V.	: Objections
	: :
BEAVER COUNTY—TAX CLAIM BUREAU	: :
	: No. XXX57 of 2004
	: :
IN RE:	: :
	: :
CONSOLIDATED RETURN OF THE TAX	: :
CLAIM BUREAU OF THE COUNTY OF	: :
BEAVER FROM THE SEPTEMBER X, 20XX	: :
UPSET SALE FOR DELINQUENT TAXES	: :
	: :
	: :
	: :

SUBJECT PROPERTY: Beaver County Tax Parcel # 99-002-4444.000-01-1 ADDRESS OF SUBJECT PROPERTY: 321 High Street, Ohioville, PA 15XXX PUTATIVE PURCHASER: R. Smith
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OBJECTIONS TO UPSET TAX SALE OF PROPERTY

7. Illustration of Caption for Petitions:

IN THE COURT OF COMMON PLEAS OF BEAVER COUNTY, PENNSYLVANIA	
JOHN DOE,	: CIVIL DIVISION
	: :
Petitioner	: :
	: Petition to Disapprove
V.	: Private Sale
	: :
BEAVER COUNTY—TAX CLAIM BUREAU	: :
_____	: No. XXX57 of 2004
	: :
IN RE:	: :
	: :
PRIVATE SALE OF REAL PROPERTY	: :
PURSUANT TO 72 P. S. § 5860.613	: :
	: :
	: :
	: :
	: :
	: :
	: :

SUBJECT PROPERTY: Beaver County Tax Parcel # 99-002-4444.000-01-1 ADDRESS OF SUBJECT PROPERTY: 321 High Street, Ohioville, PA 15XXX PUTATIVE PURCHASER: R. Smith
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PETITION TO DISAPPROVE A PRIVATE SALE OF PROPERTY UNSOLD BECAUSE OF INSUFFICIENT BID AT THE UPSET SALE

8. Illustration of Caption for Applications:

IN THE COURT OF COMMON PLEAS OF BEAVER COUNTY, PENNSYLVANIA	
	: CIVIL DIVISION
	: :
	: :
IN RE:	: Application for Judicial
	: Sale of Real Property
	: :
APPLICATION OF THE BEAVER COUNTY	: :
TAX CLAIM BUREAU TO CONDUCT A	: :
JUDICIAL SALE OF REAL PROPERTY	: No. XXX57 of 2004
PURSUANT TO 72 P. S. § 5860.613 ON	: :
XXXXXX, XX, 20XX	: :
	: :
	: :
	: :
	: :
	: :
	: :
	: :
	: :

APPLICATION FOR PERMISSION TO CONDUCT A JUDICIAL SALE OF REAL PROPERTY

9. Illustration of Caption for Request to Prohibit Judicial Sale:

IN THE COURT OF COMMON PLEAS OF BEAVER COUNTY, PENNSYLVANIA

JOHN DOE, : CIVIL DIVISION  
 :  
 Requester :  
 :  
 V. : Request to Prohibit  
 : Judicial Sale of  
 : Real Property  
 BEAVER COUNTY—TAX CLAIM BUREAU :  
 \_\_\_\_\_ : No. XXX57 of 2004  
 :  
 :  
 IN RE: :  
 :  
 :  
 APPLICATION OF THE BEAVER COUNTY :  
 TAX CLAIM BUREAU TO CONDUCT A :  
 JUDICIAL SALE OF REAL PROPERTY :  
 PURSUANT TO 72 P. S. § 5860.613 ON :  
 XXXXXX, XX, 20XX :  
 :

SUBJECT PROPERTY: Beaver County Tax Parcel # 99-002-4444.000-01-1  
 ADDRESS OF SUBJECT PROPERTY: 321 High Street, Ohioville, PA 15XXX  
 CURRENT OWNER: R. Smith

REQUEST TO PROHIBIT A JUDICIAL SALE OF REAL PROPERTY

10. Illustration of Caption for Request to Set Aside a Judicial Sale:

IN THE COURT OF COMMON PLEAS OF BEAVER COUNTY, PENNSYLVANIA

JOHN DOE, : CIVIL DIVISION  
 :  
 Requester :  
 :  
 V. : Request to Set Aside  
 : Judicial Sale of  
 : Real Property  
 BEAVER COUNTY - TAX CLAIM BUREAU :  
 \_\_\_\_\_ : No. XXX57 of 2004  
 :  
 :  
 IN RE: :  
 :  
 :  
 APPLICATION OF THE BEAVER COUNTY :  
 TAX CLAIM BUREAU TO CONDUCT A :  
 JUDICIAL SALE OF REAL PROPERTY :  
 PURSUANT TO 72 P. S. § 5860.613 ON :  
 XXXXXX, XX, 20XX :  
 :

SUBJECT PROPERTY: Beaver County Tax Parcel # 99-002-4444.000-01-1  
 ADDRESS OF SUBJECT PROPERTY: 321 High Street, Ohioville, PA 15XXX  
 PUTATIVE PURCHASER: R. Smith

REQUEST TO SET ASIDE A JUDICIAL SALE OF REAL PROPERTY

11. Any party filing an Objection, Petition, or Request shall serve a true and correct copy of the same upon the Beaver County Solicitor’s Office, the Beaver County Tax Claim Bureau, and any putative purchaser within 10 working days of the filing. The filing party shall also file a written and verified proof of such service.

12. This Order shall be effective thirty (30) days after publication in the *Pennsylvania Bulletin*. The Prothonotary shall submit certified copies of this order as follows: seven (7) to the Administrative Office of Pennsylvania Courts; two (2) to

the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*; one (1) with the Civil Procedural Rules Committee of the Pennsylvania Supreme Court; one (1) with the Law Library of Beaver County; and one (1) shall be kept continuously available for public inspection and copying in the office of the Prothonotary of Beaver County.

*By the Court*

ROBERT E. KUNSELMAN,  
*President Judge*

[Pa.B. Doc. No. 04-998. Filed for public inspection June 11, 2004, 9:00 a.m.]

### CARBON COUNTY

#### Adoption of Local Rules of Judicial Administration 101—Title and Citation of Rules and 1901—Prompt Disposition of Matters; Termination of Inactive Cases; 04-1451; 72 MI 04; 04-9196

##### Administrative Order No. 12-2004

*And Now*, this 28th day of May, 2004, it is hereby *Ordered and Decreed* that, effective July 1, 2004, Carbon County *Adopts* new Local Rules of Judicial Administration 101 governing the title and citation of rules and Local Rule 1901 governing the prompt disposition of matters and termination of inactive cases.

The Carbon County District Court Administrator is *Ordered and Directed* to do the following:

1. File seven (7) certified copies of this Administrative Order with the Administrative Office of Pennsylvania Courts.
2. File two (2) certified copies and one (1) diskette with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
3. File one (1) certified copy with the Pennsylvania Criminal Procedural Rules Committee.
4. File one (1) certified copy with the Pennsylvania Civil Procedural Rules Committee.
5. File one (1) certified copy with the Pennsylvania Orphans' Court Procedural Rules Committee.
6. Forward one (1) copy for publication in the *Carbon County Law Journal*.
7. Forward one (1) copy to the Carbon County Law Library.
8. Keep continuously available for public inspection copies of the Order in the Prothonotary's Office, Clerk of Court's Office, and Orphans' Court Office.

*By the Court*

RICHARD W. WEBB,  
*President Judge*

#### Rule 101. Title and Citation of Rules.

All local Rules of Judicial Administration adopted by the Court of Common Pleas of Carbon County under the authority of Pa.R.J.A.101 shall be known as the Carbon County Local Rules of Judicial Administration and shall be cited as "CARB.R.J.A. \_\_\_\_\_."

#### Rule 1901. Prompt Disposition of Matters; Termination of Inactive Cases.

The Prothonotary, Register of Wills/Orphans' Court, Clerk of Courts and District Courts shall prepare a list of all cases in which no steps or proceedings have been taken for two years or more for call on the first Monday of December of each year. Notice shall be given to all

parties and/or attorneys and, if no good cause is shown, the Court shall enter an order dismissing the proceedings.

[Pa.B. Doc. No. 04-999. Filed for public inspection June 11, 2004, 9:00 a.m.]

### CARBON COUNTY

#### Adoption of New Local Rules of Criminal Procedure and Rescission of All Old Local Rules of Criminal Procedure; 103 MI 00

##### Administrative Order No. 9-2004

*And Now*, this 28th day of May, 2004, in order to implement Title 234—Rules of Criminal Procedure adopted March 3, 2004, effective July 1, 2004, it is hereby

*Ordered and Decreed* that, effective July 1, 2004, Carbon County *Adopts* new Local Criminal Rules of Procedure and hereby *Rescinds*, effective June 30, 2004, all old Local Criminal Rules adopted February 20, 2001, effective April 1, 2001.

The Carbon County District Court Administrator is *Ordered and Directed* to do the following:

1. File seven (7) certified copies of this Administrative Order with the Administrative Office of Pennsylvania Courts.
2. File two (2) certified copies and one (1) diskette with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
3. File one (1) certified copy with the Pennsylvania Criminal Procedural Rules Committee.
4. Forward one (1) copy for publication in the *Carbon County Law Journal*.
5. Forward one (1) copy to the Carbon County Law Library.
6. Keep continuously available for public inspection copies of the Order in the Clerk of Court's Office.

*By the Court*

RICHARD W. WEBB,  
*President Judge*

#### Rule 102. Citing the Criminal Procedural Rules

All local criminal procedural rules adopted by the Court of Common Pleas of Carbon County under the authority of Pa.R.Crim.P. 105 shall be known as the Carbon County Local Rules of Criminal Procedure and shall be cited as "CARB.R.Crim.P. \_\_\_\_\_."

#### Rule 120. Attorneys—Appearances and Withdrawals

The Entry of Appearance required under Pa.R.Crim.P.120 (A) shall be substantially in the form as attached hereto.

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA vs. Defendant D.J.ID # O.T.N. # C.P. ID #

ENTRY OF APPEARANCE

TO: CLERK OF COURTS—CRIMINAL DIVISION KINDLY ENTER MY APPEARANCE IN THE ABOVE CAPTIONED CASE ON BEHALF OF:

Attorney for Party Named Above and Bar ID Number Firm Address City, State, Zip Code Telephone Number Fax Number for Service of Papers (Optional) Date: Signature

Rule 202. Approval of Search Warrant Application by Attorney for Commonwealth—Local Option

The District Attorney of Carbon County, having filed on January 22, 2001 a certification pursuant to Pa.R.Crim.P. 202(A), search warrants in all circumstances shall not hereafter be issued by any judicial officer unless the search warrant application has the approval of an attorney for the Commonwealth prior to filing.

Rule 507. Approval of Police Complaints and Arrest Warrant Affidavits by Attorney for the Commonwealth—Local Option

The District Attorney of Carbon County, having filed on January 22, 2001 a certification pursuant to Pa.R.Crim.P. 507, criminal complaints and arrest warrant affidavits by police officers, as defined in the Rules of Criminal Procedures, charging one or more felony or misdemeanor of the first, second, or third degree, shall not hereafter be accepted by any judicial officer unless the complaint and affidavit has the approval of an attorney for the Commonwealth prior to filing.

Rule 528(D)(3) and (4). Monetary Condition of Release on Bail

(A) The defendant or a third party surety may post realty as security for bail. When posting realty as bail, a licensed real estate broker shall perform a written appraisal of the fair market value.

(B) Upon receipt of the written appraisal, a determination will be made whether the actual net value is at least equal to the amount of the bond, and, if sufficient, realty will be accepted as consideration for bail.

(C) A given piece of realty shall be used as bail only if it has not been posted or is not presently being used for bail for any other charges for defendants unless the Court has given approval.

(D) The Clerk of Courts shall enter a judgment of record in favor of the County of Carbon on any realty posted as bail for the full amount of the undertaking. The depositor shall pay a fee, which is established by the Prothonotary, for the cost of recording and satisfying the Judgment of Record to the Clerk of Courts upon the posting of the realty.

Rule 530. Duties and Powers of a Bail Agency

The Pretrial Services Division of the Adult Probation Office shall be appointed the bail agency for the Court of Common Pleas of Carbon County to monitor and assist defendants released on bail pursuant to Pa.R.Crim.P. 530, except for administering the percentage cash bail.

Rule 535D. Receipt for Deposit; Return of Deposit

The Clerk of Courts shall retain \$75.00 of the amount deposited as an administrative fee. Any moneys deposited by a third party surety shall be returned in full less the administrative fee.

Where realty has been posted as bail, the Clerk of Courts shall satisfy the Judgment of Record.

Rule 570. Pretrial Conference

(A) In addition to the provisions of Pa.R.Crim.P. 570, the District Attorney shall conduct a status conference with defense counsel, defendant and, if unrepresented, the defendant on all cases that have not resulted in written agreements at the preliminary hearing level.

(B) Prior to the Defendant's status conference, the District Attorney shall obtain data of the prior criminal convictions, if any, of the defendant and shall calculate the prior record score for guideline sentencing purposes.

(C) At the status conference, the District Attorney shall make the Sentencing Guideline Report available to defense counsel, defendant, and, if unrepresented, the defendant.

(D) At the end of the status conference, written stipulations for pleas, trials, or other dispositions shall be completed signed by the District Attorney/Assistant District Attorney, defense counsel, and defendant. The original stipulation shall be filed in the Clerk of Court's office and service made pursuant to Pa.R.Crim.P. 576.

Rule 571. Arraignment

Arraignments in non-capital cases shall be conducted by the District Attorney.

Rule 590. Plea and Plea Agreements

When counseling a defendant relative to the entry of a plea of guilty or nolo contendere, counsel shall review and explain to the defendant the contents of the Guilty Plea Colloquy form or Nolo Contendere Colloquy form, which are attached hereto. If the Defendant is charged and to be sentenced under Megan's Law, counsel shall review the attached Megan's Law Supplement To Guilty Plea Colloquy form as required by 42 Pa.C.S.A. § 9795.3(6). Such forms shall be initialed and signed by the defendant. Defendant counsel's signature thereon shall constitute a certification by the attorney that he/she has read, discussed, and explained the plea form and, if required, the Megan Law form to the defendant, and that to the best of his/her knowledge, information, or belief, his/her client understands what he/she is doing by entering his/her plea.

Guilty Plea Colloquy and Megan Law Supplement forms shall be filed in open Court at the time of entry of any plea of guilty or nolo contendere.

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA :
-vs.- : NO.
Defendant :

GUILTY PLEA COLLOQUY

You are present before this Court because you or your lawyer have stated that you wish to plead guilty to some or all of the criminal offenses with which you have been charged. Please answer fully all the questions on this document. If you do not understand any explanations given to you on this document, say so by putting the word "no" in the blank provided after the questions. If you do understand the questions, you should write in the word "yes." None of the lines should be left blank.

After you have finished reading this and filling it out, you should sign it on the last page, on the line that says "Defendant." You should also initial each page at the bottom, but only if you have read and have understood that page. If there is anything that you do not understand, you should say so in writing on this form. You should also tell your lawyer and the Judge who hears your case, so that they can explain it to you fully, to make sure you understand all your rights.

Most of these questions are designed to be answered "yes" or "no." Where general information is asked for, however, please answer fully.

- 1. What is your full name?
2. Are you known by any other name or alias?
3. If the answer to Number 2 is "yes" state the other name or aliases.
4. What is your date of birth?
5. What was the last grade completed in school?
6. Can you read, write and understand the English language?
7. As you appear before the Court today to enter a guilty plea, are you under the influence of alcohol or any kind of drugs?
8. Have you ever been a patient in a mental institution or have you ever been treated for a mental illness?
9. If the answer to Number 8 is "yes," please explain the details.
10. Are you currently being treated for a mental illness?
11. If the answer to Number 10 is "yes," explain the details.
12. If you are presently being treated for a mental illness, do you feel that you have sufficient mental capacity to understand what you are doing today, and to understand these questions and answer them correctly?

13. Do you understand that you are here today to enter a guilty plea to some or all of the charges against you?

14. Do you understand the nature of the offenses to which you are pleading guilty?

15. Has your lawyer explained to you the elements of the criminal offenses to which you are pleading?

16. Do you admit to committing the offenses to which you are pleading guilty and to the legal elements explained to you making up those offenses?

17. Do you understand that you have a right to a trial by jury?

18. Do you understand that the right to trial by jury means that you can participate in the selection of a jury with your attorney; that the jury is randomly selected from the voter registration list of Carbon County and a cross-section of the citizens of Carbon County, and that the jury has to agree unanimously on your guilt before you can be convicted of the offenses with which you are charged?

19. Do you understand that you are presumed innocent until found guilty? In other words, do you understand that the Commonwealth must prove your guilt beyond a reasonable doubt before you can be convicted of the offenses charged?

20. Do you understand that the Commonwealth has the burden of proving you guilty beyond a reasonable doubt, which means you can remain silent and nothing can be held against you for refusing to testify in your own defense?

21. Do you understand that you have a right to confront and cross-examine all Commonwealth witnesses in your case who are necessary to prove your guilt?

22. Do you understand that by pleading guilty you are waiving that right of confrontation and cross-examination?

23. Do you realize that by pleading guilty you are giving up your right to present any pre-trial motions for consideration to this or a higher Court in the event those motions are denied?

24. Do you realize that if you were convicted after a trial you could appeal the verdict to a higher Court and raise any errors that were committed in the trial Court, and that this could result in your being awarded a new trial or discharged, and that by pleading guilty you are giving up this right?

25. Do you realize that if you were convicted after a trial you could appeal the verdict to a higher Court and you could also challenge whether the Commonwealth had presented enough evidence to prove you guilty beyond a reasonable doubt?

26. Are you aware that the Court is not bound by the terms of any plea agreement entered into between you, your counsel and the Attorney for the Commonwealth, until the Court accepts such plea agreement?

27. Do you understand that the Court is not a party to any agreement or recommendation made by the parties and that any recommendation and/or stipulation regarding sentence is not binding on the Court and you knowingly waive the right to withdraw this plea if the Court does not concur in the recommended sentence?

28. Are you aware of the permissible range of sentence and/or fines that can be imposed for the offenses to which you are pleading guilty? \_\_\_\_\_

29. Are you aware of the maximum sentence and/or fine, which the Court could impose upon you for each of the offenses to which you are pleading guilty? \_\_\_\_\_

30. Do you understand that any sentence imposed upon you for any of the offenses to which you are pleading guilty can be imposed consecutively to either (a) any sentence imposed upon you for any other offense for which you are pleading guilty in this case; or (b) any sentence imposed upon you in any other case? \_\_\_\_\_

31. Do you understand that "consecutive" sentences means that one sentence will follow after another and that "consecutive" sentences do not run at the same time? \_\_\_\_\_

32. Do you understand that the aggregate maximum sentence you could receive if you are pleading guilty to multiple offenses is the total of all maximum sentences for all the offenses added together? \_\_\_\_\_

33. Do you understand that you have a right to have witnesses present at your guilty plea hearing to testify for you? Are you willing to give up that right and have the Attorney for the Commonwealth summarize the facts against you? \_\_\_\_\_

34. After you enter your guilty plea and it is accepted by the Court, you still have a right to appeal your conviction. The appeal from a guilty plea is limited, however, to four grounds. They are:

(a) that your guilty plea was not knowing, intelligent and voluntary;

(b) that the Court did not have jurisdiction to accept your plea (in other words, the offenses for which you are pleading guilty did not occur in Carbon County);

(c) that the Court's sentence is beyond the maximum penalty authorized by law; and

(d) that your attorney was incompetent in representing you and advising you to enter a plea of guilty

Do you understand these four areas of appeal and what they mean? \_\_\_\_\_

In order to appeal your conviction by a plea of guilty, you must within ten (10) days file a written motion to withdraw your guilty plea and state any of the four above grounds as the basis for your petition to withdraw your guilty plea. This must be done within ten (10) days from the date you are sentenced. If you cannot afford a lawyer to represent you or you are contending that your attorney, who represented you at your guilty plea, was incompetent, you have the right to have other counsel appointed for you to raise those four claims. If your petition to withdraw your guilty plea is denied, you then have thirty (30) days to file an appeal from that denial with the Superior Court of Pennsylvania.

If you do not file your petition within ten (10) days of your sentence or do not file a Notice of Appeal to the Superior Court within thirty (30) days after your petition to withdraw your guilty plea is denied, you give up your right to ever complain again of any of those four areas, including incompetent counsel.

Do you understand the meaning of the various appeal rights that have just been explained to you? \_\_\_\_\_

35. Has anybody forced you to enter this plea of guilty? \_\_\_\_\_

36. Are you doing this of your own free will? \_\_\_\_\_

37. Have any threats been made to you to enter a plea of guilty? \_\_\_\_\_

38. Have any promises been made to you to enter a plea of guilty other than any plea agreement that has been negotiated for you by your attorney? \_\_\_\_\_

39. Do you understand that the decision to enter a guilty plea is yours and yours alone; that you do not have to enter a plea of guilty and give up all your rights, as previously explained to you and that no one can force you to enter a guilty plea? \_\_\_\_\_

40. Do you understand that if your plea is accepted by this Honorable Court, you would have the right to have a Pre-Sentence Report prepared on your behalf to aid the Judge in determining the appropriate sentence to be imposed upon you? Since this is a plea bargain, are you willing to waive the preparation of the pre-sentence investigation? \_\_\_\_\_ (if applicable)

41. Are you presently on probation or parole? \_\_\_\_\_

42. If you are on probation or parole, do you realize that your plea of guilty will mean a violation of that probation or parole and you can be sentenced to prison as a result of that violation caused by your guilty plea today? \_\_\_\_\_

43. Are you satisfied with the representation of your attorney? \_\_\_\_\_

44. Have you had ample opportunity to consult with your attorney before reading this document and entering your plea of guilty? \_\_\_\_\_

45. Has your attorney gone over with you the meaning of the terms in this document? \_\_\_\_\_

I affirm that I have read the above document in its entirety and I understand its full meaning, and I am still nevertheless willing to enter a plea of guilty to the offenses specified. I further affirm that my signature and initials on each page of this document are true and correct.

Date: \_\_\_\_\_  
Defendant

I, \_\_\_\_\_, Esquire, Attorney for \_\_\_\_\_, state that I have advised my client of the contents and meaning of this document; that it is my belief that he/she comprehends and understands what is set forth above; that I am prepared to try this case; and that the defendant understands what he/she is doing by pleading guilty.

Date: \_\_\_\_\_  
Attorney for the Defendant

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA  
CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA :  
:  
-vs.- : NO.  
:  
Defendant :

NOLO CONTENDERE COLLOQUY

You are present before this Court because you or your lawyer have stated that you wish to plead Nolo Contendere to some or all of the criminal offenses with



which you have been charged. Please answer fully all the questions on this document. If you do not understand any explanations given to you on this document, say so by putting the word "no" in the blank provided after the questions. If you do understand the questions, you should write in the word "yes." None of the lines should be left blank.

After you have finished reading this and filling it out, you should sign it on the last page, on the line that says "Defendant." You should also initial each page at the bottom, but only if you have read and have understood that page. If there is anything that you do not understand, you should say so in writing on this form. You should also tell your lawyer and the Judge who hears your case, so that they can explain it to you fully, to make sure you understand all your rights.

Most of these questions are designed to be answered "yes" or "no." Where general information is asked for, however, please answer fully.

1. What is your full name? \_\_\_\_\_
2. Are you known by any other name or alias? \_\_\_\_\_
3. If the answer to Number 2 is "yes," state the other names or aliases. \_\_\_\_\_
4. What is your date of birth? \_\_\_\_\_
5. What was the last grade completed in school? \_\_\_\_\_
6. Can you read, write and understand the English language? \_\_\_\_\_
7. As you appear before the Court today to enter a plea of Nolo Contendere, are you under the influence of alcohol or any kind of drugs? \_\_\_\_\_
8. Have you ever been a patient in a mental institution or have you ever been treated for a mental illness? \_\_\_\_\_
9. If the answer to Number 8 is "yes," please explain the details. \_\_\_\_\_
10. Are you currently being treated for a mental illness? \_\_\_\_\_
11. If the answer to Number 10 is "yes," explain the details. \_\_\_\_\_
12. If you are presently being treated for a mental illness, do you feel that you have sufficient mental capacity to understand what you are doing today, and to understand these questions and answer them correctly? \_\_\_\_\_
13. Do you understand that you are here today to enter a plea of Nolo Contendere to some or all of the charges against you? \_\_\_\_\_
14. Do you understand the nature of the offenses to which you are pleading Nolo Contendere? \_\_\_\_\_
15. Has your lawyer explained to you the elements of the criminal offenses to which you are pleading? \_\_\_\_\_
16. Do you admit to committing the offenses to which you are pleading Nolo Contendere and to the legal elements explained to you making up those offenses? \_\_\_\_\_
17. Do you understand that you have a right to a trial by jury? \_\_\_\_\_
18. Do you understand that the right to trial by jury means that you can participate in the selection of a jury with your attorney; that the jury is randomly selected

from the voter registration list of Carbon County and a cross-section of the citizens of Carbon County, and that the jury has to agree unanimously on your guilt before you can be convicted of the offenses with which you are charged? \_\_\_\_\_

19. Do you understand that you are presumed innocent until found guilty? In other words, do you understand that the Commonwealth must prove your guilt beyond a reasonable doubt before you can be convicted of the offenses charged? \_\_\_\_\_

20. Do you understand that the Commonwealth has the burden of proving you guilty beyond a reasonable doubt, which means you can remain silent and nothing can be held against you for refusing to testify in your own defense? \_\_\_\_\_

21. Do you understand that you have a right to confront and cross-examine all Commonwealth witnesses in your case who are necessary to prove your guilt? \_\_\_\_\_

22. Do you understand that by pleading Nolo Contendere you are waiving that right of confrontation and cross-examination? \_\_\_\_\_

23. Do you realize that by pleading Nolo Contendere you are giving up your right to present any pre-trial motions for consideration to this or a higher Court in the event those motions are denied? \_\_\_\_\_

24. Do you realize that if you were convicted after a trial you could appeal the verdict to a higher Court and raise any errors that were committed in the trial Court, and that this could result in your being awarded a new trial or discharged, and that by pleading Nolo Contendere you are giving up this right? \_\_\_\_\_

25. Do you realize that if you were convicted after a trial you could appeal the verdict to a higher Court and you could also challenge whether the Commonwealth had presented enough evidence to prove you guilty beyond a reasonable doubt? \_\_\_\_\_

26. Are you aware that the Court is not bound by the terms of any plea agreement entered into between you, your counsel and the Attorney for the Commonwealth, until the Court accepts such plea agreement? \_\_\_\_\_

27. Do you understand that the Court is not a party to any agreement or recommendation made by the parties and that any recommendation and/or stipulation regarding sentence is not binding on the Court and you knowingly waive the right to withdraw this plea if the Court does not concur in the recommended sentence? \_\_\_\_\_

28. Are you aware of the permissible range of sentence and/or fines that can be imposed for the offenses to which you are pleading Nolo Contendere? \_\_\_\_\_

29. Are you aware of the maximum sentence and/or fine which the Court could impose upon you for each of the offenses to which you are pleading Nolo Contendere? \_\_\_\_\_

30. Do you understand that any sentence imposed upon you for any of the offenses to which you are pleading Nolo Contendere can be imposed consecutively to either (a) any sentence imposed upon you for any other offense for which you are pleading Nolo Contendere in this case; or (b) any sentence imposed upon you in any other case? \_\_\_\_\_

31. Do you understand that "consecutive" sentences means that one sentence will follow after another and that "consecutive" sentences do not run at the same time? \_\_\_\_\_

32. Do you understand that the aggregate maximum sentence you could receive if you are pleading Nolo Contendere to multiple offenses is the total of all maximum sentences for all the offenses added together? \_\_\_\_\_

33. Do you understand that you have a right to have witnesses present at your Nolo Contendere plea hearing to testify for you? Are you willing to give up that right and have the Attorney for the Commonwealth summarize the facts against you? \_\_\_\_\_

34. After you enter your Nolo Contendere plea and it is accepted by the Court, you still have a right to appeal your conviction. The appeal from a Nolo Contendere plea is limited, however, to four grounds. They are:

(a) that your Nolo Contendere plea was not knowing, intelligent and voluntary;

(b) that the Court did not have jurisdiction to accept your plea (in other words, the offenses for which you are pleading Nolo Contendere did not occur in Carbon County);

(c) that the Court's sentence is beyond the maximum penalty authorized by law; and

(d) that your attorney was incompetent in representing you and advising you to enter a plea of Nolo Contendere

Do you understand these four areas of appeal and what they mean? \_\_\_\_\_

In order to appeal your conviction by a plea of Nolo Contendere, you must within ten (10) days file a written motion to withdraw your Nolo Contendere plea and state any of the four above grounds as the basis for your petition to withdraw your Nolo Contendere plea. This must be done within ten (10) days from the date you are sentenced. If you cannot afford a lawyer to represent you or you are contending that your attorney, who represented you at your Nolo Contendere plea, was incompetent, you have the right to have other counsel appointed for you to raise those four claims. If your petition to withdraw your Nolo Contendere plea is denied, you then have thirty (30) days to file an appeal from that denial with the Superior Court of Pennsylvania.

If you do not file your petition within ten (10) days of your sentence or do not file a Notice of Appeal to the Superior Court within thirty (30) days after your petition to withdraw your Nolo Contendere plea is denied, you give up your right to ever complain again of any of those four areas, including incompetent counsel.

Do you understand the meaning of the various appeal rights that have just been explained to you? \_\_\_\_\_

35. Has anybody forced you to enter this plea of Nolo Contendere? \_\_\_\_\_

36. Are you doing this of your own free will? \_\_\_\_\_

37. Have any threats been made to you to enter a plea of Nolo Contendere? \_\_\_\_\_

38. Have any promises been made to you to enter a plea of Nolo Contendere other than any plea agreement that has been negotiated for you by your attorney? \_\_\_\_\_

39. Do you understand that the decision to enter a plea of Nolo Contendere is yours and yours alone; that you do not have to enter a plea of Nolo Contendere and give up all your rights, as previously explained to you and that no one can force you to enter a Nolo Contendere plea? \_\_\_\_\_

40. Do you understand that if your plea is accepted by this Honorable Court, you would have the right to have a Pre-Sentence Report prepared on your behalf to aid the Judge in determining the appropriate sentence to be imposed upon you? Since this is a plea bargain, are you willing to waive the preparation of the pre-sentence investigation? \_\_\_\_\_ (if applicable)

41. Are you presently on probation or parole? \_\_\_\_\_

42. If you are on probation or parole, do you realize that your plea of Nolo Contendere will mean a violation of that probation or parole and you can be sentenced to prison as a result of that violation caused by your Nolo Contendere plea today? \_\_\_\_\_

43. Are you satisfied with the representation of your attorney? \_\_\_\_\_

44. Have you had ample opportunity to consult with your attorney before reading this document and entering your plea of Nolo Contendere? \_\_\_\_\_

45. Has your attorney gone over with you the meaning of the terms in this document? \_\_\_\_\_

I affirm that I have read the above document in its entirety and I understand its full meaning, and I am still nevertheless willing to enter a plea of Nolo Contendere to the offenses specified. I further affirm that my signature and initials on each page of this document are true and correct.

Date: \_\_\_\_\_ Defendant

I, \_\_\_\_\_, Esquire, Attorney for \_\_\_\_\_, state that I have advised my client of the contents and meaning of this document; that it is my belief that he/she comprehends and understands what is set forth above; that I am prepared to try this case; and that the defendant understands what he/she is doing by pleading Nolo Contendere.

Date: \_\_\_\_\_ Attorney for the Defendant

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA :  
 :  
-vs.- : NO.  
 :  
 :

Defendant

MEGAN'S LAW SUPPLEMENT TO GUILTY PLEA COLLOQUY

One or more of the offenses to which you are pleading guilty will make you subject to the registration and notification provisions of Megan's Law relating to sexual offenders.

The purpose of the following questions is to make certain that you understand how these provisions will affect you. Please answer all questions "Yes" or "No." If there is anything that you do not understand, you should say so in writing on this form. You should also tell your lawyer and the Judge who hears your case so that they can explain it to you fully to make sure you understand all of your rights.

After you have read and filled out this form, you should sign it on the last page (on the line marked "Defendant"). You should also initial each page at the bottom where indicated, but only if you have read and have understood that page.

1. Do you understand that as a result of your conviction you will be required to register with the Pennsylvania State Police and inform them of your current address and any change of address within ten (10) days of such change? \_\_\_\_\_

2. Do you understand that failure to register or to update your registration is itself a crime, which may subject you to penalties, including imprisonment? \_\_\_\_\_

3. Do you understand that your registration information will be provided by the Pennsylvania State Police to the local police department of any community in which you may live? \_\_\_\_\_

4. Do you understand that the registration requirements will continue for the time period specified: \_\_\_\_\_ ten (10) years \_\_\_\_\_ for the rest of your life? \_\_\_\_\_

5. If this line \_\_\_\_\_ is checked, do you understand that the District Attorney has the right to request the Court to hold a hearing to determine whether you are a sexually violent predator, and if you are determined to be a sexually violent predator you will be subject to additional registration and notification requirements? These will include:

Notification to your victim of your current address.

Notification to your neighbors of your name and address, the offense of which you were convicted, the fact that you have been determined to be a sexually violent predator, which notification may be accompanied by your photograph.

The foregoing notification will also be sent to the local children and youth services agency, superintendent of schools, daycare centers, and colleges and universities; it is also available to any member of the public upon request.

Do you understand all of the above information relating to registration and notification requirements of persons determined to be sexually violent predators? \_\_\_\_\_

6. Do you understand that if you are determined to be a sexually violent predator, you will be required to attend and pay for monthly counseling sessions for the period you are required to register? \_\_\_\_\_

I affirm that I have read the above document in its entirety and I understand its full meaning, and I am still nevertheless willing to enter a plea of guilty to the offenses specified. I further affirm that my signature and initials on each page of this document are true and correct.

Date: \_\_\_\_\_  
Defendant

I, \_\_\_\_\_, Esquire, Attorney for \_\_\_\_\_, state that I have advised my client of the contents and meaning of this document; that it is my belief that he/she comprehends and understands what is set forth above; that I am prepared to try this case; and that the defendant understands what he/she is doing by pleading guilty.

Date: \_\_\_\_\_  
Attorney for the Defendant

**Rule 602. Presence of the Defendant**

In any criminal proceeding in which a court appearance by an adult prisoner will be required, the attorney for the prisoner or the party requesting the presence of the prisoner shall prepare a transport order and forward it to the judge assigned to the case. Absent genuine exigency or most unusual circumstances, a request for transport of prisoner shall be made to the Court not less than three (3) days before such appearance. The transport order shall be filed and served pursuant to Pa.R.Crim.P. 114.

All motions for deaf and/or language interpreters shall be in conformance with Pa.R.Crim.P. 575 and 576.

**Rule 700. Sentencing Judge**

The sentence following a plea of guilty or nolo contendere may be imposed by a judge other than the judge who received such plea whenever such substitution shall enhance the efficient disposition of cases. The defendant shall be given due notice at the time of entering the plea by signing the consent and waiver form as attached hereto.

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA :  
:   
-vs.- : NO.  
:   
:   
Defendant :

CONSENT AND WAIVER

AND NOW, this \_\_\_\_\_ of \_\_\_\_\_, 20 \_\_\_\_\_, the above named Defendant does HEREBY acknowledge, agree and consent to the entry of a Guilty Plea before the Honorable \_\_\_\_\_, with the full and complete understanding that sentencing in the above captioned matter may be held at a later date and imposed by the Honorable \_\_\_\_\_, or any other judge assigned by the Court.

\_\_\_\_\_  
Defendant

\_\_\_\_\_  
Attorney for the Defendant

**Rule 702. Aids in Imposing Sentence**

(A) Before the sentencing hearing, defendant and his/her counsel, or if unrepresented, the defendant shall execute a form entitled "APPELLATE RIGHTS OF DEFENDANT AFTER SENTENCING," which is attached hereto. Defendant's counsel shall review and explain said form to the Defendant. The defendant and defendant's counsel shall sign this form. Defendant counsel's signature thereon shall constitute a certification by the attorney that he/she has read, discussed, and explained the form to the defendant, and that to the best of his/her knowledge, information, or belief that his/her client understands the form.

(B) On behalf of the Court, the Chief Adult Probation Officer shall submit a copy of the Guideline Sentencing Form to the Pennsylvania Commission on Sentencing as required by 204 Pa. Code § 303.1(d).

TO THE DEFENDANT:  
 PLEASE READ AND THEN REVIEW THE FOLLOWING INFORMATION WITH YOUR LAWYER. IT EXPLAINS THE RIGHTS YOU HAVE FOLLOWING SENTENCING. IF YOU DO NOT UNDERSTAND ANYTHING CONTAINED ON THIS DOCUMENT, ASK YOUR LAWYER OR THE SENTENCING JUDGE TO EXPLAIN IT TO YOU. DO NOT SIGN THIS DOCUMENT UNTIL YOU UNDERSTAND IT FULLY.

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA  
 CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA :  
 :  
 -vs. : NO.  
 :  
 :  
 \_\_\_\_\_ :  
 DEFENDANT

APPELLATE RIGHTS OF DEFENDANT AFTER SENTENCING

1. After you are sentenced, you have the right to file either a post-sentence motion or an appeal to the Superior Court of Pennsylvania.
2. If you wish to file a post-sentence motion, it must be filed with the Criminal Clerk of Courts of Carbon County no later than ten (10) days after the imposition of sentence.
3. If you wish to file an appeal, a notice of appeal must be filed with the Criminal Clerk of Courts of Carbon County, within thirty (30) days of imposition of sentence. This is a right of appeal, which you may exercise without filing a post-sentence motion. If you file a post-sentence motion, you would also have a right to appeal from an order deciding that motion or denying the motion by operation of law.
4. If you file a post-sentence motion, all requests for relief must be stated with specificity and particularity, and consolidated in the motion, which may include:
  - a. a motion challenging the validity of a plea of guilty or nolo contendere, or the denial of a motion to withdraw a plea of guilty or nolo contendere;
  - b. a motion of judgment of acquittal;
  - c. a motion in arrest of judgment;
  - d. a motion for a new trial; and/or
  - e. a motion to modify sentence.
5. If you file a post-sentence motion, it and any supplemental motion you may be permitted to file, must be decided by the judge within 120 days of the filing of the original motion. The judge may, at your request, grant one 30-day extension for deciding the motion, if good cause is shown. If the judge fails to decide the motion within the allowed time, the motion will be denied by operation of law, and the clerk will enter an order denying the motion.
6. If you file a post-sentence motion, and wish to appeal from the order deciding or denying the motion, a notice of appeal must be filed with the Criminal Clerk of Courts of Carbon County, within thirty (30) days of that order.

7. Whether or not you file a post-sentence motion, all issues raised before or during trial are preserved for appeal.

8. You have the right to assistance of counsel in the preparation of a post-sentence motion or any appeal. If you are indigent, you have the right to proceed without payment of costs and with counsel appointed to represent you without charge. If you are now represented by the Public Defender's Office and continue to qualify for their services, that office would continue to represent you without cost.

9. If you qualify for bail and are released on bail after sentencing, a condition of release will be that you either file a post-sentence motion and perfect an appeal, or, when no post-sentence motion is filed, perfect an appeal with the time permitted by law.

I affirm that I have read the above information completely, that I understand its full meaning, and that I have been given a copy of this document for my records and review.

Date: \_\_\_\_\_  
 Signature of Defendant

I, \_\_\_\_\_, Esquire, Attorney for \_\_\_\_\_, state that I have advised my client of the meaning of this document and of his/her post-sentence and appeal rights as required by Pa.R.Crim.P. 704; that it is my belief that the defendant comprehends and understand those rights and what is set forth herein, and that Defendant has received a copy of this form.

Date: \_\_\_\_\_  
 Attorney for the Defendant

[Pa.B. Doc. No. 04-1000. Filed for public inspection June 11, 2004, 9:00 a.m.]

**CARBON COUNTY**  
**Amendment of Criminal Case Management Plan;**  
**103 MI 00**

**Administrative Order No. 13-2004**

*And Now*, this 28th day of May, 2004, it is hereby *Ordered and Deceed* that, effective July 1, 2004, Carbon County *Amends* the Criminal Case Management Plan and *Removes* this plan from the Local Rules of Criminal Procedure.

The Carbon County District Court Administrator is *Ordered and Directed* to do the following:

1. File seven (7) certified copies of this Administrative Order with the Administrative Office of Pennsylvania Courts.
2. File two (2) certified copies and one (1) diskette with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
3. File one (1) certified copy with the Pennsylvania Criminal Procedural Rules Committee.
4. Forward one (1) copy for publication in the *Carbon County Law Journal*.
5. Forward one (1) copy to the Carbon County Law Library.

6. Keep continuously available for public inspection copies of the Order in the Clerk of Court's Office.

*By the Court*

RICHARD W. WEBB,  
*President Judge.*

### **CRIMINAL CASE MANAGEMENT PLAN**

#### **I. Judicial Commitment to Caseflow Management.**

Since May 6, 1992, the Court has assumed the responsibility of ensuring the fair and prompt disposition of all cases, as well as, assure effective and efficient use of Court resources paid for by taxpayers. Our success is attributable to the commitment of this principle by each District Justice, Judge, Court and County staff of the 56th Judicial District.

Goal setting provides the objectives and a benchmark for measuring its success. The Court must meet reasonable time standards for the processing and prompt disposition of standard types of cases in terms of their nature and legal issues. "Exhibit "1," attached hereto, shows the time standards for criminal cases adopted by the American Bar Association, the National Conference of State Trial Judges, the Conference of State Court Administrators and the Pennsylvania Association of Court Management (PACM). Carbon County's Plan adheres to the time standards adopted by PACM.

#### **II. Effective Communications With the Bar and Police.**

The Court coordinates scheduling of cases and makes reasonable accommodations to prosecuting attorneys, defense attorneys, and law enforcement personnel in the management of cases. Operative scheduling allows the District Attorney and Public Defender Offices to provide full coverage efficiently.

#### **III. Early and Continuous Court Supervision of Case Progress.**

The Court monitors the progress of cases from the time a summons or complaint is filed to ensure movement of cases to disposition, eliminating unnecessary delay and additional costs of prosecution. Mere agreement of counsel/parties is not sufficient grounds for the Court to grant continuances. When a continuance is granted, the matter is continued to a specified date.

#### **IV. Event-Date Certainty.**

Reasonable certainty about event dates avoids aggravation, waste and unnecessary cost to the parties and their attorneys. Moreover, national studies have found that nothing promotes pretrial dispositions more than the expectation that a trial is more likely than not to occur on or near the scheduled date. Events are scheduled at the District Court level with notice given to attorneys/parties of all event dates and times, assuring case flow and expeditious case dispositions.

#### **V. A Functional Case Management Information System.**

The fully automated court computer system provides relevant, accurate, and timely case information, supporting an efficient case management plan by tracking and maintaining cases and events.

#### **VI. Time Standards And Case Management Criteria.**

Standard types of criminal cases are processed and scheduled in accordance with the time-disposition goals listed below as diagramed on the attached Exhibit "2" marked Carbon County Criminal Case Flow Chart.

The following time-disposition goals apply:

1. Preliminary hearing/waiver—98% within 30 days of complaint, if case initiated by arrest; 98% within 50 days of complaint if by summons;
2. Court arraignment—98% within 40 days of preliminary hearing/waiver;
3. Trials—90% within 150 days of complaint; 98% within 180 days;
4. Sentences—90% within 30 days of guilt; 98% within 45 days.

Carbon County is divided into a Northern Division and Southern Division at the District Justice level. District Court 56-3-01 and District Court 56-3-02 comprise the Southern Division and District Court 56-3-03 and District Court 56-3-04 comprise the Northern Division.

All Preliminary Hearings for misdemeanor and felony cases are scheduled in clusters on Wednesdays every week. One District Justice from the Southern Division schedules Preliminary Hearings for 9:00 A.M. and the other District Justice from the Southern Division schedules Preliminary Hearings for 1:15 P.M. The same procedure is followed in the Northern Division.

##### **A. Preliminary Arraignment Before District Justice:**

1. If a defendant is brought before the District Justice on an arrest warrant or a summons is issued, he/she will receive, in addition to the other required papers, the following:

- (a) Criminal Complaint and Arrest Warrant Affidavit
- (b) District Court Notice of Preliminary Hearing (Exhibit 3)
- (c) Carbon County Public Defender Guidelines (Exhibit 4)—The District Justice advises the Defendant to read the Guidelines carefully and contact the Public Defender's Office for an appointment if Defendant believes he/she qualifies.

(d) Alternatives to Trial or Guilty Plea if First Time Offender (Exhibit 5), District Attorney Notice of Accelerated Rehabilitative Disposition (ARD) Program (Exhibit 6), Questionnaire to Determine Eligibility for ARD Program (Exhibit 7) and Prior Criminal Record Form (Exhibit 8)—The District Justice advises Defendant, if he/she is a first-time offender of a non violent crime, that Defendant may qualify for the ARD program.

Defendant should review the Alternatives to Trial or Guilty Plea if First Time Offender, and if he/she thinks they qualify, Defendant completes and has notarized the Questionnaire to Determine Eligibility for ARD Program, completes the Prior Criminal Record Form, and brings both to the Preliminary Hearing at the District Justice's Office.

##### **B. Preliminary Hearings Before District Justice:**

###### **1. Entry of Appearance:**

(a) The attorney representing the defendant at a preliminary hearing signs an Entry of Appearance pursuant to CARB.R.Crim.P.120 and provides it to the District Justice before beginning the preliminary hearing.

(b) The District Justice transmits the Entry of Appearance with the docket transcript to the Clerk of Courts to be filed of record.

2. A member of the District Attorney's Office is assigned to conduct the prosecution of all preliminary hearings and a member of the Public Defender's Office is

assigned to represent defendants who qualify for a public defender at the preliminary hearings. The court computer system accommodates the desire to have the same attorney handle the case from preliminary hearing through trial.

3. A significant percentage of cases result in ARD or guilty plea stipulations. In order to accelerate negotiation and avoid needless delays, the following elements occur at the preliminary hearing:

(a) The District Attorney provides the defense attorney with a copy of all police reports, and enlists the assistance of police departments in timely completion of such reports and supplemental reports;

(b) The defendant, as part of the negotiation process, signs a Prior Criminal Record Form (Exhibit 8) listing his/her known prior record, acknowledges that the negotiations are contingent on the accuracy of the information, and acknowledges that an INTENTIONAL misstatement of the record can result in additional charges; and

(c) Where a Guilty Plea or ARD agreement is reached, a written Stipulation for Trial, Guilty Plea or ARD Form (Exhibit 9), and if ARD, an Explanation of Accelerated Rehabilitation Program (ARD) and Waiver of Rights Form (Exhibit 10) are completed.

#### C. Scheduling at Preliminary Hearing:

1. A criminal case scheduling information form (Exhibit 11) is completed by the District Justice Office after each preliminary hearing/waiver. This form lists the Arraignment date, Pretrial Status Conference date, Last Date to Plea-Plea Day and Jury Selection date. The original of the scheduling form is forwarded by the District Justice with the docket transcript to the Clerk of Court with copies provided to the Defendant and defense counsel.

2. Waiver of Arraignment Form (Exhibit 12) is signed by defendant and defense counsel if defendant is waiving his Common Plea Arraignment at the time of the preliminary hearing.

3. When a DUI ARD has been negotiated, telephonic arrangements are made by a staff member of the District Justice Office to schedule a Court Reporting Network (CRN) evaluation. The defendant is provided with a written Notice of the Procedure for CRN Evaluation Form (Exhibit 13) indicating the scheduled date and time. Defendant acknowledges receipt of the form with his/her signature.

#### D. Common Pleas Scheduling:

Cases from two District Justices are assigned to each Common Pleas Judge. Caseload is adjusted when necessary to balance the workload and to keep cases in line with this management plan.

#### E. Arraignment at Common Pleas Level:

1. Local Rule CARB.R.Crim.P. 571 provides that arraignments in non-capital cases, if not waived, are conducted by the District Attorney. Arraignments are scheduled within 40 days from preliminary hearing/waiver and within 10 days of filing the criminal information. Arraignment and Waiver of Arraignment forms listing motion deadline and defendant rights information are executed.

#### F. Court Rulings on Motions:

1. Each Judge monitors the status of all outstanding motions.

2. Semi Annual Reports—Pursuant to Pennsylvania Rule of Judicial Administration 703(B)(2), each Judge is

responsible to report on matters submitted and undisposed for 90 days or more.

#### G. Pretrial Status Conferences:

1. Pretrial status conferences are held on all cases not stipulated to at the District Court level. The Pretrial Status Conferences are scheduled approximately 2—4 weeks before the scheduled trial date. They are conducted by the District Attorney's Office. All defendants must be present.

#### H. Sentencings:

1. Most sentences are imposed at time of plea. If sentences are not imposed at the time of plea, cases are scheduled for sentencing approximately 30 days thereafter. Sentences may be imposed by a Judge other than the Judge who took the guilty plea or plea of nolo contendere. See CARB.R.Crim.P. 700.

#### I. Dismissal and Expungement:

1. At the end of each month, the Adult Probation Office prepares a list of all cases/defendants who have successfully completed the ARD Program during the month. A copy of the list is provided to the District Attorney and District Court Administrator.

2. If the District Attorney objects to the automatic expungement, the District Attorney follows the procedure set forth in Pa.R.Crim.P. 320(b).

3. The District Attorney reviews the list, makes notation on the list of any case(s) in which Objections will be filed, approves the list by initialing it, and forwards it to the District Court Administrator.

4. In all cases where no objections are noted, the District Court Administrator forwards the Order of Dismissal to the appropriate Judge and, after filing same, prepares the Expungement Orders and Letters and expunges the cases from the public access screens of the Court Computer Database System after the thirty (30) day objection period expires.

5. The Court and other offices as prescribed by law maintain a confidential list of completed expungement cases.

### Exhibits

1. Comparative Time Standards For Criminal Cases
2. Carbon County Criminal Case Flow Chart
3. District Court Notice of Preliminary Hearing
4. Carbon County Public Defender Guidelines
5. Alternatives To Trial Or Guilty Plea If First Time Offender
6. District Attorney Notice of Accelerated Rehabilitative Disposition (ARD) Program
7. Questionnaire to Determine Eligibility for ARD Program
8. Prior Criminal Record Form
9. Written Stipulation for Trial, Guilty Plea or ARD Form
10. Explanation of Accelerated Rehabilitation Program (ARD) and Waiver of Rights Form
11. Criminal Case Scheduling Information Form
12. Waiver of Arraignment Form
13. Procedure for CRN Evaluation Form

EXHIBIT "1"

COMPARATIVE TIME STANDARDS FOR CRIMINAL CASES

	AMERICAN BAR ASSOCIATION & NATIONAL CONFERENCE OF STATE TRIAL JUDGES STANDARDS	CONFERENCE OF STATE COURT ADMINISTRATORS STANDARDS	PA ASSOCIATION OF COURT MANAGEMENT AND CARBON COUNTY STANDARDS	
	FROM ARREST	FROM ARREST	FROM COMPLAINT INCARCERATED	FROM COMPLAINT NOT INCARCERATED
FELONY	90% WITHIN 120 DAYS 98% WITHIN 180 DAYS 100% WITHIN 1 YEAR	100% WITHIN 180 DAYS	90% WITHIN 150 DAYS 98% WITHIN 180 DAYS	90% WITHIN 180 DAYS 98% WITHIN 240 DAYS
MISDEMEANORS	90% WITHIN 30 DAYS 100% WITHIN 90 DAYS	100% WITHIN 90 DAYS	90% WITHIN 150 DAYS 98% WITHIN 180 DAYS	90% WITHIN 180 DAYS 98% WITHIN 240 DAYS
SUMMARIES	90% WITHIN 30 DAYS 100% WITHIN 90 DAYS		90% WITHIN 30 DAYS 98% WITHIN 90 DAYS	
SUMMARY APPEALS			90% WITHIN 60 DAYS 98% WITHIN 90 DAYS	

EXHIBIT "2"

CARBON COUNTY CRIMINAL CASE FLOW CHART\*

ARREST OR COMPLAINT FILED	PRELIMINARY HEARING	ARRAIGNMENT GUILTY PLEA	PRE-TRIAL STATUS CONFERENCE	ARDS/ GUILTY PLEAS (LAST DAY TO PLEA)	JURY SELECTION	SENTENCING
	WITHIN 30 DAYS IF INITIATED BY ARREST WITHIN 50 DAYS IF INITIATED BY SUMMONS	WITHIN 40 DAYS FROM PRELIMINARY HEARING	WITHIN 30 DAYS FROM ARRAIGNMENT	2-15 DAYS FROM PRETRIAL CONFERENCE	4-32 DAYS FROM LAST DAY TO PLEA	WITHIN 45 DAYS AFTER PLEA OR VERDICT
	EVERY WEDNESDAY	EVERY WEDNESDAY				(IF NOT SENTENCED AT GUILTY PLEA)
	+30	+70	+100	+110	+142	(182)

\*The County is divided into a Northern Division and Southern Division for Preliminary Hearings in Misdemeanor and Felony Cases. Four District Justices conduct Preliminary Hearings in clusters every Wednesday. One District Justice in each division conducts Preliminary Hearings commencing at 9:00 A.M. and one District Justice in each Division conducts Preliminary Hearings commencing at 1:15 P.M.

(Rev. July 1, 2004)

EXHIBIT "3"

CARBON COUNTY

MAGISTERIAL DISTRICT No.

Dear Sir/Madam:

You have been summoned to appear for a preliminary hearing at \_\_\_\_\_ on \_\_\_\_\_, in the Office of \_\_\_\_\_.

Enclosed please find the following forms:

1. Criminal Complaint and Arrest Warrant Affidavit
2. Notice of Hearing
3. Carbon County Public Defender Guidelines
4. Alternative to trial or guilty plea program criteria—Accelerated Rehabilitation Disposition Program (ARD).
5. Questionnaire to Determine Eligibility for ARD Program, if you are eligible
6. Prior Criminal Record Statement

Examine the enclosed Carbon County Public Defender Guidelines. If you feel you are eligible, call the Public Defender's Office immediately to set up an appointment to fill out an application. The Public Defender's Office is

located in the Carbon County Courthouse, Jim Thorpe, Pennsylvania. The telephone number is 570-325-2343.

You should have either obtained an attorney or had a Public Defender assigned to you before your preliminary hearing. This attorney should be present with you at your preliminary hearing.

If this is your first criminal offense, you may be eligible for the ARD program. If you qualify, you should fill out and get notarized the enclosed Questionnaire to Determine Eligibility for the ARD program and complete the Prior Criminal Record Statement and bring both to the Preliminary Hearing at the District Justice Office.

Very truly yours,

District Justice

EXHIBIT "4"

Carbon County Public Defender Guidelines

The following financial guidelines established by the Public Defender's Office of Carbon County are to be used in determining eligibility for free legal counsel.

An individual may apply for free legal counsel in the following situations:

- criminal charges; misdemeanor and felony.
- summary cases only when there is a likelihood that the court will impose imprisonment.
- parole/probation violation. (individual must reapply)

The following applicants are presumed to be indigent and eligible for free legal representation:

- any individual presently detained in a correctional or state hospital facility that does not have asset(s) and is unable to pay for private counsel.
- any individual whose GROSS income is below the maximum income level.

A. In determining the GROSS income of the applicant, criteria to be considered but not limited to the following will include:

1. All income coming into the home: unemployment, worker's compensation, social security, pensions, stocks, bonds, interest earned, inheritances, rents received, lawsuits, etc. Assets: house(s), property, car(s), etc. We will require proof.
2. If the applicant is married and living with a spouse, both incomes will be considered. Dependant(s) are child(ren) 18 years and younger living with natural parents or are legally adopted. Proof is required. Single parents, who claim child (ren) as dependant(s), must be paying support by Court Order or have child(ren) living with him/her. Proof of Court Ordered support is required.

<i>Family</i>	<i>Yearly</i>	<i>Monthly</i>	<i>Weekly</i>
1	\$ 8,590	\$ 716	\$179
2	11,610	968	242
3	14,630	1,219	305
4	17,650	1,470	368
5	20,670	1,723	430
6	23,690	1,975	494
7	26,710	2,225	556
8	29,730	2,478	620
each additional	3,020	252	63

If you feel you are eligible, call the Public Defender's Office to set up an appointment to fill out an application. This must be done in person. You must apply at least five (5) days BEFORE your hearing. Please bring with you all paperwork you have received to date and any copies of proof of any and all income as stated above. The phone number is (570) 325-2343. The Public Defender hours are Monday - Friday, 8:30 a.m. to 4:30 p.m., except holidays. We do not accept applications after 4:00 p.m., since it takes approximately 20 minutes to fill out the application. WE DO NOT ACCEPT ANY COLLECT CALLS.

DO NOT have alcohol on your breath or look to be under the influence of any substances or you will be asked to return at another date to complete the application. We are not responsible for any delays if you do not call for an appointment or you are asked to come back because you appear to be under the influence of a substance, or have not brought the required copies of any and all proof mentioned above.

Remember: Statements made on the application for a Public Defender must be true and correct. Any false statements that are made are subject to penalties of 18 Pa.C.S., Section § 4904, relating to unsworn falsification to authorities.

EXHIBIT "5"

ALTERNATIVES TO TRIAL OR GUILTY PLEA IF FIRST TIME OFFENDER

CARBON COUNTY JIM THORPE, PENNSYLVANIA

ACCELERATED REHABILITATIVE DISPOSITION

WHAT IS ARD?

ARD is a ONE-TIME alternative to trial, conviction, and/or the mandatory jail sentence.

Upon application and completion of all conditions and a probation period, the criminal charges are dismissed and the record is expunged.

WHO QUALIFIES FOR ARD?

You may be eligible for ARD if you meet the following required standards for the program:

1. You have no charges of a sexual nature.
2. You have no prior DUI offenses.
3. You have not had any prior periods of revocation from supervision.
4. You do not have any F1 convictions or adjudications.
5. You do not have any F2 or F3 convictions or adjudications within the last TEN YEARS.
6. You cannot receive ARD if you falsify information on the ARD questionnaire.
7. If an accident was involved, there was NO serious injury or death.
8. You cannot have an extensive driving record.
9. You have not committed a new offense will waiting for your court date or while under supervision.
10. You attended the CRN appointment prior to the Court date.
11. You have no prior conviction for Homicide by Motor Vehicle.
12. There were no children under the age of 14 in the vehicle at time of incident.
13. You must possess necessary insurance, if accident was involved.
14. If applicant pleads guilty to any summary offense, he/she must sign a Waiver of Double Jeopardy Rights.

HOW DO I GET INTO THE ARD PROGRAM?

1. You must complete the Questionnaire to Determine Eligibility for Accelerated Rehabilitative Disposition (ARD) program and have it notarized, complete the Prior Criminal Record Statement, and, if DUI related, sign the Waiver of Rights Form attached to the Explanation of Accelerated Rehabilitation Program for Driving Under the Influence Offenders and bring it with you to the Preliminary Hearing at the District Justice's Office. If the ARD applicant is found to meet all of the criteria for inclusion into the ARD Program, the applicant will be recommended by the District Attorney to the Court for placement into the ARD Program and a Stipulation for ARD will be completed and you will receive a copy of the Stipulation and Order advising you when to appear for an ARD Hearing at the Court of Common Pleas.

2. A member of the District Justice staff will call and obtain an appointment for a CRN evaluation at the Carbon—Monroe—Pike Drug and Alcohol Office, First



Street, Lehigh, Pennsylvania, and given you notice of the appointment and procedure for obtaining a CRN evaluation.

**WHAT DOES PLACEMENT INTO THE ARD PROGRAM REQUIRE YOU TO DO?**

**NON-DUI OFFENDERS:**

1. Serve up to a TWO-YEAR probationary period.
2. SIGN an ARD written Waiver of your Preliminary Hearing and Arraignment.
3. COMPLETE a counseling program, if deemed necessary, and pay for it.
4. PAY one-half of the ARD Administrative Fee of \$350.00 on or before your scheduled ARD hearing date.
5. PAY ALL the ARD Program costs as may be set from time to time by Administrative Order.
6. COMPLIANCE with such rules and regulations as may be set forth by the Carbon County Courts.

**DUI OFFENDERS—RATE OF ALCOHOL .08 to .099:**

1. Serve a SIX-MONTH probationary period.
2. SIGN an ARD written Waiver of your Preliminary Hearing and Arraignment.
3. ATTENDANCE AND COMPLETION of an ALCOHOL SAFE DRIVING PROGRAM at the Carbon-Monroe-Pike Drug and Alcohol Office.
4. COMPLETE a counseling program, if deemed necessary, and pay for it.
5. PAY one-half of the ARD Administrative Fee of \$350.00 on or before your scheduled ARD hearing date.
6. PAY ALL the ARD Program costs as may be set from time to time by Administrative Order.
7. COMPLIANCE with such rules and regulations as may be set forth by the Carbon County Courts.

**DUI OFFENDERS—RATE OF ALCOHOL .10 to .159:**

1. Serve a ONE-YEAR probationary period.
2. SIGN an ARD written Waiver of your Preliminary Hearing and Arraignment.
3. THIRTY-DAY SUSPENSION of driving privileges.
4. ATTENDANCE AND COMPLETION of an ALCOHOL SAFE DRIVING PROGRAM at the Carbon-Monroe-Pike Drug and Alcohol Office.
5. COMPLETE a counseling program, if deemed necessary, and pay for it.
6. PAY one-half of the ARD Administrative Fee of \$400.00 on or before your scheduled ARD hearing date.
7. PAY ALL the ARD Program costs as may be set from time to time by Administrative Order.
8. COMPLIANCE with such rules and regulations as may be set forth by the Carbon County Courts.

**DUI OFFENDERS—RATE OF ALCOHOL .16 and higher and Refusal:**

1. Serve a ONE-YEAR probationary period.
2. SIGN an ARD written Waiver of your Preliminary Hearing and Arraignment.
3. SIXTY-DAY SUSPENSION of driving privileges.
4. ATTENDANCE AND COMPLETION of an ALCOHOL SAFE DRIVING PROGRAM at the Carbon-Monroe-Pike Drug and Alcohol Office.

5. COMPLETE a counseling program, if deemed necessary, and pay for it.

6. PAY one-half of the ARD Administrative Fee of \$450.00 on or before your scheduled ARD hearing date.

7. PAY ALL the ARD Program costs as may be set from time to time by Administrative Order.

8. COMPLIANCE with such rules and regulations as may be set forth by the Carbon County Courts.

**FAILURE TO ATTEND ANY APPOINTMENTS OR SCHEDULED COURT APPEARANCES WILL RESULT IN DENYING YOUR ACCEPTANCE IN ARD!**

**NO JAIL TERM, IF ACCEPTED FOR ACCELERATED REHABILITATIVE DISPOSITION AND IT IS COMPLETED SATISFACTORILY.**

**DUI OFFENDERS—ARD not stipulated at the District Court level must PAY one-half of the ARD Administrative Fee of \$500.00 on or before your scheduled ARD hearing date.**

**EXHIBIT "6"**

DISTRICT ATTORNEY OF CARBON COUNTY  
 CARBON COUNTY COURTHOUSE  
 P. O. BOX 36  
 JIM THORPE, PENNSYLVANIA 18229

**NOTICE**

Your case MAY be a proper one for handling under the Accelerated Rehabilitative Disposition Program (A.R.D.)

As you know, you were arrested and charged with a crime. You have the right to a trial and the Commonwealth must prove you are guilty beyond a reasonable doubt. However, being placed on probation may help you more than being convicted and sentenced to jail, so your case may be chosen for possible inclusion in the Accelerated Rehabilitative Disposition Program. Under this program, instead of being tried, you might be placed on probation immediately. If you stay out of trouble during the period of this program, these charges will be discharged and your record expunged. If you violate the conditions, you will be tried as if you never had been in this program.

If you desire to be considered for the A.R.D. Program, you MUST complete the enclosed questionnaire and have it notarized. Bring the notarized, completed questionnaire with you to the Office of the District Justice at the time of your preliminary hearing.

Be advised that applying for admission into the A.R.D. Program does not relieve you of your obligation to appear before the District Attorney's Office or the Court for all scheduled appearances. Failure to so appear will result in a bench warrant being issued for your arrest.

**YOU SHOULD BE CERTAIN TO CONTACT YOUR LAWYER SO THAT YOU UNDERSTAND WHAT THIS PROGRAM IS AND HOW IT WORKS.**

Very truly yours,  
 GARY F. DOBIAS  
 District Attorney

GFD/ndj  
 Enclosure

**EXHIBIT "7"**

APPROVED: \_\_\_\_\_  
 DISAPPROVED: \_\_\_\_\_  
 DATE: \_\_\_\_\_

OFFICE OF THE DISTRICT ATTORNEY
CARBON COUNTY COURTHOUSE
P. O. BOX 36
JIM THORPE, PENNSYLVANIA 18229
(570) 325-2718

COMMONWEALTH OF PENNSYLVANIA :
:
VS. : NO.
:

QUESTIONNAIRE TO DETERMINE ELIGIBILITY
FOR ACCELERATED REHABILITATIVE DISPOSITION
TO THE DEFENDANT:

The following questions are to be answered truthfully
and fully under oath or affirmation. Bring this question-
naire with you to the District Justice's Office at the time
of your preliminary hearing so the District Attorney can
determine your eligibility for consideration into the Accel-
erated Rehabilitative Disposition Program.

YOU ARE ADVISED THAT ANY FALSE STATEMENT
GIVEN IN ANSWER TO ANY QUESTION MADE WITH
INTENT TO MISLEAD THE DISTRICT ATTORNEY'S
OFFICE IS PUNISHABLE AS A MISDEMEANOR OF
THE SECOND DEGREE PUNISHABLE BY A FINE
NOT EXCEEDING \$5,000.00 AND IMPRISONMENT
NOT EXCEEDING TWO (2) YEARS, OR BOTH.

WRITE CLEARLY AND IN INK

- 1. State your full name, Social Security Number and
Driver's Operator Number.
2. What is your date of birth and current age?
3. Give your place of birth (city, state, and country).
4. State any other names by which you are known or by
which you have been known, including aliases.
5. State any nicknames by which you are known.
6. What is your present address and telephone number?
7. What is your marital status?
8. What is the name of your spouse?
9. Give the names and ages of any children.
10. Give the names of all persons with whom you live
and your relationship with each.
11. Give each and every address where you resided
during the last five-year period.
12. State your educational experience, giving the names
of schools you attended and the date of attendance.
Grade School:
High School:

College:
Other:

- 13. State your military status. (Check One)
Veteran Non-Veteran
If you have been in the military service of the United
States, state which branch, the years of service and
the type of discharge.
Branch: Years:
Discharge: Honorable: Dishonorable:
Other: Explain:

- 14. State what occupations or jobs you have held in the
last five (5) years:
Employer Job Description Years

- 15. What is your present occupation or employment and
how long employed?
Employer:
Describe Duties:
If unemployed, source of income:

- 16. What is your present average net income?
17. What is your ability to pay Court costs? AMT:
18. Have you been arrested for any Juvenile or Adult
criminal offenses?
Yes No
If so, state the following, using additional sheet(s) if
necessary.
Date of Arrest (Month/Year):
Charge:
Jurisdiction (City & State):
Sentence or other Disposition:

- 19(a). Have you ever been convicted of DUI or been
placed on an A.R.D. Program as a result of a DUI
Charge? Yes No
If so, state:
Date of Arrest:
Date of conviction or acceptance in the A.R.D. Pro-
gram:
County where this occurred:

- 19(b). Have you ever been placed in an A.R.D. Program
for a non-DUI offense?
Yes No
If so, state:
Date of Arrest:
Charge:
Date of conviction or acceptance in the A.R.D. Pro-
gram:
County where this occurred:

- 20. Are you presently on parole or probation?

21. Have you ever been treated for mental illness or hospitalized for mental illness:

Yes \_\_\_\_\_ No \_\_\_\_\_

If so, state when, where and period of time.

22. Do you have any disease or other disability at the present time?

Yes \_\_\_\_\_ No \_\_\_\_\_

If so, state the nature thereof: \_\_\_\_\_

23. Are you presently dependent upon or addicted to alcohol or drugs?

Yes \_\_\_\_\_ No \_\_\_\_\_

24. Are you presently enrolled in any treatment program for alcohol or drug addiction dependency?

Yes \_\_\_\_\_ No \_\_\_\_\_

THE FOLLOWING QUESTIONS ARE TO BE ANSWERED BY ANY PERSON CHARGED WITH DUI

25. Were you involved in an accident? Yes \_\_\_ No \_\_\_

If so:

(a) Do you have insurance? Provide the name of your insurance company.

(b) Was any person, other than you injured? Yes \_\_\_\_\_ No \_\_\_\_\_

(c) If so, give the name and address of injured party or parties, along with a description of the injuries suffered.

(d) Is there any restitution due? If any, approximately how much?

26. State any other offenses you were charged with, either under the vehicle code or the crimes code, which arose from this incident.

27. What was your blood alcohol reading? \_\_\_\_\_

28. WHERE were you drinking? \_\_\_\_\_

How long? \_\_\_\_\_

TO BE COMPLETED BY ALL APPLICANTS

29. State the name, address and telephone number of three reputable citizens, not related to you, who are willing to support your consideration for the Accelerated Rehabilitative Disposition Program:

NAME ADDRESS TELEPHONE NUMBER

30. State briefly why you feel you should be given the benefit of placement in the Accelerated Rehabilitative Disposition Program.

I, hereby, swear to (or affirm) the truth of the facts set forth in this Questionnaire to Determine Eligibility for Accelerated Rehabilitative Disposition and I fully realize that an intentionally falsification as to any answer, or part thereof, is a crime punishable by law.

Signature of Applicant

Acknowledgement:

Sworn to (affirm) and subscribe to

before me this \_\_\_\_\_ day of

\_\_\_\_\_, \_\_\_\_\_, A.D.

NOTARY

EXHIBIT "8"

CRIMINAL CASE MANAGEMENT PLAN 56TH JUDICIAL DISTRICT—CARBON COUNTY PRIOR CRIMINAL RECORD STATEMENT

DEFENDANT'S NAME: \_\_\_\_\_

OTN #: \_\_\_\_\_

DEFENSE COUNSEL: \_\_\_\_\_ DA: \_\_\_\_\_

Representations regarding prior record:

I, \_\_\_\_\_, defendant, represent that my prior criminal record, including prior ARDs, is set forth here in full, to the best of my memory. I understand that if this listing is in error, the parties will not be bound by the agreement. I ALSO UNDERSTAND THAT AN INTENTIONAL FALSE STATEMENT BY ME ON THIS DOCUMENT COULD RESULT IN A SEPARATE CRIMINAL PROSECUTION.

Table with 4 columns: Charge (include all arrests), Location (County and State), Disposition, Approximate Date. Multiple rows for listing offenses.

(Defendant) (Date) (Defense Counsel) (Date)

(DA assigned to case) (Date)

EXHIBIT "9"

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA CRIMINAL

COMMONWEALTH OF PENNSYLVANIA :

: CASE ID # \_\_\_\_\_

vs

: 180 DAYS: \_\_\_\_\_

STIPULATION

CHARGES FOR TRIAL, GUILTY PLEA OR ARD

COUNT #1 \_\_\_\_\_

COUNT #2 \_\_\_\_\_

COUNT #3 \_\_\_\_\_

COUNT #4 \_\_\_\_\_  
COUNT #5 \_\_\_\_\_  
COUNT #6 \_\_\_\_\_

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, the following stipulation is entered into between the Commonwealth and the Defendant in connection with the above charges: (check one)

\_\_\_\_\_ TRIAL BY JURY \_\_\_\_\_ NON-JURY TRIAL  
\_\_\_\_\_ GUILTY PLEA \_\_\_\_\_ ARD

\_\_\_\_\_  
Defendant Attorney for the Defendant  
\_\_\_\_\_  
D.A. or Assistant D.A.

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone Number

**ORDER**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, it is hereby ORDERED and DECREED that the Defendant shall appear in Court Room #1/2, Carbon County Courthouse, Jim Thorpe, Pennsylvania, on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ at \_\_\_\_\_ .M. prevailing time or on further order of the Court, for \_\_\_\_\_.

BY THE COURT

\_\_\_\_\_  
District Justice/Judge  
EXHIBIT "10"

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA  
CRIMINAL

COMMONWEALTH OF PENNSYLVANIA :  
 : D.J. ID # \_\_\_\_\_  
vs. : O.T.N. # \_\_\_\_\_  
 : C.P. ID # \_\_\_\_\_

\_\_\_\_\_  
Defendant

EXPLANATION OF ACCELERATED REHABILITATION PROGRAM (A.R.D.)  
and  
WAIVER OF RIGHTS FORM

1. I understand that I have been charged with a crime and that I have a right to go to trial on that charge. I am presumed innocent of this charge and the prosecution must prove my guilty beyond a reasonable doubt.
2. Notwithstanding my right to go to trial, I ask to be placed in the Carbon County A.R.D. Program and I CERTIFY THAT I HAVE NOT PREVIOUSLY BEEN IN SUCH A PROGRAM IN THIS OR ANY OTHER JURISDICTION.
3. I understand the District Attorney will consider any prior criminal conviction I may have.
4. I understand the District Attorney will consider a victim's input on my request for A.R.D.

5. I am aware that I will be in the A.R.D. program for a specific period and that the special terms and condition of the program are as follows:
  - (a) I will pay the costs of the prosecution of the charges filed against me.
  - (b) I will attend and complete the Highway Safety Program at the Carbon-Monroe-Pike Drug & Alcohol Office and pay the costs thereof.
  - (c) I will receive an alcohol and/or drug evaluation and follow through with any recommended treatment and pay the costs thereof.
  - (d) I may have to receive a mental health evaluation and follow through with any recommended treatment and pay the costs thereof.
  - (e) I will complete any community service hours as may be ordered by the Court.
  - (f) If I caused any property damage or personal injury to anyone and do not have insurance to pay for such damage or personal injury, I will make restitution to the victim of the amount of such damage or personal injury.
  - (g) I will abide by the general rules and regulations applicable to all persons on A.R.D.
6. I understand that the charges which have been filed against me will not be further prosecuted while I am in the A.R.D. Program, but if I fail to complete the program satisfactorily, I will be removed from the program and the charges filed against me will then be prosecuted according to law as if I had never been in the A.R.D. Program.
7. I understand that if I successfully complete the A.R.D. Program the charges that have been filed against me will be dismissed and the record will be expunged. If my current charge is for an offense under the driving under influence statute and I am convicted of a subsequent offense of driving under the influence, I may be sentenced as a second or subsequent offender of driving under the influence.
8. I understand that I can reject this offer of A.R.D. and demand that my case be brought to trial instead and that neither rejection of A.R.D. nor any statement I make in these A.R.D. proceedings can be used against me at trial.
9. I understand that by participating in the A.R.D. Program I waive (give up) the following rights:
  - (a) My right to a preliminary hearing.
  - (b) My right to a formal Court arraignment.
  - (c) The right to have my case tried before a jury within three hundred and sixty-five (365) days from the date the charges were filed against me and dismissed if not tried within 365 days.
  - (d) The applicable statute of limitations within which prosecution must be commenced on the charges against me.
9. Time spent in processing the questionnaire for A.R.D. will be excluded in computing the 365 days under Rule 600.
10. I understand that if my case is removed from the A.R.D. program and sent back for trial, the District Attorney will then have one hundred and twenty (120) days within which to bring me to trial.

I have read the above and fully understand it.

DATE: \_\_\_\_\_ SIGNED: \_\_\_\_\_  
Defendant

As attorney for the above-named Defendant, I certify that I have fully discussed and reviewed the foregoing explanation and waiver of right to the Defendant and I believe he/she understands it.

DATE: \_\_\_\_\_ SIGNED: \_\_\_\_\_  
Attorney for Defendant

I agree that this case is suitable for inclusion in the A.R.D. Program and I move that the Defendant be placed on A.R.D.

DATE: \_\_\_\_\_ SIGNED: \_\_\_\_\_  
(Assistant) District Attorney

EXHIBIT "11"

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA  
CRIMINAL

COMMONWEALTH OF PENNSYLVANIA :  
 : D.J. ID # \_\_\_\_\_  
 vs. : O.T.N. NO. \_\_\_\_\_  
 :  
 Defendant :

CRIMINAL CASE SCHEDULING INFORMATION

Defense Counsel: \_\_\_\_\_ Asst. District Atty. \_\_\_\_\_

Entry of Appearance Signed? \_\_\_\_\_ Major Charge: \_\_\_\_\_

Is defendant in jail? \_\_\_\_\_ Date Complaint Filed: \_\_\_\_\_

Waiver of Arraignment signed? \_\_\_\_\_ Date of Preliminary Hearing: \_\_\_\_\_

IMPORTANT NOTICE

You and your attorney are required to appear for the following proceedings. These dates may not be changed without Leave of Court.

- 1. Arraignment (if not waived): \_\_\_\_\_ 9:00 A.M. Prevailing time, Courtroom Two, Courthouse, Jim Thorpe, PA 18229
- 2. Pre-trial Status Conference: \_\_\_\_\_ 9:00 A.M. Prevailing time, District Atty. Office, Courthouse, Jim Thorpe, PA 18229
- 3. Last Day to Plea-Plea Day: \_\_\_\_\_ 1:15 P.M. Prevailing time, Courtroom One, Courthouse, Jim Thorpe, PA 18229
- 4. Jury Selection: \_\_\_\_\_ 10:00 A.M. Prevailing time, Courtroom One, Courthouse, Jim Thorpe, PA 18229

\*\*\*FAILURE TO APPEAR MAY RESULT IN A FORFEITURE OF YOUR BAIL BOND AND THE ISSUANCE OF A BENCH WARRANT FOR YOUR ARREST\*\*\*

The undersigned defendant and defense counsel hereby acknowledge receipt of a copy of this notice.

Date: \_\_\_\_\_  
Defendant

Defendant's Counsel

District Justice

EXHIBIT "12"

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA :  
 : D.J. ID # \_\_\_\_\_  
 VS. : O.T.N. # \_\_\_\_\_  
 : C.P. ID # \_\_\_\_\_  
 :  
 Defendant :

WAIVER OF ARRAIGNMENT

I, the undersigned attorney for the Defendant, do hereby waive the arraignment provided for in PA. Rule of Criminal Procedure No. 571 which is scheduled to be held in this case on \_\_\_\_\_.

I, the undersigned Defendant, understand that:

- 1. The information containing the charges against me will be filed in the Office of the Clerk of Courts and a copy will be mailed to my attorney and to me. \_\_\_\_\_ (Defendant's initials)
- 2. Any discovery must be concluded 14 days after the scheduled arraignment date. \_\_\_\_\_ (Defendant's initials)
- 3. I must file a request for a Bill of Particulars in writing within 7 days after the scheduled arraignment date. \_\_\_\_\_ (Defendant's initials)
- 4. If I intend to offer the defense of alibi, insanity or mental infirmity, I must notify the Attorney for the Commonwealth in writing within 30 days after the scheduled arraignment date. \_\_\_\_\_ (Defendant's initials)
- 5. I must file all pre-trial motions for relief on or before 30 days from the scheduled arraignment date. \_\_\_\_\_ (Defendant's initials)
- 6. If I fail to file any motions for discovery or pre-trial relief within the prescribed time limits, it shall be considered a waiver of the rights to file such motions. \_\_\_\_\_ (Defendant's initials)
- 7. I must give the Court notice prior to stated jury selection date if I desire to have my case tried before a Judge without a jury. \_\_\_\_\_ (Defendant's initials)

Date: \_\_\_\_\_  
Defendant's Signature

Attorney for Defendant

EXHIBIT "13"

PROCEDURE FOR CRN EVALUATIONS

- 1. The CRN (Court Reporting Network) evaluation is a computer-supported information system that provides the Courts with a detailed personality and alcohol intake profile of a person charged with Driving Under the Influence.

2. The Court MUST have in their possession, prior to your sentencing or acceptance into the ARD program, the complete CRN evaluation. It is important that you keep the scheduled appointment given to you to avoid any delays in your case.
3. Please have the following information with you at the time of your evaluation:
  - TIME AND DATE OF ARREST
  - DRIVER'S LICENSE NUMBER
  - BLOOD ALCOHOL CONCENTRATION LEVEL (BAC)
4. The cost of the CRN evaluation is \$50. Payment in full is required at the time of the evaluation. Failure to appear, failure to bring the \$50 fee and/or the above-requested information, will result in the re-scheduling of your appointment. A \$15 no-show fee will be assessed for missed appointments.

MASTERCARD AND VISA ARE ACCEPTED OR MAKE CHECK OR MONEY ORDER PAYABLE TO:

Carbon-Monroe-Pike Drug & Alcohol Commission, Inc.

\_\_\_\_\_  
Date of Appointment                      Time of Appointment  
Bonnie Wright, BA, CAC  
AHSP Program Director  
Carbon - Monroe - Pike Drug & Alcohol Commission, Inc.

I have read the above and fully understand it and I acknowledge receipt of the scheduled CRN evaluation date and time.

Date: \_\_\_\_\_

Defendant

CARBON OFFICE	MONROE OFFICE	PIKE OFFICE
110 S. First Street	724 A Phillips Street	Suite 303, 10 Buist Rd.
Lehighton, PA 18235	Stroudsburg, PA 18360	Milford, PA 18337
610-377-5177	1-866-824-3578	570-296-7255

[Pa.B. Doc. No. 04-1001. Filed for public inspection June 11, 2004, 9:00 a.m.]

**CARBON COUNTY**

**Criminal Fee Schedule for Court Appointed Counsel in Non-Homicide and Homicide Cases; 71 MI 04**

**Administrative Order No. 10-2004**

And Now, this 28th day of May, 2004, it is hereby *Ordered and Decreed* that, effective July 1, 2004, Carbon County *Adopts* the following schedule for payment of court-appointed counsel in Non-Homicide and Homicide criminal cases as follows:

*Non-Homicide Criminal Cases*

1. Counsel shall be assigned to represent defendants charged with non-homicide criminal offenses or in any post-conviction proceedings, and juveniles formally charged with delinquency where a conflict of interest or other sufficient reason exists and the individual cannot properly be represented by the Public Defender's Office.

2. At the conclusion of the representation, or any segment thereof, counsel shall be compensated at a rate

of forty dollars (\$40) per hour for time expended in Court and at a rate of thirty dollars (\$30) per hour for time reasonably expended out of Court and shall be reimbursed for all reasonable expenses.

3. Where one or more felonies are charged or for proceedings under the Post Conviction Hearing Act, the compensation paid to an attorney shall not exceed one thousand five hundred dollars (\$1,500). Where only misdemeanors or juvenile delinquencies are charged, payment shall not exceed seven hundred and fifty dollars (\$750).

4. Investigative, expert, or other services authorized by Order of Court shall not exceed five hundred dollars (\$500) and are reimbursable upon completion of services.

*Homicide Cases*

1. Counsel appointed shall not exceed one, except in cases of extreme complexity and those involving the death penalty where a conflict of interest or other sufficient reason exists and the individual cannot properly be represented by the Public Defender's Office.

2. At the conclusion of the representation, or any segment thereof, counsel shall be compensated for services rendered at a rate of fifty dollars (\$50) per hour for time reasonably expended in Court, and forty dollars (\$40) per hour for time reasonably expended out of Court and shall be reimbursed for all reasonable expenses.

3. Such compensation shall not exceed four thousand dollars (\$4,000) where one counsel has been assigned, and shall not exceed a total of six thousand (\$6,000) where two counsels have been assigned.

4. Investigative, expert, or other services authorized by Order of Court shall not exceed one thousand five hundred dollars (\$1,500) and are reimbursable upon completion of services.

*It Is Further Ordered and Decreed* that appointments made pursuant to this rule shall continue through all stages of the proceedings. Compensation payments shall be a charge upon the County of Carbon. Any payment in excess of the limits stated herein may only be made because of extraordinary circumstances that are necessary to provide fair compensation for representation and have been approved by the Court.

The Carbon County District Court Administrator is *Ordered and Directed* to do the following:

1. File seven (7) certified copies of this Administrative Order with the Administrative Office of Pennsylvania Courts.

2. File two (2) certified copies and one (1) diskette with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3. File one (1) certified copy with the Pennsylvania Criminal Procedural Rules Committee.

4. Forward one (1) copy for publication in the *Carbon County Law Journal*.

5. Forward one (1) copy to the Carbon County Law Library.

6. Keep continuously available for public inspection copies of the Order in the Clerk of Court's Office.

*By the Court*

RICHARD W. WEBB,  
*President Judge*

[Pa.B. Doc. No. 04-1002. Filed for public inspection June 11, 2004, 9:00 a.m.]

## DELAWARE COUNTY

Amendment of Orphans' Court Local Rule  
6.11D(2); No. 00-3708**Order**

*And Now*, to wit, this 21st day of May, 2004, it is hereby *Ordered* that Orphans' Court Local Rule 6.11D(2) is *Amended* and shall read as follows:

**Rule 6.11D. Distribution of Real Estate**

(2) *Partition or Allotment of Real Estate Requested by Accountant or by a Party in Interest.* Whenever partition or allotment of real estate is requested by the accountant or a party in interest, the request shall be made at the audit in the form of a petition for partition in accordance with Orphans' Court Rule 12.8, including a request for a citation upon any parties in interest who have not joined as petitioners. The Court shall issue a Citation, if appropriate, and shall make such Order, including a direction to submit an information certificate, issued by an attorney or a responsible title insurance company, showing the current state of the title, if required, provisions for owelty, if any, the preparation of a schedule of distribution, notice to the parties, and fixing the dates of further hearings, as may be necessary under the circumstances to protect all parties in interest.

*By the Court*

KENNETH A. CLOUSE,  
*President Judge*

[Pa.B. Doc. No. 04-1003. Filed for public inspection June 11, 2004, 9:00 a.m.]

## SUPREME COURT

## Accreditation of the National Board of Trial Advocacy as a Certifying Organization; No. 29 Disciplinary Rules; Doc. No. 1

**Order**

*Per Curiam:*

*And Now*, this 1st day of June, 2004, upon consideration of the recommendation of the Pennsylvania Bar Association Review and Certifying Board, the National Board of Trial Advocacy is hereby accredited as a certifying organization in the areas of Civil Trial Advocacy, Criminal Trial Advocacy, and Family Law Advocacy for a period of five calendar years.

[Pa.B. Doc. No. 04-1004. Filed for public inspection June 11, 2004, 9:00 a.m.]