[This rule is rescinded in its entirety.]

RULE 600. PROMPT TRIAL. RESCINDED.

[(A) (1) Trial in a court case in which a written complaint is filed against the defendant after June 30, 1973 but before July 1, 1974 shall commence no later than 270 days from the date on which the complaint is filed.

(2) Trial in a court case in which a written complaint is filed against the defendant, when the defendant is incarcerated on that case, shall commence no later than 180 days from the date on which the complaint is filed.

(3) Trial in a court case in which a written complaint is filed against the defendant, when the defendant is at liberty on bail, shall commence no later than 365 days from the date on which the complaint is filed.

(4) Trial in a court case that is transferred from the juvenile court to the trial or criminal division shall commence in accordance with the provision set out in paragraphs (A)(2) and (A)(3) except that the time is to run from the date of filing the transfer order.

(B) For the purpose of this rule, trial shall be deemed to commence on the date the trial judge calls the case to trial, or the defendant tenders a plea of guilty or *nolo contendere*.

(C) In determining the period for commencement of trial, there shall be excluded therefrom:

(1) the period of time between the filing of the written complaint and the defendant's arrest, provided that the defendant could not be apprehended because his or her whereabouts were unknown and could not be determined by due diligence;

(2) any period of time for which the defendant expressly waives Rule 600;

(3) such period of delay at any stage of the proceedings as results from:]

[(a) the unavailability of the defendant or the defendant's attorney;

(b) any continuance granted at the request of the defendant or the defendant's attorney.]

(D) (1) When a trial court has granted a new trial and no appeal has been perfected, the new trial shall commence within 120 days after the date of the order granting a new trial, if the defendant is incarcerated on that case. If the defendant has been released on bail, trial shall commence within 365 days of the trial court's order.

(2) When an appellate court has remanded a case to the trial court, if the defendant is incarcerated on that case, trial shall commence within 120 days after the date of remand as it appears in the appellate court docket. If the defendant has been released on bail, trial shall commence within 365 days after the date of remand.

(3) When a trial court has ordered that a defendant's participation in the ARD program be terminated pursuant to Rule 184, trial shall commence within 120 days of the termination order if the defendant is incarcerated on that case. If the defendant has been released on bail, trial shall commence within 365 days of the termination order.

(E) No defendant shall be held in pre-trial incarceration on a given case for a period exceeding 180 days excluding time described in paragraph (C) above. Any defendant held in excess of 180 days is entitled upon petition to immediate release on nominal bail.

(F) Nothing in this rule shall be construed to modify any time limit contained in any statute of limitations.

(G) For defendants on bail after the expiration of 365 days, at any time before trial, the defendant or the defendant's attorney may apply to the court for an order dismissing the charges with prejudice on the ground that this rule has been violated. A copy of such motion shall be served upon the attorney for the Commonwealth, who shall also have the right to be heard thereon.

If the court, upon hearing, shall determine that the Commonwealth exercised due diligence and that the circumstances occasioning the postponement were beyond the control of the Commonwealth, the motion to dismiss shall be denied and the case shall be listed for trial on a date certain. If, on any successive listing of the case, the Commonwealth is not prepared to proceed to trial on the date fixed, the court shall determine whether the Commonwealth exercised due] [diligence in attempting to be prepared to proceed to trial. If, at any time, it is determined that the Commonwealth did not exercise due diligence, the court shall dismiss the charges and discharge the defendant.

In the event the case is dismissed pursuant to this paragraph, the court shall promptly prepare a report of continuances by the Commonwealth, and the reasons therefor, which prevented the case from coming to trial as required by this rule. Such report shall be certified by the president judge or administrative judge, shall be made part of the public record of the case, and shall be sent to the Court Administrator of Pennsylvania within 20 days of the order of discharge.

COMMENT: Rule 600 was adopted in 1973 pursuant to *Commonwealth v. Hamilton*, 297 A.2d 127 (Pa. 1972).

The time limits of this rule were amended on December 31, 1987, effective immediately. *See Commonwealth v. Palmer*, 558 A.2d 882 (Pa. Super. 1989).

In addition to amending the time limits of the rule, the Court deleted the provisions concerning Commonwealth petitions to extend the time for commencement of trial. *See* Rule 600(E) and (G).

Paragraph (A)(2) requires that the Commonwealth bring a defendant to trial within 180 days from the filing of the complaint if the defendant is incarcerated on the charges. Under paragraph (E), subject to the exclusions provided in paragraph (C), a defendant who has been incarcerated on the charges pretrial for more than 180 days is entitled, upon petition, to immediate release on nominal bail.

If a defendant is at liberty on bail on the charges, paragraph (A)(3) requires that the Commonwealth bring the defendant to trial within 365 days from the filing of a complaint. Under paragraph (G), after 365 days and at any time before trial, a defendant released on bail or the defendant's counsel may apply to the court for an order dismissing the charges with prejudice on the ground that this rule has been violated. A copy of the motion must be served on the attorney for the Commonwealth, who has a right under this rule to be heard on the] [motion. If the court, upon hearing, determines that the Commonwealth exercised due diligence and that the circumstances causing the delay in the commencement of trial were beyond the Commonwealth's control, the

court must deny the motion and list the case for trial on a date certain. If the court determines that the Commonwealth did not exercise due diligence, the court must dismiss the charges with prejudice and discharge the defendant.

When calculating the number of days set forth herein, see the Statutory Construction Act, 1 Pa.C.S. § 1908.

Pursuant to this rule, it is intended that "complaint" also includes special documents used in lieu of a complaint to initiate criminal proceedings in extraordinary circumstances such as criminal proceedings instituted by a medical examiner or coroner. *See Commonwealth v. Lopinson*, 234 A.2d 552 (Pa. 1967); *Commonwealth v. Smouse*, 594 A.2d 666 (Pa. Super. 1991).

A trial commences when the trial judge determines that the parties are present and directs them to proceed to *voir dire* or to opening argument, or to the hearing of any motions which had been reserved for the time of trial, or to the taking of testimony, or to some other such first step in the trial. It is not intended that preliminary calendar calls should constitute commencement of a trial. Concerning the hearing of motions reserved for the time of trial, see *Jones v. Commonwealth*, 434 A.2d 1197 (Pa. 1981).

For purposes of determining the time for commencement of trial, paragraph (C) contains the periods which must be excluded from that calculation. For periods of delay that result from the filing and litigation of omnibus pretrial motions for relief or other motions, see *Commonwealth v. Hill* and *Commonwealth v. Cornell*, 736 A.2d 578 (Pa. 1999).

Under paragraph (C)(3)(a), in addition to any other circumstances precluding the availability of the defendant or the defendant's attorney, the defendant] [should be deemed unavailable for the period of time during which the defendant contested extradition, or a responding jurisdiction delayed or refused to grant extradition; or during which the defendant was

physically incapacitated or mentally incompetent to proceed; or during which the defendant was absent under compulsory process requiring his or her appearance elsewhere in connection with other judicial proceedings.

The provisions enumerating the excludable periods contained in paragraph (C) apply to the periods for commencing a trial under paragraph (D).

Paragraphs (D)(1) and (2) provide the time limits for commencement of trial when a trial court has granted a new trial and no appeal has been perfected, or when an appellate court has remanded a case to the trial court, for whatever reason. Under paragraph (D)(1), a trial must commence within 120 days of the trial court order granting a new trial, unless the defendant has been released on bail, in which event the trial must commence within 365 days.
The withdrawal of, rejection of, or successful challenge to a guilty plea should be considered the granting of a new trial for purposes of this rule. Paragraph (D)(1) also applies to the period for commencing a new trial following the declaration of a mistrial.

Under paragraph (D)(2), when an appellate court has remanded a case to the trial court, for whatever reason, trial must commence within 120 days after the remand, unless the defendant has been released on bail, in which event trial must commence within 365 days after the remand. The date of remand is the date as it appears in the appellate court docket. When remand of the record is stayed, the period for commencement of trial does not begin to run until the record is remanded as provided in this rule.

Although a defendant's removal from the ARD program does not result in a "new trial" under paragraph (D)(3), termination of the defendant's ARD program pursuant] [to Rule 318 commences a new trial period for the purpose of this rule.

When a judge grants a continuance requested by the defendant, trial should be rescheduled for a date certain consistent with the continuance request and the court's business, and the entire period of such continuance may be excluded under paragraph (C).

When admitted to nominal bail pursuant to this rule, the defendant must execute a bail bond. *See* Rules 525 and 526.

In addition to requesting that the defendant waive Rule 600 for the period of enrollment in the ARD program (see Rule 312, paragraph (3)), the attorney for the Commonwealth may request that the defendant waive Rule 600 for the period of time spent in processing and considering the defendant's inclusion into the ARD program.]

NOTE: Rule 1100 adopted June 8, 1973, effective prospectively as set forth in paragraphs (A)(1) and (A)(2) of this rule; paragraph (E) amended December 9, 1974, effective immediately; paragraph (E) re-amended June 28, 1976, effective July 1, 1976; amended October 22, 1981, effective January 1, 1982. (The amendment to paragraph (C)(3)(b) excluding defense-requested continuances was specifically made effective as to continuances requested on or after January 1, 1982.) Amended December 31, 1987, effective immediately; amended September 30, 1988, effective immediately; amended September 3, 1993, effective January 1, 1994; *Comment* revised 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 600 and amended March 1, 2000, effective April 1, 2001; *Comment* revised April 20, 2000, effective July 1, 2000 **[.] ; rescinded October 1, 2012, effective July 1, 2013, and replaced by new Rule 600.**

* * * * * *

COMMITTEE EXPLANATORY REPORTS:

Report explaining the September 3, 1993 amendments published with the Court's Order at 23 Pa.B. 4492 (September 25, 1993).

Final Report explaining the September 13, 1995 Comment revision published with 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 April 20, 2000 Comment revision concerning Commonwealth v. Hill and Commonwealth v. Cornell published with the Court's Order at 30 Pa.B. 2219 (May 6, 2000).

Final Report explaining the October 1, 2012 rescission of current Rule 600 published at 42 Pa.B. (, 2012).

[This is an entirely new rule.]

RULE 600. PROMPT TRIAL.

(A) COMMENCEMENT OF TRIAL; TIME FOR TRIAL

(1) For the purpose of this rule, trial shall be deemed to commence on the date the trial judge calls the case to trial, or the defendant tenders a plea of guilty or *nolo contendere*.

(2) Trial shall commence within the following time periods.

(a) Trial in a court case in which a written complaint is filed against the defendant shall commence within 365 days from the date on which the complaint is filed.

(b) Trial in a court case that is transferred from the juvenile court to the trial or criminal division shall commence within 365 days from the date on which the transfer order is filed.

(c) When a trial court has ordered that a defendant's participation in the ARD program be terminated pursuant to Rule 318, trial shall commence within 365 days from the date on which the termination order is filed.

(d) When a trial court has granted a new trial and no appeal has been perfected, the new trial shall commence within 365 days from the date on which the trial court's order is filed.

(e) When an appellate court has remanded a case to the trial court, the new trial shall commence within 365 days from the date of the written notice from the appellate court to the parties that the record was remanded.

(B) PRETRIAL INCARCERATION

Except in cases in which the defendant is not entitled to release on bail as provided by law, no defendant shall be held in pretrial incarceration in excess of

(1) 180 days from the date on which the complaint is filed; or

(2) 180 days from the date on which the order is filed transferring a court case from the juvenile court to the trial or criminal division; or

(3) 180 days from the date on which the order is filed terminating a defendant's participation in the ARD program pursuant to Rule 318; or

(4) 120 days from the date on which the order of the trial court is filed granting a new trial when no appeal has been perfected; or

(5) 120 days from the date of the written notice from the appellate court to the parties that the record was remanded.

(C) COMPUTATION OF TIME

(1) For purposes of paragraph (A), periods of delay at any stage of the proceedings caused by the Commonwealth when the Commonwealth has failed to exercise due diligence shall be included in the computation of the time within which trial must commence. Any other periods of delay shall be excluded from the computation.

(2) For purposes of paragraph (B), only periods of delay caused by the defendant shall be excluded from the computation of the length of time of any pretrial incarceration. Any other periods of delay shall be included in the computation.

(3)(a) When a judge or issuing authority grants or denies a continuance:

(i) the issuing authority shall record the identity of the party requesting the continuance and the reasons for granting or denying the continuance; and

(ii) the judge shall record the identity of the party requesting the continuance and the reasons for granting or denying the continuance. The judge also shall record to which party the period of delay caused by the continuance shall be attributed, and whether the time will be included in or excluded from the computation of the time within which trial must commence in accordance with this rule.

(b) The determination of the judge or issuing authority is subject to review as provided in paragraph (D)(3).

(D) REMEDIES

(1) When a defendant has not been brought to trial within the time periods set forth in paragraph (A), at any time before trial, the defendant's attorney, or the

defendant if unrepresented, may file a written motion requesting that the charges be dismissed with prejudice on the ground that this rule has been violated. A copy of the motion shall be served on the attorney for the Commonwealth concurrently with filing. The judge shall conduct a hearing on the motion.

(2) Except in cases in which the defendant is not entitled to release on bail as provided by law, when a defendant is held in pretrial incarceration beyond the time set forth in paragraph (B), at any time before trial, the defendant's attorney, or the defendant if unrepresented, may file a written motion requesting that the defendant be released immediately on nominal bail subject to any nonmonetary conditions of bail imposed by the court as permitted by law. A copy of the motion shall be served on the attorney for the Commonwealth concurrently with filing. The judge shall conduct a hearing on the motion.

(3) Any requests for review of the determination in paragraph (C)(3) shall be raised in a motion or answer filed pursuant to paragraph (D)(1) or paragraph (D)(2).

(E) Nothing in this rule shall be construed to modify any time limit contained in any statute of limitations.

COMMENT: Rule 600 was adopted in 1973 as Rule 1100 pursuant to *Commonwealth v. Hamilton*, 449 Pa. 297, 297 A.2d 127 (1972), and provided, *inter alia*, that trials be held within 180 days of the filing of the complaint. The Court in *Hamilton* and subsequent cases explained that, by fixing the maximum time limit within which to try individuals accused of crime, the rule is intended to protect the right of criminal defendants to a speedy trial, protect society's right to effective prosecution of criminal cases, and help eliminate the backlog in criminal cases in the courts of Pennsylvania. *See, e.g., Commonwealth v. Dixon,* 589 Pa. 28, 907 A.2d 468 (2006); *Commonwealth v. Genovese*, 493 Pa. 65, 425 A.2d 367 (1981).

The time limits of this rule were expanded on December 31, 1987, effective immediately, to provide that trials must be held within 365 days of the filing of the complaint. The 1987 amendments also provided that a defendant who has been held in pretrial incarceration longer than 180 days must be released on nominal bail, and deleted the provisions

concerning Commonwealth petitions to extend the time for commencement of trial.

In 2012, former Rule 600 was rescinded and new Rule 600 adopted to reorganize and clarify the provisions of the rule in view of the long line of cases that have construed the rule. The new rule incorporates from former Rule 600 the provisions concerning the commencement of trial and the requirement of bringing a defendant to trial within 365 days of specified events, new paragraph (A), and the 120-day or 180-day time limits on pretrial incarceration, new paragraph (B). New paragraph (C), concerning computation of time and continuances, and new paragraph (D), concerning remedies, have been modified to clarify the procedures and reflect changes in law.

When calculating the number of days set forth herein, see the Statutory Construction Act, 1 Pa.C.S. § 1908.

COMMENCEMENT OF TRIAL; TIME FOR TRIAL

Paragraph (A) addresses both the commencement of trial and the 365-day time for trial. A trial commences when the trial judge determines that the parties are present and directs them to proceed to *voir dire* or to opening argument, or to the hearing of any motions that had been reserved for the time of trial, or to the taking of testimony, or to some other such first step in the trial. *See, e.g., Commonwealth v. Kluska,* 484 Pa. 508, 399 A.2d 681 (1979); *Commonwealth v. Lamonna*, 473 Pa. 248, 373 A.2d 1355 (1977). It is not intended that preliminary calendar calls should constitute commencement of a trial. Concerning the hearing of motions reserved for the time of trial, see *Jones v. Commonwealth*, 495 Pa. 490, 434 A.2d 1197 (1981).

The general rule is that trial must commence within 365 days from the date on which the complaint is filed. Pursuant to this rule, it is intended that "complaint" also includes special documents used in lieu of a complaint to initiate criminal proceedings in extraordinary circumstances such as criminal proceedings instituted by a medical examiner or coroner. *See Commonwealth v. Lopinson*, 427 Pa. 284, 234 A.2d 552 (1967), *vacated on other grounds,* 392 U.S. 647 (1968);

Commonwealth v. Smouse, 406 Pa.Super. 369, 594 A.2d 666 (1991).

In cases in which the Commonwealth files a criminal complaint, withdraws that complaint, and files a second complaint, the Commonwealth will be afforded the benefit of the date of the filing of the second complaint for purposes of calculating the time for trial when the withdrawal and re-filing of charges are necessitated by factors beyond its control, the Commonwealth has exercised due diligence, and the refiling is not an attempt to circumvent the time limitation of Rule 600. *See Commonwealth v. Meadius,* 582 Pa. 174, 870 A.2d 802 (2005).

The withdrawal of, rejection of, or successful challenge to a guilty plea should be considered the granting of a new trial for purposes of paragraph (A)(2)(d) of this rule. Paragraph (A)(2)(d) also applies to the period for commencing a new trial following the declaration of a mistrial.

The date of filing court orders for purposes of paragraphs (A)(2) and B is the date of receipt of the order in the clerk of court's office. *See* the third paragraph of the *Comment* to Rule 114 (Orders and Court Notices; Filing; Service; and Docket Entries).

When an appellate court has remanded a case to the trial court for a new trial, for purposes of computing the time for trial under paragraph (A)(2)(e) or the length of time of pretrial incarceration for purposes of paragraph (B)(5), the date of the remand is the date of the prothonotary's notice to the parties that the record was remanded. *See* Pa.R.A.P. 2572(e) concerning the requirement that the prothonotary of the appellate court give the parties written notice of the date on which the record was remanded.

COMPUTATION OF TIME

For purposes of determining the time within which trial must be commenced pursuant to paragraph (A), paragraph (C)(1) makes it clear that any delay in the commencement of trial that is not attributable to the Commonwealth when the Commonwealth has exercised due diligence must be

excluded from the computation of time. Thus, the inquiry for a judge in determining whether there is a violation of the time periods in paragraph (A) is whether the delay is caused solely by the Commonwealth when the Commonwealth has failed to exercise due diligence. *See, e.g., Commonwealth v. Dixon*, 589 Pa. 28, 907 A.2d 468 (2006); *Commonwealth v. Matis*, 551 Pa. 220, 710 A.2d 12 (1998). If the delay occurred as the result of circumstances beyond the Commonwealth's control and despite its due diligence, the time is excluded. *See, e.g. Commonwealth v. Browne,* 526 Pa. 83, 584 A.2d 902 (1990); *Commonwealth v. Genovese,* 493 Pa. 65, 425 A.2d 367 (1981). In determining whether the Commonwealth has exercised due diligence, the courts have explained that "[d]ue diligence is fact-specific, to be determined case-by-case; it does not require perfect vigilance and punctilious care, but merely a showing the Commonwealth has put forth a reasonable effort." *See, e.g., Commonwealth v. Selenski,* 606 Pa 51, 61, 994 A.2d 1083, 1089 (Pa. 2010) (citing *Commonwealth v. Hill* and *Commonwealth v. Cornell*, 558 Pa. 238, 256, 736 A.2d 578, 588 (1999)).

Delay in the time for trial that is attributable to the judiciary may be excluded from the computation of time. *See*, *e.g., Commonwealth v. Crowley*, 502 Pa. 393, 466 A.2d 1009 (1983). However, when the delay attributable to the court is so egregious that a constitutional right has been impaired, the court cannot be excused for postponing the defendant's trial and the delay will not be excluded. *See Commonwealth v. Africa,* 524 Pa. 118, 569 A.2d 920 (1990).

When the defendant or the defense has been instrumental in causing the delay, the period of delay will be excluded from computation of time. *See, e.g., Commonwealth v. Matis, supra; Commonwealth v. Brightwell,* 486 Pa. 401, 406 A.2d 503 (1979) (plurality opinion). For purposes of paragraph (C)(1) and paragraph (C)(2), the following periods of time, that were previously enumerated in the text of former Rule 600(C), are examples of periods of delay caused by the defendant. This time must be excluded from the computations in paragraphs (C)(1) and (C)(2):

(1) the period of time between the filing of the written complaint and the defendant's arrest, provided that the defendant could not be apprehended because his or her whereabouts were unknown and could not be determined by due diligence;

(2) any period of time for which the defendant expressly waives Rule 600;

(3) such period of delay at any stage of the proceedings as results from either the unavailability of the defendant or the defendant's attorney or any continuance granted at the request of the defendant or the defendant's attorney.

In addition to any other circumstances precluding the availability of the defendant or the defendant's attorney, the defendant should be deemed unavailable for the period of time during which the defendant contested extradition, or a responding jurisdiction delayed or refused to grant extradition; or during which the defendant was physically incapacitated or mentally incompetent to proceed; or during which the defendant was absent under compulsory process requiring his or her appearance elsewhere in connection with other judicial proceedings.

For periods of delay that result from the filing and litigation of omnibus pretrial motions for relief or other motions, see *Commonwealth v. Hill* and *Commonwealth v. Cornell*, 558 Pa. 238, 736 A.2d 578 (1999) (the mere filing of a pretrial motion does not automatically render defendant unavailable; only unavailable if delay in commencement of trial is caused by filing pretrial motion).

For purposes of determining the length of time a defendant has been held in pretrial incarceration pursuant to paragraph (B), only the periods of delay attributable to the defense are to be excluded from the computation. *See Commonwealth v. Dixon*, 589 Pa. 28, 907 A.2d 468 (2006).

Paragraph (C)(3) and Rules 106 (Continuances in Summary and Court Cases) and 542 (Preliminary Hearing; Continuances) require the judge to indicate on the record

whether the time is excludable whenever he or she grants a continuance.

When a judge grants a continuance, trial should be rescheduled for a date certain consistent with the continuance request and the court's business. *See, e.g., Commonwealth v. Crowley, supra.*

REMEDIES

Paragraph (D)(1) requires that any defendant, whether incarcerated or released on bail, not brought to trial within the time periods in paragraph (A) at any time before trial may move to have the charges dismissed on the ground that this rule has been violated. *See Commonwealth v. Solano*, 588 Pa. 716, 906 A.2d 1180 (2006).

When a case is dismissed for violation of this rule, the dismissal is “with prejudice,” and the Commonwealth’s only recourse is to file either a motion for reconsideration or an appeal.

Paragraph (D)(2) sets forth the remedy should a defendant be held in pretrial incarceration beyond the time periods in paragraph (B). Defendants who would not be released on bail based on Article I, Section 14 of the Pennsylvania Constitution are not eligible for release under paragraph (D)(2) of this rule. *See, e.g., Commonwealth v. Sloan,* 589 Pa. 15, 27, n.10, 907 A.2d 460, 467, n.10 (2006); *Commonwealth v. Jones,* 899 A.2d 353 (Pa. Super. 2006). Article I, Section 14 of the Pennsylvania Constitution provides, *inter alia*, that “[a]ll prisoners shall be bailable by sufficient sureties, unless for capital offenses or for offenses for which the maximum sentence is life imprisonment or unless no condition or combination of conditions other than imprisonment will reasonably assure the safety of any person and the community when the proof is evident or presumption great.”

Except in cases in which bail is not available pursuant to Article I, Section 14 of the Pennsylvania Constitution, the defendant must be released on nominal bail. Imposition of nominal bail includes in the appropriate case the imposition

of nonmonetary conditions of release. *See Commonwealth v. Sloan*, *supra*. *See also* Rules 524, 526, and 527 concerning types and conditions of release on bail.

When admitted to nominal bail pursuant to this rule, the defendant must execute a bail bond. *See* Rules 525 and 526.

Paragraph (D)(3) makes it clear that requests for review of the determination concerning continuances must be raised in a motion for dismissal, paragraph (D)(1), or in a motion for release, paragraph (D)(2), or in an answer.

For the procedures concerning motions and answers, and the filing and service of motions and answers, see Rules 575 and 576. For the procedures following the filing of a motion, see Rule 577.

NOTE: Rule 1100 adopted June 8, 1973, effective prospectively as set forth in paragraphs (A)(1) and (A)(2) of this rule; paragraph (E) amended December 9, 1974, effective immediately; paragraph (E) re-amended June 28, 1976, effective July 1, 1976; amended October 22, 1981, effective January 1, 1982. (The amendment to paragraph (C)(3)(b) excluding defense-requested continuances was specifically made effective as to continuances requested on or after January 1, 1982.) Amended December 31, 1987, effective immediately; amended September 30, 1988, effective immediately; amended September 3, 1993, effective January 1, 1994; *Comment* revised 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 600 and amended March 1, 2000, effective April 1, 2001; *Comment* revised April 20, 2000, effective July 1, 2000; rescinded October 1, 2012, effective July 1, 2013. New Rule 600 adopted October 1, 2012, effective July 1, 2013.

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COMMITTEE EXPLANATORY REPORTS:

Report explaining the September 3, 1993 amendments published with the Court's Order at 23 Pa.B. 4492 (September 25, 1993).

Final Report explaining the September 13, 1995 Comment revision published with 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 April 20, 2000 Comment revision concerning Commonwealth v. Hill and Commonwealth v. Cornell published with the Court's Order at 30 Pa.B. 2219 (May 6, 2000).

Final Report explaining the October 1, 2012 rescission of current Rule 600 and the provisions of new Rule 600 published with the Court's Order at 42 Pa.B. (, 2012).

RULE 106. CONTINUANCES IN SUMMARY AND COURT CASES.

(A) The court or issuing authority may, in the interests of justice, grant a continuance, on its own motion, or on the motion of either party.

(B) When the matter is before an issuing authority, the issuing authority shall record on the transcript the identity of the moving party and the reasons for granting or denying the continuance.

(C) When the matter is in the court of common pleas, the judge shall on the record identify the moving party and state of record the reasons for granting or denying the continuance. **The judge also shall indicate on the record to which party the period of delay caused by the continuance shall be attributed and whether the time will be included in or excluded from the computation of the time within which trial must commence in accordance with Rule 600.**

[(C)] (D) A motion for continuance on behalf of the defendant shall be made not later than 48 hours before the time set for the **[trial] proceeding**. A later motion shall be entertained only when the opportunity therefor did not previously exist, or the defendant was not aware of the grounds for the motion, or the interests of justice require it.

(E) When a continuance is granted, the notice of the new date, time, and location of the proceeding shall be served on the parties as provided in these rules.

COMMENT: For the procedures for filing and service of court orders and notices in general, see Rule 114. For the procedures for service of the continuance of a preliminary hearing, see Rule 542(G)(2).

NOTE: Rule 301 adopted June 30, 1964, effective January 1, 1965; amended June 8, 1973, effective July 1, 1973; amended June 29, 1977 and November 22, 1977, effective as to cases in which the indictment or information is filed on or after January 1, 1978; renumbered Rule 106 and amended March 1, 2000, effective April 1, 2001 **[.] ; amended October 1, 2012, effective July 1, 2013.**

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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 July 1, 2012 amendments to paragraphs (B) and (C) concerning Rule 600 and paragraph (E) concerning service published with the Court's Order at 42 Pa.B. (, 2012).

RULE 312. HEARING, EXPLANATION OF PROGRAM.

Hearing on a motion for accelerated rehabilitative disposition shall be in open court in the presence of the defendant, the defendant's attorney, the attorney for the Commonwealth, and any victims who attend. At such hearing, it shall be ascertained on the record whether the defendant understands that:

(1) acceptance into and satisfactory completion of the accelerated rehabilitative disposition program offers the defendant an opportunity to earn a dismissal of the pending charges;

(2) should the defendant fail to complete the program, the defendant waives the appropriate statute of limitations and the defendant's right to a speedy trial under any applicable Federal or State constitutional provisions, statutes or rules of court during the period of enrollment in the program.

COMMENT: Although acceptance into an ARD program is not intended to constitute a conviction under these rules, it may be statutorily construed as a conviction for purposes of computing sentences on subsequent convictions. *See*, *e.g.*, **[Vehicle Code § 3731(e)(2), added by]** 75 Pa.C.S. § **[3731(e)(2)]** **3806(a)**.

In addition to requesting that the defendant waive Rule 600 for the period of enrollment in the ARD program, the attorney for the Commonwealth may request that the defendant waive Rule 600 for the period of time spent in processing and considering the defendant's inclusion into the ARD program. *See* Rule 311.

NOTE: Rule 178 approved May 24, 1972; effective immediately; amended February 15, 1974, effective immediately; amended April 10, 1989, effective July 1, 1989; renumbered Rule 312 and *Comment* revised March 1, 2000, effective April 1, 2001 **[.] ; *Comment* revised October 1, 2012, effective July 1, 2013.**

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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 October 1, 2012 Comment revision concerning waiver of Rule 600 published with the Court's Order at 42 Pa.B. (, 2012).

RULE 318. PROCEDURE ON CHARGE OF VIOLATION OF CONDITIONS.

(A) If the attorney for the Commonwealth files a motion alleging that the defendant during the period of the program has violated a condition thereof, or objects to the defendant's request for an order of discharge, the judge who entered the order for ARD may issue such process as is necessary to bring the defendant before the court.

(B) A motion alleging such violation filed pursuant to paragraph (A) must be filed during the period of the program or, if filed thereafter, must be filed within a reasonable time after the alleged violation was committed.

(C) When the defendant is brought before the court, the judge shall afford the defendant an opportunity to be heard. If the judge finds that the defendant has committed a violation of a condition of the program, the judge may order, when appropriate, that the program be terminated, and that the attorney for the Commonwealth shall proceed on the charges as provided by law. No appeal shall be allowed from such order.

COMMENT: *See* Rules 600 **[(D)(3)]** **(A)(2)(c)** and 1013(I) and *Comments* for the time within which to commence trial following a termination order.

NOTE: Rule 184 approved May 24, 1972, effective immediately; amended September 3, 1993, effective January 1, 1994; renumbered Rule 318 and amended March 1, 2000, effective April 1, 2001 **[.] ; *Comment* revised October 1, 2012, effective July 1, 2013.**

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COMMITTEE EXPLANATORY REPORTS:

Report explaining the September 3, 1993 amendments published with the Court's Order at 23 Pa.B. 4492 (September 25, 1993).

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 October 1, 2012 Comment revision changing the Rule 600 reference published with the Court's Order at 42 Pa.B. (, 2012).

RULE 542. PRELIMINARY HEARING; CONTINUANCES.

(A) The attorney for the Commonwealth may appear at a preliminary hearing and:

(1) assume charge of the prosecution; and

(2) recommend to the issuing authority that the defendant be discharged or bound over to court according to law.

(B) When no attorney appears on behalf of the Commonwealth at a preliminary hearing, the affiant may be permitted to ask questions of any witness who testifies.

(C) The defendant shall be present at any preliminary hearing except as provided in these rules, and may:

(1) be represented by counsel;

(2) cross-examine witnesses and inspect physical evidence offered against the defendant;

(3) call witnesses on the defendant's behalf, other than witnesses to the defendant's good reputation only;

(4) offer evidence on the defendant's own behalf, and testify; and

(5) make written notes of the proceedings, or have counsel do so, or make a stenographic, mechanical, or electronic record of the proceedings.

(D) At the preliminary hearing, the issuing authority shall determine from the evidence presented whether there is a *prima facie* case that (1) an offense has been committed and (2) the defendant has committed it.

(E) Hearsay as provided by law shall be considered by the issuing authority in determining whether a *prima facie* case has been established. Hearsay evidence shall be sufficient to establish any element of an offense requiring proof of the ownership of, non-permitted use of, damage to, or value of property.

(F) In any case in which a summary offense is joined with a misdemeanor, felony, or murder charge, the issuing authority shall not proceed on the summary offense except as provided in Rule 543(F).

(G) CONTINUANCES

(1) The issuing authority may, for cause shown, grant a continuance and shall note on the transcript every continuance together with:

(a) the grounds for granting each continuance;

(b) the identity of the party requesting such continuance; and

(c) the new date**, [and]** time**, and place** for the preliminary hearing, and the reasons that the particular date was chosen.

When the preliminary hearing is conducted in the court of common pleas, the judge shall record the party to which the period of delay caused by the continuance shall be attributed and whether the time will be included in or excluded from the computation of the time within which trial must commence in accordance with Rule 600.

(2) The issuing authority shall give notice of the new date**, [and]** time**, and place** for the preliminary hearing to the defendant, the defendant's attorney of record, if any, and the attorney for the Commonwealth.

(a) The notice shall be in writing.

(b) Notice shall be served on the defendant either in person or by first class mail.

(c) Notice shall be served on defendant's attorney of record and the attorney for the Commonwealth either by personal delivery, or by leaving a copy for or mailing a copy to the attorneys at the attorneys' offices.

COMMENT: As the judicial officer presiding at the preliminary hearing, the issuing authority controls the conduct of the preliminary hearing generally. When an attorney appears on behalf of the Commonwealth, the prosecution of the case is under the control of that attorney. When no attorney appears at the preliminary hearing on behalf of the Commonwealth, the issuing authority may ask questions of any witness who testifies, and the affiant may request the issuing authority to ask specific questions. In the appropriate circumstances, the issuing authority may also permit the affiant to question Commonwealth witnesses,

cross-examine defense witnesses, and make recommendations about the case to the issuing authority.

Paragraph (C)(3) is intended to make clear that the defendant may call witnesses at a preliminary hearing only to negate the existence of a *prima facie* case, and not merely for the purpose of discovering the Commonwealth's case. The modification changes the language of the rule interpreted by the Court in *Commonwealth v. Mullen*, 460 Pa. 336, 333 A.2d 755 (1975). This amendment was made to preserve the limited function of a preliminary hearing.

Paragraph (E) was added to the rule in 2011 to clarify that traditionally our courts have not applied the law of evidence in its full rigor in proceedings such as preliminary hearings, especially with regard to the use of hearsay to establish the elements of a *prima facie* case. *See* the Pennsylvania Rules of Evidence generally, but in particular, Article VIII. Accordingly, hearsay, whether written or oral, may establish the elements enumerated in paragraph (E). That enumeration is not comprehensive, and hearsay is admissible to establish other matters as well. The presence of witnesses to establish these elements is not required at the preliminary hearing. *See also* Rule 1003 concerning preliminary hearings in Philadelphia Municipal Court.

If the case is held for court, the normal rules of evidence will apply at trial.

For the procedures when a defendant fails to appear for the preliminary hearing, see Rule 543(D).

In cases in which summary offenses are joined with misdemeanor, felony, or murder charges, pursuant to paragraph (F), during the preliminary hearing, the issuing authority is prohibited from proceeding on the summary offenses, including the taking of evidence on the summary offenses, or adjudicating or disposing of the summary offenses except as provided in Rule 543(F).

For the contents of the transcript, see Rule 135.

See Chapter 5 Part E for the procedures governing indicting

grand juries. Under these rules, a case may be presented to the grand jury instead of proceeding to a preliminary hearing. *See* Rule 556.2.

NOTE: Former Rule 141, previously Rule 120, 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 141 and amended September 18, 1973, effective January 1, 1974; amended June 30, 1975, effective July 30, 1975; amended October 21, 1977, effective January 1, 1978; paragraph (D) amended April 26, 1979, effective July 1, 1979; amended February 13, 1998, effective July 1, 1998; rescinded October 8, 1999, effective January 1, 2000. Former Rule 142, previously Rule 124, adopted June 30, 1964, effective January 1, 1965, suspended effective May 1, 1970; present rule adopted January 31, 1970, effective May 1, 1970; renumbered Rule 142 September 18, 1973, effective January 1, 1974; amended October 22, 1981, effective January 1, 1982; effective date extended to July 1, 1982; amended July 12, 1985, effective January 1, 1986, effective date extended to July 1, 1986; rescinded October 8, 1999, effective January 1, 2000. New Rule 141, combining former Rules 141 and 142, adopted October 8, 1999, effective January 1, 2000; renumbered Rule 542 and *Comment* revised March 1, 2000, effective April 1, 2001; amended August 24, 2004, effective August 1, 2005; amended March 9, 2006, effective September 1, 2006; amended May 1, 2007, effective September 4, 2007, and May 1, 2007 Order amended May 15, 2007; amended January 27, 2011, effective in 30 days; amended June 21, 2012, effective in 180 days **[.]** **; amended October 1, 2012, effective July 1, 2013.**

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COMMITTEE EXPLANATORY REPORTS:

Final Report explaining the February 13, 1998 amendments concerning questioning of witnesses published with the Court's Order at 28 Pa.B. 1127 (February 28, 1998).

Final Report explaining new Rule 141 published with the Court's Order at 29 Pa.B. 5509 (October 23, 1999).

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 amendments concerning notice published with the Court's Order at 34 Pa.B. 5025 (September 11, 2004).

Final Report explaining the March 9, 2006 amendments to paragraph (D) published with the Court's Order at 36 Pa.B. 1392 (March 25, 2006).

Final Report explaining the May 1, 2007 amendments deleting the certified mail service requirement from paragraph (E)(2)(b) published with the Court's Order at 37 Pa.B. 2503 (June 2, 2007).

Final Report explaining the June 21, 2012 revision of the Comment concerning indicting grand juries published with the Court's Order at 42 Pa.B. 4153 (July 7, 2012).

Final Report explaining the October 1, 2012 amendments to paragraph (G)(1) concerning computation of time and (G)(2) concerning notice of continuance published with the Court's Order at 42 Pa.B. (, 2012).

RULE 543. DISPOSITION OF CASE AT PRELIMINARY HEARING.

(A) At the conclusion of the preliminary hearing, the decision of the issuing authority shall be publicly pronounced.

(B) If the issuing authority finds that the Commonwealth has established a *prima facie* case that an offense has been committed and the defendant has committed it, the issuing authority shall hold the defendant for court on the offense(s) on which the Commonwealth established a *prima facie* case. If there is no offense for which a *prima facie* case has been established, the issuing authority shall discharge the defendant.

(C) When the defendant has appeared and has been held for court, the issuing authority shall:

(1) set bail as permitted by law if the defendant did not receive a preliminary arraignment; or

(2) continue the existing bail order, unless the issuing authority modifies the order as permitted by Rule 529(A); and

(3) if the defendant has not submitted to the administrative processing and identification procedures as authorized by law, such as fingerprinting pursuant to Rule 510(C)(2), make compliance with these processing procedures a condition of bail.

(D) In any case in which the defendant fails to appear for the preliminary hearing:

(1) if the issuing authority finds that the defendant did not receive notice of the preliminary hearing by a summons served pursuant to Rule 511, a warrant of arrest shall be issued pursuant to Rule 509(2)(d).

(2) If the issuing authority finds that there was good cause explaining the defendant's failure to appear, the issuing authority shall continue the preliminary hearing to a specific date and time, and shall give notice of the new date**, [and]** time**, and place** as provided in Rule 542(G)(2). The issuing authority shall not issue a bench warrant.

(3) If the issuing authority finds that the defendant's absence is without good cause and after notice, the absence shall be deemed a waiver by the defendant of the right to be present at any further proceedings before the issuing authority.

(a) In these cases, the issuing authority shall proceed with the case in the same manner as though the defendant were present.

(b) If the preliminary hearing is conducted and the case held for court, the issuing authority shall

(i) give the defendant notice by first class mail of the results of the preliminary hearing and that a bench warrant has been requested; and

(ii) pursuant to Rule 547, transmit the transcript to the clerk of courts with a request that a bench warrant be issued by the court of common pleas and, if the defendant has not complied with the fingerprint order issued pursuant to Rule 510(C)(2), with a notice to the court of common pleas of the defendant's noncompliance.

(c) If the preliminary hearing is conducted and the case is dismissed, the issuing authority shall give the defendant notice by first class mail of the results of the preliminary hearing.

(d) If a continuance is granted, the issuing authority shall give the parties notice of the new date**, [and]** time**, and place** as provided in Rule 542(G)(2), and may issue a bench warrant. If a bench warrant is issued and the warrant remains unserved for the continuation of the preliminary hearing, the issuing authority shall vacate the bench warrant. The case shall proceed as provided in paragraphs (D)(3)(b) or (c).

(E) If the Commonwealth does not establish a *prima facie* case of the defendant's guilt, and no application for a continuance is made and there is no reason for a continuance, the issuing authority shall dismiss the complaint.

(F) In any case in which a summary offense is joined with misdemeanor, felony, or murder charges:

(1) If the Commonwealth establishes a *prima facie* case pursuant to paragraph (B), the issuing authority shall not adjudicate or dispose of the summary offenses, but shall forward the summary offenses to the court of common pleas with the charges held for court.

(2) If the Commonwealth does not establish a *prima facie* case pursuant to paragraph (B), upon the request of the Commonwealth, the issuing authority shall dispose of the summary offense as provided in Rule 454 (Trial In Summary Cases).

(3) If the Commonwealth withdraws all the misdemeanor, felony, and murder charges, the issuing authority shall dispose of the summary offense as provided in Rule 454 (Trial In Summary Cases).

(G) Except as provided in Rule 541(D), once a case is bound over to the court of common pleas, the case shall not be remanded to the issuing authority.

COMMENT: Paragraph (B) was amended in 2011 to clarify what is the current law in Pennsylvania that, based on the evidence presented by the Commonwealth at the preliminary hearing, the issuing authority may find that the Commonwealth has not made out a *prima facie* case as to the offense charged in the complaint but has made out a *prima facie* case as to a lesser offense of the offense charged. In this case, the issuing authority may hold the defendant for court on that lesser offense only. The issuing authority, however, may not *sua sponte* reduce the grading of any charge.

See Rule 1003 (Procedure In Non-Summary Municipal Court Cases) for the preliminary hearing procedures in Municipal Court, including reducing felony charges at the preliminary hearing in Philadelphia.

Paragraph (C) reflects the fact that a bail determination will already have been made at the preliminary arraignment, except in those cases in which, pursuant to a summons, the defendant's first appearance is at the preliminary hearing. *See* Rules 509 and 510.

If the administrative processing and identification procedures as authorized by law, such as fingerprinting required by the Criminal History Record Information Act, 18 Pa.C.S. § 9112, that ordinarily occur following an arrest are not completed previously, when bail is set at the conclusion of the preliminary hearing, the issuing authority must order the defendant to submit to the administrative processing and identification procedures as a condition of bail. *See* Rule 527 for nonmonetary conditions of release on bail.

If a case initiated by summons is held for court after the preliminary hearing is conducted in the defendant’s absence pursuant to paragraph (D)(2) and the defendant has not complied with the fingerprint order issued pursuant to Rule 510(C)(2), the issuing authority must include with the transmittal of the transcript a notice to the court of common pleas that the defendant has not complied with the fingerprint order. *See* Rule 547.

Nothing in this rule is intended to preclude judicial districts from providing written notice of the arraignment to the

defendant at the conclusion of the preliminary hearing when a case is held for court. *See* Rule 571.

When a defendant fails to appear for the preliminary hearing, before proceeding with the case as provided in paragraph (D), the issuing authority must determine (1) whether the defendant received notice of the time, date, and place of the preliminary hearing either in person at a preliminary arraignment as provided in Rule 540(G)(2) or in a summons served as provided in Rule 511, and (2) whether the defendant had good cause explaining the absence.

If the issuing authority determines that the defendant did not receive notice, the issuing authority must issue an arrest warrant as provided in Rule 509, and the case will proceed pursuant to Rules 516 or 517. *See* paragraph (D)(1).

If the issuing authority determines that there is good cause explaining why the defendant failed to appear, the preliminary hearing must be continued and rescheduled for a date certain. *See* paragraph (D)(2). For the procedures when a preliminary hearing is continued, see Rule 542(G).

If the issuing authority determines that the defendant received service of the summons as defined in Rule 511 and has not provided good cause explaining why he or she failed to appear, the defendant's absence constitutes a waiver of the defendant's right to be present for subsequent proceedings before the issuing authority. The duration of this waiver only extends through those proceedings that the defendant is absent.

When the defendant fails to appear after notice and without good cause, paragraph (D)(3)(a) provides that the case is to proceed in the same manner as if the defendant were present. The issuing authority either would proceed with the preliminary hearing as provided in Rule 542(A), (B), (C) and Rule 543(A), (B), (C), and (D)(3)(b) or (c); or, if the issuing authority determines it necessary, continue the case to a date certain as provided in Rule 542(G); or, in the appropriate case, convene the preliminary hearing for the taking of testimony of the witnesses who are present, and then continue the remainder of the hearing until a date certain. When the case is continued, the issuing authority may issue a bench warrant as provided in paragraph (D)(3)(d), and must send the required notice of the new date

to the defendant, thus providing the defendant with another opportunity to appear.

Paragraph (D)(3)(b)(ii) requires the issuing authority to include with the Rule 547 transmittal a request that the court of common pleas issue a bench warrant if the case is held for court.

In addition to the paragraph (D)(3)(b) notice requirements, the notice may include the date of the arraignment in common pleas court.

For purposes of modifying bail once bail has been set by a common pleas judge, see Rules 529 and 536.

See Rule 571 (Arraignment) for notice of arraignment requirements.

Rule 542(F) specifically prohibits an issuing authority at a preliminary hearing from proceeding on any summary offenses that are joined with misdemeanor, felony, or murder charges, except as provided in paragraph (F) of this rule. Paragraph (F) sets forth the procedures for the issuing authority to handle these summary offenses at the preliminary hearing. These procedures include the issuing authority (1) forwarding the summary offenses together with the misdemeanor, felony, or murder charges held for court to the court of common pleas, or (2) disposing of the summary offenses as provided in Rule 454 by accepting a guilty plea or conducting a trial whenever (a) the misdemeanor, felony, and murder charges are withdrawn, or (b) a *prima facie* case is not established at the preliminary hearing and the Commonwealth requests that the issuing authority proceed on the summary offenses.

Under paragraph (F)(2), in those cases in which the Commonwealth does not intend to refile the misdemeanor, felony, or murder charges, the Commonwealth may request that the issuing authority dispose of the summary offenses. In these cases, if all the parties are ready to proceed, the issuing authority should conduct the summary trial at that time. If the parties are not prepared to proceed with the summary trial, the issuing authority should grant a continuance and set the summary trial for a date and time certain.

In those cases in which a *prima facie* case is not established at the preliminary hearing, and the Commonwealth does not request that the issuing authority proceed on the summary offenses, the issuing authority should dismiss the complaint, and discharge the defendant unless there are outstanding detainers against the defendant that would prevent the defendant's release.

Paragraph (G) emphasizes the general rule that once a case has been bound over to the court of common pleas, the case is not permitted to be remanded to the issuing authority. There is a limited exception to the general rule in the situation in which the right to a previously waived preliminary hearing is reinstated and the parties agree, with the consent of the common pleas judge, that the preliminary hearing be held before the issuing authority. *See* Rule 541(D).

Nothing in this rule would preclude the refiling of one or more of the charges, as provided in these rules.

See Rule 313 for the disposition of any summary offenses joined with misdemeanor or felony charges when the defendant is accepted into an ARD program on the misdemeanor or felony charges.

NOTE: Original Rule 123, adopted June 30, 1964, effective January 1, 1965, suspended January 31, 1970, effective May 1, 1970. New Rule 123 adopted January 31, 1970, effective May 1, 1970; renumbered Rule 143 September 18, 1973, effective January 1, 1974; amended January 28, 1983, effective July 1, 1983; amended 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 142 October 8, 1999, effective January 1, 2000; renumbered Rule 543 and amended March 1, 2000, effective April 1, 2001; amended August 24, 2004, effective August 1, 2005; amended December 30, 2005, effective August 1, 2006; amended March 9, 2006, effective September 1, 2006; 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 February 12, 2010, effective April 1, 2010; amended January 27, 2011, effective in 30 days; *Comment* revised July 31, 2012, effective November 1, 2012 **[.] ; amended October 1, 2012, effective July 1, 2013.**

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COMMITTEE EXPLANATORY REPORTS:

Report explaining the August 9, 1994 amendments 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 October 8, 1999 renumbering of Rule 143 published with the Court's Order at 29 Pa.B. 5509 (October 23, 1999).

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 concerning the procedures when a defendant fails to appear published with the Court's Order at 34 Pa.B. 5025 (September 11, 2004).

Final Report explaining the December 30, 2005 changes adding references to bench warrants published with the Court's Order at 36 Pa.B. 184 (January 14, 2006).

Final Report explaining the March 9, 2006 amendments adding new paragraphs (E) and (F) published with the Court's Order at 36 Pa.B. 1392 (March 25, 2006).

Final Report explaining the May 19, 2006 amendments correcting cross-references to Rule 529 published with the Court's Order at 36 Pa.B. 2633 (June 3, 2006).

Final Report explaining the May 1, 2007 changes clarifying the procedures when a defendant fails to appear published with the Court's Order at 37 Pa.B. 2496 (June 2, 2007).

Final Report explaining the July 10, 2008 amendments to paragraphs (C) and (D)(2)(c) concerning administrative processing and identification procedures published with the Court's Order at 38 Pa.B. 3971 (July 26, 2008).

Final Report explaining the February 12, 2010 amendments adding new paragraph (G) prohibiting remands to the issuing authority published with the Court's Order at 40 Pa.B. 1068 (February 27, 2010).

Final Report explaining the July 31, , 2012 revision of the Comment changing the citation to Rule 540(F)(2) to Rule 540(G)(2) published with the Court's Order at 42 Pa.B. 5340 (August 18, 2012).

Final Report explaining the October 1, 2012 amendments to paragraphs (D)(2) and (D)(3)(d) adding "place" to "date and time" for preliminary hearing notices published with the Court's Order at 42 Pa.B. (, 2012).

RULE 608. MOTION FOR JUDGMENT OF ACQUITTAL AFTER DISCHARGE OF JURY.

(A) TIME FOR MOTION.

(1) Oral Motion.

An oral motion for judgment of acquittal may be made and decided at the time the jury is discharged without agreeing upon a verdict if the defendant so agrees on the record.

(2) Written Motion.

A written motion for judgment of acquittal shall be filed within 10 days after the jury has been discharged without agreeing upon a verdict.

(B) TIME FOR DECISION ON MOTION.

(1) A motion for judgment of acquittal after the jury has been discharged without agreeing upon a verdict shall be decided within 30 days after the motion is filed. If the judge fails to decide the motion within 30 days, the motion shall be deemed denied.

(2) When a motion for judgment of acquittal is denied by operation of law under this rule, the clerk of courts shall enter an order on behalf of the court, and shall immediately notify the attorney for the Commonwealth, the defendant(s), and defense counsel that the motion is deemed denied.

COMMENT: This rule is intended to correlate the procedures governing a motion for judgment of acquittal after a jury is discharged with the post-sentence procedures adopted in 1993 under Rule 720 (Post-Sentence Procedures; Appeal), thereby promoting the prompt disposition of post-trial matters.

Rule 608 provides specific time limits within which a motion for judgment of acquittal after a jury is discharged must be made and decided. If the judge fails to rule on the motion within 30 days of filing, the motion is denied by operation of law. Paragraph (B)(2) requires the clerk of courts to enter an order denying the motion and to notify the parties.

For the commencement of trial when the trial judge denies the motion or when the motion is denied by operation of law, see Rule 600 **[(D)]** **(A)**.

NOTE: Former Rule 1125 adopted January 24, 1968, effective August 1, 1968; amended June 29, 1977 and November 22, 1977, effective as to cases in which the indictment or information is filed on or after January 1, 1978; rescinded July 1, 1980, effective August 1, 1980, and not replaced. Present Rule 1125 adopted March 22, 1993, effective as to cases in which trial commences on or after January 1, 1994; renumbered Rule 608 and amended March 1, 2000, effective April 1, 2001 **[.] ; *Comment* revised October 1, 2012, effective July 1, 2013.**

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COMMITTEE EXPLANATORY REPORTS:

Final Report explaining the provisions of the new rule published with the Court's Order at 23 Pa.B. 1699 (April 10, 1993).

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 October 1, 2012 Comment revision changing the Rule 600 reference published with the Court's Order at 42 Pa.B. (, 2012).