

# THE COURTS

## Title 234—RULES OF CRIMINAL PROCEDURE

### PART I. GENERAL

#### [234 PA. CODE CH. 50]

#### Proposed Amendment to Pa.R.Crim.P. 86

#### Introduction

The Criminal Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania amend Rule 86 (Appeals from Summary Judgments) to make it clear that under paragraph (f) the court may continue a trial *de novo* if there is good cause for the law enforcement officer's unavailability.

The following explanatory *Report* highlights the issues considered in formulating this proposal. Please note that the Supreme Court does not adopt the Committee's *Comments* or the contents of the explanatory *Report*.

The text of the proposed rule amendment precedes the *Report*. Additions are shown in bold and underlined, and deletions appear in brackets.

We request that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through counsel Anne T. Panfil, Chief Staff Counsel, Criminal Procedural Rules Committee, P. O. Box 1325, Doylestown, PA 18901, no later than June 21, 1996.

*By the Criminal Procedural Rules Committee*

FRANCIS BARRY MCCARTHY,  
*Chair*

#### Annex A

#### TITLE 234. RULES OF CRIMINAL PROCEDURE

#### PART I. GENERAL

#### CHAPTER 50. PROCEDURE IN SUMMARY CASES

#### PART VI. GENERAL PROCEDURES IN SUMMARY CASES

#### Rule 86. Appeals from Summary Judgments.

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(f) When a defendant appeals after conviction by an issuing authority in any summary proceeding, upon the filing of the transcript and other papers by the issuing authority, the case shall be heard *de novo* by the appropriate division of the court of common pleas as the president judge shall direct. In appeals from summary proceedings arising under the Vehicle Code or local traffic ordinances, other than parking offenses, the law enforcement officer who observed the alleged offense must appear and testify. **[ Unless the presence of the law enforcement officer is waived in open court by the defendant, the failure of the officer to appear and testify shall result in a dismissal of the charges. ]** **Unless the defendant, in open court, waives the presence of the law enforcement officer, or the court determines that good cause exists for the law enforcement officer's unavailability, the failure of the officer to appear and testify shall result in a dismissal of the charges.**

\* \* \* \* \*

**Official Note:** Adopted July 12, 1985, effective January 1, 1986; Comment revised September 23, 1985, effective January 1, 1986; effective date extended to July 1, 1986; amended February 2, 1989, effective March 1, 1989; amended March 22, 1993, effective January 1, 1994; amended October 28, 1994, effective as to cases instituted on or after January 1, 1995; amended February 25, 1995, effective July 1, 1995 **amended \_\_\_\_\_, effective \_\_\_\_\_.**

#### Comment

This rule replaces former Rule 67. It applies to appeals in all summary proceedings, including prosecutions for violations of municipal ordinances which provide for the possibility of imprisonment and default hearings.

The Rules of Criminal Procedure are applicable generally to these proceedings. See, e.g., Rule 3, Chapter 50 (Summary Cases), Rule 1117, and Chapter 6000. The narrow holding in *City of Easton v. Marra*, [ **230 Pa. Super. 352,** ] 326 A.2d 637 (**Pa. Super.** 1974), is not in conflict, since the record before the court did not indicate that imprisonment was possible under the ordinance there in question.

When the only issues on appeal arise solely from an issuing authority's determination after a default hearing pursuant to Rule 85, the matter must be heard *de novo* by the appropriate judge of the court of common pleas and only those issues arising from the default hearing are to be considered. It is not intended to reopen other issues not properly preserved for appeal. A determination after a default hearing would be a final order for purposes of these rules.

**The 1996 amendment of paragraph (f), made in response to Commonwealth v. Hightower, 652 A.2d 873 (Pa. Super. 1995), permits the court to continue the case if there is good cause for the officer's unavailability.**

Certiorari was abolished by former Rule 67 in 1973, pursuant to Article V Schedule Section 26 of the Constitution of Pennsylvania, which specifically empowers the Supreme Court of Pennsylvania to do so by rule. This Schedule section is still viable, and the substance of this Schedule section has also been included in the Judicial Code as Section 934. 42 Pa.C.S. § 934. The abolition of certiorari, of course, continues.

Bail, when set in a summary case, shall be in accordance with the bail rules, Chapter 4000.

#### *Committee Explanatory Reports:*

Final Report explaining the March 22, 1993 amendments published with the Court's Order at 23 Pa.B. 1699 (April 10, 1993).

Final Report explaining the October 28, 1994 amendments published with the Court's Order at 24 Pa.B. 5843 (November 26, 1994).

Final Report explaining the February 27, 1995 amendments published with the Court's Order at 25 Pa.B. 935 (March 18, 1995).

**Report explaining the \_\_\_\_\_, 1996 amendment to paragraph (f) published at 26 Pa.B. \_\_\_\_ (May 11, 1996).**

**REPORT**

*Amendment to Pa.R.Crim.P. 86  
(Appeals from Summary Judgments)*

*Presence of Law Enforcement Officer at Trial De Novo*

Rule 86 requires that in appeals from summary proceedings under the Vehicle Code or local traffic ordinances, other than parking offenses, the law enforcement officer who observed the offense must appear and testify. Paragraph (f) also provides that the failure of the officer to appear and testify must result in a dismissal of the charges unless the defendant waives, in open court, the law enforcement officer's presence. In *Commonwealth v. Hightower*, 652 A.2d 873 (Pa. Super. 1995), appeal denied, 665 A.2d 467 (Pa. 1996), the Superior Court considered whether the "dismissal" requirement of Rule 86(f) was absolute.

In *Hightower*, the trial court granted two continuances of the trial de novo, one due to the officer's wife's sudden illness and hospitalization, and the other to accommodate the officer's scheduled vacation. The defendant contended that the trial court abused its discretion by granting a continuance when a dismissal was required. The Superior Court agreed, holding that under Pa.R.Crim.P. 86(f), when "an officer fails to appear to testify, the charges must be dismissed unless the defendant waives the officer's presence in open court. No other exception to this rule is provided." *Id.* at 873—874.

Although the Committee felt that the *Hightower* opinion was a fair reading of present Rule 86(f), we also agreed that the language of paragraph (f) was not intended to preclude a court from granting a continuance when a valid reason exists for the officer's unavailability. We are therefore proposing an amendment to paragraph (f) which adds a "good cause" exception to paragraph (f) and a Comment which explains that the new language was added in response to the *Hightower* opinion.

[Pa.B. Doc. No. 96-754. Filed for public inspection May 10, 1996, 9:00 a.m.]

## **Title 255—LOCAL COURT RULES**

### **CARBON COUNTY**

#### **Pretrial Services Program; No. 51MI96**

*Administrative Order 6-1996*

And Now, this 24th day of April, 1996, the Court of Common Pleas of Carbon County hereby approves and adopts the Pretrial Services Program Standards and Guidelines, which are following and made a part hereof and the same are promulgated herewith to become effective thirty (30) days after publication in the *Pennsylvania Bulletin*; that seven (7) certified copies shall be filed with the Administrative Office of Pennsylvania Courts; that two (2) certified copies shall be filed with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*; and that one (1) certified copy shall be filed with the Criminal Procedural Rules Committee.

*By the Court*

JOHN P. LAVELLE,  
*President Judge*

**CARBON COUNTY COURT OF COMMON PLEAS****Adult Probation/Parole Department (Operations  
Manual: Policy & Procedure)**

*Topic:* Pretrial Services Program

"Goals and Objectives & Duties and Powers  
of the Bail Agency"

*Chapter:* 12

*Section:* 1

*Pages:* 3

*Related Standards:* 2-3024; 2-3025; 2-3026 & 2-3027

*Effective Date:* 05-20-96

**SECTION 12.1.1: Purpose:** To set goals and objectives of the pretrial services program and to establish the duties and powers of the bail agency.

**SECTION 12.1.2: Applicability:** To the President Judge, Court Administration, the issuing authority, Magisterial Districts, the Clerk of Courts Office, the District Attorney's Office, the Public Defender's Office, the Chief Adult Probation/Parole Officer, the pretrial services officer and all offenders placed under pretrial supervision.

**SECTION 12.1.3: Definitions:** As utilized in this document, the following definitions shall apply:

1. *Bail:* The security required and given for the release of a person in the custody of the law, conditioned upon a written undertaking that the person will appear when required to do all other things stipulated therein.

2. *Issuing Authority:* Any public official having the power and authority of an alderman, justice of the peace, magistrate or district justice.

**SECTION 12.1.4: Goals and Objectives:** The Carbon County Pretrial Services Program is designed to accomplish the following:

1. To maximize the release of defendants on non-financial conditions by identifying those defendants most likely to appear in court,

2. To help facilitate judicial release decisions by providing the courts with factual information about the defendants in the most timely manner possible,

3. To monitor released pretrial arrestees to ensure compliance with the conditions of release imposed by the court for the benefit of public safety,

4. To establish a process that would improve the release from detention appropriate pretrial detainees who may respond to an alternative form of supervision and treatment,

5. To identify, assess and refer drug/alcohol dependent offenders accused of non-violent offenses to appropriate community based treatment facilities.

6. To promote pretrial arrestee accountability through community supervision and treatment.

7. To provide non-adversarial information to the court for bail consideration and sentencing decisions.

**SECTION 12.1.5: Duties and Powers of the Carbon County Pretrial Services Program:** The Carbon County Court of Common Pleas, by local rule, shall establish and designate the Carbon County Adult Probation/Parole Department as the agency responsible for the administration

of the pretrial services project. The department shall be responsible for the following:

1. To evaluate and provide to the court reliable and accurate information concerning the offender in assisting the court to determine an appropriate bail amount.
2. To monitor and supervise defendants placed in the pretrial service program.
3. To make appropriate referrals to community based agencies for appropriate levels of treatment and counseling.
4. To establish reasonable rules and regulations to enable the agency to administer and operate a pretrial service program.

*SECTION 12.1.6: Principles and Approach to Pretrial Services:* Pretrial release programs do not release defendants, judges alone are responsible for setting bail and releasing individuals on bail. Pretrial programs are responsible for providing accurate information and assessments to the court or issuing authority that assist judges in an appropriate bail determination. Furthermore, defendants are presumed innocent and entitled to be treated as such at the point of pretrial intervention.

*Topic:* Pretrial Services Program "Target Population & Referral Process"

*Chapter:* 12

*Section:* 2

*Pages:* 3

*Related Standards:* 2-3024; 2-3025; 2-3026 & 2-3027

*Effective Date:* 05-20-96

*SECTION 12.2.1: Purpose:* To set forth policy governing the selection and referral of the target population for inclusion in the pretrial services program.

*SECTION 12.2.2: Applicability:* To the President Judge, Court Administration, the issuing authority, Magisterial Districts, the Clerk of Courts Office, the District Attorney's Office, the Public Defender's Office, the Chief Adult Probation/Parole Officer, the pretrial services officer and all offenders placed under pretrial supervision.

*SECTION 12.2.3: Definitions:* As utilized in this document, the following definitions shall apply:

1. *Bail:* The security required and given for the release of a person in the custody of the law, conditioned upon a written undertaking that the person will appear when required to do all other things stipulated therein.
2. *Issuing Authority:* Any public official having the power and authority of an alderman, justice of the peace, magistrate or district justice.

*SECTION 12.2.4: Target Population:* Under the local rules of criminal procedure adopted by the Carbon County Court of Common Pleas and in accordance with 42 Pa. Rules of Criminal Procedure, Rule 4006, the following offender population shall be referred to the Carbon County Pretrial Services program for supervision and monitoring:

1. When the judge, court or issuing authority so orders, a sum of money not to exceed ten percent (10%) of the amount of bail set and posted by the defendant or surety, then the defendant and surety shall be referred to the pretrial services division for processing.

*SECTION 12.2.5: Ineligible Offenders:* The following offenders shall be declared ineligible for participation in the pretrial services program:

1. Released on Own Recognizance (ROR) Bail.
2. Bail posted by licensed bondsman.
3. Bail afforded offenders for indirect criminal contempt.
4. Realty bond.
5. Fugitive from Justice.
6. Probation, parole and intermediate punishment violators afforded bail.

*SECTION 12.2.6: Referral Process:* When an offender is afforded cash percentage bail, the offender and/or surety shall be provided a copy of the Notice to Appear correspondence by the issuing authority or court (See attachment). The defendant and surety shall be instructed to report to the Carbon County Adult Probation/Parole Department on the next available working day.

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## **CARBON COUNTY COURT OF COMMON PLEAS**

**Carbon County Adult Probation/Parole Department**  
**P. O. Box 26**

**Jim Thorpe, Pennsylvania 18229**

**Business Hours: 8:30 A.M. to 4:30 P.M.**

**Telephone: (717) 325-4226 Fax: (717) 325-4250**

**Emergency: (717) 325-9123**

**John P. Lavelle, President Judge**

**Richard W. Webb, Judge**

**Ronald S. Kokinda, Chief Adult Probation Officer**

**Joseph Berke, Deputy Chief Adult Probation Officer**

### **SURETY AND DEFENDANT RESPONSIBILITIES: NOTICE TO APPEAR**

Under the local rules of criminal procedure adopted by the Carbon County Court of Common Pleas, pursuant to the requirements of 42 Pa. Rules of Criminal Procedure, Rule 4006, you have posted ten percent (10%) cash bail of the total amount of bail set by the issuing authority. As a specific requirement of this bail bond, the surety and the defendant are required to appear at the Carbon County Adult Probation/Parole Department, 1st Floor Courthouse Building, Jim Thorpe, Pennsylvania, on the next available working day. Business hours are 8:30 a.m. to 4:30 p.m., Monday through Friday.

As surety on this bail bond, you and the defendant have an absolute responsibility to report to the department for the proper completion of all essential documentation concerning the defendant's and surety's responsibilities for the bail bond. There are standard conditions of bail and other standard forms that must be completed by the defendant and surety. Failure to comply with these instructions may result in the forfeiture of the full sum of the bail bond and the issuance of a warrant for the defendant's arrest and commitment to the Carbon County Correctional Facility.

If there are any questions concerning these instructions, please contact the Carbon County Adult Probation/Parole Department at (717) 325-4226.

Sincerely,  
 Ronald S. Kokinda  
 Chief Adult Probation/Parole Officer

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**Adult Probation/Parole Officers**  
**Patrick Henry**  
**Michael Degilio**  
**E. Amy Ritz**  
**Tammy Nothstein**  
**Joanne Maurer, Adult Probation Aide**

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*Topic:* Pretrial Services Program "Method of Supervision"

*Chapter:* 12

*Section:* 3

*Pages:* 5

*Related Standards:* 2-3024; 2-3025; 2-3026 & 2-3027

*Effective Date:* 05-20-96

**SECTION 12.3.1: Purpose:** To set forth policy governing the method of supervision and frequency of contacts for all pretrial arrestees placed under the jurisdiction of the Carbon County Pretrial Services Program.

**SECTION 12.3.2: Applicability:** To the President Judge, Court Administration, the issuing authority, Magisterial Districts, the Clerk of Courts Office, the District Attorney's Office, the Public Defender's Office, the Chief Adult Probation/Parole Officer, the pretrial services officer and all offenders placed under pretrial supervision.

**SECTION 12.3.3: Definitions:** As utilized in this document, the following definitions shall apply:

1. **Bail:** The security required and given for the release of a person in the custody of the law, conditioned upon a written undertaking that the person will appear when required to do all other things stipulated therein.

2. **Classificational Levels:** The placement of offenders by a correctional system signifying differential care and handling of offenders by assigning a level of supervision according to the risk they may present to the community, the needs of the offender and the availability of resources in the community. This multi-dimensional process goes beyond management of the offenders for the convenience of the agency and involves determination of the degree of supervision necessary, as well as, the offenders resocialization requirements.

3. **Conditions of Bail Release:** A written listing of prescribed conditions which the offender agrees to follow while under pretrial supervision.

4. **Collateral Contact:** Communication by telephone with the offender or communication in a manner with another person having regular contact with the offender, such as local law enforcement official or treatment specialist.

5. **Issuing Authority:** Any public official having the power and authority of an alderman, justice of the peace, magistrate or district justice.

6. **Personal Contact:** Face-to-face contact with the offender, either in a formal office setting or in the community.

7. **Risk-Needs Assessment Instrument:** A predictive device intended to forecast offender propensity to commit

new offenses or recidivate and to determine specific characteristics of the offender that create a profile of the type and severity of specific offender needs.

**SECTION 12.3.4: Method of Supervision:** There shall be three (3) levels of classification established by the agency. Assignment criteria for each classification level shall be developed and documented in the offender case record to ensure conformity and equity to all offenders. The following classification levels shall be adopted by the department:

1. **Intensive Supervision Level and Contact Requirements:** The pretrial services officer shall maintain one (1) face-to-face contact and one (1) collateral contact weekly with the offender. Various reasons may exist for this classification level, which may include, but are not limited to the following:

a. The instant offense was a crime against a person of a violent or sexual nature.

b. The offender has a severe history of mental/emotional disorders or displays chronic alcohol or drug abuse.

c. The offender has an extensive history of delinquent and criminal behavior.

d. The offender is delinquent and not conforming to the prescribed conditions of bail release.

e. Officer impressions of the offender based on prior contacts, experience, training or professionalism.

2. **Close Supervision Level and Contact Requirements:** The pretrial services officer shall maintain one (1) face-to-face contact and one (1) collateral contact bi-weekly with the offender. Various reasons may exist for this classification level, which may include, but are not limited to the following:

a. The instant offense was against a person rather than property.

b. The offender has a moderate history of delinquent behavior.

c. The offender has a moderate history of mental/emotional disorders or alcohol/drug abuse.

d. The offender is delinquent and not conforming to the prescribed conditions of bail release.

e. Officer impressions of the offender based on prior contacts, experience, training or professionalism.

3. **Minimum Supervision Level and Contact Requirements:** The pretrial services officer shall maintain two (2) face-to-face contacts and two (2) collateral contacts

monthly with the offender. Various reasons may exist for this classification level, which may include, but are not limited to the following:

- a. The instant offense was against property rather than a person.
- b. The offender is a first-time adult offender with no prior history of delinquent or criminal behavior.
- c. The offender has no history of mental/emotional disorders or alcohol/drug abuse.
- d. The offender is conforming to the prescribed conditions of release.
- e. Officer impressions of the offender based on prior contacts, experience, training or professionalism.

*SECTION 12.3.5: Administrative Supervision Level—Contact and Minimum Requirements:* Generally, the assigned officer shall review the status of the offender monthly when classified as administrative. Various reasons may exist for this classification level, which may include, but are not limited to the following:

- a. The offender is incarcerated on other charges.
- b. Officer impressions of the offender based on prior contacts, experience, training or professionalism.
- c. When an offender resides outside the jurisdiction of the department and is not being supervised by another jurisdiction, then the following types of administrative reporting schedules shall be required:

1. *Mail-in Reporting:* An offender placed on this reporting schedule shall maintain weekly contact with the assigned officer using a mail-in form. The assigned officer shall provide the offender with a sufficient amount of forms upon placement on this type of reporting schedule (See Appendix F-1).

2. *Phone-in reporting:* An offender placed on this reporting schedule shall maintain weekly contact with the assigned officer.

*SECTION 12.3.6: Risk/Needs Assessment Instrument:* This instrument is easily administered by the officer and is utilized as a caseload management tool. This instrument allows the officer to identify the risk factor that the offender may pose in the community and the needs that the offender may require for a successful adjustment in the community. This procedure will allow the assigned officer to develop an effective supervision plan. Also, all offenders placed under the supervision of the department shall be administered a risk/needs assessment and the level of supervision will be determined by the scales adopted by the department (See Appendix F-2).

*SECTION 12.3.7: Classification Override:* Officers should be careful in completely relying on the predictive value of the risk/needs assessment instrument score. Officers should also consider their impressions of the client based on prior contacts, experience, training and professionalism before determining a final supervision level.

*SECTION 12.3.8: Authorization Signature:* Once the risk/needs assessment instrument is completed, the assigned officer shall submit all classification material to the Chief Adult Probation/Parole Officer for review and approval.

*SECTION 12.3.9: Documentation of Contacts:* All offender contacts and collateral contacts shall be recorded by the assigned officer in the officers field book utilizing the appropriate contact codes located at the top of the client contact sheet (See Appendix F-3).

*SECTION 12.3.10: Time Constraints:* All initial risk/needs assessments shall be completed at the time of initial intake.

*SECTION 12.3.11: Maintenance of Risk/Needs Assessment Forms:* All completed assessment forms shall be maintained in the offenders case folder.

*SECTION 12.3.12: Office Contacts:* It is recognized by the department that certain circumstances may exist that prevents an officer from maintaining face-to-face contacts with an offender in the field. Therefore, special provisions exist for officers to schedule offenders for office appointments on a random basis. However, the department discourages officers from frequently relying on this method of supervision to replace community based contacts.

*SECTION 12.3.13: Collateral Contacts—Law Enforcement Authorities:* The department mandates that officers maintain collateral contacts with local law enforcement authorities to enhance community supervision. This type of contact is an excellent source of information concerning the offender's adjustment in the community. The frequency of law enforcement collateral contacts shall be established based on the minimum requirements of the classification level assigned to the offender.

*SECTION 12.3.14: Initial Field Contact:* The initial contact with the offender shall take place at the offender's residence within ten (10) days of receipt of the case. The purpose of the initial field contact is to verify the residence, obtain a layout of the residence, verify all occupants of the residence, determine whether the possibility exists that weapons or illegal contraband could exist within the residence and determine whether the residence is a suitable environment for the offender's successful community adjustment.

*Topic:* Pretrial Services Program  
"Standard Conditions of Release"

*Chapter:* 12

*Section:* 4

*Pages:* 5

*Related Standards:* 2-3024; 2-3025, 2-3026 & 2-3027

*Effective Date:* 05-20-96

*SECTION 12.4.1: Purpose:* To set forth policy governing the issuance of both general and specific conditions of bail release for offenders referred to Carbon County Pretrial Services Program.

*SECTION 12.4.2: Applicability:* To the President Judge, Court Administration, the issuing authority, Magisterial Districts, the District Attorney's Office, the Public Defender's Office, the Clerk of Courts Office, the Chief Adult Probation/Parole Officer, the pretrial services officer and all offenders placed under pretrial supervision.

*SECTION 12.4.3: Definitions:* As utilized in this document, the following definitions shall apply:

1. *Bail:* The security required and given for the release of a person in the custody of the law, conditioned upon a written undertaking that the person will appear when required to do all other things stipulated therein.

2. *Conditions of Bail Release:* A written listing of prescribed conditions which the offender agrees to follow while under pretrial supervision.

3. *Issuing Authority:* Any public official having the power and authority of an alderman, justice of the peace, magistrate or district justice.

4. *Security*: Shall include cash, certified check, money order, personal check or guaranteed arrest bond or bail bond certificate.

*SECTION 12.4.4: Purpose of Imposing Conditions*: Conditions of bail shall serve three purposes:

1. To ensure the appearance of the offender as required by the bond.
2. To assist the offender during the pre-verdict phase.
3. To protect the safety and security of society.

*SECTION 12.4.5: Authority to Impose Conditions of Bail*: The issuing authority or court shall attach such reasonable conditions of bail, which are least restrictive in nature, in accordance with 42 Pa. Rules of Criminal Procedure, Rule 4013.

*SECTION 12.4.6: Conditions of Bail Release*: See Attachment.

*SECTION 12.4.7: Surety Responsibility Form*: The surety of the bail bond shall execute this form in the presence of the defendant and pretrial services officer (See attachment).

*SECTION 12.4.8: Initial Intake*: When an offender is referred to pretrial services, the following information and forms shall be obtained and completed:

1. Offender facesheet (See Appendix B-2).
2. Review conditions of bail.
3. Surety responsibilities form.
4. Risk/needs assessment.
5. Supervision plan.
6. Release of Information Form.
7. Take photograph of offender.
8. Provide all completed paperwork to adult probation aide.

CARBON COUNTY COURT OF COMMON PLEAS  
 ADULT PROBATION/PAROLE DEPARTMENT  
 PRETRIAL SERVICES PROGRAM  
 JIM THORPE, PENNSYLVANIA 18229  
 OFFICE: (717) 325-4226    EMERGENCY: (717) 325-9123  
 BUSINESS HOURS: 8:30 A.M. to 4:30 P.M.

*"CONDITIONS OF BAIL SUPERVISION"*

NAME: \_\_\_\_\_ CASE NUMBER(S): \_\_\_\_\_

In such judicial districts as may be provided by local rule of court, or in all judicial districts when the judge or issuing authority so orders, a sum of money not to exceed ten percent (10%) of the amount of bail set, has been posted on your behalf. Therefore, you have been referred to the Carbon County Pretrial Services Program effective \_\_\_\_\_. You will be under the supervision of the Carbon County Adult Probation/Parole Department, Pretrial Services Division, until such time as you are legally discharged by the court or until final disposition of your criminal proceedings. During this period of supervision, the department has the authority, in the event of any of the following violation(s) of the conditions of your bail release, to issue a warrant for your arrest and to return you to prison pending trial.

YOU SHALL BE SUBJECT TO THE FOLLOWING CONDITIONS:

1. You shall appear before the issuing authority or court at all times required until full and final disposition of the criminal proceedings.
2. You shall submit to all orders and processes of the issuing authority or court.
3. Your address of \_\_\_\_\_ is your approved residence. You must give written notice to your assigned pretrial services officer of any change of address within forty-eight (48) hours of the date of such change.
4. You shall report in person or writing and permit your pretrial services officer to visit you at your residence, place of employment or any other specified location.
5. You will refrain from the violation of all Municipal, County, State and Federal criminal statutes, as well as provisions of the Vehicle Code and the Liquor Code. You must notify your pretrial services officer of any arrest or citation within seventy-two (72) hours of occurrence.
6. You will abstain from the unlawful possession, or sale of, narcotics, drug paraphernalia and dangerous drugs, and abstain from the use of controlled substances within the meaning of the Controlled Substance, Drug, Device and Cosmetic Act, without a valid prescription. Also, you will submit to random urinalysis screening as requested by your pretrial services officer.
7. You will remain in the Commonwealth of Pennsylvania unless permission has been granted by your pretrial services officer prior to such travel.
8. You will report to any treatment agency recommended by the court, issuing authority or your pretrial services officer and follow all directives and recommendations made by the treatment facility.
9. You shall neither do, nor cause to be done, nor permit to be done on his or her behalf, any act proscribed by 18 Pa.C.S. § 4952 (relating to intimidation of witnesses or victims) or 18 Pa.C.S. § 4953 (relating to retaliation against witnesses or victims).
10. You shall comply with any specific requirement or special conditions of release which may be reasonably imposed by the issuing authority of court:

VIOLATION PROCESS

Upon a breach of a condition of bail, the issuing authority or court may declare the bond forfeited and make a record thereof. Upon such declaration, written notice of such forfeiture shall be given to the surety, or when there is no surety, such notice shall be provided to the defendant. Also, the issuing authority or court may issue an appropriate process or warrant for your arrest and remand you to prison pending final disposition of the criminal proceedings.

CLIENT GRIEVANCE PROCEDURE

A client grievance procedure has been developed to assist you if you believe you have a legitimate complaint concerning an administrative decision, action, policy or regulation of the department. If you believe that you have a valid complaint concerning your supervision while on bail, you must attempt to resolve the situation with your assigned officer. If your attempt to resolve the situation is unsuccessful, then you must submit a written request within ten (10) days to the Chief for review. Your complaint will be processed by the Chief Adult Probation/Parole Officer within ten (10) days of receipt. The Chief may rule on your complaint with or without the benefit of a formal hearing. If a hearing is held, it would be convenient to all parties involved. The decision of the Chief shall be final.

ACKNOWLEDGEMENT

I, hereby acknowledge that I have read, or have been read to me, the aforementioned conditions of my supervision. I fully understand all conditions of bail and agree to follow and comply with all directives of the department, the court, the issuing authority and my assigned officer. Finally, I fully understand the penalties and consequences involved should I, in any manner, violate the conditions of bail.

OFFENDER'S SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_
WITNESS: \_\_\_\_\_ DATE: \_\_\_\_\_
SURETY: \_\_\_\_\_ DATE: \_\_\_\_\_

CARBON COUNTY COURT OF COMMON PLEAS

Carbon County Adult Probation/Parole Department
P. O. Box 26
Jim Thorpe, Pennsylvania 18229
Business Hours: 8:30 A.M. to 4:30 P.M.
Telephone: (717) 325-4226 Fax: (717) 325-4250
Emergency: (717) 325-9123

John P. Lavelle, President Judge
Richard W. Webb, Judge
Ronald S. Kokinda, Chief Adult Probation Officer
Joseph Berke, Deputy Chief Adult Probation Officer

SURETY RESPONSIBILITIES

As surety on this bail bond, I have read and fully understand the following:

- 1. If the defendant fails to appear at any court hearing, I as surety can be held responsible and forfeit the full amount of bail set.
2. Certain conditions are placed on the defendant at the time of bail release. These conditions are mandatory and any violation could result in bail revocation. If bail is revoked by the appropriate authority, the defendant could be returned to prison and all bail money posted will be retained by the county.
3. I will report any change in the defendant's status, address, telephone number, employment or court hearings to the Carbon County Adult Probation/Parole Department immediately.
4. In the event that a defendant is in non-compliance status with the conditions of bail release, I understand that I cannot withdraw the defendant's bail. It is the responsibility of the Carbon County Adult Probation/Parole Department to petition the court for bail revocation.

Defendant's Signature \_\_\_\_\_ Date \_\_\_\_\_
Surety's Signature \_\_\_\_\_ Date \_\_\_\_\_
Witness's Signature \_\_\_\_\_ Date \_\_\_\_\_

Adult Probation/Parole Officers
Patrick Henry
Michael Degilio
E. Amy Ritz
Tammy Nothstein
Joanne Maurer, Adult Probation Aide

*Topic:* Pretrial Services Program "Violations, Initial Processing"

*Chapter:* 12

*Section:* 5

*Pages:* 5

*Related Standards:* 2-3024; 2-3025; 2-3026 & 2-3027

*Effective Date:* 05-20-96

**SECTION 12.5.1: Purpose:** To establish procedures for the initial processing for offender violations of the conditions of bail release.

**SECTION 12.5.2: Applicability:** To the President Judge, Court Administration, the issuing authority, Magisterial Districts, the Clerk of Courts Office, the Chief Adult Probation/Parole Officer, the District Attorney's Office, the Public Defender's Office, the pretrial services officer and all offenders placed under pretrial supervision.

**SECTION 12.5.3: Definitions:** As utilized in this document, the following definitions shall apply:

1. **Arrest:** The apprehension, legal custody, seizure or restraint of an offender by a law enforcement official.

2. **Detainer:** An internal administrative mechanism to assure that an inmate subject to an unexpired term of confinement will not be released from custody until the jurisdiction asserting violations of supervision has had an opportunity to act by taking the inmate into custody or by making a revocation determination.

3. **Major Violations:** Inappropriate behavior by the offender which does pose a serious threat to himself, others, property or the community.

4. **Minor Violations:** Inappropriate behavior by the offender which does not pose a serious threat to himself, others, property or the community.

5. **New Criminal Offense Violation:** A violation of the conditions of release, which violation is for a new criminal arrest or conviction.

6. **Technical Violation:** A violation of the conditions of release, which violation is other than a new criminal arrest or conviction.

**SECTION 12.5.4: Investigation of Technical Violations:** All technical violations of the prescribed conditions of supervision shall be immediately investigated by the assigned officer. All witnesses, victims, police officers or interested parties involved with the alleged violations shall be contacted and interviewed by the officer. All relevant documentation shall be obtained and recorded in the offender's case record.

**SECTION 12.5.5: Investigation of New Criminal Arrest:** See Section 12.5.4.

**SECTION 12.5.6: Levels of Review:** The department, the Court or issuing authority shall prescribe the levels of review and decision making process for violations of the conditions of release as follows:

1. **First Level:** At this level, when infrequent or isolated minor violations of supervision occur, then the following initial violation process shall be utilized:

a. **Verbal Reprimand:** The assigned field officer can resolve infrequent or isolated minor violations of supervision with direct consultation with the offender. All verbal

reprimands shall be documented in the offender case record.

2. **Second Level:** At this level, when continued minor violations of supervision occur or a major violation occurs, then the following violation process shall be utilized:

a. **Written Reprimand:** The assigned field officer can resolve repeated minor violations or a major violation of supervision with direct consultation with the offender through a written violation report (See Appendix G-2). All violation reports shall be placed in the offender case record with a copy provided to the offender.

3. **Third Level:** At this level, when frequent and repeated minor violations or major violations of supervision occur, then the following violation process shall be utilized:

a. **Administrative Conference:** Frequent and repeated minor or major violations of supervision shall result with direct consultation with the Chief Adult Probation/Parole Officer, the assigned officer and the offender (See Appendix G-1). The original administrative conference report shall be retained in the offender's case record with a copy furnished to the offender.

4. **Fourth Level:** At this level, when frequent and repeated minor or major violations of supervision occur, and the offender has not conformed to the conditions of release and has not made an adequate adjustment in the community, then the following violation process shall be utilized:

a. **Revocation Petition:** Repeated violations of supervision for minor or major violations will result in the filing of a revocation petition with the Clerk of Courts Office or appropriate Magisterial District (See Attachment).

**SECTION 12.5.7: Progression of Review:** Generally, progressive levels of review shall not be required in situations where the offender's actions or violations of supervision pose a serious threat to himself, property, others or the community.

**SECTION 12.5.8: Minor Violations of Supervision:** The following is a list of minor violations of supervision:

1. Failure to report to the assigned pretrial services officer as directed.

2. Change of residence without knowledge of the pretrial services officer.

3. New arrest for a summary offense.

4. Leaving the Commonwealth of Pennsylvania.

5. Failure to report to a treatment agency for counseling or urine testing.

6. Any other violation which does not pose a serious threat to the offender, property, others or the community.

**SECTION 12.5.9: Major Violations of Supervision:** The following is a list of major violations of supervision:

1. New arrest for Misdemeanor or Felony offenses.

2. Possession of controlled substances or drug paraphernalia.

3. Positive urine screen.

4. Failure to appear for court scheduled hearing.

5. Alcohol possession or consumption, when applicable.

6. Intimidation or retaliation against witnesses or victims.

- 7. Any other violation which poses a serious threat to the offender, property, others or the community.
- 8. Violation of any specific condition imposed on the offender by the court or issuing authority.
- 9. Relocating from the approved residence and the offender is considered an absconder.
- 10. Repeated minor and major violations.

*SECTION 12.5.10: Officer Recommendations:* Officers completing and presenting written violation reports to the Chief Adult Probation/Parole Officer, shall include appropriate recommendations for corrective action or case disposition.

*SECTION 12.5.11: Annual Review:* The Court and the department shall conduct an annual assessment of all categorized violations of supervision.

IN THE COURT OF COMMON PLEAS CARBON COUNTY, PENNSYLVANIA

CRIMINAL

COMMONWEALTH OF PENNSYLVANIA :  
 VS. : NO(S):  
 : CHARGES

PETITION FOR REVOCATION OF BAIL

TO THE HONORABLE: \_\_\_\_\_

The petition of \_\_\_\_\_, of the CARBON COUNTY ADULT PROBATION/PAROLE DEPARTMENT respectfully represents as follows:

- 1. That said defendant was afforded bail by Judge \_\_\_\_\_ as follows:  
 Date: \_\_\_\_\_ Offense: \_\_\_\_\_ Bail Amount: \_\_\_\_\_
- 2. That said defendant was placed on pretrial service supervision on:
- 3. That said defendant has violated the conditions of supervision in the following respects:

*WHEREFORE*, the Carbon County Adult Probation/Parole Department respectfully requests your Honorable Court to direct the issuance of a Bench Warrant for the apprehension of said defendant and set a hearing on this petition and that the accused be required to answer to the above mentioned violations.

The averments of this Petition are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsifications to authorities).

\_\_\_\_\_  
 Adult Probation Officer                      Date                      Supervisor

ORDER OF COURT

*NOW*, this \_\_\_\_\_, 19 \_\_\_\_\_, upon consideration of the foregoing petition, *IT IS HEREBY ORDERED AND DECREED* as follows:

- 1. The CLERK OF COURTS is directed to issue a Bench Warrant for the defendant named in the foregoing petition.
- 2. The Probation Office, Sheriff, and/or proper legal authority is directed to apprehend the said defendant and commit him/her to the Carbon County Prison pending a revocation hearing.
- 3. A copy of the attached petition and Order of Court shall be served upon the defendant and copies shall be provided to the defendant's attorney of record, the District Attorney of Carbon County and the adult probation/parole department.
- 4. A revocation hearing shall be held in Courtroom # \_\_\_\_\_, Carbon County Courthouse, Jim Thorpe, Pennsylvania, on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_ @ \_\_\_\_\_ a.m./p.m. Failure to attend said hearing may result in the issuance of bench warrant for your apprehension.

BY THE COURT:  
 \_\_\_\_\_

*Topic:* Pretrial Services Program "Purpose & Submission of Bail Reports"

*Chapter:* 12

*Section:* 6

*Pages:* 2

*Related Standards:* 2-3024; 2-3025; 2-3026 & 2-3027

*Effective Date:* 05-20-96

*SECTION 12.6.1: Purpose:* To set forth policy and procedure governing the purpose and requirements for the completion, dissemination and submission of the bail report to the appropriate issuing authority or court of jurisdiction.

*SECTION 12.6.2: Applicability:* To the President Judge, Court Administration, the issuing authority, Magisterial Districts, the Chief Adult Probation/Parole Officer, the Clerk of Courts Office, the District Attorney's Office, the Public Defender's Office, the pretrial services officer and all arrestees considered for the Carbon County Pretrial Services Program.

*SECTION 12.6.3: Definitions:* As utilized in this document, the following definitions shall apply:

1. *Bail:* The security required and given for the release of a person in the custody of the law, conditioned upon a written undertaking that the person will appear when required to do all other things stipulated therein.

2. *Bail Report:* A concise document provided to the issuing authority that includes socioeconomic data, prior criminal record, demographic data and other background information on the defendant.

3. *Issuing Authority:* Any public official having the power and authority of an alderman, justice of the peace, magistrate or district justice.

*SECTION 12.6.4: Primary Purpose:* The primary purpose of the bail report is:

1. To provide the issuing authority or court with timely relevant and accurate information concerning the offender.

2. To collect information necessary for making a bail determination.

*SECTION 12.6.5: Time-Tables for Completion:* The pretrial services officer shall conduct a timely interview with the defendant at the earliest time possible after the arrest and commitment to prison. Ideally, the officer should conduct the initial interview within twenty-four (24) hours of detention on weekdays and seventy-two (72) hours of detention on weekends.

*SECTION 12.6.6: Universal Screening:* Except in those cases where the court has no jurisdiction to effect release, all defendants in custody shall be interviewed, regardless of the nature of the instant offense.

*SECTION 12.6.7: Agency Resources and Assignment of Reports:* The agency has created a specialized unit that processes and completes all bail reports through the pretrial services division. The Chief shall assign all bail reports to the pretrial services officer. However, whenever time constraints prohibit, or resources are limited, the Chief or other staff personnel may assist in the preparation of these reports. Also, universal screening practices may be adjusted to maximize the impact of pretrial intervention when workloads may prohibit such screening procedures.

*SECTION 12.6.8: Review of the Report:* Prior to submission of the report to the appropriate issuing authority, the Chief shall review all bail reports for investigative conduct, report preparation, content and accuracy.

*Topic:* Pretrial Services Program "Collection of Information"

*Chapter:* 12

*Section:* 7

*Pages:* 2

*Related Standards:* 2-3024; 2-3025; 2-3026 & 2-3027

*Effective Date:* 05-20-96

*SECTION 12.7.1: Purpose:* To set forth policy and procedure governing the content and preparation of the bail report.

*SECTION 12.7.2: Applicability:* To the President Judge, Court Administration, the issuing authority, Magisterial Districts, the Chief Adult Probation/Parole Officer, the Clerk of Courts Office, the District Attorney's Office, the Public Defender's Office, the pretrial services officer and all arrestees considered for the Carbon County Pretrial Services Program.

*SECTION 12.7.3: Definitions:* As utilized in this document, the following definitions shall apply:

1. *Bail:* The security required and given for the release of a person in the custody of the law, conditioned upon a written undertaking that the person will appear when required to do all other things stipulated therein.

2. *Bail Report:* A concise document provided to the issuing authority that includes socioeconomic data, prior criminal record, demographic data and other background information on the defendant.

3. *Issuing Authority:* Any public official having the power and authority of an alderman, justice of the peace, magistrate or district justice.

*SECTION 12.7.4: Initial Interview:* The pretrial services officer shall conduct a structured, face-to-face interview with each defendant and shall include the following topics:

1. Criminal history information
2. Employment information
3. Marital information
4. Financial information
5. Medical/Health information
6. Military information
7. Educational information
8. Identifying information

*SECTION 12.7.5: Questions Concerning the Alleged Incident:* Under no circumstances shall any questions be directed concerning the alleged instant offense.

*Topic:* Pretrial Services Program "Bail Report: Format, Conduct & Content"

*Chapter:* 12

*Section:* 8

*Pages:* 10

*Related Standards:* 2-3024; 2-3025; 2-3026 & 2-3027

*SECTION 12.8.1: Purpose:* To set forth policy and procedure governing the content and conduct of the bail report.

*SECTION 12.8.2: Applicability:* To the President Judge, Court Administration, the issuing authority, Magisterial Districts, the Chief Adult Probation/Parole Officer, the Clerk of Courts Office, the District Attorney's Office, the Public Defender's Office, the pretrial services officer and all arrestees considered for the Carbon County Pretrial Services Program.

*SECTION 12.8.3: Definitions:* As utilized in this document, the following definitions shall apply:

1. *Bail:* The security required and given for the release of a person in the custody of the law, conditioned upon a written undertaking that the person will appear when required to do all things stipulated therein.

2. *Bail Report:* A concise document provided to the issuing authority that includes socioeconomic data, prior criminal record, demographic data and other background information on the defendant.

3. *Issuing Authority:* Any public official having the power and authority of an alderman, justice of the peace, magistrate or district justice.

4. *Training:* Which includes such activities as management seminars, meetings with probation and parole field staff regarding departmental services, workshops on the use of management information and instruction in the use of research and evaluation data.

*SECTION 12.8.4: Training:* The Chief shall determine appropriate levels of training in the preparation of investigative reports, which shall include specialized training involving interviewing skills and techniques or report writing.

*SECTION 12.8.5: Interview of the Defendant:* The pre-trial services officer shall interview the defendant in accordance with Section 12.7.5. The writer of the report must plan the interview before it actually begins. This approach will make the interview more effective, efficient and structured, which should reduce the risk of requiring an additional interview. Before the interview begins, the investigator should inform the defendant of the nature and purpose of the interview and the report. During the interview, the investigator should develop an interview sequence, which would make the offender more willing to communicate. The sequence should be a statement that introduces the topic, questions that elicit the information and probes that clarify or elaborate on the information obtained from the question. All information obtained from the defendant shall be recorded by the investigator.

*SECTION 12.8.6: Content of the Bail Report:* The following information shall be gathered and included in the body of the bail report:

1. *Identifying Information:*

- a. Date of report
- b. Name, Aliases and address of defendant
- c. Age and date of birth
- d. Sex
- e. Race and Citizenship
- f. Education
- g. Marital status
- h. Social Security Number
- i. FBI and SID Numbers
- j. Docket Number
- k. Criminal Offenses, Gradation, Statutory Citation

- l. Custody Status
- m. Name of issuing authority
- o. Offense, Arrest and Commitment Dates
- p. Bail Information
- q. Detainers or other pending charges
- r. Co-defendants
- s. Height, Weight, Eye Color, Hair Color, Marks, Scars or Tattoos
- t. Prior record history

2. *Criminal History:*

a. All prior juvenile arrests or adult arrests shall be verified in writing. Exceptions shall be permitted for telephonic verification when time constraints prohibit the acquisition of written documentation.

b. Obtain criminal records from rap sheets from state and federal repositories, District Attorney's File, Clerk of Courts Office, other probation offices, local police departments, local magistrates, previous presentence reports, internal management information systems.

c. Juvenile court history (including offense date, place, offense, disposition date, sentence date and disposition).

d. List of previous adult convictions (including offense date, place, offense, disposition date, sentence date and disposition).

e. List of arrests subsequent to instant offense (including offense date, place, offense, disposition date, sentence date and disposition).

f. Military arrests (including offense date, place, offense, disposition date, sentence date and disposition).

g. Previous probation and parole history.

h. Detainers presently lodged against the defendant.

3. *Family History:*

a. Name, address, age and telephone number of biological parents or step-parents.

b. Name, address, age and telephone number of all siblings or step-siblings.

c. Early developmental influences, such as physical, mental or sexual abuse which may have a significant impact on the defendant's present behavior or personality.

d. Attitudes of the defendant towards his relationship with his family, including discipline, affection or rejection.

e. Whom defendant was reared, if other than parents.

f. Age left home, reasons for leaving, history of trancies, involvement by Children and Youth Services, placement to foster care.

g. Alcohol, drug or mental health issues with the family.

h. Criminal activity by family members.

i. Relationships with all family members.

j. Extent of family solidarity.

k. Interview with key family members concerning the defendant's formative years.

l. Other significant information provided by the defendant.

#### 4. *Marital Status:*

- a. Present marital status, including common law (include date, place, name, address, age, and telephone number of spouse or paramour).
- b. List name, age, address, occupation of all children with the name of the biological parent.
- c. Home atmosphere.
- d. Previous marriages (including date, place, name of previous spouse). If divorced, cite reasons for the separation.
- e. Domestic violence history, including the filing of a protection from abuse order.
- f. Alcohol or drug issues with spouse or children.
- g. Mental health issues with spouse or children.
- h. Criminal activity with spouse or children.
- i. Interview with spouse or adult children.
- j. Other significant information provided by the defendant.

#### 5. *Home and Neighborhood:*

- a. Description of home or residence.
- b. List all prior residences, length of residency and with whom the defendant resides.
- c. Other significant information provided by the defendant.

#### 6. *Health:*

- a. Defendant's general medical condition or health problems, current or previous.
- b. If the defendant acknowledges that he is HIV positive, the investigator shall execute a release of information form to obtain medical records in order to disclose such information in the bail report. Including information on an offender's HIV status in the report does not offend any of an offender's constitutional rights, for the Federal Court has held that the sentencing judge has a compelling need for such information and that the court's need outweighs the offender's privacy concerns (See *Faison v. Parker*, 823 F.Supp. 1202—1203).
- c. Drug and alcohol related history (including frequency of use; age when first started experimentation; prior treatment; under the influence during the commission of the offense; prior criminal activity related to drug/alcohol problems). The investigator shall execute a release of information form to obtain all treatment records on the defendant and attach all relevant information in the bail report.
- d. Mental Health related history (including social adjustment; prior mental health treatment). The investigator shall execute a release of information form to obtain all treatment records on the defendant and attach all relevant information to the bail report.
- e. Assaultive Conduct (including any prior convictions or arrests for assaultive behavior, impressions of the investigator as to the risk the offender poses to the community).
- f. Sexual Conduct (including any prior convictions or arrests for sexual assaultive behavior, impressions of the investigator as to the risk the offender poses to the community).
- g. Other significant information provided by the defendant.

#### 7. *Employment:*

- a. List current and prior employers (including name, address, wages, date, reason for leaving).
- b. Interview current or previous employers for attendance, reliability, attitude (optional).
- c. List all skills, interests and abilities.
- d. List attendance at vocational or technical schools, certificates.
- e. List other sources of income (including disability, retirement, public assistance).
- f. Investigator's assessment of the defendant's work ethic.
- g. Other significant information provided by the defendant.

#### 8. *Education:*

- a. Highest grade achieved.
- b. Post high school education.
- c. Age left school and reason.
- d. Results of psychological tests (IQ, aptitude, achievement), if available.
- e. Other significant information provided by the defendant.

#### 9. *Military Record:*

- a. Branch of military service, serial number and dates of enlistment and discharge.
- b. Highest grade or rank achieved.
- c. Type of discharge.
- d. Other significant information provided by the defendant.

#### 10. *Financial Status:*

- a. Assets: Statement of financial assets and general standard of living (Houses, vehicles, property, accounts, investments, etc.).
- b. Financial obligations (Including mortgage, household expenses, child support, court costs).
- c. Execution of Authorization to Disclose Confidential Tax Information Form (See Appendix E-1).
- d. Other significant information provided by the defendant.

#### 11. *Sources of Information:*

- a. Cite all sources of information.

#### 12. *Signature Page:*

- a. Signature of investigator and date.
- b. Signature of approval by Chief Adult Probation/Parole Officer and date.

**SECTION 12.8.7. Report Formats:** All information shall be prepared using report formats adopted by the court and the agency.

**1. Bail Report Format:** This format focuses on a topic outline and prepared in a narrative form outlining key factors (See attachment).

**SECTION 12.8.8. Report Writing:** The report shall be prepared in a clear, thorough and concise manner, writing in the active voice. The investigator shall distinctly label

what are opinions, conclusions and facts and cite and identify the source, with all information being verified. The investigator shall use wording that everyone understands and describe people, things and events in operational terms.

SECTION 12.8.9: Uncooperative Defendant: During the interview phase, if a defendant fails to cooperate with the investigator, then the investigator shall notify the issuing authority that the defendant has failed to cooperate during the interview process.

SECTION 12.8.10: Verification of Information: The defendant shall be informed that the interview is designed to obtain information concerning bail consideration and that all information gathered will be verified. At a minimum, the investigator shall verify:

1. Criminal History
2. Address
3. Length of time in the community
4. Family ties to the area
5. Employment or schooling

SECTION 12.8.11: Third Party Verification: Information verification may be achieved through the interview of third party contacts, such as, relatives or friends, but may also require direct contact with employers, schools or other primary sources.

SECTION 12.8.12: Unverified Information: The interviewer shall respect the wishes of a defendant not to contact certain potential verification sources, such as employers or schools, for this may jeopardize the defendant's employment status.

SECTION 12.8.13: Purpose of Verification: The rationale for verification is based on the following:

1. It allows the interviewer an opportunity to confirm the accuracy of the information gathered.
2. It may serve as a notification to family or friends of the arrest.
3. It may provide useful information to the court concerning serious health problems or drug/alcohol dependency problems that may require immediate attention by the court of prison personnel.
4. It adds credibility to the interview information.

SECTION 12.8.14: Objectivity: The investigator shall remain objective when preparing the report. The writer shall avoid and eliminate previous experiences, stereotypes, prejudices and biases when completing the report.

SECTION 12.8.15: Documentation: During the investigative phase, the investigator shall document all work and maintain accurate records.

SECTION 12.8.16: Inappropriate Information: The interview process shall not include any questions or discussions concerning the alleged incident. Such questions may impede the program's ability to conduct impartial inquiry. All incriminating statements made by the defendant shall be removed from the body of the bail report.

SECTION 12.8.17: Magistrate's Information Sheet: When an offender is arraigned, general information is obtained by the issuing authority using an informational form. This form shall be obtained by the pretrial services officer, which can be used during the preparation of the bail report (See attachment).

Bail Information Sheet

Name: \_\_\_\_\_ Aliases: \_\_\_\_\_ Date: \_\_\_\_\_

Age: \_\_\_\_\_ Date of Birth: \_\_\_\_\_ SS#: \_\_\_\_\_ OTN #(S): \_\_\_\_\_

1. Current Physical and Mailing Address: \_\_\_\_\_
2. Do you own your home?    Yes    No    If yes, list monthly mortgage: \_\_\_\_\_
3. Do you rent your home?    Yes    No    If yes, list monthly rent: \_\_\_\_\_
4. Do you have any other significant monthly expenses, please list? \_\_\_\_\_
5. Telephone Number: \_\_\_\_\_    6. How long have you resided at this residence? \_\_\_\_\_
7. Do you have any other family members who reside in the area and who do not live at your address?    Yes    No  
If yes, please list name, address and telephone number? \_\_\_\_\_
8. List all previous addresses with length resided at: \_\_\_\_\_
9. List current employer, phone number and supervisor: \_\_\_\_\_
10. Marital Status: \_\_\_\_\_    11. If married, list name, age & address: \_\_\_\_\_
12. List names of all children, age and address: \_\_\_\_\_
13. List any medical conditions: \_\_\_\_\_
14. List any prescribed medication: \_\_\_\_\_
15. Are you currently under the influence of alcohol or illegal substances?    Yes    No
16. Are you currently receiving treatment for alcohol or drug abuse problems?    Yes    No
17. Have you recently used any illegal substances? Your honesty is important, for if you are referred to the pretrial services program for supervision, you will be required to submit to periodic urine testing?    Yes    No

If answered yes, please list the substances recently used: \_\_\_\_\_

Prior Criminal History: Juvenile Record and Adult Record

List of Charges

Location: List County/City/State

List Year and Disposition

- 18. Are you currently on probation, parole, ARD or intermediate punishment supervision?      Yes    No
- 19. If you answered yes, indicate in what county or jurisdiction? \_\_\_\_\_
- 20. Are you currently on bail for pending criminal charges in this county or any other jurisdiction?      Yes    No  
If you answered yes, indicate in what county or jurisdiction? \_\_\_\_\_
- 21. Were you ever placed on bail status before this current offense?      Yes    No  
If yes, when and where? \_\_\_\_\_
- 22. Have you ever had a warrant issued for your arrest for failure to appear for a court appearance?      Yes    No  
If yes, when and where? \_\_\_\_\_
- 23. Have you ever been charged with escape?      Yes    No      If yes, when and where? \_\_\_\_\_
- 24. Have you ever been a fugitive from justice?      Yes    No      If yes, when and where? \_\_\_\_\_

*Topic:* Pretrial Services Program  
"Submission, Confidentiality & Disclosure of the Bail Report"

*Chapter:* 12

*Section:* 9

*Pages:* 2

*Related Standards:* 2-3024; 2-3025; 2-3026 & 2-3027

*Effective Date:* 05-20-96

*SECTION 12.9.1: Purpose:* To set forth policy and procedure governing the submission, confidentiality and disclosure of the bail report.

*SECTION 12.9.2: Applicability:* To the President Judge, Court Administration, the issuing authority, Magisterial Districts, the Chief Adult Probation/Parole Officer, the Clerk of Courts Office, the District Attorney's Office, the Public Defender's Office, the pretrial services officer and all arrestees considered for the Carbon County Pretrial Services Program.

*SECTION 12.9.3: Definitions:* As utilized in this document, the following definitions shall apply:

1. *Bail:* The security required and given for the release of a person in the custody of the law, conditioned upon a written undertaking that the person will appear when required to do all other things stipulated therein.

2. *Bail Report:* A concise document provided to the issuing authority that includes socioeconomic data, prior criminal record, demographic data and other background information on the defendant.

3. *Issuing Authority:* Any public official having the power and authority of an alderman, justice of the peace, magistrate or district justice.

4. *Training:* Which includes such activities as management seminars, meetings with probation and parole field staff regarding departmental services, workshops on the use of management information and instruction in the use of research and evaluation data.

*SECTION 12.9.4: Submission of the Report:* The completed bail report shall be submitted to the following parties in advance of the scheduled hearing:

1. The issuing authority
2. The District Attorney's Office.
3. Defense Counsel or defendant, if unrepresented.

*SECTION 12.9.5: Disclosure of the Report:* All bail reports and related psychiatric and psychological reports shall be declared confidential and not of public record.

*SECTION 12.9.6: Confidentiality During the Investigative Process:* The issue of confidentiality shall extend beyond the courtroom and shall permeate the entire investigative process. From initial receipt, to final disposition, the investigator shall take the necessary safeguards to ensure that the process shall remain confidential and that no information shall be disclosed, unless in accordance with this policy section.

*SECTION 12.9.7: Disclosure to Other Interested Parties:* The bail report may be disclosed to the following parties:

1. Other service programs, provided the defendant has signed a release of information form indicating such disclosure.
2. Law enforcement officials attempting to serve process for failure to appear.
3. The sentencing court, when used in replace of the presentence report.

*Topic:* Pretrial Services Program  
"Criminal History Record Information Compilation & Verification"

*Chapter:* 12

*Section:* 10

*Pages:* 5

*Related Standards:* 2-3024; 2-3025; 2-3026 & 2-3027

*Effective Date:* 05-20-96

*SECTION 12.10.1: Purpose:* To set forth policy and procedure governing the compilation, collection, verification and dissemination of criminal history record information.

**SECTION 12.10.2: Applicability:** To the President Judge, Court Administration, the issuing authority, Magisterial Districts, the Chief Adult Probation/Parole Officer, the Clerk of Courts Office, the District Attorney's Office, the Public Defender's Office, the pretrial services officer and all arrestees considered for the Carbon County Pretrial Services Program.

**SECTION 12.10.3: Definitions:** As utilized in this document, the following definitions shall apply:

1. **Bail:** The security required and given for the release of a person in the custody of the law, conditioned upon a written undertaking that the person will appear when required to do all other things stipulated therein.

2. **Bail Report:** A concise document provided to the issuing authority that includes socioeconomic data, prior criminal record, demographic data and other background information on the defendant.

3. **Central Repository:** The central location for the collection, compilation, maintenance and dissemination of criminal history record information.

4. **Commonwealth Law Enforcement Assistance Network (CLEAN):** A computer system maintained by the Pennsylvania State Police to store information on offenses throughout the Commonwealth.

5. **Criminal History Record Information:** Information collected by criminal justice agencies concerning individuals, and arising from the initiation of a criminal proceeding.

6. **Criminal Justice Agency:** Any court, including the minor judiciary, with criminal jurisdiction or any other governmental agency, or subunit thereof, created by statute or by the State or Federal constitutions, specifically authorized to perform as its principal function the administration of criminal justice, and which allocates a substantial portion of its annual budget to such function.

7. **Disposition:** Information indicating that criminal proceedings have been concluded.

8. **Dissemination:** The oral or written transmission or disclosure of criminal history record information to individuals or agencies other than the criminal justice agency which maintains the information.

9. **Issuing Authority:** Any public official having the power and authority of an alderman, justice of the peace, magistrate or district justice.

10. **National Crime Information Center (NCIC):** A computerized system run by the Federal Bureau of Investigation in order to track offenses throughout the United States.

11. **Originating Agency Identifier (ORI):** A number given to each agency by the Pennsylvania State Police in order to track those agencies submitting information to the central repository.

12. **Offense Tracing Number (OTN):** A number given by a court to each specific case.

13. **Training:** Which includes such activities as management seminars, meetings with probation and parole field staff regarding departmental services, workshops on the use of management information and instruction in the use of research and evaluation data.

**SECTION 12.10.4: Criminal Justice Agencies:** The Carbon County Adult Probation/Parole Department is recognized as a criminal justice agency in the Commonwealth of Pennsylvania (See 18 Pa.C.S. § 9102).

**SECTION 12.10.5: Criminal History Records Information Security, Access and Training:** All criminal history record information compiled on a criminal defendant shall be stored in the appropriate offender case folder. All offender case folders shall be stored in a secure area within the department, such as, locked lateral filed cabinets. All agency personnel shall have access to this information and shall receive appropriate levels of training concerning this policy statement.

**SECTION 12.10.6: Right of Access and Review:** Any individual or his legal representative has the right to review, challenge, correct and appeal the accuracy and completeness of his criminal history record information. Any individual or legal representative requesting to review his or her criminal history record information shall submit proper identification to the department for the review. Any individual or legal representative that challenges the accuracy of the criminal history record information must specify which portion of the record is incorrect and specify what the corrected version should be. The burden is on the defendant to prove any inaccuracies. The appellate courts have rules "... information concerning prior convictions in the report is presumed to be valid, which presumption can only be rebutted by the defense, and need not be supported by evidence from the Commonwealth unless and until a challenge is voiced" [See 18 Pa.C.S. § 9151 and *Commonwealth v. Charles*, 339 Pa. Super. 284, 296, 488 A.2d 1126, 1132 (1985)]. The agency shall provide any individual or his legal representative with any documentation supporting the offender's criminal history record information.

**SECTION 12.10.7: Compiling Criminal History Record Information:** Whenever the pretrial services officer initiates an investigation into the offender's criminal background, the investigator shall:

1. Obtain a FBI and Pennsylvania criminal rap sheet (through NCIC and CLEAN) from the Carbon County Communications Center by providing the agency with the department's ORI number, which can be obtained from the Chief Adult Probation/Parole Officer. The investigator shall provide the communications center with the following information on the defendant:

- a. Offender's last, first and middle name, if available.
- b. Date of Birth.
- c. Social Security Number.

2. Review the District Attorney's Office file on the offender for possible criminal history record information.

3. Review the department's management information systems for possible criminal history record information contained in an offender's case folder.

4. Review juvenile court records.

5. Interview the defendant concerning any prior juvenile or adult arrests, convictions or adjudications.

**SECTION 12.10.8: Juvenile Record:** Whenever the investigator initiates an investigation into the calculation of the offender's criminal background, the investigator shall:

1. Review local juvenile court records.

2. If the offender discloses a juvenile record in another jurisdiction, then the investigator shall execute a Release of Information Form and submit the form to the appropriate jurisdiction for juvenile arrest records.

3. Interview the defendant concerning any prior juvenile or adult arrests, convictions or adjudications.

*SECTION 12.10.9: Verification of Criminal History Record Information:* The investigator shall obtain and verify all prior adult criminal convictions and juvenile arrests/adjudications, when time constraints permit, as follows:

1. Obtain written documentation from the jurisdiction requesting the following information:

- a. Arresting agency and location
- b. Date of the offense
- c. Criminal charges with gradation and OTN number
- d. Date of disposition (e.g. guilty plea, found guilty)
- e. Date of sentence and disposition type (probation, incarceration)
- f. Order of Court (guilty plea, sentencing)
- g. Previous presentence investigations

2. The department recognizes, that in some instances, time constraints will prohibit the acquisition of written documentation, therefore, the presentence investigator can verify the above mentioned information using telephonic measures.

3. Facsimile transmissions of documentation are acceptable.

*SECTION 12.10.10: Incomplete Prior Records:* The investigator shall not record and utilize any criminal history record information that cannot be verified through written or oral methods, unless the defendant discloses such information and does not contest the accuracy of the record.

*SECTION 12.10.11: Dissemination of Criminal History Record Information to Non-Criminal Justice Agencies:* All inquiries from non-criminal justice agencies shall be referred to the Carbon County Clerk of Courts Office.

*SECTION 12.10.12: Training:* The Chief Adult Probation/Parole Officer shall provide appropriate levels of training concerning this policy section.

*Topic:* Pretrial Services Program  
"Notice to Appear and Monitoring"

*Chapter:* 12

*Section:* 11

*Pages:* 2

*Related Standards:* 2-3024; 2-3025; 2-3026 & 2-3027

*Effective Date:* 05-20-96

*SECTION 12.11.1: Purpose:* To establish a procedure whereby defendants released to the program will be provided notification to appear for scheduled hearings.

*SECTION 12.11.2: Applicability:* To the President Judge, Court Administration, the issuing authority, Magisterial Districts, the Chief Adult Probation/Parole Officer, the Clerk of Courts Office, the District Attorney's Office, the Public Defender's Office, the pretrial services officer and all arrestees considered for the Carbon County Pretrial Services Program.

*SECTION 12.11.3: Definitions:* As utilized in this document, the following definitions shall apply:

1. *Bail:* The security required and given for the release of a person in the custody of the law, conditioned upon a written undertaking that the person will appear when required to do all other things stipulated therein.

2. *Issuing Authority:* Any public official having the power and authority of an alderman, justice of the peace, magistrate or district justice.

*SECTION 12.11.4: Notice to Appear and Monitoring:* Defendants shall be provided written notification by the issuing authority for all scheduled hearings. The pretrial services officer shall inform all program participants of all scheduled hearings at the time of initial intake interview. During the course of pretrial supervision, the assigned officer shall continue to monitor court scheduled hearings and provide appropriate levels of notification to the defendant for appearance.

*SECTION 12.11.5: Monitoring Court Appearance Rates:* In order to determine the effectiveness of the pretrial service program, the Chief Adult Probation/Parole Officer shall monitor and gather information concerning court appearance rates for all program participants.

*Topic:* Pretrial Services Program  
"Nominal Bail and Minimum Requirements"

*Chapter:* 12

*Section:* 12

*Pages:* 1

*Related Standards:* 2-3024; 2-3025; 2-3026 & 2-3027

*Effective Date:* 05-20-96

*SECTION 12.12.1: Purpose:* To establish minimum standards for pretrial arrestees afforded nominal bail for inclusion in the program.

*SECTION 12.12.2: Applicability:* To the President Judge, Court Administration, the issuing authority, Magisterial Districts, the Chief Adult Probation/Parole Officer, the Clerk of Courts Office, the District Attorney's Office, the Public Defender's Office, the pretrial services officer and all arrestees considered for the Carbon County Pretrial Services Program.

*SECTION 12.12.3: Definitions:* As utilized in this document, the following definitions shall apply:

1. *Bail:* The security required and given for the release of a person in the custody of the law, conditioned upon a written undertaking that the person will appear when required to do all other things stipulated therein.

2. *Issuing Authority:* Any public official having the power and authority of an alderman, justice of the peace, magistrate or district justice.

*SECTION 12.12.4: Minimum Bail Amount Requirements:* Whenever the issuing authority establishes nominal bail, the following minimum bail amount shall be used to determine participation in the Carbon County Pretrial Services Program.

1. *Minimum Bail Amount Requirement:* Whenever an offender is afforded bail in the sum of \$2,500.00 or less (\$250.00/cash percentage or less), then the offender will not be considered for pretrial service intervention.

*Topic:* Pretrial Services Program  
"Offender Case Records"

*Chapter:* 12

*Section:* 13

*Pages:* 3

*Related Standards:* 2-3024; 2-3025; 2-3026 & 2-3027

*Effective Date:* 05-20-96

*SECTION 12.13.1: Purpose:* To establish a procedure for the development and maintenance of offender case records.

*SECTION 12.13.2: Applicability:* To the President Judge, Court Administration, the issuing authority, Magisterial Districts, the Chief Adult Probation/Parole Officer, the Clerk of Courts Office, the District Attorney's Office, the Public Defender's Office, the pretrial services officer, the adult probation aide and all arrestees considered for the Carbon County Pretrial Services Program.

*SECTION 12.13.3: Definitions:* As utilized in this document, the following definitions shall apply:

1. *Bail:* The security required and given for the release of a person in the custody of the law, conditioned upon a written undertaking that the person will appear when required to do all other things stipulated therein.

2. *Issuing Authority:* Any public official having the power and authority of an alderman, justice

*SECTION 12.13.4: Offender Case Record Information:* Once the paperwork is received by the adult probation aide, the following case record information shall be prepared and completed for filing and distribution.

1. *Offender Face Sheet:* All sections of the offender face sheet shall be completed and distributed to the pretrial services officer, with the photograph attached to the bottom of the face sheet.

2. *Case Record Folders:* All case record folders opened by the department shall be assigned an identification file number. This number shall be created based on a numerical catalog system. The adult probation aide shall maintain a record of the assigned case record folder numbers for easy identification and retention. All active folders shall be placed in the active file cabinets in alphabetical order.

3. *Case Record Folder Labels:* Colored coded labels will be attached to every folder. The label information shall include the offender's name and the assigned identification file number. The offender's name shall be typed on the label, last name first, followed by the identification file number. Colors assigned to the case record folders are as follows:

- |                             |              |
|-----------------------------|--------------|
| a. ARD Offenders:           | Pink label   |
| b. Parole Offenders:        | Yellow label |
| c. Probation Offenders:     | Blue label   |
| d. Intermediate Punishment: | Green label  |
| e. Pretrial Services:       | Salmon label |

*SECTION 12.13.5: Distribution of Case Folder Documents:* The adult probation aide will be responsible for all copies and the distribution of case folder documentation to the pretrial services officer and other court related agencies.

*SECTION 12.13.6: Conditions of Release:* A copy of the conditions of bail and surety responsibility form shall be filed to the Clerk of Courts Office on each criminal defendant placed under the program.

*SECTION 12.13.7: Security of Case Records:* All case records not being utilized by agency personnel shall be maintained in a secure location. Active case records shall be directly supervised and controlled by the assigned officer.

*SECTION 12.13.8: Privacy of Case Folders:* Information contained in the offender case folder is strictly prohibited from disclosure to third parties, unless the offender signs a "Consent to Obtain and Release Information Form" stating what specific information is to be disclosed. Agency personnel are exempt from this policy, however,

any employee witnessed removing or disclosing case record information without proper authorization shall be subject to disciplinary action (*See Chapter 2, Section 14*).

1. *Exceptions to this Section:* The following entity will have unlimited access to the offender case folder:

- a. Carbon County Court of Common Pleas

*SECTION 12.13.9: Limited Access:* The following agencies shall have limited access to the offender case folder:

1. The Carbon County District Attorney's Office
2. Other probation/parole agencies
3. Military personnel conducting background investigations.
4. Law Enforcement Agencies
5. Defense counsel

*SECTION 12.13.10: Record Review:* The Chief Adult Probation/Parole Officer shall review the case record maintenance procedure on an annual basis.

*SECTION 12.13.11: Discharged Offenders:* When a case record has been terminated, the adult probation aide shall inspect and purge the offender case folder from all duplicated documentation. Records of discharged offenders shall be maintained in accordance with procedures adopted by the Court, the agency and the Archives Department. All inactive case folders shall be removed from the office and relocated to the Archives Department for microfilming. Destruction of all inactive case folders shall be in accordance with policy and procedure adopted by the Courts, the Archives Department or statute.

*Topic:* Pretrial Services Program  
"Termination Criteria"

*Chapter:* 12

*Section:* 14

*Pages:* 1

*Related Standards:* 2-3024; 2-3025; 2-3026 & 2-3027

*Effective Date:* 05-20-96

*SECTION 12.14.1: Purpose:* To establish criteria for the termination of offenders placed in the pretrial services program:

*SECTION 12.14.2: Applicability:* To the President Judge, Court Administration, the issuing authority, Magisterial Districts, the Chief Adult Probation/Parole Officer, the Clerk of Courts Office, the District Attorney's Office, the Public Defender's Office, the pretrial services officer, the adult probation aide and all arrestees considered for the Carbon County Pretrial Services Program.

*SECTION 12.14.3: Definitions:* As utilized in this document, the following definitions shall apply:

1. *Bail:* The security required and given for the release of a person in the custody of the law, conditioned upon a written undertaking that the person will appear when required to do all other things stipulated therein.

2. *Issuing Authority:* Any public official having the power and authority of an alderman, justice.

*SECTION 12.14.4: Termination Criteria:* The following criteria shall be utilized to determine when an offender shall be terminated from the program:

1. Final disposition of the criminal charges (when the offender was sentenced to probation, parole, intermediate punishment, fine, probation without verdict or partial or total confinement).

2. Charges were dismissed or Nol Prossed.
3. Bail was revoked and the offender was remanded to prison.

[Pa.B. Doc. No. 96-755. Filed for public inspection May 10, 1996, 9:00 a.m.]

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**MONTGOMERY COUNTY**

**Rescission of Local Rule of Criminal Procedure Rule 101A; Adoption of Local Rule of Criminal Procedure Rule 107\***

**Order**

*And Now*, this 11th day of April, 1996, the Court rescinds Montgomery County Local Rule of Criminal Procedure 101A, and approves and adopts the following Montgomery County Local Rule of Criminal Procedure 107\*—*Approval of Police Complaints and Arrest Warrant Affidavits By Attorney for The Commonwealth*, effective May 1, 1996.

The Court Administrator is directed to publish this Order once in the *Montgomery County Law Reporter* and in the *Legal Intelligencer*. In conformity with Pa.R.C.P. 239, seven (7) certified copies of the within Order shall be filed by the Court Administrator with the Administrative Office of Pennsylvania Courts. Two (2) certified copies shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. One (1) certified copy shall be filed with the Criminal Procedural Rules Committee. One (1) copy shall be filed with the Prothonotary, one (1) copy with the Clerk of Courts, and (1) copy with the Court Administrator of Montgomery County, one (1) copy with the Law Library of Montgomery County and one (1) copy with each Judge of this Court.

*By the Court*

WILLIAM T. NICHOLAS,  
*President Judge*

**Rule 101A. [ Rescinded ]**

**Rule 107\*. Approval of Police Complaints and Arrest Warrant Affidavits By Attorney for the Commonwealth.**

The District Attorney of Montgomery County, having filed a certificate pursuant to Pennsylvania Rule of Criminal Procedure 107(b), Criminal Complaints and Arrest Warrant Affidavits by police officers, as defined in the Rules of Criminal Procedure, charging criminal homicide offenses (including homicide by vehicle) shall not hereafter be accepted by any judicial officer unless the Complaint and Affidavit have the approval of an attorney for the Commonwealth prior to filing.

[Pa.B. Doc. No. 96-756. Filed for public inspection May 10, 1996, 9:00 a.m.]

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**DISCIPLINARY BOARD OF  
THE SUPREME COURT**

**Notice of Suspension**

Notice is hereby given that David Lynn Lowans having been suspended from the practice of law in the District of Columbia for a period of thirty days, the Supreme Court of Pennsylvania issued an Order dated April 24, 1996, suspended David Lynn Lowans from the Bar of this Commonwealth for a period of thirty days, to be effective May 24, 1996.

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

[Pa.B. Doc. No. 96-757. Filed for public inspection May 10, 1996, 9:00 a.m.]