RULE 513. REQUIREMENTS FOR ISSUANCE**; DISSEMINATION OF ARREST WARRANT INFORMATION**.

(A) **For purposes of this rule, "arrest warrant information" is defined as the criminal complaint in cases in which an arrest warrant is issued, the arrest warrant, any affidavit(s) of probable cause, and documents or information related to the case.**

(B) ISSUANCE OF ARREST WARRANT

(1) In the discretion of the issuing authority, advanced communication technology may be used to submit a complaint and affidavit(s) for an arrest warrant and to issue an arrest warrant.

[(B)] (2) No arrest warrant shall issue but upon probable cause supported by one or more affidavits sworn to before the issuing authority in person or using advanced communication technology. The issuing authority, in determining whether probable cause has been established, may not consider any evidence outside the affidavits.

[(C)] (3) Immediately prior to submitting a complaint and affidavit to an issuing authority using advanced communication technology, the affiant must personally communicate with the issuing authority by any device which, at a minimum, allows for simultaneous audio-visual communication. During the communication, the issuing authority shall verify the identity of the affiant, and orally administer an oath to the affiant.

[(D)] (4) At any hearing on a motion challenging an arrest warrant, no evidence shall be admissible to establish probable cause for the arrest warrant other than the affidavits provided for in paragraph (B)**(2)**.

(C) DELAY IN DISSEMINATION OF ARREST WARRANT INFORMATION

The affiant or the attorney for the Commonwealth may request that the availability of the arrest warrant information for inspection and dissemination be delayed. The arrest warrant affidavit shall include the facts and circumstances that are alleged to establish good cause for delay in inspection and dissemination.

(1) Upon a finding of good cause, the issuing authority shall grant the request and order that the availability of the arrest warrant information for inspection and dissemination be delayed for a period of 72 hours or until receipt of notice by the issuing authority that the warrant has been executed, whichever occurs first. The 72-hour period of delay may be

preceded by an initial delay period of not more than 24 hours, when additional time is required to complete the administrative processing of the arrest warrant information before the arrest warrant is issued. The issuing authority shall complete the administrative processing of the arrest warrant information prior to the expiration of the initial 24-hour period.

(2) Upon the issuance of the warrant, the 72-hour period of delay provided in paragraph (C)(1) begins.

(3) In those counties in which the attorney for the Commonwealth requires that complaints and arrest warrant affidavits be approved prior to filing as provided in Rule 507, only the attorney for the Commonwealth may request a delay in the inspection and dissemination of the arrest warrant information.

COMMENT: **This rule was amended in 2013 to add provisions concerning the delay in inspection and dissemination of arrest warrant information. Paragraph (A) provides a definition of the term "arrest warrant information" that is used throughout the rule. Paragraph (B) retains the existing requirements for the issuance of arrest warrants. Paragraph (C) establishes the procedures for a temporary delay in the inspection and dissemination of arrest warrant information prior to the execution of the warrant.**

ISSUANCE OF ARREST WARRANTS

Paragraph **[(A)](B)(1)** recognizes that an issuing authority either may issue an arrest warrant using advanced communication technology or order that the law enforcement officer appear in person to apply for an arrest warrant.

This rule does not preclude oral testimony before the issuing authority, but it requires that such testimony be reduced to an affidavit prior to issuance of a warrant. All affidavits in support of an application for an arrest warrant must be sworn to before the issuing authority prior to the issuance of the warrant. The language "sworn to before the issuing authority" contemplates, when advanced communication technology is used, that the affiant would not be in the physical presence of the issuing authority. *See* paragraph **[(C)] (B)(3)**.

This rule carries over to the arrest warrant the requirement

that the evidence presented to the issuing authority be reduced to writing and sworn to, and that only the writing is subsequently admissible to establish that there was probable cause. In these respects, the procedure is similar to that applicable to search warrants. *See* Rule 203. For a discussion of the requirement of probable cause for the issuance of an arrest warrant, see *Commonwealth v. Flowers*, **24 Pa.Super. 198,** 369 A.2d 362 (**[Pa. Super.]** 1976).

The affidavit requirements of this rule are not intended to apply when an arrest warrant is to be issued for noncompliance with a citation, with a summons, or with a court order.

An affiant seeking the issuance of an arrest warrant, when permitted by the issuing authority, may use advanced communication technology as defined in Rule 103.

When advanced communication technology is used, the issuing authority is required by this rule to (1) determine that the evidence contained in the affidavit(s) establishes probable cause, and (2) verify the identity of the affiant.

The "visual" requirement in paragraph **[(C)]** **(B)(3)** must allow, at a minimum, the issuing authority to see the affiant at the time the oath is administered and the information received.

Under Rule 540, the defendant receives a copy of the warrant and supporting affidavit at the time of the preliminary arraignment.

DELAY IN DISSEMINATION OF ARREST WARRANT INFORMATION

Paragraph (C) was added in 2013 to address the potential dangers to law enforcement and the general public and the risk of flight when arrest warrant information is disseminated prior to the execution of the arrest warrant. The paragraph provides that the affiant or the attorney for the Commonwealth may request, for good cause shown, the delay in the inspection and dissemination of the arrest warrant information for 72 hours or until receipt of notice by the issuing authority that the warrant has been executed, whichever occurs

first. Upon a finding of good cause, the issuing authority must delay the inspection and dissemination.

The request for delay in inspection and dissemination is intended to provide a very limited delay in public access to arrest warrant information in those cases in which there is concern that pre-execution disclosure of the existence of the arrest warrant will endanger those serving the warrant or will impel the subject of the warrant to flee. This request is intended to be an expedited procedure with the request submitted to an issuing authority.

A request for the delay in dissemination of arrest warrant information made in accordance with this rule is not subject to the requirements of Rule 576.

Once the issuing authority receives notice that the arrest warrant is executed, or when 72 hours have elapsed from the issuance of the warrant and the warrant has not been executed, whichever occurs first, the information must be available for inspection or dissemination unless the information is sealed pursuant to Rule 513.1.

The provision in paragraph (C)(2) that provides up to 24 hours in the delay of dissemination and inspection prior to the issuance of the arrest warrant recognizes that, in some cases, there may be administrative processing of the arrest warrant request that results in a delay between when the request for the 72-hour period of delay permitted in paragraph (C)(1) is approved and when the warrant is issued. In no case may this additional period of delay exceed 24 hours and the issuing authority must issue the arrest warrant within the 24-hour period.

When determining whether good cause exists to delay inspection and dissemination of the arrest warrant information, the issuing authority must consider whether the presumption of openness is rebutted by other interests that include, but are not limited to, whether revealing the information would allow or enable

flight or resistance, the need to protect the safety of police officers executing the warrant, the necessity of preserving the integrity of ongoing criminal investigations, and the availability of reasonable alternative means to protect the interest threatened by disclosure.

Nothing in this rule is intended to limit the dissemination of arrest warrant information to court personnel as needed to perform their duties. Nothing in this rule is intended to limit the dissemination of arrest warrant information to or by law enforcement as needed to perform their duties.

Pursuant to paragraph (C)(3), in those counties in which the district attorney's approval is required only for certain, specified offenses or grades of offenses, the approval of the district attorney is required for a request to delay inspection and dissemination only for cases involving those specified offenses.

NOTE: Rule 119 adopted April 26, 1979, effective as to arrest warrants issued on or after July 1, 1979; *Comment* revised August 9, 1994, effective January 1, 1995; renumbered Rule 513 and amended March 1, 2000, effective April 1, 2001; amended May 10, 2002, effective September 1, 2002 **[.] ; amended December 23, 2013, effective March 1, 2014.**

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COMMITTEE EXPLANATORY REPORTS:

Report explaining the August 9, 1994 Comment revisions published at 22 Pa.B. 6 (January 4, 1992); Final Report published with the Court's Order at 24 Pa.B. 4342 (August 27, 1994).

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1478 (March 18, 2000).

Final Report explaining the May 10, 2002 amendments concerning advanced communication technology published with the Court's Order at 32 Pa.B. 2582 (May 25, 2002).

Final Report explaining the December 23, 2013 amendments providing procedures for delay in dissemination and sealing of arrest warrant information published with the Court's Order at 41 Pa.B. (, 2013).

(This is an entirely new rule.)

RULE 513.1. SEALING OF ARREST WARRANT

(A) For purposes of this rule, “arrest warrant information” is defined as the criminal complaint in cases in which an arrest warrant is issued, the arrest warrant, any affidavit(s) of probable cause, and documents or information related to the case.

(B) At the request of the attorney for the Commonwealth in the form of a motion, the arrest warrant information may be sealed upon good cause shown at the time the complaint is filed.

(C) Submission to Judge or Justice of Request for Sealed Arrest Warrant

When the attorney for the Commonwealth intends to request that the arrest warrant information be sealed, at the time the complaint is filed, the attorney for the Commonwealth shall present the arrest warrant information to a judge of the court of common pleas or an appellate court judge or justice. The arrest warrant affidavit(s) shall include the facts and circumstances that are alleged to establish good cause for the sealing of the arrest warrant information.

(1) When the judge or justice orders the arrest warrant information sealed, the order shall:

(a) certify that for good cause shown the arrest warrant information is sealed and state the date and time that the sealing of the arrest warrant information shall expire; and

(b) when requested by the attorney for the Commonwealth, specify that the arrest warrant information may be released by the attorney for the Commonwealth to the law enforcement agencies listed in the order.

(2) When a judge of the court of common pleas orders the arrest warrant information sealed, he or she shall accept the filing of the written complaint, which shall be marked as sealed, and shall issue the sealed arrest warrant. When a judge or justice of an appellate court orders the arrest warrant information sealed, he or she shall direct that the complaint be filed in the court of common pleas and the sealed arrest warrant shall be issued by a judge of the court of common pleas.

(3) When the judge or justice issues the sealed arrest warrant, the judge or justice also shall issue an order designating the proper issuing authority before whom the case shall proceed upon execution of the warrant.

(4) When the sealed arrest warrant is issued, the sealed arrest warrant information, the sealing order, and the order designating the proper issuing authority shall be filed with the clerk of courts in the judicial district in which the charges are being filed.

(5) Upon execution of the sealed arrest warrant, the affiant shall file a copy of the sealed arrest warrant information with the proper issuing authority along with copies of the order sealing the arrest warrant information and the order designating the proper issuing authority. Thereafter, the case will proceed before the proper issuing authority.

(D) The arrest warrant information shall be sealed for a period of not more than 60 days, unless the time period is extended as provided in paragraph (D)(1) or (D)(2).

(1) Upon motion of the attorney for the Commonwealth for good cause shown, the justice or judge who sealed the arrest warrant information may extend the period of time that the arrest warrant information will remain sealed. If the justice or judge is unavailable, another justice or judge shall be assigned to decide the motion.

(2) Upon motion for good cause shown, the justice or judge may grant an unlimited number of extensions of the time that the arrest warrant information shall remain sealed. Each extension shall be for a period of not more than 30 days.

(3) If the motion requesting any extension pursuant to paragraphs (D)(1) or (D)(2) is granted, the motion and any record of the hearing on the motion shall be sealed and transmitted with the extension order to the clerk of courts and a copy of the extension order shall be transmitted to the proper issuing authority.

(E) Upon motion of the attorney for the Commonwealth, the justice or judge shall order the arrest warrant information to be unsealed.

(F) Defendant's Access to Sealed Arrest Warrant Information

(1) After the sealed arrest warrant is executed, a copy of the arrest warrant information shall be given to the defendant at the preliminary arraignment as provided in Rule 540, unless otherwise ordered as provided in paragraph (F)(2).

(2) Upon motion of the attorney for the Commonwealth, the justice or judge who issued the warrant, for good cause shown and after hearing, may delay giving the defendant a copy of the sealed arrest warrant information, in whole or in part, for periods of not more than 30 days. In no case shall the delay extend beyond the date of the preliminary hearing.

(3) If the justice or judge is unavailable, another justice or judge shall be assigned to decide the motion.

(G) Until the order sealing the arrest warrant information and any extensions thereof expires, the judge and clerk of courts shall not make the arrest warrant information available for public inspection and dissemination.

COMMENT: This rule was adopted in 2013 to codify and further define the practice of temporarily sealing arrest warrants previously recognized in case law such as *Commonwealth v. Fenstermaker*, 515 Pa. 501, 530 A.2d 414 (1987). Unlike existing case law, which only addresses the sealing of arrest warrants after execution, the procedures in this rule apply to all arrest warrants.

Magisterial district judges, arraignment court magistrates, and municipal court judges do not have authority to seal arrest warrant information; the request for the warrant to be sealed must be presented to a judge of the court of common pleas or a justice or judge of an appellate court.

As provided in paragraph (C)(2), when the request to seal an arrest warrant is presented to a judge of the court of common pleas, the complaint must be filed with common pleas judge who issues the sealing order. In those rare cases in which an appellate court judge or justice orders the arrest warrant information sealed, the complaint shall be filed with an appropriate common pleas judge and the common pleas judge shall issue the sealed arrest warrant. This latter provision is necessary due to the limited capability of the appellate courts to accept initial filings and issue arrest warrants.

A request to seal arrest warrant information made in accordance with this rule is not subject to the requirements of Rule 576.

The rule establishes a standard of “good cause” for sealing the arrest warrant information. When determining whether good cause exists to seal the arrest warrant information, the justice or judge must consider whether the presumption of openness is rebutted by other interests that include, but are not limited to, whether revealing the information would allow or enable flight or resistance, the need to protect the safety of police officers executing the warrant, the necessity of preserving the integrity of ongoing criminal investigations, and the availability of reasonable alternative means to protect the interest threatened by disclosure.

The rule assumes that access to a sealed arrest warrant will be severely limited. The rule assumes that this also will limit the availability of the arrest warrant information to a broad class of law enforcement agencies through the various law enforcement computer systems such as the Commonwealth Law Enforcement Assistance Network (CLEAN) and the National Crime Information Center system (NCIC). In many cases, the requester will desire that the information be placed into these systems in order to assist in the execution of the warrant. In these cases, the attorney for the Commonwealth may request that the sealing order provide that the sealed arrest warrant information be provided to law enforcement agencies generally and entry of the arrest warrant information into law enforcement computer systems be required.

Under paragraph (D), an order sealing the arrest warrant information is limited in duration to not more than 60 days. Extension of this period may be granted only upon the showing of good cause for the extension. Each extension of the order is limited to no more than 30 days duration.

The judge issuing the order to seal has the discretion to set the appropriate duration of the order and whether there are any conditions for unsealing the order. For example, a judge may order that the arrest warrant information must be unsealed 15 days from issuance or automatically upon execution of the warrant.

Paragraph (E) provides that the attorney for the Commonwealth may move to unseal the arrest warrant information and the judge or justice must order the

information unsealed. Ordinarily, this will occur in circumstances in which law enforcement wishes to publicize the existence of a previously sealed warrant in order to obtain public assistance in the apprehension of the defendant. The judge or justice may not deny the motion.

Paragraph (F)(2) permits a judge or justice to order sealed arrest warrant information to be kept from the defendant even after the defendant is arrest. The judge or justice may order that either the whole or part of the arrest warrant information be kept from the defendant. This provision should only be used in extraordinary circumstances in which there is considerable risk to public safety or the safety of individual witnesses. In determining whether the information is to be kept from the defendant and what portion of the information is to be kept from the defendant, the judge or justice should be guided by the principle that the least restrictive means should be utilized that are consistent with the reason for the requested restriction. For example, if the grounds for requesting delay in providing this information to the defendant is that the affidavit of probable cause contains information regarding identity of an informant and must remain confidential until additional arrests in other ongoing investigations are made, the judge or justice may delay providing a copy of the affidavit of probable cause to the defendant while providing him or her with a copy of the complaint in order to provide the defendant with information regarding the charges.

When a sealed copy of the arrest warrant information has been given to the defendant, nothing in this rule is intended to preclude the attorney for the Commonwealth from requesting that the justice or judge issue a protective order to prevent or restrict the defendant from disclosing the arrest warrant or the contents of the affidavit. *See* Rule 573(F).

Until the order sealing the arrest warrant information terminates, the judge and the clerk of courts shall not make the arrest warrant information available for inspection and dissemination.

NOTE: New Rule 513.1 adopted December 23, 2013, effective March 1, 2014.

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COMMITTEE EXPLANATORY <u>REPORTS</u>:

<u>Final Report explaining the December 23, 2013 adoption of new Rule 513.1 providing procedures for sealing of arrest warrant information published with the Court's Order at 43 Pa.B. (, 2013).</u>

RULE 540. PRELIMINARY ARRAIGNMENT.

(A) In the discretion of the issuing authority, the preliminary arraignment of the defendant may be conducted by using two-way simultaneous audio-visual communication. When counsel for the defendant is present, the defendant must be permitted to communicate fully and confidentially with defense counsel immediately prior to and during the preliminary arraignment.

(B) If the defendant is under the age of 18 at the time the complaint is filed and is charged with one of the offenses excluded from the definition of "delinquent act" in paragraphs (2)(i), (2)(ii), and (2)(iii) of 42 Pa.C.S. § 6302, the issuing authority shall determine whether the defendant's parents, guardian, or other custodian have been notified of the charge(s). If the parents, guardian, or other custodian have not been notified, the issuing authority shall notify them.

(C) At the preliminary arraignment, a copy of the complaint accepted for filing pursuant to Rule 508 shall be given to the defendant.

(D) If the defendant was arrested with a warrant, the issuing authority shall provide the defendant with copies of the warrant and supporting affidavit(s) at the preliminary arraignment, unless the warrant and affidavit(s) are not available at that time, in which event the defendant shall be given copies no later than the first business day after the preliminary arraignment.

(E) If the defendant was arrested without a warrant pursuant to Rule 519, unless the issuing authority makes a determination of probable cause, the defendant shall not be detained.

(F) The issuing authority shall not question the defendant about the offense(s) charged but shall read the complaint to the defendant. The issuing authority **also** shall **[also]** inform the defendant:

(1) of the right to secure counsel of choice and the right to assigned counsel in accordance with Rule 122;

(2) of the right to have a preliminary hearing, except in cases being presented to an indicting grand jury pursuant to Rule 556.2; and

(3) if the offense is bailable, the type of release on bail, as provided in Chapter 5 Part C of these rules, and the conditions of the bail bond.

(G) Unless the preliminary hearing is waived by a defendant who is represented by counsel, or the attorney for the Commonwealth is presenting the case to an indicting grand jury pursuant to Rule 556.2, the issuing authority shall:

(1) fix a day and hour for a preliminary hearing which shall not

be later than 14 days after the preliminary arraignment if the defendant is in custody and no later than 21 days if not in custody unless:

(a) extended for cause shown; or

(b) the issuing authority fixes an earlier date upon request of the defendant or defense counsel with the consent of the complainant and the attorney for the Commonwealth; and

(2) give the defendant notice, orally and in writing,

(a) of the date, time, and place of the preliminary hearing,

(b) that failure to appear without cause for the preliminary hearing will be deemed a waiver by the defendant of the right to be present at any further proceedings before the issuing authority, and will result in the case proceeding in the defendant's absence and in the issuance of a warrant of arrest, and

(c) if the case is held for court at the time of the preliminary hearing that if the defendant fails to appear without cause at any proceeding for which the defendant's presence is required, including the trial, the defendant's absence may be deemed a waiver of the right to be present, and the proceeding may be conducted in the defendant's absence.

(H) After the preliminary arraignment, if the defendant is detained, the defendant shall be given an immediate and reasonable opportunity to post bail, secure counsel, and notify others of the arrest. Thereafter, if the defendant does not post bail, he or she shall be committed to jail as provided by law.

(I) If a monetary condition of bail is set, the issuing authority shall accept payment of the monetary condition, as provided in Rule 528, at any time prior to the return of the docket transcript to the court of common pleas.

COMMENT: A preliminary arraignment as provided in this rule bears no relationship to arraignment in criminal courts of record. *See* Rule 571.

Within the meaning of Rule 540, counsel is present when physically with the defendant or with the issuing authority.

Under paragraph (A), the issuing authority has discretion to order that a defendant appear in person for the preliminary arraignment.

Under paragraph (A), two-way simultaneous audio-visual communication is a form of advanced communication technology.

See Rule 130 concerning *venue* when proceedings are conducted using advanced communication technology.

Paragraph (D) requires that the defendant receive copies of the arrest warrant and the supporting affidavit(s) at the time of the preliminary arraignment. *See also* Rules 513(A), 208(A), and 1003. ***See* Rule 513.1(F) concerning a defendant's access to arrest warrant information that has been sealed.**

Paragraph (D) includes a narrow exception which permits the issuing authority to provide copies of the arrest warrant and supporting affidavit(s) on the first business day after the preliminary arraignment. This exception applies only when copies of the arrest warrant and affidavit(s) are not available at the time the issuing authority conducts the preliminary arraignment, and is intended to address purely practical situations such as the unavailability of a copier at the time of the preliminary arraignment.

[Nothing in this rule is intended to address public access to arrest warrant affidavits. *See Commonwealth v. Fenstermaker*, 515 P. 501, 530 A.2d 414 (1987).]

For public access to arrest warrant information, *see* Rules 513, 513.1, and *Commonwealth v. Fenstermaker*, 515 Pa. 501, 530 A.2d 414 (1987).

When a defendant has not been promptly released from custody after a warrantless arrest, the defendant must be afforded a preliminary arraignment by the proper issuing authority without unnecessary delay. *See* Rule 519(A).

Under paragraph (E), if a defendant has been arrested without a warrant, the issuing authority must make a prompt determination of probable cause before a defendant may be detained. *See Riverside v. McLaughlin*, 500 U.S. 44 (1991). The determination may be based on written affidavits, an oral statement under oath, or both.

Pursuant to the 2004 amendment to paragraph (G)(2), at the time of the preliminary arraignment, the defendant must be

given notice, both orally and in writing, of the date, time, and place of the preliminary hearing. The notice must also explain that, if the defendant fails to appear without cause for the preliminary hearing, the defendant's absence will constitute a waiver of the right to be present, the case will proceed in the defendant's absence, and a warrant for the defendant's arrest will be issued.

The 2012 amendment to paragraph (G) conforms this rule with the new procedures set forth in Chapter 5, Part E, permitting the attorney for the Commonwealth to proceed to an indicting grand jury without a preliminary hearing in cases in which witness intimidation has occurred, is occurring, or is likely to occur.

Paragraph (G)(2)(b) was amended in 2013 changing the phrase “without good cause” to “without cause” in reference to whether the defendant’s absence at the time of the preliminary hearing permits the preliminary hearing to proceed in the defendant’s absence. This amendment is not intended as a change in the standard for making this determination. The change makes the language consistent with the language in Rule 602 describing the standard by which a defendant’s absence is judged for the trial to proceed in the defendant’s absence. In both situations, the standard is the same.

Paragraph (G)(2)(c) requires that the defendant be advised of the consequences of failing to appear for any court proceeding. *See* Rule 602 concerning a defendant’s failure to appear for trial; see also *Commonwealth v. Bond*, 693 A.2d 220, 223 (Pa. Super. 1997) (“[A] defendant who is unaware of the charges against him, unaware of the establishment of his trial date or is absent involuntarily is not absent ‘without cause.’”).

Nothing in these rules gives the defendant's parents, guardian, or other custodian legal standing in the matter being heard by the court or creates a right of the defendant to have his or her parents, guardian, or other custodian present.

See Rule 1003(D) for the procedures governing preliminary arraignments in the **Philadelphia** Municipal Court.

See Chapter 5, Part H, Rules 595, 596, 597, and 598, for the procedures governing requests for transfer from criminal proceedings to juvenile proceedings pursuant to 42 Pa.C.S. § 6322 in cases in which the defendant was under the age of 18 at the time of the commission of the alleged offense and charged with one of the offenses excluded from the definition of "delinquent act" in paragraphs (2)(i), (2)(ii), and (2)(iii) of 42 Pa.C.S. § 6302.

NOTE: Original Rule 119 adopted June 30, 1964, effective January 1, 1965; suspended January 31, 1970, effective May 1, 1970. New Rule 119 adopted January 31, 1970, effective May 1, 1970; renumbered Rule 140 September 18, 1973, effective January 1, 1974; amended April 26, 1979, effective July 1, 1979; amended January 28, 1983, effective July 1, 1983; rescinded August 9, 1994, effective January 1, 1995. New Rule 140 adopted August 9, 1994, effective January 1, 1995; amended September 13, 1995, effective January 1, 1996. The January 1, 1996 effective date extended to April 1, 1996; the April 1, 1996 effective date extended to July 1, 1996; renumbered Rule 540 and amended March 1, 2000, effective April 1, 2001; amended May 10, 2002, effective September 1, 2002; amended August 24, 2004, effective August 1, 2005; amended June 21, 2012, effective in 180 days; amended July 31, 2012, effective November 1, 2012; amended May 2, 2013, effective June 1, 2013 **[.] ; *Comment* revised December 23, 2013, effective March 1, 2014.**

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COMMITTEE EXPLANATORY REPORTS:

Report explaining the provisions of the new Rule 140 published at 22 Pa.B. 6 (January 4, 1992). Final Report published with the Court's Order at 24 Pa.B. 4342 (August 27, 1994).

Final Report explaining the September 13, 1995 amendments published with the Court's Order at 25 Pa.B. 4116 (September 30, 1995).

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B.

1478 (March 18, 2000).

***Final Report** explaining the May 10, 2002 amendments concerning advanced communication technology published with the Court's Order at 32 Pa.B. 2591 (May 25, 2002).*

***Final Report** explaining the August 24, 2004 amendments concerning notice that the case will proceed in defendant's absence published with the Court's Order at 34 Pa.B. 5016 (September 11, 2004).*

***Final Report** explaining the June 21, 2012 amendments concerning indicting grand juries published with the Court's Order at 42 Pa.B. 4140 (July 7, 2012).*

***Final Report** explaining July 31, 2012 amendments concerning defendants under the age of 18 and charged with one of the offenses enumerated in 42 Pa.C.S. § 6302(2)(i), (ii), or (iii) published with the Court's Order at 42 Pa.B. 5340 (August 18, 2012).*

***Final Report** explaining the May 2, 2013 amendments concerning notice of consequences of failing to appear published the Court's Order at 43 Pa.B. 2704 (May 18, 2013).*

Final Report explaining the December 23, 2013 Comment revisions concerning sealed arrest warrant information published with the Court's Order at 43 Pa.B. (, 2013).

RULE 547. RETURN OF TRANSCRIPT AND ORIGINAL PAPERS.

(A) When a defendant is held for court, or after the issuing authority receives notice that the case will be presented to the indicting grand jury and closes out the case, the issuing authority shall prepare a transcript of the proceedings. The transcript shall contain all the information required by these rules to be recorded on the transcript. It shall be signed by the issuing authority, and have affixed to it the issuing authority's seal of office.

(B) The issuing authority shall transmit the transcript to the clerk of the proper court within 5 days after holding the defendant for court or after closing out the case upon receipt of the notice that the case will be presented to the indicting grand jury.

(C) In addition to this transcript the issuing authority **also** shall **[also]** transmit the following items:

(1) the original complaint;

(2) the summons or the warrant of arrest and its return;

(3) all affidavits filed in the proceeding;

(4) the appearance or bail bond for the defendant, if any, or a copy of the order committing the defendant to custody;

(5) a request for the court of common pleas to issue a bench warrant as required in Rule 543(D)(3)(b);

(6) notice informing the court of common pleas that the defendant has failed to comply with the fingerprint order as required in Rule 543(D)(3)(b)(ii); and

(7) a copy of the notice that the case will be presented to the indicting grand jury.

COMMENT: *See* Rule 135 for the general contents of the transcript. There are a number of other rules that require certain things to be recorded on the transcript to make a record of the proceedings before the issuing authority. *See, e.g.*, Rules 542 and 543.

When the case is held for court pursuant to Rule 543(D)(3), the issuing authority must include with the transcript transmittal a request for the court of common pleas to issue a bench warrant.

When the case is held for court pursuant to Rule

543(D)(3)(b)(ii), the issuing authority must include with the transcript transmittal a notice to the court of common pleas that the defendant has not complied with the fingerprint order issued pursuant to Rule 510(C)(2). *See* Rule 543(D)(3)(b)(ii). The court of common pleas must take whatever actions deemed appropriate to address this non-compliance.

See Chapter 5 Part E for the procedures governing indicting grand juries. Pursuant to Rule 556.2(A)(3), the judge is required to notify the issuing authority that the case will be presented to the indicting grand jury. Pursuant to Rule 556.11(A), upon receipt of the notice, the issuing authority is required to close out the case in his or her office, and forward it to the court of common pleas for all further proceedings. When the case is transmitted to the court of common pleas, the clerk of courts should associate the transcript and other documents transmitted by the issuing authority with the motion and order filed pursuant to Rule 556.2(A)(5).

When arrest warrant information has been sealed pursuant to Rule 513.1, the arrest warrant information already will have been filed with the clerk of courts. When the case is transmitted to the court of common pleas, the clerk of courts should associate the transcript and other documents transmitted by the issuing authority with the original file created for the sealing procedure.

NOTE: Formerly Rule 126, adopted June 30, 1964, effective January 1, 1965; suspended January 31, 1970, effective May 1, 1970; revised January 31, 1970, effective May 1, 1970; renumbered Rule 146 and amended September 18, 1973, effective January 1, 1974; amended October 22, 1981, effective January 1, 1982; amended July 12, 1985, effective January 1, 1986; effective date extended to July 1, 1986; renumbered Rule 547 and amended March 1, 2000, effective April 1, 2001; amended August 24, 2004, effective August 1, 2005; amended May 1, 2007, effective September 4, 2007, and May 1, 2007 Order amended May 15, 2007; amended July 10, 2008, effective February 1, 2009; amended June 21, 2012, effective in 180 days **[.]** **; amended December 23, 2013, effective March 1, 2014.**

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COMMITTEE EXPLANATORY REPORTS:

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1478 (March 18, 2000).

Final Report explaining the August 24, 2004 changes published with the Court's Order at 34 Pa.B. 5025 (September 11, 2004).

Final Report explaining the May 1, 2007 amendments concerning the request for a bench warrant published with the Court's Order at 37 Pa.B. 2496 (June 2, 2007).

Final Report explaining the July 10, 2008 amendments to paragraph (C)(6) concerning the fingerprint order published at 38 Pa.B. 3971 (July 26, 2008).

Final Report explaining June 21, 2012 amendments to paragraph (A) and adding paragraph (C)(7) concerning indicting grand juries published with the Court's Order at 42 Pa.B. 4140 (July 7, 2012).

Final Report explaining the December 23, 2013 Comment revisions concerning sealed arrest warrant documents published with the Court's Order at 43 Pa.B. (, 2013).