



## YORK COUNTY DISTRICT ATTORNEY

---

TIM BARKER  
*District Attorney*

CHARLES R. MURPHY  
*First Assistant District Attorney*

CRAIG FENSTERMACHER  
*Chief County Detective*

MICHELLE BAUGHMAN  
*Chief Administrator*

### MEMORANDUM CONCERNING PLEA OFFER PROCEDURES

On August 1, 2025, the Amendment to York Rule of Criminal Procedure 570 concerning Pretrial Conference took effect. Additionally, York Rule of Criminal Procedure 590 concerning Pleas and Plea Agreements will take effect on August 25, 2025. To increase efficiency and effectiveness under this Rule and promote the interests of justice, I am adopting general procedures to govern plea offers made by our office for criminal cases before the Court of Common Pleas, including specific timelines for the various steps in this process.

Before outlining these new procedures, I want to define the goals that these guidelines will serve. Initially, three priorities of our office include public safety, community wellbeing, and fairness and justice. The key methodology for achieving these results is developing systems based upon accountability and redemption. Public safety is increased, and recidivism is reduced, by applying these principles.

York County implemented numerous criminal justice initiatives that directly advanced these objectives. Critically, this experience, including the use of the Sequential Intercept Model as guidance, established that early rehabilitative measures for appropriate cases and implementation of evidence-based practices reduced recidivism.

Furthering this approach for the future requires increased diversion and early non-trial dispositions where appropriate. The systematic appearance of our office at MDJ Blocks advanced this goal, increasing dispositions at the MDJ level by upwards of 20%. This success is the opposite of the incentives initiative, which despite early success, has now failed as a whole for years to accelerate rehabilitation and early dispositions in cases.

A key to determining early rehabilitation-focused dispositions where appropriate and the development of additional early diversion initiatives is the exchange of critical mitigating circumstances information between our office and the defense. Development of mitigation evidence is a key component for all criminal justice initiatives and promotes desired outcomes encouraged through the adoption

of the 8<sup>th</sup> Edition Sentencing Guidelines. By its very nature, support for mitigating circumstances is predominately within the control of the defense. Such mitigation evidence should be provided for consideration by our office at the earliest stages in order to maximize the effect of such information.

With these overarching criminal justice objectives in mind, the following are the general procedures for plea offers concerning cases before the Court of Common Pleas:

- I. Within thirty (30) days from the date of arraignment, Defendant/Counsel for Defendant is to provide any materials supporting mitigating circumstances at sentencing that Defendant/Counsel for Defendant requests our office to consider as part of a plea offer.**

Factors to be considered as establishing mitigating circumstances for the purpose of sentencing include, but are not limited to:

- Mental health or intellectual and developmental disabilities diagnosis, including trauma factors.
- Enrollment or engagement in mental health or substance use disorder treatment, services, or counseling.
- Physical health diagnosis or needs.
- Obtaining of or maintaining employment.
- Enrollment or engagement with educational programs.
- Character evidence.
- Barriers to rehabilitation at the time of the offense (housing, transportation, etc.)
- Circumstances of Defendant's prior criminal history.

These materials should be served upon our office, either electronically or via hard copy, to the assigned prosecutor.

Failure to provide mitigation materials within this time frame without cause and communication of the same will result in Defendant/Counsel for Defendant forfeiting the consideration of this information by our office as part of any plea offer. Communication concerning the need for additional time to acquire and exchange mitigating circumstances information and the rationale for the extension must occur within the thirty-day timeframe. Cause will be determined on a case-by-case basis and solely extended by our office where Defendant/Counsel for Defendant demonstrates substantial diligence in obtaining mitigation evidence. Should this extension cause a delay in the deadlines concerning the extension of an offer and acceptance, the request for extension of the deadline will be considered a waiver of Rule 600 by Defendant.

**II. Within sixty (60) days from the date of arraignment, Assigned Prosecutor is to provide any appropriate plea offer to Defendant/Counsel for Defendant.**

Prior to extending the plea offer, the Assigned Prosecutor will review all materials concerning the case at hand, including all information concerning mitigating circumstances provided by Defendant/Counsel for Defendant. The Assigned Prosecutor will also obtain input from Victim(s) and consider this information as part of making an appropriate plea offer, followed by communicating the plea offer being made to Defendant/Counsel for Defendant.

Plea offers extended to Defendant/Counsel for Defendant shall be based upon consideration of the general standards for sentencing as articulated in 42 Pa.C.S. § 9721(b). The Assigned Prosecutor shall consider Victim Impact information, including restitution requests and materials. Our office shall uphold and enforce the Crime Victims Act, 18 P.S. § 11.101, *et seq.* The Assigned Prosecutor shall also consider all materials relating to mitigating circumstances.

**III. Defendant/Counsel for Defendant has thirty (30) days to accept the plea offer extended by the Assigned Prosecutor from the date of its issuance.**

Failure of Defendant/Counsel for Defendant to accept a plea offer within the thirty-day timeframe from the date of the plea offer, without cause and communication of the same, will result in the automatic revocation of the plea offer. Communication concerning the need for additional time to consider the acceptance of a plea offer and the rationale for the extension must occur within the thirty-day timeframe. A request by Defendant/Counsel for Defendant to extend the timeframe for acceptance of a plea offer must be accompanied by an express waiver of Rule 600 by Defendant for the duration of the extension, as the extension of this timeframe will result in our office not listing the case for trial.

Cause will be determined on a case-by-case basis. Cause may be shown by Counsel for Defendant wherein they demonstrate substantial diligence in communicating the plea offer to Defendant in a manner that the acceptance or rejection of the plea offer by Defendant was knowingly, voluntarily, and intelligently made. Cause will not exist where Defendant/Counsel for Defendant request an extension solely for the purpose of plea negotiation. Once a plea offer is revoked, our office will only agree to an open plea on all charges as a non-trial resolution.

#### IV. Miscellaneous Issues.

In adopting these general procedures, I realize that there are some cases that will fall outside of these rules. For instance, homicide and child abuse cases will frequently present ongoing issues that require time to address outside of this general practice. Additionally, cases involving very voluminous discovery can also raise difficulties in strictly adhering to these timelines. These circumstances, however, are limited and do not impact the overwhelming majority of criminal cases heard before the Court of Common Pleas or implicate the criminal justice principles outlined in the beginning of this Memorandum.

Additionally, these general procedures do not apply where reasonably unforeseen and directly relevant materials are obtained after the expiration of the original timeframes. Such information that is undiscoverable through diligent actions of the parties must be considered and, if appropriate, result in the reinstatement or modification of the plea offer.

Finally, an extension of the timelines in these general procedures may be appropriate where Counsel for Defendant enters an appearance after the conclusion of the plea offer period. To establish cause in this circumstance, Counsel for Defendant must communicate to the Assigned Prosecutor whether any prior counsel failed to communicate the plea offer to Defendant, or if what prior counsel relayed to Defendant was so deficient as to make rejection of the plea offer by Defendant unknowing, involuntary, and unintelligent act. Failure by Defendant to obtain counsel without demonstrating substantial diligence in doing so is an insufficient basis to obtain an extension of the plea offer timelines.

The effective date of these plea offer procedures is Monday, August 4, 2025. I thank you for your time, attention, and cooperation in this matter.

Respectfully,



TIMOTHY J. BARKER  
District Attorney

August 1, 2025