

Rule 39-130. Procedure in Court Cases Initiated by Arrest without Warrant

(A) Pursuant to the provisions of Pennsylvania Rule of Criminal Procedure 130(c), when a defendant has been arrested without a warrant in a court case, the arresting officer, if he deems it appropriate, may promptly release the defendant from custody rather than taking the defendant before the issuing authority, when the following conditions have been met:

- (1) The most serious offense charged is a misdemeanor of the second degree;
- (2) The defendant is a resident of the Commonwealth;
- (3) The defendant poses no threat of immediate physical harm to any other person or to himself or herself;
- (4) The arresting officer has reasonable grounds to believe that the defendant will appear as required; and
- (5) The defendant does not demand to be taken before an issuing authority.

(B) When a defendant is released pursuant to Paragraph (A), a complaint shall be filed against the defendant within five (5) days of the defendant's release. Thereafter, a summons, not a warrant of arrest, shall be issued and the case shall proceed as provided in Pa. R. Crim. P. 110.