

LEHIGH COUNTY CRIMINAL RULES

Leh.R.Cr.P. 102. CITATION OF RULES.

All criminal rules of procedure adopted by the Court of Common Pleas of Lehigh County shall be cited as Lehigh Rules of Criminal Procedure ("Leh.R.Cr.P."). Rule 1901 shall be cited as Lehigh Rule of Judicial Administration ("Leh.Cr.R.J.A. 1901").

Note: The language of this Rule was derived from Leh.R.C.P. 51.

Leh.R.Cr.P. 103. DEFINITIONS.

Unless the context clearly indicates otherwise, the words and phrases used in any criminal rule adopted by the Court of Common Pleas of Lehigh County shall be given the same meaning as is given those words and phrases in the Pennsylvania Rules of Criminal Procedure with the following exceptions and additions: (1) "Court", means the Court of Common Pleas of Lehigh County; (2) "Rule", means any rule of criminal court adopted by the Court of Common Pleas of Lehigh County; (3) "Clerk of Courts–Criminal" means the Clerk of Courts–Criminal of the Court of Common Pleas of Lehigh County; and (4) "except as otherwise provided", means except as provided by statute, by the Pennsylvania Rules of Criminal Procedure, or by specific local criminal court rule.

Note: The language of this Rule was derived from Leh.R.C.P. 76.

Leh.R.Cr.P.105. EFFECTIVE DATES OF RULES.

(a) A Rule or amendment to a Rule shall become effective upon the date specified by the court in adopting or amending such rule, but in no case until after the requirements of Pa.R.Crim.P. 105(C) and (D) are met.

(b) If no effective date is specified, the Rule or amendment to the Rule shall become effective on the first day of January or July, whichever is earlier, following the thirtieth day after its adoption, filing and publication in the *Pennsylvania Bulletin* (Pa.B.).

Note: The language of this Rule was derived from Leh.R.C.P. 52.

Leh.R.Cr.P.114. SERVICE OF ORDERS AND COURT NOTICES

(a) Except as otherwise provided in Paragraph (B) of this local rule, the Clerk of Courts-Criminal shall serve copies of all orders and court notices filed with the Clerk.

(b) Copies of orders and court notices generated by the Court Administrator shall be served by the Court Administrator, who shall indicate on the original transmitted to the Clerk for filing, each attorney or party served, including their names, as well as addresses, dates, and methods of service.

Leh.R.Cr. P.117. COVERAGE: ISSUING WARRANTS; PRELIMINARY ARRAIGNMENTS AND SUMMARY TRIALS; AND SETTING AND ACCEPTING BAIL.

1. Magisterial District Judge Offices shall be open for regular business on Mondays through Fridays, excluding holidays, during such hours as established by Order of the President Judge, and as may be modified with the approval of the President Judge to meet the needs of the public and the court.

2. Continuous coverage for the issuance of warrants, the holding of preliminary arraignments and summary trials, and the setting and accepting of bail and collateral shall be by the traditional on-call system as presently established. The President Judge shall establish the schedule of assignment of Magisterial District Judges to on-call duty.

3. An on-call Magisterial District Judge, while on-call, and the Clerk of Courts—Criminal, on any day and at any time, are authorized to accept bail in accordance with the provisions, and subject to the limitations, of the Pennsylvania Rules of Criminal Procedure.

Leh.R.Cr.P. 202. APPROVAL OF SEARCH WARRANT APPLICATIONS BY ATTORNEY FOR THE COMMONWEALTH.

The District Attorney of Lehigh County having filed a certification pursuant to Pa.R.Crim.P. 202, search warrants, in all circumstances, shall not be issued by any judicial officer unless the search warrant application has the approval of an attorney for the Commonwealth prior to filing.

Note: This Rule, previously and most recently numbered 2002A, and prior to that 707, has been in effect since July 1, 1982, and has required approval of all search warrant applications since that date by the attorney for the Commonwealth prior to filing with an issuing authority. The original Rule 707 was published at 12 Pa.B. 2278 (July 17, 1982).

Leh.R.Cr.P. 300. ACCELERATED REHABILITATIVE DISPOSITION IN SUMMARY CASES.

The District Attorney of Lehigh County has filed a certification pursuant to Pa.R.Crim.P. 300, and has elected that no summary offenses or offenders, including those which are statutorily excluded, are eligible for summary case A.R.D. before the minor judiciary except for Underage Drinking offenses under 18 Pa.C.S. §§6307, 6308 and 6310.3.

Note: This Rule was originally adopted August 23, 1994; and “corrected” August 30, 1994, with an accompanying Administrative Order filed to No. 338- M-1994. The Rule conforms to the last election made by the District Attorney and prohibits a District Justice from granting ARD except in cases charging violations of 18 Pa.C.S. §§6307, 6308 and 6310.3. The Administrative Order of August 30, 1994, was published at 24 Pa.B. 4672 (September 1, 1994),

Leh.R.Cr.P. 506. PRIVATE CRIMINAL COMPLAINTS.

(a) If the attorney for the Commonwealth disapproves a private criminal complaint, the affiant may file a Petition with the Clerk of Courts–Criminal captioned with the name of the affiant, and not the name of the alleged Defendant, for review by the Court..

(b) Such filing shall consist solely of the Petition, a copy of the disapproved criminal complaint and the affidavit(s) of probable cause previously submitted to the attorney for the Commonwealth, together with a copy of the attorney for the Commonwealth’s statement of reasons for disapproval if such statement is not contained on the face of the complaint.

(c) Upon the receipt of such filing, the Clerk of Courts–Criminal shall forthwith notify the attorney for the Commonwealth in writing of the filing and that he has ten (10) days from the date of said notification within which to present to the Judge assigned to review the Petition, for the latter’s confidential review, any investigative reports which the attorney for the Commonwealth may deem relevant to approval or disapproval of the complaint. The Court shall thereafter review the filing and any material submitted by the attorney for the Commonwealth and enter an order approving or disapproving the private criminal complaint.

(d) If the private criminal complaint is approved, the Clerk of Courts–Criminal shall give written notice to the attorney for the Commonwealth and the affiant of the decision and transmit the complaint to the appropriate issuing authority. If the private criminal complaint is disapproved written notice thereof shall be given as aforesaid and the complaint shall be returned to the affiant.

Comment: This Rule is intended to supplement Pa.R.Crim P. 506(B)(2) by providing a procedure for filing and review of disapproved private criminal complaints. The affiant or the affiant’s attorney must file a Petition with the Clerk of Courts–Criminal accompanied by the complaint and affidavits previously acted upon by the attorney for the Commonwealth, as well as a copy of the reasons for disapproval if those reasons are contained on a document other than the complaint itself. The Caption of the Case shall read: “In re: Private Criminal Complaint filed by (Affiant’s Name).” The name of the alleged Defendant shall not appear in that caption. The Clerk of Courts–Criminal shall advise the attorney for the Commonwealth of the filing of these documents with the Court. Reference on that notice should be made to the attorney for the Commonwealth’s case number (such as “D.A. 04-101”) which appears on the complaint form in the incident number block. The attorney for the Commonwealth is allowed ten (10) days after receipt of this notice to file a copy of any investigative material generated by or for the Office of the Attorney for the Commonwealth, if desired. The Rule contemplates that this investigative material remain confidential, and that the attorney for the Commonwealth will notify the Court if nothing is to be filed by his office. “... the trial court may review all evidence that the district attorney considered in making her decision and is not limited to reviewing the four corners of the private criminal complaint.” In re: Private Complaint of Adams, 764 A.2d 577, 578 (Pa. Super. 2000). No hearing is provided for by this Rule, nor is one legally required. Piscanio Appeal, 344 A.2d 658, 661, n.5 (Pa. Super.1975).

The standard for review is not the existence of probable cause, but rather whether there has been a gross abuse of discretion. Commonwealth v. Eisemann, 419 A.2d 591, 593 (Pa. Super. 1980). “[A] trial court should not interfere with a prosecutor’s policy-based decision to

disapprove a private complaint absent a showing of bad faith, fraud, or unconstitutionality.” Commonwealth v. Brown, 708 A.2d 81, 84 (Pa. 1998).

“Where the district attorney's denial is based on a legal evaluation of the evidence, the trial court undertakes a de novo review of the matter. Commonwealth v. Cooper, 710 A.2d 76 (Pa.Super.1998). Where the district attorney's disapproval is based on policy considerations, the trial court accords deference to the decision and will not interfere with it in the absence of bad faith, fraud or unconstitutionality. Id. at 79. In the event the district attorney offers a hybrid of legal and policy reasons for disapproval, deference to the district attorney's decision, rather than de novo review, is the appropriate standard to be employed.” In re: Private Complaint of Adams, 764 A.2d 577, 579 (Pa. Super. 2000)

Note: This Rule in its basic form was adopted in 1981 and published in 11 Pa.B. 1316 (April 18, 1981). The *Comment* has been expanded based upon more recent case law.

Leh.R.Cr.P. 507. APPROVAL OF POLICE COMPLAINTS AND ARREST WARRANT AFFIDAVITS BY ATTORNEY FOR THE COMMONWEALTH.

The District Attorney of Lehigh County having filed a certification pursuant to Pa.R.Crim.P. 507:

1. Enumerated Offenses.

Criminal complaints and arrest warrant affidavits by police officers, as defined in the Rules of Criminal Procedure, charging one or more of the following offenses shall not hereafter be accepted by any judicial officer unless the complaint and affidavit has the approval of an attorney for the Commonwealth prior to filing:

- a. Criminal homicide in violation of 18.Pa.C.S. §2501
Murder of any degree in violation of 18.Pa.C.S. §2502
Voluntary manslaughter in violation of 18.Pa.C.S. §2503
Involuntary manslaughter in violation of 18.Pa.C.S. §2504
Drug delivery resulting in death 18.Pa.C.S. §2506
Criminal homicide of unborn child 18 Pa.C.S § 2604
Murder of unborn child 18 Pa.C.S. §2604
Voluntary manslaughter of unborn child 18 Pa.C.S. § 2605
- b. Homicide by vehicle 75 Pa.C.S. §3732
Homicide by vehicle while driving under influence in violation of 75 Pa.C.S § 3735
Accidents involving death or serious bodily injury 75 Pa.C.S. §3742(b)(2) and (3)
- c. Aggravated assault 18 Pa.C.S. §2702
Assault by prisoner 18 Pa.C.S. §2703
Assault by life prisoner 18 Pa.C.S. §2704

- Kidnapping 18 Pa.C.S. §2901
- Recklessly endangering another person 18 Pa.C.S. §2705
- d. Rape 18 Pa.C.S. §3121
 - Statutory sexual assault 18 Pa.C.S. §3122
 - Involuntary deviate sexual intercourse 18 Pa.C.S. §3123
 - Sexual assault 18 Pa.C.S. §3124.1
 - Institutional sexual assault 18 Pa.C. §3124.2
 - Aggravated indecent assault 18 Pa.C.S. §3125
 - Sexual abuse of children 18 Pa.C.S. §6312
 - Neglect of care-dependent person 18 Pa.C.S. §2713
- e. Arson 18 Pa.C.S. §3301
 - Causing or risking a catastrophe 18 Pa.C.S. §3302
 - Burglary 18 Pa.C.S. §3502
 - Robbery 18 Pa.C.S. §3701
 - Robbery of motor vehicle 18 Pa.C.S. §3702
- f. Person not to possess firearm 18 Pa.C.S. §6105
 - Firearms not to be carried without a license 18 Pa.C.S. §6106
 - Possession of firearm by a minor 18 Pa.C.S. §6110.1
 - Possession of firearm with altered serial number 18 Pa.C.S. §6110.2
 - Certain bullets prohibited 18 Pa.C.S. §6121
 - Theft and Receiving stolen property (firearms) 18 Pa.C.S. §3903(a)(2) and (a.1)
 - Discharge of a firearm into an occupied structure 18 Pa.C.S. §2707.1
- g. Ethnic intimidation 18 Pa.C.S. §2710
 - Bribery in official and political matters 18 Pa.C.S. §4701
 - Threats and other improper influences in official and political matters 18 Pa.C.S. §4702
 - Perjury 18 Pa.C.S. §4902
 - Interception, disclosure or use of wire, electronic or oral communications 18 Pa.C.S. §5703
 - Election code violations 25 Pa.C.S. (all offenses)
- h. Controlled substance, drug device and cosmetic act 35 P. S. § 780-113 (all felonies)
- i. Criminal attempt to commit any of the above offenses 18 Pa.C.S. §901

Criminal solicitation to commit any of the above offenses 18 Pa.C.S. §902

Criminal conspiracy to commit any of the above offenses 18 Pa.C.S. §903

- j. Any offense excluded by Section 6302(2)(i),(ii) and (iii) of the Juvenile Act, 42 Pa.C.S. §6302(2) (i), (ii) and (iii)¹, from the definition of a “delinquent act.”

2. Re-Arrests and Refilings

Police criminal complaints or arrest warrant affidavits shall not hereafter be accepted by any judicial officer unless the complaint and affidavit has the approval of an attorney for the Commonwealth prior to filing where the complaint or arrest warrant are for the rearrest of a defendant previously discharged, or to reinstitute a charge or charges previously dismissed by an issuing authority for failure to prove a prima facie case, provided the current and the former cases arise out of the same criminal episode.

3. Arrest Warrant Affidavits Requiring Sealing.

Arrest warrant affidavits shall not hereafter be accepted by any judicial officer unless the arrest warrant affidavit has the approval of an attorney for the Commonwealth prior to filing in any case where the affidavit contains information, the disclosure of which, in the opinion of the police, would endanger the safety of an informant, jeopardize the integrity of an ongoing criminal investigation, or which for any other reason should not be disclosed at or about the time of the execution of the warrants. The judicial officer shall ask the police, prior to accepting an affidavit, whether it contains any such information, and if the police indicate it does, the judicial officer shall require that it be submitted to an attorney for the Commonwealth for approval in accordance with this Rule. If the police indicate it does not, the judicial officer shall accept the affidavit.

¹ The term [“delinquent act”] shall not include:(i) The crime of murder.(ii) Any of the following prohibited conduct where the child was 15 years of age or older at the time of the alleged conduct, and a deadly weapon as defined in 18 Pa.C.S. §2301 (relating to definitions) was used during the commission of the offense, which, if committed by an adult, would be classified as:(A) Rape as defined in 18 Pa.C.S. §3121 (relating to rape).(B) Involuntary deviate sexual intercourse as defined in 18 Pa.C.S. §3123 (relating to involuntary deviate sexual intercourse).(C) Aggravated assault as defined in 18. Pa.C.S. §2702(a)(1) or (2) (relating to aggravated assault).(D) Robbery as defined in 18. Pa.C.S. §3701(a)(1)(I), (ii) or (iii) (relating to robbery).(E) Robbery of motor vehicle as defined in 18. Pa.C.S. §3702 (relating to robbery of motor vehicle).(F) Aggravated indecent assault as defined in 18. Pa.C.S. §3125 (relating to aggravated indecent assault).(G) Kidnapping as defined in 18. Pa.C.S. §2901 (relating to kidnapping).(H) Involuntary manslaughter.(I) An attempt, conspiracy or solicitation to commit murder or any of these crimes, as provided in 18. Pa.C.S. §§901 (relating to criminal attempt), 902 (relating to criminal solicitation) and 903 (relating to criminal conspiracy).(iii) Any of the following prohibited conduct where the child was 15 years of age or older at the time of the alleged conduct, and has been previously adjudicated delinquent of any of the following prohibited conduct, which, if committed by an adult, would be classified as:(A) Rape as defined in 18 Pa.C.S. §3121.(B) Involuntary deviate sexual intercourse as defined in 18. Pa.C.S. §3123.(C) Robbery as defined in 18 Pa.C.S. §3701(a)(1)(I), (ii) or (iii).(D) Robbery of motor vehicle as defined in 18. Pa.C.S.

§3702.(E) Aggravated indecent assault as defined in 18. Pa.C.S. §3125.(F) Kidnapping as defined in 18. Pa.C.S. §2901.(G) Voluntary manslaughter.(H) An attempt, conspiracy or solicitation to commit murder or any of these crimes as provided in 18 Pa.C.S. §§901, 902 and 903.

Note: This Rule has required approval of the enumerated offenses listed in Paragraph 1, since it was adopted by an Administrative Order dated September 3, 2002, File No. 1971-M-2002, 32 Pa.B. 4693 *et seq.* (September 28, 2002). The original rule on this subject was numbered 706 and adopted by an order dated June 1, 1982, and published at 12 Pa.B. 2278 (July 17, 1982).

Leh.R.Cr.P. 528. PERCENTAGE CASH BAIL SYSTEM.

(1) Where percentage cash bail has been authorized by the bail authority, the Defendant for whom bail has been set (and any private third party surety/depositor) shall execute the bail bond and deposit with the issuing authority or the Clerk of Courts—Criminal a sum of money equal to ten per cent (10%) of the amount of bail set, but in no event less than Twenty-five (\$25.00) Dollars. Corporate sureties or professional bail bondsmen or agents thereof are expressly prohibited from posting the deposit for the percentage cash bail system as provided in this Rule. However, where 10% cash bail is authorized, corporate sureties and professional bondsmen may, nevertheless, post bond, provided they do so for the full amount of the bail.

(2) Prior to setting 10% cash bail, the bail authority shall generally seek and review the recommendations of the court designated bail agency.

(3) Where a third-party becomes the depositor of the 10% cash on behalf of a defendant, that third-party shall become a surety for the balance of the full amount of the bail, and shall execute the bond as a surety.

Note: This Rule was part of the original bail rules numbered 4006, 4006A, 4006B, 4006C and 4006D. They were adopted by an order dated March 23, 1984, and published at 14 Pa.B. 833 *et seq.* (March 17, 1984).

Leh.R.Cr.P. 530. DESIGNATION OF LOCAL COURT BAIL AGENCY.

(1) Lehigh Valley Pretrial Services, Inc., is designated as the bail agency to monitor and assist defendants released on bail in criminal cases instituted in Lehigh County. This agency shall perform the duties and have the powers set forth in Pa.R.Crim.P.530(A).

(2) When a Defendant is released on any of the types of bail set forth in Pa.R.Crim.P. 524(C)(1) through (4), or on 10% cash bail pursuant to Pa.Rs.C.P. 524(C)(5) and 528(D)(1), and the bail agency has been designated by the bail authority to act as surety or supervising agency for the defendant, the defendant shall then become subject to the rules and regulations of the bail agency. The bail agency shall not be required to sign the bail bond.

(3) Whenever a defendant who is supervised by the bail agency fails to comply with the conditions of his or her release, or the rules and regulations of the bail agency, a bail piece may issue pursuant to Pa.R.Crim.P. 536(B) to the bail agency, and the defendant may be brought before the court to determine if additional bail shall be set or bail revoked.

Note: This Rule was part of the original bail rules numbered 4006, 4006A, 4006B, 4006C and 4006D. They were adopted by an order dated March 23, 1984, and published at 14

Pa.B. 833 *et seq.* (March 17, 1984). The Rule was later amended to reflect the reorganization and renaming of the bail agency.

Leh.R.Cr.P. 531. CORPORATE SURETY AND SURETY AGENTS

A. CORPORATE SURETY

1. Every corporate surety duly authorized to do business in Pennsylvania may become surety on any bail bond required to be filed in the criminal courts of Lehigh County provided that a current Certificate of Authority issued to it by the Insurance Department of the Commonwealth of Pennsylvania, along with its current financial statement, are on file with the Clerk of Courts–Criminal. No bond shall be executed by any corporate surety after May 15 of any year unless such a certificate issued after March 31 of the same year and the current financial statement shall have been filed with the Clerk of Courts.

2. No bond shall be executed by any corporate surety where the aggregate maximum amount of unsettled and outstanding bail forfeitures, as determined by the Lehigh County Solicitor, Department of Law, is \$250,000.00 or more. The County Solicitor shall immediately notify the Clerk of Courts–Criminal, the District Attorney and the District Justices of Lehigh County, of any corporate surety having reached this limit. The Clerk of Courts–Criminal and District Justices shall immediately cease accepting bonds from the corporate surety. When appropriate financial settlement has been made with the County of Lehigh, the County Solicitor shall notify the Clerk of Courts–Criminal and District Justices that execution of bonds by the corporate surety may resume.

B. SURETY AGENTS

1. Every agent, acting on behalf of a corporate surety, may execute a bail bond required to be filed in the criminal courts of Lehigh County provided that a Power of Attorney issued by the corporate surety setting forth the maximum limit of liability per bail, along with proof of licensing by the Insurance Department of the Commonwealth of Pennsylvania, shall be filed with the Clerk of Courts. No bond shall be executed by any surety agent after the expiration of such power of attorney until a new Power of Attorney has been filed with the Clerk of Courts.

2. No bond shall be executed by any surety agent of a corporate surety authorized to do business in Lehigh County where the aggregate amount of unsettled and outstanding bail forfeitures for all corporate sureties for which the surety agent is writing bonds, as determined by the Lehigh County Solicitor, Department of Law, is \$100,000.00 or more. The County Solicitor shall immediately notify the Clerk of Courts–Criminal, the District Attorney and the District Justices of Lehigh County, of any surety agent having reached this maximum limit. The Clerk of Courts–Criminal and District Justices shall immediately cease accepting bonds by the surety agent. When appropriate financial settlement has been made with the County of Lehigh, the County Solicitor shall notify the Clerk of Courts–Criminal and District Justices that execution of bonds by the surety agent may resume.

C. PROFESSIONAL BAIL BONDSMEN

1. Every professional bail bondsmen, duly authorized to do business in Pennsylvania, may become surety on any criminal bail bond required to be filed in this Court, provided that a currently valid registration and license from the Insurance Department of the Commonwealth of Pennsylvania, pursuant to 42 Pa.C.S. §5742, evidencing such right, shall be

filed with the Clerk of Courts–Criminal. Every professional bail bondsman must present proof that he or she maintains an office in Lehigh County from which his or her business is conducted pursuant to 42 Pa.C.S. §5744, and he or she must post and maintain as security with the Clerk of Courts–Criminal the sum of \$25,000.00 in United States currency or securities of the United State Government.

2. No bond shall be executed by any professional bail bondsman where the aggregate amount of unsettled and outstanding bail forfeitures, as determined by the Lehigh County Solicitor, Department of Law, is \$100,000.00 or more. The County Solicitor shall immediately notify the Clerk of Courts–Criminal, the District Attorney and the District Justices of Lehigh County, of any professional bail bondsman having reached this maximum limit. The Clerk of Courts and District Justices shall immediately cease executing bonds by the professional bail bondsman. When appropriate financial settlement has been made with the County of Lehigh, the County Solicitor shall notify the Clerk of Courts–Criminal and District Justices that execution of bonds by the professional bail bondsman may resume.

Note: This Rule in substantially the same form was adopted as CR 4011, by Order dated November 7, 1995, and published at 25 Pa.B. 5238 *et seq.* (November 25, 1995).

Leh.R.Cr.P.535. RETURN OF CASH DEPOSITS. CHARGES.

Upon full and final disposition of the case, the issuing authority or the Clerk of Courts–Criminal shall retain thirty per cent (30%) of the amount deposited, but in no event less than Ten (\$10.00) Dollars, as administrative costs, which includes the Clerk’s poundage fee for the percentage cash bail program and shall return the balance to the depositor, unless the depositor at the time the balance is to be returned otherwise agrees in writing. The thirty per cent (30%) to be retained shall be considered as earned at the time the bail undertaking is executed and the cash is deposited by the defendant or the third party surety.

Comment: Nothing in this Rule is intended to preclude the application of the seventy per cent (70%) cash balance being applied to fines, costs, restitution, or, if funds remain after payment of fines, costs and restitution, to fees due the Defendant’s attorney of record, if agreed to in writing by the depositor at the time the money would otherwise be returned to the depositor. See Pa.R.Crim.P. 535, the Comment to that Rule, and the Report of the Criminal Procedural Rules Committee, 33 Pa.B. 6409 (December 27, 2003).

Note: This Rule was part of the original bail rules numbered 4006, 4006A, 4006B, 4006C and 4006D. They were adopted by an order dated March 23, 1984, and published at 14 Pa.B. 833 *et seq.* (March 17, 1984).

Leh.R.Cr.P.542. CONTINUANCES OF PRELIMINARY HEARINGS BEFORE DISTRICT JUSTICES.

(a) Preliminary hearings before District Justices in court cases shall be scheduled initially as required by the Pennsylvania Rules of Criminal Procedure.

(b) Thereafter a District Justice may grant continuances of the preliminary hearing upon the request either of the Defendant or the Commonwealth provided that such continuances are limited to the minimum period necessary and do not, in the aggregate number of days for all

continuances in the case, exceed twenty-one (21) days from the date upon which the preliminary hearing was first scheduled.

(c) Except as provided in section (b) of this Rule, all requests for continuances of preliminary hearings shall be presented to the District Justice Court Administrator, or in his absence to an appropriate Judge of the Court of Common Pleas, in the form of a written motion setting forth good cause for the same with forty-eight (48) hours advance notice to the defendant or his counsel or the attorney for the Commonwealth.

(d) If a continuance is granted pursuant to section (c) of this Rule, the order of court granting the same shall set a time at which the preliminary hearing shall be held.

(e) For purposes of this Rule all co-defendants shall be regarded as one (1) party.

Comment: The appropriate common pleas judge under (c) would normally be the judge assigned to hear cases emanating from the District Justice Office or the common pleas judge specially assigned to the case.

Note: This rule, originally numbered 703, was adopted by an order dated March 20, 1984, and published at 14 Pa.B. 1388 *et seq.* (April 21, 1984). It has been slightly revised to reflect changes in the current case assignment process.

Leh.R.Cr.P. 571. ARRAIGNMENT

(a) Criminal court arraignments shall be held at such times and places as the Court shall direct. A first status conference shall be held at the same time as the court arraignment. Written notice of the arraignment and first status conference shall be given to the Defendant as provided Pa.R.Crim.P. 113 (1)(a) by the District Justice at the time the case is bound over or waived to court.

(b) Prior to the date scheduled for arraignment, or at the arraignment, defense counsel, who has filed a written entry of appearance with the Clerk of Courts—Criminal and the attorney for the Commonwealth, may file a written waiver of arraignment properly executed by counsel and the Defendant.

(c) Attendance at the status conference is considered mandatory and cannot be waived.

(d) The Defendant, at the time of arraignment, may enter a plea of not guilty, guilty or, with the consent of the judge, *nolo contendere*. If a guilty or *nolo contendere* plea is entered, the Court shall proceed as set forth in Pa.R.Crim.P. 590. If the case is not disposed of at this time, the Defendant shall be given notice of the next required court appearance.

Comment: This rule implements Pa.R.Crim.P. 571. It contemplates that attendance at the arraignment and status conference is mandatory, except that the arraignment, but not the status conference, may be waived by a defendant who is represented by counsel as provided in section (b). Incarcerated defendants who are represented by counsel may waive arraignment in writing and appear in court only for their status conference. Where counsel cannot appear for the arraignment, counsel should obtain approval in advance from the arraignment judge for the Defendant to appear without counsel. A suitable date for the next listing of the case should be tentatively set at the time of the approval; and a waiver of arraignment should be filed.

The waiver of arraignment form, which must be signed by the defendant and by counsel, shall contain an acknowledgment that the Defendant: (a) understands the nature of the charges; (b) understands the rights and requirements contained in Pa.R.Crim.P. 571(C); and (c) waives his or her right to appear for arraignment.

Note: This Rule was originally adopted at R. 702; it was readopted as CR 303 by Order dated November 20, 1991, and published at 21 Pa.B. 5639 *et seq.* (December 7, 1991). The Rule has been amended to reflect current practices.

Leh.R.Cr.P. 700. SENTENCING JUDGE.

The sentence following a plea of guilty or *nolo contendere* may be imposed by a judge other than the judge who received such plea whenever such substitution of judges shall enhance the efficient disposition of cases. In such instances, the defendant shall be given due notice at the time of entering the plea.

Note: This Rule was adopted as R. 1401(a) by Order dated April 16, 1976, and published at 6 Pa.B. 1041 (September 8, 1976).

Leh.Cr.R.J.A. 1901. TERMINATION OF INACTIVE CRIMINAL CASES.

The Clerk of Courts–Criminal shall prepare for call on the first Monday of November of each year, or on such other date as the Court may by special order direct, a list of all criminal proceedings in which no steps or proceedings have been taken for two years or more. The Clerk shall give notice thereof to the attorney for the Commonwealth, any private prosecutor, the Defendant, and the Defendant’s attorney of record, as provided by Pa.R.J.A. No. 1901(c). If no good cause for continuing a proceeding is shown at the call of the list, the Court shall enter an order dismissing the proceedings.

Note: This Rule implements Pa.R.J.A. No. 1901 for Criminal Cases in Lehigh County. Former L.C. Rule 532(b)(1) was not given a new criminal number in Administrative Order 174 - M - 1987 (17 Pa.B.3406), when the Criminal Rules were renumbered and spun off from the Civil Rules, nor was it included in Civil Rule 239 adopted on July 20, 1990, File No. 90-J-4, 20 Pa.B. 4176 *et seq.*(August 14, 1990). The Rule subsequently was contained in an Administrative Order adopted August 29, 1990, File No. 381-M-1990, 20 Pa.B. 4953 (September 29, 1990).