

RULE 150. BENCH WARRANTS.

(A) In a court case when a bench warrant is executed, the case is to proceed in accordance with the following procedures.

(1) When a defendant or witness is arrested pursuant to a bench warrant, he or she shall be taken without unnecessary delay for a hearing on the bench warrant. The hearing shall be conducted by the judicial officer who issued the bench warrant, or, another judicial officer designated by the president judge or by the president judge's designee to conduct bench warrant hearings.

(2) In the discretion of the judicial officer, the bench warrant hearing may be conducted using two-way simultaneous audio-visual communication.

(3) When the individual is arrested in the county of issuance, if the bench warrant hearing cannot be conducted promptly after the arrest, the defendant or witness shall be lodged in the county jail pending the hearing. The authority in charge of the county jail promptly shall notify the court that the individual is being held pursuant to the bench warrant.

(4) When the individual is arrested outside the county of issuance, the authority in charge of the county jail promptly shall notify the proper authorities in the county of issuance that the individual is being held pursuant to the bench warrant.

(5) The bench warrant hearing shall be conducted without unnecessary delay after the individual is lodged in the jail of the county of issuance on that bench warrant.

(a) When the bench warrant is issued by the supervising judge of a "multi-county" investigating grand jury, the individual shall be detained only until the supervising judge is available to conduct the bench warrant hearing.

(b) In all other cases, the individual shall not be detained without a bench warrant hearing on that bench warrant longer than 72 hours, or the close of the next business day if the 72 hours expires on a non-business day.

(6) At the conclusion of the bench warrant hearing following the disposition of the matter, the judicial officer immediately shall vacate the bench warrant.

(7) If a bench warrant hearing is not held within the time limits in paragraph (A)(5)(b), the bench warrant shall expire by operation of law.

(B) As used in this rule, "judicial officer" is limited to the magisterial district judge or common pleas court judge who issued the bench warrant, or the magisterial district judge or common pleas court judge designated by the president judge or by the president judge's designee to conduct bench warrant hearings, or in Philadelphia, trial commissioners.

COMMENT: This rule addresses only the procedures to be followed after a bench warrant is executed, and does not apply to execution of bench warrants outside the Commonwealth, which are governed by the extradition procedures in 42 Pa.C.S. § 9101 *et seq.*, or to warrants issued in connection with probation or parole proceedings.

For the bench warrant procedures when a witness is under the age of 18 years, see Rule 151.

Paragraph (A)(2) permits the bench warrant hearing to be conducted using two-way simultaneous audio-visual communication, which is a form of advanced communication technology. See Rule 103. Utilizing this technology will aid the court in complying with this rule, and in ensuring individuals arrested on bench warrants are not detained unnecessarily.

Once a bench warrant is executed and the defendant is taken into custody, the bench warrant no longer is valid.

To ensure compliance with the prompt bench warrant hearing requirement, the president judge or the president judge's designee may designate only a magisterial district judge to cover for magisterial district judges or a common pleas court judge to cover for common pleas court judges. See *also* Rule 132 for the temporary assignment of magisterial district judges. In Philadelphia, the current practice of designating trial commissioners to conduct bench warrant hearings is acknowledged in paragraph (B).

It is expected that the practices in some judicial districts of a common pleas court judge (1) indicating on a bench warrant the judge has issued that the bench warrant is a "judge only" bench warrant, or (2) who knows he or she will be unavailable asking another common pleas court judge to

handle his or her cases during the common pleas court judge's absence, would continue.

Paragraph (A)(5)(a) recognizes the procedural and substantive differences between "multi-county" investigating grand jury proceedings and all other proceedings in the court of common pleas, including a county investigating grand jury, by eliminating the time limit for conducting the bench warrant hearing when the bench warrant is issued by the multi-county investigating grand jury supervising judge. See Rules 240-244 and 42 Pa.C.S. § 4544. When the supervising judge issues a bench warrant, the bench warrant hearing must be conducted expeditiously when the supervising judge is available.

Paragraph (A)(6) requires the judicial officer to vacate the bench warrant at the conclusion of the bench warrant hearing. The current practice in some judicial districts of having the clerk of courts cancel the bench warrant upon receipt of a return of service is consistent with this paragraph, as long as the clerk of courts promptly provides notice of the return of service to the issuing judge.

It is incumbent upon the president judge or the president judge's designee to establish procedures for the monitoring of the time individuals are detained pending their bench warrant hearing.

For the procedures concerning violation of the conditions of bail, see Chapter 5 Part C.

As used in this rule, "court" includes magisterial district judge courts.

For the bench warrant procedures in summary cases, see Rules 430(B) and 431(C).

For the arrest warrants that initiate proceedings in court cases, see Chapter 5, Part B(3)(a), Rules 513, 514, 515, 516, 517, and 518. For the arrest warrants that initiate proceedings in summary cases, see Chapter 4, Part D(1), Rules 430(A) and 431(B).

NOTE: Adopted December 30, 2005, effective August 1, 2006 [.] ; Comment revised October 24, 2013, effective January 1, 2014.

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COMMITTEE EXPLANATORY REPORTS:

Final Report explaining new Rule 150 providing procedures for bench warrants published with the Court's Order at 36 Pa.B. 184, 2006 (January 14, 2006).

Final Report explaining the October 24, 2013 Comment revision adding a cross-reference to new Rule 151 published with the Court's Order at 43 Pa.B. (, 2013).

[This is an entirely new rule.]

RULE 151. BENCH WARRANT PROCEDURES WHEN WITNESS IS UNDER AGE OF 18 YEARS.

(A) In a court case when a bench warrant for a witness under the age of 18 years is executed, except as provided in this rule, the case is to proceed in accordance with the procedures in Rule 150.

(B) Upon execution of the warrant for a minor witness, the arresting officer immediately shall inform the proper judicial officer and a parent or guardian of the minor witness of the arrest of the minor witness.

(C) Execution of Bench Warrant in County of Issuance

(1) If the judicial officer who issued the bench warrant, or another judicial officer designated by the president judge or by the president judge's designee, is not available to conduct the bench warrant hearing without unnecessary delay, the minor witness shall be taken before the on-call judge of the court of common pleas.

(a) The on-call judge shall determine whether to release the witness or to detain the witness pending the bench warrant hearing. If the bench warrant specifically orders detention of the minor witness, the on-call judge shall not release the witness.

(b) If the on-call judge determines the witness must be detained, the witness shall be detained in a detention facility. The on-call judge shall notify the parent or guardian of the minor witness of the detention.

(2) The minor witness shall not be detained without a bench warrant hearing on that bench warrant longer than 24 hours, or the close of the next business day if the 24 hours expires on a non-business day.

(D) Execution of Bench Warrant Outside County of Issuance

(1) The minor witness shall be taken before a common pleas court judge of the county of arrest without unnecessary delay and in no case later than the end of the next business day.

(2) The judge shall identify the minor witness as the subject of the bench warrant, decide whether detention as a minor witness is necessary, and order that arrangements be made immediately to transport the minor witness to the county of issuance.

(3) If transportation cannot be arranged immediately, the minor witness shall be released unless the bench warrant specifically orders detention of the witness. In this case, the minor witness shall be detained in an out-of-county detention facility.

(4) If detention is ordered, the minor witness shall be brought to the county of issuance within 72 hours from the execution of the bench warrant.

(5) If the time requirements of this paragraph are not met, the minor witness shall be released.

COMMENT: This rule was adopted in 2013 to establish the procedures when a witness subject to a bench warrant is under the age of 18. The procedures following the execution of a bench warrant set forth in Rule 150 apply to cases when the witness is under the age of 18, except as otherwise provided in this rule.

Paragraph (B) ensures that the judicial officer who issued the bench warrant is aware that the minor witness has been arrested, and that a parent or guardian of the arrested minor witness is notified of the arrest.

The procedures in paragraph (C) for cases in which the bench warrant is executed in the county of issuance, recognize the need, when the issuing judicial officer is unavailable, to conduct the bench warrant hearing, for the common pleas court judge who is on call to determine whether a minor witness may be released or must be detained. If the minor witness is detained, the bench warrant hearing must be held no later than the end of the next business day. If the bench warrant hearing is not conducted within this time period, the minor witness must be released.

The minor witness may not be detained in an adult facility pending a bench warrant hearing.

In cases in which the bench warrant is executed outside the county of issuance, the minor witness must be transported to the county of issuance within 72 hours of the execution of the bench warrant, and the bench warrant hearing must be conducted by the end of the next business day.

As used in this rule, “minor witness” means a witness who is under the age of 18 years, and “proper judicial officer” means the judicial officer who issued the bench warrant, or, another judicial officer designated by the president judge or by the president judge's designee.

NOTE: Adopted October 24, 2013, effective January 1, 2014.

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COMMITTEE EXPLANATORY REPORTS:

Final Report explaining the October 24, 2013 adoption of new Rule 151 providing procedures for bench warrants when a witness is under the age of 18 published with the Court's Order at 43 Pa.B. (, 2013).