

**LOCAL RULES
RULES OF CRIMINAL PROCEDURE
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RULES OF CRIMINAL PROCEDURE

Rule Crim.P.L100. Scope of Local Rules

These rules are adopted in accordance with the Pennsylvania Rules of Criminal Procedure and are applicable to criminal cases in the Court of Common Pleas of Forest and Warren Counties, Pennsylvania and the Magisterial District Courts of Forest and Warren Counties, Pennsylvania to the extent appropriate.

Rule Crim.P.L101. Purpose and Construction

These rules are intended and shall be construed to supplement the Pennsylvania Rules of Criminal Procedure.

Rule Crim.P.L102. Citing the Local Rules of Criminal Procedure

These rules shall be known as the Rules of Criminal Procedure of the 37th Judicial District and shall be cited as “37.R.Crim.P.L____.”

Rule Crim.P.L103. Definitions

(a) The definitions of terms used in these rules shall be the same as those set forth in Pa.R.Crim.P. 103, except:

- (1) “Court” shall mean the Court of Common Pleas of the 37th Judicial District.
- (2) “Issuing Authority” shall mean any one of the current Magisterial District Judges for the 37th Judicial District.
- (3) “Rule” shall mean any rule of the Court unless otherwise indicated.

Rule Crim.P.L104. Design of Forms

The design of all forms mandated for use by the Court pursuant to these rules shall be determined by the District Court Administrator of the 37th Judicial District in consultation with the Court.

Rule Crim.P.L106. Continuances in Summary and Court Cases

(a) A motion for a continuance of any matter shall state the reason the continuance is requested and whether the motion is contested or uncontested.

(b) All motions for a continuance of a jury trial shall be made at least forty-eight (48) hours before the time set for trial. Any motion made later than forty-eight (48) hours before the time set for trial shall be in compliance with Pa.R.Crim.P.106(C).

(c) All motions for a continuance of a non-jury trial shall be made at least forty-eight (48) hours before the time set for trial. Any motion made later than forty-eight (48) hours before the time set for trial shall be in compliance with Pa.R.Crim.P.106(C).

(d) All motions for a continuance of an argument or an evidentiary hearing shall be made at least three (3) days before the time scheduled for the argument or the hearing. A later motion shall be entertained only when the opportunity therefor did not previously exist, the moving party was not aware of the grounds for the motion or the interests of justice require it.

Rule Crim.P.L109. Defects in Form, Content, or Procedure; Noncompliance

No case shall be dismissed nor request for relief granted or denied because of failure to comply with one or more of these local rules. In any case of noncompliance, the Court will alert the party to the specific provision at issue and will provide a reasonable time for subsequent compliance.

Rule Crim.P.L111. Public Discussion of Pending or Imminent Criminal Litigation by Court Personnel

All Courthouse personnel including, among others, Sheriffs, Sheriffs' deputies, court clerks, law clerks, tipstiffs, court reporters, secretaries and other support staff are prohibited from disclosing any information relating to a pending criminal case that is not part of the public record of the case, unless authorized by the Court. This rule also precludes disclosure of any information whether acquired at a formal or informal judicial proceeding.

Rule Crim.P.L113. Criminal Case File and Docket Entries

(a) Admission and Custody of Exhibits.

(1) Counsel for the respective parties shall retain possession and shall be responsible for the care and custody of all tangible exhibits used at hearings and trials, whether or not they have been presented, marked, identified and used, until such time as they have been formally offered into evidence.

(2) From and after an order of admission or, if admission is denied, if the Court should so order, the Court Reporter at the time of the proceedings shall take possession and shall be responsible for the care and custody of all such tangible exhibits during the remainder of the hearing or trial, and thereafter, until further order of the Court.

(3) At any time after final disposition of the case, including the expiration of any applicable appeal period, the Court Reporter or Clerk of Courts may, after notice to counsel for all parties, petition the Court for an order authorizing the removal and disposition by destruction or, otherwise, of any tangible exhibit of a size or weight precluding its enclosure in a regular case file.

(b) Restriction on Removal of Records and Files. No file containing original documents, nor any original documents contained therein, may be removed from the Office of the Clerk of Courts, except by special order of the Court, by anyone other than the following:

- (1) A Judge of the Court or his/her authorized representative;
- (2) The District Court Administrator;
- (3) The Clerk of Courts and regularly employed and duly authorized employees of that office; and
- (4) Counsel of Record as authorized by the Clerk of Courts.

Rule Crim.P.L117. Coverage: Issuing Warrants; Preliminary Arraignments and Summary Trials; and Setting and Accepting Bail

(a) Continuous coverage for issuing warrants, holding preliminary arraignments and summary trials, and setting and accepting bail shall be by the traditional on-call system as presently established. The President Judge shall assign a Magisterial District Judge to establish the schedule of assignment of Magisterial District Judges to on-call duty. This schedule shall be submitted to the President Judge for approval.

(b) Magisterial District Judges, the Clerk of Courts and the Sheriff of Warren County acting in his capacity as Warden of the Warren County Prison shall be authorized to accept bail in accordance with the provisions and subject to the limitations of the Pennsylvania Rules of Criminal Procedure.

Rule Crim.P.L119. Use of Two-Way Simultaneous Audio-Visual Communication in Criminal Proceedings

(a) A defendant may consent to a proceeding being conducted using two-way simultaneous audio-visual communication by signing or authorizing his/her counsel of record to sign a Waiver of Courtroom Appearance in a form substantially consistent with Form L119 of these rules prior to or at the time of a two-way simultaneous audio-visual communication.

(b) Whenever a defendant consents to a proceeding being conducted using two-way simultaneous audio-visual communication, the Court or Issuing Authority shall conduct a colloquy regarding the defendant's consent when the defendant's constitutional right to be physically present is implicated.

Form L119

IN THE COURT OF COMMON PLEAS
OF THE 37th JUDICIAL DISTRICT OF PENNSYLVANIA
_____ COUNTY BRANCH
CRIMINAL

COMMONWEALTH OF PENNSYLVANIA

vs.

CR ____ of _____

Defendant

Waiver of Courtroom Appearance

I am aware that I have a right to appear in a courtroom for a hearing on the ____ day of _____, 20____ that is scheduled for the following purpose(s): _____.

I am willing to waive my appearance in the courtroom for said hearing and consent to said hearing being conducted by two-way simultaneous audio-visual communication.

If I have counsel, I understand that my counsel will be available via live video camera and that I will have the opportunity to talk to my counsel privately with no one else hearing the conversation.

I understand that I will be sitting in front of a video camera and that the participants who are assembled in the courtroom can see and hear me and I can see and hear them.

The Judge will be able to see me and speak to me, and I will be able to see and speak to the Judge. I understand that the courtroom is open to the public and that members of the public who are interested in my hearing will be able to see and hear the proceedings in the courtroom.

I understand that by signing this waiver I will not be transferred to the courtroom for this hearing and that the hearing will be done by two-way simultaneous audio-visual communication.

Date: _____, 20____

Defendant or Counsel of Record

Rule Crim.P.L120. Attorneys – Appearances and Withdrawals

(a) Counsel representing a defendant shall file a written appearance in all cases in the office of the Clerk of Courts at or before the time of arraignment. A written appearance shall be filed as soon as possible if employment follows arraignment. A copy of any such written appearance shall be forwarded to the District Attorney's office as required by these rules.

(b) The signing of a Criminal Case Scheduling Form (Form L502) or waiver of arraignment by defense counsel or representative or the endorsement of an information or appointment pursuant to Pa.R.Crim.P. 122 shall constitute a written appearance.

Rule Crim.P.L124. In Forma Pauperis

(a) A defendant who is without financial resources to pay the costs of litigation is entitled to proceed in forma pauperis.

(b) The defendant shall file a petition and affidavit in a form substantially consistent with Form L124(b) of these rules.

(c) If the party is represented by an attorney other than the Public Defender or Court Appointed Counsel, the Clerk of Courts shall allow the party to proceed in forma pauperis upon the filing of a praecipe which contains a certification by the attorney that he or she is providing free legal service to the party and believes the party is unable to pay the costs. The praecipe shall be in a form substantially consistent with Form L124(c) of these rules.

(d) A defendant permitted to proceed in forma pauperis has a continuing obligation to inform the court of improvement in his/her financial circumstances which will enable the defendant to pay costs.

(e) A defendant permitted to proceed in forma pauperis shall not be required to pay any cost or fee imposed or authorized by Act of Assembly or general rule which is payable to the Court or Clerk of Courts.

Form L124(b) TO ALL POTENTIAL CLIENTS

IN ORDER TO HAVE YOUR APPLICATION REVIEWED FOR ELIGIBILITY, IT IS YOUR RESPONSIBILITY TO DO THE FOLLOWING:

1. **The application must be completed in full.** The application will be returned if any question is unanswered. If a question does not apply to you or your circumstances, then answer the question with N/A.
2. Total household income is considered, due to the Federal Poverty Guidelines that this office follows. Therefore, you must provide proof of income for each member at the time we receive your application.
3. Any paperwork you received concerning the charges filed against you **must** also accompany the completed application.
4. Application must be received by this office at least **five (5) days prior** to representation at hearing.

WHEN YOU ARE A CLIENT OF ONE OF THE PUBLIC DEFENDERS, IT IS YOUR RESPONSIBILITY TO DO THE FOLLOWING:

1. Keep us informed at all times of your current address. If you move, notify us immediately by calling (814) _____ for Forest County or (814) _____ for Warren County.
2. Keep us informed at all times of your telephone number or a telephone number of a person who will take messages and promptly relay them to you.
3. Keep your appointments as scheduled on the Case-Tracking sheet you receive the day of Central Court, unless told otherwise by your attorney. If you look at your tracking sheet and are not sure if you are to come or not, call (814)_____ for Forest County or (814)_____ for Warren County and the administrative assistant will check your file and confirm the date(s) you are to be here.

APPLICATION FOR A PUBLIC DEFENDER

REQUIRED: In which county have charges been filed against you? *CIRCLE* the county. (Failure to circle a county will delay the processing of your application and may result in your application being returned to you.)

FOREST

WARREN

WARNING: The making of any false statements or the inclusion of any false information herein will subject you to an arrest and prosecution for the crime of perjury, a felony offense, which is punishable by fine not to exceed \$15,000 or undergo an imprisonment not exceeding seven (7) years or both, and you shall, except as otherwise provided by law, be forever disqualified from being a witness in any matter in controversy.

Name: _____ Alias: _____

Home Address: _____

Home Phone/Message Number: _____

Sex: Male/Female Social Security #: _____ Age: _____ Date of Birth: _____

Driver's License #: _____ State: _____

CDL? _____ Under Suspension? _____ If so, when? _____

Charges: _____

Date and place alleged crime took place: _____

ATTACH A COPY OF THE CRIMINAL COMPLAINT

List any co-defendants: _____

District Judge (Magistrate): _____

Next Court Proceeding (Circle one.): Preliminary Hearing, Arraignment, Other _____

Location: _____ Date and Time: _____

Bail Amount: _____ Paid by: _____

Police Agency: _____ Arresting Officer: _____

Are you a US Citizen? _____ If Not, Immigration Status: _____

Are you a US Veteran? _____

Have you ever been convicted of a crime in the past? If yes, please list charge(s), date of offense(s), location(s), outcome(s), and attorney(s) who represented you:

CHARGE	DATE	LOCATION	OUTCOME	ATTORNEY

Are you able to hire counsel to defend yourself in this matter? _____
 If no, please explain: _____

Single ____ Married ____ Divorced ____ Widowed ____ Separated ____

If separated/divorced, when did you last live with your spouse? _____

If married, does your spouse work? ____ If yes, list name, address and phone number of employer: _____

HOUSEHOLD: List all who reside in your household.

NAME	RELATIONSHIP	AGE

If your child/children are not residing with you and you are paying child support, list name(s), age(s) and amount of support paid:

CHILD'S NAME	AGE	AMOUNT

INCOME: Indicate amount or N/A for **each** category. **VERIFICATION MUST** be attached for each amount.

MONTHLY INCOME	MINE	SPOUSE	OTHER
Employment (GROSS EARNINGS)	\$	\$	\$
Unemployment	\$	\$	\$
Disability	\$	\$	\$
Child Support	\$	\$	\$
Welfare	\$	\$	\$
Social Security	\$	\$	\$
Alimony	\$	\$	\$
Pension	\$	\$	\$
Food Stamps	\$	\$	\$
Other	\$	\$	\$

Are you currently working now? _____

If yes, list the name, address and phone number of employer along with the GROSS earnings per month. _____

Amount of your GROSS income in the past 12 months: _____

If you have no income, please explain how you live (food, housing, etc.). _____

ASSETS: State current balance or value and **attach verification** of all account balances.

ASSET	MINE	SPOUSE
Checking Account	\$	\$
Savings Account	\$	\$
On Your Person	\$	\$
At Home	\$	\$
Jail Account	\$	\$
Stocks/Bonds	\$	\$
Real Estate	\$	\$
Vehicle	\$	\$
Boat	\$	\$
Motorcycle	\$	\$
Other	\$	\$

If you own real estate, list location and value. _____

If you own other property, list location and value. _____

Do you have other assets? _____ If yes, list description and value of asset(s). _____

Please list any medical conditions or medications that may impair your ability to prepare and assist in your defense _____

Can you read and write the English language? _____ Yes _____ No

Were Miranda Rights given by arresting officer? _____ Yes _____ No

Statement(s) made by you concerning charges: _____ Oral _____ Written

When, where and to whom given? _____

Contents of Statement(s): _____

Short statement about your position regarding the charges: _____

WITNESSES: List names, addresses/phone numbers and information they have.

NAME	ADDRESS / PHONE NUMBER	INFORMATION

All above is true and correct: _____

(Signature of Applicant)

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF _____

VS

I, _____, being duly sworn according to law, upon his/her oath disposes and says:
(Name of Applicant)

1. I am the defendant in the above captioned action.
2. I have read the foregoing application and know the contents thereof and the same are true to my own knowledge, except as to matters therein stated to be alleged as to persons other than myself, and to those matter, I believe them to be true and correct.
3. This affidavit is made to inform the Courts as to my status and to induce the Courts to assign counsel to me as an indigent defendant to defend against the criminal charges that have been made against me.
4. I understand the information on this application is not confidential and may be disclosed to the Judge, Probation Officer, or the Public Defender in order to determine my right to be represented by the Public Defender.
5. I acknowledge the responsibilities in the cover letter and will abide by them.
6. I understand that the Forest County Public Defender's Office or the Warren County Public Defender's Office is only representing my interests in regard to pending criminal matters with reference to this specific application.
7. In making this affidavit, I am aware that Perjury is a Felony and the punishment is a fine of not more than \$15,000 or imprisonment for not more than seven (7) years or both.

Date: _____
(Signature of Applicant)

IMPORTANT

Any person who provides any false information on purpose when he/she completes this form may be subject to criminal prosecution and may face criminal penalties including conviction of a misdemeanor.

Rule Crim.P.L320. Expungement upon Successful Completion of ARD Program

Upon successful completion of the Accelerated Rehabilitative Disposition Program, the defendant may move the court for an order dismissing the charges and expungement pursuant to Pa.R.Crim.P. 319 and 320.

Rule Crim.P.L490. Expungement of Non-ARD Summary Cases

Expungement of Non-ARD Summary Cases shall be completed pursuant to Pa.R.Crim.P. 490.

Rule Crim.P.L502. Instituting Proceedings in Court Cases; Warren County

(a) Annually, no later than October 30th, the Court Administrator shall publish a schedule for the succeeding year setting forth the following pertinent dates for each case with the appropriate schedule for each case to be set in motion by the date the defendant either waives his or her preliminary

hearing or is bound over following that preliminary hearing:

- (1) The date of the court arraignment which shall be the first available arraignment date at least twenty (20) days after the preliminary hearing is held or waived;
- (2) The date for the pretrial settlement conference as required by 37.R.Crim.P.L570 which shall be no later than forty-five (45) days after court arraignment;
- (3) The date for Criminal Calendar Call, which shall follow the settlement conference and precede jury selection; and
- (4) The day of jury selection.

(b) The Court Administrator shall immediately, after publishing said schedule, provide copies to each sitting Magisterial District Judge, the District Attorney's office, the Public Defender's office, and each member of the county criminal defense bar known to the Court Administrator. Copies shall also be available free of charge at all times in the Court Administrator's office and the Clerk of Courts' office.

(c) At the time defendant is bound over to Court or waives his or her preliminary hearing, the District Attorney shall complete a Criminal Case Scheduling Form with an original and five copies substantially consistent with Form L502.

(d) Once the Criminal Case Scheduling Form has been completed, the defendant shall be provided with a copy and the District Attorney shall retain a copy. If the defendant's attorney is present, a copy shall be provided to the defendant's attorney.

All undistributed copies, together with the original Criminal Case Scheduling Form, shall be attached to the official record when it is forwarded to the Clerk of Courts as required by Pa.R.Crim.P. 547 and shall be distributed by the Clerk of Courts.

Form L502
IN THE COURT OF COMMON PLEAS
OF THE 37TH JUDICIAL DISTRICT OF PENNSYLVANIA
WARREN COUNTY BRANCH
CRIMINAL

COMMONWEALTH OF PENNSYLVANIA

VS.

No.
OTN No.

Defendant

CRIMINAL CASE SCHEDULING FORM

Charges: _____

Date Complaint filed: _____

Defense counsel: _____

Date of Preliminary hearing/waiver _____

IMPORTANT NOTICE

You and your attorney and/or attorney's representative are **required** to appear for the following proceedings. These dates may not be changed without leave of Court.

1. Arraignment: _____, in the Main Courtroom, Warren County Courthouse, Warren, PA. Arraignment may be waived but only if you have an attorney prior to your arraignment date.

2. Settlement Conference: _____, in the (Main)(Justice Robert H. Jackson) Courtroom, Warren County Courthouse, Warren, PA.

3. Criminal Calendar Call: _____, in the Main Courtroom, Warren County Courthouse, Warren, PA.

4. Jury Selection: _____, in the Main Courtroom, Warren County Courthouse, Warren, PA.

FAILURE TO APPEAR ON ANY OF THE ABOVE DAYS MAY RESULT IN FORFEITURE OF YOUR BAIL BOND AND THE ISSUANCE OF A BENCH WARRANT FOR YOUR ARREST AS WELL AS ADDITIONAL CHARGES OF DEFAULT IN REQUIRED APPEARANCE.

CAUTION: CRIMINAL CALENDAR CALL WILL BE THE LAST DAY YOU WILL BE PERMITTED TO ENTER A GUILTY PLEA AS A RESULT OF A PLEA BARGAIN. AFTER THIS DATE, YOU MUST EITHER GO TO TRIAL OR PLEAD AS CHARGED.

The undersigned hereby acknowledges receipt of a copy of this notice.

Date: _____

Signature of Defendant

Original: Clerk of Courts
Copies: Ct. Administrator
District Attorney
Defense Counsel
Defendant

Signature of Counsel

Signature of District Attorney

Rule Crim.P.L510. Contents of Summons; Notice of Preliminary Hearing

In all summary cases where there is a likelihood of incarceration and in all court cases where a criminal action is commenced by summons, the Issuing Authority shall mail with the summons a notice substantially consistent with Form L510.

Form L510

IMPORTANT NOTICES

RIGHT TO COUNSEL, BAIL, MANDATORY APPEARANCE, AND AMERICANS WITH DISABILITIES ACT OF 1990

You have the absolute right to be represented by a lawyer. If you cannot afford a lawyer, one will be appointed to represent you free of charge.

In order to have a lawyer by the time of the preliminary hearing, you should immediately:

1. Hire a lawyer; or
2. If you believe you cannot afford to hire a lawyer, you should immediately apply to the Public Defender's office, where a lawyer may be appointed to represent you free of charge if you qualify.

Warren County Public Defender
Warren County Courthouse
204 Fourth Avenue
Warren, PA 16365

Forest County Public Defender
Forest County Courthouse
526 Elm Street
Tionesta, PA 16353

If you are currently incarcerated and unable to contact the Public Defender's office, you should immediately request an application from the jail officials to apply for the services of a Public Defender.

Bail will be set at the preliminary hearing.

Notice:

If you fail to appear on the date and at the time and place specified on the summons, the case will proceed in your absence, and a bench warrant will be issued for your arrest.

AMERICANS WITH DISABILITIES ACT OF 1990

The Court of Common Pleas of Forest/Warren County is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the Court, please contact the Court Administrator's Office. All arrangements must be made at least 72 hours prior to any hearing or business before the Court. You must attend the scheduled conference or hearing.

Rule Crim.P.L540. Preliminary Arraignment

In all cases in which a defendant does not appear with an attorney, in addition to the Issuing Authority verbally advising the defendant as set forth in Pa.R.Crim.P.540(E), the Issuing Authority shall provide to the defendant at his/her preliminary arraignment a written notice in a form substantially consistent with Form L510, even if the defendant has previously received the same notice pursuant to 37.R.Crim.P.L510.

Rule Crim.P.L541. Waiver of Preliminary Hearing

If a Magisterial District Judge accepts the waiver of a preliminary hearing pursuant to Pa.R.Crim.P.541, the District Attorney shall schedule a court arraignment and complete a Criminal Case Scheduling Form in a form substantially consistent with Form L502 notifying the defendant of the date and place of his/her arraignment as well as any future, important dates and places in compliance with 37.R.Crim.P.L502.

Rule Crim.P.L543. Disposition of Case at Preliminary Hearing

If the Magisterial District Judge, after completion of the preliminary hearing held pursuant to Pa.R.Crim.P.542, binds the case over to court, the District Attorney shall schedule a court arraignment and complete a Criminal Case Scheduling Form in a form substantially consistent with Form L502, so the defendant is notified of the date and place of the arraignment as well as future, important dates and places in compliance with 37.R.Crim.P.L502.

Rule Crim.P.L570. Pretrial Settlement Conference; Warren County

(a) Based on a schedule published by the Court Administrator each year, no later than October

30th for the succeeding year, at the time a defendant either waives his/her preliminary hearing or is bound over following a preliminary hearing, he/she will be given a specific date for a settlement conference which date shall be no later than forty-five (45) days after the formal arraignment required by 37.R.Crim.P.L571. Each settlement conference shall be held in the designated Courtroom at a time established in the Court Calendar. Defense counsel and each defendant shall attend the settlement conference unless the District Attorney has previously excused the defendant or the defendant has previously entered a plea of guilty or *nolo contendere*, a plea date is already scheduled, the matter is being considered for ARD disposition, or the matter has been resolved in some other manner.

(b) Defense counsel and the defendant shall assemble in the designated Courtroom or such other location designated by the Court. The District Attorney shall have a representative available with authority to take a position on behalf of the Commonwealth on each case.

(c) The District Attorney or his/her representative and defense counsel shall meet to discuss each case, and at the discretion of counsel, the defendant may participate in all or part of those discussions. The defendant shall remain available at the Courthouse until the defendant's conference has concluded.

Rule Crim.P.L571. Arraignment

(a) Arraignment.

(1) Arraignment shall take place in open court at such time as designated by the Court Administrator as required by these rules.

(2) If a defendant wishes to plead not guilty, said plea shall be noted on the information and signed by the defendant. If the defendant wishes to plead guilty or *nolo contendere*, the Court shall conduct a colloquy on the record prior to accepting a plea of guilty or *nolo contendere*. The defendant shall be advised that he or she will not be required to attend calendar call or jury selection unless the plea is not entered or is refused by the Court in which case the defendant will be required to follow the original schedule provided to him or her on the Criminal Case Scheduling Form.

(b) Waiver of Arraignment.

(1) A defendant who has counsel of record may, prior to arraignment, waive the arraignment by filing a Waiver of Arraignment Form in the Clerk of Courts' office substantially similar to Form L571. A copy of the waiver shall be served upon the District Attorney pursuant to 37.R.Crim.P. L576.

(2) If a written Waiver of Arraignment is filed prior to the scheduled date of arraignment, the scheduled date of arraignment shall be deemed the day of arraignment for the purpose of computing time limitations for filing all pre-trial motions and requests pursuant to Pa.R.Crim.P.567, 568, 572, 573, 578 and 579 and for the purpose of scheduling further dates pursuant to these rules.

CRIMINAL

COMMONWEALTH OF PENNSYLVANIA

VS.

No.
OTN No.

Defendant

WAIVER OF FORMAL ARRAIGNMENT AT COMMON PLEAS COURT LEVEL

I, the undersigned counsel, do hereby appear on the Defendant's behalf and do waive the arraignment provided for in Pa.R.Crim.P. 571.

I, the undersigned Defendant, understand that:

1. The information containing the charges against me will be filed in the office of the Clerk of Courts and a copy will be mailed to my attorney and to me. _____[Defendant's initials]

2. Any discovery must be concluded fourteen (14) days after the stated arraignment date. _____[Defendant's initials]

3. I must file a Request for a Bill of Particulars in writing within seven (7) days after the stated arraignment date. _____[Defendant's initials]

4. If I intend to offer the defense of alibi, insanity or mental infirmity, I must notify the attorney for the Commonwealth in writing within thirty (30) days after the stated arraignment date. _____[Defendant's initials]

5. I must file all pre-trial motions for relief on or before thirty (30) days from the stated arraignment date. _____[Defendant's initials]

6. If I fail to file any motions for discovery or pre-trial relief within the prescribed time limits, it shall be considered a waiver of my right to file such motions. _____[Defendant's initials]

7. I must give the Court notice no later than the time set for the call of the trial list in my case [which date has been provided to me on the Criminal Case Scheduling Form I have received] if I desire to have my case tried before a judge without a jury. _____[Defendant's initials]

8. If I want to enter a guilty or no contest plea in this case as a result of a plea bargain, I must do so no later than the date set for criminal calendar call. _____[Defendant's initials]

Date: _____

Signature of Defendant

Original: Clerk of Courts
Copies: Court Administrator
District Attorney
Defense Counsel
Defendant

Signature of Counsel

Rule Crim.P.L575. Motions and Answers

(a) **Uncontested Motions.** An uncontested motion shall include a statement that all parties or their counsel of record have consented to the motion or that the only relief sought by the motion is a

hearing or argument date.

(b) Contested Motions. A contested motion shall include a statement that one or more parties or their counsel of record contest the motion or that the motion seeks relief other than a hearing or argument date.

Rule Crim.P.L576. Filing and Service by Parties

(a) Filing. The moving party shall file its motion, whether uncontested, contested or self-represented litigant, with the Clerk of Courts in the manner proscribed by Pa.R.Crim.P. 576(A).

(b) Service. Concurrently with filing, the moving party shall serve upon the opposing party or his/her counsel of record a copy of the motion. Thereafter, the moving party shall file a certificate of service in substantially the same form as that set forth in the *Comment* to Pa.R.Crim.P. 576.

(c) Self-Represented Litigant Motions. All self-represented litigant motions shall be filed with the Clerk of Courts. If an individual has counsel, the Clerk of Courts shall forward a copy of the motion to counsel of record. If a motion does not comply with the law or rules of court, the Clerk of Courts shall docket the motion, note the deficiency and forward the motion to the office of the Court Administrator. Thereafter, the Court Administrator shall confer with the Court and promptly notify the individual of the deficiency.

Rule Crim.P.L579. Time for Omnibus Pretrial Motion and Service

Except as otherwise provided in these rules, an omnibus pretrial motion for relief shall be filed and served within thirty (30) days after arraignment, unless opportunity therefor did not exist or the defendant, defense counsel, or the attorney for the Commonwealth was not aware of the grounds for the motion or the time for filing has been extended by the Court for cause shown.

Rule Crim.P.L590. Pleas and Plea Agreements

(a) The Court will be available for the purpose of taking guilty or *nolo contendere* pleas from time-to-time as designated by the Court Administrator, which dates shall always include each afternoon when settlement conferences are held and immediately after the call of each criminal trial list.

(b) After pleas are taken following the call of the trial list, the Court will not accept any plea for a case on that criminal list unless said plea is a straight plea as charged and in no way is a negotiated plea even for the purposes of a sentencing recommendation by the District Attorney.

(c) The Court may waive this prohibition against late plea agreements only if both parties agree and have shown good cause for doing so to the Court. In the event the Court does find good cause shown and agrees to take the negotiated plea, such plea may be taken at that time or the case may be continued by the Court for the plea to be taken at another date as the Court may direct.

Rule Crim.P.L600. Criminal Trial; Calendar Call

(a) The call of the criminal trial list for a particular criminal term of Court shall be held by the Court prior to the first day of the criminal term of Court as set forth on the schedule prepared by the Court Administrator pursuant to 37.R.Crim.P.L502(a).

(b) All defendants on the call of the list and their attorneys shall attend the criminal calendar call unless the Court has excused a defendant and/or counsel based upon good cause shown.

Rule Crim.P.L602. Presence of the Defendant; Transportation for Court Proceedings

(a) For incarcerated defendants, transportation orders must be obtained from the Court and served upon the Sheriff at least seven (7) days prior to the time he/she is to appear if he/she is incarcerated in an out-of-county facility.

(b) The responsibility for obtaining a transportation order shall be on:

(1) The District Attorney, if the defendant is required to appear at trial or at a hearing set upon motion of the District Attorney or if the defendant is unrepresented by counsel or is proceeding as a self-represented litigant; or

(2) Defense counsel, if the defendant is required for a hearing set upon motion of the defendant.

(c) If the location of the defendant cannot reasonably be determined by defense counsel, such information may be sought from the District Attorney's office and shall be reasonably provided to the defendant's counsel.

Rule Crim.P.L642. Contact with Jurors

Before or during the trial of a case, no attorney, party or witness shall communicate or cause another to communicate with any member of the jury or anyone known to be a member of the venire from which the jury is selected for the trial of a case.

Rule Crim.P.L700. Sentencing Judge

A sentence on a plea of guilty or *nolo contendere* may be imposed by a judge other than the judge who received the plea, if the defendant has been notified of the possibility at the time of entering the plea.

Comment: This rule is not intended to proscribe sentencing by a judge who did not receive the plea when there are extraordinary circumstances which preclude the presence of that judge.

Rule Crim.P.L705. Imposition of Sentence; Probation/Parole and Intermediate Punishment

(a) **Probation/Parole General Rules and Regulations.** The Court, whenever sentencing a defendant to probation or granting parole, shall state in its order that the general rules, regulations and conditions governing probation and parole in Forest and Warren Counties shall be applicable and all of the following shall apply unless specifically deleted by the Court in its order or in a subsequent order:

1. The defendant will be in the legal custody of the Court until the expiration of his/her probation/parole or by further order of Court, and the Probation/Parole Officer has the power any time during this period, in case of violation by the defendant of any of the conditions of his/her probation/parole, to detain the defendant in a county prison and make a recommendation to the Court, which may result in the revocation of probation/parole and commitment to a penal or correctional institution for service of the sentence.

2. The defendant will report regularly to the Probation/Parole Department in person or in writing and reply to any communication from the Court or the Probation/Parole Department.

3. The defendant will live at an address provided to the Probation/Parole Department and may not change that residence without prior permission from that department.

4. The defendant will not travel outside of Pennsylvania or the community to which he/she has been paroled or placed on probation as defined by his/her Probation/Parole Officer without prior permission.

5. The defendant will comply with all municipal, county, state and federal criminal laws and abide by any written instructions of his/her Probation/Parole Officer. The defendant will immediately notify his/her Probation/Parole Officer of any arrest or investigation by law enforcement agencies. The defendant will advise any investigating police officer that he/she is on Probation, Parole or Intermediate Punishment Supervision with the Probation Office.

6. If the defendant is not employed, he/she will make every effort to obtain and maintain employment and support any dependents he/she has. The defendant will obtain written permission prior to changing employment. If the defendant loses his/her job, he/she will immediately notify his/her Probation/Parole Officer and cooperate in any effort he/she may make to obtain employment for the defendant. Job hopping is strictly forbidden.

7. The defendant shall abstain completely from the use and possession of illegal controlled substances and drug Paraphernalia. The defendant shall not abuse over the counter or prescribed medications or any other substance that impairs the functioning of the human body. The defendant will not abuse any prescription or over the counter substances, and will submit to any available testing of blood, breath or urine to determine the use of illegal substances or alcoholic beverages.

8. The defendant shall not possess or have access to any firearms or any other dangerous weapons.

9. The defendant will not consume, transport, or possess any alcoholic beverages. You will not enter any establishment or place which serves or dispenses alcoholic beverages, nor will you have any such beverages in your residence.

10. All fines, costs and restitution imposed upon the defendant by the Court must be paid immediately or in accordance with any schedule set up by the Court or the Probation/Parole Department before the defendant will be released from probation/parole.

11. The defendant will attend any therapeutic program offered by a recognized agency when directed to do so by his/her Probation/Parole Officer.

12. The Probation/Parole Department may place the defendant in the electronic monitoring/house arrest program at its discretion if there is a violation of any conditions of probation/parole. The defendant will be responsible to pay the costs of the program if placed in it.

13. The defendant will not annoy or harass any victim of his/her crime or any witnesses and shall not procure anyone else to do so.

14. If the defendant believes that his/her rights have been violated as a result of Probation/Parole supervision, the defendant may submit a timely complaint in writing, first to the Chief Probation/Parole Officer and then to the Judge at the Forest/Warren County Courthouse in Tionesta/Warren, Pennsylvania, if the matter is not satisfactorily resolved.

15. The defendant shall obey the law and be of good behavior generally.

16. The defendant shall submit to random and periodic testing to determine the use and presence of any illegal substances and/or alcoholic beverages.

17. The defendant shall report to the Forest/Warren County Probation/Parole Department within twenty-four (24) hours after being released from any institution.

18. The defendant shall comply with any curfew imposed by the Probation/Parole Department.

19. The defendant shall always be truthful and accurate in any written or oral statements the defendant makes to a Probation/Parole Officer or member of the staff of the Probation/Parole Department.

20. The defendant shall receive a copy of these general terms and conditions of probation/parole at or about the time supervision commences.

21. Pursuant to 42 Pa.C.S.A. § 9912, the defendant shall be subject to and agree to the warrantless search of defendant's person, property, vehicle or residence and the seizure and appropriate disposal of any contraband found, if it is reasonably suspected that defendant is in violation of probation/parole.

(b) Intermediate Punishment General Rules and Regulations. All of the general rules and regulations for probation/parole established in 37.R.Crim.P.L705(a) shall apply to Intermediate Punishment Supervision. The following additional rules and regulations shall also apply to Intermediate Punishment Supervision:

1. The defendant shall abide by all of the rules and conditions of the Warren County Prison while serving the Jail/Work Release portion of the Intermediate Punishment sentence.

2. The defendant shall remain in his/her established place of residence at all times during the House Arrest/Electronic Monitoring portion of the sentence, unless a leave is approved by the Probation/Parole Department.

3. The defendant shall maintain telephone and electric service throughout the House Arrest/Electronic Monitoring portion of the Intermediate Punishment Sentence.

Offenders under supervision for sexually related offense shall abide by the additional special conditions for sexual offenders listed below.

1. The offender shall attend, cooperate with and participate in a meaningful way with sexual offender counseling. The defendant shall abide by the program rules and conditions.

2. The defendant shall not possess pornographic material in any media (books, internet downloads, VHS tapes, DVD's).
3. The defendant shall not have access to the internet unless granted written permission by his supervising officer after proper monitoring and filtering software are installed on any computer the offender is to use. The defendant will allow access regularly to all electronic communication devices within the defendant's control to determine if they are being used illegally.
4. The monitoring and filtering software must be under the control of someone other than the offender.
5. The offender shall have no contact with the victims of his offense. The offender shall be subject to the standard rules and conditions under Local Rule 705 of the 37th Judicial District.
6. The defendant shall have no unsupervised contact with juveniles without the written consent of the Probation Officer.
7. The defendant must disclose information about his or her conviction(s) to potential adult sexual partners before beginning sexual relationships. They also must inform their Probation Officer of romantic relationships so they can ensure no potential child victims are accessible.
8. Offenders cannot patronize any establishment in the sex industry.

Rule Crim.P.L708 Violation of Probation/Parole or Intermediate Punishment

(a) **Arrest and Processing of Probation/Parole Violators.** When a duly appointed adult probation/parole officer has conducted an investigation which reveals that a violation of supervision has been committed by the defendant, the officer shall request a supervisor to issue a "Supervisor's Warrant" for the arrest and detention of the defendant. The defendant shall be arrested upon issuance of the warrant by any peace officer in the Commonwealth authorized to make arrests, or in the case of a defendant who has absconded the Commonwealth, the warrant shall be submitted to the proper police agency for processing as per normal procedure. Following arrest, the filing officer shall request a Gagnon I hearing before the court-designated hearing officer, which will be held within ten (10) court business days. The procedure set forth in 37.R.Crim.P. L708(b) shall then be followed.

Should the filing officer determine that a supervisor's warrant is not needed, a Gagnon I hearing will be scheduled as soon as possible following discovery of the violation(s), and the procedure set forth in 37.R.Crim.P. L708(d) will continue as stated. Notice of the Gagnon I hearing, in this instance, shall be served upon the defendant by the filing officer, and a Gagnon I hearing would then be scheduled at the convenience of the hearing officer.

(b) **Violation of Probation/Parole: Hearing and Disposition.** When it is alleged that a defendant is in violation of his/her probation/parole, a Gagnon I hearing shall be held before a member of the Adult Probation/Parole Department staff designated for that purpose by the President Judge. This hearing will be held within ten (10) court business days if the defendant is incarcerated as a result of the violation(s). That designated hearing officer shall be responsible for advising the defendant of all information required at a Gagnon I hearing. Should the hearing officer, at the Gagnon I hearing find that a prima facie case exists, the following procedure shall be followed. Should a determination be

made by the hearing officer at the Gagnon I hearing, that the defendant should be returned to continued supervision at liberty, the defendant shall be released from custody, if incarcerated, and continue on probation/parole.

A Gagnon II hearing, whether it be with regard to a contested violation, alleged violations or merely for the purpose of disposition or for both purposes, shall be scheduled promptly, but no later than one hundred twenty (120) days after the Gagnon I hearing. This shall be done by the hearing officer filing a motion with the Court Administrator requesting that a Gagnon II hearing be scheduled and advising in that motion as to when the Gagnon I hearing was completed. That motion shall also indicate whether the allegations are contested or whether the Gagnon II hearing will be for disposition purposes only. The hearing officer shall serve a copy of the motion upon the District Attorney's office. The defendant shall be afforded the right to representation by an attorney of choice or, upon his/her application, by the appointment of the Public Defender for the Gagnon II hearing.

(c) Violation of Intermediate Punishment: Hearing and Disposition. The procedure for hearing and disposition established under 37.R.Crim.P.L708(b) shall also apply to violations of Intermediate Punishment Supervision.

Rule Crim.P.L790. Expungement of Non-ARD Court Cases

Expungement of Non-ARD Court Cases shall be completed pursuant to Pa.R.Crim.P. 790.