

# THE COURTS

## Title 234—RULES OF CRIMINAL PROCEDURE

[ 234 PA. CODE CH. 5 ]

**Order Adopting New Rule 513.1, Amending Rule 513 and Approving the Revision of the Comments to Rules 540 and 547 of the Rules of Criminal Procedure; No. 443 Criminal Procedural Rules Doc.**

### Order

*Per Curiam*

And Now, this 23rd day of December, 2013, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been published before adoption at 37 Pa.B. 4178 (August 4, 2007), 37 Pa.B. 6392 (December 8, 2007), and 38 Pa.B. 5747 (October 18, 2008), and in the *Atlantic Reporter* (Second Series Advance Sheets, Vols. 926, 934, and 955), 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 new Pennsylvania Rule of Criminal Procedure 513.1 is promulgated, the amendments to Pennsylvania Rule of Criminal Procedure 513 are adopted, and the revisions to the Comments to Pennsylvania Rules of Criminal Procedure 540 and 547 are approved in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective March 1, 2014.

### Annex A

#### TITLE 234. RULES OF CRIMINAL PROCEDURE CHAPTER 5. PRETRIAL PROCEDURES IN COURT CASES

##### PART B(3). Arrest Procedures in Court Cases

###### (a) Arrest Warrants

Rule 513. Requirements for Issuance; Dissemination of Arrest Warrant Information.

(A) For purposes of this rule, “arrest warrant information” is defined as the criminal complaint in cases in which an arrest warrant is issued, the arrest warrant, any affidavit(s) of probable cause, and documents or information related to the case.

###### (B) ISSUANCE OF ARREST WARRANT

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

[ (B) ] (2) No arrest warrant shall issue but upon probable cause supported by one or more affidavits sworn to before the issuing authority in person or using advanced communication technology. The issuing authority, in determining whether probable cause has been established, may not consider any evidence outside the affidavits.

[ (C) ] (3) Immediately prior to submitting a complaint and affidavit to an issuing authority using advanced communication technology, the affiant must personally communicate with the issuing authority by any device

which, at a minimum, allows for simultaneous audio-visual communication. During the communication, the issuing authority shall verify the identity of the affiant, and orally administer an oath to the affiant.

[ (D) ] (4) At any hearing on a motion challenging an arrest warrant, no evidence shall be admissible to establish probable cause for the arrest warrant other than the affidavits provided for in paragraph [ (B) ] (B)(2).

###### (C) DELAY IN DISSEMINATION OF ARREST WARRANT INFORMATION

The affiant or the attorney for the Commonwealth may request that the availability of the arrest warrant information for inspection and dissemination be delayed. The arrest warrant affidavit shall include the facts and circumstances that are alleged to establish good cause for delay in inspection and dissemination.

(1) Upon a finding of good cause, the issuing authority shall grant the request and order that the availability of the arrest warrant information for inspection and dissemination be delayed for a period of 72 hours or until receipt of notice by the issuing authority that the warrant has been executed, whichever occurs first. The 72-hour period of delay may be preceded by an initial delay period of not more than 24 hours, when additional time is required to complete the administrative processing of the arrest warrant information before the arrest warrant is issued. The issuing authority shall complete the administrative processing of the arrest warrant information prior to the expiration of the initial 24-hour period.

(2) Upon the issuance of the warrant, the 72-hour period of delay provided in paragraph (C)(1) begins.

(3) In those counties in which the attorney for the Commonwealth requires that complaints and arrest warrant affidavits be approved prior to filing as provided in Rule 507, only the attorney for the Commonwealth may request a delay in the inspection and dissemination of the arrest warrant information.

### Comment

This rule was amended in 2013 to add provisions concerning the delay in inspection and dissemination of arrest warrant information. Paragraph (A) provides a definition of the term “arrest warrant information” that is used throughout the rule. Paragraph (B) retains the existing requirements for the issuance of arrest warrants. Paragraph (C) establishes the procedures for a temporary delay in the inspection and dissemination of arrest warrant information prior to the execution of the warrant.

###### ISSUANCE OF ARREST WARRANTS

Paragraph [ (A) ] (B)(1) recognizes that an issuing authority either may issue an arrest warrant using advanced communication technology or order that the law enforcement officer appear in person to apply for an arrest warrant.

This rule does not preclude oral testimony before the issuing authority, but it requires that such testimony be reduced to an affidavit prior to issuance of a warrant. All

affidavits in support of an application for an arrest warrant must be sworn to before the issuing authority prior to the issuance of the warrant. The language “sworn to before the issuing authority” contemplates, when advanced communication technology is used, that the affiant would not be in the physical presence of the issuing authority. *See* paragraph [ (C) ] (B)(3).

This rule carries over to the arrest warrant the requirement that the evidence presented to the issuing authority be reduced to writing and sworn to, and that only the writing is subsequently admissible to establish that there was probable cause. In these respects, the procedure is similar to that applicable to search warrants. *See* Rule 203. For a discussion of the requirement of probable cause for the issuance of an arrest warrant, see *Commonwealth v. Flowers*, 24 Pa.Super. 198, 369 A.2d 362 [ Pa.Super. ] 1976).

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

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

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

The “visual” requirement in paragraph [ (C) ] (B)(3) must allow, at a minimum, the issuing authority to see the affiant at the time the oath is administered and the information received.

Under Rule 540, the defendant receives a copy of the warrant and supporting affidavit at the time of the preliminary arraignment.

#### **DELAY IN DISSEMINATION OF ARREST WARRANT INFORMATION**

Paragraph (C) was added in 2013 to address the potential dangers to law enforcement and the general public and the risk of flight when arrest warrant information is disseminated prior to the execution of the arrest warrant. The paragraph provides that the affiant or the attorney for the Commonwealth may request, for good cause shown, the delay in the inspection and dissemination of the arrest warrant information for 72 hours or until receipt of notice by the issuing authority that the warrant has been executed, whichever occurs first. Upon a finding of good cause, the issuing authority must delay the inspection and dissemination.

The request for delay in inspection and dissemination is intended to provide a very limited delay in public access to arrest warrant information in those cases in which there is concern that pre-execution disclosure of the existence of the arrest warrant will endanger those serving the warrant or will impel the subject of the warrant to flee. This request is intended to be an expedited procedure with the request submitted to an issuing authority.

A request for the delay in dissemination of arrest warrant information made in accordance with this rule is not subject to the requirements of Rule 576.

Once the issuing authority receives notice that the arrest warrant is executed, or when 72 hours have elapsed from the issuance of the warrant and

the warrant has not been executed, whichever occurs first, the information must be available for inspection or dissemination unless the information is sealed pursuant to Rule 513.1.

The provision in paragraph (C)(2) that provides up to 24 hours in the delay of dissemination and inspection prior to the issuance of the arrest warrant recognizes that, in some cases, there may be administrative processing of the arrest warrant request that results in a delay between when the request for the 72-hour period of delay permitted in paragraph (C)(1) is approved and when the warrant is issued. In no case may this additional period of delay exceed 24 hours and the issuing authority must issue the arrest warrant within the 24-hour period.

When determining whether good cause exists to delay inspection and dissemination of the arrest warrant information, the issuing authority must consider whether the presumption of openness is rebutted by other interests that include, but are not limited to, whether revealing the information would allow or enable flight or resistance, the need to protect the safety of police officers executing the warrant, the necessity of preserving the integrity of ongoing criminal investigations, and the availability of reasonable alternative means to protect the interest threatened by disclosure.

Nothing in this rule is intended to limit the dissemination of arrest warrant information to court personnel as needed to perform their duties. Nothing in this rule is intended to limit the dissemination of arrest warrant information to or by law enforcement as needed to perform their duties.

Pursuant to paragraph (C)(3), in those counties in which the district attorney’s approval is required only for certain, specified offenses or grades of offenses, the approval of the district attorney is required for a request to delay inspection and dissemination only for cases involving those specified offenses.

**Official Note:** Rule 119 adopted April 26, 1979, effective as to arrest warrants issued on or after July 1, 1979; Comment revised August 9, 1994, effective January 1, 1995; renumbered Rule 513 and amended March 1, 2000, effective April 1, 2001; amended May 10, 2002, effective September 1, 2002; amended December 23, 2013, effective March 1, 2014.

#### *Committee Explanatory Reports:*

Report explaining the August 9, 1994 Comment revisions published at 22 Pa.B. 6 (January 4, 1992); Final Report published with the Court’s Order at 24 Pa.B. 4342 (August 27, 1994).

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court’s Order at 30 Pa.B. [ 1477 ] 1478 (March 18, 2000).

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

Final Report explaining the December 23, 2013 amendments providing procedures for delay in dissemination and sealing of arrest warrant information published with the Court’s Order at 44 Pa.B. 243 (January 11, 2014).

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

**Rule 513.1. Sealing of Arrest Warrant.**

(A) For purposes of this rule, "arrest warrant information" is defined as the criminal complaint in cases in which an arrest warrant is issued, the arrest warrant, any affidavit(s) of probable cause, and documents or information related to the case.

(B) At the request of the attorney for the Commonwealth in the form of a motion, the arrest warrant information may be sealed upon good cause shown at the time the complaint is filed.

**(C) Submission to Judge or Justice of Request for Sealed Arrest Warrant**

When the attorney for the Commonwealth intends to request that the arrest warrant information be sealed, at the time the complaint is filed, the attorney for the Commonwealth shall present the arrest warrant information to a judge of the court of common pleas or an appellate court judge or justice. The arrest warrant affidavit(s) shall include the facts and circumstances that are alleged to establish good cause for the sealing of the arrest warrant information.

(1) When the judge or justice orders the arrest warrant information sealed, the order shall:

(a) certify that for good cause shown the arrest warrant information is sealed and state the date and time that the sealing of the arrest warrant information shall expire; and

(b) when requested by the attorney for the Commonwealth, specify that the arrest warrant information may be released by the attorney for the Commonwealth to the law enforcement agencies listed in the order.

(2) When a judge of the court of common pleas orders the arrest warrant information sealed, he or she shall accept the filing of the written complaint, which shall be marked as sealed, and shall issue the sealed arrest warrant. When a judge or justice of an appellate court orders the arrest warrant information sealed, he or she shall direct that the complaint be filed in the court of common pleas and the sealed arrest warrant shall be issued by a judge of the court of common pleas.

(3) When the judge or justice issues the sealed arrest warrant, the judge or justice also shall issue an order designating the proper issuing authority before whom the case shall proceed upon execution of the warrant.

(4) When the sealed arrest warrant is issued, the sealed arrest warrant information, the sealing order, and the order designating the proper issuing authority shall be filed with the clerk of courts in the judicial district in which the charges are being filed.

(5) Upon execution of the sealed arrest warrant, the affiant shall file a copy of the sealed arrest warrant information with the proper issuing authority along with copies of the order sealing the arrest warrant information and the order designating the proper issuing authority. Thereafter, the case will proceed before the proper issuing authority.

(D) The arrest warrant information shall be sealed for a period of not more than 60 days, unless the time period is extended as provided in paragraph (D)(1) or (D)(2).

(1) Upon motion of the attorney for the Commonwealth for good cause shown, the justice or judge who sealed the arrest warrant information may extend the period of time

that the arrest warrant information will remain sealed. If the justice or judge is unavailable, another justice or judge shall be assigned to decide the motion.

(2) Upon motion for good cause shown, the justice or judge may grant an unlimited number of extensions of the time that the arrest warrant information shall remain sealed. Each extension shall be for a period of not more than 30 days.

(3) If the motion requesting any extension pursuant to paragraphs (D)(1) or (D)(2) is granted, the motion and any record of the hearing on the motion shall be sealed and transmitted with the extension order to the clerk of courts and a copy of the extension order shall be transmitted to the proper issuing authority.

(E) Upon motion of the attorney for the Commonwealth, the justice or judge shall order the arrest warrant information to be unsealed.

**(F) Defendant's Access to Sealed Arrest Warrant Information**

(1) After the sealed arrest warrant is executed, a copy of the arrest warrant information shall be given to the defendant at the preliminary arraignment as provided in Rule 540, unless otherwise ordered as provided in paragraph (F)(2).

(2) Upon motion of the attorney for the Commonwealth, the justice or judge who issued the warrant, for good cause shown and after hearing, may delay giving the defendant a copy of the sealed arrest warrant information, in whole or in part, for periods of not more than 30 days. In no case shall the delay extend beyond the date of the preliminary hearing.

(3) If the justice or judge is unavailable, another justice or judge shall be assigned to decide the motion.

(G) Until the order sealing the arrest warrant information and any extensions thereof expires, the judge and clerk of courts shall not make the arrest warrant information available for public inspection and dissemination.

**Comment**

This rule was adopted in 2013 to codify and further define the practice of temporarily sealing arrest warrants previously recognized in case law such as *Commonwealth v. Fenstermaker*, 515 Pa. 501, 530 A.2d 414 (1987). Unlike existing case law, which only addresses the sealing of arrest warrants after execution, the procedures in this rule apply to all arrest warrants.

Magisterial district judges, arraignment court magistrates, and municipal court judges do not have authority to seal arrest warrant information; the request for the warrant to be sealed must be presented to a judge of the court of common pleas or a justice or judge of an appellate court.

As provided in paragraph (C)(2), when the request to seal an arrest warrant is presented to a judge of the court of common pleas, the complaint must be filed with common pleas judge who issues the sealing order. In those rare cases in which an appellate court judge or justice orders the arrest warrant information sealed, the complaint shall be filed with an appropriate common pleas judge and the common pleas judge shall issue the sealed arrest warrant. This latter provision is necessary due to the limited capability of the appellate courts to accept initial filings and issue arrest warrants.

A request to seal arrest warrant information made in accordance with this rule is not subject to the requirements of Rule 576.

The rule establishes a standard of “good cause” for sealing the arrest warrant information. When determining whether good cause exists to seal the arrest warrant information, the justice or judge must consider whether the presumption of openness is rebutted by other interests that include, but are not limited to, whether revealing the information would allow or enable flight or resistance, the need to protect the safety of police officers executing the warrant, the necessity of preserving the integrity of ongoing criminal investigations, and the availability of reasonable alternative means to protect the interest threatened by disclosure.

The rule assumes that access to a sealed arrest warrant will be severely limited. The rule assumes that this also will limit the availability of the arrest warrant information to a broad class of law enforcement agencies through the various law enforcement computer systems such as the Commonwealth Law Enforcement Assistance Network (CLEAN) and the National Crime Information Center system (NCIC). In many cases, the requester will desire that the information be placed into these systems in order to assist in the execution of the warrant. In these cases, the attorney for the Commonwealth may request that the sealing order provide that the sealed arrest warrant information be provided to law enforcement agencies generally and entry of the arrest warrant information into law enforcement computer systems be required.

Under paragraph (D), an order sealing the arrest warrant information is limited in duration to not more than 60 days. Extension of this period may be granted only upon the showing of good cause for the extension. Each extension of the order is limited to no more than 30 days duration.

The judge issuing the order to seal has the discretion to set the appropriate duration of the order and whether there are any conditions for unsealing the order. For example, a judge may order that the arrest warrant information must be unsealed 15 days from issuance or automatically upon execution of the warrant.

Paragraph (E) provides that the attorney for the Commonwealth may move to unseal the arrest warrant information and the judge or justice must order the information unsealed. Ordinarily, this will occur in circumstances in which law enforcement wishes to publicize the existence of a previously sealed warrant in order to obtain public assistance in the apprehension of the defendant. The judge or justice may not deny the motion.

Paragraph (F)(2) permits a judge or justice to order sealed arrest warrant information to be kept from the defendant even after the defendant is arrested. The judge or justice may order that either the whole or part of the arrest warrant information be kept from the defendant. This provision should only be used in extraordinary circumstances in which there is considerable risk to public safety or the safety of individual witnesses. In determining whether the information is to be kept from the defendant and what portion of the information is to be kept from the defendant, the judge or justice should be guided by the principle that the least restrictive means should be utilized that are consistent with the reason for the requested restriction. For example, if the grounds for requesting delay in providing this information to the defendant is that the affidavit of probable cause contains information regarding identity of an informant and must remain confidential until additional arrests in other ongoing investigations are made, the judge or justice may delay providing a copy of the affidavit of probable cause to the defendant while providing him or her with a copy

of the complaint in order to provide the defendant with information regarding the charges.

When a sealed copy of the arrest warrant information has been given to the defendant, nothing in this rule is intended to preclude the attorney for the Commonwealth from requesting that the justice or judge issue a protective order to prevent or restrict the defendant from disclosing the arrest warrant or the contents of the affidavit. *See* Rule 573(F).

Until the order sealing the arrest warrant information terminates, the judge and the clerk of courts shall not make the arrest warrant information available for inspection and dissemination.

**Official Note:** New Rule 513.1 adopted December 23, 2013, effective March 1, 2014.

*Committee Explanatory Reports:*

Final Report explaining the December 23, 2013 adoption of new Rule 513.1 providing procedures for sealing of arrest warrant information published with the Court’s Order at 44 Pa.B. 243 (January 11, 2014).

**PART D. Proceedings in Court Cases Before Issuing Authorities**

**Rule 540. Preliminary Arraignment.**

\* \* \* \* \*

(F) The issuing authority shall not question the defendant about the offense(s) charged but shall read the complaint to the defendant. The issuing authority **also** shall [ **also** ] inform the defendant:

\* \* \* \* \*

**Comment**

\* \* \* \* \*

Paragraph (D) requires that the defendant receive copies of the arrest warrant and the supporting affidavit(s) at the time of the preliminary arraignment. *See also* Rules 513(A), 208(A), and 1003. **See Rule 513.1(F) concerning a defendant’s access to arrest warrant information that has been sealed.**

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

**[ Nothing in this rule is intended to address public access to arrest warrant affidavits. *See Commonwealth v. Fenstermaker*, 515 Pa. 501, 530 A.2d 414 (1987). ]**

**For public access to arrest warrant information, see Rules 513, 513.1, and *Commonwealth v. Fenstermaker*, 515 Pa. 501, 530 A.2d 414 (1987).**

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

\* \* \* \* \*

*See* Rule 1003(D) for the procedures governing preliminary arraignments in the **Philadelphia** Municipal Court.

See Chapter 5, Part H, Rules 595, 596, 597, and 598, for the procedures governing requests for transfer from criminal proceedings to juvenile proceedings pursuant to 42 Pa.C.S. § 6322 in cases in which the defendant was under the age of 18 at the time of the commission of the alleged offense and charged with one of the offenses excluded from the definition of “delinquent act” in paragraphs (2)(i), (2)(ii), and (2)(iii) of 42 Pa.C.S. § 6302.

**Official Note:** Original Rule 119 adopted June 30, 1964, effective January 1, 1965; suspended January 31, 1970, effective May 1, 1970. New Rule 119 adopted January 31, 1970, effective May 1, 1970; renumbered Rule 140 September 18, 1973, effective January 1, 1974; amended April 26, 1979, effective July 1, 1979; amended January 28, 1983, effective July 1, 1983; rescinded August 9, 1994, effective January 1, 1995. New Rule 140 adopted August 9, 1994, effective January 1, 1995; amended September 13, 1995, effective January 1, 1996. The January 1, 1996 effective date extended to April 1, 1996; the April 1, 1996 effective date extended to July 1, 1996; renumbered Rule 540 and amended March 1, 2000, effective April 1, 2001; amended May 10, 2002, effective September 1, 2002; amended August 24, 2004, effective August 1, 2005; amended June 21, 2012, effective in 180 days; amended July 31, 2012, effective November 1, 2012; amended May 2, 2013, effective June 1, 2013; **Comment revised December 23, 2013, effective March 1, 2014.**

*Committee Explanatory Reports:*

\* \* \* \* \*

**Final Report explaining the December 23, 2013 Comment revisions concerning sealed arrest warrant information published with the Court’s Order at 44 Pa.B. 243 (January 11, 2014).**

**Rule 547. Return of Transcript and Original Papers.**

\* \* \* \* \*

(C) In addition to this transcript the issuing authority also shall [ also ] transmit the following items:

\* \* \* \* \*

**Comment**

\* \* \* \* \*

See Chapter 5 Part E for the procedures governing indicting grand juries. Pursuant to Rule 556.2(A)(3), the judge is required to notify the issuing authority that the case will be presented to the indicting grand jury. Pursuant to Rule 556.11(A), upon receipt of the notice, the issuing authority is required to close out the case in his or her office, and forward it to the court of common pleas for all further proceedings. When the case is transmitted to the court of common pleas, the clerk of courts should [ associate ] associate the transcript and other documents transmitted by the issuing authority with the motion and order filed pursuant to Rule 556.2(A)(5).

**When arrest warrant information has been sealed pursuant to Rule 513.1, the arrest warrant information already will have been filed with the clerk of courts. When the case is transmitted to the court of common pleas, the clerk of courts should associate the transcript and other documents transmitted by the issuing authority with the original file created for the sealing procedure.**

**Official Note:** Formerly Rule 126, adopted June 30, 1964, effective January 1, 1965; suspended January 31, 1970, effective May 1, 1970; revised January 31, 1970,

effective May 1, 1970; renumbered Rule 146 and amended September 18, 1973, effective January 1, 1974; amended October 22, [ 1982 ] 1981, effective January 1, 1982; amended July 12, 1985, effective January 1, 1986; effective date extended to July 1, 1986; renumbered Rule 547 and amended March 1, 2000, effective April 1, 2001; amended August 24, 2004, effective August 1, 2005; amended May 1, 2007, effective September 4, 2007, and May 1, 2007 Order amended May 15, 2007; amended July 10, 2008, effective February 1, 2009; amended June 21, 2012, effective in 180 days; **amended December 23, 2013, effective March 1, 2014.**

*Committee Explanatory Reports:*

\* \* \* \* \*

**Final Report explaining the December 23, 2013 Comment revisions concerning sealed arrest warrant documents published with the Court’s Order at 44 Pa.B. 243 (January 11, 2014).**

**FINAL REPORT<sup>1</sup>**

***New Pa.R.Crim.P. 513.1, Amendments to Pa.R.Crim.P. 513, and Revisions to the Comments to Pa.Rs.Crim.P. 540 and 547***

**Public Access to Pre-Execution Arrest Warrant Information: Delay in Dissemination and Sealing of Arrest Warrant Information for Public Safety Purposes**

On December 23, 2013, effective March 1, 2014, upon the recommendation of the Criminal Procedural Rules Committee, the Court (1) adopted the amendment of Pa.R.Crim.P. 513 to provide for the temporary delay in the dissemination of arrest warrant information to the public prior to execution, (2) adopted new Rule 513.1 to provide for the sealing of arrest warrant information, and (3) approved correlative changes to the Comments to Rules 540 and 547.

*I. Background*

For several years, the Committee had examined the question of an issuing authority’s obligation to disseminate arrest warrant information to the public prior to the execution of the warrant.<sup>2</sup> The Committee recognized the strong tradition and policy in Pennsylvania of maintaining the openness of the courts and court records. At the same time, the Committee recognized that disclosure of arrest warrant information prior to execution has the potential for injury or loss of life to the executing officers in addition to the possibility of flight on the part of the defendant. This concern had been heightened by the increased level of automation of court records and increased accessibility of this information.

Part of the impetus for the development of this proposal was an examination of *Commonwealth v. Fenstermaker*, 515 Pa. 501, 530 A.2d 414 (1987),<sup>3</sup> in which the Court specifically reserved the question of access to pre-execution arrest warrant information. As a result, the

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

<sup>2</sup> “Arrest warrant information” is defined under the proposed amendments as the criminal complaint in cases in which an arrest warrant is issued, the arrest warrant, any affidavit(s) of probable cause, and documents or information related to the case.

<sup>3</sup> In *Fenstermaker*, a newspaper filed a motion for access to the probable cause affidavits for an executed arrest warrant. The Supreme Court of Pennsylvania noted that there were important policy considerations which underlay a general right to public access to court records, such as discouraging perjury, enhancing police and prosecutorial performance, and promoting a public perception of fairness in the arrest warrant process. However, the Court found that the public’s right to inspect judicial documents is not absolute and the decision regarding public access to arrest warrant affidavits is best left to the discretion of the court. The remedy the Court supported was to require that affidavits be sealed under a court order, not simply upon the request of one of the parties.

Committee concluded that the current state of the law is unclear to what extent an issuing authority is obligated to make arrest warrant information available to the public at a point in a criminal case when such disclosure has the potential to affect public safety adversely. The Committee struggled to reach a balance between the interests of safety and public access. Ultimately, the Committee concluded that reasonable limitations on pre-execution disclosure should be put into place, regardless of whether that information is disseminated electronically or is physically available for inspection at the issuing authority's office.

## II. *Development and Publication of Proposal*

The amendments are the product of extensive discussions by the Committee, the publication for comment of three separate Explanatory Reports, review of numerous comments received in response to these publications, and subsequent modifications based on the publication comments.

On August 4, 2007, the Committee published for comment a Report explaining the considerations in the development of a proposal to amend Rule 513 to provide for the temporary delay in the dissemination of arrest warrant information to the public prior to execution. This proposal was similar to the procedures in then-new Rule 212. *See* 37 Pa.B. 4178 (August 4, 2007). Based on comments received from this publication, the Committee realized that the limited procedure contemplated in the original proposal did not sufficiently address the safety needs that prompted the question nor did it ensure that the defendant's or the public's right to access were not unduly impinged.

The Committee concluded that the best method of addressing these questions was by the creation of a "two-tiered" system for access to arrest warrant information. As originally conceived, the first tier provided for a limitation on dissemination of the arrest warrant information, requested by the affiant or the attorney for the Commonwealth, for no more than 10 days or until the warrant is executed, whichever is sooner. The second tier, which was based on the sealing of search warrant procedures in Rule 211, could have been used to extend the time under which public access to arrest warrant information was limited or could have been used as a sealing order from the start.

In devising this approach, the Committee concluded that detailing procedures for sealing arrest warrants would have the added benefit of providing definition to a practice currently established only in case law, *see Commonwealth v. Fenstermaker, supra*. The Committee determined that, while the authority of a court to seal arrest warrants was generally recognized, gaps exist in the practice. This point is highlighted in Fenstermaker that explicitly left open the question of public access to pre-execution arrest warrant information. The Committee believed that judges, practitioners, and the public would benefit from the clarity and uniformity that a detailed rule would provide as to how access to arrest warrant information may be restricted and the standards for determining if such restrictions should be granted. This clarity and uniformity would provide law enforcement and prosecutors with the tools to ensure public safety while ensuring that defense and public interests are protected.

On December 8, 2007, the Committee published for comment a Supplemental Report that contained this revised approach. *See* 37 Pa.B. 6392 (December 8, 2007).

The Committee received several comments. One response argued that the only way in which any restriction may be placed on public access to arrest warrant information is by a formal sealing procedure. There were also questions raised as to the specific procedures to be followed for the execution of sealed arrest warrants, especially with regard to access to the warrant information at the preliminary arraignment as well as concerns about whether the rule would unduly restrict dissemination of the warrant information to law enforcement.

From the Committee's research and analysis, it was concluded there is a substantial difference between a temporary delay in dissemination limited to the pre-execution stage of a proceeding and a full sealing of the information. The first is a limited and temporary delay in dissemination to the public when there is an immediate public safety concern, while the latter is a bestowal of court-ordered confidentiality upon the information of potentially greater duration and restriction of access. The Committee went to considerable effort to differentiate the two concepts by creating two distinct procedures. For both procedures, the Committee has taken great pains to ensure that the public interest in access to the court records is protected by requiring specific grounds for delay or sealing and placing specific time limitations on the duration of the delay and seal.

The Committee concluded that part of the problem with the proposal as published was that the second portion of the proposal mixed procedures for extending the delay in dissemination with procedures similar to the sealing of search warrants. The Committee determined that the distinction would be clearer if the two concepts, delay in dissemination and sealing, were placed in separate rules. The first rule would permit a limited delay in public access to arrest warrant information, while the second rule would provide procedures for sealing an arrest warrant in the traditional sense.

The Committee again revised the proposal as outlined above and a Second Supplemental Report was published on October 18, 2008. *See* 38 Pa.B. 5747 (October 18, 2008). Some of the responses to this publication opined that it would be better to have a "blanket" delay in the dissemination of arrest warrant information in all cases. This type of procedure had been considered by the Committee and rejected as unfeasible from a technological point.

## III. *Discussion of the Amendments*

The amendments create a "two-tiered" system for access to arrest warrant information. Rule 513 establishes the first tier with a limitation on the dissemination of arrest warrant information. New Rule 513.1 establishes the second tier with the procedures for sealing arrest warrant information. Correlative changes have been made to the Comments to Rules 540 and 547.

### *Amendments to Rule 513*

Rule 513 has been reorganized to incorporate the delay in dissemination procedures. New paragraph (A) sets forth the definition of "arrest warrant information." The original text of the rule has become new paragraph (B), titled "Issuance of Arrest Warrant." New Paragraph (C), titled "Dissemination of Arrest Warrant Information," provides that an affiant or attorney for the Commonwealth may request that an issuing authority delay dissemination of arrest warrant information, in any form, to the public. Paragraph (C)(1) provides that, upon a finding of good cause, the issuing authority must delay the dissemination of the arrest warrant information for a

period of 72 hours from issuance of the warrant or until notice of the execution of the warrant is received by the issuing authority. Paragraph (C)(2) also provides for a limited extension of the 72-hour limited when there is a delay in the administrative processing between the filing of the arrest warrant application and the issuance.

The amendments as originally proposed provided that the delay in dissemination of arrest warrant information would be for 10 days or until execution. This period was reduced to 72 hours in order for the rules to be compatible with the existing administrative practice, developed by AOPC Automation, of accommodating a 72-hour delay of the appearance of the electronic case information on the various court computer systems upon request by law enforcement or prosecutors.

Ordinarily, as soon as a case is created in one of the Court's systems (MDJS, CPCMS, PACMS), the case information will be available immediately for public viewing on the UJS Web Portal. Additionally, when an arrest warrant has been issued, the Court's systems, usually the MDJS, feed that information to the two law enforcement fugitive tracking systems, the Pennsylvania State Police's CLEAN system and the FBI's NCIC system, for dissemination to law enforcement. The administrative policy provides that the availability of this information may be delayed on a case-by-case basis if a written request is made by law enforcement personnel and approved by the issuing authority in a written order. This process applies only to access to the electronic records. Pursuant to the Court's policy on public access to the paper records of the MDJs, the case and warrant information would be available for viewing at the MDJ office unless a seal order had been issued.

AOPC Automation became aware of problems with the 72-hour delay process that necessitated a change that would permit additional time for the delay in availability of the information. There had been cases in which there was a significant amount of time between when the case was set up in the system and when a warrant in that case was issued. On August 9, 2012, the administrative policy was modified to provide up to an additional 24 hours in the delay of dissemination of the warrant information if there is a delay in issuing the warrant. In other words, the 72-hour delay would begin to run from the time that the warrant is issued but if the issuance does not occur at the same time as the creation of the case record, an additional period of delay in dissemination, not to exceed 24 hours, would be available after the case had been created in the system but before issuance.

Since the amendments to Rule 513 were intended to be compatible with the administrative policy, they incorporate a provision in paragraph (C)(1) that, when there is a need for additional time for the administrative processing of the arrest warrant request, a period of 24 hours of additional delay in dissemination may be permitted. It should be noted that, unlike the administrative policy, the amendments to Rule 513 apply to both electronic and paper records. Any further restriction upon public access to the arrest warrant information beyond the period provided in Rule 513(C) must be sought through a sealing order as provided in Rule 513.1.

The temporary delay in dissemination is applicable only to the public. As explained in the Rule 513 Comment, nothing in the rule is intended to limit availability of the information that is subject to the delay to court personnel or law enforcement as needed in the performance of their duties was carried over from the original proposal. When the warrant is sealed, however, the availability of infor-

mation to all parties would be much more limited. This limitation is discussed in more detail below in the discussion of new Rule 513.1.

Paragraph (C)(2) provides that the 72-hour period of delay begins upon the issuance of the arrest warrant.

Paragraph (C)(3) provides that, in those counties that require the approval of the attorney for the Commonwealth prior to the filing of complaints and arrest warrant request pursuant to Rule 507, only the attorney for the Commonwealth may request a delay in dissemination. As noted in the Comment to Rule 513, this requirement would apply when the attorney for the Commonwealth has elected to only require prior approval of certain offenses.

#### *New Rule 513.1*

New Rule 513.1, which is based on and incorporates many of the procedures for sealing search warrants contained in Rule 211, provides the procedures by which, upon a showing of good cause, a common pleas judge<sup>4</sup> must order the arrest warrant information to be sealed. The request for sealing must be made by the attorney for the Commonwealth. The Comment provides direction on the application of the good cause standard to requests to seal the arrest warrant information and utilizes language taken from *Commonwealth v. Fenstermaker*; *supra*.

Paragraph (C) permits only an attorney for the Commonwealth to request the sealing of the arrest warrant information at the time of the issuance of the arrest warrant. The arrest warrant affidavits must include the good cause for sealing.

Because the access to a sealed arrest warrant is severely limited, even to law enforcement agencies, paragraph (C)(1)(b) places the burden on the attorney for the Commonwealth, if he or she wants the sealed arrest warrant information to be disseminated to other law enforcement agencies, to specifically request that the sealing order provide for the release of the sealed information to these agencies.

Upon a determination of good cause, the judge shall issue the sealing order which shall contain the expiration date of the seal as well as a designation of the issuing authority before whom the defendant should be brought upon execution of the warrant.

Originally, the Committee proposed that the rules provide that the common pleas judge would issue the sealing order only, and that the police would then file the order, complaint, and probable cause affidavit with the proper issuing authority for approval and processing. However, after further consideration, the Committee concluded that a more realistic procedure is to provide that most of the initial procedures and processing of the paperwork in a case in which the arrest warrant information is sealed should remain at the common pleas court, at least until execution of the arrest warrant. In other words, once the common pleas judge orders the sealing, the arrest warrant information will be filed in the clerk of courts' office as a miscellaneous docket case. When the warrant is executed, the attorney for the Commonwealth or the police officer will take copies of all the original filings to the issuing authority designated in the sealing order, and, thereafter, the case will proceed as any other case before the issuing authority. If the case is held for court, the clerk of courts will merge the case from the magisterial district judge with the miscellaneous case previously filed in the clerk of courts' office.

<sup>4</sup>The rule also permits the motion to be made to an appellate judge.

Paragraph (D) states the time limitations on any sealing order as well as the procedures for requesting an extension of the time limitation. Upon issuance of the sealing order, the arrest warrant will remain sealed for a period of not more than 60 days. The attorney for the Commonwealth may seek to extend the sealing of the warrant for additional periods of 30 days but each extension must be supported by a showing of good cause.

Paragraph (E) provides that, upon the request of the attorney for the Commonwealth, the arrest warrant shall be unsealed.

Rule 513.1(F), which is modeled on a similar restriction to sealed search warrants found in Rule 211(H)(2), recognizes that the defendant's access to the sealed arrest warrant information may be limited in exceptional circumstances even after execution and the preliminary arraignment. The paragraph provides that, upon a further finding of good cause, the defendant may be denied access to the arrest warrant information for a period of no more than thirty days or the date of the preliminary hearing. The Committee concluded that, as in the search warrant situation, there might be some unique situations, such as the protection of a confidential informant, that necessitate such a severe restriction. The Committee believes that there are sufficient procedures available to seek further review of such an order. However, as a further caution, the Comment to Rule 513.1 specifically states that this procedure should only be used in exceptional cases.

#### *Correlative Changes*

Correlative changes are also made to the Comments to Rules 540 (Preliminary Arraignments) and 547 (Return of Transcript and Original Papers) have been revised to include cross-references to new Rule 513.1.

[Pa.B. Doc. No. 14-77. Filed for public inspection January 10, 2014, 9:00 a.m.]

## **Title 237—JUVENILE RULES**

### **PART I. RULES**

#### **[ 237 PA. CODE CH. 4 ]**

#### **Proposed Amendments to Rule 409**

The Juvenile Court Procedural Rules Committee is soliciting public comment on proposed modifications to Rule 409 before it considers any recommendations to the Supreme Court of Pennsylvania. These proposed modifications address the extension of time in determining whether the juvenile is in need of treatment, supervision, or rehabilitation.

The Committee requests that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through counsel, Christine Riscili at juvenilerules@pacourts.us. Email is the preferred method for receiving comments in an effort to conserve paper and expedite the distribution of comments to the Committee. Emailed comments need not be reproduced and sent via hard copy. The Committee will acknowledge receipt of your comment.

For those who do not have access to email, comments may be faxed to the Committee at 717-231-9541 or written comments may be mailed to:

Christine Riscili, Esq.  
Supreme Court of Pennsylvania  
Juvenile Court Procedural Rules Committee  
Pennsylvania Judicial Center  
601 Commonwealth Ave, Suite 6200  
P. O. Box 62635  
Harrisburg, PA 17106-2635.

All comments shall be received no later than Monday, February 10, 2014.

*By the Juvenile Court  
Procedural Rules Committee*

HONORABLE TODD A. HOOVER,  
*Chair*

### **Annex A**

## **TITLE 237. JUVENILE RULES**

### **PART I. RULES**

#### **Subpart A. DELINQUENCY MATTERS**

#### **CHAPTER 4. ADJUDICATORY HEARING**

#### **Rule 409. Adjudication of Delinquency.**

A. *Adjudicating the juvenile delinquent.* Once the court has ruled on the offenses as provided in Rule 408, the court shall conduct a hearing to determine if the juvenile is in need of treatment, supervision, or rehabilitation.

1) *Not in need.* If the court determines that the juvenile is not in need of treatment, supervision, or rehabilitation, the court shall enter an order providing that:

a) jurisdiction shall be terminated and the juvenile shall be released, if detained, unless there are other reasons for the juvenile's detention; and

b) any fingerprints and photographs taken shall be destroyed.

2) *In need.*

a) If the court determines that the juvenile is in need of treatment, supervision, or rehabilitation, the court shall enter an order adjudicating the juvenile delinquent and proceed in determining a proper disposition under Rule 512.

b) The court also shall order the law enforcement agency that submitted the written allegation:

i) to take, or cause to be taken, the fingerprints and photographs of the juvenile if not previously taken pursuant to this case, and

ii) to ensure that these records, including the case reference number, are forwarded to the central repository maintained by the Pennsylvania State Police.

B. *Timing.*

1) If the juvenile is in detention, the court shall make its finding within twenty days of the ruling on the offenses pursuant to Rule 408.

2) If the juvenile is not in detention, the court shall make its finding within sixty days of the ruling on the offenses pursuant to Rule 408.



*C. Extending Time by Agreement.* The time restrictions under paragraphs (B)(1) and (B)(2) may be extended for **six months** if there is an agreement by both parties. **One additional six-month extension is permitted when the courts finds additional time is necessary to determine if the juvenile is in need of treatment, supervision, or rehabilitation.**

#### Comment

Under paragraph (A), absent evidence to the contrary, evidence of the commission of acts that constitute a felony is sufficient to sustain a finding that the juvenile is in need of treatment, supervision, or rehabilitation. *See* 42 Pa.C.S. § 6341(b).

If the court determines that the juvenile is not in need of treatment, supervision, or rehabilitation and the court enters an order terminating jurisdiction, the victim, if not present, shall be notified of the final outcome of the proceeding. *See* Victim's Bill of Rights, 18 P. S. § 11.201 *et seq.*

This rule addresses adjudicating the juvenile delinquent or releasing the juvenile from the court's jurisdiction. This determination is different from finding the juvenile committed a delinquent act under Rule 408.

Pursuant to 42 Pa.C.S. § 6308(c)(3), all fingerprints and photographic records are to be destroyed upon order of the court if the juvenile is not adjudicated delinquent.

Pursuant to paragraph (A)(2)(b)(ii), a case reference number is to be included to help track this case. *See* Comment to Rule 170 for further description of a case reference number.

**Pursuant to paragraph (C), the timing of when the court is to enter its findings can be extended for up to two six-month periods if there is an agreement by both parties. However, in no case may the court go without a determination as to whether the juvenile is in need of treatment, supervision, or rehabilitation beyond the extended periods. If there has been no finding pursuant to paragraph (B) after two six-month extensions, the court is to make its determination whether the juvenile is in need of further court services.**

A report on the disposition is to be sent to the Juvenile Court Judges' Commission. *See* 42 Pa.C.S. § 6309(d).

For dispositional hearing procedures, see Chapter Five.

\* \* \* \* \*

#### EXPLANATORY REPORT

The Juvenile Court Procedural Rules Committee (Committee) is seeking public comment on amendments to Rule 409 regarding the extension of time for finding a juvenile in need of treatment, supervision, or rehabilitation when there is an agreement between the parties.

The Committee was made aware that several judicial districts had open cases that were pending without any judicial determinations for extended periods. The current rule does not specify how long the case could be extended when there is an agreement between the parties.

After much discussion, the Committee believes that the court should know whether a juvenile is in need of treatment, supervision, or rehabilitation after two six-month extensions. If there are pending issues and the

case cannot be closed, it is clear that an order adjudicating the child delinquent is necessary at this point.

[Pa.B. Doc. No. 14-78. Filed for public inspection January 10, 2014, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### LEHIGH COUNTY

#### Rule 205.4 Authorizing a Pilot E-Filing Program for Civil Cases; No. 2013-J-59

#### Administrative Order

*And Now*, this 9th day of December 2013, *It Is Hereby Ordered That* Lehigh County Rule 205.4, Electronic Filing and Service of Legal Papers, authorizing a pilot program for electronic filing of selected civil cases identified on the Supreme Court of Pennsylvania Court of Common Pleas Civil Cover Sheet, be and is hereby rescinded effective upon publication on the Pennsylvania Judiciary Web Application Portal and that the following Lehigh County Rule authorizing a Pilot E-Filing Program for all Civil Cases be and the same is hereby *Adopted*, effective upon publication of this rule on the Pennsylvania Judiciary Web Application Portal (<http://ujportal.pacourts.us>).

*It Is Further Ordered That* the Court Administrator of Lehigh County shall file: one (1) certified copy of this Order and the Lehigh County Rule authorizing the Pilot E-Filing Program for Civil Cases with the Administrative Office of Pennsylvania Courts; two (2) certified copies and a computer diskette or CD-ROM copy that complies with the requirement of 1 Pa. Code Section 13.11(b) with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*; one (1) certified copy with the Civil Procedural Rules Committee, and publish a copy on the Pennsylvania Judiciary's Web Application Portal (<http://ujportal.pacourts.us>)

*By the Court*

CAROL K. MCGINLEY,  
*President Judge*

#### Rule 205.4. Pilot Program—Electronic Filing of Legal Documents Filed in the Clerk of Judicial Records—Civil Division.

(a)(1) *Authorization for Electronic Filing of Civil Legal Papers—Pilot Program*

(i) In accordance with Pa.R.C.P. No. 239.9, the Lehigh County Court of Common Pleas shall implement on January 1, 2014, a pilot program for the e-filing of legal papers as specifically defined within this rule. The applicable general rules of court and court policies that implement the rules shall continue to apply to all filings regardless of the method of filing. Electronic filing and service shall be governed by this rule.

(ii) In the context of this rule, "legal papers" which may be filed electronically shall be all civil cases identified in Section B of the Supreme Court of Pennsylvania Court of Common Pleas Civil Cover Sheet, provided for in Pa.R.C.P. 205.5(e). Although not specifically identified on the Cover Sheet, Liens/Judgments and Petitions are also included.

(iii) All currently identified and registered participants of the e-filing pilot program are eligible to file the legal papers as indicated in paragraph (a)(1)(ii) above.

### Comment

The primary intent of this rule is to facilitate the filing of all legal papers that are expressly permitted under this subsection.

(b)(1) *Authorized Electronic Format of Legal Papers Electronically Filed.* All legal papers that may be filed electronically as defined by this rule shall be filed in Portable Document Format (PDF). In the event any legal paper or exhibit is submitted to the Clerk of Judicial Records—Civil Division in hard copy format for a case already initiated electronically, the Clerk of Judicial Records—Civil Division shall convert and maintain such legal paper or exhibit to a Portable Document Format (PDF) and the Clerk of Judicial Records—Civil Division shall return the hard copy legal paper or exhibit to the filing party for retention as required by Pa.R.C.P. No. 205.4(b)(5).

(c)(1) *Reserved*

(c)(2) *Website—Access to the Website*

(i) *Website.* All legal papers may be filed electronically through the Clerk of Judicial Records—Civil Division's Electronic Filing System "Odyssey File and Serve" (OFS) which shall be accessible through the Lehigh County Website, [www.lehighcounty.org](http://www.lehighcounty.org)

(ii) *Access to the Website.* To obtain access to the Electronic Filing System, counsel and any unrepresented party must apply for and receive a User Name and Password.

(d)(1) *Payment of Filing Fees*

(i) The Clerk of Judicial Records—Civil Division will accept payment of all filing fees in cash, checks, and the following credit and debit cards: Discover, MasterCard, American Express and Visa.

(ii) The Clerk of Judicial Records—Civil Division will accept advance deposits on draw down accounts of future filing fees.

(iii) The credit or debit card will be charged with a convenience fee dictated by the credit card vendor.

(e) *Reserved*

(f) *Local Procedures*

As authorized by Pa.R.C.P. No. 205.4(f), the following local administrative procedures are adopted:

(i) As provided by Pa.R.C.P. No. 1023.1, the required signature on an electronic filing of legal papers is established by submission of a filing and the application of a digitized signature or the name of the filer preceded by /s/ accompanied by the attorney's printed name or a scanned document with an original signature. Verification will be achieved through the use of an email address and a password obtained from the OFS System. The OFS system will verify the user ID against the state ID number. Verification for parties other than attorneys will be verified through the user ID.

(ii) The legal paper must include a signature block, and the name of the filer under whose user name and password the legal filing is submitted.

(iii) The Electronic Filing Application (OFS) shall provide to the filer, using the email address registered by the filer, a Courtesy Email acknowledging that the filing was received. An Official Notification will be displayed in the Electronic Filing System, which includes the time and date, as a pending filing awaiting approval by the Clerk of Judicial Records—Civil Division. Within six (6) business hours of the receipt of the legal paper, the Clerk of Judicial Records—Civil Division shall provide the filer

with notification through the Electronic Filing System that the legal paper has been either accepted or rejected.

(iv) If a legal paper is accepted, it shall be deemed to have been filed as of the date and time it was received by the Electronic Filing System; however, if a legal paper is submitted without the requisite filing fee, the legal paper shall be deemed to have been accepted for filing as of the date payment is received pursuant to 42 P.S. Section 21073(b), "The Clerk of Judicial Records—Civil Division shall not be required to enter on the docket any suit or action or order of court or to enter any judgment thereon and perform any services whatsoever for any person, political subdivision or the Commonwealth until the requisite fee is paid."

*Note:* As required by Pa.R.C.P. No. 205.4(c)(1) access to the Electronic Filing System shall be available at all times, except for routine maintenance; however, legal documents can only be reviewed by the staff of the Clerk of Judicial Records—Civil Division during normal office hours. Therefore, filers are cautioned to file required legal papers well in advance of any filing deadlines to enable timely correction and re-submission in the event a legal paper is not acceptable for filing.

(v) Pa.R.C.P. No. 204.1(3) requires that the first sheet of all pleadings, motions and other legal filings shall contain a 3-inch space from the top of the paper. This space shall be reserved solely for the use of the Clerk of Judicial Records—Civil Division for the electronic date and time stamp, and other official use.

(vi) As required by Pa.R.C.P. 205.5, the filer shall include the statewide cover sheet with the initial filing.

(vii) It shall be the responsibility of the filer to notify the Clerk of Judicial Records—Civil Division of any legal paper or exhibit submitted for filing in hard copy format/paper for a case initiated by electronic filing by indicating under the case number "Electronic Case". The Clerk of Judicial Records—Civil Division shall then convert the legal paper to a portable document format (pdf) and accept and maintain such legal paper or exhibit in the electronic form. The Clerk of Judicial Records—Civil Division shall return the hard copy legal paper or exhibit to the filing party for retention as required by Pa.R.C.P. No. 205.4(b)(4) and Pa.R.C.P. No. 205.4(b)(5).

(viii) If a legal document is refused for filing, the Clerk of Judicial Records—Civil Division shall specify a reason. Subject to the Rule 205.4(e)(3), a legal paper refused for filing shall be deemed as not having been filed.

(ix) When filing motions, petitions and other responsive pleadings electronically in accordance with the local rules, the filer may provide an electronic courtesy copy to the Office of Court Administration through the Clerk of Judicial Records—Civil Division's Electronic Filing System "Odyssey File and Serve" (OFS).

(g) *Service of Legal Papers*

(i) If a legal paper is accepted for electronic filing, it will be electronically served as authorized by Pa.R.C.P. No. 205.4(g)(1)(ii) and service shall be effectuated as provided in Pa.R.C.P. No. 205.4(g)(2), Electronic Filing and Service of Legal Papers.

(ii) Once an electronic filing has been accepted by the Clerk of Judicial Records—Civil Division, it shall be the responsibility of the filing party to provide to the Sheriff of Lehigh County, the proper service fee and the documents for Original Service and Writs.

[Pa.B. Doc. No. 14-79. Filed for public inspection January 10, 2014, 9:00 a.m.]