

# THE COURTS

## Title 249—PHILADELPHIA RULES

### PHILADELPHIA COUNTY

#### Joint General Court Regulation; Court of Common Pleas and Traffic Court; No. 98-1

*Procedure for Sale of Motor Vehicles Impounded for Driving Without Operating Privileges or Registration Pursuant to 75 Pa.C.S. § 6309.2*

On July 2, 1996, Governor Thomas Ridge signed Act No. 1996-93 which authorizes the impoundment and sale of motor vehicles under certain specified situations. The within Joint General Court Regulation sets forth the procedure to be followed in implementing Section 6309.2, which authorizes the impoundment and sale of motor vehicles for driving without operating privileges or registration.

1. *Motor Vehicles Eligible for Impoundment.* Motor vehicles are subject to immobilization and impoundment for two reasons:

a. Motor vehicles driven by an unlicensed person, or while the person's operating privilege is suspended, revoked, cancelled, recalled or disqualified; or

b. Motor vehicle itself is not registered, or for which the registration is suspended for failure to secure or maintain financial responsibility.

2. *Prerequisite to Immobilization and Impoundment.* The bases identified in Section 1 above must be verified with the applicable Department of Motor Vehicles by the Philadelphia Police Department before the motor vehicle may be immobilized and impounded.

3. *Prerequisites to Impoundment.* A defendant's motor vehicle may not be impounded for a 24 hour period after it is immobilized so as to enable the owner or operator of the immobilized motor vehicle to appear in Traffic Court within 24 hours of the vehicle's immobilization and furnish proof of registration and financial responsibility and compliance with Titles 42 and 75. During that 24 hour period, however, the motor vehicle shall be immobilized and may be transferred to a secure location for safe keeping.

4. *Designation of Enforcement Officer.* The Traffic Court may, from time to time, appoint such "appropriate towing and storage agents" as may be necessary to undertake the impoundment and notification required by Act No. 1996-93.

5. *Impoundment.* Upon expiration of the 24 hour period as set forth above, if a certificate of release has not been issued evidencing compliance with 75 Pa.C.S. § 6309.2(b) and Sections 2 and 3 above, the Traffic Court shall notify the appointed towing and storage agents to impound the vehicle and store same at an appropriate location.

6. *Notice of Impoundment.* When applicable, the appropriate law enforcement officer shall issue a citation or summons to the operator of the motor vehicle. The appropriate towing and storage agent shall notify the title owner of the vehicle or combination and any lienholder and, if applicable, the owner of the load, of the fact that the motor vehicle has been impounded pursuant to 75

Pa.C.S. § 6309.2 and of their right to reclaim the said motor vehicle by showing compliance with 75 Pa.C.S. § 6309.2(b). The notice shall be substantially in the form set forth hereunder as Exhibit "A". Notice shall be sent to the addresses on file at the appropriate departments of motor vehicle by regular mail, which the Court finds to be the most expeditious means, and a Certificate of Mailing shall be obtained. Notice shall be deemed to have been provided upon the mailing of the letters as set forth herein.

7. *Obtaining Leave of Court to Sell Vehicle.* A Civil Cover Sheet, Petition and Motion Court Cover Sheet shall be filed with the Prothonotary and Civil Administration setting forth, inter alia, that prior to impounding the motor vehicle, the operator and owner of the motor vehicle were given 24 hours to obtain a certificate of release as provided in 75 Pa.C.S. § 6303.2(b), and further setting forth the efforts made to notify the operators, owners, and lienholders of record, and the fact that no certificate of release has been issued. Copies of the notices sent to the appropriate parties and the Certificates of Mailing shall be attached to the Petition. Upon review of the Petition, the President Judge of the Court of Common Pleas, or his designee, if satisfied that the required Notices were sent, that no certificate of release was issued, that the owner or operator of the impounded motor vehicle have not complied with 75 Pa.C.S. § 6309.2, and that the requisite fines and costs have not been paid, may enter an Order authorizing the Traffic Court, through its authorized agent, to sell at public auction the motor vehicles described in the said Petition. The Order shall be substantially in the form set forth hereunder as Exhibit "B".

8. *Notice of Auction Date and Rights of Owners of Record and Lienholders of Record Pending Auction.* Notice of the auction dates shall be provided as set forth in Section 6 above. Notice of the public auction shall also be provided by publication at least five (5) days before the auction in either *The Philadelphia Inquirer* or *The Philadelphia Daily News*, or as otherwise directed by the Court of Common Pleas. At any time prior to the auction date, any operator, owner, or lienholder, may obtain the release of the motor vehicle upon compliance with 75 Pa.C.S. § 6309.2(b) and upon payment of the fines, fees and costs as set forth in the Notice and as may be incurred thereafter. Upon issuance of the Certificate of Release by the Traffic Court, the motor vehicle must be picked up before the auction set forth in the notice provided as required in Section 6 above. In the event a vehicle scheduled to be auctioned on a specific date scheduled in accordance with the procedures set forth herein is not auctioned on that date, the said vehicle may be auctioned on a subsequent date provided, however, that the interested parties are provided new Notices setting forth the date of the rescheduled auction, substantially as set forth in Sections 6 and 8.

9. *List of Successful Bidders.* At the auction, the Traffic Court and/or its authorized agent, shall maintain a list of the successful bidders. The said list shall be submitted to the Court of Common Pleas within thirty (30) days after the auction so that an order may be entered, if necessary, directing the appropriate departments of transportation to extinguish title of the prior owners or lienholders of record and to issue certificates of ownership to the successful bidders. The order shall substantially be in the form set forth hereunder as Exhibit "C".

10. *Disposition of Proceeds of the Auction.* The proceeds from the auction shall be used to satisfy the various fines and costs in the following order: costs of sale (auctioneer and legal advertising); Traffic Court's costs as may be established from time to time as authorized in Section 6309.2(d); towing and storage costs; and outstanding fines due as a result of violations of the Motor Vehicle Code. Any remaining proceeds shall be subject to the demands of the original owner and lienholders, of record as their interest may appear. If not claimed within one year, any such remaining proceeds shall be forfeited to the City of Philadelphia or utilized as otherwise provided by the Court of Common Pleas.

11. *Post-Auction Petition or Relief.* Proceedings instituted after the sale or auction of any motor vehicle conducted as authorized by 75 Pa.C.S. § 6309.2 and the within Joint General Court Regulation disputing the underlying facts or offenses rendering the motor vehicle subject to sale or auction shall not invalidate the sale or auction. In the event relief is granted and the underlying offenses discharged, the only entitlement the owner and lienholder may have, if raised within the applicable limitations period, shall be the return of any remaining proceeds from the sale or auction of the motor vehicle as provided in Section 10 above.

12. *Effective Date.* This Joint General Court Regulation shall become effective immediately.

This Joint General Court Regulation is promulgated in accordance with Act 1996-93, the May 8, 1996 Order of the Supreme Court of Pennsylvania, Eastern District, No. 168 Judicial Administration, Docket No. 1, Phila. Civ. R. 51 and Pa.R.C.P. 239. As required by Pa.R.C.P. 239, the original Joint General Court Regulation shall be filed with the Prothonotary in a docket maintained for General Court Regulations issued by the President Judge of the Court of Common Pleas, and copies shall be submitted to the Administrative Office of Pennsylvania Courts, the Legislative Reference Bureau and the Civil Procedural Rules Committee. Copies of the Regulation shall also be submitted to Legal Communications, Ltd., *The Legal Intelligencer*, Jenkins Memorial Law Library and the Law Library for the First Judicial District.

ALEX BONAVITACOLA,  
*President Judge,*  
*Court of Common Pleas*  
BERNICE DeANGELIS,  
*Administrative Judge,*  
*Traffic Court*

**Exhibit "A"**

**(NAME OF TOWER)**  
**(ADDRESS OF TOWER)**  
**(DATE)**

(Last Known Registered Owner's Name)  
(Address)  
(City, State, Zip)

(Lienholder of Record)  
(Address)  
(City, State, Zip)

(Operator)  
(Address)  
(City, State, Zip)

Dear \_\_\_\_\_ :

On (Date of Tow), the following vehicle, which you operated, is registered in your name, or which you are listed as a lienholder, was impounded for violation of the Motor Vehicle Code, 75 Pa.C.S. § 6309.2.

Vehicle Year:	State and Tag Displayed:
Vehicle Make:	Vehicle Identification Number:
Vehicle Color:	TC Control Number:

To recover this vehicle, you will be required to furnish proof of valid registration and financial responsibility. In addition, you are liable for a towing fee of \$75.00, a storage charge of \$5.75 per day for the first five (5) days and \$17.25 per day thereafter, until the motor vehicle is reclaimed, and an administrative cost of \$75.00 imposed by the Philadelphia Traffic Court.

Pursuant to 75 Pa.C.S. § 6309.2 and Joint General Court Regulation No. 98-1, if this vehicle is not reclaimed within fifteen (15) days of the issuance of this notice, the Philadelphia Traffic Court will petition the Philadelphia Court of Common Pleas to sell this vehicle at public auction on \_\_\_\_\_ at \_\_\_\_\_ a.m./p.m. at the following location: [ ADDRESS ]. If you do not retrieve the above vehicle, you must remove any personal property from your vehicle at least 72 hours prior to the sale or we will dispose of the items. The vehicle will be stored at [ ADDRESS ].

Before you may reclaim the vehicle, you must comply with the above and make arrangements to pay the sums owed to the Philadelphia Traffic Court. You may appear in person at the Traffic Court, 800 Spring Garden Street, Philadelphia, PA, during the following times: Mon. to Fri. 8:30 a.m. to 7:00 p.m.—Sat. 9:00 a.m. to 1:00 p.m, to make all appropriate arrangements, whereupon the Traffic Court will issue a Certificate of Release which you must take with you to retrieve the above motor vehicle.

**THE MOTOR VEHICLE MUST BE PICKED UP BEFORE THE SCHEDULED AUCTION OR IT WILL BE SOLD.**

You may reclaim the above vehicle by bringing the Certificate of Release issued by the Traffic Court and an Operator's License (or, in the event the owner of the motor vehicle is not licensed as an operator, photo identification must be supplied and the vehicle may only be reclaimed by a licensed driver) along with payment of the applicable towing and storage fees and ticket fines, to: [ ADDRESS ].

**THIS IS YOUR FINAL NOTICE, IF YOU DO NOT RECLAIM OR PICK UP THIS VEHICLE IT WILL BE AUCTIONED AS SET FORTH ABOVE AND YOUR OWNERSHIP INTEREST WILL BE EXTINGUISHED AND OWNERSHIP WILL VEST TO THE SUCCESSFUL BIDDER.**

Sincerely,  
Tower

Exhibit "B"

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY

In RE: : TERM, 19
:
:
by \_\_\_\_\_, : NO:

ORDER

AND NOW, this day of , 19 , upon Petition filed on behalf of the Traffic Court on \_\_\_\_\_, the Court being satisfied that appropriate notices were sent to the owners and lienholders of vehicles listed in Exhibit "A", as required by Joint General Court Regulation No. 98-1, copies of the notices and certificates of mailing being attached to the Petition, and the said owners or lienholders not having furnished proof of valid registration and financial responsibility, or paid, or made arrangements to pay, all fines and costs as required by 75 Pa.C.S. § 6309.2, IT IS HEREBY ORDERED and DECREED that the Traffic Court, through its authorized agent, is authorized to sell at public auction the motor vehicles described in said Petition on \_\_\_\_\_, 19\_\_ , at \_\_\_\_\_ a.m./p.m., \_\_\_\_\_, Philadelphia, PA.

Notice of said public auction shall be published once at least five (5) days before the auction in either the Philadelphia Inquirer or the Philadelphia Daily News.

Petitioner shall, after the sale, submit to the Court proof of publication and a list setting forth the names of each successful bidder for the entry of an appropriate Order directing the appropriate departments of transportation to issue Certificates of Title to the successful bidders.

IT IS FURTHER ORDERED and DECREED that the net proceeds of said sale shall be distributed as provided in Section 9 of Joint General Court Regulation No. 98-1, and any remaining proceeds shall be held for one year subject to the demands of the current owners or lienholders of record of said vehicles, as their interest may appear. If not claimed within one year, any such remaining proceeds shall be forfeited to the City of Philadelphia or utilized as otherwise provided by the Court of Common Pleas.

BY THE COURT:

BONAVITACOLA, P.J.

Exhibit "C"

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY

In RE: : TERM, 19
:
:
by \_\_\_\_\_, : NO:

ORDER

AND NOW, this day of , 19 , the Traffic Court having identified in Exhibit "A" the purchasers of the impounded motor vehicles offered for sale at public auction pursuant to this Court's Order of \_\_\_\_\_, 19 , IT IS HEREBY ORDERED and DECREED that the currently registered owners' and lienholders' legal and equitable interest in those vehicles is hereby extinguished, and the appropriate departments of transportation shall cancel any certificates of title which were issued prior to this Order to other person or entity and shall issue title to said vehicles in the names of those persons identified as purchasers in Exhibit "A", upon completion of the proper forms and payment of the required fees.

BY THE COURT:

BONAVITACOLA, P.J.

[Pa.B. Doc. No. 98-291. Filed for public inspection February 20, 1998, 9:00 a.m.]

# Title 255—LOCAL COURT RULES

## CRAWFORD COUNTY

### In the Matter of the Adoption of Rules of Criminal Procedure

#### Order

*And Now*, this 21st day of January, 1998 it is ordered as follows:

1. Crawford County Criminal Rule 1405 entitled "Probation/Parole General Rules and Regulations" is hereby amended with the addition of paragraph 22 as hereinafter provided:

22. If a defendant is ordered by the Court or the Adult Probation Department to undergo drug and/or alcohol treatment the defendant shall undergo such drug and/or alcohol evaluation, counseling, treatment and therapy that is recommended or required by the adult probation department or any treating physician or entity. The defendant shall sign consents to release confidential patient identifying information to the full extent for which said information can be disclosed to assist the adult probation department and the court in obtaining information in connection with monitoring the defendant's progress in treatment and to determine if future treatment or punishment is appropriate. The consent form(s) will either be prepared by the Adult Probation Department or the entity or facility providing evaluation, counseling, treatment or therapy and shall conform to federal and state alcohol and other drug confidentiality laws and regulations. Said consents shall be signed when requested by the Adult Probation Department or the treating entity or facility. The failure or refusal to sign such a consent may be deemed to be a violation of probation or parole.

2. This rule shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

3. The Clerk of Courts is ordered and directed to:

a. File seven (7) certified copies of this order with the Administrative Office of Pennsylvania Courts.

b. Distribute two (2) certified copies of this order to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

c. File one (1) certified copy of this order with the Pennsylvania Supreme Court Criminal Procedural Rules Committee.

d. Keep continuously available for public inspection a copy of this order and the attached rules.

e. Insert a copy of this order after page 27 of the current Crawford County Rules of Criminal Procedure.

*By the Court*

GORDON R. MILLER,  
*President Judge*

[Pa.B. Doc. No. 98-292. Filed for public inspection February 20, 1998, 9:00 a.m.]

## CUMBERLAND COUNTY

### Rules of the Court of Common Pleas; No. 95-1387 Civil Term

#### Order of Court

*And Now*, this 30th day of January, 1998, the following Rules of the Court of Common Pleas of Cumberland County, Pennsylvania, are hereby promulgated and adopted for use, effective March 9, 1998, or thirty (30) days after publication in the *Pennsylvania Bulletin*.

Pursuant to Pa.R.C.P. 239, the Court Administrator is directed to forward seven (7) certified copies of this order to the Administrative Office of Pennsylvania Courts, two (2) certified copies to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* together with a diskette, formatted in Word Perfect 6.1 for Windows reflecting the text in the hard copy version, one (1) copy to the Supreme Court Criminal Procedural Rules Committee and/or the Supreme Court Domestic Relations Committee, and one (1) copy to the Cumberland Law Journal.

*By the Court*

GEORGE E. HOFFER,  
*President Judge*

#### Arraignment

**Rule 303-1.** Every defendant shall be arraigned before a judge, before the Clerk of Court, the Clerk's deputy or by first class mail, where the defendant is represented by counsel of record and upon timely initiative, hereinafter set forth:

(a) Arraignment shall take place at the Cumberland County Courthouse, at the Cumberland County Prison, at the State Correctional Institution at Camp Hill, by first class mail, or at such other place as may be designated by an order of the President Judge.

(1) If defense counsel chooses to have the defendant arraigned via first class mail, then the defendant and his or her counsel must complete the "acknowledgment of arraignment" form designated by Rule 303-2; and file the "acknowledgment of arraignment" form with the Clerk of Court before the date set for arraignment.

(b) Except when arraignment is done via first class mail, arraignment shall take place no later than fifteen (15) days after the information has been filed, unless waived by a defendant who has counsel, or is otherwise postponed by the court for cause shown.

(c) Defendant and counsel, if an appearance has been entered, shall receive written notice of the arraignment no later than five (5) days before the date scheduled for the arraignment.

(1) Such notice shall include a caption containing the name of the case, and the docket number and/or the offense tracking number.

(2) A completed "subpoena to appear for formal arraignment" shall be executed and given personally to the defendant by the District Justice following a preliminary hearing on the charges or a waiver thereof. Notice may also be given by first-class mail or in accordance with Pa.R.Crim.P. 9024.

(d) If a defendant is represented by private counsel, or court-appointed counsel other than the Public Defender, defendant may appear with counsel before the Clerk of Court for arraignment anytime prior to the scheduled formal arraignment, at which time counsel shall enter a formal appearance, if an appearance has not been previously entered of record.

(e) At arraignment, the defendant shall be instructed to appear at a pretrial conference pursuant to Rule 311 and trial.

Adopted January 11, 1978, effective January 16, 1978;  
Amended December 19, 1989, effective January 1, 1990;  
Amended December 8, 1997, effective January 22, 1998,  
Amended February 2, 1998, effective March 9, 1998.

[Pa.B. Doc. No. 98-293. Filed for public inspection February 20, 1998, 9:00 a.m.]

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