

## Part III Criminal Rules

Effective January 1, 2007

- [3.01 APPLICATION AND ADOPTION](#)
- [3.02 GRAND JURY ASSIGNMENTS](#)
- [3.03 BOND AND ARRAIGNMENT](#)
- [3.04 APPREHENSION ON WARRANTS](#)
- [3.05 COMPANION CASES](#)
- [3.06 INTERVENTION IN LIEU OF CONVICTION](#)
- [3.07 REQUIREMENTS FOR DOCUMENTS FILED WITH THE CLERK](#)
- [3.08 DISCOVERY](#)
- [3.09 ATTENDANCE AT COURT PROCEEDINGS](#)
- [3.10 CONTINUANCES](#)
- [3.11 RESTITUTION](#)
- [3.12 INDIGENT COUNSEL FEE STATEMENTS](#)
- [3.13 SEALING OF RECORDS](#)
- [3.14 RETENTION OF EXHIBITS](#)

[ATTACHMENT A TO HANCOCK COUNTY, OHIO, WRITTEN PLEA OF NOT GUILTY](#)

[ATTACHMENT B TO HANCOCK COUNTY, OHIO, Motion for Intervention in Lieu of Conviction](#)

### **RULE 3.01 APPLICATION AND ADOPTION**

[Back to top](#)

- A. These rules shall be known as "The Hancock County Criminal Rules in the Common Pleas Court" (Hancock Crim.R.).
- B. These rules are adopted by the Court by way of Judgment Entry and become effective January 1, 2007 and may be amended by order of the Court executed by the Judges of the Criminal Division of the Court.

### **RULE 3.02 GRAND JURY ASSIGNMENTS**

[Back to top](#)

- A. The general trial division judges of this court shall alternately call, instruct, and monitor the grand jury each four-month session of the court term beginning January 1st, May 1st, and September 1st of each year. During this period the assigned judge will:
  - 1. Accept the grand jury report;
  - 2. Set bonds up to and including arraignment;
  - 3. Preside at arraignments;
  - 4. Assign pretrial dates;
  - 5. Hear cases proceeding upon information;
  - 6. Remand misdemeanor cases to the Findlay or Fostoria Municipal Court, where appropriate.
- B. In the absence or disability of the assigned judge, the functions of the regularly scheduled judge may be carried out by any other available and qualified judge.

### **RULE 3.03 BOND AND ARRAIGNMENT**

[Back to top](#)

- A. In cases of delayed service or unavailability of defendants indicted during a four-month session of the grand jury, the judge presiding at arraignments at the time of service will fix bond, arraign and assign pretrial dates for such defendants when served or available. Upon Order of Reference pursuant to Ohio Criminal Rule 19,

a magistrate may conduct arraignments and other proceedings designated in the Order of Reference.

**B.** Unless otherwise ordered, arraignments shall be held each Wednesday. Pursuant to Ohio Criminal Rule 10(B), the defendant may be absent from the assigned arraignment date if the following conditions are met prior to the time scheduled for arraignment:

1. The defendant is not in custody on the assigned arraignment date;
2. The defendant is represented by private or court-appointed counsel; and
3. The defendant, his attorney, and the prosecuting attorney have executed and filed a written plea of "not guilty" on the form approved by the Court and appended to these Rules as Form CR-1 (Attachment A).

**C.** For those defendants who have been directly indicted by the grand jury who have the right to have a bond established prior to arraignment, the judges of the common pleas court have adopted the following bond schedule:

FOR ALL OFFENSES COMMITTED ON OR AFTER JULY 1, 1996

Felony 1	\$30,000.00	Felony 4	\$ 7,500.00
Felony 2	\$22,500.00	Felony 5	\$ 3,750.00
Felony 3	\$15,000.00		

Bonds for aggravated murder and murder shall be established on a case-by-case basis by the judge assigned to hear the case.

**D.** In cases where a motion for denial of bail is made pursuant to Ohio Revised Code section 2937.222, the matter shall be set for immediate hearing on the calendar of the judge to whom that case is assigned.

**E.** In those cases where the Grand Jury has returned an indictment for misdemeanors or that include counts for misdemeanors, the following schedule for each misdemeanor count is adopted:

Misdemeanor 1	\$1,250.00
Misdemeanor 2	\$ 750.00
Misdemeanor 3	\$ 500.00

In each case involving misdemeanor counts, 10% of the foregoing schedule may be posted for misdemeanors only.

### **RULE 3.04 APPREHENSION ON WARRANTS**

[Back to top](#)

Whenever a person is apprehended and in the custody of the Sheriff of Hancock County, Ohio, upon a bench warrant or upon warrants served after arraignments from a particular grand jury return have taken place, both the Sheriff and the Clerk of Courts shall immediately notify the judge presiding at arraignments for that term.

### **RULE 3.05 COMPANION CASES**

[Back to top](#)

Companion criminal cases shall be assigned to the same judge. Likewise, cases in which the same defendant is charged with a subsequent criminal offense shall be assigned to the same trial judge assigned any pending criminal charges against that defendant. At the discretion of the court, a criminal case may be transferred to the docket of the judge to whom a prior case involving that defendant was previously assigned.

### **RULE 3.06 INTERVENTION IN LIEU OF CONVICTION**

[Back to top](#)

A defendant who wishes to apply for intervention as provided in Ohio Revised Code section 2951.041 shall file the request for intervention in accordance with that section. Upon the filing of the motion and prior to any hearing on the motion, the defendant is responsible for obtaining assessment by an appropriate licensed provider, certified facility, or licensed and credentialed professional for the purpose of determining the offender's eligibility for intervention in lieu of conviction and recommending an appropriate intervention plan. A sample report of assessment is found at Attachment B to these Rules.

### **RULE 3.07 REQUIREMENTS FOR DOCUMENTS FILED WITH THE CLERK**

[Back to top](#)

**A.** All documents filed by counsel after the indictment shall have designated in the caption of the document,

below the case number, the name of the Judge to whom the matter is assigned. If a visiting judge is assigned, the document shall contain that Judge's name and the designation that the Judge is sitting "by assignment."

- B.** All documents, other than original documents attached or offered as exhibits, offered for filing with the Hancock County Clerk of Courts shall be offered for filing without folders or covers and the first page of filings shall have a 2 ½" unobstructed space at the top of the document for the Clerk to place a file stamp. All documents shall be one-sided and on 8 ½" x 11" bond paper.

### **RULE 3.08 DISCOVERY**

[Back to top](#)

- A.** In lieu of formal requests pursuant to Ohio Criminal Rules 7(E) and 16, the Hancock County Prosecutor's Office has a policy of providing "open file" discovery. To obtain "open file" discovery, defense counsel shall request same on the record at the time of arraignment and shall execute the Stipulation/Judgment Entry reflecting same. When "open file" discovery is requested and provided, then, at least seven (7) days prior to the trial of the case, the parties shall formally file documents accurately reflecting all discovery provided to that date.
- B.** If defense counsel does not desire "open file" discovery or the State of Ohio refuses to participate in it, all discovery issues will be governed by Ohio Criminal Rules 7(E) and 16.
- C.** All discovery time limits shall be extended or reduced only by written Order of the Court.
- D.** In all cases, all parties are under a continuing duty to supplement any discovery responses.

### **RULE 3.09 ATTENDANCE AT COURT PROCEEDINGS**

[Back to top](#)

Attendance by a prosecuting attorney, defense counsel, and the defendant is mandatory at all stages of the proceedings, including pretrials.

### **RULE 3.10 CONTINUANCES**

[Back to top](#)

Any continuance granted on the defendant's motion shall toll the defendant's speedy trial time pursuant to Ohio Revised Code section 2945.72(E) and (H). Any judgment entry of continuance submitted on behalf of the defendant shall include language setting forth the tolling of speedy trial time, but counsel's or the defendant's failure to include such language shall not cancel the tolling effect.

### **RULE 3.11 RESTITUTION**

[Back to top](#)

If restitution is ordered, monies paid by the defendant to the Clerk of Courts shall be applied first to the restitution, then to the costs, and then to the fines, unless otherwise ordered by the Court.

### **RULE 3.12 INDIGENT COUNSEL FEE STATEMENTS**

[Back to top](#)

Court-appointed counsel representing indigent defendants in criminal proceedings shall, upon making application for compensation, itemize hours spent and clearly designate which was "in court" and which was "out of court" time. The itemization shall be submitted on the fee statement form as prescribed by the State of Ohio Public Defender. The "in court" and "out of court" time shall be computed pursuant to the Resolution Setting Attorney Fees enacted by the Commissioners of Hancock County, Ohio.

### **RULE 3.13 SEALING OF RECORDS**

[Back to top](#)

If the court grants the sealing of a criminal record under Ohio Revised Code sections 2953.32 and 2953.52, the Clerk of Courts shall forward copies of the order sealing the records to the Ohio Bureau of Criminal Investigation, Federal Bureau of Investigation, Hancock County (Ohio) Sheriff, Findlay (Ohio) Police Department, and the Hancock County (Ohio) Prosecuting Attorney.

### **RULE 3.14 RETENTION OF EXHIBITS**

[Back to top](#)

Neither the Clerk of Courts nor the Court Reporter shall retain exhibits for a period in excess of twelve (12) months from the completion of trial or other final hearing in a criminal matter unless the case is on appeal or the subject of a

motion or order for new trial. Upon the expiration of twelve (12) months from completion of trial without any notice to the Clerk of Courts that exhibits should be retained for future proceedings, the Clerk of Courts shall notify the parties of the intended destruction of the exhibits using the procedure set forth in Rule 26(F) of the Rules of Superintendence for Courts of Ohio. If the party that tendered the exhibits fails to retrieve the exhibits and provide a written receipt for them as set forth in Rule 26(F), the Clerk shall dispose of the exhibits at the direction of the Court. It shall be the parties' responsibility to notify the Clerk of Courts of the basis for retention of exhibits for a period in excess of twelve months.

[Attachment A to Hancock County, Ohio, Criminal Rules - Form No. CR-1, WRITTEN PLEA OF NOT GUILTY](#) (adobe acrobat reader needed, [click here to download](#))

[Attachment B to Hancock County, Ohio, Criminal Rules, Motion for Intervention in Lieu of Conviction](#) (adobe acrobat reader needed, [click here to download](#))