

**FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
COURT OF COMMON PLEAS**

**President Judge Administrative Order**

**No. 04 of 2016**

**In re: Adoption of Phila. Crim. Rules \*556 and \*556.2, governing Indicting Grand Jury  
Procedures and Protocols**

**ORDER**

AND NOW, this 27<sup>th</sup> day of October, 2016, the Supreme Court Criminal Procedural Rules Committee having reviewed the attached proposed rules as required by Pa.R.J.A. 103, and having determined that the said local rules are not inconsistent with the Statewide Rules of Criminal Procedures, it is hereby ORDERED and DECREED that *Philadelphia Criminal Rule \*556* and *Philadelphia Criminal Rule \*556.2* are adopted as attached and shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

As required by Pa.R.J.A. 103(d), this Administrative Order and the proposed local rules were submitted to the Supreme Court of Pennsylvania Criminal Procedural Rules Committee for review and written notification has been received from the Rules Committee certifying that the proposed local rules are not inconsistent with any general rule of the Supreme Court. This Administrative Order and the attached local rules shall be filed with the Office of Judicial Records (formerly the *Prothonotary, Clerk of Courts and Clerk of Quarter Sessions*) in a docket maintained for Administrative Orders issued by the First Judicial District of Pennsylvania. As required by Pa.R.J.A. 103(d)(5)(ii), two certified copies of this Administrative Order and the attached local rules, as well as one copy of the Administrative Order and local rules shall be distributed to the Legislative Reference Bureau on a computer diskette for publication in the *Pennsylvania Bulletin*. As required by Pa.R.J.A. 103(d)(6) one certified copy of this Administrative Order and local rules shall be filed with the Administrative Office of Pennsylvania Courts, shall be published on the website of the First Judicial District at <http://courts.phila.gov>, and shall be incorporated in the compiled set of local rules no later than 30 days following publication in the *Pennsylvania Bulletin*. Copies of the Administrative Order and local rules shall also be published in *The Legal Intelligencer* and will be submitted to *American Lawyer Media, Jenkins Memorial Law Library*, and the Law Library for the First Judicial District.

BY THE COURT:

*/s/ Sheila Woods-Skipper*

**HONORABLE SHEILA WOODS-SKIPPER  
President Judge, Court of Common Pleas**

### **Philadelphia Criminal Rule \*556. Indicting Grand Jury.**

The First Judicial District shall, from time to time, designate court of common pleas judges to serve as Supervising Judges of Philadelphia County Indicting Grand Jury(ies).

*Note:* By order dated September 27, 2012, the Pennsylvania Supreme Court granted the First Judicial District's "Petition for Empanelment of Indicting Grand Jury" and authorized the First Judicial District to empanel indictment grand juries, in accordance with Pa.R.Crim.P. 556 et seq., on or after December 18, 2012. See *In re Petition for Empanelment of Indicting Grand Jury*, No. 138 EM 2012.

### **Philadelphia Criminal Rule \*556.2. Philadelphia County Indicting Grand Jury Procedures and Protocols**

1. When the District Attorney, at the time of a defendant's preliminary arraignment in Municipal Court, requests that a case be sent to the Indicting Grand Jury (IGJ) rather than being scheduled for a preliminary hearing in Municipal Court (MC), the case will be listed in 30 days in Common Pleas Courtroom 1107 before the IGJ Preliminary Hearing Supervising Judge for status.
2. After preliminary arraignment, the District Attorney's Office will file an *ex parte* motion pursuant Pennsylvania Rule of Criminal Procedure (Pa.R.Crim.P) 556.2 with one of the IGJ Supervising Judges requesting approval to have the case heard by the IGJ. The motion must allege that witness intimidation has occurred, is occurring, or is likely to occur in the case. The motion is reviewed by an IGJ Supervising Judge for approval. If the motion is granted, the IGJ must act on the case within 21 days of the date the order granting the motion was signed by an IGJ Supervising Judge. If the District Attorney's Office requests a preliminary hearing after the motion authorizing presentment to the IGJ is granted by an IGJ Supervising Judge, then the case will remain in Common Pleas Court and be listed for a preliminary hearing in front of the IGJ Preliminary Hearing Supervising Judge in Courtroom 1107. If no motion has been signed and the District Attorney's Office requests that a preliminary hearing be held instead of the case proceeding by way of the IGJ, then the case will be sent back to Municipal Court for a preliminary hearing in the appropriate MC courtroom.
3. If the District Attorney's Office requests that a case be sent from a preliminary hearing room to Common Pleas Courtroom 1107 before the IGJ Preliminary Hearing Supervising Judge for status, the procedures delineated in # 2 above will also apply.
4. All bail motions filed prior to the first status date in Courtroom 1107 will be heard by the IGJ Preliminary Hearing Supervising Judge on the first status listing, unless the IGJ Preliminary Hearing Supervising Judge agrees to list the bail motion earlier. The IGJ Preliminary Hearing Supervising Judge will continue to handle any bail motions filed after the first status date, until the case is assigned for trial.
  - a. Until otherwise provided, all bail motions filed on IGJ cases must be served on Assistant District Attorney Norman Millard or paralegal Alyssa Ecker by fax or e-

mail at least one business day prior. An Assistant District Attorney (ADA) will not be present to argue bail motions unless prior notice is given.

**Fax:** 215-683-7608/09/10

**Email:** norman.millard@phila.gov  
alyssa.ecker@phila.gov

- b. Bail motions will be heard on Fridays at 9:00 a.m. during the IGJ case status listings unless the defense attorney and the specially assigned ADA agree to list the motion on a different day consistent with the IGJ Preliminary Hearing Supervising Judge's calendar.
5. If the District Attorney's Office refiles a case that it intends to present to the Indicting Grand Jury, the District Attorney's Office must request the case be listed directly in Common Pleas Courtroom 1107 before the IGJ Preliminary Hearing Supervising Judge for status. The procedures delineated in #2 above will also apply.
6. If a case is presented to the Indicting Grand Jury and the defendant is not indicted, the District Attorney's Office will immediately notify an IGJ Supervising Judge and the case will be dismissed. If the defendant is in custody on the matter, an order directing his/her release on that matter will be sent to the Philadelphia County Prison Record Room or the Pennsylvania Department of Corrections Record Room. If the defense attorney has made his/her e-mail address available to the District Attorney's Office, a copy of the order will be e-mailed. Otherwise, the defense attorney will be notified by telephone, fax or first class mail.
7. At the status listing in Courtroom 1107, if the grand jury has voted to indict the defendant, the IGJ Preliminary Hearing Supervising Judge will direct the clerk to hold the defendant for court on those charges listed in the indictment. If the case is held for court, defendants who are out of custody will be given notice about IGJ procedures and their rights in Courtroom 1107. (See Appendix C)
8. The case then will be sent to Courtroom 1104 for formal arraignment in Common Pleas Court. During formal arraignment, defense will be provided Bills of Information, a disclosure order (see Appendix A), and a copy of the Indictment (if not filed under seal).
9. Following formal arraignment in Common Pleas Court, the case will be sent directly for a scheduling conference to the trial judge designated for the zone where the alleged crime occurred. Family violence and sexual assault IGJ cases will be assigned to the designated trial judges, who handle family violence and sexual assault cases, on a random basis and not based on where the alleged crime happened. All homicide IGJ cases will be listed in front of the Homicide Calendar Judge in the Homicide Calendar Room - Courtroom 1105. The Homicide Calendar Judge will handle all motions to quash, bail motions and discovery motions for IGJ direct file cases while these cases are in the Homicide Calendar Room. The Homicide Calendar Judge will handle all bail motions and IGJ discovery motions on IGJ cases in the Homicide Program, assisted by an IGJ Supervising Judge as provided from time

to time.

10. After formal arraignment of a defendant indicted by the IGJ and the assignment of the case to a trial judge, any bail motions and pretrial discovery motions will be listed before an IGJ Supervising Judge according to the zones outlined below. Likewise, bail motions and pretrial discovery motions for family violence and sexual assault IGJ cases will also be listed before an IGJ Supervising Judge based on which zone the case is assigned for trial at the time of formal arraignment. All pretrial discovery for IGJ cases shall be conducted pursuant to Pa.R.Crim.P. 556.10(B)(5), relating to the disclosure of grand jury material.

**Indicting Grand Jury Zones and Case Types**

IGJ Preliminary Hearing Supervising Judge  
South & Southwest Zone Cases  
Northeast & Northwest Zone Cases  
Central & East Zone Cases  
Direct File Juvenile Cases  
Homicide Cases

11. All IGJ defendants in custody will have a video conference with a Trial Commissioner on the Thursday following their formal arraignment. During the conference defendants will be informed on how their case has been handled by the IGJ, how their case will proceed to trial, contact information for their attorney, and their rights under the IGJ Rules and Procedures in the FJD. (See Appendix D). IGJ cases will be listed for trial within six (6) to nine (9) months, if possible, unless a longer date is agreed upon by counsel. At the scheduling conference, the District Attorney's Office will provide to defense a notice of rights. (See Appendix B). The District Attorney's Office will provide pretrial discovery to defense, pursuant to Pa.R.Crim.P. 573; however, pursuant to Pa.R.Crim.P. 556.10(B)(5), the District Attorney's Office will withhold all testimony and evidence that would disclose the identity of any witness or victim who has been intimidated, is being intimidated, or is likely to be intimidated.
12. All IGJ cases listed for trial will also receive a status date, 60 days prior to trial, for a pretrial readiness conference. At this conference, the court will determine if the defense and the District Attorney's Office expect to be ready for trial. If both sides are ready for trial, IGJ material will be turned over to defense counsel, subject to the disclosure limitations listed below. A motion to quash and any other motions may be filed within 10 days of when the transcript from the IGJ and any other IGJ discovery is turned over to defense counsel. If the case is not expected to be ready for trial, the case will get a new trial date and a new 60-day status date. The District Attorney's Office will not turn over IGJ material until the trial court has made a determination that the case is expected to go forward as scheduled. The 60-day date for disclosure of IGJ material may be modified by order of an IGJ Supervising Judge.
  - a. *Disclosure limitations:* pursuant to the standard disclosure order, defense counsel may not give copies of the grand jury material to the defendant to retain or copy in any way

and may not disclose the grand jury material to any other parties without an additional disclosure order from an IGJ Supervising Judge. In connection with the standard disclosure order, grand jury material may be given to an investigator or mitigation specialist working for the defendant on a case where the defendant was indicted by the IGJ and is now awaiting trial.

- b. After a determination that the case is ready for trial and disclosure of grand jury material to defense, the trial court will schedule a hearing for any filed motions to quash and other pretrial motions requested by defense counsel. Motions to quash and other pretrial motions will be heard by the trial court.

13. Defense motions to continue the trial for any IGJ defendant may not be granted without the approval of one of the designated IGJ Supervising Judges.



**APPENDIX B - Notice of Rights**



Commonwealth v. \_\_\_\_\_

CP-51-CR-\_\_\_\_\_

The Philadelphia County Indicting Grand Jury (IGJ) has indicted the defendant on the charge of \_\_\_\_\_ and related offenses, pursuant to Pa.R.Crim.P. 556. Bills of Information have been filed under the above-listed CP number. By order of an Indicting Grand Jury Supervising Judge, and in accordance with Pennsylvania Rules of Criminal Procedure (Pa.R.Crim.P.) 578 and 579, you have ten (10) days from the date when all Indicting Grand Jury material is disclosed to file a Motion to Quash the Bills of Information for your case before the trial judge. All Indicting Grand Jury material will be disclosed sixty (60) days prior to trial unless otherwise ordered by an Indicting Grand Jury Supervising Judge. (*Note*: the standard disclosure order authorizes IGJ discovery material to be disclosed sixty (60) days prior to trial, See Appendix A.)

Bail motions and any motions for disclosure of Indicting Grand Jury discovery (pursuant to Pa.R.Crim.P. 556.10(B)(5)) prior to the standard disclosure date of sixty (60) days before trial shall be filed before an Indicting Grand Jury Supervising Judge. See below for case type and zone designations.

**Indicting Grand Jury Supervising Judges**

**Zone Designations and Case Types**

IGJ Supervising Judge [Name]

IGJ Preliminary Hearing Supervising Judge

IGJ Supervising Judge [Name]

South & Southwest Zone Cases

IGJ Supervising Judge [Name]

Northeast & Northwest Zone Cases

IGJ Supervising Judge [Name]

Central & East Zone Cases

IGJ Supervising Judge [Name]

Direct File Juvenile Cases

IGJ Supervising Judge [Name]

Homicide Cases

Defense Attorney: \_\_\_\_\_

Date: \_\_\_\_\_

## APPENDIX C

### Defendants Out of Custody – Notice of IGJ Procedure and Rights



#### NOTICE OF INDICTMENT FOR DEFENDANTS OUT OF CUSTODY

Defendant: \_\_\_\_\_

CP-51-CR-\_\_\_\_\_ - \_\_\_\_\_

After you were arrested, your case was sent to a Philadelphia County Indicting Grand Jury instead of being listed for a preliminary hearing in Municipal Court. Evidence regarding the incident for which you are charged was presented to the Philadelphia County Indicting Grand Jury and the Grand Jury issued an indictment for the charge of \_\_\_\_\_ and related offenses. Following the indictment, an Indicting Grand Jury Supervising Judge ordered that you stand trial in Common Pleas Court. Your case is listed today for a Scheduling Conference before your assigned trial judge in Common Pleas Court. Today your case will be given a trial date.

Your attorney will be provided discovery today according to the Pennsylvania Rules of Criminal Procedure. However, Indicting Grand Jury material may not be disclosed to your attorney until 60 days prior to trial at the pretrial readiness conference before your assigned trial judge, unless otherwise ordered by the court. You will be subpoenaed to court for the pretrial readiness conference, which is generally scheduled sixty (60) days before your trial date. Upon disclosure of the Indicting Grand Jury material in your case, your attorney will have the right to file a motion to quash seeking to dismiss the case for insufficient evidence. The motion to quash will be heard by the assigned trial judge. Your attorney will also review the grand jury material with you prior to trial but you will not be permitted to retain a copy of the grand jury material.

At any time, your attorney may file a bail motion, as well as any other requests about the Indicting Grand Jury material, on your behalf with an Indicting Grand Jury Supervising Judge.

**APPENDIX D**  
**Defendants in Custody – Notice of IGJ Procedure and Rights**



**NOTICE OF INDICTMENT FOR CUSTODY DEFENDANTS**

Date: \_\_\_\_\_

Defendant: \_\_\_\_\_

CP-51-CR-\_\_\_\_\_ - \_\_\_\_\_

After you were arrested, your case was sent to a Philadelphia County Indicting Grand Jury instead of being listed for a preliminary hearing in Municipal Court. Evidence regarding the incident for which you are charged was presented to the Philadelphia County Indicting Grand Jury and the Grand Jury issued an indictment for the charge of \_\_\_\_\_ and related offenses. Following the indictment, an Indicting Grand Jury Supervising Judge ordered that you stand trial in Common Pleas Court. The next listing for your case is on \_\_\_\_\_ in Courtroom \_\_\_\_\_ before Judge \_\_\_\_\_.

Your attorney will be provided discovery today according to the Pennsylvania Rules of Criminal Procedure. However, Indicting Grand Jury material may not be disclosed to your attorney until 60 days prior to trial at the pretrial readiness conference before your assigned trial judge, unless otherwise ordered by the court. You will be subpoenaed to court for the pretrial readiness conference, which is generally scheduled sixty (60) days before your trial date. Upon disclosure of the Indicting Grand Jury material in your case, your attorney will have the right to file a motion to quash seeking to dismiss the case for insufficient evidence. The motion to quash will be heard by the assigned trial judge. Your attorney will also review the grand jury material with you prior to trial but you will not be permitted to retain a copy of the grand jury material.

At any time, your attorney may file a bail motion, as well as any other requests about the Indicting Grand Jury material, on your behalf with an Indicting Grand Jury Supervising Judge.

Your attorney is \_\_\_\_\_ and can be reached at \_\_\_\_\_.

Defendant's Signature \_\_\_\_\_

By Trial Commissioner \_\_\_\_\_