

First Judicial District of Pennsylvania

Philadelphia Municipal Court

Criminal Division



LOCAL RULES

Updated 5-27-19

**PHILADELPHIA MUNICIPAL COURT
CRIMINAL DIVISION - LOCAL RULES**

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Forms

Available at www.courts.phila.gov/forms

PHILADELPHIA MUNICIPAL COURT LOCAL CRIMINAL RULES

Rule 21 *Municipal Court Emergency Judge Procedures.*

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

Editor's note: Adopted by Philadelphia Municipal Criminal Court on June 5, 1987, effective immediately; Amended by the Municipal Court Board of Judges on November 18, 2005; effective March 15, 2006.

Rule 102 *Procedure in Non-traffic Summary Cases*

When a defendant commits a non-traffic summary offense the matter shall proceed according to Pennsylvania Rule of Criminal Procedure 1002 except that:

- (A) In lieu of taking the defendant into custody the law enforcement officer may prepare, verify and transmit a citation electronically. The law enforcement officer contemporaneously shall give the defendant a paper copy of the citation containing all the information required by Pennsylvania Rule of Criminal Procedure 403 and a notice to appear.
- (B) When a defendant commits a non-traffic summary offense in any district that is within the jurisdiction of Community Court the procedure shall be as follows:
 - (1) during the regular operating hours of Community Court, Monday through Friday, the defendant shall be taken to the police district or an appropriate PARS processing location where the defendant will be issued a citation. The police shall then, without unnecessary delay, transport the defendant to Community Court for proceedings before a Municipal Court judge.
 - (2) during the hours when Community Court is closed, the defendant shall be processed as provided in subsection (B)(1) except that the defendant will be given a notice to appear in Community Court for proceedings before a Municipal Court judge on the next business day.
 - (3) if offered by the District Attorney, the defendant may enter a conditional guilty plea or a *nolo contendere* plea and the sentence imposed shall be consistent with the terms and conditions offered by the District Attorney and accepted by the defendant as a negotiated plea. The judge will then impose community service and/or rehabilitation conditions to be completed by the time of the defendant's next scheduled appearance. The defendant shall be given notice to return to Community Court for the status of the completion of the conditions. If at the status listing the defendant has successfully completed the conditions imposed, prosecution shall be withdrawn. If the conditions have not been completed, it is within the judge's discretion to allow the defendant additional time to comply. If the judge allows additional time and the defendant again fails to successfully complete the conditions, the judge shall enter a guilty verdict and impose sentence.
 - (4) the defendant may enter a not guilty plea and receive a trial date in Community Court.

Editor's note: Adopted by the Board of Judges on November 18, 2005; effective February 1, 2006.

Rule 210. *Unexecuted Search Warrants. Filing of Executed Search Warrants, Inventory and Related Papers with the Office of Judicial Records*

- (A) From time to time, the Arraignment Court Magistrates shall destroy all unexecuted Search Warrants and related papers filed with, and issued by, the Arraignment Court Magistrates pursuant to Pa.R.Crim.P. No. 200 *et seq.*
- (B) All Executed Search Warrants, the Inventory and related papers shall be filed by the Arraignment Court Magistrates and the law enforcement officers with the Office of Judicial Records at the Justice Juanita Kidd Stout Center for Criminal Justice. Search Warrant information shall be disseminated as provided in Pa.R.Crim.P. No. 212, subject to any sealing requests granted pursuant to Pa.R.Crim.P. No. 211. The Office of Judicial Records shall file the Search Warrants and related papers in the applicable Criminal or Miscellaneous Docket.

Note: Adopted by the Municipal Court Board of Judges and issued as President Judge General Court Regulation No. 01 of 2018 on May 14, 2018; effective July 1, 2018.

Rule 405 *Appointment of Voluntary Defender as Back-up Counsel.*

In appropriate cases, where private counsel does not appear or otherwise is unable to represent a defendant on the trial date, the Court may appoint the Public Defender as back-up counsel to represent the defendant at the next listing date.

Note: Municipal Court Memorandum 75-34, October 20, 1975.

Rule 406-7 *Standards for Appointment of Counsel in Misdemeanor Cases.*

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

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

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

Rule 426 *Compensation for Court-Appointed Counsel in Municipal Court.*

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

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

Rule 431 Attorneys with Twenty (20) or More Cases in Philadelphia Municipal Court.

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

- (A) At the end of every month, the court will prepare a list of attorneys who, at such time, represent such a case inventory. The list shall include the attorney’s name, the number of cases in the case inventory, the name of the defendant in each case, and the court term and number. A copy of this list shall be provided to the Supervising Judge of the Municipal Court’s Criminal Division and the Office of the District Attorney. The Supervising Judge shall review the list and give notice to counsel that this Rule will become operative, unless within 10 days of receipt of the letter counsel provides a written response to the Supervising Judge explaining why the rule should not become operative; such explanation to include the accuracy of the list, the responsibility for the delay, and the existence of extraordinary circumstances or compelling reasons justifying exemption.
- (B) If the Supervising Judge determines that a hearing is needed, one shall be scheduled. Notice of the hearing shall be given to counsel and the District Attorney, both of who shall have the right to be heard and to present documentary and other pertinent evidence.
- (C) The Supervising Judge shall make Findings of Fact.
- (D) Upon finding that counsel’s excess case inventory has not been caused by counsel’s inability to appear for cases that are otherwise ready for disposition, the Supervising Judge shall enter an Order relieving counsel from the application of this Rule.
- (E) Where counsel has one or more partners or associates in the practice of law, entries of appearance by any partner or associate shall not be considered in determining the defendants represented by counsel whose cases have not been brought to trial within the 4 month time period described in section (A). In no event shall substitution of appearances be permitted by counsel where the apparent purpose of such substitution is to avoid compliance with this Rule.

Note: Adopted May 23, 1984. Amended by the Municipal Court Board of Judges on November 18, 2005; effective March 15, 2006.

Rule 438 Crash Court.

All defendants charged with a Municipal Court case, who do not make bail within 10 days after preliminary arraignment, and all defendants charged with a felony, whose preliminary hearing is continued for more than 20 days, shall be listed forthwith in Crash Court at a Philadelphia county prison.

Crash Court shall be conducted one day a week and shall be presided over by a Municipal Court Judge. Attorneys from the District Attorney’s Office and the Defender Association shall be present, together with a Quarter Sessions Clerk and the defendant.

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

1. Agreement by the District Attorney to reduce bail;
2. Agreement by the District Attorney to reduce the charge to a summary criminal offense and accept a guilty plea;
3. Relisting the matter within 48 hours to the Criminal Justice Center for a guilty plea;

4. Relisting the matter on an accelerated basis for trial or preliminary hearing;
5. Bail to remain the same and date for next action set.

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

Rule 513. Dissemination of Arrest Warrant Information.

All Executed Arrest Warrants and related papers shall be filed by the issuing authority and the law enforcement officer with the Office of Judicial Records at the Justice Juanita Kidd Stout Center for Criminal Justice. Arrest Warrant information shall be disseminated as provided in Pa.R.Crim.P. No. 513 (C), subject to any sealing requests granted pursuant to Pa.R.Crim.P. No. 513.3. The Office of Judicial Records shall file and docket the Arrest Warrants and related papers in the applicable Criminal or Miscellaneous Docket.

Note: Adopted by the Municipal Court Board of Judges and issued as President Judge General Court Regulation No. 01 of 2018 on May 14, 2018; effective July 1, 2018.

Rule 515 Bench Warrant Hearings.

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

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

Rule 530 Arrest Warrants Issued Outside City.

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

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

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

Rule 540 Preliminary Arraignment.

(A) Preliminary arraignments shall be held 24/7/365, at the Justice Juanita Kidd Stout Center for Criminal Justice, in accordance with Pa.R.Crim.P. No. 540. Information available to the Arraignment Court Magistrate through PARS may be relied upon by the Arraignment Court Magistrate, shall be included in the case file, and shall be accessible by the parties and the public as provided by the Case Records Public Access Policy of the Unified Judicial System

of Pennsylvania. The Arraignment Court Magistrate shall include in the case file documentary exhibits, if any, introduced by the Commonwealth or defense counsel.

- (B) Hospital bedside preliminary arraignments may be conducted between 7:00 AM and 7:00 PM (or at such other times as authorized by the President Judge from time to time), in person or by using two-way simultaneous audio-visual communications as directed by the issuing authority or Arraignment Court Magistrate. Police shall direct all requests for bedside preliminary arraignments to the assigned Arraignment Court Magistrate at the Justice Juanita Kidd Stout Center for Criminal Justice.

Comment: The Pennsylvania Rules of Criminal Procedures only require the recording and transcription of court proceedings after the preliminary arraignment. See Pa.R.Crim.P. No. 1012 (A) and Pa.R.Crim.P. No. 115. Accordingly, preliminary arraignments conducted by Arraignment Court Magistrates will not be recorded or transcribed. However, the President Judge of the Philadelphia Municipal Court may direct that preliminary arraignments conducted by Arraignment Court Magistrates be recorded solely for quality control purposes. These recordings shall not be deemed a public record and shall not be available, discoverable or offered in evidence in any proceeding.

Note: Former Rule 550 rescinded and new rule adopted by the Municipal Court Board of Judges on November 18, 2005; effective March 15, 2006. Rule renumbered as Rule 540 and amended on May 14, 2018; effective July 1, 2018. Comment added April 8, 2019, effective May 27, 2019.

Rule 540 Bail for Traffic Court Scofflaws.

A. Procedure When a Defendant Is Arrested Pursuant to Traffic Division Warrants When the Traffic Division is Closed.

1. The defendant shall be taken without unnecessary delay to a Philadelphia Police Offender Processing site or county prison. The defendant shall be identified, and the outstanding warrant(s) and total amount of any fine and costs owed shall be confirmed.
2. The defendant shall appear before an Arraignment Court Magistrate by means of two-way simultaneous audio-video equipment for a warrant hearing. The proceeding before the Arraignment Court Magistrate shall be as set forth below in paragraph (B).

B. Proceeding Before the Arraignment Court Magistrate. Warrant Hearing. Scheduling of Traffic Division proceeding.

1. The Arraignment Court Magistrate shall determine whether the defendant should be released pending the next Traffic Division hearing, and if so, whether collateral must be posted by the defendant to secure defendant's release pending the next Traffic Division hearing. If the Arraignment Court Magistrate determines that collateral must be posted, the Arraignment Court Magistrate shall set collateral as provided in Pa.R.Crim.P. 1034.
2. The Arraignment Court Magistrate shall schedule a hearing before the Traffic Division using a Subpoena/Commitment form.
3. The defendant shall sign the Subpoena/Commitment form and shall be given a copy.
4. If the posting of collateral is ordered and is not posted by or on behalf of the defendant, the defendant shall be brought to the county prison and shall be brought down for the scheduled Traffic Division proceeding. Provided, however, that the defendant shall be released promptly upon the posting of the collateral set by the Arraignment Court Magistrate.
5. At the conclusion of the hearing, the Arraignment Court Magistrate shall direct that all outstanding Traffic Division warrants against the defendant be withdrawn.

Note: Amended by the Municipal Court Board of Judges on January 18, 2006. Effective March 1, 2006; amended May 9, 2014, effective thirty (30) days after publication in the Pennsylvania Bulletin.

***Comment:** Consistent with Pa.R.Crim.P. 1034 the Arraignment Court Magistrate shall set collateral in a reasonable amount, i.e. an amount which upon consideration of the defendant's income and the defendant's expenses may be reasonably posted by the defendant. It is the intention of the court that most, if not all, defendants will be released pending the date of the summary trial or hearing. However, should the records of the Traffic Division disclose that the defendant has a history of failure to appear for Traffic Division summary trials or hearings, especially after personal service of the notice of trial or scheduling order, the Arraignment Court Magistrate may direct that the defendant be held until the summary trial or hearing date and may be released only upon payment of the full amount of collateral or outstanding fines. Should the defendant be ordered held until the date of the summary trial or hearing, the summary trial or hearing should be scheduled as soon as practical.*

Rule 553 Line-ups Ordered Prior to a Preliminary Hearing.

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

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

Rule 555 Preliminary Hearings.

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

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

Rule 558 Required Discovery in Municipal Court.

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

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

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

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

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

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

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

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

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

(b) Participation and Fees.

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

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

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

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

(c) Use of the Criminal Electronic Filing System.

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

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

(3) The Criminal Electronic Filing System will attribute the filing of an electronic legal paper to the party whose Username, Password and PIN is used to log on and file the legal paper.

The following additional provisions govern the signature and verification of legal papers:

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

- (4) All legal papers electronically filed must be filed in a pdf and shall be maintained and retained by the clerk of courts in an electronic format. Neither the clerk of courts nor the court is required to maintain a hard copy of any legal paper filed electronically as provided in this rule.
- (5) The electronic filing of a motion constitutes a certification pursuant to Pa.R.Crim.P. 575 that the filing party or attorney has read the motion, that to the best of the filing party's or attorney's knowledge, information and belief there is good ground to support the motion, and that it is not interposed for delay.
- (6) The clerk of courts shall provide, through the Criminal Electronic Filing System's website, an acknowledgement that the legal paper has been received, including the date and time of receipt, in a form which can be printed for retention by the filing party.
- (7) Unless the legal paper is rejected by the clerk of courts, and provided that the requisite payment has been received prior to or at the date and time of submission, the filing date and time of a legal paper shall be the date and time of submission. If the legal paper is not rejected by the clerk of courts, and the payment is received after the date and time of submission, the filing date and time of a legal paper shall be the date and time payment is received.
- (8) Upon review of the legal paper, the clerk of courts shall provide, through the Criminal Electronic Filing System's website, an acknowledgement that:
- (i) the legal paper has been accepted for filing, including the date and time of acceptance, and that the legal paper was served on the parties as provided in this rule, in a form which can be printed for retention by the filing party; or
 - (ii) the legal paper has been rejected as authorized by law. The clerk of courts shall immediately notify, by email, the filing party of the reason for the rejection and whether the legal paper may be modified or a new legal paper must be submitted.
- (9) A filing party shall be responsible for any delay, disruption, interruption of the electronic signals and legibility of the document electronically filed, except when caused by the failure of the Criminal Electronic Filing System's website.
- (d) Legal Papers Filed in a Paper Format. Any legal paper submitted for filing to the clerk of courts in a paper (or "hard-copy") format beginning on April 1, 2013 shall be accepted by the clerk of courts in that format and shall be retained by the clerk of courts as may be required by applicable rules of court and record retention policies. The clerk of courts shall convert such hard-copy legal paper, other than any legal paper filed under seal, to pdf. Once converted to pdf, the pdf version of the legal paper shall be deemed to be, and shall be treated as, the original legal paper and may be used by the parties and the court for all purposes, including court hearings and trials, in the Municipal Court and the Court of Common Pleas.
- (e) Record on Appeal. Electronically filed legal papers, and copies of legal papers filed in a paper format as provided in subsection (d), shall become the record on appeal.
- (f) Confidential information. Ex parte filing of legal papers. Filing legal papers under seal.
- (1) Counsel and unrepresented parties must refrain from including confidential information in legal papers filed with the clerk of courts or the court regardless of whether the legal paper is filed electronically or in a paper format. Counsel and unrepresented parties must include confidential information relevant to the case on a court-approved Confidential Information Form. The Confidential Information Form shall be served on and made available to the parties to the case, the court and appropriate court staff, as provided by law. The Confidential

Information Form shall not be released or otherwise accessed by the public. The following information is designated as confidential information:

- (i) in a prosecution involving a child victim of sexual or physical abuse, the name of the child victim;
- (ii) social security numbers;
- (iii) financial information; and
- (iv) any other information deemed to be confidential, as provided by law.

(2) Legal papers which, according to law, may be filed ex parte or under seal shall continue to be filed in a paper format as provided in subsection (a)(2).

(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) Except as otherwise specifically provided by law, the clerk of courts shall not be required to redact any pleading filed electronically or in a hard-copy format. However, if the legal paper is submitted for filing in violation of subsection (f) of this rule, the clerk of courts may reject it or refuse to accept it for filing.

(2) The clerk of courts is authorized to delay the availability of legal papers to the general public in the courthouse for five (5) days after the legal paper is accepted for filing, to minimize any potential prejudice or harm to the parties or witnesses, and to enable the parties to seek a protective order when a legal paper is not filed as required by subsections (a)(2) and (f) of this rule.

(3) Legal papers shall only be made available remotely to attorneys of record and pro se parties. A party who is represented by counsel shall not have remote access to any legal papers filed in connection with the party's case. Access to the official case file and legal papers, as required or provided by law and applicable Public Access policies, is available in Rooms 200 and 310 at the Criminal Justice Center. Additional access may be provided by the clerk of courts at such additional places which may be designated from time to time.

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

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

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

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

Note: In accordance with the February 6, 2013 order of the Supreme Court of Pennsylvania, pursuant to Article V, Section 10 of the Constitution of Pennsylvania: effective immediately.

Rule 600 (Rescinded).

Note: Amended by Phila. Municipal Criminal Court on June 5, 1987, effective immediately. Rescinded by the Municipal Court Board of Judges on November 18, 2005; effective March 15, 2006; See Rule 600, Phila. C.P. Criminal Rules.

Rule 645 Stay Pending Appeal of Municipal Court Judgment.

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

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

Rule 710 Guilty Pleas Refused by Trial Judge.

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

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

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

PRIVATE CRIMINAL COMPLAINT PROCEDURE

Rule 840 Private Criminal Complaint Procedure.

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

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

Rule 850 Municipal Court Arbitration for Private Criminal Complaints.

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

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

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

Rule 860 Enforcement of Arbitration Award.

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

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

Rule 910 Probation Detainer and Violation Procedure.

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

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
PHILADELPHIA MUNICIPAL COURT

In Re: Philadelphia Municipal Court Arraignment Court Magistrates

No. 01 of 2015

ORDER

AND NOW, this 1st day of June, 2015, in accordance with the provisions of Act 98 of 2008 which amended Act 187 of 1984, it is hereby ORDERED, ADJUDGED and DECREED that:

- (1) The “*Philadelphia Municipal Court Bail Commissioner Rules*” shall henceforth be referenced to as the “*Philadelphia Municipal Court Arraignment Court Magistrate Rules*,”
- (2) All references in the current *Philadelphia Municipal Court Bail Commissioner Rules* to “*Bail Commissioner*” or “*Bail Commissioners*” shall be replaced with “*Arraignment Court Magistrate*” or “*Arraignment Court Magistrates*,” and
- (3) The Philadelphia Municipal Court Arraignment Court Magistrate Rules shall henceforth be cited as “Phila. M.C.R. Crim. P., A.C.M., Sec.”

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

BY THE COURT:

/s/ Marsha H. Neifield

Honorable Marsha H. Neifield
President Judge
Philadelphia Municipal Court

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

In Re: No. 01 of 2015, Philadelphia Municipal Court Arraignment Court Magistrates

ORDER

AND NOW, this 2nd day of September, 2016, the Order issued June 1, 2015 is amended to read as follows:

ORDER

AND NOW, this 1st day of June, 2015, in accordance with the provisions of Act 98 of 2008 which amended Act 187 of 1984, it is hereby ORDERED, ADJUDGED and DECREED that:

- (4) The “*Philadelphia Municipal Court Bail Commissioner Rules*” shall henceforth be referenced to as the “*Philadelphia Municipal Court Arraignment Court Magistrate Rules*;”
- (5) All references in the current *Rules of Criminal Procedure for the Philadelphia Municipal Court*, *Philadelphia Municipal Court Bail Commissioner Rules* to “*Bail Commissioner*” or “*Bail Commissioners*” shall be replaced with “*Arraignment Court Magistrate*” or “*Arraignment Court Magistrates*;” and
- (6) The Philadelphia Municipal Court Arraignment Court Magistrate Rules shall henceforth be cited as “Phila. M.C.R. Crim. P., A.C.M., Sec.”

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

BY THE COURT:

/s/ Marsha H. Neifield

**Honorable Marsha H. Neifield
President Judge
Philadelphia Municipal Court**

**PHILADELPHIA MUNICIPAL COURT
ARRAIGNMENT COURT MAGISTRATE RULES**

Preface

**RULES OF THE PHILADELPHIA MUNICIPAL COURT
ESTABLISHING STANDARDS AND PROCEDURES FOR THE
APPOINTMENT AND AUTHORITY OF
ARRAIGNMENT COURT MAGISTRATES**

An independent and honorable judiciary is indispensable to justice. Arraignment Court Magistrates exercise important powers and responsibilities as officers of the Philadelphia Municipal Court. It is therefore imperative that only highly qualified individuals be selected and retained as Arraignment Court Magistrates.

Arraignment Court Magistrates should participate in establishing, maintaining, enforcing and observing high standards of conduct so that the integrity and independence of the judiciary may be preserved. The provisions of these Rules governing standards of conduct of Arraignment Court Magistrates shall be constructed and applied to further that objective.

To that end, and in accordance with Act 187 of 1984, the Philadelphia Municipal Court hereby promulgates these Rules for the selection and appointment of Arraignment Court Magistrates, establishing standards of conduct and the rights, responsibilities and authority of Arraignment Court Magistrates.

Joseph R. Glancey
President Judge
November 16, 1984

CITATION OF RULES

These rules may be cited as “**Phila. M.C.R. CRIM. P., A.C.M., Sec.**”

SEAL

Each Arraignment Court Magistrate shall have and use a seal, which shall be in the custody of the Arraignment Court Magistrate. The official acts of said Arraignment Court Magistrate shall be authenticated therewith. There shall be engraved on such seal the same device as is engraved on the great seal of the State, and the words “Commonwealth of Pennsylvania,” “Philadelphia Municipal Court,” and the words “Arraignment Court Magistrate.”

Sec. 1.00. Appointment

- (a) The President Judge and a majority of the Philadelphia Municipal Court may appoint six Arraignment Court Magistrates.
- (b) No individual may be appointed, serve, or be reappointed to serve as an Arraignment Court Magistrate under this Chapter unless he meets the following minimum qualifications:
 - (1) He resides within Philadelphia County.
 - (2) He is, and has been for at least four years, a member in good standing of the Bar of the Supreme Court of Pennsylvania and has been engaged in the active practice of law for that minimum period.
 - (i) The Court may consider as substitute experience for the active practice of law the following, including any combination thereof:
 - (a) Judge of a State Court of Record or other state judicial officer.
 - (b) Attorney for federal or state agencies.
 - (c) Law clerk to any Judge or judicial officer.
 - (3) Persons who do not meet the qualifications of Subsection (2) above, but who have completed a course of training and instructions in the duties of a Arraignment Court Magistrate, and pass an examination prior to assuming office. Such course and examination shall be as provided in Title 42 Pa.C.S. § 3111 et seq.

(4) He must be competent to perform the duties of the office, of good moral character, emotionally stable and mature, committed to equal justice under the law, in good health, patient, Courteous, and capable of deliberation and decisiveness when required to act on his own reason and judgment.

(5) In the case of an initial appointment, he must not be seventy years of age or older, except in the case of retired or Senior Judges whose appointment as Arraignment Court Magistrates shall not be considered an initial appointment.

(6) These are minimum standards and are not intended as a limitation on the appointing authority's power to impose additional requirements

(c) Arraignment Court Magistrates shall not hold another office or position of profit in the government of the United States, the Commonwealth or any political subdivision thereof, except in the armed services of the United States or the Commonwealth.

(d) No individual may serve under this Chapter after having attained the age of seventy (70) years; provided, however, that upon two-thirds vote of all of the Judges of the Court, an Arraignment Court Magistrate who has attained the age of seventy (70) years may continue to serve and may be reappointed under this Chapter.

(e) Pursuant to [42 Pa.C.S. § 1125](#) (relating to appointment of substitute Arraignment Court Magistrates during an emergency), an individual shall be qualified to act as a substitute Arraignment Court Magistrate if he or she meets the following minimum qualifications:

(1) He or she is an employee of the Philadelphia Municipal Court.

(2) He or she is, and has been for at least one year, a member in good standing of the Bar of the Supreme Court of Pennsylvania and has been engaged in the active practice of law for that minimum period. The Court may consider membership on the Central Legal Staff of the Philadelphia Municipal Court or employment as a law clerk to the President Judge of the Municipal Court as substitute experience for the active practice of law.

(3) Attorneys [persons] who do not meet the qualifications of subsection (2) above, but who have completed a course of training and instructions in the duties of Arraignment Court Magistrate, and passed an examination prior to assuming office. Such course and examination shall be as provided in 42 Pa.C.S. § 3111 (et seq.).

(4) He or she must be competent to perform the duties of the office, of good moral character, emotionally stable and mature, committed to equal justice under the law, and in good health, patient. Courteous, and capable of deliberation and decisiveness when required to act on his/her own reason and judgment.

Sec. 1.01. Tenure

(a) The appointment of an individual as an Arraignment Court Magistrate shall be for a period of four years.

(b) Upon the expiration of his term, an Arraignment Court Magistrate may, by a majority vote of the Judges of the Court, continue to perform the duties of his office until his successor is appointed, or for ninety (90) days after the date of the expiration of the Arraignment Court Magistrate's term, whichever is earlier.

(c) Each individual appointed as Arraignment Court Magistrate under this Chapter shall take an oath or affirmation of his office before performing the duties of his office. (Appendix B)

(d) Rescinded.

Sec. 1.02. Compensation

(a) Arraignment Court Magistrates shall receive as full compensation for their services such salary as fixed by statute.

(b) The salary of an Arraignment Court Magistrate shall not be reduced during a term in which he is serving.

(c) Arraignment Court Magistrates, effective upon taking their Oath or Affirmation of office, shall be deemed to be officers and employees of the judicial branch of the government of the Commonwealth of Pennsylvania.

Sec. 2.00. Establishment of Arraignment Court Magistrate Selection Panel

Before the appointment of an Arraignment Court Magistrate is made, an Arraignment Court Magistrate Selection Panel shall be appointed to recommend to the Court for nomination, individuals whose character, experience, ability and commitment to equal justice under the law fully qualify them to serve as Arraignment Court Magistrates.

Sec. 2.01. Membership

(a) The Panel shall be composed of a chairman and other members appointed by the President Judge of the Philadelphia Municipal Court.

(b) Members of the Panel shall not receive any compensation for their services.

(c) The Panel shall consist of at least five Judges of the Philadelphia Municipal Court.

Sec. 2.02. Duties

- (a) The chairman shall have such duties as the Court may assign.
- (b) All information made available to the members of the Panel in the performance of their duties, including the names of potential nominees and identity of individuals recommended by the Panel, shall be kept in strict confidence except as provided in Section 2.03 (c) of these Rules.
- (c) Decisions of the Panel shall be by majority vote of all the members.
- (d) The Panel shall examine the applications of all potential nominees and may, in its discretion, personally interview nominees. The Panel shall make an affirmative effort to identify and give due consideration to all qualified candidates, including women and members of minority groups.
- (e) All applicants shall file an Application for Appointment as Arraignment Court Magistrate, Philadelphia Municipal Court, and Waiver of Confidentiality addressed to the Disciplinary Board of the State Supreme Court and the appropriate Ethics Commissions (Appendix A), with the Court Administrator, who shall immediately upon receipt deliver them to the Chairman of the Panel.
- (f) The Panel shall then determine those individuals among the potential nominees who meet the standards set forth by these Rules for Appointment as Arraignment Court Magistrate, and shall designate those individuals whom the Panel considers best qualified to serve as Arraignment Court Magistrate.
- (g) The Panel shall submit a report to the Court as provided in the following section.

Sec. 2.03. Panel Report

- (a) If an appointment is to be made to a vacant or newly created position, the Panel shall, within sixty (60) days after its creation, report to the Court the results of its activities. The report of the Panel shall specify the five persons the Panel has determined as best qualified and have attached to it all written information received by or prepared by the Panel concerning the recommended nominee. The Court may accept a list containing fewer than five names for good cause shown by the Panel in its report.
- (b) A separate list shall be submitted for each existing vacancy.
- (c) That portion of the Panel Report relating to any nominee who is actually appointed Arraignment Court Magistrate pursuant to the Rules may be publicized in whole or in part by the President Judge of the Philadelphia Municipal Court at his sole discretion.

Sec. 3.00. Selection From Arraignment Court Magistrate Selection Panel List

The Philadelphia Municipal Court shall select Arraignment Court Magistrates from the list(s) provided by the Arraignment Court Magistrate Selection Panel. If more than one list is submitted at the same time pursuant to section 2.03(b), selection may be made from any of the lists submitted. The Court may, however, by majority vote, reject the first list submitted by the Panel. If such is rejected, the Panel shall submit a second list from which the Court shall then select its Arraignment Court Magistrates.

Sec. 3.01. Majority Decision of the Judges

The Selection of an appointee shall be by the President Judge and majority vote of all the Judges of the Philadelphia Municipal Court. In the event a majority of the Court cannot agree upon any one individual, the President Judge shall make the selection.

Sec. 4.00. Procedures

In the event the Court desires to consider the reappointment of an incumbent Arraignment Court Magistrate, it shall employ the following procedure:

- (a) Public Notice. The Court shall cause to be published a public notice stating that it is required by Rule to establish an Arraignment Court Magistrate Selection Panel to consider the reappointment of the incumbent Arraignment Court Magistrate to a new term of office and that said Panel has said appointed. The public notice shall be published in the The Legal Intelligencer. The notice shall describe the duties of the position, state the date of expiration of the incumbent's current term of office, and it shall invite comments from members of the public. A copy of the notice shall be filed and posted in the office of the Court Administrator of the Philadelphia Municipal Court.
- (b) Panel. Before the reappointment of an Arraignment Court Magistrate the Court shall establish a Panel as prescribed in Chapter II of these Rules. The Panel shall review the incumbent's current service as Arraignment Court Magistrate and other experience, the comments from members of the Bar and public, and other evidence of the incumbent's good character, ability, and commitment to equal justice under the law. The Panel shall report to the Court within sixty (60) days whether or not the incumbent is recommended for reappointment.

(c) Decision of the Court. After due consideration of the report of the Panel, the President Judge and the majority of all the Court shall make its determination as to whether to reappoint the incumbent or to proceed anew with the selection procedures prescribed in these Rules.

Sec. 5.00. Publication

Prior to the selection of an Arraignment Court Magistrate, a public notice shall be published in the *The Legal Intelligencer*.

Sec. 5.01. Contents of Notice

The public announcement shall describe the duties of the position, the pertinent qualification standards, and the procedures for submission of applications, including the name and address of the person to whom applications should be submitted. The notice should specify that applications are to be submitted only by the potential nominee personally, indicating the person's willingness to serve if selected.

Sec. 5.02. Filing of Notice

The public notice shall be tiled and posted in the office of the Court Administrator of the Philadelphia Municipal Court.

Sec. 5.03. Form of Notice, Initial Selection

NOTICE: SELECTION OF ARRAIGNMENT COURT MAGISTRATES PHILADELPHIA MUNICIPAL COURT

The Philadelphia Municipal Court is required by Rule to establish an Arraignment Court Magistrate Selection Panel to consider the appointment of Arraignment Court Magistrates. This Panel has been established and requests that all individuals considering filing for the position make this intention known by completing and filing an Arraignment Court Magistrate's Personal Data Questionnaire with the Philadelphia Municipal Court through the Court Administrator, 1224 City Hall Annex. Only potential nominees willing to serve, if selected, are eligible to apply. The deadline for submission of this questionnaire is _____.

An Arraignment Court Magistrate's powers and duties include administering Oaths and Affirmations, presiding at Preliminary Arraignments, issuing Criminal Complaints, fixing Bail, appointing counsel in certain cases, scheduling Municipal Court Trials and Preliminary Hearings, and issuing Arrest Warrants and Search and Seizure Warrants.

No individual may be appointed or serve as an Arraignment Court Magistrate unless he meets the following minimum qualifications:

- (1) He resides within Philadelphia County.
- (2) He is, and has been for at least four (4) years, a member in good standing of the Bar of the Supreme Court of Pennsylvania and has been engaged in the active practice of law for that minimum period.
 - (i) The Court may consider as substitute experience for the active practice of law the following, including any combination thereof:
 - (a) Judge of a State Court of Record or other state judicial officer.
 - (b) Attorney for federal or state agencies.
 - (c) Law clerk to any Judge or judicial officer.
- (3) Persons who do not meet the qualifications of Subsection (2) above but who have completed a course of training and instructions in the duties of an Arraignment Court Magistrate and pass an examination prior to assuming office as provided by Title 42 Pa.C.S. 3111 et seq.
- (4) He must be competent to perform the duties of the office, of good moral character, emotionally stable and mature, committed to equal justice under the law, in good health, patient, courteous, and capable of deliberation and decisiveness when required to act on his own reason and judgment.
- (5) He must not be seventy years of age or older except in the case of Retired or Senior Judges.
- (6) Arraignment Court Magistrates shall not hold another office or position of profit in the government of the United States, the Commonwealth or any political subdivision thereof, except in the armed services of the United States or the Commonwealth.

Bernard A. Scally, III
Court Administrator
Philadelphia Municipal Court

Sec. 5.04. Form of Notice, Reappointment

**NOTICE: REAPPOINTMENT OF ARRAIGNMENT COURT MAGISTRATES
PHILADELPHIA MUNICIPAL COURT**

The Philadelphia Municipal Court is required by Rule to establish an Arraignment Court Magistrate Selection Panel to consider the reappointment of its incumbent Arraignment Court Magistrate(s) to a new term of office. This Panel has been established and may be contacted through the Court Administrator, 1224 City Hall Annex.

An Arraignment Court Magistrate's powers and duties include administering Oaths and Affirmations, presiding at Preliminary Arraignments, assign counsel in certain cases, issuing Criminal Complaints, fixing Bail, scheduling Municipal Court Trials and Preliminary Hearings, and issuing Arrest Warrants and Search and Seizure Warrants.

On _____, the current term of _____, Arraignment Court Magistrate, will expire. Public comment is invited concerning his reappointment.

The deadline for submission of comments is _____.

Bernard A. Scally, III
Court Administrator
Philadelphia Municipal Court

Sec. 6.00. Supervision of Arraignment Court Magistrates by President Judge

The President Judge of the Philadelphia Municipal Court or his designee shall exercise general supervision and administrative control over all Arraignment Court Magistrates.

Sec. 6.01. Implementation Committee

The President Judge of the Philadelphia Municipal Court may establish one or more continuing committees to make recommendations concerning the implementation of these Rules.

Sec. 6.02. Priority of Judicial Business

(a) An Arraignment Court Magistrate shall devote the time necessary for the prompt and proper disposition of the business of his office, which shall be given priority over any other occupation, business, profession, pursuit or activity.

(b) An Arraignment Court Magistrate shall not use or permit the use of any premises established for the disposition of his official business for any other occupation, business, profession or sinful pursuit.

Sec. 6.03. Preliminary Arraignment Schedules

(a) The Court Administrator shall, in cooperation with the Arraignment Court Magistrates, establish a schedule of regular assignment sessions. The schedule shall be submitted for approval to the President Judge of the Philadelphia Municipal Court and shall be published in such manner as the President Judge shall direct.

(b) The Arraignment Court Magistrates' schedule shall provide for the operation of the Preliminary Arraignment Court on a twenty-four hour, seven-days-a-week basis.

Sec. 6.04. Administrative Responsibilities

(a) An Arraignment Court Magistrate shall diligently discharge his administrative responsibilities and maintain competence in judicial administration.

Sec. 6.05. Adjudicative Responsibilities

(a) An Arraignment Court Magistrate shall be faithful to the law and maintain competence in it. He shall not be swayed by partisan interests, public clamor or fear of criticism.

- (b) An Arraignment Court Magistrate shall maintain order and decorum in the proceedings before him.
- (c) An Arraignment Court Magistrate shall be patient, dignified and Courteous to litigants, witnesses, lawyers and other with whom he deals in his official capacity, and shall require similar conduct of other parties in the Courtroom.
- (d) An Arraignment Court Magistrate shall accord to every person who is legally interested in a proceeding, or his lawyer, full right to be heard according to the law.

Sec. 6.06. Restrictions on Inconsistent Activities

- (a) Arraignment Court Magistrates shall not engage, directly or indirectly, in any activity or act incompatible with the expeditious, proper and impartial discharge of their duties, including but not limited to, (1) any activity prohibited by law; (2) the collection business; or (3) the bonding business. An Arraignment Court Magistrate shall not exploit his judicial position for financial aid or for any business or professional advantage. An Arraignment Court Magistrate shall not receive any fee or emolument for performing the duties of an arbitrator.
- (b) Arraignment Court Magistrates shall render such service as is required by law. While so serving they may engage in the practice of law, provided, however that they may not:
 - (1) Serve as counsel in any action criminal or civil, in the Philadelphia Municipal Court.
 - (2) Practice criminal law in Philadelphia County.
 - (3) Associate in the practice of law or share space with any attorney(s) whose practice involves a substantial practice of criminal law.
 - (4) Associate in the practice of or share space with any attorney(s) whose practice involves a substantial practice, criminal or civil, in the Philadelphia Municipal Court.
- (c) Arraignment Court Magistrates shall at all times comply with the Code of Professional Responsibility, adopted by the Supreme Court of Pennsylvania.

Sec. 7.00. Impropriety and Appearance of Impropriety to Be Avoided

An Arraignment Court Magistrate shall respect and comply with the law and shall conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary. An Arraignment Court Magistrate shall not allow his family, social or other relationships to influence his conduct or judgment. He shall not lend the prestige of his office to advance the private interest of others, nor shall he convey or permit others to convey the impression that they are in a special position to influence him.

Sec. 7.01. Voluntary Appearance as Character Witness Prohibited

Arraignment Court Magistrates shall not testify voluntarily as a character witness.

Sec. 7.02. Holding Other Public Office Prohibited

Arraignment Court Magistrates shall not hold another office or position of profit in the government of the United States, the Commonwealth or any political subdivision thereof, except in the armed services of the United States or the Commonwealth.

Sec. 7.03. Political Activity Prohibited

Arraignment Court Magistrates and/or members of their immediate households (including, but not limited to, spouses, children, in-laws, parents and siblings) shall not:

- (a) engage in partisan political activity, deliver political speeches, make or solicit political contributions (including purchasing tickets for political party dinners or other functions) or attend political or party conventions or gatherings. Nothing herein shall prevent an Arraignment Court Magistrate and/or any member(s) of his/her household from making political contributions to a campaign of a member of his/her immediate family.
- (b) make pledges or promises of conduct in office other than the faithful and impartial performance of the duties of the office; announce his/her views on partisan political issues, or misrepresent his identity, qualifications, present position, or other fact.
- (c) solicit or accept campaign funds or solicit publicly stated support.

Sec. 7.04. Conduct of Family and Employees Proscribed

With respect to his conduct in general an Arraignment Court Magistrate shall:

- (a) maintain the dignity appropriate to judicial office and shall urge members of his/her family to adhere to the same standards of conduct that apply to him.
- (b) prohibit employees, if any, subject to his/her direction or control from doing for him/her that which he/she is prohibited from doing under this Rule.

Sec. 7.05. Candidacy for Public Office

(a) An Arraignment Court Magistrate shall resign from his office when he becomes a candidate either in a party primary or in a general election for any elected office.

Sec. 7.06. Disqualification Required in Certain Cases

(a) An Arraignment Court Magistrate shall disqualify himself in a proceeding in which his impartiality might reasonably be questioned.

(b) An Arraignment Court Magistrate shall inform himself about his personal and fiduciary financial interests and make a reasonable effort to inform himself about the personal financial interests of his spouse and minor children residing in his household.

Sec. 7.07. Remittal of Disqualification: Minimizing Disqualification

(a) An Arraignment Court Magistrate disqualified by Rule 7.06 may, instead of withdrawing from the proceeding, disclose the basis of his disqualification. If, based on such disclosure, the parties and lawyers, independently of the participation of the Arraignment Court Magistrate, all agree that the relationship of the Arraignment Court Magistrate is immaterial or that his financial interest is insubstantial, the Arraignment Court Magistrate, is no longer disqualified and may participate in the proceeding.

(b) An Arraignment Court Magistrate shall manage his investments and other financial interests to minimize the number of cases in which he is disqualified.

Sec. 7.08. Use and Disclosure of Information Acquired in Judicial Capacity Prohibited

Information acquired by an Arraignment Court Magistrate in his judicial capacity shall not be used or disclosed by him in financial dealings or any other purpose not related to his official duties.

Sec. 7.09. Broadcasting, Televising, Recording, Photography Restricted

An Arraignment Court Magistrate shall prohibit broadcasting, televising, recording, or taking photographs in the Courtroom or the areas immediately adjacent thereto during sessions or recesses between sessions, except that Arraignment Court Magistrates may authorize:

- (a) the use of electronic or photographic means for the presentation of evidence, for the perpetuation of a record or for other purposes of judicial administration; and
- (b) the broadcasting, televising, recording or photographing of investitive or ceremonial proceedings.

Sec. 7.10. Public Comment Restricted

An Arraignment Court Magistrate shall abstain from public comment about proceedings pending or impending in his office or any Court, and shall require similar abstention on the part of his staff, if any. This Rule does not prohibit Arraignment Court Magistrates from making public statements in the course of their official duties or from explaining for public information the procedures of the Court.

Sec. 7.11. Gifts and Loans Restricted

- (a) An Arraignment Court Magistrate may accept books supplied by publishers on a complimentary basis for public use. An Arraignment Court Magistrate or a member of his family residing in his household may accept ordinary social hospitality; a gift, bequest, favor or loan from a relative; a wedding or engagement gift; a loan from a lending institution in its regular course of business on the same terms generally available to persons who are not Arraignment Court Magistrates; or a scholarship or fellowship award on the same terms applied to other applicants.
- (b) An Arraignment Court Magistrate or a member of his family residing in his household may accept any other gift, request, favor or loan only if the donor is not a party or other person whose interests have come or are likely to come before the Arraignment Court Magistrate.

Sec. 7.12. Solicitation of Funds and Related Activities Regulated

(a) An Arraignment Court Magistrate shall not solicit funds for any educational, religious, charitable, fraternal or civic organization, or use or permit the use of the prestige of his office for that be listed as an officer, director or trustee of such an organization. He shall not be speaker or the guest of honor at such an organization's public fund raising events, but he may attend such events.

Sec. 8.00. Arraignment Court Magistrates to Fix Bail. Appeals

- (a) Arraignment Court Magistrate shall have the same authority to fix bail at Preliminary Arraignments as Judges of the Philadelphia Municipal Court.
- (b) Appeals from their decisions shall be to the Municipal Court Judge specially designated by the President Judge for that purpose.

Sec. 8.01. Bail Guidelines

- (a) Arraignment Court Magistrates shall consider Bail Guidelines in fixing bail.
- (b) In a proper case, Arraignment Court Magistrates may depart from the Bail Guidelines and fix bail in an amount higher or lower than indicated in the Guideline Matrix; provided, however, that in such case the reason(s) shall be indicated in writing by the Magistrates.
- (c) Arraignment Court Magistrates shall have no authority to reconsider bail subsequent to a Preliminary Arraignment.

Sec. 8.02. Assignment of Counsel

At the Preliminary Arraignment, Arraignment Court Magistrates shall:

- (a) Advise the defendant of his right to counsel, and
- (b) Where the defendant is indigent and entitled to Court appointed counsel pursuant to the Court's guidelines, assign the Defender Association of Philadelphia, or such other counsel as the Court by Rule or Regulation shall designate, to represent the defendant.
- (c) Where a conflict is found to exist, e.g., where more than one defendant in the same case indigent and entitled to Court appointed counsel, assign the Defender Association of Philadelphia in one case and direct that counsel shall be appointed for such other indigent defendant(s) from the Non-Homicide Counsel Appointment List.

Sec. 9.00. Power to Issue Warrants

- (a) Arraignment Court Magistrates are empowered to issue Search and Seizure Warrants and Arrest Warrants based on Probable Cause.
- (b) Nighttime Search and Seizure Warrants shall be issued upon a showing of additional reasonable cause.

Sec. 9.01. Approval of Probable Cause Affidavits

- (a) No Arraignment Court Magistrate shall issue any Search and Seizure Warrant or Arrest Warrant wherein the probable cause Affidavit has not been reviewed and approved by the Attorney for the Commonwealth.
- (b) Upon receipt of a Search and Seizure Warrant or Arrest Warrant wherein the probable cause Affidavit has been approved by the Attorney for the Commonwealth, the Arraignment Court Magistrate, acting as a detached neutral authority, shall independently determine the existence of probable cause and, in the case of a Nighttime Search and Seizure Warrant, additional reasonable cause, prior to the issuance of any Search and Seizure Warrant or Arrest Warrant.

Sec. 10.00. Course of Instruction and Examination Required

- (a) Arraignment Court Magistrates who are not members of the bar of this Commonwealth, as stated in Sec. 1.00(b)(2), shall complete a course of training and instruction in the duties of said office and pass an examination prior to assuming office.
- (b) Content of Course of Instruction and Examination:
 - (i) General Rule. The Minor Judiciary Education Board (the Board), shall prescribe and approve the subject matter and the examination for the course of training herein required. The Administrative Office of Pennsylvania Courts shall conduct the course and examination at such times, at such places, and in such manner as the regulations of the Board may prescribe. The Board shall make the course of instruction available at such times so as to insure that an appointee may qualify to assume office as soon as possible.
 - (ii) Content of Course. The course of training and instruction shall not exceed four weeks in duration and shall consist of a minimum of thirty (30) hours of class instruction in Criminal Law, Search and Seizure, Arrest and Bail practices and procedures.
 - (iii) Upon successful completion of the course of training and instruction and examination, the Administrative Office shall issue to a person seeking an appointment as an Arraignment Court Magistrate a certificate in the form prescribed by the Board, certifying that such person is qualified to perform his duties as an Arraignment Court Magistrate. Such certificate shall be filed in the office of the Court Administrator of the Philadelphia Municipal Court.

(iv) Expenses. The course of training and instruction required by this chapter shall be provided at the expense of the Commonwealth.

Sec. 10.01. Continuing Education Requirement

Every Arraignment Court Magistrate shall complete a continuing education program each year equivalent to not less than twenty (20) hours per year in such courses or programs as are approved by the Board. If an Arraignment Court Magistrate fails to meet these continuing education requirements, such Magistrate shall be subject to dismissal as provided in Chapter 1, Section 1.01(d).

Sec. 11.00. Discipline for Good Cause

(a) (1) The President Judge or his designee may for good cause take disciplinary action against an Arraignment Court Magistrate. For purposes of this section, “disciplinary action” shall mean “suspension with pay, suspension without pay, or withholding of pay without suspension.” Unless an Arraignment Court Magistrate is suspended pursuant to Subsections (b)(8) or (b)(9) below, a suspension shall not exceed in the aggregate thirty (30) working days in one calendar year.

(b) Good cause for disciplinary action against an Arraignment Court Magistrate shall be a just cause, including but not limited to:

- (1) Insubordination;
- (2) Habitual lateness in reporting for work;
- (3) Misconduct amounting to violation of law, Arraignment Court Magistrate Rules or orders of the Municipal Court President Judge or his designee;
- (4) Intoxication while on duty;
- (5) Conduct involving dishonesty, fraud, deceit or misrepresentation;
- (6) Conduct while on or off duty that is unbecoming to an Arraignment Court Magistrate of the Municipal Court;
- (7) Any other reason related to the inefficiency, inadequacy or misconduct of the Arraignment Court Magistrate;
- (8) Formal charges against an Arraignment Court Magistrate of criminal conduct which relates to his employment as an Arraignment Court Magistrate or which constitutes a felony or misdemeanor; or
- (9) Initiation of removal procedures under Chapter XII of these rules

Sec. 11.01. Discipline Procedure

(a) No Arraignment Court Magistrate shall be disciplined unless he has received written notice of such discipline from the Municipal Court President Judge or his designee. The notice shall set forth the ground or grounds for discipline and disciplinary action.

(b) Except for violations of § 11.00(b)(8) or § 11.00(b)(9), the Municipal Court President Judge or his designee may suspend an Arraignment Court Magistrate for just cause for no more than ten (10) working days. The procedure for this suspension will conform with (a) above. There is no appeal from this suspension.

(c) An Arraignment Court Magistrate may, within twenty (20) calendar days of receipt of notice of discipline, in case of indefinite suspension under § 11.00(b)(8) or § 11.00(b)(9), appeal in writing to the President Judge. Upon receipt of such notice of appeal, the President Judge shall schedule and hold a hearing and provide the Arraignment Court Magistrate with at least seven calendar days’ notice of such hearing. In attendance at the hearing shall be the President Judge, his designee, and the Arraignment Court Magistrate. The Arraignment Court Magistrate may in addition be represented by an attorney licensed to practice law. As soon as is practicable after the hearing, the President Judge shall report in writing his conclusions, grounds for discipline (if any) and disciplinary actions (if any) to the Municipal Court Administrator and Arraignment Court Magistrate.

(d) The Arraignment Court Magistrate shall have no right of appeal with respect to the conclusions, grounds for discipline, or disciplinary measures imposed by the President Judge.

Sec. 12.00. Removal for Good Cause

An Arraignment Court Magistrate shall be removed only for good cause as defined in Section 11.00(b)(1), (2), (3), (4), (5), (6), (7), or (8).

Sec. 12.01. Removal Procedure

(a) A President Judge who reasonably suspects that good cause exists for removal of an Arraignment Court Magistrate shall appoint a five member panel comprised of active members of the Municipal Court Board of Judges to determine whether prima facie evidence of good cause exists for removal. Before rendering its decision, the panel shall afford the Arraignment Court Magistrate an opportunity to appear before the panel. The panel shall provide the Arraignment Court Magistrate at least seven days' notice of such hearing. The Arraignment Court Magistrate may be represented at the hearing by an attorney licensed to practice law. The panel shall send notice of its decision and, if necessary, the ground or grounds for determining that prima facie evidence of good cause exists for removal to the President Judge or his designee.

(b) The panel's decision that good cause does not exist for removal of the Arraignment Court Magistrate shall terminate proceedings under this Chapter, but it shall not prevent the President Judge or his designee from proceeding under Chapter XI of these rules relating to suspension of Arraignment Court Magistrates.

(c)(1) Upon the panel's finding that good cause exists for the Arraignment Court Magistrate's removal, the President Judge or his designee shall schedule a hearing in front of the Municipal Court Board of Judges. The Arraignment Court Magistrate shall be provided with at least seven calendar days' notice of such hearing. No Judge who served on the five member good cause panel shall participate in this hearing or in the subsequent removal voting process. In attendance at this hearing shall be the President Judge, the Municipal Court Administrator, a quorum of the Municipal Court Board of Judges entitled under this subsection to participate in the hearing and voting process and the Arraignment Court Magistrate. The Arraignment Court Magistrate may in addition be represented by an attorney licensed to practice law.

(2) The Municipal Court President Judge shall act as prosecutor against the Arraignment Court Magistrate at this hearing. The President Judge shall prosecute the Arraignment Court Magistrate upon all grounds which the seven member panel has determined that prima facie evidence of good cause exists for removal. At the conclusion of the President Judge's case, the Arraignment Court Magistrate shall be afforded the opportunity to present his case. At the conclusion of the hearing, outside the presence of the Arraignment Court Magistrate, the Board of Judges shall determine by a majority of the quorum present whether to remove the Arraignment Court Magistrate. The President Judge shall not vote or be present during the voting process. The President Judge shall appoint a member of the Board of Judges as soon as is practicable after the conclusion of the hearing, the Board of Judges shall report in writing to the President Judge, Municipal Court Administrator and Arraignment Court Magistrate its decision and, if necessary, the ground or grounds for removal. to preside over the deliberations of the voting process. Proxy vote shall not be admissible during the voting process. A tie in the vote of the quorum shall result in the Arraignment Court Magistrate's removal. As soon as is practicable after the conclusion of the hearing, the Board of Judges shall report in writing to the President Judge, Municipal Court Administrator and Arraignment Court Magistrate its decision and, if necessary, the ground or grounds of removal.

**Appendix A. Philadelphia Municipal Court Application for Appointment as Arraignment Court Magistrate
of Philadelphia Municipal Court**

PERSONAL DATA QUESTIONNAIRE

Please Note: Submission of this Questionnaire creates a continuing obligation to provide the Arraignment Court Magistrate Selection Panel with any relevant and/or material facts arising after the Questionnaire is submitted.

1. Please state your full name.
2. Please attach a recent photograph of yourself. (Optional)
3. State both your office and home addresses. Your home address must be a bona fide city residence for a period of at least one year prior to this date.
4. Give the date and place of your birth.
5. If you are a naturalized citizen, please give the date and place of naturalization.
6. Indicate your marital status; if married, the name of your spouse, and names of your children.
7. List each college and graduate law school you attended, including the dates of attendance, the degree awarded and your reason for leaving each school if no degree from that institution was awarded. Indicate class standing or general averages at college and law school. List course failures and scholastic honors.

(PARAGRAPHS 8 THROUGH 13 TO BE COMPLETED BY LAWYERS ONLY)

8. List all courts in which you are at present admitted to practice, including the dates of admission in each case. Give the same information for administrative bodies having special admission requirements.
9. Are you actively engaged in the practice of law at the present time? If you are connected with a firm, please state its name and indicate the nature and duration of your relationship.
10. If in the past you have practiced in other localities or have been connected with other firms, please give the particulars, including the locations, the names of the firms and your relationships thereto, and the relevant dates. Indicate also any period in the past during which you practiced alone.
11. What is the general character of your practice? Indicate the character of your typical clients and mention any legal specialties which you possess. If the nature of your practice has been substantially different at any time in the past, give the details, including the character of such and the periods involved.
12.
 - a. Do you regularly appear in Court?
 - b. What percentage of your appearance in the last five years was in:
 - (1) Federal Court
 - (2) State Courts of Record
 - (3) Other Courts
 - c. What percentage of your litigation in the last five years was:
 - (1) Civil
 - (2) Criminal
 - d. State the number of cases for which you have been responsible during each of the past five years, indicating whether you were sole, associate, or chief counsel; how many of the cases were tried to conclusion in Court of record, and in general, the stages at which the others were disposed. Give any facts you consider significant in an appraisal of your experience in courts of record.
 - e. Describe five of the more significant litigated matters which you handled and give the citations if the cases were reported. Include the name of the Trial Judge and opposing counsel in each case listed which has been completed within the last five years.
13. Summarize your experience in court prior to the last five years. If during any prior periods you appeared in court with greater frequency than during the last five years, or in different types of litigation, or if the percentages given in your answer to 12a., b., c., varied substantially during such prior periods, indicate the periods during which this was done and give for such prior periods the same data which was requested in Question 12.
14. Have you ever been engaged in any occupation, business, or profession other than the practice of law? If so, please give the details, including dates.
15. If you are now an officer or director of any business organization or otherwise engaged in the management of any business enterprise, please give details, including the title of your position, the nature of your duties, and the terms of your service. If it is not your intention to resign such position and give up any other participation in the

management of any of the foregoing business enterprises in the event of appointment as an Arraignment Court Magistrate, please so state, giving reasons.

16. Have you ever held judicial office? If so, please state the courts and the periods of service.

17. Have you ever held public office, other than judicial office, or have you ever been a candidate for such an office? If so, give the details, including the offices involved, whether elected or appointed, and the length of your service.

18. Have you ever been arrested, charged, or held by Federal, State, or other law-enforcement authorities for violation of any Federal law, State law, county or municipal law, regulations or ordinance? If so, please give details. Do not include summary traffic violations.

19. Have you ever been sued? If so, please give particulars.

20. Have you ever been a party to or personally involved in any legal proceeding, or named as a co-conspirator? If so, give the particulars.

21. Have you ever been disciplined or cited for a breach of ethics or unprofessional conduct by, or been the subject of a complaint to any Court, administrative agency, bar association, disciplinary committee, or other professional group? If so, please give the particulars.

22. Do you authorize the Arraignment Court Magistrate Selection Panel to examine any records pertaining to you relating to your education, practice, employment or criminal record?

23. a. What is the present state of your health?

b. If you have been hospitalized or prevented from working due to injury or illness or otherwise incapacitated for a period in excess of ten days, please give the particulars, including the causes, the dates, the places of confinement, the present status of the condition which caused the confinement or incapacitation.

c. Do you suffer from any impairment of eyesight or hearing or any other physical handicap? If so, please give details.

24. Have you published any books or articles? If so, please list them, giving the citations and dates.

25. List any honors, prizes, awards, or other forms of recognition which you have received.

26. List all bar associations and professional and non-professional societies and organizations of which you are a member and give the titles and dates of any offices which you have held in such groups. Include chairmanship of any committee which you consider of particular significance.

27. State any other information which you regard as pertinent.

28. Kindly date and sign your name at the conclusion of your answers.

Date:

Signature

WAIVER

To: The Disciplinary Board of the Supreme Court of Pennsylvania and/or
The Ethics Commission of the Commonwealth of Pennsylvania and/or
The City of Philadelphia.

I hereby authorize you to supply any information you may have about me to the Arraignment Court Magistrate Selection Panel of the Philadelphia Municipal Court.

I understand that failure to comply with the signing of this waiver will prohibit the Panel from making a favorable recommendation with respect to my candidacy.

Sincerely,

Date:

Signature

Appendix B.
Oath of Office

I, _____, appointed to the office of Arraignment Court Magistrate for the Philadelphia Municipal Court, First Judicial District of Pennsylvania, do solemnly swear (or affirm) that I will support, obey and defend the Constitution of the United States, the Constitution of Pennsylvania, and that I will perform the duties of my office with fidelity.

Sworn (or affirmed) and
subscribed before me the
____ day of _____ A.D., 20____.

President Judge