

THE COURTS

Title 207—JUDICIAL CONDUCT

PART II. CONDUCT STANDARDS [207 PA. CODE CHS. 33 AND 51]

The Code of Judicial Conduct and the Rules Governing Standards of Conduct of Magisterial District Judges; No. 231 Magisterial Doc. No. 1

Order

Per Curiam

And Now, this 1st day of June, 2006, pursuant to the authority granted by Article V, Section 10 of the Pennsylvania Constitution, this Court hereby reaffirms its adoption of the Code of Judicial Conduct and the Rules Governing Standards of Conduct of Magisterial District Judges as the exclusive means of regulating the conduct of all judicial officers under the supervision of the Supreme Court. The Court finds that disqualification from proceedings is the most appropriate means of ensuring judicial integrity and impartiality in proceedings, including, but not limited to, those arising from the Pennsylvania Race Horse Development and Gaming Act (4 Pa.C.S.A. § 1101 et seq.).

No judge shall have a financial interest, as defined by Section 1512(B) of the Pennsylvania Race Horse Development and Gaming Act (4 Pa.C.S.A. § 1101 et seq.), in or be employed, directly or indirectly, by any licensed racing entity or licensed gaming entity, or any holding, affiliate, intermediary or subsidiary company thereof or any such applicant, or engage in the active ownership or participate in the management of any such entities and related companies. The term “judge” shall include justices, judges of the Superior Court, judges of the Commonwealth Court, judges of the Courts of Common Pleas, judges of Philadelphia Municipal Court, judges of Philadelphia Traffic Court and magisterial district judges, but shall not include lawyers and non-lawyers performing judicial functions, including but not limited to masters and arbitrators, for the Unified Judicial System.

Canon 3(C) of the Code of Judicial Conduct and Rule 8(A) of the Rules Governing Standards of Conduct of Magisterial District Judges continue to govern the disqualification of judicial officers where the interest in or relationship with a licensed racing or licensed gaming entity or related company thereto, or any such applicant therefor, of the judge or a family member is at issue.

Accordingly, the Notes to Canon 5(C) of the Code of Judicial Conduct and Rule 13 of the Rules Governing Standards of Conduct of Magisterial District Judges are promulgated as follows.

To the extent that notice of proposed rulemaking would be required by Rule 103 of the Pennsylvania Rules of Judicial Administration or otherwise, the immediate amendment of the Code of Judicial Conduct and Rules Governing Standards of Conduct of Magisterial District Judges is hereby found to be required in the interest of justice and efficient administration.

This Order shall be effective immediately and shall be processed in accordance with Rule 103(b) of the Pennsylvania Rules of Judicial Administration.

Annex A

TITLE 207. JUDICIAL CONDUCT

PART II. CONDUCT STANDARDS

CHAPTER 33. CODE OF JUDICIAL CONDUCT

Subchapter A. CANONS

Canon 5. Judges should regulate their extra-judicial activities to minimize the risk of conflict with their judicial duties.

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C. *Financial activities.*

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(4) Information acquired by judges in their judicial capacity should not be used or disclosed by them in financial dealings or for any other purpose not related to their judicial duties.

Official Note: Pursuant to the authority granted by Article V, Section 10 of the Pennsylvania Constitution, the Supreme Court adopted the Code of Judicial Conduct as the exclusive means of regulating the conduct of judicial officers under the supervision of the Supreme Court (see also Rules Governing Standards of Conduct of Magisterial District Judges). Disqualification from proceedings is the most appropriate means of ensuring judicial integrity and impartiality in proceedings, including, but not limited to, those arising from the Pennsylvania Race Horse Development and Gaming Act (4 Pa.C.S.A. § 1101 et seq.).

No judge shall have a financial interest, as defined by Section 1512(B) of the Pennsylvania Race Horse Development and Gaming Act (4 Pa.C.S.A. § 1101 et seq.), in or be employed, directly or indirectly, by any licensed racing entity or licensed gaming entity, or any holding, affiliate, intermediary or subsidiary company thereof or any such applicant, or engage in the active ownership or participate in the management of any such entities and related companies. The term “judge” shall include justices, judges of the Superior Court, judges of the Commonwealth Court, judges of the Courts of Common Pleas and judges of Philadelphia Municipal Court, but shall not include lawyers and non-lawyers performing judicial functions, including but not limited to masters and arbitrators, for the Unified Judicial System.

Canon 3(C) of the Code of Judicial Conduct continues to govern the disqualification of judges where the interest in or relationship with a licensed racing or licensed gaming entity or related company thereto, or any such applicant therefor, of the judge or a family member is at issue.

CHAPTER 51. STANDARDS OF CONDUCT OF MAGISTERIAL DISTRICT JUDGES

PENNSYLVANIA RULES FOR MAGISTERIAL DISTRICT JUDGES

Rule 13. Incompatible Practices.

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Official Note: The next to the last sentence of this rule is derived in part from Canon 5C(1) of the American Bar Association and Pennsylvania Supreme Court Code of Judicial Conduct.

Pursuant to the authority granted by Article V, Section 10 of the Pennsylvania Constitution, the Supreme Court adopted the Rules Governing Standards of Conduct of Magisterial District Judges as the exclusive means of regulating the conduct of magisterial district judges under the supervision of the Supreme Court. Disqualification from proceedings is the most appropriate means of ensuring judicial integrity and impartiality in proceedings, including, but not limited to, those arising from the Pennsylvania Race Horse Development and Gaming Act (4 Pa.C.S.A. § 1101 et seq.).

No magisterial district judge shall have a financial interest, as defined by Section 1512(B) of the Pennsylvania Race Horse Development and Gaming Act (4 Pa.C.S.A. § 1101 et seq.), in or be employed, directly or indirectly, by any licensed racing entity or licensed gaming entity, or any holding, affiliate, intermediary or subsidiary company thereof or any such applicant, or engage in the active ownership or participate in the management of any such entities and related companies.

Rule 8(A) of the Rules Governing Standards of Conduct of Magisterial District Judges continues to govern the disqualification of magisterial district judges where the interest in or relationship with a licensed racing or licensed gaming entity or related company thereto, or any such applicant therefor, of the magisterial district judge or a family member is at issue.

[Pa.B. Doc. No. 06-1057. Filed for public inspection June 16, 2006, 9:00 a.m.]

Title 246—MINOR COURT CIVIL RULES

PART I. GENERAL

[246 PA. CODE CHS. 200—500]

Order Amending Rules 202, 207, 315, 318, 324, 421, and 514 and Adopting New Rule 207.1 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges; No. 230 Magisterial Doc. No. 1

Order

The Minor Court Rules Committee has prepared a Final Report explaining the Supreme Court of Pennsylvania's Order amending Rules 202, 207, 315, 318, 324, 421, and 514, and adopting new Rule 207.1 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges, effective October 1, 2006. These rule changes further provide for definitions, representation in magisterial district court proceedings, attorneys of record, and notices. The Final Report follows the Court's Order.

Per Curiam:

And Now, this 1st day of June, 2006, upon the recommendation of the Minor Court Rules Committee; the proposal having been published before adoption at Volume 33, *Pennsylvania Bulletin*, page 4892 (October 4, 2003), and a Final Report to be published with this Order:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Pa.R.C.P.M.D.J. Nos. 202, 207, 315, 318, 324, 421, and 514 be, and hereby are, amended in the following form, and new Pa.R.C.P.M.D.J. No. 207.1 be, and hereby is, adopted in the following form.

This Order shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective October 1, 2006.

Annex A

TITLE 246. MINOR COURT CIVIL RULES

PART I. GENERAL

CHAPTER 200. RULES OF CONSTRUCTION; GENERAL PROVISIONS

Rule 202. Definitions.

As used in these rules, the following words and phrases shall have the following meanings unless the context clearly indicates otherwise or the particular word or phrase is expressly defined in the chapter in which the particular rule is included:

“adult” means an individual eighteen years of age or older;

“attorney at law” means an individual admitted to practice law by the Supreme Court of Pennsylvania;

“attorney of record” means an attorney at law who has filed a written document in accordance with Rule 207.1 as appearing for and representing a party in a legal proceeding;

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Rule 207. Representation in Magisterial District Court Proceedings.

(A) In magisterial district court proceedings[, individuals]:

(1) Individuals may be represented by themselves [or by counsel and corporations may be represented by their officers or counsel], by an attorney at law, or by a representative with personal knowledge of the subject matter of the litigation and written authorization from the individual to appear as the individual's representative.

(2) Partnerships may be represented by an attorney at law, a partner, or by an employee or authorized agent of the partnership with personal knowledge of the subject matter of the litigation and written authorization from a partner to appear as the partnership's representative.

(3) Corporations or similar entities and unincorporated associations may be represented by an attorney at law, by an officer of the corporation, entity, or association, or by an employee or authorized agent of the corporation, entity, or association with personal knowledge of the subject matter of the litigation and written authorization from an officer of the corporation, entity, or association to appear as its representative.

(B) A representative, employee, or authorized agent may take no action on behalf of a party until the written authorization required under paragraph (A)(1), (2), or (3) is filed with the court.

Official Note: This rule is intended to permit a non-lawyer representative, employee, or authorized agent to appear on behalf of an individual, partnership, corporation or similar entity, or unincorporated association, but not to allow a non-lawyer to establish a business for the purpose of representing others in magisterial district court proceedings.

It is intended that the designation of a non-lawyer representative, employee, or authorized agent to represent a party is to apply only on a case-by-case basis. A party may not give blanket authorization for a non-lawyer representative, employee, or authorized agent to represent the party in all cases involving the party.

As to "personal knowledge of the subject matter of the litigation" see Pa.R.E. 602 and Comment.

A business organized as a sole proprietorship may be represented in the same manner as an individual under paragraph (A)(1).

Official Note: See rules in [the 800 Series] Chapter 800 as to representation of minors and [incompetents] incapacitated persons by guardians.

Rule 207.1. Attorney of Record; Notices.

(A) An attorney at law shall be deemed the attorney of record for a party if and only if the attorney files with the magisterial district court a written statement acknowledging that he or she represents the party in the proceeding. The written statement must include the attorney's name, mailing address, and Supreme Court of Pennsylvania attorney identification number.

(B) An attorney of record for a party shall remain the attorney of record for that party until:

(1) the attorney of record gives written notice to the magisterial district court and the party that he or she is withdrawing as the attorney of record for the party, or;

(2) another attorney becomes the attorney of record for the party in accordance with paragraph (A).

(C) Except as otherwise provided in these rules, when a party has an attorney of record or is represented by a non-lawyer representative under Rule 207, and when a rule specifies that a notice is to be given or mailed to the party, a copy of the notice shall also be given or mailed to the attorney of record or the non-lawyer representative.

Official Note: Paragraph (B) provides for the withdrawal of an attorney of record. Nothing in this rule requires leave of court or that another attorney become the attorney of record before an attorney may withdraw. But compare Pa.R.C.P. No. 1012(b). Nothing in paragraph (B) is intended to affect an attorney's ethical duty to his or her client. See Pennsylvania Rules of Professional Conduct Rule 1.16.

Paragraph (C) makes clear that copies of all notices must be given or mailed to all parties of record as well as to all attorneys of record and non-lawyer representatives.

See Rule 207 regarding the designation and authorization of a non-lawyer representative.

CHAPTER 300. CIVIL ACTION

Rule 315. Claim by Defendant.

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B. The rules governing the form, processing, and service of a plaintiff's complaint shall apply also to the defendant's complaint. The magisterial district judge

shall set a date and time for the consolidated hearing of both complaints [together] that shall not be less than 12 or more than 30 days from the filing of the defendant's complaint. The magisterial district court shall promptly notify the parties of the date and time set for the consolidated hearing of both complaints.

* * * * *

D. [If the defendant files a cross-complaint, the magisterial district judge shall promptly notify the plaintiff of the time and date set for the hearing of both complaints together. If the plaintiff has an attorney of record, the notice shall be given to the attorney of record instead of to the plaintiff.] Rescinded.

Official Note: [Subdivision] Paragraph A of this rule permits the defendant to file a cross-complaint against the plaintiff at least five days before the date originally set for the hearing, if it is for a claim cognizable by a magisterial district judge. See Section 1515(a)(3) of the Judicial Code, 42 Pa.C.S. § 1515(a)(3), as to waiver of jurisdictional limits, a defendant filing a cross-complaint being considered a "plaintiff" as to the cross-complaint within the meaning of this statute. The requirement that a cross-complaint be filed at least five days before the hearing is intended to give the magisterial district judge time to notify the [plaintiff or the plaintiff's attorney, under subdivision D of the rule, of any new hearing time and date] parties of any new hearing date and time. Notice under [subdivision D] paragraph B is not a substitute for [the] proper service [required under subdivision B]. If the defendant does not file an action at least five days before the hearing, the defendant may still file a complaint against the plaintiff, but it will not be processed as a cross-complaint.

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Rule 318. Informing Plaintiff of Notice of Intention to Defend.

If the defendant gives the magisterial district [judge] court notice of [his] intention to defend [under] in accordance with Rule 305(4)(a), the magisterial district [judge] court shall promptly [inform the plaintiff in writing that he has received such a notice by mailing to the plaintiff a copy of the completed Notice of Intent to Defend form. If the plaintiff has an attorney of record named in the complaint form, this information shall be given to the attorney of record instead of to the plaintiff] give the plaintiff written notice that the defendant intends to enter a defense.

Official Note: No specific form of notification from the defendant to the magisterial district court is required by this rule, but entries on the [complaint form] docket will show that the defendant gave notice of [his] intention to defend and that the magisterial district [judge informed] court gave written notice to the plaintiff [or his attorney of record thereof, when these events have occurred. A notation that a copy of the Notice of Intent to Defend form was sent to the plaintiff or his attorney of record shall be made on the complaint maintained in the magisterial district judge's files].

Rule 324. Notice of Judgment[,] or Dismissal [or Continuance,] and the Right to Appeal.

A. [The] Upon the entry of the judgment, the magisterial district [judge] court shall promptly give or mail to the parties written notice of judgment[,] or dismissal [or continuance. The written notice shall be given or mailed to all parties, but if any party has an attorney of record, the written notice shall be given or mailed to the attorney of record instead of to the party].

B. The written notice of judgment or dismissal shall contain:

(1) [advice as to] notice of the right of the parties to appeal, the time within which the appeal must be taken, and that the appeal is to the court of common pleas,

(2) [a statement advising] notice that, except as otherwise provided in the rules, if the judgment holder elects to enter the judgment in the court of common pleas, all further process must come from the court of common pleas and no further process may be issued by the magisterial district judge, and

(3) [a statement advising] notice that unless the judgment is entered in the court of common pleas anyone interested in the judgment may file a request for entry of satisfaction with the magisterial district judge if the judgment debtor pays in full, settles, or otherwise complies with the judgment.

Official Note: As to [subdivision] paragraph B(2), see Rule 402D and Note. As to [subdivision] paragraph B(3), see Rule 341.

CHAPTER 400. EXECUTION OF JUDGMENTS FOR THE PAYMENT OF MONEY

Rule 421. Time for Hearing and Determination; Effective Date of Orders and Determination.

* * * * *

B. The magisterial district [judge] court shall promptly give or mail to the parties written notice of the determination. [If a party has an attorney of record the written notice shall be given or mailed to the attorney of record instead of to the party.] Notice of the determination shall contain advice as to the right of the parties to file a Statement of Objection, the time within which the statement must be filed, and that the statement is to be filed with the court of common pleas.

* * * * *

Official Note: [Subdivision] Paragraph A of this rule provides a time schedule within which the matters mentioned in Rule 420 must be heard and determined. These matters should be dealt with expeditiously.

[Subdivision] Paragraph D provides that, except for stays, determinations and orders of the magisterial district judge concerning the execution proceedings shall not take effect until after the expiration of ten days from the date of entry of the determination or order. This will give any aggrieved party in interest a chance to obtain a stay by filing a statement of objection in the court of common pleas during that period of time. See Rule 1016.

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CHAPTER 500. ACTIONS FOR THE RECOVERY OF POSSESSION OF REAL PROPERTY

Rule 514. Judgment; Notice of Judgment or Dismissal and the Right to Appeal.

* * * * *

C. (1) Judgment shall be given at the conclusion of the hearing or within three [(3)] days thereafter [and shall be entered upon the form prescribed for the entry of judgment by the State Court Administrator].

(2) Upon the entry of the judgment, [copies of the prescribed form shall be given or mailed to all parties, but if any party has an attorney of record named in the complaint form the written notice shall be given to the attorney instead of to the party] the magisterial district court shall promptly give or mail to the parties written notice of judgment or dismissal. [Notice of judgment shall inform the parties of the right to appeal, the time within which the appeal must be taken, and that the appeal is to the court of common pleas.]

D. The written notice of judgment or dismissal shall contain:

(1) notice of the right of the parties to appeal, the time within which the appeal must be taken, and that the appeal is to the court of common pleas,

(2) notice that, except as otherwise provided in the rules, if the judgment holder elects to enter the judgment in the court of common pleas, all further process must come from the court of common pleas and no further process may be issued by the magisterial district judge, and

(3) notice that unless the judgment is entered in the court of common pleas anyone interested in the judgment may file a request for entry of satisfaction with the magisterial district judge if the debtor pays in full, settles, or otherwise complies with the judgment.

Official Note: [Subdivision] Paragraph A of this rule requires that the plaintiff appear and give testimony to prove the complaint before the magisterial district judge can enter judgment against the defendant, even when the defendant fails to appear for the hearing. The magisterial district judge may not enter a default judgment in a possessory action, including a judgment for money only. See Rule 512A and Note. The various issues that the magisterial district judge must determine at the hearing include: whether notice to quit was given to the defendant in accordance with law or that no notice was required under the terms of the lease; the amount or rent due, if any; damages to the leasehold premises, if any; the amount found to constitute the monthly rental, and; the amount of the security deposit held by the landlord, if any.

As to the notice to quit requirement, see Section 501 of The Landlord and Tenant Act of 1951, 68 P.S. § 250.501. See also Patricia Bros., Inc. v. McKeefrey, 38 Pa. D. & C.2d 149 (Delaware County C.P. 1966).

The separate entries provided in [Subdivision] paragraph A are made necessary as a result of the rental deposit provisions for appeal or certiorari contained in Rules 1008B and 1013B, as well as the wage attachment provisions contained in Section 8127 of the Judicial Code, 42 Pa.C.S. § 8127.

As to paragraph D(2), see Rule 402D and Note. As to paragraph D(3), see Rule 341.

FINAL REPORT¹

Amendments to Rules 202, 207, 315, 318, 324, 421, and 514, and Adoption of New Rule 207.1 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges

Definitions; Representation in Magisterial District Court Proceedings; Attorneys of Record; Notices

On June 1st, 2006, effective October 1, 2006, upon recommendation of the Minor Court Rules Committee,² the Supreme Court of Pennsylvania amended Rules 202, 207, 315, 318, 324, 421, and 514, and adopted new Rule 207.1 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges.³

I. Background

The Minor Court Rules Committee (hereinafter the Committee) undertook a review of the rules relating to representation in magisterial district court proceedings, attorneys of record, and notices to parties and attorneys in response to a number of inquiries and requests for clarification in the rules. As a result of the Committee's review, the Committee is proposing a number of rule changes, as described below, to

- clarify who may represent a party in a magisterial district court proceeding;
- establish a more formal procedure for an attorney to become the attorney of record in a case, and;
- clarify that all notices sent by the magisterial district court should go to all parties of record and all attorneys of record.

II. Discussion

A. Representation in Magisterial District Court Proceedings

A number of correspondents requested that the Committee clarify Pa.R.C.P.M.D.J. No. 207, regarding representation in magisterial district court proceedings. The Committee learned that there has been confusion and a lack of uniformity in the magisterial district courts as to who may represent certain parties. Of particular note, the Committee received inquiries about property managers or similar agents "representing" landlords in landlord/tenant hearings. The Committee learned that it is not uncommon for property managers to file landlord/tenant cases on behalf of their landlord clients, to appear at hearings, present testimony, and examine witnesses. The property managers argue that this is a service they should be permitted to perform for their landlord clients because the property managers are paid to handle the day-to-day operations of their clients' rental properties. Similarly, the Committee also received inquiries regarding a manager or other non-officer employee or agent representing a business entity.

The Committee engaged in extensive discussion of these issues. At the core of this discussion was an attempt to strike a balance between protecting the public by not permitting or sanctioning the unauthorized practice of law on one hand, and recognizing the need to make the magisterial district courts as accessible and "user

friendly" as possible on the other. The Committee considered very compelling arguments on both sides of this debate. Some argued that permitting a non-lawyer representative to present a case on behalf of the real party in interest would tacitly sanction the unauthorized practice of law.⁴ Others argued that requiring more parties to be represented by lawyers would diminish the role of the magisterial district court as a forum where litigants can easily and inexpensively resolve disputes.

Initially, the Committee published a version of this proposal that would have expressly restricted appearances and representation in magisterial district court to only the real party in interest or an attorney at law, with only a limited exception for corporate parties.⁵ Upon further consideration however, and after consultation with the Supreme Court, the Committee substantially revised its initial proposal to provide for representation by attorneys as well as, in certain circumstances, by non-lawyer representatives.

In the interest of promoting open access to the courts, the Committee concluded that a party appearing before a magisterial district court should be given the opportunity to be represented by a non-lawyer representative, employee, or agent who has personal knowledge of the subject matter of the litigation. Recognizing the often relatively uncomplicated matters that come before these courts, the Committee and the Court sought to draft a procedure that would permit a non-lawyer representative to appear on behalf of a party, but not to allow a non-lawyer to establish a business in order to represent others before magisterial district courts. For example, the Committee found compelling reasons to allow a property manager to file and present a landlord/tenant case on behalf of a landlord as part of the manager's broader property management services. The Committee recognized that the property manager is often more familiar with the day-to-day operations of a landlord's rental properties than is the landlord, and the manager is often in the best position to file and present a case on behalf of the landlord. In addition, the Committee found merit in allowing a relative, friend, or other interested person with personal knowledge of the subject matter of the litigation to appear on behalf of a party who is elderly, infirm, or who may benefit from having a representative file and appear on their behalf.

The Committee was satisfied that adequate safeguards will be in place to protect parties from receiving and acting upon incorrect "legal advice" from non-lawyer representatives. First, the rules will require that a non-lawyer representative, employee, or agent who appears on behalf of another must have "personal knowledge of the subject matter of the litigation." The Committee believes this personal knowledge must be of a first-hand nature, and beyond that acquired merely by talking to the represented party. To clarify this, the rules will include a cross-reference to Pa.R.E. 602 (Lack of Personal Knowledge) in order to provide guidance as to the meaning of "personal knowledge of the subject matter of the litigation." Second, the Official Notes to the rules will stress that that it is not the intent of the rules to permit a non-lawyer to establish a business for the purpose of representing others in magisterial district court proceedings. Finally, the Committee recognized that magisterial district judges are fully capable of conducting hearings in such a manner so as to maintain order and decorum

¹ The Committee's Final Report should not be confused with the Official Notes to the Rules. Also, the Supreme Court of Pennsylvania does not adopt the Committee's Official Notes or the contents of the explanatory Final Report.

² Recommendation No. 3 Minor Court Rules 2004.

³ Supreme Court of Pennsylvania Order No. 230, Magisterial Docket No. 1 (June 1, 2006).

⁴ See generally Section 2524 of the Judicial Code (Penalty for unauthorized practice of law), 42 Pa.C.S. § 2524; *In re Campanella*, 207 B.R. 435 (Bankr. E.D. Pa. 1997).

⁵ The Committee's initial proposal was published at Volume 33, *Pennsylvania Bulletin*, page 4892 (October 4, 2003).

while giving interested persons and their representatives appropriate opportunity to be heard.⁶

B. Attorneys of Record and Notices

In an issue tangentially related to representation in magisterial district court proceedings, the committee considered the rules relating to attorneys of record and notices to parties and attorneys. The Committee noted that the term "attorney of record" is used throughout the rules. There was no definition for the term, however, and no formal procedural mechanism for an attorney to become the attorney of record in a case. In addition, the Committee noted that the rules make reference to notices being sent to the attorney of record in 11 different instances. The rules, however, are somewhat inconsistent as to when a notice is to be given to the party, to the attorney of record, or both.

With regard to the procedure for an attorney to become the attorney of record in a case, the Committee believed it advisable that a more formal procedure be established. The Committee recognized that the rules require important notices, many affecting the rights of parties,⁷ are to be sent to the parties and their representatives. Without a procedure in place to determine that a party has an attorney of record, some important notices might not get to counsel. At the same time, however, recognizing the relative informality and expedited nature of magisterial district court proceedings, the Committee wanted to avoid a very formal procedure for the "entry of an appearance" as is used in the courts of record. Specifically, the Committee did not want to propose a rule that would require leave of court before an attorney could withdraw as the attorney of record in a matter.

As noted above, the Committee found 11 different instances in the rules that provide for notices being sent to a party or the party's attorney of record. For example, the Committee discovered, among others, the following instances:

- Pa.R.C.P.M.D.J. No. 421B provides that, "[i]f a party has an attorney of record the written notice shall be given or mailed to the attorney of record instead of to the party."
- Pa.R.C.P.M.D.J. No. 514C provides that, "... if a party has an attorney of record *named in the complaint form*, the written notice shall be given to the attorney instead of to the party. (Emphasis added.)

The Committee found a number of other variations of these notice provisions throughout the rules. While some of these inconsistencies might be necessitated by differences in the procedures addressed in particular rules, the Committee reviewed each instance and attempted to draft procedures that are as consistent as possible in all the rules. Because attorneys often do not become involved in magisterial district court proceedings until later in the court process (e.g., after judgment is entered but before execution of the judgment), the Committee believed it advisable that all notices be sent to all parties of record and all attorneys of record.

⁶ See Pa.Rs.Crim.P. 454 Comment and 542 Comment ("As the judicial officer presiding at the summary trial [or preliminary hearing], the issuing authority controls the conduct of the trial [or preliminary hearing] generally. . . . In the appropriate circumstances, the issuing authority may . . . permit the affiant to question Commonwealth witnesses, cross-examine defense witnesses, and make recommendations about the case to the issuing authority." Pa.Rs.Crim.P. 454 Comment and 542 Comment.)

⁷ Examples of such notices include, among others, hearing notices (Rules 305 and 504), judgment notices (Rules 324 and 514), notices regarding property rights determinations (Rule 421), etc.

III. Approved Rule Changes

To address the issues discussed above, the Committee proposed and the Court adopted the following rule changes.⁸

A. Rule 202

The Committee proposed that two new definitions, for "attorney at law" and "attorney of record" be added to Rule 202. The approved definition of "attorney at law" is similar, but not identical to the definition in Pa.R.C.P. No. 76.

B. Rule 207

The Committee proposed a complete rewrite of Rule 207. New paragraph (A) will specify the manner in which individuals (paragraph (A)(1)), partnerships (paragraph (A)(2)), and corporations or similar entities and unincorporated associations (paragraph (A)(3)) may be represented in magisterial district court proceedings. All three paragraphs will provide for representation by an attorney at law or by a non-lawyer representative, employee, or authorized agent with personal knowledge of the subject matter of the litigation. In addition, all three paragraphs will require that a non-lawyer representative, employee, or authorized agent have written authorization from the party to be represented.

New paragraph (B) will make clear that the written authorization required in paragraph (A) must be filed with the court before the non-lawyer representative, employee, or authorized agent may take any action on behalf of the party. For example, if a property manager wishes to file a landlord/tenant complaint on behalf of a landlord, the property manager will be required to file the written authorization of the landlord contemporaneously with filing the complaint.

As noted above, the Official Note to the rule will make clear that it is the intent of the rule to permit a non-lawyer representative to appear on behalf of a party, but not to allow a non-lawyer to establish a business in order to represent others before magisterial district courts. In addition, the Official Note will make clear that it is intended that the designation of a non-lawyer representative, employee, or authorized agent to represent a party is to apply only on a case-by-case basis, and a party may not give blanket authorization for a non-lawyer representative, employee, or authorized agent to represent the party in all cases involving the party. The Official Note will also contain the cross-reference to Pa.R.E. 602 and Comment discussed above, and it will make clear that a business organized as a sole proprietorship may be represented in the same manner as an individual under paragraph (A)(1).

C. New Rule 207.1

The Committee proposed an entirely new Rule 207.1 (Attorney of Record; Notices) to provide a procedure for an attorney to become and withdraw as the attorney of record in a case, and provide for notices. Paragraph (A) of the new rule will establish the procedure for becoming attorney of record, essentially requiring that the attorney file a written document with the magisterial district court. Paragraph (B) will provide for the withdrawal of the attorney of record. Paragraph (C) will serve as a blanket provision requiring that all notices sent from the magisterial district court be sent to all parties of record and all attorneys of record or non-lawyer representatives.

⁸ In addition to the substantive changes discussed here, the Committee proposes minor technical changes to address gender neutrality issues, add or correct cross-references, and to conform to modern drafting style.

The Official Note will cross reference Pa.R.C.P. No. 1012(b). Also, given the relative ease with which an attorney can withdraw, the Note will make clear that nothing in the rule is intended to affect an attorney's ethical duty to his or her client.⁹

D. *Correlative Amendments to Rules 315, 318, 324, 421, and 514*

The Committee proposed that Rules 315, 318, 324, 421, and 514 be amended to delete the duplicative and inconsistent notice provisions.¹⁰ These notice provisions are no longer necessary because of the blanket provision in new Rule 207.1 requiring that "when a party has an attorney of record or is represented by a non-lawyer representative under Rule 207, and when a rule specifies that a notice is to be given or mailed to the party, a copy of the notice shall also be given or mailed to the attorney of record or the non-lawyer representative."

[Pa.B. Doc. No. 06-1058. Filed for public inspection June 16, 2006, 9:00 a.m.]

Title 255—LOCAL COURT RULES

CARBON COUNTY

Intermediate Punishment Plan; No. CP-13-AD-000003-2006 (Old No. 057 MI 93)

Amended Administrative Order 10-2006

And Now, this 31st day of May, 2006, in order to modify policy and procedure for the Carbon County Intermediate Punishment Plan, it is hereby

Ordered and Decreed that, effective July 1, 2006, the Court hereby *Revises* its Intermediate Punishment Plan that follows.

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 and Rule in the Clerk of Court's Office.

By the Court

ROGER N. NANOVIC,
President Judge

⁹ See Rule 1.16 of the Rules of Professional Conduct.

¹⁰ As noted in Section II.B., supra, there are additional instances in which the rules require a notice be sent to a party or attorney of record. These instances, however, relate to appeals in the courts of common pleas and must be dealt with in a slightly different context. These instances will be addressed in a separate proposal.

Purpose

To establish policy and procedure governing the administration of Carbon County's Intermediate Punishment Programs of Intensive Supervision Services, House Arrest/Home Electronic Monitoring and Residential Inpatient Treatment; and to establish a process whereby the intermediate punishment officer and/or presence investigator can recommend innovative sentencing alternatives to the court that may permit a better balance between the dual needs of community protection and the welfare of the defendant.

Applicability

To the Carbon County Court of Common Pleas, Carbon County's Criminal Justice Advisory Board, all adult probation staff and all offenders under the jurisdiction of the department.

Definitions

As utilized in this document, the following definitions shall apply:

1. Collateral Contact: Communication with another person having regular contact with the offender, such as law enforcement personnel or treatment specialists.

2. Criminal Justice Advisory Board: A collective body of County officials that is responsible for the oversight of the County's Intermediate Punishment Plan and Programs.

3. Home: The actual living area of the temporary or permanent residence of an offender, which will only include "inside the confines" of the established home or apartment.

4. Home Electronic Monitoring Program: A sentence in which the offender is required to wear or carry an electronic device which transmits the offender's location to a receiver maintained by criminal justice personnel.

5. House Arrest Program: A sentence which orders offenders confined to their own residence except for preapproved excursions for medical treatment, employment, performance of community service work, drug/alcohol treatment or counseling and religious functions. House arrest may be combined with electronic monitoring to detect violations.

6. Ignition Interlock System: A system approved by the Department of Transportation which prevents a vehicle from being started or operated unless the operator first provides a breath sample indicating that the operator has an alcohol level less than .025%.

7. Intensive Supervision Services: A sentence with increased supervision, surveillance and control; reduced caseloads for probation officers; increased number of contacts per month; and mandated activities for the offender, including work or vocational training, community service work or drug/alcohol treatment.

8. Intermediate Punishment Investigation: An investigation completed by the intermediate punishment officer, which is provided to the court, that recommends whether an offender is eligible for participation in an intermediate punishment program.

9. Intermediate Punishment Plan: A document, which describes a proposed intermediate punishment program.

10. Intermediate Punishment Programs: A punishment option that is considered on a continuum to fall between traditional probation and traditional incarceration.

11. Presentence Investigation: A concise document provided to the sentencing court that includes socioeconomic data, prior criminal record, demographic data and other background information on the defendant.

12. Residential Rehabilitative Center: A community-based facility to which offenders can be sentenced directly where a range of rehabilitative services is available, including drug and alcohol treatment and counseling.

Authority and Policy Statement

Authority: This policy statement has been developed pursuant to and in accordance with statutory requirements, local rules established by the Carbon County Adult Probation/Parole Department and the formal adoption by the Carbon County Court of Common Pleas through administrative court order.

Policy Statement: The Carbon County Adult Probation/Parole Department and Carbon County Court of Common Pleas recognizes that "innovative sentencing" or "alternatives to incarceration" for low-risk, non-violent offenders is essential as a legitimate sentencing option available to the court. Offenders that demonstrate "special needs" or exhibit "low-risk, non-violent" tendencies shall be considered for diversion from exposure to confinement and placement in an intermediate punishment program. This approach will permit offenders to remain in the community to support themselves and their legal dependents. Certain restrictions shall be placed on the defendant that will ensure a better balance between the punishment and rehabilitation of the offender, which approach will not compromise the safety and the security of the community.

Criminal Justice Advisory Board

In accordance with 42 Pa.C.S.A. § 9802, the Criminal Justice Advisory Board shall oversee the functions of the County's Intermediate Punishment Board. The Criminal Justice Advisory Board meets monthly and shall periodically assess available county-wide correctional services and future needs; shall work with the county office of probation and parole in developing the Intermediate Punishment Plan; shall adopt a county intermediate punishment plan, including program policies for administration; shall monitor the effectiveness of county correctional services and shall identify needed modifications.

Primary Goals and Objectives

The County's Intermediate Punishment Programs shall embrace the primary purposes for the development of Intermediate Punishment Programs established by the Pennsylvania Commission on Crime and Delinquency, which are as follows:

1. To protect society and promote efficiency and economy in the delivery of corrections services.
2. To promote accountability of offenders to the community.
3. To fill gaps in local correctional systems and address local needs through expansion of punishment and services available to the Court, and,
4. To provide opportunities for offenders who demonstrate special needs to receive services, which enhance their ability to become contributing members of the community.

Secondary Goals and Objectives

Secondary objectives established and adopted by the Carbon County Criminal Justice Advisory Board, the Carbon County Court of Common Pleas and the Carbon County Adult Probation/Parole Department are as follows:

1. To divert low risk, non-violent and special need offenders from exposure to incarceration and to provide a degree of punishment to an offender, which is less severe than incarceration, yet more punitive than existing probation.
2. To establish viable sentencing alternatives for the Court.
3. To reduce the incidence of criminal behavior through increased surveillance and to promote a more structured environment conducive to fostering improved work habits, family life and treatment of social or behavioral problems.
4. To provide counseling, education and treatment for targeted offenders.

Minimum Guidelines for Intermediate Punishment Programs

The Pennsylvania Commission on Crime and Delinquency has adopted the following minimum guidelines. These guidelines shall be incorporated into the County's Intermediate Punishment Programs as follows:

1. Intensive Supervision Services: The Carbon County Criminal Justice Advisory Board shall approve and implement written policies and procedures for the Intensive Supervision Services Program (See 37 Pa. Code § 451.119). This program shall include the following elements:

- a. A drug testing capability for appropriate offenders.
- b. A monitoring component, which defines the frequency and method of face-to-face and collateral contacts to ensure offender's compliance with the conditions of the program.
- c. Limitation of caseloads of program supervising officers consistent with the supervisory component as described in this policy statement.
- d. A minimum requirement that eight (8) to twelve (12) face-to-face and four (4) to six (6) collateral contacts be made by the supervising officer each month.
- e. A requirement that face-to-face and telephone contacts with offenders be made at all hours, seven (7) days per week.
- f. A requirement that there be additional qualifications for participating offenders, such as work or vocational training, community service, drug treatment, and, in appropriate cases, a curfew.
- g. Policy and procedure for responding to major and minor violations of the program.

2. House Arrest Program: The Carbon County Criminal Justice Advisory Board shall approve and implement written policies and procedures for the House Arrest Program (See 37 Pa. Code § 451.117). This program shall include the following elements:

- a. A drug testing capability for appropriate offenders.
- b. A requirement that offenders be employed or actively seeking employment or enrolled in educational program/vocational training or participating in community service, unless an offender is physically or mentally incapable of performing the same, and have fixed residences.

c. A monitoring component, which defines the frequency of face-to-face and collateral contacts to ensure offender's compliance with the conditions of the program.

d. Limitation of the caseloads of program supervising officers consistent with the supervisory plan as described in this policy statement.

e. A requirement that a minimum of two (2) face-to-face and three (3) collateral contacts be made by the supervising officers each month.

f. A policy and procedure for responding to major and minor violations of program conditions.

g. If utilized in conjunction with the home electronic monitoring program, the minimum standards relating to home electronic monitoring shall be met.

h. A program for eligible DUI offenders shall be combined with an electronic monitoring program in accordance with the statutory requirements relating to sentencing restrictions.

3. Home Electronic Monitoring: The Carbon County Criminal Justice Advisory Board shall approve and implement written policies and procedures for the Home Electronic Monitoring program (See 37 Pa. Code § 451.114). This program shall include the following elements:

- a. A drug testing capability for appropriate offenders.
- b. The timely detection of violations.
- c. The maintenance of a 24-hour-per-day response to detected violations.
- d. A monitoring component to ensure offender's compliance with the conditions of the program.
- e. A policy and procedure for responding to major and minor violations of program conditions.

4. Residential Inpatient Drug and Alcohol Program: The Carbon County Criminal Justice Advisory Board shall approve and implement written policies and procedures for the Residential Inpatient Drug and Alcohol Program. The board shall document that the services are provided by a licensee of the Department of Health, Office of Drug and Alcohol Programs (ODAP) for residential inpatient drug and alcohol treatment (See 37 Pa. Code § 451.121). This program shall include the following elements:

- a. A drug testing capability.
- b. Establishment of services based on an assessment of the offender's needs and available community resources.
- c. Establishment of aftercare and follow-up services involving sustained and frequent interaction with recovering individuals who have progressed from the intensive or primary phase of treatment.
- d. Efforts to recruit, screen and select service providers.
- e. Guidelines to monitor the purchase of services for offenders.
- f. A monitoring component to ensure the offender's compliance with the conditions of the residential inpatient drug and alcohol program.
- g. Policy and procedure for responding to major and minor violations of residential inpatient drug and alcohol program conditions.

Method of Supervision

Generally, an offender sentenced to an intermediate punishment sanction shall be supervised in the community. However, office contacts will be permitted, but should not be relied upon by the officer. Supervision of program participants shall occur as follows:

1. Intensive Supervision Program: Offenders placed in this program will be supervised in the community setting by the assigned officer as follows:

a. Community Supervision: The officer shall maintain two (2) face-to-face contacts with the offender on a weekly basis. Office contacts can be utilized for personal contacts, however, office contacts are discouraged and should not be relied upon by the officer.

b. Collateral Contacts: The officer shall maintain a minimum of one (1) collateral contact per week with an individual who has direct contact with the offender on a regular basis. One (1) collateral contact per month must be with a law enforcement official.

c. Urine Screens: The officer shall refer all offenders to the Carbon-Monroe-Pike Drug/Alcohol Commission for urine testing; however, it is recommended that random urine samples be secured to enhance the drug testing component of this sanction.

2. House Arrest/Home Electronic Monitoring: Offenders placed in this program will be supervised in the community setting by the assigned officer as follows:

a. Community Supervision: The officer shall maintain one (1) face-to-face contact with the offender on a weekly basis. Office contacts can be utilized for personal contacts, however, office contacts are discouraged and should not be relied upon by the officer.

b. Collateral Contacts: The officer shall maintain a minimum of three (3) collateral contacts per month with an individual who has direct contact with the offender on a regular basis. One (1) collateral contact must be with a law enforcement official.

c. Urine Screens: The officer shall refer all offenders to the Carbon-Monroe-Pike Drug and Alcohol Commission for urine testing; however, it is recommended that random urine samples be secured to enhance the drug testing component of this sanction.

3. Residential Inpatient Drug and Alcohol Program: Offenders placed in this program will be supervised in the community setting by the assigned officer as follows:

a. Community Supervision: The officer shall maintain contact with the inpatient facility to ensure that the offender is compliant with the requirements of the treatment program. The officer shall maintain one (1) monthly contact with the offender while in the treatment program.

b. Collateral Contacts: The officer shall maintain weekly contact with the treatment counselor.

c. Urine Screens: The offender shall undergo random urinalysis testing as per the requirements of the inpatient treatment facility.

d. Referral Process: Offenders selected for the residential inpatient treatment program shall be referred to the Carbon-Monroe-Pike Drug/Alcohol Commission in order to locate a suitable facility accredited by the Office of Drug and Alcohol Programs. An assessment shall be conducted on the offender to determine his/her level of care.

e. Credit for Time Served: Offenders who successfully complete inpatient treatment, may receive credit towards mandatory minimum provisions of the Drunk Driving Law or other total or partial confinement sentences.

f. Probation, Parole or Intermediate Punishment Violators: These violators will be considered for an early discharge from their recommitment sentence, to a residential inpatient treatment program, when the violations are for drug and/or alcohol technical violations.

g. Treatment Documentation: The assigned officer shall execute a release of information form to secure all treatment documentation on the offender's progress while in the program.

h. After-Care/Follow-up Recommendations: The offender will be required to follow all after-care recommendations made by the treatment facility.

Intermediate Punishment Requirements

An order for an intermediate punishment program for an offender may be continuous or intermittent. The participant will be required to remain within the confines of his/her residence, except when the offender is participating in any of the following:

1. Working at acceptable employment approved by the Court or the Adult Probation/Parole Department or traveling to and from approved employment.
2. Unemployed and actively seeking employment.
3. Undergoing medical, psychiatric, mental health treatment, counseling or other treatment programs approved by the Court or the Adult Probation/Parole Department.
4. Attending a vocational or educational program approved by the Court or the Adult Probation/Parole Department.
5. Attending a regularly scheduled religious service at a place of worship.
6. Participating in a community work release or community service program.
7. Sentenced to the intensive supervision program without a curfew restriction.
8. Engaging in other activities specifically approved by the Court or the Adult Probation/Parole Department.

Sentence of Intermediate Punishment

In imposing a sentence of intermediate punishment, the court shall specify at the time of sentencing the length of the term for which the defendant is to be in an intermediate punishment program or a combination of intermediate punishment programs. The term may not exceed the maximum term for which the defendant could be confined and the program to which the defendant is sentenced. The court may order a defendant to serve a portion of the sentence under 42 Pa.C.S.A. § 9755 (relating to partial confinement) or total confinement pursuant to 42 Pa.C.S.A. § 9756 (relating to total confinement) and to serve a portion in an intermediate punishment program or a combination of intermediate punishment programs pursuant to 42 Pa.C.S.A. § 9763 (sentence of intermediate punishment).

Eligible Offenders

Pursuant to 42 Pa.C.S.A. § 9802 (relating to intermediate punishment) for purposes of sentencing, an eligible offender shall be defined as follows:

1. A person convicted of an offense who would have otherwise been sentenced to a county correctional facility to a period of partial confinement pursuant to 42 Pa.C.S.A. § 9724 (relating to partial confinement) or total confinement pursuant to 42 Pa.C.S.A. § 9725 (relating to total confinement).

2. An offender who does not demonstrate a present or past history of violent or assaultive behavior.

Eligible DUI Offender

Any person convicted under 75 Pa.C.S.A. § 3802 (relating to driving under the influence of alcohol or controlled substance) and receiving a penalty imposed pursuant to 75 Pa.C.S.A. § 3804 (relating to penalties) may only be sentenced to an intermediate punishment program in:

1. A residential inpatient treatment program or a residential rehabilitative center.
2. A house arrest program coupled with a home electronic monitoring program combined with drug and alcohol treatment.

Eligible Driving Under Suspension—DUI Related Offender: Any person receiving a penalty imposed pursuant to 75 Pa.C.S. § 1543(b) (relating to driving while operating privileges is suspended or revoked), 3804 (relating to penalties) or 3808(a)(2) (relating to illegally operating a motor vehicle not equipped with ignition interlock) may only be sentenced to an intermediate punishment program in:

1. A house arrest program coupled with a home electronic monitoring program, combined with drug and alcohol treatment, if recommended.

Other Eligible Offenses: An offender convicted of Fleeing or Attempting to Elude Police Officer pursuant to 75 Pa.C.S.A. § 3733, Habitual Offenders pursuant to 75 Pa.C.S.A. § 6503.1, Driving Under Suspension-DUI Related pursuant to 75 Pa.C.S.A. § 1543(b)(1) and Illegally Operating a Motor Vehicle Not Equipped with Ignition Interlock pursuant to 75 Pa.C.S.A. § 3808 are eligible for home electronic monitoring under the following circumstance:

- a. When there is no accident involved in the incident.
- b. When there is no alcohol related offenses involved with the incident.
- c. When the safety of the community was not placed at great risk during the incident.
- d. See Miscellaneous Eligibility Criteria.

Ineligible Offenders

Pennsylvania law states that any person with a current conviction or a prior conviction within the past ten years of certain targeted offenses shall be ineligible under a sentence of intermediate punishment (See 42 Pa.C.S.A. § 9802).

Ineligible DUI Offenders

Unless otherwise court ordered, the following DUI offenders are declared ineligible for participation in Carbon County's home electronic monitoring program pursuant to 75 Pa.C.S. § 3804 (relating to penalties):

1. An offender with a BAC of .08% to .099%, second and third offense.
2. An offender with a BAC of .10% to .159% (High Rate of Alcohol), first offense.

3. An offender with a BAC of .16% or higher (Highest Rate of Alcohol), first and third offense.

4. All fourth time offenders, regardless of the BAC.

Ineligible Driving Under Suspension—DUI Related Offenders

Unless otherwise court ordered, the following Driving Under Suspension—DUI Related offenders are declared ineligible for participation in Carbon County's home electronic monitoring program:

1. 75 Pa.C.S.A. § 1543(b)(1.1)(ii) (relating to second violation).

2. 75 Pa.C.S.A. § 1543(b)(1.1)(iii) (relating to third or subsequent violation).

Miscellaneous Eligibility Criteria

In addition to statutory eligibility requirements and the requirements of this policy statement, any offender who meets any of the following additional criteria shall not be recommended for participation under an order of intermediate punishment:

1. An offender who exhibits a present or past history of violent or assaultive conduct.

2. An offender who is being held under a detainer, warrant or process issued by this Court or a Court of another jurisdiction.

3. An offender who has been revoked from a period of supervision on two (2) or more separate occasions.

4. An offender who has an extensive criminal or driving record.

5. An offender who resides in the Commonwealth, but outside the geographical boundaries of Carbon County, unless the resident jurisdiction has a comparable intermediate punishment program.

6. No serious bodily injury or death resulted from the incident and/or the victim suffered serious psychological harm as a result of the offender's actions.

7. An offender who has a history of prison escape.

8. An offender who has a history of chronic mental health or psychotic behavior, which would interfere with the operation of the program.

9. An offender who does not have a telephone in the residence.

10. An offender who does not desire to participate in these programs.

11. An offender who has been afforded home electronic monitoring within the past ten (10) years from date of instant offense.

12. An offender who did not possess a valid driver's license at the time of the arrest and is under suspension pursuant to 75 Pa.C.S.A. § 1543(b).

13. An offender who received an early discharge from the ARD Program and committed his/her DUI offense while in the ARD Program, but did not report the new arrest to his probation officer.

14. An offender who does not make restitution to the victim(s) for out-of-pocket losses that were not covered by an insurance company, prior to acceptance into an intermediate punishment program.

15. An offender who resides outside the Commonwealth of Pennsylvania.

16. An offender who due to "exigent circumstances" or "deemed inappropriate" for inclusion in the program by the investigative officer.

Requirements for Driving Under Influence Offenders

Evaluation Using Court Reporting Network: Pursuant to the requirements of 75 Pa.C.S.A. § 3816 (requirements for driving under influence offenders) any offender convicted of 75 Pa.C.S.A. § 3802 (relating to driving under the influence of alcohol or controlled substance) recommended for participation in an intermediate punishment program shall, prior to sentencing be evaluated using Court Reporting Network (CRN) instruments.

Drug and Alcohol Assessments: Pursuant to the requirements of 75 Pa.C.S.A. § 3814 (drug and alcohol assessments) any offender convicted of 75 Pa.C.S.A. § 3802 (relating to driving under the influence of alcohol or controlled substance) recommended for participation in an intermediate punishment program shall, prior to sentencing be subject to a full assessment for alcohol and drug addiction when,

1. The defendant, within ten years prior to the offense for which sentence is being imposed, has been sentenced for an offense under:

- a. 75 Pa.C.S.A. § 3802
- b. former section 75 Pa.C.S.A. § 3731
- c. an equivalent offense in another jurisdiction

2. Either:

- a. The evaluation under paragraph (1) of 75 Pa.C.S.A. § 3814 (drug and alcohol assessments) indicates there is a need for counseling or treatment; or
- b. The defendant's blood alcohol content at the time of the offense was at least .16%.

Failure to Obtain Necessary Evaluations: Any offender who fails to obtain the necessary evaluations, prior to sentencing and placement in an intermediate punishment program, shall be declared ineligible for participation, unless otherwise court ordered.

Requirements for Driving While Operating Privilege is Suspended or Revoked—DUI Related

Drug and Alcohol Assessments: Any person receiving a penalty imposed pursuant to 75 Pa.C.S. § 1543(b) (relating to driving while operating privileges is suspended or revoked), 3804 (relating to penalties) or 3808(a)(2) (relating to illegally operating a motor vehicle not equipped with ignition interlock) shall undergo an assessment under 75 Pa.C.S. § 3814 (relating to drug and alcohol assessments) and is recommended for participation in an intermediate punishment program shall, prior to sentencing be subject to a full assessment for alcohol and drug addiction.

Drug and Alcohol Treatment: If the defendant is determined to be in need of drug and alcohol treatment, a sentence to intermediate punishment shall include participation in drug and alcohol treatment under 75 Pa.C.S. § 3815(c) (relating to mandatory sentencing). If the defendant is determined not to be in need of drug and alcohol treatment, then the defendant may only be sentenced to house arrest with electronic monitoring.

Failure to Obtain Necessary Evaluations: Any offender who fails to obtain the necessary evaluations, prior to sentencing and placement in an intermediate punishment program, shall be declared ineligible for participation, unless otherwise court ordered.

Target Population

The following population of DUI offenders shall be specifically targeted for inclusion in Carbon County's Home Electronic Monitoring Program.

High Rate of Alcohol—Second Offense: Pursuant to 75 Pa.C.S.A. § 3804 (relating to penalties) an offender with a BAC of .10% to .159%, second offense shall be eligible for participation in Carbon County's home electronic monitoring program, provided the offender successfully completes an intermediate punishment investigation as described in this policy statement. If declared eligible, the defendant shall be sentenced as follows:

1. The defendant shall be remanded to prison to serve the mandatory minimum sentence of thirty (30) days, however;
2. The offender shall serve only two (2) days of incarceration, which period of imprisonment shall be served on consecutive days.
3. After completion of the two (2) days of imprisonment, the defendant shall serve the remaining twenty-three (23) days on home electronic monitoring.

Highest Rate of Alcohol—Second Offense: Pursuant to 75 Pa.C.S.A. § 3804 (relating to penalties) an offender with a BAC of .16% or higher, second offense shall be eligible for participation in Carbon County's home electronic monitoring program, provided the offender successfully completes an intermediate punishment investigation as described in this policy statement. If declared eligible, the defendant shall be sentenced as follows:

1. The defendant shall be remanded to prison to serve the mandatory minimum sentence of ninety (90) days, however;
2. The offender shall serve only thirty (30) days of incarceration, which period of imprisonment shall be served on consecutive days.
3. After completion of the thirty (30) days of imprisonment, the defendant shall serve the remaining sixty (60) days on home electronic monitoring.

High Rate of Alcohol—Third Offense: Pursuant to 75 Pa.C.S.A. § 3804 (relating to penalties) an offender with a BAC of .10% to .159%, third offense shall be eligible for participation in Carbon County's home electronic monitoring program, provided the offender successfully completes an intermediate punishment investigation as described in this policy statement and successfully completes the following additional requirement:

1. The offender successfully completes a residential inpatient treatment program provided by a current licensee of the Department of Health, Office of Drug and Alcohol Programs for outpatient services.

Upon a determination of eligibility for participation in the home electronic monitoring program, the defendant shall be sentenced as follows:

1. The defendant shall receive credit for all time spent in a residential inpatient treatment program towards the mandatory minimum sentence of ninety (90) days, unless otherwise court ordered.
2. The defendant shall serve the remaining portion of the mandatory minimum sentence of ninety (90) days on home electronic monitoring.

Driving While Operating Privilege is Suspended or Revoked—Driving Under the Influence Related:

An offender with a first conviction pursuant to 75 Pa.C.S.A. § 1543(b)(1) or 75 Pa.C.S.A. § 1543(b)(1.1)(i) shall be eligible for participation in Carbon County's home electronic monitoring program, provided the offender successfully completes an intermediate punishment investigation as described in this policy statement. If declared eligible, the defendant shall, at the discretion of the court, be sentenced to a period of confinement equal to one-third (1/3) of the sentence, with the balance, upon successful completion of the period of confinement, to be served on home electronic monitoring.

Residential Inpatient Drug and Alcohol Program

Any offender who is declared eligible for participation in Carbon County's home electronic monitoring program pursuant to this policy statement (High Rate of Alcohol-Second Offense and Highest Rate of Alcohol- Second Offense) and successfully completes an inpatient treatment program shall have his/her required period of incarceration waived, unless otherwise court ordered. The defendant shall receive credit towards the mandatory minimum sentence for all time spent at an inpatient treatment program with the remaining balance of the mandatory minimum sentence served on home electronic monitoring.

Work Release Privileges

Pursuant to this policy statement, all offenders required to serve a portion of the mandatory minimum sentence incarcerated shall be eligible for participation in the work release program, provided they meet the eligibility requirements of the Carbon County Work Release Program. It is recommended that the intermediate punishment officer and work release director coordinate efforts to ensure that no interruption occurs in the offender's employment status and to ensure that a smooth transition occurs from incarceration to the home electronic monitoring program.

Service and Completion of Period of Confinement

Upon successfully serving the period of incarceration imposed by the court and without further order of court, the defendant shall be automatically released from prison and immediately report to the Carbon County Adult Probation for installation of the home electronic monitoring equipment.

Prison Infractions

An offender who violates any rules and regulations of the prison while serving his/her prison sentence and is awaiting release to the home electronic monitoring program shall be declared ineligible for participation in an intermediate punishment program. Upon order of court, the defendant shall remain incarcerated to serve the remaining balance of his/her mandatory minimum sentence. However, if the offender violates another rule or regulation after being declared ineligible for participation in the home electronic monitoring program, then the offender will not be released upon reaching his/her minimum sentence and must petition the court for parole consideration.

Screening Process

An offender may be declared eligible upon the recommendation of the Adult Probation/Parole Department upon the successful completion of any of the following or combination thereof:

1. A presentence investigation.
2. An intermediate punishment investigation.
3. Any offender placed in these programs by an Order of Court.

Intermediate Punishment Investigations and Presentence Investigations

During the investigative phase and prior to sentencing, the presentence investigator shall identify prospective participants for possible consideration in an intermediate punishment program. During the preparation of guilty plea reports or a presentence report, the investigator shall refer all plea agreements and sentencing recommendations that suggest a sentence of intermediate punishment to the intermediate punishment officer for investigation. This investigation shall include the following:

1. Completion of an intermediate punishment eligibility application, which application is available at the Carbon County Adult Probation/Parole Office.
2. An interview of the defendant and other occupants of the residence, when applicable.
3. Explanation of program requirements to the offender and all occupants of the residence, when applicable.
4. Completion of all appropriate forms, which include:
 - a. Occupant's Approval Form, if applicable.
 - b. Explanation of the conditions of the home electronic monitoring program.
 - c. Equipment Responsibility Form.
 - d. New Client Installation Form, if applicable.
5. Inspection of offender's residence to determine if conducive for participation in the electronic monitoring program.
6. Written memorandum to the court with sentence recommendation.

Conditions of Home Electronic Monitoring

The court shall attach such reasonable conditions upon the defendant for participation in the electronic monitoring program pursuant to 42 Pa.C.S.A. § 9763(b).

Voluntary Participation

Participation in these programs shall be strictly on a voluntary basis. Offenders who do not desire to participate in these programs will be declared ineligible.

Program Explanation

All program requirements shall be explained prior to admission of the offender into an intermediate punishment program. Also, all occupants of the approved residence shall be advised of the restrictions and requirements of the program. If a resident objects to the program, then the offender may be declared ineligible.

Post Sentencing Orientation

After placement into the home electronic monitoring program, the participant shall be advised of the date and time that the equipment will be installed in the residence and other program requirements.

Intake Process

Upon an Order of Intermediate Punishment, the offender shall immediately report to the adult probation/parole department for an intake. During the intake process, the following paperwork shall be completed:

1. Execution of the conditions of the intermediate punishment program.
2. Completion of facesheet and photograph of offender.
3. Completion of risk/needs assessment form.
4. Completion of Supervision Plan.
5. Execution of Release of Information Form.

Enrollment and Initial Home Contact

During the initial home contact with the offender, the assigned officer shall:

1. Review the terms and conditions of the program.
2. Explain program requirements to all residents.
3. Read, explain and obtain signatures on all forms.
4. Explain parameters of home electronic monitoring program.
5. Explain consequences of program violations.
6. Explain payment of daily monitoring fees.
7. Explain responsibility and maintenance of equipment.
8. Install equipment.
9. Confirm with the monitoring center that equipment is operational.
10. Obtain a layout of the residence.

Offender Enrollment Forms and Schedule Change Forms

The intermediate punishment officer shall be responsible for the completion of all forms associated with the enrollment of the offender and other changes or modifications to the offender's schedule. All completed forms shall be faxed to the monitoring center.

Daily Activity Reports

All daily activity forms will be faxed to the agency and the intermediate punishment officer shall review these reports for conformity and compliance with the approved offender schedule.

Ankle Bracelets and Monitoring Equipment

Offenders placed on a home electronic monitoring unit will be required to wear ankle bracelets at all times. The bracelet emits a continuous signal to a receiver installed in the residence. Upon every field visit by the probation officer, a visual inspection of all monitoring equipment shall be conducted to ensure proper functioning.

Equipment Responsibility

All electronic monitoring equipment installed in the offender's residence shall be the exclusive responsibility of the participant to maintain its proper functioning and operation. Any tampering, theft or destruction of the equipment by the offender may result in the filing of criminal charges, being held financially responsible for the cost of the equipment and being immediately terminated from the program. Also, every participant must read and sign the equipment responsibility form.

Equipment Inventory After Installation

All equipment placed in the residence must be inventoried at the time of installation.

Offender Subsistence

Every offender placed in an intermediate punishment program will be responsible for their own subsistence, which includes, housing, clothing, medical care or other

treatment or household expenses. Every participant shall be afforded a designated time during the week for grocery shopping, medical appointments or other basic necessities. All departures from the approved schedule must receive prior approval by the intermediate punishment officer or Chief Adult Probation Officer.

Verification of Compliance With Court Imposed Sanctions

The assigned officer shall secure and verify employment via pay stubs or interviews with the employer. Also, if the offender is undergoing treatment or counseling, the officer shall verify all sessions with the counselor. Verification is an important aspect of supervision, for it ensures compliance with the conditions of the program.

Program Violations

The following system for program violations shall be utilized to determine the level of compliance with the conditions of Intermediate Punishment Programs.

Minor Violations

The following violations shall be considered minor in nature:

1. Failure to report as scheduled.
2. Failure to notify staff of changes in work status.
3. Failure to comply with rules and regulations of the program or Court order.
4. Unauthorized individuals within the residence.
5. Departure from schedule, such as leaving early or returning late.

Minor Violation Process

When "minor" violations are detected, the following corrective action may be initiated by the assigned officer:

1. Verbal reprimand.
2. Written violation report.
3. Administrative conference.
4. Increase in sanctions, such as, curfews; additional counseling or reporting, which changes shall be provided to the offender in writing.

Major Violations

The following violations shall be considered major in nature:

1. Possession of firearms, deadly weapons or offensive weapons.
2. Possession or consumption of alcoholic beverages.
3. Possession or positive urine test for a controlled substances.
4. Possession of drug paraphernalia.
5. Relocation from the approved residence without the prior approval of the assigned Officer.
6. A new arrest for violation of Municipal, County, State and Federal laws, as well as, provisions of the Liquor Code and the Vehicle Code.
7. Escape, which shall be defined as a period of one (1) hour or longer in which the participant has left the approved residence and is unaccounted for.
8. Repeated minor violations.
9. Destruction, theft or tampering with electronic monitoring equipment.

10. Operating a motor vehicle on a public highway while license is suspended.

11. Failure to maintain the scheduled drug/alcohol treatment plan.

12. Termination of offender's telephone service.

Major Violation Process

When "major" violations are detected, the assigned officer may initiate the following corrective action:

1. Written violation report.
2. Administrative conference.
3. Increase in sanctions, such as, curfews; additional counseling or reporting, which changes shall be provided to the offender in writing.
4. File a petition to revoke intermediate punishment sentence requesting a hearing and/or a warrant for arrest and detention of offender.

Investigation of Detected Program Violations

All violations of any intermediate punishment program shall be investigated by the assigned officer or on-call officer immediately after detection. All relevant information and documentation concerning electronic monitoring violations shall be obtained from the central monitoring station with all persons involved being interviewed. Upon determination of the specific violation, the officer shall follow the violation process as described in this policy statement.

Investigation of Program Violations (After Normal Business Hours)

Response to program violations after normal business hours shall occur as follows:

1. On-Call Schedule: The Chief Adult Probation/Parole Officer shall prepare and post an on-call schedule. All Adult Probation/Parole Officers will be scheduled and rotated on a weekly basis and shall be responsible for the following:

a. The on-call officer must wear the digitized pager at all times. Failure to respond to a page will result in appropriate disciplinary action.

b. The on-call officer will be responsible for the pager. If the pager is damaged or lost, the cost of the pager may be assessed to the officer.

c. Modifications to the on-call schedule are permitted. Prior arrangements shall be made with the Chief and the Carbon County Communications Center to ensure proper coverage.

2. Home Electronic Monitoring Violations: In the event that an electronic monitoring violation occurs, the following procedures shall be utilized:

a. The central monitoring station has been provided a procedure to notify the Carbon County Communications Center for program violations.

b. The Carbon County Communications Center shall be provided all officer pager numbers and personal telephone numbers.

c. An intermediate punishment program manual will be provided to all officers as a reference guide. All telephone numbers will be available within the manual.

d. When the on-call officer is notified of a program violation, the officer shall respond to the page immediately. If the violation is for home electronic monitoring, the officer shall contact the central monitoring station to

determine the nature of the violation. If the monitoring center cannot correct the problem, then the officer shall contact the offender to resolve the problem. If the problem cannot be rectified over the telephone, then, the on-call officer must respond to the residence to investigate the violation. However, before conducting the field investigation, the on-call officer shall contact the back-up on-call officer for authorization and then contact the pretrial services on-call officer for possible assistance. The on-call officer shall not conduct a field investigation alone and without proper authorization from a supervisor.

e. The following home electronic monitoring violations must be investigated by the on-call officer after normal business hours. All other program violations will be investigated by the assigned probation officer the next available working day.

1. Band Tamper (absolute response)
2. Out-of-Range
3. Power Outage or Loss
4. Transmitter not found (dead battery)

f. When it is determined by the on-call officer that immediate termination is justified for the violation, the officer shall:

1. Immediately notify the back-up on-call supervisor.
2. Contact the bail officer for possible assistance.
3. Contact other adult probation staff for possible assistance.
4. Contact the Carbon County Communications Center for possible assistance from the Carbon County Sheriff's Department.
5. If the Sheriff's Department is unavailable, then contact the local police department for possible assistance.
6. Under no circumstances shall a probation officer attempt to arrest the offender without proper authorization from the back-up on-call supervisor and proper presence of other adult probation staff or law enforcement personnel.
7. The offender shall be transported to prison by adult probation staff or the Sheriff's Department. A Warrant to Commit and Detain Form shall be executed and provided to prison officials for admission of the offender.
8. If the offender is immediately terminated from the program, then all home electronic monitoring equipment shall be removed from the residence and inventoried. The monitoring center shall be immediately notified of the termination.

Petition to Revoke an Order of Intermediate Punishment

When the intermediate punishment officer determines that the offender violated the conditions of the program in such a manner that requires termination from the program, then a petition to revoke intermediate punishment shall be filed with the Clerk of Courts Office outlining all program violations.

Modification or Revocation of Intermediate Punishment Sentence

The court may at any time terminate a sentence of intermediate punishment or increase or decrease the conditions of the sentence pursuant to 42 Pa.C.S. § 9763

(sentence of intermediate punishment) or 42 Pa.C.S. § 9773 (modification or revocation of intermediate punishment sentence).

Termination From an Intermediate Punishment Program

The following criteria shall be utilized to determine when an offender should be terminated from an intermediate punishment program:

1. The participant has successfully completed all conditions of the program.
2. The participant has committed "major" violations of the program and was returned to prison.
3. The participant has served the minimum sentence imposed by the Court and has been legally discharged.

Termination Order

Upon successful completion of the minimum sentence, an order of court shall be prepared discharging the offender from the home electronic monitoring program. Afterwards, the officer shall review and have the offender sign the standard conditions of release, with the offender being reassigned to another probation officer.

Equipment Inventory After Termination

Upon termination from the program, the officer shall inventory and visibly inspect all equipment to ensure that no damage occurred during the program.

Cleaning of Equipment

It shall be the responsibility of the intermediate punishment officer to properly clean and sanitize all electronic monitoring equipment after an offender has been discharged from the program. No equipment shall be installed on another offender until the bracelet and home unit has been properly cleaned.

Monitoring Fees

An offender placed in the home electronic monitoring program shall be responsible for all costs associated with the monitoring aspect of the program. All fees collected will be deposited into an account to be utilized for the operation of the home electronic monitoring program or other departmental operations. Finally, all fees shall be made part of the order of sentence and the certificate of costs sheet.

Offender Supervision Fees

An offender placed on home electronic monitoring shall pay a monthly supervision fee as established by the court.

Local Law Enforcement Notification

Local law enforcement agencies will be provided with all information concerning program participants.

Case Records

After placement into an intermediate punishment program, a case record folder shall be prepared by the secretary and a completed facesheet provided to the assigned officer. Also, a complete roster of intermediate punishment participants shall be maintained by the project coordinator.

Transfer Cases

The Intermediate Punishment Officer shall coordinate efforts with other jurisdictions when appropriate candidates are identified. When an offender resides in another jurisdiction, the intermediate punishment officer shall confer with the resident county to determine whether that jurisdiction has an intermediate punishment pro-

gram. All arrangements shall be made by the intermediate punishment officer and forwarded to the Court for review. All costs associated with other county's programs will be absorbed by the offender. Failure to cooperate and comply with the rules and regulations of the other jurisdiction's program will result in the offender being declared ineligible for participation.

Courtesy Cases

The department will accept intermediate punishment cases from other jurisdictions. Requesting counties shall coordinate with the intermediate punishment officer to determine eligibility. The officer will conduct an investigation pursuant to this policy statement and advise the requesting county whether the offender qualifies. If the department accepts an offender for supervision, then an effective date shall be established. Prior to enrollment in the program, the offender will be required to pay the current daily monitoring fee established by the court, for the entire period of supervision, in full. No personal checks will be accepted, only cash or money orders. A receipt will be provided to the offender.

Caseload Limits

The Chief will periodically review the caseloads of the Intermediate Punishment Officer to ensure that the officer has a manageable caseload and proper resources. This review process will ensure that the minimum standards adopted by the State and the Court are not compromised.

Project Coordination

The Chief Adult Probation/Parole Officer or his designee shall be responsible for the preparation, completion and submission of all sub-grant reports, progress reports, budget modification forms and related documentation to the Pennsylvania Commission on Crime and Delinquency. The Project Coordinator and the intermediate punishment officer, in conjunction with the Carbon County Criminal Justice Advisory Board, shall evaluate program goals and effectiveness on a regular basis.

[Pa.B. Doc. No. 06-1059. Filed for public inspection June 16, 2006, 9:00 a.m.]

DAUPHIN COUNTY

Promulgation of Local Rules; Amending No. 1793 S 1989

Order

And Now, this 1st day of June 2006, Dauphin County Local Rule of Criminal Procedure 106 is amended as follows:

Rule 106. Continuances [Where Case Set for Jury Trial]

(a) All **contested** motions for a continuance shall be in writing and filed with the Clerk of Courts no later than 4:00 p.m. on the Tuesday prior to the week of criminal jury trials during which the case is scheduled for trial. A copy of the motion shall be served on opposing counsel by the same deadline.

The motion shall contain a procedural history of the case, beginning with date of filing of the criminal complaint, and a recitation of any prior continuances sought. The motion shall aver whether opposing counsel has been contacted concerning the motion and shall state counsel's position thereon.

In cases which have been permanently attached or temporarily assigned for disposition, the motion shall be addressed to the assigned judge. All other cases shall be referred to the motions judge.

* * * * *

(e) Notwithstanding subsections (a)–(d), cases that are neither permanently attached to a judge nor on the priority list may be continued upon mutual agreement of the District Attorney and defense counsel without the filing of a formal motion. Such continuances shall be effectuated by execution by the District Attorney, defense counsel, and defendant of an administrative continuance form in the District Attorney's Office.

Comment: Subsection (a)'s language that the "motion shall contain a procedural history of the case, beginning with the date of filing of the criminal complaint, and a recitation of any prior continuances sought" establishes the Court's expectation that the motion contain dates of previously-sought continuances. Furthermore, if a case is not called during a particular term of court without a formal motion being made and granted, its rescheduling to the next term of court is a de facto continuance which should be disclosed as part of the procedural history of the case.

This subsection's language also requires that a continuance motion will include any limiting or scheduling provisions previously dictated. For example, provisions in a prior court order that no further continuances will be granted or that trial will commence on a certain date/time must be disclosed.

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

By the Court

RICHARD A. LEWIS,
President Judge

[Pa.B. Doc. No. 06-1060. Filed for public inspection June 16, 2006, 9:00 a.m.]

DAUPHIN COUNTY

Promulgation of Local Rules; No. 2006-CV-1216-AO

Order

And Now, this 1st day of June, 2006, Dauphin County Local Rule of Criminal Procedure 150 is promulgated as follows:

Rule 150: Bench Warrants

1. When an individual is committed to Dauphin County Prison pursuant to a bench warrant, s/he shall be detained pending a bench warrant hearing. The Warden or his designee shall notify the Dauphin County Court Administrator, District Attorney, Public Defender, Sheriff, and Dauphin County Pretrial Services within 12 hours of the fact of such commitment.

2. (a) Bench Warrant Court shall be convened at 8:00 A.M. on Monday (Tuesday when Monday is a holiday) and Thursday at the Video Conference Room of the Dauphin

County Court House for purpose of conducting a hearing on all bench warrant commitments pending at Dauphin County Prison. The scope of the hearing may include a determination as to whether the bench warrant is still valid, whether the appropriate person has been detained, the reasons why the person failed to appear, and the setting of bail when appropriate.

(b) The motions judge shall preside at Bench Warrant Court.

(c) The District Attorney and Public Defender shall each assign an attorney for the hearing. The participation of a Public Defender at this hearing shall not be construed as an entry of appearance on behalf of the defendant.

(d) Dauphin County Prison shall arrange to have the committed prisoner available for video conference at the appointed hour.

(e) A court reporter shall be assigned to each hearing.

(f) Where a person has been committed at an out-of-county facility, the Court Administrator may make arrangements for the video-conference connection with that facility.

Comment: The provisions of this rule do not apply to DRO bench warrants.

This rule shall be effective for individuals detained on or after July 10, 2006.

By the Court

RICHARD A. LEWIS,
President Judge

[Pa.B. Doc. No. 06-1061. Filed for public inspection June 16, 2006, 9:00 a.m.]

WESTMORELAND COUNTY

**Rescission of Rules of Criminal Procedure WC518
and WC536; No. 2 Civil of 2006**

Order

And Now This 1st day of June 2006, it is hereby *Ordered* that Westmoreland Rules of Criminal Procedure WC518 and WC536 are rescinded effective thirty days after publication in the *Pennsylvania Bulletin*.

By the Court

DANIEL J. ACKERMAN,
President Judge

[Pa.B. Doc. No. 06-1062. Filed for public inspection June 16, 2006, 9:00 a.m.]
