

RULE **[76] 431**. PROCEDURE WHEN DEFENDANT ARRESTED WITH WARRANT.

(A) A warrant of arrest shall be executed by a police officer as defined in Rule **[3] 103**.

(B) When a warrant of arrest is executed, the police officer shall either:

- (1) accept from the defendant a signed guilty plea and the full amount of the fine and costs if stated on the warrant;
- (2) accept from the defendant a signed not guilty plea and the full amount of collateral if stated on the warrant;
- (3) accept from the defendant the amount of restitution, fine, and costs due as specified in the warrant if the warrant is for collection of restitution, fine, and costs after a guilty plea or conviction; or
- (4) cause the defendant to be taken without unnecessary delay before the proper issuing authority.

(C) When the police officer accepts restitution, fine, and costs, or collateral under paragraphs (B)(1), (2), or (3), the officer shall issue a receipt to the defendant setting forth the amount of restitution, fine, and costs, or collateral received and return a copy of the receipt, signed by the defendant and the police officer, to the proper issuing authority.

(D) When the defendant is taken before the issuing authority under paragraph (B)(4), the defendant shall be given an immediate trial unless:

- (1) the Commonwealth is not ready to proceed or the defendant requests a postponement, in which event the defendant shall be given the opportunity to deposit collateral for appearance on the new date and hour fixed for trial;
- (2) the defendant's criminal record must be ascertained prior to trial as specifically required by statute for purposes of grading the offense charged, in which event the defendant shall be given the opportunity to deposit collateral for appearance on the new date and hour fixed for trial, which shall be after the issuing authority's receipt of the required information; or
- (3) the warrant was issued for the collection of restitution, fine, and costs after a guilty plea or conviction, in which event the issuing authority shall proceed as specified in Rule **[85] 456**.

COMMENT: For the procedure in court cases following arrest with a warrant, see Rules **[123 and 124] 516 and 517**.

Section 8953 of the Judicial Code, 42 Pa.C.S. § 8953, provides for the execution of warrants of arrest beyond the territorial limits of the police officer's primary jurisdiction. *See also Commonwealth v. Mason*, 490 A.2d 421 (Pa. 1985).

Delay of trial under paragraph (D)(1) is required by statutes such as 18 Pa.C.S. § 3929 (pretrial fingerprinting and record-ascertainment requirements).

Although the defendant's trial may be delayed under this rule, the requirement that an arrested defendant be taken without unnecessary delay before the proper issuing authority remains unaffected.

For the procedures required before an arrest warrant may issue for a defendant's failure to pay restitution, a fine, or costs, see Rule **[75(4)] 430(D)**. When contempt proceedings are also involved, see Chapter **[30] 1 Part D** for the issuance of arrest warrants.

For what constitutes a "proper" issuing authority, see Rule **[21] 130**.

Concerning the defendant's right to counsel and waiver of counsel, see Rules **[316 and 318] 121 and 122**.

NOTE: **Rule 76 [A]** adopted July 12, 1985, effective January 1, 1986; *Comment* revised September 23, 1985, effective January 1, 1986; January 1, 1986 effective dates extended to July 1, 1986; *Comment* revised January 31, 1991, effective July 1, 1991; amended August 9, 1994, effective January 1, 1995; amended October 1, 1997, effective October 1, 1998; amended July 2, 1999, effective August 1, 1999 **[.] ; renumbered Rule 431 and amended March 1, 2000, effective April 1, 2001.**

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**COMMITTEE EXPLANATORY REPORTS:**

**Report explaining the January 31, 1991 revision published at 20 Pa.B. 4788 (September 15, 1990); Supplemental Report published at 21 Pa.B. 621 (February 16, 1991).**

**Final Report explaining the August 9, 1994 amendments published with the Court's Order at 24 Pa.B. 4342 (August 27, 1994).**

**Final Report explaining the October 1, 1997 amendments published with the Court's Order at 27 Pa.B. 5414 (October 18, 1997).**

**Final Report explaining the July 2, 1999 amendments to paragraphs (B)(3) and (C) concerning restitution published with the Court's Order at 29 Pa.B. 3718 (July 17, 1999).**

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