

First Judicial District of Pennsylvania

Court of Common Pleas of Philadelphia County

Trial Division - Criminal



LOCAL RULES

Updated 3-22-18

**PHILADELPHIA COUNTY COURT OF COMMON PLEAS
TRIAL DIVISION – LOCAL CRIMINAL RULES**

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**THE GENERAL COURT REGULATIONS AND ADMINISTRATIVE ORDERS LISTED BELOW
ARE EFFECTIVE, MAY IMPACT OR IMPLEMENT STATE OR LOCAL CRIMINAL RULES
AND CAN BE DISPLAYED BY CLICKING THE INBEDDED LINK**

GENERAL COURT REGULATIONS:

- 7-25-16: Trial Division: [No. 02 of 2016 In Re: Proceedings Seeking Civil Forfeiture of Real Estate and Seized Property](#)
5-23-16: Trial Division: [No. 1 of 2016: In re: Juvenile Lifers Sentenced Without the Possibility of Parole Program](#)
2-27-12: Trial Division: [No. 2 of 2012: In re: Capital Case Counsel Qualification](#)
4-01-06: PJs and AJ Trial: No. 2006-02: [In Re: Bail Bonds Posted By Professional Bondsmen](#)
4-04-06: PJs and AJ Trial: No. 2006-03: [In re: Bail Bonds Posted By Corporate Sureties and Their Agents](#)

ADMINISTRATIVE ORDERS:

- 6-26-17: AGB: [No. 01-2017 - First Judicial District of Pennsylvania Court-Appointed Counsel, Investigative and Expert Witness Fee Schedule](#)
9-18-17: AGB: **In re: AGB 01 of 2017**
9-30-14: AGB: No. 01 of 2014- [Bail Judgments Issued Pursuant to Pa.R.Crim.P. 536](#)
1-17-13: AGB: No. 01 of 2013: [Compensation for Capital Case Representation](#)
4-03-12: AGB: No. 01 of 2012: [In Re: Corporate Sureties and Professional Bondsmen](#)
4-03-12: AGB: No. 02 of 2012: [In Re: Payment of Court Appointed Counsel for Indigent Representation - Fiscal Year 2013 \(July 1, 2012 to June 30, 2013\) and thereafter](#)
9-04-12: AGB: No. 05 of 2012: [In Re: Interim Revision of Pretrial Release Guidelines](#)
2-29-12: PJ: No. 01 of 2012: [In re: Motions to Vacate or Reduce Bail Forfeitures](#)
6-17-11: PJ: No. 02 of 2011: [In Re: Adoption of Philadelphia County's Countywide Booking Center Plan](#)
12-13-07: Trial Division: [CP-51-CR-AD-1 of 2007: Adult Probation/Parole Officers Firearms Policy](#)
12-24-02: PJ: No. 10 of 2001: [In re: Appointment of Mitigation Counsel and Adoption of Mitigation Protocol for Court-Appointed Conflict Capital Cases](#)
2-05-97: AGB: No. 1 of 1997: [In Re: Directive Concerning Court Appointed Counsel Fees](#)
3-31-97: AGB: No. 2 of 1997: [In Re: Directive Concerning Location of Principal Office of Court Appointed Counsel](#)

General Court Regulations/Administrative Orders ... see generally: www.courts.phila.gov/regs

Trial Division – Forms are available at www.courts.phila.gov/forms

**PHILADELPHIA COUNTY COURT OF COMMON PLEAS
TRIAL DIVISION – LOCAL CRIMINAL RULES**

Chapter 1. Scope of Rules, Construction and Definitions, Local Rules.

Rule *100. Scope of Rules.

These local rules shall govern criminal proceedings in the Trial Division of the Court of Common Pleas of Philadelphia County unless otherwise specifically provided.

Note: Unless otherwise noted, adopted June 4, 2014, effective July 21, 2014.

Rule *102. Citing the Local Criminal Procedure Rules.

These rules shall be known as the Philadelphia Court of Common Pleas Criminal Rules and shall be cited as “Phila.Crim.R.”

Rule *103. Definitions

The following words, phrases and descriptive functions shall clarify and supplement the definitions set forth in Pa.R.Crim.P. 102 and 42 Pa.C.S. § 102 *et seq.*:

“*Office of Judicial Records.*” The office formerly known as the *Office of the Clerk of Quarter Sessions* (which was abolished by the Council of the City of Philadelphia effective on July 1, 2010) and the *Clerk of the Courts*. The *Office of Judicial Records* is responsible for maintaining the official criminal case file, maintaining docket entries in each criminal case, and performing such other duties as required by law.

Rule *104. Design of Forms

All local forms shall comply with the Pennsylvania Rules of Criminal Procedures, shall be approved by the Administrative Judge of the Trial Division, may be amended from time to time at the direction of the Administrative Judge of the Trial Division, and shall become effective upon compliance with Pa.R.Crim.P. 105. All local forms shall be posted on the First Judicial District’s website (<http://courts.phila.gov/forms>).

Rule *105. Local Rules.

The term "local rule" shall include General Court Regulations and Administrative Orders issued by the Administrative Judge of the Trial Division and President Judge of the Court of Common Pleas.

Rule *107. Contents of Subpoena.

(a) Forms. Consistent with the requirements of Pa.R.Crim.P. 107, a *Personal Appearance Subpoena* and *Subpoena Duces Tecum* are adopted substantially as appended to these rules, and may be amended from time to time. All parties shall request subpoenas from the *Office of Judicial Records* which shall issue same upon payment of any requisite fees.

(b) A subpoena may be used to command a person to attend and to produce documents or things at trial or hearing in an action or proceeding pending in court.

(c) Subpoenas Served on the First Judicial District or any of its Employees. All subpoenas directed to the First Judicial District or any of its Employees shall be served on the Deputy Court Administrator for Legal Services, Room 369 City Hall, Philadelphia, PA who has been designated

as the agent for acceptance of service of process and subpoenas directed to the First Judicial District or any of its employees.

Explanatory Note: Act 81 of 2006 requires the payment of \$43.00 plus mileage to the “First Judicial District of Pennsylvania” if District records are subpoenaed.

Rule *115. Recording and Transcribing Court Proceedings.

(a) Unless otherwise ordered by the Court, proceedings before a Trial Commission need not be recorded.

(b) (1) The request for a transcript of all or part of the testimony of a trial or other proceeding must be made on a *Transcript Order Form* or *Digital Recording Transcript Form*, as required by Philadelphia Rule of Judicial Administration No. 5000.5. Copies of official transcripts cannot be provided by the Office of Judicial Records but must be requested from Court Reporter and Interpreter Administration.

(2) The court may determine and designate those portions of the record that are to be transcribed as follows:

(i) *Pre-Trial and Post-Trial Motions.* The court may, upon receipt of a copy of a request for partial transcript, or upon receipt of a partial transcript, request that the Official Court Reporter transcribe additional portions of the transcript, or the entire transcript, if the transcription of the increased portion of the transcript is deemed necessary for the disposition of the outstanding post-trial motions. The cost of such transcription shall be incurred by the party who filed the post-trial motions. In the event more than one party has filed post-trial motions, the cost of transcription shall be borne equally between or among such parties.

(ii) *Appeals.* Upon receipt of the order for transcription of notes of testimony in connection with an appeal, and the requisite payment or deposit thereon, the Official Court Reporter shall prepare a full transcript of the case on appeal, unless the appellant or a cross-appellant has requested and obtained an order of diminution of transcription from the trial court. Pa.R.A.P. 1922 requires that an application for an order providing for less than the entire proceeding shall be made in civil cases within two days after the order for transcript is filed, and in criminal cases as provided in Pa.R.Crim.P. 115. As provided in Pa.R.A.P. 1911, the appellant must request and pay for the transcription of testimony; however, cross-appellants shall share the initial expense equally with all other appellants.

Rule *122 Standards for Appointment of Counsel

(A) *Lists of Qualified Attorneys*

The Appointment Clerk will maintain a list of attorneys qualified for appointment in each of the following categories of cases:

- (1) Homicide
- (2) Capital homicide appellate
- (3) Non-capital homicide appellate
- (4) Non-capital-PCRA

(B) *Selection of Attorneys*

(1) Each attorney who desires appointment in each of the above categories of cases must fill out a questionnaire which will be submitted to a Screening Committee of the Philadelphia Bar Association. The Committee shall consist of seven members, each appointed for a staggered fixed term. All members of the Screening Committee will be appointed by the Board of Judges of Philadelphia County. Neither the Chief Defender,

nor any attorney from the Defender's Office, nor any attorney from the District Attorney's Office shall be eligible for appointment to the Screening Committee. In making such appointments, the Board of Judges shall consider the recommendation of the Criminal Justice Section of the Philadelphia Bar Association, which shall submit to the Board of Judges a list of not less than fifteen names. Each member of the Screening Committee must be familiar with the practice of criminal law in Philadelphia.

(2) The Screening Committee will periodically review all questionnaires submitted, and will designate attorneys who are qualified for handling each category of case; the committee will maintain such lists of attorneys. It will be the duty of the Screening Committee to review these lists regularly, to add new applicants who meet the qualifications, and to remove from the lists names of attorneys who no longer meet the standards, who consistently refuse to accept appointments, or who, though qualified, refuse appointments in certain types of cases.

No member of the Screening Committee will be permitted to accept an appointment during his or her term on the Selection Committee.

(3) The Criminal Justice Section is authorized to adopt rules of procedure governing: the recommendation of the members for the Screening Committee, the frequency of meetings, and the methods for establishing and maintaining lists of qualified attorneys.

(4) The lists of approved attorneys will be transmitted to the Appointment Clerks in their respective offices of Criminal Listings and Secretary of the Board of Judges; these offices will then provide the lists to the judges authorized to make appointments.

Rule *122 – 1 *Standards for Appointment in Homicide Cases.*

Rescinded March 10, 2011, effective January 2, 2012. Supplanted by Pa.R.Crim.P. 801. Rule number reserved for future use.

Rule *122 – 2. *Standards for Appointment of Appellate Counsel in Cases Where the Death Penalty Has Been Imposed*

Reserved

Rule *122 – 3 *Standards for Appointment of Appellate Counsel in Cases Where the Death Penalty Has Not Been Imposed.*

(A) *Qualifications for Counsel*

An attorney may be appointed as appellate counsel in cases in which the death penalty has not been imposed only if that attorney:

- (1) Has been admitted to the Bar of the Pennsylvania Supreme Court, or admitted to practice pro hac vice;
- (2) Has submitted a writing sample to the Screening Committee;
- (3) Has filed briefs within the past two years, as appellate counsel in either the Pennsylvania Supreme or Superior Court in no fewer than three criminal cases, or has completed at least one Continuing Legal Education Program on Pennsylvania appellate practice within the past year, or has otherwise demonstrated to the Screening Committee appellate experience and a knowledge of Pennsylvania appellate practice;
- (4) Is readily available to accept appointments.

Rule *122 – 4 *Standards for Appointment of PCRA Counsel in Cases Where the Death Penalty Has Not Been Imposed or of Counsel in Other Post-Conviction Evidentiary Hearings.*

(A) *Qualifications for Counsel*

An attorney may be appointed as PCRA counsel, or as counsel in other post-conviction hearings, only if that attorney:

- (1) Has been admitted to the Bar of the Supreme Court of Pennsylvania or has been admitted to practice pro hac vice;
- (2) Has experience, within the past two years, as PCRA counsel in no fewer than two cases in which a PCRA hearing has been held, or has completed one Continuing Legal Education program on Pennsylvania post-conviction practice within the past year;
- (3) Has participated in the preparation and litigation of three adversary hearings where factual issues were contested. (This may include the two PCRA hearings required in paragraph 2.);
- (4) Is readily available to accept appointments.

Rule *122 – 5 *Standards for Appointment in Felony Cases.*

(A) *Qualifications for Counsel*

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

- (1) Has been admitted to the bar of the Pennsylvania Supreme Court, or admitted to practice pro hac vice;
- (2) Is an active trial and/or appellate practitioner with at least two years litigation experience (trial and/or appellate) in the field of criminal law in this or any other jurisdiction;
- (3) Has prior experience as counsel in no fewer than five criminal trials which were tried to completion in this or any other jurisdiction;
- (4) Has been counsel in at least two felony trials within the past two year period, or has completed at least one Continuing Legal Education program in the field of criminal law within the past year;
- (5) Is familiar with the practice and procedure of the Pennsylvania Supreme Court, and the Philadelphia Court of Common Pleas, and is reasonably available to accept appointments;
- (6) Has prior experience as counsel in no fewer than five criminal trials which were tried to completion in this or any other jurisdiction. “Tried to completion” shall include trials in which the jury is discharged at the conclusion of the case without reaching a verdict. No more than two of the required five trials shall consist of major felony juvenile cases; and
- (7) All attorneys certified in this category automatically shall be certified to handle non-homicide appellate and non-homicide PCRA matters.

Rule *122 – 6 *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 videotaped 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 or has demonstrated experience in Municipal Court cases.

Rule *122 – 7 Experience Exception To Standards.

A. If any applicant fails to meet any of the above specified standards, the Screening Committee, after conducting a personal interview with the applicant, may rate the applicant to be qualified if the applicant's experience, knowledge and training are clearly equivalent to the standards for the category in which applicant seeks qualification, except as otherwise required by Pa.R.Crim.P. 801.

B. Even if the applicant meets all of the specific standards in any category, but it appears to the Selection Committee that the applicant's experience, knowledge, training and/or past performance in specific cases, may show the need for more training or supervision, the Selection Committee may require the applicant to appear before the Committee for a personal interview, after which the Selection Committee may approve the applicant, or may require the applicant to undergo one of the remedial measures set forth in Rule *122-9 before being approved. If the applicant refused to undergo those measures, or if after completing the measures, the Selection Committee still rejects the application, then the applicant may appeal the disapproval as provided in Rule *122-8.

Rule *122 – 8 Performance Standards; Processing Complaints.

A. General: The Screening Committee may refuse to approve applicants as provided in Rule *122-7 B., or may impose remedial measures, if the applicant fails to meet the performance standards set forth in this Rule.

B. Processing Complaints:

1. Any complaint about the performance of any court-appointed counsel shall first be transmitted to an official in the Court Administrator's office designated for the receipt of such complaints. The official shall forward the complaint to the Chair of the Screening Committee.
2. All such complaints, as well as the identity of the complainant, shall remain absolutely confidential, except as set forth herein.
3. When the Chair of the Screening Committee receives such a complaint, he or she should appoint three members of the Committee as a Panel, and submit the complaint to that Panel. The Panel should review the complaint to determine whether it requires action. If the Panel finds that the complaint requires further action it should notify the subject and afford the subject an opportunity to reply or produce evidence in response to the complaint. The identity of the complainant should not be disclosed, unless the complainant waives confidentiality, provided that the non disclosure of the identity of the complainant does not preclude the subject from being able to address the substance of the complaint. Anonymity of the complainant shall go to the weight, but is not a bar to processing of a complaint. If it so determines, the Panel should notify the complainant that his or her identity will be disclosed, unless the complainant decides to withdraw the complaint.
4. Once the subject has submitted a reply to the complaint and any evidence deemed appropriate, the Panel should promptly review the matter. The Panel may recommend that the subject voluntarily undergo remedial measures. The Panel may in its discretion refer the matter to a Hearing Committee, as set out hereinafter. If the Panel decides that the matter does not require an immediate disposition, then the subject shall be notified that no remedial action will be taken at this time, but the matter shall be deferred for up to two years. If the subject does not receive two more complaints within that two year period,

then the matter will be closed and the complaint dismissed. If complaints of 2 additional incidents arising from separate proceedings arise during a two year period following the first complaint, all open complaints may be referred to a Hearing Committee as set out herein.

5. A Hearing Committee shall consist of three members of the Criminal Justice Section appointed by the Executive Committee of the Criminal Justice Section. The Executive Committee shall name one of the three as Chair. None should be members of the Screening Committee. Those members should be respected and prominent members of the Section, with outstanding reputations for ethical conduct and knowledge of criminal law.

6. When a matter is referred to the Hearing Committee, the Committee will schedule hearing dates as soon as possible. One member of the Panel shall present the evidence of the deficient performance or skills. The Committee may invite the Complainant to appear. The subject must be invited to appear and may present evidence, and may be represented by counsel. The subject may have a court reporter present at the subject's own expense; however, a copy of the transcribed notes must be provided to the Committee without cost to the Committee.

7. If a majority of the Hearing Committee finds that the charges have not been sustained by clear and convincing evidence, then the complaint should be dismissed with notice to the subject. If the Hearing Committee can impose any of the remedies set out in Rule Rule *122 – 9 infra.

C. Appeals:

If the subject objects to any action of the Hearing Committee, then he or she may within 30 days appeal to the Court of Common Pleas. During the pendency of that appeal to the Court of Common Pleas, any remedies ordered shall be stayed. The President Judge of the Court of Common Pleas shall appoint three judges to hear such appeals. The scope of the hearing shall be de novo. One member of the Panel shall present the evidence concerning violation of the performance standard. The subject may also present any relevant evidence. The Court shall make any finding and impose any remedial measure authorized under Rule *122 – 9 infra.

D. None of the actions of the Panel, the Hearing Committee, nor of the Court of Common Pleas shall relieve any attorney or judge from the right or obligation to make a proper report to the Disciplinary Board in accordance with local Rule of Criminal Procedure 122-13.

Rule *122 – 9 Remedial Measures.

A. General: Once the Hearing Committee has determined that violation of these standards has been established, the Hearing Committee or reviewing court may impose any one or more of the following remedial measures. The purpose of these measures is not punitive, but remedial. Accordingly, the least onerous measure or measures should be imposed which is designed to remedy the type of violation adjudged.

B. Types of remedies:

1. Warning: The subject should be warned of the nature of the deficiency, and that future complaints could be grounds for more serious sanctions.
2. Continuing legal education: The subject could be urged, or required, to attend an appropriate legal education course.
3. Mentoring: The subject could be urged, or required, to utilize the services of a mentor provided by the Screening Committee, for one or more court-appointed cases.

4. Second chair: The subject could be urged, or required, to sit as second chair to an experienced attorney, selected by the Screening Committee, for a specified number of cases.
5. Probation: The Subject could be placed on probation for a specified period of time or number of cases, during which the subject's rights to receive appointments could be conditioned upon such remedial measures as the Hearing Committee believes necessary. One member of the Prima Facie Panel should be named to monitor the subject during the probationary period.
6. Suspension: The subject can be suspended from receiving any appointments for a specified period of time or a number of cases, and can be required to undergo remedial measures during the period of suspension.
7. Decertification: If the deficiencies are considered very serious, and/or other remedial measures have not resulted in improvement, then the subject can be decertified from receiving appointments in a specific category or from all appointments. Any attorney decertified under this Rule may not reapply for appointments until at least one year has elapsed from the date of decertification and proof of satisfactory remediation is shown.

Comment: The above are subject to the requirements of Pa.R.Crim.P. 801.

Rule *122 – 10 *Appointment of Counsel in Multiple Defendant Cases.*

In any multiple defendant case, the Defender Association may be appointed to represent only one of the defendants. It shall be the duty of the Commissioner at Common Pleas arraignment to appoint the Defender for the first indigent defendant identified and to arrange for the appointment of private counsel for the remaining indigent defendant(s).

Rule *122 – 11 *Compensation Rates for Court-Appointed Counsel.*

A. Non-Homicide Criminal Cases

- (1) Counsel, not exceeding one, who has been assigned to represent:
 - (a) a defendant charge with a non-homicide criminal offense;
 - (b) an individual in any post-conviction proceedings or,
 - (c) a juvenile formally charged with delinquency, shall, at the conclusion of the representation, or any segment thereof, be compensated for his/her services in such representation and reimbursed for all reasonable expenses advanced by counsel which were necessarily incurred.
- (2) Upon the conclusion of counsel's representation under this Rule, or any segment thereof, the Judge sitting at the trial of the case, if there is a trial; otherwise, the Judge presiding over the disposition of the matter shall, after the filing of the claim and sworn statement in accordance with Phila.Crim.R. *122-12, allow such counsel all reasonable personal and incidental expenses, and compensation for services rendered.
- (3) Counsel shall be compensated at a rate not exceeding forty dollars (\$40) per hour for time expended in a Court of record and at the rate of thirty dollars (\$30) per hour for time reasonably expended out of Court. For representation of a defendant in a case in which one or more felonies are charged or for proceedings under the Post Conviction Review Act, the compensation paid to an attorney shall not exceed fifteen hundred dollars (\$1,500). In a case in which only misdemeanors or juvenile delinquencies are charged, payment shall not exceed seven hundred and fifty dollars (\$750).

(4) Payment in excess of the limits stated herein may only be made, if the Court to whom the application is made certifies to the Administrative Judge of the Trial Division that because of extraordinary circumstances set forth, such additional payments are necessary to provide fair compensation for representation. Any payment in excess of the above limits will be at the discretion of the Administrative Judge of the Trial Division.

(5)(a) Assigned counsel may also make a written request to obtain investigative, expert or other services necessary to an adequate defense in accordance with Phila.Crim.R.*122-12 G.(4). Upon finding after proper inquiry that such services are necessary, the Court shall authorize counsel to obtain such services on behalf of a defendant. The compensation paid to a person for such services rendered to a defendant shall not exceed five-hundred dollars (\$500).

(b) In order to expedite reimbursement to counsel for services rendered by investigators or other experts authorized by the Court, at the conclusion of such expert services rendered on behalf of the defendant counsel may submit a Petition and Order for reimbursement to counsel of such expert fees. Said Petition and Order shall be submitted to either the Trial Judge, if there is a trial, or to the Judge presiding over the disposition of the matter and may be submitted at any stage of the proceedings. The Petition and Order for reimbursement must contain all information and exhibits relevant to the reimbursement of expenses as described in Phila.Crim.R. *122-12 (D)(1) and (2). Upon submission by counsel of the Petition and Order for reimbursement, the appropriate Judge shall immediately review the Petition and authorize payment to counsel of such expert fees as are considered reasonable and necessary in accordance with Phila.Crim.R. *122-12 (G)(2). The reviewing Judge will then forward the Petition and Order for reimbursement to the Deputy Court Administrator for Fiscal Affairs for review and payment.

(6) Counsel so assigned shall not, except with prior approval of the Court, receive or contract to receive directly or indirectly, any compensation for such services or reimbursement for expenses from any source other than herein provided.

(7) Counsel shall be appointed under this Rule only when, because of conflict of interest or other sufficient reason, the individual cannot properly be represented by the Defender Association of Philadelphia. The provisions of this Rule shall not apply where the defendant is represented by the Defender Association of Philadelphia.

B. Homicide Cases

(1) The appointment of counsel in homicide cases shall be made as may be provided by the Administrative Judge from time to time.

(2) Counsel appointed pursuant to Section B(1) of this Rule shall not exceed one, except that in cases of extreme complexity or where the interest of justice would so require, the Trial Judge may, after consultation with, and the consent of the President Judge, appoint co-counsel.

(3) (a) Assigned counsel may also make a written request to obtain investigative, expert or other services necessary to an adequate defense in accordance with Phila.Crim.R. *122-12 G(4). Upon finding after proper inquiry that such services are necessary, the Court shall authorize counsel to obtain such services on behalf of a defendant.

(b) In order to expedite reimbursement to counsel for services rendered by investigators or other experts authorized by the Court at the conclusion of such expert services

rendered on behalf of the defendant counsel may submit a Petition and Order for reimbursement to counsel for such expert fee. Said Petition and Order shall be submitted to either the Trial Judge, if there is a trial, or to the Judge presiding over the disposition of the matter and may be submitted at any stage of the proceedings. The Petition and Order for reimbursement must contain all information and exhibits relevant to the reimbursement of expenses as described in Phila.Crim.R. *122-12 (D) (1) and (2). Upon submission by counsel of the Petition and Order for reimbursement, the appropriate Judge shall immediately review the Petition and authorize payment to counsel of such expert fees as are considered reasonable and necessary in accordance with Phila.Crim.R. *122-12 (G) (2). The reviewing Judge will then forward the Petition and Order for reimbursement to the Deputy Court Administrator for Fiscal Affairs for review and payment.

(4) Upon the conclusion of counsel's representation under this Rule, or any segment thereof, the Judge sitting at the trial of the case, if there is a trial; otherwise, the Judge presiding over the disposition of the matter shall, after the filing of the claim and sworn statement in accordance with Phila.Crim.R. *122-12, allow such counsel all reasonable personal and incidental expenses, and compensation for services rendered.

(5) Counsel shall be compensated for services rendered at a rate not exceeding fifty dollars (\$50) per hour for time reasonably expended in Court, and forty dollars (\$40) per hour for time reasonably expended out of Court. Such compensation shall not exceed four thousand dollars (\$4,000) where one counsel has been assigned, and shall not exceed a total of six thousand (\$6,000) where two counsel have been assigned. Payment in excess of the limits stated herein may only be made, if the Court to whom the application is made certifies to the President Judge that because of extraordinary circumstances set forth, such additional payments are necessary to provide fair compensation for representation. Any payment in excess of the above limits will be at the discretion of the President Judge. When two counsel have been assigned, their claims for compensation and reimbursement shall be stated separately. Each claim for compensation and reimbursement shall be made in accordance with the provisions of Phila.Crim.R. *122-12.

(6) Counsel so assigned must file with the Judge an affidavit that he has not, directly or indirectly, received, nor entered into a contract to receive, any compensation for such services from any source other than herein provided.

C. Appointments. Appointments made pursuant to this Rule continue through all stages of the proceedings in accordance with Phila.Crim.R. *122-12 (B).

D. Payment. Such allowance of expenses and compensation under this Rule shall be a charge upon the City and County of Philadelphia, to be paid by the City Treasurer, upon the certification of the appropriate Judge.

E. Reimbursement

(1) The defendant or the spouse, child (except as hereinafter provided), father and mother of every indigent person, whether a public charge or not, shall, to the extent of his, her or their financial ability, reimburse the City and County of Philadelphia for compensation and expenses incurred and paid to Court-assigned counsel at such rate as the Court shall order and direct. No child shall be liable for the support of any parent who abandoned the child and persisted in the abandonment for a period of ten years during the child's minority.

(2) The Common Pleas Court shall have the power to hear, determine and make orders and decrees in such cases upon the petition of the City and County of Philadelphia. Such order

shall have the force and effect of a judgment for the payment of money and shall be entered in the judgment index of the Office of the Prothonotary.

(3) In all cases where an order has been made by the Court for reimbursement to the City and County of Philadelphia for compensation and expenses paid to Court-assigned counsel and the said order has not been complied with, the Court, or any Judge thereof, upon affidavit or petition filed setting forth that the person on whom the said order has been made has not complied with the said order, shall issue an attachment directed to the Sheriff, directing and commanding that the person named as having failed to comply with said order be brought before the Court at such time as the Court may direct. If it shall appear to the Court, after hearing, that the person on whom the said order was made has willfully neglected or refused to comply with said order, the Court may adjudge said person in contempt of Court and, in its discretion, may commit said person to the county jail for a period not exceeding six months.

Rule *122 – 12 *Guidelines for Court-Appointed Counsel Who Request Compensation and Reimbursement in Criminal Cases.*

A. *Statutes:*

All petitions for compensation and reimbursement in cases where the defendant is charged with murder shall be treated under the provisions of Act 180 of July 22, 1970. This Act shall apply even where counsel is appointed for only a portion of the entire case and shall include appellate proceedings. All other charges fall within the requirements of Act 438 of January 19, 1968.

B. *Appointments.* Appointments in criminal cases continue from the time of the appointment through and including appeals to the highest state Appellate Court, including new trials and violations of probation, if any. The Court shall not permit appointed counsel to withdraw unless upon good cause shown. In any case where there is a change of appointed counsel, the statutory limitation amount shall apply to limit the aggregate amount of appointment fees to be paid in the case.

C. *Payments.* In order to receive payment for services rendered and costs incurred, each Court-appointed counsel must file an original and three (3) legible copies of a request for compensation and reimbursement in the form of a petition and order with the Deputy Court Administrator for Fiscal Affairs.

(1) Petitions requesting compensation for pretrial work, trial work, or work done in connection with post-trial motions may be filed only after judgment of sentence or verdict of acquittal has been rendered.

(2) Petitions requesting compensation for work done in connection with an appeal may be filed only after oral argument has been held unless the appeal is to be decided on briefs only in which cases petitions may be filed only after all briefs have been submitted.

(3) Petitions requesting compensation for PCRA work may be filed only after a hearing has been held and all required briefs have been submitted.

The above limitations do not apply where Court-appointed counsel has withdrawn his/her appearance prior to the time a filing is permitted. In such cases, petitions may be filed immediately after counsel's petition to withdraw has been granted. In all other cases, however, petitions for compensation may not be filed at a time other than specified except in the event of extraordinary circumstances which must be set forth in the body of the petition.

D. *Content of Requests for Compensation:*

(1) The petition must include the following: the Trial Judge's name, the Court, term and

number of the case, the defendant's name, the appointed counsel's name, the charge(s), the current status or final disposition of the case as of the time of the petition, an averment that neither compensation nor reimbursement was received from any other source, an averment that defense counsel personally performed the services set forth, a wherefore clause stating the total amount of compensation and reimbursement requested, any appropriate exhibits and an affidavit of counsel. In addition, the following exhibits shall be attached as a part of the petition: a chronologically itemized list of the time expended, services rendered and expenses incurred as well as a copy of the appointment letter and other relevant orders, such as an authorization order for experts and investigative fees.

(2) The order must include the Trial Judge's name, the Court, term and number of the case, the defendant's name, the appointed counsel's name, the charge(s), and the appropriate blank spaces for the total amount of compensation and expenses to be paid.

E. Review by Deputy Court Administrator for Fiscal Affairs. The Deputy Court Administrator for Fiscal Affairs shall initially review the petition, and comment on the correctness of the mathematical calculations, the prior payments disbursed, the appropriate statute to be considered by the Judge, and any unusual aspects concerning the petition which should be brought to the attention of the reviewing Judge.

F. Substance of Review. Petitions for compensation and reimbursement shall be reviewed as follows:

(1) In those cases in which counsel has not requested a sum beyond the statutory limit, the Trial Judge shall review the petition and the calculation sheet of the Deputy Court Administrator for Fiscal Affairs and enter an order for payment in an appropriate amount which constitutes final approval.

(2) For Act 180 (murder) cases in which the sum requested exceeds the statutory limit, only the President Judge has the authority to approve payment beyond the statutory limit. Where such a sum is requested in counsel's petition, the Trial Judge shall forward the petition to the Deputy Court Administrator for Fiscal Affairs for submission to the President Judge. The Trial Judge shall attach his recommendation to the petition and a brief statement in support thereof. The order for payment by the President Judge will constitute final authority.

(3) In Act 438 (non-murder) cases in which counsel has requested a sum which is in excess of the statutory limit, the authorization of the appropriate Administrative Judge is required. Where such a sum is requested in counsel's petition, the Trial Judge shall forward the petition to the Deputy Court Administrator for Fiscal Affairs for submission to the appropriate Administrative Judge and attach a statement of his recommendation and a brief supporting statement thereof. The order for payment by the appropriate Administrative Judge will constitute final authority.

G. Standards. The following standards shall apply to determine the appropriate compensation and reimbursement:

(1) In-Court time is that time which counsel is actually engaged in Court representing the defendant in the assigned case in a judicial proceeding. Out-of-Court time is all other time reasonably expended in the representation of the defendant in the assigned case including time spent waiting in Court for the case to be reached. It is within the Judge's discretion to determine whether time is reasonably spent. The Court in determining reasonableness may consider whether the time spent was necessary or whether less time consuming alternatives existed.

(2) Counsel may be reimbursed for reasonable extraordinary duly authorized expenditures necessary for the proper representation of the defendant including, but not limited to, unusual out-of-town travel, reproducing documents, filing fees, if an actual expense, witness fees including expert fees and fees for consulting with potential expert witness and investigatory fees.

(3) Expenditures which are not considered extraordinary and are not therefore reimbursable include, but are not limited to, normal travel, secretarial services, preparation of the petition and order for reimbursement and compensation or general legal research.

(4) Counsel should obtain an authorization order for the expenditure of sums for expert investigation fees and other extraordinary expenses. The petition, rule and order for authorization may be filed before the appropriate Calendar Judge, the motions Judge or to the assigned Trial Judge, depending on the status of the case. In extraordinary situations, the President Judge or the Administrative Judge of the appropriate division shall review the request. Any authorization petition filed should indicate whether any other similar requests have been filed or granted. In those cases where the actual expenditure exceeds the authorization order, the appropriate Judge shall decide whether the sum requested will be allowed. Where the Court orders reimbursement of expenses prior to a final disposition, the Court may also order payment forthwith where delay in reimbursement may cause difficulty in obtaining the services for which expenses are being awarded.

(5) Where an appeal is taken, counsel must file an affidavit of indigency with the appropriate Appellate Court to eliminate the payment of filing fees and therefore negating the necessity for counsel's subsequent request for reimbursement by the Court.

(6) Counsel should consider that appointment by the Court is a public trust and should keep requests for compensation and reimbursement to a fair and reasonable sum consistent with any other request for payment out of public funds. If counsel does not feel that such a request can remain within this standard, he should decline the appointment.

Rule *122-13 Procedure in Cases Involving Ineffective Assistance of Counsel.

In all cases where an allegation of ineffective assistance of counsel has been finally sustained, whether by the Trial Court or an Appellate Court, and in all cases where relief is sought based on trial counsel's self-declared ineffectiveness (whether or not a finding of ineffectiveness is finally made by a Court) the following procedures shall be followed.

A copy of the Court's Opinion and Order will be forwarded by the Trial Judge (or the supervisor of the Appeals Unit in appellate remands) to the Deputy Court Administrator for Criminal Listings together with relevant portions of the Notes of Testimony when available. It will be the responsibility of the Deputy Court Administrator to maintain a record of all such cases. After recording receipt of the case, three copies of the documents ordered will be forwarded to each member of a panel which shall consist of the Administrative Judge of the Trial Division, the Court Administrator and the Trial Judge. If after reviewing the record and consultation, a majority of the panel concludes there is probable cause for disciplinary action the case shall be referred to the Disciplinary Board of the Supreme Court.

Judges shall be notified through the Office of Court Administration of all cases wherein an allegation of ineffective assistance of counsel has been sustained or wherein relief was sought based on the self-declared ineffectiveness of trial counsel. Said notice shall serve as a guide to

Judges when consideration is given to candidates for appointments to represent indigent defendants.

Nothing in this procedure shall prohibit a Judge, action *sua sponte*, from referring a case for investigation to the Disciplinary Board. However, in all such cases, the Judge shall notify the Deputy Court Administrator that such action has been taken, so that a record may be maintained and the proceeding followed.

Rule *122-14 Attorneys with Twenty (20) or More Cases.

Counsel representing defendants in twenty (20) or more criminal cases which have not been brought to trial within six months of the initiation of prosecution (such category will hereinafter be referred to as “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 inventory is reduced to less than twenty (20) cases.

(A) It shall be the duty of the Director for Data Processing and Technology, at the end of every month, to prepare a list of attorneys who, at such time, represent such an inventory. Said list shall include the attorney’s name, the number of cases in such inventory, the name of each defendant in each such case, the charges and the Court term and number. A copy of this list shall be furnished to the Deputy Court Administrator for Operations Criminal, to each counsel named and the Office of the District Attorney, with notice to counsel that this Rule will become operative, unless, within ten (10) days, a petition is filed in accordance with (B) hereof.

(B) Counsel affected by the application of this Rule shall have the right to petition the President Judge of Common Pleas Court to assign a Judge thereof to promptly fix a hearing for the purpose of determining:

- (1) The accuracy of the list prepared by the Court Administrator,
- (2) The responsibility for the delay in any of the listed cases,
- (3) The existence of extraordinary circumstances or compelling reasons justifying exemption from the Rule. The filing of such a petition shall operate as a supersedeas.

(C) Notices of this hearing shall be given to petitioner and the District Attorney, both of whom shall have the right to be heard and to present documentary and other pertinent evidence. The Court, at the conclusion of the hearing, shall promptly make findings of fact.

(D) Upon finding that a petitioner’s inventory has not been occasioned by his inability to appear for cases which are otherwise ready for disposition, the Court shall enter an Order relieving him from the application of this Rule, accompanied by such other Order as may be appropriate.

(E) Where subject counsel has one or more partners or associates in the practice of law, entries of appearance by said partners or associates shall not be considered in determining the defendants represented by counsel whose cases have not been brought to trial within the prescribed time. In no event shall substitution of appearances be permitted by counsel where such substitution is to avoid compliance with this Rule. Defendants who are fugitives or whose cases are in deferred status by reason of incompetency or other good and sufficient reason, shall not be included in determining the number of cases outstanding for a period in excess of six months.

Rule * 202. Approval of Search Warrant Applications by the Attorney for the Commonwealth.

The District Attorney of Philadelphia County having filed a certification pursuant to Pa.R.Crim.P. 202, no search warrants shall be submitted to any judicial officer unless it has first been reviewed

and approved by an attorney for the Commonwealth.

Note: Former Philadelphia Criminal Rule 402. Renumbered June 4, 2014, effective July 21, 2014.

Rule 435 Cases in which Victim is a Minor.

All cases in which a victim is a minor are to be heard by the Family Court Division, Juvenile Branch.

Rule *462. Trial De Novo. Summary Appeals.

The court of common pleas may schedule a status or settlement conference prior to the *de novo* summary trial. In the event the attorney for the Commonwealth and the defendant reach a negotiated plea, the plea may be entered before a Trial Commissioner and, upon approval by a judge, the negotiated sentence will be recorded. In the event a negotiated plea is not reached or is not approved by the court, the case shall be heard *de novo* by a judge of the court of common pleas sitting without a jury.

Rule *507. Approval of Police Complaints and Arrest Warrant Affidavits by the Attorney for the Commonwealth.

The District Attorney of Philadelphia County having filed a certification pursuant to Pa.R.Crim.P. 507, criminal complaints and arrest warrant affidavits by police officers, as defined in the Rules of Criminal Procedure, charging any misdemeanor or felony shall not be submitted to any judicial officer unless it has first been reviewed and approved by an attorney for the Commonwealth.

Note: Former Philadelphia Criminal Rule 401. Renumbered June 4, 2014, effective July 21, 2014.

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.

Rule 520 Regulations Pertaining to Bail, Court of Common Pleas and Municipal Court.

(A) Initial Determination of Bail. Upon defendant's arrest, the initial determination of bail, where bail is applicable, to insure his appearance at proceedings concerning the charges for which he was arrested shall be made at Preliminary Arraignment by the Arraignment Court Magistrate regularly assigned. Appeals from the Arraignment Court Magistrate's decision shall be heard only by the Emergency Municipal Court Bail Appeal Judge specifically assigned by the Municipal Court President Judge. No other Municipal Court Judge may make such initial determination of bail, except upon prior written order of the President Judge of the Municipal Court, or, in the case of a Judge of the Court of Common Pleas, both the President Judge of the Municipal Court and the President Judge of the Court of Common Pleas.

(B) Modification of Bail.

(1) Modifications as to the form and amount of bail made as part of the Preliminary Hearing or Municipal Court trial shall be made only by the Judge assigned to the Preliminary Hearing or Municipal Court trial.

(2) Any modification as to the form and amount of bail between Preliminary Arraignment and

Common Pleas Court trial (except as part of the Preliminary Hearing or Municipal Court trial) shall be made only by the Judge regularly assigned to the Common Pleas Court Criminal Motion Court, or on weekends and Court holidays to the Judge assigned in advance for this purpose by the President Judge of the Common Pleas Court.

The assignment to the Common Pleas Court Criminal Motion Court shall be for a seven-day period, and the Judge so assigned, if not available in City Hall, will be available by telephone through the City Hall Message Center.

(3) An application for modification of bail shall be in writing and shall include the defendant's name, address, Municipal Court number, or, if the defendant has been indicted, the indictment number, the charges, the present bail, the date and name of the Judge or Bail Commissioner who presided at the Preliminary Arraignment or Municipal Court trial. During the normal hours of Court operation (9 a.m. to 5 p.m., Monday through Friday), the application shall be filed with the clerk of the Motion Court. The Clerk shall designate in writing the time and place of the hearing to be held in the Motion Court. The District Attorney shall be served with notice of the application by counsel for the applicant at least twenty-four (24) hours before the scheduled hearing unless waived by the Motion Court Judge or the District Attorney.

If the application for modification of bail is made during other than normal hours of Court operation, it shall be filed with the Judge assigned to the Common Pleas Court Criminal Motion Court, who shall indicate thereon the time, date, and place of the hearing. Notice of the application and the time, date and place of the hearing shall be communicated to the District Attorney at least twenty-four (24) hours prior to the hearing unless waived by the Judge assigned to the Motion Court or the District Attorney.

(4) No Judge shall rule upon such application without first providing the attorney for the defendant and the District Attorney opportunity to be heard and present evidence.

(5) The defendant need not be present. If defendant's counsel wishes to have the defendant present during the normal hours of Court operation, counsel must request the clerk to issue and deliver to the Sheriff an appropriate bring-down order.

(6) All evidence offered at hearings held in Motion Court shall be stenographically recorded. Evidence presented on weekends, or Court holidays need not be so recorded.

(7) At the conclusion of the hearing, whether stenographically recorded or not, the Judge shall issue a written order as to the amount and form of bail on a certificate provided by the clerk. Copies of the certificate which shall include the Municipal Court number or indictment number, shall be issued forthwith to the attorney for defendant and the District Attorney. Counsel for the defendant shall have the responsibility of delivering the original order to the clerk of the Motion Court. If the order is issued during other than the normal hours of Court operation, the attorney for the defendant shall file the original with the clerk of the Motion Court on the first regular Court day thereafter. The copy issued to defendant's counsel shall be surrendered by him at the time bail is entered.

(8) Only one such application for bail shall be made unless defendant can establish to the satisfaction of the Court that: 1) there has been a significant change in defendant's circumstances; 2) there has been a material change in applicable law; 3) defendant has newly discovered evidence; or 4) there has been an unreasonable delay on the part of the Commonwealth in bringing the defendant to trial. Any second or subsequent bail application under the provisions of this Rule must include in the written notice a statement of the earlier application or applications and reasons why further bail proceedings are warranted.

(C) Modification at Trial. Once indictments have been assigned to an individual Judge for trial,

only that Judge may consider an application to modify the amount or form of bail. If the existing bail shall have been set by another Judge of the Court of Common Pleas, the Trial Judge shall not modify such order, except upon proof to his satisfaction of the existence of one of the reasons stated in Subsection B(8) of these Rules.

(D) Habeas Corpus Bail. Bail-pending proceedings on a petition for writ of habeas Corpus shall be determined by the Judge regularly assigned to the Criminal Motion Court, or, on weekends and Court holidays, by the Judge assigned pursuant to Subsection B of this Rule to hear bail applications. No other Judge may make such initial determination of bail on the petition, except upon written order of the President Judge.

(1) The amount and form of bail pending the petition shall be determined according to the procedures required by Subsection B of this Rule.

(2) If bail on the charges has been previously set by another Judge of the Court of Common Pleas, the Judge receiving the petition shall set bail on the petition in like amount and form. Any bail bond or other form of security accepted by the Court for defendant's release on the charges shall likewise be accepted for release on the petition.

(3) If bail on the charges was set by a Municipal Court Judge or has not been set at all, the Judge receiving the petition shall set bail as provided in these Rules and such bail shall apply both to the petition and the charges and shall supersede any bail on the charges as may have been set.

(E) Scheduling Habeas Corpus Hearings. In addition to setting bail, the Judge receiving the petition shall set a return date, not sooner than five calendar days from presentation of the petition, for a hearing in the Criminal Motion Court, and a copy shall be served forthwith on the District Attorney. A hearing on the petition may not be held before any Judge other than the Judge regularly assigned to the Criminal Motion Court or earlier than five calendar days from presentation except upon written order of the President Judge.

(F) Invalid Orders. Any action by a Judge not authorized to hear an application for bail shall be invalid and the clerk shall not accept any bail entered pursuant thereto.

(G) District Attorney Warrants. Arrests made pursuant to District Attorney Warrants shall be scheduled for Preliminary Arraignment at the Police Administration Building.

(H) Appeal by Way of Re-Arrest. When a re-arrest is effected by the Commonwealth following dismissal of the earlier proceeding because of lack or want of prosecution, the Preliminary Arraignment shall be conducted by the designated Municipal Court Judge.

When a re-arrest is taken in the nature of an appeal by the Commonwealth from an earlier dismissal, the Judge assigned to the Common Pleas Court Motion Court shall hold the Preliminary Arraignment. The Preliminary Hearing shall likewise be scheduled in the Common Pleas Court Motion Court, within three to ten days after preliminary arraignment. Continuances may be granted in accordance with Local Court Rule 801, Continuances at Preliminary Hearings; no continuances shall be longer than two weeks, unless for cause shown or by agreement of both counsel.

Note: Former Philadelphia Criminal Rule 500. Renumbered June 4, 2014, effective July 21, 2014.

Rule 528 Ten Percent (10%) Deposit of Bail.

(A) Any defendant who has been properly granted bail may obtain his release from custody as provided herein by depositing with the issuing authority or clerk of Court a sum of money equal to ten percent (10%) of the full amount of the bail, but in no event less than twenty-five dollars (\$25), and by executing a bail undertaking. A private individual who is not a surety or fidelity

company or professional bail bondsman or agent thereof may act as a third-party surety and execute the aforementioned bail undertaking on behalf of the defendant. Except as provided in this section, no other individual or business entity may act as a third-party surety.

(B) With respect to deposited bail pursuant to subsection A, the Court is empowered by General Court Regulation to designate a minimum sum of money which shall be retained by the Court. This sum shall be considered earned at the time the bail undertaking is executed.

(C) Upon compliance with all the provisions of this Rule, the defendant shall be released from custody imposed in the criminal charge on which he has made bail.

(D) Upon the full and final disposition of the criminal case in which defendant has deposited bail in accordance with this Rule, the bail deposit, less the retention amounts provided in subsection B, shall be refunded to the individual who originally paid the deposit. To effect this return, the issuing authority or clerk of Court shall promptly notify the aforementioned individual of the full and final disposition of the case and include instructions for obtaining the return of the deposit. Said notice may be in writing, sent to the last recorded address of the party who deposited bail. Any deposited funds not claimed within 180 days from the aforementioned notice shall be deemed forfeited to the Court.

(E) A defendant, or a third party surety as defined in this Rule, may post realty as security for bail. In this event, an encumbrance shall be created immediately on such realty before the defendant may be admitted to bail. The said encumbrance shall remain in force until the case is disposed as provided in Subsection (D).

Realty posted as security for bail shall be valued in an amount equal to the assessed value of the realty used for determining tax liability on the realty. Only realty with an unencumbered assessed value equal to, or in excess of, the full amount of bail shall be accepted as security for the bail.

Comment: The minimum retention figures designated pursuant to subsection (B) are a fee equal to 30% (thirty percent) of the amount of the deposit or 3% (three percent) of the total amount of the bail. However, the maximum amount retained shall not exceed \$1,500 regardless of the total amount of the bail or the amount of the cash deposit. In no event shall the amount retained by the Court be less than \$10 (ten dollars).

Note: Former Phila. Crim. R. 506. Comment amended and rule renumbered on April 20, 2012 by Administrative Governing Board Order 03 of 2012.

Rule * 530. Duties and Powers of Bail Agency. Pretrial Services Division.

In all cases where the defendant is released on bail, whether the bail be nominal or substantial, and including cases where the defendant is released on his own recognizance, the Pretrial Services Division may be designated as surety for the defendant. Such designation shall not relieve the defendant or any third-party surety of any obligation imposed by these rules or other provisions of law.

Where the Pretrial Services Division is designated as a surety, the defendant shall be subject to all reasonable supervisory rules and regulations imposed by the Pretrial Services Division. Where the defendant fails or refuses to comply with these rules, he may be brought before the Court to determine whether additional bail shall be set in the case.

Note: Former Phila. Crim. R. 506. Renumbered June 4, 2014, effective July 21, 2014.

Rule *536. Procedures upon Violation of Conditions: Revocation of Release and Forfeiture; Bail Pieces; Exoneration of Surety.

(A) The presiding Judge may issue a bench warrant and order bail to be forfeited whenever the defendant does not appear on a day indicated, within one hour of the scheduled Court action.

At preliminary arraignment each defendant shall be given written notice of his next Court appearance. This notice shall state the date, time and place of the required appearance. It shall be the responsibility of the defendant to appear for any scheduled Court action. The defendant shall be served with written notice of any subsequent Court action, but failure to receive notice will not relieve the defendant of the responsibility of appearing.

THE SURETY IS UNDER OBLIGATION TO PRODUCE THE DEFENDANT FOR ALL REQUIRED COURT APPEARANCES UNDER PENALTY OF FORFEITURE OF HIS BAIL BOND. NO OTHER NOTICE TO THE SURETY SHALL BE REQUIRED.

(B) Any bench warrant issued may be withdrawn by the presiding Judge or Administrative Judge, for proper cause. A bail order sue-out may be withdrawn by the presiding Judge or Administrative Judge at any time before judgment is entered thereon.

(C) Rescinded.

(D) No bail order sue-out which is reduced to judgment may be rescinded or altered, except by the President Judge of the Common Pleas Court or his designee, in accordance with the following procedure:

(1) The surety shall file a petition with the Office of Judicial Records as may be provided from time to time.

(2) A hearing will be scheduled before a designated Court officer at which the surety will have the opportunity to demonstrate facts in support of his petition, and to make oral argument. The hearing officer will make findings of fact and submit them to the President Judge or his designee for review.

(3) As a general guideline, judgment on forfeited bail shall be reduced according to the following schedule, absent compelling reasons to the contrary:

Amount of time between bench warrant and defendant's return to jurisdiction of the Court	Percentage of judgment which will be reduced
0 - 60 days	90%
61 - 90 days	70%
91 - 120 days	50%
121 - 180 days	30%
Over 180 days	0%

(4) For good cause shown, the President Judge or his designee may order all or partial vacation of judgment notwithstanding the schedule in subsection 3.

(E) Any surety, for proper cause finding his position insecure, may apply to and obtain a Bail Piece from the Office of Judicial Records. This Bail Piece shall entitle said surety to arrest the named defendant for which the surety has deposited bail and surrender him to the Superintendent of Prisons for incarceration. The Superintendent of Prisons shall accept said defendant for incarceration when a proper bail piece is submitted to him.

Note: This rule combines former Philadelphia Criminal Rules 510 and 520. Renumbered June 4, 2014, effective July 21, 2014.

Rule * 540 Preliminary Arraignment.

(A) Preliminary arraignments shall be held 24/7/365.

(B) Police shall direct all requests for bedside arraignments to the Arraignment Court Magistrate sitting on the day shift at the Justice Juanita Kidd Stout Center for Criminal Justice.

Note: Former Phila. Crim. R. 550. Renumbered and amended June 4, 2014, effective July 21, 2014.

Rule *542 Preliminary Hearing.

(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.

Note: Former Phila. Crim. R. 555. Renumbered June 4, 2014, effective July 21, 2014.

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.

Note: Issued on October 27, 2016 as Administrative Order No. 04 of 2016 by President Judge Sheila Woods-Skipper. Published in the *Pennsylvania Bulletin* November 19, 2016, effective December 19, 2016.

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 **pg. 22** 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.

Note: Issued on October 27, 2016 as Administrative Order No. 04 of 2016 by President Judge Sheila Woods-Skipper. Published in the *Pennsylvania Bulletin* on November 19, 2016, effective December 19, 2016.

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 _____

Rule *571. Arraignment.

Arraignments may be conducted by Trial Commissioners. As authorized by Pa.R. Crim. P. 571, the Arraignment is scheduled as a matter of course approximately twenty-one (21) days after the date the matter is held for court, or a Municipal Court Appeal is filed. The District Attorney shall file the Information at least five days (5) before the scheduled Arraignment date and must have discovery available at the Arraignment. If the Information has not been filed before the scheduled Arraignment date, and the Arraignment is not waived by the defendant, the Arraignment shall be continued until the Information is filed. However, the Arraignment may be waived, even if the Information has not been filed, consistent with Pa.R.Crim.P. 571.

Rule 576 Pilot Program: Electronic**Filing and Service of Motions and Other Legal Papers**

(a)(1) General Scope and Purpose of this Rule. The electronic filing of motions and other legal papers in the criminal courts of Philadelphia County is hereby authorized as specifically provided in this rule. The applicable general rules of court and court policies that implement the rules shall continue to apply to all filings regardless of the method of filing. Electronic filing and service shall be governed by this rule.

(2) Legal papers. In the context of this rule, the “legal papers” which may be filed electronically shall encompass all written motions, written answers and any notices or documents for which filing is required or permitted, including orders, exhibits and attachments, but excluding:

- (i) applications for a search warrant;
- (ii) applications for an arrest warrant;
- (iii) criminal complaints;
- (iv) bills of information;
- (v) grand jury materials;
- (vi) legal papers filed ex parte as authorized by law; and
- (vii) legal papers filed or authorized to be filed under seal.

Comment: The primary intent of this rule is to facilitate the electronic filing of all legal papers other than as specifically excluded in this subsection. Until such time as necessary protocols are adopted to permit the electronic filing of these excluded legal papers, they shall be filed in paper format so as to limit potential harm to any party and to protect the confidentiality of information as provided by law.

(b) Participation and Fees.

(1) An attorney must establish an account, apply for a Username, Password and Personal Identification Number (“PIN”), and supply an email address in order to use the Criminal Electronic Filing System. An attorney is responsible for the actions of other individuals whom the attorney authorizes to use the attorney’s account. Parties who are proceeding without counsel must also establish an account, apply for a Username, Password and Personal Identification Number (“PIN”), supply an email address and be authorized to access their cases through the Criminal Electronic Filing System. Service of electronic filings on attorneys who have established an account and on parties without counsel who have been authorized will be made automatically by the Criminal Electronic Filing System.

(2) The clerk of court shall not require the payment of a filing fee by any party found by the court to be indigent and is represented by an attorney appointed pursuant to Pa.R.Crim.P. 122 or Pa.R.Crim.P. 904, or who has been granted in forma pauperis status, or is represented by an attorney who is providing free legal service to the party and has filed the praecipe required by Pa.R.C.P. No. 240 (d).

(3) Applicable filing fees shall be paid electronically through procedures established by the clerk of courts, and at the same time and in the same amount as required by statute, court rule or order. The clerk of courts shall accept payment as follows:

- (i) electronically, at the time the legal paper is electronically filed through the Criminal Electronic Filing System, with the following credit or debit cards: American Express, Discover, MasterCard, and Visa;
- (ii) by mail, with certified or cashier check and money order; and
- (iii) in person, in cash, certified checks and with the following credit or debit cards: American Express, Discover, MasterCard, and Visa.

(c) Use of the Criminal Electronic Filing System.

(1) Electronic filings may be submitted through the website of the First Judicial District of Pennsylvania: <http://www.courts.phila.gov> beginning on April 1, 2013 in accordance with the filing instructions contained in this rule and as may be otherwise provided at that site.

(2) Electronic filings may be submitted at any time (with the exception of periodic maintenance).

(3) The Criminal Electronic Filing System will attribute the filing of an electronic legal paper to the party whose Username, Password and PIN is used to log on and file the legal paper. The following additional provisions govern the signature and verification of legal papers:

- (i) The signature of the filer on electronic filings shall be in the following form: /s/ Chris L. Smith.
- (ii) The sworn affidavit or verification required by Pa.R.Crim.P. 575(A)(2)(g) and (B)(3)(d) shall be converted to a portable document format (hereinafter “pdf”) and shall be attached to the legal paper when it is electronically submitted.
- (iii) Any exhibit or other legal paper that requires or contains multiple signatures shall be converted to a pdf and shall be attached to the legal paper when it is electronically submitted.
- (iv) The electronic filer shall maintain the original of a sworn or verified document contained in an electronic filing (e.g., affidavit) or contained within an electronic filing (e.g., verification), and shall make it available upon direction of the court or reasonable request of the signatory or opposing party.

(4) All legal papers electronically filed must be filed in a pdf and shall be maintained and retained by the clerk of courts in an electronic format. Neither the clerk of courts nor the court is required to maintain a hard copy of any legal paper filed electronically as provided in this rule.

(5) The electronic filing of a motion constitutes a certification pursuant to Pa.R.Crim.P. 575 that the filing party or attorney has read the motion, that to the best of the filing party’s or attorney’s knowledge, information and belief there is good ground to support the motion, and that it is not interposed for delay.

(6) The clerk of courts shall provide, through the Criminal Electronic Filing System's website, an acknowledgement that the legal paper has been received, including the date and time of receipt, in a form which can be printed for retention by the filing party.

(7) Unless the legal paper is rejected by the clerk of courts, and provided that the requisite payment has been received prior to or at the date and time of submission, the filing date and time of a legal paper shall be the date and time of submission. If the legal paper is not rejected by the clerk of courts, and the payment is received after the date and time of submission, the filing date and time of a legal paper shall be the date and time payment is received.

(8) Upon review of the legal paper, the clerk of courts shall provide, through the Criminal Electronic Filing System's website, an acknowledgement that:

(i) the legal paper has been accepted for filing, including the date and time of acceptance, and that the legal paper was served on the parties as provided in this rule, in a form which can be printed for retention by the filing party; or

(ii) the legal paper has been rejected as authorized by law. The clerk of courts shall immediately notify, by email, the filing party of the reason for the rejection and whether the legal paper may be modified or a new legal paper must be submitted.

(9) A filing party shall be responsible for any delay, disruption, interruption of the electronic signals and legibility of the document electronically filed, except when caused by the failure of the Criminal Electronic Filing System's website.

(d) Legal Papers Filed in a Paper Format. Any legal paper submitted for filing to the clerk of courts in a paper (or "hard-copy") format beginning on April 1, 2013 shall be accepted by the clerk of courts in that format and shall be retained by the clerk of courts as may be required by applicable rules of court and record retention policies. The clerk of courts shall convert such hard-copy legal paper, other than any legal paper filed under seal, to pdf. Once converted to pdf, the pdf version of the legal paper shall be deemed to be, and shall be treated as, the original legal paper and may be used by the parties and the court for all purposes, including court hearings and trials, in the Municipal Court and the Court of Common Pleas.

(e) Record on Appeal. Electronically filed legal papers, and copies of legal papers filed in a paper format as provided in subsection (d), shall become the record on appeal.

(f) Confidential information. Rescinded, effective January 6, 2018, *See* Administrative Docket No. 01 of 2018.

(g) Service of Legal Papers.

(1) Use of the Criminal Electronic Filing System shall constitute the filer's certification that the submission is authorized and that electronic notice and service of other documents through the Criminal Electronic Filing System will be accepted by the filer.

(2) The submission of an electronic filing shall satisfy the service requirements of Pa.R.Crim.P. 576 on any attorney or party who has established an account as provided in subsection (b)(1) of this rule.

(3) Service of electronic filings on any attorney or party who has not established an account as provided in subsection (b)(1) of this rule shall be made by the traditional methods required under Pa.R.Crim.P. 576.

(h) Miscellaneous provisions.

(1) Rescinded, effective January 6, 2018, *See* Administrative Docket No. 01 of 2018.

(2) Rescinded, effective January 6, 2018, *See* Administrative Docket No. 01 of 2018.

(3) Rescinded, effective January 6, 2018, *See* Administrative Docket No. 01 of 2018.

(4) The clerk of courts shall provide training and assistance to all parties as may be necessary to electronically file legal papers as provided in this rule.

(5) The clerk of courts shall provide sufficient computer terminals at such locations as may be determined from time to time to allow parties and the public to access legal papers as provided by this rule and as authorized by applicable Public Access policies.

(i) As provided in subsection (a), the procedures contained in this rule control in the event a provision herein conflicts with the Pennsylvania Rules of Criminal Procedure. In all other respects, the Pennsylvania Rules of Criminal Procedure apply.

(j) Duration of Pilot Program. Unless otherwise provided, the Pilot Program established by this rule shall end on April 1, 2014. The terms of the Pilot Program may be modified from time to time by the issuance of a local rule adopted pursuant to Pa.R.Crim.P. 105.

Editor's Note: The duration of the Pilot Program was extended by the Supreme Court on a yearly basis in 2014 and 2015. By order of the Supreme Court issued on February 29, 2016, the Pilot Program was "... extended until further Order of Court." See No. 470 Criminal Procedures Rules Docket. See also Nos. 424, 449, and 460 Criminal Procedures Rules Docket.

Rule 588. Motion for Return of Property. Post-Deprivation Hearing.

(A) Any person aggrieved by a search and seizure may move for the return of the property seized by filing a motion with the Trial Division, Criminal regardless of whether criminal charges have been filed against the owner of the property or the person in possession of the property. The relief requested may be interim (i.e. return of the property pending disposition of the criminal case or the forfeiture petition), or permanent in nature.

(B) In the event criminal charges have been filed against the owner of the property or the person in possession of the property, the motion shall be filed utilizing the CPCMS number assigned to the underlying case. If criminal charges have not been filed against the owner or person in possession of the property, a Miscellaneous Docket number shall be assigned through CPCMS.

(C) The filer shall serve the Commonwealth through the District Attorney's Office, and shall file an Affidavit of Service.

(D) Upon receipt of the Affidavit of Service, the Office of Judicial Records shall schedule a prompt hearing on the motion and shall notify the Commonwealth and the filer.

(E) The assigned judge may require the filing of an Answer.

(F) In the event a forfeiture petition was filed by the Commonwealth before the filing of a motion for the return of property, the motion(s) shall be assigned to the same judge for disposition, as practicable.

Note: Adopted August 11, 2016; published in the Pennsylvania Bulletin on August 27, 2016; effective September 26, 2016. See Trial Division Administrative Order No. 02 of 2016.

Rule 600 Motions/Filing.

I. Motion Court filings shall be classified as follows:

A. Pretrial Suppression Applications

Pretrial suppression applications shall be limited to applications for suppression of evidence and suppression of confessions.

B. Pretrial Applications

Pretrial applications shall include all pretrial applications other than pretrial suppression applications and miscellaneous applications, and shall include, but not be limited to, the following:

- Application for bill of particulars
- Application for psychiatric examination
- Application to quash indictment
- Application for a change of venue
- Application to disqualify a Judge
- Application for appointment of investigator
- Application for a pretrial conference
- Application for bail
- Application for appointment of counsel
- Application for trial severance
- Application for writ of habeas corpus

C. Miscellaneous Applications and Petitions

Miscellaneous applications and petitions shall include, but not be limited to the following:

- Application for summary conviction
- Application for private detective license
- Appeals from decisions of the Pennsylvania Liquor Control Board
- Applications for notes of testimony and other documents
- Application to expunge police records
- Application to vacate bail forfeiture

II. All motion Court filings shall be filed in triplicate in the Office of [Judicial Records], and, where applicable, shall contain in the caption the following information:

- Defendant's name and address
- Term and number of the indictment
- Charges
- Type of case (non-major, major or homicide)
- Place of detention, or if defendant is on bail, name and address of surety
 - Date and room number of the next scheduled Court action of the case
- Nature of the application
 - On application for suppression, an indication whether the application pertains to physical evidence, statements of identification evidence, or any combination of same.

III. All pretrial applications and pretrial suppression applications must be filed not later than ten (10) days after effective arraignment. An effective arraignment is an arraignment where trial date has been assigned or pretrial conference date fixed. Any application filed later than ten (10) days after an effective arraignment must be approved by the appropriate Calendar Judge.

Miscellaneous applications shall be filed in accordance with the applicable statutory provisions in the Office of Judicial Records.

IV. All pretrial suppression applications in non-major criminal cases shall be listed for hearing in the same courtroom and on the same date as the non-major case scheduled for trial. Pretrial suppression applications involving physical evidence and/or statements in major and homicide cases shall be listed in the Criminal Motion Court for hearing not less than ten (10) days nor later than twenty (20) days from the date of filing. Pretrial suppression application for suppression of identification evidence in major and homicide cases shall be listed for hearing in the same courtroom and on the same date as the major or homicide case is scheduled for trial.

Miscellaneous applications shall be listed for hearing at the first available opportunity which does not interfere with the hearing of pretrial applications.

V. Appeals from summary convictions or Traffic Court Appeals: To perfect appeals from summary convictions or traffic Court appeals, the attorney for the appellant or the appellant shall file an affidavit of service with the Office of [Judicial Records] setting forth that the appellant or his attorney has served a copy of the notice of appeal with the Deputy Administrator for the Municipal Court Judges or with the Traffic Court Judge (issuing authority) who heard the case. Said affidavit shall include the name of the party serving the affidavit, the date of service, the means of service (whether served personally or by certified mail), and the name of the Deputy Administrator for the Municipal Court Judges or the Traffic Court Judge served. The affidavit shall be filed with the [Office of Judicial Records] within ten (10) days from the date service was effectuated. In the event the affidavit is filed and twenty (20) days expire from the date of service upon the Deputy Administrator for the Municipal Court Judges or the Traffic Court Judge and the transcript has not been filed by the said Administrator or Judge with the Office of Quarter Sessions upon praecipe, the [Office of Judicial Records] shall enter judgment of non pros and return to the appellant the bail posted.

Rule 605 Motions Court/Criminal Calendar Program and Homicide Cases.

All Pretrial Motions applicable to cases in the Criminal Calendar Program or Homicide Program will be scheduled by the applicable Calendar Judge and heard by the Motions Court Judge assigned to that program.

All Motions must be filed in compliance with the time requirements of the Pretrial Order (sample of which is provided below) and in any event must be filed no later than ten (10) days before listed trial date. A copy of the Pretrial Order must be attached to the Motion Petition.

Every such Motion filed for a Criminal Calendar Program or Homicide case must be identified as Criminal Calendar Program or Homicide on the face of the Motion and be accompanied by a “Rule to Show Cause and Order to Set Hearing Date” petition in substantially the form of the sample provided below. The Motion is to be filed with the Motions Clerk and the proper fee paid and payment noted, on the face of the Motion, by the Clerk.

After payment of the fee, counsel must present the petition to the applicable Calendar Judge who will schedule the Motion hearing and enter the date on the Order. The Motion and Order will then be turned over to the Clerk of Quarter Sessions in the applicable Calendar Room.

The Petitions and Orders will be returned to the Motions Room Clerk at the end of each working day for standard processing of the information.

In the event that a Motion hearing has to be continued, it will still be incumbent upon the Motions Judge to hear and dispose of the Motion prior to the listed trial date. If this is not possible, then the continued date must be assigned in conjunction with the Calendar Judge. All continuance information, of course, must be processed through the Motions Court Clerk and the Data Processing System.

Motions in other than Criminal Calendar Program and Homicide cases will continue to be filed with and scheduled by the Motions Clerk in Room 685. Motions for suppression in felony listing room cases will be scheduled for hearing at trial and other Motions will be scheduled for the Miscellaneous Motions Court.

Rule 610 Motions— *Criminal List Program Cases.*

Motions in Criminal List Program cases must be filed with the Clerk of the Criminal Motions Court at least ten (10) days prior to the scheduled date of trial. Three copies will be required and it will be the responsibility of the Clerk of the Criminal Motions Court to ensure that one copy is transmitted immediately to the District Attorney's Office and that a second is immediately placed in the Court file. The third copy is to be stamped as received and returned to defense counsel as his proof of filing. Counsel shall include with the Motion a brief statement specifically identifying the basis for the Motion.

Motions for cases which are to be transferred to the Criminal Calendar Program must be heard in the Criminal List Program prior to that transfer for jury trial.

Rule 620 Procedure for Filing and Entertaining Rule 1100 (& Rule 6013) Motions.

(A) Rule 1100 petitions for Criminal Calendar Program and Homicide cases are to be filed in the appropriate calendar room and will be listed for hearings by the Calendar Judges. Where the defendant presents an oral motion for dismissal before the Trial Judge, the matter shall be referred immediately to the Calendar Judge for appropriate disposition.

(B) Rule 1100 petitions for Criminal List Program cases are to be filed in the Criminal Motion Court and will be listed for hearings by the Criminal Motion Court Judge. Where the defendant presents an oral motion for dismissal before the Trial Judge, the matter shall be referred immediately to the Criminal Motion Court Judge for appropriate disposition.

(C) In Municipal Court cases, Rule 6013 petitions are to be filed no later than noon on Thursdays in Room 685 for hearing the following week. Such petitions shall include the date on which trial is scheduled.

(D) In Municipal Court cases when the defendant presents an oral motion for dismissal under Rule 6013 at the time of trial, the procedure will be as follows:

- (1) The case will be continued and will be relisted fourteen (14) calendar days later in the same room for trial.

(2) Defendant is to be instructed to file the written petition by 12 noon on the next Thursday in Room 685. Failure to do so can be construed as a defense delay and may constitute a waiver of Rule 6013 rights.

- (E) Hearings on defense petitions for dismissal or for Commonwealth petitions for extensions of time under Rule 1100 or Rule 6013 are to be held only by the appropriate Calendar Judges or by a Judge specifically designated for such purpose.

Administrative Regulation No. 76-6 Superseding Bulletins Nos. 76-42 and 75-295, April 9, 1976; amended December 8, 1980, effective immediately.

Rule 630 *Application to Suppress Evidence in Municipal Court Cases.*

- (A) The defendant or his attorney may make application to the Municipal Court to suppress any evidence alleged to have been obtained in violation of the defendant's constitutional rights.
- (B) All pretrial applications to suppress may be submitted in writing prior to trial to the Attorney for the Commonwealth, or may be made orally at the time of trial.
- (C) Unless the interests of justice otherwise require, failure to make a timely application prior to or at Municipal Court trial shall be deemed to be a waiver of the issue of the admissibility of such evidence at any subsequent trial.
- (D) Pre-Trial Applications to Suppress shall be heard on the same day set for trial and immediately prior to trial. The Judge hearing the application to suppress will hear the same as a Common Pleas Court Judge.
- (E) If the Application to Suppress is heard pretrial in the Municipal Court or is deemed to be waived under subsection (c), and the defendant is subsequently convicted, the application may not be reinstated as part of the appeal to the Common Pleas Court, unless the trial Judge determines that new or added trial evidence, not available at the hearing prior to Municipal Court trial requires that the pretrial motion be heard again.
- (F) Upon conviction and sentence in the Municipal Court trial, a defendant shall have the right to take an appeal to and secure a trial de novo in Common Pleas Court or file a Writ of Certiorari from the Court of Common Pleas to the Municipal Court for review of the record of his conviction. In no event may a defendant take an appeal for a trial de novo and a Writ of Certiorari.
- (G) Unless specially allowed in accordance with subsection (d) of this Rule, the trial de novo shall not include relitigation of the application to suppress. A defendant may seek a review of the record of the suppression hearing heard on the day set for Municipal Court trial as part of a Writ of Certiorari.
- (H) In the event a defendant is convicted after appeal and trial de novo in the Common Pleas Court, a defendant may raise in an application for a Motion for a New Trial the admissibility of the evidence introduced at trial. If the evidence so challenged was the subject of an application to suppress heard prior to Municipal Court trial, the Court shall review the transcript and decision of the suppression hearing as part of the Common Pleas Court record.
- (I) If the application to suppress heard pretrial in the Municipal Court is granted, the Court shall grant the Commonwealth a continuance upon motion of the Attorney for the Commonwealth to give the Attorney for the Commonwealth the opportunity to take an appeal.

(J) The Commonwealth's appeal shall be taken not later than 15 days from the date of the decision of the Application to Suppress to the Common Pleas Court. Such appeal shall be limited to a review of the record of the hearing heard on the day set for Municipal Court trial.

General Court Regulation 73-8, July 31, 1973.

Rule 640 *Recording of Sentence.*

The white copy of the Information or Bill of Indictment shall serve as the official public record of proceedings in a criminal case and shall include the official record of any sentence imposed in the case. Where a sentence of incarceration is imposed in a case, the Information or Bill of Indictment shall reflect whether pre-sentence incarceration under that Bill is included in the sentence.

General Court Regulation 72-5, February 15, 1972.

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.

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

Rule 650 *Post-trial.*

- (A) A post-trial Order is to be utilized in all cases where a sentence is not immediately imposed at the conclusion of trial.
- (B) Notes of testimony in all cases in which sentencing has been deferred for post-trial motion(s) shall be transcribed within four (4) weeks of trial.
- (C) Courts en Banc shall be ordered only where absolutely essential.

General Court Regulation 71-17, November 22, 1971.

Rule 655 *Hearings on Post-trial Motions and Deferred Sentences.*

Whenever feasible Post-Trial Motions and Sentencing Hearings shall be scheduled for 4 p.m. with notice to the participants to appear at 3:30 p.m. at the appropriate location.

In order to consistently resolve conflicts which arise due to an attorney's dual duty to a Trial Judge and to a Sentencing Judge the following procedure is to be followed:

- (A) It shall be the responsibility of counsel to notify courtroom staff and the Judge of his post-trial commitment(s) that day upon his arrival in the courtroom.
- (B) In non-jury rooms, the Court shall first hear cases wherein the attorney has a verified commitment for a post-trial action at 4 p.m. of that day.
- (C) In jury rooms, every effort shall be made to accommodate the post-trial commitment so long as it is not prejudicial to the current proceeding.
- (D) When a situation arises wherein an attorney must remain past the appointed post-trial hour, the Trial Judge shall direct court room staff to notify the Post- Trial Judge as early as possible of the delay and, when possible, provide an estimate of when counsel will be available.

Supervising Judge's note: Procedure for Consolidated Guilty Plea Request under Pa.R.C.P. 1402—Pursuant to Pa.R.C.P. 1402, counsel is required to submit all requests for consolidated guilty pleas in Common Pleas cases at least 10 business days prior to the date of sentencing.

Requests must be in writing and addressed to [] CP Criminal Listings, Room 206-E, Criminal Justice Center, Philadelphia, PA 19107, with copies to the sentencing judge and the judge to whom the open matter is assigned.

Bulletin 75-9, January 9, 1975. Legrome Davis, Supervising Judge, Criminal Division, April 1998.

Rule 660 Sentencing—Fines—Indigents.

The Court shall not sentence a defendant to pay a fine unless it appears of record that:

- (1) the defendant is or will be able to pay the fine; and
- (2) the fine will not prevent the defendant from making restitution or reparation to the victim of the crime.

Star Rule *1122, adopted September 23, 1971.

Rule 670 Funeral Orders—Prisoners.

Funeral orders for prisoners shall be submitted to the Sheriff's Office for screening prior to submission to the Administrative Judge of the Trial Division for approval.

General Court Regulations 72-4, February 9, 1972.

Rule 680 Prisoners' Bring-ups.

A prisoner's "bring-up" will contain the defendant's name, Court term and number of Municipal Court transcript number, police photo number, prison number, if known, place of incarceration and the courtroom in which the defendant's presence is required.

General Court Regulation 72-10, March 17, 1972.

Rule 700 Confiscation and Disposition of Firearms.

(A) Any firearm or other deadly weapon used in the commission of a crime which is offered as an exhibit in any criminal proceeding in which the defendant who was in possession of the weapon is convicted shall be confiscated by the Trial Judge.

The Trial Judge shall order the confiscated weapon to be destroyed by the [Office of Judicial Records] or awarded to the Police Department, the Sheriff's Office or the Superintendent of Prisons as per Subsections B, C and D immediately upon expiration of the time allowed for an appeal, if an appeal is not taken.

If an appeal is taken, the confiscated weapon shall be held by the [Office of Judicial Records] and shall be destroyed or awarded only if the conviction of the possessor/defendant is sustained on appeal.

This Rule shall not be operative in homicide cases or when lawful ownership of the weapon is proved to be in an innocent person.

(B) The [Office of Judicial Records] shall keep a record of all firearms and other deadly weapons directed to be confiscated and destroyed or awarded by the Court. That record shall include a description of the firearms or other deadly weapons which have been destroyed or awarded and

the date of same. That record shall be forwarded at the end of each term of Court to the President Judge. A record of the items awarded to the Police Department, the Sheriff's Office or the Superintendent of Prisons shall be furnished to that unit at the end of each Court term.

(C) Awards shall only be made upon written request by the Police Department, the Sheriff's Office or the Superintendent of Prisons to the [Office of Judicial Records], who shall insert the request in the appropriate Quarter Sessions file prior to listing for trial. Awards to the Police Department or the Sheriff's Office or the Superintendent of Prisons shall be only for cases involving thirty-eight (38) caliber handguns, Model 12 Winchester rifles, Model 1200 Winchester rifles, shotguns and any rifle possessing a telescopic sight. These firearms shall be disposed of at the discretion of the Police Department office to which the firearms are awarded]. The firearms shall be awarded as per Subsection A.

(D) The Police Department, the Sheriff's Office or the Superintendent of Prisons may also request that other firearms be awarded to their custody through written communication with the [Office of Judicial Records]. If the request is granted, the firearm(s) will be handled as per Subsections A, B and C.

(E) The weapons contemplated by this Rule and awarded to the Police Department, the Sheriff's Office or the Superintendent of Prisons shall be for official purposes only.

Star Rule *1122(a), adopted September 23, 1971, as amended February 15, 1973; further amended March 18, 1977; further amended by the Board of Judges February 21, 1985, General Court Regulation 85-1, effective May 27, 1985.

Rule 705 Rule Governing Analysis and Destruction of Narcotic and Dangerous Drugs.

I. Analysis of Drugs.

- A. On and after March 1, 1977, in every instance of a seizure of any drug which appears on the Schedules of Controlled Substances of the Uniform Controlled Substance, Drug, Device and Cosmetic Act, the Act of April 14, 1972, P.L. 233, 35 Purdon's §780-101—780-144, the Police Commissioner or his designee shall, within 15 days after receipt thereof, perform or cause to be performed an analysis of such drugs, such analysis to include qualitative identification; weight and quantity where appropriate.
- B. Within five days after the report of such analysis is received, the Commissioner or his designee shall forward a copy thereof to the appropriate District Attorney and inform him of the location where the subject drafts are being held.
- C. The failure to have an analysis made or to forward a copy thereof within the time specified in subdivisions A and B of this section shall not be deemed or construed to bar the making or granting of a motion pursuant to this Rule or the prosecution of a case involving such drugs.

II. Pretrial Motion to Destroy Dangerous Drugs.

- A. Subject to the exception in subdivision B, and the limitations in paragraph (2) of subdivision C hereof, the District Attorney shall, within twenty (20) days after receipt of the report of analysis, move in a Court of Common Pleas for an order of destruction of any drug which appears in the Schedules of Controlled Substances of the Uniform Controlled Substance, Drug, Device and Cosmetic Act in felony or misdemeanor cases involving the possession or sale of such drugs.

- B. Exception: If special circumstances exist, making the destruction of any drug not feasible in a particular case, the District Attorney shall move the Court of Common Pleas for permission to retain the drugs pretrial and shall set forth in the petition the nature of the special circumstances and the proposed place and manner of keeping the drugs pending trial.
- C. A motion for an order of destruction of such drugs shall be in writing, have attached thereto a copy of the report of analysis, and shall be made in the following manner:
 - (1) Ex parte:
Where no defendants have been arrested in connection with the seizure of such drugs and a showing is made upon affidavit that the likelihood of any future arrest in connection therewith is non-existent; or
 - (2) Upon notice:
When a defendant has been arraigned upon an information charging him with a felony or misdemeanor involving the possession or sale of such drugs and the drugs sought to be destroyed are material to the prosecution of said information.
- D. When such motion is ex parte, the Court may order the destruction of all or part of the subject drugs.
- E. When such motion is upon notice, further proceedings shall be as provided in Section III hereof.

III. *Proceedings of Motion Upon Notice.*

- A. When such motion is on notice, a hearing thereon shall be held by the Court before which it is returnable not later than thirty (30) days after the return date and the defendant shall be present at such hearing.
- B. A hearing held pursuant to this section shall be conducted and recorded in the same manner as would be required were the witnesses testifying at trial. The District Attorney shall establish by competent evidence the nature and quantity of the drugs which are the subject of the motion. Each party shall have the right to call and cross-examine witnesses and to register objections and to receive rulings of the Court thereon. Participation by the defendant in such hearing is in no way an acknowledgment of ownership or possession of the material which is the subject of the hearing.
- C. If the Court finds upon the conclusion of the hearing that neither the prosecution nor the defendant will be prejudiced thereby it may grant the motion and may make such order as it may deem appropriate for the destruction of part or all of such drugs.
- D. A defendant may waive such hearing and consent to the granting of the motion and entry of an order of destruction either by sworn affidavit or by personal appearance in Court and declaration on the record of such waiver and consent. Such waiver is in no way an acknowledgment of ownership or possession of the material which is the subject of the motion and order.

IV. *Orders of the Court.*

- A. In any proceeding brought pursuant to this Rule, the Court may grant or deny any motion made hereunder or the relief requested therein in whole or in part and issue any order thereon as it may deem proper and as the interests of justice may require in order to effectuate the provisions of this Rule.

- B. An order of destruction of any drug which appears in the Schedules of Controlled Substances of the Uniform Controlled Substance, Drug, Device and Cosmetic Act issued by the Court pursuant to this Rule shall state the time within which the provisions of such orders are to be complied with. It shall direct the person having custody of the drug to make provision for the destruction thereof in the presence of four witnesses one of whom shall be designated by each of the following: the Commissioner of Police, the Sheriff, the District Attorney and the [Office of Judicial Records].

V. Affidavit of Destruction.

An affidavit attesting to the date, time, place and manner of destruction of any drug pursuant to an order therefor and identifying the same by reference to the report of analysis or by other identifying number or system and the order of the Court issued thereon shall be filed with the Court by the person who destroyed the drugs and by each of the witnesses required to be present by Section IV(B) of this Rule.

VI. Rules of Evidence—Drugs Destroyed Pursuant to Court Order.

The destruction of drugs pursuant to the provisions of this Rule shall not preclude the admission at trial or in a proceeding in connection therewith of testimony, the chemist's report, photographs of the drugs or other evidence where such testimony or evidence would otherwise have been admissible if such drugs had not been destroyed.

*Star Rule *329, February 17, 1977.*

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.

Editor's note: Amended by the Municipal Court Board of Judges on November 18, 2005; effective March 15, 2006.

Rule 800 Continuances in Common Pleas Felony and Municipal Court Cases.

I. No criminal trial shall be continued except for the following reasons:

- (A) Incapacitating illness of defense counsel, specially assigned Assistant District Attorney, the defendant or an essential witness for either the prosecution or the defense.
- (B) Death in the immediate family of defense counsel, specially assigned Assistant District Attorney, the defendant or an essential witness for either the prosecution or the defense.
- (C) Recusal of the Trial Judge.
- (D) Defense counsel engaged in a trial or other proceeding in a Court of record.
- (E) Counsel unprepared for trial because recently retained, but only at the first listing.
- (F) Proceedings are stayed by order of an Appellate Court.
- (G) Discovery incomplete or outstanding pretrial motions, provided the application for a continuance on these grounds is made at least two days prior to the date of trial.

(H) Unavailability of defendant's Court-ordered mental health evaluation where insanity or competency to stand trial is in issue.

(I) Unavailability of a ballistics, breathalyzer or drug analysis report prepared by the Police Department, but only at the first listing in Municipal Court.

(J) Unavailability of notes of testimony essential to trial preparation, but only when the notes have been requested in writing from the Court Administrator of the Court of Common Pleas or the Deputy Court Administrator Criminal Division at least ten (10) days prior to the trial and the application for a continuance on these grounds is made at least two days prior to the date of trial.

II. Definitions:

(A) Incapacitating illness—A physical or mental impairment so severe that it prevents a person from attending trial.

(B) Specially assigned Assistant District Attorney— Any Assistant District Attorney who has been specially assigned to prepare and try a particular case, one week or more in advance of trial. This does not apply to the regular assignment of all cases in a list room to an Assistant District Attorney.

(C) Essential witness— One whose testimony at trial is indispensable in determining guilt or innocence.

(D) Engaged in a trial or other proceeding in a Court of record that is commenced, but not completed prior to or on the date of the trial for which a continuance is requested.

Comment: The purpose of this rule is to eliminate unnecessary trial continuances and facilitate the prompt disposition of criminal cases in both the Court of Common Pleas and the Municipal Court. The grounds for granting a continuance are limited to those herein specified. The rule applies equally to both the defense and prosecution. This rule has no application in courtroom 146, the Municipal Court Calendar courtroom.

§(I)(A)

Proof of incapacitating illness shall be supplied by the attending physician's certificate, if any, or such other inquiry as directed by the Trial Judge. Receipt of the physician's certificate does not preclude the Trial Judge from conducting further inquiry into the nature of the illness.

When an essential witness is "on call" and unavailable in the courtroom, a continuance may not be granted. The practice of subpoenaing witnesses on an "on call" basis is discouraged in the Court of Common Pleas and the Municipal Court. This change to be effective January 6, 1986.

§(I)(B)

"Immediate family" consists of a spouse, children, parents, grandparents and siblings.

§(I)(D)

Whenever conflicting engagements delay counsel's appearance in the courtroom where his case is listed, Philadelphia Criminal Rule 805, "Criminal Court Priority List and Busy Slips," applies. Counsel must file busy slips on the form provided by the Court by 9:15 a.m. in all courtrooms where he is unable to appear. Judges shall corroborate all busy slips to determine their accuracy. When engaged in a trial or other proceeding in a Court of record and moving for a continuance on these grounds, defense counsel should notify the opposing Assistant District Attorney of his motion no later than the day prior to trial.

§(I)(E)

The fact that defense counsel has not been paid or that the defendant has not signed a retainer agreement is not a grounds for continuance, even at the first listing.

§(I)(H)

Judges may order a forthwith psychiatric examination as an alternative to granting a continuance based on the unavailability of a psychiatric report.

For failure to comply with this rule, counsel may be cited for contempt or, if Court-appointed, removed from the non-homicide criminal appointment list. This rule shall become effective on February 1, 1982.

General Court Regulation 75-9, rescinded and replaced by General Court Regulation 76-3, June 1976; amended by General Court Regulation 82-1, effective February 1, 1982; further amended March 11, 1982, effective immediately.

Rule 801 Continuances at Preliminary Hearings.

I. No preliminary hearing in a criminal case shall be continued except for the following reasons:

(A) Incapacitating illness of defense counsel, specially assigned ADA or Defender, the defendant or an essential witness for either the prosecution or the defense.

(B) Death in the immediate family of defense counsel, specially assigned ADA or Defender, the defendant or an essential witness for either the prosecution or the defense.

(C) Recusal of the Hearing Judge.

(D) Defense counsel actually engaged in a trial or other proceeding in a Court of record.

(E) Counsel unprepared for trial because recently retained or appointed, but only at the first listing, provided the District Attorney is notified at (215) 686-5870 no later than 3 p.m. of the working day prior to the hearing.

(F) Proceedings are stayed by order of all Appellate Court.

(G) Essential witness unavailable, but only at the first listing.

(H) Unavailability of defendant's Court-ordered mental health evaluation where competency to stand trial is an issue.

(I) Unavailability of a ballistics, breathalyzer or drug analysis report prepared by the Police Department, but only at the first listing.

(J) Appointment of new counsel, either private counsel or public defender.

(K) Court-ordered line-up.

II. Definitions:

(A) Incapacitating illness—A physical or mental impairment so severe that it prevents a person from attending trial.

(B) Essential witness— One whose testimony at the preliminary hearing is indispensable in determining or negating probable cause.

(C) Actually engaged in a trial or other proceeding in a Court of record—Participation of counsel in a trial or other proceeding in a Court of record that is commenced, but not completed prior to or on the date of the hearing for which a continuance is requested.

(D) Specially Assigned Assistant District Attorney or Defender—Any Assistant District Attorney or defender who has been specially assigned to prepare and present a particular case at a preliminary hearing where such assignment has been made before the first listing of the preliminary hearing or at least one week before any subsequent listing. This does not apply to the regular assignment of all preliminary hearings to one or two assistants assigned to a preliminary hearing courtroom.

Comment: The purpose of this rule is to eliminate unnecessary continuances of preliminary hearings. The grounds for granting a continuance are limited to those herein specified. The rule applies equally to both the defense and prosecution.

§(I)(A)

Proof of incapacitating illness shall be supplied by the attending physician's certificate, if any, or such other inquiry as directed by the Hearing Judge. Receipt of the physician's certificate does not preclude the Trial Judge from conducting further inquiry into the nature of the illness.

§(I)(B)

"Immediate family" consists of a spouse, children, parents, grandparents and siblings.

§(I)(D)

Whenever conflicting engagements delay counsel's appearance in the courtroom where his case is listed, Philadelphia Criminal Rule 805, "Criminal Court Priority List and Busy Slips," applies. Judges shall corroborate all busy slips to determine their accuracy.

When engaged in a trial or other proceeding in a Court of record and moving for a continuance on these grounds, defense counsel must notify the District Attorney of his motion no later than 3 p.m. of the working day prior to the preliminary hearing.

§(I)(E)

The fact that defense counsel has not been paid or that the defendant has not signed a retainer agreement is not a grounds for continuance at the first listing.

§(I)(K)

Requests for line-up identification must be made at the first listing at which the identifying witness and/or police "49" are available. Otherwise, such requests shall be deemed waived. For failure to comply with this rule, counsel may be cited for contempt and fined, or, if Court-appointed, removed from the non-homicide criminal appointment list.

Nothing in this regulation shall prohibit the Hearing Judge from exercising his discretion in cases not specifically covered herein.

This rule shall become effective on Monday, March 22, 1982.

Editor's note: General Court Regulation 82-2, effective March 22, 1982.

Rule 805 Criminal Court Priority List and Busy Slips.

(A) Whenever an attorney has more than one criminal case listed in different courtrooms on the same day, he shall file, or cause to be filed, busy slips in each courtroom wherein his case or cases are listed. Counsel will be expected to report to the highest priority room to which he has been assigned and must file busy slips in connection with any conflicting assignment by 9:15 a.m.

Priority List (listed in the order of their priority)

- (1) Homicide Case Assignment (including Homicide Calendar Room) and Career Criminal Program
- (2) Criminal Calendar Program
- (3) Juvenile Court
- (4) Criminal List Program
- (5) Municipal Court List Rooms
- (6) Criminal Motions List and PCHA Hearings

(7) Any Other Assignment.

Counsel not actually on trial who desires to attend a Preliminary Hearing must obtain the prior approval of the Calendar Judge or the Judge presiding in the highest priority room to which he is assigned.

Note: Administrative Regulation 74-4, December 2, 1974; superseded by Administrative Regulation 79-4, October 22, 1979; amended December 8, 1980, effective immediately.

(B) Federal and Common Pleas Court Conflicts

(1) Common Pleas Court

Since the District Court lists criminal and civil cases interchangeably, the Common Pleas Court shall follow the same policy with respect to the engagement of counsel as set forth under civil cases, including Advance Special Listings.

(2) District Court

The District Court shall recognize as engaged any attorney-of-record in any homicide or major criminal case actually on trial and where same has been scheduled for trial by the appropriate Calendar Judge at the calendar call held no more than three days prior to the actual trial date.

Note: General Court Regulation 73-2, March 2, 1973, as amended by General Court Regulation 73-13, supplement July 10, 1974.

Rule 810 Applications for Continuances.

(A) The moving party shall initially bring the application form to the Office of [Judicial Records] where the file will be made available for such information as is required to complete the form.

(B) All petitions for continuance must be presented prior to the day of trial to the Court in the courtroom in which the action is scheduled by the moving party on a three-part form (provided by the Court) entitled "Application for Continuance" (Form 30-156). That form shall include space for the following information:

- Name of the defendant
- Term and Number of the case
- Reason for the continuance request
- Identification of the moving party
- Number of prior listings
- Date application made
- Signature of the moving party

(C) The Court or other reviewing authority will review the continuance request and upon approval, will add to the form:

- Signature of approval
- Date of approval
- Date, time and location of new trial or hearing

(D) The three (3) copies of the approved application are to be distributed to:

- (1) Court [through the Office of Judicial Records]
- (2) District Attorney
- (3) Defense Counsel

(E) The [Office of Judicial Records] will ensure that the information on the continuance form is immediately and accurately recorded on the Bill of Indictment or Information (or Municipal Court transcript) and that the Court's copy of the application is filed permanently with the case papers on the left inside cover of the case file. The clerk also will ensure that all applicable subpoenas will be issued and the Court copy permanently filed with the case file.

(F) The distribution of the approved application form shall be to: (1) the Court (through the [Office of Judicial Records]); (2) the District Attorney and (3) the Defense Counsel.

The required forms will be available from all Court Clerks in Criminal courtrooms and in the Criminal Listings Office (Room 206, Criminal Justice Center).

Note: General Court Regulation 73-4, June 29, 1973, as amended August 8, 1973.

Comment: Prior to making an application for a continuance in any case, the moving party must complete an "Application for Continuance" form (Form 30-156). The moving party shall make an application for a continuance to the Court sitting in the courtroom in which the next Court action is scheduled in General Felony and Municipal Court cases. In Major Trials or Homicide cases, application shall be made to the applicable Calendar Judge.

Form 30-156 may be obtained from any Clerk in a criminal courtroom or from the personnel in the Criminal Listings Office, Room 206, Criminal Justice Center. If the moving party requires information in order to complete the form, he should bring the form to the File Security Office, Room 206, Criminal Justice Center, where the case file will be made available for such purposes. The moving party must notify File Security personnel as to the time when and the location where the application will be made so that the case file may be delivered to the Clerk in said courtroom.

If a completed "Application for Continuance" form is not presented to the Court at the time application is made, the application will not be approved. Upon approving an application, the Court will so note on the form and will set a new date for the hearing. At this time, the Court shall ascertain whether any parties who will be subpoenaed as a result of the continuance of the case are present in the courtroom. If the Court so finds, subpoenas should be issued immediately.

The [Office of Judicial Records] will distribute copies of the approved application form to the Court (by placing it in the case file), to the District Attorney and to the Defense Attorney.

Rule 820 Continuances Involving Defendants in Custody.

In all cases which must be continued, wherein the defendant is in custody but has not been brought into the courtroom, a defendant subpoena for the continued date, together with a brief explanation of the reason for the continuance, shall be prepared by the [Office of Judicial Records]. This subpoena and explanation shall be handed to the Sheriff for delivery to the defendant in the cellroom, or at the detention facility if he has already left Criminal Justice Center.

General Court Regulation 72-25, November 8, 1972.

Rule 900 State and Federal Prisoners in Philadelphia County Prison System.

(A) No State or Federal prisoners shall be transferred to the Philadelphia County prison system for purposes other than trial or hearing without the approval of the President Judge of the Common Pleas Court.

(B) With the exception of prisoners brought from Graterford to be returned there the same day, all writs for the transfer of State or Federal prisoners to the Philadelphia County prison system will set forth the specific reason for the transfer and will be directed to the Administrative Judge of the Trial Division, or, in his absence, the Judge designated by the President Judge of the Common Pleas Court, for execution. No writs shall be signed by a [Office of Judicial Records] with either a Judge's name or a Clerk's name. Upon execution by the Administrative Judge or his substitute, a copy of the writ shall be delivered by the Clerk to the Assistant Pretrial Coordinator.

The Assistant Pretrial Coordinator shall maintain an up-to-date roster of all State or Federal prisoners in the Philadelphia County prison system and shall immediately transfer such prisoners when the scheduled hearing or trial has been concluded or the scheduled hearing or trial has been rescheduled for a period in excess of thirty (30) days.

General Court Regulation 71-8, July 28, 1971.

Rule 910 Probation Detainer and Violation Procedure.

(A) Violation as the Result of a Subsequent Arrest

When an individual who is on probation is arrested, the computer will print a notice of this fact, which will be sent to the Judge who imposed the original probation (Probation Judge). The notice will state that if the defendant is charged with the crime of murder, robbery, aggravated assault, rape or involuntary deviate sexual intercourse, and is held for Court at the Preliminary Hearing, an automatic detainer will be lodged.

If the defendant is charged with a crime other than those enumerated, no automatic detainer will be lodged.

A Judge, upon receiving this notice, who determines that he wishes a detainer to be lodged against the defendant held for Court at the Preliminary Hearing should notify the Assistant Records Coordinator at the number listed on the computer notice within forty-eight (48) hours of the receipt of the original notice. This notice will then be communicated to the Judge presiding at the Preliminary Hearing.

When the detainer has been lodged at the Preliminary Hearing, the defendant will be scheduled automatically for a detainer hearing within seventy-two (72) hours, before the Judge presiding in Room 888 (Prison Program).

When a defendant who is on probation is convicted in the Municipal Court or in the Common Pleas Court, the trial Judge shall fix a date three weeks from the date of the said conviction for a violation of probation hearing before the Probation Judge. The Trial Judge shall likewise determine whether or not the defendant shall be detained pending the violation of probation hearing.

The above system (with the exception of the Probation Judge's communication re-detainer) shall be automatic. However, the Probation Judge may, at any time, schedule the probationer before himself for a detainer hearing or for a violation of probation hearing.

In order to facilitate the above procedure, the computer department will furnish detainer forms for all defendants appearing on a Preliminary Hearing List, a Common Pleas Court Trial list, or a Municipal Court Trial List, for use as described above.

(B) Technical Violations

The Probation Department is charged with the responsibility of bringing to the attention of the Probation Judge any activity which constitutes a technical violation of probation. Upon receipt of

such information, the Probation Judge shall direct whether or not “wanted cards” shall be placed or the defendant scheduled for a technical violation hearing.

When an individual is arrested as a result of “wanted cards,” he shall receive a hearing within seventy-two (72) hours of the arrest and a determination shall be made as to whether the defendant shall be detained pending hearings by the Probation Judge. This decision shall be communicated to the Probation Judge and the Probation Department within forty-eight (48) hours, and the Probation Judge may then take whatever action he deems appropriate.

Bulletin 74-199, September 23, 1974, as amended Bulletin 75- 73, March 17, 1975; Municipal Court Memorandum 74-41, September 13, 1974; amended by General Court Regulation 78-5, June 13, 1978.

Rule 920 Appeals Procedure.

Where the appeal process has terminated in a case where a convicted defendant, not in custody pending appeal, has been sentenced in the case to a term of incarceration which he has not yet served, and all or part of this unserved incarceration period has been left undisturbed after appeal, the following procedure shall apply:

The Appeals Division of Common Pleas Court shall notify immediately the defense attorney and the surety of the fact that the Appellate Court has sustained the conviction and order defendant to surrender himself to the [Office of Judicial Records] within seven (7) days of notification.

In the event that the defendant does not surrender within seven (7) days, the Court shall issue a bench warrant for the defendant’s arrest.

General Court Regulation 72-11, March 16, 1972.

POST-CONVICTION PROCEEDINGS

Rule 950 Post Conviction Hearing Act Procedure.

(A) The interests of justice require the regular assignment of all Post Conviction Hearing Act (PCHA) petitions in Philadelphia County to a single Judge. This assignment policy will provide greater administrative and judicial efficiency in the handling of the petitions, thereby insuring more prompt resolution of issues raised by these petitions.

(B) Upon the filing of a PCHA petition, the clerk shall immediately forward the petition to the PCHA Judge, who shall within thirty (30) days enter an order either dismissing the petition or directing that counsel be appointed for petitioner and the matter be listed for conference.

(C) Within thirty (30) days after the initial conference, counsel for the petitioner shall complete and file a PCHA Certificate of Readiness, in the form as set forth herein.

(D) The District Attorney shall, within thirty (30) days of receipt of an amended petition, file an answer thereto and execute a Certificate of Readiness in the form as set forth herein.

(E) The PCHA Judge shall schedule a hearing, conduct further conferences or require further certificates of readiness as required by the circumstances of the case.