

WESTMORELAND COUNTY RULES OF CRIMINAL PROCEDURE

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RULE WC114 ORDERS AND COURT NOTICES; FILING; SERVICE; AND DOCKET ENTRIES

- (A) Pursuant to Pa.R.Crim.P. 114(A)(1) and (2), warrants, court orders, and court notices shall be docketed and placed in the criminal case file within two working days of receipt.

- (B) Pursuant to Pa.R.Crim.P. 114 (B), the Westmoreland County Court Administrator is designated to serve court notices. The Westmoreland County Clerk of Courts shall serve all Orders.
 - 1. The Court Administrator shall place in the mail or otherwise serve all notices within two working days of printing.
 - 2. The Clerk of Courts shall give a copy of all Court Orders to the Defendant or to the deputy sheriff who has custody of the defendant when the defendant reports to the Clerk of Courts. A copy of all such Court Orders that affect a defendant's custodial status shall also immediately be sent by facsimile transmission **or by other electronic means** to the Records Division of the Westmoreland County Prison.
 - 3. The Clerk of Courts shall serve all Court Orders not covered by Subsection (B)(2) by placing such orders in the mail or by other means listed in Pa.R.Crim.P. 114 (B)(3) within two working days of filing.

Comment: This Rule is promulgated pursuant to the responsibility given the president judge by Pa.R.Crim.P. 116

Rescinded September 8, 2004; New Rule WC114 adopted September 8, 2004, effective November 1, 2004.
Rescinded August 17, 2015, New Rule WC114 adopted August 17, 2015.

RULE WC117 COVERAGE: ISSUING WARRANTS; PRELIMINARY ARRAIGNMENTS AND SUMMARY TRIALS; AND SETTING AND ACCEPTING BAIL.

- (a) After hours coverage shall be provided by a magisterial district judge, assigned on a rotational schedule, who has county-wide jurisdiction and who operates between the hours of 4:00 p.m. to 10:00 p.m. Monday through Friday. Holidays and weekend coverage shall be provided by an assigned on-call magisterial district judge.
 - (1) The “duty” magisterial district judge will hold court by video conferencing available from any approved advanced communication technology site. The magisterial district court office will remain closed to the public during after hours coverage except at the discretion of the magisterial district judge.
 - (2) In the event a magisterial district judge is needed when the court is not scheduled for after hours coverage for the issuance of a search or arrest warrant, a protection from abuse petition, or other emergency matter; the

“duty” magisterial district judge will be contacted through Westmoreland 911.

- (3) Procedures for executed summary warrants shall be pursuant to Pa.R.Crim.P. 431, and Westmoreland Rule of Criminal Procedure WC431.
- (b) Bail in the form of certified check, cashier’s check or money order, may be posted after normal business hours at the Westmoreland County Prison. Bail may be posted electronically via PA ePay Bail Online Case Payments, by accessing <http://ujportal.pacourts.us>. In the event bail is posted electronically, in order to release the defendant, the person posting bail must contact the Westmoreland County Prison to ensure that all conditions of bail have been satisfied and all necessary bail-related documents have been completed.

Rescinded March 16, 2013; New Rule WC520 adopted April 16, effective May 16, 2022.

RULE WC119 EXPUNGING CRIMINAL RECORDS

- (a) Expungement under “The Controlled Substance, Drug, Device and Cosmetic Act,” 35 P.S. §§ 780-1 et seq.
 - (1) Pursuant to 35 P.S. § 780-119, the criminal records for any individual charged under The Controlled Substance, Drug, Device and Cosmetic Act who is subsequently found not guilty or for whom the charges are withdrawn or dismissed may apply for expungement of records by filing a Petition for Expungement of Criminal Records (Non ARD) found in the Forms section of these local rules.
 - (2) The Westmoreland County Adult Probation and Parole Department shall initiate a Petition to Expunge records associated with a Probation Without Verdict Order when the defendant completes the program. The form shall be routed to the Westmoreland County District Attorney for certification, and forwarded by the district attorney to the court for the purpose of signing an order.
- (b) Expungement under “The Criminal History Record Information Act,” 18 Pa.C.S.A. §§ 9101 et. seq.
 - (1) Petitions for Expungement of criminal history record information pursuant to 18 Pa.C.S.A. § 9122, shall be initiated when the defendant files a Petition and Order for Expungement of Criminal Records (Non ARD) found in the Forms section of these local rules, or by filing a petition containing the information required under Pa.R.Crim.P. 722.
 - (2) The clerk of courts shall provide the Westmoreland County District Attorney and the Westmoreland County Court Administrator with a copy of the Petition.
 - (3) The court administrator will forward the expungement petition and order to the trial judge thirty (30) days after the defendant files the petition. The court will direct the court administrator to schedule argument on the

petition if the commonwealth files an objection within thirty (30) days of the filing of the petition; otherwise, the court will order expungement of the criminal history record.

Adopted May 4, 2004, effective June 21, 2004.

RULE WC120 ATTORNEYS – APPEARANCES AND WITHDRAWALS

- (a) An entry of appearance may only be filed on either a Waiver of Arraignment or on a Praecepte for Appearance. An attorney will not be noticed regarding motions, court hearings, or trials unless the attorney enters an appearance.
- (b) Once an appearance is entered, the attorney will remain counsel of record until removed from the case by court order.
 - (1) In the event of a guilty plea or acceptance into the ARD program, the court will entertain private counsel’s motion to withdraw at the time of sentencing or at the time of acceptance into the ARD Program. If the motion is granted, the private counsel and the defendant shall sign a Certificate of Withdrawal which shall be forwarded to the clerk of courts as a part of the official record.
 - (2) In order for the court to consider a petition for withdrawal of privately retained counsel subsequent to the imposition of sentence and pending appeal, counsel seeking to withdraw must provide the court with the defendant’s completed application for a public defender, an executed Certificate of Withdrawal, and a summary of the bases for appeal. The court may direct the appointment of trial counsel to pursue the intended appeal at the applicable court-appointed counsel rate.

Repealed October 1, 1998; New Rule WC302 adopted October 1, 1998, effective February 22, 1999. Renumbered from WC302 May 10, 2001, effective July 2, 2001.

RULE WC150 BENCH WARRANTS

- (a) Whenever an individual is committed to the Westmoreland County Prison pursuant to a bench warrant issued by a Westmoreland County judicial officer, the Warden or designee, shall promptly, or in no case later than the beginning of the next business day, notify the court administrator who shall:
 - (1) schedule a bench warrant hearing, and
 - (2) notify the district attorney, defense counsel of record, sheriff and probation office.
- (b) Pursuant to Pa. R. Crim. P. 150(A)(4), whenever an individual is committed to the Westmoreland County Prison pursuant to a bench warrant issued by a judicial officer outside of Westmoreland County, the Warden or designee, shall promptly notify the proper authorities in the county of issuance.

- (c) Any judge of the Court Of Common Pleas Of Westmoreland County may conduct a bench warrant hearing if the judge who issued the bench warrant is unavailable. Any Westmoreland County magisterial district judge may conduct a bench warrant hearing if the magisterial district judge who issued the bench warrant is unavailable.
- (d) The Westmoreland County Warden shall release an individual held on a bench warrant by operation of law if the bench warrant hearing does not occur within 72 hours of commitment or by the close of the next business day if the 72 hours expires on a non-business day. The president judge shall advise the warden of any days in addition to weekends or holidays that are non-business days.

Adopted July 13, 2006, effective August 28, 2006.

RULE WC300 ACCELERATED REHABILITATIVE DISPOSITION IN SUMMARY CASES

- (a) The District Attorney of Westmoreland County has filed a certification, and has elected that ARD in summary cases proceed before the Minor Judiciary pursuant to Pa.R.Crim.P. 300 and 301. The following summary charges are certified eligible for Summary ARD.
 - (1) Retail theft. 18 Pa.C.S.A. § 3929(a), (b)(1)(i).
 - (2) Purchase, consumption, possession or transportation of intoxicating beverages by one less than 21 years of age. 18 Pa.C.S.A. § 6308.
 - (3) Misrepresentation of age to secure liquor or malt or brewed beverages by one less than 21 years of age. 18 Pa.C.S.A. § 6307.
 - (4) Carrying a false identification card. 18 Pa.C.S.A. § 6310.3
- (b) Admission shall be requested within ten (10) days of receipt of the citation or summons. The District Justice for good cause may grant extensions of the application period. The District Justice shall determine eligibility for summary ARD within seventy-two (72) hours of the submission of the application.
- (c) No defendant who has previously been placed in an ARD program in any court shall be admitted to ARD in a summary matter.
- (d) Prior to placing a defendant in the Summary ARD Program, the District Justice shall determine that the defendant has not previously been placed in ARD in a summary matter in this judicial district by contacting the Court Administrator.
- (e) A defendant who applies for ARD in a summary matter shall execute the following:

AFFIDAVIT

I have not previously been placed in an ARD program in any court at either the Common Pleas or District Justice level. I make this statement subject to the penalties of 18 Pa.C.S.A. 4904, relating to unsworn falsification to authorities.

- | Date | Name |
|------|---|
| (f) | Costs of supervision and restitution must be paid in full before admission to the Summary ARD program. These costs include court costs incident to a non-traffic summary offense and any costs incident to the program to which the defendant is referred. |
| (g) | The defendant shall be notified in writing of acceptance or rejection from ARD.
(1) If accepted, the defendant shall appear at a time designated by the District Justice to complete all program documentation.
(2) If rejected, the District Justice shall notify the defendant that he/she has ten days to enter a plea and that the case will proceed under Chapter 4 of the Pennsylvania Rules of Criminal Procedure. |
| (h) | The District Justice shall schedule and notify the defendant at the time of admission to ARD of a hearing date to determine if all ARD requirements have been met. The hearing shall be held within ninety days of the entry into ARD. Requests for continuance of said hearing shall be denied, except in compelling circumstances. No continuance shall be for more than seven days. |
| (i) | A defendant accepted into ARD for retail theft shall be referred to the Allegheny Institute's Retail Theft Alternative Program. A defendant accepted for the alcohol-related offenses shall be referred to the Comprehensive Substance Abuse Services' Underage Drinking Program. Successful completion of the program shall be required. |
| (j) | The following are the reporting and record keeping requirements under this Rule:
(1) The District Justice shall make every effort to assure that the defendant has not previously participated in the Summary ARD program.
(2) Each District Justice shall file a report on a monthly basis setting forth the disposition and completion or non-completion of all program requirements with the Court Administrator. If a defendant eligible for ARD is not admitted, the District Justice shall include the reasons therefore in the report. |
| (k) | Upon successful completion of all requirements, the defendant's case shall be dismissed and the defendant discharged. |
| (l) | If the defendant declines ARD or fails to successfully complete the program, the case shall proceed in accord with Chapter 50 of the Pennsylvania Rules of Criminal Procedure. |
| (m) | No summary case shall remain "active" for purposes of ARD supervision in excess of ninety days. |
| (n) | The following shall be displayed in each District Justice office: |

NOTICE TO THOSE CHARGED WITH SUMMARY RETAIL
THEFT OR UNDERAGE ALCOHOL-RELATED OFFENSES

You may be eligible to participate in a program (ARD) which will result in dismissal of the charge against you. The ARD program is available for defendants who have not previously been placed into an ARD program. You must pay all costs and restitution before admission to the ARD program. You will be required to attend a counseling program for up to ninety (90) days. If you successfully complete the program, the charge against you will be dismissed. If you want to apply for the ARD program, notify the District Justice immediately.

BY THE COURT:

_____ PJ

Rescinded August 7, 2001; New Rule WC300 adopted August 7, 2001, effective September 24, 2001.

Note: Rule WC310 was repealed effective May 10, 2001.

**RULE WC319 PROCEDURE FOR OBTAINING ORDER FOR DISMISSAL UPON
SUCCESSFUL COMPLETION OF THE PROGRAM**

- (a) Petitions for dismissal of charges and expungement of records pursuant to successful completion of the ARD program are found in the Forms section of these local rules. The probation and parole officer shall notify the defendant when the conditions of the ARD have been satisfied, and shall advise the defendant of the opportunity to file for dismissal of charges and expungement of the record.
- (b) All other petitions for expunging criminal records shall be pursuant to WC119.

Adopted May 4, 2004, effective June 21, 2004.

RULE WC431 PROCEDURE WHEN DEFENDANT ARRESTED WITH WARRANT

- (a) In lieu of bringing a summary offender before the magisterial district judge when a summary warrant is executed, in addition to the options provided in Pa.R.Crim.P. 431, the arresting officer shall serve a Subpoena to Appear if a Subpoena has been issued by the magisterial district judge.
- (b) The hours of 6:00 a.m. to 10:00 p.m. provided for in Pa.R.Crim.P. 431(A)(2) are not extended. Any arrest made outside these specified hours shall be handled pursuant to subsection (a).

Adopted June 12, 2006, effective August 1, 2006.

RULE WC462 TRIAL DE NOVO

- (a) Absent an indication on the Summary Appeal Order of the number of days in which payment is due, the Clerk of Courts will set the payment due date as 30 days from the date of the Order.
- (b) In the event of a withdrawal or dismissal of the appeal, the Clerk will enter the payment due date pursuant to the Summary Appeal Order or, if the Order is silent as to the due date, any magisterial district judge payment schedule forwarded with the record. Absent any due date on the Summary Appeal Order or magisterial district judge time payment schedule, the due date will be set as 30 days from the date of the Summary Appeal Order to enter judgment on the judgment of the magisterial district judge.
- (c) The Clerk of Courts will establish a due date of thirty days from the effective date of this rule for all summary cases then in the system with amounts due and no due date otherwise indicated.
- (d) The Clerk of Courts will enforce nonpayment of restitution, costs, fees, and fines in summary cases primarily through the Clerk's collection system of notification letters and then through a collection agency.

Adopted April 20, 2006, effective June 5, 2006.

RULE WC511 NOTICE CONCERNING THE RIGHTS TO COUNSEL IN CASES INITIATED BY SUMMONS

Pursuant to Pa.R.Crim.P. 510, in all cases where a criminal action is initiated by a summons, the district justice shall mail the following notice to the defendant with the summons:

"You have an absolute right to be represented by a lawyer. A lawyer should represent you at the preliminary hearing. It is, therefore, suggested that you do one of the following:

1. Hire your own lawyer.
2. If you are financially unable to hire your own lawyer, you should apply to the Westmoreland County Public Defender's Office, Westmoreland County Courthouse, Greensburg, Pennsylvania 15601, (724) 830-3535, where a lawyer may be appointed to represent you free of charge.
3. If you are financially able to hire a lawyer but do not know one, you should contact the Lawyer Referral Service at the Westmoreland Bar Association, 129 N. Pennsylvania Ave., Greensburg, Pennsylvania 15601, (724) 834-8490."

Repealed October 1, 1998; New Rule WC112 adopted October 1, 1998, effective February 22, 1999. Revised and renumbered from WC112 May 10, 2001, effective July 2, 2001.

Note: Rule WC518 was rescinded effective July 17, 2006.

RULE WC520 BAIL BEFORE VERDICT - AFTER NORMAL BUSINESS HOURS

Bail in the form of certified check, cashier's check or money order, may be posted after normal business hours at the Westmoreland County Prison. Bail may be posted electronically via PA ePay Bail Online Case Payments, by accessing <http://ujportal.pacourts.us>. In the event bail is posted electronically, in order to release the defendant, the person posting bail must contact the Westmoreland County Prison to ensure that all conditions of bail have been satisfied and all necessary bail-related documents have been completed.

Rescinded March 16, 2013; New Rule WC520 adopted April 16, effective May 16, 2022.

RULE WC529 MODIFICATION OF BAIL ORDER PRIOR TO TRIAL

- (a) Prior to presenting a petition to the court seeking a bond reduction, the defendant shall present the petition to the district attorney who shall indicate whether the Commonwealth consents to or opposes the petition. If the Commonwealth consents to the petition, the petition shall be served directly upon the assigned judge. If the assigned judge is unavailable, the petition shall be served upon the court administrator who shall attempt to find an alternate judge to hear the petition.
- (b) In the event that the Commonwealth opposes the petition, the petition shall be served upon the court administrator who shall schedule a hearing as soon as possible before the assigned trial judge.
- (c) The defendant shall indicate on any petition to the court to modify bail prior to the preliminary hearing whether or not the defendant first applied for modification of bail from the presiding magisterial district.
- (d) Any criminal defendant with charges alleging a child victim, having an active case before the Westmoreland County Children's Bureau with an Order of Supervised Visitation with that child victim, shall:
 - (1) notify the Westmoreland County Children's Bureau upon receiving a nonmonetary condition of bail of "No Contact With The Victim,"
 - (2) provide the Westmoreland County Children's Bureau a copy of any Petition to Modify Bail seeking to permit contact with the child victim for the purpose of supervised visitation,
 - (3) provide the Westmoreland County Children's Bureau a copy of any Order granting bail modification to permit supervised visitation.

Rescinded March 5, 2013; New Rule WC529 adopted March 5, 2013, effective April 22, 2013.

RULE WC530 DUTIES AND POWERS OF A BAIL AGENCY; PRETRIAL SERVICES UNIT

- (a) The Pretrial Services Unit of the Westmoreland County Adult Probation and Parole Department shall monitor and assist defendants released on bail. The duties and powers of the Unit shall include the following:
 - (1) gathering information about defendants relevant to bail decisions;
 - (2) making recommendations to the bail authorities concerning the types of release and the conditions of release on bail for individual defendants.
 - (3) supervising defendants when so designated by the bail authority;
 - (4) making reasonable rules and regulations to implement the bail agency's function.
- (b) The representative of the Unit who obtains information from the defendant shall, both orally and in writing, advise the defendant that anything said to the Unit representative may be used against the defendant.
- (c) The Pretrial Services Unit shall disclose information obtained from or concerning the defendant only to the defendant, counsel for the defendant, the issuing authority or judge setting bail, the attorney for the Commonwealth, and the Westmoreland County Department of Adult Probation and Parole. This information may be used in preparing an intermediate punishment screening, in a presentence report, in a prosecution based on the falsity of the information, or for impeachment purposes to the extent permitted by law.
- (d) The Unit is authorized to assess reasonable fees for the use of any electronic monitoring equipment utilized in the course of supervision. The fee shall be assessed based upon the financial ability to pay.
- (e) The Unit is authorized to initiate bond revocation proceedings when warranted.

Revised July 1, 1996, effective August 19, 1996. Revised and renumbered from WC4010 May 10, 2001, effective July 2, 2001.

RULE WC531 QUALIFICATIONS OF SURETY

Actual net value of realty that is issued as bail in Westmoreland County is to be computed by subtracting from the fair market value the unpaid balance of each encumbrance as of the date of the posting of the real estate.

To determine the current fair market value of realty, according to the State Tax Equalization Board, multiply the current assessment by the current common level ratio factor.

A professional bondsperson, shall be licensed by the Commonwealth of Pennsylvania as required under Chapter 57, Subchapter B of the Judicial Code, 42 Pa.C.S. Sections 5741-5749, and before acting as a surety in any proceeding pending before any of the courts of this judicial district shall provide security of (a) cash, (b) real estate, or (c) a corporate surety, as follows:

(a) **Cash**

- (1) A professional bondsperson may post cash with the clerk of courts as security for bail to be written, and the clerk shall give the bondsman a receipt. The clerk shall immediately deposit all sums into a federally insured interest bearing account. The clerk shall pay accrued interest to the bondsperson annually, less any amount the clerk is authorized by law to retain.
- (2) The professional bondsperson may at any time, upon thirty days written notice, and upon presentation and surrender of the receipt, withdraw the whole or any part of the cash deposited that is not required for bail then written and outstanding, less any penalty for early withdrawal charged by the financial institution in which the clerk has deposited said sum less any amount the clerk is authorized by law to retain.
- (3) The professional bondsperson may at any time, increase the cash on deposit with the clerk. The clerk shall keep a proper accounting of all deposits and withdrawals.

(b) **Real Estate**

A professional bondsperson may use his/her real estate located in Pennsylvania as collateral for his/her bonds. He/she shall annually certify to the clerk of courts, under oath, a list of all of the real estate owned by him/her in Westmoreland County. Such certification shall include:

- (1) A description of each tract of real estate, and its location in the county and the deed book volume and page where the deed is recorded.
- (2) Attached to the certification shall be a sworn statement as to the fair market value of the real estate which shall be determined by multiplying the current assessment by the current common level ratio. Additionally, attach a certification from the county board of assessment appeals indicating the current assessment valuation.
- (3) A certification by an attorney who practices in the Commonwealth, or a title insurance policy certifying the encumbrances, mortgages and liens against the real estate, and the unpaid balance of each encumbrance as of the date of the statement.

(c) **Surety**

- (1) The professional bondsperson who uses a surety must file annually a surety bond by a bonding company licensed to do business in the Commonwealth of Pennsylvania setting forth the amount for which said surety will undertake on behalf of said bondsperson.
- (2) Within 10 days after any change in ownership, encumbrance, or surety, the professional bondsman shall notify the clerk of courts by filing a revised certification as set forth above.

(d) **Procedure**

- (1) When the professional bondsperson files with the clerk of courts the above described certification, the clerk of courts shall provide to said bondsperson a certificate authorizing him to do business in the Westmoreland County. Said certificate shall be under seal of the clerk of courts and shall include a certification of the amount of bond which the professional bondsperson is authorized to write. Said certificate may be used by the professional bondsperson for presentation to district justices of this county indicating his/her authority to do business in this county.
- (2) When a professional bondsperson desires to write bail before a district justice, he/she shall provide to the district justice a copy of the certification described in paragraph (3)(a) above, and shall further provide an affidavit setting forth the amount of bail offered and accepted for which he/she is responsible. Further, the statements shall contain the amount or premium the bondsperson is charging for the bond about to be written. Neither the clerk nor any district justice shall accept bail from any professional bondsperson if the fee to be charged exceeds the amount set forth in the Judicial Code, Title 42 Pa.C.S. Section 5748.
- (3) Any district justice accepting bail from a professional bondsperson must forward a copy of the bail to the clerk of courts together with the bondsperson's sworn affidavit. If the matter is held for court, the copy of bail and the bondsperson's statement shall become a part of the record. If the matter is disposed of at the district justice level, a certificate of disposal shall be sent by the district justice to the clerk of courts.
- (4) No security shall be accepted from any professional bondsperson at any time when the total amount of the bond then written on the security designated, or when added to the bond about to be written will exceed the cash or market value of the security to be posted.
- (5) Whenever any bail written by a professional bondsperson has been forfeited, the professional bondsperson shall not write any additional bail until he or she has paid the amount of the forfeiture in full. Generally, no bail shall be accepted from any professional bondsperson at any time when such bondsperson is not in full compliance with the provisions of this Rule.
- (6) When a real estate bond is posted in the office of the clerk of courts secured by real estate situated in Westmoreland County, the clerk will prepare an exemplification of the record as evidence of the same and forthwith file the exemplification of the record with the prothonotary, who will enter the same in the judgment docket. The clerk shall collect from the party posting the bond the necessary fees for the exemplification of the record and the prothonotary's filing and satisfaction fees. When the prosecution has ended or upon order of court releasing the subject property, the clerk will release the judgment as satisfied on the prothonotary's docket.
- (7) In the event that bail is set at \$3,000 or lower, the issuing authority may, at any time prior to the preliminary hearing, accept a real estate bond by the presentation of the deed and the previous year's tax receipts in lieu of the requirements of subsection (6). The provisions of subsection (6) must, however, be met by the time of the preliminary hearing in order for the real property to continue to operate as security.

Adopted December 16, 1993, effective April 1, 1994; Section (d)(7) adopted December 16, 1995, effective January 15, 1996. Revised and renumbered from WC4006 May 10, 2001, effective July 2, 2001.

Note: Rule WC536 was rescinded effective July 17, 2006.

RULE WC541 WAIVER OF PRELIMINARY HEARING

The district justice may accept a Waiver of the Preliminary Hearing in accordance with Pa.R.Crim.P. 541. The district justice will schedule the court arraignment in accordance with Westmoreland County Rule of Criminal Procedure WC542(b) and inform the defendant of the time and place of arraignment.

Adopted December 16, 1993, effective April 1, 1994. Revised and renumbered from WC140A May 10, 2001, effective July 2, 2001.

RULE WC542 PRELIMINARY HEARINGS

- (a) Audio Recordings of Testimony from Preliminary Hearings
 - (1) The magisterial district judge shall record testimony at preliminary hearings when requested by the district attorney or defendant's counsel.
 - (2) The magisterial district judge shall save the recording locally and back the recording up to the County's server upon completion of the preliminary hearing.
 - (3) The district attorney or defendant's counsel may obtain a copy of the recording from the court administrator by applying in writing within thirty days of the defendant's formal arraignment.
 - (4) When a preliminary hearing is held at the Westmoreland County Courthouse, court administration shall ensure that testimony is recorded.

- (b) Scheduling Court Arraignment
 - (1) The court administrator shall assign and promulgate arraignment dates, judges and courtrooms. The magisterial district judge shall set as the date for court arraignment the next scheduled court arraignment date which falls no sooner than the eighth Friday following the preliminary hearing or waiver of the same. Arraignment shall be scheduled for 8:30 a.m. If the preliminary hearing or waiver occurs on a Friday, that Friday shall be counted as the first Friday.
 - (2) The magisterial district judge shall:
 - A. advise the defendant and counsel of the time, date, and place of arraignment, and that failure to appear at arraignment may result in the defendant's arrest and forfeiture of bond;
 - B. complete a court arraignment form;
 - C. require the defendant to sign the court arraignment form indicating that the defendant is aware of the time and place of arraignment and the obligation to appear; and
 - D. provide the defendant with a copy of the court arraignment form, retain a copy; and forward the original with the official record to the clerk of courts as required by Pa.R.Crim.P. 547.

Rescinded July 30, 2006; New Rule WC542 adopted July 30, 2006, effective September 18, 2006. Rescinded October 19, 2017, New Rule WC542 adopted January 2, 2018.

RULE WC546 DISMISSAL UPON SATISFACTION OR AGREEMENT

The district justice may approve the dismissal of an applicable misdemeanor upon satisfaction or proof of agreement between the parties in accordance with Pa.R.Crim.P. 546. The district justice must collect the costs of prosecution prior to dismissing the case.

Comment: A satisfaction or agreement is a resolution of the criminal case between the parties. An agreement to dismiss under this rule must be voluntary, and it serves as a notice to the court that the parties no longer seek adjudication by the court. As such, the court no longer has a duty to the parties, and the court will not be involved in the collection of any restitution, nor will the case be continued while the restitution is being collected. Should the defendant fail to pay restitution as agreed under this rule, the victim’s recourse is to refile the charges.

Adopted December 16, 1993, effective April 1, 1994. Revised and renumbered from WC145 May 10, 2001, effective July 2, 2001.

RULE WC551 WITHDRAWAL OF PROSECUTION

The affiant may withdraw prosecution of pending court cases before a district justice only after setting forth the reasons, together with a name of the authorizing district attorney, in writing on a form approved by the court.

Adopted December 16, 1993, effective April 1, 1994. Renumbered from WC151 May 10, 2001, effective July 2, 2001.

RULE WC568 BENCH WARRANTS

- (a) The person executing a bench warrant shall deliver the subject of the warrant to the warden of the Westmoreland County Detention Center. The warden shall, at the earliest possible time, notify the court administrator that the subject of the warrant is in custody.
- (b) If the subject of the warrant voluntarily surrenders, the court administrator must be informed by the agency to which the subject has surrendered.
- (c) Upon receiving notice that a bench warrant has been executed or that the subject has surrendered, the court administrator will immediately notify the issuing judge, district attorney, and any counsel of record that the subject is in custody. In the event the issuing judge is unavailable, notice shall be given to a judge of this court assigned criminal cases who is available. After consultation with the judge, the court administrator shall schedule a hearing to be held as soon as possible. The court administrator shall give an oral notice of the hearing, and shall maintain a record of that notice.

Adopted December 16, 1993, effective April 1, 1994. Renumbered from WC330 May 10, 2001, effective July 2, 2001.

RULE WC569 TRANSPORT ORDERS

- (a) Whenever an inmate of the Westmoreland County Detention Center is required to appear before this court, the sheriff of Westmoreland County may, upon the request of any judge of this court or the district attorney, transport the defendant between the detention center and the courthouse without the need of a written order of court.
- (b) The warden must receive approval from the court administrator prior to releasing a prisoner to another jurisdiction. Once such approval is received, the warden may release the prisoner into the custody of the other jurisdiction based upon an appropriate court order or release.

Adopted December 16, 1993, effective April 1, 1994. Renumbered from WC331 May 10, 2001, effective July 2, 2001.

RULE WC570 PRETRIAL CONFERENCE

- (a) The court administrator will schedule one Pretrial Conference for each case prior to that case being scheduled for trial. The court administrator will serve Notices and copies of the Pretrial Conference Order pursuant to Pa. R. Crim. P. 114(B) on the defendant, defendant's attorney, and the assigned attorney for the commonwealth.
- (b) The parties will complete the following at least five (5) working days prior to the scheduled Pretrial Conference:

- (1) Filing and service of any Motion for Relief pursuant to Pa. R. Crim. P. 572(C) regarding a request for a Bill of Particulars.
 - (2) Completing Pretrial Discovery pursuant to Pa. R. Crim. P. 573 including the filing and service of any Motion for Pretrial Discovery.
 - (3) Filing and service of Notices of Alibi Defense or of Insanity or Mental Infirmary Defense and Disclosure of Reciprocal Witnesses as required by Pa. R. Crim. P. 573(C).
 - (4) Filing and service of any Omnibus Pretrial Motion pursuant to Pa. R. Crim. P. 578.
 - (5) Tendering by the commonwealth of any plea offer.
 - (6) Filing and service of any Motion for Continuing the Pretrial Conference.
- (c) The following will occur at the Pretrial Conference:
- (1) The parties will declare whether the commonwealth's plea offer has been accepted, whether the parties agree to the defendant entering the ARD or other pre-adjudication program, or whether the case will proceed to trial.
 - (2) The court will take pleas of "guilty", enter the defendant into the ARD or other pre-adjudication program, and decide whether to order nolle proes of any or all charges.
 - (3) The court will decide or Order argument on outstanding motions.
 - (4) The court will Order the court administrator to place the case on the trial list.
- (d) The court may order sanctions for failure to comply with this Rule.

IN THE COURT OF COMMON PLEAS OF WESTMORELAND COUNTY, PENNSYLVANIA
CRIMINAL DIVISION

PRETRIAL CONFERENCE ORDER

It is HEREBY ORDERED that the Defendant, Defendant's Counsel, and the Attorney for the Commonwealth assigned to the case referenced in the enclosed Notice, report for a Pretrial Conference as instructed in the enclosed Notice, and that all parties will be prepared for the Pretrial Conference as required by Westmoreland County Rule of Criminal Procedure WC570.

Rule WC570 requires the following at least five (5) working days prior to the scheduled Pretrial Conference:

1. Filing and service of any Motion for Relief pursuant to Pa. R. Crim. P. 572(C) regarding a request for a Bill of Particulars.
2. Completing Pretrial Discovery pursuant to Pa. R. Crim. P. 573 including the filing and service of any Motion for Pretrial Discovery.
3. Filing and service of Notices of Alibi Defense or of Insanity or Mental Infirmary Defense and Disclosure of Reciprocal Witnesses as required by Pa. R. Crim. P. 573(C).
4. Filing and service of any Omnibus Pretrial Motion pursuant to Pa. R. Crim. P. 578.
5. Tendering by the commonwealth of any plea offer.

6. Filing and service of any Motion for Continuing the Pretrial Conference.

Pursuant to Rule WC570, the following will occur at the Pretrial Conference:

1. The parties will declare whether the commonwealth's plea offer has been accepted, whether the parties agree to the defendant entering the ARD or other pre-adjudication program, or whether the case will proceed to trial.
2. The court will take pleas of "guilty", enter the defendant into the ARD or other pre-adjudication program, and decide whether to order nolle proes of any or all charges.
3. The court will decide on Order argument on outstanding motions.
4. The court will Order the court administrator to place the case on the trial list.

The court may impose sanctions for failure to comply with this Order.

Adopted December 8, 2005, effective March 1, 2006.

RULE WC571 ARRAIGNMENT

- (a) Any incarcerated defendant who is to be arraigned may be arraigned via certified mail. The defendant shall receive and sign for a copy of the information and a notice regarding the time period within which to commence discovery and file and serve pretrial motions.
- (b) Within three days (excluding the day of receipt) of receiving the official papers from the district justice, the clerk of courts shall send a copy of the official papers, including the court arraignment form, to the district attorney.
- (c) The clerk of courts shall provide information concerning new cases to the court administrator and to the district attorney as the cases are received. The form of the information forwarded shall be as required and agreed to between the appropriate offices.
- (d) Arraignments shall be held each Monday, or an alternative work day if that Monday is a court holiday, at 8:30 a.m. in the court room of the judge assigned by the court administrator. The district attorney and public defender shall assure that attorneys attend each scheduled arraignment.
- (e) At arraignment the judge shall advise the defendant of:
 1. The right to counsel and that free counsel will be provided if the defendant is indigent.
 2. The defendant's right of discovery, obligations of disclosure, and time limits under Pa.R.Crim.P. 573.
 3. The defendant's right to file an omnibus pretrial motion under Pa.R.Crim.P. 578, and the time limit for its filing.

- (f) The judge shall ascertain from the defendant:
 1. Whether the defendant is represented by counsel; and if not, what the defendant's intentions are concerning representation.
 2. The defendant's address.
 3. Whether the defendant intends to plead guilty or not guilty, or if the defendant has been notified by the district attorney that the defendant is a candidate for Accelerated Rehabilitative Disposition, and whether or not the defendant wishes to enter the ARD Program.
 4. If the defendant pleads not guilty, whether the defendant wishes to have a trial by jury.

- (g) At arraignment the district attorney shall provide the defendant with a copy of the information and, where possible, discovery material mandated under Pa.R.Crim.P. 573(B).

- (h) An attorney who files a Waiver of Arraignment on behalf of a defendant enters an appearance by doing so.

Adopted December 16, 1993, effective April 1, 1994; Section (a) revised February 22, 1994, effective April 18, 1994; Sections (d) and (h) revised June 30, 1995, effective August 21, 1995. Revised and renumbered from WC303 May 10, 2001, effective July 2, 2001.

RULE WC575 PETITION FOR COMPETENCY EVALUATION

A petition requesting a competency evaluation shall contain a verified statement, in a form substantially similar to the one set forth below, indicating whether the defendant has or has not submitted to a competency evaluation in the past and shall set forth, to the extent known, the date on which such evaluation was performed. In the event that the petitioner has been the subject of a prior competency evaluation, he or she shall set forth reasons that another exam is warranted.

STATEMENT AS TO PRIOR COMPETENCY EVALUATION

Petitioner has OR
 has not undergone a prior competency evaluation.

Date of prior evaluation: _____

Defendant requires an additional competency evaluation for the following reasons:

I hereby verify that the information provided above is true and correct to the best of my knowledge, information and belief.

Counsel for Petitioner

Adopted July 20, 2019, effective August 19, 2019.

RULE WC576 FILING AND SERVICE BY PARTIES

- (A) The Clerk of Courts shall immediately time stamp all written motions, notices, or documents presented for filing, and shall docket and place in the criminal case file all such papers within two working days of filing.
- (B) Pursuant to Pa.R.Crim.P. 576(B)(3)(d) any document required to be served upon the court administrator may be served by facsimile transmission.

Rescinded September 8, 2004; New Rule WC576 adopted September 8, 2004, effective November 1, 2004.

Rule WC576.1 ELECTRONIC FILING AND SERVICE OF LEGAL PAPERS

- (A) Pursuant to Pennsylvania Rule of Criminal Procedure 576.1, Electronic Filing and Service of Legal Papers, electronic filing of legal papers through the PACFile electronic filing system is permissive in Westmoreland County, the Tenth Judicial District. The Administrative Office of Pennsylvania Courts has agreed upon an implementation plan for the use of PACFile in the Tenth Judicial District as of September 13, 2021.
- (B) **Legal Papers Defined.** The legal papers which shall be filed electronically shall encompass all written motions, written answers and any notices or documents for which filing is required or permitted, including orders, exhibits and attachments, except for the following:
 - 1. Applications for a search warrant;
 - 2. Applications for an arrest warrant
 - 3. Any grand jury materials; except the indicting grand jury indictment or the investigating grand jury presentment;
 - 4. Submissions filed *ex parte* as authorized by law;
 - 5. Submissions filed or authorized to be filed under seal;
 - 6. Exhibits offered into evidence, whether or not admitted, in a court proceeding, and
 - 7. Wiretap Act, cell phone, tracker and Internet petitions.

General rules of court and court policies that implement the rules shall continue to apply to all filings regardless of the method of filing.

- (C) Any party who declines to electronically file, or who is unable to electronically file or accept service of electronically filed legal papers, or who is otherwise unable to access the system, shall be entitled to file legal papers in a physical paper format and be served electronically filed legal papers in a physical format.
- (D) **Filing fees.** Applicable filing fees shall be paid through procedures established by the Clerk of Courts and at the same time and in the same amount required by statute, court rule or order, or published fee schedule.
- (E) **Confidential information.** Counsel and unrepresented parties shall adhere to the Public Access Policy of the Unified Judicial System and refrain from including confidential information in legal papers filed with the Clerk of Courts, whether filed electronically or as a paper document.

Adopted August 4, 2021, effective 9/20/21.

RULE WC579 TIME FOR OMNIBUS PRETRIAL MOTION AND SERVICE

The 30 day period shall be calculated from the date of receipt of the information.

Adopted December 16, 1993, effective April 1, 1994. Renumbered from WC307 May 10, 2001, effective July 2, 2001.

Note: Rule WC600 was rescinded effective April 19, 2004.

RULE WC601 PRESENCE OF JUDGE

- (a) The court administrator will assign homicide and other specially designated cases to a judge who will handle all pretrial, trial, and post adjudication matters. For all other court cases the court administrator will assign a pretrial judge to handle all pretrial matters.
- (b) During the trial term, either the calendar control judge or the court administrator assigns the trial judge for all cases not specifically assigned pursuant to subsection (a).
- (c) The court administrator assigns judges for summary trials as cases and judges become available.

Adopted May 10, 2001, effective July 2, 2001.

Note: Rule WC1100 was repealed effective May 10, 2001.

RULE WC717 SUBSTANCE ABUSE EDUCATION AND DEMAND REDUCTION FUND.

- (a) Pursuant to 18 Pa. C.S.A. Section 7508.1, which requires the collection of costs for the Substance Abuse Education and Demand Reduction Fund (SAEDRF), the Westmoreland County Clerk of Courts shall assess and collect such costs, and shall remit such costs to the Westmoreland County Treasurer;
- (b) The Westmoreland County Clerk of Courts shall remit the portion required by law to the Substance Abuse Education and Demand Reduction Fund established under Section 7508.1, and shall retain the Westmoreland County portion of the costs as a separate revenue line item, designated the “Drug Education Fee” in accordance with mandates of Pennsylvania law;
- (c) Disbursements from the “Drug Education Fee” line item shall be made available for use in substance abuse treatment or prevention programs, and shall be made available only at the direction of the President Judge. Any request for such disbursements shall be made to the Criminal Justice Advisory Board, which may then make a recommendation to the President Judge. Requests for disbursement shall be submitted in the form of a proposed Order for disbursement, setting forth the purpose of the request and the proposed use of the funds.

Adopted May 6, 2015, effective July 6, 2015.