

First Judicial District of Pennsylvania
Court of Common Pleas of Philadelphia County

Trial Division - Criminal



LOCAL RULES

Updated 12-18-2021. Effective 1-17-2022

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

TABLE OF CONTENTS

CHAPTER 1. SCOPE OF RULES, CONSTRUCTION AND DEFINITIONS, LOCAL RULES.

Rule *100 Scope of Rules	Pg. 1
Rule *102 Citing the Local Criminal Procedure Rules	Pg. 1
Rule *103 Definitions	Pg. 1
Rule *104 Design of Forms	Pg. 1
Rule *105 Local Rules	Pg. 2
Rule *107 Contents of Subpoena	Pg. 2
Rule *115 Recording and Transcribing Court Proceedings	Pg. 2
Rule *122 Appointment of Counsel in the First Judicial District	Pg. 2
Rule *122-1 Standards for Appointment of Counsel	Pg. 2
Rule *122-2 Standards for Appointment in Homicide and Trial Cases	Pg. 3
Rule *122-3 Standards for Appointment of Appellate Counsel in cases where the death penalty has been imposed	Pg. 4
Rule *122-4 Standards for Appointment of Appellate Counsel in cases where the death penalty has not been imposed.....	Pg. 4
Rule *122-5 Standards for Appointment of Counsel in Non-Capital Homicide PCRA and all other PCRA Cases	Pg. 5
Rule *122-6 Standards for Appointment in Felony Cases	Pg. 5
Rule *122-7 Experience Exception to Standards	Pg. 6
Rule *122-8 Performance Standards; Processing Complaints	Pg. 6
Rule *122-9 Remedial Measures	Pg. 6
Rule *122-10 Appointment of Counsel in Multiple Defendant Cases	Pg. 7
Rule *122-11 Payment Authorization Process for First Judicial District of Pennsylvania Court Appointed Counsel	Pg. 7
Rule *122-12 Compensation Rates for Court-Appointed Counsel	Pg. 7
Rule *122-13 Procedure in Cases Involving Ineffective Assistance of Counsel.....	Pg. 7
Rule *122-14 Attorneys with Twenty (20) or More Cases	Pg. 7
Rule *202 Approval of Search Warrant Applications by the Attorney for the Commonwealth	Pg. 7
Rule *435 Cases in which the Defendant is a Minor	Pg. 7
Rule *462 Trial De Novo. Summary Appeals	Pg. 8
Rule *507 Approval of Police Complaints and Arrest Warrant Affidavits by Attorney for the Commonwealth	Pg. 8
Rule *515 Bench Warrant Hearings	Pg. 8
Rule *528 Ten Percent (10%) Deposit of Bail	Pg. 8
Rule *529. Regulations Pertaining to Bail, Court of Common Pleas and Municipal Court	Pg. 9
Rule *530 Duties and Powers of Bail Agency. Pretrial Services Division	Pg. 11
Rule *536 Procedures upon Violation of Conditions: Revocation of Release and Forfeiture; Bail Pieces; Exoneration of Surety	Pg.11
Rule *540 Preliminary Arraignment.....	Pg. 12
Rule *542 Preliminary Hearings	Pg. 12
Rule *556 Indicting Grand Jury Pg. 13	
Rule *556.2 Philadelphia County Indicting Grand Jury Procedures and Protocols	Pg. 13
Rule *571 Arraignment.....	Pg. 20
Rule *576 Electronic Filing and Service of Motions and Other Papers	Pg. 20
Rule *588 Motion for Return of Property. Post-Deprivation Hearing	Pg. 23
Rule *600 Motions/Filing	Pg. 23
Rule *605 Motions Court/Criminal Calendar Program and Homicide Cases	Pg. 24

Rule *610 Motions—Criminal List Program Cases	Pg. 24
Rule *620 Procedure for Filing and Entertaining Rule 1100 (& Rule 6013) Motions	Pg. 24
Rule *630 Application to Suppress Evidence in Municipal Court Cases	Pg. 24
Rule *640 Recording of Sentence	Pg. 24
Rule *645 Stay Pending Appeal of Municipal Court Judgment	Pg. 24
Rule *650 Post-trial	Pg. 24
Rule *655 Hearings on Post-trial Motions and Deferred Sentences	Pg. 24
Rule *660 Sentencing—Fines—Indigents.....	Pg. 24
Rule *670 Funeral Orders—Prisoners	Pg. 25
Rule *680 Prisoners’ Bring-ups	Pg. 25
Rule *700	Pg. 25
Rule *708 Violation of Probation or Parole. Revocation Hearings	Pg. 26
Rule *710 Guilty Pleas Refused by Trial Judge	Pg. 28
Rule *780 Confiscation and Disposition of Firearms.....	Pg. 28
Rule *785 Rule Governing Analysis and Destruction of Narcotic and Dangerous Drugs	Pg. 29
Rule *786 Criminal Court Priority List	Pg. 31
Rule *800 Continuances in Common Pleas Felony and Municipal Court Cases	Pg. 31
Rule *801 Continuances at Preliminary Hearings	Pg. 31
Rule *810 Applications for Continuances	Pg. 32
Rule *820 Continuances Involving Defendants in Custody	Pg. 32
Rule *900 State and Federal Prisoners in Philadelphia County Prison System	Pg. 32
Rule *910 Probation Detainer and Violation Procedure	Pg. 32
Rule *920 Appeals Procedure	Pg. 32
Rule *950 Post Conviction Hearing Act Procedure	Pg. 32

ORDERS AND REGULATIONS

From time to time, the Administrative Governing Board of the First Judicial District of Pennsylvania, the President Judge of the Court of Common Pleas, and the Administrative Judge of the Trial Division of the Court of Common Pleas may issue Administrative Orders and General Court Regulations which may impact the numbered rules. All such Administrative Orders and General Court Regulations are available at the following link: <http://www.courts.phila.gov/regs/>. The list below is not comprehensive.

GENERAL COURT REGULATIONS

- 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

- 6-28-18: [In re No. 01-2017 Re: Court-Appointed Counsel, Investigative and Expert Witness Payment Orders and Vouchers to be used for court-appointments made on and after July 1, 2018](#)
6-26-17 as amended by 9-18-17: [In Re: First Judicial District of Pennsylvania Court-Appointed Counsel, Investigative and Expert Witness Fee Schedule](#)
9-18-17: [In re: AGB Order No. 01 of 2017: First Judicial District of Pennsylvania Court-Appointed Counsel, Investigative and Expert Witness Fee Schedule](#)
6-26-17: [No. 01 of 2017: First Judicial District of Pennsylvania Court-Appointed Counsel, Investigative and Expert Witness Fee Schedule](#)
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](#)

Court Forms are available at www.courts.phila.gov/forms.

**PHILADELPHIA COURT OF COMMON PLEAS
TRIAL DIVISION, CRIMINAL**

Philadelphia Criminal Rules of Procedure

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 Philadelphia Criminal 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.

“*Defendant’s Service Address.*” Beginning at the preliminary arraignment and continuing until final disposition of the case, including the payment of all fines, costs and restitution ordered to be paid, the defendant shall provide a current address upon which service of all notices may be made. Defendant shall update any change of address within ten (10) business days of the defendant’s move by contacting the Office of Court Compliance, Room 370 City Hall, Philadelphia, PA 19107 or by email at OCC@courts.phila.gov.

Note: Amended September 20, 2019, effective December 2, 2019

Rule *104. Design of Forms

All local forms shall comply with the Pennsylvania and Philadelphia 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 (www.philacourts.us/forms).

Note: Amended September 20, 2019, effective December 2, 2019

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.

Note: Amended September 20, 2019, effective December 2, 2019

Rule *115. Recording and Transcribing Court Proceedings.

The making, preserving, transcribing and requests for transcripts of proceedings in the First Judicial District of Pennsylvania shall be governed by Pennsylvania Rule of Judicial Administration No. 4001 *et seq.*, and Philadelphia Rule of Judicial Administration No. *4007 *et seq.*

Note: Amended September 20, 2019, effective December 2, 2019

**Rule *122. Appointment of Counsel in the First Judicial District of Pennsylvania
[RESERVED]**

Rule *122-1. Standards for Appointment of Counsel

(A) Lists of Qualified Attorneys

The Criminal Listing Department will maintain a list of attorneys qualified for appointment in each of the following categories of cases:

- (1) Capital Homicide Lead Counsel
- (2) Capital Homicide-Penalty Phase Mitigation Counsel
- (3) Non-Capital Homicide
- (4) Capital homicide appellate
- (5) Non-capital homicide appellate
- (6) Homicide PCRA
- (7) PCRA
- (8) Felony
- (9) Misdemeanor

(B) *Selection of Attorneys*

(1) Each attorney who desires appointment in each of the above categories of cases must fill out the appropriate *Application for Court Appointment Certification* which shall be updated from time to time by the Administrative Judge of the Trial Division, shall reference the necessary qualifications, and shall be posted on the websites of the First Judicial District and the Philadelphia Bar Association. The *Application* will be submitted to a Screening Committee of the Philadelphia Bar Association. The Screening Committee shall consist of members appointed by the Administrative Judge of the Trial Division. Neither the Chief Defender, nor any attorney from the Defender Association of Philadelphia, nor any attorney from the District Attorney's Office shall be eligible for appointment to the Screening Committee. The Administrative Judge of the Trial Division shall appoint no fewer than three members as the Screening Committee.

(2) The Screening Committee will periodically review all *Applications* submitted, and will designate attorneys who are qualified for handling each category of case; the Screening 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. No member of the Screening Committee will be permitted to accept an appointment during the member's term on the Screening Committee.

(3) From time-to-time, the lists of approved attorneys will be made available to the judges authorized to make appointments.

Note: Amended September 20, 2019, effective December 2, 2019. Amended by Order dated November 30, 2021 (see President Judge GCR No. 43 of 2021), published in the Pennsylvania Bulletin on December 18, 2021, effective January 17, 2022.

Rule *122-2. Standards for Appointment in Homicide Trial 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 who carries a current criminal caseload with at least three years litigation experience (trial and/or appellate) in the field of criminal law in this or any other jurisdiction;
- (3) Has prior experience as lead counsel in no fewer than ten criminal trials which were tried to completion in this or any other jurisdiction;
- (4) Has been lead counsel in at least five felony trials within the past two year period;
- (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 major felony jury criminal trials which were tried to completion in this or any other jurisdiction in the last three years.

“Tried to completion” shall include trials in which the jury is discharged at the conclusion of the case without reaching a verdict; and

(7) Any attorney who also desires to be court-appointed in capital cases must meet the educational and experiential criteria set forth in Pa.R.Crim.P. 801.

Note: Amended September 20, 2019, effective December 2, 2019

Rule *122-3. Standards for Appointment of Appellate Counsel in Cases Where the Death Penalty Has Been Imposed

(A) *Qualifications for Counsel*

An attorney may be appointed as appellate counsel in cases in which the death penalty has 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) Meets the educational and experiential criteria set forth in Pa.R.Crim.P. 801;
- (3) Has submitted a writing sample to the Screening Committee for one of the cases that meets the Rule 801 requirements; and
- (4) Is readily available to accept appointments.

Note: Amended September 20, 2019, effective December 2, 2019

Rule *122-4. 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 provided a writing sample to the Screening Committee for one of the cases which meet the requirements referenced in paragraph 3 below;
- (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 otherwise demonstrated to the Screening Committee appellate experience and a knowledge of Pennsylvania appellate practice comparable with the requirements set forth in Rule *122-3;
- (4) Is readily available to accept appointments.

Note: Amended September 20, 2019, effective December 2, 2019

Rule *122-5. Standards for Appointment of Counsel in Non-Capital Homicide PCRA and all other PCRA Cases

(A) *Qualifications for Counsel*

An attorney may be appointed as counsel in PCRA and other post-conviction matters, 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 criminal adversarial hearings where factual issues were contested, and has comparable experience. (This may include the two PCRA hearings required in paragraph 2.);
- (4) Is readily available to accept appointments.

Note: Amended September 20, 2019, effective December 2, 2019

Rule *122.6. 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 in the last three years;
- (4) Has been lead 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 and has comparable experience;
- (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 felony 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.

Note: Amended September 20, 2019, effective December 2, 2019

Rule *122–6. Standards for Appointment of Counsel in Misdemeanor Cases

Note: Rescinded September 20, 2019, effective December 2, 2019

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 the 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 Screening Committee may require the applicant to appear before the Screening Committee for a personal interview, after which the Screening Committee may approve the applicant, or may require the applicant to undergo specified remedial measures before being approved. If the applicant refused to undergo those measures, or if after completing the measures, the Screening Committee still rejects the application, then the applicant may appeal the disapproval as provided in Rule *122-8.

Note: Amended September 20, 2019, effective December 2, 2019

Rule *122–8. Performance Standards; Processing Complaints

(A) General: The Screening Committee may refuse to approve applicants as provided in Rule *122-7.

(B) Processing Complaints.

Any complaint about the performance of any court-appointed counsel shall be submitted to the Supervising Judge of the Criminal Trial Division for review and appropriate disposition, which may include the removal of the attorney from the applicable court-appointment list in the Court of Common Pleas, Criminal Trial Division.

Note: Amended September 20, 2019, effective December 2, 2019. Amended by Order dated November 30, 2021 (see President Judge GCR No. 43 of 2021), published in the Pennsylvania Bulletin on December 18, 2021, effective January 17, 2022.

Rule *122-9. Remedial Measures

Note: Rescinded September 20, 2019, effective December 2, 2019

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

*Note: Rescinded September 20, 2019, effective December 2, 2019. The subject matter of this rule is addressed in Rule *122.*

**Rule *122-11. Payment Authorization Process for First Judicial District of Pennsylvania Court-Appointed Counsel
RESERVED**

**Rule *122-12. Compensation Rates for Court-Appointed Counsel
RESERVED**

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

Note: Rescinded September 20, 2019, effective December 2, 2019.

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

Note: Rescinded September 20, 2019, effective December 2, 2019.

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 the Defendant is a Minor.

(A) In all cases, the preliminary arraignment will be held by the Philadelphia Municipal Court's Arraignment Court Magistrates.

(B) The Arraignment Court Magistrate shall schedule all Direct File Juvenile cases before a Municipal Court Judge or a Common Pleas Court Judge, as appropriate, for a status conference pursuant to Pa.R.Crim.P. 595.

(1) If the Defendant has not filed a motion for transfer to juvenile proceedings pursuant to Pa.R.Crim.P. 596, the case shall be scheduled for trial in the Court of Common Pleas Trial Division.

(2) If the Defendant has filed a motion for transfer and the motion is denied, the case shall be scheduled for trial in the Court of Common Pleas Trial Division.

(3) If the Defendant has filed a motion for transfer and the motion is granted, the case will be listed for appropriate action in Family Court.

Note: Amended September 20, 2019, effective December 2, 2019.

Rule *462. Trial De Novo. Summary Appeals

The Court of Common Pleas may schedule a status 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.

Note: Amended September 20, 2019, effective December 2, 2019.

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

Note: Rescinded September 20, 2019, effective December 2, 2019. General subject matter addressed by Pa.R.Crim.P. 150, 430 and 431.

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

(A) Any defendant who has been properly granted bail may obtain their release from custody as provided herein by depositing with the Office of Judicial Records 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 bond. A private individual who is not a surety company or bail bondsman may act as a third-party surety and execute the aforementioned bail bond on behalf of the defendant. Except as provided in this section, no other individual or business entity may act as a third-party surety unless approved by the Administrative Governing Board of the First Judicial District of Pennsylvania upon filing a petition pursuant to Pa.R.Crim.P. 531 and applicable local rules of court.

(B) With respect to deposited bail pursuant to subsection (A), the Court is empowered to designate a minimum sum of money which shall be retained by the Court.

(C) Should the defendant fail to appear as required by the bail bond, and not appear in court within ninety (90) days after notice of the forfeiture, as provided by Pa.R.Crim.P. 536 (A)(2)(c), the amount deposited shall be forfeited and a judgment will be entered for the balance of the total bail ordered. Forfeitures and bail judgments shall only be reduced or vacated pursuant to Philadelphia Criminal Rule *536 and other applicable local rules of court.

(D) Upon the full and final disposition of the criminal case in which bail has been deposited:

- (1) the bail deposit shall be returned in full, as provided in Pa.R.Crim.P. 535, if the defendant has appeared as required at all times for all court hearings and other events as required by the bail bond; or

(2) the bail deposit, less the retention amount authorized pursuant to subsection (B), shall be returned if the defendant has not appeared as required at all times for all court hearings and other events as required by the bail bond.

(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

Subsection (A) authorizes posting cash bail with the Office of Judicial Records.

Subsection (B) authorizes the Court to designate, consistent with Pa.R.Crim.P. 535 (D), the fee to administer the cash bail program. The retention figures designated by the Court are 30% (thirty percent) of the amount of the deposit or 3% (three percent) of the total amount of the bail. However, the Court has directed that the maximum amount retained shall not exceed \$1,500 regardless of the total amount of the bail or the amount of the cash deposit, and that in no event shall the amount retained by the Court be less than \$10 (ten dollars).

Subsection (C) provides guidance regarding the forfeiture of the bail deposit and entry of a judgment for the balance of the bail ordered as well as reduction and vacation of same.

Subsection (D) provides that the entire bail deposit will be returned if the defendant appears for all court hearings and events, and that the retention amount established in subsection (B) shall be retained if the defendant does not appear as required.

Subsection (E) controls real estate posted as bail.

*Note: Star Rule *4008.1, adopted May 17, 1973; Star Rule *4009.1, adopted May 17, 1973, and Star Rule *4010(c), adopted May 20, 1971. General Court Regulation 73-5, July 2, 1973; comment amended by General Court Regulation 80-13, effective July 1, 1980; comment amended by General Court Regulation 88-4; effective June 1, 1988. Former Phila. Crim. R. 506. Comment amended and rule renumbered on April 20, 2012 by Administrative Governing Board Order 03 of 2012. Amended October 10, 2018, effective immediately.*

Rule*529. 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 the defendant's appearance at proceedings concerning the charges for which the defendant 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.

(3) An application for modification of bail shall be in writing and shall include the defendant's name, address, CPCMS number, the charges, the present bail, the date and name of the Judge or Arraignment Court Magistrate who presided at the Preliminary Arraignment or Municipal Court trial. During the business hours of Court operation (9 a.m. to 5 p.m., Monday through Friday), the application shall be filed with Office of Judicial Records, which shall schedule 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.

(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 business hours of Court operation, counsel must request 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 CPCMS number, shall be issued forthwith by the Court and a copy provided to counsel.

(C) Modification at Trial. Once a case has 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 this Rule.

(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) 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 as provided in Pa.R.Crim.P. 544.

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 Court of Common Pleas as provided in Pa.R.Crim.P. 544.

Note: Former Philadelphia Criminal Rule 500. Renumbered June 4, 2014, effective July 21, 2014. Amended September 20, 2019, effective December 2, 2019.

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 THE SURETY'S 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 the President Judge's 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 the President Judge's 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 the President Judge's designee may order all or partial vacation of judgment notwithstanding the schedule in subsection 3.

(E) Any surety, for proper cause finding the surety's 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 the defendant 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 the Superintendent of Prisons.

Note: This rule combines former Philadelphia Criminal Rules 510 and 520. Renumbered June 4, 2014, effective July 21, 2014. See also Administrative Order No. 01 of 2012, In re: Motions to Vacate or Reduce Bail Forfeitures. Amended September 20, 2019, effective December 2, 2019.

Rule * 540. Preliminary Arraignment

*Note: Rescinded September 20, 2019, effective December 2, 2019. Subject matter governed by Phila. Municipal Court Rule *540*

Rule *542 Preliminary Hearing

Note: Rescinded September 20, 2019, effective December 2, 2019.

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 the Philadelphia County Indicting Grand Jury.

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. *Amended September 20, 2019, effective December 2, 2019.*

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 before the Court of Common Pleas 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. 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 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 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 the designated Assistant District Attorney or paralegal 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.

(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.

- (c) 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 the Court of Common Pleas before the IGJ Preliminary Hearing Supervising Judge for status. The procedures delineated in #2 above will also apply.
- (d) 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 the defendant's 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 provided an e-mail address 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.
- (e) At the status listing 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. (See Appendix C)
- (f) The case then will be sent 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).
- (g) Following formal arraignment in Common Pleas Court, the case will be sent directly for a scheduling conference to the trial judge. All homicide IGJ cases will be listed in front of the Homicide Calendar Judge in the Homicide Calendar Room. 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.
- (h) 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 Detective Divisions and Case Types

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

- (i) 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.

- (j) All IGJ cases listed for trial will also receive a status date, 60 days prior to trial, for a pretrial readiness conference. At this conference, the court will determine if the defense and the District Attorney's Office expect to be ready for trial. If both sides are ready for trial, IGJ material will be turned over to defense counsel, subject to the disclosure limitations listed below. A motion to quash and any other motions may be filed within 10 days of when the transcript from the IGJ and any other IGJ discovery is turned over to defense counsel. If the case is not expected to be ready for trial, the case will get a new trial date and a new 60-day status date. The District Attorney's Office will not turn over IGJ material until the trial court has made a determination that the case is expected to go forward as scheduled. The 60-day date for disclosure of IGJ material may be modified by order of an IGJ Supervising Judge.
 - a. *Disclosure limitations:* pursuant to the standard disclosure order, defense counsel may not give copies of the grand jury material to the defendant to retain or copy in any way and may not disclose the grand jury material to any other parties without an additional disclosure order from an IGJ Supervising Judge. In connection with the standard disclosure order, grand jury material may be given to an investigator or mitigation specialist working for the defendant on a case where the defendant was indicted by the IGJ and is now awaiting trial.
 - b. After a determination that the case is ready for trial and disclosure of grand jury material to defense, the trial court will schedule a hearing for any filed motions to quash and other pretrial motions requested by defense counsel. Motions to quash and other pretrial motions will be heard by the trial court.

- (k) 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. Amended September 20, 2019, effective December 2, 2019.

APPENDIX A – Disclosure Order

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA
COUNTY TRIAL DIVISION – CRIMINAL SECTION**

COMMONWEALTH OF PENNSYLVANIA :
 :
v. : ___-51-CR-
 :
[DEFENDANT] :

**ORDER
DISCLOSURE OF INDICTING GRAND JURY MATERIALS**

AND NOW, this day of , 20 , pursuant to Pa.R.Crim.P. 556.10(B)(5) and Pa.R.Crim.P. 573(F), it is hereby **ORDERED** and **DECREED** that the Philadelphia District Attorney's Office shall disclose any Indicting Grand Jury materials, that were withheld from discovery pursuant to Pa.R.Crim.P. 556.10(B)(5) in connection with the above-captioned case, to defense counsel representing the above named defendant by sixty (60) days prior to the commencement of trial. Upon disclosure to defense counsel, such materials may be redacted as to not include the address, phone number, social security number, work information or closest relative information of any witnesses identified in the materials. Once these redacted materials are disclosed to the defense, no motion for a continuance based on said disclosure shall be granted unless granted by a Supervising Judge of the Indicting Grand Jury.

It is further **ORDERED** and **DECREED** that upon disclosure, counsel for the defendant shall not provide copies of the material disclosed and protected by this **ORDER** to the defendant. The defendant is not permitted to copy or retain these materials in any way. This **ORDER** does not prohibit counsel from showing these materials to the defendant, discussing these materials at meetings with the defendant or from reading from or discussing these materials in telephone conversations with the defendant.

IT IS SO ORDERED.

BY THE COURT:

IGJ SUPERVISING JUDGE

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~~ Detective Division designations.

Indicting Grand Jury Supervising Judges

- IGJ Supervising Judge [Name]
- IGJ Supervising Judge [Name]
- IGJ Supervising Judge [Name]
- IGJ Supervising Judge [Name]
- IGJ Supervising Judge [Name]
- IGJ Supervising Judge [Name]

Detective Divisions and Case Types

- IGJ Preliminary Hearing Supervising Judge
- South & Southwest Detective Divisions Cases
- Northeast & Northwest Detective Divisions Cases
- Central & East Detective Divisions Cases
- Direct File Juvenile Cases
- 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 fourteen (14) days after the date the matter is held for court, or a Municipal Court Appeal is filed. The District Attorney shall file the Information 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.

Note: Amended September 20, 2019, effective December 2, 2019.

Rule *576. Electronic Filing and Service of Motions and Other Papers

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) grand jury materials;
- (iv) legal papers filed ex parte as authorized by law; and
- (v) 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 Office of Judicial Records 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 Office of Judicial Records, and at the same time and in the same amount as required by statute, court rule or order. The Office of Judicial Records 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: www.philacourts.us 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 Office of Judicial Records in an electronic format. Neither the Office of Judicial Records 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 Office of Judicial Records 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 Office of Judicial Records, 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 Office of Judicial Records, 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 Office of Judicial Records 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 Office of Judicial Records 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 Office of Judicial Records in a paper (or "hard-copy") format shall be accepted by the Office of Judicial Records in that format and shall be retained by the Office of Judicial Records as may be required by applicable rules of court and record retention policies. The Office of Judicial Records 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 Office of Judicial Records shall provide training and assistance to all parties as may be necessary to electronically file legal papers as provided in this rule.

(5) The Office of Judicial Records 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.

Editor's Note: By order issued February 6, 2013, the Supreme Court of Pennsylvania authorized the adoption of the instant rule as well as the implementation of the First Judicial District's Criminal Electronic Filing System. See Order No. 424, Criminal Procedural Rules Docket. The duration of the Pilot Program was extended by the Supreme Court on a yearly basis in 2014 and 2015. See Nos. 449 and 460, Criminal Procedures Rules Docket. By order of the Supreme Court issued on February 29, 2016, the Pilot Program was "... extended until further Order of Court." See Order No. 470, Criminal Procedures Rules Docket. By Order dated January 25, 2018 the Supreme Court adopted Rule 576.1. Electronic Filing of Legal Papers, effective statewide on May 1, 2018, which authorizes implementation of local electronic filing rules and systems provided that the "...Administrative Office of Pennsylvania Courts and the judicial district have agreed upon an implementation plan for PACFile in the judicial district." See Pa.R.Crim.P. 576.1 (B)(1)(d). Until such time, the First Judicial District's Criminal Electronic Filing System implemented pursuant to Rule 576 shall continue.

Note: Amended September 20, 2019, effective December 2, 2019.

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.

(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. Provided, however, that the Commonwealth may agree to be served by the Office of Judicial Records upon its receipt of the Motion.

(D) 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. Amended by Trial Division Administrative Order No. 07 of 2018, effective November 1, 2018.

Rule *600. Motions/Filing

Note: Rescinded September 20, 2019, effective December 2, 2019. Content governed generally by Pa.R.Crim.P. 575 and 576.

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

Note: Rescinded September 20, 2019, effective December 2, 2019. Content governed generally by Pa.R.Crim.P. 575 and 576.

Rule *610. Motions-Criminal List Program Cases

Note: Rescinded September 20, 2019, effective December 2, 2019.

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

Note: Rescinded September 20, 2019, effective December 2, 2019.

Rule *630 Application to Suppress Evidence in Municipal Court Cases

Note: Rescinded September 20, 2019, effective December 2, 2019.

Rule *640. Recording of Sentence

Note: Rescinded September 20, 2019, effective December 2, 2019.

Rule 645. Stay Pending Appeal of Municipal Court Judgment

Note: Rescinded September 20, 2019, effective December 2, 2019. Subject Matter addressed by Pa.R.Crim.P. 461 and 462.

Rule *650. Post-trial

Note: Rescinded September 20, 2019, effective December 2, 2019. Subject matter governed generally by Pa.R.Crim.P 700 et seq.

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

Note: Rescinded September 20, 2019, effective December 2, 2019. Subject matter governed generally by Pa.R.Crim.P 700 et seq.

Rule *660. Sentencing-Fines-Indigents

Note: Rescinded September 20, 2019, effective December 2, 2019.

Rule *670. Funeral Orders-Prisoners

Requests to permit prisoners to attend the funeral of a family member shall initially be submitted to the Sheriff's Office utilizing an approved form which contains all pertinent required information. If the Sheriff's Office determines that the request can be accommodated, the Sheriff's Office shall forward the request to the Administrative Judge of the Trial Division, or to the Administrative Judge's designee, for the entry of an appropriate order. The Petitioner shall pay all fees as may be required by the Sheriff.

Note: General Court Regulations 72-4, February 9, 1972. Amended September 20, 2019, effective December 2, 2019.

Rule *680. Prisoners' Bring-ups

Note: Rescinded September 20, 2019, effective December 2, 2019.

Rule *700

- (A) The judge who presided at the trial or who received the plea of guilty or nolo contendere shall impose sentence unless there are extraordinary circumstances which preclude the judge's presence. In such event, another judge shall be assigned to impose sentence.
- (B) The supervision of a defendant serving a sentence may be transferred to a judge other than the original sentencing judge in any of the following situations:
 - (1) The original sentencing judge has been transferred out of the Criminal Division and consents in writing to the transfer of the supervision;
 - (2) The case has been accepted into a First Judicial District reentry program and, after a hearing or in writing, the defendant and the original sentencing judge consent to supervision being transferred to a judge presiding over the reentry program;
 - (3) The defendant is facing a new sentencing in front of a different judge on a separate case and, after a hearing or in writing, the defendant and the original sentencing judge consent to supervision being transferred to the other judge; or
 - (4) There exist extraordinary circumstances, including death, incapacitation or retirement, which preclude the presence of the original sentencing judge.

Comment:

Local Rule 700(A) tracks Pa.R.Crim.P. 700(A).

Pa.R.Crim.P. 700 also governs sentencings that result from a violation of probation or parole. *See Comm. v. McNeal*, 120 A.3d 313 (Pa. Super. 2015). Accordingly, Local Rule 700(B) flows from Pa.R.Crim.P. 700(B), which invites promulgation of local rules to expand the circumstances under which transfers from one judge to another may be made. Local Rule 700(B) reflects the recognition that transfers are appropriate under a variety of circumstances, including where a defendant has the opportunity to enter one of the First Judicial District's reentry programs or in order to consolidate a violation hearing in front of the "back judge" with the sentencing for a new case in front of a different judge.

Note: Adopted by order dated September 25, 2020. Published in the *Pennsylvania Bulletin* on October 24, 2020 and effective November 23, 2020.

Rule *708. Violation of Probation or Parole. Revocation Hearings

(A) A probation officer may arrest or cause to be arrested, with or without a warrant, any person (“*Defendant*”) who has been placed on probation or parole for: failure to report as required by the terms of that person’s probation or parole, or for any other violation of that person’s probation or parole as provided by law, including 42 Pa.C.S. §§ 9913 and 9754.

Explanatory Comment: 42 Pa.C.S. § 9913 authorizes a probation officer to arrest or detain any person on probation or parole for any violation of that person’s probation or parole, imposed as provided in 42 Pa.C.S. § 9754 or otherwise.

A probation officer must exercise discretion in determining when a detainer ought to be issued, and shall reference the rule(s) and condition(s) of probation or parole allegedly violated by the Defendant.

(B) The procedure which follows shall be utilized whenever any Defendant who has been released on county probation or parole in Philadelphia County is arrested or detained by law enforcement officers to determine whether the Defendant’s probation or parole ought to be revoked.

(1) Gagnon I Hearing. A hearing will be held before a Trial Commissioner or a judge as soon as practicable and within a reasonable time after the Defendant has been arrested or detained in order to determine whether there is probable cause to believe that the Defendant has committed a violation of his probation or parole. At the hearing, the Defendant shall:

- a. receive notice of the alleged violation of probation or parole;
- b. be provided the opportunity to appear in person or by two-way simultaneous audio-visual communication and to present evidence in his own behalf;
- c. be provided a conditional right to confront adverse witnesses;
- d. be provided counsel; and
- e. be provided a written hearing disposition report.

At the conclusion of the Gagnon I hearing, if the Trial Commissioner or judge determines that probable cause exists to believe that the Defendant has committed a violation of one or more condition of Defendant’s probation or parole, the Defendant may be detained pending a Gagnon II hearing.

Explanatory Comment: See generally *Morrissey v. Brewer*, 408 U.S. 471, 92 S.Ct. 2593, 33 L.Ed.2d 484 (1972), and *Gagnon v. Scarpelli*, 411 U.S. 778, 93 S.Ct. 1756, 36 L.Ed.2d 656 (1973) which require that a person arrested and detained due to an alleged violation of a condition of probation or parole be provided a “preliminary revocation hearing” (a “Gagnon I hearing”) conducted by an independent decisionmaker and a “final revocation hearing” (a “Gagnon II hearing”) to determine whether the person may be detained and the person’s probation or parole be revoked.

As noted above, the Gagnon I hearing need not be conducted by a judge, and may be conducted utilizing two-way simultaneous audio visual communications. See Comment to Pa.R.Crim.P. 119. Supervisory Probation staff have been designated in some counties to conduct Gagnon I hearings.

The Gagnon I hearing must be held within a reasonable period after the person is arrested and detained. See *Commonwealth v. Ferguson*, 2000 Pa.Super 312, 761 A.2d 613, 619 (2000). Requiring that a Gagnon I hearing be held within a mandatory or inflexible number of days, without regards to the individualized factors present in each case, may result in delay in the scheduling and holding some or all Gagnon I hearings.

Whether bail has been ordered and posted in connection with the new charge(s) is not dispositive in determining whether a person who is on probation or parole shall be released or will continue to be detained for violating the condition(s) of probation or parole. The sole consideration before the fact

finder in the Gagnon I hearing is whether probable cause exists to believe that the person has violated any condition of the person's probation or parole.

When a detainer is issued due to conduct which resulted in an arrest, the person on probation or parole may only be detained if after the Gagnon I hearing, evidence of some facts in addition to the facts of arrest is necessary to determine that the person on probation or parole violated any applicable conditions. *See Commonwealth v. Davis*, 234 Pa. Super 31, 38, 336 A.2d 616 (1975).

A Gagnon I hearing is not necessary when a probable cause determination is made, after the preliminary hearing where the Defendant is held for trial or upon the conviction of an offense committed while the Defendant had been released on probation or parole, that the Defendant has violated a condition of probation or parole. *See Commonwealth v. Davis*, 234 Pa. Super 31, 336 A.2d 616 (1975) for the specific scenarios held not to require a Gagnon I hearing in Philadelphia County.

(2) Gagnon II Hearing. If at the conclusion of the Gagnon I hearing, it was determined that probable cause existed to believe that the Defendant violated one or more condition of Defendant's probation or parole, a hearing must be held to determine whether the facts warrant revocation of the Defendant's probation or parole and whether probation or parole is still an effective vehicle to accomplish the rehabilitation and a sufficient deterrent against future antisocial conduct, as follows:

- a. a written request for revocation shall be filed as required by Pa.R.Crim.P. 708(A);
- b. a hearing will be held before the sentencing judge or a judge generally assigned to hear violations of probation or parole;
- c. a hearing will be scheduled as requested by the sentencing judge or judge generally assigned to hear violations of probation or parole
 - i. within a reasonable period after the filing of the written request for revocation required by Pa.R.Crim.P. 708(A); or
 - ii. within a reasonable period after a verdict is rendered in connection with the new charges which had resulted in Defendant's arrest;
- d. the Defendant shall be provided counsel and the opportunity to be heard in person and to present witnesses and documentary evidence;
- e. the defendant shall be provided the right to confront and cross-examine adverse witnesses; and
- f. the hearing shall proceed as provided in Pa.R.Crim. P. 708.

Explanatory Comment: The judge may not revoke probation or parole on arrest alone, but only upon a finding of a violation thereof after a hearing, as provided in Pa.R.Crim.P. 708. However, the judge need not wait for disposition of new criminal charges to hold such hearing. *See Commonwealth v. Kates*, 452 Pa. 102, 305 A.2d 701 (1973).

The purpose of the Gagnon II Hearing is not to determine whether the person who is on probation or parole has committed a new offense, which the Commonwealth must establish by proving all of the requisite elements of the new offense beyond a reasonable doubt, but rather it is to establish the violation of a condition of probation or parole, which must be proved by a preponderance of the evidence, *see Commonwealth v. Allshouse*, 2009 Pa.Super 47, 969 A.2d 1236, 1240 (2009) and cases cited therein, and further to determine "whether the conduct of the probationer indicates that the probation has proven to be an effective vehicle to accomplish rehabilitation and a sufficient deterrent against antisocial behavior." *Commonwealth v. Kates*, supra, 452 Pa. at 115 (1973).

Note: Adopted March 6, 2019, effective April 29, 2019. See Administrative Order No. 07 of 2019.

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 court 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.

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

Rule *780. 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 on a quarterly basis 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 on a quarterly basis.

(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 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.

*Note: 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. Former rule *700 was renumbered and amended September 20, 2019, effective December 2, 2019.*

Rule *785. 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 the Police Commissioner's 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~~ the Police Commissioner's designee shall forward a copy thereof to the appropriate District Attorney and inform the District Attorney 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 Police Commissioner, 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.

*Note: Star Rule *329, February 17, 1977. Former rule *705 was amended September 20, 2019, effective December 2, 2019*

Rule *786. Criminal Court Priority List

(A) Whenever an attorney has more than one criminal case listed in different courtrooms on the same day, the attorney shall appear in each courtroom wherein the attorney’s case or cases are listed and provide scheduling and contact information. The attorney will be expected to report to the highest priority room to which the attorney has been assigned.

Priority List (listed in the order of their priority)

- (1) Homicide Case Assignment
- (2) Criminal Calendar Program
- (3) Major Felony Program
- (4) Felony Waiver Program
- (5) Municipal Court List Rooms
- (6) Criminal Motions List and PCRA Hearings
- (7) Any Other Assignment.

An attorney not actually on trial who desires to attend a Preliminary Hearing must obtain the prior approval of the Judge presiding in the highest priority room to which the attorney 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. Former rule *805 was renumbered and amended September 20, 2019, effective December 2, 2019.*

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

Note: Rescinded September 20, 2019, effective December 2, 2019. Subject matter governed generally by Pa.R.Crim.P. 106.

Rule *801. Continuances at Preliminary Hearings

Note: Rescinded September 20, 2019, effective December 2, 2019. Subject matter governed generally by Pa.R.Crim.P. 541 et seq.

Rule *810. Applications for Continuances

Note: Rescinded September 20, 2019, effective December 2, 2019. Subject matter governed generally by Pa.R.Crim.P. 106

Rule *820. Continuances Involving Defendants in Custody

Note: Rescinded September 20, 2019, effective December 2, 2019.

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

Note: Rescinded September 20, 2019, effective December 2, 2019.

Rule *910. Probation Detainer and Violation Procedure

Note: Rescinded by Joint Administrative Order No. 08-2018 issued October 9, 2018, effective immediately.

Rule *920. Appeals Procedure

Rescinded. Subject matter governed generally by Pa.R.Crim.P. 720 et seq.

POST-CONVICTION PROCEEDINGS

Rule *950. Post-Conviction Hearing Act Procedure

Note: Rescinded September 20, 2019, effective December 2, 2019. Subject matter governed generally by Pa.R.Crim.P. 900 et seq.

