

YORK COUNTY RULES OF CRIMINAL PROCEDURE

Including Amendments Adopted Through September 1, 2006

Table of Local Rules

CHAPTER 1. SCOPE OF RULES, CONSTRUCTION AND DEFINITIONS, LOCAL RULES

Rule

102. Citation and Application

PART A. BUSINESS OF THE COURTS

103. Definitions

111. Release of Information

111.1. Restriction on Removal of Records and Files

114. Service of Court Orders or Court Notices

117. Magisterial District Judge Coverage and After Hours Coverage for Judicial Business

PART C. ISSUING AUTHORITIES, VENUE, LOCATION, AND RECORDING OF PROCEEDINGS

135. Transmittal of Records to the District Attorney

PART E. MISCELLANEOUS WARRANTS

150. Hearings on Bench Warrants

CHAPTER 4. PROCEDURES IN SUMMARY CASES

PART F. PROCEDURES IN SUMMARY CASES FOR APPEALING TO COURT OF COMMON PLEAS FOR A TRIAL *DE NOVO*

461. Appeal as Supersedeas

462. Pre-Trial Summary Motions

CHAPTER 5. PRETRIAL PROCEDURES IN COURT CASES

PART C. BAIL

520. Posting of Bail

PART C(1). RELEASE PROCEDURES

Rule

526. Notification to Bondsmen

PART C(2). GENERAL PROCEDURES IN ALL BAIL CASES

531. Supervision of Bondsmen

PART G. PROCEDURES FOLLOWING FILING OF INFORMATION

570. Pre-Trial Conference

571. Arraignments

571.1. Arraignment of *Pro Se* Defendant

PART G(1). MOTION PROCEDURES

578. Content of Pre-Trial Motions

579. Filing of Pre-Trial Motions

580. Assignment of Pre-Trial Motions

CHAPTER 6. TRIAL PROCEDURES IN COURT CASES

PART C(2). CONDUCT OF JURY TRIAL

642. Contact with Jurors

647. Admission and Custody of Tangible Exhibits

CHAPTER 7. POST-TRIAL PROCEDURES IN COURT CASES

PART B. POST-SENTENCE PROCEDURES

720. Post-Sentence Motion

CHAPTER 1
SCOPE OF RULES, CONSTRUCTION AND DEFINITIONS, LOCAL RULES

York R.Crim.P. 102. Citation and Application

(A) These Rules may be cited and referred to as "York Rules of Criminal Procedure", or abbreviated as "York R.Crim.P."

(B) These Rules shall apply to all proceedings of a criminal nature, including summary proceedings and court cases, pending before the Court of Common Pleas of York County.

PART A. BUSINESS OF THE COURTS

York R.Crim.P. 103. Definitions

(A) Unless otherwise indicated, reference to "Judge" shall mean the Judge of the Court of Common Pleas of York County to whom the case is assigned, or in his absence, any other Judge of the Court.

(B) Unless otherwise indicated, reference to the "District Attorney" shall also mean an assistant district attorney, deputy district attorney or prosecutor, assistant district attorney general, or other special attorney assigned to prosecute a case.

(C) In the cases where a defendant proceeds *pro se*, a reference to a defendant's attorney shall mean the defendant.

(D) The singular shall include the plural, and the plural singular. Words used in their masculine gender shall include the feminine and neuter. Words used in the past or present tense shall include the future.

York R.Crim.P. 111. Release of Information

All Court House personnel, including, among others, Sheriffs, Sheriff's deputies, court clerks, law clerks, tipstaves, 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.

York R.Crim.P. 111.1. Restriction on Removal of Records and Files

(A) 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 authorized representative;
- (2) The District Court Administrator;

York R.Crim.P. 114. Service of Court Orders or Court Notices

A. Documents Required to be Served by Clerk of Courts.

1. The Clerk of Courts shall record the service of all orders, court notices, and any other document required by law or applicable rule of procedure to be served on a party or counsel.

2. The service of an order, court notice, or any other document required to be served by the Clerk of Courts shall be recorded on a form prescribed by the District Court Administrator.

a. The form shall include, at a minimum, the information required by Pa.R.Crim.P. 114(C), and shall also include the manner of service and the name of the individual recording the information.

b. The form shall be filed in the criminal case file maintained by the Clerk of Courts, and docket entries shall be made pursuant to the requirements of Pa.R.Crim.P. 113 and 114.

B. Documents May be Served by District Court Administrator.

1. Any order or court notice produced by stenographic transcription and required to be served on an attorney or an office located within the York County Judicial Center may be served by the District Court Administrator, or the District Court Administrator's designee.

2. If service of an order or court notice is made pursuant to Section B1 above, the District Court Administrator, or designee, shall cause to be filed in the Clerk of Court's office, proof of service on the form prescribed in Section A2 above.

York R.Crim.P. 117. Magisterial District Judge Coverage and After Hours Coverage for Judicial Business

A. Regular Business Hours of Magisterial District Judges.

1. The offices of the Magisterial District Judges shall be open for at least a total of 30 hours per week, Monday through Friday, excluding any Court holidays and a reasonable time for lunch.

2. Offices of the Magisterial District Judges shall be open at least four days per week, excluding any Court holidays and a reasonable time for lunch, between the hours of 8:30 a.m. and 4:00 p.m.

3. Magisterial District Judges shall submit their proposed yearly schedule of office hours to the President Judge for approval prior to December 1 of the preceding year, unless there are no changes from the preceding year, and shall post the schedule at least annually in a conspicuous place at the office, pursuant to Rule 103 of the Pennsylvania Rules of Conduct for Magisterial District justices. Schedules of office hours of all Magisterial District Judges shall also be maintained in the office of the District Court Administrator.

4. Applications for a change in office hours shall be made to the President Judge, through the District Court Administrator, prior to any change being instituted.

B. Availability of Magisterial District Judges During Regular Business Hours.

1. Magisterial District Judges shall be available to conduct judicial business during regular business hours, without unnecessary delay.

2. Should a Magisterial District Judge for a particular district not be available during regular business hours, any matter requiring immediate judicial attention shall be referred to the nearest available Magisterial District Judge.

3. A Magisterial District Judge may designate the personnel in that office to make a referral and designate the manner of referring matters to the nearest available Magisterial District Judge.

4. A Magisterial District Judge shall inform the District Court Administrator and York County E-911, as soon as reasonably practical, of that Magisterial District Judge's scheduled or unscheduled unavailability during regular business hours.

C. Availability of Magisterial District Judges After Regular Business Hours.

1. A Magisterial District Judge, known as the "Duty MDJ" shall be on continuous duty after regular business hours for the purpose of conducting judicial business requiring immediate attention, without unnecessary delay.

(a) The District Court Administrator shall designate and publish the annual schedule of Duty MDJs prior to November 1 of the preceding year.

(b) A Duty MDJ who is scheduled for a particular time may exchange duty times with another Magisterial District Judge, and shall make such change known to the District Court Administrator and York County E-911 as soon as is reasonably practical.

2. An office, known as a "Duty Office" shall be maintained for the Duty MDJ to conduct judicial business after regular business hours.

(a) Such office may be a "central booking" facility, or another office suitable for the conduct of judicial business after hours.

(b) Such office shall be equipped with suitable electronic communications to enable simultaneous visual and audio communication with the York County Prison and a Duty MDJ.

3. The Duty MDJ shall be available at all times when assigned after regular business hours to conduct judicial business without unnecessary delay.

(a) Such judicial business, including preliminary arraignments, setting of bail, and processing individuals arrested or otherwise detained, may be conducted by suitable electronic communications which provides simultaneous audio and visual contact between the Duty MDJ and the Duty Office.

(b) In the event such business is conducted remotely by electronic communications, suitable electronic methods of transmitting required paperwork without unnecessary delay may be utilized, including computer or facsimile transmittal.

PART C. ISSUING AUTHORITIES, VENUE, LOCATION, AND RECORDING OF PROCEEDINGS

York R.Crim.P. 135. Transmittal of Records to the District Attorney

Upon receipt and filing of the records from District Justices, the Clerk of Courts shall forthwith cause to be made a copy of each complaint, citation, transcript, and other documents relevant and material to the cause of action, and shall forthwith transmit copies to the District Attorney, and, if an appeal is taken from a violation of a municipal ordinance, then also to the solicitor of the municipality or municipal agency involved.

PART E. MISCELLANEOUS WARRANTS

York R.Crim.P. 150. Hearings on Bench Warrants

A. Bench Warrants to be Heard by Judge Issuing Warrant. Hearings for individuals arrested on bench warrants shall be heard by the judicial officer who issued the bench warrant, within the time periods and pursuant to the procedures set forth in Pa.R.Crim.P. 150.

B. Bench Warrants Issued by Judge of Court of Common Pleas.

1. Hearings for individuals arrested on bench warrants issued by a Judge of the Court of Common Pleas shall be heard by the Judge who issued the bench warrant.

2. In the event that an individual has been arrested on more than one bench warrant issued by different judges of the Court of Common Pleas, the individual may be taken before any Judge who issued a warrant, who shall conduct a hearing on all of the bench warrants pursuant to which the individual was arrested.

3. In the event the Judge or Judges who issued a bench warrant are unavailable to conduct a hearing within the time limits set forth in Pa.R.Crim.P. 150, then the hearing shall be conducted by the designated "Duty Judge".

a. The District Court Administrator shall maintain a list of "Duty Judges" which shall be updated from time to time and circulated among the Judges of the Court of Common Pleas of York County. The District Court Administrator shall assign such hearings to the appropriate Judge from that list if the issuing Judge is not available.

b. A Judge who is "on duty" for the designed time period shall insure his or her availability or the availability of another Common Pleas Judge, during normal Court business hours, for the purpose of conducting these hearings and for addressing other matters which may need the attention of the Court and for which the Judge ordinarily assigned to a matter may not be available.

4. At the conclusion of the bench warrant hearing following the disposition of the matter, the Judge shall immediately vacate the bench warrant, using an ORDER which shall be substantially in the form as prescribed by the President Judge or designee.

C. Bench Warrants Issued by Magisterial District Judges.

1. Hearings for individuals arrested on bench warrants issued by a Magisterial District Judge shall be heard by the Magisterial District Judge who issued the bench warrant.

2. In the event that an individual has been arrested on more than one bench warrant issued by different Magisterial District Judges, the individual may be taken before any

Magisterial District Judge who issued a warrant, who may conduct a hearing on all of the bench warrants pursuant to which the individual was arrested.

3. In the event that the Magisterial District Judge or Judges who issued a bench warrant are unavailable to conduct a hearing within the time limits set forth in Pa.R.Crim.P. 150, or if an individual is arrested after normal business hours on a bench warrant, then the matter or matters shall proceed pursuant to YC-Crim-117.

D. Release of Individual Not Applicable to Warrants Issued in Parole/Probation Proceedings. An individual arrested as a result of a bench warrant issued in connection with a parole or probation proceeding shall not be released upon the expiration of seventy-two (72) hours with further court order, regardless of whether that individual had a hearing on the bench warrant.

CHAPTER 4. PROCEDURES IN SUMMARY CASES

PART F. PROCEDURES IN SUMMARY CASES FOR APPEALING TO COURT OF COMMON PLEAS FOR A TRIAL *DE NOVO*

York R.Crim.P. 461. Appeal as Supersedeas

An appeal filed with the Clerk of Courts shall operate as a supersedeas to the sentence imposed by the District Justice.

York R.Crim.P. 462. Pre-Trial Summary Motions

(A) The Court shall hear and dispose of all pre-trial motions directly prior to the summary appeal trial.

(B) Only motions to dismiss a case for technical defects that are evident from an inspection of the record, or motions upon a stipulated set of facts may be considered prior to the summary appeal trial.

(C) The motions shall be made, in writing, and filed with the Clerk of Courts at least five (5) days prior to the date set for trial. The motions shall contain a specific averment of the defect, with reference to the record and a citation to any authorities relied upon. A brief need not accompany any motion.

(D) A copy of all motions shall be forthwith served upon the District Attorney, or if applicable, the opposing attorney or the solicitor of the municipality or municipal agency involved. An answer is not required.

(E) No case will be continued unless application, by motion or on a form approved by the Court, is made to the Court at the time set for the summary appeal trial, except for cause arising subsequent to that date.

CHAPTER 5. PRETRIAL PROCEDURES IN COURT CASES

PART C. BAIL

York R.Crim.P. 520. Posting of Bail

A. Posting of Bail During Normal Business Hours.

1. Bail in any acceptable form may be posted during normal business hours at the office of the Clerk of Courts and shall be accepted by the Clerk of Courts or the Clerk's designees.

2. Bail in any acceptable form, except real property, may be posed during normal business hours at the office of the issuing authority.

B. Posting of Bail After Normal Business Hours.

1. Bail in any acceptable form, except real property, may be posted after normal business hours with the Duty MDJ, at such location as the Duty MDJ may designate. The Duty MDJ may make such arrangements for security of the facility, staff and the Duty MDJ as is reasonably necessary to facilitate the acceptance of bail.

2. Bail in any acceptable form, except real property and currency, may be posted after normal business hours with the Duty MDJ at the Duty Office, or at the York County Prison.

(a) The Warden of the York County Prison, or the Warden's designees, are authorized to do all things necessary to accept bail at the York County Prison after normal business hours.

(b) The Sheriff of York County, or the Sheriff's designees, are authorized to do all things necessary to accept bail at the Duty Office.

PART C(1). RELEASE PROCEDURES

York R.Crim.P. 526. Notification to Bondsmen

(A) During the period of time that any defendant shall be released from custody by the posting of bail, notices of the requirement of the defendant's appearance before the Court,

pursuant to the terms and conditions of said bail, shall be given by the District Attorney and/or Clerk of Courts, both to the defendant and to his surety. Such notice shall be sufficient if the same shall be placed in the mail, post-paid, ordinary mail, and addressed to the address given in the bail documents for the defendant and the surety, unless a newer address is provided.

PART C(2). GENERAL PROCEDURES IN ALL BAIL CASES

York R.Crim.P. 531. Supervision of Bondsmen

(A) Subject to the approval of the Court, the District Attorney shall supervise the professional bondsmen. A list of all duly licensed bondsmen shall be maintained by the District Attorney, who shall provide copies to the District Justices. The District Attorney may promulgate such regulations as are deemed reasonably necessary to insure that the bondsmen are financially responsible and able to meet all bail bonding requirements.

PART G. PROCEDURES FOLLOWING FILING OF INFORMATION

York R.Crim.P. 570. Pre-Trial Conference

(A) Notice of Judge assignment and a pre-trial conference date shall be handed to the defendant or defense counsel at arraignment. Notice may be mailed in the case of a written waiver of formal arraignment.

(B) Defendant and defense counsel shall attend a pre-trial status conference with the intention of discussing the disposition of the case with the Judge and the assigned District Attorney.

York R.Crim.P. 571. Arraignments

(A) Arraignments shall be conducted at such time and place as shall be determined by Order of Court. The Court shall provide notice of such times and places with as much advance notice as is practical, to allow adequate notice of arraignment to be given to the defendant.

(B) Unless otherwise provided, a defendant may waive, in writing, formal arraignment by the Court, provided, however, that:

(1) The defendant shall be advised of the charges against him and shall receive a copy of any information filed against him.

(2) The defendant shall be advised, in writing, of the following rights:

(a) The right to pre-trial discovery and to file pre-trial motions, and the time periods to initiate pre-trial discovery and requests for particulars, and the time within which to file pre-trial motions;

(b) The earliest date that the case could be called for trial;

(c) That the defendant is entering a plea of not guilty and requesting a trial by jury.

(C) A waiver of formal arraignment can be made by a defendant without appearing in court provided:

(1) The waiver is in writing, on a form prescribed by the District Attorney which contains the disclosures set forth in subsection (B)(2) of this rule, and which is signed by the defendants; and

(2) The waiver is accompanied by a written entry of appearance by counsel for the defendant; and

(3) The waiver form and appearance form specifically identify the case to which the waiver and appearance apply, either by case number or other unique identifier; and

(4) The completed waiver form and entry of appearance form is received in the Office of the District Attorney at least three (3) business days prior to the date scheduled for arraignment. The District Attorney shall forthwith file the completed waiver form with the Office of the Clerk of Courts. In the event it is not so completed and received, the defendant shall appear in Court as scheduled; and

(5) For purposes of time limitations for pre-trial matters, the date of arraignment shall be deemed the date on which the defendant was originally scheduled to appear in Court for arraignment or waiver of arraignment; and

(6) In cases in which the defendant waives arraignment without appearing, it shall be the responsibility of the defendant or his counsel to obtain a copy of the information or indictment; and

(7) A waiver of formal arraignment is not available to defendants who are without counsel.

York R.Crim.P. 571.1. Arraignment of *Pro Se* Defendant

(A) If a defendant appears without counsel at the time set for arraignment or waiver of arraignment, and the defendant indicates a desire to proceed without counsel, the defendant shall not be permitted to waive arraignment, but shall be given a return with counsel date. At that date, if the defendant is again without counsel, he shall be informed of his right to secure counsel by the presiding Judge. That Judge shall formally arraign the defendant.

(B) If the defendant appears without counsel at the time set for arraignment or waiver of arraignment, and the defendant indicates a desire to proceed without counsel, and chooses to proceed with a disposition such as a plea of guilt at that time, the defendant shall be scheduled for disposition forthwith, formally arraigned, and informed of his right to counsel. A plea may be taken at that time.

(C) If the defendant appears on the return of counsel date and indicates his desire to proceed without counsel, and chooses a disposition such as a plea of guilt at that time, the defendant shall be formally arraigned and a plea may be taken at that time.

PART G(1). MOTION PROCEDURES

York R.Crim.P. 578. Content of Pre-Trial Motions

All pre-trial motions for pre-trial discovery and inspection under Pa.R.Crim.P. 305, and all omnibus pre-trial motions for relief under Pa.R.Crim.P. 306, shall set forth the specific date on which the defendant was arraigned, or waived arraignment, or if the defendant has not yet been arraigned, or waived arraignment, the motion shall so state. Any such motion not complying with this requirement shall be summarily refused without prejudice.

York R.Crim.P. 579. Filing of Pre-Trial Motions

(A) The original of any pre-trial motion requiring a Court order, rule, or other Court action, shall first be filed with the Clerk of Courts, who shall time-stamp the original and any copies which may also be presented.

(1) A party shall, concurrently with filing the motion, serve the attorney for the Commonwealth and all parties, or their counsel, with a copy of the motion.

(2) The Clerk of Courts shall note the filing of the motion on the docket, and cause to be transmitted to the appropriate Judge any original motion which requests or requires Court action. A courtesy copy shall be served on the assigned Judge by the moving party.

(B) When action by the Court is taken on the motion, or the action requested in the motion is denied, the Clerk of Courts shall time-stamp the order, rule, or other Court action, and shall note the filing upon the docket. The Clerk of Courts shall forthwith furnish a copy of the order, rule or other Court action to all parties, or their counsel, by personal delivery, first class mail, or any other means authorized by the Court.

(C) A motion is deemed filed when the original motion is filed with the Clerk of Courts.

York R.Crim.P. 580. Assignment of Pre-Trial Motions

All pre-trial motions requiring court action prior to trial shall be assigned to the Judge assigned to the case. Notice of such assignment shall be given at the time of the arraignment. Early assignment shall be made through the District Court Administrator.

CHAPTER 6. TRIAL PROCEDURES IN COURT CASES

PART C(2). CONDUCT OF JURY TRIAL

York R.Crim.P. 642. 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 the case.

York R.Crim.P. 647. Admission and Custody of Tangible Exhibits

(A) 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.

(B) From and after an order of admission, or if admission is denied, if the Court should so order, the Clerk of Courts 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. Immediately upon the termination of the hearing or trial, the Clerk of Courts shall assemble and identify all such exhibits to the particular case, and shall be responsible for their secure care, custody and maintenance, and no such exhibits shall thereafter be removed or destroyed except upon order of the Court.

(C) At any time after final disposition of the case, including the expiration of any applicable appeal period, the Clerk of Court 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.

CHAPTER 7. POST-TRIAL PROCEDURES IN COURT CASES

PART B. POST-SENTENCE PROCEDURES

York R.Crim.P. 720. Post-Sentence Motion

(A) Filing.

(1) Post-sentence motions shall be filed with the Clerk of Courts in accordance with Pennsylvania Rule of Criminal Procedure No. 720, and copies thereof shall forthwith be served upon the District Attorney.

(B) Procedure.

(1) Briefing Schedule.

(a) Within ten (10) days after a post-sentence motion is filed, if the Judge determines that briefs or memoranda of law are required for a resolution of the motion, the Judge shall schedule a date certain for the submission of briefs or memoranda of law by the defendant and the Commonwealth.

(2) Hearing; Argument.

(a) If the judge determines that a hearing is required, seven (7) days before the date fixed for argument of any post-sentence motions, the defendant and counsel shall file with the Clerk of Courts two (2) copies of a brief in support of all issues raised, and shall forthwith serve a copy thereof upon the District Attorney.

(3) Three (3) days before the date fixed for argument of any post-sentence motions, the District Attorney shall file with the Clerk of Courts two (2) copies of a brief in opposition, and at the same time shall serve a copy of thereof on the defendant or counsel, who may at or before the case is called for argument, file and serve a reply brief. No brief may be filed thereafter without leave of Court.

(4) Failure of either party or counsel to file a brief in support of, or in opposition to, any issue in the case may be considered by the Court to constitute a waiver of the position of such party as to such issue.

(C) Briefs.

(1) All briefs shall be typewritten, and shall contain complete and accurate citations of all authorities. Briefs shall contain a procedural history of the case, a statement of the questions involved, and argument. All briefs more than ten (10) pages in length shall contain an index.

(D) Trial Transcripts.

(1) Argument on and briefing of such motion shall be had without a transcript of the trial or other proceedings, unless grounds for the necessity of such transcription are detailed in the motion.