

<p style="text-align: center;">CRIMINAL PROCEDURE MAGISTERIAL DISTRICT JUDGE COURTS</p>

RULE 102 CITATION OF RULES.

(a) These rules shall be known as Schuylkill Rules of Criminal Procedure for Magisterial District Judge Courts. They may be cited as "Sch.R.Crim.P.M.D.J. No. _____".

RULE 141 CONTEMPT PROCEDURE IN PROTECTION FROM ABUSE CASES.

(a)(1) Upon information received on a violation of a protection order, the defendant may be arrested without a warrant, provided that the information is sufficient to constitute probable cause.

(2) Upon arrest, defendant shall be taken before either the Magisterial District Judge who has jurisdiction or the Magisterial District Judge on call; the arresting officer shall file a criminal complaint charging the defendant with indirect criminal contempt per 23 Pa C.S.A. §6113 and §6114; defendant shall at that time be arraigned and bail shall be set; defendant shall either be released on bail or taken to Schuylkill County Prison if bail cannot be posted.

(3) The Magisterial District Judge shall immediately (next working day) provide the Court Administrator with the following information:

- (a) name of defendant
- (b) name of judge whose order was violated

(4) Court Administrator shall arrange with judge who issued original protection order for a hearing to be scheduled within ten (10) days.

RULE 506 PRIVATE COMPLAINTS.

(c) Private complaints shall be instituted in the manner set forth in Pa.R.Crim.P. No. 506. The affiant shall appear in the office of the District Attorney, who shall determine whether there is a probable cause and either approve or disapprove the complaint without unreasonable delay. If the complaint is approved, it shall be transmitted to the appropriate Magisterial District Judge who shall act as the issuing authority.

RULE 517 FUGITIVES - COURT CASES.

(c) In any court case in which a warrant of arrest has been issued, either upon the filing of the complaint or after the defendant fails to respond to a summons, if the officer to whom the warrant was issued is unable to serve such warrant after good faith effort within thirty (30) days, the said officer shall make a return of "NOT FOUND" to the Magisterial District Judge.

RULE 518 ARREST WITHOUT A WARRANT IN CERTAIN CASES.

(b) Pursuant to the authority granted by Pa.R.Crim.P. No. 518, police officers are hereby authorized, when making an arrest in Schuylkill County and when they deem it appropriate, to promptly release from custody a defendant who has been arrested without a warrant, rather than taking the defendant before the issuing authority when the following conditions have been met:

- (1) the most serious offense charged is a misdemeanor of the second degree;
- (2) the defendant is a resident of the Commonwealth;
- (3) the defendant poses no threat of immediate physical harm to any other person or to himself or herself;

- (4) the arresting officer has reasonable grounds to believe that the defendant will appear as required; and
- (5) the defendant does not demand to be taken before an issuing authority.

When a defendant is released pursuant to this Rule, a complaint shall be filed against the defendant within five (5) days of the defendant's release. Thereafter, a summons, not a warrant of arrest, shall be issued.

RULE 543 CONTINUANCES OF PRELIMINARY HEARINGS.

(a) Every request for continuance of a preliminary hearing shall be submitted in writing on a form obtained from the Magisterial District Judge or Criminal Court Administrator and shall be signed by the defendant and his/her counsel if any. The form may be submitted to the Magisterial District Judge by fax directly (or via the Criminal Court Administrator if the Magisterial District Judge office does not have fax capability).

(b) Each party may be granted one continuance by the Magisterial District Judge upon cause shown. Any such initial continuance, made at the request of either party, shall not be for more than twenty-one (21) days. A continuance request submitted by the party not requesting the initial continuance, if granted by the Magisterial District Judge, shall not be for more than fourteen (14) days. The Magisterial District Judge is prohibited from granting more than one continuance to each party.

Any subsequent continuance by either party may be granted only by the President Judge, or his designee, upon completion and with just cause shown on the approved aforementioned continuance request form. This request for continuance form must be completed and signed by the defendant and his/her counsel if any. Upon refusal or approval of said request for continuance form, the Criminal Court Administrator shall file the signed form with the Clerk of Court's office and shall notify

the Magisterial District Judge who in turn shall notify the parties.

(1) Pre-Preliminary Hearing Line-Up

Defendants desiring a pre-preliminary hearing line-up shall make such request known to the District Attorney and the Magisterial District Judge at least forty-eight (48) hours in advance of the scheduled preliminary hearing.

In the event the District Attorney opposes defendant's request for a line-up prior to his preliminary hearing, the District Attorney shall advise defendant of such opposition at least twenty-four (24) hours in advance of the scheduled preliminary hearing. Defendant may then request a line-up by filing an original petition with the Clerk of Courts. The Court Administrator shall then assign the matter to a criminal list Judge for disposition. Defendant shall give notice of such filing to the District Attorney and the Magisterial District Judge.

When a Magisterial District Judge has been notified of the filing of such petition, he shall continue the case for at least two (2) weeks to allow for the disposition of the petition.

(2) Scheduling of Preliminary Hearings

Unless there are compelling reasons, no preliminary hearing shall be scheduled for a court case by any Magisterial District Judge during the first two days of jury selection or the first week of criminal court trials in Schuylkill County. If a preliminary hearing is required to be held within that week by the Pa.R.Crim.P., this local Rule of Court shall be cited by the Magisterial District Judge as a reason for re-scheduling the case for as soon thereafter as possible.

RULE 547 TRANSCRIPT OF MAGISTERIAL DISTRICT JUDGE.

(c) In addition to the requirements under the Pa.R.Crim.P., the Magisterial District Judge shall also list the defendant's date of birth in brackets following his name on the transcript, and shall list the names, addresses, and telephone numbers of all witnesses who testified at the preliminary hearing or who the parties request to be listed on the transcript.

(d) The Magisterial District Judge shall prepare a transcript of the proceedings before him and return the same together with the documents required by Pa.R.Crim.P. No. 547 to the Office of the Clerk of Courts by first class mail or by hand delivery. In appeals from summary convictions, the Magisterial District Judge shall return the transcript filed with the Office of the Clerk of Courts together with the documents required by Pa.R.Crim.P. No. 460 by certified mail, return receipt requested, together with a letter of transmittal. The copy of the transmittal letter and return receipt card shall be retained by the Magisterial District Judge.