

RULE 519. PROCEDURE IN COURT CASES INITIATED BY ARREST WITHOUT WARRANT.

(A) PRELIMINARY ARRAIGNMENT

(1) Except as provided in paragraph (B), when a defendant has been arrested without a warrant in a court case, a complaint shall be filed against the defendant and the defendant shall be afforded a preliminary arraignment by the proper issuing authority without unnecessary delay.

(2) When a preliminary arraignment is conducted by advanced communication technology pursuant to Rule 540(A), the defendant shall be taken to an advanced communication technology site that, in the judgment of the arresting officer, is most convenient to the place of arrest without regard to the boundary of any magisterial district or judicial district.

(B) RELEASE

(1) The arresting officer shall promptly release from custody a defendant who has been arrested without a warrant, rather than taking the defendant before the issuing authority, when the following conditions have been met:

(a) the most serious offense charged is a misdemeanor of the second degree or a misdemeanor of the first degree in cases arising under 75 Pa.C.S. § 3802;

(b) the defendant poses no threat of immediate physical harm to any other person or to himself or herself; and

(c) the arresting officer has reasonable grounds to believe that the defendant will appear as required.

(2) When a defendant is released pursuant to paragraph (B)(1), a complaint shall be filed against the defendant within 5 days of the defendant's release. Thereafter, the issuing authority shall issue a summons, not a warrant of arrest, and shall proceed as provided in Rule 510.

COMMENT: See Rule 1003 (Procedure in Non-Summary Municipal Court Cases) for procedures in Philadelphia Municipal Court.

Paragraph (A) requires that the defendant receive a prompt preliminary arraignment. See Rule 540 (Preliminary Arraignment).

Under paragraph (A), following arrest, the officer may file the complaint with the issuing authority using advanced communication technology.

Paragraph (A) is intended to permit the use of advanced communication technology (including two-way simultaneous audio-visual communication equipment and closed circuit television) in preliminary arraignments. See Rule 540 and *Comment* for the procedures governing the use of advanced communication technology in preliminary arraignments.

Paragraph (A)(2) permits a defendant to be transported to an advanced communication technology site that is located outside the judicial district of arrest for preliminary arraignment. The arresting officer should determine which site is the most convenient to the place of arrest without regard to the boundary of any magisterial district or judicial district.

Paragraph (B)(1) requires the arresting officer, in specified circumstances, to release a defendant rather than take the defendant before an issuing authority for preliminary arraignment. Prior to the 2005 amendments, the release provision in paragraph (B) was optional. With the 2005 amendments, release is mandatory if the three criteria are met, and this requirement may not be modified by local rule.

“Reasonable grounds” as used in paragraph (B)(1)(c) would include such things as concerns about the validity of the defendant’s address, the defendant’s prior contacts with the criminal justice system, and the police officer’s personal knowledge of the defendant.

Pursuant to paragraph (B), the police will either promptly arrange for the defendant’s release or, if it is necessary to detain the defendant, proceed pursuant to paragraph (A). See Rule 117 (Coverage: Issuing Warrants; Preliminary Arraignments and Summary Trials; and Setting and Accepting Bail).

Prompt release allows, of course, for the administration of any sobriety tests pursuant to the Vehicle Code, 75 Pa.C.S. § 1547, and for the completion of any procedures authorized by law.

With respect to "necessary" delay, see, *e.g.*, *Commonwealth v. Williams*, 484 Pa. 590, 400 A.2d 1258 (1979).

By statute, a defendant may not be released but must be brought before the issuing authority for a preliminary arraignment when a police officer has arrested the defendant for failure to comply with the registration requirements for sexual offenders, see 18 Pa.C.S. § **[4915(E)(2)]** **4915.1(e)(2)**, or when a police officer has arrested the defendant in a domestic violence case, see 18 Pa.C.S. § 2711. See *also* 23 Pa.C.S. § 6113(c) of the Protection from Abuse Act.

With reference to the provisions of paragraph (B)(2) relating to the issuance of a summons, see also Part B(2) of this Chapter, Summons Procedures.

For procedures in summary cases initiated by an arrest without warrant, see Rule 441.

NOTE: Original Rule 118 and 118(a) adopted June 30, 1964, effective January 1, 1965, suspended January 31, 1970, effective May 1, 1970. New Rule 118 adopted January 31, 1970, effective May 1, 1970; renumbered Rule 130 September 18, 1973, effective January 1, 1974; amended December 14, 1979, effective April 1, 1980; amended April 24, 1981, effective July 1, 1981; amended January 28, 1983, effective July 1, 1983; *Comment* revised July 12, 1985, effective January 1, 1986; January 1, 1986 effective date extended to July 1, 1986; renumbered Rule 102 and amended August 9, 1994, effective January 1, 1995; *Comment* revised September 26, 1996, effective immediately; renumbered Rule 518 and amended March 1, 2000, effective April 1, 2001; renumbered Rule 519 and amended May 10, 2002, effective September 1, 2002; amended June 30, 2005, effective August 1, 2006 **[.]** ; **Comment revised July 1, 2013, effective August 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).

Report explaining the September 26, 1996 Comment revision published with the Court's Order at 26 Pa.B. 4894 (October 12, 1996).

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 renumbering and amendments concerning advanced communication technology published with the Court's Order at 32 Pa.B. 2591 (May 25, 2002).

Final Report explaining the June 30, 2005 amendments concerning in which cases a defendant must be promptly released published with the Court's Order at 35 Pa.B. 3901 (July 16, 2005).

Final Report explaining the July 1, 2013 revision of the Comment adding a cross-reference to 18 Pa.C.S. §4915.1 published with the Court's Order at 43 Pa.B. (, 2013).