

Rule 542*(G), (H). Preliminary Hearing.

Rescinded.

Rule 542*(H), (I). Preliminary Hearing.

- (H) In all cases where the defendant or defense counsel elects to make a stenographic, mechanical, or electronic recording of the proceeding pursuant to (C)(5) of this Rule, the defendant or defense counsel shall advise the issuing authority of same prior to the commencement of the proceeding. The defendant or defense counsel may make an audio recording of the proceeding only. The defendant or defense counsel may not make a video recording of the proceeding. The issuing authority has the right to inspect any recording device, at any time during the proceeding, to ensure compliance with this Rule.
- (I) In all cases where there is a transcript taken by a court reporter of a preliminary hearing in a criminal case, the entire cost of the notes of testimony which shall include an original for the Court, and a copy each to the Commonwealth and the defendant, shall be borne equally between the Commonwealth and defense counsel. If any extra copies are ordered, the party requesting the extra copy shall be responsible for same.

Comments:

1. A preliminary hearing before an issuing authority is not a record proceeding. See Pa.R.Crim.P. 115(A). As a result, any recording made pursuant to the above Rule, or any transcription thereof, does not constitute an official “record” of the preliminary hearing;
2. Defendants and defense counsel are reminded that any recording made pursuant to the above Rule is subject to the prohibitions of Pa.R.Crim.P. 112(D), which specifically notes that “*such recordings shall not be publicly played or disseminated in any manner unless in a court during a trial or hearing.*”;
3. The provisions of section (H) above apply equally to any individual identified in Pa.R.Crim.P. 112(D) who causes “a recording to be made” of a preliminary hearing.