

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
IN THE MUNICIPAL COURT OF PHILADELPHIA

General Court Regulation No. 2006-02

**In Re: Rescinded, Adopted and Amended
Rules of Criminal Procedure for the Philadelphia Municipal Court**

ORDER

AND NOW, this 31st day of January, 2006, the Board of Judges of Municipal Court having voted at the Board of Judges' meeting held on November 18, 2005 to rescind, adopt and amend Municipal Court Rules of Criminal Procedure 21, 406-7, 426, 431, 438, 515, 530, 550, 553, 555, 558, 600, 645, 710, 840, 850, and 860, as applicable, IT IS HEREBY ORDERED that Municipal Court Rules of Criminal Procedure 21, 406-7, 426, 431, 438, 515, 530, 550, 553, 555, 558, 600, 645, 710, 840, 850, and 860 are rescinded, adopted and amended as attached hereto.

This General Court Regulation is issued in accordance with Pa.R.Crim.P. 105 and, as required, the original General Court Regulation shall be filed with the Prothonotary in a Docket maintained for General Court Regulations issued by the President Judge of the Municipal Court of Philadelphia, and copies shall be submitted to the Administrative Office of Pennsylvania Courts, the Clerk of Quarter Sessions, and the Criminal Procedural Rules Committee. Copies of the Order shall also be submitted to American Lawyer Media, *The Legal Intelligencer*, Jenkins Memorial Law Library, and the Law Library for the First Judicial District of Pennsylvania, and posted on the website of the First Judicial District: <http://courts.phila.gov>.

BY THE COURT:

/s/ **Louis J. Presentza**

HON. LOUIS J. PRESENZA
President Judge
Philadelphia Municipal Court

Rule 21

Municipal Court Emergency Judge Procedures

The President Judge of the Municipal Court shall designate an Emergency Judge who shall be available for all criminal and civil emergency matters, including appeals from bail set by a Bail Commissioner. The name and phone numbers of the Emergency Judge shall be listed in the weekly Court schedule and available through the City Hall switchboard (215-686-1776).

Amended by the Municipal Court Board of Judges on 18 November 2005; effective 15 March 2006.

Rule 406-7

Standards for Appointment of Counsel in Misdemeanor Cases

An attorney may be appointed as counsel only if that attorney has:

1. been admitted to the bar of the Pennsylvania Supreme Court or admitted to practice *pro hac vice*.
2. completed at least one course or has viewed one video-taped program on Municipal Court practice within the past year, is familiar with the Pennsylvania Rules of Criminal Procedure, including, but not limited to, Rules 1000-1013 and is readily available to accept appointments,
3. demonstrated experience in Municipal Court cases.

Amended by the Municipal Court Board of Judges on 18 November 2005; effective 15 March 2006.

Rule 426

Compensation for Court-Appointed Counsel in Municipal Court

Compensation for court-appointed counsel in Municipal Court is governed by the First Judicial District's Guaranteed Fee System as amended by the Administrative Governing Board effective March 10, 1997. Compensation shall be a flat fee of \$350.00 per case. In extraordinary cases, counsel may receive in excess of \$350.00 upon petition and approval of the Municipal Court President Judge or a designee.

Former Rule 426 rescinded and new rule adopted by the Municipal Court Board of Judges on 18 November 2005; effective 15 March 2006.

Rule 431

Attorneys with Twenty (20) or More Cases in Philadelphia Municipal Court.

Counsel representing defendants in 20 or more criminal cases in Philadelphia Municipal Court which have not been brought to trial within 4 months of Preliminary Arraignment (hereinafter referred to as "case inventory") shall be precluded from entering an appearance for or in any other manner representing any additional defendant or defendants in any other criminal case in any court in this county until such time as said case inventory is reduced to less than 20 cases.

(A) At the end of every month, the court will prepare a list of attorneys who, at such time, represent such a case inventory. The list shall include the attorney's name, the number of cases in the case inventory, the name of the defendant in each case, and the court term and number. A copy of this list shall be provided to the Supervising Judge of the Municipal Court's Criminal Division and the Office of the District Attorney. The Supervising Judge shall review the list and give notice to counsel that this Rule will become operative, unless within 10 days of receipt of the letter counsel provides a written response to the Supervising Judge explaining why the rule should not become operative; such explanation to include the accuracy of the list, the responsibility for the delay, the existence of extraordinary circumstances or compelling reasons justifying exemption.

(B) If the Supervising Judge determines that a hearing is needed, one shall be scheduled. Notice of the hearing shall be given to counsel and the District Attorney, both of who shall have the right to be heard and to present documentary and other pertinent evidence.

(C) The Supervising Judge shall make Findings of Fact.

(D) Upon finding that counsel's excess case inventory has not been caused by counsel's inability to appear for cases that are otherwise ready for disposition, the Supervising Judge shall enter an Order relieving counsel from the application of this Rule.

(E) Where counsel has one or more partners or associates in the practice of law, entries of appearance by any partner or associate shall not be considered in determining the defendants represented by counsel whose cases have not been brought to trial within the 4 month time period described in section (A). In no event shall substitution of appearances be permitted by counsel where the apparent purpose of such substitution is to avoid compliance with this Rule.

Amended by the Municipal Court Board of Judges on 18 November 2005; effective 15 March 2006.

Rule 438
Crash Court.

All defendants charged with a Municipal Court case, who do not make bail within 10 days after preliminary arraignment, and all defendants charged with a felony whose preliminary hearing is continued for more than 20 days, shall be listed forthwith in Crash Court at a Philadelphia county prison. Crash Court shall be conducted one day a week and shall be presided over by a Municipal Court Judge. Attorneys from the District Attorney's Office and the Defender Association shall be present, together with a Quarter Sessions Clerk and the defendant.

At Crash Court, each case shall be reviewed and one of the following actions may be taken:

1. Agreement by the District Attorney to reduce bail;
2. Agreement by the District Attorney to reduce the charge to a summary criminal offense and accept a guilty plea;
3. Relisting the matter within 48 hours to the Criminal Justice Center for a guilty plea;
4. Relisting the matter on an accelerated basis for trial or preliminary hearing;
5. Bail to remain the same and date for next action set.

Amended by the Municipal Court Board of Judges on 18 November 2005; effective 15 March 2006.

Rule 515
Bench Warrant Hearings

If a defendant arrives late to court after a Bench Warrant has been issued and the Commonwealth's witnesses have been excused, the judge may hold an immediate bench warrant hearing to determine whether the defendant's lateness was willful. If the judge determines that the lateness was willful, the judge may increase the defendant's bail if it appears that there is an increased likelihood that the defendant will fail to appear at the next listing.

Amended by the Municipal Court Board of Judges on 18 November 2005; effective 15 March 2006.

Rule 530
Arrest Warrants Issued Outside City

The following procedure is applicable to cases in which the Pennsylvania State Police (State Police) make arrests in Philadelphia on warrants issued outside Philadelphia County. Under the Pennsylvania Rules of Criminal Procedure, the defendant shall be taken before a Bail Commissioner. The Bail Commissioner is required to advise the defendant of the right to have bail set or to waive the right to bail.

1. If the defendant waives the right to bail, the defendant shall be taken by the State Police to the County where the warrant was issued. If the defendant requests bail consideration, the State Police will provide a copy of the warrant and/or the complaint to the Bail Commissioner.
2. In State Police cases, defendants are not to be processed through the police identification process.

Amended by the Municipal Court Board of Judges on 18 November 2005; effective 15 March 2006.

Rule 550

Preliminary Arraignment

- (A) Preliminary arraignments shall be held 24/7/365.
- (B) Police shall direct all requests for bedside arraignments to the Bail Commissioner sitting on the day shift at the Criminal Justice Center.

Former Rule 550 rescinded and new rule adopted by the Municipal Court Board of Judges on 18 November 2005; effective 15 March 2006.

Rule 553

Line-ups Ordered Prior to a Preliminary Hearing.

1. In all cases where a Municipal Court Judge determines that a line-up is appropriate, the Judge shall issue a Short Certificate ordering the defendant, defense counsel, and the witnesses to appear at the prescribed time, date and location for that purpose. Defense counsel must appear at the line-up unless his or her presence is waived by the defendant. Defense counsel's willful failure to appear at the line-up shall constitute Contempt of Court punishable by sanctions. Willful failure of any other parties ordered to appear shall constitute a waiver of their presence.
2. The defendants shall sign a Short Certificate to indicate receipt and notification of the time and place of the line-up. A copy of the Short Certificate shall be made part of the official court record.
3. If, at the time of the line-up, there is an allegation of a substantial alteration of the defendant's appearance from the time of the order to the time of the line-up, the line-up shall be canceled. At the next listing of the preliminary hearing, the Commonwealth shall present to the presiding judge photographs taken of the defendant at the line-up and photographs taken at or near the date of the court order. If the presiding judge determines that there has been a substantial alteration of appearance, the original line-up order shall be voided. If the presiding judge determines that there has not been a substantial alteration of appearance, a new lineup shall be ordered. The time from the original lineup order to the second line-up order shall be charged against the Commonwealth for purposes of Pennsylvania Rules of Criminal Procedure 600 and 1013.

Amended by the Municipal Court Board of Judges on 18 November 2005; effective 15 March 2006.

Rule 555

Preliminary Hearings

- A. A Municipal Court judge may dismiss a case at preliminary hearing when the Commonwealth witnesses fail to appear three times. The court may issue bench warrants for Commonwealth witnesses in appropriate cases.
- B. A Municipal Court judge may appoint the Defender Association to represent the defendant at the preliminary hearing only where the case has previously been continued for the non-appearance of private counsel.

Former Rule 555 rescinded and new rule adopted by the Municipal Court Board of Judges on 18 November 2005; effective 15 March 2006.

Rule 558

Required Discovery in Municipal Court

In misdemeanor trials required discovery shall be made available to defense counsel upon defense counsel's written request for discovery made within 10 days of entry of appearance. Such cases shall be listed in a calendar room no earlier than 20 days after preliminary arraignment. These cases will be continued for status back into the calendar room until discovery is provided by the Commonwealth or waived by the defendant.

The following constitutes required discovery:

1. Police Investigation Report (75-49)
2. Supplemental Investigation Report, if any (75-52)
3. Police DU1 Arrest Report, if any (75-50c)
4. Defendant's Statement, if any (75-483)
5. Ballistics Report, Chemical Analysis, Breathalyzer Report or other reports of experts, if appropriate.
6. Search Warrant, including affidavit of probable cause.
7. Affidavit of probable cause in warrant cases.

If defense counsel fails to request required discovery, in writing, within 10 days after entry of appearance, trial shall not be delayed for failure to provide discovery. The Defender Association shall not be required to give written notice in all cases represented by it. Rule 1013 shall run against the Commonwealth until such time as discovery has been completed, provided that the defendant is otherwise ready for trial. No other discovery shall be permitted unless ordered by the trial judge. Reciprocal discovery by the defendant to the Commonwealth shall continue to be governed by Pennsylvania Rule of Criminal Procedure 573.

Amended by the Municipal Court Board of Judges on 18 November 2005; effective 15 March 2006.

Rule 645
Stay Pending Appeal of Municipal Court Judgment

In Municipal Court cases, where the defendant has been adjudged guilty and a prison sentence is imposed, the execution of such sentence must be stayed for thirty (30) days in order that the defendant may file a *de novo* appeal.

Former Rule 645 rescinded and new rule adopted by the Municipal Court Board of Judges on 18 November 2005; effective 15 March 2006.

Rule 710

Guilty Pleas Refused by Trial Judge

Where a negotiated plea has been refused by the trial judge after hearing the facts of the case and the defendant is permitted to withdraw the guilty plea, the Quarter Sessions clerk shall note on the transcript, with specificity, the District Attorney's recommendation and that the plea bargain was declined by the judge.

This procedure is intended to prevent counsel from taking the same case before another judge who might accept the negotiation that was previously refused by the court.

Amended by the Municipal Court Board of Judges on 18 November 2005; effective 15 March 2006.

Rule 840
Private Criminal Complaint Procedure

- (A) Private criminal complaints shall be filed with the District Attorney's Office.
- (B) A disapproval of a private criminal complaint shall require the signature of an Assistant District Attorney and shall set forth the reasons for the disapproval.
- (C) Upon the petitioner's request, the District Attorney shall forward a disapproved private criminal complaint to the President Judge of the Municipal Court or a designee for review. If the reviewing judge denies the issuance of the private criminal complaint, the petitioner may appeal the decision to the Court of Common Pleas.

Amended by the Municipal Court Board of Judges on 18 November 2005; effective 15 March 2006.

Rule 850

Municipal Court Arbitration for Private Criminal Complaints

(A) Actions commenced by Private Criminal Complaint may be:

1. withdrawn by agreement of the parties and approval of a Trial Commissioner; or
2. referred to the Municipal Court Arbitration Program. All parties must agree, in writing, on forms provided by the Arbitration Program Director, to submit the matter to the Arbitration Program. All parties must agree to be bound by the applicable statutes, rules and regulations of the Arbitration Program; or
3. listed for trial before a Municipal Court Judge.

(B) Actions referred to the Municipal Court Arbitration Program shall be governed by the Municipal Court Arbitration rules and provided to the parties in advance of the arbitration.

Amended by the Municipal Court Board of Judges on 18 November 2005; effective 15 March 2006.

Rule 860

Enforcement of Arbitration Award.

Parties who have agreed to submit their case to arbitration shall be bound to the award of the Arbitrator. Upon petition, a Municipal Court judge may conduct contempt proceedings to compel enforcement of the Arbitrator's award. The court shall not hear the merits of the case *de novo*.

Amended by the Municipal Court Board of Judges on 18 November 2005; effective 15 March 2006.