

**IN THE COURT OF COMMON PLEAS OF LEHIGH COUNTY,  
PENNSYLVANIA**

**IN RE: ESTABLISHING A CENTRAL COURT :  
FOR ALL PERSONS CHARGED WITH :  
WITH VIOLATING SECTION 3802 : 39-AD- 5-2019  
OF THE VEHICLE CODE (relating to :  
Driving under the influence of alcohol :  
or controlled substance). :**

**ADMINISTRATIVE ORDER**

**AND NOW** this 18<sup>th</sup> day of March, 2019, **IT IS HEREBY ORDERED**, that a Central Court shall be established to conduct preliminary hearings for all court cases where 75 Pa.C.S.A. § 3802 (DUI) is charged, and the Policies and Procedures attached hereto as Exhibit A shall be adopted.

**IT IS ORDERED** that this **Administrative Order** shall be effective thirty (30) days after publication thereof in the *Pennsylvania Bulletin*.

(a) All criminal complaints filed in Lehigh County on and subsequent to April 15, 2019 where 75 Pa.C.S.A. § 3802 (DUI) is charged, shall be scheduled for DUI Central Court as set forth in the attached schedule.

(b) DUI Central Court shall commence June 6, 2019.


**IT IS FURTHER ORDERED** that in accordance with Pa. R. Crim. P. 105, the Court Administrator of Lehigh County shall:

(a) File one (1) certified copy hereof with the Administrative Office of the Pennsylvania Courts;

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- (b) Distribute two (2) certified copies hereof and one (1) CD-Rom copy that complies with the requirements of 17 Pa. Code § 13.11(b), with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;
- (c) Incorporate a copy hereof in the complete set of local rules no later than 30 days following publication in the *Pennsylvania Bulletin*;
- (d) Publish a copy hereof on the website of the Court of Common Pleas of Lehigh County, Pennsylvania at:  
<https://www.lccpa.org/rules.nex>;
- (e) Supervise the distribution hereof to all Judges of this Court.

BY THE COURT:



MARIA L. DANTICO, JUDGE

I, Andrea E. Naugle, Clerk of Judicial Records of the Court of Common Pleas of Lehigh County, Allentown, PA do certify that this is a true and correct copy of the original record filed in said Court.

Andrea E. Naugle, Clerk of Judicial Records

3/19/19        
Date                      Deputy

# EXHIBIT A

# LEHIGH COUNTY COURT OF COMMON PLEAS DUI CENTRAL COURT PROCEDURES

## GENERAL INFORMATION:

1. All court cases where 75 Pa.C.S.A. § 3802 (DUI) is charged shall be submitted to DUI Central Court at a location to be determined by the President Judge.
2. Preliminary Hearings for all DUI cases shall be scheduled in DUI Central Court on the 1<sup>st</sup> and 3<sup>rd</sup> Thursday of every month. If the assigned Thursday falls on a holiday, DUI Central Court shall be on the following Thursday.
  - a. DUI Central Court dates shall be published on the Court's yearly calendar.
  - b. The Magisterial District Judge Administrator shall provide notice of said dates, which shall be forwarded to all MDJ's, the District Attorney, the Public Defender, the Sheriff, Lehigh County Adult Probation, Pennsylvania State Police, Lehigh County Department of Corrections, and all municipal police departments within Lehigh County.
3. DUI Central Court shall be presided over by a Magisterial District Judge (MDJ).
  - a. The MDJ rotation schedule shall be established by the Magisterial District Judge Administrator.
4. The DUI Central Court schedule shall be in hourly block times.
  - a. The first hourly block shall be 9:00 a.m. Afternoon hourly blocks shall begin at 1:30 with the last block of the day scheduled to begin at 3:30.
  - b. The number of cases for each block shall be determined by the DUI Supervising Judge in consultation with the Magisterial District Judge Administrator, District Attorney, Public Defender, Adult Probation, and Sheriff.
5. The Magisterial District Judge Administrator shall maintain and provide notice of the DUI Central Court.

### **DUI CENTRAL COURT PERSONNEL:**

In addition to the assigned MDJ, the following departments shall provide at least one (1) representative on each scheduled DUI Central Court date:

- a. Central Court staff
- b. DUI Criminal Court Clerk
- c. District Attorney's Office
- d. Public Defender's Office
- e. Adult Probation
- f. Lehigh Valley Pre-trial Services
- g. Sheriff
- h. Victim/Witness

### **SCHEDULING:**

1. Scheduling cases for DUI Central Court shall be the responsibility of the originating MDJ office.
2. Scheduling of cases shall be according to the chart attached hereto and is based on the filing date of the criminal complaint and the DUI Central Court schedule.
3. Defendants and all parties should appear 15 minutes prior to the block time scheduled for their case.
4. Notices shall be provided to the defendant and all parties by the originating MDJ office.
  - a. The affiant will not be required to attend the first scheduled date. If the defendant does not waive his or her preliminary hearing and requests a hearing, the affiant and any other witnesses shall be notified and issued subpoenas requiring their attendance at the next scheduled preliminary hearing.
5. All requests for continuances shall be made and acted upon in accordance with Pa.R.Crim.P. 542 and Lehigh.R.Cr.P. 542.
6. All written notifications of continuances shall be in accordance with Pa.R.Crim.P. 542 and Lehigh.R.Cr.P. 542.
7. In the case of an incarcerated defendant, the Preliminary Hearing shall be scheduled before an MDJ on the next available non-DUI Central Court list.

8. If an incarcerated defendant is released prior to a scheduled Preliminary Hearing on a non-DUI Central Court date, his/her Preliminary Hearing will be rescheduled on to the next available DUI Central Court date and all regular DUI Central Court scheduling procedures shall be followed.

### **CASE PROCESSING:**

1. **Complaint by Summons:**
  - a. When a complaint is filed in a Magisterial District Court, that case shall be docketed and scheduled by that MDJ Court's staff.
  - b. The originating MDJ shall schedule the Preliminary Hearing upon appropriate date for DUI Central Court, according to the DUI Central Court schedule and in accordance with procedures established by Court Administration.
  - c. A summons will be sent to the defendant by MDJ office where the complaint was filed.
  - d. The summons shall notify the defendant of a Preliminary Hearing in accordance with the applicable Pennsylvania Rules of Criminal Procedure.
  - e. All case files, including original copy, shall be maintained in the originating MDJ Office.
2. **Arraignment of Defendant when Criminal Charges are Filed:**
  - a. Defendants arraigned at the time criminal charges are filed shall have their Preliminary Hearing date scheduled pursuant to Pa.R.Crim.P. 540.
3. **Waiver of Preliminary Hearing by a Defendant represented by counsel:**
  - a. Once a case has been scheduled in DUI Central Court, any waivers of a Preliminary Hearing pursuant to Pa.R.Crim.P. 541 shall be coordinated with the originating MDJ.

### **CASE DISPOSITION:**

1. **Waiver of Preliminary Hearing at DUI Central Court:**
  - a. Defendants who waive their right to a Preliminary Hearing at DUI Central Court shall present their request to do so to the presiding MDJ.

2. **Waiver of Preliminary Hearing by a Defendant represented by counsel prior to scheduled DUI Central Court:**
  - a. Defendants represented by counsel may waive their Preliminary Hearing prior to their scheduled DUI Central Court date pursuant to Pa.R.Crim.P. 541.
    - (i) Such waiver shall be made to the originating MDJ.
  - b. Upon receipt of written waiver, the case shall proceed pursuant to the Pennsylvania Rules of Criminal Procedure and corresponding Court Administration procedure.
  - c. The originating MDJ shall provide defendant and his/her counsel with written information regarding the required Court Reporting Network (CRN) Evaluation.
  
3. **Preliminary Hearing:** Defendants who do not waive their Preliminary Hearing at their first scheduled hearing date, shall have their case continued to the second (2<sup>nd</sup>) DUI Central Court date following the date of the hearing request, to be scheduled at a time in the afternoon.
  - a. All parties shall be notified of the new Preliminary Hearing date pursuant to procedures established by Court Administration.
  - b. The affiant and any other necessary witnesses shall also be notified and if requested by the Commonwealth, issued a subpoena to appear in Central Court for this date.
  
4. **Failure to Appear:**
  - a. If the defendant fails to appear for his/her Preliminary Hearing, the hearing shall be continued to the second (2<sup>nd</sup>) DUI Central Court date following the date of the hearing request, to be scheduled at a time in the afternoon.
  - b. All parties shall be notified of the new Preliminary Hearing date pursuant to procedures established by Court Administration.
  - c. The affiant and any other necessary witnesses shall also be notified and if requested by the Commonwealth, issued a subpoena to appear in Central Court for this date.
  - d. Should the defendant fail to appear for the new Preliminary Hearing date and service is confirmed, a hearing will be held in absentia in accordance with Pa.R.Crim.P. 543 and a bench warrant shall be issued pursuant to Pa.R.Crim.P. 543(D)(1) by a Judge of the Court of Common Pleas.

**COURT REPORTING NETWORK EVALUATION (CRN):**

1. Following either waiver or hearing where the charges are bound over to the Court of Common Pleas, a representative from the Adult Probation Department will contact the defendant and schedule a CRN Evaluation.
2. The CRN evaluation is mandatory for all DUI offenders in the Commonwealth of Pennsylvania.
3. The CRN evaluation for all Lehigh County DUI offenders must be completed by a representative of the Lehigh County Adult Probation Office.
4. The defendant will be given a copy of the evaluation results at the conclusion of the appointment. If recommended for further assessment, the defendant will be provided with a list of approved agencies.



<b>COMPLAINT FILE DATE</b>	<b>DUI CENTRAL COURT DATES</b>
April 16-30, 2019	June 6, 2019
May 1-15, 2019	June 20, 2019
May 16-31, 2019	July 11, 2019
June 1-15, 2019	July 18, 2019
June 16-31, 2019	August 1, 2019
July 1-14, 2019	August 15, 2019
July 15-31, 2019	September 5, 2019
August 1-15, 2019	September 19, 2019
August 16-31, 2019	October 3, 2019
September 1-15, 2019	October 17, 2019
September 16-30, 2019	November 7, 2019
October 1-15, 2019	November 21, 2019
October 16-31, 2019	December 5, 2019
November 1-15, 2019	December 19, 2019
November 16-30, 2019	January 2, 2020
December 1-15, 2019	January 16, 2020
December 16-31, 2019	February 6, 2020
January 1-15, 2020	February 20, 2020
January 16-31, 2020	March 5, 2020
February 1-15, 2020	March 19, 2020
February 16-29, 2020	April 2, 2020
March 1-15, 2020	April 16, 2020
March 16-31, 2020	May 7, 2020
April 1-14, 2020	May 21, 2020

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TO THE HONORABLE, THE PRESIDENT JUDGE OF SAID COURT:

The Petition of James B. Martin, District Attorney of Lehigh County respectfully represents that:

1. In January 2018, the Pennsylvania Department of Drug and Alcohol Programs and the Pennsylvania Department of Transportation published a joint report of its analysis and findings regarding Driving Under the Influence Programs and Statutory Compliance.
2. Based on these findings and its analysis, the DUI Treatment Compliance Oversight Committee recommended that county criminal justice and treatment systems commit to the common goal of effectively and efficiently employing the criminal justice system to facilitate successful treatment for offenders charged and convicted or adjudicated for violating Section 3802 of the Vehicle Code, Pa.C.S.A. § 3802 (relating to driving under the influence of alcohol or controlled substance – i.e. “DUI”).

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3. Consistency, collaboration among stakeholders, and lack of delay will achieve this result.
4. The establishment of a DUI Central Court will support the furtherance of these goals.
5. In 2017, Lehigh County disposed of 1851 cases where the offender was charged of violating Section 3802 of the Vehicle Code, 75 Pa.C.S.A. § 3802 (relating to driving under the influence of alcohol or controlled substance – i.e. “DUI”).
6. In 2018, 1745 such cases were disposed.
7. According to the aforementioned Joint Report, the average time for a DUI case to reach resolution in Lehigh County is 265 days.
8. Presently, more than 90% of preliminary hearings for those charged with DUI are scheduled and presided over by the Lehigh County Magisterial District Judge (“MDJ”) with jurisdiction. There is inconsistency as to the length of time between arrest and the preliminary hearing or waiver of the hearing.
9. Pursuant to Title 75, Section 3816, all individuals charged with DUI must complete a Court Reporting Network Evaluation (“CRN”) prior to case disposition.
10. The statutory purpose of this evaluation is to determine the extent of a person’s involvement with alcohol and/or controlled substances.

11. In addition to a CRN, pursuant to Title 75, Section 3814, a Drug and Alcohol Evaluation must be completed prior to case disposition if any of the three criteria are met:
  - a. The offender's blood alcohol concentration ("BAC") is .16% or greater;
  - b. the offender has a prior DUI within the last ten (10) years; or
  - c. The CRN evaluation indicates a need for counseling and treatment.
12. In the last three (3) years, the average BAC of those charged with DUI was .17%.
13. Presently, upon conclusion or waiver of a preliminary hearing, the MDJ office is to provide the offenders with paperwork regarding the CRN requirement.
14. There is inconsistency in the paperwork being provided as well as inconsistency in accused individuals appearing at a scheduled CRN. It is not uncommon for offenders to appear for their first Court of Common Pleas date having not completed the CRN.
15. Consistency and reduction in delay between arrest, preliminary hearing, and CRN will increase efficacy of treatment and decrease recidivism.
  - a. An offender is more motivated towards treatment closer to the date of arrest than he or she is as time passes.
  - b. The sooner the CRN is conducted, the sooner appropriate treatment may begin.

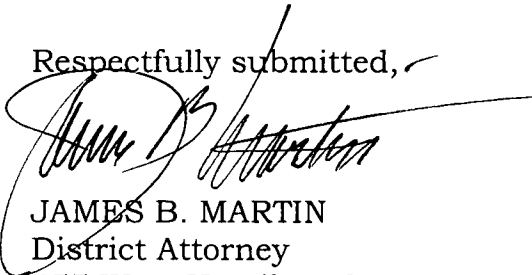
- c. Treatment outcomes improve when delays are reduced.
16. The establishment of a DUI Central Court and implementation of uniform policies and procedures will create consistency and reduce delay.
17. A single location for all DUI preliminary hearings will assist all stakeholders in being involved and present from the beginning of a case.
- a. An Assistant District Attorney will be present at all scheduled hearings in DUI Central Court to identify potential Accelerated Rehabilitative Disposition (“ARD”) candidates, begin plea negotiations, offer input on bail, and conduct any hearings.
  - b. An Assistant Public Defender and/or Defense Counsel will be present to meet with clients, and discuss the case as well as potential resolutions with the prosecutor.
  - c. The Assistant Public Defender will prompt any unrepresented income eligible offenders to apply and obtain immediate representation. This will eliminate the delay that occurs when an unrepresented offender does not seek representation until the case has already progressed to the Court of Common Pleas.
  - d. The presence of a prosecutor at all scheduled DUI Central Court dates will eliminate the need for the arresting police officer, affiant or other witnesses to appear at the first scheduled date for the DUI preliminary hearing. Their presence would only be required if the

offender does not waive their preliminary hearing at that first date. Should this occur, these individuals would be notified to appear for the next scheduled hearing date.

- e. Establishment of a DUI Central Court will provide financial benefits and/or savings to Lehigh County taxpayers; municipalities; and police departments by reducing potential overtime pay. In addition, the strain placed on those police departments with limited personnel will be lessened by allowing the officer to remain on duty rather than report for every scheduled DUI preliminary hearing regardless of the status of that case.

WHEREFORE, your Petitioner, James B. Martin, District Attorney, respectfully prays that Your Honorable Court order that a DUI Central Court be established and the Procedures and Policies set forth in Exhibit A be adopted.

Respectfully submitted, ✓



JAMES B. MARTIN  
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