

**FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
PHILADELPHIA TRAFFIC COURT**

**ADMINISTRATIVE ORDER
01 of 2012**

In re: Amendment of Philadelphia Traffic Court Local Rule No. 1033

Order

AND NOW, this 18th day of May, 2012, IT IS HEREBY ORDERED that Philadelphia Traffic Court Local Rule No. 1033, is amended as attached, effective immediately.

As required by Pa.R.Crim.P. No. 105 (D), the proposed amended rule has been submitted to the Supreme Court's Criminal Procedural Rules Committee for review and written notification has been received from the Committee certifying that the proposed amended rule is not inconsistent with any general rule of the Supreme Court. The original Administrative Order and amended local rule shall be filed with the Prothonotary in a docket maintained for Administrative Orders issued by the Administrative Judge of the Philadelphia Traffic Court, and, as required by Pa.R.Crim.P. No. 105(E), two certified copies of this Administrative Order and amended local rule as well as a copy on a computer diskette shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. As required by Pa.R.Crim.P. No. 105 (F) one certified copy of this Administrative Order and amended local rule shall be filed with the Administrative Office of Pennsylvania Courts and the local rule will also be published on the Unified Judicial System's web site at <http://ujportal.pacourts.us/localrules/ruleselection.aspx> and posted on the First Judicial District's website at <http://courts.phila.gov>. Copies of this Administrative Order and amended local rule shall be published in *The Legal Intelligencer* and will be submitted to *American Lawyer Media*, *Jenkins Memorial Law Library*, and the Law Library for the First Judicial District.

BY THE COURT:

/s/ Honorable Gary S. Glazer

Honorable Gary S. Glazer
Administrative Judge
Philadelphia Traffic Court

LOCAL RULE 1033. PROCEDURES WHEN DEFENDANT ARRESTED WITH WARRANT.

(a) Defendant Arrested During Traffic Court's Hours of Operation.

(1) A defendant arrested pursuant to a Traffic Court warrant shall be brought to the Traffic Court as soon as practicable after being processed provided the Traffic Court is open. **If a bench warrant hearing is not held within 72 hours of the arrest, or by the close of the next business day if the 72 hours expire on a non-business day, the bench warrant shall expire by operation of law and the defendant shall be released.**

(2) A warrant hearing shall be conducted promptly by a Traffic Court Judge or hearing officer appointed pursuant to Local Rule 1036 to determine the reasons for the issuance of the warrant, and to determine whether a summary trial or hearing on the matter which resulted in the issuance of the warrant can be held immediately. At the conclusion of the warrant hearing, all outstanding Traffic Court warrants against the Defendant shall be withdrawn.

(i) If it appears that the summary trial or hearing on the matter which resulted in the issuance of the warrant can be held immediately, the summary trial or hearing will be held immediately.

(ii) If it appears that the summary trial or hearing on the matter which resulted in the issuance of the warrant cannot be held immediately, **and the defendant does not have a history of failure to appear for Traffic Court hearings,** the Traffic Court Judge or hearing officer shall:

(A) Schedule the summary trial or hearing and determine whether collateral must be posted by the defendant to secure defendant's release pending the hearing or summary trial. The Scheduling Orders shall be substantially in the form which follows this Local Rule.

(B) The defendant shall be released **immediately at the conclusion of the warrant hearing** unless collateral has been ordered and is not posted.

(C) If the defendant is ordered to post collateral and the collateral is not posted, the defendant shall be brought to the county prison and held pending the summary trial or hearing. Provided, however, that the defendant shall be released at any time before the scheduled summary trial or hearing when the collateral is posted.

(iii) If it appears that the summary trial or hearing on the matter which resulted in the issuance of the warrant cannot be held immediately, and the defendant does not have a history of failure to appear for Traffic Court hearings, especially after personal service of a citation or scheduling hearing, the Traffic Court Judge or hearing officer shall schedule the summary trial or hearing without unnecessary delay, but in no event more than 72 hours from the date of the bench warrant hearing or, if the 72 hours expire on a non-business day, no later than the close of the next business day, and the defendant may be held in custody pending the rescheduled hearing. For purposes of this subsection, the term "history of failure to appear" shall mean that the defendant has failed to appear for at least two (2) Traffic Court hearings despite service of a date certain citation or notice personally on the defendant.

(b) Defendant Arrested While Traffic Court is Closed. A defendant arrested pursuant to a Traffic Court warrant while the Traffic Court is closed shall be processed as provided in Philadelphia Municipal Court Rule 540. The Subpoena/Commitment form used by the Municipal Court Bail Commissioner shall be substantially as the form which follows this Local Rule.

COMMENT: Pa.R.Crim P. 1033, Philadelphia Municipal Court Rule 540, and this Local Rule are intended to provide a warrant hearing process which minimizes the time a defendant is held before a warrant hearing is conducted. However, the very nature of an arrest, the need to properly identify the defendant, and the internal protocol the arresting law enforcement officers need to follow incident to an arrest will, per force, take time. Nonetheless, it is expected that, to the extent possible, the time a defendant is held be minimized. The standard form of the Scheduling Orders is set forth below together with documents which will secure defendant's release when collateral has been ordered and is posted either at the Traffic Court of Bail Acceptance Unit at the Criminal Justice Center, which is open around the clock, every day, including holidays.

The standard Scheduling Orders for Summary Trials and Default Hearing clearly inform the defendant that "Defendant's failure to appear on the above date will result in the issuance of a Bench Warrant. Upon arrest, the hearing will be rescheduled and Defendant will be held in custody until the rescheduled hearing date."

Subsection (2)(iii) was added to clearly set forth the maximum amount of time a defendant who has a history of failure to appear for a traffic court hearing or trial despite personal service of the hearing date can be held pending the rescheduled hearing date in the event a hearing or trial cannot be held on the day the defendant is brought to the Traffic Court for a Warrant Hearing. The time period provided in the new subsection is the same as that provided in Pa.R.Crim.P. 150.

It is anticipated that most of the hearings or trials will be held on the same day the defendant is arrested on a warrant issued due to the defendant's failure to appear and brought to the Traffic Court. Some defendants may have such large number of outstanding traffic citations and citations which are in default of a payment which will require some time to compile the required records and testimony and to obtain the required certified record from the Pennsylvania Department of Transportation. Nonetheless, the Traffic Court can reasonably do so within the requisite 72 hour period or release the defendant pending a future scheduled date if it is unable to do so.

The Scheduling Order/Commitment (FTA after Scheduling Order Issued – BW Issued) has been amended.

Adopted December 21, 2005, published in the Pennsylvania Bulletin on December 31, 2005, and effective on February 1, 2006, amended on May 18, 2012, effective immediately.

SCHEDULING ORDERS

**FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
PHILADELPHIA TRAFFIC COURT**

Commonwealth of Pennsylvania vs. <hr/> <div style="text-align: right;">Defendant</div> A/K/A _____	Judge _____ Courtroom _____ Citation Numbers _____			
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%; padding: 2px;">PP#</td> <td style="width: 33%; padding: 2px;">DOB</td> <td style="width: 33%; padding: 2px;">OLN#</td> </tr> </table>	PP#	DOB	OLN#	
PP#	DOB	OLN#		

SCHEDULING ORDER

(Summary Trial)

AND NOW, this _____ day of _____ A.D. 20____, IT IS HEREBY ORDERED that a Summary Trial is scheduled in connection with the traffic citations listed above and Defendant is **ORDERED** to appear on _____, 20 ____, at _____ AM/PM., in Courtroom _____, **Traffic Court**, 800 Spring Garden Street, Philadelphia, PA.

Defendant shall be released on his/her own recognizance pending the above scheduled summary trial.

The Defendant shall be released prior to the above summary trial upon the posting the sum of \$ _____ as collateral for outstanding traffic citations.

There is a likelihood that imprisonment may be imposed at the conclusion of the above scheduled summary trial. In the event Defendant is not represented, Defendant must report within ten (10) days to the First Judicial District's Pretrial Service Division, 5th Floor, 1401 Arch Street, Philadelphia, PA between the hours of 9:00 A.M. to 4:00 P.M. Monday through Friday for a financial interview to determine eligibility to court-appointed counsel. Defendant must bring supporting documentation such as Driver's License, DPW card, pay stubs etc. at the time of the interview.

Defendant's failure to appear on the above date will result in the issuance of a Bench Warrant. Upon arrest, the hearing will be rescheduled and Defendant will be held in custody until the rescheduled hearing date.

**I ACKNOWLEDGE RECEIPT OF A
COPY OF THIS ORDER:**

BY THE COURT:

Defendant Date

TRAFFIC COURT JUDGE

Attorney Date

**FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
PHILADELPHIA TRAFFIC COURT**

Commonwealth of Pennsylvania vs. <hr/> <div style="text-align: right; padding-right: 20px;">Defendant</div> A/K/A _____	Judge <hr/> Courtroom <hr/> Citation Numbers	
PP#	DOB	OLN#

**SCHEDULING ORDER/COMMITMENT
(FTA after Scheduling Order Issued – BW Issued)**

AND NOW, this _____ day of _____, 20____, **due to Defendant’s failure to appear for a hearing or trial despite personal service of a Scheduling Order, the Defendant will be held in custody in the Philadelphia Prisons System until the rescheduled hearing date which shall not exceed 72 hours from today, or no later than the close of the next business day if the 72 hours expire on a non-business day.**

[I]the summary trial or default hearing initially scheduled for _____ is rescheduled for _____, 20 ____, at _____ AM/PM., in Courtroom _____, **Traffic Court**, 800 Spring Garden Street, Philadelphia, PA. **which the undersigned represents is the most expeditious date in light of the offenses at issue.**

[Due to Defendant’s failure to appear on the date noted above, despite personal service of the Scheduling Order, the Defendant will be held in custody in the Philadelphia Prisons System until the re-scheduled hearing date.]

There is a likelihood that imprisonment may be imposed at the conclusion of the above scheduled hearing or trial. Counsel will be made available to Defendant on the re-scheduled hearing date if the defendant is without financial resources or is otherwise unable to employ counsel.

The Bench Warrant issued for Defendant’s arrest due to Defendant’s failure to appear for the previously scheduled summary trial or hearing is withdrawn.

TO ANY AUTHORIZED PERSON of the above-named County of this Commonwealth: you are hereby commanded to convey and deliver into the custody of the Keeper of the county prison the above-named defendant.

YOU, THE KEEPER, are required to receive the defendant into your custody to be safely kept by you and brought down for the above-scheduled hearing.

**I ACKNOWLEDGE RECEIPT OF A
COPY OF THIS ORDER:**

BY THE COURT:

Defendant **Date**

TRAFFIC COURT JUDGE

Attorney **Date**